Subcommittee on Coast Guard and Maritime Transportation Of The U.S. House Committee on Transportation and Infrastructure

Hearing on Challenges Facing the Coast Guard's Marine Safety Program

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Good morning Mr. Chairman and members of the Committee. Thank you for giving us the opportunity to testify this morning.

My name is Ken Wells and I am President of the Offshore Marine Service Association. We are the national trade association representing the owners and operators of U.S. flag vessels that support America's offshore oil and gas industry. Our members' vessels move all of the equipment and many of the workers needed to discover, develop and produce our nation's offshore energy. We have called ourselves the lifeline to our country's offshore resources and there have been occasions when we were quite literally the lifeline to the oil and gas facilities, working with the Coast Guard to carry offshore workers to safety under threatening seas. Our culture of safety is something we take great pride in and is an important part of the way we do business.

By way of a beginning, I would like to go back a couple of years to the Coast Guard's performance during Hurricanes Katrina and Rita. There is no question but that the Coast Guard stood out as the most capable government entity – state, local or federal – during that trying period. It can also be said that it was the finest hour in the Coast Guard's long history. Our members spent the ensuing weeks after the storm trying to simultaneously put their businesses back together and repair the offshore damage that knocked out roughly a third of our nation's oil and gas production. From our perspective, three factors stood out:

- Experience in the field – We were lucky on the Gulf Coast to have very experienced Coast Guard officers in the field, especially at the Captain,

Commander and Lieutenant Commander level. They knew the right people to talk to, they knew the area and they knew how to get things done quickly.

- Problem Solvers – They didn't throw up their hands at the enormity of the damage or allow themselves to be overwhelmed by the challenge. They looked at the event as a series of problems and looked for solutions to each one individually.
- Innovation – When the normal rules didn't apply, they weren't afraid to innovate and improvise.

Why am I bringing all of this up at a hearing on Marine Safety? Because those three qualities - Experience in the field, problem-solving skills and openness to innovation - have been hallmarks of the Coast Guard's Marine Safety program. Our concern is that those skills have suffered in the past few years and we would not want to see the Coast Guard diminish or degrade the value that it places on these strengths.

The achievements in Marine Safety in the last several years have been remarkable and the change hasn't come about because the Coast Guard levied high fines on industry or beat us over the head with a stick. It came about because the Coast Guard and industry worked as partners and attacked safety as a problem to be solved.

Let me point to our own industry as an example. We are building some of the most innovative and advanced vessels in the U.S. fleet. We are hiring Americans straight out of school, training them to run these vessels and, in the words of one of OMSA's Board members, to be the CEO of his or her own $15-million floating corporation.

And we are doing it in a work environment that becomes safer and safer with each passing year. You have to go back to the early 1980s to find a period where our industry was as busy as it is right now. Then we were struggling to meet the demands offshore with a safety culture and an incident rate that was not acceptable. Today we face a similar demand, but we are doing it with much greater emphasis on safety. We recently surveyed our members on their safety records for the year 2006. Our reportable injury rate on offshore vessels, including offshore supply vessels, crewboats, liftboats and tugboats, is .46 per 200,000 work hours. That is one tenth the OSHA rate for all American workplaces. Even factoring in a margin of error, it means that working on one of our member vessels is safer than working in a restaurant, in a store or in a bank.

This tells us that the partnership we have had in the past has worked and that it would be a terrible mistake to lose that progress.

Since September 11th, the Coast Guard has struggled to find the balance between security and its historic core functions. You have seen it in Washington. We have seen it in the field. We don't diminish the importance of security. We live in a new age and the need to defend our country from an international terrorist threat is a given. However, in the effort to address the need for security, we cannot afford to give short shrift to safety. Unfortunately, we are seeing evidence of the diminished priority given to safety within

the Coast Guard and within the Department of Homeland Security. Our organization would like to cite some specific concerns:

Organizational Changes - The Coast Guard has launched a series of restructurings in the past few years. They have combined safety and operations units into Sectors. Then they changed functional offices from old titles like Marine Safety and Operations to cross-functional teams like Prevention and Response. Lately they have adopted military identifiers in place of titles. Now the Coast Guard is finalizing a new structure that further removes the top level of the Coast Guard from Marine Safety. With each change in the organizational chart, it has been harder and harder to figure out where Marine Safety stands in the pecking order. Until recently, there was an Admiral in charge of Marine Safety and that Admiral reported directly to the Commandant. Now it is much harder to determine how the priorities of the Marine Safety mission will be communicated to the highest levels of the Coast Guard hierarchy. These changes raise some tough questions for the Coast Guard. As Marine Safety drops further and further down the organizational chart, when do we conclude that the leadership is too isolated from the realities of the Marine Safety mission? When will there be too many filters between the maritime industry and the highest levels of Coast Guard command?

Experience Levels – What is the impact of the changed status of Marine Safety for Coast Guard personnel? Understandably, the Coast Guard wants its personnel to be more well-rounded and have greater understanding of the full scope of its missions. But under the current approach, the Coast Guard runs the risk of becoming an agency of generalists and losing the expertise in specific areas like Marine Safety. Experience, expertise and judgment are interrelated. The Coast Guard has traditionally had some of the world's experts on specific areas, such as vessel design, offshore safety or transportation of hazardous chemicals. If the Coast Guard system is set up to encourage officers to know a little bit about everything, how will it develop the world class expertise that has served it so well for so long?

The Coast Guard has always placed a lot of responsibility on the shoulders of some very young personnel. That's OK. Our industry does too. But when you do that, you need a support system that gives them the tools they need to grow and protects them from their own inexperience. In the past, when a young Coastie was sent into the field, their superiors had the experience they lacked. They learned from their bosses and if they made a mistake or were overeager, their bosses were there to fix it. That is less certain today. A newly assigned junior officer may report to a superior who came from another field and may lack the hands-on expertise to guide that new officer. That is unfair to the personnel, it is unfair to the regulated industry and ultimately, it harms the Coast Guard.

Let me stress that there is no time to lose on addressing this concern. Since September 11th, several thousand new recruits have entered the Coast Guard. For roughly half of the Lieutenants and all of the LT JGs, ensigns and junior petty officers, the Post 9/11 Coast Guard is the only one they have ever known.

Partnership - This question of experience and expertise can create problems that go to the very heart of the relationship between the Coast Guard and industry. As I have said, our industry has a safety record that we can be proud of and we can say without question that the give-and-take of our partnership with the Coast Guard has help us achieve that record.

A successful partnership is like a business negotiation. Both sides have to bring a considerable amount of expertise to the table. What happens with the Coast Guard representatives lack expertise? On the one side, they may be too rigid and uncompromising. Industry walks away feeling that the Coast Guard is unreasonable. On the other side, if the Coast Guard representatives don't understand the issue at hand, they may be too willing to compromise. Maybe industry gets a short-term victory but in the long-term, the Coast Guard concludes that industry is taking advantage of its trust or, to put it simply, getting away with murder. Again, I stress a true partnership in which both sides bring their considerable expertise to the table benefits everyone.

Inspections – The Coast Guard needs to address concerns over vessel inspections, including shortages and experience. In the last 18 months, on parts of the Gulf Coast we have experienced delays in inspections of 30 days and more. At the least, planning around those sorts of delays represents a roadblock to commerce. At its most extreme, it may take vessels out of operation at a time when we have experienced nearly 100 percent utilization.

Recently that backlog has dropped substantially, but it is not where it should be. The inspectors in the field are understaffed, overworked and overwhelmed. The problem may get worse before it gets better. We do not anticipate that the offshore business will slow down to any great degree for the next few years. Add to that an increased need for LNG inspections and requirements for towing vessel inspections and we could easily find ourselves in a crisis. Our understanding is that this area of Marine Safety which had frankly languished is getting fresh attention from the Coast Guard. We support that new focus and we would suggest that the Coast Guard look at four distinct parts of the inspection problem:

1. The Coast Guard needs to move aggressively to meet the staffing needs for their inspection departments.
2. The training pipeline is broken and needs to be fixed. It takes time to train inspectors.
3. The Coast Guard needs to find a way to keep people in the inspection program. Expertise in inspections is a cornerstone of safety enforcement. The success of a marine inspection program is how many second and third tour inspectors are still out walking steel. It should not be just another ticket to punch or another career stepping stone.
4. The Coast Guard has been slow to look at alternatives. The Alternate Compliance Program allows approved third parties to perform inspections on vessels that work internationally. The law allows the Coast Guard to expand the program to vessels that are loadlined and classed. That would provided a much needed relief valve for many of the vessels our members operate without compromising safety. It is

also conceivable that the Coast Guard could hire outside inspectors (what they refer to as tiger teams) to meet periods of peak demand. These suggestions are not new, but the Coast Guard has been reluctant to consider them.

Mariner Licensing and Documentation – Much has been said about this area. It was the topic of a hearing in this Committee during the last Congress. The Coast Guard is in the middle of a re-structuring of the program that it says will address many of our concerns. We are told that it has already reduced delay times and resulted in a number of other improvements. Our association believes that we need to give that restructuring a chance to succeed.

However, it is important that we set the right goals for licensing and documentation. The measure of success should be the mariner's needs, not what makes the Coast Guard's job easier. We also need to recognize that the problems with licensing may go far beyond the limited scope of the current reorganization. The way we license and document our mariners in this country is overly and needlessly complex and that is the problem we need to attack. For example:

- We are told that 80 percent of the applications for a license or document at the Regional Examination Center are rejected because they weren't filled out right. Do we blame the mariners or do we re-think application forms and processes that are too complicated and are nearly impossible to follow correctly?
- The Coast Guard will tell an Able-Bodied Seaman serving on an offshore tug within U.S. waters that he is unqualified to serve on the exact same tug when it leaves U.S. waters because his sea service time on the domestic operations doesn't count towards international service.
- There are seven different ways for a mariner to become the master of a 200-ton vessel, but there is no practical way for the veteran master of a crewboat to upgrade his license to operate the same vessel when it leaves the Gulf of Mexico and goes to work overseas.

Now these kinds of complexities didn't just happen overnight. It took a long time for the process to get so fouled up and the maritime industry deserves its share of the blame. But we need to address it now. If McDonald's handled its business the way we handle mariner licensing, the menu would be 25 pages long and it would take a week to order your food.

Again, as we find with inspections, pushing the Coast Guard to look at alternatives or ways to streamline the process has been slow and difficult work. More than a year ago, our industry went to the Coast Guard asking to take a novel program, a streamlined evaluation process that was created by the Coast Guard exam center in Houston, and make it a national program. The Coast Guard has indicated its support for doing that, it still has not been implemented. The maritime industry needs to address some very serious personnel shortages but we need to do it in a way that attracts mariners who can meet our increasing demand for safety and professionalism. We need for the Coast Guard to be our partner and not an obstacle in finding innovative solutions.

Coast Guard Policymaking – The Commandant has said that the Coast Guard is way behind on its regulatory projects. As has been his hallmark, the Commandant's honesty and willingness to confront the problem is to be applauded. We are glad policymaking is getting a renewed focus. However, the test should not just be the quantity of the regulations that are put out. There needs to be more of a focus on regulations that help industry do its job with minimal disruptions to commerce. There needs to be an emphasis on avoiding putting out bad regulations.

The Coast Guard's approach to regulations, policy letters and Navigation and Vessel Inspection Circulars (NVIC) is frustrating and problematic. Yes, the process is painfully slow, but we could accept some delay if the time was spent gathering public input and incorporating it into commonsense regulations. However, that is not what we are finding.

We believe that we have lost a level of openness and accountability that existed before September 11th. Prior to that, the Coast Guard exhibited a real willingness to use the public rulemaking process to produce workable, practical regulations. Instead, we find more and more often that when something is released as a Proposed Rule, it is practically cast in stone and won't change unless there is fierce public opposition. Then if it turns out that the Final Rule is hopelessly flawed and unworkable, a NVIC is required to fix it.

The TWIC rules are a perfect example. Industry and members of Congress warned the Coast Guard and TSA that the deadline for the Proposed Rule on TWIC was inadequate and they needed to give the public more time to comment and propose alternatives. However, the agencies ignored that advice and plunged on ahead. The Final Rule, issued at the beginning of this year, was hardly changed from the Proposed Rule and failed to fix any of the problems that industry warned them about. Now the Coast Guard has released a NVIC that hopefully will mitigate the failings of the TWIC regulations. Make no mistake, we appreciate the Coast Guard's efforts to address problems through this NVIC, but that is not the way the process is supposed to work.

As a part of the Commandants' efforts to improve the policy-making capacity of the Coast Guard, we hope he will take a look at whether the people writing the rules have the real-world experience to write regulations that make sense and do not cause more problems than they solve. Take a look at whether they have the proper level of oversight by their superiors to keep bad regulations from hitting the streets. Take a look at whether the agency is truly accountable to the public as envisioned by the Administrative Procedures Act. Finally, and most importantly, take a look at how long it takes for different types of regulations and policies to gain clearance within the Coast Guard and from the Department of Homeland Security. It is worth asking the question whether the Coast Guard and DHS consider a regulatory project involving Marine Safety to be as significant and valuable as a security regulation.

Jones Act - Let me turn for a moment to a different topic, the Jones Act. This is a critically important law to our members and to the entire domestic fleet and U.S. shipbuilding industry. The Coast Guard has two very important roles to play on the Jones Act. It controls vessel documentation, meaning that if Al Qaeda were to try to secretly

take ownership of a U.S. flag vessel, it would be the Coast Guard's responsibility to uncover it. The Coast Guard also plays a supporting role in keeping foreign vessels from the transportation of cargo that is restricted to U.S. flag vessels under the Jones Act. By Memorandum of Understanding, the Coast Guard is tasked with supporting Customs and Border Protection's enforcement of the Jones Act.

Both roles are important. Neither one is being handled as a priority. This is an area in which we would welcome a discussion of how this fits into the Coast Guard's overall mission. If these functions are important to the Coast Guard, we think they should be funded to adequate levels. If they are not important to the Coast Guard, Congress should assign those functions to another agency to handle.

Our view on Marine Safety is simple. When it has been approached as a true and cooperative partnership with industry we have accomplished great things together. The role of Marine Safety should not be allowed to become diluted or diminished within the Coasts Guard.

To take that argument a step further, we believe that the lessons learned on Marine Safety should be applied to Maritime Security. All of the DHS security experts talk about managing risk and doing more with limited resources. Do they think they invented risk-management or maximizing resources? We and the Marine Safety experts in the Coast Guard have grappled with those issues on the safety side for years. We addressed them through cooperation, developing trust and through an approach to our vessel personnel that has come to be known as "honor the mariner." Yet today, we seem to have forgotten many of those lessons. In the current environment, mariners may feel they are being treated like the enemy. Industry may feel that security is running roughshod over commerce. We believe that the U.S. flag vessel and the U.S. mariner should be a force multiplier for the Coast Guard's maritime security efforts, not the focus of most cost and the majority of the scrutiny.

Let me conclude by saying that over the years, the compass of the Coast Guard has swung to adapt to new courses and new challenges, whether it was drug interdiction, environmental stewardship or now security. But the safety of people who work on the water and operate recreational boats on the water has always been its true bearing. Eventually the compass needle has always swung back to safety. The Coast Guard has addressed the new challenges, but has kept safety as its lodestone.

Frankly, there are concerns today that the Coast Guard won't swing back – that the focus will not return to Marine Safety or when it does, it will look more like the current approach to security: prescriptive and overly rigid. That would be a loss for industry, for the Coast Guard and for the public.