



**TESTIMONY OF
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**ON “OFFSHORE DRILLING IN CUBA AND THE BAHAMAS:
THE U.S. COAST GUARD’S OIL SPILL READINESS AND
RESPONSE PLANNING”**

**BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUB COMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION
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We are pleased to provide you with the Coast Guard’s plans and ongoing efforts to prepare for and respond to a pollution discharge that, while occurring outside of the U.S. Exclusive Economic Zone (EEZ), may threaten to impact our waters or natural resources. The Coast Guard is committed to protecting U.S. interests, particularly U.S. coastlines and natural resources, from potential discharges from deepwater drilling in waters of nations adjacent to the United States. The Coast Guard is the pre-designated Federal On-Scene Coordinator (FOSC) under the National Contingency Plan (NCP) for the coastal zone, and has the authority under the Federal Water Pollution Control Act of 1972 (FWPCA), and the Oil Pollution Act of 1990, to oversee and direct removal actions for spills within U.S. waters or threatening U.S. waters and adjoining shorelines, or that may affect U.S. natural resources. The NCP provides a coordinated, efficient, and effective whole-of-government response to marine pollution discharges to protect the waters, shorelines, natural resources, and welfare of the U.S.

International and National Response Framework

The International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (OPRC Convention) provides a global framework for international co-operation in combating major incidents or threats of marine pollution. The International Maritime Organization has established an OPRC technical working group under its Maritime Environment Protection Committee, and a Regional Emergency Information and Response Center (RAC/REMPEITC-Caribe) in Curaçao focused on supporting international cooperation for combating spill events in the Caribbean.

The United States, the Bahamas, Cuba, and other countries in the region are parties to the Cartagena Convention and its Oil Spills Protocol. These international agreements provide a framework for cooperation similar to that provided by the OPRC Convention, but on a regional basis for the wider Caribbean region. These countries also participate in the regional Caribbean Island Oil Pollution Response and Cooperation Plan (Caribbean Island OPRC Plan). Although focused on threats to Caribbean islands (including Puerto Rico and the U.S. Virgin Islands) rather than to the U.S. mainland, the Caribbean Plan provides a cooperative scheme for a response in the event of a major oil spill incident which exceeds the response capability of a national government or oil industry. The Caribbean Plan contains detailed provisions for organization, initial response activities, reporting to

signatory states and organizations, mobilization of personnel and equipment for response, and assistance from foreign governments that are not parties to the Plan or commercial response teams.

At the national level, the NCP is supported and maintained by the National Response Team (NRT). Chaired by the Environmental Protection Agency (EPA), with the Coast Guard as Vice-Chair, and comprised of the 15 NRT member agencies, the NRT meets monthly to oversee the National Response System (NRS) and maintain national level policy and doctrine. With regard to Cuban offshore drilling, the NRT Preparedness Committee is actively canvassing member agencies to validate existing environmental, hydrologic, oceanographic and other relevant risk data in the Caribbean and mid-Atlantic that has been, and will continue to be, useful in our planning.

At the regional level, the NCP mandates the establishment of Regional Response Teams (RRT). As with the NRT, the RRT members include regional representatives of the 15 primary federal agencies. In addition, the RRT includes state representatives from each state in the region. For regions bordering Canada, Mexico and Russia, the active relationships between the RRTs and those countries promote transboundary cooperation in preparedness and response. RRT IV is responsible for planning and preparedness in the Straits of Florida and the South Atlantic coast (areas of potential immediate impact in the event of a Cuban offshore incident). The Coast Guard RRT IV chair is held by Coast Guard District Seven (D7). Led by D7, the RRT is proactively working with state and coastal communities of Florida and with the private sector to monitor developments and to begin planning strategies, and to identify equipment and personnel capabilities, gaps and shortfalls to combat an incident if it were to occur.

Preparedness Planning

Since March 2011, the Coast Guard has been actively engaged with Repsol-YPF S.A., a publicly traded Spanish company, which plans to drill in the Cuban EEZ starting in early 2012. We have engaged with Repsol to gain their cooperation and to study their response strategies, resources, and capabilities in order to protect U.S. interests in the event of an oil spill incident. The Coast Guard attended a spill response exercise hosted by Repsol in July 2011, and Repsol attended a Coast Guard response exercise in November 2011. Repsol also provided Coast Guard response personnel with access to key documents, including its Oil Spill Response Plan. Additionally, Repsol offered, and the Coast Guard and Bureau of Safety, and Environmental Enforcement (BSEE) accepted, the opportunity to embark the rig during its port call in Trinidad and Tobago earlier this month to review equipment, relevant documentation, and improve our awareness of the rig's safety and emergency systems. Such actions are consistent with our ongoing efforts to minimize the possibility of a major oil spill that could potentially endanger or damage U.S. interests. Because the rig is foreign flagged, owned by a foreign corporation, and will be drilling on another country's continental shelf, it is not subject to U.S. inspections. The purpose of the review was to provide information concerning Repsol's adherence to its voluntary commitment to conform to all International and U.S. offshore drilling safety standards. The Coast Guard will continue to discuss any areas of concern with the company, the master, and, as appropriate, the flag state (the Bahamas) to further minimize risk and ensure response preparedness. Repsol has made clear that it intends to abide by U.S. standards for safety, oil spill prevention and response.

To ensure that we are prepared to respond to a discharge, the Coast Guard develops and maintains contingency plans that will be activated if an oil spill occurs in the waters of a neighboring nation, yet threatens to impact U.S. waters, adjoining shorelines, or our natural resources. As a result of the proposed North Cuba Basin oil exploration, the Coast Guard updated its plans to ensure we are ready to respond to any spill from drilling activities off the coast of Cuba that could impact the U.S. Our

engagement in this preparedness effort is far-reaching and includes collaboration with a host of Federal, state, local, and private entities. As the Coast Guard focuses on the near-term drilling that is to occur off Cuba, we are mindful of the potential for future offshore oil exploration in Bahamian waters.

Lessons learned from the 2010 BP Deepwater Horizon oil spill have been incorporated into Coast Guard planning efforts, including forging partnerships with other Federal agencies, and state and local government officials, to ensure a united approach to readiness. While we are preparing to take response actions necessary to protect U.S. interests, a major discharge from drilling off the United States in adjacent nations' waters likely will require a broad international response. As described above, the United States is a party to several important multilateral treaties on pollution response that promote this type of multilateral cooperation.

The NCP is the nation's blueprint for preparedness and response to an oil spill incident that threatens to impact U.S. waters, adjoining shorelines, or natural resources. The NCP calls for a tiered planning approach that builds on efforts at the regional and local levels. At the regional level, a litany of Federal, State, and local agencies, as well as industry, academia, and other non-governmental organizations have and continue to engage in contingency planning to be ready for the low probability, but high consequence event, of an oil spill from foreign offshore oil drilling adjacent to Florida. The Regional Response Plan has been revised to include an annex on international offshore spills.

An Offshore Response Plan has been developed to address the unique characteristics of oil spill response in the Florida offshore environment. The plan creates an Offshore Response Command and provides a command and control structure that is accountable to the FOSC to address all aspects of offshore pollution response from a foreign source. This plan includes the capability to liaise with foreign governments and corporations to address communication and coordination issues inherent with international response efforts.

At the local level, the Coast Guard has expanded and enhanced our efforts with State and local officials in oil spill response planning. Beginning in March 2011, in Florida, we conducted extensive outreach to engage such officials in updates to the Area Contingency Plans, including revisions to the Geographic Response Plans and Tidal Inlet Protections Strategies. Our State and local partners have been and will continue to be an important part of the planning effort. They have been involved in our bi-weekly planning calls and our November 2011 response exercise. These recent updates and strong partnerships have strengthened our readiness to respond to a spill.

Response Activities

For oil spills that occur within Cuban waters, oil rig operators and Cuba have the responsibility to conduct cleanup operations and prevent damage to the United States. In accordance with the NCP, if a spill occurs within Cuban waters that threatens to impact U.S. waters, shorelines or natural resources, the Coast Guard would mount an immediate response, in partnership with other Federal, State and local agencies. Such response would focus on combating the spill as far offshore and as close to the source as possible, using all viable response tactics in a manner consistent with domestic and international law. The Coast Guard has obtained licenses from the Department of the Treasury's Office of Foreign Asset Control and the Department of Commerce's Bureau of Industry and Security, which allow us to broadly engage in preparedness and response activities, and positions us to direct an immediate response in the event of a catastrophic oil spill.

Holding parties responsible for damages to U.S. interests arising from extraterritorial activities involves complex legal questions. Because of these challenges, the Coast Guard must be prepared to direct and fund most or all of the response actions and mitigation efforts using the OSLTF. The OSLTF is available to fund the removal actions that are consistent with the NCP. Nevertheless, we anticipate that in a catastrophic spill, the expenses associated with the response would quickly exceed the current statutory limits on expenditures by the OSLTF.¹ Timely legislative action could be required to access additional funds for spill response activities.

International Engagement

A multilateral approach is essential to ensure common understanding and effective implementation of international obligations and standards for oil spill preparedness, prevention and response. The Coast Guard is working with BSEE to lead the effort to conduct a series of multilateral seminars focused on regional prevention, preparedness and response for a potential worst case oil discharges in the Caribbean. The seminars are designed to build on the existing framework of our international agreements and the Caribbean Island Oil Pollution Response and Cooperation Plan and enhance regional readiness and cooperation related to offshore drilling, with an emphasis on better preparing us to protect U.S. interests.

The first of these seminars, conducted under the auspices of the International Maritime Organization (IMO), was hosted in Mexico in late November 2011 and covered prevention topics related to drilling operations. The second seminar, also sponsored by the IMO, hosted by the Bahamas in early December, provided a forum to discuss a number of prevention, planning, and response issues between the United States and our Caribbean neighbors in a multilateral setting. Participants for both seminars included delegations from Jamaica, Mexico, the Bahamas, and Cuba. The Bahamas seminar presented an opportunity to identify other nations' infrastructure and plans for emergency well control, notification procedures, and oil spill response. Departing that seminar, the delegates from the participating nations agreed to engage in continued multilateral exchanges with the objectives of establishing a framework for ongoing communications, developing a compilation of international and domestic prevention and response authorities, and coordinating future workshops. A third IMO-sponsored workshop designed to help develop greater detail on a prevention and response topics is being held in Curaçao on 31 January. The multilateral engagement is intended to provide a common understanding and effective implementation of international obligations and standards for oil spill preparedness, prevention and response. The IMO will host this seminar for participants from the United States, Jamaica, Mexico, the Bahamas, and Cuba.

Conclusion

As was highlighted by the BP Deepwater Horizon oil spill, any major spill, regardless of its source, will require unity of effort across all levels of government, industry, and the private sector. A spill originating in the Caribbean, in another nation's waters, adjacent to the United States, undoubtedly will require international cooperation. The Coast Guard will participate in upcoming IMO-sponsored multilateral discussions to ensure coordinated prevention programs, contingency planning efforts and development of robust response strategies. The Coast Guard will continue outreach and coordination of Federal, State and local efforts for potential oil spills originating in foreign waters adjacent to the U.S.

Thank you for the opportunity to testify today. We look forward to your questions.

ⁱ Such limits include: (1) the limited amounts available to the President for response pursuant to 33 USC 2752(b) (\$50 million annually, with up to an additional \$100 million in annual advances with a report to Congress); (2) the \$1 billion per incident cap (natural resource damage assessments and claims in connection with any single incident shall not exceed \$500,000,000) on what may be expended from the Fund, as provided paragraph (c) of the Internal Revenue Code provision creating the OSLTF (26 USC 9509), and (3) the practical limit imposed by the Fund balance, currently approximately \$2.3 billion which may need to be supplemented from other resources in the event of a Federal response that could cost billions of dollars.