Statement of
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Department of the Interior
Before the
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Thank you, Mr. Chairman and members of the Committee, for the opportunity to testify about the U.S. Minerals Management Service (MMS) requirements regarding oil spill response plans. Before I begin my testimony, I want to express how saddened I and all MMS staff are over the tragedy that occurred on April 20, 2010, on board the Deepwater Horizon. Many MMS staff have worked their entire careers in an effort to prevent this kind of thing from happening, and we will not rest until we determine the causes so that we do everything possible to reduce the risk of its happening again.

The Deepwater Horizon oil spill has been declared a "spill of national significance" by the Department of Homeland Security and is of grave concern to the Minerals Management Service and the Department of the Interior. The Obama Administration and the Department are dedicating every available resource to ensure that BP and other responsible parties meet their responsibility to stop the flow of oil and clean up the pollution, and to comprehensively and thoroughly investigate these events.

At the Department Level, The Departments of the Interior (DOI) and Homeland Security are both members of the National Response Team, (NRT), and DOI is participating in the Unified

Area Command of which Admiral Landry is the Federal On Scene Coordinator, (FOSC), and the National Incident Commander is Admiral Allen, Commandant of the USCG. We have also begun a joint investigation between the Coast Guard and MMS to discover the causes. In addition, Secretary Salazar has established a new Outer Continental Shelf (OCS) Safety Oversight Board to conduct a full review of offshore drilling safety and technology issues. And, at the request of the Secretary, the National Academy of Engineering, a highly regarded organization affiliated with the National Academy of Sciences, will conduct an independent, science-based analysis of the causes of the Deepwater Horizon oil spill so that corrective steps can be taken to address any engineering or mechanical shortcomings that may be uncovered.

Overview

All leasing and drilling operations on the Federal offshore are governed by laws and regulations that strive to ensure safe operations and preservation of the environment. The MMS enforces compliance with these regulations and periodically updates rules to reflect advances in technology and new information. Changes in MMS regulations may result from outside recommendations or from MMS's ongoing review of technology and investigation of incidents in offshore operations.

The authority for MMS to regulate oil spill planning for affected facilities is derived from the Oil Pollution Act of 1990 (OPA-90) and Executive Order 12777. Direction to lessees regarding federal oil spill planning, preparedness, and response requirements is found at 30 CFR Part 254 (Oil Spill Response Requirements for Facilities Located Seaward of the Coastline). These regulations became effective on June 23, 1997, and require that all designated operators of oil

handling, storage or transportation facilities located seaward of the coastline submit an Oil Spill Response Plan (OSRP) to MMS for approval.

Each OSRP must be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan, which falls under the jurisdiction of the National Response Team (the interagency body given oversight responsibility under the Oil Pollution Act), and with the appropriate Regional Contingency Plan. The national plan provides the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants, and contaminants. Regional Contingency plans fall under the National Response Team through the appropriate Regional Response Team. Nothing in this regulation relieves an operator of the responsibility to take all actions necessary to immediately abate the source of a spill and remove any spills of oil.

Pursuant to 30 CFR 254, a lessee is required to submit an OSRP to the MMS for approval before or concurrent with submitting an exploration plan or Development Operations Coordination Document (DOCD). The OSRP outlines the availability of spill containment and cleanup equipment and trained personnel. It must ensure that full response capability can be deployed during an oil-spill emergency. The Plan must include specifications for appropriate equipment and materials, their availability, and the time needed for deployment. The Plan must also include provisions for varying degrees of response effort, depending on the severity of a spill. The Oil Pollution Act requires that the OSRP identify and ensure the availability of private personnel and equipment necessary to respond to a worst-case discharge. A Regional OSRP covers multiple facilities or leases of a lessee or operator that are located in close enough proximity to be served

by the same response equipment and personnel, have similar modeled spill trajectories and worst-case discharge scenarios, or have the potential to affect the same ecological or socioeconomic resources.

MMS reviews and approves these plans every two years unless there is a significant change that requires that the plan be revised immediately. Types of changes that would trigger a review include a change to the plan that significantly reduces the ability to respond to a spill, a change in the worst-case discharge scenario, or a change in oil spill removal organizations cited in the plan.

An OSRP must demonstrate that an operator can respond quickly and effectively whenever oil is discharged from its facility. The operator must immediately carry out the provisions of the plan whenever there is a release of oil from a facility. An owner or operator must also carry out the training, equipment testing, and periodic drills described in the plan, and these measures must be sufficient to ensure the safety of the facility and to mitigate or prevent a discharge or a substantial threat of a discharge.

BP's Regional OSRP that covered the Deepwater Horizon was first issued on December 1, 2000, and last revised on June 30, 2009. This Regional ORSP anticipated a worst-case discharge scenario of 250,000 barrels per day. BP's estimate for a worst-case discharge in their exploration plan for the well being drilled by the Deepwater Horizon was 160,000 to 162,000 barrels per day. Because the worst-case discharge estimate for this particular facility fell below the levels indicated in BP's Regional OSRP, BP was not required to submit a site-specific OSRP.

Functionally, an OSRP can be broken down into two parts. The first portion of the plan discusses what actions must be taken when a spill from a facility occurs and is referred to as the "Emergency Response Action Plan". This portion of the OSRP is the core of the overall plan; it describes how the operator will respond, who will be responding and what actions will be taken. This section provides details on the teams that will be responding to a spill, location for command center(s) for the response, and procedures for responding to and notifying the necessary Federal, State and local government agencies.

The second portion of the OSRP includes information that supports the Emergency Response Action Plan. This includes contractual agreements, a worst-case discharge scenario, plans for the use of dispersants and in-situ burning, and details on how the lessee or operator will conduct training on the plan and drill their personnel on the plan. The contractual agreements incorporated in this section are agreements between the lessee and companies that provide oil spill cleanup or other support services during a spill response, including oil spill cleanup organizations and oil spill cooperatives.

Personnel are trained on the procedures established by an OSRP during annual classroom instruction and through participation in tabletop exercises. The annual exercises expose personnel to the components of their OSRP and help them form an integrated understanding of how the various players in spill response work together. At a minimum, the exercise must test the Spill Management Team's organization, communication, and decision making in managing a response.

Members of the spill response operating teams that will operate oil spill response equipment are required to undergo annual hands-on training. The field training is focused on the safe deployment and operation of the various types of equipment that are listed in MMS-approved OSRPs such as the fast response unit, various skimmers, boom, and oil spill response vessels. During a triennial period, all of the various types of oil spill response equipment must be deployed during at least one of the deployment exercises. Those who are responsible for managing the operating team must also complete training on spill-reporting procedures, analysis of oil spill trajectories and predicting spill movement, and use and deployment strategies of oil spill response equipment.

In addition to the operating team training requirements, MMS also conducts both announced and unannounced oil spill drills to determine preparedness. On an annual basis, MMS conducts over 30 unannounced oil spill drills to verify that operators are prepared to quickly and efficiently respond to spills from their facilities. MMS also maintains a test tank in Leonardo, New Jersey, where operators may train in oil spill recovery under varying conditions.

The worst-case discharge scenario section of the OSRP calculates how much oil can be spilled from the facility and how the lessee would respond to such a spill. In the case of a well blowout, the owner or operator must describe how they would respond to the spill for thirty days. Regional OSRPs list the highest worst-case discharge for all facilities listed in the plan. If a facility covered by a regional OSRP has a larger worst-case discharge than that currently listed in the OSRP, then the plan must be revised with this new worst-case discharge scenario, or a new site-specific plan must be prepared.

Additionally, separate dispersant and in-situ burning plans describe how the operator would apply dispersants or burn the oil if a spill occurs from their facility and must be consistent with existing National and Regional Contingency Plans. The dispersant and in-situ burning plans include information on locations of dispersants and the equipment needed to disperse or burn the oil. Dispersants must be listed on the Environmental Protection Agency list of approved products before they can be considered for use in U.S. waters. The information required in an OSRP is described in detail in a Notice to Lessees, MMS NTL 2006-G21, along with the required format for submission.

Generally, an OSRP must be approved before a lessee may use that facility. There are conditions, however, where a lessee may operate their facility after a plan has been submitted and is awaiting approval. To operate a facility during that period, a lessee must certify in writing to the MMS Regional Supervisor that it has the capability to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge. Further it must verify that it has a contract in place for the necessary private personnel and equipment to respond to the discharge.

In the Gulf of Mexico OCS Region, a lessee may submit a regional plan covering all of its Gulf of Mexico OCS operations. The approved regional OSRP is then referenced when exploration plans or DOCDs are submitted. All regional and site-specific OSRPs are required to be reviewed and updated annually, and all modifications of an OSRP are submitted to MMS for approval. MMS Regulations at 30 CFR 254 require lessees and operators of facilities in State waters with

plans approved by the State to submit to MMS a copy of the plan and information pertaining to the State approval.

There are various review, update and amendment requirements for OSRPs. Following the initial submittal when a lessee starts operations within MMS jurisdiction, the OSRP must be updated every two years. As stated previously, an amendment must be submitted when: (1) A change occurs that significantly reduces spill response capabilities; (2) A significant change occurs in the worst-case discharge scenario or in the type of oil being handled, stored, or transported at the facility; (3) There is a change in the name(s) or capabilities of the oil spill removal organizations cited in the plan; or (4) There is a significant change to the Area Contingency Plan(s). Further, the MMS regional supervisor has discretion to require a modification if warranted. These modifications range from correcting telephone numbers to addressing significant shortfalls in the plan.

While MMS determines compliance with 30 CFR 254 and approval, other agencies and states have access to and may provide input to OSRP reviews. In the Gulf of Mexico, for example, digital copies of the MMS-approved OSRPs are maintained at the MMS office in New Orleans, Louisiana, are available for review by request, and would be sent to any state entitled to review for CZMA purposes as allowed by 15 CFR 930.58 as part of the proposed EP. Various Memoranda of Understanding/Memoranda of Agreement allow for Gulf coast states and the U.S. Coast Guard to review OSRPs; presently, Florida is the only state that has chosen to review the OSRPs in detail. Other states have limited their reviews to the worst-case discharge comparison in exploration plans and DOCDs.

Mr. Chairman, that concludes my prepared statement. I am also submitting for the record an MMS statement from a June 4, 2009 hearing before the House Science and Technology Subcommittee on Energy and Environment, because it contains information about MMS Oil Spill Research and Development efforts. Thank you for the opportunity to present an overview of the MMS's requirements for oil spill response plans associated with oil and gas activities on the OCS. I would be happy to respond to questions you or Members of the Committee have.