

Testimony
House Transportation and Infrastructure Committee
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Good morning Chairman Oberstar, Ranking Member Mica, and members of the committee.

I am Jack Gerard of the American Petroleum Institute. API's 400 member companies represent all sectors of America's oil and natural gas industry. Our industry supports 9.2 million American jobs – including many in the offshore development business – and provides most of the energy the nation needs to power the economy and our way of life.

The tragic and heartbreaking accident in the Gulf was unprecedented, and our thoughts and prayers go out to the families who lost loved ones, to the workers who were injured, and to all of our neighbors in the Gulf who were affected.

The people of America's oil and natural gas industry are working to help BP and the authorities respond to the spill. Clearly, there will be lessons to be learned, and we are fully committed to doing everything humanly possible to understand what happened and prevent it from ever happening again.

We have already assembled the world's leading experts to conduct a top-to-bottom review of offshore drilling procedures, from operations to emergency response. And our industry is providing data and expertise to the federal government to stop the flow of oil, clean up the environment, understand the causes and correct them.

As Congress considers legislative changes that impact domestic oil and natural gas production from our offshore resources, it is critical that proposals both protect taxpayers and advance our country's energy and economic interests. This nation's energy and economic security demands must be met by increased domestic oil and natural gas production now and for the next several decades. We want to work with Congress and the administration as we consider the best way to protect taxpayers and provide the energy our country needs.

I'm here today to address one of the important mechanisms we have that addresses liability and financial responsibility for oil spills.

The Oil Pollution Act of 1990 (OPA '90) established the Oil Spill Liability Trust Fund (OSLTF) as an important "insurance policy" to cover the costs of potential economic damages from oil releases from exploration, production or transportation accidents. The OSLTF is funded exclusively by a per barrel tax on the oil industry – not by taxpayers. The industry has contributed 100% of the amount currently in the Fund,

and we accept the responsibility to ensure this important safety net is adequately funded into the future.

Because there has been confusion in media reports and elsewhere, it is very important to reiterate that OPA '90 requires that for offshore facilities responsible parties pay ALL cleanup costs related to a spill from an offshore platform. Only then can responsible parties use the Trust Fund to cover up to \$1 billion for consequential damages if those claims exceed the OPA's \$75 million liability cap. Further, the liability cap for consequential damages does not apply in instances of gross negligence, willful misconduct, or violation of applicable federal regulations. Injured parties may also file claims in state courts, which are not subject to the liability limits.

In response to the Deepwater Horizon incident, BP has made it clear in writing that it will pay 100% of the environmental cleanup and all legitimate claims for economic damages without seeking reimbursement from the Trust Fund. Nevertheless, some are proposing to increase liability limits for economic damages from \$75 million up to \$10 billion, or even to remove the limit altogether. We recognize that changes are needed, but believe that proposals to arbitrarily raise or remove the fund's cap would threaten the viability of offshore operations and could significantly reduce U.S. domestic oil and natural gas production, cost jobs and harm U.S. energy security.

Nor are we alone in this assessment, as independent insurers and analysts have reached similar conclusions. Preliminary analysis indicates the following are some anticipated results of increasing the liability limits for economic damages from \$75 million to \$10 billion:

- Some of the leading insurance companies in the oil and gas market have told Congress that they would be unable to offer adequate insurance protection for offshore operations under proposals to increase liability limits for economic damages to \$10 billion, making the economic risk of conducting offshore operations too great for small, mid and even large sized companies.
- Estimates indicate that—aside from the national companies owned by foreign governments—only a few of the very largest oil and natural gas companies could meet a potential \$10 billion financial assurance test for self insurance.
- Lack of insurance created by a \$10 billion cap would, in effect, push all small, medium and even most of the major integrated companies out of the Gulf.
- An estimated 170,000 direct and indirect jobs are supported by the oil and natural gas industry in the Gulf of Mexico. As the companies that could meet the self insurance threshold account for about 15 percent of the total Gulf production, raising the liability cap to \$10 billion would place about 145,000 jobs at risk.
- Even the largest companies would see premiums for additional insurance skyrocket, raising overall costs for offshore operations by as much as 25%. The

impacts would be devastating. For example, Wood Mackenzie (Upstream Insight, May 2010) estimates that just a 10% increase in development costs could render seven current discoveries sub-economic, reducing production, jobs, and putting \$7.6 billion in future government revenue at risk.

As Congress considers this issue, thoughtful consideration must be given to harmonize the need to provide necessary resources to this important industry-funded safety net and protect our environment, while allowing us to safely and reliably provide the energy our nation relies on for our economic and energy security. To help achieve these critical objectives, API has initiated an effort with our member companies to quickly develop and provide to Congress and the administration our recommendations on how to effectively address liability limits and financial responsibility requirements for offshore exploration activities. We are committed to providing quick and constructive input to this important policy debate, and will provide our recommendations in the coming weeks.

This concludes my statement, Mr. Chairman. Thank you.