



**MEMORANDUM OF AGREEMENT
BETWEEN THE
MINERALS MANAGEMENT SERVICE – U.S. DEPARTMENT OF THE INTERIOR
AND THE
U.S. COAST GUARD – U.S. DEPARTMENT OF HOMELAND SECURITY**

MMS/USCG MOA: OCS-03

SUBJECT: OIL DISCHARGE PLANNING, PREPAREDNESS, AND RESPONSE

A. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to clarify responsibilities of the Minerals Management Service (MMS) and the U.S. Coast Guard (USCG) for oil discharge planning, preparedness, and response activities for fixed and floating oil and gas facilities, mobile offshore drilling units (MODUs), wind farms, deepwater ports, floating production, storage, and offloading (FPSO) (or similar) vessels, and other alternative/renewable energy projects located in State and Federal offshore waters seaward of the coastline.

This MOA updates Section 1 (Communications and Contacts), replaces Section 3 (Oil Spill Financial Responsibility), Section 4 (Oil Spill Preparedness and Response Planning), and Section 5 (Oil Spill Response) of MMS/USCG MOA OCS-01: Agency Responsibilities, dated 30 September 2004. Implementation of this MOA will be in accordance with Section J (Memorandum of Agreements – Development and Implementation) of the Memorandum of Understanding (MOU) between the MMS and USCG, dated 30 September 2004. The participating agencies will review their internal procedures and, where appropriate, revise them to accommodate the provisions of this MOA.

B. STATUTORY AUTHORITIES

The USCG and MMS enter this agreement under authority of 14 USC (U.S. Code) §141 – Coast Guard Cooperation with other Agencies; 43 USC § 1347, 1348(a) - the Outer Continental Shelf Lands Act (OCSLA), as amended; 33 USC § 2712 (a)(5)(A) - the Oil Pollution Act of 1990 (OPA); and 43 USC § 1301-1315 - the Submerged Lands Act (SLA), as amended.

C. JURISDICTION

The MMS, within the U.S. Department of the Interior (DOI), is responsible for managing the nation's natural gas, oil, and other mineral resources on the Outer Continental Shelf (OCS) in a safe and environmentally sound manner. The MMS is responsible for management of mineral leasing on the OCS and, in general, the regulation of industrial activities such as exploration, development, pipeline transportation, storage, production, drilling, completion, well servicing, and workover activities on lands

under its jurisdiction. Under the Energy Policy Act (EPAAct), which amends the OCSLA, the MMS is responsible for alternative energy projects located on the OCS whether such projects are co-located on offshore oil and gas facilities or are operated independently. The USCG retains responsibilities regarding the navigation safety aspects of such projects.

Under the OPA, MMS is responsible for oil discharge planning and preparedness activities for regulated facilities located in both State and Federal offshore waters. The geographic boundaries for these activities includes the area extending seaward of the coastline, and encompasses all offshore navigable waters subject to the jurisdiction of the United States.

The USCG, within the U.S. Department of Homeland Security (DHS), is responsible for the safe and environmentally sound handling and storage of petroleum products, hazardous materials, and certain dangerous cargoes at facilities which transfer the aforementioned materials between vessels and which are located on or near navigable waters of the U.S. Specifically these include: facilities that are defined under 33 CFR (Code of Federal Regulations) 126 – Handling of Dangerous Cargo at Waterfront Facilities (designated waterfront facilities that handle, store, stows, discharges, or transports packaged and bulk solid dangerous cargo); facilities that are defined under 33 CFR 127 – Waterfront Facilities Handling Liquefied Natural Gas and Liquefied Hazardous Gas (waterfront facilities that handle liquefied natural gas (LNG) and liquefied hazardous gas (LHG)); and, facilities defined under 33 CFR 154 – Facilities Transferring Oil or Hazardous Materials in Bulk (fixed and mobile transfer facilities that conduct transfers of oil to or from vessels with a fuel or cargo oil capacity of 250 barrels (bbls)). Under 46 CFR and other authorities, the USCG also has jurisdiction over vessels, including tank vessels, offshore supply vessels, MODUs, and other vessels involved in OCS activities or transfers of certain cargoes.

The USCG also serves as the pre-designated Federal On-Scene Coordinator (FOSC) for oil and hazardous substance pollution incidents that occur, or have the potential to occur, within the coastal zone of the U.S., as defined in 40 CFR 300. The USCG FOSC must respond to, investigate, and ensure a swift removal action for any oil or hazardous substance release regardless of its source (except hazardous substance releases from Department of Defense (DOD) facilities).

D. AGENCY RESPONSIBILITIES

1. COMMUNICATIONS AND CONTACTS

- a. Agency staff responsible for implementation and maintenance of this MOA and attendant National policy matters are:
 1. MMS Coordinator – National OCS Oil Spill Program
Minerals Management Service Headquarters
MS 4023
381 Elden Street
Herndon, Virginia 20170
 2. USCG Chief – Office of Incident Management Preparedness (CG-3RPP)
U.S. Coast Guard Headquarters
2100 2nd Street, S.W.
Washington, D.C. 20593

b. Agency staffs that are responsible for field coordination of oil discharge planning, preparedness, and response activities are:

1. MMS

Gulf of Mexico Regional Office (GOMR; Includes Gulf of Mexico and Atlantic areas)
Oil Spill Program Administrator
Plans Section - MS 5231
1201 Elmwood Park Boulevard
New Orleans, Louisiana 70123

Pacific OCS Regional Office (POCSR)
Oil Spill Program Administrator
Office of Facilities, Safety, and Enforcement – MS-7400
770 Paseo Camarillo, 2nd Floor
Camarillo, California 93010

Alaska OCS Regional Office (AOCSR)
Oil Spill Program Administrator
3801 Centerpoint Drive, Suite 500
Anchorage, Alaska 99503-5820

2. USCG

Eighth Coast Guard District
District Response Management
Environmental Specialist and Regional Response Team Coordinator
500 Poydras Street
New Orleans, Louisiana 70130-3396

Eleventh Coast Guard District
Contingency Planning Branch
Oil and HAZMAT Group Supervisor
Coast Guard Island, Building 51-1
Alameda, California 94501-5100

USCG Deployable Operations Group
4200 Wilson Boulevard, Suite 450
Arlington, Virginia 22203

The participating agencies will identify in writing representatives and contact information for the purposes of keeping each other informed of issues, relevant applications, routine policy determinations, and to coordinate joint activities. For the USCG, the Office of Incident Management Preparedness (CG-3RPP) is responsible for identifying headquarters and district representatives. For MMS, the Office of Offshore Regulatory Programs (OORP) is responsible for identifying appropriate regional and district representatives that have been designated by the MMS Regional Directors.

2. NATIONAL PREPAREDNESS

The National Preparedness for Response Exercise Program (PREP) was developed to establish a workable exercise program which meets the intent of section 4202(a) of OPA 90, amending section 311 (j) of the Federal Water Pollution Control Act (FWPCA), by adding a new subsection (6) and a new subsection (7) for spill response preparedness [33 U.S.C. 1321 (j)]. The PREP was developed to provide a mechanism for compliance with the exercise and training requirements, while being economically feasible for the Government and industry to adopt and sustain. The PREP is administered by the USCG; the Environmental Protection Agency (EPA); the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS) of the U.S. Department of Transportation (DOT); and the MMS.

The MMS will designate a representative to serve on the PREP National Schedule Coordinating Committee (NSCC), which is chaired by the USCG, to assist in development of national triennial exercise schedules; review and modification of PREP guidelines, as necessary; and participation in periodic public meetings on the PREP program. The representative will also assist the other PREP agencies in reviewing and making recommendations on formal requests to receive exercise credit as proven through documentation on responses to an actual spill event.

3. OIL SPILL RESPONSE PLANS

The final rule governing oil spill response plans (OSRPs) and related requirements for facilities located seaward of the coast line, including those located in both State and Federal waters, became effective June 23, 1997. The regulation, 30 CFR Part 254, whose authority is derived from OPA 90 and Executive Order (EO) 12777, requires that owners and operators of oil handling, storage, and transportation facilities that are located seaward of the coast line submit spill response plans to MMS for approval and that they be periodically updated. The OSRPs are reviewed to ensure consistency with the National Response Plan (NRP), National Contingency Plan (NCP), and local Area Contingency Plans (ACPs). This regulation does not cover vessels, such as FPSOs. Clarification of MMS OSRP requirements can be found in applicable Notices to Lessees (NTLs) located on MMS regional office web sites (www.mms.gov).

Hard or digital copies of MMS-approved Regional and Sub-Regional OSRPs are maintained at the GOM, POCS, and AOCS Regional Offices in New Orleans, Louisiana; Camarillo, California; and Anchorage, Alaska, respectively. Plans may be reviewed by interested USCG staff by contacting the appropriate MMS Regional Oil Spill Program Administrator (ROSPA).

Response plans for deepwater ports are under the jurisdiction of, and thus are approved by, DOT. In cases where deepwater ports are co-located on an existing MMS-regulated facility, the existing Regional or Sub-Regional OSRP will be modified to include the additional oil spill risks posed by the deepwater port operations, and will be submitted to MMS and the USCG for joint approval.

4. UNANNOUNCED DRILLS

The MMS conducts approximately 40 unannounced oil spill response drills annually for owners and operators of regulated facilities seaward of the coastline in GOMR and POCSR. Drills can include a table top component as well as equipment deployment. The MMS ROSPA will advise the appropriate FOSC of scheduled unannounced drills in order to facilitate and coordinate local USCG participation,

avoid conflicts in Agency activities, and prevent duplication of response exercise efforts. Participation in MMS unannounced drills by USCG staff will be at the discretion and by the direction of the FOSC.

The USCG FOSC will advise the MMS ROSPA of spill-response exercises, drills, or similar activities occurring on facilities seaward of the coastline. Participation in USCG drills and exercises by MMS staff will be at the discretion and by the direction of the MMS Regional Supervisor (RS).

5. EQUIPMENT INSPECTIONS

The MMS jurisdiction includes the inspection of all oil discharge response equipment that is cited in MMS-approved OSRPs, which will be used in the event of an oil discharge from an MMS-regulated facility. The equipment inspections are unannounced and conducted by either regional or district staff in accordance with 30 CFR 254.43 (a) and (b). The inspections encompass areas of equipment availability, operational readiness, equipment maintenance, and recordkeeping.

The USCG National Strike Force Coordination Center (NSFCC) conducts preparedness assessment visits (PAVs) which entail the inspection of oil spill response equipment within a defined area where a PREP exercise will be held. Inspections occur approximately three months prior to the planned exercise, with inspection planning taking place approximately six months prior to the exercise.

Each agency will provide notification of planned equipment inspections to attempt, to the greatest extent possible, joint inspections of identical oil spill response resources.

In the event equipment inspections can not be coordinated, each agency will conduct scheduled and unannounced oil spill removal equipment inspections to ensure compliance with its own requirements. If the inspector notices deficiencies that fall within the responsibility of the other agency, the deficiency will be reported to the other agency for action. However, if the deficiency may cause serious or irreparable harm to persons, property, or the environment, the inspector may take the necessary preventative action. The preventative action will then be reported to the other agency.

6. OIL SPILL RESPONSE TRAINING

MMS is responsible for ensuring that staffs of oil spill removal organizations (OSROs), spill response operating teams (SROT), and oil spill response cooperatives are trained in the use of oil discharge response equipment and techniques to respond to an oil spill. Whenever practicable, MMS and USCG will attend and audit the training that OSRO and response personnel receive, and provide feedback for improvement of operational readiness.

7. SPILL MANAGEMENT TEAM TRAINING

Owners or operators of offshore facilities have dedicated spill management teams (SMTs) as described in their OSRP; organizations that are capable of orchestrating an effective, sustained response to a worst-case discharge from their facilities. Members of the SMT must undergo annual training and participate in table-top exercises. Whenever practicable, MMS and USCG personnel will attend the training and drills to ensure that the teams are functioning properly, provide input for continual improvement of the team, and to make members aware of new Agency requirements.

8. OIL SPILL FINANCIAL RESPONSIBILITY

On October 13, 1998, the MMS final rule governing oil spill financial responsibility (OSFR) for offshore facilities and related requirements for certain crude oil wells, production platforms, and pipelines located in the OCS and certain State waters became effective. The rule was later clarified through publication of MMS NTL 99-N01 – Guidelines for OSFR for Covered Facilities (COFs). If a facility: (1) has a worst case oil-spill discharge potential of more than 1,000 bbls of oil or condensate and (2) is located seaward of the coastline or in any portion of a bay that is connected to the sea either directly or through one or more other bays, it is classified as a COF and requires OSFR coverage. The OSFR certification, issued by MMS, ensures that responsible parties can demonstrate their ability to pay for cleanup of and damages from facility oil discharges.

For COFs involved in an oil pollution incident, the MMS will provide the following OSFR-related information to the USCG upon request:

- a. Copies of the lease, permit, or right of use and easement for the area in which the COF is located;
- b. Contacts for claims;
- c. U.S. Agents for Service of Process;
- d. Amounts guaranteed or insured; and
- e. List of all responsible parties.

Contact information for Agency staff responsible for the Agency-wide MMS OSFR program is:

Gulf of Mexico Regional Office
 Oil Spill Financial Responsibility Program – MS-5422
 Program Specialist
 Leasing Activities Section, Sales and Support Unit
 New Orleans, Louisiana 70123

The USCG issues Certificates of Financial Responsibility (COFRs) for vessels including MODUs, FPSOs, shuttle tankers, and floating offshore OCS facilities which store oil for loading docks used to transfer petroleum and other products to and from a vessel or floating facility, including lightering of produced hydrocarbons. These COFRs are in addition to the MMS OSFR and address the operator's financial responsibility for the cleanup of and damages from oil discharges resulting from non-well-related sources and produced oil stored onboard the subject vessels and facilities.

Contact information for Agency staff responsible for the USCG COFR program is:

National Pollution Funds Center
 ATTN: Vessel Certification
 4200 Wilson Boulevard Suite 1000
 Arlington, Virginia 22203

For MODUs, MMS is responsible for OSFR for wells drilled from the MODU and associated riser and well control equipment. The MMS OSFR requirements become effective when the drill shaft of a MODU touches the seabed for purposes of exploring for, drilling for, or producing oil.

The Oil Spill Liability Trust Fund (OSLTF) authorizes up to \$1 billion to pay for expeditious oil removal and uncompensated damages. The fund is available for FOSCs to respond to discharges and for federal trustees to initiate natural resource damage assessments. It is also used to pay claims and to fund appropriations by Congress to Federal agencies to administer the provisions of OPA and support research and development.

Contact information for Agency staff responsible for the OSLTF is:

National Pollution Funds Center
4200 Wilson Boulevard, Suite 1000
Arlington, Virginia 22203

9. OIL DISCHARGE RESPONSE

The Federal Water Pollution Control Act (FWPCA) and 33 CFR 153.203 require that the person in charge of a vessel, onshore facility, or offshore facility must report all discharges to the National Response Center (NRC), regardless of volume. The NRC provides notification to the appropriate agencies and State offices. Additionally, OCS facility owners or operators are required to report oil discharges of one barrel or more to the MMS RS.

The USCG provides the pre-designated FOSC in accordance with the NCP. All coastal zone areas have pre-designated FOSCs. The District representatives identified in this MOA will provide up-to-date FOSC listings.

A primary duty of the FOSC during oil discharge events is to ensure that the response is swift and safe, and that impacts to the environment are minimized. To do this the FOSC serves as a coordinator of responsible party (RP), government, and private actions and interests. In the case of spills from MMS-regulated facilities, the USCG FOSCs are encouraged to work closely with the RP and MMS RS in developing appropriate response strategies. The USCG FOSC has the authority to direct Federal, State, and private actions.

The MMS, upon request from the FOSC, will provide engineering, technical, and scientific expertise to support responses to significant oil discharges from MMS-regulated facilities in the OCS. Assistance may include remote help such as identification of RPs using MMS regional databases and mapping programs, or on-site help at Joint Field Offices (JFOs) or Unified Command (UC) Posts. In cooperation with the FOSC, MMS may deploy Regional and/or District engineering, scientific, or technical staff to support the response and participate in USCG over flights of OCS energy infrastructure to assist assessing damage to offshore facilities.

The USCG will deploy personnel to integrate into the MMS Incident Management Team (IMT) whenever it is activated during emergencies involving energy infrastructure in the OCS. The goal of this integration of MMS and USCG personnel is to prevent duplication of efforts, optimize the use of resources, ensure consistency in data collection and reporting, and to expedite search and rescue and oil discharge response operations.

For all oil discharges on the OCS greater than 50 barrels, where the responsible party fails to take prompt and satisfactory response actions, and whenever requested by MMS, the FOSC will provide MMS with input and/or documentation generated during a response from an MMS-regulated facility,

for the purpose of validating the spill response plan per the MMS approved OSRP. The FOSC may also invite the MMS to participate in critiques of a response and may make recommendations for revisions to the OSRP.

10. DISCHARGE ABATEMENT

The MMS RS will direct measures to abate (stop and/or minimize) sources of pollution from regulated offshore facilities to ensure minimal release of oil and to prevent unwarranted shutdown of unaffected production and pipeline systems. However, if an oil discharge poses a serious threat to public health, welfare, or the environment, in accordance with Public Law 101-380 (OPA) Sec. 4201, the FOSC may take action for effective and immediate removal of a discharge and to ensure mitigation or prevention of a substantial threat of a discharge of oil. The FOSC should notify the MMS RS as soon as possible thereafter.

Following facility and system repairs, as approved by MMS, or the determination that the shut-in facility is not the source of a reported oil discharge, MMS will authorize the return of an OCS oil facility to operation. All necessary precautions will be taken by MMS to ensure verification of system integrity prior to resumption of production operations.

11. POLLUTION EVENTS DATA BASES

The USCG maintains a database that includes information on all oil discharges that impact the coastal zone. This database, called MISLE (Marine Information for Safety and Law Enforcement), serves as the primary system for tracking resource hours, maintaining vessel and facility regulatory and incident histories, and conducting vessel and facility inspections.

The MMS maintains a detailed database on the construction, operation, maintenance, and repair histories of MMS-regulated facilities, offshore incidents, oil discharges, and enforcement actions. Unclassified data from the database, referred to as TIMS (Technical Information Management System), is made available to the public on the MMS web site.

To the greatest extent possible, MMS and the USCG will coordinate data collection efforts related to platform evacuations, oil discharge volume estimates, facility damage, and production recovery, and will share digital information on offshore operators and oil discharges in order to improve offshore safety performance, and dissemination of data for public consumption.

12. ENFORCEMENT

Any oil discharge of a harmful quantity, or a hazardous substance release that meets or exceeds a reportable quantity, may result in an enforcement action as authorized under the FWPCA. The USCG considers many factors in the determination of an appropriate enforcement/compliance action, such as the oil discharge history and the volume of discharge. To assist the USCG in determining an appropriate enforcement/compliance action, upon request, the MMS RS will provide the USCG with available information on the affected facility and/or RP.

Should the USCG complete an enforcement/compliance action against an owner or operator of an MMS-regulated facility for an oil discharge, the USCG shall notify the appropriate MMS RS of the type of action taken. The USCG will also provide the cause for such action, and any additional

information that MMS should be aware of when analyzing aggregate operational and safety records of the RP during periodic operator assessments.

Should the MMS pursue an enforcement/compliance action against an owner or operator of an MMS-regulated facility the USCG will provide MMS with available information on the affected facility and/or RP. Cases where input from the USCG is warranted include those when an operator has conducted their operations in a manner that directly contributed to an oil discharge, failed to take necessary precautions to prevent oil discharges, or deviated from MMS-approved OSRPs during response to a discharge event.

13. INTER-AGENCY TRAINING

The MMS oversees the Ohmsett Oil Spill Response Testing Facility in Leonardo, New Jersey. Operations at the facility include the testing of existing mechanical equipment such as booms and skimmers, prototypes of new response equipment, oil dispersants, and in-situ burn equipment and protocol. Additionally, Ohmsett is the site of both classroom and hands-on tank instruction on the use of oil discharge response equipment. The MMS will notify the USCG of upcoming MMS-sponsored training and, on a space available basis, provide for attendance of USCG personnel at no cost.

The USCG will notify MMS of upcoming training sessions that are being conducted on all levels of the Incident Command System (ICS) at locations throughout the U.S. and, on a space available basis, provide for attendance of MMS personnel at no cost.

14. AREA COMMITTEES

The Area Committees (ACs) are a focal point of response planning, providing detailed information on response procedures, priorities, and appropriate countermeasures. The Area Contingency Plans (ACPs) are written by ACs, which are comprised of personnel from government agencies and industry with pollution responsibilities and capabilities. The committees are chaired by the FOSC from the USCG, who has the lead federal spill response authority for the planning area.

The MMS will participate in the Area Committee meetings, to the maximum extent practicable.

E. GENERAL PROVISIONS

Nothing in this MOA alters, amends, or affects in any way, the statutory or regulatory authority of the MMS or the USCG. This MOA cannot be used to obligate or commit funds, or as the basis for the transfer of funds. All provisions in this MOA are subject to the availability of personnel and funds. The MOA is not intended to, nor does it, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any person or party against the U.S., its agencies, its officers, or any other person. This MOA neither expands nor is in derogation of those powers and authorities vested in the participating agencies by applicable law. It is the intent of the parties that the MOA remain in force even if a portion of it is determined to be unlawful, provided the remaining portion can be read coherently and understood.

F. REPORTING DOCUMENTATION

No follow-up reports or documentation of actions are required as a result of this MOA.

G. AMENDMENTS TO THE MOA

This MOA may be amended by mutual agreement of the participating agencies as described in Section J, of the MMS/USCG MOU dated 30 September 2004.

H. EFFECTIVE DATE

The terms of this agreement become effective upon signature by both parties.

I. TERMINATION

The MOA may be terminated by either agency upon a 30-day advance written notification.



Chris C. Oynes
Associate Director
Offshore Minerals Management
Minerals Management Service
U.S. Department of the Interior



Wayne E. Justice
Rear Admiral
U.S. Coast Guard
Assistant Commandant for Response
U.S. Department of Homeland Security

