
MEMORANDUM OF AGREEMENT
BETWEEN THE
U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA), REGION 9
AND THE
PACIFIC OCS REGION, MINERALS MANAGEMENT SERVICE (MMS),
COORDINATING THE EPA NPDES PERMIT COMPLIANCE PROGRAM WITH THE
MMS OFFSHORE INSPECTION PROGRAM

SECTION I: INTRODUCTION

On May 31, 1984, a Memorandum of Understanding (MOU) between the U.S. Environmental Protection Agency (EPA) and the Department of Interior (DOI) was approved. The purpose of the 1984 MOU was to improve cooperation and coordination between EPA and DOI in oil and gas lease activities on the Outer Continental Shelf (OCS) in determining the terms and conditions of National Pollutant Discharge Elimination System (NPDES) permits and to ensure NPDES permit compliance. The MOU establishes that each agency will coordinate studies and related regulatory responsibilities and cooperate to ensure that EPA can issue NPDES permits at the Final Time of Offering by DOI.

The major points of coordination of the 1984 MOU include the following:

- a. Part IV.A and B: Issuance of NPDES permits under Sections 402 and 403(c) of the Clean Water Act;
- b. Part IV.C. Section 1-3: Development and exchange of information;
- c. Part IV.C. Section 4: Development of vulnerability criteria;
- d. Part V: Coordination of responsibilities under the National Environmental Policy Act (NEPA);
- e. Part VI: Post-Lease Monitoring and Inspection of OCS oil and gas operation and enforcement of discharge requirements.

Memorandum of Agreement
MMS Pacific OCS Region/EPA Region 9
Page 2 of 9

This document represents a Memorandum of Agreement (MOA) between EPA Region 9 and the MMS Pacific OCS Region to implement Part VI of the MOU between EPA and DOI. This MOA addresses post-lease monitoring and inspection of OCS oil and gas operations and enforcement of discharge requirements. Provisions of this MOA that are jointly accepted by the Regional Administrator (EPA) and by the Regional Director (MMS) shall be implemented by the MMS District Supervisors and EPA Region 9, Water Management Division.

SECTION II. DEFINITIONS

For the purposes of this MOA the following definitions apply:

- a. Annual EPA/MMS Compliance Monitoring Workplan: This document will contain the specifics (e.g. number of inspections and samples, internal procedures, etc.) that describe how the Articles of Agreement of Section III of this MOA will be implemented. It will be updated and agreed upon by September 30 of each year by both EPA and MMS.
- b. General NPDES Permit: A permit which regulates a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures. A general permit does not require an application from a named party, merely a notification to the EPA Regional Administrator of the party's intent to be covered by the general permit.
- c. Individual NPDES Permit: A permit which regulates the discharge of pollutants from point sources under Section 402(a) of the Clean Water Act (CWA). This permit identifies a named party through an application requirement.
- d. Inspection Report: The inspection report will consist of a completed inspection checklist and any comments. (The checklist, entitled "EPA Inspection Form for California Offshore Oil and Gas Facilities", is attached to this MOA as Appendix A.)
- e. OCS Facility: Any artificial island, installation, or other device permanently or temporarily attached to the seabed or subsoil of the OCS and used for oil and gas activity. This term includes either fixed or floating structures and mobile offshore drilling units attached to the seabed, including

Memorandum of Agreement
MMS Pacific OCS Region/EPA Region 9
Page 3 of 9

self-positioning drill ships, but does not include a deep-water port or vessel engaged in transportation.

- f. OCS Oil and Gas Activity: Any offshore activity on the OCS pursuant to a Federal lease or permit resulting in effluent discharges associated with the exploration, development, or production of oil and gas mineral resources.
- g. Outer Continental Shelf (OCS): All submerged lands that comprise the continental shelf lying seaward and outside of the area of lands beneath navigable waters as defined in the Submerged Lands Act of 2953, 43 U.S.C. 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

SECTION III. ARTICLES OF AGREEMENT

ARTICLE I: INSPECTION AND SAMPLING

- a. According to procedures for inspection developed under the implementation section of this MOA, the MMS Regional Director will, upon written request from the EPA Water Management Division Director, inspect and sample OCS facilities for compliance with NPDES permits.
- b. EPA will provide MMS with (1) the NPDES OCS inspection checklist, (2) ready-to-use sample collection kits and (3) training for MMS inspectors conducting NPDES inspections.
- c. The number of inspections to be conducted and samples to be collected by MMS will be negotiated annually and included in the Annual EPA/MMS Compliance Monitoring Workplan.
- d. The number of sampling inspections to be conducted jointly by EPA and MMS will be negotiated annually and included in the Annual EPA/MMS Compliance Monitoring Workplan.
- e. Any special EPA or MMS sampling requests (e.g. emergencies, responses to citizen's complaints, etc.) which are in addition to the negotiated number of inspections, may be met by mutual agreement between the MMS Regional Director and EPA Water Management Division Director.
- f. MMS will follow the reporting requirements as detailed in Article III of this document.

ARTICLE II: TRANSPORTATION

- a. EPA Region 9 does not anticipate routine situations where EPA personnel will require transportation to an offshore facility with the exception of annually negotiated joint EPA/MMS inspections.
- b. Special transportation requests (e.g. emergencies, responses to citizens complaints, personnel training, inspection requests above the negotiated number, enforcement case development, etc.), which are not included in routine MMS inspection schedules, may be met at the discretion of the MMS Regional Director.
- c. When EPA requires transportation to a facility, requests will be made sufficiently in advance such that transportation can be coordinated with routine MMS inspection schedules.
- d. EPA Region 9 estimates that not more than 2 EPA inspectors per trip will require transportation.

ARTICLE III: REPORTS

- a. MMS will complete the inspection checklist for each NPDES inspection conducted and the chain-of-custody form for each sample collected. (The inspection checklist is included as Appendix A. The chain-of-custody form is included as Appendix B.)
- b. MMS will provide to EPA copies of all NPDES inspection reports in accordance with the terms of the Annual Compliance Monitoring Workplan. NPDES inspection reports and other pertinent information may be reported more frequently at the discretion of MMS personnel.
- c. EPA Region 9 will provide MMS with the laboratory analysis results of samples collected by MMS as soon as they are available.
- d. EPA Region 9 will provide MMS with a ten (10) work day comment period on any administrative action taken as a result of MMS inspection reports.
- e. EPA Region 9 may ask MMS, from time to time, to provide EPA with other pertinent available data (e.g., active rigs and platforms, their present locations, block number, lease tract, etc.) or information of special interest (e.g., specifically identified inspection data gathered on a "next trip out" basis). Such data will be consistent, to the

Memorandum of Agreement
MMS Pacific OCS Region/EPA Region 9
Page 5 of 9

maximum extent possible, with existing internal MMS reports.
Telephone reports will be acceptable in many cases.

ARTICLE IV: DISPOSITION

- a. MMS will send NPDES inspection reports, chain-of-custody forms and collected samples to the following address:

U.S. EPA, Region 9 (W-4)
215 Fremont Street
San Francisco, California 94105
Attn: Chief, California Section

- b. EPA will send laboratory analysis results and sample collection kits to the following address:

MMS -- Ventura District Office
400 East Esplanade Drive, No. 202
Oxnard, California 93030
Attn: District Supervisor

MMS -- Santa Maria District Office
222 West Carman Lane, No.201
Santa Maria, California 93454
Attn: District Supervisor

- c. Questions regarding implementation of this MOA will be directed to:

MMS Pacific OCS Region FTS 798-2846
1340 West Sixth Street
Los Angeles, California 90017
Attn: Regional Supervisor, Office of Field Operations

U.S. EPA Region 9, (W-4) FTS 454-8089
Water Management Division
215 Fremont Street
San Francisco, California 94105
Attn: Chief, Compliance Branch

ARTICLE V: TESTIMONY

MMS personnel may be required to appear as witnesses to testify on matters relating to NPDES compliance monitoring activities in any subsequent administrative or judicial action.

ARTICLE VI: ENFORCEMENT

EPA will be responsible for the enforcement of all NPDES permit conditions. MMS is responsible for reporting evidence of

NPDES permit noncompliance to EPA. In the case of overlapping statutory authorities, MMS inspectors may choose to exercise any enforcement action authorized under the Outer Continental Shelf Lands Act and Amendments, or its implementing regulations, but will also notify EPA of the NPDES noncompliance incident.

ARTICLE VII: FUNDING TRANSFER

EPA and MMS will establish a funding transfer system (effective FY 1991) to reimburse MMS for additional costs related to the monitoring and inspection responsibilities pursuant to the May 1984 MOU. Details of the fund transfer system will be outlined in the Annual EPA/MMS Compliance Monitoring Workplan.

ARTICLE VIII: AUTHORITY

- a. Nothing in this MOA shall be deemed to alter, amend, or affect in any way the statutory authorities of the U.S. Environmental Protection Agency or the Department of the Interior.
- b. This MOA is effective upon the signature of the EPA Regional Administrator and the MMS Regional Director. The provisions of this MOA shall be re-evaluated as necessary.
- c. Representatives from EPA and MMS shall meet on an annual basis at a mutually agreed upon location to conduct business related to this MOA (e.g. negotiating inspection schedules, updating or revising the MOA, training seminars, etc.).

SECTION IV. IMPLEMENTATION

Not later than six months from the effective date of this MOA, the regional agencies will jointly develop the first Annual Compliance Monitoring Workplan to carry out the provisions of this MOA. This plan will take into account internal procedures and regulations, and will identify whether or not revisions are necessary to accommodate the provisions of the MOA. EPA will provide training workshops as necessary for MMS inspectors.

SECTION V. AGENCY CONTACTS

Inquiries regarding the provisions of this MOA, its implementation, or disagreements over any of the provisions should be directed to:

Regional Director
Minerals Management Service
Pacific OCS Region
1340 West Sixth Street
Los Angeles, California 90017

Water Management Division Director
U.S. EPA, Region 9 (W-1)
215 Fremont Street
San Francisco, California 94105

Memorandum of Agreement
MMS Pacific OCS Region/EPA Region 9
Page 8 of 9

SIGNATURE FOR EPA, REGION 9

Daniel W. McHovey
U.S. EPA, Region 9
Regional Administrator

11.14.89
Date

Memorandum of Agreement
MMS Pacific OCS Region/EPA Region 9
Page 9 of 9

SIGNATURE FOR MMS, PACIFIC OCS REGION

J. Lisle Reed

Minerals Management Service, Pacific OCS
Region, Regional Director

11/30/89

Date