Memorandum of Understanding
Between the
Bureau of Safety and Environmental Enforcement – U.S. Department of the Interior,
and the
U.S. Coast Guard – U.S. Department of Homeland Security

VISION STATEMENT: The following vision statement was developed and agreed upon by both the United States Coast Guard and the Bureau of Safety and Environmental Enforcement to ensure that both agencies continue to closely coordinate respective agency responsibilities for regulation and enforcement on the Outer Continental Shelf: "Building a lasting Federal partnership to improve safety and environmental protection in the offshore environment through collaboration and coordinated action."

A. Purpose

This Memorandum of Understanding (MOU) is designed to promote interagency consistency in the regulation of Outer Continental Shelf (OCS) activities, facilities and units[1] under the respective jurisdiction of the Bureau of Safety and Environmental Enforcement (BSEE) and the U.S. Coast Guard (USCG) (hereinafter "participating agencies"), minimize duplication of effort, and aid the participating agencies in the successful completion of their assigned missions and responsibilities.

The ultimate goal of this MOU is to promote the safety of life and property and the protection of the environment by:

- Fostering communication and cooperation between the participating agencies.
- Promoting compliance with applicable regulations.
- Optimizing use of expertise and resources, as well as coordinating efforts with respect to offshore safety and environmental protection.
- Developing common, compatible regulations and policies.
- Encouraging adoption of similar codes and standards.
- Providing appropriate oversight and taking effective enforcement actions.

B. Scope

This MOU covers joint or shared jurisdiction and coordination of activities related to OCS facilities and units. This MOU will guide the participating agencies in coordinating their respective regulatory activities with respect to OCS facilities and units. As discussed in Section I, Memoranda of Agreement

[1] BSEE describes the scope of its jurisdiction by using the term "facility," which encompasses all installations and devices permanently or temporarily attached to the seabed. The term "facility" is defined in BSEE regulations at 30 CFR 250.105 (2011). The USCG's regulatory use of the term "unit" encompasses the vessels, vehicles and structures over which the USCG exercises jurisdiction on the OCS. As used in this MOU, the term "unit" includes most "facilities" as BSEE defines the term, but also includes certain vessels and vehicles over which BSEE has no jurisdiction. The term "unit" in this context does not refer to "unit" or "unitization" or any similar term as used in oil and gas law.

(MOAs) developed under this MOU will provide specific guidance on each agency's role and shared or related responsibilities for OCS activities, facilities and units.

C. Definitions

The terms used in this MOU have the meanings given to them in the Outer Continental Shelf Lands Act (OCSLA), as amended, 43 U.S. Code (USC) § 1331 *et seq.*, the Federal Water Pollution Control Act, 33 USC §§ 1251 *et seq.*, the Oil Pollution Act, 33 USC § 2701 *et seq.*, and the agency regulations implementing these statutes, including Titles 30 (Mineral Resources), 33 (Navigation and Navigable Waters), and 46 (Shipping) of the Code of Federal Regulations (CFR).

D. Statutory Authority

The USCG enters this agreement under the authority of: 14 USC §§ 93(a)(20) and 141. The USCG regulates offshore activities pursuant to the OCSLA, as amended, 43 USC § 1331 *et seq.*, including §§ 1333, 1347, 1347, 1348, 1356; 33 USC § 2712(a)(5)(A); the Oil Pollution Act of 1990, 33 USC § 2701 *et seq.*; the Federal Water Pollution Control Act, also known as Section 311 of the Clean Water Act, 33 USC § 1321; and Executive Order 12777. Applicable USCG regulations are found under parts of Titles 33 (Navigation and Navigable Waters) and 46 (Shipping) of the CFR, as well as under the National Contingency Plan, 40 CFR Part 300.

The BSEE enters this agreement under the authority of OCSLA, 43 USC §§ 1344(h), 1346(c), 1347(f), and 1348(a), and Executive Order 12777, section 9. The BSEE regulates OCS facilities and activities under the authority of OCSLA, as amended, 43 USC § 1331 *et seq.*; the Federal Water Pollution Control Act, also known as Section 311 of the Clean Water Act, 33 USC § 1321; and Executive Order 12777. Applicable BSEE regulations are found under parts of Titles 30 (Mineral Resources) of the CFR, as well as under the National Contingency Plan, 40 CFR Part 300.

The USCG, within the Department of Homeland Security (DHS), regulates the safety of life and property and the safety of navigation and protection of the environment on OCS units and vessels engaged in OCS activities. In addition, the USCG regulates workplace safety and health, as well as enforces requirements related to personnel, workplace activities, conditions and equipment on the OCS. The USCG is responsible for oil spill preparedness and response and conducts research related to these mission requirements. The USCG is also responsible for security regulations on OCS installations, as specified under the Maritime Transportation Security Act, and has select duties for regulating deepwater ports as enumerated in the Deepwater Port Act, as amended.

The BSEE exercises safety and environmental enforcement functions related to OCS facilities including, but not limited to, developing regulations governing OCS operations, permitting, conducting inspections and investigations, enforcing regulatory requirements, assessing penalties, conducting research, and overseeing oil spill response planning and preparedness.

E. Communications and Contacts

The participating agencies will identify in writing appropriate representatives for the purpose of keeping each other informed, in a timely manner, of issues, applications, and the routine policy determinations

that are relevant to OCS activities, and to facilitate the coordination of joint events. For the USCG, the Deputy Commandant for Operations is responsible for identifying that representative. For BSEE, the Deputy Director is responsible for identifying that representative.

These representatives will maintain an accurate and updated list of contacts for their respective agency and will make immediate notification of any changes in agency representatives to their counterparts. The participating agencies recognize that emergency situations arise during times other than standard working hours. The participating agencies will establish a method of making notifications and obtaining information outside of normal working hours. USCG Districts and BSEE Regional and/or District Offices will ensure that up-to-date emergency 24-hour phone numbers are provided to the appropriate staff of the other agency.

The participating agencies will meet regularly to discuss issues of mutual concern and will establish procedures to share key information within the scope of this MOU with appropriate representatives at each level of the organization. Some of these procedures may include:

Interagency

- BSEE and USCG Quarterly Headquarters meetings
- BSEE and USCG Prevention Workgroup meetings
- BSEE and USCG Response Workgroup meetings
- BSEE and USCG reports on the Fixed-Platform Self-Inspection Program
- Interagency Correspondence and Interagency Directives
- USCG District and BSEE Region meetings
- USCG Sector and BSEE District meetings
- USCG District and BSEE Oil Spill Response Division (OSRD) Regional Branch/Unit meetings

Public/General

- National Response System meetings, including National Response Team (NRT), Regional Response Team (RRT), and Area Committee (AC) meetings
- National Offshore Safety Advisory Committee (NOSAC) meetings
- Area Maritime Security Committee meetings
- BSEE Notices to Lessees and Operators (NTLs)
- BSEE Information Transfer meetings
- USCG Navigation and Vessel Inspection Circulars (NVICs)
- USCG Policy Letters
- Interagency Coordinating Committee on Oil Pollution Research meetings

F. Information Sharing

To aid in the completion of their respective missions, the participating agencies will promote electronic information sharing, subject to the requirements of the Privacy Act and requirements regarding the protection of classified and commercially proprietary information. The participating agencies will endeavor to accept, to the extent practicable, electronic means of reporting information required by

regulation. When possible, direct access to electronic data will be made available, however, it is recognized that some databases require specific skill sets, software, and/or hardware to access and may contain sensitive information. Therefore, it may not always be possible to provide the other agency with direct access to these databases. In addition, to the maximum extent practicable, the participating agencies will endeavor to synchronize information, such as adopting and using an agreed to naming convention for OCS facilities and units.

The participating agencies will exchange or otherwise make available charts, maps, schematics or other graphical representations depicting the geographical boundaries of each agency's regional offices and commands, including but not limited to Districts and Captain of the Port zones.

G. Research

To leverage research opportunities and to aid in the completion of their missions, the participating agencies are committed to collaborating on research projects whenever possible. The BSEE conducts research through the Office of Offshore Regulatory Programs – Emerging Technologies Branch, and the Oil Spill Response Division - Response Research Unit. The USCG conducts research through the USCG Research and Development Center. BSEE and USCG will conduct annual coordination meetings to discuss information transfer, priorities, and joint funding opportunities. Routine communications on research will occur between annual meetings as necessary. Both agencies will establish mechanisms for sharing research products as produced on a timely basis.

H. Regulatory and Policy Development

To eliminate duplication of effort and promote consistency of regulations and policies where shared responsibilities exist, the participating agencies will provide to each other relevant information for review and comment early and throughout the regulatory and policy development process. Consistent with the Administrative Procedure Act, the agencies may share draft rules and supporting analysis, but the agencies will not divulge the drafts and analysis to the public during their development.

The participating agencies will, to the maximum extent practicable, endeavor to adopt common material, design, and approval standards in their regulations and policies.

I. Memoranda of Agreement – Development and Implementation

Memoranda of Agreement (MOAs) developed under the terms of this MOU will provide specific guidance on each agency's role and shared responsibilities for regulating various OCS activities and OCS facilities and units. Each agency will cooperate through their designated representatives in the development and implementation of each specific MOA. The MOAs will be numbered sequentially as OCS-0l, OCS-02, OCS-03, etc.

Development, approval, modification, publication, exchange and termination of MOAs for the USCG will be administered by the Assistant Commandant for Prevention Policy (or cognizant program manager); and for BSEE by the Deputy Director (or cognizant program manager). Each agency may recommend the development or revision of an MOA. Once the participating agencies agree to develop or revise an MOA, they will thereafter develop a schedule to complete the revision.

J. Exchange of Services and Personnel

The participating agencies will endeavor to make personnel available to support mutual work objectives, workshops, conferences, seminars, training opportunities, committees, drills, and work teams. Exchange of services and personnel will generally be non-reimbursable subject to applicable laws and regulations.

K. Issue Resolution

Every effort will be made to resolve an issue at the lowest organizational level possible.

L. Implementing this MOU

The participating agencies will review their internal procedures and, where appropriate, revise them to accommodate the provisions of this MOU. The named representatives identified by paragraph E of this MOU will be responsible for ensuring that their respective agency is aware of the terms and conditions of this MOU.

M. General Provision

Nothing in this MOU alters, amends, or affects in any way the statutory authority of the respective agencies. This MOU cannot be used to obligate or commit funds or as the basis for the transfer of funds. All provisions in this MOU are subject to the availability of personnel and funds. In accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341(a)(1), nothing herein authorizes expenditure or obligation of funds in excess of amounts available in current appropriations. The MOU 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 MOU neither expands nor is in derogation of those powers and authorities vested in the participating agencies by applicable law.

N. Affected Documents

Upon this MOU becoming effective, the USCG/MMS MOU dated 30 September 2004 is cancelled. All existing MOAs remain in effect until cancelled, terminated, or superseded.

O. Amendments to the MOU

This MOU may be amended by mutual agreement of the participating agencies. Amendments to the MOU will be in writing and require the approval of the Director of BSEE and the Deputy Commandant for Operations of the USCG.

P. Termination

This MOU may be terminated by either of the participating agencies after providing 30-days advance written notice to the other agency.

This MOU is effective as of 27 November 2012.

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U.S. Department of the Interior

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U.S. Department of Homeland Security

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Official File
Chief, OSRD
OSRD File
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