



**MEMORANDUM OF AGREEMENT
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**

BSEE/USCG MOA: OCS-07

Effective Date: January 10, 2017

SUBJECT: SAFETY AND ENVIRONMENTAL MANAGEMENT SYSTEMS (SEMS) AND SAFETY MANAGEMENT SYSTEMS (SMS)

A. PURPOSE

The United States Coast Guard (USCG) and Bureau of Safety and Environmental Enforcement (BSEE) work within a shared regulatory space to require industry to implement systematic ways of managing safety and environmental protection on the Outer Continental Shelf (OCS) with respect to oil and natural gas operations. The agencies' shared regulatory goal is for all parties involved in OCS operations to develop a comprehensive approach to safety and environmental management that provides for the necessary organizational structures, systems of accountability, and commitment to continual improvement.

The purpose of this MOA is to:

1. Promote consistent oversight of safety and environmental management systems on OCS facilities¹ leveraging each agency's authorities and areas of expertise to increase collaboration and information sharing;
2. Establish a process to determine areas relevant to safety and environmental management within the shared USCG and BSEE regulatory space where joint policy or guidance is needed;
3. Ensure coordination between the agencies regarding the development of any future OCS safety and environmental management regulations; and
4. Foster a consistent and efficient shared approach and inform joint policy or guidance on safety and environmental management systems by BSEE and the Coast Guard.

This MOA will be implemented in accordance with the Memorandum of Understanding between BSEE and the USCG, signed on 27 November 2012; additionally, this MOA supersedes and cancels the April

¹ 30 CFR 250.105 defines "Facility" as "all installations permanently or temporarily attached to the seabed on the OCS" 33 CFR 140.10 defines "OCS facility" as "any artificial island, installation, or other device permanently or temporarily attached to the subsoil or seabed . . ." This includes Mobile Offshore Drilling Units and other vessels used for oil, gas, or sulphur exploration, production or development activities. This does not include vessels used only for transportation.

30, 2013 MOA of the same subject matter. The participating agencies will review their internal procedures and, where appropriate, revise them to accommodate the provisions of this MOA.

B. AUTHORITIES

The USCG enters this agreement under the authority of 14 U.S. Code (USC) §§ 93(a)(20) and 141.² The USCG regulates offshore activities pursuant to: the Outer Continental Shelf Lands Act (OCSLA), as amended, 43 USC §§ 1331 *et seq.*, including §§ 1333, 1347, 1348, 1356;³ the Oil Pollution Act of 1990, 33 USC §§ 2701 *et seq.*, including 33 USC § 2712(a)(5)(A);⁴ Section 311 of the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 USC § 1321;⁵ the Maritime Transportation Security Act, 46 USC § 70103;⁶ and Executive Order 12777.⁷ Applicable USCG regulations are found under parts of Titles 33 (Navigation and Navigable Waters) and 46 (Shipping) of the Code of Federal Regulations (CFR). The USCG also exercises authority under the National Contingency Plan, 40 CFR Part 300.

The BSEE enters this agreement under the authority of OCSLA.⁸ Applicable BSEE regulations are found under Title 30 (Mineral Resources) of the CFR, Part 250, Subpart S.

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 facilities. 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.

C. AGENCY RESPONSIBILITIES

- 1. COMMUNICATIONS AND CONTACTS** – The National Program Manager of Safety and Environmental Management Systems, BSEE, and the Director of Inspections and Compliance, USCG, will identify a coordinator from each agency for safety and environmental management. Each coordinator will develop and maintain a list of key contacts from each agency for BSEE's Safety and Environmental Management Systems (SEMS) and USCG's Safety Management Systems (SMS) at the agencies' Headquarters, the BSEE Regions and the USCG Districts.

² Pub. L. 103-206, § 316, 107 Stat 2426 (1993); Pub. L. 104-324, Title IV, § 405(a), 110 Stat. 3924 (1996).

³ Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. 95-372, Title II, § 201, 92 Stat. 632.

⁴ Oil Pollution Act of 1990, Pub. L. 101-380, Title I, § 1012 (codified as amended by Pub. L. 111-281, 124 Stat. 2984 (2010)).

⁵ Federal Water Pollution Control Act of 1972, Pub. L. 92-500, § 311 (codified as amended by Pub. L. 107-303 (2002)).

⁶ Maritime Transportation Security Act of 2002, Pub. L. 107-295, Title I, § 102(a) (as amended by Pub. L. 111-281, Title VIII, § 812(c), 124 Stat. 2997 (2010)).

⁷ Exec. Order No. 12,777, 56 Fed. Reg. 54757 (1991).

⁸ 43 USC §§ 1331, *et seq.*

2. **JOINT POLICY OR GUIDANCE DEVELOPMENT** – The respective coordinators will hold regular meetings. The goal of these meetings is to address the purposes of this MOA as described in Section A., including:
 - a. 33 CFR Subchapter N and 30 CFR Part 250. The USCG and BSEE will:
 - i. Document and identify areas within 33 CFR Subchapter N and 30 CFR Part 250 that may require development of joint policy or guidance that will assist regulated parties in developing and implementing more effective safety management systems.
 - ii. Develop joint policy or guidance for each area identified and verified under sub paragraph i. of this paragraph, as appropriate.
 - b. 33 CFR Part 96, International Safety Management (ISM) Code and 30 CFR Part 250 Subpart S. The USCG and BSEE will determine the interface between a vessel’s ISM Code Compliant SMS and an operator’s SEMS program. This will include the following:
 - i. Document all areas within the ISM Code and 30 CFR Part 250 Subpart S that may require the development of joint policy or guidance.
 - ii. Develop joint policy or guidance for each area identified and verified under sub paragraph i. of this paragraph, as appropriate.
3. **JOINT EVALUATION/BOARDINGS/INSPECTIONS** – The key contacts from the BSEE Regions and USCG Districts, in coordination with the BSEE National Program Manager of SEMS and the USCG Director of Inspections and Compliance, will facilitate joint evaluations / boardings / inspections to the extent feasible, as follows:
 - a. The joint evaluation / boarding / inspection should be:
 - i. an evaluation under BSEE’s regulations, 30 CFR Part 250 Subpart S, or
 - ii. a boarding / evaluation / inspection under BSEE’s regulations, 30 CFR Part 250 Subpart S, and USCG regulations, 33 CFR Part 96 and 33 CFR subchapter N, respectively.
 - b. Whenever practicable, the BSEE and USCG joint evaluation / boarding / inspection participants will travel together.
 - c. The goals of these evaluations / boardings / inspections are:
 - i. to ensure that the implementation of each SEMS and/or SMS effectively promotes the goals of safety and environmental protection and preventing incidents,
 - ii. to verify and identify areas that require joint policy or guidance and training under section 2, and
 - iii. to inform the development of joint policy or guidance and training.

4. **FUTURE REGULATORY PROJECTS** – The USCG and BSEE will review and discuss all ongoing OCS-related regulatory projects relevant to safety management. This will help ensure both organizations are aware of regulatory projects prior to them being finalized by the responsible agency.
5. **INFORMATION SHARING**– The agencies agree to share information relevant to their respective safety management efforts and recognize that sharing information is important for carrying out the purpose of this agreement. Such sharing should be consistent with any other applicable interagency agreements and legal limitations. Specific examples of information to be shared include:
 - a. Any significant finding relevant to OCS safety and environmental management, and
 - b. Results of any joint evaluation / boarding / inspection described in this MOA.
6. **AGENCY TRAINING AND EVENTS**– To the extent feasible, the two agencies will provide each other’s staff with an opportunity to attend training courses or other OCS safety and environmental management related events that they sponsor.

D. GENERAL PROVISIONS

Nothing in this MOA alters, amends, or affects in any way, the statutory or regulatory authority of BSEE or the USCG. As required by the Antideficiency Act, 31 USC §§ 1341 and 1342, all commitments made by the participating agencies in this MOA are subject to the availability of appropriated funds and budget priorities. Nothing in this MOA, in and of itself, obligates the parties to expend appropriations or to enter into any contract, assistance agreement, or interagency agreement, or to incur financial obligations. Any transaction involving transfers of funds between the parties to this MOA will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

This 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 United States, 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. Nothing in this MOA is intended to conflict with current law or regulation or the directives of the USCG or BSEE. If a term of this MOA is inconsistent with such authority, that term is invalid but the remaining terms and conditions of this MOA will remain in full force and effect. If any portion of this MOA conflicts with the BSEE/USCG MOU, the MOU controls.

E. AMENDMENTS TO THE MOA

This MOA may be amended by mutual agreement between the participating agencies as described in Section I of the BSEE/USCG MOU dated 27 November 2012.

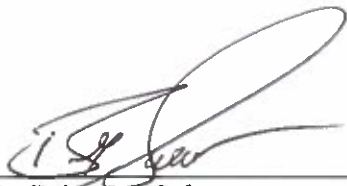
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F. TERMINATION

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



Mr. Brian M. Salerno
Director
Bureau of Safety and Environmental Enforcement
U.S. Department of the Interior



Rear Admiral Paul F. Thomas
Assistant Commandant for Prevention Policy (CG-5P)
U.S. Coast Guard
U.S. Department of Homeland Security

