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

A. PURPOSE

This Memorandum of Understanding (MOU) is designed to promote interagency consistency in the regulation of Outer Continental Shelf (OCS) activities and facilities under the jurisdiction of the Minerals Management Service (MMS) 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 provide for the protection of the environment by the participating agencies' efforts to:

- Foster communication and cooperation between the participating agencies.
- Optimize the use of government resources.
- Clearly delineate areas of expertise and jurisdiction.
- Develop common, compatible regulations and policies.
- Encourage adoption of similar codes and standards.
- Assist the regulated community in understanding applicable regulations.

B. SCOPE

This MOU covers joint or overlapping jurisdictions related to OCS facilities and OCS activities. This MOU shall also guide the participating agencies in promoting a joint response to future issues associated with alternative energy projects and multiple uses of offshore facilities. In addition, the participating agencies will work together to address issues raised by the regulation of deepwater ports. As discussed in Section J, Memorandum of Agreements (MOAs) developed under this MOU will provide specific guidance on each agency's role and shared responsibilities for these OCS activities and OCS facilities.

C. DEFINITIONS

OCS Activity - Any activity in the OCS associated with exploration, development, production, transportation via pipeline, storage, or processing of mineral resources including hydrocarbons (oil, gas, condensate, natural gas liquids), salt, sulphur, sand and gravel.

OCS Facility - Any artificial island, installation, pipeline, or other device permanently or temporarily attached to the seabed, erected for the purpose of exploring for, developing, producing, transporting via pipeline, storing, or processing mineral resources from the OCS. This

term does not include ships or vessels for transporting produced hydrocarbons. The following are types of OCS facilities:

1. Fixed OCS Facility - A bottom-founded OCS facility permanently attached to the seabed or subsoil of the OCS, including platforms, guyed towers, articulated gravity platforms, and other structures. This definition also includes gravel and ice islands and caisson-retained islands engaged in OCS activities used for drilling, production, or both.

2. Floating OCS Facility - A buoyant OCS facility securely and substantially moored so that it cannot be moved without a special effort. This term includes tension leg platforms, spars, semi-submersibles and shipshape hulls.

3. Mobile Offshore Drilling Units (MODUs) - Vessels capable of engaging in drilling operations for exploring or exploiting subsea oil, gas, or other mineral resources.

Outer Continental Shelf (OCS) - The Outer Continental Shelf Lands Act (OCSLA) defines the OCS as "...all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, 83rd Congress, first session) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control."

State Offshore Waters - OCSLA defines State offshore waters as "...states title to the natural resources located within three miles of their coastline (three marine leagues for Texas and the Gulf coast of Florida)."

D. Participating Agency Statutory Authorities

The USCG and MMS enter this agreement under authority of 14 USC §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.

The USCG, within the Department of Homeland Security (DHS), regulates the safety of life and property on OCS facilities and vessels engaged in OCS activities, and the safety of navigation. In addition, the USCG is responsible for promoting workplace safety and health by enforcing requirements related to personnel, workplace activities, and conditions and equipment on the OCS. The USCG is also responsible for security regulations on OCS facilities, as specified under the Maritime Transportation Security Act (MTSA), and has select duties for regulating deepwater ports as enumerated in the Deepwater Ports Act (DPA), as amended.

The MMS, within the Department of the Interior (DOI), is responsible for managing the nation's natural gas, oil, and other mineral resources on the 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 mineral exploration, development, pipeline transportation, storage, production, drilling, completion, and workover activities on lands under its jurisdiction. Management of activities in the OCS also entails select functions associated with multiple uses of offshore facilities and with alternative energy projects, whether they are co-located with oil and gas facilities or are operated independently.

E. Participating Agencies' Geographic Areas of Responsibility

The participating agencies will produce and maintain maps that accurately reflect MMS District boundaries and USCG zone boundaries, and will provide these maps to the other agency for their use and dissemination to the public. MMS will also produce and maintain maps that reflect areas of OPA-derived jurisdiction in both State and Federal offshore waters.

F. Communications and Contacts

The participating agencies will identify in writing appropriate representatives for the purposes of keeping each other timely informed of issues, relevant applications, routine policy determinations, and to coordinate joint activities. For the USCG, the Assistant Commandant for Marine Safety, Security, and Environmental Protection is responsible for identifying that representative. For MMS, the Associate Director of Offshore Minerals Management is responsible for identifying that representative.

These representatives will maintain an accurate and updated list of contacts for their respective agency and will make notifications of any changes to agency representatives to their counterpart. 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 MMS Regional Offices will ensure that up-to-date emergency 24-hour phone and pager numbers are provided to appropriate staff in both agencies.

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

Interagency

- MMS and USCG Quarterly Headquarters' Meetings
- MMS and USCG Reports on the Fixed Platform Self Inspection Program
- MMS Bi-Annual Policy Advisory Meetings
- Interagency Correspondence/Interagency Directives
- MMS Region and USCG District Meetings
- USCG Marine Safety Office (MSO) and MMS District Meetings

Public/General

- Regional Response Team (RRT) Meetings
- National Offshore Safety Advisory Committee (NOSAC) Semi-Annual Meetings
- Area Committee and Area Maritime Security (AMS) Meetings
- MMS Notices to Lessees (NTLs)
- MMS Information Transfer Meetings
- MMS Notices of Lease Sales
- USCG Navigation and Vessel Inspection Circulars (NVICs)
- USCG Policy Letters

G. Information Sharing

To avoid duplication of effort and 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 any existing 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 common naming identification for fixed OCS facilities.

H. 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. These efforts will include an annual comparison and coordination of research interests. MMS designated representatives will make available to the USCG proposed and approved lists of research projects. A USCG designated representative will inform MMS of any research projects of mutual interest. If funding is available and proposed projects are of mutual interest, joint funding may be considered. Findings and reports of mutual interest will be disseminated to both agencies.

I. Regulatory and Policy Development

To eliminate duplication of effort and promote consistency of regulations and policies where shared responsibilities exist, the participating agencies shall provide each other relevant information for review and comment early and throughout the regulatory and policy development process. Consistent with the Administrative Procedure Act, pending rules may be shared with each agency, but cannot be divulged to the public during their development.

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

J. Memorandum of Agreements – Development and Implementation

Memorandum of Agreements (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. The content of each MOA will set forth, as appropriate, a work plan, staffing requirements, cost estimates, funding sources, review mechanisms, and other considerations or conditions not included in this MOU. Each agency will designate an individual to develop and then implement each specific MOA. The MOAs will be numbered sequentially as OCS-1, OCS-2, OCS-3, etc.

Development, approval, modification, publication, exchange and termination of MOAs for the USCG will be administered by the Assistant Commandant for Marine Safety, Security, and Environmental Protection (or cognizant program manager), and for the MMS by the Associate Director, Offshore Minerals Management. Either agency may recommend the development or revision of an MOA. Once the participating agencies agree to develop or revise an MOA, they shall develop a schedule to complete the work. Revisions of MOAs will be determined on an as-needed basis.

K. Exchanging Services and Personnel

The participating agencies will endeavor to make personnel available to support mutual work objectives, workshops, conferences, seminars, awards ceremonies, training opportunities, committees, drills, and teams, subject to the availability of appropriated funds. Exchange of services and personnel will generally be non-reimbursable (except for pollution removal funding authorizations for specific fund access), subject to applicable laws and regulations.

L. Issue Resolution

Every effort will be made to resolve an issue at the lowest organizational level possible. When the agency representatives have exhausted all options the issue may be raised to the senior administrators.

M. Implementing this MOU

The participating agencies will review their internal procedures and, where appropriate, revise them to accommodate the provisions of the MOU. The representatives to be identified consistent with paragraph F of this MOU shall be responsible for ensuring that their respective agency abides by the terms and conditions of this MOU.

N. General Provision

Nothing in this MOU alters, amends, or affects in any way, the statutory authority of the MMS or the USCG. 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. 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.

It is the intent of the parties that the MOU remain in force even if a portion of it is determined to be unlawful, provided the remaining portion can be read coherently and understood.

O. Affected Document

The USCG/MMS MOU dated 16 December 1998 is cancelled when this MOU comes into effect.

This MOU is effective upon signature by the Director of MMS and the Commandant of the USCG.

P. 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 approval of the Director of the MMS and the Commandant of the USCG.

Q. TERMINATION

The MOU may be terminated upon a 30-day advance written notification.

Signed on 30 September 2004, U.S. Department of the Interior, Main Interior Building, Washington, D.C.

R. M. "Johnnie" Burton
Director, Minerals Management Service
U.S. Department of the Interior

Admiral Thomas H. Collins
Commandant, U. S. Coast Guard
U.S. Department of Homeland Security