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: April 30, 2013

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

A. PURPOSE

The United States Coast Guard (USCG) and the Bureau of Safety and Environmental Enforcement (BSEE) share jurisdiction 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 commitments to continual improvement.

The purpose of this MOA is to:

1. Establish a process to determine areas relevant to safety and environmental management within jurisdiction of both the USCG and BSEE where joint policy or guidance is needed;
2. Ensure that any future OCS safety and environmental management regulations do not place inconsistent requirements on industry; and
3. Establish a process to develop joint policy or guidance on safety and environmental management systems.

This MOA will be implemented in accordance with the Memorandum of Understanding between the BSEE and the USCG, signed on 27 November 2012. The participating agencies will review their internal procedures and, where appropriate, revise them to be consistent with the provisions of this MOA.

B. AUTHORITIES

The USCG enters this agreement under the authority of 14 USC §§ 93(a)(20) and 141. 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; 33 USC§ 2712(a)(5)(A); Titles 33 (Navigation and Navigable Waters) and 46 (Shipping) of the United States Code; the Oil Pollution Act of 1990, 33 USC § 2701 *et seq.*; Section 311 of the Federal Water Pollution Control Act, also known as 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 Code of Federal Regulation (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 §§ 1331 *et seq*. Applicable BSEE regulations are found under parts of Title 30 (Mineral Resources) of the CFR.

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, and conditions and certain 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, and conducting research.

C. Agency Responsibilities

1. **Communications and Contacts** – The Chief of the Office of Offshore Regulatory Programs, BSEE, and the Director of Commercial Regulations and Standards, 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 the BSEE's Safety and Environmental Management Systems (SEMS) and the USCG's Safety Management Systems (SMS). These coordinators will be authorized to recruit staff with appropriate skills and knowledge to participate in carrying out the responsibilities outlined herein.

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., specifically addressing the following:

    a. 33 CFR Subchapter N and 30 CFR Part 250 Subpart S. The USCG and the BSEE will:

        i. Document and identify areas within 33 CFR Subchapter N and 30 CFR Part 250 Subpart S that may require development of joint policy or guidance that will assist regulated parties to develop and implement more effective safety management systems.

        ii. The USCG and the BSEE will develop joint policy or guidance for each area identified under sub-paragraph i of this paragraph, as appropriate.

    b. 33 CFR Subchapter F Part 96, International Safety Management (ISM) Code and 30 CFR Part 250 Subpart S. The USCG and the BSEE will determine the interface between a vessel's ISM Code Compliant SMS and an operator's SEMS program. By determining this interface, USCG and BSEE will:

i. Identify and 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 under sub-paragraph i of this paragraph, as appropriate.

3. **JOINT EVALUATIONS/BOARDINGS/INSPECTIONS** – The respective coordinators will facilitate joint evaluations/boardings/inspections. At a minimum once per year, a joint evaluation/boarding/inspection will be conducted as follows:

   a. The joint evaluation/boarding/inspection should qualify as both:

      i. an evaluation under BSEE's regulations, 30 CFR Part 250 Subpart S, and

      ii. a boarding or an evaluation under USCG regulations 33 CFR Subchapter F Part 96 and 33 CFR Subchapter N, respectively.

   b. Whenever practicable, the BSEE and the USCG joint evaluation/boarding/inspection participants will travel together.

   c. The goals of these evaluations/boardings/inspections are:

      i. to verify that the areas identified under paragraph 2 (above) require development of joint policy or guidance, and

      ii. to develop the joint policy or guidance.

4. **FUTURE REGULATORY PROJECTS** – The USCG and the BSEE will review and discuss all OCS-related regulatory projects related to safety management. This will help ensure that both organizations are aware of regulatory projects before the responsible agency completes them.

5. **INFORMATION SHARING**– The agencies agree to share information related to their respective safety management efforts and recognize that sharing information is important for carrying out the purpose of this agreement. All information 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 and any agency-sponsored events related to OCS safety and environmental management.

D. GENERAL PROVISIONS

Nothing in this MOA alters, amends, or affects in any way, the statutory authority of the BSEE or the USCG. This MOA cannot be used to obligate, commit or establish the basis for the transfer of funds. All

provisions in this MOA are subject to the availability of personnel and funds. A separate reimbursable service agreement must be established to provide for the transfer of funding for costs that result from one agency providing the other with transportation.

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 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. If any portion of this MOA is found to be in conflict 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.

F. Effective Date

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

G. Termination

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

Mr. James A. Watson
Director
Bureau of Safety and Environmental Enforcement
U.S. Department of the Interior

Date: 4/30/2013

Rear Admiral Joseph Servidio
Assistant Commandant for Prevention Policy
U.S. Coast Guard
U.S. Department of Homeland Security

Date: 30 April 2013