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-03 **Effective Date: January 18, 2017**

SUBJECT: OIL DISCHARGE PLANNING, PREPAREDNESS, AND RESPONSE

A. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to clarify the roles and responsibilities of the Bureau of Safety and Environmental Enforcement (BSEE) and the U.S. Coast Guard (USCG) for oil discharge research, planning, preparedness, response, and source control activities for any artificial island, installation, pipeline, or other device permanently or temporarily attached to the seabed seaward of the coastline[1] (hereafter, "facilities" or "offshore facilities"), and certain vessels that may be used for the purpose of responding to discharges or substantial threats of discharges. The facilities and vessels subject to this MOA may include, but are not limited to, mobile offshore drilling units (MODUs), support vessels for subsea containment, and floating production, storage, and offloading (FPSO) (or similar) vessels, located in state and federal waters seaward of the coastline.

This MOA replaces BSEE/USCG MOA OCS-03 (Oil Discharge Planning, Preparedness, and Response), effective 03 April 2012.

Implementation of this MOA will be in accordance with the BSEE/USCG Memorandum of Understanding (MOU), effective 27 November 2012, Section I (Memorandum of Agreements – Development and Implementation). The participating agencies will review their internal procedures and, where appropriate, revise them to accommodate the provisions of this MOA.

[1] Pub. Law 99-272 § 8005(c) (May 22, 1953) as amended, codified 43 USC § 1301(c); see also, "Memorandum of Understanding Establishing Jurisdictional Responsibilities for Offshore Facilities," 59 Fed. Reg. 9494 (Feb. 28, 1994).

B. *Statutory 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 (OPA 90), 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 (CWA), 33 USC § 1321;[5] the Maritime Transportation Security Act, 46 USC § 70103;[6] and Executive Order (EO) 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 (NCP), 40 CFR part 300.

BSEE enters this agreement under the authority of OCSLA;[8] Section 311 of the CWA;[9] and EO 12777.[10] Applicable BSEE regulations are found under relevant parts of Title 30 (Mineral Resources) of the CFR, including parts 250 and 254. The BSEE also exercises authority under the NCP, 40 CFR part 300.

C. *Jurisdiction*

BSEE, as a Bureau within the U.S. Department of the Interior (DOI), is responsible under the OCSLA for the development, oversight, and enforcement of safety and environmental standards for offshore energy and mineral operations on the OCS. In the event of an oil discharge or threat of an oil discharge from an offshore facility on the OCS, BSEE is responsible for monitoring and/or directing efforts to obtain control over and secure the sources of discharge from systems and subsystems as delineated in BSEE and USCG MOAs. These actions by BSEE are conducted in accordance with OCSLA and OPA 90 authorities. Section 300.170 of the NCP provides that federal agencies may use their existing authorities and capabilities during a response to provide assistance to the FOSC.

Under OPA 90, BSEE is responsible for federal oversight of oil discharge planning and preparedness activities for regulated offshore facilities located seaward of the coastline in both state and federal offshore waters. These responsibilities include review and approval of Oil Spill Response Plans (OSRP), inspections of all oil spill response equipment listed in the OSRPs, and unannounced exercises to test plan holder readiness.

The USCG Incident Management Handbook (IMH) provides that the BSEE Source Control Support Coordinator (SCSC) is responsible for securing the source of an oil discharge from an uncontrolled well or pipeline in Federal offshore waters and serves as the special technical advisor for the FOSC.[11]

---

[2] Pub. L. 112-213, Title II, § 202, 126 Stat. 1543 (2012); Pub. L. 104-324, Title IV, § 405(a), 110 Stat. 3924 .
[3] Outer Continental Shelf Lands Act Amendments of 1978 (OCSLA), ch. 345, 67 Stat. 462 (1953), *as amended*; *codified in* 43 U.S.C. §§ 1331-1338, 1340-1342, 1344-1356b.
[4] Oil Pollution Act of 1990 (OPA 90), Pub. L. No. 101-380, 104 Stat. 484 (1990), *as amended*; *codified in* 33 U.S.C. §§ 2701-2716, 2716a, 2717-2719, 2731-2738, 2751, 2752, 2761, 2762; 43 U.S.C. §§ 1642, 1656; 46 U.S.C. §§ 3703a, 7505.
[5] Federal Water Pollution Control Act (CWA) (Clean Water Act), ch. 758, 62 Stat. 1155 (1948), *as amended*; *codified in* 33 U.S.C. §§ 1251-1263, 1265-1270, 1273, 1274, 1281-1301, 1311-1326, 1328-1330, 1341-1346, 1361-1377, 1381-1387.
[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).
[7] Executive Order No. 12777, 56 Fed. Reg. 54757 (1991).
[8] 43 USC §§ 1331 *et seq.*
[9] 33 USC § 1321.
[10] Executive Order No. 12777, 56 Fed. Reg. 54757 (1991).
[11] Pg 25-26, U.S. Coast Guard Incident Management Handbook, COMDTPUB P3120.17B, May 2014.

The USCG serves as the pre-designated Federal On-Scene Coordinator (FOSC) for oil and hazardous substance pollution incidents that threaten the coastal zone of the U.S., as defined in 40 CFR part 300.5. In general, the USCG FOSC directs responses to and ensures effective and immediate removal action for any oil or hazardous substance release in the coastal zone. The USCG leads oil spill planning efforts for the coastal zone to identify, assess and verify threats (spill potential), risk of harm to waters, shoreline and natural resources, and strategies necessary to mitigate the threats, minimize the risk and respond to an incident or event should it occur. The NCP provides that the FOSC "…directs response efforts and coordinates all other efforts at the scene of a discharge or release."

Recognizing that each agency has separate authorities and responsibilities for preparedness and response, the USCG and BSEE will coordinate execution of these responsibilities as closely as possible.

D. USCG AND BSEE FUNCTIONS

For purposes of this MOA, the functions of the USCG and BSEE with respect to oil discharge and substantial threats of such discharges associated with different types of facilities in state and federal offshore waters are set forth below. This table does not alter either agency's statutory or regulatory mandates and authorities, nor does it preclude either the USCG or BSEE from participating in activities related to these functions for purposes of coordinating an effective and immediate response.

USCG and BSEE Functions Table

	Planning[1]	***Preparedness***[2]	***Response***[3]	***Source Control***[4]
Fixed Facilities[a]	BSEE	BSEE	USCG	BSEE
Floating Facilities[b]	BSEE	BSEE	USCG	BSEE/USCG
Co-Located Use[c]	BSEE/USCG	BSEE/USCG	USCG	BSEE/USCG
MODUs[d]	BSEE/USCG	BSEE/USCG	USCG	BSEE/USCG
FPSOs/FPSs/FSOs[e]	BSEE/USCG	BSEE/USCG	USCG	BSEE/USCG
Pipelines[f]	BSEE	BSEE	USCG	BSEE
Other Offshore Facilities[g]	BSEE	BSEE	USCG	BSEE

Legend

[1] Planning – Authority to approve oil spill response plans, after review for compliance with applicable regulations.

[2] Preparedness – Federal oversight and initiation of unannounced oil spill drills, oil discharge response and subsea containment equipment inspection, and spill management team and oil spill removal organization training monitoring.

[3] Response – Includes all action taken to control, contain, clean up oil discharges, as well as associated enforcement activities.

[4] Source Control – Actions taken by an agency with regulatory authority over specific offshore facilities, offshore pipelines, or vessels, to reduce and/or eliminate the continued discharge of oil. This includes

addressing an uncontrolled flow of formation or other fluids, whether as a result of an underground or surface blowout; a flow through a diverter; or an uncontrolled flow resulting from a failure of surface equipment or procedures.

Definitions

[a] Fixed Facility – A bottom founded facility permanently or temporarily attached to the seabed or subsoil seaward of the U.S. coastline, including platforms, guyed towers, articulated gravity platforms, or other structures. This definition includes gravel and ice islands and caisson-retained islands used in OCS activities for drilling, production, or both.

[b] Floating Facility – A buoyant 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.

[c] Co-Located Use Facility – An offshore facility (e.g., production platform) simultaneously used for the purpose for which it was designed as well as another use (i.e., liquid natural gas off-loading system or renewable energy system).

[d] MODUs – Mobile offshore drilling units; Vessels capable of engaging in drilling operations for exploring or exploiting subsea oil, gas, or other mineral resources.

[e] FPSOs/FPSs/FSOs – Floating production, storage and offloading (FPSO)/Floating Production Systems (FPSs)/Floating storage and offloading (FSO) or other similar facilities.

[f] Pipelines – The piping, risers, and appurtenances installed seaward of the coastline for transporting oil, gas, sulphur, and produced waters. This includes both lease term and right-of-way pipelines regulated by BSEE and the Pipeline and Hazardous Materials Safety Administration (PHMSA).

[g] Other Offshore Facilities – Facilities that are not used for exploration, production, or transportation of oil but fall under the OPA 90 definition of an offshore facility because they contain oil or petroleum products (i.e., renewable energy production facilities).

E. Agency Responsibilities

1. Communications and Contacts

a. Agency staff responsible for implementation and maintenance of this MOA and attendant National policy matters are:

1. BSEE
   Chief – Oil Spill Preparedness Division
   Bureau of Safety and Environmental Enforcement
   45600 Woodland Road, VAE-OSPD
   Sterling, Virginia 20166

2. USCG
   Chief – Office of Marine Environmental Response (CG-MER)
   U.S. Coast Guard Headquarters
   2703 Martin Luther King Jr Ave SE Stop 7516
   Washington, DC 20593-7516

b. Agency staffs that are responsible for field coordination of oil discharge planning, preparedness, response, and abatement activities are:

1. BSEE Oil Spill Preparedness Section
   Gulf of Mexico Section (Covers both Gulf of Mexico and Atlantic areas) Supervisor
   1201 Elmwood Park Boulevard – GE 250G
   New Orleans, Louisiana 70123

   BSEE Oil Spill Preparedness Division
   Pacific Section
   Senior Analyst
   770 Paseo Camarillo, 2nd Floor – CE 215
   Camarillo, California 93010

   BSEE Oil Spill Preparedness Division
   Alaska Section
   Senior Analyst
   3801 Centerpoint Drive, Suite 500 – AE 500
   Anchorage, Alaska 99503-5820

2. USCG
   Eighth Coast Guard District
   District Response Management
   Incident Management Preparedness Advisor
   500 Poydras Street
   New Orleans, Louisiana 70130-3396

   Eleventh Coast Guard District
   Incident Management Preparedness Advisor
   Coast Guard Island, Building 51-1
   Alameda, California 94501-5100

   Seventeenth Coast Guard District
   Incident Management Preparedness Advisor
   Juneau Federal Bldg. Room 661
   709 W. 9th St.
   Juneau, Alaska 99802-5517

   National Strike Force Coordination Center (NSFCC)
   NSFCC Operations Department
   1461 N. Road St (US 17N)
   Elizabeth City, North Carolina 27909-3241

The participating agencies will identify in writing their representatives and contact information for the purposes of keeping each other informed of issues, relevant applications, routine policy determinations, and to coordinate joint activities. For the USCG, the Office of Marine Environmental Response (CG-MER) is responsible for identifying headquarters and district representatives. For BSEE, the Oil Spill Preparedness Division (OSPD) is responsible for identifying appropriate headquarters and regional representatives.

2. *Regional Response Teams (RRT) and Area Committees (AC)*

RRTs support FOSCs and are a focal point for interagency contingency planning, providing detailed information on response procedures, priorities, and appropriate countermeasures. Regional Contingency Plans (RCP) are written by RRTs and establish overarching response strategies for their region, such as the allowable conditions for use of chemical and biological oil spill countermeasures. RRTs are co-chaired by the Environmental Protection Agency (EPA) and USCG.

BSEE will participate in RRTs in Regions that include facilities within their areas of responsibility. At scheduled RRT meetings BSEE will, as appropriate, provide updates on agency activities affecting oil spill research, planning, preparedness, containment, and response, to keep RRT members informed.

ACs plan and provide detailed information on response procedures, priorities, and appropriate countermeasures. An AC, as provided for by the CWA sections 311(a)(18) and (j)(4), means the entity appointed by the President consisting of members selected from qualified personnel of federal, state, and local agencies, and industry, with pollution responsibilities and capabilities. ACs are responsible for preparing Area Contingency Plans (ACPs) for an area designated by the President.[12] The committees are chaired by the FOSC from the USCG, who has the lead federal spill response authority for the planning area in the coastal zone. FOSCs that have covered facilities in their area of responsibility shall endeavor to create an offshore subcommittee within their AC.

Staff of BSEE will participate in AC meetings and actively support development and maintenance of portions of the ACP directly related to spills from regulated offshore facilities and ensure increased visibility of Worst Case Discharge (WCD) scenarios for offshore facilities. BSEE will also provide regional staff to serve as Chair for each offshore subcommittee.

Every six months, BSEE staff will prepare and submit a report to the USCG, sorted by Captain of the Port (COTP) zone that reflects the WCD volumes for all scenarios in OSRPs. USCG COTPs will rely upon BSEE WCD reports in order to reflect the highest WCD volumes in ACPs and to revise plan response strategies as appropriate.

3. *Oil Spill Response Plans*

The final rule governing OSRPs and related requirements for facilities located seaward of the coast line, including those located in both state and federal waters, became effective June 23, 1997.[13] The regulation, 30 CFR part 254, whose authority is derived from OPA 90 and EO 12777, requires that owners and operators of oil handling, storage, and transportation facilities that are located seaward of the coast line submit spill response plans to BSEE for approval and that they be periodically updated. BSEE reviews OSRPs to ensure compliance with the requirements contained within 30 CFR part 254 and consistency with the NCP and local ACPs. This regulation may cover vessels permanently or temporarily attached to the seabed of the OCS. Clarification of BSEE's OSRP requirements can be found in applicable Notices to Lessees and Operators located on the BSEE web site (www.BSEE.gov).

Digital copies of BSEE-approved regional, sub-regional, and site-specific OSRPs are maintained at the Gulf of Mexico, Pacific, and Alaska OSPD Section offices in New Orleans, Louisiana; Camarillo, California; and Anchorage, Alaska, respectively.

---

[12] 33 USC § 1321(j)(4).
[13] 62 Fed. Reg. 13,996 (March 25, 1997).

BSEE will notify and provide the USCG with access to digital copies of OSRPs consistent with established procedures.. The subset of OSRPs that will prompt USCG notification and review include: a) initial plans for operations in state and/or federal offshore waters; b) plans that have been revised to reflect an increase to the highest volume WCD scenario contained in the plan; or c) plans that have been revised to reflect a decrease in oil spill removal organization and/or response capabilities for the highest volume WCD scenario. The USCG may choose to review select information in OSRPs and provide BSEE with comments on those response plans consistent with BSEE established procedures and internal review timelines. BSEE will consider all USCG comments on OSRPs as part of its review process, and will incorporate the USCG suggested revisions to plans, to the extent practicable

.The Coast Guard will also ensure that the WCD information contained in the OSRPs is consistent with those in the relevant RCPs and ACPs. Notwithstanding the foregoing, nothing in this MOA is intended to alter BSSE's legal authority with respect to review and approval of OSRPs for offshore facilities.

4. National Preparedness for Response Exercise Program (PREP)

The National Preparedness for Response Exercise Program (PREP) was developed to establish a workable exercise program that meets the intent of section 4202(a) of OPA 90, regarding spill response preparedness. Completion of the exercises described in the PREP Guidelines is one option for maintaining compliance with OPA 90-mandated federal oil pollution response exercise requirements for USCG, BSEE, EPA, and PHMSA.

The USCG will chair and BSEE will designate a representative to serve on the PREP Compliance, Coordinating, and Consistency Committee in order to assist in development of national quadrennial exercise schedules; review and modify PREP guidelines, as necessary; and participate in periodic public meetings on the PREP. The PREP agencies will also review and make recommendations on formal requests to receive Area-level exercise credit as proven through documentation on responses to an actual spill event.

5. Unannounced Exercises and Drills

Unannounced exercises are designed to test an operator's understanding of and familiarity with their oil spill response plan, increase the proficiency of their response personnel, and identify any response planning gaps that require correction. Interagency coordination during unannounced exercises will minimize interagency conflict, prevent duplication of response exercise efforts, and optimize exercise training opportunities for agency personnel.

BSEE conducts approximately 40 unannounced oil spill response exercises annually for offshore facilities. Exercises may include a table top component as well as equipment deployment. BSEE regional staff will provide the appropriate FOSC reasonable advance notification of scheduled unannounced BSEE-led exercises. FOSCs should participate in at least one BSEE-initiated unannounced exercise annually, preferably a complex functional exercise that involves deployment of major response assets.

The USCG FOSC will advise the appropriate OSPD Section staff in a reasonable timeframe in advance of USCG-led spill response exercises, drills, or activities involving facilities. Participation in USCG drills and exercises by the BSEE staff will be at the discretion of the BSEE OSPD Chief.

6. *Equipment Inspections*

The BSEE jurisdiction includes the inspection of all oil discharge response, source control, and subsea containment equipment that is cited in BSEE-approved OSRPs and applications for permits to drill, which will be used in the event of an oil discharge from a BSEE-regulated facility. Inspection of source control and (subsea) containment equipment (SCCE) is authorized by OCSLA.[14] Spill response equipment inspections are announced and conducted by BSEE in order to verify compliance with 30 CFR § 254.43 (a) and (b) (lessee inspection of response equipment and recordkeeping). The inspections encompass areas of equipment availability, operational readiness, equipment maintenance, and recordkeeping. Types of equipment inspected may include, but are not limited to, boom, fire boom, skimmers, pumps, hoses, storage tanks, vessels including certificated vessels used for cap and flow containment operations, temporary storage devices, subsea containment and control equipment, dispersant stockpiles, dispersant application equipment, and other equipment listed in approved plans.

The USCG National Strike Force Coordination Center (NSFCC) conducts preparedness assessment visits that entail the inspection of oil spill response equipment within a defined area where a PREP exercise will be held. Inspections occur approximately three months prior to the planned exercise, with inspection planning taking place approximately six months prior to the exercise.

Each agency will provide reasonable advance notification of planned equipment inspections to attempt, to the greatest extent possible, to conduct joint inspections of identical oil spill response resources.

In the event equipment inspections cannot be coordinated, each agency will conduct scheduled and unannounced oil spill equipment inspections to ensure compliance with its own requirements. If an inspector notices deficiencies that fall within the responsibility of the other agency, the deficiency will be reported to the other agency for action. However, if the deficiency may cause serious or irreparable harm to persons, property, or the environment, the inspector may take the necessary preventative action. The preventative action will then be reported to the responsible agency.

The NSFCC maintains the Response Resource Inventory (RRI) database. BSEE, to the extent practicable, will assist the USCG with verifying that offshore response, source control, and subsea containment equipment is accurately captured within the database for equipment listed in OSRPs and subject to inspection.

The Coast Guard Outer Continental Shelf National Center of Expertise (OCSNCOE) and NSFCC will perform periodic inspections of certificated vessels used for cap and flow containment operations to ensure they remain fit for purpose. The results of these inspections will be documented in the RRI and communicated to BSEE OSPD and the appropriate BSEE Regional Office.

7. *Oil Spill Response Training*

BSEE is responsible for ensuring that OSRPs include sufficient evidence that staffs of oil spill removal organizations (OSROs), spill response operating teams, and oil spill response cooperatives are trained in the use of oil discharge response equipment and techniques to respond to an oil spill. Whenever practicable, BSEE and USCG will, jointly or independently, attend and audit the training that OSRO and response personnel receive, and provide feedback for improvement of operational readiness. BSEE will provide an opportunity for the USCG FOSC, NSFCC, and OCSNCOE (as applicable) to attend any OSRO or response personnel training audits.

[14] 43 USC §§ 1337(p)(4)(L), 1348(b)(3).

8. *Incident Management Team Training*

Owners or operators of offshore facilities have dedicated incident management teams (IMTs) as described in their OSRP, organizations that are capable of orchestrating an effective, sustained response to a WCD from their facilities. Members of the IMT must undergo annual training and participate in table top exercises. Whenever practicable, BSEE and USCG personnel will, jointly or independently, attend the training and drills to ensure that the teams are thoroughly familiar with their approved OSRP and to provide input for continual improvement of the team and make members aware of any new agency requirements or clarifications of existing requirements.

9. *Oil Discharge Reporting*

The CWA and 33 CFR § 153.203 require that the person in charge of a vessel, onshore facility, or offshore facility report all discharges to the National Response Center (NRC), regardless of volume. The NRC provides notification to the appropriate agencies and State offices. The USCG will develop and maintain computer programs that, based upon the needs of BSEE, provide daily digital downloads of data related to offshore spills to BSEE, at no charge. The USCG will provide NRC-validated information for offshore facilities to BSEE when available.

Additionally, owners or operators of offshore facilities are required to report oil discharges of one barrel or more, or discharges of an unknown size but thought to be one barrel or more, to the BSEE OCS Regional Supervisor (RS).

10. *Oil Discharge Response*

The USCG provides pre-designated FOSCs in accordance with the NCP for the coastal zone. Each USCG District identified in this MOA will provide up-to-date FOSC listings to the corresponding OSPD Section contacts.

The USCG FOSC has the authority to direct Federal, State, and private response actions. A primary duty of the FOSC during oil discharge events is to ensure that the response is swift and safe, and that impacts to the environment are minimized. To do this the FOSC serves as a coordinator of responsible party (RP), government, and private actions and interests and is encouraged to work closely with the RP and BSEE in developing appropriate response strategies.

BSEE, upon request from the FOSC or as dictated by exigencies of the type of discharge incident, will provide an SCSC and other engineering, technical, and scientific expertise to assist the FOSC in responses to reportable oil discharges from offshore facilities. Assistance may include remote help such as identification of RPs using BSEE regional databases and mapping programs, or on-site help at Joint Field Offices or Unified Command (UC) Posts. In cooperation with the FOSC, BSEE will deploy Regional and/or District engineering, scientific, or technical staff to support the response at the UC Post and participate in USCG over flights to assist assessing damage to offshore facilities. Additionally, BSEE can also provide OSPD staff with technical expertise in response equipment and offshore spill planning to assist the FOSC within the Planning or Operations Sections at the UC Post for an offshore incident.

The USCG will deploy personnel to integrate into the BSEE IMT whenever it is activated during emergencies (e.g., hurricanes in the Gulf of Mexico) involving offshore energy infrastructure. The goal of this integration of BSEE and USCG personnel is to prevent duplication of efforts, optimize the use of resources, ensure consistency in data collection and reporting, and to expedite search and rescue, and oil discharge response operations.

For all offshore oil discharges greater than 50 barrels, whenever requested by BSEE, the FOSC will provide BSEE with documentation generated during a response from an offshore facility, for the

purpose of validating the response activities per the appropriate ACP, RCP, and BSEE-approved OSRP.

11. Source Control and Production Resumption

BSEE, while executing its authorities under the OCSLA, will provide assistance to the FOSC by overseeing and, when applicable, directing measures to stop and/or minimize sources of pollution from regulated offshore facilities to ensure minimal release of oil, and to prevent unwarranted shutdown of unaffected production and pipeline systems. BSEE will provide an SCSC to the unified command to ensure source control activities involving an offshore facility are effectively coordinated with all other response activities directed by the FOSC. The SCSC, in accordance with the duties outlined in the USCG IMH, will serve as the principal advisor to the FOSC for all source control activities involving an offshore facility regulated by BSEE.

In situations where an oil discharge from an offshore facility poses or may present a substantial threat to public health or welfare of the United States, the OSC may take immediate action for the effective response of a discharge or to mitigate or prevent the threat of such a discharge, as appropriate. The FOSC should notify the BSEE RS as soon as possible after taking source control actions.

Following facility and system repairs, as approved by BSEE, or the determination that the shut-in facility is not the source of a reported oil discharge, BSEE will exercise its authority to the return of a regulated facility to operation, as appropriate. All necessary precautions will be taken by BSEE to ensure verification of system integrity and other safety considerations prior to resumption of operations.

12. Oil Spill After Action Reviews

BSEE conducts an Incident Preparedness Analysis (IPA) for any oil discharge from an offshore facility regulated by BSEE that is greater than one barrel. The IPA is designed to evaluate the response to the spill as it relates to the general response plan requirements found in 30 CFR part 254. The USCG may conduct several different forms of after action reviews regarding the response to an oil spill, to include an After Action Report (AAR), or for more significant oil discharges, an Incident Specific Preparedness Review (ISPR) and/or an On-scene Coordinator's (OSC) Report.

For BSEE IPAs and USCG AARs, OSPD and the USCG will coordinate with each other to share information and lessons learned. When deemed appropriate by either agency, both agencies will participate in joint hot wash sessions in order to enhance the development of IPAs and/or AARs. Lessons learned and recommended mitigation actions regarding OSRPs, ACPs or RCPs as a result of discharges from offshore facilities should be closely coordinated between both agencies.

The focus of an ISPR is to examine the implementation and effectiveness of the preparedness and response to an incident as it relates to the NCP, ACP, and other oil spill response plans. An ISPR will normally be chartered by the USCG Commandant, and the charter will provide direction for the ISPR team membership, scope of the review, and reporting deadlines. For any ISPR examining an oil discharge emanating from an offshore facility regulated by BSEE, BSEE OSPD and CG-MER will coordinate to develop the draft charter for the ISPR.

The purpose of an OSC Report is to document the response that occurred to an oil discharge, including the situation as it developed, the actions taken, the resources committed, and the challenges encountered. An OSC Report is performed by the USCG when requested by the National Response Team (NRT). The NRT request will also identify any specific topics that are required to be addressed in the report. For any OSC Report that involves an offshore facility regulated by BSEE, the USCG and BSEE will coordinate closely to share and validate information as appropriate.

13. POLLUTION EVENTS DATABASES

The USCG maintains the Marine Information for Safety and Law Enforcement (MISLE) database that includes information on all oil discharges that impact the coastal zone. This database, serves as the primary system for tracking resource hours, maintaining vessel and facility regulatory and incident histories, and conducting vessel and facility inspections.

BSEE maintains detailed databases on offshore incidents, oil discharges, and enforcement actions. Unclassified data from these databases and others, collectively called TIMS (Technical Information Management System) and NCIS (National Consolidated Information System), is made available to the public on the BSEE website.

To the greatest extent possible, BSEE and the USCG will coordinate data collection efforts related to platform evacuations, oil discharge volume estimates, facility damage, and production recovery. Both agencies will share digital information on offshore operators and oil discharges in order to improve offshore safety performance, and dissemination of data for public consumption.

14. ENFORCEMENT

Any oil discharge of a harmful quantity, or a hazardous substance release that meets or exceeds a reportable quantity, may result in an enforcement action as authorized under the CWA. The USCG considers many factors in the determination of an appropriate enforcement/compliance action, such as the oil discharge history and the volume of discharge. To assist the USCG in determining an appropriate enforcement/compliance action, upon request, BSEE will provide the USCG with available information on the affected facility and/or RP.

Should the USCG complete an enforcement/compliance action against a person engaged in operations on a BSEE-regulated facility for an oil discharge or substantial threat of discharge, the USCG shall notify BSEE and the OSPD of the type of action taken. The USCG will also provide the cause for such action, and any additional information relevant to BSEE when analyzing aggregate operational and safety records of the RP during periodic operator assessments.

Should BSEE pursue an enforcement/compliance action against a person engaged in operations on offshore facilities under OCSLA, the USCG will provide BSEE with available information on the affected facility and/or RP, and as otherwise consistent with BSEE/USCG MOA OCS-02 (Civil Penalties). BSEE will notify the USCG when it identifies a case where a person fails to properly notify the NRC of an oil discharge for the USCG to take legal action. Matters where input from the USCG is warranted include those when a person engaged in offshore operations has engaged in acts or omissions that cause a discharge or substantial threat of a discharge, or where such person failed to take reasonable precautions to prevent oil discharges, failed to notify the NRC of an oil discharge, or deviated from BSEE-approved OSRPs during response to a discharge event.

15. INTER-AGENCY TRAINING

The BSEE OSPD oversees Ohmsett – The National Oil Spill Response and Renewable Energy Test Facility in Leonardo, New Jersey. Operations at the facility include the testing of existing mechanical equipment such as booms and skimmers, prototypes of new response equipment, oil dispersants, and in-situ burn equipment and protocol. Additionally, Ohmsett is the site of both classroom and hands-on tank instruction on the use of oil discharge response equipment. BSEE also oversees the National Offshore Training and Learning Center (NOTLC) whose mission is to support the Bureau's goals by providing upfront and ongoing contemporary learning and development opportunities. BSEE will notify the USCG of upcoming BSEE-sponsored training both at Ohmsett and the NOTLC to make

staff aware of and, where possible and subject to the availability of appropriations, provide USCG opportunities to attend training on a space available basis.

The USCG will notify BSEE of upcoming training opportunities for the Incident Command System (ICS), On-Scene Coordinator crisis management, and spill response technical courses. Training will be provided on a space available basis and subject to the availability of appropriations. The USCG will support the NOTLC by providing subject matter experts to conduct classes on USCG functions, responsibilities, policies, and procedures that affect offshore operations or intersect with BSEE authorities.

16. Research and Development (R&D)

BSEE conducts research on oil spill planning, preparedness, and response through the Response Research Unit of the OSPD. The USCG conducts research on oil spill planning and preparedness through the USCG Research and Development Center. The USCG and BSEE will coordinate research activities in partnership or through the Inter-agency Coordinating Committee on Oil Pollution Research. BSEE and USCG will collaborate, to the maximum extent practicable, in identifying research priorities, co-funding projects, and sharing information and best practices.

17. Development of Planning Standards

BSEE and the USCG will work together to ensure the use of consistent terminology and methodologies in the development of response strategies and planning standards.

For ACs where BSEE serves as the chair of an offshore response subcommittee, BSEE OSPD will work closely with other AC members, including the USCG and OSROs, to develop offshore response strategies. These strategies will include the development of a concept of operations for employing each of the countermeasures deemed appropriate by the governing RCP and ACP, exclusion zones for source control activities, and the appropriate use of oil spill sensing and tracking technologies in support of overall situational awareness and onsite removal and mitigation activities.

While the USCG and BSEE have different oil spill response plan requirements, the OSROs that provide the response services for all of these plans are the same. As such, it is in the best interests of both agencies to coordinate in the development and use of consistent terminology and methodologies in their response planning guidance, equipment databases, regulatory standards and ACPs. As such, both agencies will align their response equipment lexicons, whenever possible, with the terminology used in the document "Guidance for International Offers of Assistance in Response to a Marine Oil Pollution Incident" developed for the International Maritime Organization. With respect to the methodologies and metrics for measuring response equipment capabilities, both agencies should coordinate, whenever possible, in the development and use of consistent response planning standards, tools, and testing methods, such as the Estimated Dispersant System Potential/Dispersant Mission Planner 2 calculator, and the Estimated Recovery System Potential calculator.

The USCG develops and maintains the USCG IMH that provides guidance on the use of the National Incident Management System (NIMS) ICS for response operations in the coastal zone. The IMH includes guidance on the roles and responsibilities of the SCSC, as well as other key source control positions and management structures during an incident. As most incidents involving an SCSC will be for an offshore oil and gas facility where BSEE is acting as the SCSC, the USCG and BSEE will coordinate closely on the development, maintenance, and future revisions of the ICS guidance within the IMH for source control activities, as appropriate.

E. Meetings and Coordination

The USCG and BSEE will participate in joint meetings to advance the purposes of this MOA. These meetings will include, but not be limited to: quarterly Response Work Group meetings, quarterly BSEE/USCG Principals Meetings, semi-annual meetings between the BSEE OSPD Response Research Branch and USCG Research and Development Center, and quarterly meetings between OSPD Section Staff and their USCG counterparts.

F. *General Provisions*

Nothing in this MOA alters, amends, or affects in any way, the statutory or regulatory authority of BSEE or the USCG. This MOA cannot be used to obligate or commit funds, or as the basis for the transfer of funds. All provisions in this MOA are subject to the availability of personnel and funds. 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 U.S., its agencies, its officers, or any other person.

G. Reporting Documentation

No follow-up reports or documentation of actions are required as a result of this MOA.

H. Amendments to the MOA

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

I. Effective Date

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

J. Termination

The MOA may be terminated by either agency upon a 30-day advance written notification.

Signed on January 18, 2017, Washington, D.C.

Ms. Margaret Schneider
Deputy Director
Bureau of Safety and Environmental Enforcement
U.S. Department of the Interior

Ms. Dana S. Tulis
Director, Incident Management and Preparedness Policy
U.S. Coast Guard
U.S. Department of Homeland Security