

MEMORANDUM OF AGREEMENT
BETWEEN THE
U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA), REGION 6
AND THE
GULF OF MEXICO REGIONAL OFFICE, MINERALS MANAGEMENT SERVICE
(MMS), COORDINATING THE EPA NPDES PERMIT COMPLIANCE PROGRAM WITH THE
MMS OFFSHORE INSPECTION PROGRAM

SECTION I. INTRODUCTION

On May 31, 1984, a Memorandum of Understanding (MOU) between the U.S. Environmental Protection Agency (EPA) and the Department of Interior (DOI) was approved. The purpose of this MOU was to improve cooperation and coordination between EPA and DOI in oil and gas lease activities on the Outer Continental Shelf (OCS) in determining the terms and conditions of National Pollutant Discharge Elimination System (NPDES) permits and to insure NPDES permit compliance. The MOU establishes that each agency will coordinate studies and related regulatory responsibilities and cooperate to ensure that EPA can issue NPDES permits at the Final Time of Offering by DOI.

The major points of coordination of this MOU include the following:

- Issuance of NPDES permits under Sections 402 and 403(c) of the Clean Water Act (Part IV.A and B)
- Development and exchange of information (Part IV.C. Sections 1-3)
- Development of vulnerability criteria (Part IV.C. Section 4)
- Coordination of responsibilities under the National Environmental Policy Act (NEPA) (Part V)

- Post-Lease Monitoring and Inspection of OCS oil and gas operations and enforcement of discharge requirements (Part VI).

This document represents a Memorandum of Agreement (MOA) between EPA Region 6 and the Gulf of Mexico Regional Office, MMS, to implement Part VI of the MOU between EPA and DOI. This MOA addresses post-lease monitoring and inspection of OCS oil and gas operations and enforcement of discharge requirements.

SECTION II. DEFINITIONS

For the purposes of this MOA the following definitions apply:

Area of Biological Concern - For the purpose of issuing NPDES permits, an area of biological concern is a portion of the OCS identified by EPA, in consultation with DOI, as containing potentially productive or unique biological communities or as being potentially sensitive to discharges associated with oil and gas activities.

General NPDES Permit - A permit which regulates a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures. A general permit does not require an application from a named party, merely a notification to the EPA Regional Administrator of the party's intent to be covered by the general permit.

Individual NPDES Permit - A permit which regulates the discharge of pollutants from point sources under Section 402(a) of the Clean Water Act (CWA). This permit identifies a named party through an application requirement.

Inspection Report - The inspection report will contain the following: a heading section that provides general information about each specific inspection (e.g. lease block, date of inspection, operator, etc.); the inspection checklist; and any comments.

OCS Facility - Any artificial island or installation, permanently or temporarily attached to the seabed or subsoil of the OCS and used for oil and gas activity. This term includes either fixed or floating structures and mobile offshore drilling units attached to the seabed, including self-positioning drill ships, but does not include a deep-water port or vessel engaged in transportation.

OCS Oil and Gas Activity - Any offshore activity on the OCS pursuant to a Federal lease or permit resulting in effluent discharges associated with the exploration, development, or production of oil and gas mineral resources.

Outer Continental Shelf (OCS) - All submerged lands that comprise the continental shelf lying seaward and outside of the area of lands beneath navigable waters as defined in the Submerged Lands Act of 1953, 43 U.S.C. 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Potential Incidence of Noncompliance (PINC) List - This form is the baseline for inspecting lease operations and facilities by MMS personnel.

SECTION III. ARTICLES OF AGREEMENT

ARTICLE I

INSPECTIONS

(A) According to procedures for inspection developed under the implementation section of the MOU, the MMS Regional Director hereby agrees to inspect a maximum of fifty (50) OCS facilities per year for compliance with NPDES permit provisions. The scope of these inspections shall not include sampling.

(B) EPA will provide MMS with the NPDES inspection checklist and regional guidance for MMS inspectors conducting NPDES inspections. The checklist will be provided in a format consistent with the Potential Incidence of Noncompliance (PINC) List, currently used by MMS inspectors. The guidance will include NPDES inspection procedures, explanations of specific NPDES permit compliance requirements, and region-specific guidance on determining NPDES compliance.

(C) Sampling inspections will be conducted by the EPA and the MMS agrees to provide transportation to and from the facility for no more than ten (10) inspections per year.

(D) Any special EPA or MMS sampling requests (e.g. emergencies, responses to citizen's complaints, etc.) which are in addition to the above number of inspections, may be met at the discretion of the MMS Regional Director and EPA Water Management Division Director.

(E) MMS will follow the reporting requirements as detailed in Article III of this document.

ARTICLE II

TRANSPORTATION

(A) EPA Region 6 does not anticipate routine situations where EPA personnel will require transportation to an offshore facility with the exception of the joint EPA/MMS inspections.

(B) Special transportation requests (e.g. emergencies, responses to citizens complaints, personnel training, inspection requests above the negotiated number, etc.), which are not included in routine MMS inspection schedules, may be met at the discretion of the MMS Regional Director.

(C) EPA Region 6 estimates that not more than 2 EPA inspectors per sampling or special sampling trip will require transportation.

ARTICLE III

REPORTS

(A) MMS will complete the inspection checklist for each NPDES inspection conducted.

(B) MMS will provide to EPA copies of all NPDES inspection reports. NPDES inspection reports and other pertinent information may be reported more frequently at the discretion of MMS personnel.

(C) EPA Region 6 will provide MMS with a ten (10) work day comment period on any administrative action taken as a result of MMS inspection reports.

(D) EPA Region 6 may ask MMS, from time to time, to provide EPA with other pertinent available data (e.g., active rigs and platforms, their present locations, block number, lease tract, etc.) or information of special interest (e.g., specifically identified inspection data gathered on a "next trip out" basis). Such data will be consistent, to the maximum extent possible, with existing internal MMS reports. Telephone reports will be acceptable in many cases.

ARTICLE IV

DISPOSITION

(A) MMS will send NPDES inspection reports to the following address:

Offshore Oil and Gas Document Control Clerk
U.S. EPA (6W)
P.O. BOX 50625
Dallas, Texas 75270

(B) Questions regarding implementation of this MOA will be directed to:

MMS: Regional Supervisor for Field Operations
Mineral Management Service
1201 Elmwood Park Blvd.
New Orleans, Louisiana 70123-2394
Phone: FTS 680-9845

EPA: Offshore Oil and Gas Enforcement Coordinator
U.S. EPA (6W-E0)
Water Enforcement Branch
1445 Ross Avenue
Dallas, Texas 75202-2733
Phone: FTS 255-6470

ARTICLE V

TESTIMONY

MMS personnel may be required to appear as witnesses to testify on matters relating to NPDES compliance monitoring activities in any subsequent administrative or judicial action.

ARTICLE VI

ENFORCEMENT

EPA will be responsible for the enforcement of all NPDES permit conditions. MMS is responsible for reporting evidence of NPDES permit noncompliance to EPA. In the case of overlapping statutory authorities, MMS inspectors may choose to exercise any enforcement action authorized under the Outer Continental Shelf Lands Act and Amendments, or its implementing regulations, but will also notify EPA of the NPDES noncompliance incident.

ARTICLE VII

AUTHORITY

(A) Nothing in this MOA shall be deemed to alter, amend, or affect in any way the statutory authorities of the U.S. Environmental Protection Agency or the Department of the Interior.

(B) This MOA is effective upon the signature of the EPA Regional Administrator and the MMS Regional Director. The provisions of this MOA shall be re-evaluated as necessary. Either party can modify the provisions of this MOA by giving appropriate notice and approval at that time.

(C) Representatives from EPA and MMS shall meet on an annual basis at a mutually agreed upon location and time to conduct business related to this MOA (e.g. negotiating inspection schedules, updating or revising the MOA, training seminars, etc.).

SECTION IV. IMPLEMENTATION

As soon as practicable, but not later than 6 months from the effective date of this MOA, the regional agencies will hold their first annual meeting as referenced in Section III, Article VII, Part C. All future annual meetings will be held prior to the beginning of each fiscal year.

SECTION V. AGENCY CONTACTS

Inquiries regarding the provisions of this MOA, its implementation, or disagreements over any of the provisions should be directed to:

Minerals Management Service, Department of
Interior
Regional Director
Mineral Management Service
1201 Elmwood Park Blvd.
New Orleans, Louisiana 70123-2394

Environmental Protection Agency, Region 6
Water Management Division Director
U.S. EPA (6W)
1445 Ross Avenue
Dallas, Texas 75202-2733

Robert E. Linton

DATE SEP 12 1989

Environmental Protection Agency, Region 6
Regional Administrator

A. Roger Pearce

DATE Aug. 31, 1989

Minerals Management Service, Gulf of Mexico
OCS Regional Office, Regional Director