

Minerals Management Service**Memorandum of Understanding
Establishing Jurisdictional
Responsibilities for Offshore Facilities**

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice.

SUMMARY: The memorandum of understanding (MOU) establishing Federal jurisdictional boundaries for offshore facilities, including pipelines, became effective on February 3, 1994. The MOU divides the responsibilities associated with oil-spill prevention and control, response planning, and response equipment inspection for offshore facilities. The MOU is among the Department of the Interior (DOI), the Department of Transportation (DOT), and the Environmental Protection Agency (EPA).

The coast line marks the boundary that determines which agency is responsible for a facility. The MMS of the DOI is responsible for offshore facilities, including pipelines but not deepwater ports, located seaward of the coast line. The EPA is responsible for non-transportation-related offshore facilities located landward of the coast line. The U.S. Coast Guard and the Research and Special Programs Administration of the DOT will handle transportation-related offshore facilities, including pipelines, located landward of the coast line.

Any exceptions to the MOU will be determined on a facility-specific basis, and the affected parties will be notified.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Executive Order (E.O.) 12777 (56 FR 54757) delegated to DOI, DOT, and EPA various responsibilities identified in the Clean Water Act (CWA), as amended by the Oil Pollution Act of 1990 (Public Law 101-380). The E.O. 12777 assigned the responsibilities associated with oil-spill prevention and control, contingency planning, and response equipment inspection for offshore facilities to DOI. However, section 311(a)(11) of the CWA defines "offshore facility" to include facilities of any kind located in, on, or under navigable waters of the United States. By using this definition, the traditional DOI role of regulating facilities in the Outer Continental Shelf is expanded by E.O. 12777 to include inland lakes, rivers, streams, and any other inland water. Without this MOU,

as many as four Federal agencies could have overlapping responsibilities for some coastal facilities.

To avoid any confusion caused by the definition of "offshore facility", MMS coordinated an effort to establish jurisdictional boundaries for oil-spill prevention and control, response planning, and response equipment inspection activities. Pursuant to section 2(i) of E.O. 12777, the Secretary of the Interior redelegated those functions vested in DOI to give EPA non-transportation-related offshore facilities located landward of the coast line and give DOT transportation-related offshore facilities landward of the coast line. The divisions agreed to in the MOU (Appendix A) is more consistent with traditional agency expertise and jurisdiction. This MOU does not include jurisdictional boundaries for oil-spill financial responsibility.

Dated: February 17, 1994.

Thomas Gernhofer,

Associated Director for Offshore Minerals Management.

Appendix A – Memorandum of Understanding Among the Secretary of the Interior, Secretary of Transportation, and Administrator of the Environmental Protection Agency**Purpose**

This Memorandum of Understanding (MOU) establishes the jurisdictional responsibilities for offshore facilities, including pipelines, pursuant to section 311(j)(1)(c), (j)(5), and (j)(6)(A) of the Clean Water Act (CWA), as amended by the Oil Pollution Act of 1990 (Public Law 101-380). The Secretary of the Department of the Interior (DOI), Secretary of Department of Transportation (DOT), and Administrator of the Environmental Protection Agency (EPA) agree to the division of responsibilities set forth below for spill prevention and control, response planning, and equipment inspection activities pursuant to those provisions.

Background

Executive Order (E.O.) 12777 (56 FR 54757) delegates to DOI, DOT, and EPA various responsibilities identified in section 311(j) of the CWA. Sections 2(b)(3), 2(d)(3), and 2(e)(3) of E.O. 12777 assigned to DOI spill prevention and control, contingency planning, and equipment inspection activities associated with offshore facilities. Section 311(a)(11) defines the term "offshore facilities" to include facilities of any kind located in, on, or under navigable waters of the United States. By using the definition, the traditional DOI role of regulating facilities on the Outer Continental Shelf is expanded by E.O. 12777 to include inland lakes, rivers, streams, and any other inland waters.

Responsibilities

Pursuant to section 2(i) of E.O. 12777, DOI redelegates, and EPA and DOT agree to assume, the functions vested in DOI by sections 2(b)(3), and 2(d)(3), and 2(e)(3) of E.O.

12777 as set forth below:

For purpose of this MOU, the term "coast line" shall be defined as in the Submerged Lands Act (43 U.S.C. 1301 (c)) to mean "the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters."

1. To EPA, DOI redelegates responsibility for non-transportation-related offshore facilities located landward of the coast line.

2. To DOT, DOI redelegates responsibility for transportation-related facilities, including pipelines, located landward of the coast line. The DOT retains jurisdiction for deepwater Ports and their associated seaward pipelines, as delegated by E.O. 12777.

3. The DOI retains jurisdiction over facilities, including pipelines, located seaward of the coast line, except for deepwater ports and associated seaward pipelines delegated by E.O. 12777 to DOT.

Effective Date

This MOU is effective on the date of final Execution by the indicated signatories.

Limitations

1. The DOI, DOT, and EPA may agree in writing to exceptions to this MOU on a facility-specific basis. Affected parties will receive notification of their exceptions.

2. Nothing in this MOU is intended to replace, supersede, or modify and existing agreements between or among DOI, DOT, or EPA.

Modifications and Termination

Any party to this agreement may propose modifications by submitting them in writing to the heads of the other agency/department. No modification may be adopted except with the consent of all parties. All parties shall indicate their consent to or disagreement with any proposed modification within 60 days of receipt. Upon the request of any party, representatives of all parties shall meet for the purpose of considering exceptions or modifications to this agreement. This MOU may be terminated only with the mutual consent of all parties.

Bruce Babbitt,
Secretary of the Interior.

Carol M. Browner,
Administrator, Environmental Protection Agency.

Federico Peria,
Secretary of Transportation.

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