

**MEMORANDUM OF AGREEMENT
BETWEEN
U.S. COAST GUARD
FIFTH, SEVENTH, AND EIGHTH DISTRICTS
AND
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 4
REGARDING
RESPONSE BOUNDARIES FOR OIL AND HAZARDOUS SUBSTANCES POLLUTION
INCIDENTS AND
FEDERAL ON-SCENE COORDINATOR RESPONSIBILITIES**

I. Purpose

The purpose of this document is to delineate the Region 4 inland and coastal zone geographical boundaries and to establish responsibility for the predesignation of on-scene coordinators (OSCs) for pollution response pursuant to the National Oil and Hazardous Substances Contingency Plan (NCP), Title 40, Code of Federal Regulations, Part 300.120 (40 CFR § 300.120).

II. Definitions

The following definitions will apply to this Memorandum of Agreement (MOA).

Commercial Vessels. Commercial vessels are vessels in commercial service that conduct any type of trade or business involving the transportation of goods or individuals, except combatant vessels. This includes tank vessels (ships and barges); freight vessels and barges; commercial fishing vessels; passenger vessels; and towing vessels. This definition excludes recreational vessels and permanently moored structures which, while they may appear to be vessels are not inspected by the Coast Guard, i.e. barges moored at facilities effectively used as part of a non-transportation-related facility complex.

Marine Transportation-Related Facility (MTR Facility). Any onshore facility or portion of a facility complex, as defined in 40 CFR § 112.2, including piping and any structure used or intended to be used to transfer oil to or from a vessel. The marine transportation-related portion of the complex extends from the facility oil transfer system's connection with the vessel to the first valve inside the secondary containment surrounding tanks in the non-transportation-related portion of the facility or, in the absence of secondary containment, to the valve or manifold adjacent to the tanks comprising the non-transportation-related portion of the facility, unless another location has been agreed to by the U.S. Coast Guard (USCG) Captain of the Port (COTP) and the appropriate federal official (33 CFR § 154.1020).

III. Boundary Descriptions

A - Inland Zone Boundary Designation

The U.S. Environmental Protection Agency Region 4 provides the predesignated OSC for pollution response in the inland zone. All discharges or releases, or a substantial threat of such discharges or releases of oil or hazardous substances, pollutants or contaminants originating

within the inland zone are the responsibility of the EPA. Included are discharges and releases from unknown sources or those classified as “mystery spills.”

The EPA Region 4 includes the eight Southern States/Commonwealths: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Responsibilities regarding inland waterways between the EPA Regions (i.e., Ohio River, Mississippi River, Pearl River, Big Sandy River and Tug Fork) are delineated in separate Memorandums of Understanding (MOU) between the EPA Regions. These MOUs are provided in Appendix 2 of this document.

B - Coastal Zone Boundary Designations

The cognizant USCG COTP is the predesignated OSC for pollution response in the coastal zone. All discharges or releases, or a substantial threat of such discharges or releases of oil or hazardous substances originating within the coastal zone are the responsibility of the USCG OSC except as described in section IV C of this document. Included are discharges and releases from unknown sources or those classified as “mystery spills.”

The coastal zone boundary description for the USCG OSCs located within the EPA Region 4 can be found in Appendix 1.

IV. General Response Provisions

These provisions apply to all of the EPA OSCs and USCG COTP/OSCs serving within Region 4. The designated boundary lines identified in Appendix 1 are intended to delineate the area of responsibility (AOR) for federal response action to a discharge of oil or a release of a hazardous substance, pollutant, or contaminant within Region 4 and describe the transition point from the coastal zone (USCG jurisdiction) to the inland zone (EPA jurisdiction). For ease of denotation, the boundaries were drawn following prominent state and federal highways, state boundaries, other landmarks, and as a general rule, the location of the source of the discharge will be the determining factor of which agency provides the OSC. However, this MOA recognizes the USCG’s primary mission and expertise for discharges and releases in or threatening navigable waters subject to the tide, and the EPA’s primary mission and expertise for discharges and releases that occur on or threaten land and non-tidal, navigable waters. Therefore, the boundaries do not preclude one agency from transferring to the other agency OSC responsibilities for releases and/or discharges which occur within its zone, as set forth below.

A.1 - Mutual Assistance

The USCG, through the cognizant COTP and the inland zone predesignated EPA OSC will assist each other consistent with agency expertise, resources, responsibilities and authorities.

The proposed boundary lines identified in Appendix 1 do not preclude mutual assistance between the two agencies. In addition to 40 CFR § 300.135(b), in this federal region, the EPA and the USCG will carry out agency and specific pollution response responsibilities under the NCP, the Regional Contingency Plan (RCP), and the applicable Area Contingency Plan, and will assist each other to the fullest extent possible to prevent or minimize the impacts of an actual

discharge or release, or a substantial threat of such a discharge or release, of an oil or hazardous substance into or on the waters of the United States or adjacent shorelines where each respective agency has jurisdiction.

Such mutual assistance will be provided based on formal notification and mutual consent that the assistance is desirable and necessary to respond to a release or threat of a release of oil or hazardous substances that poses imminent and substantial endangerment to public health or the environment. Notification will be provided by the COTP to the EPA OSC, or by the EPA OSC to the COTP, whenever a spill is discovered that appears to warrant the provision of mutual assistance. When it is mutually agreed that the provision of such assistance is beneficial, an OSC from either organization may serve as the OSC for that incident, serve as the Federal On-Scene Coordinator Representative (FOSCR) for the predesignated OSC, or perform OSC duties only until such time as the predesignated OSC may take over the response action.

The predesignated OSC will be advised of the response actions taken by the assisting agency OSC or FOSCR via periodic verbal reports and pollution reports (POLREPS) as appropriate.

A.2 - First Federal Official

Under 40 CFR § 300.135(b) of the NCP, an OSC from either EPA or the USCG may respond as the first federal official (defined in 40 CFR § 300.5) to either an inland or a coastal event. The first federal official is authorized to initiate, in consultation with the predesignated OSC, any necessary actions to respond until the arrival of the predesignated OSC.

B - Inland Zone Commercial Vessels and MTR facilities

USCG will provide the OSC for incidents that occur in the inland zone where the release, discharge, or threat of release or discharge, occur from commercial vessels or from MTR fixed facilities.

The USCG shall provide the OSC in response to an incident in EPA Region 4 inland zone when it involves a commercial vessel, or an oil or hazardous material transfer operation on the marine transportation-related portion of a MTR facility. The incident must result in an actual discharge or threatened discharge of oil or hazardous substances into or on navigable waters of the United States, its shoreline or the riverbank within the USCG Fifth, Seventh and Eighth Districts AOR in EPA Region 4 as defined in 33 CFR § 3.40-1. The COTP in each zone shall provide annually a list of fixed MTR facilities located in the inland zone of their AOR to the Co-Chairs of RRT4. EPA shall be advised of any response actions performed by the COTP within the inland zone via verbal notification and POLREPS. When the COTP is not notified via the National Response Center, EPA shall notify the COTP for all commercial vessel and MTR spills or releases in the inland zone.

C - Coastal Zone Fixed Facilities, Railroads, and Pipelines

EPA will provide the OSC for incidents that occur in the coastal zone where the release, discharge, or threat of release or discharge, occur from fixed facilities as defined by CERCLA other than MTR fixed facilities. EPA will also provide the OSC should the incident involve

non-marine transportation related incidents including railroad, highway, or pipeline owners/operators/carriers.

D - Unified Command

When spills originate in either the inland or coastal zones that appear to threaten the adjoining zone, the OSCs responsible for both zones will coordinate to determine the most effective response strategy. When either Agency provides the OSC in the AOR of the other Agency (EPA in coastal zone or USCG in inland zone) the host Agency shall be afforded the opportunity to participate in the Unified Command. Options available for OSC assignment are as stated previously in this section.

E - Drinking Water/Waste Water Infrastructure Incidents

As directed by Homeland Security Presidential Directive HSPD-7 regarding critical infrastructure, EPA will provide the OSC for all drinking water, waste water, and storm water attacks or upsets, regardless of the zone in which the utility is located.

Other Provisions

Nothing in this MOA is intended to conflict with current law or regulation or the directives of the USCG or EPA. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

Anti-Deficiency Act

As required by the Anti-deficiency Act, 31 U.S.C. 1341 and 1342, all commitments made by EPA and the USCG in this MOA are subject to the availability of appropriated funds and budget priorities. Nothing in this MOA, in and of itself, obligates EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations. Any transaction involving transfers of funds between the parties to this MOA will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

V. Amendments and Effective Date

This agreement will be subject to review and amendment coincident with each periodic review of the Regional, Area, and other applicable contingency plans and any other time at the request of any of the parties. Amendments to this MOA or its appendices shall be accomplished through a Letter of Agreement specifying the agreed modification and signed by all parties. Points of contact for the coordination, support, and implementation of this agreement are as follows:


- EPA Region 4 – Chief, Emergency Response and Removal Branch, Atlanta, GA at (404) 562-8718; 24 hour Duty Officer (404) 562-8700
- Fifth Coast Guard District – Chief, Response Division, Portsmouth, VA at (757) 398-6676

- Seventh Coast Guard District – Chief, Incident Management Branch, Miami, FL at (305) 415-6841
- Eighth Coast Guard District – Chief, Response Division, New Orleans, LA at (504) 671-2229

Regional and Area Contingency Plans of the signatory Agencies will be amended to reflect the geographical boundaries established herein. This MOA supersedes other MOAs and/or MOUs previously enacted concerning the Federal predesignated OSC boundaries for purposes of pollution response within EPA Region 4. This document is effective upon signature by all parties. It will remain in effect until modified or terminated by mutual agreement of the parties.

USCG D5, D7, D8, and EPA R4 Inland / Coastal Boundary MOA
Signature Page USCG District 7

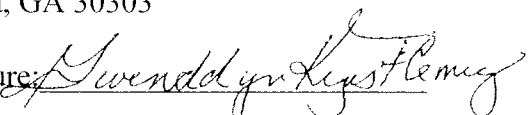
J. H. Korn
Rear Admiral, U.S. Coast Guard
Commander
Seventh Coast Guard District
909 S.E. First Ave
Miami, FL 33131-3050

Signature: 

Date: 10/10/13

**USCG D5, D7, D8, and EPA R4 Inland / Coastal Boundary MOA
Signature Page EPA Region 4**

Gwendolyn Keyes Fleming
Regional Administrator
U. S. Environmental Protection Agency
Region 4 (4XA)
61 Forsyth Street SW
Atlanta, GA 30303

Signature: 

Date: MAR 28 2013

**USCG D5, D7, D8, and EPA R4 Inland / Coastal Boundary MOA
Signature Page USCG District 5**

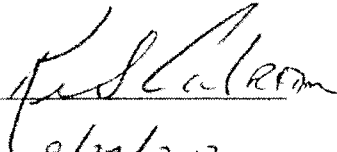
Steven H. Ratti
Rear Admiral, U.S. Coast Guard
Commander
Fifth Coast Guard District
431 Crawford Street
Portsmouth, VA 23704

Signature:  RADM, USCG

Date: 29 October 2013

**USCG D5, D7, D8, and EPA R4 Inland / Coastal Boundary MOA
Signature Page USCG District 8**

Kevin S. Cook
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Date: 9/27/2013