

**MEMORANDUM OF UNDERSTANDING BETWEEN  
UNITED STATES COAST GUARD NINTH DISTRICT AND  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 5  
REGARDING AGENCY PARTICIPATION ON AREA COMMITTEES TO  
EXECUTE THE NATIONAL CONTINGENCY PLAN**

1. **PARTIES.** The parties to this Memorandum of Understanding (Agreement) are the Ninth Coast Guard District (USCG) and the United States Environmental Protection Agency, Region 5 (US EPA Region 5).
2. **AUTHORITY.** This Agreement is authorized under the provisions of
  - a. Title 33, United States Code Section 1321
  - b. Title 42, United States Code Chapter 103
  - c. Title 14, United States Code Section 93
  - d. 40 C.F.R. Part 300
  - e. Executive Order 12580, Jan. 23, 1987 (52 Fed Reg. 2923)
  - f. Executive Order 12777, Oct. 22, 1991 (56 Fed Reg. 54757)
  - g. Designation of Areas and Area Committees, April 24, 1992 (57 Fed Reg. 15198) and
  - h. United States Environmental Protection Agency, Headquarters Delegations 1-11 and 2-91
3. **PURPOSE.** The purpose of this Agreement is to establish the framework for cooperation between the USCG and EPA Region 5 in the geographic areas where inland and coastal zones, as defined in the National Oil and Hazardous Substances Contingency Plan (NCP) and Regional Contingency Plans, are adjacent. This Agreement outlines general terms for provision of personnel, information and technical assistance to area committees and appropriate sub-committees located within the geographic boundaries of EPA Region 5.
4. **SCOPE.** This Agreement pertains to the five coastal area contingency plans within the geographic boundaries of EPA Region 5 that are currently maintained by the USCG for the coastal zone, the Region 5 Regional Contingency Plan/Area Contingency Plan (Region 5 RCP/ACP) and the inland zone sub-area plans adjacent to the coastal zones within Region 5. The affected plans will continue to be known as the coastal area contingency plans, the Region 5 RCP/ACP and inland sub-area contingency plans.
5. **BACKGROUND.** The jurisdictional boundary between the coastal and inland zones may intersect a political jurisdiction such as a city or county. A portion of a city or county may lie in the inland zone and be covered by the Region 5 RCP/ACP and inland/or inland sub-area contingency plan maintained by EPA Region 5, while another portion of that city or county may lie in the coastal zone and be covered by a coastal area contingency plan maintained by the USCG. A city or county in such a location may participate in area and sub-area committees sponsored by USCG and EPA Region 5, respectively. This Agreement describes the means of coordination between area committee participants in the coastal and inland zones.

## 6. RESPONSIBILITIES.

### **U. S. Coast Guard**

- a. USCG intends to provide a Federal On-Scene Coordinator (FOSC) or other representative to assist each area committee in the coastal zone within the jurisdictional boundaries of EPA Region 5 to maintain its area contingency plan and to ensure the plan covers USCG responsibilities within any city or county covered by the area contingency plan and to participate in sub-committees as necessary.
- b. USCG intends to manage the development of the Environmental Response Management Application (ERMA) portal supplied by the National Oceanic and Atmospheric Administration (NOAA) for the coastal zone covered by this Agreement and ensure ERMA data layers are compatible with the mapping technologies used by EPA Region 5.

### **U. S. Environmental Protection Agency**

- a. EPA Region 5 intends to provide a FOSC or other representative to assist each sub-area committee to prepare and maintain a sub-area contingency plan in the inland zone, to provide information to ensure the plan covers EPA Region 5's responsibilities in the sub-area contingency plan and to participate in sub-committees as necessary.
- b. EPA Region 5 intends to manage the development of digital mapping projects of the inland zone covered by this Agreement and ensure that data layers are compatible with mapping technologies used by the USCG.

### **Both Parties**

- a. USCG and EPA Region 5 will retain all responsibilities assigned to them under any statute or regulation, including the NCP.
- b. For each coastal area contingency plan, USCG and EPA Region 5, in consultation with respective area and sub-area committees:
  - (1) Intend to hold meetings of adjacent coastal and inland zone committees jointly. Each zone's committee will be chaired by the respective FOSC/OSC pre-designated for that zone by the NCP. Respective state OSCs will normally serve as vice chair of coastal zone committees. Respective state OSCs will serve as co-chairs for inland zone committees.
  - (2) May establish an executive steering committee to manage and oversee the execution of adjacent coastal area and inland sub-area committees. The executive steering committee may be co-chaired by the respective EPA FOSC and USCG FOSC who will ensure coordination between the two adjacent zone committees.

- (3) Define the jurisdictional boundaries of the area and sub-area contingency plans.
- (4) Identify the roles of each FOSC during a response in the coastal and inland zones including Incident Command System responsibilities and the procedures for the transfer of FOSC responsibilities during a response according to the jurisdictions delineated in the Region 5 RCP/ACP. Recommendations for amending the jurisdictional boundaries will be submitted by FOSCs to the Regional Response Team 5 for consideration and approval. All FOSC roles and responsibilities shall be consistent with the NCP, including those applicable to multi-regional responses described in 40 C.F.R. § 300.140.
- (5) Intend to perform a risk assessment to determine the worst case discharge, maximum most probable discharge and average most probable discharge for the entire geographic area covered by each area contingency plan under this Agreement.
- (6) Intend to coordinate efforts to conduct Government-Initiated Unannounced Exercises (GIUE) and continue to conduct cooperative exercises wherever practical.
- (7) Intend to work cooperatively in planning National Preparedness for Response Exercise Program (PREP) exercises and continue efforts to involve all potential stakeholders, facility response plan holders and oil spill removal organizations.

## 7. POINTS OF CONTACT.

### **U. S. Coast Guard**

Commander (drm)  
Ninth Coast Guard District  
1240 E. Ninth Street  
Cleveland, Ohio 44199-2060

Mr. Jerome Popiel ([jerome.a.popiel@uscg.mil](mailto:jerome.a.popiel@uscg.mil))  
(216) 902-6112  
(216) 902-6120 (fax)

### **U. S. EPA**

U. S. Environmental Protection Agency  
Region 5  
77 West Jackson, SE-5J  
Chicago, Illinois 60604

Mr. Jason El-Zein ([el-zein.jason@epa.gov](mailto:el-zein.jason@epa.gov))  
(734) 692-7661  
(734) 692-7677 (fax)

8. OTHER PROVISIONS.

- a. Nothing in the agreement is intended to conflict with current laws or regulations, or with the directives of the USCG, the Department of Homeland Security, or EPA Region 5, nor any such laws, regulations, or directives that may be promulgated hereafter. 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.
- b. This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against USCG or EPA, their officers or employees, or any other person. This MOU does not apply to any person outside of USCG and EPA.
- c. As required by the Anti-deficiency Act, 31 U.S.C. §§ 1341 and 1342, all commitments made the EPA and USCG in this MOU are subject to the availability of appropriated funds and budget priorities. Nothing in this MOU, in and of itself, obligates either party to expend appropriations or enter into any contact, assistance agreement, interagency agreement or incur other financial obligations. Any transaction involving transfers of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements. This MOU will be incorporated by reference or included as an enclosure to any reimbursable agreement between the USCG and EPA resulting from this MOU.
- d. This MOU is a voluntary agreement that expresses the good-faith intentions of the parties, is not intended to be legally binding, does not create any contractual obligations, and is not enforceable by any party.

9. EFFECTIVE DATE. The terms of this agreement will become effective upon signature by both parties.

10. REPORTING AND DOCUMENTATION. The Parties, through their designated POCs, will communicate at least annually to discuss the current status of this Agreement and whether any modification is needed or appropriate. A report of this communication will be maintained by each of the parties.

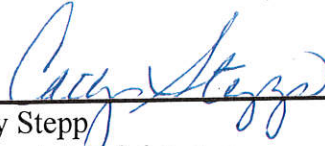
11. MODIFICATION. This agreement may be modified upon the mutual written consent of the parties.

12. TERMINATION. The terms of this agreement, as modified with the consent of both parties, will remain in effect until terminated by 180 days written notice by one party to the other.

APPROVED BY:



J. M. Nunan  
Rear Admiral, U. S. Coast Guard  
Commander, Ninth Coast Guard District



Cathy Stepp  
Regional Administrator  
U. S. Environmental Protection Agency  
Region 5

Date: July 25, 2018

Date: 5-1-18