MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DEPARTMENT OF TRANSPORTATION
AND
THE DEPARTMENT OF THE INTERIOR
REGARDING OUTER CONTINENTAL SHELF PIPELINES

I. Purpose

This Memorandum of Understanding (MOU) establishes the boundaries that will be used to delineate the locations over which the Department of Transportation (DOT), Research and Special Programs Administration (RSPA), and the Department of the Interior (DOI), Minerals Management Service (MMS), will exercise their respective regulatory authority over pipelines located on the Outer Continental Shelf (OCS). This MOU replaces the MOU between DOT and DOI regarding OCS pipelines which was signed and became effective May 6, 1976, and which terminates as of the effective date of this MOU.

In recognition of each of the parties' respective regulatory responsibilities for OCS pipelines, DOI and DOT agree that an MOU is needed to avoid duplication of regulatory efforts regarding OCS pipelines, to assure coordination and consultation during the development and implementation of regulatory requirements, to facilitate compatible regulatory requirements for all OCS pipelines whether under DOI or DOT jurisdiction, and to promote safety and environmental protection on the OCS. This MOU puts, to the greatest extent practicable, OCS production pipelines under DOI responsibility and OCS transportation pipelines under DOT responsibility.

II. Authority

DOT has the responsibility for promulgating and enforcing regulations for the safe and environmentally sound transportation of gases and hazardous liquids by pipeline. DOT administers the following laws as they relate to pipelines: (1) the pipeline safety laws (49 U.S.C. 60101 et seq.); (2) the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524); (3) the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1251-1375), as amended by the Oil Pollution Act of 1990 (OPA) (P.L. 101-380) and implemented under Executive Order (E.O.) 12777; and (4) the Hazardous Materials Transportation Act (49 U.S.C. 5101 et seq.).

DOI has responsibilities for promulgating and enforcing regulations for the promotion of safe operations, protection of the environment, and conservation of the natural resources of the OCS, as that area is defined in the OCS Lands Act (OCSLA) (43 U.S.C. 1331 et seq.). DOI also has certain responsibilities for granting rights-of-way for the construction of pipelines and associated facilities on the OCS. DOI administers the following laws as they relate to OCS pipelines: (1) the OCSLA for the transportation of minerals by pipeline, (2) the Federal Oil and Gas Royalty

Management Act of 1982 for oil and gas production measurement, and (3) the FWPCA, as amended by OPA and implemented under E.O. 12777.

III. Division of Responsibilities

DOI and DOT agree to the following division of OCS pipeline regulatory responsibilities with respect to design, construction, operation, and maintenance regulations for all pipelines on the OCS pursuant to the statutes cited above.

DOI Responsibilities

1. DOI will establish and enforce design, construction, operation, and maintenance regulations and investigate significant accidents pursuant to the OCSLA for all OCS pipelines located upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator. Such points shall be fixed and clearly designated by the operators of the facilities.

2. DOI will perform authorized inspection tasks for OCS pipelines under DOT responsibility, also described under paragraph 8, "Joint Responsibilities," as an agent of DOT, under DOT pipeline safety regulations and enforcement guidelines.

3. DOI will consult with DOT during the development of regulatory requirements and will send a copy of each draft notice of proposed rulemaking (NPR) concerning OCS pipelines to DOT for review at least 60 days before the NPR is published in the Federal Register.

4. DOI will require all applications concerning pipelines and pipeline rights-of-way to include a statement concerning which agency has responsibility for the pipeline. When DOI grants rights-of-way for pipelines which are under DOT responsibility, DOI will condition its approval on the pipelines being designed, constructed, operated, and maintained in compliance with DOT regulations. Upon approval of grants for right-of-way pipelines under DOT responsibility, DOI will provide copies of its approval letters to DOT.

5. DOI will allow DOT to use, on a reimbursable basis, DOI-contracted helicopters for the inspection of OCS pipelines, subject to helicopter availability.

6. For pipelines under DOT responsibility, DOI will report to DOT in writing any apparent violation of DOT regulations that is identified during the course of DOI inspections.

DOT Responsibilities

1. DOT will establish and enforce design, construction, operation, and maintenance regulations and investigate significant accidents for all OCS transportation pipelines beginning downstream of the point at which operating responsibility transfers from a producing operator to a transporting operator. Such points shall be fixed and clearly designated by the operators of the facilities.

2. DOT delegates authorized inspection tasks for OCS pipelines under DOT responsibility to DOI, also described under paragraph 8, "Joint Responsibilities," as an agent of DOT, under DOT pipeline safety regulations and enforcement guidelines.

3. DOT will consult with DOI during the development of regulatory requirements and will send a copy of each draft NPR concerning OCS pipelines to DOI for review at least 60 days before the NPR is published in the Federal Register.

4. For pipelines under DOI regulatory authority, DOT will report to DOI in writing any apparent violation of DOI regulations that is identified during the course of DOT inspections.

Joint Responsibilities

1. DOI and DOT will consult and coordinate all of their respective rulemaking efforts affecting OCS pipelines. Supporting regulatory analyses (e.g., Determinations of Effects of Rules, Regulatory Impact Analyses, and information collection burdens, etc.) will also be coordinated, although the analyses will be appropriate for each agency and the industry segments it regulates.

2. DOI and DOT will coordinate all of their respective research and development projects concerning OCS pipelines.

3. DOI and DOT may perform joint inspections of pipeline segments and facilities where either has jurisdiction, particularly when there are potential safety impacts from one facility on another.

4. DOI and DOT may perform joint or independent investigations of accidents involving OCS pipeline segments where either has jurisdiction.

5. DOI and DOT will each provide the other agency with any final rule, notice, agreement, or MOU with any Federal or State agency concerning OCS pipelines.

6. At least once every 3 calendar years, DOI and DOT will jointly review existing standards, regulations, orders, operating practices, and environmental and safety issues concerning OCS pipelines.

7. DOI and DOT may, through their enforcement agencies and in consultation with the affected parties, agree to exceptions to this MOU on a facility by facility or area by area basis. Operators may also petition DOI and DOT for exceptions to this MOU.

8. DOI is authorized by DOT to perform coordinated OCS platform inspection tasks for pipelines under DOT responsibility. DOI will advise pipeline operators and DOT of inspection findings and will refer all cases of apparent noncompliance with DOT regulations to DOT.

IV. Implementation

1. Within 120 days of the signing of this MOU, DOI and DOT will develop and initiate a joint implementation plan and rulemakings. The plan will also establish the procedures under which the point of demarcation at each facility will be fixed, marked, and reported.

2. Thereafter, DOI and DOT will meet periodically to review and update the joint implementation plan and to review this MOU for any needed revisions.

3. The respective points of contact for the provisions of this MOU are:

Associate Administrator for Pipeline Safety
Research and Special Programs Administration
Department of Transportation
400 7th Street, SW.
Washington, D.C. 20590

Associate Director for Offshore Minerals Management
Minerals Management Service
Department of the Interior
1849 C Street, NW.
Washington, D.C. 20240

V. Limitations

1. Nothing in this MOU is intended to alter, limit, or expand the statutory or regulatory authority of DOT or DOI until implementing regulations are adopted.

2. Nothing in this MOU limits informal consultations not otherwise mentioned in this agreement.

3. Nothing in this MOU relieves an OCS pipeline owner or operator from complying with the regulations of any State or Federal agency.

4. Under a separate MOU among DOI, DOT, and the U.S. Environmental Protection Agency pursuant to the OPA, the agencies have divided their respective responsibilities for oil spill prevention and response according to the definition of "coast line" contained in the Submerged Lands Act, 43 U.S.C. 1301(c) (59 FR 9494-9495). Nothing herein is intended to affect the implementation or administration of that MOU.

VI. Modification

Either party to this agreement may propose modifications by submitting them in writing to the head of the other Department. No modification may be adopted except with the consent of both

parties. Both parties shall indicate their consent to or disagreement with any proposed modification within 60 days of receipt. Upon the request of either party, representatives of both parties shall meet for the purpose of considering modifications to this agreement.

VII. Termination

This MOU may be terminated by either party upon 60-day written notice to the other party.

VIII. Administration

This MOU will be administered by DOI's Minerals Management Service and DOT's Research and Special Programs Administration or such successor agencies as may be designated by the respective Secretaries.

IX. Effective Date

This MOU is effective upon acceptance by both parties as indicated by the signatures below.

DEPARTMENT OF THE INTERIOR

Bruce Babbitt
Secretary

December 10, 1996
Date

DEPARTMENT OF TRANSPORTATION

Federico Peña
Secretary

December 10, 1996
Date