

US EPA ARCHIVE DOCUMENT

MEMORANDUM OF AGREEMENT

Between

THE U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF RESEARCH AND DEVELOPMENT

NATIONAL RISK MANAGEMENT RESEARCH LABORATORY and
NATIONAL EXPOSURE RESEARCH LABORATORY
ENVIRONMENTAL TECHNOLOGY VERIFICATION PROGRAM

And

THE U.S. COAST GUARD

On

COLLABORATIVE ENVIRONMENTAL TECHNOLOGY VERIFICATION

ARTICLE I. OBJECTIVE

A. BACKGROUND

This Memorandum of Agreement (MOA) establishes the goals and administrative methods that will facilitate cooperation and coordination between the U.S. Environmental Protection Agency's Office of Research and Development (EPA-ORD) [specifically the National Risk Management Research Laboratory (NRMRL) and the National Exposure Research Laboratory (NERL) through the Environmental Technology Verification Program] and the U.S. Coast Guard (USCG), jointly referred to as the "Parties". It is intended to facilitate collaborative technology testing, verification, reporting, and technology transfer activities with particular emphasis on environmental technologies of interest to both Parties. This cooperation may also include local, state, and other Federal agencies; colleges and universities; industry; and public interest groups, as the Parties agree and as permitted by law and regulation.

1. EPA. The U.S. Environmental Protection Agency's Environmental Technology Verification Program (ETV) is designed to accelerate the development and commercialization of improved environmental technology through third-party verification and reporting of performance. The goal of ETV is to verify the performance characteristics of commercial-ready environmental technologies through the generation and evaluation of objective and quality-assured data so that potential purchasers and permittees are provided with an independent and credible assessment of the technology that they are buying or permitting. ETV is intended to expand the environmental technology choices of public and private decision makers, both in our country and abroad.

The ETV program now operates six centers covering a broad range of environmental areas. In these centers, EPA utilizes the expertise of not-for-profit, private-sector "verification organizations" to design efficient processes for conducting performance tests of innovative technologies. Verification organizations oversee and report verification activities based on testing and quality assurance protocols developed with input from all major stakeholder/customer groups associated with the area. The six centers cover the following technology areas: Advanced Monitoring Technologies; Air Pollution Control Technologies; Drinking Water Systems; Greenhouse Gas Technologies; Pollution Prevention, Recycling and Waste Treatment Technologies; and Water Protection Technologies.

ETV has established certain operational quality criteria that maintain the program's essential values of fairness to all participants, credibility of all information, transparency of operation and outcome, and quality assurance throughout all activities. These operational quality criteria are:

- ETV supported activities will be open to all commercial ready technologies within each tested category.
- ETV supported activities will assure that all testing organizations are independent third parties with no financial or other interests in the technology.
- ETV supported activities will function on the basis of test plans and protocols that are publicly available prior to testing.
- ETV supported activities will publicly report testing results for each technology tested.
- ETV supported activities will maintain and implement quality management plans that assure the production and publication of the highest quality data and information.

In addition to the above, the ETV program relies heavily on the ongoing participation of stakeholders representing all points of view within a given environmental area. Stakeholders assure that the most important questions concerning a technology's performance are addressed and that the test plans and protocols selected or developed to acquire these data are appropriate and meaningful for the marketplace. The program is fully committed to controlling the costs of testing while producing high quality data and to maximizing the availability of information on verified technologies through rapid publication of reports and verification statements. The ETV website, www.epa.gov/etv, provides information on the activities of EPA and its cooperative partners, and is the primary means of outreach and information distribution for the ETV program.

These criteria and general operating parameters will be maintained in all activities undertaken through this agreement.

2. USCG. The USCG's interest in environmental technology innovation is manifested through a variety of applied research efforts directly supporting its Marine Safety and Environmental Protection Program. Performed through the USCG Research and Development Center in Groton, CT at the request of Headquarters programs, this work has traditionally been in the areas of pollution prevention technology, oil and hazardous material spill response technology, and environmental compliance for USCG controlled and regulated vessels and facilities. To implement the National Invasive Species Act of 1996 (NISA), the USCG has added invasive species to its areas of research, with an initial focus on fostering the development of ballast water treatment technologies for shipboard installation.

A number of potential ballast water treatment technologies are being investigated worldwide by government, industry, academic and non-governmental interests. Included in this list are filtration, hydrocyclonic separation, and chemical and physical biocides (i.e. ozone, chlorine, ultraviolet radiation heat treatment, and vacuum). However, none of these has yet been proven to be effective in a shipboard application, and the absence of standards and protocols by which to evaluate new technologies complicates development efforts. The USCG is interested in participating in a program that will lead to the development of protocols for testing and evaluating proposed ballast water treatment systems.

The collaborative projects initiated under this MOA will be mutually beneficial and will result in the verification of environmental technologies that will be used to enhance environmental protection.

B. AUTHORITY

This MOA is authorized under the provisions of 14 U.S.C. § 141.

C. PURPOSE

The purpose of this MOA is to facilitate the development of appropriate mechanisms and to set forth basic understandings of relationships and responsibilities between the Parties in order to permit the USCG and EPA to utilize the expertise residing in each organization to cooperatively and collaboratively assess the performance of environmental technologies of interest to both agencies. By leveraging the technological and scientific strengths of the two agencies and by integrating complementary activities, collaborative projects may be initiated which are of mutual interest. Benefits anticipated from this MOA include:

- Improved effectiveness and efficiency in the conduct of environmental technology evaluation, testing and verification;
- Maximizing the use of the capacity of each organization in environmental technology evaluation, testing and verification;
- Jointly reporting on technology performance; and,
- More widespread communication and acceptance of the results of joint environmental technology verification reports.

While this MOA is focused on exploring opportunities for joint USCG and EPA activities, both Parties clearly acknowledge that each has an overriding interest in assuring the accomplishment of its own mission, and in assuring the availability of its own facilities and other resources for the performance of its mission. This MOA is based on the premise that despite the obvious precedence of each agency's own mission, there are situations in which such sharing can actually increase the effectiveness of each agency's ability to accomplish its mission.

D. METHODS OF COOPERATION

1. The USCG and EPA agree to seek out opportunities to enter into support agreements (SAs) to perform technology testing and verification that are of mutual interest and that will be based on and cite appropriate statutory authority, and that adhere to FAR 6.002 and FAR Subpart 17.5, and other applicable Federal laws and regulations. SAs may provide for sharing of facilities, costs and other resources as the Parties agree. SAs may provide for the use of facilities, personnel, cooperative projects, transfer of funds, and peer review of plans and results.
2. When a USCG or an EPA contractor or cooperator is to perform part of the work, either the USCG or the EPA may designate representatives to serve as Technical Monitors or Project Officers to communicate directly with the EPA or the USCG's contractor or cooperator within the approved scope of the task. However, only the representative(s) of the contracting agency may direct activity by or of the contractor. EPA or the USCG's staff members that are designated to serve as Technical Monitors or Project Officers shall meet qualifications as required by the appointing agency.
3. The USCG and EPA will seek innovative ways to authorize streamlined placement of new SAs, the expansion of existing SAs to add new projects, and other potential avenues to enhance and expand interagency collaboration.

ARTICLE II. INTERAGENCY COMMUNICATIONS

Both Parties recognize that the work initiated by either Party will, in most instances, involve one or more of the EPA-ORD laboratories, as well as the USCG's facilities in meeting the purpose of this MOA. The USCG and EPA will negotiate SAs as necessary to accomplish tasks in accordance with the terms of this MOA. To provide for consistent and effective communications between the USCG and EPA-ORD on an SA, the Director

of the affected EPA-ORD Laboratory will be designated as the EPA-ORD point of contact. It is the policy of EPA to delegate to appropriate levels in ORD Laboratories the authority and responsibility for negotiating and managing SAs.

The USCG and EPA will appoint representatives to review and discuss, at least annually, those activities that have been initiated under this MOA. These representatives shall serve as the points of contact between the USCG and EPA on matters relating to this MOA and are accountable for all activities. The USCG and EPA representatives are as follows:

For the U.S. Coast Guard:

Assistant Commandant for Marine Safety and Environmental Protection (G-M)
U.S. Coast Guard
2100 2nd Street, SW
Washington, DC 20593-0001
(Or designee)

For the U.S. Environmental Protection Agency's Office of Research and Development:

Assistant Administrator for Research and Development (8101R)
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(Or designee)

ARTICLE III. PROVISIONS OF ASSISTANCE

Nothing in this agreement alters the statutory authorities of EPA or the USCG. This MOA is intended to facilitate cooperative efforts for mutual provision of technology testing and evaluation, reporting of results, and technical assistance by both Parties in the conduct of programs affecting the quality of the environment. This MOA does not supersede or void existing understandings or agreements between EPA and the USCG.

Nothing in this MOA can be or should be construed to require the USCG to use the services of EPA-ORD, or to require EPA-ORD or the USCG to accept assignments from the other.

If work is conducted under SAs between the Parties that is subject to the National Environmental Policy Act (NEPA), each agency will assist the other in making NEPA determinations at its affected sites by providing all necessary documentation. Neither party to this agreement will be required to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS) on any facility but its own unless otherwise agreed to in an SA.

ARTICLE IV. RESPONSIBILITIES

A. The USCG agrees:

1. To designate the Assistant Commandant for Marine Safety and Environmental Protection or his/her designee to be the point of contact (POC) to coordinate cooperation and development of a joint activities between the USCG and EPA's ETV program, to evaluate, test, or verify the performance of environmental technologies of mutual interest and, with the concurrence of the facilities concerned, assist in arranging project and site-specific supplemental agreements for related joint projects at selected USCG laboratories and facilities, at EPA facilities, or at other facilities, as appropriate.
2. To support selected ETV technology verification activities in support of joint USCG and EPA environmental technology evaluations by providing resources and/or technical expertise for performance evaluation, consultation in areas of mutual interest, and review of protocols and reports subject to program priorities and budget constraints.
3. To support the exchange of technical information--through databases, information systems, clearinghouse, conferences, and other means--on evaluation, testing, verification, and technology transfer opportunities and activities.

B. The EPA agrees:

1. To designate the Assistant Administrator for Research and Development or his/her designee to be the point of contact (POC) to coordinate cooperation and development of joint activities between the USCG and EPA to evaluate, test, and verify the performance of environmental technologies of mutual interest and, with the concurrence of the facilities concerned, assist in arranging for supplemental agreements for related joint projects at selected EPA facilities and at USCG laboratories and facilities, or other facilities, as appropriate.
2. To support selected USCG technology evaluation, testing and verification activities by providing resources and/or technical expertise for performance review and evaluations, verification studies, or consultation in areas of mutual interest, subject to program priorities and budget constraints.
3. To support the exchange of technical information--through databases, information systems, clearinghouses, conferences, and other means--on technology evaluation, testing and verification activities.

C. The EPA and the USCG mutually agree:

1. That this MOA will be referenced in any supplemental agreements, amendments, SAs, or letters of agreement prepared to document details of related cooperative efforts carried out by the two agencies.
2. To work jointly and cooperatively on the selection of stakeholders and technical experts to be included in appropriate workgroups which will be used to inform the participants of market forces and technical attributes of technologies to be tested and verified.
3. To work jointly and cooperatively in the selection of technology evaluation, testing and verification projects by providing available information pertinent to the selection of candidate technologies, facilities and other potential sites on which to perform technology verification activities.
4. To cooperate in conducting joint technology evaluation, testing, verification, and reporting activities involving mutually agreed upon technologies and projects of interest to both the USCG and EPA.
5. That determinations of technologies to be evaluated and verified under this agreement will be mutually agreed upon by the Parties.
6. That each Party will identify a person who will serve as a Project Officer on each technology (or technology group) evaluation. The Project Officers shall communicate regularly to ensure that the evaluations are conducted as expeditiously and efficiently as possible, and to resolve questions or issues in a timely manner.
7. That each agency will routinely provide to the other proposed outreach materials, press releases, or other public affairs information related to joint efforts.
8. That each agency will seek to ensure that there is sufficient funding and resources to carry out projects that are mutually agreed upon.

ARTICLE V. FUNDING

This MOA does not transfer funds. Actual funding will be transferred only in accordance with and under specific support agreements that EPA-ORD and the USCG may subsequently write pursuant to this MOA. Support agreements written pursuant to this MOA will be based on and will cite appropriate statutory authority, and adhere to FAR 6.002 and FAR Subpart 17.5 and other applicable Federal laws and regulations. The USCG and/or EPA-ORD may provide funding for each collaborative project according to the specific purposes and availability of funds.

ARTICLE VI. BILLING

The Performing Agency will perform billing in accordance with the provisions of each SA.

ARTICLE VII. ACCEPTANCE OF FUNDS

Funds shall be considered obligated as specified by the terms of each SA, normally upon acceptance of the SA by the Performing Agency of the SA. All schedules or delivery dates will be expressed in the statement of work that accompanies each SA.

Performance by the Performing Agency or its recipient/contractor or cooperator shall continue until one or more of the following conditions are met: Completion of the Statement of Work and Task Closeout; expenditures/commitments equal the amount authorized for the task are met; or the task is terminated by either Party in accordance with Article XVII of this agreement.

ARTICLE VIII. APPLICABLE LAWS AND REGULATIONS

The USCG or EPA-ORD shall furnish all assistance under this MOA and the SAs negotiated pursuant to this MOA in accordance with applicable laws and regulations. Unless otherwise required by law or set forth in this MOA, all work undertaken by EPA-ORD or the USCG shall be performed in accordance with the USCG's or EPA-ORD or their recipient/contractor's procurement, claims, and reimbursable work policies and procedures.

Nothing in this MOA relieves any applicant, grantee, cooperator, consultant, contractor, subcontractor, or other party from any obligations imposed upon them by law, regulations, and other applicable requirements.

ARTICLE IX. RECORDS AND REPORTS

To the extent practicable, SAs will contain provisions for implementing the following:

The Performing Agency shall establish and maintain records and receipts of the expenditure of all funds provided by the Requesting Agency. Records shall be maintained in sufficient detail to permit identification of the nature of the expenditures made by the Performing Agency and shall be made available for inspection by officials of the Requesting Agency upon request.

The Performing Agency will provide technical status and cost reports on projects pursued under this MOA and the SAs negotiated under this MOA. Upon request, the Performing Agency will also provide reports and/or briefings, consistent with its internal reporting practices for similar projects. To the maximum practicable extent these reports will

include management information to help monitor scheduled activities. These reports will provide data to support planning and budget decisions, and the evaluation of expenditures.

Upon request, copies of Performing Agency documents supporting contract management decisions and activities affecting the Requesting Agency's projects will be made available to the Requesting Agency for review and retention. However, the Performing Agency will retain all originals in accordance with Federal records management practices and the Requesting Agency shall not copy or publish such documents, except as authorized by the Performing Agency or court of competent jurisdiction. When the Requesting Agency receives requests for these documents, it will, in accordance with 40 C.F.R. 2.111(d)(EPA) or 49 C.F.R. 7.16(a)(USCG), consult with the Performing Agency before releasing the documents or promptly refer the request to the Performing Agency.

ARTICLE X. CONTRACT CLAIMS AND APPEALS

All claims arising under or relating to SAs executed hereunder shall be resolved in accordance with Federal law and the terms of the individual SA or supporting contractor cooperative agreement. The Parties shall consult with each other during resolution of such claims and appeals, recognizing that each organization will pursue its own best interests.

ARTICLE XI. PATENTS

The USCG and EPA patent and intellectual property policies shall apply to any work performed, and appropriate patent and intellectual property provisions shall be included in any agreements entered into in order to implement an SA accepted under this MOA. Rights to inventions made by U.S. Government employees shall be determined by the employee's agency. Rights in inventions and other intellectual property of technology vendors and contractors, subcontractors and cooperators shall be governed by the provisions of their respective agreement with EPA or the USCG.

To further the mandates of the Federal Technology Transfer Act, the Parties agree to the extent consistent with law and with the nature of the work under this MOA to:

1. Include technology transfer considerations in preliminary planning or work statements.
2. Identify internal personnel or offices responsible for technology transfer.
3. Work cooperatively to enhance technology transfer opportunities that may arise under this MOA.

ARTICLE XII. PROPERTY/EQUIPMENT

If equipment is acquired by the Performing Agency as part of the project, the Performing Agency will account for and maintain such equipment during the term of the project in the same manner as its own property. When the project terminates, disposition of the equipment will be as previously agreed to or as instructed by the Requesting Agency. Cost of disposition shall be borne by the Requesting Agency.

ARTICLE XIII. DISPUTE RESOLUTION

In the event of a dispute among the USCG, EPA or their contractor(s) or cooperators in performance of this work, the agencies will resolve the dispute in compliance with applicable law and regulation. In the absence of applicable law and regulation, the Parties will cooperate to find a means of settlement that is equitable. If a dispute cannot be resolved, the Parties may consider a third party forum to settle the dispute.

ARTICLE XIV. PUBLIC INFORMATION

Subject to the Freedom of Information Act (5 U.S.C. § 552) and to the Privacy Act (5 U.S.C. § 552a), decisions on disclosure of information to the public regarding work undertaken pursuant to this MOA shall be made by the agency that created the document, consistent with applicable regulations.

Prior to issuing public announcements pertaining to services or activities related to this MOA, the Parties agree to secure approval from each other. Such approval shall not be unreasonably withheld or denied beyond thirty (30) days. The Performing Agency may provide, upon request, information to support contacts with Congress and the Executive Branch. The Performing Agency may make public announcements and respond to all inquiries relating to administration matters.

ARTICLE XV. CONFIDENTIALITY, CONSISTENCY & SEGREGABILITY

To the extent permitted by the law governing each Party, including the Freedom of Information Act and the Privacy Act, the Parties agree not to disclose or disseminate to others exchanged information unless expressly authorized to do so

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

ARTICLE XVI. ENVIRONMENTAL AND SAFETY RESPONSIBILITY

Both Parties agree that while the Performing Agency and its contractors and subcontractors will be expected to adhere to the requirements of applicable environmental or safety laws and regulations, none of the activities under this agreement create an obligation by the Performing Agency or its contractors and subcontractors for remedial action or payments therefore or any other continuing responsibility under any such law or regulation.

ARTICLE XVII. EFFECTIVE DATE AMENDMENT AND TERMINATION

This MOA is effective upon the date of the last signature by the Parties and shall remain effective for a five-year period from the effective date unless terminated in accordance with the terms set forth herein. This MOA may be modified by mutual consent of both Parties.

Either Party may terminate this MOA by providing 90 calendar days written notice. If termination of the MOA affects active SAs or otherwise has a cost impact, EPA and the USCG shall consult with each other concerning all claims for termination costs, including costs of closing out or transferring any ongoing obligations. Ongoing work under any active SA will be completed in accordance with its terms and applicable law and regulation.

Upon request by either Party, but at least annually, both parties shall review this MOA, to assure that it continues to reflect the appropriate understandings and procedures to provide for current needs and capabilities.

ACCEPTANCE:

For the U.S. Coast Guard

By: Paul J. Pluta

Date: Signed 6/12/01

Paul J. Pluta
Assistant Commandant for Marine Safety
and Environmental Protection
U.S. Coast Guard

For the U.S. Environmental Protection Agency

By: Henry L. Longest

Date: Signed 6/12/01

Henry L. Longest II
Acting Assistant Administrator for
Research and Development
U.S. Environmental Protection Agency