

# Guidelines for Obtaining Minerals other than Oil, Gas & Sulphur on the Outer Continental Shelf



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# **Guidelines for Obtaining Minerals other than Oil, Gas & Sulphur on the Outer Continental Shelf**

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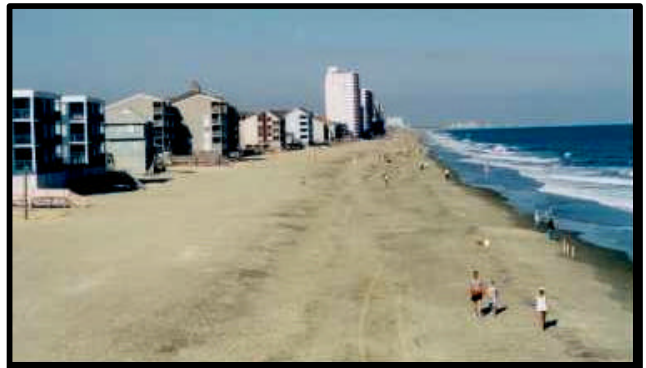
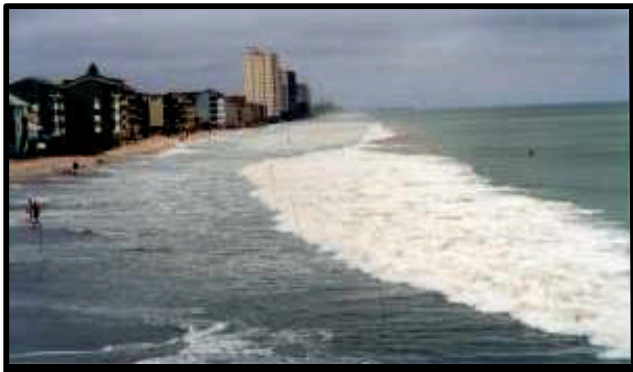
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## Abbreviations

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<b>CEQ:</b>	- Council on Environmental Quality
<b>CFR:</b>	- Code of Federal Regulations
<b>COE:</b>	- U.S. Army Corps of Engineers
<b>DOI:</b>	- Department of the Interior
<b>EA:</b>	- Environmental Assessment
<b>EIS:</b>	- Environmental Impact Statement
<b>FWS:</b>	- Fish and Wildlife Service
<b>INTERMAR:</b>	- International Activities and Marine Minerals Division
<b>MMS:</b>	- Minerals Management Service
<b>NEPA:</b>	- National Environmental Policy Act
<b>NMFS:</b>	- National Marine Fisheries Service
<b>OCS:</b>	- Outer Continental Shelf
<b>OCSLA:</b>	- OCS Lands Act



## Introduction

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The Minerals Management Service (MMS) has the major responsibility for administering the Department of the Interior's role in activities associated with mineral resource development on the Nation's Outer Continental Shelf (OCS). The OCS is a zone that generally extends from 3 miles seaward of the coastal State boundaries out to 200 miles. The MMS mission is to manage the mineral resources of the OCS in an environmentally sound manner and to timely collect, verify, and distribute mineral revenues from all Federal and Indian lands. The MMS International Activities and Marine Minerals Division (INTERMAR) provides policy direction and guidance for the development of mineral resources other than oil, gas, and sulphur on the OCS.

Until recently only oil, gas, sulphur, and salt resources were produced from the OCS. However, the potential for using sand resources located on the OCS as a source of material for beach and barrier islands restoration has grown rapidly in the last several years. Several OCS areas also show promise as possible sources of aggregate material for construction uses.

The purpose of this publication is to provide guidelines for those interested in obtaining leases to develop OCS minerals other than oil, gas, and sulphur. We hope this publication will provide you with a better understanding of the process for obtaining sand and gravel from the OCS.

## Authority

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The OCS Lands Act (OCSLA) (43 U.S.C. 1331, et. seq.) provides the authority to manage minerals on the OCS. The Department of the Interior's (DOI) jurisdiction for leasing and regulating the recovery of minerals extends to the subsoil and seabed of all submerged lands seaward of State-owned waters to the limits of the OCS (except where this may be modified by international law or convention or affected by the Presidential Proclamation of March 10, 1983, regarding the Exclusive Economic Zone). Section 8(k) authorizes the Secretary to convey resource development rights to any mineral on the OCS other than oil, gas, and sulphur (43 U.S.C. 1337(k)). The MMS has implemented regulations governing Prospecting (30 CFR 280), Leasing (30 CFR 281), and Operations (30 CFR 282) for OCS minerals other than oil, gas, and sulphur. These regulations are available on the MMS web site at [www.mms.gov/intermar/marineac.htm](http://www.mms.gov/intermar/marineac.htm).

Public Law 103-426 (43 U.S.C. 1337(k)(2)), enacted October 31, 1994 (see appendix 1), gave the MMS the authority to negotiate, on a noncompetitive basis, the rights to OCS sand, gravel, or shell resources for shore protection, beach or wetlands restoration projects, or for use in construction projects funded in whole or part by or authorized by the Federal Government. The Shore

Protection Provisions of the Water Resource Development Act of 1999 (S. 507 as passed by Congress on August 4, 1999) amended that law by prohibiting charging State and local governments a fee for using OCS sand. For all other uses, such as private use for commercial construction material, a competitive bidding process is required under Section 8(k)(1) of the OCS Lands Act, which also provides for issuing leases competitively for hard minerals on the OCS.

**There are two basic methods for conveying OCS mineral rights:**

- ✓ **Negotiated noncompetitive agreement**
- ✓ **Competitive lease sale**

Although the MMS has the authority to convey OCS mineral rights by negotiated noncompetitive agreement or by competitive lease sale, it does not develop and maintain a schedule of offerings as it does in the Offshore Oil and Gas Program. This conveyance process must be started by request. Negotiated noncompetitive agreements are developed as described on page 7. Competitive leasing is conducted according to the regulations in 30 CFR 281 and the guidelines provided on page 11.

## **Marine Minerals Program**

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To date, the Marine Minerals Program has focused on identifying OCS sand and gravel resources, since some portions of the U.S. coastline are severely eroding, threatening the property and livelihoods of coastal communities. Federal offshore sand resources, which are primarily used for beach nourishment projects, are needed to manage erosion problems.

Coastal shoreline protection and beach nourishment are significant issues for coastal States. In some areas, there is a critical need to identify suitable sources of compatible clean sand for possible use in public works projects for shore protection. INTERMAR is focusing on integrating both geologic and environmental information, developed through partnerships with coastal States and contracted studies, to identify such OCS sand deposits. This comprehensive analysis will provide the basis for decisions regarding the use of Federal sand for future beach nourishment activities.



The following map depicts the location of MMS cooperative efforts with nine coastal States and MMS-State offshore sand resource and environmental study areas.



**Information about ongoing and completed geologic and environmental studies is accessible through the MMS web site at [www.mms.gov/intermar/marineac.htm](http://www.mms.gov/intermar/marineac.htm).**

Many coastal regions need large volumes of sand to widen and nourish beaches, build protective dunes, and restore barrier islands that can protect coastal areas and wetlands. Congress authorizes many publicly sponsored shore protection and restoration projects performed by a Federal agency, usually the U.S. Army Corps of Engineers (COE), with State and local governments as project co-sponsors and cost-sharing partners. Other Federal agencies (e.g., FEMA, the Navy) can also sponsor shore protection projects. In some cases, State and local governments (and occasionally, private communities) undertake projects independently.

There are abundant sand deposits in some areas of the OCS, but the ocean is a challenging and costly environment in which to operate. Exploration and characterization are needed to confirm the availability of sufficient quantities of resources having sediment composition (grain size, shape, etc.) compatible with the beaches to be nourished and to determine whether these resources can be extracted in an affordable and environmentally acceptable manner. The resources include distinct deposits such as shoals, ridges, and buried channels, or dredging byproducts associated with navigation projects. In general, some of the better sand deposits straddle the 3-mile Federal-State boundary line. Economically viable use of these sand resources depends on many factors, including:

- Quality (beach compatible sand)
- Quantity (sufficient volume of sand source)
- Location (distance from shore)
- Environmental considerations



## Environmental Assessment

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Whether the MMS is considering a negotiated noncompetitive agreement to use OCS sand for beach nourishment/restoration or whether to hold a competitive sale for offshore material, the MMS must ensure that any such actions will not adversely affect the marine, coastal, and human environments. The National Environmental Policy Act (NEPA) is the Nation's charter for protection of the environment; it establishes policy and sets goals by which Federal agencies ensure that activities do not harm the environment. The implementing regulations of the Council on Environmental Quality (CEQ) outline the guidelines by which Federal agencies conduct their environmental analyses.

As part of ensuring environmentally sound and acceptable decisions for marine mineral operations, the MMS prepares an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) to determine any possible environmental consequences of OCS marine mineral development. These documents assess the full range of possible impacts. In general, there is a description of the proposed scenario/project for recovery and transport of the resource material from the identified borrow or lease areas, along with a discussion of any possible alternatives to the proposed action. The analysis also evaluates the potential environmental impacts of each alternative examined and identifies mitigating measures and stipulations to such possible impacts.

The technical background and impact analysis contained in the document includes the following:

- Benthic Marine Biology
- Physical Oceanography
- Meteorology
- Water Quality
- Fishery Biology
- Archaeology and Cultural Resources
- Wildlife Biology/Endangered Species
- Socioeconomics
- Geology
- Petroleum Infrastructure
- Onshore and Inland Biological and Physical Resources
- Wetlands Impacts

To date, the MMS has entered into several negotiated noncompetitive agreements for the use of OCS sand to restore or renourish coastal beaches. In some of those instances, the COE or another Federal agency has completed environmental analyses required under NEPA. In others, the MMS has prepared an EA to supplement a prior analysis or has prepared its own EIS.

## What is the Difference Between an EA and an EIS?

An EA is a concise public document in which a Federal agency (1) briefly provides sufficient evidence and analysis for determining whether to prepare an EIS or (2) determines that the proposed action poses no significant environmental risk.

An EIS is a detailed document that thoroughly analyzes the proposed action. An EIS is prepared when the Federal agency has determined that a major Federal action is being considered and that it is environmentally significant in scope and magnitude such that the potential impacts must be examined in greater detail.

For either a noncompetitive negotiated agreement or a competitive lease sale, an environmental analysis will be necessary under NEPA. In cases of NEPA significance, the lead agency may prepare an in-depth, areawide, programmatic EIS examining the environmental effects of dredging in identified borrow sites in specific geographic areas. The purpose of this analysis is to support future negotiated agreements. A project-specific EIS might also be prepared.

After completing an initial areawide document, the lead agency would prepare EA's to support noncompetitive leases.

An EA will also be prepared by the lead agency when a previous NEPA analysis, which adequately covers the potential for impacts in the same area or is considered tierable under the NEPA regulations, is complete. In certain cases, the previous document can be adopted in whole, and the present decision can be based on the prior analysis.



## **Conveyance by Negotiated Noncompetitive Agreement**

### ***What is a negotiated noncompetitive agreement?***

Under Public Law 103-426, enacted October 31, 1994 (see appendix 1), the MMS may negotiate, noncompetitively, the access to OCS sand, gravel, or shell resources for shore protection, beach or wetlands restoration, or use in construction projects funded in whole or part by, or authorized by, the Federal Government.

### ***Who can request a negotiated noncompetitive agreement for a mineral lease?***

The MMS can negotiate with any person an agreement for OCS sand, gravel, and shell resources for use in any shore protection, beach restoration, or coastal wetlands restoration project undertaken by any Federal, State, or local government agency.

### ***What kind of coastal restoration projects qualify for negotiated noncompetitive agreements?***



The MMS defines coastal restoration as the rebuilding of eroding shoreline segments, such as beaches and dunes, barrier islands, and wetlands, to forestall further erosion and/or to provide protection from hurricanes, storms, and normal coastal erosion for sensitive landward wetlands areas. Restoration is typically accomplished by placing sand directly on the beach (or updrift and allowing longshore processes to redistribute the material along the beach) to form, and subsequently maintain, an adequately protected beach.

### ***What happens if the Federal sand is being used for an U.S. Army Corps of Engineers (COE) authorized project?***

Under Public Law 103-426 (see appendix 1), both agencies will sign a Memorandum of Agreement (MOA) that describes the project and procedures, ensuring environmental and administrative requirements are met.

The MOA will also indicate that the MMS is working with Federal, State, or local governments on a negotiated agreement for the sand. The MMS then will notify the appropriate party that a request for a negotiated agreement is needed.

# **Application Process for Noncompetitive Agreement**

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## *Where to apply?*

Send your request to the Associate Director for Offshore Minerals Management, Minerals Management Service, U.S. Department of the Interior, 1849 C Street, N.W., Mail Stop 4000, Washington, DC 20240.

## *What to include?*

- Describe in detail the proposed project for which the OCS resource will be used.
- Provide any maps and coordinates depicting the location of the desired resource and intended project.
- State whether the project is federally funded or authorized in whole or in part.
- Specify when the resource is needed.
- Name a primary point of contact.



## *What will the MMS do with the request?*

The MMS will determine whether the request qualifies for a negotiated noncompetitive agreement and will respond to the requestor as soon as possible.

## *What about the environmental considerations and requirements under the National Environmental Policy Act (NEPA)?*

The MMS will determine the type of environmental analysis required under NEPA on a case by case basis. If a request is found to be qualified under the negotiated agreement provisions, then the MMS determines if an environmental impact statement (EIS) or environmental assessment (EA) is necessary before issuing a lease.

The MMS will inform the requestor and estimate the time necessary to make a final decision.

### *What NEPA actions will occur?*

The NEPA is the Nation's basic charter for the protection of the environment. It establishes policy, sets goals, and provides means for carrying out the policy. The regulations prepared by CEQ address the administration of the NEPA process, including preparation of EIS's for major Federal actions that significantly affect the quality of the human environment.

The Federal agency requesting a negotiated agreement for the use of Federal sand normally will conduct the required NEPA analysis.

In instances when the MMS is notified by the other Federal agency prior to initiation of the NEPA process, the MMS will request cooperating agency status and prepare sections of the EIS that pertain exclusively to the use and transportation of OCS sand. The MMS also will participate in the Endangered Species Consultation.

The Endangered Species Consultation is conducted with the National Marine Fisheries Service (NMFS) and the Fish and Wildlife Service (FWS) to ensure that any Federal action has no adverse impacts to threatened and endangered species in the study area. The NMFS and FWS can preclude activities in a certain area or suggest mitigating measures to avoid impacts to any threatened or endangered species.

When another agency has prepared the NEPA analysis, whether it is an EIS or EA, the MMS will review the document in detail to determine its adequacy for supporting a negotiated agreement.

If an EIS is found to be adequate, then the NEPA regulations allow the MMS to adopt the document and announce the decision in the *Federal Register*.

When an MMS review of a Federal agency's EIS or EA indicates the analysis is not sufficient, the MMS will (if the document is a preliminary or draft) send a detailed review letter outlining the inadequacies and detailing the necessary revisions.

If the document is an EIS and is revised accordingly, the MMS will adopt the document as outlined above. If the revised EA is adequate, the MMS will prepare a concise NEPA document and combine it with the EA to support the agreement.

*Will the MMS charge any fee for use of the mineral resource?*

No, on August 17, 1999, President Clinton signed the Water Resources Development Act of 1999. One provision of the Act amended section 8(k)(1)(B) of the OCSLA to prohibit the MMS from charging fees to State and local governments for shore protection projects. However, the MMS will assess a fee for use of Federal sand for private projects.

*Are there any special provisions for other Federal agency requests?*

Yes, all Federal agencies must enter into a Memorandum of Agreement (MOA) with the MMS concerning the potential use of the resource. To date, the MMS has entered into MOA's with the COE, National Park Service, and the U.S. Navy for sand resources. The requesting Federal agency may prepare the required NEPA documents or the MMS may become a cooperating agency under NEPA guidelines. The MMS will not issue a lease until all applicable Federal requirements have been appropriately satisfied.





## Conveyance by Competitive Lease Sale

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### *What is a competitive lease sale?*

A competitive lease sale is an auction of mineral rights for a specific lease area under specified financial terms and other conditions. It may include stipulations designed to mitigate or alleviate potential environmental consequences associated with the operation of the lease. The lease is normally granted to the person submitting the highest bid.

### *Who can request a competitive sale?*

Any person or company may request that OCS minerals be offered for lease. The request should be sent to the Director, Minerals Management Service, U.S. Department of the Interior, 1849 C Street, N.W., Mail Stop 0100, Washington, DC 20240. The Code of Federal Regulations (30 CFR 281) outlines all of the requirements and procedures regarding competitive leasing of OCS minerals. A copy of the regulations may be obtained by contacting MMS-INTERMAR at 703-787-1300 or by visiting the MMS web site at [www.mms.gov/intermar/marineac.htm](http://www.mms.gov/intermar/marineac.htm).

### *What will happen next?*

A Request for Information and Interest (RFII) is published in the *Federal Register* to determine whether additional interest exists in obtaining leases for sand resources and to obtain other information that is relevant to the lease sale decision.

### *What's the purpose of the RFII?*

The MMS will gather comments, information, and indications of interest from interested parties that address:

- Commercial, navigational, recreational, and multiple-use considerations; environmental concerns, including information on biological and physical resources; archaeological resources; and social and economic issues.
- Potential conflicts with approved State and local coastal management plans and steps that the MMS could take to avoid or mitigate these conflicts.
- Indications of interest from industry respondents specifying blocks or areas within the RFII area that are of particular interest for consideration in a possible OCS sand and gravel lease sale.
- The RFII will specify a comment period. During this time, the MMS may schedule public workshops to discuss the RFII and the leasing process.

### *How will MMS use responses to the RFII?*

The MMS will identify any environmental concerns and multiple-use conflicts. This information will help the MMS make a preliminary determination on whether the prelease process should continue. The next step in the process is preparing an EIS.

- Specify areas within the RFII area that are of interest for potential commercial sand and gravel leasing and development.
- Identify potential conflicts among offshore activities and State or local coastal zone management plans.
- Develop requirements to ensure safe and environmentally sound activities.

### *What NEPA actions will occur?*

For all competitive lease sales, the MMS will most likely prepare an EIS.

If an EIS or other NEPA document exists, the MMS must determine its adequacy for the new decisions to be made, if it covers the area being considered for lease, or if it can provide a base for a more detailed document.

If an EIS exists, but new environmental information that would significantly affect the decision becomes available, the MMS would prepare a new EIS.

If an existing EIS or NEPA material serves to support any new decisions, MMS would adopt the existing document or prepare a new EA to supplement or support the existing analysis.

The MMS will use the NEPA analysis to determine if the lease sale will be held or modified if mitigating measures can reduce or eliminate potential adverse impacts.

### *The Lease Sale*

Once the NEPA process is complete, a Coastal Zone Management Plan Consistency Determination will be made; a Draft Leasing Notice will be published for public comment; and a Final Leasing Notice will be published and the sale held.

The leasing regulations also specify various terms and conditions for hard minerals leasing under the competitive bidding system. For example, a sand and gravel lease can be issued to the high cash-bonus bidder for an initial term of 10 years and can continue as long as there is production. The leasing notice will include all terms and conditions, such as lease size, duration, lease stipulations including measures to mitigate potentially adverse impacts on the environment, and financial considerations (e.g., rental, royalty, and bonding requirements).



# Appendix 1

## PUBLIC LAW 103-426—OCT. 31, 1994

108 STAT. 4371

Public Law 103-426  
103d Congress

### An Act

To authorize the Secretary of the Interior to negotiate agreements for the use  
of Outer Continental Shelf sand, gravel, and shell resources.

Oct. 31, 1994  
[H.R. 3678]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. AMENDMENTS.

(a) SECTION 8 AMENDMENTS.—Section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)) is amended—

(1) by inserting "(1)" after "(k)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Notwithstanding paragraph (1), the Secretary may negotiate with any person an agreement for the use of Outer Continental Shelf sand, gravel and shell resources—

"(i) for use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or

"(ii) for use in a construction project, other than a project described in clause (i), that is funded in whole or part by or authorized by the Federal Government.

"(B) In carrying out a negotiation under this paragraph, the Secretary may assess a fee based on an assessment of the value of the resources and the public interest served by promoting development of the resources. No fee shall be assessed directly or indirectly under this subparagraph against an agency of the Federal Government and for any State and local governments for shore protection projects. \*\*

"(C) The Secretary may, through this paragraph and in consultation with the Secretary of Commerce, seek to facilitate projects in the coastal zone, as such term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), that promote the policy set forth in section 303 of that Act (16 U.S.C. 1452).

"(D) Any Federal agency which proposes to make use of sand, gravel and shell resources subject to the provisions of this Act shall enter into a Memorandum of Agreement with the Secretary concerning the potential use of those resources. The Secretary shall notify the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on any proposed project for the use of those resources prior to the use of those resources."

(b) SECTION 20 AMENDMENTS.—Section 20(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "or other lease" after "any oil and gas lease sale"; and

(B) by inserting "or other mineral" after "affected by oil and gas"; and,

(2) in paragraph (2), by inserting "In the case of an agreement under section 8(k)(2), each study required by paragraph (1) of this subsection shall be commenced not later than 6 months prior to commencing negotiations for such agreement or the entering into the memorandum of agreement as the case may be." after "scheduled before such date of enactment."

Approved October 31, 1994. \*\*Reflects August 1999 amendment included in the Water Resources Development Act

#### LEGISLATIVE HISTORY—H.R. 3678:

HOUSE REPORTS: No 103-817, Pt. 1, (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 140 (1994):

Oct. 3, considered and passed House

Oct. 6, considered and passed Senate.



# Appendix 2

## Sample Copy of a Negotiated Noncompetitive Lease

<p>UNITED STATES DEPARTMENT OF THE INTERIOR MINERALS MANAGEMENT SERVICE</p> <p>NEGOTIATED NONCOMPETITIVE LEASE FOR SAND, GRAVEL AND SHELL RESOURCES ON THE OUTER CONTINENTAL SHELF</p> <p>This form does not constitute an information collection as defined by 44 U.S.C. 3502 and therefore does not require approval by the Office of Management and Budget</p>	<p>Office Washington, DC</p> <hr/> <p>Lease number OCS-A_____</p>
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This lease, is made under the authority of section 8(k)(2)(A)(i) of the outer Continental shelf Lands Act of August 7, 1953 (43 U.S.C. 1331 et seq.), P.L. 95-372, as amended by P.L. 103-426, (hereinafter called the "Act"), between the United States of America (hereinafter called the "Government"), acting through the Minerals Management Service (hereinafter called the "Lessor"), and \_\_\_\_\_ (hereinafter called the "Lessee"). In consideration of the promises, terms, conditions, covenants, and stipulations contained herein or attached hereto, the parties mutually agree as follows:

Section 1. Lease Area. Under the terms and conditions of this lease, the Government hereby conveys rights to , and authorizes the removal of, the material listed in section 2. Such rights include the right of the Lessee to remove such material prior to the expiration of the lease, on the following described lands:

Section 2. Quantity of Materials. Per cubic yard \_\_\_\_\_

Section 3. Statutes and regulations. This lease is issued subject to the Act (43 U.S.C 1337(k)(2)(A)(i)), all regulations, orders, guidelines, and directives issued pursuant to the Act and in existence upon the Effective Date of this lease, all regulation, orders, guidelines and directives subsequently issued pursuant to the Act that provide for the prevention of waste and conservation of the natural resources of the Outer Continental Shelf (OSC) and the protection of correlative rights therein, and all other applicable statutes and regulations.

Section 4. Expiration of Lease. This lease shall expire \* unless an extension of time is applied for by the Lessee and granted in writing by the lessor. Written application for an extension of time shall be made by the Lessee not less than thirty (30) nor more than ninety (90) days prior to the expiration of the lease.

Section 5. Bonds. The lessee shall maintain the bond(s) coverage specified in Lease Term of this lease. If, after operations have begun, the lessor deems additional security necessary, the Lessee shall, on behalf of the Lessor, request the Contracting Officer of the U.S. Army Corps of Engineers (USACE) to require additional security from their Contractor and to modify their contract to reflect the additional bonding requirement.

Section 6. Notice of Operations. After the Lessee receives notification by the USACE of the commencement and the termination of operations hereunder, the Lessee shall immediately notify the Lessor of such commencement or termination, as the case may be.

Section 7. Plans. This lease is only valid if all operations in the leased area are conducted in accordance with the project plan. The Lessee shall request the Contracting Officer to require compliance by their Contractor and incorporate building language to that effect in their contract. Modifications to the project plan which affect the leased area shall be submitted by the Lessee to the Lessor for review and comment, or such submittals shall be made on behalf of the Lessee by the Contracting Officer.

Section 8. Performance. The Lessee shall assure that all operation in the leased area are conducted in accordance with

all applicable regulations, orders, guidelines, and directives and the terms and conditions set forth in this lease. For such assurances, the Lessee shall request the Contracting Officer to require compliance by their Contractor and incorporate binding language to that effect in their contract. This lease is only valid if the contractor is contractually bound to conduct Federal OCS mining activities authorized by this lease in a manner that does not: (1) interfere with or endanger operations under any lease issued or maintained pursuant to the Act, (2) cause any undue harm or damage to aquatic life, (3) cause pollution, (4) create hazardous or unsafe conditions, (5) unreasonably interfere with or harm uses of the leased area, or (6) disturbed cultural resources.

Section 9. Safety Requirements. The lessee shall request the Contracting Officer to require that all necessary steps to be taken to assure that their Contractor: (1) maintain all operations within the leased area in compliance with regulations, orders, guidelines, and directives intended to protect persons, property, and the environment, including mineral deposits and formations of mineral deposits not leased hereunder, and (2) allow prompt access, at the site of any operation subject to safety regulations, to any authorized Federal inspector and shall provided any documents and records that are pertinent to occupational or public health, safety or environmental protection as may be requested. This lease is only valid if such steps are incorporated in the contract between the Contractor and the USACE.

Section 10. Responsibility for Damage to Materials Not Leased. The Lessee shall hold and save Lessor free from all damages for the loss or destruction of any Government property not conveyed under this lease arising from any operation authorized by this lease resulting from any act or omission on the part of the Lessee or any of the Lessee's contractors or subcontractors. A contractor of the lessee shall mean any person or entity which has contracted directly with the lessee for the performances of services. A subcontractor of the Lessee shall mean any person or entity which has contracted with a contractor of the Lessee for the performances of services. The Lessee shall not be liable to the Lessor nor does the Lessee assume responsibility for any damages or loss of Government property due to the fault of the USACE or ant of its contractors or subcontractors.

The indemnification given by the Lessee in this section, relates only to the negligent acts or omissions of the Lessee, its officers, employees and agents. Such indemnification is not to be construed as a further wavier of sovereign immunity in excess of any existing legislative waiver of sovereign immunity that may be required by State Statutes. Such indemnification shall be subject to and governed by any existing provisions and limitations contained in such State Statutes.

Section 11. Violations, Suspensions, and Cancellations. If the Lessee violates any of the provisions of this lease, the Lessor may, after given written notice, suspend any further operations of the Lessee under this lease, except such operations as may be necessary to remedy any violations. If the Lessee fail to remedy all violations within thirty (30) days after receipt of suspension notice, the Lessor may, by written notice, cancel this lease and take appropriate action to recover all damages suffered by the Government by reason of such violations, including application toward payment of such damages of any advance payments and any performance bonds.

Section 12. Responsibility for Damages Suffered, costs or Expenses Incurred by the Government.

The Lessee shall be liable for any damages suffered, cost or expenses incurred by the Government arising out of any operations conducted directly by the Lessee, any contractor or subcontractor of the Lessee, as heretofore defined, under this lease whenever such damage, cost or expense results from any breach of this lease by the Lessee or from the wrongful or negligent act or omission (including the failure of the Lessee to remove anything from the material received from the Lessor's property which causes death, personal injury or damage to property) of the Lessee or its employees, or the Lessee contractors, subcontractors, or their employees. The Lessee shall not be liable to the Lessor nor does the Lessee assume responsibility for any damages or other losses incurred by the Government occurring as a result of any act or omission of the USACE or any of its contractors or subcontractors. This indemnification is not to be construed as a further wavier of sovereign immunity in excess of any existing legislative wavier of sovereign immunity that may be require by State Statutes. Such indemnification shall be subject to and governed by any existing provisions and limitations contained in such State Statutes. The Lessee shall pay the Lessor for such damage, cost or expense attributable to its breach or negligence or that of its employees, contractors, subcontractors, or their employees within ninety (90) days after a written demand therefor by the Lessor. The Government does not convey any warranty with the conveyed material.

Section 13. Assignment or Transfer of Lease. This lease may not be assigned or transferred without written approval of the Lessor.



Section 14. Surrender of Lease. The Lessee may surrender this lease by filing with the Lessor a written relinquishment that shall be effective on the date of filing.

_____	THE UNITED STATES OF AMERICA, Lessor
(Lessee)	
_____	_____
(Signature of Authorized Officer)	(Signature of Authorized Officer)
_____	_____
(Name of Signatory)	(Name of Signatory)
_____	_____
(Title)	(Title)
_____	_____
(Date)	(Date)
_____	_____
Attested: Corporation Secretary	
_____	
(Date)	
_____	
(Address of Lessee)	

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**If this lease is executed by a corporation, it must bear the corporate seal**





## The Department of the Interior Mission

As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering sound use of our land and water resources; protecting our fish, wildlife, and biological diversity; preserving the environmental and cultural values of our national parks and historical places; and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to ensure that their development is in the best interests of all our people by encouraging stewardship and citizen participation in their care. The Department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.



## The Minerals Management Service Mission

As a bureau of the Department of the Interior, the Minerals Management Service's (MMS) primary responsibilities are to manage the mineral resources located on the Nation's Outer Continental Shelf (OCS), collect revenue from the Federal OCS and onshore Federal and Indian lands, and distribute those revenues.

Moreover, in working to meet its responsibilities, the **Offshore Minerals Management Program** administers the OCS competitive leasing program and oversees the safe and environmentally sound exploration and production of our Nation's offshore natural gas, oil and other mineral resources. The **MMS Royalty Management Program** meets its responsibilities by ensuring the efficient, timely and accurate collection and disbursement of revenue from mineral leasing and production due to Indian tribes and allottees, States and the U.S. Treasury.

The MMS strives to fulfill its responsibilities through the general guiding principles of: (1) being responsive to the public's concerns and interests by maintaining a dialogue with all potentially affected parties and (2) carrying out its programs with an emphasis on working to enhance the quality of life for all Americans by lending MMS assistance and expertise to economic development and environmental protection.

U.S. Department of the Interior  
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