Legal Regime for Marine Minerals


administered by the UN – beyond the EEZ minerals area leased by the International Seabed Authority (ISA – based in Jamaica)

**Territorial Sea** (0-12 nautical miles)

**Exclusive Economic Zone (EEZ):** generally 200 n.mi (can be up to 350 miles)

**National Legislation for Minerals Leasing covers the EEZ:**

in the U.S. this is 3-200 miles (in general) and is described as the Other Continental Shelf (OCS). In the U.S., State Government legislation applies 0-3 miles

**U.S. OCS leasing law is the Outer Continental Shelf Lands Act**

administered by the Minerals Management Service of the U.S. Department of the Interior
Leases:

Two types of leases:

Competitive – oil and gas, most hard minerals

Non Competitive – sand and gravel for public purposes

Leases are 1) negotiated or 2) awarded at lease sale to the highest bidder (bonus)

Financial requirements: rent, royalty, bond

Lease sale process: request for sale, published request for interest (RFII), closed bid sale, lease awards

Environmental Laws – Council on Environmental Quality

National Environmental Policy Act (NEPA)

generally requires Environmental Impact Statement (EIS). EIS is a tightly defined legal document developed on the basis of tiering of issues following public hearings. A lesser version, known as an Environmental Assessment (EA) may be permitted if a detailed programmatic EIS has been completed.
The Hawaiian archipelago extends 1,528 miles from NW to SE and is surrounded by an Exclusive Economic Zone (EEZ) encompassing an area of 922,967 square miles. With the addition of the EEZ in 1983, Hawaii became the second largest state in the nation. Coral reefs, by virtue of their size and productivity, play a major role in Hawaii's EEZ. As this diagram indicates, Hawaii's vast EEZ is nearly one third the size of the contiguous United States stretching two-thirds the distance between Seattle, Washington and Charleston, South Carolina.

(Source: DBEDT, 1991)
Appendix 2

Sample Copy of a Negotiated Noncompetitive Lease

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

NEGOTIATED NONCOMPETITIVE LEASE FOR
SAND, GRAVEL AND SHELL RESOURCES ON THE
OUTER CONTINENTAL SHELF

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

This lease, is made under the authority of section 8(k)(2)(A)(i) of the outer Continental shelf Lands Act of
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 (OCS) 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.
Figure 5.2. Potentially harmful environmental consequences of processing metalliferous materials (ores, sands, muds or nodules) at sea and on land.
# NOAA Comprehensive Assessment of Ocean Mining Impacts

## Concerns with Potential for Significant or Adverse Impact

### Benthic Impacts
- Collector destroys benthos in and near collector track
- May blanket benthos, diluting food supply away from mine site area

### Surface Discharge
- Increased turbidity, decreased productivity
- May affect fish larvae

## Concerns without Potential for Significant or Adverse Impacts

### Beneficial Effects
- Additional food supply for benthic scavengers
- Bacteria increase food supply for zooplankton from surface discharge

### Low Probability of Impact
- Benthic Impacts
  - Light from the collector
  - Benthic plume increasing oxygen demand, trace metal increase

### Surface Discharge
- Bacterial growth depletes oxygen
- Phytoplankton species composition affected
- Zooplankton mortality and species changes
- Trace metals enter the food web
- Trace metal effects on phytoplankton
- Nutrient increase causes phytoplankton bloom
- Airlift causes embolism
- Affects fish
Typical Tailings Dam for Disposal.