

DECISION NO. GA82-1033

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

GROUP A - Crane operator (truck, tower, crawler, or locomotive);

GROUP A-1 - Backhoe operator, clamshell operator, concrete mix operator - mix plant, concrete pump operator - Ridley or similar type, derrick operator, dragline operator, drill operator - caisson foundation type, elevator operator - temporary construction elevator used to haul building material and personnel, elevating grader operator, hoisting engine operator, locomotive operator, rock crusher operator, shovel operator, trenching machine operator over 6 feet depth capacity, tugger hoist operator, well drill operator - performing foundation work, winch truck operator - hoisting material, air compressor operator - 365 C.F.M. and over, furnishing air simultaneously for more than one contractor.

GROUP B - Bulldozer operator, dewatering system operator - where multiple pumps are used, dozer shovel operator, drill operator - Quarry Master type, fireman - stationary or portable, forklift operator, generator operator - 75 K.V.A. and over, motor grader operator, motor scraper operator (pans), oilers on cranes with earth boring drill attached with a separate power source, pusher dozer operator, self propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator - up to and including 6 feet depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor).

GROUP B-1 - Elevator operator - inside electric permanent house elevator used to haul building materials and personnel.

GROUP C - Air compressor - 600 cubic feet and over, air compressor operator - battery of two 300 cubic feet and over, hydrohammer operator, concrete batch plant operator.

GROUP D-1 - Oilier-grase truck, truck or locomotive crane,

GROUP D-2 - Oilier - unspecified, pump operator - over 4", up to 4 batteries, welding machine operator - 4 or more batteries, portable, gas, or diesel driven.

GROUP E - Concrete mixer operator - skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator - asphalt type, well drill operator - not performing foundation work.

GROUP F - Air compressor operator - over 150 CFM but less than 600 cubic feet, conveyor operator - chain or belt type, sand blasting machine operator, water pump operator 4 inches and over, up to and including three welding machines do not require an operator.

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BILLING CODE 4510-27-C

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POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits
GROUP A	13.35	1.88
GROUP A-1	13.24	1.88
GROUP B	12.89	1.88
GROUP B-1	12.67	1.88
GROUP C	10.46	1.88
GROUP D-1	11.26	1.88
GROUP D-2	9.65	1.88
GROUP E	9.87	1.88
GROUP F	8.57	1.88

LABORERS

GROUP 1
GROUP 2
GROUP 3
GROUP 4
GROUP 5
GROUP 6 (25¢ above rate for classification under which employed)

	Basic Hourly Rates	Fringe Benefits
GROUP 1	9.51	1.02
GROUP 2	9.73	1.02
GROUP 3	10.01	1.02
GROUP 4	10.26	1.02
GROUP 5	10.58	1.02

DECISION NO. GA82-1033

CLASSIFICATION DEFINITIONS - LABORERS

GROUP 1 - Batch plant man; buggy rollers (Ga.); cleaners, brick or lumber; clearing of right-of-way & building site (hand tools); concrete curer-sealer and liquid hardener; conveyor operator, used in tending plasterers & bricklayers; electricians laborer; excavator, backfiller, grader, hand; forklift operator, walk-type mech. used in tending plasterers and bricklayers; form stripper; metal pan handler; plumber laborer; pipe doper; precast slab layer (floor, roofs, walks, curbs); puddlers; concrete and staging for masons & plasterers; erecting & removing; scarifier, concrete, mech. or hand; sheeting and shoring laborers; steam jennies, used in cleaning equipment; tenders (all crafts); tool room man; truck spotter dumper; water boy; winch handler (manual); wrecking buildings & miscellaneous structures.

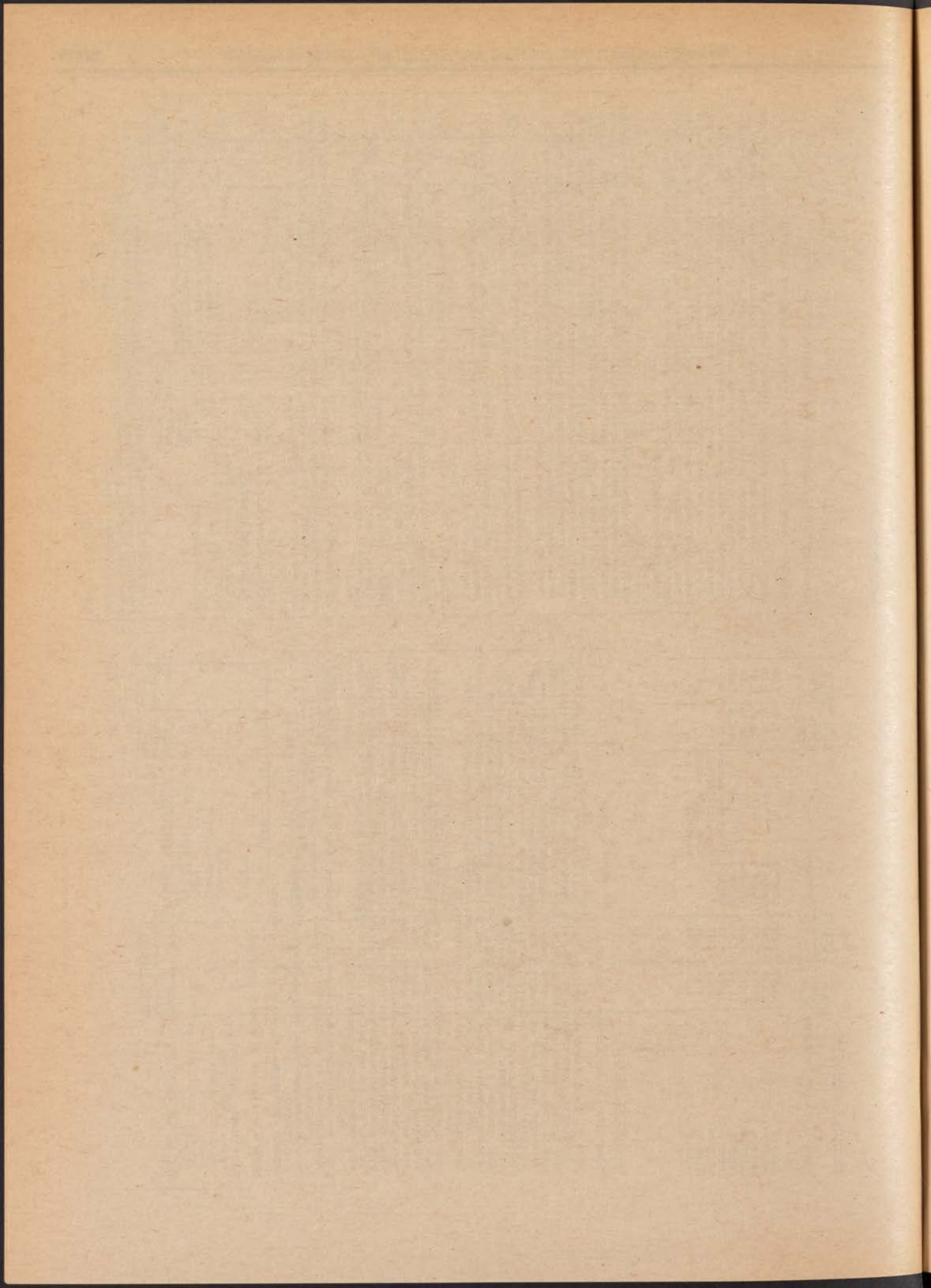
GROUP 2 - All tool operators: air, electric or gas powered, such as jackhammer, paving breaker, tampers, vibrator, spade, chipping hammer, & barco tamp; bucket dump man, concrete; burner demolition work; chain saw operator; form setter, steel; mixer, mortar, cement, grout, clay, etc. (hand machine oper.); mortar mixer used in connection with hose for gypsum roofs, plastering, asbestos, fiber, soundproofing, etc.; motorized post hole digger; power saw operator, concrete, outside building; steam cleaning machine operator; sewer pipe layer, yarner, wiper & pot pot man; slip form raisers steel or wood, jack or screw type, wheelbarrow operator, motorized.

GROUP 3 - Powderman tender; wagon drill operator, track or wheel type and other equipment used in drilling for blasting.

GROUP 4 - Caisson work, hole man; tunnel laborer.

GROUP 5 - Nozzleman, concrete pneu.; powderman.

GROUP 6 - Chimneys or stacks, isolated.



Federal Register

Friday
July 2, 1982

Part IV

Department of the Interior

Minerals Management Service

**Oil and Gas Leasing; Outer Continental
Shelf: Central and Northern California,
South Atlantic, Lower Cook Inlet/Shelikof
Strait and Mid-Atlantic**

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Central and Northern California, South Atlantic, Lower Cook Inlet/
Shelikof Strait and Mid-Atlantic

Oil and Gas Lease Sale No. RS-2

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300). A revision of 43 CFR 3300 appears in the Federal Register of June 16, 1982, at 47 FR 25967 and 26031. The revised regulations will be effective on July 16, 1982, and will therefore apply to this sale.

2. Filing of Bids. Sealed bids may be delivered, in person, to Homer Benton, Room No. 2515, U.S. Department of the Interior, 18th & C Streets, N.W., Washington, D.C., on August 4, 1982, until 4:30 p.m., or to Room 1C100, Auditorium, Geological Survey National Center, 12201 Sunrise Valley Drive, Reston, Virginia, between the hours of 8:30 a.m., e.s.t. and 9:30 a.m., e.s.t., August 5, 1982. Bids received by the authorized officer later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the authorized officer prior to 9:30 a.m., e.s.t., August 5, 1982. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 47 FR 14785; April 6, 1982.

3. Method of Bidding. A separate bid in a sealed envelope, labeled, "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened

until 10 a.m., e.s.t., August 5, 1982," must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to no more than five decimal places after the decimal point, e.g., 50.12345 percent. The previous requirement for a joint bidder's statement under 43 CFR 3316.4(g) has been rescinded by the latest revision of regulations at 43 CFR 3300 (see paragraph 1, above). Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of \$8 per hectare or fraction thereof. Leases awarded under 4(a), (b), and (c) will provide for a minimum annual royalty payment of \$8 per hectare or fraction thereof. The following systems will be utilized.

a) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on tracts R53-156, R53-157, R53-162, R53-164, R53-169, R53-170, R53-171, R53-176, R53-190, R53-191, R56-189 thru R56-286, R60-1 thru R60-17, R60-19, R60-21, R60-22, R60-23, R60-26 thru R60-72, R60-86 thru R60-110, R60-112, R60-113, R60-115, R60-116, R60-153, R59-1, R59-25, R59-62, and R59-222 must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent. All leases

awarded under this system will provide for a minimum royalty payment of \$8 per hectare or fraction thereof due at the end of each lease year beginning with the first lease year following a discovery on the lease.

b) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on tracts R56-22, R56-26, R56-27, R56-30, R56-33 thru R56-39, R56-46 thru R56-51, R56-53 thru R56-66, R56-69 thru R56-71, R56-73 thru R56-76, R56-78, R56-79, R56-162 thru R56-173, R59-2, R59-3, R59-5 thru R59-9, R59-11 thru R59-13, R59-16 thru R59-20, R59-24, R59-26 thru R59-28, R59-31 thru R59-35, R59-38 thru R59-42, R59-45 thru R59-50, R59-53 thru R59-56, R59-60, R59-61, R59-63 thru R59-65, R59-69 thru R59-71, R59-76, R59-77, R59-82 thru R59-84, R59-88 thru R59-94, R59-97 thru R59-102, R59-105, R59-114, R59-123, R59-196, R59-197, R59-198, R59-202 thru R59-206, R59-209 thru R59-212, R59-215 thru R59-221, R59-223 thru R59-233, R59-237, R59-238, R59-239, R59-242 thru R59-244, R59-248 thru R59-250, R59-252 and R59-253 must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

c) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts R53-197, R53-198, R53-199, R53-204, R53-205, R53-211, R53-212, R53-213, R53-218, R53-219, R53-220, R53-221, R53-225, R53-226, R53-227, R53-231, and R53-233 must be submitted on a cash bonus bid basis with the percent royalty due, in amount or value of production fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described

below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to \$14,787,863 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$14,787,864 million, but less than or equal to \$1197,206,141 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\ln(V_j/S)]$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$$b = 11.0$$

$\ln$ = natural logarithm

V_j = the value of production in quarter j , adjusted for inflation, in millions of dollars

$$S = 3.25$$

When the adjusted quarterly value of production is equal to or greater than \$1197,206,142 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, R_j , the calculation will be carried to five decimal places (for example, 17.10773 percent). This calculation will incorporate the adjusted quarterly value of production, V_j , in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15.392847 millions of dollars).

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

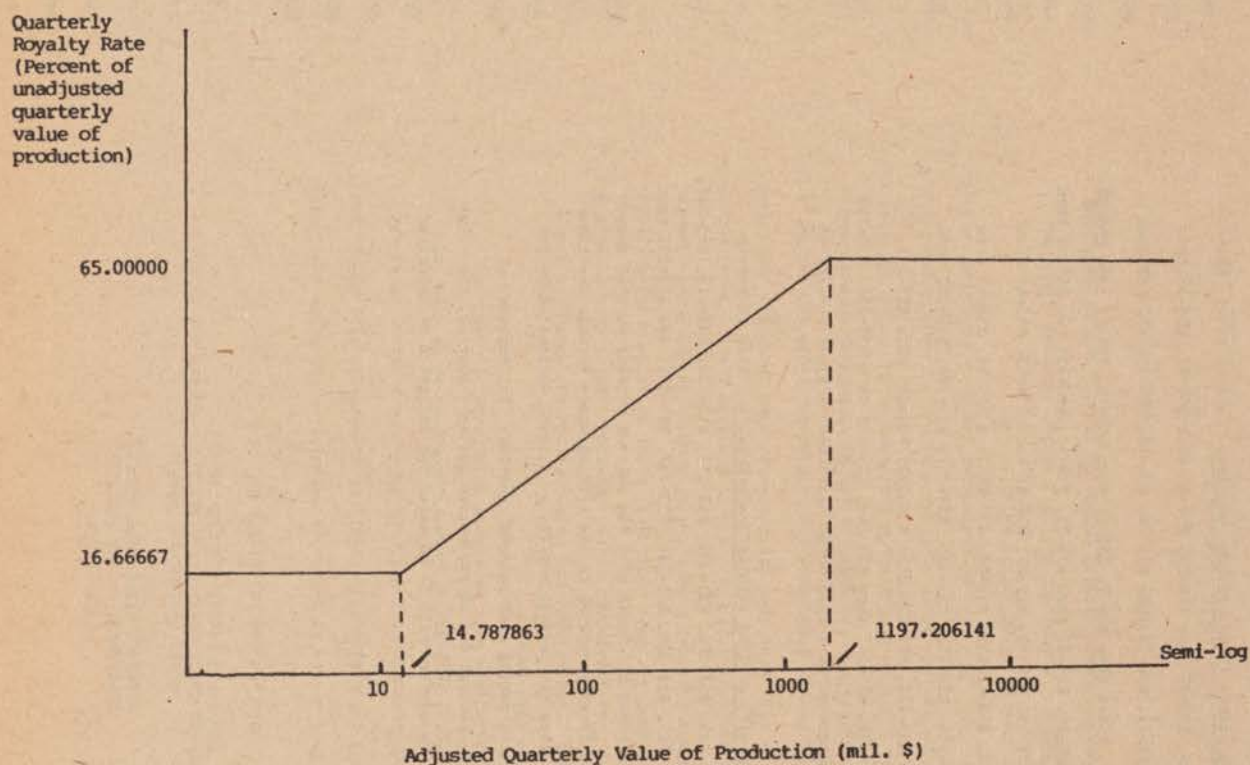
(A)	(B)	(C)	(D)	(E)	(F)
Actual Value of Quarterly Production (Millions of Dollars)	GNP Fixed Weighted Price Index	Inflation Factor ¹	Adjusted Value of Quarterly Production ² (Vj, Millions of \$)	Percent Royalty Rate (Rj)	Royalty Payment ³ (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	21.28346	6.385039
90.000000	200.0	4/3	67.500000	33.36819	30.031378
270.000000	200.0	4/3	202.500000	45.45293	122.722921
810.000000	200.0	4/3	607.500000	57.53767	466.055118
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	18.82889	5.648665
90.000000	250.0	5/3	54.000000	30.91362	27.822257
270.000000	250.0	5/3	162.000000	42.99835	116.095557
810.000000	250.0	5/3	486.000000	55.08308	446.173028

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

Figure 1
Form of the Sliding Royalty Schedule



The form of the sliding scale royalty schedule is illustrated in Figure 1.

Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor.

The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding June, 1981.

The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

d) Bonus Bidding with a Fixed Net Profit Share. Bids on tracts R56-80 thru R56-83, R56-85 thru R56-99, R56-102, R56-103, R56-105, R56-106, R56-109 thru R56-124, R56-127, R56-128, R59-106 thru R59-109, R59-115 thru R59-118, R59-124 thru R59-128, R59-133 thru R59-137, R59-142 thru R59-145, R59-150, R59-151, R59-157, R59-158, R59-163, R59-164, R59-169 thru R59-171, R59-176 thru R59-178, R59-182 thru R59-184, R59-188 thru R59-191, and R59-195

must be submitted on a cash bonus basis with a fixed net profit share rate of 30 percent and a 1.50 capital recovery factor.

Tracts R56-131 thru R56-161, R56-175 thru R56-181, R56-185, R56-186 and R56-188 must be submitted on a cash bonus basis with a fixed net profit share rate of 45 percent and a 0.50 capital recovery factor.

Tracts R60-73 thru R60-85, R60-117, R60-119, R60-121 thru R60-123, R60-125, R60-127 thru R60-131, R60-133 thru R60-138, and R60-141 thru R60-152 must be submitted on a cash bonus basis with a fixed net profit share rate of 40 percent and a 0.75 capital recovery factor. The net profit share payment shall be calculated according to the regulation in 10 CFR 390.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., e.s.t., August 5, 1982, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971). See Section 14 "Information to Lessees." These forms should be filed with the Minerals Manager, Atlantic Outer Continental Shelf Region, formerly New York OCS Office, Suite 32-120, 26 Federal Plaza, New York, New York, 10278, along with a statement as to which OCS Office maintains the bidder's company qualification file.

6. Bid Opening. Bids will be opened on August 5, 1982, beginning at 10 a.m., e.s.t., in Room 1C100, Auditorium at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, August 5, 1982, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

- (a) The bidder has complied with all requirements of this notice and applicable regulations;
- (b) The bid is the highest valid cash bonus bid; and
- (c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of \$62 or more per hectare or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5. A modification of the payments procedure for successful bidders appears in the latest revision of 43 CFR 3300 (see paragraph 1, above). These changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3, above.

11. Official Protraction Diagrams. Tracts offered for lease may be located on the following official protraction diagrams which are available at a cost of \$2.00 each from:

(a) the Minerals Manager, Pacific Outer Continental Shelf Region, formerly Pacific OCS Office, 1340 W. 6th Street, Room 200, Los Angeles, California 90017,

NI 10-3 San Luis Obispo

NI 10-6 Santa Maria

(b) the Minerals Manager, Atlantic Outer Continental Shelf Region, formerly New York OCS Office, Suite 32-120, 26 Federal Plaza, New York, New York, 10278,

NI 18-2 Manteo

NI 18-5

NI 18-7 Cape Fear

NI 17-12 James Island

NH 17-6

NH 17-2 Brunswick

NH 17-5 Jacksonville

NJ 18-3 Hudson Canyon

NJ 18-6 Wilmington Canyon

NJ 18-8 Chincoteague

NJ 18-9 Baltimore Rise

(c) the Minerals Manager, Alaska Outer Continental Shelf Region, formerly Alaska OCS Office, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510,

NO 5-1, Iliamna

NO 5-2, Seldovia

NO 5-3, Mt. Katmai

TRACT LIST
SALE RS-2OCS OFFICIAL PROTRACTION DIAGRAM, SAN LUIS OBISPO, NI 10-3
(Approved March 26, 1976)

Tract	Block	Description	Hectares
R53-156	897	All	2304.00
R53-157	898	All	2304.00
R53-162	941	All	2304.00
R53-164	943	All	2304.00
R53-169	985	All	2304.00
R53-170	986	All	2304.00
R53-171	987	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, SANTA MARIA, NI 10-6
(Approved March 26, 1976)

Tract	Block	Description	Hectares
R53-176	16	All	2304.00
R53-190	105	All	2304.00
R53-191	106	All	2304.00
R53-197	150	All	2304.00
R53-198	151	All	2304.00
R53-199	152	All	2304.00
R53-204	195	All	2304.00
R53-205	196	All	2304.00
R53-211	239	All	2304.00
R53-212	240	All	2304.00
R53-213	241	All	2304.00
R53-218	283	All	2304.00
R53-219	284	All	2304.00
R53-220	285	All	2304.00
R53-221	286	All	2304.00
R53-225	328	All	2304.00
R53-226	329	All	2304.00
R53-227	330	All	2304.00
R53-231	373	All	2304.00
R53-233	375	All	2304.00

NO 5-4, Afognak

12. Tract Descriptions.

Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statements may not be included in this notice.

The tracts offered for bids are as follows:

CAPE FEAR NI 18-7 (continued)

OCS OFFICIAL PROTRACTOR DIAGRAM, MANTEO NI 18-2
(Approved October 31, 1974)

Tract	Block	Description	Hectares
R56-22	555	All	2304.00
R56-26	641	All	2304.00
R56-27	642	All	2304.00

OCS OFFICIAL PROTRACTOR DIAGRAM, NI 18-5
(Approved August 1, 1975)

Tract	Block	Description	Hectares
R56-30	751	All	2304.00
R56-33	754	All	2304.00
R56-34	794	All	2304.00
R56-35	795	All	2304.00
R56-36	796	All	2304.00
R56-37	837	All	2304.00
R56-38	838	All	2304.00
R56-39	839	All	2304.00

OCS OFFICIAL PROTRACTOR DIAGRAM, CAPE FEAR NI 18-7
(Approved June 11, 1975; Revised January 27, 1976; Revised June 3, 1976)

Tract	Block	Description	Hectares
R56-46	175	All	2304.00
R56-47	176	All	2304.00
R56-48	219	All	2304.00
R56-49	220	All	2304.00

Tract	Block	Description	Hectares
R56-50	262	All	2304.00
R56-51	263	All	2304.00
R56-53	306	All	2304.00
R56-54	307	All	2304.00
R56-55	308	All	2304.00
R56-56	350	All	2304.00
R56-57	351	All	2304.00
R56-58	352	All	2304.00
R56-59	393	All	2304.00
R56-60	394	All	2304.00
R56-61	395	All	2304.00
R56-62	396	All	2304.00
R56-63	437	All	2304.00
R56-64	438	All	2304.00
R56-65	439	All	2304.00
R56-66	440	All	2304.00
R56-69	483	All	2304.00
R56-70	484	All	2304.00
R56-71	524	All	2304.00
R56-73	526	All	2304.00
R56-74	527	All	2304.00
R56-75	528	All	2304.00
R56-76	568	All	2304.00
R56-78	570	All	2304.00
R56-79	571	All	2304.00
R56-80	611	All	2304.00
R56-81	612	All	2304.00
R56-82	613	All	2304.00
R56-83	614	All	2304.00
R56-85	654	All	2304.00
R56-86	655	All	2304.00
R56-87	656	All	2304.00
R56-88	657	All	2304.00
R56-89	658	All	2304.00
R56-90	698	All	2304.00
R56-91	699	All	2304.00
R56-92	700	All	2304.00
R56-93	701	All	2304.00
R56-94	702	All	2304.00
R56-95	741	All	2304.00
R56-96	742	All	2304.00
R56-97	743	All	2304.00
R56-98	744	All	2304.00
R56-99	745	All	2304.00
R56-102	785	All	2304.00
R56-103	786	All	2304.00
R56-105	788	All	2304.00
R56-106	789	All	2304.00

CAPE FEAR NI 18-7 (continued)

Tract	Block	Description	Hectares
R56-109	828	All	2304.00
R56-110	829	All	2304.00
R56-111	830	All	2304.00
R56-112	831	All	2304.00
R56-113	832	All	2304.00
R56-114	834	All	2304.00
R56-115	872	All	2304.00
R56-116	873	All	2304.00
R56-117	874	All	2304.00
R56-118	875	All	2304.00
R56-119	916	All	2304.00
R56-120	917	All	2304.00
R56-121	918	All	2304.00
R56-122	919	All	2304.00
R56-123	960	All	2304.00
R56-124	963	All	2304.00
R56-127	1004	All	2304.00
R56-128		All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, JAMES ISLAND NI 17-12
(Approved June 11, 1975)

Tract	Block	Description	Hectares
R56-131	242	All	2304.00
R56-132	243	All	2304.00
R56-133	244	All	2304.00
R56-134	245	All	2304.00
R56-135	246	All	2304.00
R56-136	247	All	2304.00
R56-137	285	All	2304.00
R56-138	286	All	2304.00
R56-139	287	All	2304.00
R56-140	288	All	2304.00
R56-141	289	All	2304.00
R56-142	290	All	2304.00
R56-143	291	All	2304.00
R56-144	329	All	2304.00
R56-145	330	All	2304.00
R56-146	331	All	2304.00
R56-147	334	All	2304.00
R56-148	335	All	2304.00
R56-149	373	All	2304.00
R56-150	374	All	2304.00
R56-151	800	All	2304.00
R56-152	841	All	2304.00
R56-153	842	All	2304.00
R56-154	843	All	2304.00
R56-155	844	All	2304.00
R56-156	885	All	2304.00

JAMES ISLAND NI 17-12 (continued)

Tract	Block	Description	Hectares
R56-157	886	All	2304.00
R56-158	887	All	2304.00
R56-159	888	All	2304.00
R56-160	929	All	2304.00
R56-161	930	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, STETSON MESA NH 17-6
(Approved June 11, 1975)

Tract	Block	Description	Hectares
R56-162	181	All	2304.00
R56-163	182	All	2304.00
R56-164	224	All	2304.00
R56-165	225	All	2304.00
R56-166	226	All	2304.00
R56-167	268	All	2304.00
R56-168	269	All	2304.00
R56-169	312	All	2304.00
R56-170	313	All	2304.00
R56-171	355	All	2304.00
R56-172	356	All	2304.00
R56-173	357	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, BRUNSWICK NH 17-2
(Approved April 29, 1975; Revised September 1, 1978)

Tract	Block	Description	Hectares
R56-175	256	All	2304.00
R56-176	257	All	2304.00
R56-177	298	All	2304.00
R56-178	299	All	2304.00
R56-179	300	All	2304.00
R56-180	301	All	2304.00
R56-181	341	All	2304.00
R56-185	345	All	2304.00
R56-186	386	All	2304.00
R56-188	388	All	2304.00
R56-189	695	All	2304.00
R56-190	696	All	2304.00
R56-191	697	All	2304.00
R56-192	738	All	2304.00
R56-193	739	All	2304.00

JACKSONVILLE NH 17-5 (continued)

Tract	Block	Description	Hectares
R56-232	37	All	2304.00
R56-233	69	All	2304.00
R56-234	70	All	2304.00
R56-235	71	All	2304.00
R56-236	72	All	2304.00
R56-237	73	All	2304.00
R56-238	74	All	2304.00
R56-239	79	All	2304.00
R56-240	80	All	2304.00
R56-241	113	All	2304.00
R56-242	114	All	2304.00
R56-243	115	All	2304.00
R56-244	116	All	2304.00
R56-245	117	All	2304.00
R56-246	124	All	2304.00
R56-247	158	All	2304.00
R56-248	159	All	2304.00
R56-249	160	All	2304.00
R56-250	161	All	2304.00
R56-251	162	All	2304.00
R56-252	203	All	2304.00
R56-253	204	All	2304.00
R56-254	205	All	2304.00
R56-255	206	All	2304.00
R56-256	207	All	2304.00
R56-257	247	All	2304.00
R56-258	248	All	2304.00
R56-259	249	All	2304.00
R56-260	250	All	2304.00
R56-261	251	All	2304.00
R56-262	253	All	2304.00
R56-263	292	All	2304.00
R56-264	293	All	2304.00
R56-265	294	All	2304.00
R56-266	295	All	2304.00
R56-267	296	All	2304.00
R56-268	340	All	2304.00
R56-269	382	All	2304.00
R56-270	426	All	2304.00
R56-271	431	All	2304.00
R56-272	432	All	2304.00
R56-273	465	All	2304.00
R56-274	470	All	2304.00
R56-275	475	All	2304.00
R56-276	476	All	2304.00
R56-277	509	All	2304.00

BRUNSWICK NH 17-2 (continued)

Tract	Block	Description	Hectares
R56-194	740	All	2304.00
R56-195	741	All	2304.00
R56-196	781	All	2304.00
R56-197	782	All	2304.00
R56-198	783	All	2304.00
R56-199	825	All	2304.00
R56-200	826	All	2304.00
R56-201	827	All	2304.00
R56-202	910	All	2304.00
R56-203	911	All	2304.00
R56-204	914	All	2304.00
R56-205	916	All	2304.00
R56-206	917	All	2304.00
R56-207	952	All	2304.00
R56-208	953	All	2304.00
R56-209	954	All	2304.00
R56-210	955	All	2304.00
R56-211	960	All	2304.00
R56-212	961	All	2304.00
R56-213	962	All	2304.00
R56-214	993	All	2304.00
R56-215	994	All	2304.00
R56-216	995	All	2304.00
R56-217	996	All	2304.00
R56-218	997	All	2304.00
R56-219	998	All	2304.00
R56-220	999	All	2304.00
R56-221	1000	All	2304.00
R56-222	1002	All	2304.00
R56-223	1006	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, JACKSONVILLE NH 17-5
(Approved April 29, 1975)

Tract	Block	Description	Hectares
R56-224	24	All	2304.00
R56-225	27	All	2304.00
R56-226	28	All	2304.00
R56-227	29	All	2304.00
R56-228	30	All	2304.00
R56-229	31	All	2304.00
R56-230	32	All	2304.00
R56-231	33	All	2304.00

SELDOVIA NO 5-2 (continued)

Tract	Block	Description	Hectares
R60-29	268	All	2304.00
R60-30	269	All	2304.00
R60-31	270	All	2304.00
R60-32	271	All	2304.00
R60-33	272	All	2304.00
R60-34	273	All	2304.00
R60-35	312	All	2304.00
R60-36	313	All	2304.00
R60-37	314	All	2304.00
R60-38	315	All	2304.00
R60-39	316	All	2304.00
R60-40	317	All	2304.00
R60-41	359	All	2304.00
R60-42	360	All	2304.00
R60-43	361	All	2304.00
R60-44	404	All	2304.00
R60-45	405	All	2304.00
R60-46	487	All	2304.00
R60-47	533	All	2304.00
R60-48	580	All	2304.00
R60-49	621	All	2304.00
R60-50	625	All	2304.00
R60-51	661	All	2304.00
R60-52	662	All	2304.00
R60-53	663	All	2304.00
R60-54	664	All	2304.00
R60-55	665	All	2304.00
R60-56	666	All	2304.00
R60-57	669	All	2304.00
R60-58	705	All	2304.00
R60-59	706	All	2304.00
R60-60	707	All	2304.00
R60-61	713	All	2304.00
R60-62	751	All	2304.00
R60-63	756	All	2304.00
R60-64	757	All	2304.00
R60-65	793	All	2304.00
R60-66	795	All	2304.00
R60-67	800	All	2304.00
R60-68	837	All	2304.00
R60-69	838	All	2304.00
R60-70	881	All	2304.00
R60-71	882	All	2304.00
R60-72	925	All	2304.00

JACKSONVILLE NH 17-5 (continued)

Tract	Block	Description	Hectares
R56-278	513	All	2304.00
R56-279	514	All	2304.00
R56-280	515	All	2304.00
R56-281	516	All	2304.00
R56-282	561	All	2304.00
R56-283	601	All	2304.00
R56-284	602	All	2304.00
R56-285	645	All	2304.00
R56-286	646	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, ILIANA NO 5-1
(Approved March 20, 1975)

Tract	Block	Description	Hectares
R60-1	484	All	2304.00
R60-2	527	All	2304.00
R60-3	615	All	2304.00
R60-4	659	All	2304.00
R60-5	703	All	2304.00
R60-6	748	All	2304.00
R60-7	836	All	2304.00
R60-8	880	All	2304.00
R60-9	923	All	2304.00
R60-10	924	All	2304.00
R60-11	968	All	2304.00
R60-12	1011	All	2304.00
R60-13	1012	All	2304.00
R60-14	1055	All	2304.00
R60-15	1056	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, SELDOVIA NO 5-2
(Approved March 20, 1975)

Tract	Block	Description	Hectares
R60-16	93	1/	588.65
R60-17	94	All	2304.00
R60-19	138	All	2304.00
R60-21	182	All	2304.00
R60-22	186	All	2304.00
R60-23	224	All	2304.00
R60-26	228	All	2304.00
R60-27	229	All	2304.00
R60-28	230	All	2304.00

1/ Seaward of the three geographical mile line.

MT. KATMAI NO 5-3 (continued)

OCS OFFICIAL PROTRACTION DIAGRAM, MT. KATMAI NO 5-3
(Approved July 3, 1975)

Tract	Block	Description	Hectares
R60-119	653	All	2304.00
R60-121	655	All	2304.00
R60-122	656	All	2304.00
R60-123	695	All	2304.00
R60-125	697	All	2304.00
R60-127	699	All	2304.00
R60-128	737	E1/2, E1/2N1/2	1728.00
R60-129	738	All	2304.00
R60-130	739	All	2304.00
R60-131	740	All	2304.00
R60-133	742	All	2304.00
R60-134	781	All	2304.00
R60-135	782	All	2304.00
R60-136	783	All	2304.00
R60-137	784	All	2304.00
R60-138	785	All	2304.00
R60-141	827	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, AFOGNAK NO 5-4
(Approved July 3, 1975)

Tract	Block	Description	Hectares
R60-142	48	All	2304.00
R60-143	90	All	2304.00
R60-144	91	All	2304.00
R60-145	92	All	2304.00
R60-146	133	All	2304.00
R60-147	134	All	2304.00
R60-148	135	All	2304.00
R60-149	177	All	2304.00
R60-150	178	All	2304.00
R60-151	221	All	2304.00
R60-152	265	All	2304.00
R60-153	309	All	2304.00

Tract	Block	Description	Hectares
R60-73	43	All	2304.00
R60-74	44	All	2304.00
R60-75	88	All	2304.00
R60-76	131	E1/2E1/2	576.00
R60-77	132	All	2304.00
R60-78	176	All	2304.00
R60-79	219	NEL/4, SE1/4NW1/4, E1/2NE1/4NW1/4, S1/2 1/	1752.09
R60-80	220	All	2304.00
R60-81	263	1/	2176.96
R60-82	264	All	2304.00
R60-83	306	1/	2163.71
R60-84	307	All	2304.00
R60-85	308	All	2304.00
R60-86	350	All	2304.00
R60-87	351	All	2304.00
R60-88	352	All	2304.00
R60-89	394	All	2304.00
R60-90	395	All	2304.00
R60-91	396	All	2304.00
R60-92	438	All	2304.00
R60-93	439	All	2304.00
R60-94	479	All	2304.00
R60-95	480	All	2304.00
R60-96	481	All	2304.00
R60-97	482	All	2304.00
R60-98	483	All	2304.00
R60-99	522	All	2304.00
R60-100	523	All	2304.00
R60-101	524	All	2304.00
R60-102	525	All	2304.00
R60-103	526	All	2304.00
R60-104	565	All	2304.00
R60-105	566	All	2304.00
R60-106	567	All	2304.00
R60-107	568	All	2304.00
R60-108	569	All	2304.00
R60-109	570	All	2304.00
R60-110	607	All	2304.00
R60-112	609	All	2304.00
R60-113	610	All	2304.00
R60-115	612	All	2304.00
R60-116	613	All	2304.00
R60-117	651	All	2304.00

1/ Seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HUDSON CANYON NJ 18-3
(Approved October 31, 1974)

Tract	Block	Description	Hectares
R59-1	686	All	2304.00
R59-2	689	All	2304.00
R59-3	691	All	2304.00
R59-5	694	All	2304.00
R59-6	733	All	2304.00
R59-7	734	All	2304.00
R59-8	735	All	2304.00
R59-9	736	All	2304.00
R59-11	775	All	2304.00
R59-12	776	All	2304.00
R59-13	777	All	2304.00
R59-16	780	All	2304.00
R59-17	781	All	2304.00
R59-18	818	All	2304.00
R59-19	819	All	2304.00
R59-20	820	All	2304.00
R59-24	824	All	2304.00
R59-25	856	All	2304.00
R59-26	862	All	2304.00
R59-27	863	All	2304.00
R59-28	864	All	2304.00
R59-31	867	All	2304.00
R59-32	904	All	2304.00
R59-33	905	All	2304.00
R59-34	906	All	2304.00
R59-35	907	All	2304.00
R59-38	910	All	2304.00
R59-39	911	All	2304.00
R59-40	948	All	2304.00
R59-41	949	All	2304.00
R59-42	950	All	2304.00
R59-45	953	All	2304.00
R59-46	954	All	2304.00
R59-47	990	All	2304.00
R59-48	991	All	2304.00
R59-49	992	All	2304.00
R59-50	993	All	2304.00
R59-53	996	All	2304.00
R59-54	997	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, WILMINGTON CANYON NJ 18-6
(Approved October 31, 1974)

Tract	Block	Description	Hectares
R59-55	22	All	2304.00
R59-56	23	All	2304.00
R59-60	27	All	2304.00
R59-61	28	All	2304.00
R59-62	63	All	2304.00
R59-63	65	All	2304.00
R59-64	66	All	2304.00
R59-65	67	All	2304.00
R59-69	71	All	2304.00
R59-70	108	All	2304.00
R59-71	109	All	2304.00
R59-76	114	All	2304.00
R59-77	152	All	2304.00
R59-82	157	All	2304.00
R59-83	194	All	2304.00
R59-84	196	All	2304.00
R59-88	200	All	2304.00
R59-89	235	All	2304.00
R59-90	236	All	2304.00
R59-91	237	All	2304.00
R59-92	238	All	2304.00
R59-93	239	All	2304.00
R59-94	240	All	2304.00
R59-97	243	All	2304.00
R59-98	279	All	2304.00
R59-99	280	All	2304.00
R59-100	281	All	2304.00
R59-101	282	All	2304.00
R59-102	283	All	2304.00
R59-105	286	All	2304.00
R59-106	322	All	2304.00
R59-107	323	All	2304.00
R59-108	324	All	2304.00
R59-109	325	All	2304.00
R59-114	330	All	2304.00
R59-115	365	All	2304.00
R59-116	366	All	2304.00
R59-117	367	All	2304.00
R59-118	368	All	2304.00
R59-123	373	All	2304.00
R59-124	408	All	2304.00
R59-125	409	All	2304.00
R59-126	410	All	2304.00

WILMINGTON CANYON NJ 18-6 (continued)

R59-127	All	2304.00
R59-128	All	2304.00
R59-133	All	2304.00
R59-134	All	2304.00
R59-135	All	2304.00
R59-136	All	2304.00
R59-137	All	2304.00
R59-142	All	2304.00
R59-143	All	2304.00
R59-144	All	2304.00
R59-145	All	2304.00
R59-150	All	2304.00
R59-151	All	2304.00
R59-157	All	2304.00
R59-158	All	2304.00
R59-163	All	2304.00
R59-164	All	2304.00
R59-169	All	2304.00
R59-170	All	2304.00
R59-171	All	2304.00
R59-176	All	2304.00
R59-177	All	2304.00
R59-178	All	2304.00
R59-182	All	2304.00
R59-183	All	2304.00
R59-184	All	2304.00
R59-188	All	2304.00
R59-189	All	2304.00
R59-190	All	2304.00
R59-191	All	2304.00
R59-195	All	2304.00
R59-196	All	2304.00
R59-197	All	2304.00
R59-198	All	2304.00
R59-202	All	2304.00
R59-203	All	2304.00
R59-204	All	2304.00
R59-205	All	2304.00
R59-206	All	2304.00
R59-209	All	2304.00
R59-210	All	2304.00
R59-211	All	2304.00
R59-212	All	2304.00
R59-215	All	2304.00
R59-216	All	2304.00
R59-217	All	2304.00
R59-218	All	2304.00
R59-219	All	2304.00
R59-220	All	2304.00
R59-221	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, CHINCOTEAGUE NJ 18-8
(Approved December 2, 1976)

Tract	Block	Description	Hectares
R59-222	41	All	2304.00
R59-223	129	All	2304.00
R59-224	216	All	2304.00
R59-225	217	All	2304.00
R59-226	260	All	2304.00
R59-227	261	All	2304.00
R59-228	304	All	2304.00
R59-229	305	All	2304.00
R59-230	347	All	2304.00
R59-231	348	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, BALTIMORE RISE NJ 18-9
(Approved December 6, 1976)

Tract	Block	Description	Hectares
R59-232	2	All	2304.00
R59-233	3	All	2304.00
R59-237	45	All	2304.00
R59-238	46	All	2304.00
R59-239	47	All	2304.00
R59-242	50	All	2304.00
R59-243	89	All	2304.00
R59-244	90	All	2304.00
R59-248	133	All	2304.00
R59-249	134	All	2304.00
R59-250	135	All	2304.00
R59-252	177	All	2304.00
R59-253	178	All	2304.00

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale for tracts R56-22, R56-26, R56-27, R56-30, R56-33 thru R56-39, R56-46 thru R56-51, R56-53 thru R56-66, R56-69, R56-70, R56-71, R56-73 thru R56-76, R56-78 thru R56-83, R56-85 thru R56-99, R56-102, R56-103, R56-105, R56-106, R56-109 thru R56-124, R56-127, R56-128, R56-162 thru R56-173, R59-3, R59-5, R59-7 thru R59-9, R59-11 thru R59-13, R59-16 thru R59-20, R59-24, R59-26 thru R59-28, R59-31 thru R59-35, R59-38 thru R59-42, R59-45 thru R59-50, R59-53 thru R59-56, R59-60, R59-61, R59-63 thru R59-65, R59-69 thru R59-71, R59-76, R59-77, R59-82 thru R59-84, R59-88, R59-91 thru R59-94, R59-97, R59-100, R59-101, R59-102, R59-105, R59-108, R59-109, R59-114, R59-117, R59-118, R59-123, R59-126, R59-127, R59-128, R59-133, R59-136, R59-137, R59-142 thru R59-145, R59-150, R59-151, R59-157, R59-158, R59-163, R59-164, R59-169 thru R59-171, R59-176 thru R59-178, R59-182 thru R59-184, R59-188 thru R59-191, R59-195 thru R59-198, R59-202 thru R59-206, R59-209 thru R59-212, R59-215 thru R59-221, R59-224 thru R59-233, R59-237, R59-238, R59-239, R59-242 thru R59-244, R59-248 thru R59-250, R59-252 and R59-253 will be for an initial term of 10 years. All other leases issued as a result of this sale will be for an initial term of five years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Outer Continental Shelf Regional Offices listed in paragraph 11, above.

(b) For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(c), Form 3300-1 will be amended as follows:

Sec. 6 Royalty on Production. (a) The lessee agrees to pay the lessor royalty of that percent in amount or value of production from the leased area

as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to \$14,787,863 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$14,787,864 million, but less than or equal to \$1197,206,141 million, the royalty percent due on the unadjusted value or amount of production is given by:

$$R_j = b[\ln(V_j/S)]$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$$b = 11.0$$

$\ln$ = natural logarithm

V_j = the value of production in quarter j , adjusted for inflation, in millions of dollars

$$S = 3.25$$

When the adjusted quarterly value of production is equal to or greater than \$1197,206,142 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, R_j , the calculation will be carried to five decimal places (for example, 17.10773 percent). This calculation will incorporate the adjusted quarterly value of production, V_j , in millions of dollars, rounded to the sixth digit i.e., to the nearest dollar (for example, 15.392847 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(c) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4(d), Form 3300-1 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first net profit share payment becomes due."

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6. Royalty on Production. Hereby replaced by Fixed Net

Profit Share. The lessee agrees to pay a net profit share rate of — percent with a — capital recovery factor, calculated pursuant to 10 CFR 390.

(d) Except as otherwise noted, the following stipulations will be

included in each lease resulting from this sale. It is intended that each tract will be offered with the same stipulations and conditions as previously offered in Sale Nos. 53, 56, 60 and 59. In the following stipulations the term DMMOFO refers to the Regional Deputy Minerals Manager, Offshore Field Operations, Minerals Management Service, formerly Deputy Conservation Manager, Field Operations, U.S. Geological Survey and the term Manager refers to the Minerals Manager of the Outer Continental Shelf (OCS) Region, formerly Manager of the Outer Continental Shelf Office.

Stipulation No. 1

If the DMMOFO has reason to believe that a site, structure, or object of historical or archaeological significance, hereinafter referred to as a "cultural resource," may exist in the lease area and gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in

this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DMMOFO and the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DMMOFO, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DMMOFO, either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DMMOFO and the Manager for their review. Should the DMMOFO determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DMMOFO has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DMMOFO and make every reasonable effort to preserve and protect the cultural resource from damage until the DMMOFO has given directions as to its preservation.

Stipulation No. 2

To be included only in leases resulting from this sale for all tracts with the prefix R53-.

(a) If the DMMOFO has reason to believe that biological populations or habitats exist and require protection, he shall give the lessee notice that the lessor is invoking the provisions of this stipulation and the lessee shall comply with the following requirements. Prior to any drilling activity or the construction or placement of any structure for exploration or development on lease areas including, but not limited to, well drilling and pipeline and platform placement hereinafter referred to as "operation," the lessee shall conduct site specific surveys as approved by the DMMOFO and in accordance with prescribed biological survey requirements to determine the existence of any special biological resource including, but not limited to:

- (1) Very unusual, rare, or uncommon ecosystems or ecotones.
- (2) A species of limited regional distribution that may be adversely affected by any lease operations.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If the results of such surveys suggest the existence of a special biological resource that may be adversely affected by any lease operation, the lessee shall: (1) relocate the site of such operation so as not to adversely affect the resources identified; or (2) establish to the satisfaction of the DMMOFO, on the basis of the site specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist. The DMMOFO will review all data submitted and determine, in writing, whether a special biological resource exists and whether it may be significantly affected by the lessee's operations. The lessee may take no action until the DMMOFO has given the lessee written directions on how to proceed.

Stipulation No. 4

To be included only in leases resulting from this sale for: all tracts with the prefix R53-; all tracts with the prefix R56- except R56-26 and R56-27; tracts R59-5, R59-17, R59-32, R59-33, R59-40, R59-41, R59-42, R59-47 thru R59-50, R59-55, R59-56, R59-60 thru R59-65, R59-69 thru R59-71, R59-76, R59-77, R59-82 thru R59-84, R59-88 thru R59-94, R59-97 thru R59-102, R59-105 thru R59-109, R59-114 thru R59-118, R59-123 thru R59-128, R59-133 thru R59-137, R59-142 thru R59-145, R59-150, R59-151, R59-157, R59-158, R59-163, R59-164, R59-169, R59-202, R59-209, R59-210, R59-216, R59-217, R59-218, R59-222 thru R59-233, R59-237 thru R59-239, R59-242 thru R59-244, R59-248 thru R59-250, R59-252, and R59-253.

In this stipulation, the relevant military facilities are as follows for the tracts specified. All tracts with the prefix R53-: the Western Space and Missile Center (WSMC), Vandenberg AFB, Lompoc, California; the Pacific Missile Test Center (PITC), Pt. Mugu, California; and the Fleet Area Control and Surveillance Facility (FACSFAC), San Diego, California. Tracts R56-22, R56-30, R56-33 thru R56-39, R56-46 thru R56-51, R56-53 thru R56-66, R56-69 thru R56-71, R56-73 thru R56-76, R56-78 thru R56-83, R56-85 thru R56-99, R56-102, R56-103, R56-105, R56-106, R56-109 thru R56-124, R56-127, R56-128, R59-5, R59-17, R59-32, R59-33, R59-40, R59-41, R59-42, R59-47 thru R59-50, R59-55, R59-56, R59-60 thru R59-65, R59-69 thru R59-71, R59-76, R59-77, R59-82 thru R59-84, R59-88 thru R59-94, R59-97 thru R59-102, R59-105 thru R59-128, R59-133 thru R59-137, R59-142 thru R59-145, R59-150, R59-151, R59-157, R59-158, R59-163, R59-164, R59-169, R59-202, R59-209, R59-210, R59-216, R59-217, R59-218, R59-222 thru R59-233, R59-237 thru R59-239, R59-242 thru R59-244, R59-248 thru R59-250, R59-252, and R59-253: Fleet Area Control and Surveillance Facility, Virginia Capes OPAREA, Naval Air Station Oceana, Virginia Beach, Virginia. Tracts R56-131 thru R56-161: Charleston Operating Area Coordinator, Charleston, South Carolina. Tracts R56-162 thru R56-173, R56-175 thru R56-181, R56-185, R56-186, R56-188 thru R56-286: Fleet Area Control and Surveillance Facility, Jacksonville, Florida.

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the relevant military facility.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes the risk whether such injury or damage is caused

If the results of such surveys suggest the existence of a special biological resource that may be adversely affected by any lease operation, the lessee shall: (1) relocate the site of such operation so as not to adversely affect the resources identified; or (2) establish to the satisfaction of the DMMOFO, on the basis of the site specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist. The DMMOFO will review all data submitted and determine, in writing, whether a special biological resource exists and whether it may be significantly affected by the lessee's operations. The lessee may take no action until the DMMOFO has given the lessee written directions on how to proceed.

(b) The lessee agrees that if any area of biological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DMMOFO, and make every reasonable effort to preserve and protect the biological resource from damage until the DMMOFO has given the lessee directions with respect to its protection.

Stipulation No. 3

(a) To be included in any lease resulting from this sale for tracts: R53-156, R53-157, R53-162, and R53-164.

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portion of this lease block unless or until the lessee has demonstrated to the DMMOFO's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If the results of such surveys suggest the existence of a special biological resource that may be adversely affected by any lease operation, the lessee shall: (1) relocate the site of such operation so as not to adversely affect the resources identified; or (2) establish to the satisfaction of the DMMOFO, on the basis of the site specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist. The DMMOFO will review all data submitted and determine, in writing, whether a special biological resource exists and whether it may be significantly affected by the lessee's operations. The lessee may take no action until the DMMOFO has given the lessee written directions on how to proceed.

(b) To be included in any lease resulting from this sale for tracts: R53-226, R53-227, R53-231, and R53-233.

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DMMOFO's satisfaction that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of submarine canyons or channels, either within or outside of this lease block.

Diego, California, or other appropriate military agency, or higher authority, when national security interests necessitate such action. It is understood that any temporary suspension of operations for national security may not exceed 72 hours; however, any such suspension may be extended by order of the DMOWFO. During such periods equipment may remain in place.

Stipulation No. 6

To be included only in leases resulting from this sale for all tracts with the prefix R53-.

(a) Pipelines will be required: 1) if pipeline rights-of-way can be determined and obtained; 2) if laying of such pipelines is technologically feasible and environmentally preferable; and 3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State and local governments and the industry.

(b) Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMOWFO.

(c) Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1978 (33 U.S.C. 1221 et seq.).

Stipulation No. 7

To be included only in leases resulting from this sale for all tracts with the prefix R53-.

(a) Wells. Subsea well heads and temporary abandonments, or suspended operations that leave protrusions above the sea floor, shall be protected, if feasible and as appropriate, in such a manner as to allow commercial fisheries trawling gear to pass over the structure without snagging or otherwise damaging the structures or the fishing gear. Latitude and longitude coordinates of these structures, along with water depths, shall be submitted to the DMOWFO. The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with accuracy of at least ± 50 feet (15.25 meters) at 200 miles (322 kilometers).

(b) Pipelines. All pipelines, unless buried, including gathering lines, shall have a smooth surface design. In the event that an irregular pipe

in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations and agencies, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual, designated defense warning areas in accordance with requirements specified by the Commander of the relevant military facility to the degree necessary to prevent damage to, or unacceptable interference with Department of Defense flight, testing or operations activities conducted within individual, designated warning areas. Necessary monitoring, control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the Commander of the appropriate onshore military installation conducting operations in the particular warning area: provided, however, that control of such electromagnetic emissions shall permit at least one continuous channel of communication between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

The lessee agrees that prior to operating or causing to be operated on its behalf boat or aircraft traffic into individual, designated warning areas, the lessee shall coordinate and comply with the instructions from the Commander of the relevant military facility, or other appropriate military agency. Such coordination and instruction will provide for positive control of boats and aircraft operating in the warning areas at all times.

Stipulation No. 5

To be included only in leases resulting from this sale for tracts with the prefix R53-.

The lessee, recognizing that mineral exploration and exploitation and recovery operations of the leased areas of submerged lands can impede tactical military operations, hereby recognizes and agrees that the United States reserves and has the right to temporarily suspend operations of the lessee under this lease in the interests of national security requirements. Such temporary suspension of operations, including the evacuation of personnel, and appropriate sheltering of personnel not evacuated (an appropriate shelter shall mean the protection of all lessee personnel for the entire duration of any Department of Defense activity from flying or falling objects or substances), will come into effect upon the order of the DMOWFO, after consultation with the Commander, Western Space and Missile Center (WSMC), Vandenberg AFB, Lompoc, California, the Commander, Pacific Missile Test Center (PMTTC), Pt. Mugu, California, and the Commander, Fleet Area Control and Surveillance Facility (FACSFAC), San

surface is unavoidable due to the need for valves, anodes or other structures, it shall, as appropriate, be protected in such a manner as to allow trawling gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

Stipulation No. 8

To be included only in the leases resulting from this sale for all tracts with the prefix R53-.

The lessee shall include in his exploration and development plans, submitted under 30 CFR 250.34, a proposed fisheries training program for review and approval by the DMOFO. The training program shall be for the personnel involved in vessel operations (related to offshore exploration and development and production operations), and platform and shorebased supervisors. The purpose of the training program shall be to familiarize persons working on the project of the value of the commercial fishing industry, the methods of offshore fishing operations, the potential conflicts between fishing operations and offshore oil and gas activities, the locations of marine mammal and bird rookery sites in the area, the seasonal abundance and sensitivities of these animals to disturbance, and the Federal laws that have been established to protect endangered and threatened species from harassment and injury. The program shall be formulated and implemented by qualified instructors.

Stipulation No. 9

To be included only in the leases resulting from this sale for the fixed sliding scale royalty tracts identified in paragraph 4(c) of this notice.

(a) The royalty rate on production from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, Minerals Management Service may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been under way for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production from the lease area may be taken as royalty in amount, except as provided in sec. 15(d); the royalty on any portion of the production from the lease in excess of 16-2/3 percent may only be taken in value of the production from the lease area.

Stipulation No. 10

This stipulation shall be effective for each tract to which it applies only if the Secretary of the Interior and the Governor of the State of California, prior to the approval of a development and production plan for that tract by the Department of the Interior, enter into an agreement pursuant to section 8(g) of the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. section 1337(g). If such agreement has been entered into, this stipulation is to be applied to leases resulting from this sale for tract R53-233.

(1) No producing well may be drilled where the well bore in the producing intervals is closer to the seaward boundary of the State of California than the distance agreed to between the State and the Department based on analysis of pertinent site-specific data, except that in no event shall the agreed distance be further than 750 feet from the seaward boundary of the State. In the absence of an agreed distance, no well shall be drilled closer than 500 feet to the seaward boundary of the State.

(2) The constraint in paragraph (1) shall not apply:

(a) If oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of California are included in a production unit entered into by the relevant lessees and approved by the lessors, or in a production unit entered into by the Federal lessee and the State of California when it is a carried, non-operating owner.

(b) If, in the absence of a production unit as described in (a) above, the State of California permits production from State lands from a point closer than 750 feet from the Federal-State boundary. In the event that such production from State lands does occur, the Federal lessee shall be allowed to produce from offset wells equally close to the boundary in the area of Federal jurisdiction.

Stipulation No. 11

To be included only in leases resulting from this sale for all tracts with the prefix R56-.

Prior to any drilling activity or the construction or placement of any structure for exploration or development on a lease, including but not limited to well drilling and pipeline and platform placement, the lessee will submit to the DMOFO as part of his exploration and/or development plan a bathymetry map, prepared utilizing remote sensing and/or other survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum of 1,820 m radius of the proposed exploration or production activity site.

For the purpose of this stipulation, live bottom areas are defined as those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or whose lithotype favors the accumulation of turtles, fishes, and other fauna.

If it is determined that the remote sensing data indicate the presence of hard or live bottom areas, the lessee will also submit to the DMOFO photo-documentation of the sea bottom near proposed exploratory drilling sites or proposed platform locations.

If it is determined that live bottom areas might be adversely impacted by the proposed activities, then the DMOFO will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to

environmentally preferable; and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local governments and the industry. Where feasible, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMMOFO. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1978 (33 U.S.C. 1221 et seq.).

Stipulation No. 15

To be included only in leases resulting from this sale for tracts with the prefix R60--.

If the DMMOFO has reason to believe that biological populations or habitats exist and require protection, he shall give the lessee notice that the lessor is invoking the provisions of this stipulation and the lessee shall comply with the following requirements:

Prior to the commencement of any drilling activity, or construction or placement of any structure for exploration or development activity, the lessee shall conduct site-specific environmental surveys or studies, including sampling as approved by the DMMOFO, to characterize existing environmental conditions in an identified zone prior to oil and gas operations, and to determine the extent and composition of biological populations or habitats, and the effects of proposed operations on the populations or habitats which might require additional protective measures. The nature and extent of any such surveys or studies will be determined by the DMMOFO on a case-by-case basis.

Based on any surveys or studies which the DMMOFO may require of the lessee, the DMMOFO may require the lessee to: (1) relocate the site of operations so as not to affect adversely the significant biological populations or habitats deserving protection; (2) modify operations in such a way as not to affect adversely the significant biological populations or habitats deserving protection; or (3) establish to the satisfaction of the DMMOFO that such operations will not adversely affect the significant biological populations or habitats deserving protection. Based on any surveys or studies which the

protect live bottom areas. These measures may include, but are not limited to, the following:

- (a) The relocation of operations to avoid live bottom areas;
- (b) The shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas;
- (c) The transportation of drilling fluids and cuttings to approved disposal sites; and
- (d) The monitoring of live bottom areas to assess the adequacy of any mitigation measures taken and the impact of lessee initiated activities.

Stipulation No. 12

To be included only in leases resulting from this sale for tracts R56-27, R56-117 through R56-119, R56-122 and R56-123.

Portions of this lease may be subject to mass movement of sediments related to unstable slopes with associated shallow faulting. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DMMOFO's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads, and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all such unstable areas must be mapped. The DMMOFO may also require soil testing before exploration and production operations are allowed.

Stipulation No. 13

To be included in any lease resulting from this sale for tracts R56-167, R56-169, R56-171, and R56-172.

The lessee shall conduct remote sensing and/or other surveys as specified by the DMMOFO to determine the existence of any unexploded ordnance. The lessee's report to the DMMOFO should document all indications of magnetic or side scan sonar anomalies on the sea floor.

Stipulation No. 14

To be included in leases resulting from this sale for all tracts with the prefix R56--.

Pipelines will be required: (1) if pipeline rights-of-way can be determined and obtained; (2) if laying such pipelines is technically feasible and

DMOFO may also require of the lessee, the DMOFO may require the lessee to provide for periodic sampling of environmental conditions during operations.

The lessee shall submit all data obtained in the course of such surveys or studies to the DMOFO, with the locational information for drilling or other activity. The lessee may take no action that might result in any effect on the biological populations or habitats surveyed, until the DMOFO provides written directions to the lessee with regard to permissible actions.

In the event that important biological populations or habitats are identified subsequent to commencement of operations, the lessee shall make every reasonable effort to preserve and protect all biological populations and habitats within the lease area, until the DMOFO provides written instructions to the lessee with regard to the biological populations or habitats identified.

Stipulation No. 16

To be included only in leases resulting from this sale for all tracts with the prefix R60--.

The lessee shall include in any exploration and development plans, submitted under 30 CFR 250.34, a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the DMOFO. The program shall be designed to inform each person working on the project of specific types of environmental, social, and cultural concerns which relate to the individual's job. The program shall be formulated by qualified instructors experienced in each pertinent field of study, and shall employ effective methods to insure that personnel are informed of archaeological, geological, and biological resources, including bird colonies and sea mammal concentration areas, to insure the importance of avoidance and non-harassment of wildlife resources is understood.

The program shall be designed to increase the sensitivity and understanding of personnel to the community values, customs, and lifestyles in areas in which such personnel will be operating and shall include information concerning avoidance of conflicts with commercial fishing operations and with commercial fishing gear.

The lessee shall also submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 17

To be included only in leases resulting from this sale for tracts with the prefix R60--.

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or

reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with participation of Federal, State, and local governments and industry.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms, geohazards, fisheries trawling gear, and other hazards as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMOFO.

Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1978 (33 U.S.C. 1221 et seq.).

Stipulation No. 18

To be included only in leases resulting from this sale for all tracts with the prefix R60--.

(a) Wells. Subsea wellheads and temporary abandonments, or suspended operations that leave protrusions above the sea floor, shall be protected, if feasible and as appropriate, in such a manner as to allow commercial fisheries trawling gear to pass over the structure without snagging or otherwise damaging the structures or the fishing gear. Latitude and longitude coordinates of these structures, along with water depths, shall be submitted to the DMOFO. The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with accuracy of at least 50 feet (15.25 meters) at 200 miles (322 kilometers).

(b) Pipelines. All pipelines, unless buried, including gathering lines, shall have a smooth surface design. In the event that an irregular pipe surface is unavoidable due to the need for valves, anodes or other structures, it shall, as appropriate, be protected in such a manner as to allow trawling gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

Stipulation No. 19

To be included only in the leases resulting from this sale for all tracts with the prefix R59--.

If biological populations or habitats which may require additional protection are identified by the DMOFO on any tracts in the leasing area, the DMOFO will require the lessee to conduct environmental surveys or studies, including sampling, as

adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other factors as determined on a case-by-case basis.

Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMOFO. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all applicable sections of Titles 33 and 46 of the U.S. Code and the regulations issued thereunder by the U.S. Coast Guard.

Stipulation No. 21

To be included only in the leases resulting from this sale for all tracts with the prefix R59-.

The DMOFO may require the lessee to dispose of drill cuttings and drilling muds by shunting the material to a depth and location below the ocean surface as specified by the DMOFO, or by transporting the material to disposal sites approved and permitted by appropriate regulatory agencies. After consultation with the appropriate regulatory agencies, the DMOFO shall determine the method of disposal based upon review of relevant sources of information.

Based upon the composition of produced formation waters the site-specific environmental conditions in a leasing area, and data from relevant sources, the DMOFO may require the lessee to reinject formation waters. The DMOFO shall provide written notice to the lessee of a decision to require reinjection of such formation waters.

Stipulation No. 22

To be included only in leases resulting from this sale for tracts R59-47 through R59-253.

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the National Aeronautics and Space Administration (NASA), Wallops Flight Center. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

approved by the DMOFO, to determine existing environmental conditions, the extent and composition of biological populations or habitats, and the effects of proposed or existing operations on the populations or habitats which might require additional protective measures. The DMOFO will give written notification to the lessee of his decision to require such surveys. The nature and extent of any surveys or studies will be determined by the DMOFO on a case-by-case basis.

Based on any surveys or studies which the DMOFO may require of the lessee, the DMOFO may require the lessee to: (1) relocate the site of operations so as not to adversely affect the biological populations or habitats deserving protection; or (2) modify operations in such a way as not to adversely affect the biological populations or habitats deserving protection; or (3) establish to the satisfaction of the DMOFO that such operations will not adversely affect the biological populations or habitats deserving protection.

Operations, including siting, must be conducted to insure the protection and continued viability of the biological populations or habitats deserving protection in a manner consistent with the other purposes of the Outer Continental Shelf Lands Act, as amended.

The lessee will submit all data obtained in the course of such surveys to the DMOFO, with the locational information for drilling or other activity. The lessee may take no action that might affect the biological populations or habitats surveyed, until the DMOFO provides written directions to the lessee, with regard to permissible actions.

In the event that biological populations or habitats deserving protection are identified subsequent to commencement of operations, the lessee shall make every reasonable effort to preserve and protect all biological populations and habitats within the lease area, until the DMOFO provides written instructions to the lessee with regard to the biological populations or habitats identified.

Stipulation No. 20

To be included only in leases resulting from this sale for tracts with the prefix R59-.

Pipelines will be required, (1) if pipeline rights-of-way can be determined and obtained, (2) if laying such pipelines is technologically feasible and environmentally preferable, and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the Intergovernmental Planning Program for Outer Continental Shelf Oil and Gas Leasing, Transportation and Related Facilities, with the participation of Federal and State governments, industry, and private interests. Where feasible and environmentally preferable, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the NASA, Wallops Flight Center, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors or any of their officers, agents, or employees, and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) The lessee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic into the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, shall enter into an agreement with the Director, Wallops Flight Center, prior to commencing such traffic. Such agreement shall provide for positive control of boats, ships, and aircraft operating in the above designated areas and will provide for the avoidance of interference with the programs and activities of the NASA Wallops Flight Center.

(c) Upon recommendation by the Director, Wallops Flight Center, when the activities of the NASA Wallops Flight Center may endanger personnel or property, including any part of the Outer Continental Shelf between the 35th and 39th parallels, the lessee agrees, upon receipt of notice from the DMMOFO, to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within 48 hours or within such longer period as may be specified by the DMMOFO. The DMMOFO shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than 72 hours; however, such period of time may be extended by subsequent notice from the DMMOFO. Equipment and structures may remain in place on the lease during such time as the evacuation remains in effect.

(d) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, in accordance with the requirements specified by the Director, Wallops Flight Center, to the degree necessary to prevent damage to, or unacceptable interference with, the programs and activities of the NASA, Wallops Flight Center.

Stipulation No. 23

Leases for the following tracts will include this stipulation, which will apply only to operations within the designated portions of such tracts:

Tracts Showing Evidence of Mass Movement

Tracts NJ 18-3 (Hudson Canyon)
R59-6 - 733 NW1/4SW1/4, S1/2SE1/4, NE1/4SE1/4

Tracts NJ 18-3 (Hudson Canyon) (Continued)
R59-7 - 734 W1/2SW1/4
R59-8 - 735 SW1/4
R59-13 - 777 N1/2NE1/4
R59-16 - 780 S1/2NW1/4, W1/2SW1/4
R59-17 - 781 SE1/4, E1/2SW1/4, SW1/4SW1/4, S1/2NE1/4, SE1/4NW1/4
R59-24 - 824 S1/2, S1/2N1/2
R59-31 - 867 SE1/4NW1/4, NE1/4SW1/4, S1/2NE1/4, N1/2SE1/4
R59-38 - 910 W1/2NW1/4, NE1/4NW1/4, NE1/4, SE1/4, SE1/4SW1/4
R59-39 - 911 S1/2, S1/2NW1/4, NW1/4NW1/4, S1/2NE1/4, NE1/4NE 1/4
R59-45 - 953 N1/2NE1/4, N1/2SE1/4
R59-46 - 954 NW1/4SW1/4, NE1/4NW1/4, N1/2NE1/4, SE1/4NE1/4
R59-49 - 990 SW1/4NW1/4, N1/2SW1/4
R59-50 - 993 NE1/4SE 1/4

NJ 18-6 (Wilmington Canyon)

R59-55 - 22 E1/2NE1/4
R59-56 - 23 S1/2NW1/4, NW1/4NW1/4, N1/2SW1/4, W1/2SE1/4
R59-61 - 28 SE1/4SE1/4
R59-62 - 63 NE1/4SE1/4
R59-70 - 108 SW1/4NE1/4, NW1/4SE1/4
R59-76 - 114 SW1/4SW1/4
R59-82 - 157 NE1/4NE1/4
R59-135 - 453 SE1/4
R59-136 - 454 S1/2NW1/4
R59-143 - 496 NE1/4SE1/4
R59-144 - 497 NW1/4, NW1/4NE1/4, NW1/4SW1/4
R59-157 - 546 S1/2SW1/4, NE1/4SW1/4
R59-164 - 627 N1/2NW1/4
R59-191 - 800 SW1/4SE1/4
R59-198 - 843 E1/2NW1/4
R59-220 - 975 SW1/4SW1/4

NJ 18-8 (Chincoteague)

R59-228 - 304 SE1/4SE1/4
R59-229 - 305 SW1/4SW1/4
R59-231 - 348 E1/2E1/2

NJ 18-9 (Baltimore Rise)

R59-242 - 50 N1/2NE1/4
R59-244 - 90 SE1/4SW1/4
R59-248 - 133 E1/2NE1/4, NE1/4SE1/4
R59-249 - 134 N1/2, N1/2SW1/4, NW1/4SE1/4

Tracts Showing Evidence of Shallow Faults

NJ 18-3 (Hudson Canyon)

R59-28 - 864 SE1/4NE1/4
R59-38 - 910 S1/2NE1/4, W1/2NW1/4, NW1/4SE1/4
R59-39 - 911 NE1/4NE1/4, S1/2NE1/4, SW1/4SW1/4, E1/2SW1/4, NW1/4SE1/4
R59-45 - 953 NW1/4SW1/4, SW1/4NW1/4, NW1/4NE1/4
R59-46 - 954 NE1/4NE1/4

14. Information to Lessees. With respect to tracts with the prefix R53--, the Department of the Interior will seek the advice of the State of California and other Federal agencies to identify areas of special biological or cultural resources.

Operations on some of the tracts offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.). Such areas might be established, among other reasons, for the purpose of protecting commercial fisheries. Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with a different royalty rate, or a royalty rate based on a sliding scale, or a fixed net profit share.

With respect to leases resulting from this sale for all tracts with the prefix R53--, to reduce the impacts of aircraft disturbances at seabird colonies

Tracts NJ 18-6 (Wilmington Canyon)

R59-114 - 330 N1/2SW1/4, SW1/4SW1/4
R59-123 - 373 NE1/4NE1/4

Portions of this tract may be subject to unstable slopes or shallow faults, (mass movement of sediments). Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DMSOFO's satisfaction that mass movement of sediment is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of instability, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. The extension of these surveys may be required outside of the leased block. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas are allowed, all such unstable areas must be mapped. The DMSOFO may also require soil testing before exploration and production operations are allowed.

Stipulation No. 24

To be included only in leases resulting from this sale for tracts R59-60, R59-61, R59-69, and R59-215.

If the DMSOFO believes any undetonated explosives may exist in a leased tract, the lessee shall conduct surveys as specified by the DMSOFO to determine the location of any undetonated explosives. Upon completion of any such surveys, the lessee shall forward a report and all pertinent data to the DMSOFO for review. Should the DMSOFO determine that the existence of such devices may adversely affect any activity or operation, such as the construction or placement of any structure for exploration or development on the lease, the lessee shall take no action until the DMSOFO has given directions as to the conduct of that operation.

Stipulation No. 25

To be included only in the leases resulting from this sale for the net profit share tracts listed in paragraph 4(d) of this notice.

The net profit share payment specified in sec. 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, no more than 16-2/3 percent of the production from the lease area may be taken in amount, except as provided in sec. 15(d). The net profit share obligations of the lessee shall be calculated to include as a credit, the value of production taken in amount by the lessor.

and marine mammal rookeries along the coast, a distance of at least one mile from the coastline and an altitude of 1,000 feet should be maintained, consistent with aircraft safety, from specific areas to be identified by the DNMFOFO. The lessee is advised that all violations may be reported to the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or the California Department of Fish and Game, as appropriate, for disposition.

Revisions of Department of Labor regulations on Affirmative Action requirements for Government Contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 F.R. 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms described in section 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8 by the Bureau of Land Management, submission of Form 1140-7 (December 1971) and Form 1140-8 (November 1973) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

Notice is hereby given that portions of tracts R53-199, R53-205, R53-212, R53-213, R53-219, R53-221, R53-227, and R53-233 may contain a shallow "bright spot" seismic amplitude anomaly which may be indicative of a shallow gas deposit. Surface occupancy above this anomaly and drilling through the anomaly will not be allowed unless or until the lessee has demonstrated to the DNMFOFO's satisfaction that a potentially hazardous accumulation of shallow gas does not

exist or that exploratory drilling operations, structures (platforms), casing, and wellheads can be placed or drilling plans designed to assure safe operations in the area above the anomaly. This may necessitate that all exploration for and development of oil and gas be performed from locations outside the area of concern, either within or outside this lease block.

In implementing stipulation 8, the DNMFOFO will require that training programs include the locations of marine mammal and bird rookery sites in the area, the seasonal abundance and sensitivities of these animals to disturbance, and the Federal laws that have been established to protect endangered and threatened species from harassment and injury.

With respect to tracts with the prefix R56-, the Department of the Interior will seek the advice of the States of North Carolina, South Carolina, Georgia, and Florida, and other Federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources. If it is determined that live bottom areas might be adversely affected by the proposed activities, then the DNMFOFO, in consultation with the Regional Director, Fish and Wildlife Service (FWS), the States, EPA, and other Federal agencies with jurisdiction and expertise to protect the environment, will require the lessee, pursuant to Section 5(a) of the OCS Lands Act, as amended, to undertake any measures to protect live bottom areas.

With respect to leases resulting from this sale for all tracts with the prefix R56-, bidders are advised that the West Indian manatee is a marine mammal which is officially listed as an Endangered Species by the Department of the Interior. It is protected by the Endangered Species Act of 1973, as amended (87 Stat. 884, 16 U.S.C. 1531-1543), and the Marine Mammal Protection

colonies or marine mammal rookeries. Therefore, in concurrence with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, it is recommended that aircraft or vessels operated by lessees maintain at least a 1-mile distance from observed wildlife or known wildlife concentration areas. Human safety will take precedence at all times over distances recommended herein for avoidance or disturbance of wildlife. Maps locating major wildlife concentration areas are available through the DMOFO and appropriate resource agencies.

With respect to leases resulting from this sale for all tracts with the prefix R60-, bidders are advised that the State of Alaska will be consulted by the DMOFO throughout the stages of OCS development. In addition to State involvement in the Intergovernmental Planning Program (IPP), the Scientific Committee of the OCS Advisory Board, and the review of exploration and development plans, the DMOFO may involve the State in the implementation of Stipulation 15.

With respect to leases resulting from this sale for all tracts with the prefix R59-, bidders are advised that: In the enforcement of Stipulation No. 19, the DMOFO will receive recommendations from the Biological Task Force (BTF) composed of designated representatives of the Minerals Management Service, Fish and Wildlife Service, the National Marine Fisheries Service, and the Environmental Protection Agency. The task force may consult with representatives of the affected States before making recommendations to the DMOFO. It is intended that this ETF will remain in existence throughout the operating life of the field. The DMOFO will consult with the ETF in identifying areas or resources of biological importance, on the conduct of the biological surveys by lessees, and on the appropriate course of action after the surveys have been conducted. In a memorandum to the DMOFO (April 9, 1980), the Biological Task Force identified

Act of 1972, as amended (86 Stat. 1027, 16 U.S.C. 1361-1407), and various other State and Federal laws and regulations. On October 22, 1979, (44 FR 60963) Interior promulgated regulations (50 CFR 17.100-17.108) providing a means for establishing manatee protection areas. Also, the Florida Manatee Sanctuary Act of 1978 declares the entire State of Florida a "refuge and sanctuary for the manatees." A cooperative agreement between Interior and Florida on endangered species became effective on June 23, 1976. A similar cooperative agreement with the State of Georgia became effective on October 6, 1977.

For those tracts listed in paragraph 13(a) above providing for leases with an initial period of more than five years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to the DMOFO either an exploration plan or a general statement of exploration intentions prior to the end of the ninth lease year.

With respect to leases resulting from this sale for all tracts with the prefix R60-, bidders are advised that the conduct of all activities related to leases issued as a result of this lease sale, the lessee and its agents, contractors, and subcontractors will be subject to the provisions of the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, as amended, and International Treaties. Violations of these Acts and Treaties may be reported to the National Marine Fisheries Service or U.S. Fish and Wildlife Service, as appropriate. The lessee or his contractors should be aware that disturbance of wildlife could be determined to constitute harassment, and thereby be in violation of existing laws. Behavioral disturbance of most birds and mammals found in or near the sale 60 area would be unlikely if ocean vessels and aircraft maintained at least a 1-mile distance from observed wildlife or known wildlife concentration areas such as bird

submarine canyons as areas of biological concern for which it may recommend biological surveys or other monitoring programs. Lack of available "site-specific" information precludes the identification at this time of specific lease tracts for which such studies will or will not be recommended. Based on information generated from on-going canyon studies and on the level of drilling activity at a given time, the Task Force will determine on a case-by-case basis whether or not to recommend biological studies or monitoring programs prior to or during exploration and/or production-related OCS operations in or adjacent to submarine canyons.

With respect to leases resulting from this sale on tracts R59-33, R59-34, R59-35, R59-38, R59-39, R59-41, R59-42, R59-45, R59-46, R59-50, R59-53, R59-54, R59-60, R59-61, R59-69, R59-75, R59-76, and R59-82, the following requirement will apply: At least 20 days prior to moving a rig on-site, the lessee must notify the Chief, Marine and Wetlands Protection Branch, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Suite 1642, New York, New York 10278, in writing, stating on what date a rig is to be moved on-site.

With respect to leases resulting from the sale for all tracts with the prefix R59-, lessees are encouraged to include a fisheries training program in their exploration and development plans. This training program should be designed to familiarize platform and shore based supervisors and persons involved in vessel operations with the value of the commercial fishing industry, the methods of offshore fishing operations, and the potential hazards, conflicts, and impacts resulting from offshore oil and gas activities. This program should be formulated and implemented by qualified and experienced instructors in fishing activities, methods of communication, and navigational safety.

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15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all relevant OCS Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.


Director, Minerals Management Service
Harold E. Doley, Jr.

Approved: JUN 28 1982


Under Secretary of the Interior
Donald P. Hodel

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Central and Northern California, South Atlantic,
Lower Cook Inlet/Shelikof Strait and Mid-Atlantic

Notice of Leasing Systems, Sale No. RS-2

Sec. 8(a)(8) (43 U.S.C. 1337 (a)(8)) of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

- (A) identifying the bidding systems to be used and the reasons for such use; and
- (B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

A. Bidding systems to be used. In OCS Sale No. RS-2, tracts will be offered under the following four bidding systems as authorized by Sec. 8(a)(1) (43 U.S.C. 1337 (a)(1)): (1) bonus bidding with a fixed 16-2/3 percent royalty on 210 tracts, (2) bonus bidding with a fixed 12-1/2 percent royalty on 161 tracts, (3) bonus bidding with a sliding scale royalty on 17 tracts, and (4) bonus bidding with a fixed net profit share on 166 tracts.

(1) Bonus Bidding with a 16-2/3 Percent Royalty. This system is authorized by Sec. (8)(a)(1)(A) of the OCS Lands Act, as amended. This system has been used extensively since the passage of the OCS Lands Act in 1953 and imposes greater risks on the lessee than systems with higher contingency payments, but may yield more rewards if a commercial field is discovered. The relatively high front-end payments required may encourage rapid exploration.

(2) Bonus Bidding with a 12-1/2 Percent Royalty. This system is authorized by Sec. (8)(a)(1)(A) of the OCS Lands Act, as amended. This system has been chosen for certain deep water tracts proposed for Sale RS-2 because these tracts are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow water tracts. DOI analyses indicate that the minimum economically developable discovery on a tract in such deepwater areas under a fixed 12-1/2 percent royalty system would be less than for the same tracts under a 16-2/3 percent royalty system. As a result, more tracts may be explored and developed. In addition, the lower royalty rate system is expected to yield more rapid production rates and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary restraints to competition.

(3) Bonus Bidding with a Sliding Scale Royalty. This system is authorized by Sec. (8)(a)(1)(C) of the OCS Lands Act, as amended. The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates. As such, the expected bonus is reduced compared to a fixed one-sixth royalty system. This may improve competition for leases, and also tends to reduce the likelihood of production losses that could result if higher royalty rates are set by other means, such as royalty bidding, prior to reservoir delineation and production. The sliding scale formula provided for Sale RS-2 is based on the current assumed range of costs and wellhead prices for this area.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to \$14,787,863 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$14,787,864 million, but less than or equal to \$1197,206,141 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b [\ln (V_j/S)]$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$$b = 11.0$$

$\ln$ = natural logarithm

V_j = the value production in quarter j , adjusted for inflation, in millions of dollars

$$S = 3.25$$

When the adjusted quarterly value of production is equal to or greater than \$1197,206,142 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding June, 1981. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64.

(4) Bonus Bidding with a Fixed Net Profit Share. This system is authorized by Sec. (8)(a)(1)(D) of the OCS Lands Act, as amended. This system was established by Department of Energy (DOE) regulations effective May 14, 1980 (45 Fed. Reg. 36784 May 30, 1980). This system has been used in ten previous OCS sales. The profit share system designed for this sale may increase competition by generating greater contingency payments to the Government and thereby reducing the initial cash bonus. It may also increase the volume of production because certain allowable capital costs can be deducted prior to any liability for profit share payments. In addition, the profit share system may foster the development of marginal fields when compared to a royalty system since the Government shares more of the risk and the lessees' incremental costs are lower in the presence of a capital recovery.

A profit share system which uses cash bonus as the bid variable avoids

percentage bids at high levels which would make future development either economically inefficient or simply uneconomic. In addition, it is easier to administer and unitize adjacent tracts with similar profit share rates. Furthermore, a fixed profit share better assures that firms who can produce at lower costs are more likely to obtain leases than would be the case if it were possible for less efficient firms to simply bid away higher percentages of lower profits.

For 83 tracts, firms will be permitted a capital recovery factor of 1.50 over their actual allowable costs before any profit share payments are due. The profit share rate for these tracts is 30 percent. Forty-one tracts will have a capital recovery factor of 0.50 and a profit share rate of 45 percent. Forty-two tracts will have a capital recovery factor of 0.75 and a profit share rate of 40 percent. These parameters were selected on the basis of DOE and DOI studies regarding the effect on bonuses, profit-share payments, Government receipts, gross production, minimal economic tract sizes and particularly on the incentive to alter the production profile.

(B) Designation of Tracts. The selection of tracts to be offered under the four systems was based on the following factors:

- (1) As a rule, tracts are to be offered using the same bidding system as was designated for these tracts at the preceding sale during calendar year 1981.
- (2) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.
- (3) Generally, tracts in deep water were selected for 1/8 royalty based on the favorable performance of this system in these high cost areas.

The specific tracts to be offered under each system are as follows:

- (a) Bonus Bidding with a 16-2/3 Percent Royalty--Tracts R53-156, R53-157, R53-162, R53-164, R53-169 thru R53-171, R53-176, R53-190, R53-191, R56-189 thru R56-286, R60-1 thru R60-17, R60-19, R60-21 thru R60-23, R60-26 thru R60-72, R60-86 thru R60-110, R60-112, R60-113, R60-115, R60-116, R60-153, R59-1, R59-25, R59-62, and R59-222.
- (b) Bonus Bidding with a 12-1/2 Percent Royalty--Tracts R56-22, R56-26, R56-27, R56-30, R56-33 thru R56-39, R56-46 thru R56-51, R56-53 thru R56-66, R56-69 thru R56-71, R56-73 thru R56-76, R56-78, R56-79, R56-162 thru R56-173, R59-2, R59-3, R59-5 thru R59-9, R59-11 thru R59-13, R59-16 thru R59-20, R59-24, R59-26 thru R59-28, R59-31 thru R59-35, R59-38 thru R59-42, R59-45 thru R59-50, R59-53 thru R59-56, R59-60, R59-61, R59-63 thru R59-65, R59-69 thru R59-71, R59-76, R59-77, R59-82 thru R59-84, R59-88 thru R59-94, R59-97 thru R59-102, R59-105, R59-114, R59-123, R59-126 thru R59-128, R59-196 thru R59-202, R59-206, R59-209 thru R59-212, R59-215 thru R59-221, R59-223 thru R59-233, R59-237 thru R59-239, R59-242 thru R59-244, R59-248 thru R59-250, R59-252 and R59-253.
- (c) Bonus Bidding with a Sliding Scale Royalty--Tracts R53-197 thru R53-199, R53-204, R53-211 thru R53-213, R53-218 thru R53-221, R53-225 thru R53-227, R53-231, and R53-233.
- (d) Bonus Bidding with a Fixed Net Profit Share--All remaining tracts.


Director, Minerals Management Service
Harold E. Doley, Jr.

Approved:  JUL 2 1982


Under Secretary of the Interior
Donald Paul Hodel

[FR Doc. 82-18045 Filed 7-1-82; 8:45 am]

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Best Interest Federal Reserve

Friday
July 2, 1982

Part V

Federal Trade Commission

Premarmer Notification Program;
Paperwork Burden

FEDERAL TRADE COMMISSION

16 CFR Parts 801, 802 and 803

Premerger Notification Program;
Paperwork Burden

AGENCY: Federal Trade Commission.

ACTION: Notice of request for comments.

SUMMARY: The purpose of this notice of request for comments by the Federal Trade Commission is to incorporate public views on the operation of the Hart-Scott-Rodino premerger notification program prior to formulating specific proposals. The Federal Trade Commission, with the concurrence of the Assistant Attorney General for Antitrust, has several times amended the rules in order to improve the program's effectiveness and lessen the burden of complying with the rules. This review of the program is principally directed toward reducing the cost to the public of complying with the rules.

DATES: Comments must be received on or before August 2, 1982.

ADDRESSES: Written comments should be submitted to both (1) the Secretary, Federal Trade Commission, Room 172, Washington, D.C. 20580 and (2) the Assistant Attorney General, Antitrust Division, Department of Justice, Room 3214, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Roberta S. Baruch, Attorney or Kenneth M. Davidson, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580. Telephone: (202) 523-3404.

SUPPLEMENTARY INFORMATION: In furtherance of the effort to reduce the overall paperwork burden imposed by the Hart-Scott-Rodino premerger notification rules, the staff of the Federal Trade Commission has developed information relevant to the operation of the rules and has considered preliminarily four approaches to lessening the burden.

This notice is divided into three parts. Part One describes the development of the notification rules. Part Two provides tables summarizing enforcement activities of the Federal Trade Commission and the Department of Justice and premerger notification filings received during 1981. Part Three presents the four approaches to reducing the paperwork burden—raising the dollar reporting thresholds, establishing higher dollar reporting thresholds for specific industries, eliminating subsequent notification requirements for certain transactions and permitting incorporation by reference in relating

transactions—and a preliminary discussion of the merits of these approaches.

Part One

Background. In 1976, the Congress enacted section 7A of the Clayton Act (the Hart-Scott-Rodino Antitrust Improvement Act of 1976, 15 U.S.C. 18a) to improve the effectiveness of antitrust enforcement. Previously the antitrust agencies often lacked the necessary information and sufficient time to obtain an adequate remedy for an illegal acquisition. The Federal Trade Commission has summarized congressional objectives of the Act:

[T]he Act requires that the agencies receive prior notification of significant acquisitions between sizeable parties, provides certain tools to facilitate a prompt but thorough investigation, assures an opportunity to seek a preliminary injunction before the parties are legally free to complete the transaction and eliminates the problem of unscrambling the assets when one of the agencies obtains an order enjoining consummation of the acquisition. (Third Annual Report to Congress by the Federal Trade Commission pursuant to section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, dated December 31, 1979, at p. 2).

The premerger notification rules (16 CFR Parts 801, 802, and 803) closely track the specific provisions of the Act. The statutory limits on the size of persons and transactions subject to the reporting requirements were incorporated into the original rules, along with the categorical exemptions listed in the Act. Since then, pursuant to their authority under section 7A of the Clayton Act (15 U.S.C. 18a(d)(2)(B)), the antitrust enforcement agencies have adopted additional exemptions to reduced the compliance burden.

The Act exempts two categories of transactions that are unlikely to result in antitrust violations. One kind is defined in terms of the size—i.e., the dollar value of the parties and of the transaction. The second kind is based on the nature of the transaction. For example, acquisitions of goods or realty in the ordinary course of business, limited acquisitions of or by foreign persons, and certain acquisitions in regulated industries are exempt under the Act.

During the three years that the premerger program has been in operation, the Commission has taken several steps to reduce the reporting burden.

- On November 19, 1979 (44 FR 66782), the Commission amended the premerger rules to exempt many acquisitions valued at less than \$15 million, so that smaller transactions

covered by the Act—but generally unlikely to raise antitrust concerns—no longer have to be reported. 16 CFR 802.20.

- On April 7, 1981, the Bureau of Competition issued a formal interpretation permitting reporting parties to incorporate by reference certain documents they may have submitted with a previous filing. CCH Trade Regulation Reporter ¶ 42,475. (This change is also included in the recently proposed amendments to the premerger rules.)

- In response to suggestions from the public, the Bureau of Competition has changed the format of the report form to make it more convenient to use. In addition, this new form further reduces the number of documents that must be submitted with the filing, reflecting the staff's experience that certain documents are not likely to contain information important to antitrust enforcement decisions.

In addition to the steps already taken to reduce the reporting burden, the Commission also has proposed additional ways to reduce the burden. On July 29, 1981, the Commission published for comment a notice of proposed rulemaking (46 FR 38710) that would exempt certain transactions that are reviewed by federal regulatory agencies from the premerger reporting requirements.

Under the proposal, the following transactions would be exempted from the reporting requirement:

- Certain transactions that require approval by the Civil Aeronautics Board.
- Certain transactions that require the consent or approval of the appropriate regulatory agency under the Change in Bank Control Act or the Change in Savings and Loan Control Act.

The quantity of information that must be submitted by filing persons would be reduced as follows:

- Copies of documents that were prepared for the Securities and Exchange Commission and were submitted with a previous filing could be incorporated by reference in a subsequent filing by the same person.
- Registration statements filed with the Securities and Exchange Commission that do not directly relate to the transaction being reported would not have to be submitted.

The final form of these rules is currently being reviewed. That form will reflect both the comments received on the proposed rules and the results of an independent study of the premerger rules conducted by Professor Samuel C. Thompson of the University of Virginia.

Professor Thompson's study, *Evaluation of the Premerger Notification Program*, is available from the Federal Trade Commission which funded the study.

The Federal Trade Commission's premerger notification office has begun a project to lessen the burden of complying with the notification rules for persons who are unfamiliar with the rules. The premerger notification office is preparing two sets of introductory materials. One set will explain in simplified terms what transactions are subject to the prior notification requirements of the rules, and will provide references to key sections of the rules. The other will explain in basic terms how to fill out the notification form and provide examples of common entries. The Commission welcomes suggestions from the public on topics to be included in these introductory materials.

The Federal Trade Commission also welcomes comments on the information contained in Part Two and the questions raised in Part Three of this notice.

Part Two

A. A Profile of Premerger Notification Transactions and Preliminary Enforcement Activities During 1981

The tables in this section provide a statistical profile of merger and acquisition transactions that were subject to filing requirements during 1981. The transactions have been grouped according to various criteria (e.g., size of transaction, size of acquiring firm, percentage of voting securities acquired and industry grouping). The various criteria are compared in the tables with the level of enforcement interest as indicated by a "clearance" or a "second request."

The measures of enforcement interest chosen reflect the division of enforcement authority between the Federal Trade Commission and the

Department of Justice and the investigatory authority conferred by the Hart-Scott-Rodino amendments. All premerger notification filings are sent to both agencies because both have authority under the Clayton Antitrust Act to prevent unlawful transactions and each agency briefly reviews all filings. If either or both agencies decide the transaction should be scrutinized more closely then a "clearance" process is undertaken to insure that only one agency will proceed with an investigation. If further analysis suggests the possibility of an antitrust violation, the investigating agency will typically utilize the premerger act's authority to issue a request for additional information ("second request") to the parties to the transaction.

"Clearance" and "second requests" have been chosen as measures of enforcement interest rather than lawsuits brought or won or settlements agreed upon for two reasons. First, the number of instances in which lawsuits are instituted or settlements are reached are too few to draw conclusions about the relevance of the various criteria. Second, and more importantly, the purpose of the Hart-Scott-Rodino amendments was to provide premerger scrutiny of those transactions that are likely to violate the antitrust laws. The universe of transactions that ought to receive close review corresponds most closely to those where clearance has been granted or a second request has issued.

The current universe of transactions for specific industries is too small to suggest any pattern of enforcement activity by size of transaction. Accordingly the tables only detail enforcement activity by industry group.

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TABLE I

ACQUISITIONS BY SIZE OF TRANSACTION, 1/ 1981
(By Size Range)

Transaction Range (\$ Millions)	H-S-R Transactions		Clearance Granted to FTC or DOJ				Second Requests Issued			
	Number	Percent	Number	FTC	DOJ	Percent	Number	FTC	DOJ	Percent
	2/	3/				4/				
Less than 15	87	11.4	7	3	8.0	3.4	2	1	2.3	1.1
15 up to 25	173	22.7	13	12	7.5	6.9	9	6	5.2	3.5
25 up to 50	207	27.2	23	18	11.1	8.7	6	7	2.9	3.4
50 up to 100	125	16.4	18	9	14.4	7.2	12	5	9.6	4.0
100 up to 150	53	7.0	6	3	11.3	5.7	4	-	7.5	-
150 up to 200	24	3.1	6	2	25.0	8.3	2	-	8.3	-
200 up to 300	34	4.5	9	4	26.5	11.8	6	1	17.6	2.9
300 up to 500	23	3.0	10	3	43.4	13.0	4	3	17.4	13.0
500 up to 1000	18	2.4	6	3	33.3	16.7	3	2	16.7	11.1
1000 and up	18	2.4	6	5	33.3	27.8	3	2	16.7	11.1
All Transactions	762	100.0	104	62	13.6	8.1	51	27	6.7	3.5

1/ The size of transaction is based on the aggregate total amount of voting securities and assets to be held by the acquiring person as a result of the transaction and is taken from the response to Item 3(c) of the premerger notification and report form.

2/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c) (6) and 7A(c) (8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

3/ Percentage of total transactions.

4/ Percentage of transaction range group.

Note: Detail may not add to total due to rounding.

TABLE II
ACQUISITIONS BY SIZE OF TRANSACTION 1/, 1981
(Cumulative)

Transaction Amount (\$ Million)	H-S-R Transactions		Clearance Granted to FTC or DOJ			Second Requests Issued		
	Number	Percent	Number	Percentage of		Number	Total Number of	
				FTC	DOJ		FTC	DOJ
Less than 15	87	11.4	7	4.2	1.8	2	2.6	1.3
Less than 25	260	34.1	20	12.0	9.0	11	14.1	9.0
Less than 50	467	61.3	43	25.9	19.9	17	21.8	17.9
Less than 100	592	77.7	61	36.7	25.3	29	37.2	24.4
Less than 150	645	84.6	67	40.4	27.1	33	42.3	24.4
Less than 200	669	87.8	73	44.0	28.3	35	44.9	24.4
Less than 300	703	92.3	82	49.4	30.7	41	52.6	25.6
Less than 500	726	95.3	92	55.4	32.5	45	57.7	29.5
Less than 1000	744	97.6	98	59.0	34.3	48	61.5	32.1
All transactions	762	100.0	104	62.7	37.3	51	65.4	34.6

1/ The size of transaction is based on the aggregate total amount of voting securities and assets to be held by the acquiring person as a result of the transaction and is taken from the response to item 3(c) of the premerger notification and report form.

2/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c) (6) and 7A(c) (8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a) (4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

Note: Detail may not add to total due to rounding.

TABLE III
TRANSACTIONS INVOLVING THE GRANTING OF CLEARANCE BY AGENCY, 1981

Transaction Range (\$ Millions)	Clearance Granted By Agency			Clearance Granted as a Percentage of:						Total Number of Clearances Granted		
	FTC	DOJ	Total	Total Number of Transactions 1/		Each Transaction Range Group 2/		Total Number of Clearances Granted		FTC	DOJ	Total
				FTC	DOJ	FTC	DOJ	FTC	DOJ			
Less than 15	7	3	10	0.9	0.4	1.3	8.0	3.4	11.5	4.2	1.8	6.0
15 up to 25	13	12	25	1.7	1.6	3.3	7.5	6.9	14.5	7.8	7.2	15.1
25 up to 50	23	18	41	3.0	2.4	5.4	11.1	8.7	19.8	13.9	10.8	24.7
50 up to 100	18	9	27	2.4	1.2	3.5	14.4	7.2	21.6	10.8	5.4	16.3
100 up to 150	6	3	9	0.8	0.4	1.2	11.3	5.7	17.0	3.6	1.8	5.4
150 up to 200	6	2	8	0.8	0.3	1.0	25.0	8.3	33.3	3.6	1.2	4.8
200 up to 300	9	4	13	1.2	0.5	1.7	26.5	11.8	38.2	5.4	2.4	7.8
300 up to 500	10	3	13	1.3	0.4	1.7	43.4	13.0	56.5	6.0	1.8	7.8
500 up to 1000	6	3	9	0.8	0.4	1.2	33.3	16.7	50.0	3.6	1.8	5.4
1000 and up	6	5	11	0.8	0.7	1.4	33.3	27.8	61.1	3.6	3.0	6.6
All Clearances	104	62	166	13.6	8.1	21.8	13.6	8.1	21.8	62.7	37.3	100.0

1/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

2/ Percentages also appear in TABLE I.

Note: Detail may not add to total due to rounding.

TABLE IV
TRANSACTIONS INVOLVING THE ISSUANCE OF SECOND REQUESTS, 1981

Transaction Range (\$ Millions)	Transactions Involving the Issuance of Second Requests			Second Requests Issued as a Percentage of:						Total Number of Second Requests		
	FTC	DOJ	Total	Total Number of Transactions 1/ Transaction Range Group 2/			Transactions In Each Transaction Range Group 2/			FTC	DOJ	Total
				FTC	DOJ	Total	FTC	DOJ	Total			
Less than 15	2	1	3	0.3	0.1	0.4	2.3	1.1	3.4	2.6	1.3	3.8
15 up to 25	9	6	15	1.2	0.8	2.0	5.2	3.5	8.7	11.5	7.7	19.2
25 up to 50	6	7	13	0.8	0.9	1.7	2.9	3.4	6.3	7.7	9.0	16.7
50 up to 100	12	5	17	1.6	0.7	2.2	9.6	4.0	13.6	15.4	6.4	21.8
100 up to 150	4	-	4	0.5	-	0.5	7.5	-	7.5	5.1	-	5.1
150 up to 200	2	-	2	0.3	-	0.3	8.3	-	8.3	2.6	-	2.6
200 up to 300	6	1	7	0.8	0.1	0.9	17.6	2.9	20.6	7.7	1.3	9.0
300 up to 500	4	3	7	0.5	0.4	0.9	17.4	13.0	30.4	5.1	3.8	9.0
500 up to 1000	3	2	5	0.4	0.3	0.7	16.7	11.1	27.8	3.8	2.6	6.4
1000 and up	3	2	5	0.4	0.3	0.7	16.7	11.1	27.8	3.8	2.6	6.4
All Transactions	51	27	78	6.7	3.5	10.2	6.7	3.5	10.2	65.4	34.6	100.0

1/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

2/ Percentages also appear in TABLE I.

Note: Detail may not add to total due to rounding.

TABLE V
ACQUISITIONS BY REPORTING THRESHOLD, 1981

Threshold	H-S-R Transactions		Clearance Granted to FTC or DOJ				Second Requests Issued			
	Number	1/ Percent	Percentage of		Number	Percentage of	Percentage of		Number	Percentage of
			FTC	DOJ	FTC	DOJ	FTC	DOJ	FTC	DOJ
\$15 Million	20	2.6	1	5.0	1	5.0	-	-	-	-
150	48	6.3	9	18.8	4	8.3	27.1	5	1	10.4
250	41	5.4	5	12.2	2	4.9	17.1	2	-	4.9
500	470	61.7	63	13.4	34	7.2	20.4	24	14	5.1
Assets Only	183	24.0	26	14.2	22	12.0	26.2	20	12	10.9
All Transactions	762	100.0	104	13.6	62	8.1	21.8	51	27	6.7
										3.5
										10.2

1/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

Note: Detail may not add to total due to rounding.

TABLE VI
TRANSACTIONS BY ASSETS OF ACQUIRING PERSONS, 1981

Asset Range (\$ Millions)	H-S-R Transactions		Clearance Granted to FTC or DOJ			Second Requests Issued		
	Number	1/ Percent	Number FTC	DOJ	Percentage of Asset Range Group FTC DOJ Total	Number FTC	DOJ	Percentage of Asset Range Group FTC DOJ Total
Less than 15	13	1.7	-	-	-	-	-	-
15 up to 25	10	1.3	1	-	10.0	1	-	10.0
25 up to 50	28	3.7	1	4	3.6 14.3 17.9	1	3	3.6 10.7 14.3
50 up to 100	43	5.6	4	5	9.3 11.6 20.9	-	2	- 4.7 4.7
100 up to 150	49	6.4	5	5	10.2 10.2 20.4	3	-	6.1 - 6.1
150 up to 200	39	5.1	5	2	12.8 5.1 17.9	2	-	5.1 - 5.1
200 up to 300	52	6.8	8	4	15.4 7.7 23.1	2	1	3.8 1.9 5.8
300 up to 500	86	11.3	4	6	4.7 7.0 11.6	2	5	2.3 5.8 8.1
500 up to 1000	112	14.7	11	8	9.8 7.1 17.0	5	3	4.5 2.7 7.1
1000 and up	320	42.0	64	27	20.0 8.4 28.4	35	12	10.9 3.8 14.7
Assets not available	10 2/	1.3	1	1	10.0 10.0 20.0	-	1	- 10.0 10.0
All Transactions	762	100.0	104	62	13.6 8.1 21.8	51	27	6.7 3.5 10.2

1/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

2/ This category is made up of 9 acquiring individuals whose assets could not be accurately determined based on the submitted documents and a foreign acquiring person wholly-owned by a foreign government.

Note: Detail may not add to total due to rounding.

TABLE VII
TRANSACTIONS BY SALES OF ACQUIRING PERSONS, 1981

Sales Range (\$ Millions)	H-S-R Transactions		Clearance Granted to FTC or DOJ			Second Requests Issued		
	Number	Percent	Number FTC DOJ	FTC	DOJ	Number FTC DOJ	FTC	DOJ
Less than 15	22	2.9	1	-	4.5	1	-	4.5
15 up to 25	17	2.2	-	1	-	-	1	-
25 up to 50	22	2.9	-	1	-	-	-	-
50 up to 100	36	4.7	-	2	-	-	2	-
100 up to 150	50	6.6	6	6	12.0	1	2	2.0
150 up to 200	28	3.7	-	5	-	-	-	-
200 up to 300	60	7.9	7	3	11.7	5	1	8.3
300 up to 500	69	9.1	8	5	11.6	2	3	2.9
500 up to 1000	96	12.6	14	5	14.6	7	3	7.3
1000 and up	338	44.4	68	33	20.1	35	14	10.4
Sales not available	24 2/	3.1	-	1	-	-	1	-
All Transactions	762	100.0	104	62	13.6	51	27	6.7

1/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

2/ Transactions in this category include acquiring individuals whose sales could not be accurately determined, newly formed acquiring companies and foreign companies with no U.S. operations.

Note: Detail may not add to total due to rounding.

TABLE VIII
TRANSACTIONS BY ASSETS OF ACQUIRED ENTITY 1/, 1981

Asset Range (\$ Millions)	H-S-R Transactions		Clearance Granted to FTC or DOJ					Second Requests Issued				
	Number	Percent	Number	Percentage of			Number	Percentage of				
				FTC	DOJ	Total		FTC	DOJ	Total		
Less than 15	83	10.9	4	3	4.8	3.6	8.4	2	2	2.4	2.4	4.8
15 up to 25	108	14.2	10	10	9.3	9.3	18.5	6	4	5.6	3.7	9.3
25 up to 50	145	19.0	16	15	11.0	10.3	21.4	7	6	4.8	4.1	9.0
50 up to 100	117	15.4	18	8	15.4	6.8	22.2	10	3	8.5	2.6	11.1
100 up to 150	58	7.6	10	1	17.2	1.7	19.0	6	-	10.3	-	10.3
150 up to 200	28	3.7	3	4	10.7	14.3	25.0	1	2	3.5	7.1	10.7
200 up to 300	46	6.0	8	3	17.4	6.5	23.9	5	1	10.9	2.2	13.0
300 up to 500	39	5.1	6	3	15.4	7.7	23.1	2	1	5.1	2.6	7.7
500 up to 1000	43	5.6	7	4	16.3	9.3	25.6	3	4	7.0	9.3	16.3
1000 and up	56	7.3	14	6	25.0	10.7	35.7	7	2	12.5	3.6	16.1
Assets not available	39 3/	5.1	8	5	20.5	12.8	33.3	2	2	5.1	5.1	10.3
All Transactions	762	100.0	104	62	13.6	8.1	21.8	51	27	6.7	3.5	10.2

1/4(a) or 4(b) (SEC documents and annual reports) of the premerger notification and report form. (Assets to be Acquired) or from items

2/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction filed notification); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple party transactions (transactions involving two or more acquiring or acquired persons).

3/ For thirty-three of these transactions the value of the assets up the entity being acquired is not available. The other six transactions involve the formation of joint ventures, none of which had any assets.

Note: Detail may not add to total due to rounding.

TABLE IX
TRANSACTIONS BY SALES OF ACQUIRED ENTITY 1/1, 1981

Sales Range (\$ Millions)	H-S-R Transactions		Clearance Granted to FTC or DOJ				Second Request Issued					
	Number	Percent	Percentage of		Number	Sales Range		Percentage of		Number	Sales Range	
			FTC	DOJ		FTC	DOJ	FTC	DOJ		FTC	DOJ
Less than 15	90	11.8	6	2	6.7	2.2	8.9	2	1	2.2	1.1	3.3
15 up to 25	73	9.6	8	3	11.0	4.1	15.1	6	1	8.2	1.4	9.6
25 up to 50	140	18.4	8	13	5.7	9.3	15.0	2	5	1.4	3.6	5.0
50 up to 100	141	18.5	20	12	14.2	8.5	22.7	10	6	7.1	4.3	11.3
100 up to 150	48	6.3	7	6	14.6	12.5	27.1	4	3	8.3	6.2	14.6
150 up to 200	31	4.1	4	3	12.9	9.7	22.6	3	-	9.7	-	9.7
200 up to 300	30	3.9	8	1	26.7	3.3	30.0	2	-	6.7	-	6.7
300 up to 500	47	6.2	12	7	25.5	14.9	40.4	8	2	17.0	4.3	21.3
500 up to 1000	46	6.0	12	3	26.1	6.5	32.6	4	3	8.7	6.5	15.2
1000 and up	64	8.4	14	8	21.9	12.5	34.4	7	4	10.9	6.2	17.2
Sales not available	52 3/	6.8	5	4	9.6	7.7	17.3	3	2	5.8	3.8	9.6
All Transactions	762	100.0	104	62	13.6	8.1	21.8	51	27	6.7	3.5	10.2

1/ The sales of the acquired entity were taken from responses to items 5 (dollar revenues) and items 4(a) and 4(b) (SEC documents and annual reports) of the premerger notification and report form.

2/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

3/ Transactions in this category are represented by the acquisition of newly formed corporations or corporate joint ventures from which no sales have been generated and the acquisition of assets which had produced no sales or revenues.

Note: Detail may not add to total due to rounding.

TABLE X
INDUSTRY GROUP OF ACQUIRING PERSON AND ACQUIRED ENTITY, 1981

2-Digit FIC Code 1/	Industry Description	Acquiring Person			Second Requesta			Number 2/			Clearance Granted			Acquired Entity			Number of 2-Digit Intra-Industry Transactions
		FIC	DOJ	Total	FIC	DOJ	Total	FIC	DOJ	Total	FIC	DOJ	Total	FIC	DOJ	Total	
01	Agricultural Production-Crops	-	-	-	-	-	-	2	-	-	-	1	1	-	-	-	1
02	Agricultural Production-Livestock	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-
10	Metal Mining	-	-	-	-	-	-	4	1	-	1	-	1	1	-	1	-
11	Anthracite Mining	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
12	Bituminous Coal and Lignite Mining	-	-	-	-	-	-	16	3	1	4	-	-	-	-	-	3
13	Oil and Gas Extraction	1	3	4	1	3	4	36	2	2	4	-	1	1	-	1	11
14	Mining and Quarrying of Nonmetallic Minerals, Except Fuels	1	-	1	-	-	-	3	1	-	1	-	1	-	-	-	-
15	Building Construction-General Contractors and Operative Builders	-	-	-	-	-	-	5	-	-	-	-	-	-	-	-	5
16	Construction other than Building Construction-General Contractors	-	-	-	-	-	-	6	-	1	1	-	1	1	-	1	-
17	Construction-Special Grade Contractors	-	-	-	-	-	-	2	-	1	1	-	-	-	-	-	-
20	Food and Kindred Products	8	6	14	4	2	6	44	9	6	15	5	4	9	-	-	27
21	Tobacco Manufacturers	1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-
22	Textile Mill Products	-	-	-	-	-	-	2	-	1	1	-	1	1	-	1	-
23	Apparel and other Finished Products made from Fabrics and Similar Materials	-	-	-	-	-	-	4	-	-	-	-	-	-	-	-	1
24	Lumber and Wood Products, Except Furniture	-	-	-	-	-	-	6	-	-	-	-	-	-	-	-	1
25	Furniture and Fixtures	-	-	-	-	-	-	2	-	2	2	-	1	1	-	-	-
26	Paper and Allied Products	2	-	2	1	-	1	7	2	-	2	-	-	-	-	-	2
27	Printing, Publishing and Allied Industries	-	-	-	-	-	-	12	-	-	-	-	-	-	-	-	5
28	Chemicals and Allied Products	7	4	11	2	3	5	28	6	4	10	3	3	6	-	-	16
29	Petroleum Refining and Related Industries	7	1	8	5	1	6	18	4	3	7	3	1	4	-	-	4
30	Rubber and Misc. Plastics Products	3	1	4	1	-	1	12	1	-	1	-	-	-	-	-	1
31	Leather and Leather Products	1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-
32	Stone, Clay, Glass, and Concrete Products	3	1	4	3	-	3	18	7	1	8	6	-	6	-	-	5
33	Primary Metal Industries	8	2	10	3	-	3	20	4	2	6	4	1	5	-	-	3
34	Fabricated Metal Products, Except Machinery and Transportation Equipment	5	4	9	1	1	2	20	3	4	7	2	1	3	-	-	8
35	Machinery, Except Electrical	12	3	15	10	3	13	51	11	4	15	7	3	10	-	-	23
36	Electrical and Electronic Machinery, Equipment and Supplies	6	2	8	3	1	4	32	10	3	13	5	2	7	-	-	9
37	Transportation Equipment	2	1	3	-	-	-	15	4	3	7	1	1	2	-	-	3
38	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	-	1	1	-	-	-	13	4	-	4	3	-	3	-	-	1
39	Miscellaneous Manufacturing Industries	1	-	1	1	-	1	6	1	-	1	-	1	1	-	-	1

TABLE X (continued)

INDUSTRY GROUP OF ACQUIRING PERSON AND ACQUIRED ENTITY, 1981

2-Digit BIC Code 1/	Industry Description	Acquiring Person					Acquired Entity					Number of 2-Digit Intra-Industry Transactions	
		Clearance Granted to PTC or DOJ		Second Requests Issued		Number 2/	Clearance Granted to PTC or DOJ		Second Requests Issued		Total		
		PTC	DOJ	PTC	DOJ		PTC	DOJ	PTC	DOJ			
40	Railroad Transportation	-	-	-	-	-	1	-	-	-	-	-	-
42	Motor Freight Transportation and Warehousing	6	-	-	-	-	4	-	-	-	-	-	-
44	Water Transportation	6	-	-	-	-	7	-	-	-	-	-	2
45	Transportation by Air	1	-	-	-	-	4	1	-	1	-	1	-
47	Transportation Services	2	-	-	-	-	-	-	-	-	-	-	-
48	Communication	16	2	1	3	1	28	-	-	-	-	-	7
49	Electric, Gas, and Sanitary Services	12	-	-	-	-	5	-	-	-	-	-	1
50	Wholesale Trade-Durable Goods	32	3	4	7	3	4	4	2	6	3	3	12
51	Wholesale Trade-Nondurable Goods	32	-	6	6	-	3	4	3	7	1	2	11
52	Building Materials, Hardware, Garden Supply and Mobile Home Dealers	-	-	-	-	-	1	-	-	-	-	-	-
53	General Merchandise Stores	13	5	2	7	-	8	3	1	4	-	-	5
54	Food Stores	9	2	-	2	-	4	1	-	1	-	-	3
55	Automotive Dealers and Gasoline Service Stations	-	-	-	-	-	2	-	-	-	-	-	-
56	Apparel and Accessory Stores	2	-	-	-	-	6	-	-	-	-	-	-
57	Furniture, Home Furnishings, and Equipment Stores	-	-	-	-	-	1	-	-	-	-	-	-
58	Eating and Drinking Places	4	-	-	-	-	6	-	2	2	-	-	2
59	Miscellaneous Retail	11	-	1	-	-	14	1	1	2	-	-	8
60	Banking	6	-	-	-	-	7	-	-	-	-	-	5
61	Credit Agencies other than Banks	15	1	-	1	-	23	-	-	-	-	-	10
62	Security and Commodity Brokers, Dealers, Exchanges, and Services	14	-	-	-	-	12	2	-	2	-	-	5
63	Insurance	43	3	1	4	1	48	2	1	3	1	1	30
64	Insurance Agents, Brokers, and Service	5	-	-	-	-	6	1	-	1	-	1	3
65	Real Estate	13	-	-	-	-	11	-	-	-	-	-	3
67	Holding and other Investment Offices	16	-	-	-	-	11	1	-	1	-	-	5
70	Hotels, Rooming Houses, Camps, and other Lodging Places	5	-	1	1	-	8	-	-	-	-	-	2
72	Personal Services	2	1	-	1	-	3	1	-	1	-	-	2
73	Business Services	9	-	3	3	-	18	1	3	4	-	2	5
75	Automotive Repair, Services, and Garages	1	1	-	1	1	7	-	-	-	-	-	-
76	Miscellaneous Repair Services	1	-	-	-	-	1	-	-	-	-	-	-
78	Motion Pictures	8	-	2	2	-	1	1	1	1	-	1	1
79	Amusement and Recreation Services, Except Motion Pictures	2	-	-	-	-	5	-	-	-	-	-	-
80	Health Services	20	3	7	10	2	23	4	7	11	2	3	19

TABLE X (continued)
INDUSTRY GROUP OF ACQUIRING PERSON AND ACQUIRED ENTITY, 1981

2-Digit SIC Code 1/	Industry Description	Acquiring Person					Acquired Entity					Number of 2-Digit Intra-Industry Transactions
		Clearance Granted to FTC or DOJ		Second Requests Issued		Number 2/ DOJ	Clearance Granted to FTC or DOJ		Second Requests Issued			
		FTC	DOJ	FTC	DOJ		FTC	DOJ	FTC	DOJ		
89	Miscellaneous Services	4	-	-	-	-	3	-	-	-	-	-
99	Nonclassifiable Establishments	-	-	-	-	-	2	-	-	-	-	-
DV	Diversified Companies	87	14	4	18	7	3	10	24	4	-	7
00	Not Available	34 3/	1	1	2	1	-	1	4 4/	1	2	3
	All Transactions	762	104	62	166	51	27	78	762	104	62	166
										51	27	78
												279

1/ 2-Digit SIC codes are part of the system of Standard Industrial Classification established by the U.S. Government, Standard Industrial Classification Manual, 1972 Executive Office of the President - Office of Management and Budget. The SIC groupings used in this table were determined from responses submitted by filing parties to item 5 of the premerger notification and report form.

2/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

3/ Transactions included in this category represent newly formed companies, companies with no U.S. operations and notification filed by individuals.

4/ Transactions included in this category represent the acquisition of newly formed companies and the acquisition of assets located outside the U.S.

Note: Detail may not add to total due to rounding.

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*B. Summary of Transaction
Notifications Received and Formal
Enforcement Activity Taken Since the
Inception of the Premerger Notification
Program*

The table in this section presents the number of filings received annually under the Hart-Scott-Rodino premerger notification program and the number of formal enforcement actions taken by the Federal Trade Commission and the Department of Justice with respect to mergers since the program went into effect. The number of filings listed in this table for 1981 is greater than the number of transactions included in tables in the previous section because it includes banking mergers, secondary acquisitions and two-step mergers. The formal enforcement actions listed here are not necessarily based on premerger notification filings.

These formal actions do not represent the full enforcement impact of the program. For example, these categories do not reflect transactions that were abandoned after the parties learned that an enforcement agency intended to oppose consummation of the transaction. Nor do they reflect transactions that were deterred because of the assurance that enforcement agencies would review all transactions subject to premerger notification program.

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TABLE XI

PREMERGER TRANSACTIONS FILED AND MERGER ENFORCEMENT ACTIVITY SINCE
THE HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT BECAME EFFECTIVE

Calendar Year	Number of FTC Enforcement Actions Authorized 3/				Number of DOJ Enforcement Actions 3/		
	Number of Transactions	Preliminary Injunctions	Consent Orders	Complaints 4/ Issued	Preliminary Injunctions	Consent Agreements	Actions Initiated
1978 1/ 2/	355	0	2	4	2	2	8
1979 2/	868	3	6	4	6	3	10
1980	824	2	13	5	3	4	5
1981	1083	4	6	4	0	2	2

1/ The premerger notification rules went into effect on September 5, 1978.

2/ Revised rule 16 CFR § 802.20 went into effect on November 21, 1979. This rule expanded considerably the number of transactions valued at \$15 million or less that are exempt from reporting requirements.

3/ These legal actions taken by the Federal Trade Commission and the Department of Justice may or may not be based on premerger filings.

4/ Does not include complaints where consent order was obtained in the same year.

Sources: Second, Third, Fourth and Fifth Annual Reports to Congress pursuant to Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and supplemented by enforcement agency data.

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Part Three

A. Should the size of Person or Size of Transaction Dollar Reporting Levels Be Raised Based On

- *Enforcement Patterns?*
- *Inflation?*

Background. Section 7A of the Clayton Act, 18 U.S.C. 18a (The Hart-Scott-Rodino Antitrust Improvements Act of 1976) requires, in part, that any merger or acquisition between a business entity with annual sales or assets exceeding \$100 million and a business entity with annual sales or assets exceeding \$10 million which involve the purchase of more than \$15 million in voting securities and assets be reported in the prescribed manner prior to consummating the transaction. The Federal Trade Commission, with the concurrence of the Assistant Attorney General for Antitrust was granted authority to exempt transactions "which are not likely to violate the antitrust laws." Section 7A(d)(2) of the Clayton Act, 15 U.S.C. 18a(d)(2). The issue considered here is whether the materials presented in Part Two concerning enforcement patterns and the inflation since 1976 provide an adequate basis for increasing the dollar size for reportability.

One index for accommodating the effect of inflation is the implicit price deflator for the Gross National Product. This index is a broad indicator of price trends that includes personal consumption expenditures for durable goods, nondurable goods, and services; gross private domestic investment in farm and nonfarm structures, residential and nonresidential structures, and producers' durable equipment; imports and exports; and government purchases of goods and services.

The GNP implicit price deflator has increased about 47 percent since 1976, as shown in the following table:

GNP Implicit Price Deflator

1976=100

1976.....	100.00
1977.....	105.84
1978.....	113.58
1979.....	123.21
1980.....	134.25
1981.....	146.61

Source: Department of Commerce, *Survey of Current Business*. (Index converted to a 1976 basis.)

Preliminary Conclusion: The preliminary conclusion of the staff is that if any changes are warranted in dollar levels such changes should be limited to the size of transaction. There

appears to be some basis for raising the size of transaction test to \$25 million.

Discussion

Inflation. The staff does not believe that, by itself, inflation provides an adequate basis for creating exemptions under section 7A(d)(2) of the Clayton Act, 15 U.S.C. 18a(d)(2). Congress did not index dollar amounts to accommodate inflation; rather it conditioned the exemption authority on a finding concerning the likelihood of antitrust violations. In addition the staff believes that automatically indexing stated dollar amounts would unnecessarily complicate an already intricate statutory structure.

Nevertheless, the staff does believe that inflation may have some legitimate role in establishing reporting exemptions if used in conjunction with other factors. This role is based on the apparent Congressional decision that only larger transactions be subject to notification requirements, an intention that is eroded by inflation. The greater Congressional concern about larger transactions is generally related to antitrust analysis where market share (for which size is an imperfect surrogate) is often used as an indicator of market power. Therefore inflation in conjunction with other indications that smaller transactions are of lesser antitrust significance might justify an increase in the size of person or size of transaction test.

Enforcement Patterns. Table I suggests that there is some correlation between the size of transactions and enforcement interest by the Federal Trade Commission and Department of Justice. This pattern is also evident in Tables VIII and IX which reflect the size of acquired entities. No comparable pattern is evident from the tables based on the size of acquiring firm or the percentages of voting securities being acquired.

While Table I suggests a pattern that enforcement interest increases with size of transaction, it does not indicate either a complete lack of enforcement interest below a certain size or a dramatic break (i.e. increase) in enforcement interest above a particular size level. Thus, the tables by themselves do not provide a natural or obvious choice for a new size of transaction test. Nevertheless it might be justifiable to raise the size of transaction threshold to \$25 million on the grounds that both: the enforcement interest in transactions below \$25 million has been relatively low—approximately one of each seven transactions receive "clearance" for investigation; and, the increase in nominal dollar amount from \$15 million

to \$25 million does not greatly raise in constant dollars the size of transaction test chosen by the Congress in 1976 for § 7A(a)(3)(B). (This approach would also eliminate all transactions currently reportable under 16 CFR 802.20(b)). On the other hand, raising the transaction size to \$25 million would eliminate eighteen of the seventy-eight second requests issued by the Federal Trade Commission and the Department of Justice during 1981. In other words, the increase in size of transaction test would eliminate almost one quarter of the transactions which received the highest level of preliminary antitrust scrutiny.

B. Should Separate Size of Person or Size of Transaction Tests Be Established for Specific Industries Based On

- *Enforcement Patterns?*
- *Industry Size Characteristics?*

Background. The 1976 Hart-Scott-Rodino Antitrust amendments to the Clayton Act exempt or modify reporting requirements for transactions involving firms in particular industries and for transactions involving particular kinds of goods. For example, section 7A(c) of the Act, 15 U.S.C. 18a(c), exempts transactions in specified regulated industries and sales of goods and realty in the ordinary course of business. But the Act does not provide for different dollar size tests for different industries. On the other hand, prior to section 7A of the Act the Federal Trade Commission initiated premerger notification requirements which established size criteria for transactions in the cement, dairy and food distribution industries that were lower than the subsequent criteria established under section 7A. *Commission Enforcement Policy with Respect to Vertical Mergers in the Cement Industry*, January 17, 1967, CCH Trade Regulation Reporter ¶ 4520; *Commission Enforcement Policy with Respect to Mergers in the Food Distribution Industries*, January 17, 1967, CCH Trade Regulation Reporter ¶ 4525; *Enforcement Policy with Respect to Mergers in the Dairy Industry*, 43 FR 1992, January 13, 1978, amended 43 FR 28046, June 28, 1978. These programs arose out of a history of antitrust litigation and the programs relied on industry definitions based on that litigation experience.

Preliminary Conclusion. The staff does not believe it is likely that an administrable premerger notification system can be established which sets separate size requirements for different industries.

Discussion. While the staff recognizes the significance of a \$15 or \$25 million transaction varies in different industries, it has not developed a generally satisfactory method to establish appropriate levels for different industries or to identify which transactions should be included within an industry. Establishing separate industry reporting criteria raises a host of difficult and related issues.

As noted earlier the number of premerger filings for specific industries was not large enough to discern patterns of enforcement activity even using the grossly overbroad industry categories that are defined by two digit Standard Industrial Classifications (SIC). While two digit SIC definitions almost surely comprehend too many different business activities to provide a useful definition of an industry, are there better uniform definitions? How many separate industry categories with separate reporting criteria should be established? Will the establishment of a multitude of separate standards unduly complicate an already complex statutory program? If separate reporting criteria are established for a few industries, will the absence of separate criteria be unfair to some of the remaining industries that are lumped together under general reporting criteria? In the absence of clear benchmarks reflecting size-based enforcement patterns for specific industries, how should the size criteria be established for different industries? If separate size criteria are to be set with reference to the minimum efficient scale of firms within an industry, how is this always controversial question of scale economies to be determined? And how would the industry be monitored to determine technological or organizational changes in scale economies?

Assuming industries could be defined and relevant size criteria could be determined for individual industries it is not obvious how reporting parties would identify whether transactions would meet specific industry criteria. For example, if reportability of a transaction depended on the acquiring firm and the acquired entity having a specified combined amount of annual sales or revenues from particular goods or services, or assets engaged in certain specified activities, how would an acquiring firm be able to predict the relevant sales or assets level of the prospective acquired entity to determine reportability prior to consummating the transaction?

The objections to establishing separate size requirements for different industries are practical, not theoretical.

It may be possible at some point to overcome these practical problems and establish separate reporting thresholds for certain industries under the Hart-Scott-Rodino premerger notification system. Acceptable separate industry size tests must satisfy three requirements: the criteria which define the industry must be objective; the size threshold must be based on antitrust considerations; and, acquiring parties must be able to determine which industry size thresholds apply prior to consummating a transaction. The appropriateness of higher separate size thresholds ought to be established by data showing that a significant number of transactions in that industry are being reported which generate very little antitrust enforcement interest.

C. Should the Requirement That a Party File Separate Notifications for Additional Purchases of Voting Securities of One Business Entity Be

- *Eliminated?*
- *Simplified?*

Background. Under existing rules 16 CFR 801.1(h) a person who purchases the voting securities of a business entity in several transactions may be required to file several premerger notifications. The requirement for additional filings is triggered by the person increasing its holdings of voting securities beyond several threshold levels which are stated in terms of percentages of the total number of voting securities of the business entity. For example, a party is required to file once for acquisitions of 15 percent or more of a business entity's voting securities. Before the same party can acquire 25 percent or more of the voting securities of the same entity it must file again, and finally, prior to acquiring 50 percent of the entity's securities it must file again. Where a party knows how many securities it ultimately wishes to purchase it may avoid multiple filings by filing for the highest applicable threshold initially.

Under proposed rule 16 CFR 803.2(e) a party who files for the acquisition of voting securities at one threshold may for a period of 90 days incorporate by reference any documents or information contained in the notification in any subsequent filing to cross another threshold. Under 16 CFR 804.7 a party may acquire voting securities pursuant to the notification for a period of one year. If the minimum percentage of securities filed for are acquired within one year the party may, pursuant to 16 CFR 802.21(b), buy additional securities (but not more than the maximum permitted at that threshold) for an additional four years.

Preliminary Conclusion. The staff does not believe that the subsequent notification requirements should be eliminated; however the staff does believe that the incorporation by reference standard of proposed § 803.2(e) could be expanded to a period of up to one year for subsequent filings for higher thresholds of voting securities.

Discussion. The staff continues to believe that it is useful to require multiple notifications for acquisitions of voting securities for reasons already stated by the Federal Trade Commission. In its Statement of Basis and Purpose for § 801.1(h) the Commission said, "working control or significant influence may arise at different points with respect to different companies. The * * * [lower] thresholds give the enforcement agencies adequate opportunities to assess the ability of a significant minority shareholder to influence or direct management," 43 FR 33485, July 31, 1978.

Although it is important that the enforcement agencies receive notice prior to a person increasing its securities holdings significantly, the information sent to the agencies in successive filings is often identical, apart from the statement of holdings. For this reason proposed § 803.2(e) permits parties to incorporate by reference any documents or information contained in their previous filing for a period of 90 days. Limiting the right to incorporate by reference to 90 days reflected practical considerations about the period of time the enforcement agencies can reasonably maintain access to filed information and the extent to which a filing for a higher threshold is likely to differ from a previous filing.

Upon further consideration, the staff believes that the time period during which incorporation by reference is permitted might appropriately be extended to one year. The one year period for incorporation by reference would then match the period established by § 803.7, during which a party may purchase voting securities pursuant to a filed notification.

D. Should a Party Filing for an Acquisition Be Permitted to Incorporate by Reference Information or Documents Contained Therein in Related Secondary Acquisitions?

Background. Under existing rules, 16 CFR 801.4, whenever a party obtains control of a business entity it is also deemed to be separately acquiring any voting shares held by that business entity. The acquisition of these voting shares (i.e. the "secondary acquisitions") will trigger separate

reporting obligations if the direct acquisition of such shares would have been reportable. So, for example, an acquiring person is required to file six separate notifications if it acquired one large firm which held more than fifteen percent of the voting securities of five firms each valued at more than \$15 million.

Preliminary Conclusion. The staff believes that a party should be permitted to incorporate by reference any information or documents in related "secondary acquisitions."

Discussion. Experience has shown that multiple filing of identical information in related secondary acquisitions is unnecessary.

List of Subjects in 16 CFR Parts 801, 802 and 803

Antitrust.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18035 Filed 7-1-82; 8:45 am]

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United States Federal Register

Friday
July 2, 1982

Part VI

Department of Commerce

National Oceanic and Atmospheric
Administration

Spiny Lobster Fishery of the Gulf of
Mexico and South Atlantic

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

[Docket No. 2614-107]

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

AGENCY: National Oceanic and Atmospheric Administration, (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues final regulations to implement the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic. The intended effect of these regulations is to prevent overfishing, increase the yield from the fishery, reduce user-group conflicts, and obtain the basic information required for improved management of the fishery.

EFFECTIVE DATES: June 30, 1982; except for §§ 640.6, 640.20(c), 640.21, 640.22, 640.23, 640.24, and those prohibitions in § 640.7 that cross-reference these sections, which are effective on July 26, 1982.

ADDRESSES: A copy of the Regulatory Impact Review may be obtained from Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, 813-893-3141.

SUPPLEMENTARY INFORMATION: These regulations implement the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic (FMP). This FMP was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). The Assistant Administrator for Fisheries, NOAA, approved the FMP on February 2, 1982, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). A notice of proposed rulemaking was published on March 12, 1982 (47 FR 10878), initiating a 45-day comment period which ended April 26, 1982.

An emergency interim rule implementing the closed season portion of the FMP was published on March 30, 1982 (47 FR 13353), under section 305(e) of the Magnuson Act. The interim rule was effective for 45 days (April 1 through May 15) and was extended for an additional 45 days on May 16, 1982 (47 FR 21256).

The preamble to the notice of proposed rulemaking contains information on the spiny lobster fishery,

its economic value, and its relative importance to the recreational and commercial sectors. The problems in the fishery (i.e., harvest of undersized lobsters and harvest during the spawning season) and the management measures to resolve them are also discussed in detail.

Section 640.5, Recordkeeping and reporting, was reserved in the proposed regulations. This section is also being reserved in this final rule, because the reporting system has not been completely developed and forms have not yet been prepared. It is anticipated that the mandatory reporting system will be implemented by regulatory amendment shortly after sampling procedures and reporting forms are developed and approved. The forms will be submitted to the Office of Management and Budget for approval under section 3507 of the Paperwork Reduction Act, Pub. L. 96-511.

Response to Comments

No comments were received on the FMP during the public comment period; however, the Coast Guard recommended several changes in the proposed regulations. One other comment was received which opposed implementing by emergency regulations the closed season in the FCZ.

That commenter, representing spiny lobster fishermen who fish beyond the fishery conservation zone (FCZ) during Florida's closed season, strongly objected to the emergency interim rule to close the fishing season. The following specific objections were raised: (1) No emergency exists; (2) the rule prevents all feasible fishing for spiny lobster beyond Florida's territorial limits; (3) the 200-mile limit is inappropriate because lobsters do not migrate across the Gulf Stream into Florida's waters; and (4) the rule was introduced in a manner designed to avoid public protest.

In the judgment of the Councils, the National Marine Fisheries Service (NMFS), and numerous fishermen who testified at public hearings, the increasing harvest of lobsters from the FCZ during the time the State has a closed fishing season to protect the major reproductive period constituted a resource emergency. The spiny lobster fishery is a high-value fishery subjected to intensive fishing effort. Extensive harvest during the spawning season would seriously reduce reproductive potential and result in recruitment overfishing.

The emergency rule governs fishing for spiny lobster in portions of the Atlantic Ocean and Gulf of Mexico over which the United States exercises

exclusive management authority. Lobster fishing outside of U.S. waters during the closed season is not governed by these regulations. However, lobster fishermen transporting their catch from outside U.S. waters through the FCZ must document, with proper bills of lading, that the lobsters were taken from waters outside the FCZ and, therefore, were not taken in violation of the regulations.

Although the issue of larval recruitment has not been resolved conclusively, the Councils and NMFS believe there is sufficient scientific evidence to indicate that lobsters spawning in the FCZ may contribute significantly to the stock within U.S. waters. The protection of the spawning stock during the closed season is considered to be a sound conservation measure. The question of whether lobsters spawning beyond U.S. waters contribute to the U.S. stock is irrelevant, because the regulations do not pertain to fishing activities beyond the FCZ.

The Councils and NMFS ensured that the public would have an adequate opportunity to comment on all aspects of the FMP, including the closed season. Eight public hearings, including three in the Florida Keys, were held (February 10 through February 19, 1981) to receive public comment on the FMP. A 45-day comment period (January 23, 1981, through March 9, 1981) was also provided to allow the public to send written comments on the draft environmental impact statement. There was strong support for the measure from both commercial and recreational fishermen, and no comments objecting to the closed season were received. An additional 45-day public comment period on the FMP and proposed regulations was initiated by publication of the proposed rule in the Federal Register on March 12, 1982.

Changes From the Proposed Rule

This final rule differs from the proposed rule in that a provision has been added, § 640.20(d), to prohibit possession of spiny lobsters in the FCZ during the closed season. A new paragraph (e) was added to § 640.7, Prohibitions, to reference this provision. These modifications are consistent with the FMP and the intended effect of the proposed rule and will facilitate enforcement of the closed season. This prohibition eliminates the burden of requiring enforcement personnel to observe the actual takings of lobsters from the FCZ during the closed season, and the allowance for possession of lobsters accompanied by a proper bill of lading will avoid any adverse impacts

on fishermen who have legally harvested lobsters.

To further protect undersized lobsters and in keeping with the intent of the FMP, a sentence was added to § 640.22(b) specifying that undersized lobsters may not be retained aboard vessels that are docked. Other changes, discussed in the following paragraphs, have been made in the final rule in response to comments received during the public comment period. In addition, minor changes have been made to clarify the definitions of "commercial fisherman," "degradable panel," "fishery conservation zone," "Regional Director," and the texts of §§ 640.1, 640.4, 640.7(j), 640.20 (a)(1) and (d), and 640.22(a). Also, a new paragraph (d) was added to § 640.6 to clarify that each trap or string of traps is to be marked with a buoy.

The Coast Guard provided the only comments received on the proposed regulations. It recommended that § 640.3(b) be revised to include Monitor Marine Sanctuary, Key Largo Coral Reef Marine Sanctuary and Gray's Reef National Marine Sanctuary. Section 640.3(b) was rewritten to clarify that these regulations apply within the boundaries of any national park, monument, or marine sanctuary within the FCZ.

The Coast Guard also noted that the vessel identification requirements as written in § 640.6 apply to all vessels fishing recreationally or commercially, with or without traps. The Councils intended that the identification system would apply only to vessels engaged in the spiny lobster trap fishery. Section 640.6 of the final rule has been revised to clarify that requirement.

The Coast Guard also recommended that the language in § 640.8 be revised to reflect more accurately current boarding practices and to accommodate fishermen. Section 640.8 has been rewritten to comply with the Coast Guard's suggestions.

Classification

The Assistant Administrator, after considering all comments received on the FMP, emergency regulations, and proposed regulations, has determined that the FMP and the final regulations comply with the national standards, other provisions of the Magnuson Act, and other applicable law.

The adoption and implementation of the FMP is a major Federal action that will have a significant impact on the quality of the human environment. Under the National Environmental Policy Act and NOAA Directive 02-10, a draft environmental impact statement was filed with the Environmental

Protection Agency. The notice of availability was published on January 23, 1981 (46 FR 7433). The final environmental impact statement was filed and a notice of availability was published on March 19, 1982 (47 FR 11960).

The NOAA Administrator has determined that these rules are not major under Executive Order 12291. A Regulatory Impact Review (RIR) has been prepared which analyzes the expected benefits and costs of the regulatory action. The review provides the basis for the Administrator's determination. The RIR indicates that the final regulations will result in benefits to fishermen and the economy which substantially exceed the total costs incurred by government and the private sector. Benefits expected to accrue during the first year of implementation include a \$3.3 million increase in industry revenue, increased recreational participation, and a substantial reduction of user-group conflicts. The regulations are designed to prevent overfishing and increase the landings of spiny lobsters without unduly burdening any user groups.

These regulations will be enforced via a State/Federal cooperative agreement that will maximize cost effectiveness. Enforcement will be accomplished with existing resources. Compliance with the regulation requiring vessel and gear markings will impose a minimal burden on new participants; virtually all current participants have complied with this requirement by adopting the markings required by the State of Florida.

The implementing regulations do not contain any information collection requirements, as defined by the Paperwork Reduction Act, for individuals, small businesses, or other persons, since the data collection system will not be implemented at this time. Prior to implementation of the data collection system, forms will be approved by the Office of Management and Budget.

These regulations will have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. A final regulatory flexibility analysis has been prepared in compliance with the Regulatory Flexibility Act, and has been combined with the RIR which is summarized above and is available (see "addresses").

The Assistant Administrator has determined that there is good cause to waive all or part of the 30-day period of delayed effectiveness required under the Administrative Procedure Act (APA). The closed season in the FCZ is intended to occur concurrently with the

closure of State waters by the State of Florida. The State waters are closed to spiny lobster fishing from April 1 through July 25. This year, the season was closed in the FCZ by an emergency interim rule. The interim rule expires on June 29, but the closed season does not end until July 25. To maintain the continuity of the closed season and protect the spawning stock in the FCZ, it is essential that certain portions of these final regulations governing the closure be implemented on June 30 (see "effective dates"). All remaining sections of the regulations will be effective on July 26 to coincide with the beginning of the fishing season.

List of Subjects in 50 CFR Part 640

Fish; Fisheries; Fishing.

Dated: June 30, 1982.

William G. Gordon,

Assistant Administrator for Fisheries,
National Marine Fisheries Service.

50 CFR is amended by adding a new Part 640 to read as follows:

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Subpart A—General Provisions

Sec.

- 640.1 Purpose and scope.
- 640.2 Definitions.
- 640.3 Relation to other laws.
- 640.4 Vessels, permits, and fees.
- 640.5 Recordkeeping and reporting.
- [Reserved]
- 640.6 Gear and vessel identification.
- 640.7 General prohibitions.
- 640.8 Enforcement.
- 640.9 Penalties.

Subpart B—Management Measures

- 640.20 Seasons.
- 640.21 Harvest limitations.
- 640.22 Size limitations.
- 640.23 Gear limitations.
- 640.24 Authorized activities.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 640.1 Purpose and scope.

The purpose of this part is to implement the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic developed by the South Atlantic and Gulf of Mexico Fishery Management Councils under the Magnuson Act. The regulations in this Part govern fishing for spiny lobster by vessels of the United States within the FCZ in the Atlantic Ocean and Gulf of Mexico along the coast of the South Atlantic States from the Virginia/North Carolina border south and through the Gulf of Mexico.

§ 640.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Authorized Officer means:

- (a) Any commissioned, warrant, or petty officer of the United States Coast Guard;
- (b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;
- (c) Any officer designated by the head of any Federal or State agency which

has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Carapace length means a head-length measurement taken from the orbital notch inside the orbital spine, in a line parallel to the lateral rostral sulcus, to the posterior margin of the cephalothorax (Figure 1).

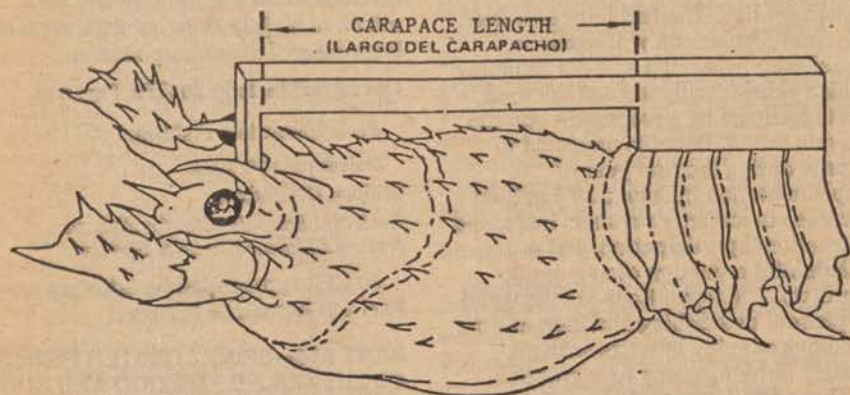


Figure 1

Center Director means the Center Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305-361-5761.

Commercial fisherman means a fisherman who sells all or any part of his catch.

Degradable panel means a panel constructed of wood, cotton, or other material that will degrade at the same rate as a wooden trap.

Fish includes the spiny lobster, *Panulirus argus*.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

- (a) The catching, taking, or harvesting of fish;
- (b) The attempted catching, taking, or harvesting of fish;
- (c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

- (a) Fishing; or
- (b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Live box means a container used for holding live lobsters aboard a vessel.

Magnuson Act means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

Management area means that area of the FCZ adjacent to the territorial sea off the coasts of the States adjacent to the Gulf of Mexico and off the Atlantic Coast south of the Virginia-North Carolina border.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel means:

- (a) Any person who owns that vessel in whole or in part;
- (b) Any charterer of the vessel, whether bareboat, time, or voyage;
- (c) Any person who acts in the

capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Recreational fisherman means a fisherman who does not sell any part of his catch.

Regional Director means the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813-893-3141, or his designee.

Secretary means the Secretary of Commerce or a designee.

Spiny lobster means the species *Panulirus argus*.

Tail length means the measurement, with the tail in a straight, flat position, from the anterior end of the exoskeleton ("shell") of the first abdominal (tail) segment to the tip of the closed tail.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated under the Magnuson Act.

Vessel of the United States means:

- (a) A vessel documented or numbered by the U.S. Coast Guard under U.S. law; or
- (b) A vessel under five net tons which is registered under the laws of any State.

§ 640.3 Relation to other laws.

(a) The regulations in this Part apply within the boundaries of any national park, monument, or marine sanctuary in the Gulf of Mexico and South Atlantic FCZ.

(b) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(c) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 640.4 Vessel permits and fees.

No permits are required for fishing vessels engaged in commercial fishing for spiny lobsters within the FCZ (but

see vessel identification requirements in § 640.6(a)).

§ 640.5 Recordkeeping and reporting.
[Reserved]

§ 640.6 Gear and vessel identification.

(a) Traps, buoys, and all vessels and boats engaged in the spiny lobster trap fishery must be identified by the number and color code issued by the Regional Director, or through Florida's identification system.

(b) An application for a Federal number and color code must be submitted and signed by the owner or operator of the vessel on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director 45 days prior to the date on which the applicant desires receipt of the number and color code.

(c) Vessels and boats engaged in the spiny lobster trap fishery must permanently and conspicuously display such color code and number in a manner as to be readily identifiable from the air and water; such color representation must be in the form of a circle at least 20 inches in diameter and the identification number must be at least 10 inches high.

(d) Each trap, unless part of a string of traps, must be marked by a floating buoy or a buoy designed to be submerged and automatically released at a certain time. Each string of traps must be marked with a buoy at each end of the string.

(e) Buoys must be of such color as to be easily distinguished, seen, and located; the identification number must be legible and at least 3 inches high on each buoy.

(f) Each trap, can, drum, or similar device must have a legible identification number at least 3 inches high permanently attached as in the case of buoys.

(g) All spiny lobster traps fished in the FCZ will be presumed to be the property of the most recently documented owner.

(h) Upon the sale or transfer of all or part of an owner's interest in spiny lobster traps which are fished in the FCZ, that owner must report the sale or transfer within 15 days to the Regional Director if the identification number and color code for those traps were issued by the Regional Director.

(i) Unmarked spiny lobster traps fished in the FCZ at any time are illegal gear, which may be disposed of in any appropriate manner by the Secretary or the Secretary's designee (including an Authorized Officer). Lines and buoys are considered part of the trap. If owners of these unmarked traps can be

ascertained, those owners remain subject to appropriate civil penalties.

§ 640.7 General prohibitions.

It is unlawful for any person to:

(a) Fish for spiny lobster without a vessel number, or falsify or fail to affix and maintain vessel and gear markings, as required by § 640.6;

(b) Fail to comply immediately with enforcement and boarding procedures specified in § 640.8;

(c) Place traps in the water or harvest spiny lobsters from traps before or after the dates specified in § 640.20(a);

(d) Harvest spiny lobster by methods other than traps during the closed season specified in § 640.20 (b) and (c);

(e) Possess spiny lobster or any parts thereof in the FCZ, except as specified in § 640.20;

(f) Retain on board or possess on land any berried lobster taken in the FCZ;

(g) Strip eggs from or otherwise molest any berried lobster;

(h) Pull or tend traps except during the hours specified in § 640.21(b);

(i) Willfully tend, open, pull, or otherwise molest another person's traps, except as provided in § 640.21(b);

(j) Catch or retain more lobsters during the special nontrap recreational fishery than are specified in § 640.21(c);

(k) Retain lobsters smaller than the minimum size, except as specified in § 640.22;

(l) Use traps without degradable panels, or prohibited gear or methods, as specified in § 640.23;

(m) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import without a proper bill of lading, land or export any spiny lobster or parts thereof taken or retained in violation of the Magnuson Act, this part, or any other regulation promulgated under the Magnuson Act;

(n) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(o) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (n) of this section;

(p) Resist a lawful arrest for any act prohibited by this part;

(q) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(r) Transfer directly or indirectly, or attempt to so transfer, any U.S.-

harvested fish to any foreign fishing vessel while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of the U.S.-harvested fish of the species concerned; or

(s) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 640.8 Enforcement.

(a) *General.* The operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, documents, and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or any other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The VHF-FM radiotelephone is the normal method of communicating between vessels. However, visual methods or loudhailer may be used if the radio does not work. The following signals, extracted from U.S. Hydrographic Office publication H.O. 102 International Code of Signals, may be communicated by flashing light or signal flags:

(1) "L" means "You should stop your vessel instantly."

(2) "SQ3" means "You should stop or heave to; I am going to board you."

(3) "AA AA AA etc." is the call to an unknown station or general call. The operator should respond by identifying his vessel by radio, visual signals, or illuminating his vessel identification required by § 640.6(a) and (b).

(4) "RY-CY" means "You should proceed at low speed. A boat is coming to you."

(c) *Boarding.* A vessel signaled to stop or heave to for boarding must:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party aboard;

(2) Provide a safe ladder for the Authorized Officer and his party, if necessary;

(3) When necessary to facilitate the boarding, provide a man rope, safety line, and illumination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the

Authorized Officer and his party and to facilitate the boarding.

§ 640.9 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Parts 620 (Citations) and 621 (Civil Procedures) and other applicable law.

Subpart B—Management Measures

§ 640.20 Seasons.

(a) *Trap fishery.* (1) The trap fishing season for spiny lobster begins on July 26, one hour before official sunrise, and ends March 31, one hour after official sunset. Traps may be placed in the water on or after July 21, but spiny lobsters may not be harvested until the beginning of the season. Traps must be removed prior to April 6; any spiny lobsters taken between April 1 and April 6 must be returned to the water unharmed.

(2) Traps in the management area during the period between 0001 hours April 6 and 2400 hours July 20 will be considered unclaimed or abandoned property and may be disposed of according to § 640.6(i).

(b) *Non-trap fishery.* The fishing season for other harvesting methods begins 0001 hours July 26 and ends 2400 hours March 31.

(c) *Non-trap recreational fishery.* There is a special non-trap recreational fishing season the first full weekend preceding July 21 from 0001 hours

Saturday until 2400 hours Sunday.

(d) *Possession.* Spiny lobsters or any parts thereof may be possessed in the FCZ only during the seasons specified in paragraphs (a), (b), and (c) of this section, unless accompanied by a proper bill of lading or other proof indicating lawful harvest outside the FCZ.

§ 640.21 Harvest limitations.

(a) *Berried lobsters.* All berried (egg-bearing) lobsters must be returned to the water unharmed. Berried lobsters may not be stripped of their eggs or otherwise molested. If found in a trap, a berried lobster may be retained in the trap if it is immediately returned to the water.

(b) *Pulling traps.* (1) Traps may be pulled or tended only during the period beginning one hour before official sunrise and ending one hour after official sunset.

(2) Traps may be pulled or tended only by the owner's vessel, unless the boat tending another person's trap has on board written consent of the trap owner.

(c) *Recreational catch.* During the two-day season described in § 640.20(c), the catch is limited to six lobsters per person per day, up to a maximum of 24 lobsters per boat per day.

§ 640.22 Size limitations.

(a) *Carapace length.* Except as provided in paragraph (b) of this section, spiny lobsters with a carapace length of 3.0 inches or less, or with a tail length of less than 5.5 inches, must be returned immediately to the water unharmed.

(b) *Attractants.* Live lobsters under the minimum size may be held in a shaded live box aboard a vessel for use as attractants in traps. No more than three undersized lobsters for each trap carried on board, or 200 undersized lobsters, whichever is greater, may be retained. Undersized lobsters to be used as attractants in traps may not be retained aboard vessels or boats that are docked.

§ 640.23 Gear limitations.

(a) *Degradable panel.* Traps constructed of material other than wood must have a panel constructed of wood, cotton, or other degradable material located in the upper half of the sides or on top of the trap, that, when removed, will leave an opening in the trap no smaller than the diameter found at the throat or entrance of the trap.

(b) *Prohibited gear and methods.* (1) Spiny lobster may not be taken with spears, hooks, or similar devices, or gear containing such devices. In the FCZ, the possession of speared, pierced, or punctured lobsters is prima-facie evidence that prohibited gear was used to take such lobsters.

(2) Spiny lobsters may not be taken with poisons or explosives.

§ 640.24 Authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

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