

for the calendar quarter in the sum of the Federal and foreign gift taxes described in (a) and (b) of this subdivision on the transfer of property by gift.

(iii) The term "calendar quarter", as used in subdivision (ii) of this subparagraph, shall be construed to mean "calendar year" in the case of gifts made during calendar years before 1971.

(4) For additional rules relating to the application of the tax to transfers by nonresidents not citizens of the United States, see section 2511 and § 25.2511-3.

PAR. 31. Section 25.2511 is amended by revising section 2511(b) and adding a historical note. These amended and added provisions read as follows:

§ 25.2511 Statutory provisions; transfers in general.

Sec. 2511. *Transfers in general.* * * *

(b) *Intangible property.* For purposes of this chapter, in the case of a nonresident not a citizen of the United States who is excepted from the application of section 2501(a)(2)—

(1) Shares of stock issued by a domestic corporation, and

(2) Debt obligations of—

(A) A United States person, or

(B) The United States, a State or any political subdivision thereof, or the District of Columbia,

which are owned and held by such nonresident shall be deemed to be property situated within the United States.

[Sec. 2511 as amended by sec. 109(b), Foreign Investors Tax Act 1966 (80 Stat. 1575)]

PAR. 32. Section 25.2511-1 is amended by revising paragraph (b) to read as follows:

§ 25.2511-1 Transfers in general.

(b) In the case of a gift by a nonresident not a citizen of the United States—

(1) If the gift was made on or after January 1, 1967, by a donor who was not an expatriate to whom section 2501(a)(2) was inapplicable on the date of the gift by reason of section 2501(a)(3) and paragraph (a)(3) of § 25.2501-1, or

(2) If the gift was made before January 1, 1967, by a donor who was not engaged in business in the United States during the calendar year in which the gift was made,

the gift tax applies only if the gift consisted of real property or tangible personal property situated within the United States at the time of the transfer. See §§ 25.2501-1 and 25.2511-3.

PAR. 33. Section 25.2511-3 is amended to read as follows:

§ 25.2511-3 Transfers by nonresidents not citizens.

(a) *In general.* Sections 2501 and 2511 contain rules relating to the taxation of transfers of property by gift by a donor who is a nonresident not a citizen of the United States. (See paragraph (b) of

§ 25.2501-1 for the definition of the term "resident" for purposes of the gift tax.) As combined these rules are:

(1) The gift tax applies only to the transfer of real property and tangible personal property situated in the United States at the time of the transfer if either—

(i) The gift was made on or after January 1, 1967, by a nonresident not a citizen of the United States who was not an expatriate to whom section 2501(a)(2) was inapplicable on the date of the gift by reason of section 2501(a)(3) and paragraph (a)(3) of § 25.2501-1, or

(ii) The gift was made before January 1, 1967, by a nonresident not a citizen of the United States who was not engaged in business in the United States during the calendar year in which the gift was made.

(2) The gift tax applies to the transfer of all property (whether real or personal, tangible or intangible) situated in the United States at the time of the transfer if either—

(i) The gift was made on or after January 1, 1967, by a nonresident not a citizen of the United States who was an expatriate to whom section 2501(a)(2) was inapplicable on the date of the gift by reason of section 2501(a)(3) and paragraph (a)(3) of § 25.2501-1, or

(ii) The gift was made before January 1, 1967, by a nonresident not a citizen of the United States who was engaged in business in the United States during the calendar year in which the gift was made.

(b) *Situs of property.* For purposes of applying the gift tax to the transfer of property owned and held by a nonresident not a citizen of the United States at the time of the transfer—

(1) *Real property and tangible personal property.* Real property and tangible personal property constitute property within the United States only if they are physically situated therein.

(2) *Intangible personal property.* Except as provided otherwise in subparagraphs (3) and (4) of this paragraph, intangible personal property constitutes property within the United States if it consists of a property right issued by or enforceable against a resident of the United States or a domestic corporation (public or private), irrespective of where the written evidence of the property is physically located at the time of the transfer.

(3) *Shares of stock.* Irrespective of where the stock certificates are physically located at the time of the transfer—

(i) Shares of stock issued by a domestic corporation constitute property within the United States, and

(ii) Shares of stock issued by a corporation which is not a domestic corporation constitute property situated outside the United States.

(4) *Debt obligations.* (i) In the case of gifts made on or after January 1, 1967, a debt obligation, including a bank deposit, the primary obligor of which is a United States person (as defined in section 7701(a)(30)), the United States, a

State, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any such government constitutes property situated within the United States. This subdivision applies—

(a) In the case of a debt obligation of a domestic corporation, whether or not any interest on the obligation would be treated under section 862(a)(1) as income from sources without the United States by reason of section 861(a)(1)(B) (relating to interest received from a domestic corporation less than 20 percent of whose gross income for a 3-year period was derived from sources within the United States) and the regulations thereunder;

(b) In the case of an amount described in section 861(c) (relating to certain bank deposits, withdrawable accounts, and amounts held by an insurance company under an agreement to pay interest), whether or not any interest thereon would be treated under section 862(a)(1) as income from sources without the United States by reason of section 861(a)(1)(A) (relating to interest on amounts described in section 861(c) which is not effectively connected with the conduct of a trade or business within the United States) and the regulations thereunder;

(c) In the case of a deposit with a domestic corporation or domestic partnership, whether or not the deposit is with a foreign branch thereof engaged in the commercial banking business; and

(d) Irrespective of where the written evidence of the debt obligation is physically located at the time of the transfer.

For purposes of this subdivision, a debt obligation on which there are two or more primary obligors shall be apportioned among such obligors, taking into account to the extent appropriate under all the facts and circumstances any choate or inchoate rights of contribution existing among such obligors with respect to the indebtedness. The term "agency or instrumentality", as used in this subdivision, does not include a possession of the United States or an agency or instrumentality of a possession.

(ii) In the case of gifts made on or after January 1, 1967, a debt obligation, including a bank deposit, not deemed under subdivision (i) of this subparagraph to be situated within the United States, constitutes property situated outside the United States.

(iii) In the case of gifts made before January 1, 1967, a debt obligation the written evidence of which is treated as being the property itself constitutes property situated within the United States if the written evidence of the obligation is physically located in the United States at the time of the transfer, irrespective of who is the primary obligor on the debt. If the written evidence of the obligation is physically located outside the United States, the debt obligation constitutes property situated outside the United States.

(iv) Currency is not a debt obligation for purposes of this subparagraph.

[FR Doc. 73-26313 Filed 12-11-73; 8:45 am]

SUBCHAPTER A—INCOME TAX

[T.D. 7295]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Election of LIFO Inventory Method

This document contains amendments to the Income Tax Regulations to give the Commissioner the authority to accept a taxpayer's election to adopt the LIFO inventory method where no Form 970 is filed by the taxpayer. The present regulations require that such inventory method may be adopted only if a properly completed Form 970 is attached to the taxpayer's income tax return.

Adoption of amendments to the Income Tax Regulations. The following amendments to the Income Tax Regulations (26 CFR Part 1) are hereby adopted:

PARAGRAPH 1. Paragraph (a) of § 1.472-3 is amended to read as follows:

§ 1.472-3 Time and manner of making election.

(a) The LIFO inventory method may be adopted and used only if the taxpayer files with his income tax return for the taxable year as of the close of which the method is first to be used a statement of his election to use such inventory method. The statement shall be made on Form 970 pursuant to the instructions printed with respect thereto and to the requirements of this section, or in such other manner as may be acceptable to the Commissioner. Such statement shall be accompanied by an analysis of all inventories of the taxpayer as of the beginning and as of the end of the taxable year for which the LIFO inventory method is proposed first to be used, and also as of the beginning of the prior taxable year. In the case of a manufacturer, this analysis shall show in detail the manner in which costs are computed with respect to raw materials, goods in process, and finished goods, segregating the products (whether in process or finished goods) into natural groups on the basis of either (1) similarity in factory processes through which they pass, or (2) similarity of raw materials used, or (3) similarity in style, shape, or use of finished products. Each group of products shall be clearly described.

Because this Treasury decision provides rules relating to administrative practice and procedure, it is found that it is unnecessary to issue the Treasury decision with notice and public procedure thereon under section 553(b) of title 5 of the United States Code, or subject to the effective date limitation of subsection (d) of such section.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 7, 1973.

JOHN H. HALL,
Deputy Assistant Secretary of the Treasury.

[FR Doc.73-26312 Filed 12-11-73; 8:45 am]

[T.D. 7293]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Imposition of Tax on Foreign Corporations; Return Requirements; Income Affected by Treaty; Correction

On November 28, 1973, Treasury Decision 7293 with respect to imposition of tax on foreign corporations; return requirements; income affected by treaty, appeared in the FEDERAL REGISTER (38 FR 32791; FR Doc. 73-25258 filed November 27, 1973; 8:45 a.m.). The following change should be made:

In line 10 of § 1.883-1(b) appearing at page 32799 of the above issue, insert after "Income on which—" the following, "any tax".

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.73-26314 Filed 12-11-73; 8:45 am]

Title 28—Judicial Administration

CHAPTER 1—DEPARTMENT OF JUSTICE

[Order 557-73]

PART 50—STATEMENTS OF POLICY

Designation of United States Magistrates as Special Masters

Under and by virtue of the authority vested in me by sections 509 and 516 of Title 28 of the United States Code, Part 50 of Title 28 of the Code of Federal Regulations is amended by adding at the end thereof the following new section:

§ 50.11 Policy with regard to designation of United States Magistrates as special masters.

(a) Many of the United States District Courts, either by rule or by specific designation, have delegated to United States Magistrates the supervision of discovery proceedings and the conduct of pretrial hearings in civil cases. Some of the District Courts, in addition, have, in the same fashion, designated Magistrates to sit as special masters and to conduct the trial of civil nonjury cases with instructions to report to the Court thereon. This is frequently accomplished also by urging the parties to agree to such a procedure.

(b) While section 636(b) of Title 28 authorizes Magistrates to assist in the conduct of pretrial and discovery proceedings, and to serve as special masters, Rule 53(b) of the Federal Rules of Civil Procedure provides that cases shall not be referred to a special master except in matters of account or of difficult computation of damages, or if some exceptional condition requires it. The Supreme Court has narrowly restricted the circumstances supporting a finding of an exceptional condition within the meaning of Rule 53(b). Neither calendar congestion nor complexity of the issues involved justifies reference of the case to a special master. It has held that references, in the absence of some exceptional condition, are not appropriate save in matters of account and the computation of damages and has approved enforcement of this rule when necessary by issuance of a writ of mandamus. *Labuy v. Howes Leather Co.*, 352 U.S. 249; *McCullough v.*

Cosgrave, 309 U.S. 634; and *Los Angeles Brush Corp. v. James*, 272 U.S. 701. More recently the Court of Appeals for the Sixth Circuit has held that Section 636 does not authorize reference to a special master of cases involving review of determinations of the Secretary of Health, Education, and Welfare. *Ingram v. Richardson*, 471 F.2d 1268. Likewise, the Seventh Circuit by writ of mandamus has prevented a district judge from assigning a motion to dismiss under Section 636(b) to a Magistrate for ruling as being in violation of Article III of the Constitution because an assignment of that nature constitutes an abdication of judicial decision-making powers. *TPO, Incorporated v. McMillen*, 460 F.2d 348.

(c) It appears that there is an increasing use by district judges of special masters for purposes involving the abdication of judicial decision-making authority forbidden by the Constitution or in contravention of Rule 53(b). The Department of Justice should take a firm position in opposition to this practice. I therefore direct the legal Divisions of the Department not to agree to the designation of a Magistrate as a special master whenever they conclude that such designation would be in contravention of the Constitution or Rule 53(b).

In appropriate cases and in accordance with Departmental procedures, those Divisions should seek relief from appellate courts by application for a writ of mandamus or otherwise.

Dated: December 4, 1973.

ROBERT H. BORK,
Acting Attorney General.

[FR Doc.73-26289 Filed 12-11-73; 8:45 am]

Title 32A—National Defense Appendix
CHAPTER X—OFFICE OF OIL AND GAS,
DEPARTMENT OF THE INTERIOR

[OI REG. 1 (Rev. 5); Amdt. 62]

OIL IMPORT REG. 1—OIL IMPORT
REGULATION

Miscellaneous Amendments

This amendment 62 amends section 9A and section 9B and adds section 25A to Oil Import Regulation I (Revision 5), as amended.

Section 9A. Section 9A is amended so that commencing with the second half of the 1973 allocation period the factor by which the hydrogen and carbon content of the exported eligible petrochemicals is divided to calculate the allocation of crude and unfinished oils under this section is reduced from 250 to 200. Under section 9A allocations are made based on the quantity of hydrocarbon incorporated into petrochemicals exported. In order to establish the quantity of allocation applicable, a density of 250 pounds per barrel has been used with the realization that an additional allocation of crude and unfinished oils was available to petrochemical producers under section 9. In that pursuant to recent proclamation changes allocations under section 9 are being phased out and in that allocations under section 9A are to continue, the density of 200 pounds per barrel has been adopted for section 9A to compensate for

the loss of allocations under section 9. The 200 pounds per barrel density corresponds to that used to calculate allocations under section 25A.

Also, section 9A is amended so that a person who holds an allocation of imports into Districts I-IV or District V for a particular allocation period under section 25A will receive under section 9A an allocation of imports of crude oil into Districts I-IV or District V based on exports of eligible petrochemicals.

Sec. 9B. This section is amended so that the hydrocarbon content of materials upon which an allocation is based under section 25A will not qualify as the basis for an allocation under section 9B. The amendment eliminates the receipt of two allocations (double dip) on the basis of the same inputs.

Sec. 25A. Proposed rulemaking for this section was published in the *FEDERAL REGISTER* on August 17, 1973 (38 FR 22237) and comments were requested by September 11, 1973.

Careful consideration was given to all comments on the proposal. A number of comments noted that the proposed regulation unreasonably relates the allocation earned only to the petrochemical output, disregarding energy byproducts and losses, whereas recently implemented section 25 is based on total refinery inputs. Comments also concerned themselves with converting the proposed section 25A into a continuing petrochemical program noting that the proposed section was an ineffectual alternative to the phase out of section 9B.

Careful consideration was given to the first comment and as a result the divisor used to calculate the allocation under proposed section 25A was reduced from 250 to 200 and the requirement that the allocation shall be computed at 75 percent of the calculated inputs has been eliminated. With these adjustments, section 25A provides allocations to new, expanded and reactivated petrochemical facilities which on the average amount to 75 percent of volume inputs, comparing favorably to those granted to new expanded and reactivated refinery capacity under recently implemented section 25.

In regard to converting the proposed section 25A into a continuing rather than a 5-year program, proposed section 25A was written to reflect sections 4 and 11 of Proclamation 3279, as amended, which provide for a reduction of the maximum levels of imports subject to allocation and license to which license fees shall not be applicable and empowers the Secretary notwithstanding the levels established in section 2 of the Proclamation to make allocations to which license fees shall not be applicable to new, expanded or reactivated refinery capacity and petrochemical plants for a period of five years from the date such facility comes onstream.

Additional comments noted that the proposed section provided no direct incentive to the expansion of olefin capacity and that such facilities should receive allocations on the basis of olefins produced. Consideration was given to these comments and it was decided, be-

cause of the disruption of existing petrochemical programs which would result from such action, the extensive use of olefins in the production of energy products as well as petrochemicals which would make difficult the detection of "double dips" (two allocations based on the same input), and the desire to keep administration of the program simple for both the government and industry by avoiding certification by the petrochemical producer to the olefin producer, that granting of allocations to the petrochemical producer as proposed would remain in the rulemaking.

Further comment indicated that the program as proposed is a crude oil program, a material which the petrochemical industry cannot use as a feedstock. In this regard one of the principal objectives of the recently revised oil import program is to encourage the construction of refinery capacity in the United States. A recent amendment of section 25 eliminated fee-exempt exports by refiners of unfinished oils under that section. In light of the dependence of the petrochemical industry on unfinished oils, the recognized deficit of refinery capacity in the United States and the objectives of the recently revised oil import program, section 25A under certain conditions allows the import of up to 100 percent of the allocation earned under it as unfinished oils, but provides for an annual reduction of that allowance until in 1980 fee-exempt imports of unfinished oils will be entirely eliminated.

One comment noted that the proposed section fails to provide allocations for petrochemicals when they are produced in one person's facility and are sold in impure form to another person who purifies them into petrochemicals. Careful consideration was given to this comment and in recognition of the substantial nature of such operations they have been included in the program by eliminating from the regulation the requirement that petrochemicals be produced by chemical reaction.

Consideration of the need for a uniform method of establishing a base capacity not only for the specific unit or "petrochemical capacity" being expanded but for all "petrochemical capacity" controlled by the applicant was recognized and a method has been included in section 25A. The need to establish a base capacity for all "petrochemical capacity" controlled by the applicant has been obviated by deleting the requirement in the proposed rulemaking that the Director shall reduce the inputs to the new, expanded, or reactivated "petrochemical capacity" by the same amount that inputs to the applicant's other "petrochemical capacity" were lowered.

It has also been noted that an on-stream cut-off date beyond which new, expanded and reactivated "petrochemical capacity" would not be considered under the program was not included in the proposed section. Such a date has been established in the rulemaking as before January 1, 1972.

Lastly, the proposed rulemaking has been revised so that allocations will be made for periods of twelve months beginning January 1 for the 1973 allocation period. The regulation is written so that it can be readily amended to conform to Amendment 60 of Oil Import Regulation 1 (Revision 5), as amended, which provides that effective May 1, 1974, the allocation period for all allocations except allocations issued pursuant to sections 9A and 11A will be made for periods of twelve months beginning May 1 of each year.

This amendment shall become effective December 12, 1973.

STEPHEN A. WAKEFIELD,
Assistant Secretary
of the Interior.

Approved: December 10, 1973.

WILLIAM E. SIMON,
Administrator,
Federal Energy Office.

Oil Import Regulation 1 (Revision 5), as amended, is amended as follows:

Sec. 9A [Amended]

Paragraph (b) of section 9A of Oil Import Regulation 1 (Revision 5), as amended, is amended to read as follows:

(b) Subject to the provisions of this section a person who holds an allocation of imports into Districts I-IV or into District V for a particular allocation period under section 9 or section 25A of this regulation shall also be entitled to receive under this section 9A an allocation of imports of crude oil into Districts I-IV or into District V (as the case may be) based on his exports during the base period of eligible petrochemicals produced by him.

The second sentence of subparagraph (2) of paragraph (e) of section 9A of Oil Import Regulation 1 (Revision 5), as amended, is amended to read as follows:

Commencing with the second half of the 1973 allocation period, the weight thus ascertained shall be divided by 200; and the applicant shall receive an allocation of barrels of imports of crude and unfinished oils equal to the resulting quotient.

Paragraph (d) of section 9B of Oil Import Regulation 1 (Revision 5), as amended in its entirety to read as follows:

Sec. 9B—Allocations of Imports of Crude Oil and Unfinished Oils for Conversion of Heavy Liquid Feedstocks to Petrochemicals—Districts I-IV and District V.

(d) A person who receives an allocation under this section 9B may not receive an allocation pursuant to section 9 based on any feedstock stream processed in the person's heavy liquid plant or plants. The hydrocarbon content of materials upon which an allocation under section 9, section 9A, section 25, or section 25A of this regulation is based will not qualify as a basis for an allocation under this section 9B. Hydrocarbon materials upon which an allocation

under this section 9B is based will not qualify as a basis for an allocation under section 9, section 9A, section 25 or section 25A of this regulation. No hydrocarbon material upon which an allocation under this section 9B is based may serve as a basis for another allocation under this section 9B.

A new Section 25A is added.

Sec. 25A—Allocations of crude oil and unfinished oils—Districts I-IV, District V, and Puerto Rico—new, expanded or reactivated "petrochemical capacity" based upon estimated and actual inputs.

(a) (1) The Director may make allocations of imports of crude oil and unfinished oils with respect to new, expanded or reactivated "petrochemical capacity" as provided in this section. The plant additions and modifications which have resulted in the new expanded, or reactivated "petrochemical capacity" need not when taken independently meet the definition of "petrochemical capacity" as defined in paragraph (b) of this section: *Provided*, That such additions and modifications are an integral part of the facility that does qualify as "petrochemical capacity."

(2) A person seeking such an allocation must file an application in the form prescribed by the Director. The application shall disclose in detail such information as the Director may require, including—

- (i) The nature of the facility.
- (ii) The location of the facility.
- (iii) The petrochemicals and the pounds of each petrochemical produced or to be produced.
- (iv) The pounds of carbon and hydrogen in the petrochemicals produced from qualified "petrochemical capacity" inputs.
- (v) The capital outlay involved.
- (vi) The identification of each feedstock and the source thereof.
- (vii) The date that the facility went onstream or is scheduled to go onstream.
- (viii) Whether the application is for a new facility, an expansion, or reactivation.
- (ix) Whether this facility will replace an existing facility which is to be or has been shut down.

(x) In the case of an expansion, the certified pounds of each petrochemical produced for the last three years in the particular "petrochemical capacity" for which the expansion is claimed.

(3) Applications for allocations for the 1973 allocation period under paragraph (e) of this section must be filed on or before December 31, 1973.

(b) For purposes of this section "petrochemical capacity" means a facility or plant complex:

- (1) Which includes equipment for converting hydrocarbons to petrochemicals.
- (2) Which manufactures for plant use or sale one or more separate and distinct petrochemicals by conversion of each

separate "petrochemical capacity input" feedstock stream which is claimed by an applicant as a basis for obtaining an allocation.

(c) For purposes of this section "petrochemical capacity inputs" means feedstocks charged to a "petrochemical capacity."

(1) And include only:

- (i) Crude oil.
- (ii) Unfinished oils (except those unfinished oils specifically excluded in subparagraph (2) of this paragraph) produced in Districts I-IV and District V and Puerto Rico and unfinished oils imported pursuant to an allocation:

(2) But do not include:

- (i) Unfinished oils which are produced in a "petrochemical capacity" or petrochemical plant in the manufacture of petrochemicals and subsequently charged to a unit which is part of the same "petrochemical capacity" or petrochemical plant in which they were produced or to any other "petrochemical capacity" or petrochemical plant which is owned or controlled by the same person who claims the initial "petrochemical capacity inputs" or petrochemical plant inputs from which the unfinished oils are derived.
- (ii) Unfinished oils which are obtained by transactions such as sales, purchases, or exchanges which are designed to avoid the exclusion specified in subdivision (1) of this subparagraph (2) and.
- (iii) Benzene which met the ASTM standards for nitration grade or cumene, ethylbenzene, isoprene, meta-xylene, ortho-xylene or para-xylene which had a purity of 95 percent or more by weight but which subsequently has been recycled and mixed with other hydrocarbons, commingled, or purposely debased.

(d) For purposes of this section each item on the schedule in paragraph (k) of section 9B of this regulation with the exception of changes in the "condition" of several items listed and additions made, as noted below, is a petrochemical if and only if, it conforms to any notation opposite the item in column 2 and to the condition specified opposite the item in column 3. The "conditions" amended and additions made to the schedule in paragraph (k) of section 9B are as follows:

D—ASTM nitration grade
E—Petrochemical must be recovered in a state of 95 percent purity or more.

(e) (1) Each increment of new, expanded or reactivated "petrochemical capacity" which has come onstream on or after January 1, 1972, will be treated as a separate entity under this paragraph (e) for a total of sixty months.

(2) If the new, expanded or reactivated "petrochemical capacity" is scheduled to come onstream during the allocation period for which the allocation is requested, the allocation shall be computed on the basis of inputs (divided by 365), calculated as in paragraph (f) (1) of this section, which it is estimated will be made to such capacity during that allocation period. In the event the new, expanded or reactivated "petrochemical capacity" comes onstream after September 30, of the allocation period for which the allocation is requested, the Director may, if requested by the applicant, extend the expiration date of the license or licenses to 120 days after the start-up date. An applicant who receives an allocation for a particular allocation period pursuant to this subparagraph (2) may be eligible for an allocation pursuant to subparagraph (3), (4), or (5) of this paragraph for the succeeding allocation periods.

(3) If the new, expanded or reactivated "petrochemical capacity" has come onstream during the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be computed on the basis of the sum) divided by 365) of (1) the "petrochemical capacity inputs" calculated as in paragraph (f) (1) of this section, actually made to the new, expanded or reactivated "petrochemical capacity" during the first nine months of the allocation period immediately preceding the allocation period for which the allocation is requested and (ii) the inputs, calculated as in paragraph (f) (1) of this section which it is estimated will be made to such capacity during the next number of months which, when combined with the months in subdivision (1) of this subparagraph, will constitute a period of twelve months.

Petrochemical	Limitations	Conditions
Benzene.....		D
Cumene.....		E
Ethylbenzene.....		E
Isoprene.....		E
Meta-xylene.....		E
Ortho-xylene.....		E
Para-xylene.....		E

(4) If the new, expanded or reactivated "petrochemical capacity" has been onstream for at least one year as of September 30, of the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be based on actual inputs (divided by 365), calculated as in paragraph (f) (1) of this section, to the facility during the preceding twelve months ending September 30: *Provided*, That, the facility will not have been onstream in excess of sixty months during the allocation period for which the allocation is requested.

(5) If the new, expanded or reactivated "petrochemical capacity" has not been onstream for a period of sixty months after earning an allocation under subparagraph (4) of this paragraph (e), an allocation will be made for the next allocation year based on actual inputs (divided by 365), calculated as in paragraph (f) (1) of this section, for the year ending September 30 of the previous allocation year. In computing the allocation, the Director will determine the number of days which, when added

(2) If the new, expanded or reactivated "petrochemical capacity" is scheduled to come onstream during the allocation period for which the allocation is requested, the allocation shall be computed on the basis of inputs (divided by 365), calculated as in paragraph (f) (1) of this section, which it is estimated will be made to such capacity during that allocation period. In the event the new, expanded or reactivated "petrochemical capacity" comes onstream after September 30, of the allocation period for which the allocation is requested, the Director may, if requested by the applicant, extend the expiration date of the license or licenses to 120 days after the start-up date. An applicant who receives an allocation for a particular allocation period pursuant to this subparagraph (2) may be eligible for an allocation pursuant to subparagraph (3), (4), or (5) of this paragraph for the succeeding allocation periods.

(3) If the new, expanded or reactivated "petrochemical capacity" has come onstream during the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be computed on the basis of the sum) divided by 365) of (1) the "petrochemical capacity inputs" calculated as in paragraph (f) (1) of this section, actually made to the new, expanded or reactivated "petrochemical capacity" during the first nine months of the allocation period immediately preceding the allocation period for which the allocation is requested and (ii) the inputs, calculated as in paragraph (f) (1) of this section which it is estimated will be made to such capacity during the next number of months which, when combined with the months in subdivision (1) of this subparagraph, will constitute a period of twelve months.

(4) If the new, expanded or reactivated "petrochemical capacity" has been onstream for at least one year as of September 30, of the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be based on actual inputs (divided by 365), calculated as in paragraph (f) (1) of this section, to the facility during the preceding twelve months ending September 30: *Provided*, That, the facility will not have been onstream in excess of sixty months during the allocation period for which the allocation is requested.

(5) If the new, expanded or reactivated "petrochemical capacity" has not been onstream for a period of sixty months after earning an allocation under subparagraph (4) of this paragraph (e), an allocation will be made for the next allocation year based on actual inputs (divided by 365), calculated as in paragraph (f) (1) of this section, for the year ending September 30 of the previous allocation year. In computing the allocation, the Director will determine the number of days which, when added

to the actual operating period in the previous allocation years, will constitute a period of sixty months. The facility will for this number of days, earn an allocation under this section 25A.

Total weight in pounds of actual and estimated carbon and hydrogen from qualified "petrochemical capacity inputs" contained in petrochemicals produced during any applicable allocation period

200

—Qualified inputs for the allocation period in barrels.

(2) The allocation shall be equal to the qualified inputs, calculated as in paragraph (f) (1) of this section, to such facilities as determined in subparagraphs (e) (2), (e) (3), (e) (4) or (e) (5) of this section 25A, whichever is applicable.

(3) For purposes of this section, where a person produced a petrochemical from a combination of inputs which qualify, under paragraph (c) of this section and inputs which do not so qualify, the hydrogen and carbon content of the produced petrochemical shall be deemed to have been derived entirely from the qualified inputs to the full extent of such qualified inputs except that such hydrogen and carbon shall not be deemed to have been derived from a qualified input from which the carbon and hydrogen could not actually have been derived.

(g) (1) If an allocation based in whole or in part on estimated inputs, calculated as in paragraph (f) (1) of this section, is made to an applicant pursuant to this section, the actual inputs calculated as a basis for allocations in the next succeeding allocation period or periods for which the applicant applies for an allocation or allocations under this regulation shall be adjusted upward or downward to compensate for the difference between the calculated estimated inputs and actual inputs made during the period for which inputs were estimated.

(2) If the calculated estimated inputs upon which an allocation is based exceed the calculated actual inputs made by more than ten percent of the calculated estimated inputs, then, in addition to the adjustment downward provided by subparagraph (1) of this paragraph, the applicant shall be penalized for the overestimate as provided in this subparagraph (2). As a penalty, the calculated actual inputs submitted by the applicant as a basis for allocation for the next succeeding period or periods for which the applicant applies for an allocation or allocations under this regulation shall be further reduced by the number of barrels by which the calculated estimated inputs exceeded the calculated actual inputs by more than ten percent. However, to the extent that an applicant demonstrates to the satisfaction of the Director that the excess of calculated estimated inputs over calculated actual inputs was attributable to acts of God, fire, government action, explosion, labor disputes, or other similar circumstances beyond the applicant's control, the Director may

(f) (1) The Director shall issue allocations with respect to new, expanded or reactivated "petrochemical capacity" based on inputs which will be calculated in the following manner:

waive the penalty or reduce the number of barrels of excess for which the penalty will be imposed. Persons applying for and receiving allocations under this section whose new, expanded or reactivated "petrochemical capacity" fails to come onstream within the allocation period may be denied any allocation for the next succeeding period. The Director may elect not to apply this penalty in those cases where the applicant demonstrates to the satisfaction of the Director that a substantial effort was made to complete and to start up such facility and that the person's failure was attributable to acts of God, fire, government action, explosion, labor disputes, or other similar circumstances beyond the applicant's control.

(3) (i) Any person who has been granted an allocation for a new, expanded or reactivated "petrochemical capacity" in Districts I-IV, District V or Puerto Rico may avoid the penalty prescribed in subparagraph (2) of this paragraph by returning on or before September 30 of the period for which the allocation was granted such a license or licenses for a downward adjustment, or, in lieu of returning such license or licenses, returning for downward adjustment a license issued to the person under section 9.

(ii) A request by an applicant who has received an allocation and license under this section for a downward adjustment shall be made in writing to the Director on or before September 30 of the allocation period for which the allocation and license were granted.

(4) The Director shall not issue a license under an allocation made pursuant to this section until (i) an on-the-spot evaluation of the new, expanded or reactivated "petrochemical capacity" has been conducted by compliance representatives of the Office of Oil and Gas and (ii) a written determination has been made by the Director that the facility is a bona fide "petrochemical capacity" as certified in the application, and that construction or reactivation has so far progressed that, in the Director's judgment, the plant will within sixty days from the date of such determination be ready for start-up and trials.

(h) No license issued for allocations made under this section may be sold, assigned, or otherwise transferred.

(i) (1) As used in this section 25A "expanded petrochemical capacity" includes

expansion of existing facilities by the addition of equipment, such as, but not limited to, stills, towers, pumps, and conversion units, or such additions to or modification of existing "petrochemical capacity" or petrochemical plant or identifiable "petrochemical capacity" or petrochemical plant capacity within an existing "petrochemical capacity" or petrochemical plant as have resulted in an increased petrochemical production capability of not less than fifteen percent above the base capacity established for the particular "petrochemical capacity" or petrochemical plant under consideration. The base capacity will be the average of the sums of the certified production of each petrochemical produced in the particular "petrochemical capacity" or petrochemical plant or identifiable "petrochemical capacity" or petrochemical plant capacity being expanded for the highest two of the last three years ending on September 30 of each year.

(2) As used in this section 25A, "reactivated petrochemical capacity" means restoration to operation of "petrochemical capacity" which had been shut down for not less than twelve months immediately preceding its reactivation.

(j) An allocation made pursuant to this section shall entitle a person to a license or licenses which will allow the importation of unfinished oils in an amount not exceeding, in the aggregate, 15 percent of the person's allocation. However, the Director shall permit a person holding such an allocation to import unfinished oils in an amount up to 100 percent of the allocation upon certification by him to the Director that such imported unfinished oils will not be exchanged, that such unfinished oils will be processed entirely in the petitioner's "petrochemical facilities," that the person will not charge to anyone of his plants a quantity of such unfinished oils in excess of the allocation made with respect to each such plant. The Director may, in special circumstances, permit a person holding such an allocation to import up to 100 percent of his allocation in the form of unfinished oils and to exchange such imports for like domestic material to be run entirely in the petitioner's "petrochemical facilities" in an amount not in excess of the allocation made with respect to each such plant. Annually beginning May 1, 1974, the maximum amount of the person's allocation which may be imported under this section as unfinished oil will be reduced by the following percentage:

For Year Commencing	Percent Reduction of Person's Allocation of Unfinished Oils Imported Under This Section
May 1, 1974	10
May 1, 1975	20
May 1, 1976	35
May 1, 1977	50
May 1, 1978	65
May 1, 1979	80
May 1, 1980	100

(k) A person who imports crude oil or unfinished oils under an allocation made under this section, except as provided in

paragraph (j) of this section, may exchange his imported crude oil either for domestic crude oil or for domestic unfinished oils or exchange his imported unfinished oils either for domestic unfinished oils or for domestic crude oil. All such exchanges shall be governed by the provisions of subparagraphs (2), (3), (5) and (6) of paragraph (b) of section 17 of this regulation.

(l) The hydrocarbon content of materials upon which an allocation under section 9 or section 9B of this regulation is based will not qualify as a basis for an allocation under this section.

(m) An applicant may not receive an allocation under this section 25A for new, expanded or reactivated "petrochemical capacity" for which inputs have been included in applications filed pursuant to section 9.

[FR Doc.73-26391 Filed 12-11-73;8:45 am]

Title 6—Economic Stabilization
CHAPTER 1—COST OF LIVING COUNCIL
PART 150—PHASE IV PRICE REGULATIONS
PART 155—PHASE IV PRICE PROCEDURES
Miscellaneous Amendments

Section 150.153 is amended by adding a sentence providing that the 30-day prenotification period, in any case where it would otherwise end on a Saturday, Sunday or Federal legal holiday, will end at the close of the next succeeding workday.

Section 150.153 was amended on October 10, 1973 and prior to that amendment contained the language restored by this amendment. The deletion of the language was inadvertent and did not produce a gap in the Council's regulations since § 155.5(b), the general section gov-

erning computation of time for Title 6, CFR, provides that if the last day of a period falls on a Saturday, Sunday or Federal legal holiday, the period will be extended to the next day which is not a Saturday, Sunday or Federal legal holiday. Section 150.153 is amended to avoid any misunderstanding with respect to the ending date of the prenotification period which may have been caused by the October 10, 1973 amendment.

Section 155.108 is amended to change from 10 days to 30 days the length of time the Council has to make a decision and issue an order on a request for reconsideration. Because the Council has found that it is administratively infeasible to process requests for reconsideration in the 10 day time period stated in § 155.108, the time period is expanded to 30 days.

Because the purpose of these amendments is to make technical corrections and to provide immediate guidance and information with respect to the decisions of the Council, the Council finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days. Interested persons may submit written comments regarding these regulations. Communications should be addressed to the General Counsel, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E. O. 11695, 38 FR 1473; E. O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489)

In consideration of the foregoing, Parts 150 and 155 of Title 6 of the Code of Federal Regulations are amended as

set forth herein, effective December 11, 1973.

Issued in Washington, D.C. on December 11, 1973.

JAMES W. McLANE,
Deputy Director,
Cost of Living Council.

Section 150.153 is amended to read as follows:

§ 150.153 Measure of the prenotification period.

The 30-day prenotification period will begin on the first day which follows the date of filing of the notice of the proposed price increase and which is not a Saturday, Sunday or Federal legal holiday. In any case in which the 30-day period would otherwise end on a Saturday, Sunday or Federal legal holiday, it will end at the close of the next succeeding workday.

Section 155.108 is amended to read as follows:

§ 155.108 Decision by Council.

(a) When administratively feasible, within 30 days of receipt of a request for reconsideration, or within 30 days of a Hearing Officer's or District conferee's report, when a hearing or conference has been held, the Council will make a decision and issue an order. However, if a remedial order is outstanding and reconsideration is sought from an order under § 155.86, the Council will make every effort to expedite the issuance of an order under this section. It is expected that such orders will ordinarily issue within 30 days of receipt of the request for reconsideration.

[FR Doc.73-26493 Filed 12-11-73;12:06 pm]

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 162]

SEIZED MERCHANDISE

Proposed Treatment Pending Forfeiture Proceedings

Notice is hereby given that under the authority of Revised Statute 251, as amended (19 U.S.C. 66), and section 624, 46 Stat. 759 (19 U.S.C. 1624), it is proposed to amend § 162.41(c) of the Customs Regulations. This section presently provides that the appraisal of merchandise and liquidation of entries shall not be withheld because of pending forfeiture proceedings when an entry of merchandise subject to the provisions of section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592), has been made. The proposed amendment provides that in such instances the liquidation of the entry shall be suspended until final disposition of the forfeiture proceedings.

Accordingly, it is proposed to amend § 162.41(c) of the Customs Regulations to read as follows:

§ 162.41 Merchandise entered by false invoice, declaration, other document or statement subject to forfeiture.

(c) *Liability for duties unaffected by forfeiture.* When an entry covering merchandise subject to the provisions of section 592, Tariff Act of 1930, as amended, has been made, it shall, after final disposition of the forfeiture proceedings, be liquidated and the duties collected as though no forfeiture had been incurred. Liquidation of the entry shall be suspended until final disposition of the forfeiture proceedings. When merchandise not covered by an entry is subject to section 592, Tariff Act of 1930, as amended, a demand shall be made on the importer for payment of the duty estimated to be due on such merchandise in addition to the seizure of the merchandise or the demand for forfeiture value. Any applicable internal revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited.

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration of such communications, they must be received on or before January 11, 1974.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)),

at the Regulations Division, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL]

VERNON D. ACREE,
Commissioner of Customs.

Approved: December 4, 1973.

JAMES B. CLAWSON,
Acting Assistant Secretary of
the Treasury.

[FR Doc. 73-26265 Filed 12-11-73; 8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 202]

[EDR-256A; Docket No. 25039]

TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY: INTERSTATE AND OVERSEAS ROUTE AIR TRANSPORTATION

Supplemental Notice of Proposed Rule Making

DECEMBER 6, 1973.

By notice of proposed rulemaking, EDR-256, dated October 25, 1973, and published at 39 FR 30008, the Board gave notice that it had under consideration an amendment to Part 202 of its Economic Regulations (14 CFR Part 202) which would provide for a simplified procedure for authorizing a relaxation of the skip-stop provision in the certificates of local service carriers. The proposal was offered as a means of affording more operating flexibility to the carriers for the duration of the severe fuel shortage with which they are now—and will continue to be—faced.¹ Since issuing said Notice, we have decided to expand the scope of the proposed amendments that are the subject of the rulemaking proceeding and to issue an amended exemption order. Accordingly, we have altered a small portion of the proposed rule to reflect the type of authority which we intend to grant through the procedures set forth in the rule.²

Although the time for filing comments in this proceeding³ has expired, we will allow an additional 10 days for further comments in view of the fact that there is a change of a substantive nature in the

¹ The Notice was issued contemporaneously with Order 73-10-94, October 25, 1973, as amended by Order 73-11-20, November 6, 1973, which granted an interim exemption to reduce service.

² The rule, as modified, is proposed under authority of sections 204(a) and 401 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324) 72 Stat. 754, as amended by 76 Stat. 143, 82 Stat. 867 (49 U.S.C. 1371).

³ November 26, 1973.

authority we are granting. Interested persons may participate through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before December 17, 1973, will be considered by the Board before taking final action upon the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL]

EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

By an exemption order issued contemporaneously herewith, the Board has decided to permit the local service carriers to omit service at all intermediate points on their certificates after they have provided one round trip five days per week at each station. Since the explanatory portion of EDR-256 referred to a higher requirement of two round trips five days per week, we have decided to issue this supplemental notice. In all other respects the explanatory portion of EDR-256 remains valid and interested parties are referred to it for a full discussion of our actions. An alteration in § 202.4(b-1) of the proposed rule will be necessary inasmuch as our most recent action further liberalizes the skip-stop condition and permits the provision of service to a point over only one segment notwithstanding the fact that the point appears on more than one segment. For the convenience of interested persons, we have attached hereto the proposed rule in full, as amended by this notice. The new language is underscored in the accompanying text.

It is proposed to amend Part 202 of the Economic Regulations (14 CFR Part 202), as follows:

1. Amend § 202.4 by inserting, following paragraph (b), a new paragraph to read as follows:

§ 202.4 Service pattern change.

(b)

(1) *Application by local service carrier for change in service frequency to conserve fuel resources.* If at any time a local service carrier holding such a certificate desires to establish a service pattern