

No. 10480, as amended, which is inconsistent with the exercise of such authority is hereby suspended for so long as this Section remains in effect.

SEC. 6. Executive Order No. 11726 of June 29, 1973, is hereby superseded to the extent that it is inconsistent with this Order.

SEC. 7. All Orders, regulations, circulars, or other directives issued and all other actions taken pursuant to any authority delegated to the Administrator by this Order prior to and in effect on the date of this Order are hereby confirmed and ratified, and shall remain in full force and effect, as if issued under this Order, unless or until altered, amended, or revoked by the Administrator or by such competent authority as he may specify.

SEC. 8. All authority delegated to and placed in the Administrator by this Order may be further delegated, in whole or in part, by the Administrator to any other officer or any department or agency of the United States.

SEC. 9(a) Necessary expenses of the Federal Energy Office may be paid from the Emergency Fund of the President or from such other funds as may be available.

(b) The Administrator of the General Services Administration shall provide, on a reimbursable basis, such administrative support as may be needed by the Federal Energy Office.

(c) All departments and agencies of the executive branch shall, to the extent permitted by law, provide assistance and information to the Administrator of the Federal Energy Office.



THE WHITE HOUSE,

December 4, 1973.

[FR Doc. 73-26073 Filed 12-5-73; 10:39 am]

NOTE: For the President's remarks of December 4, 1973, concerning Executive Order 11748, above, see Weekly Comp. of Pres. Docs., vol. 9, no. 49, issue of December 10, 1973.

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel CHAPTER I—CIVIL SERVICE COMMISSION PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

Section 213.3182 is amended to show that until June 30, 1976, one position of Assistant Director for Theatre Programs, National Endowment for the Arts, is excepted under Schedule A.

Effective on December 6, 1973, § 213.3182(a)(4) is added as set out below.

§ 213.3182 National Foundation on the Arts and the Humanities.

(a) National Endowment for the Arts.

(4) Until June 30, 1976, one Assistant Director for Theatre Programs.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.73-26036 Filed 12-5-73;8:45 am]

PART 213—EXCEPTED SERVICE Miscellaneous Revocations

Subpart C of Part 213 is amended to show that under the provisions of § 213.3301b 18 positions are no longer excepted under Schedule C.

Effective December 6, 1973, Subpart C of Part 213 is amended as set out below.

§ 213.3303 Executive Office of the President.

(a) Office of Management and Budget.

(1) Four Secretaries to the Director.

§ 213.3304 Department of State.

(a) Office of the Secretary.

(2) Three Private Secretaries to the Secretary.

§ 213.3305 Treasury Department.

(a) Office of the Secretary.

(26) [Revoked]

(36) [Revoked]

(42) [Revoked]

§ 213.3313 Department of Agriculture.

(a) Office of the Secretary.

(31) [Revoked]

(c) Office of the Under Secretary.

(5) [Revoked]

§ 213.3318 Environmental Protection Agency.

(a) Office of the Administrator.

(3) One Secretary to the Administrator.

§ 213.3320 Inter-American Foundation.

(d) [Revoked.]

§ 213.3329 Federal Power Commission.

(j) [Revoked.]

§ 213.3337 General Services Administration.

(f) Property Management and Disposal Service.

(2) Five Confidential Assistant to the Commission.

(3) One Special Assistant to the Commissioner.

§ 213.3368 Agency for International Development.

(e) Office of the Assistant Administrator for Legislative Affairs.

(3) [Revoked.]

§ 213.3394 Department of Transportation.

(a) Office of the Secretary.

(11) Two Special Assistants to the Under Secretary of Transportation.

(24) [Revoked.]

(27) [Revoked.]

(31) [Revoked.]

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.73-25910 Filed 12-5-73;8:45 am]

Title 6—Economic Stabilization CHAPTER I—COST OF LIVING COUNCIL PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

Petroleum and Petroleum Products

These amendments are designed to implement certain changes in the Cost of Living Council Phase IV Petroleum regulations dealing with the refiners, issued after review of comments submitted in response to the Council's notice of proposed rulemaking (38 FR 31686, November 16, 1973). As stated in the notice of proposed rulemaking these changes, which became effective November 30, 1973, must be used by refiners to make the calculations of increased product costs beginning with the month of December.

After reviewing the comments received as well as other information developed by the Council during the comment period the Council has altered the proposed rulemaking in several respects which are summarized below.

The Council has modified slightly the proposed reseller rule to make clear that it applies to all sales of crude petroleum except the first sales of domestic crude petroleum. Additionally, the reseller rule as amended applies to any entity of a refiner which is engaged in the business of purchasing and reselling covered products provided that the entity does not purchase more than 5 percent of such covered products from the refiner including any entities which it directly or indirectly controls and provided further that the entity has historically and consistently exercised the exclusive price authority with respect to sales by the entity. This modification is in response to comments received that certain entities although owned by a refiner are completely autonomous entities and purchase products on the open market in arms-length transactions. Such entities have separate accounting procedures which would require substantial modification were they required to "roll-in" their product costs with those of the parent refiner. All other sales by a refinery or its subsidiaries are subject to the refiner's rule § 150.355.

The Council has received numerous comments concerning increases in domestic transportation costs due to changes in the sources from which crude petroleum and purchased product are available. This is especially true for smaller inland refineries which must purchase crude whenever it becomes available. Also, many refiners which purchase crude or product F.O.B. point of destination are unable to ascertain that portion of costs attributable to transportation. Thus, the definitions in § 150.356(b) have been modified to include domestic transportation changes to the refinery in increased product costs. These charges may be passed through automatically via the allocation formula. The definition of the cost of domestic crude petroleum has been modified to make clear that the increased cost of crude petroleum produced from stripper wells, the first sale of which is exempt under § 150.54(s) may be passed through as an increased product cost.

This definition was further changed from that set forth in the proposed rulemaking to include as crude petroleum natural gas liquids as well as unfinished oils since both are used in the refinery process.

A technical change has been made to the Y_i factor in the allocation formula. This term, as proposed, required a firm to calculate the lowest price at or above which 10 percent of the product was sold to wholesalers. Comments received indicated that this number was not readily ascertainable since "wholesalers" excluded many sales traditionally considered as wholesale sales by the industry. Accordingly, the definition has as amended omits the words "to wholesalers", and identifies the lowest price at or above which 10 percent of all sales of that product were made.

In an effort to clarify and provide further guidance to the petroleum industry a definition of posted prices has been added to § 150.352. It provides that a posted price must be a publicly circulated written offer to purchase. It does not include premiums above posted prices which may have been paid for crude purchased on May 15, 1973.

The calculation of the "banked costs," term G in the formula adopted as proposed reflects only those costs incurred since August 1, 1973 and not yet recouped. There is not and never has been any provision allowing the increases in the costs of crude petroleum incurred between the period May 15, 1973 and August 1, 1973 to be recouped.

The allocation of refiners increased non-product costs as set forth in § 150.355, is adopted without change from the proposed rulemaking.

The change in the allocation formula § 150.356 which requires allocation of increases based upon sales volume rather than sales revenues and the other technical changes set forth in the notice are adopted without change.

(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 Number 14, 38 FR 1489.)

In consideration of the foregoing Part 150 of Title 6 of the Code of Federal Regulations is amended as follows, effective November 30, 1973.

Issued in Washington, D.C., November 30, 1973.

JOHN T. DUNLOP,
Director,
Cost of Living Council.

§ 150.352 [Amended]

1. Section 150.352 is amended by deleting the definitions of "refiner-reseller" and "refiner-retailer".

2. Section 150.352 is amended by adding a definition of "Posted price" as follows:

"Posted price" means a written statement of crude petroleum prices circulated publicly among sellers and buyers of crude petroleum in a particular field in accordance with historic practices, and generally known by sellers and buyers within the field.

3. Section 150.355 is revised to read as follows:

§ 150.355 Price rule: Refiners.

(a) *Applicability.* Except as provided in § 150.359, this section applies to each sale of a covered product which is purchased or refined by a refiner.

(b) *Rule.* A refiner may not charge to any class of purchaser a price in excess of the base price of that covered product except to the extent permitted pursuant to the provisions of paragraphs (c) through (k) of this section.

(c) *Price increases.* (1) A price in excess of the base price of an item in a product line may be charged only to recover on a dollar-for-dollar basis those net increases in allowable costs that have been incurred with respect to the product line since the period for determining base cost and which the refiner continues to incur.

(2) For the purpose of determining whether net allowable costs have been incurred which permit the charging of a price in excess of the base price, base costs shall be compared with current costs. Current costs which exceed base costs may be used to justify a price in excess of the base price. "Allowable costs" under this section mean non-product costs attributable to refining operations under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned and exclude any costs attributable to marketing operations.

(d) *Application of price increases.* (1) A firm may not increase prices above base prices pursuant to this section until it complies with the prerenotification requirements of Subpart H of this part.

(2) A firm which is authorized to charge a prerenotified percentage price increase pursuant to Subpart H of this part with respect to a product line by virtue of cost justification determined in accordance with this section, shall apply that percentage price increase in the following manner: (i) A refiner may charge

a price in excess of the base price of a special product which reflects that part of the total allowable percentage price increase with respect to the product line allocable to sales of that special product provided that (a) the amount of the increase above the base price is calculated by use of the formula in paragraph (d) (3) (i) of this section; (b) the amount of increased costs allocable to that special product is equally applied to each class of purchasers; and (c) the increase above the base prices may not be implemented more than once in any calendar month and must be implemented on the same date that increased product costs are added to May 15, 1973 selling prices to compute base prices pursuant to paragraph (g) of this section.

(ii) A refiner may charge a price in excess of the base price of its covered products other than special products which reflects that part of the total allowable percentage price increase with respect to the product line allocable to sales of those products or sales of special products not otherwise allocated pursuant to paragraph (d) (2) (i) of this section provided that (a) the amount of increase above the base price is calculated by use of the formula in paragraph (d) (3) (ii) of this section and (b) the amount of increased costs allocated to a covered product other than a special product is equally applied to each class of purchaser.

(3) *General formulae.* (i) For special products ($i=1$ and $i=2$):

$$d_i = \frac{S_i F}{V_i}$$

(ii) For covered products other than special products ($i=3$):

$$D_i = S_i F$$

Where; for (i) and (ii):

d_i = The dollar amount that may be added to each base price of the special product or products of the type "i" in the period "e" (the consecutive 12-month period). The formula for special products must be computed separately for $i=1$ (No. 2 heating oil and No. 2-D diesel fuel) and $i=2$ (gasoline).

D_i = The total dollar amount a refiner may add in the period "e" (the consecutive 12-month period), to base prices of covered products of the type "i" in whatever amount it deems appropriate to each particular covered product other than a special product. The formula for covered products other than special products will only be computed for $i=3$ (all covered products other than special products and crude petroleum).

V_i = Estimated volume or quantity of sales of a specific covered product of the type "i" in the period "e" (the consecutive 12-month period).

S_i = Estimated total revenues from sales for the period "e" (the consecutive 12-month period), of a specific covered product or products of the type "i" at May 15, 1973, price levels.

F = The percentage of cost justification entered for all covered products under column (F), item 24, part VI of CLC Form 22.

The time period for measurement is referenced by the superscript e:

e = The consecutive 12-month period for which the cost justification is proposed, commencing the first day following the accounting month most recently ended prior to the date of signing the prerenotification CLC Form 22.

The type of covered product is referenced by the subscript i:

$i=1$ represents No. 2 heating oil and No. 2-D diesel fuel.

$i=2$ represents gasoline.

$i=3$ represents all covered products other than special products and crude petroleum.

(e) *Price reductions.* A price charged in excess of the base price may continue to be charged only as long as the net increases in allowable costs which support that price in excess of the base price continue to be incurred. Price reductions shall be made whenever and to the extent necessary to assure that, for any fiscal quarter, the weighted average of all price increases and price decreases in a product line does not exceed the percentage of cost justification for that line.

(f) *Productivity gains.* (1) Increases in allowable costs shall be reduced to reflect productivity gains. For the purpose of determining whether a price may be charged above a base price pursuant to this section, productivity gains shall be calculated on the basis of the average percentage gain in the applicable industrial category, as set forth in the table in the Appendix to Subpart E. To the extent provided in the table in the Appendix, productivity gains shall be taken into account in the calculation of all price increases during any fiscal year but only until the full productivity offset, derived from the Appendix and calculated under paragraph (f) (2) of this section, has been used within that fiscal year.

(2) For the purpose of determining the extent to which a price increase is justified, each refiner shall calculate the sum of all of its labor costs (of the type required to be included as costs in reporting and prenotification forms issued pursuant to Subpart H of this part) as a percentage of sales for the product line concerned, and shall multiply that percentage by the average annual rate of productivity gain for the applicable industrial category, as set forth in the table in the Appendix to Subpart E. The result is the productivity gain, stated as a percentage, by which the total cost increase must be reduced in order to be an allowable cost for the purposes of a price increase under this section.

(3) If the product line concerned extends to more than one industrial category, the average percentage gain in productivity in each category must be weighted in proportion to the ratio which its estimated sales in each industrial category for the most recently completed fiscal quarter bears to the total sales of that product line for that quarter.

(g) *Base price.*—(1) *General rule.* The base price for sales of an item by a refiner is the weighted average price at which the item was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, plus increased product costs incurred between the month of measurement and the month of May 1973 and measured pursuant to the provisions of § 150.356. In computing the base price, a firm may not exclude any temporary special sale, deal or allowance in effect on May 15, 1973.

(2) *Special products.* Notwithstanding the general rule in paragraph (g) (1) of this section, in computing the base price for special products, a refiner may not increase its May 15, 1973 selling prices to each class of purchaser more than once in any calendar month to re-

flect the increased product costs allowable pursuant to the provisions of § 150.356, but may implement the increase on any day during that month.

(3) *Imputed prices.* If no transaction occurred with respect to a particular product on May 15, 1973, the most recent day preceding May 15, 1973 when a transaction occurred shall be used for purposes of computing the base price. If a refiner first offered an item for sale after May 15, 1973 and prior to the effective date of this paragraph, the first day when the item was offered for sale shall be used for purposes of computing the base price.

(h) *Base cost.*—(1) *Base costs.* Base costs are the net allowable costs incurred with respect to the product line concerned and are calculated as follows:

(i) *Input costs.* The base cost with respect to costs of labor, crude petroleum and other input costs is the rate at which those costs were being incurred on May 15, 1973. If no input costs were incurred on that day, the base cost is the rate at which those costs were being incurred on the next day preceding May 15, 1973 on which input costs were incurred.

(ii) *All other costs.* The base cost with respect to all costs other than input costs is the rate at which those costs were being incurred on May 15, 1973. However, if the base cost with respect to any costs other than an input cost cannot reasonably be determined by the method prescribed in the preceding sentence, that base cost is the average cost incurred throughout the last fiscal quarter which ended before May 15, 1973, in which costs were incurred with respect to the product line concerned as calculated in accordance with forms and instructions issued by the Cost of Living Council.

(2) *New items.* The base cost with respect to input costs for each new item, as defined in accordance with § 150.361, is calculated as of the date on which the new item concerned was first sold or leased in arms-length trading between unrelated persons. The base cost with respect to all other costs which cannot be calculated on the first day of sale is the average cost incurred throughout the fiscal quarter in which the new item concerned was first sold or leased in arms-length trading between unrelated persons.

(i) *Current cost.*—(1) *Current costs.* Current costs are the net allowable costs incurred during the current cost period with respect to the item concerned excluding increased product costs incurred after May 15, 1973 and measured pursuant to § 150.356.

(2) *Input costs.* The current cost with respect to costs of labor, crude petroleum and other input costs is the rate at which those costs were being incurred on the last full day of business in the current cost period.

(3) *All other costs.* The current cost with respect to all costs other than input costs is the rate at which those costs were being incurred on the last full day of business in the current cost period. However, if the current cost with respect to all costs other than input costs

cannot reasonably be determined by the method prescribed in the preceding sentence, that current cost is the average cost incurred throughout the current cost period with respect to those costs as calculated in accordance with forms and instructions issued by the Cost of Living Council.

(4) *Current cost period.* The current cost period is the last accounting month preceding the date of signature of the prenotification document submitted in accordance with Subpart H of this part except that with respect to input and other costs which may be calculated as of a date certain, the rate at which these costs are incurred on the day which is the date of signature of the prenotification document may be considered the rate on the last full day of the current cost period.

(j) *Profit margin limitation.* A refiner which charges a price for any item in excess of the base price for that item in any fiscal year may not for the fiscal year in which the price increase is charged, exceed its base period profit margin as defined in § 150.31 of this part.

(k) *Certification.* Each refiner of gasoline must, with respect to each sale of gasoline other than a retail sale, certify in writing to the purchaser the octane number of the gasoline sold.

3. Section 150.356 is revised to read as follows:

§ 150.356 Allocation of refiner's increased product costs.

(a) *Scope.* This section prescribes the requirements governing the inclusion of a refiner's increased product costs in the computation of its base prices pursuant to § 150.355(g) for covered products.

(b) *Definitions.* For purposes of this section—

"Cost of crude petroleum" means: (1) For purposes of domestic crude petroleum, (i) in arms-length transactions, the purchase price provided that with respect to sales of crude petroleum subject to subpart L, it conforms with the requirements of that subpart; (ii) in a transaction between affiliated entities, the posted price for the new crude petroleum and petroleum produced from stripper wells the first sale of which is exempt pursuant to § 150.54(s) and the posted price or price determined pursuant to § 150.354(c) (3) for base production control level crude petroleum. If there is no posted price in a particular field, the related price for that grade of new domestic crude petroleum and petroleum produced from stripper wells which is most similar in kind and quality at the nearest field for which the price is posted and the price determined pursuant to § 150.354(c) (3) for base production control level crude petroleum. Cost of crude petroleum also includes the cost of unfinished oils and natural gas liquids which are used in refining and are further refined, and which are covered products. The cost of domestic crude petroleum, unfinished oils and natural gas liquids includes transportation costs. (2) For purposes of imported crude petroleum, the landed cost.

"Cost of petroleum product" means: (1) For purposes of domestic petroleum products other than crude petroleum, the purchase price including transportation costs. (2) For purposes of imported petroleum products other than crude petroleum, the landed cost.

"Firm" means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

"Increased product costs" means the sum of (1) the difference between the total cost of crude petroleum during the month of measurement and the total cost of crude petroleum during the month of May 1973 plus (2) the difference between the total cost of petroleum product during the month of measurement and the total cost of petroleum product during the month of May 1973. If a particular petroleum product was neither purchased nor landed during the month of May 1973, the cost of that petroleum product in May 1973 shall be imputed to be the lowest price at or above which at least 10 percent of that product was priced by the refiner in transactions during the month of May 1973.

"Landed cost" means: (1) For purposes of complete arms-length transactions, the purchase price at the point of origin plus the actual transportation cost. (2) For purposes of products purchased in arms-length transactions and shipped pursuant to a transaction between affiliated entities, the purchase price at the point of origin plus the transportation cost computed by use of the accounting procedures generally accepted and consistently and historically applied by the firm concerned. (3) For purposes of products purchased in a transaction between affiliated entities and shipped pursuant to an arms-length transaction, the cost of the product computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned plus the actual transportation cost. (4) For purposes of products purchased and shipped pursuant to a transaction between affiliated entities, the costs of the product and the transportation both computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned.

"Transactions between affiliated entities" means all transactions between entities which are part of the same firm and transactions with entities in which the firm has a beneficial interest to the extent of entitlement of covered product by reason of the beneficial interest.

(c) Allocation of increased costs—

(1) General rule—(i) Special products. In computing base prices for sales of a special product, a refiner may increase its May 15, 1973 selling prices to each class of purchaser once each calendar month beginning with November 1973 by an amount to reflect the increased product costs attributable to sales of that special product using the differential between the month of measurement and the month of May, 1973 provided that the amount of increased costs used in

computing a base price is calculated by use of the general formula set forth in paragraph (c) (2) (i) of this section. To the extent that a refiner does not allocate its increased product cost for a special product pursuant to this provision, it may include that part of its increased product costs attributable to sales of that special product in computing its base prices for covered products other than special products pursuant to paragraph (c) (1) (ii) of this section.

(ii) Other than special products. In computing base prices for a covered product other than a special product, a refiner may increase its May 15, 1973 selling price to each class of purchaser each month beginning with November 1973 by an amount to reflect the increased product costs attributable to sales of covered products other than special products or sales of special products not otherwise allocated pursuant to paragraph (c) (1) (i) of this section using the differential between the month of measurement and the month of May, 1973, provided that the amount of increased costs used in computing a base price is calculated by use of the general formula set forth in paragraph (c) (2) (ii) of this section and provided that the amount of increased product costs included in computing base prices of a particular covered product other than a special product must be equally applied to each class of purchaser. In apportioning any amount of increased product costs to covered products other than special products, a refiner may apportion the total amount of increased product costs to a particular covered product other than a special product in whatever amount he deems appropriate.

(2) General formulae. (i) For special products (i=1 and i=2):

$$d_i = \frac{A_i \left(\frac{V_i}{V_s} \right) + B_i + G_i + H_i}{V_i}$$

(ii) For covered products other than special products (i=3):

$$D_i = A_i \left(\frac{V_i}{V_s} \right) + B_i + G_i + H_i$$

Where; for (i) and (ii):

d_i —The dollar increase that may be applied in the period "u" (the current month) to the May 15, 1973 selling price of the special product or products of the type "i" to each class of purchaser to compute the base price to each class of purchaser. The formula for special products must be computed separately for i=1 (No. 2 heating oil and No. 2-D diesel fuel) and for i=2 (gasoline).

D_i —The total dollar amount a refiner may apportion in the period "u" (the current month) to covered products of the type "i" in whatever amounts it deems appropriate to each particular covered product other than a special product. The formula for covered products other than special products will only be computed for i=3 (all covered products other than a special product and crude petroleum).

V_s —The total volume of all covered products sold in the period "u" (the consecutive three-month period of the preceding year such that the middle month of the period corresponds to the current month "u").

V_i —The total volume of a specific covered product or products of the type "i" sold in the period "u" (the consecutive three-month period of the preceding year such that the middle month of the period corresponds to the current month "u").

V_i —The volume or quantity of a product or products of the type "i" estimated to be sold in the period "u" (the current month).

$$A_i = Q_i \left(\frac{C_i}{Q_i} - \frac{C_s}{Q_s} \right)$$

which is the total increased cost of crude petroleum purchased or landed in the period "i" (the month of measurement).

Where:

Q_i —The total quantity or volume of crude petroleum purchased in the period "i" (the month of measurement). For imported crude petroleum, the quantity or volume landed in the period "i" (the month of measurement).

Q_s —The total quantity or volume of crude petroleum purchased in the period "s" (the month of May 1973). For imported crude petroleum, the quantity or volume landed in the period "s" (the month of May 1973).

C_i —The total cost of crude petroleum purchased or landed in the period "i" (the month of May 1973).

C_s —The total cost of crude petroleum purchased or landed in the period "s" (the month of measurement).

$$B_i = c_i^i - c_i^s - Y_i (q_i^i - q_i^s)$$

which is the total increased cost of a specific covered product or products of the type "i" purchased or landed in the period "i" (the month of measurement).

Where:

c_i^s —The total cost of a covered product or products of the type "i" purchased in the period "s" (the month of May 1973). For imported products, the cost of products of the type "i" landed in the period "s" (the month of May 1973).

c_i^i —The total cost of a covered product or products of the type "i" purchased in the period "i" (the month of measurement). For imported products, the cost of products of the type "i" landed in the period "i" (the month of measurement).

q_i^s —The total quantity or volume of a covered product or products of the type "i" purchased in the period "s" (the month of May 1973). For imported products of the type "i", the total quantity or volume landed in the period "s" (the month of May 1973).

q_i^i —The total quantity or volume of a covered product or products of the type "i" purchased in the period "i" (the month of measurement). For imported products of the type "i", the total quantity or volume landed in the period "i" (the month of measurement).

Y_i —The lowest price at or above which at least 10 percent of the product or products of type "i" were priced in transactions during the month of May 1973 or, if none occurred in that month, in the month next preceding May 1973 in which such transactions occurred. Alternatively, the cost of the product or products concerned during the month of May 1973 may be used if computed by use of accounting procedures generally accepted and consistently and historically applied by the firm concerned and provided that the Council has approved in writing of the cost figures used.

$G_i = J_i - K_i$ which is the total dollar amount of increased costs of the product or products of the type "i" not recovered in sales of that product through the period "i" (the month of measurement) that have been carried forward pursuant to paragraph (d) of this section or the total excess revenues derived from sales of the product or products of the type "i" which must be subtracted pursuant to paragraph (d) of this section.

Where:

J_i —The total dollar amount of increased product costs attributable to the product type "i" from Aug. 1, 1973, through the period "i" (the month of measurement).

K_i —The total dollar amount of increased product costs attributable to the product type "i" and recovered by sales through the period "i" (the month of measurement) by adjusting the May 15, 1973, selling prices pursuant to the provisions of this subpart.

H_i —The portion of the total dollar amount available in the period "u" (the current month) for inclusion in price adjustments to special products of the type "i" which pursuant to subparagraph (c) (1) (ii) the refiner elects to include in prices of covered products other than special products for the period "u" (the current month).

H_s —The sum of the dollar amounts available in the period "s" (the current month) for inclusion in price adjustments to special products which pursuant to paragraph (c) (1) (ii) of this section the refiner elects to include in calculating the base prices of covered products other than special products for the period "u" (the current month).

The type of covered product is referenced by the subscript *i*:

- i*=1 represents No. 2 heating oil and No. 2-D diesel fuel.
- i*=2 represents gasoline.
- i*=3 represents all covered products other than special products and crude petroleum.

The time period for measurement is referenced in the superscript; where:

- n*=The consecutive 3-month period of the preceding year such that the middle month of the period corresponds to the current month.
- m*=The month of May 1973.
- t*=The month of measurement. (The month of measurement is the month preceding the current month.)
- u*=The current month. Quantities calculated for the current month will be estimates which should be based on the best available data.

(d) *Carryover of costs.* (1) If in any month beginning with October 1973, a firm charges prices for a special product which result in the recoupment of less total revenues than the entire amount of increased product costs calculated for that product pursuant to the general formula and allowable under paragraph (c) (1) (i) of this section and that unused amount of increased costs is not used to increase May 15, 1973 selling prices pursuant to paragraph (c) (1) (ii) of this section, the amount of increased product cost not recouped may be added to the May 15, 1973 selling prices to compute the base prices for that special product for a subsequent month. The total amount allowable under (c) (1) (i) of this section may not include any amount represented by the symbol "H" in the formula in paragraph (c) (2) (i) of this section which pursuant to paragraph (c) (1) (ii) of this section the refiner has elected to include in a prior month in the calculation of the maximum permissible amount which may be used to adjust base prices of covered products other than special products. If in any month beginning with October 1973, a firm charges prices for a special product which result in the recoupment of more total revenues than the entire amount of increased product costs calculated for that product pursuant to the general formula and allowable under paragraph (c) (1) (i) of this section, the amount of excess product costs recouped must be subtracted from the May 15, 1973 selling prices to compute the base prices for that special product for the subsequent month.

(2) If, in any month beginning with October 1973, a firm charges prices for covered products other than special products which result in the recoupment of more or less total revenues than the entire amount of increased product costs calculated pursuant to the general formula and allowable under paragraph (c) (1) (ii) of this section, the excess revenues recouped must be subtracted from the May 15, 1973 selling prices and the amount of increased product costs not recouped may be added to May 15, 1973 selling prices to compute base prices for covered products other than special products in the subsequent month provided that the amount of the increased product cost not recouped and included in computing the base prices of a particular covered product other than a spe-

cial product is equally applied to each class of purchaser. The total amount of increased product costs not recouped includes any amount represented by the symbol "H" in the formula in paragraph (c) (2) (ii) of this section which was available for inclusion in price adjustments to special products in a previous month and which the refiner elected pursuant to paragraph (c) (1) (ii) of this section to include in the calculation of the maximum permissible amount which may be used to calculate base prices for covered products other than special products.

(e) *Affiliated entities.* For purposes of this section, transactions between affiliated entities may be used to calculate increased product costs. Whenever a firm uses a landed cost which is computed by use of its customary accounting procedures, the Council may allocate such costs between the affiliated entities if it determines that such allocation is necessary to reflect the actual costs of those entities or the Council may disallow any costs which it determines to be in excess of proper measurement of costs.

5. Section 150.359 is amended in paragraph (a) to read as follows:

§ 150.359 Price rule: Resellers and retailers.

(a) *Applicability.* This section applies to each sale of a covered product by resellers, reseller-retailers, and retailers, and to each sale of crude petroleum except the first sale. For purposes of this section, "reseller" includes any entity of a refiner which is engaged in the business of purchasing and reselling covered products, provided that the entity does not purchase more than 5% of such covered products from the refiner including any entities which it directly or indirectly controls and provided further that the entity has historically and consistently exercised the exclusive price authority with respect to sales by the entity.

6. Section 150.361 is amended in paragraph (b) (3) to read as follows:

§ 150.361 New item and lease rule.

(b) *Base price determination.* * * * (3) *Resellers.* A reseller, reseller-retailer or retailer, offering a new item, shall for purposes of applying the price rule of § 150.359(c) determine the May 15, 1973 selling price for that item as the price at which that item is priced in transactions at the nearest comparable outlet on the day when the item is first offered for sale. For purposes of computing the "increased costs," the cost of the item first offered for sale shall be used rather than the May 15, 1973 cost.

7. Section 150.363 is amended in paragraph (a) (2) by adding a sentence which reads as follows:

§ 150.363 Reports and recordkeeping.

- (a) *Reports* * * *
- (2) *Refiners, retailers and resellers.*

* * * Each refiner shall, submit its calculations under the formulas of § 150.356 (c) in accordance with forms and instructions issued by the Council.

[FR Doc.73-25796 Filed 12-3-73; 9:03 am]

PART 152—COST OF LIVING COUNCIL PHASE IV PAY REGULATIONS

Modification of Requirements for Pay Submissions to the Council

Part 152 is amended in Subpart A to eliminate certain mandatory requirements contained in § 152.5 with respect to a prenotification, report, challenge or request for approval of a pay adjustment submitted to the Council.

Prior to this amendment, § 152.5(a) required that the supplemental information detailed in § 152.5(b) be included in such submissions with the Council's Form PB-3 (or optional Form PB-3A, for units containing fewer than 1,000 employees). Unless otherwise required in this part, this supplemental information must now be provided only if the Council so orders.

The Council intends to reduce the administrative burden imposed on parties in preparing a submission to the Council. Additionally, the Council found that the detail of the information outlined in § 152.5(b) was not essential for appropriate analysis in every case.

Because the purpose of this amendment is to provide immediate guidance and information with respect to the administration of the Economic Stabilization Program, the Council finds that publication in accordance with normal rulemaking procedures is impracticable and that good cause exists for making this amendment effective in less than 30 days. Interested persons may submit comments regarding this amendment. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Public Law 92-210, 85 Stat. 743; Public Law 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, Subpart A of Part 152 of Title 6, Code of Federal Regulations is amended as set forth below, effective December 6, 1973.

Issued in Washington, D.C. on November 30, 1973.

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

In 6 CFR Part 152, § 152.5 is amended by revising paragraphs (a) and (b) (1) to read as follows:

§ 152.5 Pay submissions to the Council.

(a) *General.*—Unless otherwise provided in this part or by order of the Council, a prenotification, report, challenge, or request for approval of a pay adjustment submitted to the Council shall be made using the Council's Form PB-3 (or optional Form PB-3A, for units containing fewer than 1,000 employees). Such form shall be completed according