the facts and circumstances and to determine whether disclosure is necessary.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 8, 1974.

[FR Doc.74-6290 Filed 3-18-74;8:45 am]

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Registration of Certain Offerings of Outstanding Securities; Correction

In Release No. 33-5265 dated June 27, 1972, which was published in the FEDERAL REGISTER for August 9, 1972 (37 FR 15989), the Commission announced certain revisions in the Instructions and items to Form S-16 (17 CFR 239.27). The effect of such revisions was not reflected in an amendment to § 239.27 in Chapter II of Title 17 of the Code of Federal Regulations through an oversight. Accordingly, current editions of Title 17 of the Code of Federal Regulations should be corrected by revising § 239.27 of Chapter II thereof to read as follows:

§ 239.27 Form S-16, optional form for registration of certain offerings of outstanding securities and for offerings to holders of certain convertible securities or for offerings to holders of certain outstanding warrants.

(a) Form S-16 may be used for registration under the Securities Act of 1933 of the following securities of any issuer which at the time of filing the registration statement meets the requirements for the use of Form S-7 (§ 236.26):

(1) Outstanding securities to be offered for the account of any person other than the issuer, if securities of the same class are listed and registered on a national exchange or are quoted on the automated quotation system of a national securities association;

(2) Securities to be offered upon the conversion of outstanding convertible securities of the issuer of the securities to be offered, or of an affiliate of such issuer, provided no commission or other remuneration is paid for soliciting the conversion of the convertible securities; or

(3) Securities to be offered upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, provided no commission or other remuneration is paid for soliciting the exercise of such warrants.

(b) Form S-16 may be used by closed end management investment companies for the registration of outstanding securities under the Securities Act of 1933 for the purposes specified in paragraph (a)(1) only (above) and subject to the applicable requirements of section 18(d) of the Investment Company Act of 1940. The form is available to a closed end management investment company provided that such company: (1) Is registered as a closed end management investment company under the Investment Company Act of 1940, (2) has been subject to and has complied in all respects including the timeliness of filings, with the requirements of sections 20(a) and 30 (a) and (b) of the Investment Company Act of 1940 for a period of at least three fiscal years prior to the filing of the registration statement on this form, and (3) meets the requirements of paragarphs (c) through (f) of the Rule as to the use of the Form S-7.

For the Commission pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 11, 1974.

[FR Doc.74-6291 Filed 3-18-74;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 74-94]

PART 6—AIR COMMERCE REGULATIONS

Permission for First Landing

On December 17, 1973, there was published in the FEDERAL REGISTER (38 FR 34668), a notice of a proposed amendment to § 6.2(a) of the Customs regulations to provide that permission for first landing of scheduled aircraft operated by scheduled airlines elsewhere than at an international airport shall be granted by the regional commissioner of Customs, or his designee, of the region where the place of first landing will occur.

After careful consideration of the comments received in response to the notice of the proposed amendment, no substantive changes in the proposed amendment were deemed necessary.

Accordingly, the third, fourth, and fifth sentences of § 6.2(a) of the Customs regulations are amended to read as follows:

§ 6.2 Landing requirements.

(a) *Place of landing.* * * *. In the case of scheduled aircraft operated by scheduled airlines, such permission shall be granted by the regional commissioner of Customs, or his designee, of the region where the place of first landing will occur, and in all other cases by the district director or other Customs officer in charge at the port of entry or Customs station nearest the intended place of first landing. For procedure to be followed in the case of emergency or forced landing, see paragraph (g) of this section. When permission is granted to land elsewhere than at an international airport, the Public Health Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, and any other Agency likely to be concerned with the landing shall be immediately notified by the Customs officer granting the permission. * * *.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 1109, 72 Stat. 799, as amended; 19 U.S.C. 66, 1624 (49 U.S.C. 1509))

Effective date. This amendment shall be effective April 18, 1974.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: March 8, 1974.

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

[FR Doc.74-6246 Filed 3-18-74;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 22, further amended]

PART 422—ORGANIZATION AND PROCEDURES

Subpart B—General Procedures

ISSUANCE OF SOCIAL SECURITY NUMBERS

On August 7, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 21271-21274) regarding the issuance of social security numbers. The proposed rules would implement that part of section 137 of the Social Security Amendments of 1972 (Pub. L. 92-603) which (1) directs the Secretary to take affirmative measures to assign social security numbers to aliens at the time of their lawful admission to the United States for permanent residence or under conditions permitting them to engage in employment in the United States, and (2) directs the Secretary to require applicants for social security numbers to furnish evidence to establish their age, true identity, citizenship or alien status. The proposed amendments to the regulations provided for the issuance of social security numbers to aliens who are not permanent residents but who need numbers for nonwork purposes. They also provided that the Social Security Administration would furnish to the Immigration and Naturalization Service, under specified conditions, certain information obtained in connection with an application for a social security number by an alien.

The period for comments ended on September 6, 1973, and 11 letters of comments were received in response to the proposal. While comments were varied, most were concerned with proposals for the issuance of numbers to aliens. There follows a discussion of the comments and the disposition thereof.

In the proposed § 422.103(c), it was set out that an applicant for a number will be required to furnish evidence to assist the Social Security Administration in establishing his age, citizenship, alien status, true identity, and previously assigned social security number(s), if any. One writer noted that it is not clear if, or how, an application submitted by mail can be processed. The applicant can submit his evidence by mail or by messenger, provided he is willing to relinquish the evidence. The Social Security Administration will cooperate, so far as possible; however, the evidence must be submitted.

There are no present requirements, either of statute or of regulations, of methods to be used by an individual to submit applications or evidence to the Social Security Administration. This is a matter the Social Security Administration considers better left to the discretion of the individual.

The same section notes that the completed application will be forwarded to the central office of the Social Security Administration for checking against the Administration's files. However, if the applicant requests a social security number card immediately, a temporary unnumbered card will be issued. One writer suggested that the issuance of the unnumbered card seems unnecessary and constitutes a nonproductive administrative effort and an unwise expenditure of trust fund moneys. Unnumbered cards are issued in those situations where a newly employed person must demonstrate to his employer that he has applied for a social security number. The issuance is done as a matter of public convenience with a minimum of administrative effort and costs. Therefore, there is no real reason to discontinue this procedure.

In § 422.104, there were set out certain groups to which the Social Security Administration shall assign numbers. Three such groups are:

(a) To aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States;

(b) Upon request, to aliens who are legally in the United States but not under authority of law permitting them to engage in employment, but only for a nonwork purpose; and

(c) To other aliens already in the United States at such time as their status is so changed as to make it lawful for them to engage in employment in the United States.

One writer suggested that numbers should not be assigned to persons in the first two categories unless prefixes or suffixes were included to identify the special status of the account number holder. He further suggested that numbers should not be assigned to persons in the third category until such time as they become citizens of the United States. It should be noted that the Congress has specifically directed the Secretary to take affirmative measures to assign numbers to persons in the first and third categories. Therefore, the suggestion that numbers not be assigned to persons in these categories is rejected. It must be recognized that aliens may need a social security number for purposes other than employment. As one example, section 6109 of the Internal Revenue Code provides in part that any person required to make a tax return shall include in the return the prescribed identifying number. This number has been set out in Internal Revenue Service regulations to be the social security number. Section 6109 has not been repealed, and thus there remains an obligation to assign a social security number to an alien who requires it for tax purposes. Further, section 137 of Pub. L. 92–603 does not contain an express prohibition against the issuance of numbers to aliens who are not permitted to work in this country. It is assumed that specific words of prohibition would have been used had Congress so intended.

The suggestion that distinctive prefixes or suffixes be used to identify aliens is not accepted. With minor exceptions, an alien employed in this country has the same obligation to contribute to the social security program as does a citizen. That being so, there is no reason to issue "second-class" numbers to the alien.

Several writers were concerned that the proposed regulations did not more precisely define aliens who were admitted under authority of law permitting them to engage in employment in the United States. The concern centered around students, temporary workers, and exchange visitors. Temporary workers are, of course, admitted to the United States specifically to engage in employment. Students are authorized to be employed on campus, and exchange visitors are authorized to accept work which is part of their program. Both may work in other circumstances, if authorized by the Immigration and Naturalization Service. Further, other persons are admitted to the United States specifically for employment purposes. Examples of such are treaty traders, entertainers, and representatives of foreign information media. In drafting the original proposals, it was not considered necessary to specify those nonimmigrants who were considered as admitted to the United States with authority to engage in employment. To alleviate public concern, though, there is set out in the final regulations a statement of presumptions regarding authority of certain nonimmigrants to accept employment. Under such presumptions, students and teachers need not demonstrate that they have specific authority to work.

Under arrangements with the Department of State, consular officers will obtain applications for social security numbers from immigrants entering the United States for permanent residence, from fiances of U.S. citizens, and from children of these fiances. One writer suggested that the regulations be amended to state that consular officers will obtain applications from nonimmigrant aliens who are authorized to work in the United States. This suggestion cannot be adopted due to the terms of the present understanding with the Department of State.

Several writers requested that this section be clarified as to where a nonimmigrant alien should apply for a social security number as it was implied that applications must be made through the Immigration and Naturalization Service. Language has been added to emphasize that the Immigration and Naturalization Service will be involved only when the status of an individual changes from nonimmigrant to alien lawfully admitted for permanent residence.

Applicants for social security numbers are required to submit evidence of their age, identity, and citizenship or alien status. The proposed § 422.107 deals with evidentiary requirements. One writer noted that some persons would not possess any of the documents listed as acceptable evidence of age and identity and asked whether the Department would accept affidavits from persons having first-hand knowledge of the facts in question. Affidavits will be accepted for consideration, but whether they would be regarded as convincing would depend upon the individual case. However, it is not proposed to revise the regulations to include affidavits among the examples of evidence. The omission of a piece of evidence from the examples does not preclude its consideration, and it is possible that the specific inclusion of affidavits might create an impression that an affidavit would be preferred over other types of evidence which were not included. The comment did cause a reexamination of the proposed language to ascertain whether a literal reading would convey an impression that the pro forma presentation of documents would satisfy the evidentiary requirement. There is no indication that the proposed regulations were so interpreted; nevertheless, the opening sentence of the section has been revised to refer to "evidence as the Secretary may regard as convincing." Two writers objected to the acceptance of a driver's license or voter registration card as evidence of identity. Since they gave no specific reasons for objecting to the use of these documents for such purpose, their objections are not accepted. In passing, it is noted that a driver's license is a preferred identity document in this country, often to the virtual exclusion from consideration of any other document.

The proposed § 422.107(d) deals with evidence of United States citizenship and notes that an allegation of citizenship by birth will generally be supported by the evidence of age and identity prescribed in the regulations. Upon request, however, additional evidence must be supplied. The meaning of the prior sentence was questioned by one writer who noted that a native-born citizen who had presented evidence of age and identity might be requested in any instance when that initially presented is not convincing; however, additional evidence of citizenship must be requested only in those instances where the evidence of age or identity does not show place of birth or disagrees with the applicant's allegation of birth in the United States. The section has been revised accordingly.

The same section refers to use of U.S. district court records to confirm the status of naturalized citizens. Several writers pointed out that State courts also have authority to grant naturalization. Therefore, the phrase "U.S. district" is deleted.

Section 422.107(d) deals with evidence of alien status. One writer objected to the term "alien status" and stated that this would require the individual to

establish his particular foreign nationality. There is nothing in the text that imposes such requirement, so no change in language has been made on this account. Another writer noted a restriction of acceptable evidence to possession of an Alien Registration Receipt Card (Form I–151) or an Arrival-Departure Record (Form I–94). It was stated that an alien might not be issued an I–151 until he had been in the United States for several months and that he might need a social security number before the document could be issued. It may have been overlooked that henceforth immigrants will apply for social security numbers as part of the visa process. Forms I–151 will be presented by those people who have already immigrated to the United States but who have had no previous need for a social security number. Sufficient time will have elapsed for those people to be in possession of Form I–151.

In various subsections of § 422.107, provisions were made for notice to Immigration and Naturalization Service in certain circumstances. Several writers objected to this. One felt that it violated the confidential nature of Social Security Administration records. Section 1106 of the Social Security Act directs the records in the possession of the Department shall not be disclosed, except as the Secretary may by regulations prescribe. Present regulations provide for disclosure of information to other Federal agencies and to agencies of State governments when such disclosure is reasonably related to the administration of the various programs authorized by the Social Security Act. It is considered that disclosure of information to the Immigration and Naturalization Service is reasonably necessary when verification of the alien status of an applicant for a social security number is at issue. Further, § 422.107(d)(5) requires that each applicant for a social security number be advised in advance of his executing an application that information may be referred to the Immigration and Naturalization Service. The applicant is then free to choose whether he wishes his application processed under those conditions. Another writer argued that the Social Security Administration should not take on the additional burden of enforcement of immigration laws. To an extent, the Social Security Administration already has this responsibility as section 290(c) of the Immigration and Nationality Act directs the Administration to supply information needed to locate certain aliens. Further, it is proposed to forward information to the Immigration and Naturalization Service only when the proper status of the applicant is at issue. Congress has specifically directed that affirmative action be taken to ascertain the citizenship or alien status of every applicant for a social security number, and notice will be given to the Immigration and Naturalization Service pursuant to this directive.

In § 422.107(d)(3), it is provided that the Immigration and Naturalization Service will be notified when an alien applicant refuses to comply with a request for evidence or where he furnished invalid or expired Immigration and Naturalization Service documents. One writer noted that the opening sentence of the section directed immediate referral while a subsequent sentence afforded the applicant a reasonable opportunity to submit the evidence. The point is well taken. The reference to immediate referral has been removed. Notice will be given to the Service only after the applicant has been given a reasonable time to submit evidence and only after the Social Security Administration has made an attempt to contact him to obtain the evidence.

Another writer suggested that more emphasis should be placed upon referrals for submission of invalid or expired documents. The Department agrees. A separate section now deals with this subject and is numbered § 422.107(d)(4); the proposed § 422.107(d)(4) is renumbered § 422.107(d)(5).

Another writer suggested that the term "invalid or expired Immigration and Naturalization Service documents" needed fuller definition. The term was intended to encompass forged documents purportedly issued by the Service, properly issued documents which were subsequently altered, and documents whose terms of validity have expired.

Accordingly, with these changes and additions, the proposed amendments are adopted as set forth below.

(Secs. 204 and 1102, 53 Stat. 1368, as amended, and 49 Stat. 647, as amended; 42 U.S.C. 405 and 1302)

Effective date. These amendments shall become effective on March 13, 1974.

(Catalog of Federal Domestic Assistance Program Nos. 13.800–13.807, Social Security)

Dated: November 20, 1973.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 8, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Subpart B of Regulation No. 22 is amended as set forth below.

1. Section 422.103 is revised to read as follows:

§ 422.103 Social security numbers for employees and self-employed persons.

(a) *General.* The Social Security Administration maintains a record of the earnings reported for each individual. (When an individual obtains a social security number card, a social security earnings record is set up.) The individual's name, together with the number on the card, identifies the record so that the wages or self-employment income reported for or by the individual can be properly posted to such individual's record. Additional procedures concerning social security numbers may be found in Internal Revenue Service, Department of the Treasury regulation 26 CFR 31.-6011(b)–2.

(b) *Applying for a number.* Every individual needing a social security number may apply for one by filing Treasury Department Form SS–5, "Application for Social Security Number," at any local social security office, or, if the individual is in the Philippines, at the Veterans' Administration Regional Office, Manila, Philippines. (See § 422.105 for special procedures for immigrants and certain nonimmigrants.) Form SS–5 may be obtained at:

(1) Any local social security office;

(2) The Social Security Administration, Baltimore, Maryland 21235;

(3) Offices of District Directors of Internal Revenue;

(4) U.S. Postal Service offices (except the main office in cities having a social security office);

(5) U.S. Employment Service offices in cities which do not have a social security office; and

(6) The Veterans' Administration Regional Office, Manila, Philippines.

Upon request, the social security office will distribute a quantity of application forms SS–5 to labor unions, employers, or other representative organizations.

(c) *Assignment procedure.* Social security numbers are assigned by the Central Office of the Social Security Administration in Baltimore, Maryland. Upon receipt of a completed form SS–5, the local social security office, or the Veterans' Administration Regional Office, Manila, Philippines, will require the applicant to furnish evidence, as necessary, to assist the Social Security Administration in establishing his or her age, citizenship, alien status, true identity, and previously assigned social security number(s), if any. (See § 422.107 for evidence requirements.) Upon satisfactory establishment of the pertinent items, the social security office or Veterans' Administration Regional Office forwards the application to the Social Security Administration Central Office for checking against the Administration's files. If the applicant requests a social security number card immediately, a temporary unnumbered card (form OAAN–5028) will be issued. If the investigation does not disclose a previously assigned number, the Central Office assigns a number and forwards to the applicant Form OA–702, "Social Security Number Card." If the investigation discloses a previously assigned number, a duplicate social security number card is issued to the applicant. For issuance of social security numbers to aliens and other groups or categories, see § 422.104.

(d) *Replacement of lost or damaged social security number card.* In case of loss of or damage to the social security number card, a duplicate card bearing the same number will be issued. If the individual has the "stub" portion of the card or the damaged card in legible condition, any local social security office or the Veterans' Administration Regional Office, Manila, Philippines will issue the duplicate card. In all other instances the individual should submit a properly completed application for a social security number (form SS–5).

2. Sections 422.104 and 422.104a are added to read as follows:

§ 422.104 Assignment of social security numbers.

Social security numbers may be assigned to the following:

(a) U.S. citizens, upon request;

(b) Aliens lawfully admitted to the United States for permanent residence or under other authority of law permitting them to engage in employment in the United States (see § 422.104a regarding presumption of authority of nonimmigrant alien to engage in employment); and

(c) Aliens who are legally in the United States but not under authority of law permitting them to engage in employment, but only for a nonwork purpose (see § 422.107(d) (1) and (2)).

§ 422.104a Presumption of authority of nonimmigrant alien to accept employment.

The nonimmigrant visa classifications assigned by the Department of State shall be used to determine whether a nonimmigrant alien is authorized to engage in employment. (See 22 CFR 41.12 for these classifications.) Permission to engage in employment shall not be presumed in the case of an alien who has not been issued a visa or whose visa shows any one of the following classification symbols: B–1, B–2, B–1 and B–2, C–1, C–2, C–3, F–2, H–4, and L–2. Holders of visas bearing other classifications will be presumed to have authorization to work.

3. Section 422.105 is added to read as follows (present §§ 422.105 and 422.110 are renumbered §§ 422.110 and 422.112 respectively):

§ 422.105 Obtaining applications from immigrants and certain nonimmigrant classes.

As a part of the visa process, United States consular offices throughout the world obtain applications for social security numbers from immigrants entering the United States for permanent residence, from fiances or fiancees of U.S. citizens and children of these fiances or fiancees. The consular office also verifies the age, identity, and alien status of these individuals. After verification of the age, identity, and alien status of the individual, the consular office forwards the application to the Central Office of the Social Security Administration. If investigation does not disclose a previously assigned number, the Central Office assigns a number and forwards a social security number card to the applicant at the United States address given on the application. The Immigration and Naturalization Service performs a similar function with respect to aliens who entered this country without immigration visas and who, subsequent to entry, acquired status as lawful permanent residents of the United States. The Immigration and Naturalization Service obtains from each such alien an application for a social security number and, after verifying the alien's age and identity, forwards the application to the Central Office of the Social Security Administration. If investigation does not disclose a previously assigned number, the Central Office assigns a number and forwards a social security number card to the applicant.

4. Section 422.107 is added to read as follows:

§ 422.107 Evidence requirements.

Applicants for social security numbers are required to submit such evidence as the Secretary may regard as convincing of their age, citizenship, or alien status, and true identity. An applicant is also required to submit evidence to assist the Administration in determining the existence and identity of any previously assigned number(s). In the case of a noncitizen, evidence is also required to establish whether the applicant, because of his alien status, is prohibited from engaging in employment in the United States. A social security number will not be assigned unless all of the evidence requirements are met. (For verification of age, identity, and alien status of immigrants and certain nonimmigrant classes entering the United States, see § 422.105.)

(a) *Evidence of age.* Upon request, all applicants for a social security number are required to submit evidence of age to support the date of birth alleged. Examples of the types of evidence which may be submitted are birth or baptismal certificates, school and church records, census records, insurance policies, marriage records, employment records, and passports.

(b) *Evidence of identity.* Upon request, all applicants for a social security number are required to submit corroborative evidence of their identity. Corroborative evidence of identity may consist of a driver's license, a voter registration card, a birth certificate, a passport, or other similar document serving to identify the individual. It is preferable that the document contain the applicant's signature for comparison with his signature on the application for a social security number.

(c) *Evidence of U.S. citizenship.* Generally, an allegation of U.S. citizenship by birth will be supported by the evidence of age and identity described in paragraphs (a) and (b) of this section. Additional evidence must be supplied when the evidence of age or identity does not show place of birth or where such evidence of age or identity does not agree with the applicant's allegation of birth in the United States. Where an applicant indicates that he is foreign born and that he is a U.S. citizen, he is required to present documentary evidence of U.S. citizenship. Any of the following is acceptable evidence of U.S. citizenship:

(1) Certificate of naturalization;

(2) Certificate of citizenship;

(3) U.S. passport;

(4) U.S. citizen identification card (INS form I–179 or I–197); or

(5) Consular report of birth (State Department form FS–240). If such required evidence is not available, and court records do not confirm the allegation of U.S. citizenship, the Immigration and Naturalization Service will be contacted. If the Service has no record of the applicant's citizenship, a social security number will not be assigned until satisfactory evidence of U.S. citizenship is furnished.

(d) *Evidence of alien status*—(1) *Citizen of country other than Canada or Mexico.* Where the applicant is a foreign citizen (of a country other than Canada or Mexico), such applicant is required to have an Alien Registration Receipt Card (I–151) or an Arrival-Departure Record (I–94) and will be asked to produce such document. If the applicant fails to do so, a social security number will not be issued and the Immigration and Naturalization Service will be notified of these circumstances. If the applicant produces an Alien Registration Receipt Card, or produces an Arrival-Departure Record which contains an authorization to work, a social security number card will be issued. However, if the Arrival-Departure Record does not contain authorization to work and the social security number is for a work purpose, it will not be issued and the Immigration and Naturalization Service will be notified of the circumstances. If the applicant requests the number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the number will be issued and the record will be annotated. In the latter case, if earnings are later reported to the Administration, the Immigration and Naturalization Service will be notified of such report.

(2) *Mexican or Canadian citizen.* If a Canadian or Mexican citizen has an Alien Registration Receipt Card or an Arrival-Departure Record, the rules in paragraph (d) (1) of this section apply. If a Canadian or Mexican citizen is legally in the United States with a border crossing card, a border visitor's permit (or, in the case of a Canadian citizen, without documentation), but does not have an Alien Registration Receipt Card or an Arrival-Departure Record, and wishes a social security number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the Administration will assign a number to the applicant and issue a number card, except that the record will be annotated and, in addition, the Immigration and Naturalization Service will be notified if earnings are reported to the earnings record.

(3) *Failure to submit evidence.* If the applicant does not comply with a request for evidence or other information regarding alien status within a reasonable time, the Administration will again attempt to contact him. If there is still no response, the Immigration and Naturalization Service will be notified.

(4) *Invalid or expired documents.* The Administration will immediately notify the Immigration and Naturalization Service when an applicant presents invalid or expired Immigration and Naturalization Service documents. Invalid documents are forged documents purportedly issued by the Immigration and Naturalization Service or properly issued documents which were altered subsequent to issue. An expired document is one whose term of validity has expired.

(5) *Notice to alien applicant.* An alien who applies for a social security number will be advised that information obtained by the Social Security Administration in connection with his application for, and issuance of, a social security number might be transmitted to the Immigration and Naturalization Service. If a number is to be issued for nonwork purposes, the applicant will be advised that the Immigration and Naturalization Service will be notified should earnings be reported to his earnings record.

5. Section 422.108 is added to read as follows:

§ 422.108 Criminal penalties.

A person may be subject to criminal penalties for furnishing false information in connection with earnings records or for wrongful use or misrepresentation in connection with social security numbers, pursuant to section 208 of the Social Security Act and sections of Title 18 of the United States Code (42 U.S.C. 408; 18 U.S.C. 1001 and 1546).

6. Renumbered § 422.110 (former § 422.105) is revised to read as follows:

§ 422.110 Individual's request for change in record.

Form OAAN-7003, "Request for Change in Social Security Records," should be completed by any person who wishes to change the name or other personal identifying information previously submitted. This form may be obtained from any local social security office or from one of the sources noted in § 422.103(b). The completed request for change in records may be submitted to any office of the Social Security Administration, or, if the individual is in the Philippines, to the Veterans' Administration Regional Office, Manila, Philippines. If the request is for a change in name, a new social security number card will be issued to the person making the request bearing the same number previously assigned.

7. Present § 422.110 is renumbered § 422.112 as follows:

§ 422.112 Employer identification numbers.

* * * * *

[FR Doc.74-6169 Filed 3-18-74;8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 70—EXAMINATION AND COPYING OF DEPARTMENT OF LABOR DOCUMENTS

Cost of Transcripts of Departmental and Advisory Committee Hearings

Section 11 of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App.) provides that except where prohibited by contractual agreements entered into prior to the effective date of the Act (January 5, 1973), agencies and advisory committees shall make available to any person at the actual cost of duplication, copies of transcripts of agencies' proceedings or advisory committee meetings. Paragraph (g) of § 70.62 is revised to reflect this change in the law.

As this amendment reflects the present Departmental practice in connection with charges made for transcripts, and further it publicizes a benefit conferred upon the public by the Federal Advisory Committee Act, neither notice of proposed rulemaking nor delay in the effective date is necessary. Accordingly, this amendment shall be effective March 19, 1974.

Paragraph (g) of § 70.62 is hereby revised to read as follows:

§ 70.62 Special searching and copying services.

* * * * *

(g) *Transcripts of proceedings.* Copies of transcripts of hearings and other proceedings pertaining to matters within the purview of the Department of Labor or any of its programs or advisory committees and available for inspection and copying pursuant to the provisions of this part will be furnished upon payment of the actual cost of duplication. If however, the transcript was furnished to this Department under the provisions of a contract executed prior to January 5, 1973, the effective date of the Federal Advisory Committee Act, under contractual provisions which prohibit the Department from reproducing the transcript, copies of such transcripts prepared by persons or firms reporting the proceedings may be obtained upon application to the reporter and payment of the reporter's fees at the rate provided in the contract. The foregoing fees are not applicable to the furnishing of any copies of such transcripts to any person entitled to receive such copies without charge pursuant to a regulation or order issued by the Secretary or his authorized representative.

Signed at Washington, D.C. this 14th day of March, 1974.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.74-6279 Filed 3-18-74;8:45 am]

Title 32A—National Defense, Appendix

CHAPTER X—OFFICE OF OIL AND GAS, DEPARTMENT OF THE INTERIOR

[O. I. Reg. 1 (Rev. 5), Amdt. 64]

O. I. REG. 1—OIL IMPORT REGULATIONS

Miscellaneous Amendments

There appeared in the Federal Register on February 11, 1974 (39 FR 5193) a proposal to amend several sections of Oil Import Regulation 1 (Revision 5), as amended. A total of twenty six (26) responses were received each commenting on one or more of the changes proposed. The changes to the individual sections that were proposed are discussed below.

In addition to the changes related to the proposed rulemaking, a number of technical changes are being made at this time in preparation for the allocation period beginning May 1, 1974. Except for sections 9B and 32 all sections which have been changed for either substantive or technical reasons are published in their entirety. As an aid to the public several sections that are not changed in this amendment are also published in their entirety to update them through the many amendments that have been made to Oil Import Regulation 1 (Revision 5).

SECTIONS 9, 10, AND 11

It was proposed that for the allocation period beginning May 1, 1974 refiners and petrochemical plant operators would have the option of claiming either the inputs to their facilities during the 1973 calendar year or the inputs reported in their 1973 application. The comments received on this proposal were all favorable. Therefore the language of the proposal is incorporated into this amendment.

SECTIONS 12 AND 28

It was proposed that sections 12 and 28, which set forth the method of allocating imports of residual fuel oil into District I and District V respectively, be amended to make such allocations on the basis of terminal inputs. The comments on this proposal were almost completely negative with none taking a firm affirmative position. Therefore, in accordance with the comments, sections 12 and 28 are amended to allocate the levels of imports set by Presidential Proclamation 3279, as amended, on the same prorata basis as the allocations were made pursuant to these sections for the allocation period beginning January 1, 1973.

SECTION 29

It was proposed that section 29 be amended to abandon the historical basis for allocating imports from Canada in favor of a three tier system under which a facility would earn an allocation at a rate set by the percentage of Canadian inputs processed during the calendar year 1973. The comments were generally favorable but many persons expressed reservations about the exact method chosen for computing the allocations, about the effects either a change in the Canadian export program or the Federal mandatory crude oil allocation program would have on the proposed import allocations. The Federal Energy Office has published proposed rulemaking affecting the mandatory crude oil allocation program. In addition, a meeting has been scheduled for March 19, 1974 between representatives of the United States and Canadian governments to discuss the question of imports of Canadian oil into the United States. In view of these developments it has been decided to defer amendment of section 29 until after the meeting with the Canadians.

SECTION 30

It was proposed that section 30 be amended to abandon the historical basis for allocation of imports of No. 2 fuel oil into District I in favor of an allocation system based on terminal inputs. With one exception, comments on this proposal were negative and advocated continuation of the present historical pattern of allocation. Accordingly, only technical amendments are made to section 30.

SECTION 33

It was proposed that section 33 be amended to make allocation of Canadian imports into District V on the same pro rata basis that each applicant received in the calendar year 1973 allocation period. The only comment received on the proposal suggested that "Refiners located in District V should be treated the same as refineries located in Districts I–IV for allocation of Canadian crude." As with section 29 amendment of section 33 will be deferred until after the March 19, 1974 meeting referred to in the discussion of section 29.

This Amendment 64 shall become effective on March 19, 1974.

WILLIAM A. VOGELY,
Acting Deputy Assistant Secretary of the Interior.

WILLIAM E. SIMON,
Deputy Secretary of the Treasury.

Sections 1 and 2 are not amended and shall continue to read as follows:

Section 1. Purpose.

These regulations implement Presidential Proclamation 3279, "Adjusting Imports of Petroleum and Petroleum Products into the United States," dated March 10, 1959, as amended, by providing for the discharge of the responsibilities imposed upon the Secretary of the Interior.

Sec. 2. Administration of program.

The Director, Office of Oil and Gas has been empowered to exercise, pursuant to regulations, the authority conferred upon the Secretary by Proclamation 3279, as amended.

Paragraphs (a), (b), (c), and (d) of Section 3 are amended so that Section 3 in its entirety reads as follows:

Sec. 3. Allocation periods.

(a) Except for allocations made pursuant to section 9A all allocation periods beginning on or after January 1, 1973, but before December 31, 1973 shall be extended to expire April 30, 1974.

(b) Supplemental allocations not subject to license fees will be made by the Director for the extended portion of the allocation period for which an allocation has not been made. Such supplemental allocations shall be computed so as to provide allocations for the extended portion of the allocation period at the same daily average as the base allocations.

(c) Effective May 1, 1974, the allocation periods for all allocations except allocations issued pursuant to section 9A will be made for periods of twelve months beginning May 1 of each year.

(d) Allocation periods for allocations made pursuant to section 9A will be as provided for in that section.

(e) Notwithstanding the provisions of paragraph (1) of section 9B the initial allocation period pursuant to section 9B will be for a period of twelve months beginning May 1, 1974. Subsequent allocations will be made for periods of twelve months beginning May 1 of each year.

Section 4 is amended in its entirety to read as follows:

Sec. 4. Eligibility for allocations not subject to license fees.

(a) To be eligible for an allocation not subject to license fees of imports into Districts I–IV, into District V, Puerto Rico, Guam, American Samoa, the Virgin Islands, or a foreign trade zone of crude oil and unfinished oils, a person must (1) have either refinery capacity or a petrochemical plant in the respective districts, Puerto Rico, territories or foreign trade zone and (2) have had refinery inputs or petrochemical plant inputs in the respective districts, Puerto Rico, territories, or foreign trade zone for the year ending three months prior to the beginning of the allocation period for which the allocation is requested.

(b) To be eligible for an allocation not subject to license fees of imports into Puerto Rico of crude oil and unfinished oils pursuant to section 15, a person must have had refinery capacity in Puerto Rico during the calendar year 1964.

(c) [This paragraph revoked by Amendment 26.]

(d) [This paragraph revoked by Amendment 26.]

(e) To be eligible for an allocation not subject to license fees of imports into Puerto Rico of finished products, other than residual fuel oil to be used as fuel, a person must have imported such products into Puerto Rico during the last half of the calendar year 1958.

(f) To be eligible for an allocation not subject to license fees of imports into Puerto Rico of residual fuel oil to be used as fuel, a person must have imported residual fuel oil used as fuel into Puerto Rico during the last half of the calendar year 1958.

(g) A person is not eligible individually for an allocation not subject to license fees of imports of crude oil and unfinished oils or finished products if the person is a subsidiary or affiliate owned or controlled, by reason of stock ownership or otherwise, by any other individual, corporation, firm, or other business organization or legal entity. The controlling person and the subsidiary or affiliate owned or controlled will be regarded as one. Allocations will be made to the controlling person on behalf of itself and its subsidiary or affiliate but, upon request, licenses will be issued to the subsidiary or affiliate.

Section 5 is amended in its entirety to read as follows:

Sec. 5. Applications for allocations and licenses.

(a) Applications for all allocations not subject to license fee of imports of crude oil, unfinished oils, or finished products for the allocation period May 1, 1974 through April 30, 1975, except for applications made pursuant to section 9A, must be filed with the Director in such form as he may prescribe, not later than March 31, 1974.

(b) Applications for allocation pursuant to section 9A must be filed as provided for in paragraph (c) of section 9A.

Sections 6, 7, and 8 are not amended and shall continue to read as follows:

Sec. 6. Records and inspections.

All persons receiving allocations pursuant to these regulations shall maintain complete records of imports, refinery inputs, petrochemical plant inputs and the outputs of such plants. These records shall be maintained on a current basis so that they will be available for inspection by a representative of the Office of Oil and Gas. All records required to be maintained pursuant to this section shall be retained for a period of three (3) years. In connection with the performance of the Office of Oil and Gas' responsibility for assuring full compliance with these regulations and Proclamation 3279, as amended, the person shall permit representatives of the Office of Oil and Gas to enter upon his office, property, plants and facilities to examine such records and, if deemed necessary in order to verify such records, to inspect the refinery, petrochemical plant, or terminal and all operations being performed within the facilities which include, but are not necessarily limited to refining, receiving, shipping, testing and storage. If requested by the Office of Oil and Gas representatives, the person shall be required to assign an employee to accompany the representatives of the Office of Oil and Gas in all inspections, record evaluations, and verification operations. The Office of Oil and Gas representatives shall not be required to sign any releases prior to entering upon a person's property or installation.

Section 7. Licenses.

(a) When an allocation has been made to a person under this regulation, the Director shall issue a license or licenses based on the allocation; specifying the amount of crude oil and unfinished oils or finished products which may be imported, the period of time such license shall be in effect, and the districts (District I, Districts I–IV, Districts II–IV, District V or Puerto Rico) into which the importation may be made. The director may amend such licenses.

(b) No license issued pursuant to this section may be sold, assigned, or otherwise transferred.

Sec. 8. Small quantities.

(a) District Directors of Customs are authorized to permit without a license an entry for consumption of not to exceed 550 U.S. gallons of crude oil, unfinished oils, or finished products which are certified as samples for testing or analysis or which are included in shipments of machinery or equipment and are certified as intended for use in connection therewith, and baggage entries. Unless notified by the Director to the contrary, District Directors of Customs are authorized to permit without a license the entry for consumption of bonded fuel aboard an aircraft diverted from an international flight.

(b) A person desiring to import small quantities of crude oil, unfinished oils, or finished products in circumstances not covered by paragraph (a) of this section shall file with the Director a written request for authorization for entry without a license for each shipment, describing the oil and the quantity thereof proposed to be imported and the circumstances which would justify an entry without a license, the date when the shipment is scheduled to arrive or upon which it has arrived, and the port of entry. If the Director determines that the entry without a license is consonant with the purposes of Proclamation 3279, as amended, he may authorize such an entry.

Section 9 is amended in its entirety to read as follows:

Sec. 9. Allocations; petrochemical plants; District I–IV, District V.

(a) For the allocation period May 1, 1974, through April 30, 1975, each eligible person with a petrochemical plant in Districts I–IV shall receive an allocation not subject to license fee of imports of crude oil and unfinished oils equal to the average barrels per day of petrochemical plant inputs to his petrochemical plants in these districts during the calendar year 1973 or the year ending September 30, 1972, whichever is greater, multiplied by 11.2 percent × .90.

(b) For the allocation period May 1, 1974, through April 30, 1975, each eligible person with a petrochemical plant in District V shall receive an allocation not subject to license fee of imports of crude oil and unfinished oils equal to the average barrels per day of petrochemical plant inputs to his petrochemical plants in this district during the calendar year 1973 or the year ending September 30, 1972, whichever is greater, multiplied by 11.9 percent × .90.

(c) No allocation for Districts I–IV made pursuant to this section shall entitle a person to a license which will allow the importation of unfinished oils in excess of 15 percent of the allocation, and no allocation for District V made pursuant o this section shall entitle a person to a license which will allow the importation of unfinished oils in excess of 25 percent of the allocation However, a person obtaining an allocation of imports of crude oil and unfinished oils pursuant to this section may petition the Director to adjust the percentage of imports of unfinished oils upward to 100 percent of such person's allocation if the petitioner certifies that the additional imported unfinished oils will not be exchanged, that the additional unfinished oils will be processed entirely in the petitioner's own petrochemical plant, and that more than 50 percent of the yields (by weight) from the unfinished oils will be petrochemicals or that more than 75 percent (by weight) of recovered product output will consist of petrochemicals.

(d) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

(e) Applications for allocations pursuant to this section must be filed in accordance with provisions of section 5.

(f) Pursuant to section 3A of Presidential Proclamation 3279, as amended by Proclamation 4175, interim allocations were made for the allocation period January 1, 1973 through December 31, 1973 to all persons who had received an allocation under section 9 for the allocation period January 1, 1972 through December 31, 1972. To the extent that such interim allocations were not charged against and deducted from the regular allocation made to a person pursuant to section 9 for the allocation period starting January 1, 1973 and extending through April 30, 1974, such interim allocation will be charged against and deducted from the allocation made under this section for the period May 1, 1974 through April 30, 1975.

Subparagraphs (a)(3), (e)(2) and paragraphs (b) of Section 9A are amended so that Section 9A in its entirety will read as follows:

Sec. 9A. Allocations based on exports.

(a) For the purposes of this section:

(1) "Eligible petrochemicals" means the following materials produced in the person's facilities in Districts I–IV or District V and falling into the following Trade Classification of Schedule B of the current Department of Commerce Statistical Classifications of Domestic and Foreign Commodities Exported from the United States.

Trade Classification Schedule B Number	*Description*
231.2	Synthetic rubber and rubber substitutes except compounded, semiprocessed, and manufactures; e.g., SBR type rubber, butyl rubber.
266.2–266.3	Manmade fibers suitable for spinning except glasses, e.g., nylon staple, polyester staple.
	CHEMICAL ELEMENTS AND COMPOUNDS
512	Organic chemicals; e.g., ethylene glycol, acetic acid.
513.27	Carbon black.
521.4024	Ortho-Xylene.
521.4025	Para-Xylene.
521.4027	Mixed Xylenes.
554.2022–554.2026	Detergents, synthetic organic bulk; e.g., alkyl aryl sulfonate, sodium toluene sulfonated.
554.2032–544.2036	Surface-active agents, except detergents, acid type cleaners, and textile and leather-finishing agents.
581.1005–581.1055 581.2002–581.2058	Plastic materials and artificial resins; e.g., polyamide, phenolic, polyethylene.
581.3230	Cellulose ester molding and extrusion compositions; e.g., cellulose acetate.
581.3242	Cellulose esters (except molding and extrusion compositions) in unfinished forms; e.g., granules, powder.
581.3260	Chemical derivatives of cellulose unplasticized e.g., cellulose acetate-butyrate (flake, powder, waste or scrap).
599.7100	Artificial waxes e.g., solidified polyethylene glycol, glyceryl . tri-(12 Hydroxy stearate).
599.7505–599.7507	Antiknock mixtures.
599.7515–599.7530	Additives for lubricating oils, fuel oils, liquid gum inhibitors.
599.9960	Reagents for ore recovery.
621.0105	Carbon black masterbatch.
629.1010–629.1050	Rubber tires for vehicles and aircraft.
651.6–651.7	Yarn (including monofil and strip), thread, tire cord, and tire cord fabric of noncellulosic and cellulosic manmade fibers.

(2) "Broker" and "Export Agent" mean a person whose occupation includes the transaction of business relating to the exportation of goods.

(3) Each six months of a calendar year (e.g. January to June) shall constitute a base period.

(b) Subject to provisions of this section a person who holds an allocation of imports into Districts I–IV or into District V under section 9 or section 25A during all or part of the base period to which the application for an allocation under this section 9A relates 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.

(c) An application for an allocation under this section must be filed with the Director no later than 60 days after the last day of the base period to which the application relates. Amendments to applications resulting in upward adjustments of allocations under this section must be filed with the Director no later than the last day of the base period following the base period to which the allocation applies. An application shall be in such form as the Director may prescribe.

(d) Licenses issued under an allocation made pursuant to this section shall expire 12 months after the respective base period ends.

(e)(1) The Director shall determine the weight (in pounds) of eligible petrochemicals (i) which were produced in the

person's facilities in Districts I–IV or in District V, and (ii) which were exported from the Customs territory of the United States during the base period whether by the person, another person, a broker or an export agent or a domestic or a foreign purchaser thereof in the form produced by and without value added and without further processing. The producer shall furnish such evidence as the Director may require to establish that the export was, in fact, made including a letter from the exporter that his records may be inspected by the Director or his agents for the purpose of verifying that the export was made.

(2) The Director shall ascertain the hydrogen and carbon content (in pounds) of that part of the weight of the eligible petrochemicals determined pursuant to paragraph (e)(1) of this section, which was (i) produced by chemical reaction in the person's facilities and (ii) derived from crude oil or unfinished oils produced or manufactured in Districts I–IV or in District V or imported into Districts I–IV or District V pursuant to an allocation. 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. Where a person produced an eligible petrochemical from a combination of inputs which qualify under clause (ii) of this subparagraph (2) and inputs which do not so qualify, and a portion of such eligible petrochemical was exported, the hydrogen and carbon content of the exported portion 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 hydrogen and carbon could not actually have been derived.

(f) A shipment of eligible petrochemicals from Districts I–IV or from District V to a foreign country or to the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands constitutes an export for the purposes of this section. A shipment of eligible petrochemicals from Districts I–IV or from District V to Puerto Rico or to a foreign trade zone shall not constitute an export for the purposes of this section. If eligible petrochemicals are returned after having been exported, the total weight of such eligible petrochemicals so returned, whatever the form of the import, shall either be excluded or deducted as appropriate from the applicant's base in computing an allocation under paragraph (e) of this section.

(g) 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 such person's 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 person's petrochemical plant, and that more than 50 percent by weight of the yields from such unfinished oils will be converted into petrochemicals of which petrochemicals methane is not more than 50 percent by weight or that more than 75 percent by weight of recovered product output will consist of petrochemicals but of which output not more than 50 percent by weight is methane.

(h) A person who imports crude oil or unfinished oils under an allocation made under this section may, except as provided in paragraph (g) of this section, exchange his imported crude oil either for domestic crude oil or for domestic unfinished oils or exchange his imported unfinished oils for domestic unfinished oils or for domestic crude oil. All such exchanges shall be governed by the provisions of paragraph (b) (2), (3), (5), and (6) of section 17 of this regulation.

(i) No allocation made pursuant to this section may be sold, assigned or otherwise transferred.

Paragraph (a)(6), paragraph (b) and paragraph (d) of Section 9B are amended 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.

(a) * * * (6) The term "base period" means the period of 12 months ending on December 31 preceding the allocation period for which an application for an allocation under this section 9B is filed.

* * * * *

(b) Except as provided in paragraph (1) allocations under this section shall be made for periods of twelve months beginning May 1.

* * * * *

(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, 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, 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.

Paragraph (a), (b), and (e) of Section 10 are amended and paragraph (g) of Section 10 is deleted so that Section 10 in its entirety reads as follows:

Sec. 10. Allocation; refiners; Districts I–IV.

(a) For the allocation period May 1, 1974 through April 30, 1975, the Director shall make allocations not subject to license fee as provided in paragraph (b) of this section and within the quantities available under applicable levels established in Proclamation 3279, as amended, of imports into Districts I–IV among eligible persons having refinery capacity in these districts or the Virgin Islands. With respect to the Virgin Islands qualified refinery inputs shall be limited to crude oil charged to the refinery.

(b) Each eligible applicant shall receive an allocation not subject to license fee of imports of crude oil based on refinery inputs for the calendar year ending December 31, 1973, or the 12 month period ending September 30, 1972, whichever is greater. The allocation shall be computed according to the following schedule:

Average barrels per day input	Percent of input		Number of days
0 to 10,000	21.7	×	365
10 to 30,000	13.0		
30 to 100,000	7.6		
100,000 plus	3.8		

In addition, any imports of crude oil available for allocation pursuant to this section but not allocated pursuant to the above schedule shall be allocated to each eligible applicant in the same proportion that each eligible applicant's allocation as determined pursuant to the above schedule bears to the total of imports of crude oil allocated pursuant to the above schedule; however, no person shall receive an allocation in excess of 100 percent of such person's refinery inputs.

(c) Except as provided for allocations based on inputs to refineries located in the Virgin Islands, under an allocation made pursuant to paragraph (b) of this section, unfinished oil may be imported, but imports of such oils shall not exceed 15 percent of the allocation. Within such 15 percent, a maximum quantity of imports not exceeding one percent of the total allocation may be imported in the form of finished products, provided that prior written notification is given to the Director of each entry proposed to be made. Finished products imported pursuant to this paragraph may not be exchanged.

(d) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred, and except as this regulation may provide otherwise no license issued under such an allocation shall permit the importation of Canadian imports as defined in section 15(j) of Proclamation 3279, as amended.

(e) Pursuant to section 3A of Presidential Proclamation 3279, as amended by Proclamation 4175, interim allocations were made for the allocation period January 1, 1973 through December 31, 1973 to all persons who had received an allocation under section 10 for the allocation period January 1, 1972 through December 31, 1972. To the extent that such interim allocations were not charged against and deducted from the regular allocation made to a person pursuant to section 10 for the allocation period starting January 1, 1973 and

extending through April 30, 1974, such interim allocation will be charged against and deducted from the allocation made under this section for the period May 1, 1974 through April 30, 1975.

(f) (1) For the purpose of allocating imports of unfinished oils and unfinished products produced by refineries in the Virgin Islands, allocations claimed on account of such refineries shall be computed in accordance with the sliding scale set out in paragraph (b) of this section but inputs to such refineries shall be treated as the last increment of the aggregate of inputs at the highest applicable level in the sliding scale.

(2) Allocations made pursuant to this section 10 to persons for refinery capacity located in the Virgin Islands shall be for import into Districts I–IV or Puerto Rico of unfinished oils or finished products manufactured in the facility earning the allocation. Unfinished oils imported from the Virgin Islands pursuant to an allocation granted under this section 10 cannot be counted as qualified refinery inputs in Districts I–IV or District V.

(g) Applications for allocations pursuant to this section must be filed in accordance with provisions of section 5.

Paragraphs (a), (b), (e) and (g) of Section 11 are amended so that Section 11 in its entirety reads as follows:

Sec. 11. Allocations, refiners, District V.

(a) For the allocation period May 1, 1974, through April 30, 1975, the Director shall allocate, as provided in paragraph (b) of this section and within the quantities available under applicable levels established in Proclamation 3279, as amended, imports into District V among eligible persons having refinery capacity in that district, Guam or American Samoa. With respect to Guam or American Samoa qualified refinery inputs shall be limited to crude oil charged to the refinery.

(b) Each eligible applicant shall receive an allocation not subject to license fee of imports of crude oil based on refinery inputs for the calendar year ending December 31, 1973, or the 12 month period ending September 30, 1972, whichever is greater. The allocation shall be computed according to the following schedule:

Average barrels per day input	Percent of input	Number of days
0 to 10,000 10 to 30,000 30,000 plus	× { 67.5 16.9 5.6 } ×	365

In addition, any imports of crude oil available for allocation pursuant to this section but not allocated pursuant to the above schedule shall be allocated to each eligible applicant in the same proportion that each eligible applicant's allocation as determined pursuant to the above schedule bears to the total of imports of crude oil allocated pursuant to the above schedule; however, no person shall receive an allocation in excess of 100 percent of such person's refinery inputs.

(c) Except as provided for, allocations based on inputs to refiners located in Guam or American Samoa, under an allocation made pursuant to paragraph (b) of this section, unfinished oils may be imported, but imports of such oils shall not exceed 25 percent of the allocation. Within such 25 percent, a maximum quantity of imports not exceeding one percent of the total allocation may be imported in the form of finished product, provided that prior written notification is given to the Director of each entry proposed to be made. Finished products imported pursuant to this paragraph may not be exchanged.

(d) No allocations made pursuant to this section may be sold, assigned, or otherwise transferred.

(e) Pursuant to section 3A of Presidential Proclamation 3279, as amended by Proclamation 4175 interim allocations were made for the allocation period January 1, 1973 through December 31, 1973 to all persons who had received an allocation under section 11 for the allocation period January 1, 1972 through December 31, 1972. To the extent that such interim allocations were not charged against and deducted from the regular allocation made to a person pursuant to section 11 for the allocation period starting January 1, 1973 and extending through April 30, 1974, such interim allocation will be charged against and deducted from the allocation made under this section for the period May 1, 1974 through April 30, 1975.

(f) (1) For the purpose of allocating imports of unfinished oils and finished products produced by refineries in Guam or American Samoa, allocations claimed on account of such refineries shall be computed in accordance with sliding scale set out in paragraph (b) of this section, but inputs to such refineries shall be treated as the last increment of the aggregate of inputs at the highest applicable level in the sliding scale.

(2) Allocations made pursuant to this section 11 to persons for refinery capacity located in Guam or American Samoa shall be for import into District V of unfinished oils or finished products manufactured in the facility earning the allocation. Unfinished oils imported from Guam or American Samoa pursuant to an allocation granted under section 11 cannot be counted as qualified inputs in Districts I–IV or District V.

(g) Applications for an allocation pursuant to this section must be filed in accordance with the provisions of section 5.

Section 12 is amended in its entirety to read as follows:

Sec. 12. Allocations of residual fuel oil—District I.

(a) This section provides for the making of import allocations not subject to license fee for the allocation period bebinning May 1, of each year, of imports into District I of residual fuel oil to be used as fuel in District I.

(b) To be eligible for an import allocation not subject to license fee of residual fuel oil pursuant to this section a person must:

(1) Be in the business in District I of selling residual fuel oil to be used as fuel and have under his management and operational control a deepwater terminal located in District I into which there has been delivered residual fuel oil to be used as fuel which he owned at the time of delivery, or

(2) Be in the business in District I of selling residual fuel oil to be used as fuel and have a throughput agreement (warehouse agreement) with a deepwater terminal operator under which agreement the person has delivered to the terminal residual fuel oil to be used as fuel which he owned when it was so delivered. For the purpose of this section, "throughput agreement" means an agreement which provides for the delivery to a deepwater terminal by a person of residual fuel oil which he owns and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. A bona fide throughput agreement will be deemed to exist only if the person operating under the agreement owns the oil at the time it is delivered to the terminal.

(c) A person seeking an import allocation not subject to license fee pursuant to this section must file an application with the Director on such form as he may prescribe. The application shall disclose such information as the Director may deem necessary in such detail as he may require. Applications must be filed in accordance with the provisions of section 5 of this regulation.

(d) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this section shall receive an allocation not subject to license fee to import residual fuel oil into District I to be used as fuel in District I computed according to the following formula:

$$\frac{\text{Applicant's average B/D allocation made pursuant to section 12 for the allocation period April 1, 1973 through April 30, 1974}}{\text{Average B/D allocations made pursuant to section 12 to all applicants for the allocation period April 1, 1973 through April 30, 1974.}} \times 2{,}610{,}000 \text{ B/D}$$

(e) No allocation made pursuant to this section may be sold, assigned or otherwise transferred. Licenses issued under allocations made pursuant to this section shall permit the importation only of residual fuel oil into District I for use as fuel oil in District I.

Section 13 is amended in its entirety to read as follows:

Sec. 13. Finished products.

(a) For the allocation period May 1, 1974 through April 30, 1975 there is allocated to the Department of Defense 18,000 average barrels per day of imports of finished products not subject to license fee into Districts I–IV and 6,750 average barrels per day of imports of finished products not subject to license fee into

District V. For the same allocation period there is allocated 15,000 average barrels per day of imports of finished products not subject to license fee into Districts I–IV pursuant to paragraph (b) of section 12 of Presidential Proclamation 3279, as amended.

(b) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

Section 14 is amended in its entirety to read as follows:

Sec. 14. Maximum levels of imports—Puerto Rico.

The levels are those established in Proclamation 3279, as amended.

Section 15 is amended in its entirety to read as follows:

Sec. 15.—Allocations of crude oil and unfinished oils—Puerto Rico.

(a)(1) This paragraph provides for the making of import allocations not subject to license fees other than those described as "long-term allocations" in paragraphs (k) (1), (2), (3), and (4) of Proclamation 3279, as amended, for the allocation period beginning May 1, of each year, of imports into Puerto Rico of crude oil and unfinished oils.

(2) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this paragraph shall receive an allocation not subject to license fees to import crude and unfinished oils into Puerto Rico computed according to the following formula:

$$\frac{\text{Applicant's Allocation pursuant to Section 15(a) Not Subject To License Fees of Imports of Crude and Unfinished Oils Into Puerto Rico for the Allocation Period April 1, 1973, to April 30, 1974, Expressed in B/D}}{\text{Total Allocations pursuant to Section 15(a) Not Subject to License Fees of Imports of Crude and Unfinished Oils Into Puerto Rico for the Allocation Period April 1, 1973, to April 30, 1974, Expressed in B/D}} \times 204{,}499 \text{ B/D}$$

(b) No allocation made pursuant to this section may be sold, assigned or otherwise transferred.

Section 16 is amended in its entirety to read as follows:

Sec. 16. Allocations of finished products—Puerto Rico.

(a)(1) This paragraph provides for the making of import allocation not subject to license fees for the allocation period beginning May 1, of each year, of imports into Puerto Rico of finished products (other than residual fuel oil to be used as fuel in Puerto Rico).

(2) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this paragraph shall receive an allocation not subject to license fees to import finished products, other than residual fuel oil to be used as fuel in Puerto Rico, into Puerto Rico, computed according to the following formula:

$$\frac{\text{Applicant's Allocation pursuant to Section 16(a) Not Subject To License Fees of Imports Into Puerto Rico of Finished Products (Other Than Residual Fuel Oil To Be Used As Fuel in Puerto Rico) During the Calendar Year 1973, Expressed in B/D}}{\text{Total Allocations pursuant to Section 16(a) Not Subject To License Fees of Imports Into Puerto Rico of Finished Products (Other Than Residual Fuel Oil To Be Used As Fuel in Puerto Rico) During the Calendar Year 1973, Expressed in B/D}} \times 1{,}293 \text{ B/D}$$

(b)(1) This paragraph provides for the making of import allocations not subject to license fees for the allocation period beginning May 1, of each year, into Puerto Rico of residual fuel oil to be used as fuel in Puerto Rico.

(2) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this paragraph shall receive an allocation not subject to license fees to import residual fuel oil to be used as fuel in Puerto Rico, into Puerto Rico, computed according to the following formula:

$$\frac{\text{Applicant's Allocation pursuant to Section 16(b) Not Subject to License Fees of Imports Into Puerto Rico of Residual Fuel Oil to be Used as Fuel in Puerto Rico During the Calendar Year 1973, Expressed in B/D}}{\text{Total Allocations pursuant to Section 16(b) Not Subject to License Fees of Imports Into Puerto Rico of Residual Fuel Oil to be Used As Fuel in Puerto Rico During the Calendar Year 1973, Expressed in B/D.}} \times 1{,}484 \text{ B/D}$$

(c) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

Paragraphs (a), and (b) (1) and (4) of Section 17 are amended, and a new paragraph (c) is added so that Section 17 in its entirety reads as follows:

Sec. 17. Use of imported crude oil and unfinished oils.

(a) Except as provided in paragraphs (b) and (c) of this section, each person who imports crude oil or unfinished oils under a license issued pursuant to an allocation made under sections 9, 10, 11, 15, 25, or 25A of this regulation must process the oils so imported in his own refinery, petrochemical plant, or petrochemical capacity.

(b)(1) Subject to the provisions of this paragraph (b), a person who imports crude oil or unfinished oils under an allocation made under sections 9, 10, 11, 25, 25A, or paragraph (a) of section 15 of this regulation, may exchange his imported crude oil either for domestic crude oil for domestic unfinished oils or exchange his imported unfinished oils either for domestic unfinished oils or for domestic crude oil. However, a person receiving an allocation under section 9 or 25A may be restricted in the exchange of imported unfinished oils, as provided in paragraph (c) of section 9 and paragraph (j) of section 25A.

(2) A proposed agreement for each such exchange must be reported to the Director before any action involved in the exchange is taken.

(3) Each such exchange must be effected on a ratio of not less than 1 barrel of domestic oil for each barrel of imported oil unless a different exchange ratio is approved by the Director.

(4) In any such exchange, the person who is exchanging oil imported pursuant to an allocation under sections 9, 10, 11, 15, 25, or 25A for domestic oil must take delivery of the domestic oil and process it in his own refinery or petrochemical plant, located in the same district for which the allocation is granted, not later than 150 days after the end of the allocation period in which the exchange is made. If requested the Director may extend this period if it is shown that the person receiving the domestic oil cannot process the oil in the allotted time.

(5) Each such exchange must be on an oil-for-oil basis; however, settlements, credits, monetary, or accounting adjustments reflecting the relative values of the oils involved in the exchange are permissible.

(6) Any such exchange must not be otherwise unlawful.

(c) Imported crude oil or unfinished oils which are sold to meet the requirements of other Regulations published by the Federal Energy Office shall not be subject to the provisions of paragraph (a) of this section.

Paragraph (b), (e)(3) and (4), and (l) of section 25 are amended so that section 25 in its entirety reads as follows:

Sec. 25. Allocations of crude oil, unfinished oils and finished products—Districts I–IV, District V, Puerto Rico, the Virgin Islands, Guam, American Samoa, and Foreign Trade Zones—new, expanded or reactivated refinery capacity based upon estimated and actual inputs.

(a)(1) The Director may make allocations not subject to license fees of imports of crude oil, unfinished oils, and finished products with respect to new, expanded or reactivated refinery capacity as provided in this section.

The plant additions and modifications which have resulted in the new, expanded, or reactivated refinery capacity need not when taken independently meet the definition of refinery capacity as defined in section 22 of this Regulation: *Provided*, That such additions and modifications are an integral part of a facility that does qualify as refinery capacity.

(2) A person seeking such an allocation must file an application in the form prescribed by the Director. The applica-

tion 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 products and the quantity of each product to be produced,

(iv) The capital outlay involved,

(v) The expected average barrels per day of qualified feedstocks inputs of such facility,

(vi) The identification of the feedstocks, and the source thereof,

(vii) The date that the facility went on-stream, or is scheduled to go on-stream,

(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 inputs for the last three years to the particular refinery or identifiable crude processing facility for which the expansion is claimed.

(b)(1) Each increment of new, expanded or reactivated refinery capacity will be treated as a separate entity under this paragraph (b) for a total of sixty months.

(2) If the new, expanded or reactivated refinery capacity is scheduled to come on-stream during the allocation period for which the allocation is requested, the allocation shall be computed on the basis of inputs (divided by 365), which it is estimated will be made to such capacity during that allocation period. In the event the new, expanded or reactivated refinery capacity comes on-stream after January 31 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 paragraph (b)(3), (4), or (5) of this section for the succeeding allocation periods.

(3) If the new, expanded or reactivated refinery capacity has come on-stream 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 (i) the refinery inputs actually made to the new, expanded or reactivated refinery capacity during the first eight months of the allocation period immediately preceding the allocation period for which the allocation is requested and (ii) the inputs which it is estimated will be made to such capacity during the next number of months which, when combined with the months in clause (i), will constitute a period of twelve months.

(4) If the new, expanded or reactivated refinery capacity has been on-stream for at least one year as of December 31, 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) to the facility during the preceding twelve months ending December 31; *Provided*, That the facility will not have been on-stream in excess of sixty months during the allocation period for which the allocation is requested.

(5) If the new, expanded or reactivated refinery capacity has not been on-stream for a period of sixty months after earning an allocation under paragraph (b)(4) of this section, an allocation will be made for the next allocation year based on actual inputs (divided by 365) for the year ending December 31 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 25.

(c) Allocation with respect to new, expanded or reactivated refinery capacity shall be computed at seventy-five percent of estimated or actual qualified inputs to such facility as determined in paragraph (b)(2), (3), (4), or (5) of this section 25.

(d) With regard to the Virgin Islands, Guam, American Samoa, and foreign trade zones "qualified inputs" shall be limited to crude oil charged to the refinery.

(e)(1) If an allocation based in whole or in part on estimated inputs is made to an applicant pursuant to this section, the actual inputs submitted by the applicant 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 estimated inputs and the actual inputs made during the period for which inputs were estimated.

(2) If the estimated inputs upon which an allocation is based exceed the actual inputs made by more than five percent of the estimated inputs, then, in addition to the adjustment downward provided by paragraph (e)(1) of this secton, the applicant shall be penalized for the overestimate as provided in this subparagraph (2). As a penalty, the 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 estimated inputs exceed the actual inputs by more than five percent. However, to the extent that an applicant demonstrates to the satisfaction of the Director that the excess of estimated inputs over 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 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 refinery fails to come on-stream 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 a 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 refinery in Districts I–IV may avoid the penalty prescribed in paragraph (e)(2) of this section by returning on or before January 31 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 10.

(ii) Any person who has been granted an allocation for a new, expanded, or reactivated refinery in District V may avoid the penalty prescribed in paragraph (e)(2) of this section by returning on or before January 31 of the allocation period for which the allocation and license were granted such a license for a downward adjustment, or, in lieu of returning such license, returning for downward adjustment a license issued in District V to the person under section 11.

(iii) Any person who has been granted an allocation for a new, expanded, or reactivated refinery in Puerto Rico, the Virgin Islands, Guam, American Samoa or a foreign trade zone may avoid the penalty prescribed in subparagraph (2) by returning on or before January 31 of the allocation period for which the allocation and license were granted such a license for a downward adjustment.

(iv) 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 January 31 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 refinery capacity has been conducted by the 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 refinery 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 the calendar quarter following the date of such determination be ready for start-up and trials.

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

(g)(1) As used in this section 25, "expanded refinery 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 an existing refinery or identifiable crude processing capacity within an existing refinery as have resulted in an increased processing capability of not less than fifteen percent above the base capacity established for the particular refinery capacity under consideration. This base capacity will be the average certified inputs to the particular refinery or identifiable crude processing facility being expanded for the highest two of the last three input years.

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

(h) An applicant to whom an allocation is made under this section shall not receive an allocation for the same refinery capacity under section 10 or 11.

(i) (1) Except as provided in subparagraph (2) of this paragraph, an allocation made pursuant to this section 25 will be for crude oil only.

(2) Allocations made pursuant to this section 25 to persons for new, expanded or reactivated refinery capacity located in American Samoa, Guam, the Virgin Islands or foreign trade zones shall be for import into Districts I–V or Puerto Rico of unfinished oils or finished products. Such unfinished oils or finished products must have been manufactured in the facility earning the allocation. Unfinished oils imported pursuant to an allocation covered by this subparagraph cannot be counted as qualified refinery inputs in Districts I–IV, District V, or Puerto Rico.

(j) An applicant may not receive an allocation under this section 25 for new, expanded, or reactivated refinery capacity for which inputs were included in applications filed pursuant to section 10 or 11 for allocation periods beginning on or before January 1, 1973.

(k) An applicant may not receive an allocation under this section 25 for new, expanded or reactivated refinery capacity if the same refinery capacity is subject to a long term allocation as defined in Presidential Proclamation 3279, as amended.

(l) Persons wishing to qualify for an allocation under this section 25 must file an application in accordance with the provisions of section 5.

Paragraphs (a) (1), and (3), (e) (2), (3), (4), and (5), (g) (3), and (4), (i) (1), and (k) of section 25A are amended so that section 25A in its entirety reads as follows:

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 not subject to license fees 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 under paragraph (e) of this section must be filed in accordance with the provisions of section 5.

(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 paragraph (e) (2) of this section) 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 paragraph (c) (2) (i) of this section, 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.

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

(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 the allocation period. In the event the new, expanded or reactivated "petrochemical capacity" comes onstream after January 31, 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 paragraph (e) (3), (4), or (5) of this section 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 (i) 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 eight 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 paragraph (e)(3)(i) of this section, 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 December 31, 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 December 31 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.

(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:

$$\frac{\text{Total weight in pounds of actual and estimated carbon and hydrogen from qualified "petrochemical capacity inputs" contained in petrochemicals produced during any applicable allocation period}}{200} = \text{Qualified inputs for the allocation period in barrels}$$

(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 paragraph (e)(2), (3), (4) or (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 paragraph (g)(1) of this section, 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 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 circumstance beyond the applicant's control, the Director may 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 on stream 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 circumstance 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 paragraph (g)(2) of this section by returning on or before January 31 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 January 31 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 the calendar quarter following the date of such determination be ready for start-up and trials.

(h) No license issued for allocation 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 input years.

(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% 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% 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% 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 sevtion 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 fined pursuant to section 9.

Section 28 is amended in its entirety to read as follows:

Sec. 28. Allocations of low sulphur residual fuel oil—District V.

(a) This section provides for the making of allocations of imports, not subject to license fee, into District V of low sulphur residual fuel oil to be used as fuel in District V. As used in this section 28, "low sulphur residual fuel oil" means (1) residual fuel oil to be used as fuel which is manfactured or produced in a foreign area and which contains not more than five-tenths of one percent (0.5%) sulphur by weight, or (2) residual fuel oil to be used as fuel which is manufactured by facilities in a foreign trade zone located in District V and which has a sulphur content not exceeding the percent by weight required by local government requirements.

(b) To be eligible for an allocation not subject to license fee of low sulphur residual fuel oil under this section a person must:

(1) Be in the business in District V of selling residual fuel oil to be used as fuel and have under his management and operational control a deepwater terminal located in District V into which there has been delivered low sulphur residual fuel oil to be used as fuel which he owned at the time of delivery, such delivery being the first delivery of that oil into a deepwater terminal in District V; or

(2) Be in the business in District V of selling residual fuel oil to be used as fuel and have a throughput agreement (warehouse agreement) with a deepwater terminal operator under which agreement the person has delivered to the terminal low sulphur residual fuel oil to be used as fuel which he owned when it was so delivered, such delivery being the first delivery of that oil into a deepwater terminal in District V. For the purposes of this section, "throughput agreement" means an agreement which provides for the delivery to a deepwater terminal by a person of residual fuel oil

(ii) Is on waterways that permit the which he owns and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. A bona fide throughput agreement will be deemed to exist only if the person operating under the agreement owns the oil at the time it is delivered to the terminal and only if that delivery is the first delivery of that oil into a deepwater terminal in District V.

(c) A person seeking an import allocation not subject to license fee pursuant to this section must file an application with the Director on such form as he may prescribe. The application shall disclose such information as the Director may deem necessary in such detail as he may require. Applications must be filed in accordance with the provisions of section 5 of this regulation.

(d) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this section shall receive an allocation not subject to license fee to import low sulphur residual fuel oil into District V to be used as fuel in District V computed according to the following formula:

$$\frac{\text{Applicant's average B/D allocation made pursuant to section 28 for the allocation period January 1, 1973 through April 30, 1974}}{\text{Average B/D allocations made pursuant to section 28 to all applicants for the allocation period January 1, 1973 through April 30, 1974}} \times 68{,}040 \text{ B/D}$$

(e) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred. Licenses issued under allocations made pursuant to this section shall permit the importation only of residual fuel oil into District V for use as fuel oil in District V.

Paragraphs (b), (d) and (e) of Section 30 are amended so that Section 30 in its entirety reads as follows:

Sec. 30. Allocations of No. 2 fuel oil—District I.

(a) For the purposes of this section:

(1) The term "No. 2 fuel oil" means a finished product which has the following physical and chemical characteristics:

Closed cup flashpoint, degrees Fahrenheit.	Minimum 100.
Pour point, degrees Fahrenheit.	Maximum 20.
Water and sediment, percent.	Maximum 0.10.
Carbon residue on 10 percent residuum percent.	Maximum 0.35.
Distillation temperature degrees Fahrenheit, 90 percent point.	Maximum 675, Minimum 540.
Viscosity, Saybolt Universal seconds at 100° F.	Maximum 40.0, Minimum 33.0.
Gravity API	Minimum 30.0.

(2) The term "Western Hemisphere" means North America, Central America, South America, and the West Indies.

(3) The term "deepwater terminal" means a permanent land installation which:

(i) Consists of bulk storage tanks having not less than 100,000 barrels of operational capacity, pumps and pipelines used for storage, transfer and handling of No. 2 fuel oil;

safe passage to the installation of a tanker rated 15,000 cargo deadweight tons, drawing not less than 25 feet of water; and

(iii) Has a berth that will permit the delivery of No. 2 fuel oil into the installation by direct connection from a tanker rated at 15,000 cargo deadweight tons, drawing not less than 25 feet of water, and moored in berth. Cargo deadweight tons represent the carrying capacity of a tanker, in tons of 2,240 pounds, less the weight of fuel, water, stores and other items necessary for use on a voyage.

(4) The term "throughput agreement" means a written agreement which provides for the delivery to a deepwater terminal by a person of No. 2 fuel oil which he owns at the time of delivery to the terminal and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. Any transaction between persons involving sales, purchases, or exchanges of No. 2 fuel oil which were designed to gain allocation benefits for a person who would not otherwise be eligible shall not be deemed to constitute a throughput agreement.

(b) For the allocation period May 1, 1974, through April 30, 1975, 45,000 barrels per day of imports of No. 2 fuel oil, which is manufactured in the Western Hemisphere from crude oil produced in

the Western Hemisphere,[1] will be available for allocations in District I to eligible persons having qualified terminal inputs of No. 2 fuel oil in this district.

(c)(1) Except as provided in paragraph (c)(2) of this section, a person shall be eligible for an allocation of imports into District I of No. 2 fuel oil under paragraph (e) of this section:

(i) If he is in the business in District I of selling No. 2 fuel oil, has under his management and operational control a deepwater terminal which is located in District I and in which No. 2 fuel oil is handled, does not have a crude oil import allocation into Districts I–V or Puerto Rico under sections 9, 10, 11, 15, 25 or 25A of this Regulation and who, in the allocation period beginning prior to January 1, 1973, had received from the Secretary an allocation of imports into District I of No. 2 fuel oil.

(ii) If he is in the business in District I of selling No. 2 fuel oil and has a throughput agreement with a deepwater terminal operator in District I who does not have a crude oil import allocation into Districts I–V or Puerto Rico under sections 9, 10, 11, 15, 25, or 25A of this Regulation and who in the allocation period beginning prior to January 1, 1973, had received from the Secretary an allocation of imports into District I of No. 2 fuel oil.

(2) No person who has an allocation of imports into Districts I–V or Puerto Rico of crude oil under sections 9, 10, 11, 15, 25 or 25A of this Regulation shall be eligible for an allocation under paragraph (e) of this section.

(d) Persons seeking an allocation under this section must file an application with the Director on such form as he may prescribe. Applications must be filed in accordance with the provision of section 5 of this Regulation.

(e) For the allocation period May 1, 1974 through April 30, 1975, each eligible applicant under this section shall receive an allocation of imports into District I of No. 2 fuel oil equal to 90 percent of the quantity allocated to him during the allocation period beginning January 1, 1973. Any volume of No. 2 fuel oil available for allocation but not allocated pursuant to the first sentence of this subparagraph shall be allocated among eligible applicants in the proportion each eligible applicant's allocation bears to the total allocated pursuant to the first sentence of this subparagraph.

(f)(1) An eligible applicant may count as qualified terminal inputs quantities of No. 2 fuel oil:

(i) Which were delivered during the period into a deepwater terminal in District I which was under his management and operational control or into a deepwater terminal with which the eligible applicant had a throughput agreement before the oil was delivered if he owned the oil when it was placed in the terminal and if the delivery constituted the first delivery of that oil to a deepwater terminal in District I, or;

(ii) Which the applicant owned, sold to a Federal agency or to an agency of a State or a political subdivision of a State, and delivered during the base period to a deepwater terminal in District I for the account of such agency, providing such delivery constituted the first delivery of that oil to a deepwater terminal in District I; or

(iii) Which was delivered to applicant's deepwater terminal in District I as a first delivery into a deepwater terminal in District I under a written agreement to purchase such oil and to which, pursuant to such agreement, the applicant took title, during the base period upon its withdrawal by him from the terminal.

(2) For the purpose of this paragraph (f), storage of No. 2 fuel oil at a refinery in which the oil was produced or delivery of No. 2 fuel oil into a deepwater terminal under the management and operational control of a person who has an allocation of imports of crude oil into Districts I–IV, District V or Puerto Rico under sections 9, 10, 11, 15, 25, or 25A of this regulation shall not be deemed to be a first delivery to a deepwater terminal in District I.

(g) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred. Except as provided in paragraph (h) of this section, licenses issued under allocations made pursuant to this section shall permit the importation only of No. 2 fuel oil. No. 2 fuel oil imported under an allocation made pursuant to this section shall be sold for use as fuel in District I.

(h) A person holding an allocation under this section may obtain from the Director a license which will permit him to import crude oil into Districts I–IV in quantity not exceeding the amount of such allocation, upon a certification to the Director, in such form as he may prescribe, that the allocation holder has entered into an agreement with a refiner in Districts I–IV under which the allocation holder will receive No. 2 fuel oil (in a ratio of not less than 1 barrel of No. 2 fuel oil for each barrel of crude oil) in exchange for such crude oil so that an amount of No. 2 fuel oil at least equal to that covered by the license will be used in District I. Any license so issued shall be charged against the allocation made under this section. No such crude oil license may be sold, assigned, or otherwise transferred. However, settlements, credits, and accounting adjustments reflecting the relative values of No. 2 fuel oil and the crude oil involved in the exchange are permissible.

Paragraph (c) of section 32 is amended to read as follows:

Sec. 32. Allocations and fee-paid licenses for imports of crude oil, unfinished oils, and finished products—Districts I–IV, District V, Puerto Rico.

* * * * *

(c)(1) Except as provided in paragraph (c)(2) of this section applications for allocations and licenses under this section, to be issued at the rates prescribed in this section for a particular period and postmarked not later than midnight of the date in which such period expires, will qualify for issuance at the rate for the period in effect at the time the application was mailed. Any application for an allocation under this section postmarked later than midnight of the date upon which such period expires may at the option of the applicant be subject to the license fee applicable during the following license fee period or withdrawn. If the date upon which the period expires is a Saturday, Sunday, or holiday, the application will nevertheless qualify if it is postmarked not later than midnight of the next succeeding business day.

(2) With respect to imports from Canada of finished products made from Canadian crude or natural gas produced in Canada no import license is required and no license will be issued for the period prior to May 1, 1974. Persons wishing to import such finished products from Canada in the period beginning May 1, 1974 may file applications with the Director at any time beginning April 1, 1974. The effective date of licenses issued pursuant to such applications filed in April shall be May 1, 1974 or the actual date of issue, whichever is later, and the applicable license fees will be as shown in paragraph (i)(1)(ii) of this section for the period beginning May 1, 1974.

* * * * *

Paragraphs (a) and (c) of Section 34 are amended so that Section 34 in its entirety reads as follows:

Sec. 34. Mexican imports, Districts I–IV and District V.

(a) For the allocation period May 1, 1974 through April 30, 1975, the Director shall allocate, as provided in paragraph (c) of this section, approximately 29,250 average barrels daily of Mexican imports into Districts I–IV and District V.

(b) As used in this section, the term "Mexican imports" means imports from Mexico of crude oil which has been produced in Mexico and unfinished oils except ethane, propane, and butanes which have been derived from crude oil or natural gas liquids produced in Mexico.

(c) The Director shall make allocations to each eligible applicant for the al-

[1] The Chairman of the Oil Policy Committee has advised that, because of supply, price, and other considerations, he finds that the requirement, contained in section 2(a)(1) of Proclamation 3279, as amended, that No. 2 fuel oil be manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere, is unduly restricting the availability of such oil for importation into District I and is not required for the national security. Accordingly, such requirement is hereby suspended. On September 1 of each year that this suspension continues, the Deputy Secretary of the Treasury, in accordance with his surveillance responsibilities, shall examine the imports by deepwater terminal operators to determine whether Western Hemisphere imports have equalled 16,425,000 total barrels or exceeded the equivalent of 45,000 barrels per day on an annual basis, and, if not, whether supply, price, and other considerations warrant reimposition of the Western Hemisphere preference requirements. He shall so advise the Secretary who shall then take such steps as are necessary to insure that, to the extent available, license fee-exempt imports of No. 2 fuel oil from Western Hemisphere sources shall equal the annual equivalent of this amount.

location period May 1, 1974 through April 30, 1975 and subsequent allocation periods on the basis of the pro rata share of Mexican imports made by each applicant during the calendar year 1972, relative to the total of all Mexican imports made by all applicants during the calendar year 1972.

(d) Each eligible applicant shall make applications for an allocation under this section by letter only signed by an officer of the company. Applications will be in accordance with the provisions of section 5.

(e) No allocation made pursuant to this section shall be sold, assigned, or otherwise transferred.

Section 35 is amended in its entirety to read as follows:

Sec. 35. Imports of Canadian natural gas products—Districts I–IV.

(a) For each twelve month allocation period beginning May 1, of each year the Director shall in accordance with paragraph (c) of this section make allocations for the importation into Districts I–IV of natural gas products derived from Canadian natural gas.

(b) To be eligible for an allocation of imports under paragraph (c) of this section, a person must have imported Canadian natural gas products into Districts I–IV during the calendar year 1973.

(c) For the allocation period May 1, 1974, through April 30, 1975, the Director shall make allocations not subject to license fees to eligible applicants in accordance with the following formula:

$$\frac{\text{Eligible applicant's imports of Canadian natural gas products imported in 1973}}{\text{Total of Canadian natural gas products imported by all eligible applicants in 1973}} \times 101{,}700 \text{ B/D}$$

(d) Applications for an allocation under this section must be filed in accordance with section 5.

[FR Doc.74-6428 Filed 3-15-74;3:52 pm]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 248—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

Medicaid Eligibility

Correction

In FR Doc. 74-5349 for the issue of Monday, March 1, 1974 appearing on page 9512, § 248.80, paragraph (c), second sentence should read as follows:

"Disability may be considered as continuing until the review team establishes the fact that the recipient's disability is no longer within the State's definition of permanent total disability, except that a determination by the Social Security Administration that a title XVI recipient's disability is no longer within the Federal definition of disability may be utilized by the State in lieu of a State review team's determination for individuals who are determined to be eligible for payments under title XVI on the basis of disability unless the State's title XIX plan includes a different definition of disability as described in paragraph (a)(1) of this section.

CHAPTER X—OFFICE OF ECONOMIC OPPORTUNITY

PART 1068—COMMUNITY ACTION PROGRAM GRANTEE FINANCIAL MANAGEMENT

Subpart—Valuation of Volunteered Personal Services for Purposes of Computing the Non-Federal Share

BACKGROUND. Since 1967 OEO has required the use of nationally-set rates for various skills and professions when computing the non-Federal share. In the early years of OEO, these rates were an administrative benefit to both grantees and OEO, i.e., each grantee could use the OEO rates as a ready reference and thus was not required to produce a time-consuming comparability study; and this system demanded the least amount of time for a limited OEO staff to administer. The prior policy statement on this subject was issued as OEO Instruction 6802-1, dated December 28, 1971.

However, in keeping with the practices of other relevant Federal agencies and the Office of Management and Budget's proposed policy on this subject, OEO's policy on valuation of volunteered personal services, as stated in OEO Instruction 6802-1, is superseded by this subpart. The new policy eliminates the requirement that grantees use the nationally-set rates and now requires them to use rates consistent with those regular rates paid for similar work in the local labor market in which they compete for the kind of services involved.

Sec.
1068.9-1 Applicability of this subpart.
1068.9-2 Policy.
1068.9-3 Procedures.
1068.9-4 Maintenance of effort.
1068.9-5 Required documentation.

AUTHORITY: Sec. 602(n), 78 Stat. 530 (42 U.S.C. 2942).

§ 1068.9-1 Applicability of this subpart.

This subpart applies to all grants and contracts under Titles II and VII of the Economic Opportunity Act, as amended, in which non-Federal share is required.

§ 1068.9-2 Policy.

As of the effective date of this subpart, all rates for volunteers should be consistent with those regular rates paid for similar work in the labor market in which the grantee competes for the kind of services involved. However, if OEO has already approved rates for an existing grant and the rates are higher than the rates would be if the grantee implemented this new policy, the grantee has the option of using the old rates.

§ 1068.9-3 Procedures.

(a) *Valuation of volunteered services—general.* Each hour of volunteered services may be counted as non-Federal share if the service is an integral and necessary part of the OEO-approved program (e.g., the time donated by a lawyer who voluntarily contributes his services free-of-charge in a Legal Services program). Applicants must demonstrate in their budget documents that the in-kind services volunteered will make a meaningful and desirable contribution to the grant program. Applicants covered by OEO Instruction 6710-1, Change 6, need only to maintain such budget documentation on file for OEO review as requested.

(b) *Valuation of volunteer services—grantee staff and members of boards and advisory committees.* (1) Services of persons regularly employed by grantees may not be counted as non-Federal share.

(2) Time spent by members of a governing board, administering board, area board or council, county board, or advisory committee of the grantee or delegate agency may or may not be included as a contribution to the non-Federal share as follows:

(i) it may not be included when the time is spent on the development, conduct, and administration of the program; and

(ii) when the board or committee members are acting in their capacity as members of such bodies.

(iii) It may be included if they are volunteering their services for work on the program which someone would otherwise have to be hired to perform.

§ 1068.9-4 Maintenance of effort.

Voluntary services for which non-Federal share is claimed must be in addition to similar services that were volunteered before the inauguration of assisted activity and must not be diverted from other services to the poor.

§ 1068.9-5 Required documentation.

All volunteered services claimed as non-Federal share must be substantiated by time cards or records that are signed by both the volunteer and his supervisor as is required for all other employees. Such records must show the actual hours worked and the specific duties performed. They should also indicate the basis for determining the rate of volunteer's contribution and such documentation must be available for audit.

This subpart is effective April 18, 1974.

ALVIN J. ARNETT,
Director.

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