presidential documents

[3195-01]

Title 3—The President

Executive Order 12026 • December 5, 1977

Reinstatement Rights of Certain Employees of the Department of Energy

By virtue of the authority vested in me by Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, the service of an employee of the Atomic Energy Commission or of the Energy Research and Development Administration pursuant to a Regular or Regular (Conditional) appointment, other than such service in an attorney position, who was transferred to the Department of Energy pursuant to the Department of Energy Organization Act (91 Stat. 565; 42 U.S.C. 7101 *et seq.*) shall be considered as Career or Career-Conditional service, respectively, for purposes of eligibility for reinstatement in the competitive Civil Service.

Jimmy Carter

THE WHITE HOUSE,
December 5, 1977.

[FR Doc.77-35131 Filed 12-5-77;3:58 pm]

[3195-01]

Executive Order 12027 • December 5, 1977

Relating to the Transfer of Certain Executive Development and Other Personnel Functions

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Reorganization Plan No. 2 of 1970 (5 U.S.C. App. II), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to transfer certain functions from the Director of the Office of Management and Budget to the United States Civil Service Commission, it is hereby ordered as follows:

SECTION 1. The following functions which heretofore have been performed by the Director of the Office of Management and Budget, either alone or in conjunction with the United States Civil Service Commission, are hereby reassigned and delegated to the United States Civil Service Commission:

(a) Providing overall Executive Branch leadership, regulation, and guidance in executive personnel selection, development, and management including:

(1) Devising and establishing programs and encouraging agencies to devise and establish programs to forecast the need for career executive talent and to select, train, develop, motivate, deploy and evaluate the men and women who make up the top ranks of Federal civil service;

(2) Initiating and leading efforts to ensure that potential executive talent is identified, developed and well utilized throughout the Executive Branch and;

(3) Ensuring that executive training and motivation meet current and future needs.

(b) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work-years and personnel costs of Federal civilian employees.

(c) Providing primary Executive Branch leadership in (1) developing and reviewing a program of policy guidance to departments and agencies for the organization of management's responsibility under the Federal Labor Relations program; and (2) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council.

SEC. 2. Section 1 of Executive Order No. 11541, as amended, is further amended by adding thereto the following new subsection:

"(d) The delegation to the Director of the Office of Management and Budget of the following executive development and personnel functions (which have been transferred to the Civil Service Commission) is terminated on December 4, 1977:

(1) Providing overall Executive Branch leadership, regulation, and guidance in executive personnel selection, development and management.

(2) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work-years and personnel costs of Federal civilian employees.

(3) Providing primary Executive Branch leadership in (i) developing and reviewing a program of policy guidance to departments and agencies for the organization of management responsibility under the Federal Labor Relations program; and (ii) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council.".

SEC. 3. Executive Order No. 11491, as amended, is further amended by amending Section 25(a) to read as follows:

"The Civil Service Commission, in conjunction with the Director of the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management relations in the Federal service and shall periodically review the implementation of these policies. The Civil Service Commission shall be responsible for the day-to-day policy guidance under that program. The Civil Service Commission also shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; asssit in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.".

Sec. 4. Section 5(a) of Executive Order No. 11636 of December 17, 1971, establishing an Employee-Management Relations Commission as a committee of the Board of the Foreign Service, is amended by deleting: "The representative of the Office of Management and Budget shall be the Chairman of the Commission" and substituting therefor "The representative of the Civil Service Commission shall be the Chairman of the Commission".

Sec. 5. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned by this Order from the Office of Management and Budget to the United States Civil Service Commission, are hereby transferred to the United States Civil Service Commission.

Sec. 6. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

Sec. 7. This Order shall be effective December 4, 1977.

Jimmy Carter

The White House,
December 5, 1977.

[FR Doc.77-35132 Filed 12-5-77;3:59 pm]

rules and regulations

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

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

[1505–01]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Docket No. AO–85–A8]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Order Amending Order

Correction

In FR Doc. 77-33274 appearing at page 59367 in the issue for Thursday, November 17, 1977, in § 905.5(k) which appears on page 59368, "Navel oranges; and" should have read "Honey tangerines;".

[7590–01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 40—LICENSING OF SOURCE MATERIAL

General License for Government Agencies' Operational Use of Small Quantities of Source Material

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to include Federal, State and local governmental agencies' research, development, education or operational use of small quantities of source material in the general license which authorizes certain persons to use small quantities of source material. This rule change, requested by the United States Air Force Radioisotope Committee, will lessen the existing administrative burden of specific licensing requirements for thorium coated lenses.

EFFECTIVE DATE: January 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Deborah A. Bozik, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone: 301-443-6911.

SUPPLEMENTARY INFORMATION: On September 1, 1977, the Nuclear Regulatory Commission (NRC) published a proposed rule (42 FR 43983-4) to amend its regulations to include Federal, State and local governmental agencies' research, development, education or operational use of small quantities of source material in the general license in § 40.22 which authorizes certain persons to use small quantities of source material. The proposed rule was published in response to a petition for rule making (PRM 40-20) filed by the United States Air Force Radioisotope Committee, Wright-Patterson Air Force Base, Ohio, requesting that the Commission amend the general license in 10 CFR 40.22, "Small Quantities of Source Material," to (a) authorize use and transfer of source material under the general license by Federal agencies for operational purposes, and (b) authorize USAF possession and operational use of thorium, as a fluoride salt, in antireflective lens coatings on thermal imaging lenses of the Forward Looking Infrared (FLIR) imaging system. The public was invited to submit written comments on the proposed rule by October 3, 1977, and one comment was received. The one comment supports the proposal to extend the general license to government agencies but expresses the view that the term "Governmental agencies" is too narrow and should be expanded to include governmental installations, activities and laboratories. The terms "Government agency" and "person" used in the § 40.22 general license are broadly defined in 10 CFR 40.4 (c) and (e), and the general license should be read in the light of these definitions. Moreover, in order to permit the greatest flexibility in use of small quantities of source material under the general license, the rule does not restrict application of the general license to the largest unit in any class of persons specified. Rather, paragraph (a)(4) of this general license is applicable to any size unit, other than individuals, which is physically separate from other units. The purpose of the physical separation is to make it unlikely that more than 15 pounds of source material could be brought together in a single location.

Although the thermal imaging lenses which the Federal, State and local governmental agencies would be authorized to possess and use for operational purposes under this general license would not be used in eyepieces, the comment also pointed out that the use of lenses in eyepieces containing more than 0.05 percent by weight of source material should not be permitted. This comment raises questions about some manufacturers of lenses used in eyepieces distributing those products under the general license in § 40.22. Since the amendment does not include manufacturers, we consider the comment not applicable to this amendment. Nonetheless, a separate study is being planned to determine what additional restrictions, if any, are needed in § 40.22 to restrict manufacture and distribution under the general license of products that may be in prolonged close proximity to human tissue during use.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 40 is published as a document subject to codification.

1. Section 40.22 of 10 CFR Part 40 is amended by revising paragraph (a)(4) to read as follows:

§ 40.22 Small quantities of source material.

(a) A general license is hereby issued authorizing use and transfer of not more than fifteen (15) pounds of source material at any one time by persons in the following categories:

* * * * *

(4) Commercial and industrial firms and research, educational and medical institutions and Federal, State and local governmental agencies for research, development, educational, commercial or operational purposes;

* * * * *

(Secs. 62, 63, 161, Pub. L. 83-703, 68 Stat. 932, 933, 948 (42 U.S.C. 2092, 2093, 2201); sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1242, Pub. L. 94-97, 89 Stat. 413 (42 U.S.C. 5841).)

Dated at Bethesda, Md., this 11th day of November 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-34811; Filed 12-6-77;8:45 am]

[3128–01]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendment to Entitlements Program to Revise Factor Used to Determine Entitlement Value of Naphtha Feedstocks Imported Into Puerto Rico

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

[1] EDITORIAL NOTE.—Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the domestic crude oil allocation ("entitlements") program (10 CFR 211.67) by revising the factor which is used in calculating the imputed cost of domestically produced naphtha for purposes of determining the entitlement value awarded with respect to the naphtha imports of firms operating petrochemical plants in Puerto Rico. The purpose of this amendment is to compensate more accurately under the entitlements program for the feedstock cost disadvantage of the petrochemical industry in Puerto Rico, which is reliant on imported naphtha, as compared with mainland petrochemical producers that have access to naphtha produced by domestic refiners.

EFFECTIVE DATE: ERA has determined that the revised factor will apply effective with naphtha imports for November 1977, which will be reflected in the January 1978 entitlement notice.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Allen Hoffard (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Douglas McIver (Entitlements Program Office), 2000 M Street NW., Room 6128I, Washington, D.C. 20461, 202-254-8660.

Michael Paige or Judith Garfield (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461, 202-566-9565 (Paige); 202-566-2085 (Garfield).

SUPPLEMENTARY INFORMATION:

I. Background

On September 30, 1977, the Federal Energy Administration (FEA) issued a notice of proposed rulemaking and public hearing (42 FR 54424; October 6, 1977) to amend the entitlements program (10 CFR 211.67) by revising the factor which is used in calculating the imputed cost of domestically produced naphtha for purposes of determining the entitlement value awarded with respect to the naphtha imported by firms operating petrochemical plants in Puerto Rico. Use of an imputed cost of domestically produced naphtha in these calculations is required to prevent overcompensation of Puerto Rican petrochemical firms in the event that foreign naphtha prices fall to an unusually low level. See 41 FR 30322; July 23, 1976.

The current regulations permit Puerto Rican petrochemical producers to receive entitlement benefits for imported naphtha feedstocks as a means of alleviating the competitive disadvantage of these firms, which are dependent upon higher priced naphtha imports for their feedstock, as compared with mainland petrochemical producers that have access to naphtha produced by domestic refineries. Under the regulations, eligible firms are issued entitlements with respect to each barrel of naphtha imported for use as a petrochemical feedstock on the same basis as for a barrel of crude oil included in a refiner's crude oil runs for the month, unless the weighted average imported naphtha costs of firms reporting imports into Puerto Rico for this purpose exceed the imputed cost of domestically produced naphtha for that month by less than the per barrel crude oil entitlement value. In the latter case, the entitlement value for each barrel of imported naphtha is equal to the differential between such weighted average imported naphtha costs and the imputed cost of domestic naphtha. For purposes of calculating the imputed costs of domestically produced naphtha, a factor of one hundred twenty percent (120%) has been applied to the weighted average cost of crude oil for all domestic refiners for the month in question.

In the September 30 notice FEA proposed to revise the factor for calculating the imputed cost of domestic naphtha from one hundred twenty percent (120%) to one hundred thirteen percent (113%). This proposal was based on FEA's review of current data relating to naphtha prices and crude oil costs which indicate that, due to fluctuations in world naphtha market prices and the steady decline in naphtha values over the past year, the factor used to calculate the imputed cost of domestic naphtha as currently set forth in the regulations is too high. FEA was concerned that, because of the discrepancy between the factor set forth in the regulations and the naphtha-to-crude oil price ratios for the first eight months of 1977, petrochemical procedures located in Puerto Rico may not be receiving sufficient entitlement value for the naphtha feedstocks that they import, thus resulting in a relative competitive disadvantage for these petrochemical producers as compared with mainland firms.

FEA also proposed that the naphtha costs of any firm receiving relief from FEA's Office of Exceptions and Appeals with respect to its naphtha imports into Puerto Rico be excluded from the calculation of the weighted average per barrel cost of naphtha imported into Puerto Rico for purposes of § 211.67(d)(5)(iii). FEA had tentatively concluded that inclusion of the average imported naphtha costs of a firm receiving the type of exception relief being provided Commonwealth Oil Refining Company (5 FEA ¶ 83,132, April 14, 1977) in the entitlement calculations for other affected companies was not appropriate, since the value of such a firm's entitlement issuances is not calculated by reference to the regulatory provisions alone.

Effective October 1, 1977, all functions previously performed by FEA were transferred to the Department of Energy (Department of Energy Organization Act, Pub. L. 95-91 (DOE Act); Executive Order No. 12009, 42 FR 46267, September 15, 1977). Section 705(b)(1) of the DOE Act provides that:

> The provisions of this Act shall not affect any proceedings * * * pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings * * * to the extent that they relate to functions so transferred, shall be continued.

Pursuant to this provision, this rulemaking proceeding, begun by FEA prior to the activation of DOE, was continued and transferred to DOE.

Further, in DOE Delegation Order No. 0204-4, the Secretary of Energy delegated to the Administrator of the ERA the authority to take such action, including the adoption of rules, as is necessary and appropriate to administer several functions, among which are the allocation and pricing of crude oil and refined petroleum products, pursuant to the provisions of the Emergency Petroleum Allocation Act of 1973, as amended. Pursuant to this delegation, the ERA hereby adopts the amendment set forth below.

II. Discussion of Comments

Written comments were invited on the proposed amendments through November 15, 1977, and fifteen such comments were received. A public hearing was held in Washington, D.C., on November 3, 1977, at which six persons testified. In addition, seven persons presented their views at a public hearing held in Santurce, P.R., on November 8, 1977, pursuant to a notice of public hearing issued by ERA on October 21, 1977 (42 FR 56618; October 27, 1977).

A. General

The ERA received a number of comments from refiners which expressed opposition not only to the proposed downward revision of the factor used in calculating the imputed cost of domestic naphtha, but also to the general concept of including within the entitlements program naphtha feedstocks imported into Puerto Rico for petrochemical use. These refiners set forth their opposition to awarding entitlements to Puerto Rican petrochemical firms for their naphtha imports on the ground that the entitlements program originally was designed to equalize crude oil costs among refiners and should not be used to provide special relief to the Puerto Rican petrochemical industry at the expense of the domestic refining companies. These commenters urged ERA to eliminate entirely the entitlement benefits for naphtha imported into Puerto Rico. In the alternative, however, most of these comments recommended retaining the naphtha-to-crude price ratio of one hundred twenty percent (120%) set forth in the current regulations rather than adjusting it downward as proposed.

On the other hand, ERA received testimony from representatives of the Puerto Rican petrochemical industry and the government of Puerto Rico concerning the severity of the feedstock cost disadvantage and its economic consequences for both the industry and the Commonwealth of Puerto Rico. These commenters were in favor of amending the current regulations to alleviate this situation and recommended that ERA award the full crude oil entitlement value to Puerto Rican petrochemical firms importing naphtha for feedstock use or, in the alternative, use a factor for calculating the imputed cost of domestic naphtha which is lower than the proposed factor of one hundred thirteen percent (113%).

ERA remains convinced of the need for and the appropriateness of alleviating the feedstock cost disadvantage of the Puerto Rican petrochemical industry through the entitlements program. By and large the comments received by ERA confirm ERA's preliminary view that an amendment to the current regulations is needed in order to compensate more accurately for this disadvantage. ERA, however, has determined to retain the regulatory factor based on the imputed cost of domestic naphtha due to the potential for fluctuations in naphtha prices in the world market. ERA does not believe that it would be appropriate to grant the full crude oil entitlement benefit to naphtha imports when the differential between the prices of imported and domestic naphtha is less than the per barrel crude oil entitlement value for a particular month.

B. FACTOR AND METHODOLOGY

The proposed factor for calculating the imputed costs of domestically produced naphtha, like the factor currently set forth in the regulations, was derived by comparing Rotterdam naphtha postings with the estimated delivered cost of Arabian Light crude oil to Rotterdam. In the proposed rulemaking specific comments were requested concerning the appropriateness of the proposed factor and the methodology used to obtain it. In this context, comments were also invited on: (1) The use of Arabian Light crude oil for purposes of the naphtha-to-crude price ratio; (2) the desirability of periodically reviewing and, if necessary, adjusting the factor ultimately adopted; and (3) the accuracy and feasibility of certain alternative methodologies.

In commenting upon the appropriateness of the proposed factor and the methodology used to obtain it, the affected Puerto Rican petrochemical firms were in agreement that ERA should continue to use this methodology, making certain modifications which, in their view, would yield a more accurate naphtha-to-crude oil price ratio. It was suggested that it would be more appropriate for ERA to calculate the ratio using Average Freight Rate Assessments (AFRA) charter rates, upon which crude oil transportation costs generally are based, rather than the spot transportation rates used in deriving the proposed factor. The comments of the Puerto Rican petrochemical firms also recommended against exclusive use of Arabian Light crude oil in calculating the naphtha-to-crude oil price ratio, arguing that, because of its high sulfur and low naphtha content, Arabian Light is not representative of the crude oils used to produce naphtha in the United States. Instead, these comments urged ERA to use costs of a low sulfur crude oil such as Algerian-Saharan Blend or a composite cost based on the average of the costs of crudes used in processing naphtha in the United States. Most of these commenters also supported a periodic review of the factor by ERA.

As mentioned previously, the majority of the comments from the refining industry were opposed to the general concept of including naphtha feedstocks imported into Puerto Rico under the entitlements program. The majority of these comments also objected to lowering the factor from one hundred twenty percent (120%) to one hundred thirteen percent (113%), generally on the ground that present market conditions do not warrant such an adjustment. However, the basic methodology used to obtain both the current and proposed factors was acceptable to most of these commenters, although there was a suggestion to base the factor upon deliveries of crude and naphtha into Puerto Rico, rather than upon the Rotterdam market. Those refiners who addressed the issue supported the use of Arabian Light crude oil as a reasonable basis of comparison with naphtha postings.

Specific comments were solicited on whether any of the following alternative methodologies for imputing the cost of domestically produced naphtha would be more accurate than the methodology upon which the proposed factor was based: (1) Using the price of JP-4 (a naphtha-based jet fuel used by the military) as a surrogate for the cost of domestic naphtha; (2) determining the value of naphtha as a feedstock for gasoline by subtracting from an appropriate price for gasoline the cost of reforming naphtha into gasoline; and (3) identifying the actual market prices of domestically produced naphthas. The response to these alternative methodologies was generally negative. Although several comments supported the use of JP-4 prices as a surrogate for domestic naphtha costs, most were opposed on the grounds that the market for JP-4 is relatively small with essentially one purchaser, the Department of Defense, and that average prices for JP-4 do not accurately reflect the actual market factors influencing domestically produced naphtha. The majority of comments expressed the view that it would be difficult to impute the cost of domestically produced naphtha by determining the value of naphtha as a gasoline feedstocks because of the variation in refining and reforming costs among refiners, the problem of deciding what would constitute an appropriate return on investment for reforming capacity, and the administrative complexity of such a methodology. Finally, the comments unanimously rejected the approach of identifying the actual market prices of domestically produced naphthas (the majority of which are not sold in the marketplace but are used for gasoline production in the refineries where they are produced) because of the difficulty in obtaining a representative sample on which to base an accurate price for domestic naphthas.

Based on its analysis of the comments which it received, ERA has decided to retain the basic methodology of comparing Rotterdam naphtha postings with the estimated delivered costs of crude oil to Rotterdam in order to establish the factor for calculating the imputed cost of domestically produced naphtha. ERA, however, has concluded that this methodology would yield a more accurate factor if AFRA charter rates are applied and a representative mix of crude oils is used as the basis of comparison with naphtha postings. Using this modified methodology, ERA has determined that the proper factor for calculating the imputed cost of domestic naphtha is one hundred eight percent (108%) rather than one hundred thirteen percent (113%) as proposed.

The revised factor was developed as follows. First, a composite crude oil price of $13.55 per barrel was established, based on average prices of crudes delivered into Rotterdam in the first six months of 1977, as set out in the following table:

CRUDES DELIVERED INTO ROTTERDAM

Country	Jan. 1977–June 1977 price	Percent volume delivered [1]	Composite price
Iran	$13.80	[2] .232	$3.20
Saudi Arabia	13.09	.305	3.99
Kuwait	13.26	.135	1.79
Nigeria	14.56	.161	2.34
U.A.E.	13.20	.083	1.10
Iraq	13.66	.083	1.13
Total			13.55

[1] Source: International crude oil and product prices, October 1977 (Middle East Petroleum and Economics publications), prepared by Energy Economics Research Ltd.

[2] Eliminating volumes less than 4 percent delivered into Rotterdam.

Second, the average tanker price of $127.83 per metric ton for naphtha delivered into Rotterdam in the first six months of 1977 (derived from Platt's Oilgram) was divided by the conversion factor of 8.75 barrels per metric ton (used by the 1976 World Naphtha Survey and generally favored by the comments received) to determine an average naphtha price of $14.61 per barrel. Finally, a comparison of the average naphtha price of $14.61 per barrel with the composite crude oil price of $13.55

per barrel yielded the naphtha-to-crude ratio of 1.08.

ERA will monitor the situation with respect to world market naphtha prices and, if conditions warrant, will propose appropriate adjustments to the factor which it is adopting today.

C. CALCULATION OF IMPORTED NAPHTHA COSTS

The Puerto Rican petrochemical firms that would be affected were strongly opposed to the proposed exclusion from the calculation of the weighted average per barrel cost of naphtha imported into Puerto Rico of the naphtha costs of any firm receiving exception relief. Testimony was received concerning the adverse impact on the Puerto Rican petrochemical industry of excluding from this calculation the naphtha imported by the Commonwealth Oil Refining Co., which is currently receiving this type of exception relief (5 FEA 83,132, April 14, 1977). It was pointed out that such an exclusion would result in a substantial reduction in the entitlements benefits for the rest of the Puerto Rican petrochemical industry and thus would undercut the purpose of granting entitlements for naphtha imported into Puerto Rico, which is to alleviate the feedstock cost disadvantage of that industry. In addition, several comments noted that the proposed change in the calculation of imported naphtha costs is inconsistent with the procedure used to implement exception relief under the entitlements program, where the crude oil costs of refiners receiving exception relief are not excluded from the calculation of the entitlement price. These arguments against changing the calculation of imported naphtha costs under the regulations have convinced ERA that this particular change should not be adopted.

D. MAINLAND IMPORTS

The proposal also requested specific comments as to whether naphtha imported by firms on the mainland for use as petrochemical feedstock (but not for use as synthetic natural gas feedstock) should be included under the entitlements program on the same basis as naphtha imported into Puerto Rico for that purpose. There was some support for granting entitlement benefits for mainland imports of naphtha, with one firm arguing that the non-integrated petrochemical producers on the mainland are at a competitive disadvantage as compared with petrochemical producers that are affiliated with petroleum refining firms. On the other hand, most comments were opposed to such an extension of the entitlements program, generally on the grounds that the volumes of mainland naphtha imports are insignificant and do not place the firms involved at enough of a competitive disadvantage to justify their inclusion under the entitlements program. ERA's conclusion in this regard is in agreement with the views of the preponderance of firms commenting on this issue, and therefore ERA has determined that the reliance by mainland petrochemical producers on naphtha imports does not appear to be of sufficient magnitude to justify further extension of the entitlements program at the present time.

III. AMENDMENT ADOPTED

As indicated above, ERA has carefully considered the comments of all persons who participated in this rulemaking and has concluded that it should amend § 211.67(d)(5)(iii) to provide that for purposes of determining the volume of naphthas eligible for entitlement issuances in a particular month, the imputed per barrel cost of domestically produced naphtha will be calculated by applying to the weighted average per barrel cost of crude oil for all domestic refiners for that month a factor of one hundred eight percent (108%). ERA has determined that the revised factor will apply effective with naphtha imports reported for November, 1977.

NOTE.—ERA has determined that the September 30 notice of proposed rulemaking does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., November 30, 1977.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

Section 211.67 is amended in subparagraph (5)(iii) of paragraph (d) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.*

* * * * *

(5) * * *

(iii) The volume of naphthas eligible for inclusion in the volume of a refiner's crude oil runs to stills for a particular month under this subparagraph (5) shall be reduced by the application of a fraction the denominator of which is equal to the entitlement value for a barrel of crude oil included in the volume of a refiner's crude oil runs to stills for that month (without giving effect to the provisions of paragraphs (e) and (d)(4) of this section), and the numerator of which is equal to the weighted average per barrel cost of all naphthas imported into Puerto Rico for that month as to which entitlement issuances are sought less the imputed per barrel cost of domestically produced naphthas for that month. For purposes of this subparagraph (5)(iii), the imputed per barrel cost of domestically produced naphthas for a particular month, commencing with November, 1977, shall be equal to one hundred eight percent (108%) of the weighted average per barrel cost of all the crude oil receipts for all domestic refiners for that month.

[FR Doc.77-34976 Filed 12-2-77;1:18 pm]

[3128-01]

CHAPTER X—DEPARTMENT OF ENERGY (GENERAL PROVISIONS)

PART 1000—TRANSFER OF PROCEEDINGS TO THE SECRETARY OF ENERGY AND THE FEDERAL ENERGY REGULATORY COMMISSION

Procedures for Natural Gas Import and Export Proceedings

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Procedures for Natural Gas Import and Export Cases.

SUMMARY: The purpose of this notice is to inform the public of the procedures which will be followed by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) in natural gas import and export proceedings. Until the ERA has sufficient time to promulgate its own rules and regulations the procedures to be followed will be those of the former Federal Power Commission contained in Title 18, Code of Federal Regulations, Part 1 et seq.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen, Office of Fuels Regulation, Economic Regulatory Administration, 2000 M Street NW., Room 6318, Washington, D.C. 20461, telephone 202-254-9730.

James K. White, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5116, Washington, D.C. 20461, telephone 202-566-9380.

SUPPLEMENTARY INFORMATION: This notice applies to natural gas import and export proceedings: (1) For which application was first made on or after October 1, 1977; (2) that have been transferred to ERA following completion of certain procedures by the Federal Energy Regulatory Commission (FERC) pursuant to § 1000.1(c)(2) of the October 1, 1977, Final Rule entitled "Transfer of Proceedings to the Secretary of Energy and the Federal Energy Regulatory Commission" (42 FR 55534, October 17, 1977); and (3) that were transferred to the Secretary of Energy on October 1, 1977, pursuant to § 1000.1(b)(16)(i) of the Final Rule.

Until further notice, the procedures applicable to these proceedings are the procedures contained in the Rules and Regulations of the Federal Power Commission (FPC), Title 18, Code of Federal Regulations, Part 1 et seq. Applications