

RELEASED 097004



ASSISTANT COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

June 13, 1975

B-183222



LM097004

The Honorable Ron deLugo
House of Representatives

Dear Mr. deLugo:

In your letter of February 13, 1975, and in our subsequent discussion, you requested an audit of the funds credited to the account of the Virgin Islands for refunds from import license fees under the provisions of Presidential Proclamation 4227 of June 19, 1973. You stated that you had been quoted different estimates of the refund and asked that we give you the correct amount.

In developing this report, we examined documents and interviewed personnel and program officials of the Federal Energy Administration and the Department of the Interior.

BACKGROUND

Before May 1973, the amounts of crude oil and petroleum products which could be imported into the United States were limited by a system of quotas, and tariffs were assessed against each shipment of such goods. These tariffs were suspended by Presidential Proclamation 3279, as amended by Presidential Proclamation 4210 of April 18, 1973, which provided for a gradual shifting from the tariffs to a license fee system for imports. The license fee program was initially set up in the Department of the Interior but became the responsibility of the Oil Imports Office of the Federal Energy Administration, effective June 27, 1974.

Proclamation 4210 stated that, beginning May 1, 1973, eligible importers could import specified quantities of crude oil and petroleum products exempt from any fee. Beginning May 1, 1974, the amounts of

To be eligible, an importer must have either a refinery or a petrochemical plant and inputs into such refineries and plants in the respective U.S. districts, Puerto Rico, or U.S. territories and in foreign trade zones.

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fee-exempt imports would be gradually reduced over the next seven years, according to the following schedule.

<u>Year beginning May 1</u>	<u>Percent of 1973 volume not subject to fee</u>
1974	90
1975	80
1976	65
1977	50
1978	35
1979	20
1980	0

The U.S. Customs Service records the amounts of imports at each U.S. port of entry. If these imports are not exempt from fees, they are subject to the rates shown on the following schedule. These fees are to be paid to the Treasurer of the United States.

	<u>May 1, 1973 to Oct. 31, 1973</u>	<u>Nov. 1, 1973 to Apr. 30, 1974</u>	<u>May 1, 1974 to Oct. 31, 1974</u>	<u>Nov. 1, 1974 to Jan. 31, 1975</u>
	(cents per barrel)			
Crude oil	10.5	13.0	15.5	18.0
Motor gasoline	52.0	54.5	57.0	59.5
All other finished products and unfinished oil (except ethane, propane, butane, and asphalt)	15.0	20.0	30.0	42.0

Proclamation 3279 was further amended by Presidential Proclamation 4227. Under Proclamation 4227, license fees collected on imports into the Customs territory of the United States of crude oil and petroleum products manufactured in the Virgin Islands are to be held in a separate Department of the Treasury account and then refunded to the Virgin Islands.

A letter from the Department of Justice to the Federal Energy Administration, dated November 14, 1974, however, states that the provision of Proclamation 4227 regarding refunds to the Virgin Islands is without legal foundation. The opinion contains the following quote from the Constitution: "No money shall be drawn from the Treasury, but in consequence of Appropriations made by Law * * *."

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According to the Department of Justice, a separate appropriation is required to pay refunds to the Virgin Islands.

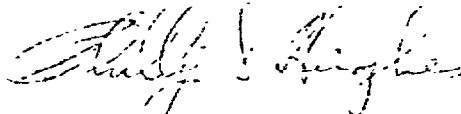
Legislation has been drafted requiring that refunds be paid to the Virgin Islands. The Congress has not acted upon the proposed legislation.

FINDINGS

Our audit showed that, from May 1, 1973, through December 31, 1974, a total of \$2,945,569 was to be credited to the Virgin Islands account in the Treasury. We could not accurately determine the amount of refunds accrued in the Virgin Islands account after December 1974 because the Oil Imports Office had not yet received pertinent information. To develop the total amount of refunds, we reconciled the import quantities reported monthly by the importing companies with the quantities reported by the U.S. Customs Service at the U.S. port of entry and applied the appropriate fee rate. Oil Imports Office officials agreed with the method used and the amount determined.

We tried to determine the source and rationale of the varying estimates you received of the amount credited to the Virgin Islands account. We contacted officials of the Department of the Interior and the Federal Energy Administration who had either provided your office with these estimates or acted as intermediaries in transmitting each estimate, and they said that the Oil Imports Office had supplied the estimates. However, the Oil Imports Office could not recall quoting to anyone estimates of the magnitude you received, and our review of its records revealed no amounts even close to these estimates.

Sincerely yours,



Phillip S. Hughes
Assistant Comptroller General