believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7227 Filed 3–25–96; 8:45 am]

BILLING CODE 6717–01–P

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Proposed Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces revised proposed procedures for disbursement of $48,307.13 of crude oil overcharge funds obtained by the DOE from Texas American Oil Corporation (Texas American), Case No. VEF–0019. The OHA has determined that these funds, plus accrued interest, be distributed as direct restitution to individual claimants who were injured by crude oil overcharges.

DATES AND ADDRESSES: Comments must be filed in duplicate on or before April 25, 1996, and should be addressed to the Office of Hearings and Appeals, 1000 Independence Ave., SW, Washington, DC 20585–0107. All comments should conspicuously display a reference to Case No. VEF–0019.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Ave., SW, Washington, DC 20585–0107, Telephone No. (202) 586–2860.

SUPPLEMENTARY INFORMATION: In accordance with 10 C.F.R. § 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute $48,307.13 (plus accrued interest) remitted to the DOE by Texas American. The DOE is currently holding these funds in an interest-bearing escrow account pending distribution.

This Proposed Decision revises a portion of a previous Proposed Decision that was issued on January 16, 1996. *See Brio Petroleum, Inc.*, Case Nos. VEF–0017 *et al.*, 61 Fed. Reg. 1919 (January 24, 1996). In the January 16 Proposed Decision, the OHA proposed to distribute the funds obtained from Texas American and four other firms in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 Fed. Reg. 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the federal government, the states, and injured purchasers of refined petroleum products. In accordance with the MSRP, the January 16 Proposed Decision tentatively reserved 20 percent of the funds received from Texas American and the other four firms for direct restitution to injured claimants. In the present Proposed Decision, which involves only Texas American, the OHA has tentatively decided that all of the crude oil overcharge funds obtained from the bankrupt estate of Texas American should be reserved for individual claimants. This is in accordance with *Texas American Oil Corp.* v. *DOE,* 44 F.3d 1557 (Fed. Cir. 1995) (en banc), in which the United States Court of Appeals for the Federal Circuit held that the DOE's claim in the Texas American bankruptcy proceeding on behalf of individual claimants should have a higher priority than its claim on behalf of the states and federal government. Pursuant to that decision, the bankruptcy court distributed to the DOE an amount equivalent to only 20 percent of its claim in the Texas American bankruptcy proceeding.

The remainder of the Proposed Decision is unchanged from the January 16 Proposed Decision. We propose that refunds to eligible purchasers be based on the volume of products that they purchased during the price control period and the extent to which they can demonstrate injury. The proposed volumetric refund amount is $0.0016 per gallon.

Because the June 30, 1995 deadline for crude oil refund applications has passed, we propose not to accept any new applications for refund in this proceeding. As we state in the Proposed Decision, the Texas American funds will be added to the general crude oil overcharge pool for direct restitution to claimants that have filed timely applications.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the Federal Register, and should be sent to the address set forth in the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 p.m. to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Ave., SW, Washington, DC 20585–0107.

Dated: March 14, 1996.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Case: Texas American Oil Corporation
Date of Filing: September 1, 1995
Case Number: VEF–0019

On January 16, 1996 the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Proposed Decision and Order (PDO) that tentatively established refund procedures for the distribution of crude oil overcharge funds obtained from Texas American Oil Corporation (Texas American) and four other firms. *Brio Petroleum, Inc.*, Case Nos. VEF–0017 *et al.*, 61 Fed. Reg. 1919 (January 24, 1996). In accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP), 51 Fed. Reg. 27899 (August 4, 1989), the PDO proposed that 40 percent of the funds be disbursed to the federal government, another 40 percent be disbursed to the states, and the remaining 20 percent be reserved for applicants who file claims showing that they were injured by crude oil overcharges. It has recently come to our attention that the circumstances under which the DOE obtained the Texas

American funds require that the funds be disbursed in a manner different than that proposed in the PDO. Accordingly, we are issuing a new PDO with respect to the Texas American funds.

Background

On September 19, 1988, the OHA issued a Remedial Order (RO) that found that Texas American had violated 10 C.F.R. § 211.67(e)(2) by receiving excessive small refiner bias benefits under the DOE's Entitlements Program. *Texas American Oil Corp.*, 17 DOE ¶ 83, 017 (1988). However, Texas American had filed a petition in bankruptcy on July 2, 1987, and its bankruptcy proceeding was still pending when the RO was issued. The trustee-in-bankruptcy approved the DOE's claim in the amount of $241,535.67, but classified it as a non-pecuniary loss in accordance with Section 726(a)(4) of the Bankruptcy Code and Class 9 of the Plan of Liquidation.[1] Since Class 9 claims were inferior to Class 7 claims, and there were insufficient assets to satisfy any Class 9 claim, or to satisfy fully the Class 7 claims, the effect of the trustee's determination was to preclude the DOE from receiving any compensation from Texas American's estate.

The DOE argued before the Bankruptcy Court that the trustee's determination was erroneous on the grounds that its claim was for restitution and therefore was a Class 7 claim. The Bankruptcy Court, however, rejected the DOE's position and held that Class 9 was the proper classification since the DOE's claim was not for actual pecuniary loss suffered by the holder of the claim. *In re Texas American Oil Corp.*, No. 387–33522–SAF–11 (Bankr. N.D. Tex. Mar. 5, 1992). This decision was reversed by the U.S. District Court which, relying on a prior decision of the Temporary Emergency Court of Appeals (TECA), held that a DOE claim under Section 209 of the Economic Stabilization of 1970 (ESA), 12 U.S.C. § 1904 note, was properly placed in the same class and priority as the general unsecured claims of other creditors. *Texas American Oil Corp.* v. *DOE,* No. 3:92–CV–1146–G (N.D. Tex. Sept. 14, 1992) (citing *DOE* v. *West Texas Marketing Corp.,* 763 F.2d 1411 (Temp. Emer. Ct. App. 1985) (*West Texas*)). This decision was in turn reversed by the United States Court of Appeals for the Federal Circuit, which held that the DOE's claim in the Texas American bankruptcy proceeding should be bifurcated, with the portion claimed on behalf of individual persons who suffered actual injury to be classified in Class 7 of the Plan of Liquidation and portion to be paid to the federal and statement governments to be classified in Class 9. *Texas American Oil Corp.* v. *DOE,* 44 F.3rd 1557 (Fed. Cir. 1995) (en banc). On remand, the Bankruptcy Court implemented the Federal Circuit's decision by distributing the 20 percent of DOE's liquidated claim ($48,307.13) that fell within Class 7 to DOE and the remaining 80 percent ($193,228.53) to the other Class 7 creditors. *In re Texas American Oil Corp.,* NO. 387–33522–SAF–11 (Bankr. N.D. Tex. April 12, 1995). The funds that the DOE received from Texas American were deposited in an interest-bearing escrow account maintained by the Department of the Treasury.[2]

In accordance with 10 C.F.R. Part 205, Subpart V, on September 1, 1995, the Office of General Counsel, Regulatory Litigation (OGC) (formerly the Economic Regulatory Administration) filed a Petition for the Implementation of Special Refund Procedures that requested OHA to formulate and implement procedures to distribute the Texas American funds. In the PDO, we tentatively granted the petition, stating that we intended to implement a Subpart V proceeding to distribute the funds to individual claimants and state and federal governments in accordance with the MSRP. The following section of this Proposed Decision sets forth our revised tentative plan to distribute these funds.

Proposed Refund Procedures

We propose to distribute the funds received from Texas American (and accrued interest on those funds) solely to individual claimants in the DOE's crude oil refund proceeding. This sui generis proposal results from the unique circumstances under which these funds were obtained. While the *Texas American* v. *DOE* decision is contrary to the position of the DOE that had been upheld in the *West Texas* case[3] we are constrained by the Federal Circuit's decision to use the funds received from Texas American solely for direct restitutionary purposes. Moreover, as indicated above, the Texas American Bankruptcy Court, in accordance with the Federal Circuit's determination, distributed to the DOE only 20 percent of its liquidated claim, an amount equivalent to the portion of crude oil overcharge funds that we have consistently reserved for individual claimants under the MSRP.

Except for the manner in which the funds will be allocated, we propose to follow the procedures set forth in the initial PDO and adopted in prior refund proceedings involving crude oil overcharge funds. Thus, claimants will be required to (i) document their purchase volumes of petroleum products during the August 19, 1973—January 27, 1981 crude oil price control period, and (ii) prove that they were injured by the alleged crude oil overcharges. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations will be presumed to have been injured by Texas American's crude oil overcharges.

In order to receive a refund, end-users will not need to submit any further evidence of injury beyond the volume of petroleum products purchased during the price control period. *See City of Columbus, Georgia* 16 DOE § 85,550 (1987). We also proposed to base refunds to claimants on a volumetric amount that is currently $0.0016 per gallon. *See* 60 Fed. Reg. 15562 (March 24, 1995).

An applicant who has executed and submitted a valid waiver pursuant to one of the escrows established by the Final Stripper Well Settlement Agreement will be considered to have waived its rights to apply for a crude oil refund under Subpart V. *See, e.g., Mid-America Dairymen, Inc.,* v. *Herrington,* 878 F.2d 1448 (Temp Emer. Ct. App. 1989); *see also Hoechst Celanese Chemical,* 25 DOE ¶85,066 (1996). Because the June 30 1995 deadline for crude oil refund applications has

[1] Section 726(a)(4) places non-pecuniary loss claims in the forth priority in the distribution of a bankrupt estate:

11 U.S.C. § 726. Distribution of property of the estate

* * * * *

(a)(4) forth, in payment of any allowed claim, whether secured or unsecured, for any fine, penalty, or forfeiture, or for multiple, exemplary, or punitive damages, arising before the earlier of the order for relief or the appointment of trustee, to the extent that such fine, penalty, forfeiture, or damages are not compensation for actual pecuniary loss suffered by the holder of such claim[.]

Class 7 (Unsecured Claims) consisted of allowed claims of unsecured creditors, while Class 9 (Non-Pecuniary Loss) consisted of ''Allowed Claims for any fine, penalty or forfeiture, or for multiple, exemplary, or punitive damages, as further described in 11 U.S.C. § 726(a)(4).'' Texas American Bankruptcy Committee Plan of Liquidation §§ 3.07, 3.09.

[2] As of February 29, 1996, the account contained $50,596.54, consisting of $48,307.13 principal and $2,289.41 interest.

[3] The Federal Circuit in *Texas American* v. *Doe* ascribed its unwillingness to follow the *West Texas* decision to judicial statutory, and related policy changes that had occurred since the issuance of that decision. The Federal Circuit also specifically overruled TECA's ruling that a DOE bankruptcy claim under the ESA to be paid to the federal and state governments on behalf of their citizen was for restitution and not for a penalty.

passed, we propose not to accept any new applications. *See Western Asphalt Service*, 25 DOE ¶85,047 (1995). Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution.

Before taking the action proposed in this Proposed Decision, we intend to publicize our proposal and solicit comments from interested parties. Comments regarding the tentative distribution process set forth in this Proposed Decision and Order should be filed with the OHA within 30 days of its publication in the Federal Register.

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Texas American Oil Corporation pursuant to the Order of the United States Bankruptcy Court for the Northern District of Texas signed on April 12, 1995, will be distributed in accordance with the foregoing Decision.

[FR Doc. 96–7270 Filed 3–25–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5447–3]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before May 28, 1996.

ADDRESSES: U. S. Environmental Protection Agency, 401 M Street SW, Mail code 2223A OECA/OC/METD, Washington, D.C. 20460. A copy of these ICR's may be obtained without charge from Sandy Farmer (202) 260–2740. This information may also be acquired electronically through the Enviroene Bulletin Board, 703–908–2092 or the Enviroene WWW/Internet Address, http//wastenot.inel.gov./envirosense/. All responses and comments will be collected regularly from Enviroene.

FOR FURTHER INFORMATION CONTACT: NSPS subpart D and NSPS subpart Da, Ted Coopwood, (202) 564–7058 FAX (202) 564–0050 or Chris Oh, (202) 564–7004; NSPS subpart BB, Maria DiBiase Eisemann at (202) 564–7016, FAX (202) 564–0050, NESHAP subpart N, NSPS subpart CC and NSPS subpart HH, Scott Throwe at (202) 564–7013, FAX (202) 564–0050; NSPS subpart MM, Suzanne Childress at (202) 564–7018, FAX (202) 564–0050, NSPS subpart RR, and Arsenic in Wood Preserving, Seth Heminway, (202) 564–7017, fax: (202) 564–0050, E-mail: Heminway.Seth@ EPAMAIL.EPA.GOV.; NSPS subpart SS, NSPS subpart TT, and NSPS subpart WW, Gregory R. Waldrip, 202–564–7024 (telephone)/202–564–0050 (facsimile)/ waldrip.gregory@epamail.epa.gov (Email); NSPS subpart GGG, and NESHAP subpart M, Tom Ripp (202) 564–7003; NSPS subpart HHH, Belinda Breidenbach, (202) 564–7022, fax (202) 564–0050; NSPS Subparts III and NNN, Jeffery KenKnight at (202) 564–7033 or via E-mail (KENKNIGHT.JEFFERY@ EPAMAIL.EPA.GOV); NSPS subpart KKK/LLL, Dan Chadwick, (202) 564–7054, FAX (202) 564–0050; NESHAP subpart E, Jane M. Engert, tel: (202) 564–5021; FAX: (202) 564–0050; e-mail: engert.jane@epamail.epa.gov; MACT subpart L, Maria Malave at (202) 564–7027 or via e-mail (MALAVE.MARIA@ EPAMAIL.EPA.GOV.) or send a fax to (202) 564–0050; MACT NESHAP subpart M, Karin Leff at (202) 564–7068.

SUPPLEMENTARY INFORMATION:

NSPS Subpart D; Fossil-Fuel-Fired Steam Generators

Affected entities: Entities potentially affected by this action are those fossil-fuel-fired Steam Generators for which construction is commenced after August 17, 1971.

Title: New Source Performance Standards (NSPS) for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced after August 17, 1971 (Subpart D)—Information Requirements (EPA ICR No. 1052.04; OMB No, 2060–0026). This is a request for extension of a currently approved information collection.

Abstract: Owners or operators of fossil-fuel-fired steam generating units which is capable of combusting more than 73 megawatts heat input of fossil fuel and is not covered under Subpart Da, must provide EPA, or the delegated State regulatory authority with the following one-time-only reports (specified in 40 CFR 60.7): Notifications of the anticipated and actual date of start up, notification of the date of construction or reconstruction, notification of any physical or operational changes to an existing facility which may increase the emission rate of any regulated air pollutant, notification of the date upon which demonstration of the continuous monitoring system performance commences, notification of the date of the initial performance test, and results of the performance test.

Owners and operators are also required to maintain records of the occurrence and duration of any start up, shutdown, or malfunction in the operation of an effected facility, or malfunction in the operation of the air pollution control device, or any periods during which the monitoring system is inoperative. These notifications, reports, and records are required in general of all sources subject to NSPS.

In addition to reporting and recordkeeping requirements, facilities subject to this subpart must install, calibrate, maintain, and operate a continuous monitoring system (CMS) to monitor SO_2, NO_X and opacity (specified in 40 CFR 60.45), and must notify EPA or the State regulatory authority of the date upon which demonstration of the CMS performance commences. Owners or operators must submit quarterly reports indicating whether compliance was achieved, and their assessment of monitoring system performance (specified in 40 CFR 60.7). The notifications and reports enable EPA or the delegated State regulatory authority to determine that best demonstration technology is installed and properly operated and maintained and to schedule inspections.

To ensure compliance with these standards, the required records and reports are necessary to enable the Administrator: (1) To identify new, modified, or reconstructed sources subject to the standard; (2) to ensure that the emission limits are being achieved; and (3) to ensure that emission reduction systems are being operated and maintained properly. In the absence of such information collection requirements, enforcement personnel would be unable to determine whether standards are being met on a continuous basis, as required by the Clean Air Act and in accordance with any applicable permit.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.