pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled ''Application for Crude Oil Refund.'' Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for this information to be publicly disclosed, it must submit an original application, clearly designated ''confidential,'' containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be sent to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585.

The filing deadline has not yet been set. The DOE has proposed that June 3, 1996, will be the final deadline for all applications in the crude oil proceeding. *See* 59 Fed. Reg. 55656 (November 8, 1994). Notice of the final deadline will appear in the **Federal Register**. Even though an applicant is not required to use any specific form for its crude oil refund application, a suggested form has been prepared by the OHA and may be obtained by sending a written request to the address listed above.

D. Payments to the Federal Government and the States

Under the terms of the MSRP, we have determined that the remaining 80 percent of the Kind and Bridewell funds, plus accrued interest, should be disbursed in equal shares to the states and the federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement, 6 Fed. Energy Guidelines ¶ 90,509 at 90,687. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Settlement Agreement.

It Is Therefore Ordered That:

(1) Applications for Refund from the crude oil overcharge funds remitted by King Petroleum, Inc., *et al.*, and Billy Bridewell, William J. Cobb, *et al.*, may now be filed.

(2) All Applications submitted pursuant to paragraph (1) must be filed in duplicate and postmarked no later than June 3, 1996.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller of the Department of Energy shall take all steps necessary to transfer $1,245.04, plus all accrued interest, from the King subaccount (Account No. 650X00358Z), and $337,022.86, plus all accrued interest, from the Bridewell subaccount (Account No. 6A0C00217Z), for a total of $338,267.90, plus all accrued interest, pursuant to Paragraphs (4), (5), and (6) of this Decision.

(4) The Director of Special Accounts and Payroll shall transfer $135,307.16 (plus interest) of the funds obtained pursuant to Paragraph (3) above into the subaccount denominated ''Crude Tracking-States,'' Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $135,307.16 (plus interest) of the funds obtained pursuant to Paragraph (3) above into the subaccount denominated ''Crude Tracking-Federal,'' Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $67,653.58 (plus interest) of the funds obtained pursuant to Paragraph (3) above into the subaccount denominated ''Crude Tracking-Claimants 4,'' Number 999DOE010Z.

Dated: February 1, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–3020 Filed 2–6–95; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

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

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $3,657.84, plus accrued interest, in refined petroleum product violation amounts obtained by the DOE pursuant to a September 30, 1981 Remedial Order issued to Ed's Exxon, Case No. LEF–0078, and an April 27, 1982 Remedial Order issued to Ron's Shell, Case No. LEF–0084. The OHA has determined that the funds obtained from the above firms, plus accrued interest, will be distributed to customers who purchased gasoline from them during the following periods: August 1, 1979 through October 31, 1979 in the Ed's Exxon proceeding and August 1, 1979 through November 13, 1981 in the Ron's Shell proceeding.

DATES AND ADDRESSES: Applications must be filed in duplicate, addressed to ''Ed's Exxon OR Ron's Shell Special Refund Proceeding'' and sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585.

Applications should display a prominent reference to the case number ''LEF–0078'' (for the Ed's Exxon proceeding) or ''LEF–0084'' (for the Ron's Shell proceeding).

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 586–2094 (Mann); 586–2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 C.F.R. 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute to eligible claimants $3,657.84, plus accrued interest, obtained by the DOE pursuant to September 30, 1981 and April 27, 1982 Remedial Orders. In the Remedial Orders, the DOE found that, during periods beginning August 1, 1979, the firms each had sold motor gasoline at prices in excess of the maximum lawful selling price, in violation of Federal petroleum price regulations.

The OHA has determined to distribute the funds obtained from the firms in two stages. In the first stage, we will accept claims from identifiable purchasers of gasoline from the firms who may have been injured by overcharges. The specific requirements which an applicant must meet in order to receive a refund are set out in Section III of the Decision. Claimants who meet these specific requirements will be eligible to receive refunds based on the number of gallons of gasoline which they purchased from Ed's Exxon or Ron's Shell.

If any funds remain after valid claims are paid in the first stage, they may be used for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07.

Applications for Refund must be postmarked by August 31, 1995. Instructions for the completion of refund applications are set forth in the Decision that immediately follows this notice. Applications should be sent to the address listed at the beginning of this notice.

Unless labelled as ''confidential,'' all submissions must be made available for public inspection between the hours of 1 p.m. and 5 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 Avenue, S.W., Washington, DC 20585.

Dated: January 27, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy; Implementation of Special Refund Procedures

January 27, 1995.

Names of Firms: Ed's Exxon, Ron's Shell
Date of Filing: July 20, 1993
Case Numbers: LEF–0078, LEF–0084

On July 20, 1993, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA), to distribute the funds received pursuant to Remedial Orders issued by the DOE to Ed's Exxon of Cotati, California, and Ron's Shell of Danville, California (hereinafter jointly referred to as the remedial order firms). In accordance with the provisions of the procedural regulations at 10 C.F.R. Part 205, Subpart V (Subpart V), the ERA requests in its Petition that the OHA establish special procedures to make refunds in order to remedy the effects of regulatory violations set forth in the Remedial Order. This Decision and Order sets forth the OHA's plan to distribute these funds.

I. Background

Each of the remedial order firms was a retailer of motor gasoline during the periods relevant to this proceeding. The ERA issued Proposed Remedial Orders (PROs) to each of the firms.[1] The PROs alleged that, during separate periods beginning on August 1, 1979, the remedial order firms had: charged more than the maximum lawful selling price for one or more grades of gasoline in violation of 10 C.F.R. 212.93; failed to post and maintain the maximum lawful selling price or a proper certification in violation of 10 C.F.R. 212.129; failed to keep and maintain books and records to support the lawfulness of the price for gasoline on the audit date in violation of 10 C.F.R. 210.92 and 212.93; and/or engaged in unlawful or discriminatory business practices in violation of 10 C.F.R. 210.62.

After considering and dismissing the firms' objections to the PROs, the DOE issued final Remedial Orders. Ed's Exxon, 8 DOE ¶ 83,035 (1981); Alameda Chevron Service, et al., 9 DOE ¶ 83,027 (1982).[2] Each of the firms has since remitted a specified amount in compliance with the Remedial Orders, to which interest has since accrued. These funds are being held in an interest-bearing escrow account maintained at the Department of the Treasury pending a determination regarding their proper distribution.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. §§ 4501 et seq., Office of Enforcement, 9 DOE ¶ 82,508 (1981), and Office of Enforcement, 8 DOE ¶ 82,597 (1981) (Vickers).

We have considered the ERA's petition that we implement Subpart V proceedings with respect to the above remedial order funds and have determined that such proceedings are appropriate. This Decision and Order sets forth the OHA's plan to distribute these funds.

III. Proposed Refund Procedures

On December 14, 1994, the OHA issued a Proposed Decision & Order (PD&O) establishing tentative procedures to distribute the Remedial Order funds. That PD&O was published in the **Federal Register**, and a 30-day period was provided for the submission of comments regarding our proposed refund plan. See 59 Fed. Reg. 66029 (December 22, 1994). More than 30 days have elapsed and the OHA has received no comments concerning these proposed refund procedures. Consequently, the procedures will be adopted as proposed.

We will to implement a two-stage refund procedure for distribution of the remedial order funds, by which purchasers of gasoline from the remedial order firms during the period covered by the Remedial Orders may submit Applications for Refund in the initial stage. From our experience with Subpart V proceedings, we expect that potential applicants generally will be limited to ultimate consumers (''end-users''). Therefore, we do not anticipate that it will be necessary to employ the injury presumptions that we have used in past proceedings in evaluating applications submitted by refiners, resellers, and retailers.[3]

A. First Stage Refund Procedures

In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of gasoline from the remedial order firm during the period covered by the Remedial Order. Our experience indicates that the use of certain presumptions permits claimants to participate in the refund process without incurring inordinate expense and ensures that refund claims are evaluated in the most efficient manner possible. See Marathon Petroleum Co., 14 DOE ¶ 85,269 (1986) (Marathon). Presumptions in refund cases are specifically authorized by the applicable Subpart V regulations at 10 C.F.R. § 205.282(e). Accordingly, we will adopt the presumptions set forth below.

1. Calculation of Refunds

First, we will adopt a presumption that the overcharges were dispersed equally in all of the remedial order firms' sales of gasoline during the period covered by the Remedial Orders. In accordance with this presumption, refunds will be made on a pro-rata or volumetric basis.[4] In the absence of better information, a volumetric refund is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

Under the volumetric approach, a claimant's ''allocable share'' of a Remedial Order fund is equal to the number of gallons purchased from the remedial order firm during the period covered by that Remedial Order times the per gallon refund amount.[5] We derived the per gallon refund figures by dividing the amount of each Remedial Order fund by the total volume of gasoline which each remedial order firm sold during the period specified in that Remedial Order. An applicant that establishes its eligibility for a refund will receive all or a portion of its allocable share plus a pro-rata share of the accrued interest.[6]

In addition to the volumetric presumption, we will adopt a presumption regarding injury for end-users.

2. End-Users

In accordance with prior Subpart V proceedings, we will adopt the presumption that an end-user or ultimate consumer of gasoline purchased from one of the remedial order firms whose business is unrelated to the petroleum industry was injured by the overcharges resolved by the Remedial Order. See, e.g., Texas Oil and Gas Corp., 12 DOE ¶ 85,069 at 88,209 (1984) (*TOGCO*). Members of this group generally were not subject to price controls during the period covered by the Remedial Order, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of the refund proceeding. *Id.* End-users of gasoline purchased from the remedial order firms need only document their purchase volumes from the firm during the period covered by the Remedial Order to make a sufficient showing that they were injured by the overcharges.

B. Refund Application Requirements

To apply for a refund from any of the Remedial Order funds, a claimant should submit an Application for Refund containing all of the following information:

[1] Ed's Exxon was issued a PRO on January 25, 1980; Ron's Shell was issued a PRO on December 31, 1980.

[2] A Remedial Order was issued to Ed's Exxon on September 30, 1981. A Remedial Order was issued to Ron's Shell on April 27, 1982.

[3] If a refiner, reseller, or retailer should file an application in any of the refund proceedings, however, we will utilize the standards and appropriate presumptions established in previous proceedings. See, e.g., Starks Shell Service, 23 DOE ¶ 85,017 (1993); Shell Oil Co., 18 DOE ¶ 85,492 (1989).

[4] If an individual claimant believes that it was injured by more than its volumetric share, it may elect to forego this presumption and file a refund application based upon a claim that it suffered a disproportionate share of the remedial firm's overcharges. See, e.g., Mobil Oil Corp./Atchison, Topeka and Santa Fe Railroad Co., 20 DOE ¶ 85,788 (1990); Mobil Oil Corp./Marine Corps Exchange Service, 17 DOE ¶ 85,714 (1988). Such a claim will only be granted if the claimant makes a persuasive showing that it was ''overcharged'' by a specific amount, and that it absorbed those overcharges. See Panhandle Eastern Pipeline Co./Western Petroleum Co., 19 DOE ¶ 85,705 (1989). To the degree that a claimant makes this showing, it will receive an above-volumetric refund.

[5] The per gallon refund amount is $0.0251 for claimants applying in the Ed's Exxon proceeding ($2,500 remitted/99,651 gallons sold), $0.0072 in the Ron's Shell proceeding ($1,157.84 remitted/160,777.9 gallons sold).

[6] As in previous cases, we will establish a minimum refund amount of $15. We have found through our experience that the cost of processing claims in which refunds for amounts less than $15 are sought outweighs the benefits of restitution in those instances. See Exxon Corp., 17 DOE ¶ 85,590, at 89,150 (1988) (Exxon).

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number, a statement indicating whether the claimant is an individual, corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of a person to contact for additional information, and the name and address of the person who should receive any refund check.[7] If the applicant operated under more than one name or under a different name during the price control period, the applicant should specify those names;

(2) A monthly purchase schedule covering the relevant Remedial Order period.[8] The applicant should specify the source of this gallonage information. In calculating its purchase volumes, an applicant should use actual records from the refund period, if available. If these records are not available, the applicant may submit estimates of its gasoline purchases, but the estimation method must be reasonable and must be explained.

(3) A statement whether the applicant or a related firm has filed, or has authorized any individual to file on its behalf, any other application in that refund proceeding. If so, an explanation of the circumstances of the other filing or authorization should be submitted;

(4) If the applicant is or was in any way affiliated with the remedial order firm, it should explain this affiliation, including the time period in which it was affiliated.[9]

(5) The statement listed below signed by the individual applicant or a responsible official of the firm filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. § 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled ''Ed's Exxon (Case No. LEF–0078) OR Ron's Shell (Case No. LEF–0084) Special Refund Proceeding.'' Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for that information to be publicly disclosed, it must submit an original application, clearly designated ''confidential,'' containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be postmarked on or before August 31, 1995 and sent to: Ed's Exxon OR Ron's Shell Special Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585.

C. Refund Applications Filed by Representatives

We will adopt the standard OHA procedures relating to refund applications filed on behalf of applicants by ''representatives,'' including refund filing services, consulting firms, accountants, and attorneys. See, e.g., Starks Shell Service, 23 DOE ¶ 85,017 (1993); Texaco Inc., 20 DOE ¶ 85,147 (1990); Shell Oil Co., 18 DOE ¶ 85,492 (1989). We will also require strict compliance with the filing requirements as specified in 10 C.F.R. § 205.283, particularly the requirement that applications and the accompanying certification statement be signed by the applicant.

The OHA reiterates its policy to scrutinize applications filed by filing services closely. Applications submitted by a filing service should contain all of the information indicated above.

Finally, the OHA reserves the authority to require additional information before granting any refund in these proceedings. Applications lacking the required information may be dismissed or denied.

D. Distribution of Funds Remaining After First Stage

Any funds that remain after all first stage claims have been decided shall be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. § 4501–07. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to the OHA, and any funds in the Remedial Order funds that the OHA determines will not be needed to effect direct restitution to injured customers will be distributed in accordance with the provisions of PODRA.

It Is Therefore Ordered That: (1) Applications for Refund from the funds remitted to the Department of Energy by Ed's Exxon and Ron's Shell pursuant to the Remedial Orders dated September 30, 1981 and April 27, 1982 may now be filed.

(2) Applications for Refund must be postmarked no later than August 31, 1995.

Dated: January 27, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–3012 Filed 2–6–95; 8:45 am]

BILLING CODE 6450–01–P

[7] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the Petroleum Overcharge Distribution Act of 1986 and the regulations codified at 10 C.F.R. Part 205, Subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

[8] The Remedial Orders cover the following periods: August 1, 1979 through October 31, 1979 in the Ed's Exxon proceeding and August 1, 1979 through November 13, 1981 in the Ron's Shell proceeding.

[9] As in other refund proceedings involving alleged refined product violations, the DOE will presume that affiliates of the remedial order firm were not injured by the firm's overcharges. See, e.g., Marathon Petroleum Co./EMRO Propane Co., 15 DOE ¶ 85,288 (1987). This is because the remedial order firm presumably would not have sold petroleum products to an affiliate if such a sale would have placed the purchaser at a competitive disadvantage. See Marathon Petroleum Co./Pilot Oil Corp., 16 DOE ¶ 85,611 (1987), amended claim denied, 17 DOE ¶ 85,291 (1988), reconsideration denied, 20 DOE ¶ 85,236 (1990). Furthermore, if an affiliate of the remedial order firm were granted a refund, the remedial order firm would be indirectly compensated from a Remedial Order fund remitted to settle its own alleged violations.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5150–8]

Notice of Open Meeting of the Alternative Financing Workgroup of the Environmental Financial Advisor Board on April 25,1995

The Alternative Financing Workgroup of the Environmental Financial Advisory Board (EFAB) will hold an open workgroup meeting on fee system options for raising revenue to finance water and wastewater infrastructure. The meeting is scheduled for April 25, 1995 in Ballroom ''A'' of the Sheraton Crystal City Hotel located at 1800 Jefferson Davis Highway, Arlington, Virginia. The meeting will begin at 8:30 a.m. and adjourn at 5:00 p.m.

EFAB is chartered with providing authoritative analysis and advice to the Environmental Protection Agency (EPA) on environmental finance issues. The purpose of the workgroup meeting is to take comments on a draft options paper on fee systems for raising revenue to finance water and wastewater infrastructure. The scope of the study includes national and state fees, collection and delivery mechanisms, and state fees, collection and delivery mechanisms, and eligibilities. This paper is being prepared in response to a congressional request for an evaluation of alternative financing options in EPA's FY 95 appropriations bill. A critical part of the development process is to solicit and consider public comment. This is the first of several meetings serving that purpose.

The draft options paper is being developed by the Environmental Finance Center (EFC) of the Maxwell School of Citizenship and Public Affairs at Syracuse University. The draft will be