determinations with respect to either the three requests for information or the request for husband-wife pairs employed at LANL. Thus, the DOE dismissed the Appeals concerning the letters. Lastly, the DOE found that in his Motion for Reconsideration, Mr. Payne had not provided any additional information or shown changed circumstances that would lead the DOE to alter its prior Decision. Accordingly, the Motion for Reconsideration was denied.

Remedial Order

Chevron U.S.A. Inc., 3/25/96, LRO–0004

Chevron U.S.A. Inc. (Chevron) filed a Statement of Objections to a Proposed Remedial Order (PRO) issued to Chevron by the Economic Regulatory Administration (ERA) on March 26, 1992. In the PRO, the ERA alleged that as a result of its participation in the DOE Tertiary Incentive Program (TIP), Chevron received excess tertiary incentive revenue attributable to its first sales of domestically produced crude oil during the period January 1980 through January 27, 1981, in violation of 10 C.F.R. §§ 212.78, 212.73, 212.74 and 205.202. The PRO required that Chevron make restitution for this alleged violation in the amount of $124,989,588 (later amended to $167,268,897), plus interest. In considering the substantial record developed in the proceeding, the DOE found that although Chevron's TIP reports reflected the firm's receipt of excess ''tertiary incentive revenue'' by regulatory definition, the firm had not in fact received any excess amount of actual revenue as a result of its participation in the TIP. Accordingly, the PRO was dismissed with prejudice.

Personnel Security Hearing

Albuquerque Operations Office, 3/26/96, VSO–0066

An Office of Hearings and Appeals Hearing Officer issued an opinion against restoring the security clearance of an individual whose clearance had been suspended because the Department had obtained derogatory information that fell within 10 C.F.R. § 710.8 (j) and (l). In reaching his conclusion, the Hearing Officer found that the individual had been diagnosed as dependent on alcohol and did not make an adequate showing of rehabilitation. In addition, the Hearing Officer found that an incident of domestic violence where the individual left the scene before law enforcement officers arrived shows a lack of judgment and reliability within the meaning of 10 C.F.R. § 710.8(l).

Refund Applications

Good Hope Refineries/Marathon Oil Company, 3/25/96, RF339–11

Marathon Oil Company filed an application for refund in the Good Hope Refineries II Refund Proceeding. The DOE denied Marathon's application after finding that Marathon was a spot purchaser and failed to rebut the presumption that spot purchasers were not injured.

Gulf Oil Corp./Hilltop Gulf, 3/27/96, RR300–00268

The DOE dismissed a Motion for Reconsideration filed in the Gulf Oil Corporation special refund proceeding on behalf of Hilltop Gulf. In this Motion for Reconsideration, Wilson, Keller & Associates, Inc. (WKA), a refund filing service, asserted that several facts contained in the original Application were incorrect. On the basis of the new information, WKA requested that the Applicant's name be changed and that gallons purchased under a second Gulf Customer Number be added to the total gallonage claim. The DOE determined that the Motion for Reconsideration was fundamentally different from the original Application and constituted a new application which was barred by the Gulf deadline. Accordingly, the DOE dismissed the Motion.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Clara B. Hale, et al	RK272–2249	03/27/96
Gulf Oil Corporation/Newark Lumber Co./American Home & Hardware	RR300–0259	03/25/96
Margaret H. Nordquist, et al	RK272–01526	03/27/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Airtrails, Inc	RF272–98018
American Trans Air, Inc	RF272–98744
Bay de Noc Oil Co., Inc	RF300–14753
Buffalo Airways, Inc	RF272–98720
Decatur Aviation	RF272–98723
Gulf Air Taxi, Inc	RF272–98725
Pem-Air Limited	RF272–98727
Ron's Arco	RF304–15343
S&B Go., Inc	RF300–16372
Soneco/Northeastern	RG272–00303

[FR Doc. 96–24395 Filed 9–23–96; 8:45 am]

BILLING CODE 6450–01–P

Implementation of Special Refund Procedures

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

ACTION: Notice of proposed implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces proposed procedures and solicits comments concerning the refunding of $30,000 (plus accrued

interest) in consent order funds. The funds are being held in escrow pursuant to a Stipulation for Compromise Settlement involving Houston-Pasadena Apache Oil Company.

DATES AND ADDRESSES: Comments must be filed on or before October 24, 1996 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107. All comments should conspicuously display a reference to Case Number VEF–0022.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, S. W., Washington, D.C. 20585–0107, (202) 426–1575.

SUPPLEMENTARY INFORMATION: In accordance with Section 205.282(b) of the procedural regulations of the Department of Energy, 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 relates to a Stipulation for Compromise Settlement entered into by the Houston-Pasadena Apache Oil Company (Apache) which settled possible pricing violations in the firm's wholesale transactions of motor gasoline during the period October–December 1979.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute funds remitted by Apache and being held in escrow. The DOE has tentatively decided that the funds should be distributed in two stages in the manner utilized with respect to consent order funds in similar proceedings.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

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 at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 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 Avenue, S.W., Washington, D.C. 20585–0107.

Dated: September 16, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Houston-Pasadena Apache Oil Co.
Date of Filing: September 1, 1995
Case Number: VEF–0022

In accordance with the procedural regulations of the Department of Energy (DOE), 10 C.F.R. Part 205, Subpart V, the Regulatory Litigation branch of the Office of General Counsel (OGC)(formerly the Economic Regulatory Administration (ERA)) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on September 1, 1995. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a Stipulation for Compromise Settlement (Settlement Stipulation) concerning the Houston-Pasadena Apache Oil Company (Apache).

Background

Apache was a ''reseller-retailer'' of motor gasoline during the period of price controls. Accordingly, Apache was subject to the provisions of 10 C.F.R. Part 212, Subpart F, governing wholesale and retail sales of refined petroleum products. On April 30, 1985, the ERA issued a Proposed Remedial Order (PRO) to Apache concerning Apache's compliance with the price regulations for the period March 1, 1979 through December 31, 1979 (the audit period). Apache provided documents for a more limited period (October–December 1979), and based upon those documents, the ERA found that Apache sold motor gasoline at prices in excess of those permitted under the DOE price regulations governing reseller-retailers during that period. After considering Apache's challenge to the PRO, the OHA issued a final Remedial Order (RO) to Apache on June 19, 1989. See *Houston/Pasadena Apache Oil Company*, 19 DOE ¶ 83,001 (1989). In the RO, the OHA remanded to the ERA a portion of the PRO involving retail transactions and two sales to Dow Chemical Company (Dow) and affirmed the rest of the PRO. The OHA also directed Apache to refund the amount of $160,713 plus interest, this sum representing the overcharges realized by the firm in its wholesale transactions during the period October–December 1979. Apache did not honor its repayment obligation and the matter was referred to the Department of Justice (DOJ) for resolution. On June 4, 1993, the DOJ and Apache executed a Stipulation for Compromise Settlement resolving the issues addressed by the RO. Pursuant to this settlement, Apache agreed to pay $30,000 in full settlement of the DOE claim. Apache's compliance with the settlement has resulted in payment to DOE of $30,000 which we propose to disburse pursuant to the procedures set forth in this Proposed Decision. These funds are presently in an interest-bearing escrow account maintained by the Department of the Treasury.

Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 C.F.R. Part 205, Subpart V. Generally, it is DOE policy 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 obtained as part of settlement agreements, see *Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). After reviewing the record in the present case, we have concluded that a Subpart V proceeding is an appropriate mechanism for distributing the monies obtained from Apache. We therefore propose to grant OGC's petition and assume jurisdiction over distribution of the funds.

Proposed Refund Procedures

A. Refund Claimants

We propose that refund monies be distributed to those wholesale customers which were injured in their transactions with Apache during the period October 1, 1979 through December 31, 1979. These customers of Apache are listed in Appendix A to the RO. If any of these customers are affiliates of Apache, they will be ineligible to apply for a refund in this proceeding.

B. Calculation of Refund Amounts

For claims against the funds obtained from Apache, we propose to establish a maximum potential refund (allocable share) for each of the customers identified in the Apache RO as an overcharged customer. These claimant-specific maximum potential refunds will be based upon the ratio of overcharges incurred by each customer to the total overcharge amount multiplied by the principal amount in the Apache escrow account. A list of the identified Apache customers and their maximum potential refunds is presented in the Appendix to this Proposed Decision. Each successful refund claimant shall also receive a pro rata share of interest which has accrued on the Apache escrow fund account.

C. Showing of Injury/Injury Presumptions

As in previous Subpart V proceedings, we propose that those customers who were ultimate consumers (end-users) of Apache motor gasoline be presumed injured by Apache's alleged overcharges. They will therefore not be required to make a further demonstration of injury in order to receive a refund.

We propose that reseller claimants (including retailers and refiners) who purchased on a regular (non-spot) basis and whose maximum potential refund is $10,000 or less will be presumed injured and therefore need not provide further demonstration of injury. See *E.D.G., Inc.*, 17 DOE ¶ 85,679 (1988). We realize that the cost to an applicant of gathering evidence of injury to support a relatively small refund claim could exceed the expected refund. Consequently, in the absence of simplified procedures some injured parties would be denied an opportunity to obtain a refund. We further propose that Tesoro Crude (Tesoro

Energy), the only potential reseller claimant whose allocable share exceeds $10,000, may elect either to receive a refund under the small claims presumption outlined above or to pursue its potential refund of $16,034.97. If Tesoro limits its claim to the $10,000 small claims threshold, it need not demonstrate injury beyond the requirements established for other small claimants. If the firm elects to claim its entire potential refund it must establish that it did not pass the Apache overcharges along to its customers.[1] See, *e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). Tesoro can make such an injury showing by demonstrating that it would have kept its motor gasoline prices at the same level had the Apache overcharges not occurred. While there are a variety of means by which a claimant could make this showing, Tesoro should demonstrate that at the time it purchased Apache motor gasoline, market conditions would not permit it to increase its prices to pass through the additional costs associated with the Apache overcharges. In addition, Tesoro must show that it had a ''bank'' of unrecovered product costs sufficient to support its refund claim in order to demonstrate that it did not subsequently recover those costs by increasing its prices. However, the maintenance of a cost bank does not automatically establish injury. See *Tenneco Oil/Chevron U.S.A.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co.*, 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./ Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).

Finally, we propose to establish a minimum amount of $15 for refund claims. We have found in prior refund proceedings that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. See, *e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). See also 10 C.F.R. § 205.286(b). This proposed restriction would rule out the participation in this proceeding of two of the firms listed in the Appendix: Gulf Coast Waste, and Parrish Corp.[2]

Conclusion

Refund applications in this proceeding should not be filed until the issuance of a final Decision and Order pertaining to the instant OGC Implementation Petition. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim. A copy of this Proposed Decision and Order will be published in the Federal Register and public comments will be solicited.

Any funds that remain after all first-stage claims have been decided will 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 energy conservation programs. The Secretary has delegated these responsibilities to OHA. Any funds in the Apache escrow account the OHA determines will not be needed to effect direct restitution to injured Apache customers will be distributed in accordance with the provisions of PODRA.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Houston-Pasadena Apache Oil Company, Inc. pursuant to the Stipulation for Compromise Settlement executed on June 4, 1993, will be distributed in accordance with the foregoing Decision.

APPENDIX

Applicant	Allocable share
Car Wash	$31.17
Clay Texaco	14.70
DuMac Oil	22.59
Gulf Coast Waste [1]	8.97
Jas Lee	126.06
Joe Lee	3,059.22
John Parker	28.60
Kirby Car Wash	19.83
Lloyd Parrish	288.03
Main Stop	48.90
Parrish Corp.[1]	11.43
Quail Valley Gulf	166.95
So Sweet Energy	2,098.14
Tesoro Energy (Tesoro Crude)	16,034.97
Trio Oil Co.	1,414.17
True Oil Co.	1,119.96
Two Oil Co.	5,489.67
Yims Texaco	16.64
Total	30,000.00

The allocable share entries were generated by multiplying the principal amount in the Apache escrow account by the percentage of total overcharges incurred by each individual claimant as determined by the ERA audit of Apache's business records.

[1] Under $15 threshold. See n.2 of Decision.

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BILLING CODE 6450–01–P

[1] In the event that Tesoro demonstrates that it should be treated as an end-user instead of as a reseller, it will not be required to make this injury showing.

[2] Although the allocable share of Clay Texaco, $14.70, is under the $15 threshold, we have calculated that with interest its refund would exceed $15.

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00405A; FRL–5397–3]

Food Safety Advisory Committee Open Meeting; Change In Meeting Locaiton

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA announced in the Federal Register of September 4, 1996 the initial meeting of the Food Safety Advisory Committee scheduled for September 26, 1996 (61 FR 46641)(FRL–5395–1). The meeting was originally scheduled to be held at the Ariel Rios Federal Office Building. This notice announces the new location of the September 26, 1996 meeting.

DATES: The date of the meeting is still September 26, 1996, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The new location of the meeting is: The Sheraton City Center, the Hampshire Ballroom, 1143 New Hampshire Avenue, NW., Washington, DC. From the Foggy Bottom metro station, cross Washington Circle to New Hampshire Avenue, or from the Dupont Circle metro station, walk down 21st Street to the corner of M Street and New Hampshire Avenue and turn right on M Street.

FOR FURTHER INFORMATION CONTACT: By mail: Margie Fehrenbach, Designated Official, or Carol Peterson, Office of Pesticide Programs (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 1119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305-7090; e-mail: fehrenbach.margie@epamail.epa.gov, or peterson.carol@epamail.epa.gov. To contact the Sheraton City Center by telephone call (202) 775-0800.

List of Subjects

Environmental protection.

Dated: September 17, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 96–24600 Filed 9–23–96; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5608–8]

Final National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice of final NPDES storm water multi-sector general permit for Guam.

SUMMARY: This action provides notice for the issuance of the final multi-sector general permit (MSGP) for storm water discharges associated with industrial activity for the Island of Guam. On September 29, 1995 (60 FR 50804), EPA issued the MSGP to cover storm water discharges associated with industrial