(Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to be effective January 1, 1996:

Substitute Second Revised Sheet No. 204
Substitute Fourth Revised Sheet No. 205
Third Revised Sheet No. 205A
Substitute Original Sheet No. 205B
Substitute First Revised Sheet No. 206
Third Revised Sheet No. 209
Second Substitute First Revised Sheet No. 209A
Substitute First Revised Sheet No. 217
Substitute Original Sheet No. 314A
Substitute Original Sheet No. 314B
Substitute First Revised Sheet No. 393

Tennessee states that it is filing the instant tariff sheets to correct certain typographical errors and omissions that occurred in Tennessee's December 1, 1995, filing in this docket to implement Phase I of the Stipulation and Agreement filed on July 25, 1995 (S&A). Tennessee further states that the tendered tariff sheets do not effect any substantive change to the S&A.

Any person desiring to protest with reference to said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2939 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

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 announces the procedures for disbursement of $275,000,000 (plus interest) in alleged overcharges remitted or to be remitted to the DOE by Occidental Petroleum Corporation and its wholly owned subsidiary OXY USA, Inc., Case No. VEF–0030. The OHA has determined that these funds should be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Janet N. Freimuth, Deputy Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585–0107 (202) 586–2390 [Wieker]; (202) 586–2400 [Freimuth].

SUPPLEMENTARY INFORMATION: In accordance with 10 C.F.R. 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute a total of $275,000,000 plus interest, remitted or to be remitted to the DOE, by Occidental Petroleum Corporation. The DOE is currently holding $100,000,000, plus accrued interest, of these funds in an interest bearing escrow account pending distribution. The DOE will receive additional annual payments of $35,000,000 plus interest during the years 1996 through 2000.

The OHA will distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 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. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products that they purchased and the extent to which they can demonstrate injury.

Because the June 30, 1995 deadline for crude oil refund applications has passed, we will not accept any new applications from purchasers of refined petroleum products for these funds. As we state in the Decision, any party who has previously submitted a refund application in the crude oil refund proceeding should not file another Application for Refund. Any party whose crude oil application is approved will share in all crude oil overcharge funds.

Dated: January 31, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

DECISION AND ORDER OF THE DEPARTMENT OF ENERGY

Implementation Order

Name of Case: OXY USA, Inc.
Date of Filing: September 18, 1995.
Case Number: VEF–0030.

On December 1, 1995, the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Proposed Decision and Order which tentatively established refund procedures for the distribution of the Occidental Petroleum Corporation (Occidental) consent order funds. After a review of the comments received, the DOE has determined that the procedures set forth in the Proposed Decision and Order should be adopted.

I. Background

A. The Occidental Enforcement Proceeding

The Occidental consent order concerned reciprocal crude oil transactions between Cities Service Corporation (Cities) and various crude oil resellers.[1] In those transactions, Cities sold price-controlled crude oil in its refinery inventory in exchange for deeply discounted exempt crude oil. Cities reported the exempt crude oil to the DOE Entitlements Program, thereby significantly reducing its entitlements obligations.

In 1985, the DOE's Economic Regulatory Administration, now the DOE's Office of General Counsel, Regulatory Litigation (OGC), issued a Proposed Remedial Order (PRO) to the firm. In 1988, the DOE issued a Remedial Order (RO) holding that the transactions violated the price regulations and that the violation amount of $264 million, plus interest, should be remitted to the DOE. *Cities Service Oil and Gas Corp.*, 17 DOE ¶ 83,021 (1988). The 1988 RO also remanded the issue of whether the transactions violated other regulations. Subsequently, the Federal Energy Regulatory Commission (FERC) reversed the 1988 RO, except for the remand provision. *Cities Service Oil and Gas Corp.*, 65 FERC ¶ 61,403 (1993), *reconsideration denied*, 66 FERC ¶ 61,222 (1994). A group of utilities, transporters, and manufacturers (the UTM) and a group of states appealed to federal district court, which dismissed their appeals for lack of standing. *Alabama* v. *FERC*, 3 Fed. Energy Guidelines ¶ 26,693 (CCH) (D.D.C. June 8, 1995). The UTM had noticed an appeal at the time of the execution of the proposed consent order.

In 1992, pursuant to the remand provision of the 1988 RO, the OGC issued a Revised Proposed Remedial Order (RPRO), specifying an alternate liability of $254 million, plus interest, on the ground that the reporting of the transactions, except those in January 1981, violated the entitlements reporting requirements. The firm filed objections to the RPRO with the OHA, which were ready for oral argument at the time of execution of the consent order. *OXY USA, Inc.*, Case No. LRO–0003 (dismissed August 30, 1995).

B. The Occidental Consent Order

On June 27, 1995, the DOE issued the consent order in proposed form. The DOE published notice of the proposed consent order and of the opportunity to file

[1] Occidental's wholly-owned subsidiary OXY USA, Inc. (OXY) was formerly Cities Service Oil and Gas Corporation, which in turn was a successor in interest to Cities. Unless otherwise indicated, the firms collectively are referred to as Occidental.

comments. See 60 FR 35186 (July 6, 1995). Following the comment period, the DOE issued the proposed consent order as a final order, pursuant to 10 C.F.R. 205.199J. The DOE then published notice of the final consent order. See 60 FR 43130 (August 18, 1995).

The Consent Order requires that Occidental remit a total of $275 million to the DOE. The Consent Order requires an initial payment of $100 million and then five annual payments of $35 million plus accrued interest. On September 15, 1995, Occidental remitted its initial $100 million payment. On September 18, 1995, the OGC filed the Petition for Implementation of Special Refund Procedures.

C. The Petition for Implementation of Special Refund Procedures

The OGC filed its Petition pursuant to 10 C.F.R. Part 205, Subpart V. In the Petition, the OGC requests that the OHA establish special refund procedures to remedy the effects of the alleged regulatory violations which were resolved by the Consent Order.

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.; see also Office of Enforcement,* 9 DOE ¶ 82,508 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981).

III. The DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases

In July 1986, the DOE issued its Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP). See 51 Fed. Reg. 27899 (August 4, 1986). The MSRP was issued in conjunction with the Stripper Well Settlement Agreement. *See In re: The Department of Energy Stripper Well Exemption Litigation,* 653 F. Supp. 108 (D. Kan. 1986). Under the MSRP, up to 20 percent of crude oil overcharge funds may be reserved for direct restitution to injured purchasers, with the remainder divided equally between the states and the federal government. Any funds remaining after all valid claims by injured purchasers are paid are disbursed to the states and the federal government in equal amounts.

In August 1986, shortly after the issuance of the MSRP, the OHA issued an Order that announced that the MSRP would be applied in all Subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 Fed. Reg. 29689 (August 20, 1986) (the August 1986 Order).

In April 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. See 52 Fed. Reg. 11737 (April 10, 1987). This Notice provided guidance to claimants that anticipated filing refund applications for crude oil funds under the Subpart V regulations. A crude oil refund applicant was only required to submit one application for its share of crude oil overcharge funds.

Consistent with the foregoing, the OHA accepted refund applications from 1987 until the June 30, 1995 deadline. See 60 Fed. Reg. 19914 (April 20, 1995). Applicants who filed before the deadline and whose applications are approved will share in the crude oil overcharge funds. Approved applicants are currently receiving $.0016 per gallon of purchased refined product.

IV. The Proposed Decision and Order

The Proposed Decision and Order tentatively determined that the consent order funds should be distributed pursuant to the MSRP, because the consent order funds were crude oil overcharge funds and, therefore, governed by the MSRP. The Proposed Decision and Order tentatively determined that the consent order funds were crude oil funds because the consent order settled specific crude oil overcharge proceedings and because the consent order and notice thereof indicated that the settlement amount was specifically related to the settled proceedings.

Based on the foregoing, the Proposed Decision and Order tentatively determined that 20 percent of the funds should be reserved for direct restitution through the OHA's Subpart V process and the remaining 80 percent should be divided equally between the states and the federal government.

V. Comments Received

The UTM filed comments in opposition to the proposed distribution. Although the UTM do not challenge our tentative determination that the Occidental consent order funds are crude oil overcharge funds, the UTM oppose the 20–40–40 distribution provided for in the MSRP and our Proposed Decision and Order.

The UTM contend that 100 percent of the Occidental consent order funds should be reserved for Subpart V claimants. Under this theory, neither the states nor the federal government would receive a share of the consent order funds. Alternatively, the UTM contend that 60 percent of the Occidental consent order funds should be reserved for Subpart V claimants: the 20 percent ordinarily reserved for such claimants, as well as the federal government's 40 percent share.

Two groups of states also filed comments. Both groups oppose the UTM's request and, instead, support adoption of the procedures set forth in the Proposed Decision and Order.

VI. Analysis

A. The UTM's Contention that Subpart V Claimants are Entitled to 100 Percent of the Occidental Consent Order Funds

The UTM's contention that Subpart V claimants are entitled to 100 percent of the Occidental consent order funds is based on their contention that Subpart V claimants are entitled to more than 20 percent of all crude oil overcharge funds. The UTM maintain that the OHA is required to reserve 31–32 percent of all crude oil overcharge funds for the Subpart V process in order to give Subpart V claimants ''full parity'' with entities that received a refund pursuant to the Stripper Well Settlement Agreement. Because the OHA has consistently reserved 20 percent for Subpart V claimants, the UTM contend that a reserve of 100 percent of the Occidental consent order funds for Subpart V claimants is necessary to make up for the alleged shortfall.

As indicated above, two groups of States oppose the UTM's contention. The States argue that the UTM's contention is inconsistent with the express terms of the Stripper Well Settlement Agreement and the DOE's MSRP. The States note that the UTM's claimed right to ''full parity'' is currently the subject of a pending court proceeding against the DOE. The States contend that the issue should be resolved in that forum. In the meantime, the States contend, in the absence of a court order to the contrary, the DOE should continue to distribute crude oil overcharge funds in the manner specified in the Stripper Well Settlement Agreement and the MSRP.

We agree with the States' position. The UTM do not dispute that the DOE's distribution of crude oil overcharge funds, including the distribution to Subpart V claimants, is governed by the Stripper Well Settlement Agreement. The UTM also do not dispute that a provision in the agreement provides that the reserve for Subpart V claimants ''shall not exceed 20 percent'' of the crude oil overcharge funds at issue.[2] The DOE, like the other signatories to the Stripper Well Settlement Agreement, is bound by its terms. The DOE incorporated this limitation in its MSRP and has uniformly applied it. Accordingly, the maximum that the DOE may reserve for Subpart V claimants is 20 percent of crude oil overcharge funds.

B. The UTM's Contention that Subpart V Claimants are Entitled to 60 Percent of the Occidental Consent Order Funds

In support of their alternative contention that 60 percent of the Occidental consent order funds should be reserved for Subpart V claimants, the UTM argue that Subpart V claimants are entitled not only to their maximum 20 percent but also to the federal government share. The UTM alleged that the DOE, FERC and the Department of Justice took actions which undermined the success of the Occidental enforcement proceeding. Based on this allegation, the UTM contend that the federal government should forfeit its share.

As indicated above, the distribution of crude oil overcharge funds is governed by the Stripper Well Settlement Agreement, which provides for a maximum reserve of 20 percent for Subpart V claimants. Moreover, the UTM's claimed entitlement is inconsistent with the Economic Stabilization Act of 1970 (formerly 12 U.S.C. § 1094 note), which provided separate statutory authority for public (Section 209) and private (Section 210) enforcement actions. The courts have consistently held that a private party's interest in some ultimate restitutionary benefit does not confer a legal right to intervene in a Section 209 public proceeding. See, *e.g., Alabama* v. *FERC,* 3 Fed. Energy

[2] See Stripper Well Settlement Agreement, 6 Fed. Energy Guidelines (CCH) ¶ 90,509 at 90,655 (Part IV.B.6) (''IV. Other Alleged Crude Oil Violation Proceedings,'' ''B. Pending and Future Proceedings,'' ''6. Future Subpart V Proceedings.'')

Guidelines ¶26,693 (D.D.C. June 8, 1995). In fact, in the case just cited, the UTM had attempted to appeal the 1993 Order that FERC issued to Occidental; the federal district court granted the DOE's motion to dismiss for lack of standing. Accordingly, the UTM, having declined to pursue their own private action pursuant to Section 210, have no right to complain about the government's enforcement efforts, let alone seek the federal government's share of the funds resulting from those efforts.

VII. Final Refund Procedures

Because we have determined that 100 percent of the consent order funds are crude oil funds, the funds will be distributed according to the Stripper Well Settlement Agreement and the MSRP. We have reserved the full 20 percent ($55 million), plus accrued interest, for direct restitution to injured purchasers of crude oil and refined petroleum products. The remaining 80 percent ($220 million) will be distributed in equal shares to the states and the federal government.

As indicated above, the funds reserved for direct restitution to injured purchasers will be available for distribution through OHA's Subpart V crude oil overcharge refund proceeding. We have previously discussed the application requirements and standards that apply in that proceeding. Because the deadline for the filing of applications has now passed, we do not believe that it is necessary to reiterate those matters. In accordance with the MSRP, any funds remaining after the conclusion of the Subpart V crude oil overcharge refund proceeding will be distributed to the states and the federal government in equal shares.

With respect to the funds made available to the states for indirect restitution, we note that the share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement. 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.

Based on the foregoing, we have determined that the $100 million initial payment made by Occidental be distributed as follows: $20 million, plus accrued interest, to the DOE interest-bearing escrow account for crude oil claimants, $40 million, plus accrued interest, to the DOE interest-bearing escrow account for the states, and $40 million, plus accrued interest, to the DOE interest-bearing escrow account for the federal government. We have further determined that, upon remittance to the DOE, Occidental's subsequent five annual payments of $35 million, plus accrued interest, be distributed to the same accounts in the same proportions.

It is therefore ordered that:

(1) 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 the consent order funds remitted by Occidental Petroleum Corporation, plus accrued interest, pursuant to Paragraphs (2), (3), (4), and (5) of this Decision and Order.

(2) The Director of Special Accounts and Payroll shall transfer $40 million, plus any accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated ''Crude Tracking-States,'' Number 999DOE003W.

(3) The Director of Special Accounts and Payroll shall transfer $40 million, plus any accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated ''Crude Tracking-Federal,'' Number 999DOE002W.

(4) The Director of Special Accounts and Payroll shall transfer $20 million, plus any accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated ''Crude Tracking-Claimants 4,'' Number 999DOE010Z.

(5) Upon each future receipt of funds referenced in Paragraph (1) above, the Director of Special Accounts and Payroll shall transfer 40 percent, plus any accrued interest, to each of the subaccounts specified in Paragraphs (2) and (3) above, and 20 percent to the subaccount specified in Paragraph (4) above.

(6) This is a final Order of the Department of Energy.

Dated: January 31, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 96–3057 Filed 2–9–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

Agency Information Collection Activities up for Renewal

[AMS–FRL–5420–8]

Selective Enforcement Auditing Reporting and Record keeping Requirements for On-Highway Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines; Large Nonroad Compression Ignition Engines; and Nonroad Spark-ignition Engines at and Below 19 Kilowatts

AGENCY: Environmental Protection Agency.

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 Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 12, 1996.

ADDRESSES: Engine Programs and Compliance Division, 401 M Street, SW (6403J), Washington, DC 20460. Interested persons may request a copy of the ICR, without charge, by writing, faxing, or phoning the contact person below.

FOR FURTHER INFORMATION CONTACT: Rick Gezelle, Office of Mobile Sources, Engine Programs and Compliance Division, (202) 233–9267, (202) 233–9596 (fax).

Affected Entities

Entities potentially affected by this action are manufacturers of on-highway light-duty vehicles, light-duty trucks, and heavy-duty engines; and manufacturers of small nonroad spark-ignition engines and large nonroad compression-ignition engines.

Title

Selective Enforcement Auditing Reporting and Record keeping Requirements for On-Highway Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines; Large Nonroad Compression Ignition Engines; and Small Nonroad Spark-ignition Engines. (OMB #: 2060–0064, approved through 3/31/96).

Abstract

Manufacturers of on-highway light-duty vehicles (LDVs), light-duty trucks (LDTs), and heavy-duty engines (HDEs); and manufacturers of small nonroad spark-ignition engines (SIEs) and large nonroad compression-ignition engines (CIEs) will report and keep records of production information, Selective Enforcement Audit information, test data, audit reports, and laboratory information. Manufacturers will submit production reports at the beginning of each model year, voluntarily submit production line test data acquired from a manufacturer's own testing program, and submit audit information at the conclusion of a Selective enforcement Audit. EPA will use this information to plan audits and to verify that production line engines are in compliance with emission standards.

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 and 48 CFR Chapter 15.

EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;