Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: January 12, 1995.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

Coker Oil, Inc., Lake City, SC, LEE–0161 Reporting Requirements

Coker Oil, Inc. filed an application for Exception from the requirement that it file Form EIA–782B. The exception request, if granted, would relieve the firm from the obligation of filing Form EIA–782B. On December 19, 1994, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 95–1353 Filed 1–18–94; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Proposed Decision and Order During the Week of October 31 through November 4, 1994

During the week of October 31 through November 4, 1994, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: January 12, 1995.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

John E. Retzner Oil Co., Inc., Sunman, IN, Lee–0147 Reporting Requirements

John E. Retzner Oil Co., Inc. (Retzner) filed an application for Exception from the provisions of the mandatory reporting requirements of Form EIA–782B. The exception request, if granted, would excuse Retzner from filing Form EIA–782B. On November 14, 1994, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 95–1355 Filed 1–18–95; 8:45 am]

BILLING CODE 6450–01–P

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 (DOE) announces the proposed procedures for the disbursement of $75,638.48, plus accrued interest, in refined petroleum product violation amounts obtained pursuant to an April 10, 1985 Modified Remedial Order issued to Mockabee Gas & Fuel Co., Case No. VEF–0001 (Mockabee). The OHA has tentatively determined that the funds obtained from Mockabee, plus accrued interest, will be distributed to customers who purchased No. 2 heating oil or kerosene from Mockabee during the period of November 1, 1973 through December 31, 1975.

DATES AND ADDRESSES: Comments must be filed in duplicate within 30 days of publication of this notice in the Federal Register, and should be addressed to the Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, DC 20585. All comments should be marked with the reference number VEF–0001.

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

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute a total of $75,638.48, plus accrued interest, obtained by the DOE pursuant to the April 10, 1985 Modified Remedial Order issued to Mockabee. In the Modified Remedial Order, the DOE found that, during the period from November 1, 1973 through December 31, 1975, Mockabee sold No. 2 heating oil and kerosene in excess of the maximum lawful selling price.

The OHA has proposed to distribute the funds obtained from Mockabee in two stages. In the first stage, we will accept claims from identifiable purchasers of covered products from Mockabee who may have been injured by the overcharges. The specific requirements which an applicant must meet in order to receive a refund are set out in Section III of the Proposed Decision. Claimants who meet these specific requirements will be eligible to receive refunds based on the number of

gallons of covered product which they purchased from Mockabee.

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 should not be filed at this time. Appropriate public notice will be provided prior to acceptance of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments must be submitted within 30 days of publication of this notice. All comments received in this proceeding will be 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 Ave., S.W., Washington, DC 20585.

Dated: January 11, 1995.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

Name of Firm: Mockabee Gas & Fuel Co.

Date of Filing: October 18, 1994.

Case Number: VEF–0001.

On October 18, 1994, 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 $75,638.48, plus accrued interest, which Mockabee Gas & Fuel Co. (Mockabee) remitted to the DOE pursuant to a Modified Remedial Order (MRO) issued by the OHA on April 10, 1985. In accordance with the provisions of the procedural regulations found at 10 CFR 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 the regulatory violations set forth in the MRO. This Proposed Decision and Order sets forth the OHA's plan to distribute these funds.

I. Background

During the period relevant to this proceeding, Mockabee was a retailer of No. 2 heating oil, kerosene, diesel fuel, and motor gasoline in Upper Marlboro, Maryland. On December 18, 1974, the Federal Energy Administration (FEA) issued a Notice of Probable Violation to Mockabee. On January 28, 1975, the FEA issued a Remedial Order (RO) to Mockabee, finding that Mockabee had overcharged purchasers of No. 2 heating oil and kerosene. A further investigation disclosed additional overcharges other than those cited in the RO, and on December 22, 1976, the FEA rescinded the RO and issued a Revised Remedial Order requiring Mockabee to roll back prices to compensate consumers who were overcharged by Mockabee.

Mockabee failed to comply with the Revised Remedial Order. On April 10, 1985, the ERA [1] issued a Modified Remedial Order which rescinded the price rollbacks it had ordered Mockabee to make. Instead, the MRO required Mockabee to pay to the DOE $29,583.08 in assessed overcharges, and an additional $46,071.46 in interest due. On September 30, 1985, Mockabee appealed the MRO to the OHA, which denied the Appeal on December 19, 1985. *Mockabee Gas & Fuel Co.*, 13 DOE ¶ 83,059 (1985). Mockabee has since remitted $75,638.48 in compliance with the MRO, which is now available for distribution through Subpart V.

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 for the 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 (PODRA), 15 U.S.C. 4501 *et seq.*; *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

We have considered ERA's Petition that we implement a Subpart V proceeding with respect to the funds remitted by Mockabee and have determined that such a proceeding is appropriate. This Proposed Decision and Order sets forth the OHA's tentative plan to distribute this fund. We intend to publicize our proposal and solicit comments from interested parties before taking the actions set forth in this Proposed Decision and Order. 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.

III. Proposed Refund Procedures

We propose to implement a two-stage refund procedure for distribution of the monies remitted by Mockabee (the Mockabee fund) by which purchasers of No. 2 heating oil and kerosene from Mockabee during the period covered by the MRO may submit Applications for Refund in the initial stage. From our experience with Subpart V proceedings, we expect that 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.[2]

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 No. 2 heating oil or kerosene from Mockabee during the period covered by the MRO—November 1, 1973 through December 31, 1975. Our experience also 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, *e.g.*, 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 propose to adopt the presumptions set forth below.

1. Calculation of Refunds

First, we will adopt a presumption that the overcharges were dispersed equally over all of Mockabee's sales of products covered by the MRO during the period covered by the MRO. *See Permian Corp.*, 23 DOE ¶ 85,034 (1993). In accordance with this presumption, refunds are made on a pro-rata or volumetric basis.[3] In the absence of

[1] Under the DOE Organization Act, 42 U.S.C. 7151, *et seq.*, and Executive Order 12009, 42 Fed. Reg. 46367 (September 25, 1977), all functions vested by law in the FEA were transferred to and vested in the DOE. Within the DOE, the ERA was delegated the authority to investigate violations of applicable regulations and to seek compliance of those regulations.

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

[3] If an individual claimant believes that it was injured by more than its volumetric share, it may elect to forgo this presumption and file a refund application based upon a claim that it suffered a disproportionate share of Mockabee'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 be granted if the claimant makes a persuasive showing that it

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 prices.

Under the volumetric approach, a claimant's ''allocable share'' of the Mockabee fund is equal to the number of gallons of covered product purchased from Mockabee during the period covered by the MRO times the per gallon refund amount. In the present case, the per gallon refund is $0.0612. We derived this figure by dividing the monies remitted by Mockabee ($75,638.48) by the total volume of covered products sold by Mockabee from November 1, 1973 through December 31, 1975 (1,236,132 gallons). A claimant that establishes its eligibility for a refund will receive all or a portion of its allocable share plus a pro-rata share of accrued interest.[4]

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

2. End Users

In accordance with prior Subpart V proceedings, we propose to adopt the presumption that an end user or ultimate consumer of covered products purchased from Mockabee whose business is unrelated to the petroleum industry was injured by the overcharges resolved by the MRO. See, *e.g., Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). Unlike regulated firms in the petroleum industry, members of this group generally 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 price of goods and services produced by members of this group would go beyond the scope of the refund proceeding. *Id.* We therefore propose that the end-users of covered products purchased from Mockabee need only document their purchase volumes from Mockabee during the period covered by the MRO to make a sufficient showing that they were injured by the overcharges.

B. Refund Applications Filed by Representatives

We propose to 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., Stark's 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 CFR 205.283, particularly the requirement that applications and the accompanying certification statement be signed by the applicant.

The OHA reiterates its policy to closely scrutinize applications filed by filing services. Applications submitted by a filing service should contain all of the information indicated in the final Decision and Order in this proceeding.

C. Distribution of Funds Remaining After First Stage

We propose that any funds that remain after all first stage claims have been decided be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07. The 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 Mockabee fund that the OHA determines will not be needed to effect direct restitution to injured customers will be distributed in accordance with the provisions of the PODRA.

It is therefore ordered that: the monies remitted to the Department of Energy by Mockabee Gas & Fuel Oil Co. pursuant to the Modified Remedial Order issued on April 10, 1985, will be distributed in accordance with the foregoing Decision.

[FR Doc. 95–1356 Filed 1–18–95; 8:45 am]

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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.

[4] As in previous cases, we propose to establish a minimum refund amount of $15. In this proceeding, any potential claimant purchasing less than 245 gallons of covered product from Mockabee would have an allocable share of less than $15. We have found through our experience that the cost of processing claims in which refund amounts of less than $15 are sought outweighs the benefits of restitution in those instances. See *Exxon Corp.*, 17 DOE ¶ 85,590 (1988).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5141–3]

Proposed Settlement; Acid Rain Core Rules Litigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act (''Act''), notice is hereby given of a proposed third partial settlement of *Environmental Defense Fund* v. *Carol M. Browner, et al.*, No. 93–1203 (and consolidated cases) (D.C. Cir.).

The case involves challenges by several parties to the acid rain core rules published in the Federal Register on January 11, 1993, at 58 FR 3590 (January 11, 1993). The proposed settlement relates primarily to the issue of how ownership of a jointly owned unit is apportioned with respect to defining a dispatch system and to clarification of the definition of a ''sulfur-free generation.''

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Copies of the settlement are available from Phyllis Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7606. Written comments should be sent to Patricia A. Embrey at the above address and must be submitted on or before February 21, 1995.

January 12, 1995.

Jean C. Nelson,

General Counsel

[FR Doc. 95–1251 Filed 1–18–95; 8:45 am]

BILLING CODE 6560–50–M