

by the DOE. While the *Texas American v. DOE* decision is contrary to the position of the DOE that had been upheld in the *West Texas* case,⁴ we are constrained by the Federal Circuit's decision. The clear import of that determination is that we must use the funds received from Texas American solely for direct restitutionary purposes. Moreover, as indicated above, the Bankruptcy Court, in accordance with the Federal Circuit's determination, distributed to the DOE only 20 percent of its liquidated claim in the Texas American bankruptcy proceeding. This percentage is equivalent to the portion of crude oil overcharge funds that we have consistently reserved for individual claimants under the MSRP. We therefore decline to modify our proposed allocation of the Texas American funds in response to the States' comments.

Except for the manner in which the funds will be allocated, we shall follow the procedures set forth 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. We shall base refunds to claimants on a volumetric amount that is currently \$0.0016 per gallon. See 60 FR 15562 (March 24, 1995).

A party that has already submitted a claim in the DOE crude oil proceeding need not file another claim in order to obtain its appropriate restitutionary share of crude oil funds. Moreover, because the June 30, 1995 deadline for crude oil refund applications has passed, we shall not accept any new applications. See *Western Asphalt Service*, 25 DOE ¶ 85,047 (1995).

⁴The 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 citizens was for restitution and not for a penalty.

Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution. Finally, 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).

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 \$48,307.13 obtained from Texas American Oil Corporation, COTS No. N00S90460, plus accrued interest, into the subaccount denominated "Crude Tracking-Claimants 4," Number 999DOE010Z.

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

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BILLING CODE 6450-01-P

Western Area Power Administration

Boulder Canyon Project—Proposed Firm Power Service Base Charge

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Base Charge Adjustment.

SUMMARY: The Western Area Power Administration (Western) is announcing the Fiscal Year 1996 annual rate adjustment for Rate Year 1997 under Rate Order WAPA-70 for firm power service for the Boulder Canyon Project (BCP). The annual rate adjustments are a requirement of the ratesetting methodology of WAPA-70 which was approved on a final basis by the Federal Energy Regulatory Commission on April 19, 1996. The existing rate schedule was placed into effect on November 1, 1995. The power repayment spreadsheet study indicates that the proposed Base Charge for BCP firm power service is necessary to provide sufficient revenue to pay all annual costs (including interest expense), plus repayment of required investment within the allowable time period. The proposed Base Charge for firm power service is expected to become effective October 1, 1996.

DATES: The consultation and comment period will begin with publication of this notice in the Federal Register and

will end not less than 90 days later, or August 22, 1996, whichever occurs later. A public information forum will be held at 10 a.m. on June 13, 1996, at Western's Desert Southwest Customer Service Regional office, 615 South 43rd Avenue, Phoenix, Arizona. A public comment forum at which Western will receive oral and written comments will be held at 10 a.m. on July 15, 1996, at Western's Desert Southwest Customer Service Regional office. Written comments should be received by Western by the end of the consultation and comment period to be assured consideration and should be sent to the address below.

FOR FURTHER INFORMATION CONTACT:

Mr. J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457, (602) 352-2453.

Mr. Anthony H. Montoya, Assistant Regional Manager, For Power Marketing, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457, (602) 352-2780.

SUPPLEMENTARY INFORMATION: The proposed Base Charge for BCP firm power is based on an Annual Revenue Requirement of \$46,421,533. The Base Charge consists of an Energy Dollar of \$23,968,846 and a Capacity Dollar of \$22,452,687. The Forecast Energy Rate will be 5.46 mills/kilowatthour (mills/kWh), Forecast Capacity Rate will be \$0.96 per kilowatt per month (\$/kW-mo).

The existing BCP firm power Base Charge is based on an Annual Revenue Requirement of \$45,196,960, consisting of an Energy Dollar of \$23,460,351 and a Capacity Dollar of \$21,736,609. The existing BCP forecast energy rate is 6.12 mills/kWh and forecast capacity rate is \$0.93/kW-mo.

Since the proposed rates constitute a major rate adjustment as defined by the procedures for public participation in general rate adjustments, as cited below, both a public information forum and a public comment forum will be held. After review of public comments, Western will recommend proposed charges/rates for approval on a final basis by the Deputy Secretary of DOE pursuant to Section 13.13 of the BCP Implementation Agreement.

The power rates for the BCP are established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*), the Reclamation Act of 1902 (43 U.S.C. 391 *et seq.*), as amended and supplemented by subsequent

enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), the Colorado River Basin Project Act of 1968 (43 U.S.C. 1501 *et seq.*), the Colorado River Storage Project Act (43 U.S.C. 620 *et seq.*), the Boulder Canyon Project Act (43 U.S.C. 617 *et seq.*), the Boulder Canyon Project Adjustment Act (43 U.S.C. 618 *et seq.*), the Hoover Power Plant Act of 1984 (43 U.S.C. 619 *et seq.*), the General Regulations for Power Generation, Operation, Maintenance, and Replacement at the Boulder Canyon Project, Arizona/Nevada (43 CFR Part 431) published in the Federal Register at 51 FR 23960 on July 1, 1986, and the General Regulations for the Charges for the Sale of Power From the Boulder Canyon Project, Final Rule (10 CFR Part 904) published in the Federal Register at 51 FR 43124 on November 28, 1986, the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions (10 CFR Part 903) published in the Federal Register at 50 FR 37837 on September 18, 1985, and the DOE financial reporting policies, procedures, and methodology (DOE Order No. RA 6120.2 dated September 20, 1979).

By Amendment No. 3 to Delegation Order No. 0204-108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated: (1) The authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place power rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove power rates to FERC.

AVAILABILITY OF INFORMATION: All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rates for energy and capacity are and will be made available for inspection and copying at Western's Desert Southwest Customer Service Regional office, 615 South 43rd Avenue, Phoenix, Arizona 85005.

DETERMINATION UNDER EXECUTIVE ORDER 12866: DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

ENVIRONMENTAL EVALUATION: In compliance with the National

Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*; Council on Environmental Quality Regulations (40 CFR Parts 1500-1508); and DOE NEPA Regulations (10 CFR Part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Issued in Golden, Colorado, May 10, 1996.
J. M. Shafer,
Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-5509-4]

Agency Information Collection Activities Under OMB Review; National Recycling and Emissions Reduction Program, OMB Number: 2060-0256

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 the following information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Recycling and Emissions Reduction Program, OMB Number: 2060-0256. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 21, 1996.

FOR FURTHER INFORMATION OR A COPY

CALL:

Sandy Farmer at EPA, (202) 260-2740, and refer to EPA ICR No. 1626.06.

SUPPLEMENTARY INFORMATION:

Title: National Recycling and Emissions Reduction Program (OMB Control No. 2060-0256; EPA ICR No. 1626.06). This ICR is revision of an existing collection.

Abstract: The Agency has proposed to add a degree of flexibility to its regulations governing the recycling of refrigerants. This ICR includes a request for the approval of information requirements for independent laboratories to apply to EPA to become certifiers of reclaimers, and for certified reclaimers to maintain records of the quantity of material sent for reclamation. 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. These changes were proposed in a Supplemental Rule Regarding a Recycling Standard (Proposed) Under the Section 608 of the Clean Air Act, published in the Federal Register on February 29, 1996 (61 FR 7858).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to add 5080 hours to the existing approved total of 565,000 hour. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and revise the collection of information, and transmit or otherwise disclose the information.

Respondents/Affected Entities: Refrigerant Reclaimers.

Estimated Number of Respondents: 2,500.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 5080 hours.

Estimated Total Annualized Cost Burden: \$0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1626.06 and OMB Control No. 2060-0256 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460.
and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW., Washington, DC 20503.