

(2) Applications for Refund must be postmarked no later than September 29, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

Date: May 19, 1995.

APPENDIX

Case No.	Firm	Address	Settlement period	Date of consent order	Amount received	Product
LEF-0061	Bell Fuels, Inc.	4116 W. Peterson Ave., Chicago, IL 60646.	1/1/79-11/30/79	8/31/82	\$33,973.12	Gasoline.
LEF-0062	Este Oil Co.	5556 Vine St., Cin- cinnati, OH 45217.	11/1/73-1/28/81	5/13/83	63,033.90	Refined petroleum prod- ucts.
LEF-0063	G&G Oil Co. of Indiana, Inc..	220 E. Centennial Ave., Muncie, IN 47305.	4/1/79-12/31/79	2/1/83	49,097.11	Do.
LEF-0064	General Petroleum Prod- ucts, Inc..	P.O. Box 209, Gary, IN 46402.	11/1/73-4/30/74	7/13/83	23,060.52	Do.
LEF-0065	Reco Petroleum, Inc.	100 N. 4th St., Reading, PA 19601.	3/1/79-1/30/81	2/8/83	26,472.40	Gasoline.
LEF-0066	SOS Monarch Oil Corp.	East Village Rd., Tux- edo, NY 10987.	4/1/79-9/30/79	10/25/82	5,901.03	Do.
LEF-0067	Capitol 66 Oil Co.	P.O. Box 2839, Jackson, MS 39207.	11/1/73-3/31/74	9/15/82	15,766.43	Refined petroleum prod- ucts.
LEF-0068	Cumberland Farms Dairy, Inc..	777 Dedham St., Can- ton, MA 02021.	1/1/73-1/28/81	4/17/83	183,193.74	Gasoline.
LEF-0069	Kickapoo Oil Co.	215 E. Madison, Hills- boro, WI 54634.	3/1/79-8/31/79	9/24/82	40,812.58	Propane.
LEF-0070	Lampton-Love, Inc.	P.O. Drawer 1607, Jack- son, MS 39205.	11/73-4/74	9/30/82	12,983.93	Gasoline.
LEF-0071	Skinny's Inc.	5189 Texas Ave., Abi- lene, TX 79608.	3/1/79-3/31/80	9/2/82	16,000.00	Do.
LEF-0072	Vermont Morgan Corp ...	114 Broadway, Sara- toga, NY 12866.	4/1/79-6/30/79	4/5/83	20,275.00	Do.
LEF-0075	Bob's Broadway Shell ...	220 W. 17th St., Santa Ana, CA 92708.	8/1/79-5/7/80	10/8/81	2,100.00	Do.
LEF-0076	Clearview Gulf	3120 Clearview Park- way, Metairie, LA 70002.	4/1/79-7/15/79	8/14/81	594.84	Do.
LEF-0077	E-Z Serve, Inc.	P.O. Box 3579, Abilene, TX 79604.	8/19/73-1/27/81	12/27/82	368,550.56	Do.
LEF-0079	Millbrae Shell	825 Spruance Ln., Fos- ter City, CA 94404.	8/1/79-11/30/79	3/5/82	2,500.00	Do.
LEF-0080	Bob Hutchinson, Inc.	1334 Breckenridge St., San Leandro, CA 94579.	8/1/79-11/30/79	3/5/82	1,762.07	Do.
LEF-0116	Maxwell Oil Co., Inc.	P.O. Box 1936, Olympia, WA 98507.	5/1/79-12/1/79	9/1/81	275.01	Do.

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BILLING CODE 6450-01-P

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 a total of \$7,280,202, plus accrued interest, in crude oil overcharges obtained by the DOE from MAPCO, Inc. and MAPCO International, Inc., Case No. VEF-0004

(MAPCO). The OHA has determined that the funds obtained from MAPCO, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 Fed. Reg. 27899 (August 4, 1986).

DATE AND ADDRESSES: Applications for Refund should be filed in duplicate and sent to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585

Applications must be postmarked no later than June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director,

Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2094 (Mann); 586-2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), 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 a total of \$7,280,202, plus accrued interest, remitted to the DOE by MAPCO, Inc. and MAPCO International, Inc. to the DOE. The DOE is currently holding these funds in an interest bearing account pending distribution.

The OHA will distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in

Crude Oil Cases, 51 Fed. Reg. 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.

The deadline for filing Applications for Refund is June 30, 1995. A suggested application form may be obtained by sending a written request to the address given at the beginning of this notice. All applications should also be sent to that address. As we state in the Proposed Decision, any party who has previously submitted a refund application in the crude oil proceedings should not file another Application for Refund. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the proceedings are finalized.

Unless labeled 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 Ave., SW., Washington, DC 20585.

Dated: May 19, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

**DEPARTMENT OF ENERGY,
WASHINGTON, DC 20585**

May 19, 1995.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: MAPCO International, Inc.
Date of Filing: February 23, 1995.
Case Number: VEF-0004.

On February 23, 1995, 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 crude oil overcharge funds received from MAPCO, Inc. (MAPCO) pursuant to a June 23, 1994 Settlement Agreement. The Settlement Agreement resolved claims and litigation arising from an April 21, 1986 Remedial Order originally issued to MAPCO Inc.'s subsidiary MAPCO International, Inc. (MAPCO International) (Case No. HRO-0193). 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 alleged regulatory violations set forth in the Remedial Order. This Decision and Order sets forth the OHA's plan to distribute these funds.

I. Background

During the period relevant to this proceeding, MAPCO International, Inc. was a reseller of crude oil. On June 30, 1983, the ERA issued a Proposed Remedial Order (PRO) to the firm. The PRO alleged that during the period from August 1978 through November 1980 (the audit period), MAPCO International sold crude oil at prices in excess of those permitted by 10 C.F.R. Part 212, Subpart L. After considering and dismissing MAPCO International's objections to the PRO, the DOE issued a final Remedial Order. 14 DOE ¶ 83,019 (1986). MAPCO International appealed the Remedial Order to the Federal Energy Regulatory Commission, which affirmed the Remedial Order. 43 FERC ¶ 63,041 (1988); 56 FERC ¶ 61,063 (1991). Three years of litigation ensued. MAPCO, MAPCO International and the DOE finally resolved all their disputes arising from the Remedial Order with the June 23, 1994 Settlement Agreement. Pursuant to the Settlement Agreement, MAPCO remitted to the DOE the sum of \$7,280,202, 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 MAPCO funds and have determined that such proceedings are appropriate. This Decision and Order sets forth the OHA's plan to distribute these funds.

III. Refund Procedures

On April 3, 1995, the OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the MAPCO 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 60 Fed. Reg. 18812 (April 13, 1995). More than 30 days have elapsed and the OHA has received no comments concerning the proposed procedures for the distribution of the MAPCO funds. Consequently, the procedures will be adopted as proposed.

A. Crude Oil Refund Policy

We will distribute the monies remitted by MAPCO in accordance with DOE's Modified

Statement of Restitutionary Policy in Crude Oil Cases (MSRP). See 51 Fed. Reg. 27899 (August 4, 1986). The MSRP was issued as a result of a court-approved Settlement Agreement *In Re: The Department of Energy Stripper Well Exemption Litigation*, 653 Fed. Supp. 108 (D. Kan.), 6 Fed. Energy Guidelines ¶ 90,509 (1986) (the Stripper Well Settlement Agreement). This policy has been 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).

Under the MSRP, 40 percent of crude oil overcharge funds will be refunded to the federal government, another 40 percent to the states, and up to 20 percent may initially be reserved for the payment of claims to injured parties. The MSRP also specifies that any funds remaining after all valid claims by injured purchasers are paid will be disbursed to the federal government and the states in equal amounts.

On April 10, 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. 52 Fed. Reg. 11737 (April 10, 1987) (the April 10 Notice). This Notice provided guidance to claimants that anticipated filing refund applications for crude oil monies under the Subpart V regulations. In general, we stated that all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) prove that they were injured by the alleged crude oil overcharges. End-users of petroleum products whose businesses were unrelated to the petroleum industry would be presumed to have been injured by the alleged crude oil overcharges and would not be required to submit proof of injury. See *City of Columbus, Georgia*, 16 DOE ¶ 85,550 (1987).

B. Refund Claims

The amount of money covered by this Decision is \$7,280,202, plus accrued interest. In accordance with the MSRP, we will initially reserve 20 percent of those funds (\$1,456,040 in principal, plus accrued interest) for direct refunds to applicants who claim that they were injured by crude oil overcharges.

We will evaluate claims in the MAPCO crude oil refund proceeding in exactly the same manner as in other crude oil proceedings. As we stated in the April 10 Notice, claimants will generally be required to document their purchase volumes of petroleum products and prove that they were injured as a result of the alleged violations. We will presume that the alleged crude oil overcharges were absorbed, rather than passed on, by applicants who were (1) end-users of petroleum products, (2) unrelated to the petroleum industry, and (3) not subject to the regulations promulgated under the Emergency Petroleum Price and Allocation Act of 1973, 15 U.S.C. §§ 751-760h. In order to receive a refund, such claimants need not submit any evidence of injury beyond documentation of their purchase volumes. It is the current policy of the DOE to pay all crude oil refund claims at the rate of \$0.0016 per gallon.

As has been stated in earlier Decisions, a crude oil refund applicant will only be required to submit one application for its share of all available crude oil overcharge funds. *See, e.g., A. Tarricone Inc.*, 15 DOE ¶85,475 (1987). A party that has already submitted a claim in any other crude oil refund proceeding implemented by the DOE need not file another claim. The deadline for filing an Application for Refund is June 30, 1995. *See* 60 Fed. Reg. 19914 (April 21, 1995). Any claimant that has executed a valid waiver pursuant to one of the escrow accounts established by the Stripper Well Agreement, however, has waived its right to file an application for a Subpart V crude oil refund. *See Mid-American Dairymen v. Herrington*, 878 F. 2d 1448 (Temp. Emer. Ct. App.), 3 Fed. Energy Guidelines ¶26,617 (1989); *In re: Department of Energy Stripper Well Exemption Litigation*, 707 F. Supp. 11267 (D. Kan.), 3 Fed. Energy Guidelines ¶26,613 (1987).

To apply for a refund, a claimant should submit an Application for Refund. Each crude oil Application for Refund should contain the information specified by the OHA in past decisions. *See Texaco Inc.*, 19 DOE ¶85,200 at 88,374, *corrected*, 19 DOE ¶85,236 (1989); *Hood Goldsberry*, 18 DOE ¶85,902 at 89,477-78 (1989); *Wickett Refining Co.*, 18 DOE ¶85,659 at 89,081-82 (1989). All applications should be postmarked no later than June 30, 1995 and sent to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585.

Although an applicant is not required to use any specific form for its crude oil refund application, the OHA has prepared a suggested form, which may be obtained by sending a written request to the address given above.

D. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the amount remitted by MAPCO, or \$5,824,162 in principal, plus accrued interest, will be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the crude oil price control period. The share of the funds allocated to each state is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements that apply to any other crude oil overcharge funds received by the states in accordance with the Stripper Well Agreement.

It Is Therefore Ordered That:

(1) Applications for Refund from the alleged crude oil overcharges remitted to the Department of Energy by MAPCO, Inc. pursuant to the Settlement Agreement dated June 23, 1994 may now be filed.

(2) All crude oil refund applications submitted pursuant to Paragraph (1) above must be postmarked no later than June 30, 1995.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office

of the Controller, Department of Energy, shall transfer a total of \$2,912,081, plus accrued interest, from the subaccount denominated "MAPCO International," Consent Order No. 6C0X00270W, into the subaccount denominated "Crude Tracking-States," Account No. 999DOE003W.

(4) The Director of Special Accounts and Payroll shall transfer a total of \$2,912,081, plus accrued interest, from the subaccount denominated "MAPCO International," Consent Order No. 6C0X00270W, into the subaccount denominated "Crude Tracking-Federal," Account No. 999DOE002W.

(5) The Director of Special Accounts and Payroll shall transfer a total of \$1,456,040, plus accrued interest, from the subaccount denominated "MAPCO International," Consent Order No. 6C0X00270W, into the subaccount denominated "Crude Tracking-Claimants 4," Account No. 999DOE0010Z.

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

Date: May 19, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95-13306 Filed 5-31-95; 8:45 am]

BILLING CODE 6450-01-P

Implementation of Special Refund Procedures

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

ACTION: Implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy has adopted the procedures to be followed in refunding monies obtained by the Department of Energy (DOE) from Gulf Oil Corporation to settle alleged crude oil violations. The funds will be distributed pursuant to the DOE's Modified Statement of Restitutionary Policy.

ADDRESSES: Applications for Refund must be filed in duplicate no later than June 30, 1995, and should be addressed to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586-2390.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the final Decision and Order set out below. The Decision relates to a June 14, 1985 consent order between the DOE and Gulf Oil Corporation. The Decision sets

forth the procedures that the DOE has formulated to distribute funds that Gulf Oil Corporation remitted to the DOE to settle allegations that it violated the Agency's crude oil price and allocation regulations. The consent order covers the period January 1, 1973 through January 27, 1981.

The Decision disburses the available funds in accordance with the DOE's Modified Statement of Restitutionary Policy. Specifically, a total of \$37,309,761, will be made available for direct restitution to injured end users of refined petroleum products. The States will receive \$8,706,529, and the Federal Government will receive \$8,604,301.

Applications for Refund from the portion of the Gulf Oil Corporation consent order funds allocated to the crude oil overcharge refund pool may now be filed. Applications must be filed by June 30, 1995. Applicants that have previously filed a crude oil overcharge refund application with the Department of Energy need not file an additional application in order to receive a refund from the Gulf crude oil monies.

Dated: May 19, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

**DEPARTMENT OF ENERGY,
WASHINGTON, DC 20585**

May 19, 1995.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Gulf Oil Corporation.

Date of Filing: June 30, 1987.

Case Number: KFX-0037.

On July 25, 1985, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a petition with the Office of Hearings and Appeals (OHA), requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving Gulf Oil Corporation (Gulf). *See* 10 C.F.R. Part 205, Subpart V. On October 15, 1986, the OHA issued a Proposed Decision and Order tentatively setting forth procedures for distributing the Gulf settlement fund, remitted to the DOE pursuant to a June 14, 1985 consent order. 51 Fed. Reg. 37479 (October 22, 1986). This Decision and Order will provide the final procedures for the disbursement of the Gulf funds attributable to Gulf's alleged crude oil violations.

Under the terms of a consent order, Gulf remitted \$146,550,226.79 to the DOE in settlement of alleged violations occurring between January 1, 1973 and January 27, 1981. Because the consent order resolves alleged violations involving both sales of crude oil and refined products, we divided the fund into two pools. *See* Standard Oil Co. (Indiana), 10 DOE ¶85,048 (1982)(*Amoco*). As we stated in the Proposed Order,