

accordance with 18 CFR 4.34(b) and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

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DEPARTMENT OF ENERGY

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 (DOE) announces the final procedures for disbursement of more than \$12,000,000, including accrued interest, in alleged crude oil overcharges

obtained by the DOE under the terms of Consent Orders and Remedial Orders entered into with ARGO Petroleum Corp. and 16 other firms, Case Nos. VEF-0031, *et al.* The OHA has tentatively determined that the funds obtained from these 17 firms plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW, Washington, DC 20585-0107, (202) 426-1527.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Final Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute more than \$12,000,000, including interest,

obtained by the DOE under the terms of Consent Orders and Remedial Orders entered into with ARGO Petroleum Corp. and 16 other firms. The funds were paid towards the settlement of violations and alleged violations of the DOE price and allocation regulations involving the sale of crude oil during the period August 1973 through January 1981.

The OHA will distribute the Consent Order funds in the manner stated in an October 29, 1999 Proposed Decision and Order. The monies will be divided between the federal government, the states, and injured purchasers of refined petroleum products. Since the period for filing claims for crude oil overcharge refunds has closed, no new refund applications will be accepted for the funds involved in this decision and order.

Dated: March 28, 2000.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A

Name of firm	OHA case No.	Consent order tracking system No. (COTS)	Amount	
			Principal	With interest through 9/30/99
ARGO Petroleum Corp	VEF-0031	940C0089W	\$60,835.18	\$86,841.36
Don E. Pratt Oil Co	VEF-0036	740C01204W	235,000.00	394,878.05
Beta Energy Corp	VEF-0034	6C0X00260W	32,818.34	45,037.34
AWECO, Inc. & Hargis, Billy K	VEF-0032	6A0X00231W	665,908.68	968,874.23
B.M. Hester	VEF-0033	660C00647W	25,000.00	36,649.53
General Altantic Petrl & General Klotz	VEF-0038	650X00359W	107,790.21	123,262.93
Glen A. Martin	VEF-0039	610C000478W	13,583.80	18,560.48
Intercoastal Operating Co. & L.E. Lewis	VEF-0041	600C20082W	95,000.00	159,348.46
Kelly Trading Co & Reed, M.L	VEF-0043	650X00350W	182,000.00	265,665.83
Martin Exploration Co	VEF-0044	640C00406W	3,917.32	5,989.39
Pel-Star Energy	VEF-0047	6A0X00277W	30,263.70	51,178.22
Petro-Thermo	VEF-0048	6A0X00301W	42,772.32	75,698.67
Petroleum Mgmt., Inc	VEF-0049	422C00066W	71,319.67	117,570.09
Polaris Production Co	VEF-0050	670C00229W	71,726.16	109,151.96
Road Oil Sales	VEF-0051	N00S98090W	6,950.58	15,485.49
Tomlinson Petrl., Inc	VEF-0054	650X00318W	7,406,694.87	10,027,185.48
United Independent Oil Co. & Peter Hirshburg	VEF-0055	N00S90461W	75,000.00	159,621.07
Total			9,126,580.83	12,660,998.58

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: ARGO Petroleum Corp., *et al.*

Date of Filing: October 19, 1999.

Case Number: VEF-0031, *et al.*

On October 29, 1999, the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Proposed Decision and Order (PDO) concerning a Petition for Implementation of Special Refund Procedures filed by the DOE's Office of General Counsel for Federal Litigation. The PDO is issued as Appendix B to the present determination.

In the PDO, we invited comments regarding a proposal to disburse

\$9,126,580.83 plus interest, received from 17 firms that sold crude oil during the period August 17, 1973 through January 1981. The names of the firms and the amounts received from each are set forth in Appendix A to this determination. The funds were remitted in order to settle actual or alleged violations of the DOE's mandatory petroleum price and allocation regulations. 10 CFR Parts 211 and 212. We allowed a 30-day period in which to provide comments regarding the manner in which these funds would be disbursed. The comment period is now closed. We received no comments regarding our proposal. We are therefore issuing final procedures for disbursing the funds.

The monies, including all additional interest that has accrued since the issuance of the October 29 PDO, will be disbursed as

set forth in the appended PDO. As the PDO states, the funds will be disbursed as provided for in the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases. 51 Fed. Reg. 27899 (August 4, 1986) (the SMRP). Therefore, the funds will be divided as follows: 20 percent will be reserved for direct restitution to injured parties; the remaining 80 percent will be disbursed in equal shares to the states and the federal government for indirect restitution. As stated above, in this case, the total amount available for disbursement, not including interest, is \$9,126,580.83. This fund shall be disbursed as follows: \$1,825,316.16 plus 20 percent of all accrued interest as of the date of the funds transfer shall be deposited into the DOE interest-bearing account for crude oil overcharge

refund claimants; \$3,650,632.33 plus 40 percent of all accrued interest as of the date of the funds transfer shall be deposited into the DOE interest bearing escrow account for the states; \$3,650,632.33, plus 40 percent of all accrued interest as of the date of the funds transfer shall be deposited into the DOE interest bearing account for the federal government.

As we indicated in the PDO, the refund period for filing claims for these crude oil overcharge funds is closed. Therefore, no applications for refund for these funds may be filed. This final Decision and Order simply provides for the appropriate disposition of funds that have recently become available. It will affect only refund applications that have already been timely filed with the OHA. Accordingly, the Proposed Decision and Order, Appendix B to this determination, is hereby issued as a final

Decision and Order of the Department of Energy.

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 funds remitted by the 17 firms listed in Appendix A to this determination, plus accrued interest, pursuant to Paragraphs (2), (3), and (4) below.

(2) The Director of Special Accounts and Payroll shall transfer \$3,650,632.33, plus 40 percent of all accrued interest on 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 \$3,650,632.33, plus 40

percent of all accrued interest on 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 \$1,825,316.16, plus 20 percent of all accrued interest on the funds referenced in Paragraph (1) above, into the subaccount denominated "Crude Tracking—Claimants 4," Number 999DOE010Z.

(5) No Applications for Refund may be submitted in connection with this Decision and Order.

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

Dated: March 28, 2000.

George B. Breznay,
Director, Office of Hearings and Appeals.

APPENDIX A

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Total			9,126,580.83	12,660,998.58

Appendix B

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: ARGO Petroleum Corp., *et al.*

Date of Filing: October 19, 1999.

Case Number: VEF-0031, *et al.*

In accordance with the procedural regulation of the Department of Energy (DOE), a DOE enforcement official may file a request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

In this Decision and Order, we consider a Petition for Implementation of Special Refund Procedures filed by the DOE's Office of General Counsel for

Federal Litigation (OGC) on October 19, 1999. The funds at issue in this case were obtained from 17 firms that sold crude oil during the period August 1973 through January 1981. These firms remitted moneys to the DOE to settle actual or alleged violations of the DOE's mandatory petroleum price and allocation regulations set forth at 10 CFR Parts 211 and 212. The sums submitted by each firm, including accrued interest are set forth in the Appendix to this Decision. The total amount remitted, including interest through September 30, 1999, is \$12,660,998.58. This Decision and Order sets out the OHA's proposed procedures to distribute those funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot

readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We have considered the OGC's request to implement Subpart V procedures with respect to the monies received from the 17 firms named in the Appendix and have determined that such procedures are appropriate.

On July 28, 1986, the DOE issued a *Statement of Modified Restitutionary Policy in Crude Oil Cases*, 51 Fed. Reg. 27899 (August 4, 1986) (the SMRP). The SMRP, issued as a result of a court-approved Settlement Agreement In re: *The Department of Energy Stripper Well*

Exemption Litigation, M.D.L. No. 378 (D. Kan. 1986), reprinted in 6 Fed. Energy Guidelines ¶ 90,501 (The Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution. Twenty percent of the funds will be used for direct restitution to claimants who were injured by actual or alleged crude oil violations.

The OHA has applied these procedures in numerous cases. *E.g.*, *New York Petroleum Inc.*, 18 DOE ¶ 85,435 (1988); *Shell Oil Co.*, 17 DOE ¶ 85,204 (1988); *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 (1988). The procedures have been approved by the United

States District Court for the District of Kansas, as well as the Temporary Emergency Court of Appeals. We will not reiterate those procedures here. They are by now well known and, further, the period for filing refund claims for crude oil overcharge funds closed on June 30, 1995. 60 Fed. Reg. 19914-15 (April 21, 1995).

Accordingly, we propose to reserve the full twenty percent of the available alleged crude oil violation amounts, \$2,532,199.72, for direct refunds to claimants, in order to ensure that sufficient funds will be available for refunds to injured parties. As stated above, no new applications for refund for those monies will be accepted, since the claims period has closed. The funds will be added to the general crude oil overcharge pool available for direct restitution.

Under the terms of the SMRP, we propose that the remaining eighty percent of the alleged crude oil violation amounts subject to this Decision, or \$10,128,798.86, should be disbursed in equal shares to the states and federal government for indirect restitution. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well 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 Agreement.

It Is Therefore Ordered That: The refund amounts remitted to the Department of Energy by the firms listed in the Appendix to this Decision and Order will be distributed in accordance with the foregoing Decisions.

APPENDIX

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6571-2]

Request for Nominations to the National Advisory Council for Environmental Policy and Technology (NACEPT)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations.

SUMMARY: The Environmental Protection Agency (EPA) is inviting nominations to fill vacancies on its National Advisory Council for Environmental Policy and Technology (NACEPT). The Agency is seeking qualified senior level decision makers from diverse sectors throughout the U.S. to be considered for appointments. Nominations will be accepted until close of business April 28, 2000.

ADDRESSES: Submit nominations to: Mr. Gordon Schisler, Deputy Director, Office of Cooperative Environmental Management, U.S. Environmental Protection Agency, 1601-A, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: NACEPT is a federal advisory committee under the Federal Advisory Committee Act, PL 92463. NACEPT provides advice and recommendations to the Administrator and other EPA officials on a broad range of domestic and international environmental policy issues.

The Administrator of EPA has asked NACEPT to address several policy and regulatory components associated with Human Resource Development Planning, Information and Technology Planning and Strategic Planning.

NACEPT consists of a representative cross-section of EPA's partners and principle constituents who provide advice and recommendations on policy issues and serve as a sounding board for