Appendix—Continued

Case No., firm	Address	Settlement period	Date of consent order	Amount received	Product
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	Refined petroleum products.
LEF–0064, General Petroleum Products, Inc.	P.O. Box 209, Gary, IN 46402.	11/1/73–4/30/74	7/13/83	23,060.52	Refined petroleum products.
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., Tuxedo, NY 10987.	4/1/79–9/30/79	10/25/82	5,901.03	Gasoline.
LEF–0067, Capitol 66 oil Company.	P.O. Box 2839, Jackson, MS 39207.	11/1/73–3/31/74	9/15/82	15,766.43	Refined petroleum products.
LEF–0068, Cumberland Farms Dairy, Inc.	777 Dedham St., Canton, MA 02021.	1/1/73–1/28/81	4/17/83	183,193.74	Gasoline.
LEF–0069, Kickapoo Oil Co	215 E. Madison, Hillsboro, WI 54634.	3/1/79–8/31/79	9/24/82	40,812.58	Gasoline.
LEF–0070, Lampton-Love, Inc.	P.O. Drawer 1607, Jackson, MS 39205.	11/73–4/74	9/30/82	12,983.93	Gasoline.
LEF–0071, Skinny's Inc	5189 Texas Ave., Abilene, TX 79608.	3/1/79–3/31/80	9/2/82	16,000.00	Gasoline.
LEF–0072, Vermont Morgan Corp.	114 Broadway, Saratoga, NY 12866.	4/1/79–6/30/79	4/5/83	20,275.00	Gasoline.
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	Gasoline.
LEF–0076, Clearview Gulf ..	3120 Clearview Parkway, Metairie, LA 70002.	4/1/79–7/15/79	8/14/81	594.84	Gasoline.
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	Gasoline.
LEF–0079. Millbrae Shell	825 Spruance Ln., Foster City, CA 94404.	8/1/79–11/30/79	3/5/82	2,500.00	Gasoline.
LEF–0080, Bob Hutchinson, Inc.	1334 Breckenridge St., San Leandro, CA 94579.	8/1/79–11/30/79	3/5/82	1,762.00	Gasoline.
LEF–0016, Maxwell Oil Co., Inc.	P.O. Box 1936, Olympia, WA 98507.	5/1/79–12/1/79	9/1/81	275.01	Gasoline.

[FR Doc. 95–9172 Filed 4–12–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

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 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).

DATES AND ADDRESSES: Comments must be filed on or before May 15, 1995, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585. All comments should display a reference to Case No. VEF–0004.

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 C.F.R. 205.282(c), 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 $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 proposes to 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.

The tentative deadline for filing Applications for Refund is June 3, 1996. 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.

Dated: April 4, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed 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

Dated: April 4, 1995.

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 Proposed Decision and Order sets forth the OHA's tentative plan to distribute these funds. Before taking the actions proposed in this Decision, we intend to publicize our proposal and solicit comments from interested parties. Comments regarding the tentative distribution processes 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

A. Crude Oil Refund Policy

We propose to distribute the monies remitted by MAPCO in accordance with DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP). See 51 FR 27899 (August 4, 1986). 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. See *In re: The Department of Energy Stripper Well Exemption Litigation,* 653 F. Supp. 108 (D. Kan.), 6 Fed. Energy Guidelines ¶ 90,509 (1986) (the Stripper Well Settlement Agreement) for a more detailed discussion of the MSRP.

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 Proposed Decision is $7,280,202, plus accrued interest. In accordance with the MSRP, we propose initially to 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 propose to 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 propose to base the refunds on a volumetric amount which has been calculated in accordance with the description in the April 10 Notice. We will also 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.

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 tentative deadline for filing an Application for Refund is June 3, 1996. 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).

C. Payments to the States and Federal Government

Under the terms of the MSRP, we propose that the remaining 80 percent of the amount remitted by MAPCO, or $5,824,162 in principal, plus accrued interest, 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:

The payment remitted to the Department of Energy by MAPCO, Inc. pursuant to the Settlement Agreement dated June 23, 1994 will be distributed in accordance with the foregoing Decision.

[FR Doc. 95–9171 Filed 4–12–95; 8:45 am]

BILLING CODE 6450–01–P