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**Linda Mitry,**

*Deputy Secretary.*

[FR Doc. E5-4556 Filed 8-19-05; 8:45 am]

BILLING CODE 6717-01-P

## 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 procedures for the disbursement of \$1,585,576.76, plus accrued interest, in crude oil overcharges obtained by the DOE concerning BPM Ltd., Case No. TEF-0001, Honeymon Drilling Co., Case No. TEF-0002, Intercontinental Oil, Case No. TEF-0003, Knox Oil, Case No. TEF-0004, Pescar Trading, Case No. TEF-0005, Shepherd Oil, Inc., Case No. TEF-0007, Sierra Petroleum Co., Case No. TEF-0008, Thriftway Co., Case No. TEF-0010, and Western Refining Co. (Robert J. Martin), Case No. TEF-0011.

**FOR FURTHER INFORMATION CONTACT:**

Richard A. Cronin, Jr., Assistant Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, DC 20585-1615, (202) 287-1589, [richard.cronin@hq.doe.gov](mailto:richard.cronin@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute to eligible claimants \$1,585,576.76, plus accrued interest, obtained by the DOE from BPM Ltd.,

Honeymon Drilling Co., Intercontinental Oil, Knox Oil, Pescar Trading, Shepherd Oil, Inc., Sierra Petroleum Co., Thriftway Co., and Western Refining Co. (Robert J. Martin).

The OHA will distribute these funds in the currently-existing crude oil refund proceeding described in the Decision and Order. Because the deadline for filing crude oil refund applications has passed, no new applications for refund for the alleged (or established) crude oil pricing violations of the listed firms will be accepted for these funds.

Dated: August 16, 2005.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

#### Decision and Order

#### Department of Energy

##### *Implementation of Special Refund Procedures*

*Names of Firms:* BPM Ltd., Honeymon Drilling Co., Intercontinental Oil, Knox Oil, Pescar Trading, Shepherd Oil, Inc., Sierra Petroleum Co., Thriftway Co., Western Refining Co. (Robert J. Martin).

*Date of Filing:* June 21, 2005.

*Case Numbers:* TEF-0001, TEF-0002, TEF-0003, TEF-0004, TEF-0005, TEF-0007, TEF-0008, TEF-0010, TEF-0011.

#### I. Background

The Office of General Counsel (OGC) of the Department of Energy (DOE) filed a Petition requesting that the Office of Hearings and Appeals (OHA) formulate and implement Subpart V special refund proceedings. Under the procedural regulations of the DOE, special refund proceedings may be implemented to refund monies to persons injured by violations of the DOE petroleum price regulations, provided DOE is unable to readily identify such persons or to ascertain the amount of any refund. 10 CFR 205.280. We have considered OGC's request to formulate refund procedures for the disbursement of monies remitted by the following firms pursuant to administrative or judicial decisions or in settlement of the DOE allegations that the firms had violated the DOE petroleum price control and allocation regulations: BPM Ltd., Honeymon Drilling Co., Intercontinental Oil, Knox Oil, Pescar Trading, Shepherd Oil, Inc., Sierra Petroleum Co., Thriftway Co., Western Refining Co. (Robert J. Martin).

In its Petition, OGC states that is has been unable to reasonably identify persons harmed as a result of these firms' alleged violations, or to reasonably ascertain the amount of the

refund to any person that might have been harmed. We therefore have determined that the refund procedures requested by OGC are appropriate.

A total of \$1,585,576.76 has been remitted to DOE by these firms to remedy violations that occurred during the relevant audit periods. These funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution. This Decision sets forth OHA's plan to distribute those funds.

#### II. Jurisdiction and Authority

The general guidelines that govern OHA's ability to formulate and implement a plan to distribute refunds are set forth at 10 CFR part 205, subpart V. These procedures apply in situations where the DOE cannot readily identify the persons who were 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).

On June 28, 2005, the OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the funds remitted. 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 70 FR 38901 (July 6, 2005). More than 30 days have elapsed and OHA has received no comments concerning these proposed refund procedures. Consequently, the procedures will be adopted as proposed.

#### III. Refund Procedures

##### *A. Allocation of Remitted Funds*

The alleged violations by the above-named firms all concerned the sale of crude oil. Under these circumstances, all of the funds remitted will be allocated for restitution for parties injured by the firms' alleged violations of the crude oil regulations.

##### *B. Refund Procedures for Crude Oil Violations*

The funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, (MSRP), see 51 FR 27899 (August 4, 1986). Pursuant to the MSRP, OHA may reserve up to 20 percent of those funds for direct refunds to applicants who claim that they were injured by the crude oil violations. The

remaining funds are distributed to the States and Federal government for indirect restitution. We will distribute the funds remitted in accordance with the MSRP, which was issued as a result of the Settlement Agreement approved by the court in *The Department of Energy Stripper Well Exemption Litigation*, 653 F. Supp. 108 (D. Kan. 1986). Shortly after the issuance of the MSRP, the OHA issued an Order that announced that this policy would be applied in all subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 FR 29,689 (August 20, 1986) (the August 1986 Order).

Under the MSRP, 40 percent of crude oil overcharge funds will be disbursed 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 specified 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.

In April 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. 52 FR 11,737 (April 10, 1987) (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. 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 would be presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users would not need to submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. See *City of Columbus Georgia*, 16 DOE ¶ 85,550 (1987).

1. Individual Refund Claims

The amount of money obtained from the listed firms intended for restitution of crude oil violations is \$1,585,576.76 plus accrued interest. In accordance with the MSRP, we shall initially reserve 20 percent of those funds (\$317,115.36 plus accrued interest) for direct refunds to applicants who claim that they were injured by crude oil overcharges. We shall base refunds on a volumetric amount which has been calculated in accordance with the methodology described in the April 10 Notice. That volumetric refund amount is currently \$0.0016 per gallon. See 57 FR 15562 (March 24, 1995). On May 13, 2004, we announced final procedures for the distribution of the remaining crude oil overcharge funds held by DOE, and estimated that all remaining funds would result in an additional volumetric refund amount of \$0.00072 per gallon. See 69 FR 29300 (May 21, 2004).

The filing deadline for refund applications in the crude oil refund proceeding was June 30, 1994. This was subsequently changed to June 30, 1995. See Filing Deadline Notice, 60 FR 19914 (April 20, 1995); see also DMLP PDO, 60 FR 32004, 32007 (June 19, 1995). Because the June 30, 1995, deadline for crude oil refund applications has passed, no new applications for restitution from purchasers of refined petroleum products based on the alleged (or established) crude oil pricing violations will be accepted for these funds. Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution.

2. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the crude oil violation amounts subject to this Decision, or \$1,268,461.40 plus accrued interest, should 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 period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement 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.

Accordingly, we will direct the DOE's Office of the Controller to transfer one-half of that amount, or \$634,230.70 plus interest, into an interest bearing subaccount for the states, and one-half or \$634,230.70 plus interest, into an interest bearing subaccount for the Federal government.

*It Is Therefore Ordered That:*

(1) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Controller's Office, Department of Energy, shall take all steps necessary to transfer the funds remitted by the 9 firms listed in the Appendix to this determination, plus accrued interest, pursuant to Paragraphs (2), (3), and (4) below.

(2) The Director of Special Accounts and Payroll shall transfer \$634,230.70, plus 40 percent of all accrued interest on the funds referenced in Paragraph (1) above, into the subaccount denominated "Crude Tracking-States," Account No. 999DOE003W.

(3) The Director of Special Accounts and Payroll shall transfer \$634,230.70, plus 40 percent of all accrued interest on the funds referenced in Paragraph (1) above, into the subaccount denominated "Crude Tracking-Federal," Account No. 999DOE002W.

(4) The Director of Special Accounts and Payroll shall transfer \$317,115.36, plus 20 percent of all accrued interest on the funds referenced in Paragraph (1) above, into the subaccount denominated "Crude Tracking-Claimants 4," Account No. 999DOE010Z.

Dated: August 16, 2005.

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

**APPENDIX**

Name of firm	OHA case no.	Consent order tracking system (COTS) no.	Principal
BPM, Ltd. ....	TEF-0001 .....	6C0X00230W .....	\$621,220.04
Honeymon Drilling Co., Ltd. ....	TEF-0002 .....	BWBXXXXXXXXX .....	359.00
Intercontinental Oil Co., Inc. ....	TEF-0003 .....	650X00282W .....	48,750.28
Knox Oil .....	TEF-0004 .....	BLBBBBBBBB .....	2,989.00
Pescar International Trading Corp .....	TEF-0005 .....	650X000345W .....	28,044.49
Shephard Oil, Inc. ....	TEF-0007 .....	640X00439W .....	150,000.00
Sierra Petroleum Co. ....	TEF-0008 .....	740C01128Z .....	21,939.89
Thriftway Company .....	TEF-0010 .....	BCBBBBBBBB .....	97,380.14
Western Refining Co. ....	TEF-0011 .....	N00S90458W .....	614,893.92

Name of firm	OHA case no.	Consent order tracking system (COTS) no.	Principal
Total .....	.....	.....	1,585,576.76

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## ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL-7957-3; Docket No. OAR-2005-0157]

### Conference on Air Quality Modeling

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of conference.

**SUMMARY:** We announce the Eighth Conference on Air Quality Modeling. Such a conference is required by section three hundred twenty of the Clean Air Act (CAA) to be held every three years. The purposes of the Eighth Conference are to provide an overview of the latest features of the new air quality models and to provide a forum for public review and comment on potential revisions to the way the Agency determines and applies the appropriate air quality models in the future.

**DATES:** The eighth conference will be held on September 22, 2005 from 9 a.m. to 5:30 p.m. and on September 23, 2005 from 8:30 a.m. to 5 p.m. Requests to speak at the conference should be submitted to the individual listed below by September 9, 2005. All written comments must be submitted by close of business October 24, 2005.

**ADDRESSES:** *Conference:* The conference will be held in the EPA Auditorium, Room C111, 109 T.W. Alexander Drive, Research Triangle Park, NC.

*Comments:* Submit your comments, identified by Docket ID No. OAR-2005-0157 by one of the following methods: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments. Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments. E-mail: <http://www.epa.gov/edocket>. Fax: 202-566-1741. Mail: OAR Docket, Environmental Protection Agency, Mailcode: B102, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of 2 copies. Hand Delivery: EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's

normal hours of operation, and special arrangements should be made for deliveries of boxed information. Instructions: Direct your comments to Docket ID No. OAR-2005-0157. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov Web sites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to unit II of the **SUPPLEMENTARY INFORMATION** section of this document. Docket: All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket

materials are available either electronically in EDOCKET or in hard copy at the OAR Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OAR Docket is (202) 566-1742.

Background information: Additional information and a more detailed agenda are electronically available at <http://www.epa.gov/scram001/8thmodconf.htm>.

**FOR FURTHER INFORMATION CONTACT:** Warren Peters, U.S. Environmental Protection Agency, Mail Drop D243-01, T.W. Alexander Drive, Research Triangle Park, NC 27709; telephone: (919) 541-5337; e-mail address: [peters.warren@epa.gov](mailto:peters.warren@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The *Guideline on Air Quality Models* (hereafter, called the *Guideline*, which is found in Appendix W to 40 CFR part 51), is used by EPA, States, and industry to prepare and review new source permits and State Implementation Plan revisions. The *Guideline* serves as a means by which consistency is maintained in air quality analyses. We originally published the *Guideline* in April 1978 and it was incorporated by reference in the regulations for the Prevention of Significant Deterioration (PSD) of Air Quality in June 1978. We revised the *Guideline* in 1986, and updated it with supplement A in 1987, supplement B in July 1993, and supplement C in August 1995. We published the *Guideline* as appendix W to 40 CFR part 51 when we issued supplement B. We republished the *Guideline* in August 1996 (61 FR 41838) to adopt the CFR system for labeling paragraphs.

To support the process of developing and revising the *Guideline* during the period 1977-1988, we held the First, Second and Third Conferences on Air Quality Modeling as required by Section 320 of the Clean Air Act to help standardize modeling procedures. These modeling conferences provided us with comments on the *Guideline* and associated revisions, thereby helping us introduce improved modeling techniques into the regulatory process.