

IEA's Standing Group on Emergency Questions.

**FOR FURTHER INFORMATION CONTACT:**

Samuel M. Bradley, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202-586-6738.

**SUPPLEMENTARY INFORMATION:**

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meeting is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on November 19, 2003, beginning at 2 p.m. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held at the IEA on November 19, beginning at 3 p.m. and continuing on November 20, beginning at 9:30 a.m., including a preparatory encounter among company representatives from approximately 2 p.m. to 3 p.m. on November 19.

The agenda for the preparatory encounter among company representatives is a review of the SEQ's meeting agenda. The agenda of the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the 108th Meeting
3. Program of Work 2003-2004
  - Review of SEQ Activities 2003-2004
  - Projects for Surplus Publication Revenues
  - First Steps Toward Emergency Response Exercise 3
4. Update on Compliance with International Energy Program Stockholding Commitments
  - Reports by Non-Complying Member Countries
5. The Current Oil Market Situation
6. Report on the IEA Berlin Seminar on Oil Stocks and New Challenges to the Oil Market
7. Oil Stocks and the Oil Market
8. Report on Current Activities of the IAB
9. Other Policy and Legislative Developments in Member Countries
10. Other Emergency Response Activities
11. Recent Oil Developments in Iraq

12. World Energy Investment Outlook to 2030: Key Trends and Uncertainties
13. Activities with Non-Member Countries and International Organizations
  - Workshop on ASEAN Oil Security and Emergency Preparedness
  - Joint Oil Data Initiative (JODI), Cairo, October 8-9, 2003
  - Trends and the IEA Role in Emergency Stockholding in Non-Member Countries
  - Stockbuilding Workshop in India, January 20, 2004
  - IEA and EU Stockholding Obligations
14. Emergency Response Reviews of IEA Member and Candidate Countries
  - Revised Schedule of Emergency Response Reviews for 2003-2004
15. Other Documents for Information
  - Emergency Reserve Situation of IEA Member Countries on July 1, 2003
  - Emergency Reserve Situation of IEA Candidate Countries on July 1, 2003
  - Monthly Oil Statistics: August 2003
  - Base Period Final Consumption: 3Q2002-1Q2003
  - Quarterly Oil Forecast: 4Q2003
  - Panel of Arbitrators: Korean representation
  - Update of Emergency Contacts List
16. Other Business
  - Dates of Next Meetings: March 16-18, 2004, June 23-24, 2004, October 25-29, 2004

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), this meeting is open only to representatives of members of the IAB and their counsel; representatives of members of the SEQ; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, DC, November 4, 2003.

**Samuel M. Bradley,**

*Assistant General Counsel for International and National Security Programs.*

[FR Doc. 03-28317 Filed 11-10-03; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Proposed Procedures for Distribution of Remaining Crude Oil Overcharge Refunds

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

**ACTION:** Notice of proposed procedures for distribution of remaining crude oil

overcharge refunds and opportunity for comment.

**SUMMARY:** The Department of Energy (DOE) Office of Hearings and Appeals (OHA) announces, in this notice, proposed procedures for making the final round of payments to successful claimants in the crude oil overcharge refund proceeding. In May 2003, the United States District Court for the District of Columbia issued a decision in *Consolidated Edison Company of New York v. Abraham*, No. CIV.A.1:01CV00548 (D.D.C. May 9, 2003) (Westlaw, 2003 WL 21692698), *appeal docketed*, No. 03-1498 (Fed. Cir.), which, *inter alia*, rendered a declaratory judgment that successful claimants are entitled to a distribution of the entire remaining amount of crude oil overcharges reserved for direct restitution, "insofar as practicable." OHA will therefore make a final distribution in the long-standing crude oil refund proceeding.

**DATES:** Comments may be filed by January 12, 2004.

**ADDRESSES:** Comments should be addressed to: Crude Oil Refund Proceeding, Office of Hearings and Appeals, Department of Energy, Washington, DC 20585-1615, and submitted electronically to [crudeoilrefunds@hq.doe.gov](mailto:crudeoilrefunds@hq.doe.gov).

**FOR FURTHER INFORMATION CONTACT:**

Tami L. Kelly, Secretary, or Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy; telephone: 202-287-1449, e-mail: [tami.kelly@hq.doe.gov](mailto:tami.kelly@hq.doe.gov), [thomas.mann@hq.doe.gov](mailto:thomas.mann@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Over two decades ago—during the period August 1973 through January 1981—federal regulations governed the pricing and allocation of domestic crude oil and refined petroleum product ("the controls period"). During this controls period and for some time afterwards, DOE took enforcement actions against firms for violating those regulations. As a result of those actions, firms in the petroleum industry remitted several billion dollars in crude oil overcharges to DOE.

The largest court proceeding involving crude oil overcharges was multidistrict litigation over the pricing of crude oil produced from low-output "stripper wells." Once the existence of overcharges was established, a federal district court considered the issue of how those funds should be distributed in order to make restitution to injured parties. *In Re The Department of Energy*

*Stripper Well Exemption Litigation*, 578 F. Supp. 586 (D. Kan. 1983). Groups at each level of distribution claimed they were injured by the overcharges, including refiners, resellers, retailers, larger consumers, and state governments representing their citizens. The court referred the issue of who was injured by crude oil overcharges and in what amount to OHA, which conducted hearings and issued a report. *OHA Report on Stripper Well Oil Overcharges*, 6 CCH Fed. Energy Guidelines ¶ 90,507.

In 1986, the Stripper Well litigation was settled by an agreement that provided for the distribution of existing crude oil overcharge funds, as well as those received in the future. *Stripper Well Settlement Agreement*, 6 CCH Fed. Energy Guidelines ¶ 90,649. The court approved the settlement agreement, *In Re Stripper Well Exemption Litigation*, 653 F. Supp. 108 (D. Kan. 1986), and DOE issued a Modified Statement of Restitutionary Policy to authorize the distribution of these refunds. *Statement of Modified Restitutionary Policy in Crude Oil Cases*, 51 FR 27899 (1986). Congress, in subsequent legislation concerning refunds, expressly recognized the agreement and excluded from the legislation funds subject to the agreement. *Petroleum Overcharge Distribution and Restitution Act of 1986* ("PODRA"), 15 U.S.C. 4502(a)(2).

The agreement divided the crude oil overcharge funds among escrows established for various types of claimants as well as the States and Federal Government. By choosing to receive a refund from one of the escrows, a claimant became a party to the agreement, and waived the right to request any future crude oil overcharge refunds. The agreement included escrows for various types of end-user claimants. Over 2,000 firms received refunds from those escrows and waived the right to future crude oil overcharge refunds.

The agreement provided that OHA could initially reserve up to 20 percent of the crude oil overcharge funds for refunds to claimants who demonstrated injury under DOE procedural regulations in 10 CFR part 205, subpart V. *Agreement § IV.B.6*, 6 Fed. Energy Guidelines at 90,664–65. The agreement provided that the remaining amount (at least 80 percent of the total funds) would be divided equally between the States and DOE for indirect restitution. The agreement further provided that if OHA did not refund all of the amount in the initial reserve, the balance of the reserve would be divided equally between the States and DOE for indirect restitution. Finally, the agreement

provided that the States must use the funds to make indirect restitution through programs designed to benefit injured consumers of refined petroleum products, including programs: (1) Approved by OHA, (2) listed in a 1981 DOE consent order, or (3) set forth in specified energy conservation statutes.

During the period 1987 through 1995, non-waiving injured parties were allowed to file crude oil overcharge refund applications with OHA. *Notice Explaining Procedures for Processing Refund Applications in Crude Oil Refund Proceedings Under 10 CFR part 205, subpart V*, 52 FR 11737; 7 DOE (CCH) ¶ 90,512 (April 10, 1987) ("the 1987 Notice"). Even as OHA processed these applications, DOE continued to collect crude oil overcharge funds and refer them to OHA for distribution. Each time OHA received crude oil overcharge funds for distribution, we issued an order providing for an initial reserve of 20 percent of the funds for refund claimants, which was held in a claimants' account. *See, e.g., OXY USA, Inc.*, 25 DOE ¶ 85,087 (1996). OHA ordered that the remaining 80 percent of the funds be deposited in equal shares in a States' account and a DOE account, and OHA periodically directed the transfer of funds to the States for indirect restitution. *See, e.g., State Escrow Distribution*, 6 Fed. Energy Guidelines ¶ 85,001 (2000). Over the last 16 years, OHA has refunded more than \$600 million in direct restitution to 86,000 successful claimants through the Subpart V process. The total volume of petroleum products which formed the basis for these refunds approaches 400 billion gallons, approximately 20 percent of the total 2,020,997,335,000 gallons of refined petroleum products consumed in the United States during the controls period (August 22, 1973 through January 21, 1981).

The successful claimants were almost exclusively end-users and are quite diverse. They include utilities and cooperatives; federal, state and local governmental entities that purchased petroleum products for their operations; transportation companies (air, water, rail, and truck); manufacturers; and farmers. The following entities comprise approximately 50 percent of the total approved volume: utilities and cooperatives (29 percent); the Defense Logistics Agency (a federal government agency) (11 percent); state and local governments (6 percent); and foreign companies (about 4 percent).

During the first "round" of crude oil refunds, OHA paid successful claimants at a volumetric refund amount of \$.0002 per gallon of petroleum products purchased. OHA subsequently raised

the volumetric twice. In 1989, OHA increased the cumulative volumetric to \$.0008 per gallon, and issued supplemental refund checks to successful claimants who had been paid the lower \$.0002 rate. *See Crude Oil Supplemental Refund Distribution*, 18 DOE ¶ 85,878 (1989). In 1995, OHA raised the cumulative volumetric to \$.0016 per gallon, and notified successful claimants that had been paid at the lower rate that they could file for a supplemental refund.

During the 1989 round of supplemental refunds, a significant number of checks issued to successful claimants were returned uncashed to OHA. OHA found that many successful claimants had undergone changes in address, and failed to inform OHA of their address changes, as required by the terms of the orders granting their original refunds. When checks were returned, OHA was able to get new mailing addresses for many of these successful claimants and issue new checks to them, but this task consumed considerable time and resources to accomplish.

In 1995, OHA did not approve the immediate mailing of supplemental refund checks as it had in 1989, based on the difficulties we experienced during the 1989 round. *Issuance of Supplemental Refund Checks in Special Refund Proceeding Involving Crude Oil Overcharge Refunds*, 60 FR 15562 (1995). Instead, OHA notified successful claimants (by mailing notice to the address listed in the database) that they could file for the supplemental refund. In addition, OHA elected not to give direct notice to the 21,000 successful claimants whose refunds were \$50 or less. OHA concluded that the cost and administrative burden of mailing was not justified given the small amount of the refunds and likely changes in status and address. Nevertheless, all successful claimants were able to request and receive supplemental refunds. OHA's processing of the requests also confirmed that many successful applicants had undergone changes in status that affected their right to receive a supplemental refund. Examples of changes in status that might affect the right to a refund included the acquisition, sale, or liquidation of business entities, the merger or creation of school districts, and the divorce or death of individuals.

In 1999, OHA set a January 2000 deadline for successful claimants to request the supplemental refund payment authorized in 1995. *Announcement of Final Deadline to Request Supplemental Payment*, 64 FR 19998 (1999). The deadline did not

apply to small claimants, so they have been eligible to date to request a supplemental refund up to the cumulative \$.0016 volumetric amount. OHA has now completed processing all original crude oil overcharge refund applications and all pending requests for the 1995 supplemental payment. With the completion of all original and supplemental refund requests, approximately \$262 million will remain in the reserve for refund claimants. OHA does not expect to receive any significant additional crude oil overcharge funds.

In May 2003, the United States District Court for the District of Columbia issued a declaratory judgment in *Consolidated Edison Company of New York v. Abraham, supra*, which led OHA to establish procedures for making a final distribution of the entire amount remaining in the 20 percent reserve for successful crude oil refund claimants, "insofar as practicable." Slip. op. at 14.

The volumetric amount for the final crude oil refund payment will be calculated by dividing the entire amount remaining in the claimants' reserve, approximately \$262 million ("the numerator"), by the total number of gallons purchased by successful claimants, approximately 390 billion gallons ("the denominator"), yielding a volumetric of \$.00067. This method of calculating the volumetric refund is consistent with OHA's historic practice in the 1995 supplemental refund, and it is intended to distribute the entire amount remaining in the 20 percent reserve for successful crude oil refund claimants, "insofar as practicable," as envisioned by the court in *Consolidated Edison Company of New York v. Abraham, supra*.

When the initial volumetric refund amount was set in the 1987 Notice, OHA used the "full parity" method to place claimants seeking refunds under Subpart V on a par with the parties who could get immediate refunds under one of the several escrows established under the Stripper Well settlement agreement. *Notice Explaining Procedures for Processing Refund Applications in Crude Oil Refund Proceedings Under 10 CFR part 205, subpart V, supra*. To get an immediate refund from a Stripper Well escrow, a claimant had to waive the right to future refunds under subpart V. As explained in the 1987 Notice, the full parity method counted in the numerator of the volumetric calculation a portion of the moneys in the Stripper Well litigation, even though that amount of overcharges was not yet available for distribution to subpart V claimants as part of the 20 percent reserve. This reflected DOE's estimate that substantial

additional crude oil overcharges would be collected in future settlements, and gave potential claimants a more realistic idea of the refunds they could expect to receive under Subpart V.

OHA has consistently adhered to the principle established in the Stripper Well settlement agreement, the Modified Statement of Restitutionary Policy, and the 1987 Notice, that the volumetric refunds actually paid to successful claimants were limited by the 20 percent ceiling placed on the claimants' reserve. Thus, while the 1987 Notice established the initial volumetric refund at \$.0008, successful claimants were paid at the rate of \$.0002 per gallon until that amount could be increased by \$.0006 per gallon in 1989, as additional crude oil overcharges were collected by DOE, to reach the cumulative refund amount of \$.0008. For the supplemental refund payment authorized by OHA in 1995, the volumetric was calculated by dividing the dollar amount of crude oil overcharges in the 20 percent reserve then available for distribution by the approved gallons of refined petroleum products purchased by successful claimants in the United States during the controls period. This resulted in the total cumulative refund amount of \$.0016 per gallon paid to date. With the final distribution proposed in this Notice, the cumulative refund amount will increase to \$.00227 per gallon.

OHA will try to distribute the entire amount of the 20 percent reserve. However, since not every successful applicant will apply for this final refund payment, some money will remain undistributed. Under the Stripper Well settlement agreement, any amount that remains in the claimants' account at the conclusion of this final round of crude oil refunds should be divided evenly between the States and the Federal Government for indirect restitution.

## II. Proposed Procedure for Final Distribution of Crude Oil Refunds

In deciding how to make the final crude oil refund distribution, OHA's experience gained during the past 16 years will be invaluable. For example, OHA will mail notice of the final refund distribution to successful claimants, and we intend to use the extensive database developed during the crude oil refund proceeding as the basis for the initial mailing. However, some changes are warranted in the process OHA will use for this final refund distribution. Eight years have passed since 1995 when the second round of supplemental refunds was authorized. The passage of additional time means that successful claimants have undergone even more

changes in status and address than we encountered in the two prior rounds of supplemental refunds. Although OHA decisions granting refunds ordered successful claimants to report address changes to OHA, experience teaches that many have not, and the information in our database, although the best available, has become somewhat outdated. We need to verify the information about status and address before disbursing final refunds to individual claimants.

Fortunately, information technology, particularly the Internet and the World Wide Web, is now available to a greater number of claimants since OHA last made supplemental crude oil refund payments in 1995. Thus OHA proposes to augment the normal paper application process by developing an online application system that will make it easier for many claimants to request a final supplemental crude oil refund payment. OHA will use appropriate safeguards to prevent fraud. Filing services represented many successful claimants in the crude oil refund proceeding. In addition to notifying claimants, OHA will mail notice to the filing services at the commencement of the final crude oil refund distribution. For simplicity, final refund checks will be made payable to, and mailed to, the applicant.

OHA will follow the practice used for distributing the 1995 supplemental crude oil refund, and not give direct notice to the smallest successful claimants. In 1995, we did not mail notice to claimants whose supplemental refund payments would be less than \$50. For the final crude oil refund, we will not mail notice to claimants whose final payments would be less than \$250. We continue to believe that the cost and administrative burden of mailing information to these claimants is not justified given the small amount of the refunds. As with the 1995 supplemental refund payment, however, we will accept applications from all successful claimants, as long as they are filed within the 180-day application period. Section 205.286(b) of the subpart V regulations states that OHA may decline to consider applications for refund amounts that are too small to warrant individual consideration, in view of the costs involved. Although OHA never established a floor amount for crude oil refunds, in refund cases involving overcharges on refined petroleum products OHA conducted under PODRA, it was standard practice to exclude small claims altogether. *Cf. Exxon Corp.*, 17 DOE ¶85,590 (1988). In our view, the proposed treatment of smaller claimants in the final

distribution of crude oil refunds represents a reasonable compromise between costs to the government and potential benefits to the claimants.

Additional limitations will be necessary in the final round of crude oil refunds. All successful claimants have already had extensive opportunities over many years to establish their respective purchase volumes of refined petroleum products, which form the bases for their respective refunds. There will be no further opportunities to revise volumes during the final distribution. Furthermore, the period within which to apply for the final round of refund payments will be strictly limited to 180 days. No extensions of time will be granted, and no late applications will be accepted. No new applications will be accepted—the final crude oil refund payment is available only to successful claimants. After 16 years, it is important to bring this proceeding to a conclusion.

OHA seeks comments on these proposed procedures. Interested parties should send comments to the address shown on the present Notice. After OHA considers the comments received, we will issue a final Notice that will explain how successful claimants can apply for a final crude oil refund payment. The final Notice will be published in the **Federal Register**, and it will be available on the OHA Web site, <http://www.oha.doe.gov/>.

Issued in Washington, DC on November 5, 2003.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

[FR Doc. 03-28316 Filed 11-10-03; 8:45 am]

BILLING CODE 6450-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-2003-0359; FRL-7333-5]

### Ace Info Solutions, Inc. and AMS; Transfer of Data

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

**ACTION:** Notice.

**SUMMARY:** This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Ace Info Solutions, Inc., and its subcontractor, AMS, in

accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Ace Info Solutions, Inc., and its subcontractor, AMS, have been awarded a contract to perform work for OPP, and access to this information will enable Ace Info Solutions, Inc., and its subcontractor, AMS, to fulfill the obligations of the contract.

**DATES:** Ace Info Solutions, Inc., and its subcontractor, AMS, will be given access to this information on or before November 17, 2003.

**FOR FURTHER INFORMATION CONTACT:** Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7248; e-mail address: [johnson.erik@epa.gov](mailto:johnson.erik@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0359. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's

electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

##### II. Contractor Requirements

Under Contract No. 68-W-03-050, Ace Info Solutions, Inc., and its subcontractor, AMS, will perform ongoing maintenance for Lotus Notes and Domino production applications. Duties include regular and ongoing:

- Responses to automated reports of errors to correct systemic design flaws which make an application inconsistent with organizational "look and feel" standards.
- Responses to written requests by the Work Assignment Manager.
- Technical advise.
- Update of existing documentation (most notably operational code) must be clearly and thoroughly documented.
- Develop a "look and feel" (user interface) standard for all OPP applications.

The OPP has determined that access by Ace Info Solutions, Inc., and its subcontractor, AMS, to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA, and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Ace Info Solutions, Inc., and its subcontractor, AMS, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Ace Info Solutions, Inc., and its subcontractor, AMS, are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Ace Info Solutions,