

of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record

communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the

Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Docket number	Date received	Presenter or requester
Prohibited:		
1. RP07-34-000 .....	7-31-07	James Keegan.
Exempt:		
1. CP06-54-000, CP07-55-000 .....	8-7-07	James Martin for Lavinia DiSanto (Entrix, Inc.).
2. CP07-62-000, <i>et al.</i> .....	7-25-07	Hon. C.A. Dutch Ruppensberger.
3. CP07-208-000 .....	8-6-07	Hon. Charles A. Wilson.
4. ER07-1141-000 .....	8-6-07	Hon. Patricia L. Birkholz.
5. ER07-1141-000 .....	8-6-07	Hon. Jeff Mayes.
6. ER07-1141-000 .....	8-6-07	Hon. Jennifer M. Granholm.
7. Project No. 1971-079 .....	8-3-07	Craig Jones.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E7-16251 Filed 8-17-07; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Office of Hearings and Appeals

#### Final Procedures for Distribution of Remaining Crude Oil Refunds

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

**ACTION:** Notice of final procedures for the distribution of remaining crude oil overcharge refunds.

**SUMMARY:** The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) is responsible for the disbursement of crude oil refund monies currently remaining in the DOE crude oil refund escrow account. The preliminary distribution of these monies, approximately 90 percent of the funds, was made pursuant to a January 13, 2006 Notice. This notice announces the procedures to be used in distributing the remaining crude oil refund monies.

**ADDRESSES:** Inquiries should be sent to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585-1615 or submitted electronically to [crudeoilrefunds@hq.doe.gov](mailto:crudeoilrefunds@hq.doe.gov).

#### 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 this Notice, we announce the final procedures for the distribution of Subpart V crude oil refunds, and order payments required under a May 1, 2007 settlement agreement between the Department of Energy and certain claimants in the present proceeding (the May 1, 2007 Settlement Agreement).

The Office of Hearings and Appeals (OHA) published a Notice of final procedures for final crude oil refunds in the **Federal Register** on May 21, 2004. 69 FR 29300. In the May 21 notice, we explained that we would be sending notice to all claimants (or their representatives of record) who purchased more than 280,000 gallons of eligible petroleum products during the relevant period. We also stated that claimants would be required, no later than December 31, 2004, to submit verification of the information in our database. Shortly after issuing the May 21 Notice, we sent notice to claimants and received 30,873 timely submissions.

In the May 21 notice, we set forth a plan to make one final round of refund payments, with the intent "to distribute all of the reserved funds to claimants 'insofar as practicable.'" 69 FR at 29302. Since that time, events and proliferating

litigation affecting the windup of this proceeding precluded the Department from proceeding with the calculation of the per-gallon "volumetric" refund amount that was necessary to make a single, final payment of refunds to all qualified applicants. Calculating the volumetric amount requires two fixed numbers: (1) The amount of funds available for distribution ("the numerator"), which is divided by (2) the number of gallons of eligible petroleum products purchased during the controls period by eligible claimants ("the denominator"). However, the ongoing litigation had the potential to affect both the numerator and the denominator of the volumetric calculation.

As a result, in a January 13, 2006 **Federal Register** notice, 71 FR 2195, we announced procedures for an interim round of refunds based upon a volumetric calculated using as a numerator approximately 90% of all available funds, and as a denominator the number of gallons of eligible petroleum products purchased during the controls period by eligible claimants plus the number of gallons claimed in an application denied by OHA that was then the subject of pending litigation. Finally, we stated that, in view of the uncertainties posed by the outstanding litigation, we were not in a position to commit ourselves to additional refunds until all pending litigation was resolved.

The prudence of this approach was confirmed when on January 26, 2005 the

U.S. District Court for the District of Columbia awarded plaintiff's attorneys fees in the amount of "thirty percent (30%) of the [crude oil escrow] fund derived from the amount of the increase in the per million-gallon distribution over the \$670 [per million gallons] initially proposed by DOE."

*Consolidated Edison v. Abraham*, Civil Action No. 03-1991, *slip op.* at 12 (January 26, 2005). The amount that the Court awarded was approximately \$13.5 million. After both sides appealed to the U.S. Court of Appeals for the DC Circuit, the case was remanded for further fact finding concerning what amount of attorneys fees, if any, should be awarded from the crude oil escrow fund to the plaintiffs. *Consolidated Edison v. Bodman*, 445 F.3d 438 (D.D.C. 2006).

Given this claim and other litigation challenges against the crude oil escrow fund, DOE entered into negotiations to resolve all outstanding claims. Following negotiations facilitated by the U.S. Court of Appeals' mediation office, a settlement agreement was reached. The U.S. District Court for the District of Columbia, in the case remanded by the U.S. Court of Appeals, approved the May 1, 2007 Settlement Agreement by an order issued on July 9, 2007.

The May 1, 2007 Settlement Agreement both resolves the litigation between the parties to the agreement and provides for the payment of final refunds to all eligible claimants in this proceeding. Specifically, the DOE agreed to the payment of final refunds to 96 claimants specified in the Agreement by sixty days following the entry of the court order approving the Agreement. The DOE further agreed to the payment of refunds to all other eligible claimants "insofar as practicable and as soon as practicable \* \* \* ." Paragraph 1(b) May 1, 2007 Settlement Agreement. Finally, the Agreement provides for the payment of \$6,000,000.00 from available funds to Philip P. Kalodner.

Pursuant to the May 1, 2007 Settlement Agreement, OHA will adopt the following final refund procedures. First, we note that the volumetric refund amount announced in our January 13, 2006 **Federal Register** notice was based upon the total amount of funds available for distribution as of December 28, 2005, \$284,126,991.33. Of that total, we used \$254,738,494.09 as the numerator of the volumetric calculation, thus reserving \$29,388,497.24 for future payments. From December 28, 2005 through July 31, 2007, an additional \$6,618,257.27 in interest has accrued on these funds. Also adding to the amount available for final refund payments is \$600,137.00 in refund claims that, for purposes of

computing the preliminary volumetric refund amount (\$0.000695389 per gallon) announced in January 2006, we had assumed would be eligible for refunds, 71 FR 2195, but which are no longer eligible for refunds. We will therefore use the total of these amounts less the \$6,000,000.00 to be paid to Philip P. Kalodner, \$30,606,891.51, as the numerator of the volumetric calculation. As the denominator, we will use 365,461,956,553 gallons, i.e., the volume of eligible petroleum product purchases used in the denominator announced in our January 13, 2006 **Federal Register** notice, 365,715,107,505 gallons, minus the gallonage of the now ineligible claims referenced above, 253,150,952 gallons. This produces a per gallon final volumetric refund amount of \$0.000083748502302897 per gallon.\* We will use this volumetric refund amount (by multiplying this amount by each eligible claimant's approved gallonage) to calculate the amount of each eligible claimant's refund.

DOE will not attempt to locate payees of returned refund payments and, as set forth in the May 1, 2007 Settlement Agreement, any remaining undistributed funds will be divided equally between the State governments and the Federal Treasury as a form of indirect restitution in accordance with the Department of Energy's 1986 Modified Statement of Restitutionary Policy.

Dated: August 14, 2007.

**Fred L. Brown**,

*Acting Director, Office of Hearings and Appeals.*

[FR Doc. E7-16299 Filed 8-17-07; 8:45 am]

**BILLING CODE 6450-01-P**

\* Pursuant to the Settlement Agreement, OHA issued an initial Decision granting refunds to the parties of the Settlement Agreement (96 claimants) at a volumetric of \$0.000081939. See *Crude Oil Supplemental Refund Distribution, Case No. RB272-10119* (July 17, 2007). The volumetric refund amount as announced was rounded to 9 decimal places. However, the volumetric refund amount applied in calculating each refund ordered in our July 17 decision was more precise, \$0.000081939013482917 per gallon, having been rounded to 18 decimal places. Because we have made additional adjustments to the final volumetric announced in this Notice including the updated July 31, 2007 interest figure and the inclusion of additional money that could be added to the numerator, we will issue additional refund checks to the 96 claimants at the rate of \$0.00000180948881998 per gallon so that their total refund will be paid at the final volumetric amount described above.

## ENVIRONMENTAL PROTECTION AGENCY

[Doc EPA-HQ-OECA-2007-0558, FRL-8456-9]

### Agency Information Collection Activities: Proposed Collection; Comment Request; Recordkeeping Requirements for Producers of Pesticides Under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA ICR Number 0143.10, OMB Control Number

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. This ICR is scheduled to expire on December 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before October 19, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OECA-2007-0558 by one of the following methods:

1. *Electronic Submission:* Access <http://www.regulations.gov> and follow the online instructions for submitting comments.
2. *E-mail:* [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov).
3. *Fax:* (202) 566-1511.
4. *Mail:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code: 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
5. *Hand Delivery:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Deliveries are only accepted during the Docket Center's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID Number: EPA-HQ-OECA-2007-0558. It is EPA's policy that all