better information, a volumetric refund is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining prices.

Under the volumetric approach, a claimant's ''allocable share'' of the Mockabee fund is equal to the number of gallons of covered product purchased from Mockabee during the period covered by the MRO times the per gallon refund amount. In the present case, the per gallon refund is $0.0612. We derived this figure by dividing the monies remitted by Mockabee ($75,638.48) by the total volume of covered products sold by Mockabee from November 1, 1973 through December 31, 1975 (1,236,132 gallons). A claimant that establishes its eligibility for a refund will receive all or a portion of its allocable share plus a pro-rata share of accrued interest.[4]

In addition to the volumetric presumption, we also propose to adopt a presumption regarding injury for end-users.

2. End Users

In accordance with prior Subpart V proceedings, we propose to adopt the presumption that an end user or ultimate consumer of covered products purchased from Mockabee whose business is unrelated to the petroleum industry was injured by the overcharges resolved by the MRO. See, *e.g., Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). Unlike regulated firms in the petroleum industry, members of this group generally were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the overcharges on the final price of goods and services produced by members of this group would go beyond the scope of the refund proceeding. *Id.* We therefore propose that the end-users of covered products purchased from Mockabee need only document their purchase volumes from Mockabee during the period covered by the MRO to make a sufficient showing that they were injured by the overcharges.

B. Refund Applications Filed by Representatives

We propose to adopt the standard OHA procedures relating to refund applications filed on behalf of applicants by ''representatives,'' including refund filing services, consulting firms, accountants, and attorneys. See, *e.g., Stark's Shell Service,* 23 DOE ¶ 85,017 (1993); *Texaco, Inc.*, 20 DOE ¶ 85,147 (1990); *Shell Oil Co.*, 18 DOE ¶ 85,492 (1989). We will also require strict compliance with the filing requirements as specified in 10 CFR 205.283, particularly the requirement that applications and the accompanying certification statement be signed by the applicant.

The OHA reiterates its policy to closely scrutinize applications filed by filing services. Applications submitted by a filing service should contain all of the information indicated in the final Decision and Order in this proceeding.

C. Distribution of Funds Remaining After First Stage

We propose that any funds that remain after all first stage claims have been decided be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07. The PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to the OHA, and any funds in the Mockabee fund that the OHA determines will not be needed to effect direct restitution to injured customers will be distributed in accordance with the provisions of the PODRA.

It is therefore ordered that: the monies remitted to the Department of Energy by Mockabee Gas & Fuel Oil Co. pursuant to the Modified Remedial Order issued on April 10, 1985, will be distributed in accordance with the foregoing Decision.

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was ''overcharged'' by a specific amount, and that it absorbed those overcharges. See *Panhandle Eastern Pipeline Co./Western Petroleum Co.*, 19 DOE ¶ 85,705 (1989). To the degree that a claimant makes this showing, it will receive an above-volumetric refund.

[4] As in previous cases, we propose to establish a minimum refund amount of $15. In this proceeding, any potential claimant purchasing less than 245 gallons of covered product from Mockabee would have an allocable share of less than $15. We have found through our experience that the cost of processing claims in which refund amounts of less than $15 are sought outweighs the benefits of restitution in those instances. See *Exxon Corp.*, 17 DOE ¶ 85,590 (1988).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5141–3]

Proposed Settlement; Acid Rain Core Rules Litigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act (''Act''), notice is hereby given of a proposed third partial settlement of *Environmental Defense Fund* v. *Carol M. Browner, et al.*, No. 93–1203 (and consolidated cases) (D.C. Cir.).

The case involves challenges by several parties to the acid rain core rules published in the Federal Register on January 11, 1993, at 58 FR 3590 (January 11, 1993). The proposed settlement relates primarily to the issue of how ownership of a jointly owned unit is apportioned with respect to defining a dispatch system and to clarification of the definition of a ''sulfur-free generation.''

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Copies of the settlement are available from Phyllis Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7606. Written comments should be sent to Patricia A. Embrey at the above address and must be submitted on or before February 21, 1995.

January 12, 1995.

Jean C. Nelson,

General Counsel

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