

## Department of Energy

## § 205.283

refunds specified in a Remedial Order, a Remedial Order for Immediate Compliance, an Order of Disallowance or a Consent Order, or to readily ascertain the amounts that such persons are entitled to receive.

### § 205.281 Petition for implementation of special refund procedures.

(a) At any time after the issuance of a Remedial Order (including for purposes of this subpart a Remedial Order for Immediate Compliance and an Order of Disallowance), or a Consent Order, the Special Counsel of the Department of Energy, the ERA Office of Enforcement, or any other enforcement official of the Department of Energy may file with the Office of Hearings and Appeals a Petition for the Implementation of Special Refund Procedures.

(b) The Petition shall state that the person filing it has been unable readily either to identify the persons who are entitled to refunds to be remitted pursuant to a Remedial Order or a Consent Order or to ascertain the amounts of refunds that such persons are entitled to receive. The Petition shall request that the Office of Hearings and Appeals institute appropriate proceedings under this Subpart to distribute the funds referred to in the enforcement documents.

(c) The Petition shall contain a copy of each relevant enforcement document, shall be filed in duplicate, and shall meet the requirements of § 205.9 of this part.

### § 205.282 Evaluation of petition by the Office of Hearings and Appeals.

(a) After considering the Petition, the Director of the Office of Hearings and Appeals or his designee shall issue a Proposed Decision and Order. The Proposed Decision and Order shall generally describe the nature of the particular refund proceeding and shall set forth the standards and procedures that the Office of Hearings and Appeals intends to apply in evaluating refund claims.

(b) The Proposed Decision and Order shall be published in the FEDERAL REGISTER together with a statement that any member of the public may submit written comments to the Office of

Hearings and Appeals with respect to the matter. At least 30 days following publication in the FEDERAL REGISTER shall be provided for the submission of comments.

(c) After considering the comments submitted, the Director of the Office of Hearings and Appeals or his designee shall issue a final Decision and Order which shall govern the disposition of the refunds. The final Decision and Order shall also be published in the FEDERAL REGISTER.

(d) The final Decision and Order shall set forth the standards and procedures that will be used in evaluating individual Applications for Refunds and distributing the refund amount. Those standards and procedures shall be consistent with the provisions of this subpart.

(e) In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

### § 205.283 Applications for refund.

(a) Any person entitled to a refund pursuant to a final Decision and Order issued pursuant to § 205.282 may file an Application for Refund. All Applications must be signed by the applicant and specify the DOE order to which they pertain. Any Application for a refund in excess of \$100 must be file in duplicate, and a copy of that Application will be available for public inspection in the DOE Public Docket Room at 2000 M Street, NW., Washington, DC. Any applicant who believes that his Application contains confidential information must so indicate on the first page of his Application and submit two additional copies of his Application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential.

(b) The contents of an Application for Refund shall be specified in the final

## § 205.284

Decision and Order referred to in § 205.282(c). A filing deadline for Applications shall also be specified in the final Decision and Order, and shall be no less than 90 days after the publication of the Order in the FEDERAL REGISTER.

(c) Each Application shall be in writing and signed by the applicant, and shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other Application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each Application shall also include a sworn statement by the applicant that all information in his Application is true and correct to the best of his knowledge and belief.

### § 205.284 Processing of applications.

(a) The Director of the Office of Hearings and Appeals may appoint an administrator to evaluate Applications under guidelines established by the Office of Hearings and Appeals. The administrator, if he is not a Federal Government employee, may be compensated from the funds referred to in the Remedial Order or Consent Order. The administrator may design and distribute an optional application form for the convenience of the applicants.

(b) The Office of Hearings and Appeals or its designee may initiate an investigation of any statement made in an Application and may require verification of any document submitted in support of a claim. In evaluating an Application, the Office of Hearings and Appeals or its designee may solicit and consider information obtained from any source and may on its own initiative convene a hearing or conference, if it determines that a hearing or conference will advance its evaluation of an Application.

(c) The Director of the Office of Hearings and Appeals or his designee shall conduct any hearing or conference convened with respect to an Application for Refund and shall specify the time and place for the hearing or conference and notify the applicant. The official conducting the hearing may administer oaths and affirmations, rule on the presentation of information, receive relevant information, dispose of proce-

## 10 CFR Ch. II (1–1–05 Edition)

dural requests, determine the format of the hearing and otherwise regulate the course of the hearing. The provisions of § 205.8 of this part which relate to subpoenas and witness fees shall apply to any hearing convened with respect to an application for refund, except that § 205.8(h) (2), (3) and (4) shall not apply.

(d) Upon consideration of an Application and other relevant information received during the course of a refund proceeding, the Director of the Office of Hearings and Appeals or his designee shall issue an order granting or denying the Application. The order shall contain a concise statement of the relevant facts and the legal basis for the order. A copy of the order, with such modification as is necessary to ensure the confidentiality of information protected from public disclosure by 18 U.S.C. 1905, may be obtained upon request by an applicant or any other person who participated in the proceeding.

### § 205.285 Effect of failure to file a timely application.

An Application for Refund must be filed no later than the date that the Office of Hearings and Appeals establishes pursuant to § 205.283(b). Any Application that is not filed on a timely basis may be summarily dismissed. The Office of Hearings and Appeals or its designee may, however, grant extensions of time for good cause shown. Any request for an extension of time must generally be submitted in writing prior to the deadline.

### § 205.286 Limitations on amount of refunds.

(a) The aggregate amount of all refunds approved by the Office of Hearings and Appeals or its designee in a given case shall not exceed the amount to be remitted pursuant to the relevant DOE enforcement order, plus any accumulated interest, reduced by the amount of any administrative costs approved by the Office of Hearings and Appeals. In the event that the aggregate amount of approved claims exceeds the aggregate amount of funds specified above, the Office of Hearings and Appeals may make refunds on a pro rata basis. The Office of Hearings and Appeals may delay payment of any