

As of February 20, 2007, MMS modified the NYMEX average settlement price for January 2007. After careful review, MMS made the decision to include the New York Mercantile Exchange (NYMEX) posted trading values on January 2, 2007, as part of any or all oil pricing settlement formulas. We understand there was no “open-outcry” trading behind these figures, however; they were presented by NYMEX as settlement prices.

MMS' definition of NYMEX price in our regulations at 30 CFR 206.101 excludes weekends and holidays stating in part:

“... the average of the New York Mercantile Exchange (NYMEX) settlement prices for the light sweet crude oil ..... (1) Sum of the prices published for each day during the calendar month of production (excluding weekends and holidays)... ”

NYMEX published a price for January 2<sup>nd</sup>, and never declared it a weekend or holiday. When NYMEX recognizes a holiday they have not in the past published a price. According to an official news release from NYMEX on December 29<sup>th</sup>, 2006, the trading schedule was to be altered due to a “national day of mourning for former President Gerald Ford”. The term “holiday” is never mentioned in the official statement from NYMEX.

Further, our research found that the International Swaps and Derivatives Association (ISDA), who provide guidance relating to other financial transactions that may use NYMEX settlement prices, addressed the day of mourning: They recommended January 2<sup>nd</sup> 2007 “*should be treated as a Commodity Business Day for the purposes of calculating the Floating Price of commodity derivative transactions that reference Price Sources that published or reported official settlement prices or index levels (which we understand, in the case of prices on NYMEX, were rolled forward from December 29<sup>th</sup>, 2006) on January 2.*”

If you have additional questions please contact Mary Williams at (303) 231-3403.