

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business ██████████ ██████████████████ ██████████	First ██████████	Middle ██████████
Claimant ID	██████████	Claim ID	██████████
Claim Type	Business Economic Loss		
Law Firm	██████████		

II. DECISION

Denial Upheld

Denial Overturned

III. PRIMARY BASIS FOR PANELIST DECISION

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

- Claim should have been excluded.**
- Claim should have been denied.**
- Claim should not have been excluded.**
- Claim should not have been denied.**
- No error.**

Comment (optional):

This Claimant owns and operates █ gasoline service stations which contain convenience stores, diesel islands, truck repairs and restaurants. Of these, █ facilities have filed claims. The Administrator excluded this claim as a business that sold or marketed BP branded fuel at any time from April 20, 2010 and April 16, 2012. This group includes self-employed jobbers and branded dealers. See Section 2.2.4.8 of the Settlement Agreement. The Claimant concedes that approximately 4% of its revenue during that time period came from selling BP branded fuel, but argues that figure is de minimus compared to its total fuel sales. The U S District Court has held that the BP sales exclusion is to be applied on an entity level basis. Further, a fellow appeal panel member has held he was bound by that decision and affirmed the Administrator's exclusion. While not bound by a fellow appeal panel decision, it was certainly persuasive. The Claimant urges we revisit the decision to exclude arguing that its de minimus argument was not before the court when the entity level determination was made. That we cannot do at this level of review. Rather, if Claimant wishes to seek to convince the court to change its decision, we need to complete this review so it can proceed to its discretionary review request. The exclusion of this claim is affirmed.