

DEPARTMENT OF ENERGY
FY 2002 CONGRESSIONAL BUDGET REQUEST
(Dollars in thousands)

Economic Regulation

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, \$1,996,000, to remain available until expended.

**DEPARTMENT OF ENERGY
FY 2002 CONGRESSIONAL BUDGET REQUEST
ECONOMIC REGULATION**

OFFICE OF HEARINGS AND APPEALS

PROGRAM MISSION

The Office of Hearings and Appeals (OHA) is responsible for all of the Department's adjudicatory processes. OHA was created to adjudicate cases arising under the Emergency Petroleum Allocation Act of 1973 (EPAA), and continues to conduct refund proceedings returning petroleum overcharge funds collected by the Department to parties who were directly injured by those overcharges, and to the states and federal government for indirect restitution. OHA continues to receive refund applications, although at a lower rate than in past years. OHA also continues to work on isolated matters connected with EPAA-related enforcement proceedings that are before the federal courts or that have been remanded to OHA.

In addition, OHA reviews all Freedom of Information and Privacy Act Appeals, including those involving the Energy Information Administration (EIA). Increasing competition in the market for Electricity is producing an increasing number of a.) requests for protected utility data, and b.) requests for further confidential treatment of electric utility data. In FY 1999, these requests lead EIA to amend its regulations.

Goal: The Goal of OHA is to continue to issue high quality, articulate decisions that fairly and equitably resolve the matters that are brought before it. In doing so, OHA considers the Congressionally-mandated objectives implicated in each case and the interests of its customers, stakeholders and other concerned parties, including the public, state and federal governments, and the individual litigants.

Performance Measures & Accomplishments: OHA has been highly successful in fulfilling its mission. The primary quantitative performance measures are:

- ! Record on Appeal: OHA has had and projects that it will continue to have a singularly successful record of having its decisions upheld upon judicial review.
- ! Number of Cases Resolved: OHA resolved 1300 refund cases during FY 2000, and expects to resolve the remaining cases in FY 2001, and nearly all remaining refund cases, other than crude oil cases, in FY2002.
- ! Distribution of Refunds: OHA has returned nearly \$5 billion in petroleum overcharge funds to individual refund applicants, the states and the federal government. During FY 2002, OHA expects to direct final payments to the remaining applicants involved in excess overcharge refunds. In FY 2001, OHA expects to have completed the last of the final two remaining distributions in the crude oil refund proceeding.

- ! Public Availability of Information and Decisions: OHA makes all of its decisions available on the Internet to interested persons within one day of issuance. OHA provides public access through its home page to much of its refund application database.

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 ECONOMIC REGULATION
 (dollars in thousands)**

PROGRAM FUNDING PROFILE

OFFICE OF HEARINGS AND APPEALS

Activity -----	FY 2000 Comparable -----	FY 2001 Comparable -----	FY 2002 Request -----	Program Change Request v. 2001 -----	
				Dollar -----	Percent -----
Office of Hearings and Appeals Operating Expenses	\$ 1,992	\$ 1,996	\$ 1,996	\$ 0	0 %
TOTAL	\$ 1,992	\$ 1,996	\$ 1,996	\$0	0 %
Summary Operating Expenses	\$ 1,992	\$ 1,996	\$ 1,996	\$0	0 %
Total Program	\$ 1,992	\$ 1,996	\$ 1,996	\$0	0 %
Staffing — (FTEs)					
HQ FTEs	17	16	16		
Total FTEs	17	16	16		
Authorizations:					

Pub. Law 95-91, DOE Organization Act; Pub. Law 99-509, Petroleum Overcharge Distribution and Restitution Act of 1986.

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SUMMARY OF CHANGES

OFFICE OF HEARINGS AND APPEALS

	<u>FY 2002 Request</u>
FY 2001 Comparable.....	\$ 1,996
- Non-Discretionary	
- Increase for Federal Pay Raise and Locality Pay	38
- Increase for Transit Subsidy.....	2
- Increase for Working Capital Fund (Standard Level User Change).....	36
FY 2002 Base.....	\$ 2,072
 <u>Case Resolution</u>	
- Program Direction - To accommodate non-discretionary increases offsetting decreases will target travel, training, and support services.....	-76
FY 2002 Budget Request.....	\$ 1,996

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ECONOMIC REGULATION
(dollars in thousands)

PROGRAM PERFORMANCE SUMMARY

I. Mission Supporting Goals and Objectives: Office of Hearings and Appeals

The Office of Hearings and Appeals (OHA) is an essential component of the Department's effort to equitably terminate the regulatory program implementing the Emergency Petroleum Allocation Act of 1973. OHA resolved the last compliance case under the regulatory program in FY 1996. However, the refund applications that OHA decides do not arise until after each individual compliance case is resolved. As a result, refunds of petroleum overcharges are the last portion of the original regulatory program that will be concluded. Through these refund proceedings OHA returns the moneys received in restitution for EPAA regulatory violations to those who were injured by the violations. Pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), all funds remaining in a refund proceeding after all direct claims are satisfied are distributed to federal energy conservation programs as a means of providing indirect restitution to states and their citizens. These annual payments replace appropriated U.S. Treasury funding and have always been many times the size of OHA's budget in each year.

The largest ongoing refund proceeding is the crude oil proceeding, which distributes funds recovered by the Department arising from overcharges in the sale of crude oil. Because the regulatory program tended to equalize the cost of crude oil to refiners, overcharges on crude oil sales were passed through to the ultimate consumers of petroleum products. Twenty percent of crude oil overcharge funds are distributed to consumer claimants, including individuals, farmers, businesses, hospitals, school districts, cooperatives, public utilities, and governmental entities. Crude oil claimants receive a payment once their application is approved and supplemental payments as additional crude oil overcharge funds are collected by the Department. OHA divides the remaining 80 percent of crude oil overcharge funds equally between the states and the federal government for indirect restitution to injured consumers. OHA's goal has been to pay all valid claims and conclude the refund program as soon as circumstances permit.

Previously, OHA planned to substantially complete the refund program (other than for additional matters that may arise) by the end of FY 1998. However, Departmental-wide funding and staffing reductions have prevented it from doing so. OHA continues to receive refund applications and currently projects that it will require funding for this activity at least through FY 2002. In this regard, the Office of General Counsel filed petitions during FY 1999 asking that OHA take jurisdiction over funds collected through 26 new, separate enforcement proceedings. As expected, OHA has seen these 26 refund proceedings generate a significant number of new refund claims. OHA also provides adjudications pertaining to other Interior-funded programs, e.g., requests for exception from Energy Information Administration reporting requirements, and whistleblower complaints. The

EIA-related FOIA and confidentiality cases are of increasing importance as competition in the power markets increases. These case activities will persist for the foreseeable future.

II. Funding Table: Office of Hearings and Appeals

Program Activity	FY 2000 Enacted	FY 2001 Enacted	FY 2002 Request	% Change
Case Resolution				
Compliance and Refund Cases	\$ 1,992	\$ 1,996	\$ 1,996	0 %
Subtotal, Case Resolution	\$ 1,992	\$ 1,996	\$ 1,996	0 %
Total, Office of Hearings and Appeals	\$ 1,992	\$ 1,996	\$ 1,996	0 %

III. Performance Summary

Program Activity	FY 2000	FY 2001	FY 2002
Case Resolution Compliance & Refund Cases	<p>OHA expects to resolve approximately 1,300 cases in FY 2000 and to refund at least \$14 million in direct restitution to these applicants.</p> <p>OHA will begin final payments to successful crude oil applicants. This is conditioned upon conclusion of all enforcement proceedings, so that OHA will know the total amount of crude oil overcharge funds that are available for distribution to injured claimants</p>	<p>OHA resolved nearly all remaining refund cases, other than crude oil refunds.</p>	<p>Work continuing on new cases transferred from GC, and on anticipated greater role in security cases from throughout the DOE complex.</p>
Petroleum Overcharge Distribution and Restitution Act (PODRA)	<p>No estimate has been made at this time of the amount of crude oil overcharge funds that will be distributed to the states. These amounts depend in part upon matters beyond the control of OHA, such as the effect of court decisions and the amount of oil overcharges that are recovered by the Department and made available for distribution by OHA.</p>	<p>No accurate estimate can be made at this time of the amount of crude oil funds that will be distributed to the states.</p>	<p>No accurate estimate can be made at this time of the amount of crude oil funds that will be distributed to the states.</p>

Program Activity

FY 2000

FY 2001

FY 2002

OHA has concluded a number of vigorously contested refund cases, some of which were litigated. OHA has supported that litigation effort.

OHA will continue to support and assist, as needed, in all litigation involving OHA compliance and refund decisions.

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In order to accomplish these goals, OHA requested funding of \$1,992K. This is for personnel compensation (\$1,520K), travel (\$4K), the Working Capital Fund (WCF) for base services (\$430K), and computer hardware and related contractual support services (\$38K). The WCF expenses included rent, telephone, supplies, postage, building operations, equipment maintenance, printing and Automated Office Support System support and maintenance.

In order to accomplish these goals, OHA requested funding of \$1,996K for personnel compensation (\$1,455K), travel (\$15K), the Working Capital Fund (WCF) for base services (\$470K), and computer hardware and related contractual support services (\$56K). The WCF expenses included rent, telephone, supplies, postage, building operations, equipment maintenance, printing and Automated Office Support System support and maintenance.

In order to accomplish these goals , OHA requests funding of \$1,996K for personnel compensation (\$1,455K), travel (\$15K), the Working Capital Fund (WCF) for base services (\$506K) and computer hardware and related contractual support services (\$20K). The WCF expenses include rent, telephone, supplies, postage, building operations, equipment maintenance, printing and Automated Office Support System support and maintenance.