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ESTABLISH A DEPARTMENT OF NATURAL RESOURCES

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HEARING

BEFORE THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

Pursuant to S. Res. 45

A National Fuels and Energy Policy Study

NINETY-SECOND CONGRESS

SECOND SESSION

ON

THE PRESIDENT'S PROPOSAL TO ESTABLISH A DEPARTMENT
OF NATURAL RESOURCES

JANUARY 28, 1972

Serial No. 92-20



Printed for the use of the
Committee on Interior and Insular Affairs

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1972

74-387

Barcode with number 011600 707403 and a red checkmark above it.

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(II)

SENATE RESOLUTION 45

NATIONAL FUELS AND ENERGY POLICY STUDY

This publication is a background document for the National Fuels and Energy Policy Study authorized by Senate Resolution 45, introduced by Senators Jennings, Randolph, and Henry M. Jackson on February 4, 1971, and considered, amended, and agreed to by the Senate on May 3, 1971.

The resolution authorizes the Senate Interior and Insular Affairs Committee, and ex-officio members of the Committees on Commerce and Public Works and the Joint Committee on Atomic Energy, to make a full and complete investigation and study of National Fuels and Energy Policies.

This document is published to assist members of the Committee and other interested parties in their understanding of the issues inherent in the formulation of a long-term National Energy Policy which assures the continued welfare of the Nation, including balanced growth, safeguarding and enhancing the quality of the environment, and national security.

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CONTENTS

STATEMENTS

Dole, Hollis M., Assistant Secretary, Department of the Interior; accompanied by Dr. Leroy Furlong and Mr. Phil Gallo-----	Page 4
Larson, Dr. Clarence E., Commissioner, Atomic Energy Commission----	10

COMMUNICATIONS

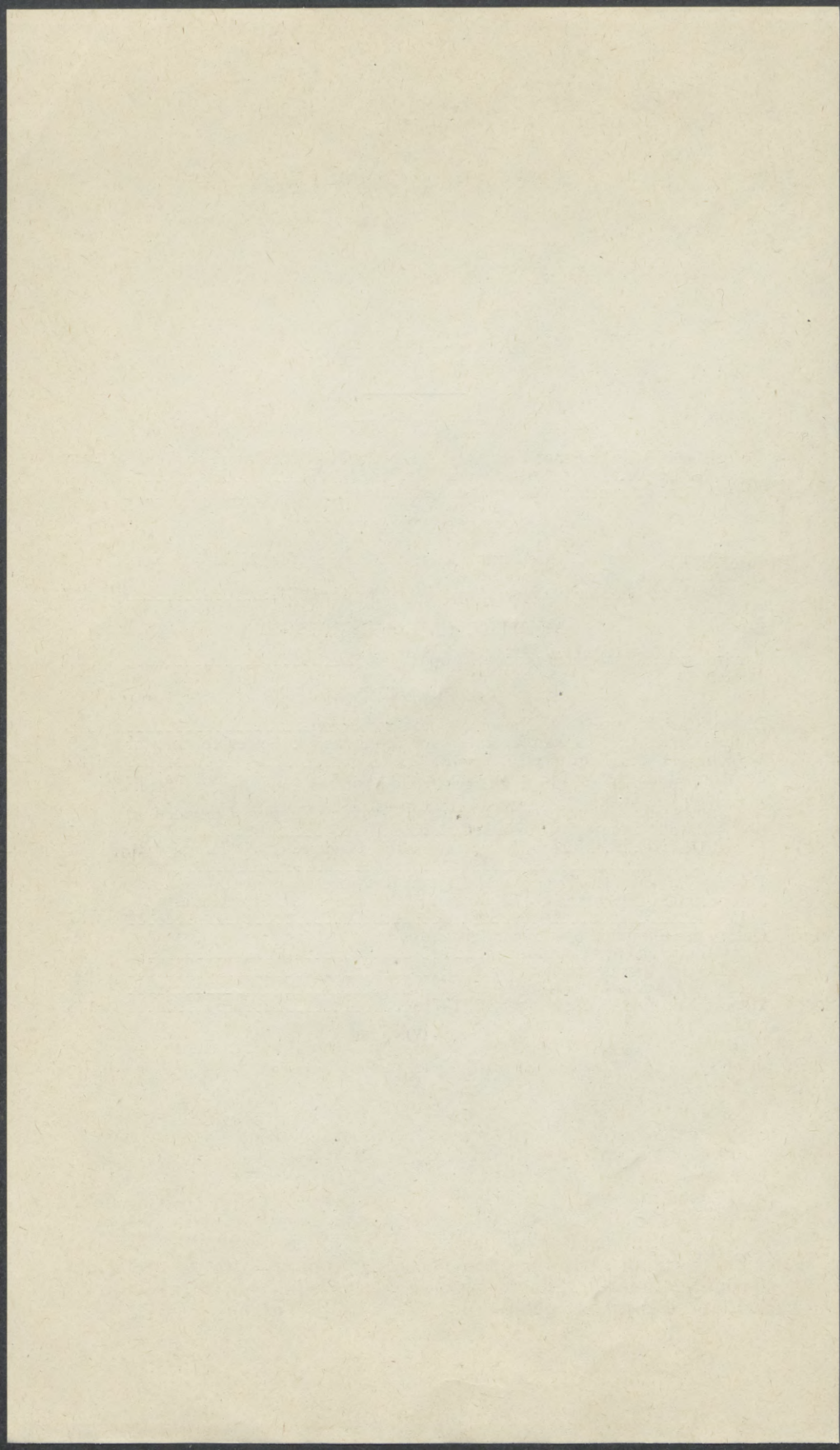
Vinciguerra, John V., Assistant General Manager for Administration, U.S. Atomic Energy Commission: Letter to Senator Stevens, dated February 11, 1972-----	25
---	----

ADDITIONAL INFORMATION

Environmental statements for AEC operations-----	27
--	----

APPENDIX

Bagge, Carl E., president, National Coal Association-----	158
Dole, Hollis M., Assistant Secretary of the Interior: Letter to Senator Jackson, dated February 15, 1972-----	32
Jackson, Hon. Henry M., chairman, Committee on Interior and Insular Affairs, letters to: James R. Schlesinger, Chairman, Atomic Energy Commission, dated January 20, 1972-----	31
Rogers, C. B. Morton, Secretary of the Interior, dated January 20, 1972-----	32
Position Paper on the Energy and Mineral Resources Administration in the proposed Department of Natural Resources, Draft, January 26, 1972-----	54
Questions submitted by the committee to: Atomic Energy Commission-----	31
Department of the Interior-----	33
Answers by both agencies-----	34
Report No. 92-485, November 17, 1971-----	138



ESTABLISH A DEPARTMENT OF NATURAL RESOURCES

FRIDAY, JANUARY 28, 1972

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 3110, New Senate Office Building, the Honorable Frank E. Moss presiding. Present: Senators Moss (presiding), Jordan, Burdick, Allott, and Stevens.

Also present: Jerry T. Verkler, staff director; William J. Van Ness, chief counsel and Study Director Daniel A. Dreyfus, Professional Staff and Engineering Consultant; Richard D. Grundy, Executive Secretary and Professional Staff; Charles Cook, minority counsel and David P. Stang, Deputy Director for Minority.

Senator Moss. The hearing will come to order.

This hearing is being held by the Senate Committee on Interior and Insular Affairs pursuant to S. Res. 45, which directs the committee to conduct a study of national fuels and energy policy.

The President's proposal to establish a Department of Natural Resources, which is pending before the Government Operations Committee, would include an Energy and Mineral Resources Administration within the new department. The proposed administration would include most of the fuels and energy programs presently within the Department of the Interior, along with some new programs from the AEC and the Department of Transportation.

It would also have a policy and funding relationship regarding the very significant civilian nuclear reactor programs which would remain in the AEC.

The committee is persuaded that organizational arrangements have an important bearing upon the formulation and administration of policy. As this committee proceeds with its studies of national fuels and energy policy, therefore, we will be giving careful attention to the Federal energy organizations. It is appropriate at this time to consider the organization for energy which is proposed by the President and the thinking behind that proposal.

I am particularly interested in the Department of Natural Resources proposal because I have advocated the general concept for more than 6 years, and I have been actively seeking legislative action to create such a department.

My own proposal, S. 1025, which is also pending before the Committee on Government Operations, differs from the President's proposal in several significant particulars.

Furthermore, my proposal is concerned primarily with the problems of coordination which have long been recognized in the water resources and land management fields.

Recently, however, we have begun to recognize some close parallels between the failures of coordination among energy programs, and more familiar problems in other resources areas.

Of course, as chairman of the Minerals, Materials, and Fuels Subcommittee of the Interior Committee, I also am especially concerned with a great many of the current programs which would be under the proposed Energy and Mineral Resources Administration.

Specifically, the Energy and Mineral Administration within the proposed Department of Natural Resources would consist of the following entities:

From Interior:

- Bureau of Mines;
- Office of Coal Research;
- Office of Oil and Gas;
- Oil Import Administration and Appeals Board;
- Office of Minerals and Solid Fuels;
- Defense Electric Power;
- Underground Power Transmission Research.

From AEC:

- Raw Materials Management;
- Uranium Enrichment, Policy and funding for;
- The Civilian Nuclear Reactor program;
- And the Plow share program.

From the Department of Transportation:

- The Office of Pipeline Safety.

This entity, the Energy and Mineral Resources Administration, would form one of five major management units of the Department of Natural Resources. The other four units would be the Land and Recreation Resources Administration; the Water Resources Administration; the Oceanic, Atmospheric and Earth Sciences Administration; and the Indian and Territorial Affairs Administration.

These latter four units would consist principally of programs from the Department of the Interior; the Forest Service and Soil Conservation Service from Agriculture; and National Oceanic and Atmospheric Administration from the Department of Commerce, and planning and budgeting for the Corps of Engineers civil works programs of the Department of the Army.

Our concern here today, however, is limited primarily to the Energy and Mineral Resources Administration. That unit would have the principal responsibility within the proposed Department of Natural Resources for the formulation and administration of energy policies and programs.

Our interest in examining the organization proposed to handle energy policy formulation and administration is to understand the relationship between the structure of the organization and the business of making energy policy decisions and operating energy programs.

Toward this end, Senator Jackson in his letter inviting the administration witnesses asked a list of questions related to the proposed administration.

The questions asked generally raise the following issues:

- (1) The justification and rationale of making energy an organizing concept.
- (2) The justification for the proposed structure of the Energy and Mineral Resources Administration.

(3) The reasons for excluding certain energy-related activities which instead are proposed to be included elsewhere within the Department of Natural Resources.

(4) The reasons for excluding from the Department of Natural Resources as a whole energy-related activities within the Federal Power Commission, the Office of Emergency Preparedness, TVA, and the Environmental Protection Agency, among others.

(5) Finally, we are interested in learning how the proposed energy administration would relate to other Federal energy activities, especially the AEC's civilian nuclear reactor and Plowshare programs. It is proposed that planning and budgeting responsibilities for these AEC programs be transferred to the Department of Natural Resources, but the operational control remain within the AEC.

We are hopeful that the testimony today will include the answers to these questions, but in the event that all of the answers are not yet formulated, February 4 is the date upon which written answers to the questions for inclusion in the record of these hearings will be due.

I am pleased to have the ranking member of the subcommittee, the Senator from Idaho, here this morning, and I will ask Senator Jordan if he has any statement to make.

Senator JORDAN. Thank you, Mr. Chairman.

This morning we welcome the witnesses from the Department of the Interior and the Atomic Energy Commission to provide us the practical details of the Energy and Mineral Resources Administration within the President's proposed new Department of Natural Resources.

The proposed reorganization of the executive department is one of the six major national goals the President enunciated in his state of the Union message last year, and reiterated in his state of the Union message just last week.

S. 1431 embodies his proposal to create a Department of Natural Resources. When the President sent the bill to Congress, he stated:

The challenges in the natural resource field have become too pressing. Some forecasts say that we will double our usage of energy in the next ten years, of water in the next 18 years, and of metals in the next 22 years. In fact, it is predicted that the United States will use more energy and more critical resources in the remaining years of this century than in all of our history up until now. Government must perform at its very best if it is to help the Nation meet these challenges.

Late on June 4 of last year, the President, as part of his clean energy message to the Congress, emphasized:

The single energy authority—Energy and Mineral Resources Administration—which would be created—within the Department of Natural Resources—would be better able to clarify, express, and execute Federal energy policy than any unit in our present structure. The establishment of this new entity would provide a focal point where energy policy in the Executive Branch could be harmonized and rationalized.

Because of his serious interest in reorganizing the executive department to make it more responsive to public needs, President Nixon directed that a detailed planning effort be undertaken to add a considerable amount of flesh to the bones which constitute the legislative proposals related to his proposed departmental reorganization.

Regarding the proposed Department of Natural Resources, the President created a Cabinet-level interagency task force to plan the details related to that Department and named Secretary of the

Interior Rogers Morton as its chairman, The task force has been hard at work for the past 8 months.

One study that it prepared concerns the Energy and Mineral Resources Administration which Senator Moss just described.

Secretary Dole and Commissioner Larson today will present to us the details related to the energy aspects of the President's proposed reorganization which resulted from the efforts of the task force chaired by Secretary Morton.

Gentlemen, we welcome you and are anxious to learn more about the Energy and Mineral Resources Administration of the proposed Department of Natural Resources.

Senator Moss. Thank you, Senator, for your statement.

We are ready to proceed with the two witnesses we have today, the Honorable Clarence E. Larson, Commissioner of the Atomic Energy Commission, and the Honorable Hollis M. Dole, Assistant Secretary of the Department of the Interior.

I think we might have all of you gentlemen seated at the table there at once, and then we can proceed.

On the basis of the testimony, I don't know whether it is more advantageous to go with you first, Mr. Secretary, or with the Commissioner. Maybe you two can enlighten me on that.

Mr. LARSON. I think it would be preferable to have Secretary Dole. Senator Moss. All right, Secretary Dole.

STATEMENT OF HOLLIS M. DOLE, ASSISTANT SECRETARY, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY DR. LEROY FURLONG AND MR. PHIL GALLO

Mr. DOLE. Thank you, Mr. Chairman.

Mr. Chairman, I have brought with me Dr. Leroy Furlong, science adviser on my staff, and Mr. Phil Gallo, who is in the U.S. Bureau of Mines.

Senator Moss. Thank you.

Gentlemen, will you be seated at the table.

Mr. DOLE. Thank you, Mr. Chairman, Senator Jordan, I appreciate this opportunity to appear before you to discuss the Energy and Mineral Resources Administration provided for in S. 1431, which contains President Nixon's proposal to establish a Department of Natural Resources.

(The text of S. 1431 is in the appendix.)

In your letter of January 20, Mr. Chairman, you listed a number of questions to be addressed, and you were kind enough to add that in the event that time did not permit an adequate discussion of these issues, the answers might be submitted for the record by February 4.

(The questions referred to and the answers appear in the appendix.)

Mr. DOLE. The questions are indeed pertinent, and they go to the heart of the entire matter of organizing the executive branch to formulate and administer energy policy.

To provide here the answers in the depth and detail these questions deserve would consume a great deal of time, and I would like to avail myself of your invitation to submit them later for the record.

I propose, to address these issues here only in general terms, confining my remarks to the broad concept of the Energy and Mineral Resources Administration, how it would be organized, what we expect

it to do, why we think it is necessary, and how, in general, we believe it would fit into the scheme of Federal responsibility for assuring the Nation an adequate supply of energy and minerals.

Mr. Chairman, with your permission, I also offer for the record at this time our position paper on the Energy and Mineral Resources Administration in the proposed Department of Natural Resources which was developed in close collaboration with the Atomic Energy Commission and contains much information of interest to the committee. (The document referred to appears in the appendix.)

I do not need to belabor the point before this committee that the United States is faced with critical and complex problems in supplying its rising needs for minerals and energy. The committee's ongoing energy study is addressed to these problems as they relate to the energy minerals, and the President's clean energy message of June 4, 1971, marked the first occasion in our Nation's history where an entire presidential message was addressed to the single subject of energy.

At that time, the President noted that:

The brownouts that have affected some areas of our country, the sharp increases in certain fuel prices, and our growing awareness of the environmental consequences of energy production have all demonstrated that we cannot take our energy supply for granted any longer.

Secretary Morton underscored the President's concern in his testimony before this committee on June 15, 1971, stating that:

The United States is entering a period of increasing demand for energy, and supply problems such as declining reserves of domestic petroleum and natural gas, aggravated by restrictions placed on the burning of high sulfur coal which tend to increase demand for oil and gas.

As we look at these problems which have captured our attention over the past few years, we are aware of two major deficiencies, both closely related. Specifically, we lack the qualities of stability, coherence and centered responsibility in our policies addressed to energy matters. And we lack an organization capable of formulating and executing energy policy to achieve the objectives which we recognize must be met.

We could tolerate these deficiencies as long as there was plenty of energy and minerals available, and when time was not a factor in obtaining them. The marketplace provided enough flexibility and capacity for adjustments so that there was always enough of these commodities in the proper forms to supply the demand that was made for them.

Now, this condition no longer exists, and the fragmented authorities of the various agencies serve only to accentuate the difficulties of distributing the increasingly tight supply.

We see those divergent forces at work with special effect upon energy sources. Sulfur content standards for industrial fuels have been applied before technology could provide ways to permit coal, our most abundant fuel, to continue to serve its historic markets.

As coal was forced out of its market, heavy pressure was put upon gas supply as a clean substitute for coal. But gas supply has been undermined by years of price administration at levels so low that it discouraged exploration and discoveries in the volume needed to keep up with the normal demand for gas, let alone the added demand as a substitute for coal.

The referred demand for clean industrial energy is now being met by increased imports of low-sulfur fuel oil, which further increases our dependence upon overseas sources of energy.

In particular, there are important problems involved in coordinating energy policies with those related to the environment. However, we have no effective organization for formulating and implementing energy policy that is in any way comparable to the Environmental Protection Agency.

There is no symmetry between the integrated organizational structure for dealing with environmental matters and the fragmented collection of bureaus and agencies that now administer energy matters. We thus lack the basic tools we need to compose the divergent issues between energy resources development and environmental protection.

It was to provide these essential administrative tools that President Nixon proposed the placement of energy and minerals responsibility in an Energy and Mineral Resources Administration (EMRA).

Speaking to its energy functions, the President said:

The single energy authority which would thus be created would be better able to clarify, express, and execute Federal energy policy than any unit in our present structure. The establishment of this new entity would provide a focal point where energy policy in the Executive Branch could be harmonized and rationalized.

Before going on to discuss the functions of this "focal point" to which the President referred, I should like to observe that energy and minerals are inseparable.

In fact, 96 percent of our Nation's energy is derived from minerals, and the extraction of these minerals involves doing some significant things to and with the land and the adjacent marine waters.

The placement of the Federal Executive's responsibility for energy and minerals in the same administrative agency within the department which would also have responsibility for the management of Federal lands confirms the logic of placing related functions in a common administrative province.

Under this common aegis it would be EMRA's responsibility to provide guidelines for insuring that the resources on public lands are developed at a rate compatible with national energy and minerals needs.

It would be the responsibility of the administrators for land and recreation resources and oceanic, atmospheric and earth sciences to insure that energy and minerals development on public lands proceeds in harmony with other land uses, natural resource, and environmental considerations.

The New Energy and Mineral Resource Administration will comprise the following existing agencies:

From Department of Interior:

Bureau of Mines;

Office of Coal Research;

Office of Oil and Gas; and

Defense Electric Power Administration.

From Department of Transportation:

Office of Pipeline Safety.

From Atomic Energy Commission:

The uranium enrichment and nuclear raw materials functions of the Division of Production and Materials Management and the policy, planning, and budgeting functions for the Division of Reactor Technol-

ogy, (civilian nuclear power) and the peaceful nuclear explosives (Plowshare) and other natural resources activities of the Division of Applied Technology.

EMRA will also assume duties formerly performed by the Interior Department's Office of Minerals and Solid Fuels; underground electric power transmission research; and the duties assigned to the Secretary of the Interior by the Mining and Minerals Policy Act of 1970.

The agencies and programs of which EMRA will be comprised have about 5,700 full-time permanent employees during fiscal year 1972, and a budget outlay of some \$780 million. More than 90 percent of the employees (5,361) are presently located in the Bureau of Mines whereas more than 70 percent (\$577 million) of the funds are contained in the budgets of the programs that are presently located in the AEC.

These agencies would be organized along the lines shown on chart 2 (after page 24) of the position paper on EMRA which has been furnished the committee. The text of the paper described the functions of these units, and I shall not dwell upon these details here. The special relationship we envision between the Department of Natural Resources and the Atomic Energy Commission does, however, merit further comment.

With respect to civilian nuclear power, the functions of policy-making, planning and budgeting, coordination, assessment of resources, and establishing priorities as related to national energy planning would be transferred to DNR.

However, to assure that the vital research and development program and related activities can continue to benefit from the closest possible integration with other highly technical AEC programs, activities, and personnel, such work would continue to be accomplished through and directed by AEC and carried out under AEC contracts administered by that agency.

In order to assure the most effective and fully coordinated management of civilian nuclear power development in AEC and DNR, the Director of the Division of Reactor Development and Technology (AEC) will also be designated the head of the Office of Civilian Nuclear Power (EMRA) and report directly to the Administrator.

With respect to the Plowshare program, the department would have funding responsibility for all natural resource aspects of the program.

The department's responsibilities would also encompass the identification of programs to be undertaken which would utilize nuclear explosives, such as specific projects for gas stimulation or geothermal enhancement; negotiation and administration of contracts for industrial participation in such projects; and conduct of economic studies anticipating future provision of Plowshare services on a commercial basis.

General research and development, device research and development, device technology, explosive effects tests, development of fielding systems, project execution and related activities would remain with AEC, and the department would budget for and transfer to AEC the necessary funds for these activities.

The civilian nuclear power program is concerned with the development, demonstration, and improvement of civilian power and test reactors; waste and environmental related systems and associated

equipment for general nuclear oriented research; research, development, design and demonstration efforts aimed at new and advanced nuclear and environment related technology, including tests that will lead to improvements in fuel utilization, reprocessing and waste disposal, and the development of new reactor concepts and processes; investigations of nuclear safety and environmental problems and the conduct of research and tests in reactors and other facilities that will establish the suitability and safety of a specific reactor system or nuclear process, or establish the validity of environmental and safety criteria used in reactor analysis, siting, design, operation, maintenance and standards development.

EMRA will have five major functional areas of responsibility: Policy development and planning, research and development, information and analysis, regulation and enforcement, and special proprietary functions.

I will touch briefly on each of these areas.

Policy Development and Planning:

EMRA will formulate and coordinate minerals and energy policy for the Secretary's recommendations to the President and the Congress. This will include: assessing national energy and minerals needs and will coordinate the establishment of national priorities; identifying alternatives and recommend integrated sets of minerals and energy policy choices; providing rapid response to presidential and congressional needs for policy advice on pressing energy and minerals issues; developing emergency preparedness plans to meet national security needs; and maintaining a continuous review of Federal programs that affect minerals and energy policy and plans.

EMRA will also advise, through the Secretary of DNR, the President and the Congress on matters beyond the department's direct, assigned responsibilities insofar as these relate to production, supply and consumption of energy and minerals.

EMRA will also maintain close liaison with the domestic minerals and energy industries, State and local agencies, and international organizations.

Research—EMRA will conduct a broad range of research and development activities to obtain the maximum benefit from domestic minerals and energy resources while keeping to a minimum adverse environmental impacts associated with the mining, processing and use of these resources. Research efforts also will be devoted to protecting the health and safety of the employees in the mineral industries.

Research will be carried out by EMRA in its own laboratories, by the AEC, and through research contracts.

INFORMATION AND ANALYSIS

EMRA will collect, compile, analyze and publish energy and mineral statistics relating to resources, reserves, exploration, production, distribution, inventories, consumption, environmental problems and foreign trade.

A well-established and effective statistical and information gathering and data processing service presently functions in the Department of the Interior. EMRA will obtain the data collection and analysis services of the AEC as they apply to uranium and the civilian nuclear

power industries as well as the analytical services of the Office of Pipeline Safety.

Thus, EMRA will have a comprehensive data and information base on the Nation's minerals and energy situation.

REGULATION

The objectives of EMRA's regulatory functions will be to insure that the workers in the minerals and energy industries earn their livelihood in a safe environment, protect the public from needless dangers that might arise from the interstate transportation of oil and gas, and to insure a balanced supply-demand pattern for energy and mineral resources.

These regulatory and enforcement activities are presently located in the Bureau of Mines, the Office of Oil and Gas, and the Office of Pipeline Safety. The regulatory functions now housed in the AEC would remain in that agency.

Special proprietary operations consist of three activities: uranium enrichment, managing the uranium stockpile and helium conservation. The uranium enrichment activities include the operation and maintenance of the gaseous diffusion plants at Oak Ridge, Tenn.; Paducah, Ky.; and Portsmouth, Ohio.

Management of uranium stocks involves the storage and disposal of natural uranium held mostly in the form of uranium oxide stored in drums; the evaluation of uranium reserves and resources; and the encouragement of the domestic uranium mining industry. Helium conservation involves the production, sale, and storage of helium.

The Government is currently the sole source of uranium enrichment services in the United States and the primary source of the non-Communist nations abroad. Thus, adding the uranium enrichment and stockpile management functions to EMRA will bring control of the uranium resource into closer relationship with other energy materials under a common management for implementing energy policy.

In closing, Mr. Chairman, I would like to return to the thought that the centering of responsibilities for energy and minerals in the EMRA, within a Department of Natural Resources is the most significant action that can be taken at this time to provide the consistent, stable, long-range policy guidance for energy matters the Nation so desperately needs.

I would stress that the establishment of EMRA does not necessarily complete the administration's commitment to a logical energy organization within the Federal Government. Rather, EMRA should be looked upon as a foundation—the best possible foundation we can devise at this time—for developing a truly national minerals and energy policy.

We all recognize that future minerals and energy policy issues will be exceedingly complex and difficult to resolve. There will be a great need for intense study of policy issues, cooperative Federal actions in apparently unrelated areas, and long-range minerals and energy policy planning.

Policies dealing with the management of public lands, with the allocation of funds for research and development, with air and water

pollution, with the end use of fuels, and with foreign trade can greatly influence the supply, demand, and costs for energy and minerals.

The need to coordinate policies in these areas is rapidly increasing as the sources and uses of energy continue to diversify as social, economic, and environmental factors become more complex.

The problems of developing and implementing adequate and consistent energy and minerals policies are not confined to the Federal Government. The great variation that now exists among the policies of State and local governments in their treatment of energy and minerals problems will continue to grow unless there is adequate national policy and leadership.

Substantial national, regional, and local benefits can be obtained from increased direct involvement and cooperation among States and with the Federal Government. Such benefits can be best obtained when State and local governments and industry can work with a single Federal agency as will be provided by EMRA within the DNR.

Mr. Chairman, in view of the critical need for all these widely divergent factors to be resolved into a series of harmonious, concerted actions, it is absolutely essential for one agency to be responsible for the development, coordination, and execution of policies, the evaluation of alternatives, and the allocation of available resources among the various energy and mineral programs prosecuted by the Federal Government.

S. 1431 is a major move in this direction, and I strongly recommend it to the most careful consideration of every member on this committee, which bears so large a share of responsibility for sound national policy in energy and mineral affairs.

Thank you, Mr. Chairman.

Senator Moss. Thank you very much, Secretary Dole. I do have a few questions, but perhaps we could have the Commissioner also testify for us and then we can ask questions across the table wherever they can most readily be answered.

So we would appreciate if you, Dr. Larson, would also give us your statement.

**STATEMENT OF DR. CLARENCE E. LARSON, COMMISSIONER,
ATOMIC ENERGY COMMISSION**

Dr. LARSON. Thank you, Mr. Chairman.

Mr. Chairman, it is a privilege to appear before this committee to discuss the Atomic Energy Commission's role in relation to the Energy and Mineral Resources Administration proposed in S. 1431 as part of a new Department of Natural Resources.

I have with me today my colleague, Mr. Johnson, and Mr. Vinciguerra, together with other members of the Atomic Energy Commission staff, and these gentlemen can assist in answering any detail questions you may have.

Senator Moss. Thank you.

Dr. LARSON. My testimony will particularly reference some of the more important features and their implications as well as endeavoring to answer the questions set forth in Senator Jackson's letter of January 20.

The Atomic Energy Commission participated in the drafting of S. 1431, and in the preparation of supporting information on the proposed DNR.

Our former Chairman, Dr. Seaborg, served as a member of a high-level administration planning committee, and senior AEC staff served on a working task force headed by representatives of the Office of Management and Budget, with representatives from the Department of Interior and other departments and agencies involved, as Secretary Dole pointed out.

Subsequently, Interior and AEC representatives, aided by the cooperative efforts of the Office of Management and Budget, prepared the position paper entitled "Position Paper on the Energy and Mineral Resources Administration in the Proposed Department of Natural Resources"—January 26, 1972. I understand this paper has been distributed to the committee.

This position paper develops in greater detail the guidelines relative to the Energy and Mineral Resources Administration as set forth in S. 1431, and as further described in the print of March 1971 captioned "Papers Relating to the President's Departmental Reorganization Program"—the booklet commonly known as the gray book.

Among other things, the position paper describes the coordinated planning and budgeting process that would be applicable to the transferred AEC programs and related DNR functions.

As this committee is well aware, the President's reorganization plan contemplated by S. 1431 comes at a time when the Nation is facing a critical energy shortage. Our energy needs are so great that the Government must consider the totality of how best to meet our needs from all available energy sources. Because of the substantial changes that necessarily must take place in the energy field, it is logical that one Government agency have essentially the total picture and be able to coordinate the establishment of policy and allocation of funds for needed development of necessary energy resources. This will entail a comprehensive balancing of the significant factors affecting the public interest.

We believe that S. 1431 would constitute a significant first step toward centralized planning for total energy needs.

The President's clean energy message to the Congress on June 4 of last year included, in its overall focus on energy, specific endorsement of the need to proceed without delay with a demonstration project for the design, construction, and operation of a liquid metal fast breeder reactor, the LMFBR powerplant.

The President's message stated:

Our best hope today for meeting the Nation's growing demand for economical clean energy lies with the fast breeder reactor. Because of its highly efficient use of nuclear fuel, the breeder reactor could extend the life of our natural uranium fuel supply from decades to centuries with far less impact on the environment than the powerplants which are operating today.

Several months ago on September 26, when the President visited AEC's Hanford installation, he stated that he would request authorization for a second breeder demonstration plant.

The LMFBR program, including the organization and prosecution of the first demonstration plant project, is a top-priority program in AEC. And recently on January 14, Chairman Schlesinger announced

AEC's acceptance, as the basis for negotiation of a cooperative arrangement, a proposal from Commonwealth Edison and TVA who are prepared to assume principal participant roles in such an arrangement. Negotiations are just getting underway.

Our LMFBR program is a key feature of the President's program to assure abundant clean energy. Under S. 1431, the new Department of Natural Resources would assume overall policy, planning, and budgeting responsibilities for the civilian nuclear power development program, including the LMFBR program.

The Department would also assume such responsibilities for the natural resource applications part of AEC's peaceful nuclear explosives program called Plowshare, and for its nonnuclear energy development program.

Additionally, AEC's raw materials program and its uranium enrichment and related distribution activities would be transferred to the Department. Under the bill, these AEC functions would repose in an Energy and Mineral Resources Administration within the Department.

AEC participated fully in the Administration's planning effort leading to the drafting of S. 1431. For example, in the planning stages, while S. 1431 was being formulated, it was decided with AEC's concurrence that the controlled thermonuclear program which is still in a basic research posture—in which scientific feasibility has not yet been sufficiently established—should remain under AEC aegis.

Also, it was concluded that, with respect to the civilian power program, AEC should continue to conduct the necessary research and development in order to assure that this vital work would continue to benefit from the closest integration with other highly technical AEC programs, activities, and personnel.

Additionally, it was determined that the AEC would continue to be responsible for policies, procedures, and requirements relating to the control of restricted data and other security aspects.

In expressing opinion on such policy matters and in helping to draft the position paper, AEC has proposed the development of sound working relationships between AEC and DNR to best assure achieving the President's objectives.

The bill analysis spells out a number of areas—for instance, international agreements, patents, and the Price-Anderson indemnity system—where especially close coordination between AEC and the new Department would be maintained. None of AEC's licensing and regulatory responsibility would be included in the transfer to the Department.

Since the Reorganization Act does not affect substantive legislation, the provisions of the Atomic Energy Act, as amended to date, would not be revised on connection with the transfer of AEC functions.

The "Position Paper on the Energy and Mineral Resources Administration in the Proposed Department of Natural Resources," as Secretary Dole pointed out, further defines several policy areas; for example, the understanding that in the plowshare program, applications other than those related to natural resources, such as scientific experiments, would continue to be funded and conducted by AEC.

It also indicates that policy direction and funding of AEC's non-nuclear energy research and development activities would be transferred to the Department. The latter field—that is, energy

research and development unrelated to nuclear considerations—was statutorily included in AEC's overall missions last year by virtue of an amendment to the Atomic Energy Act proposed by the Joint Committee on Atomic Energy and passed by the Congress.

Chart 2 of the position paper shows the contemplated organization envisioned for the Energy and Mineral Resources Administration and how the transferred AEC programs would relate to the Administrator. The policy, planning, and budgeting functions for civilian nuclear power would be under the direct responsibility of the Administrator.

Chart 3, which I have also attached to my statement, illustrates how EMRA's policy, planning, and budgeting activities would be closely coordinated with AEC's throughout the planning-budgeting cycle.

The position paper also emphasizes that the Commission would participate in and contribute to the formulation of plans and budgets and would have the opportunity on a continuing basis to consult on and review the recommendations of the Administrator with respect to the civilian nuclear power and Plowshare programs.

Also, the position paper states:

In order to assure the most effective and fully coordinated management of civilian nuclear power development in AEC and DNR, the Director of the Division of Reactor Development and Technology—AEC—will also be designated the head of the Office of Civilian Nuclear Power in EMRA and report directly to the Administrator, thus serving in a dual capacity.

The proposed organization of the Department provides for a Federal Energy and Minerals Policy Committee and also a National Energy and Minerals Advisory Committee.

The National Energy and Minerals Advisory Committee, composed of representatives from a broad range of national, State, industry, conservation, and consumer groups, and the academic community, would assess national energy needs and recommend policy choices on selected issues.

The Federal Energy and Minerals Policy Committee, composed of heads of Federal agencies whose programs are involved in or affected by energy and minerals policy, would coordinate Federal activities in this area.

With respect to both committees, a clear understanding was developed within the working group which drafted the position paper that representatives of the AEC would be intimately involved in the support of the Secretary and the Administrator in carrying out their responsibilities.

The Commission believes that the envisioned organization should provide a practical framework for effective coordination of the respective roles of the Department and the AEC.

Last month the AEC announced a major reorganization of its operating functions. This major reorganization will, we believe, be entirely compatible with the transfer of AEC functions contemplated in S. 1431.

The reorganization was accurately characterized as a move to provide a coherent management structure and to improve program effectiveness.

A new division of Controlled Thermonuclear Research was established in keeping with our increased emphasis on the development of fusion as a new energy source.

A new position of Assistant General Manager for Environment and Safety was created to provide greater emphasis on environmental matters and on safety-oriented research.

We also established a new division of Applied Technology which will encompass our Plowshare, isotopes development, and non-nuclear technology activities, and we created the new position of Assistant General Manager for Energy and Development programs to oversee important functions including those under the division of Reactor Development and Technology, Space Nuclear Systems, Nuclear Education and Training, and Applied Technology.

The AEC has always fully consulted with other Federal agencies with respect to policy decisions that might affect them, and we would expect that formal and informal consultation would continue on such matters.

This applies even with respect to energy research and development programs that would remain completely with the AEC, i.e., AEC's controlled thermonuclear research program, isotopes development program, and the safety and environmental research and development activities required in support of AEC's regulatory function.

I would like to point out that AEC has a good history of coordination with other agencies on various programs. These include the joint program with the Department of Defense on nuclear weapons, the joint program with the Navy Department which has resulted in the development of more than 100 nuclear submarines and surface craft, the joint AEC-NASA Space Nuclear Systems Office, cooperation with the Department of Interior on Plowshare and nuclear desalting, and the various interagency committees on energy.

In the light of this favorable experience and our understandings to date, we are confident the joint responsibilities with the Department of Natural Resources would be successfully fulfilled.

We, in the AEC, as participants in a dynamic scientific program, recognize the inevitability of change. The AEC has pursued, in its own organizational philosophy, a policy of maximum potentially beneficial innovation and flexibility to achieve most effectively the objectives of our missions.

The President's objective in reorganizing the executive branch of the Federal Government is to make it a more effective instrument in serving the needs of the American people. This is a goal we all can and should support.

I would like to respond to the committee request that we discuss possible disadvantages.

Commissioner Ramey, in his testimony on August 5, 1971, before the Senate Committee on Government Operations, identified certain aspects of the proposed bill which he viewed as disadvantageous. For example, he pointed out that the divorcing of policy, planning, and funding for certain programs to be transferred from the agency responsible for execution could result in some lesser efficiency and effectiveness. Such functions proposed for transfer are integral parts of a complex of inter-related research and development programs carried out through the AEC's unique and highly successful system of organization and management.

This system, as you may know, involves utilization of industrial concerns, universities, and not-for-profit organizations to operate Government-owned plants and laboratories under cost-type contracts,

and a highly skilled management team in the AEC. This is particularly true with respect to the liquid metal fast breeder program which, as you know, is a major priority program with a tight schedule for accomplishment.

Division of responsibilities between AEC and DNR could possibly delay the program. The AEC and DNR could, under some circumstances, delay the program, but would, of course, make every effort to avoid any such delay.

Commissioner Ramey also noted another possible disadvantage which relates to the uranium enrichment program. Transfer of this program from the AEC to DNR could add to the existing uncertainties in the nuclear industry and among our friends in the free world.

One final point worth mentioning, also in response to committee questions: It has been alleged that AEC is in a conflict-of-interest position because of its dual roles of developer and regulator.

In one of his first public statements, Dr. James R. Schlesinger, our Chairman, stated—and I am excerpting from this statement which was delivered in October, last year:

From its inception, the Atomic Energy Commission has fostered and protected the nuclear industry. Looking back one can, I think, say that this was the right policy for that historical epoch. That policy permitted a new and vital technology to be exploited; it created an industry and then protected the industry as it grew to relative maturity. But that industry, insofar as it involves the exploitation of light water reactor technology, should now be on a self-sustaining basis.

It is the responsibility of the Atomic Energy Commission to develop vigorously new technical options and to bring those options to the point of commercial application. It is not the responsibility of the Atomic Energy Commission to solve industry's problems which may crop up in the course of commercial exploitation. That is industry's responsibility, to be settled among industry, Congress, and the public. The AEC's role is a more limited one, primarily to perform as a referee serving the public interest. I might add that it is to industry's long-run advantage that the public has high confidence that the AEC will appropriately perform its role in this regard.

This is AEC's stance with respect to commercial light-water nuclear powerplants.

One could conclude that the proposed transfer to a separate agency of the planning and funding functions for the civilian nuclear program would serve to improve the present apparent picture of conflicting roles. I stress the word "apparent" because all the Commissioners share the view that at this stage of the civilian nuclear program a close relationship between research and development programs and the technical basis for regulatory judgments is very much in the national interests.

Also, it is the view of the AEC Commissioners that regulators wholly divorced from creative technical development work run the risk of becoming unduly narrow in their perspective and may suffer a serious loss of intrinsic quality; indeed, they could be influenced by the industries they regulate.

I would like to preface my closing remarks with a statement from the President's message to the Congress of March 25, 1971, proposing the Department of Natural Resources as one of the four departments in his reorganization program. As Senator Jordan has already eloquently given that, I will not do it again.

It is my belief that the establishment of the Department of Natural Resources, including the Energy and Mineral Resources Administration, would represent a constructive first step in achieving the President's objectives for a coordinated and effective administration of natural resources and energy programs.

That concludes my statement. We will be happy to respond to any questions the committee may have.

Senator Moss. Thank you very much, Dr. Larson, for that fine and comprehensive statement; your statement was equally good, Secretary Dole.

We are just trying to find out the planning, the rationale and the details of the proposals that are being made under this bill that we have for the Senate and the Government Operations Committee. I had understood, and wanted to see if you concur, that the President has power to bring together these various energy functions by administrative order, as was done when he created the Environmental Protection Agency.

Considering that it will take quite some time to go through the whole legislative process to create a Department of Natural Resources, and that there is now an energy crisis, do you think it would be wise for the President to use his Executive powers rather than wait for the legislative process?

Mr. DOLE. Mr. Chairman, if I may respond to that, and I am sure Commissioner Larson will want to add to my comments.

I would say that it is my understanding that the President could probably in many instances create an organization quite similar to this by Executive order, and put it before the Congress which would have a certain period to respond to it.

However, I feel that since energy and minerals occupy a place of such importance because of the legislative responsibilities of the Congress the President has proceeded absolutely correctly in putting this proposal before the Congress so that it can deliberate on this and determine how best to do it. If there are areas that do need legislation it can be provided. I would urge the Congress, as you are doing today, and have done in the past, to deliberate on this whole matter of establishing a complete reorganization within Government, not only as regards the management of energy and minerals, but also the other forms of management as they are delineated in this bill.

Dr. LARSON. I concur with the Secretary's statement.

Senator Moss. Thank you. In order to create an entire new department and to dismantle, in effect, some other Government offices by reason of transfer, you do need legislative authority. However, the thrust of my question was whether the energy crisis was so acute that it would be worthwhile to take a shortcut and set this up to the extent possible under Executive powers, or whether it is better to take the longer course and have the full analysis and the full consideration of the Congress.

You answered, of course, it is worthwhile to go to a legislative group.

Mr. DOLE. Mr. Chairman, I feel, and I am sure you and Senator Allott and Senator Stevens do, that we have a real energy problem.

However, I would call to your attention that this is not universally observed. Many Members of Congress, and I have appeared before them, have challenged the statement that we do have an energy problem. I think that you have also seen this brought out by others.

The Congress, I feel, is an excellent place for this matter to be discussed. I feel that the Congress should have the opportunity to pass upon this legislation so the country can have the judgment of the Congress on what I consider one of the important matters before the President.

Senator Moss. Thank you.

In your statement, Secretary Dole, you cite two examples of lack of coordination in energy policy formation. One of them involves the sulfur standards as administered by EPA, and the other involves rate regulation of natural gas, administered by the FPC. Neither of these would be affected in any way by the President's natural resources reorganization.

In these instances, how do you believe that the reorganization would provide a focal point for energy policy in the executive branch to be harmonized and rationalized?

Mr. DOLE. Mr. Chairman, the administration of the sulfur standards is properly within the purview of the Environmental Protection Agency. However the establishment of sulfur standards could be addressed much more effectively and efficiently if the Environmental Protection Agency has the benefit of a response from an integrated, coordinated organization of agencies, such as the proposed Department of Natural Resources, which would view the problem in all of its aspects, rather than from each of a group of unrelated agencies, no one of which would address itself to all phases of the matter.

In other words, I think it is almost totally, the placing of energy organizations under one administrative head who could respond to another administrative head that would make this reorganization desirable.

As far as the FPC is concerned, I think we are beginning to realize more and more that their regulations have caused a dislocation within the energy resources and the discussion of the role or the place of FPC within the entire organizational structure is still under consideration.

As you well know, FPC is an independent agency that reports to the Congress and to the executive branch, and this matter has not been fully discussed.

Senator Moss. Mr. Secretary, on page 3 of your testimony you made reference to the need to provide guidelines to the Lands and Recreation Resources Administration to insure that resources on public lands are developed at a rate compatible with energy and mineral needs.

You also made reference to the responsibility of the Administration for Oceanic, Atmospheric and Earth Sciences regarding the oversight of energy and mineral development on public lands.

Both of these administrations would have more direct responsibility than the Energy Administration for the selection of OCS leasing sites, the holding of lease sales, and the supervision of OCS drilling and production operations.

Supervision of hydropower operations and electric power marketing would fall under the aegis of the Water Administration within the proposed Department of Natural Resources.

It is not clear how the Energy and Minerals Resources Administration is going to be the "focal point where energy policy in the executive branch could be harmonized and rationalized" as you stated on page 2 of your testimony.

It seems to me that the Administrator for Energy and Minerals Resources is being given all the responsibility for developing energy policy, but not half the authority he needs to do the job.

Could you comment on that?

Mr. DOLE. Yes, Mr. Chairman, I would be pleased to. Although energy is a very major problem in the workings of our everyday life, there are other policies and problems to be considered.

Among these are management of lands, environmental considerations, and scientific applications that cross all boundaries, so energy is only one of many policies that have to be considered.

I feel that in EMRA we would be able to focus on the energy policies, planning, and budgeting. But energy comes from minerals in our environment and we have to take into consideration what will be done to land, water, and air in the extraction, processing, transport, and utilization of minerals and energy. The other agencies have primary responsibility for management of lands, including in their considerations air and water.

Minerals and energy, then, would be ancillary to their prime responsibilities.

The agency that heads up energy would be in a position to approach these various agencies in order that a balanced position could be presented to the Secretary of the Department of Natural Resources in order to help him in advising the Congress and the President.

Senator Moss. Are you saying that it would work because the administrations within the Department could coordinate across, and that the Secretary of the Department could, in effect, harmonize and rationalize those policy decisions rather than have them in conflict going right up to the Chief Executive?

Mr. DOLE. Yes, sir; that is essentially what I have said. What I have tried to put across is that there are many gray areas in which decisions will have to be made as to whether land management, the application of science, or the increase in energy and minerals supply is of primary importance. Such decisions will determine which agency has the primary responsibility in each case.

The individual agencies would provide input to the Secretary of the Department of Natural Resources to assist him in making these decisions. These inputs with respect to various aspects of the same problem together with his familiarity with the operations of all these agencies would enable the Secretary to make sound judgments.

Senator Moss. If the planning and policy formation for civilian nuclear energy is done in the Department of Natural Resources, what planning and policy functions do you envision would be left to be done in the AEC if the proposed reorganization took place?

Dr. Larson, I think you can respond to that.

Dr. LARSON. The civilian nuclear energy responsibility would be implemented, and it is shown on one of the charts, through our Director of Reactor Development, who essentially would be wearing two hats. He would perform a function in EMRA and he would also perform a related function in the AEC, in carrying out the program. We also expect that at other levels there would be coordination between EMRA and the AEC. We would hope to participate with EMRA in the planning and policy formulation stages at other levels in the Atomic Energy Commission. But the prime responsibility, of course, for coordinating the whole picture, would be in the Department of Natural Resources.

Senator Moss. In regard to policy formation, do you believe that this reorganization would change the character of AEC in making it more a national defense agency?

Dr. LARSON. No, I do not believe that that would take place. We would still have tremendous responsibilities in carrying out the civilian nuclear energy program. The development of the breeder program which we think is the hope for the future will remain with the Commission, and we also have responsibilities toward carrying out the program in other parts of the energy field. I believe we will continue to have a vital function to perform, and we are pleased that our laboratories and our organization will continue to broaden their participation in the whole energy picture.

Senator Moss. Secretary Dole, when you say planning and budgeting for the civilian nuclear power program would be transferred to the DNR, do you mean the budget (including the selection of new starts and decisions about increases and decreases in funding levels), would be put together within DNR, argued and defended by DNR in the funding process and then passed to AEC for execution of the work?

Mr. DOLE. Yes; that is what I was referring to, Mr. Chairman. I think this is certainly an improvement on the way it is being handled at the present time.

All components of EMRA, including the nuclear energy groups, would provide input for the determination of policies and programing within the energy area. There would certainly be close cooperation between the EMRA and the AEC. Decisions below the policy and programing levels, that is to say, at the technical level would be made by those who are best informed within this area.

Senator Moss. I have a list of departments and agencies which have responsibility of various degrees dealing with energy. I would like to read them, and I would then like to ask you to what extent does the proposed legislation consolidate or coordinate their activity.

The Department of the Interior—oil imports, offshore leasing, synthetic fuels, and most public land.

The Departments of Commerce and Treasury—foreign trade, investment, taxation, data collection, and analysis.

The Departments of Agriculture and Housing and Urban Development—public land.

The Department of State—international oil policies.

AEC—nuclear power.

The FPC—natural gas, price regulation.

The Oil Policy Committee, the Office of Energy Preparedness, and the Environmental Protection Agency, the Defense Department, Federal Trade Commission, Export-Import Tax, TVA, Interstate Commerce Commission.

How are we going to collect all of that, and to what extent would this legislation consolidate all of the above into the activities of DNR?

Mr. DOLE. Mr. Chairman, you have brought out some of the very major problems faced by the task force that has put together the position paper which we request to be made a part of the record.

Senator Moss. It will be a part of the record. Appears in Appendix.

Mr. DOLE. I think it is probably a matter of where the energy is brought into the picture.

Energy and minerals permeate the whole fabric and structure of our industrial society, and thus the whole fabric and structure of the legislative and executive branches.

However, as I pointed out a little bit earlier, to coordinate certain other policies within Government and within the country as a whole, the emphasis may have to be placed on such things as land, or on foreign policy. In such cases those agencies involved with land management or foreign policy would be the lead agencies, and energy then becomes a lesser light, or if you wish, an ancillary approach.

This is not to say that the EMRA, as it is designed at the present time, is the perfect approach to solving the energy and minerals problem. This is one of the reasons that we would like to see the Congress address itself to the proposed reorganization.

We feel they, too, should have a great deal of input. But with respect to the point of not bringing into EMRA certain agencies that have energy responsibilities, we felt that energy considerations were not the primary considerations of these agencies and so they should be left where they are at the present time.

Senator Moss. Isn't the real question at what level the energy coordination must be done? Perhaps it should be done above the departmental level.

Mr. DOLE. This could be one of the ways it could be approached, Mr. Chairman. I, for one, who have spent my life working with energy and minerals, consider this to be the all-consuming thing. I am sure that my views, and I have had this brought to my attention by many, are not the ones that are acceptable by all throughout the Nation.

Senator Moss. I notice among the agencies or departments mentioned, there is a group referred to as the Oil Policy Committee, which is headed by General Lincoln. What is the function of that group?

Mr. DOLE. The Oil Policy Committee, Mr. Chairman, is the group that sets forth the policy for our oil import program. The administration of oil import policy is done within the Department of the Interior. The Oil Policy Committee is chaired by General Lincoln, who under his other hat, as he likes to refer to it, is the Director of the Office of Emergency Preparedness, in the White House.

You will recall, that the oil import program was promulgated in 1959 as a national security measure and was designed to insure a stable, healthy petroleum industry capable of developing new reserves.

Over the years, since this oil policy was established, the policy has rested in the White House and the administration has been with the Department of the Interior, except for that period of time when President Johnson required policy to originate with the Interior Department.

At the present time, policy direction comes from the White House, because of the strong consideration for national security, in the person of the Director of the Office of Emergency Preparedness, after he counsels with a Cabinet Committee and the Chairman of the Economic Advisers.

Senator Moss. Would this group be moved into the Department of Natural Resources insofar as setting policy on energy?

Mr. DOLE. This has been considered, Mr. Chairman. A decision has not been reached on it. As far as I am aware, the Oil Policy Committee is in OEP and all of this has been discussed, and no decision contrary to that has been reached.

Senator MOSS. Do you think the policymaking procedures should reside in the department that discharges the responsibility of implementation?

Mr. DOLE. Not necessarily, Mr. Chairman. Sometimes it is much better to have an overview of something that is as important as energy.

If you will recall, the Oil Policy Committee chairman acts after consulting with representatives from various agencies within Government, including Secretary Morton, Secretary of the Department of the Interior, Secretary of the Treasury, Secretary of Commerce, Secretary of Defense, the Attorney General, and Council of Economic Advisers and the Secretary of State.

Senator MOSS. Isn't there something of a present policy conflict on the development of the Outer Continental Shelf, for instance? The President in his message said we are going to have a great deal more development there, and at the same time we are presented with a proposal to buy up leases in the Santa Barbara Channel and other areas and take them out of production. Would that sort of conflict be in this policymaking area of the DNR?

Mr. DOLE. Mr. Chairman, as you know, conflicts in policy are nothing new in Government. I think you find them almost anywhere.

I do feel, however, that the establishment of the Department of Natural Resources and the various agencies, including the agency within the Department of Natural Resources, would relieve this type of conflict.

Senator MOSS. Senator Allott, do you have any questions?

Senator ALLOTT. Yes.

First of all, I want to say to you, Secretary Dole and Dr. Larson, that I appreciate your statements. Secretary Dole appears before this particular committee more often than Dr. Larson, and I think his statement this morning is consistent with the very high qualities of his previous presentations. I sit with Mr. Larson on another committee, so I am happy to see you both this morning.

I would like to discuss first a question that the chairman has raised, and that is whether it might be wise to try to accomplish as much by Executive order as possible.

I think the answer obtained was essentially negative. I wanted to add to it.

Is there not a possibility that in this rather complex transfer of functions the President might issue an Executive order for an administrative reorganization which Congress might not overturn within the 60 days as provided, resulting in a more complicated situation than now exists?

Do you think there is danger of that?

Mr. DOLE. In my opinion, Senator Allott, there is. I think there is a very definite chance of that. I did not mean to be totally negative on that.

Senator ALLOTT. I hope I didn't say that. But I gathered there was a negative aspect to it, with which I happen to agree.

Now, the President would have a hard time transferring any of the functions of the AEC. I am afraid I would have to go back and review the act, transferring any of the functions of the AEC with a new department on Executive order.

If you had an executive function based upon the statements of your position papers, and these goals couldn't be accomplished, then you haven't gotten anywhere.

I realize that creating a new department by new legislation is a difficult and longer course to follow, but I am sure in the long run it may be the best way to handle this.

Now, in looking at this, I see that the Geological Survey would not be included with EMRA. Why is that, do you know?

Mr. DOLE. Senator Allott, this is one of the gray areas that I referred to in responding to an earlier question by the chairman. The Geological Survey is a great scientific organization that is divisible in four different parts. It has a Geologic Division, Hydrologic Division, Conservation Division, and Topographic Division.

Although administratively there are four different divisions, each depends very much on the others. For instance, in the Geologic Division, we have a range of resources areas which the Conservation Division depends a great deal on.

In the movement of ground water, which is in the purview of the Hydrologic Division, the geology of the area is extremely important.

What I am trying to say here is that although on paper you can divide the Geologic Survey into four pieces, they are mutually dependent one on the other and so should be kept together. Furthermore, administrations other than EMRA in the proposed Department of Natural Resources will depend on the Survey for certain types of information. This is another reason for not dividing the Survey.

You would have then one scientific group within the Department of Natural Resources, a strong scientific organization that could address itself to the hydrosphere, atmosphere, and the biosphere.

By keeping these together, it was our opinion that we would have a better organizational group, and a stronger scientific group than if we were to divide the Survey into many parts.

Senator ALLOTT. All right.

Along the same line, I assume that the Federal Power Commission was not included because of its basic regulatory character?

Mr. DOLE. Yes. This is one of the reasons it was not included at this time. It is my understanding that discussions and considerations are still going on regarding the various regulatory agencies, and the Federal Power Commission is one of them. But your statement, as far as I know, is absolutely true.

Senator ALLOTT. Based upon certain other things that have occurred in the preceding administration, I think that an agency whose essential element is that of regulation is probably better, left as an independent agency, rather than being tucked into a larger organizational unit.

I did not agree with this particular thing. I recall very particularly when the FPC started, they got a syndrome of data computerism. At their hearings on appropriations some years ago, I walked in with a stack of forms approximately two and a half feet high, each one of them filled with 30 or 40 questions.

Our natural gas producers were expected to file these with the FPC, and as we know, the incursion of the FPC into this area has probably contributed greatly to the shortage of our national gas supply. There are a great many people, anyway, who agree with that, although not all will.

Now, one thing that occurs to me that we have pending in Colorado at the present time is a matter I have discussed with Dr. Larson before the Rio Blanc Plowshare problem.

One of the matters that has caused this particular Senator considerable concern is the cross purposes and the inter-relationship between the development of oil shale and this particular portion of the Plowshare program.

In this instance, if 1431 were adopted, would this lead to a closer coordination and determination of the questions which I think I have mentioned to you briefly, Mr. Secretary, although I have talked to Dr. Larson about it in hearings two or three times—between the present interior interest in the oil shale development and the peaceful uses of atomic energy in the Plowshare program, Dr. Larson?

Dr. LARSON. We have very carefully examined this point you raised with regard to a possible conflict between exploitation of the natural gas stimulation and possible complication of the recovery of oil shale. Our technical people have been in close cooperation with Interior experts on this particular point, and, as a matter of fact, this is still being very carefully studied.

The preliminary indications are that there will be no conflict. We are being very careful on this. I would say that if anything in the future these considerations which are quite extensive now will be even more closely coordinated in the future.

Perhaps Secretary Dole might want to comment on that.

Mr. DOLE. Senator Allott, I think that the proposed transfer of certain of the functions of AEC to EMRA speaks well of the great pioneering work and leadership that has been given to the Atomic Energy Commission by Commissioner Larson and his fellow commissioners over the years, and by the leadership in Congress.

They have brought to this world a whole new concept of energy and we are getting now into broader areas where it will impact upon the development of mineral resources and development of energy.

I think that the existence of potential conflicts in the development of natural resources such as you have alluded to is one of the reasons why it would appear desirable to have these functions within one agency, thus enabling the close cooperation that exists now would even be closer.

Senator ALLOTT. Mr. Chairman, I would like to ask one more question, since I will not be able to return before noon, if we have to go to the floor to vote. That is more in the way of a statement to you, Dr. Larson.

I hope you will look at the testimony before the Public Works on appropriations last year. Since I have not seen any reports on this, I just want to call it to your attention, I hope no commitments are made for that until we have had a chance to bring in the various people who are interested in and have a chance to put their views on the record.

Dr. LARSON. Senator Allott, I give you positive assurance there will be full and adequate public hearings on this matter. In fact, this matter

was discussed as recently as yesterday, and there is a complete commitment of the Atomic Energy Commission to full public hearings on this very important matter.

Senator ALLOTT. I thank you very much.

Mr. Chairman, that is all I have for the time being.

Senator MOSS. Thank you.

We will have to recess for about 10 minutes while we go and vote, and Senator Stevens will have this opportunity for questioning after the vote.

Senator ALLOTT. May I correct the record, Mr. Chairman?

Yesterday, I found out that we did get a partial synopsis of a public committee you held.

Senator MOSS. We will be in recess for 10 or 12 minutes and then resume.

(Recess.)

Senator MOSS. The hearing will resume.

We appreciate our witnesses waiting, and I don't think we will have very much longer.

Senator Stevens of Alaska is recognized for any questions he may have—where is Secretary Dole?

Senator STEVENS. Has Mr. Dole decided he has to leave?

Senator MOSS. He just took it seriously when we said we would be gone 10 or 12 minutes.

Senator STEVENS. Mr. Chairman, I am sorry I was late in arriving this morning. I was at another meeting.

I have read the statements. I have been exploring this proposal.

Mr. Chairman, we are also involved in a total oversight concept. Is there any way, Commissioner Larson, that we could get a report on the delay factors that have been involved in the litigation you have been involved in, and how extensive it is in terms of the workload of the AEC to deal with the litigation that has arisen under the National Environmental Act?

Dr. LARSON. This is a very complex and difficult subject, and this would, in order to go into the situation, take considerable time. We would be glad to furnish you a status report as to how we stand on the various types of litigation.

As you well know, we had adverse rulings on the *Calvert Cliffs* case, which set a precedent, and more recently in the so-called Quad cities, involving the implementation of the National Environmental Policy Act. These rulings have had very widespread implications so far as delays are concerned and if it is all right with you, Senator, I would like to insert a report in the record.

Senator STEVENS. I would appreciate that, Mr. Chairman, if he could.

I am not seeking a great deal of work by your agency in terms of tabulating. As we approach the concept of this Department, it seems to me we ought to bring into it the consideration of the type of delay and obstacles that have been faced by the organization that might come into this new Department of the National Environmental Policy Act.

All I really think it ought to be is a listing of cases, or maybe a timetable of the impact statement preparation on the major projects that you had. That would be helpful, I think, to see whether—I have discussed with the chairman previously—whether we ought to have

some legislative oversight hearings on the effect of the National Environmental Policy Act.

Dr. LARSON. As you probably know, Senator Stevens, the regulatory functions of the AEC will not be transferred.

Senator STEVENS. I understand that. The staff tells me that Senator Jackson did ask for a report of this type on the Calvert Cliffs matter as a part of the energy study. I assume that was a substantive request, maybe a sort of time-consuming or delay-involved concept that I would like to see.

How long does it take you to prepare one of these impact statements? I know how long it is taking the Interior Department on the one I am vitally interested in, and I would like to see—

Dr. LARSON. Our environmental statements are quite lengthy in nature, and they vary from one case to another. I would like to have Mr. Vinciguerra summarize how we stand specifically on the average length of time involved in these impact statements. I have read some of them. They get to be very lengthy, 2- or 3-inch thick statements.

Senator STEVENS. I wouldn't want to take the committee's time to talk about such miniscule things. The Alaska pipeline statements now run over 26 pounds. I don't want to belittle the AEC, but I think we understand some of the problems involved in the impact statement.

Mr. VINCIGUERRA. May I get clarification as to the specific impact statements for which information is being requested—for AEC's operating activities or for its regulatory responsibilities? We submit statements in both areas to NEPA.

Senator STEVENS. That is what I understand. I think that perhaps it is just my feeling at least that we may want to go into generic-type environmental impact studies on a whole area, so that that study could be referred to and the Congress could say for a period of time that it would be the environmental statement for anything underneath it.

I would say, doing these impact statements on any project is such that if this reorganization comes about, we might place a duty to prepare an annual environmental impact study on energy needs.

So long as that statement was valid, action taken on the basis of it would be valid. So, we have one study and one hearing, and then if you had some more local problems, such as where the plant would be located, it would be another matter.

So, we would separate out the generic energy problems from the location of environmental impact.

(The material requested follows:)

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C. February 11, 1972

Hon. TED STEVENS,
U.S. Senate, Committee on Interior and Insular Affairs.

DEAR SENATOR STEVENS: We are pleased to respond to the inquiry you made concerning the Commission's environmental statements during AEC testimony on January 28, 1972 before the Committee on Interior and Insular Affairs in the matter of the Energy and Mineral Resources Administration.

A list of the environmental statements which have been prepared or are in preparation in connection with the Commission's operational activities is attached. In connection with your request that we indicate the time devoted by AEC personnel to the preparation and consideration of the material comprising the statements, we can assure you that a considerable amount of time is spent by our laboratories and other contractors and by AEC staff and the Commissioners on these statements. We have not maintained detailed records of the time involved in the preparation of the listed statements. A rough approximation of the average

time entailed for the environmental statements for AEC operations itemized in the enclosed list is about three man-years per statement, about half of which is for in-house staff time; this does not include time devoted by the Commissioners themselves. While we believe this is a representative figure for the average statement, this is a judgment based on limited experience to date. Also, there is a variation in time expended in preparation among the various environmental statements.

The following identified litigation pertaining to the AEC's operational activities is related to several of the environmental statements included in the attached list:

(a) *Metzger v. Klein* (USDC-Colo. Civil No. C-2787) (Request for declaratory judgment and injunction for alleged failure to comply with the National Environmental Policy Act with respect to a nuclear rocket experiment; dismissed without prejudice on March 1, 1971).

(b) *Scientists' Institute for Public Information, Inc. v. United States Atomic Energy Commission, et al.* (USCA-DC No. 1029-71) (Request for declaratory judgment and injunction for alleged failure to comply with the National Environmental Policy Act with respect to the Commission's program for development of the liquid metal fast breeder reactor; related to statement WASH #1509).

(c) *Committee for Nuclear Responsibility, et al. v. United States Atomic Energy Commission, et al.* (USDC-DC No. 1346-71) (Request for injunction against Cannikin test at Amchitka Island for, among other things, alleged failure of the Cannikin Environmental Statement to satisfy the National Environmental Policy Act. On November 6, 1971 the United States Supreme Court denied the plaintiffs' application to enjoin the test; case dismissed with prejudice by District Court on January 18, 1972; related to statement WASH #1502).

(d) *Heli Neilson, et al. v. Seaborg, and United States of America* (USDC-Utah, Civil No. C-170-71) (Request for injunction against further underground nuclear testing at the Nevada Test Site for, among other things, alleged violation of the National Environmental Policy Act; related to statements WASH #1504, #1501).

(e) *Gordon L. Goodman, et al. v. United States of America, et al.* (USDC-No. Dist. Ill., Civil No. 71C-2252) (Request for injunction to restrain GSA from transferring to the Department of Interior approximately 2040 acres at the Argonne National Laboratory site which had been declared excess by the AEC. Plaintiffs alleged that the environmental impact statement prepared by GSA is inadequate; related to statement prepared by GSA).

With respect to litigation related to the National Environmental Policy Act and AEC's regulatory activities, the requirements of the National Environmental Policy Act have resulted in a heavy burden on our regulatory staff. The National Environmental Policy Act has been involved in the following litigation affecting regulatory activities:

(a) *Lloyd Harbor Study Group v. Seaborg*, USDC-E. Dist. N.Y. Civil No. 70C-1253.

(b) *Thermal Ecology Must be Preserved v. Atomic Energy Commission*, 2 ERC 1405 (7th Cir. 1970); 433 F 2d 524 (D.C. Cir 1970).

(c) *Calvert Cliff's Coordinating Committee, Inc. v. Atomic Energy Commission*, 449 F 2d 1109 (D.C. Cir. 1970).

(d) *Scenic Shoreline Preservation Conference, Inc. v. Atomic Energy Commission*, USCA-9th Cir. No. 71-2264.

(e) *Oregon Environmental Council v. Atomic Energy Commission*, USCA-DC No. 71-1230.

(f) *Coalition for Safe Nuclear Power and Living in a Finer Environment v. Atomic Energy Commission*, USCA-DC No. 71-1396.

(g) *Izaak Walton League of America v. Schlesinger, and People of the State of Illinois v. Atomic Energy Commission*, USCA-DC 72-1057, 72-1058.

(h) *Laurence Gage v. Commonwealth Edison Co., Atomic Energy Commission, et al.*, USDC-No. Dist. Ill., Civil No. 71C-2691.

A copy of this information is being supplied to Mr. David Stang of the committee staff. Please do not hesitate to let us know if you wish any additional information.

Sincerely yours,

John V. Vinciguerra,
Assistant General Manager for Administration.

Enclosure.

ENVIRONMENTAL STATEMENTS FOR AEC OPERATIONS

Wash No.		Issue date ¹	
		Draft	Final
1501	Underground Nuclear Test Programs, NTS, Nev.....		Nov. 20, 1970
1502	CANNIKIN, Amchitaka, Alaska.....		June 23, 1971
1503	Radioactive Waste Repository, Lyons, Kans.....		June 7, 1971
1504	Underground Nuclear Test Program, NTS, Nev.....		Sept. 15, 1971
1505	National Accelerator Laboratory, Batavia, Ill.....		Jan. 5, 1972
1506	Plutonium Facility, LASL, N. Mex.....		Jan. 25, 1972
1507	Plutonium Recover Facility, Rocky Flats Plant, Colo.....		Do.
1508	Reactor Testing during fiscal year 1972, NRDS, Nev.....		Jan. 5, 1972
1509	Liquid Metal Fast Breeder Reactor Demonstration Plant.....	July 12, 1971	¹ Feb. 24, 1972
1510	Fast Flux Test Facility, Richland, Wash.....	do.	¹ Mar. 10, 1972
1511	Bedrock Waste Storage Exploration, Savannah River, S.C.....	Jan. 14, 1972	
1512	Rover Fuels Processing Facility, NRTS, Idaho.....	Jan. 14, 1972	
1514	Power Burst Facility, NRTS, Idaho.....	Dec. 15, 1971	
1515	Radioactive Solid Waste Volume Red. Facility, LASL, N. Mex.....	Jan. 14, 1972	
1516	Elk River Reactor Dismantling, Elk River, Minn.....	Dec. 23, 1971	
1517	Loss of Fluid Test Facility, NRTS, Idaho.....	¹ Mar. 10, 1972	
1518	Land Acquisition, Rocky Flats Plant, Colo.....	Jan. 25, 1972	
1519	Rio Blanco Gas Stimulation Project, Rio Blanco Co., Colo.....	Jan. 12, 1972	
1520	Contaminated Soil Removal Facility, Richland, Wash.....	Jan. 25, 1972	
1521	Radioactive Waste Evaporator and Auxiliaries, Richland, Wash.....	do.	
1522	Plutonium-238 Fuel Fabrication Facility, Savannah River, S.C.....	Jan. 12, 1972	
1523	Leasing of AEC Controlled Uranium Bearing Lands, Colorado, Utah, New Mexico.....	¹ Mar. 3, 1972	
1524	Wagon Wheel Gas Stimulation Project, Sublette Co., Wyo.....	Jan. 25, 1972	

¹ Estimated date.

Secretary Dole, I am sure you are familiar with the Louisiana case, and I find it hard to believe that we are getting to a point when the President of the United States may have to issue an impact statement which will include a universe of possible alternatives to the action he is proposing.

It seems to me that particularly in the resource area, this is going to be a difficult thing.

Mr. DOLE. Senator Stevens, there is no question that these new policy measures within the Government in their shakedown periods are causing problems within the Department of the Interior. I am sure that we will be able to effectively respond to them eventually, but in the interim, it is quite difficult, as you well know.

Senator STEVENS. That is the impact of the Louisiana decision.

Mr. DOLE. Not only the Louisiana decision, but on many other resource development actions taking place within the Department of the Interior.

Senator STEVENS. Let me ask one other question along that line.

Is there any, or has there been any consideration in terms of the review of the reorganization proposal to include some form of generic environmental studies section in this new organization within the Department of Financial Resources?

Mr. DOLE. Yes, Senator Stevens, there has been consideration given to hearing and preparation of environmental statements on whole States, whole areas of land, as well as on whole areas of activity, such as energy.

The problem here is manifold, because if it turns out that the environmental statement would fail on a whole area of land or whole area of interest, then we could very well find ourselves in the same position as we are in with respect to the Alaska Pipeline.

So, we have a lot of problems to solve in the preparation of environmental statements, and in determining the extent of the detail to be included and I think it will be of great interest to you to know that we

are increasingly putting more emphasis on turning out an environmental statement sufficiently inclusive to address the problem which it was meant to cover.

Senator STEVENS. For the present time, those who seek to block development have the answer. In the Louisiana statement, they stated they did not have the production. Your impact statement is knocked down partially on that basis.

At the same time, the same group is blocking the development of the north slope oil, making the point that there are other sources of oil available. I assume if we went to the Gulf of Alaska, they would say we have not properly explored the north slope or Louisiana.

It seems to me we have to get generic, so they would not have the leverage of pointing to another source as the reason that a particular project should be delayed.

It seemed to me this should be a function of this new agency within the Department of Natural Resources, if it is in fact created.

Could I ask just one last question. I know we are all anxious to go.

Mr. Secretary, in meeting with some of our mining people, I was told that I should take note of the number of mining activities or developments that have been closed down in the United States in the last 4 to 5 years, since mining properties are being affected perhaps more drastically by the environmental problems than any other form of our mineral energy activity.

Do you have any comment on this? Has there been any study to see how much domestic mineral development we are losing in the United States?

Mr. DOLE. No, Senator Stevens, there has not been any study directed strictly to that problem. At this time we are trying to determine how best to address ourselves to this problem.

The problem is that there are some mines that close down every year because of the depletion of the resource or because of economic factors.

Now, how many closings can be attributed to the increased cost due to environmental requirements we do not know. However we do have to change our way of mining in this country in order to better address the environmental impact, and I think that there is no doubt that some of the mines, some of the smelters, some of the mills presently operating that were put into business before the passage of the Environmental Protection Act and now have to meet some of the requirements of this act are now going to have to suffer some real economic disadvantages.

It is going to affect a lot of our people, and much of our capacity to develop minerals here in the United States. This is one of the things we have to address ourselves to.

There is no specific study underway at the present time concerning what you are talking about, and perhaps there should be.

Senator STEVENS. I should think instead of attacking the oil import program, perhaps we should have a minerals import control program. I think congressional directive and national policy should face this cost of environmental protection. Their countries have failed to pay sums necessary to protect the environment, so we ought to have some sort of differential that imposes a burden on those imports until those countries face up to the total world problem of the environment.

I would like to see some information on that. I am not asking for it for this hearing, Mr. Chairman, but I would like to see some information about the number of mining properties that were operating, 5 or 10 years ago, and how many are operating now, and what the production is domestically from these areas.

Maybe they are closing down because we are getting more efficient in some other areas. The impression the miners have is that the mines are closing down because of the increased cost in the national policy.

Mr. DOLE. I think this is a correct observation, and certainly it is something we have to be concerned with, because our reliance on minerals imports is increasing tremendously. In 1970 the difference between our consumption and production, excluding oil, gas, and coal, was right around \$211 million production value. In other words, this is how much is coming in in minerals.

Senator STEVENS. Imports of minerals are increasing almost as dramatically as oil and gas.

Mr. DOLE. Yes. And projected to about 1990, we would be importing into the United States a total of about \$3 billion worth of mineral material other than oil and gas. I call to your attention the fact that this is a straight line projection, and probably will not come to pass, but \$3 billion, even though our gross national product will be much greater at that time, is still a significant amount, and such a degree of dependence for our mineral materials on external sources will not be favorable to the United States.

As to the report, we will forward to you the report of the Secretary on the Mining and Mineral Act.

Senator STEVENS. Thank you very much.

Senator Moss. Thank you, Senator.

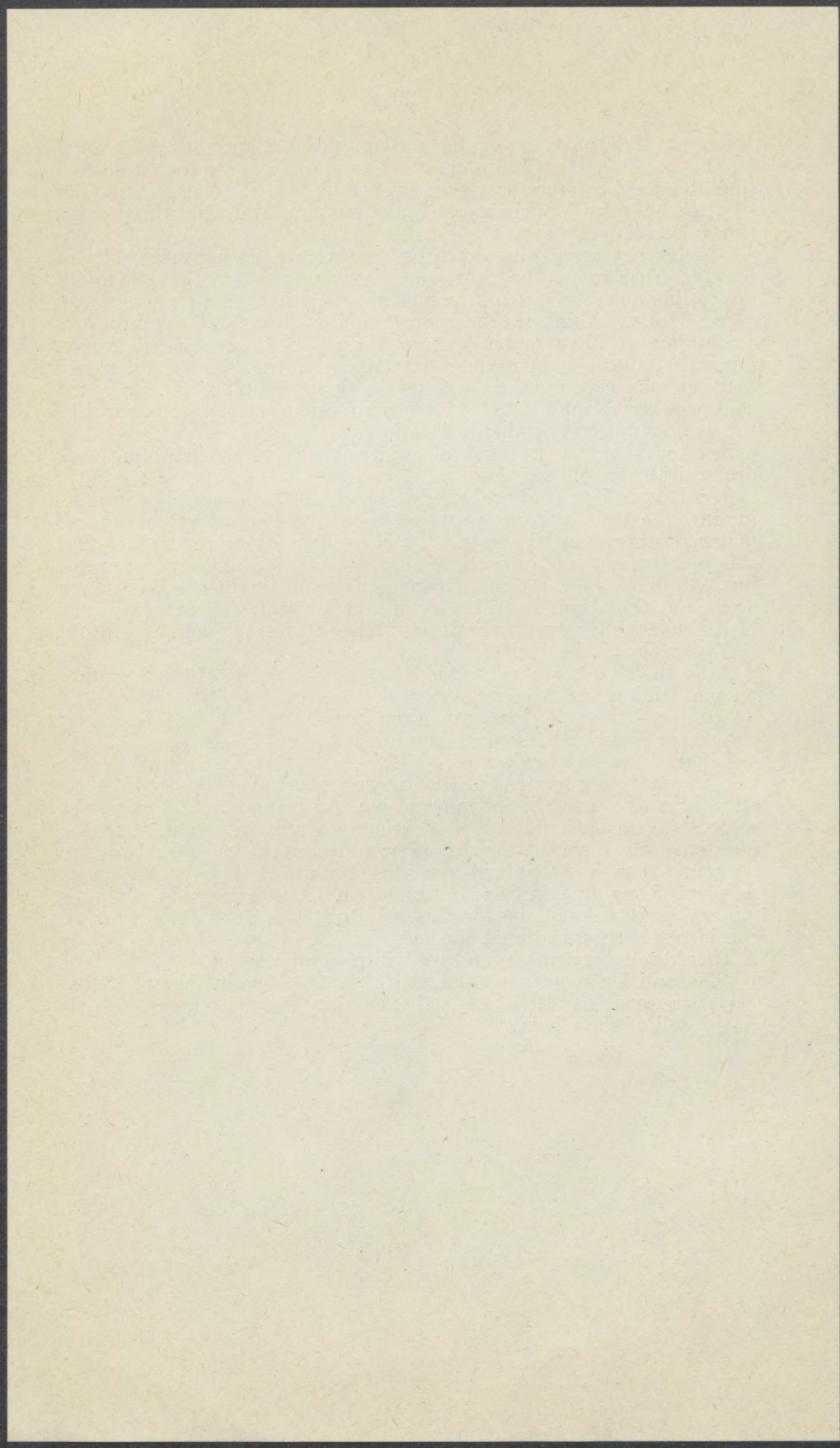
I don't have any further questions.

I do want to commend the witnesses who have appeared today, and given us a good bit of information. As I announced earlier, the record is open until the 4th of February to written responses to the questions that were sent or any other matters that you would care to have in the record that will give this committee its oversight view. As part of our duty in Senate Resolution 45, in determining what a mineral policy should be for this country, it is most important we consider the organizational aspect.

Thank you very much, and we will now adjourn.

(The position paper, and the text of S. 1431 are in the appendix.)

(Whereupon, at 12:15 p.m., the hearing was adjourned, subject to the call of the Chair.)



APPENDIX

(Under authority previously granted, the following statements and communications were ordered printed:)

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., January 20, 1972.

HON. JAMES R. SCHLESINGER,
Chairman, Atomic Energy Commission,
Washington, D.C.

MY DEAR MR. CHAIRMAN: As part of the Study of National Fuels and Energy Policy being conducted pursuant to S. Res. 45, the Senate Interior and Insular Affairs Committee is examining the organization of the Executive Agencies for energy policy formulation, program administration and regulation. The Committee has scheduled a hearing in Room 3110, New Senate Office Building at 10:00 a.m. on January 28 to review the Energy and Mineral Resources Administration provided for in S. 1431, the President's proposal to establish a Department of Natural Resources as one legislative alternative to enhancing the efficiency and effectiveness of energy policy formulation and administration within the Executive Branch.

I would appreciate it if a representative of the Atomic Energy Commission would appear before the Committee on this subject. The Department of Interior will also be invited to testify.

The Committee would appreciate it if the Commission's representative would address the issues raised in the attachment to this letter in his prepared testimony. In the event that time does not permit the preparation of an adequate discussion of any of the issues and questions set out in the attachment, I would appreciate it if you would furnish a reply for inclusion in the record by February 4, 1972.

If you or your agency's witness have any questions regarding the hearing or matters raised in this letter, please contact Mr. William Van Ness, Chief Counsel to the Committee, at 225-2656.

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

QUESTIONS SUBMITTED TO THE ATOMIC ENERGY COMMISSION AND THE PROPOSED ENERGY AND MINERAL RESOURCES ADMINISTRATION BY THE COMMITTEE

(1) To what extent has the Atomic Energy Commission been involved and what role was played in the planning process which proceeded and succeeded the introduction of S. 1431?

(2) What major policy issues were addressed in the planning process and how were they resolved?

(3) As a result of the planning effort, what kind of an organization is envisioned for the Energy and Mineral Resources Administration and how would it function in terms of its relationship with and authority over programs presently administered by the Atomic Energy Commission?

(4) Is the Atomic Energy Commission's recent reorganization compatible with the transfer of functions envisioned in S. 1431?

(5) From the viewpoint of the Commission, what are the advantages and disadvantages of the proposed Energy and Mineral Resources Administration?

(6) Is the Energy and Mineral Resources Administration so structured as to enhance the development of an integrated energy policy by the Executive branch?

(7) What problems, if any, would the transfer of the Atomic Energy Commission's programs and functions called for in S. 1431 pose for the Commission with respect to nuclear energy matters and how might such problems be satisfactorily resolved?

(8) How would planning and budgeting decisions and other major decisions regarding policy matters relating to the Nuclear Reactor and Plowshare Programs be made as between the proposed Energy and Mineral Resources Administration of the Department of Natural Resources and the Atomic Energy Commission?

(9) How would the Atomic Energy Commission relate to the proposed Department of Natural Resources and other relevant federal agencies regarding the development of overall national energy policy?

(10) What type of energy policy decisions would be made independently within the Atomic Energy Commission with, and without, formal consultation with other federal agencies, following creation of a Department of Natural Resources?

(11) The AEC has been criticized for having a conflict of interest in that it has the responsibility for encouraging the development of nuclear energy and the sometimes conflicting responsibility of imposing costly and limiting regulatory constraints upon applications of nuclear energy.

How would this conflict be affected by the reorganization of AEC being proposed? Would a new conflict be created within DNR (which also would be charged with both development and environmental management responsibilities)?

(12) The Fiscal Year 1972 authorization act for the AEC assigned to that agency a broad role for management of energy research and development. How would that role be administered under the DNR proposal? How would AEC and DNR energy research efforts be coordinated?

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 15, 1972.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Attached are the answers to the 17 questions addressed to this Department in your letter of January 20, 1972. We greatly appreciate the short time extension we were granted as it permitted us to coordinate our answers with the Atomic Energy Commission and with those responsible for implementation of the President's reorganization plan in the Office of Management and Budget.

Sincerely yours,

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

Enclosure.

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., January 20, 1972.

HON. ROGERS C. B. MORTON,
*Secretary of the Interior,
Department of the Interior, Washington, D.C.*

MY DEAR MR. SECRETARY: As part of the study of National Fuels and Energy Policy being conducted pursuant to S. Res. 45, the Senate Interior and Insular Affairs Committee is examining the organization of the Executive Agencies for energy policy formulation and program administration. The Committee has scheduled a hearing in Room 3110, New Senate Office Building at 10:00 a.m. on January 28, to review the Energy and Mineral Resources Administration proposed in S. 1431, the President's proposal to establish a Department of Natural Resources, as one legislative alternative to enhancing the efficiency and effectiveness of energy policy formulation and administration within the Executive Branch.

I would appreciate it if a representative of the Department of Interior would appear before the Committee on this subject. The Atomic Energy Commission will also be invited to testify.

The Committee would appreciate it if the Department's representative would address the issues raised in the attachment to this letter in his prepared testimony. In the event that time does not permit the preparation of an adequate discussion of any of the issues and questions set out in the attachment, I would appreciate it if you would furnish a reply for inclusion in the record by February 4, 1972.

If you or your Department's witness have any questions regarding the hearing or matters raised in this letter, please contact Mr. William Van Ness, the Chief Counsel of the Committee at 225-2656.

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

QUESTIONS SUBMITTED TO THE DEPARTMENT OF INTERIOR AND THE PROPOSED ENERGY AND MINERAL RESOURCES ADMINISTRATION BY THE COMMITTEE

- (1) Is energy a feasible or desirable concept for organizing government functions?
- (2) What were the Ash Council's conclusions regarding energy as a basis for the reorganization of federal programs and program administration?
- (3) What organizational goals and objectives according to the Ash Council, should form the basis for reorganizing governmental functions which are energy related?
- (4) What type of decisions should a centralized energy organization be capable of making?
- (5) What additional or alternative organizational approaches were considered by the Ash Council to the proposed Energy and Mineral Resources Administration (i.e. Department of Energy, Energy Commission, Etc.) and why were the other alternatives rejected?
- (6) Please explain the planning process involved in developing the structure of the Energy and Mineral Resources Administration which took place prior to, and subsequent to, the introduction of S. 1431?
- (7) What major policy issues were addressed in the planning process and how was each resolved?
- (8) Please prepare a detailed description of the Energy and Mineral Resources Administration; its funding levels, and manpower allocations for inclusion in the record of the hearings as requested by the Committee on December 30.
- (9) What improvements in energy policy administration would be achieved by the President's proposed reorganization plan? In particular, how would such an organization be structured to improve Federal decision making on energy issues involving conflict between preservation and development?
- (10) How will policy decisions related to priorities and levels of Federal funding of energy related research and development programs be made?
- (11) What is the justification for selecting the bureaus and offices presently slated for inclusion within the Energy and Mineral Resources Administration of the proposed Department of Natural Resources?
- (12) What is the justification for placing other energy and mineral related bureaus and offices in other administrations within the proposed Department of Natural Resources?
- (13) In particular, what would be the responsibility of the Energy and Minerals Resources Administrator with respect to the following functions which would not be directly under his control:
 - (a) the operations of the Geological Survey as a whole, and in particular the operations of the Conservation Division;
 - (b) the decisions related to the timing and terms of leasing or withholding from leasing public lands, including the Outer Continental Shelf, Oil Shale lands, coal fields, and other energy rich public lands;
 - (c) the development of policies related to federal hydro power development and power marketing?
- (14) What is the justification for not including other existing energy related entities within the Department of Natural Resources?
- (15) In as much as the administration did not elect to recommend restructuring of the regulatory aspects of the Federal Power Commission or the Atomic Energy Commission or recommend restructuring of other energy related agencies, how would the Department of Natural Resources, including its Energy and Mineral Resources Administration, relate to the following organizations with respect to the formulation of energy policy:
 - (a) The Environmental Protection Agency;
 - (b) The Atomic Energy Commission;
 - (c) The Federal Power Commission;
 - (d) The Office of Emergency Preparedness;
 - (e) The Office of Science and Technology;
 - (f) The Oil Policy Committee;
 - (g) The Council of Economic Advisers;
 - (h) The Council on Environmental Quality;
 - (i) The Domestic Council;
 - (j) The National Security Council;
 - (k) The Office of Management and Budget

(16) What categories of energy policy decisions such as forecasting, contingency planning, energy research and development funding, end use controls and related decisions would be made independently within each of the above indicated agencies with and without consultation with other federal agencies, including the proposed Department of Natural Resources?

(17) The following questions are intended to clarify the relationship being proposed between DNR and AEC and to describe the results which are expected from the reorganization of the AEC. The Committee believes that the precise relationship between DNR and AEC to be very significant. This aspect of the DNR proposal required description in some detail:

(a) The proposal is silent on the AEC's regulatory functions concerning civilian nuclear reactors. *Would the regulatory function remain in AEC?*

(b) Would DNR have any policy oversight of AEC's regulatory functions? Specifically, where would proposed regulations be prepared? Would DNR have any review function regarding proposed regulations or of licenses other than the usual opportunity for comment afforded any agency?

(c) How would DNR exercise "policy and funding" authority over the civilian programs? Specifically, who would prepare the basic budget estimates and justifications? Assuming that this must be done by AEC, how would DNR exercise its authority? Would the Secretary of DNR have final authority on the level of funding, new program directions, etc., which are incorporated in the budget estimates transmitted to OMB, or would he merely have an opportunity to review and comment? Who would justify and explain the budgets requests at OMB and subsequent Congressional appropriation's hearings?

(d) Would the Secretary of DNR have authority to recommend legislation modifying the civilian programs?

(e) Would the domestic safeguards programs of the Office of Safeguards and Materials Management remain in AEC or be transferred to DNR? How would safeguards programs be coordinated with the plutonium program in AEC and the uranium functions in DNR?

(f) Similarly, the AEC Divisions of Operational Safety of Waste and Scrap Management, and of Operations Analysis and Forecasting all perform specialized services regarding both the programs which would be transferred to DNR and those which would remain in AEC. Assuming that these Divisions would remain in AEC, how would the services be provided to the civilian programs which are transferred to DNR?

(g) The Oak Ridge Operations Office of AEC has duties relating both to programs which would be transferred to DNR and those which would be retained in AEC. How would the Oak Ridge office be administered?

(h) Under existing organization, the AEC enjoys a special relationship with the President. Presumably, this relationship will be retained. In a practical sense, how would the Secretary of DNR exercise "policy" influence over AEC's civilian programs if any conflict arises between the agencies?

(i) What are the approximate number of AEC personnel and the portion of the AEC Budget (based upon the FY 72 appropriations) which would be transferred to DNR?

(j) Please prepare flowcharts accompanied by narrative descriptions of the (1) budget and (2) policy making process as related to the reactor development and plowshare programs.

QUESTIONS SUBMITTED BY SENATOR JACKSON CONCERNING THE ESTABLISHMENT OF AN ENERGY AND MINERAL RESOURCES ADMINISTRATION IN THE PROPOSED DEPARTMENT OF NATURAL RESOURCES, AND COORDINATED ANSWERS OF THE INTERIOR DEPARTMENT AND THE ATOMIC ENERGY COMMISSION

Question 1. Is energy a feasible or desirable concept for organizing Government functions?

Answer. A unified energy policy is essential for the well-being of our society. To obtain a unified energy policy requires that one group have the responsibility for developing that policy. Thus, it is highly desirable and perfectly rational to establish an administration for energy and mineral resources within the Federal establishment.

Question 2. What are the Ash Council's conclusions regarding energy as a basis for the reorganization of federal programs and program administration?

Answer. As a result of its analysis, the Ash Council determined that:

It is now time to take those steps to assure the adequacy of government organization for formulating a cohesive energy policy to meet future needs.

Since a change in policy as to one form of energy may profoundly affect competitive forms, energy programs should be organized as a unit. Only in this way can competing interests be adequately evaluated. In the future, energy sources will be increasingly interchangeable, and in some cases, energy materials will need to be conserved for other purposes, such as in the production of plastics. One agency which includes all of the energy programs, and is charged with optimizing the use of natural resources, can make the trade-offs.

International negotiations such as those with Canada and Mexico to develop a North American energy policy would be simplified with the establishment of a single energy agency.

For these reasons we propose an Energy and Mineral Resources component for the DNR * * *

Question 3. What organizational goals and objectives, according to the Ash Council, should form the basis for reorganizing governmental functions which are energy related?

Answer. The broad and energy related organizational goal and objective concepts of the Ash Council were:

Organizations with common purpose natural resource policies and programs should be grouped together in order to achieve the desired natural resource policy and management that is important to the nation. The preferred route to achieve these ends is to create a Department of Natural Resources.

Establish a center of responsibility for developing broad, unified natural resource policies for consideration by the President and the Congress.

Make possible a more rational balance in planning and managing resources in the light of conflicting demands.

Encourage the resolution of most disagreement on resource problems at a departmental level rather than the White House level, or by having to resort to often inconclusive interagency coordinating mechanisms.

Provide sufficient supplies of petroleum and other energy fuels, water and minerals to support our future economic development.

Manage our resources in ways which will assure ecological balance, and thus sustain the basis on which these public needs can continue to be fulfilled.

Question 4. What type of decisions should a centralized energy organization be capable of making?

Answer. A centralized energy organization would be well suited for resolving the following types of decisions:

(1) *Provide a rational balance among competing claims for our energy resources.*—A good example involves Federal oil shale lands and the problem of their development. Involved are legal, administrative, technological, environmental, and economic problems.

(2) *Projections as to energy supplies.*—With a single organization all the relevant data necessary to make short and long range projections can be efficiently gathered.

(3) *Evaluation of energy demands.*—A fuller evaluation of potential resource scarcities in terms of their growth demands is possible.

(4) *Environmental impact of mining and energy production.*—Various impacts could be explored over a broader range of alternatives than can be accomplished within existing organizations.

(5) *Long-range considerations of energy needs.*—Decisions could be made in an atmosphere of reduced pressures for considering only the short-range economic effects.

(6) *Effectiveness of research activity.*—The selection of which area of energy and mineral research to concentrate on can be better determined. This, in turn, would lead to a more effective applied research program and improved dissemination of research findings.

Question 5. What additional or alternative organizational approaches were considered by the Ash Council to the proposed Energy and Mineral Resources Administration (i.e., Department of Energy, Energy Commission, etc.) and why were the other alternatives rejected?

Answer. The Ash Council report included the following section relative to other organizational alternatives explored:

In coming to our conclusions, we considered the following alternatives:

1. Creation of a comprehensive Department of Natural Resources and Environment (DNRE) embracing the full range of development, management, preservation and protection functions affecting our physical and biological resources. The rationale of this alternative is that air and water are two of our natural resources, and anti-pollution would be brought under common responsibility with land and

water management, energy development, parks and recreation, and marine technology activities. It would, however, subject the standard-setting function to the inherent bias of that department, to the relative disadvantage of other departments with equally important perspectives on the problem. That department would be called upon to make decisions bearing on the authority of other departments when its own objectivity could be called into question.

2. Establishment of two departments, one to include environmental protection and land and water resources; the other, energy and mineral resources. This alternative shares in part the defect of the DNRE. It would have the additional disadvantage of separating the energy and mineral agency from the department responsible for the lands that contain most of these resources.

3. Establishment of two departments, one to include land and water resources; the other, energy and mineral resources. While the bias created by mixing resource using activities and environmental protection is absent from this alternative, it creates two separate agencies to no apparent advantage. One agency combining energy and mineral resources with land and water management activities seems to better satisfy the demand for an integrated structure for all natural resource programs.

4. Expansion of the AEC to incorporate energy and mineral resource programs, leaving land and water programs where they are presently located. Implicit in this alternative is the theory that Federal energy policy and programs, among all of the natural resource functions, should be rationalized as a first priority. The Council believes that land and water programs are of at least equal importance.

5. Consolidation of all water resources programs in the Department of the Interior or another existing department, leaving all other relevant activities as they are. This alternative implies the primacy of the water resource functions, and therefore suffers from the same basic defect as alternative 4 above.

6. Introduction of less ambitious organizational changes such as:

(a) Consolidating marine programs in the Departments of Commerce, Interior, or Transportation, or in an independent agency;

(b) Transferring the water resource planning functions of Agriculture and the Corps of Engineers to the Department of the Interior; or

(c) Transferring all land management functions to either the Department of the Interior or the Department of Agriculture.

Each of these changes would be an improvement over existing organizational arrangements, but they do not fulfill the thorough-going structural realignment that the Council believes is necessary.

Question 6. Please explain the planning process involved in developing the structure of the Energy and Mineral Resources Administration which took place prior to, and subsequent to, the introduction of S. 1431.

Answer. Immediately following the President's 1971 State of the Union Message announcement of his reorganization plans, he established task forces to develop the rationale, objectives, organizational detail and supporting information required for the presentation of both his overall and individual agency organizational proposals. The Department of Natural Resources Task Force was made up of the following:

Under Secretary, Department of the Interior.

Under Secretary, Department of Agriculture.

Chairman, Atomic Energy Commission.

Assistant Secretary for Administration, Department of Commerce.

Special Assistant to the Secretary of the Army for Civil Functions.

The task force was provided staff support in the form of a working group consisting of the most knowledgeable people detailed from each of the agencies involved and from the staff of the Office of Management and Budget. Initial emphasis was placed on further development of the rationale for organization, organizational objectives and the purposes and policies applicable to a Department of Natural Resources. Based upon the concepts so developed, intensive analysis was made of the programs of all agencies that appeared to have significant natural resource impacts. This included both those agencies displayed in the Ash Council report as well as other agencies that the study group felt required further consideration as possible candidates for inclusion in a DNR. Examples of factors evaluated included program missions and objectives, program functions and activities, relationship of natural resource functions to the overall mission of the agencies, statutory requirements, employment and funding, alternative organizational placements, problems of transfer, and evaluation of the pros and cons of transfer to DNR. Simultaneously, agencies and programs identified for inclusion in DNR also were evaluated as to which component area (i.e., Energy and Minerals, Water Resources, Land and Recreation or Oceanic, Atmospheric and Earth

Sciences) would be the best location for such activities. The proposed legislation and supporting papers were based upon the resulting recommendations of the DNR Task Force.

Following the submission of S. 1431 to the Congress, Secretary Morton was designated as Chairman of the Department of Natural Resources Interagency Task Force. One of the primary responsibilities of this Task Force was to develop detailed organizational structures and operational relationships that would result in the most effective achievement of the President's reorganization objectives. In the case of EMRA, the top officials of the Department of the Interior worked closely with their counterparts in the AEC and OMB to clearly define and set forth how the civilian energy programs of AEC would be incorporated into the EMRA policy, planning, budget and program accomplishment processes without impairing AEC capabilities in its other major mission and program areas, many of which are so interrelated that they should not be separated into entity program segments. The attached Position Paper on the Energy and Mineral Resources Administration in the proposed Department of Natural Resources reflects the product of many months of study, discussion, analysis and evaluation that was required to develop effective organizational and operational structures that will simultaneously best serve both the DNR and the AEC.

Question 7. What major policy issues were addressed in the planning process and how was each resolved?

Answer. (a) Examples of policy issues resolved in the development of the organization as set forth in S. 1431:

AEC Controlled Thermonuclear Research Program.—The objective of this program is to create a major new source of energy from nuclear fusion which has the potential of use in large scale controlled thermonuclear power production. At this time the program is so deeply imbedded within other scientific and engineering relationships that it is not feasible to attempt to separately consider its potential civilian applications in a manner similar to that proposed for the civilian nuclear power program. It was agreed that this program should remain within the existing AEC program structure, at least until technology development is further advanced and closer to civilian energy source application.

Power Marketing Agencies.—Initially it was proposed that these agencies should be in EMRA. However, further analysis established that power marketing is a secondary and appurtenant to the development and operation of multipurpose water resource projects. The marketing agencies serve as the merchandiser of but one of the products of the water projects. Since the major decisions are related to water resource management, these agencies are assigned to the Water Resources Administration. However, their integral energy relationships must be recognized and coordinated within DNR.

Rural Electrification Administration.—As with the Power Marketing Agencies, the initial proposal was that REA should be in EMRA. Further analysis disclosed that the primary functions of REA are the making of loans to rural electric cooperatives and other power suppliers to finance extension of central stations electric service to rural consumers and loans to telephone companies and cooperatives to finance modern rural telephone service. Accordingly, REA was included within the proposed Department of Community Development.

(b) Examples of policy issues resolved in accordance with the concepts set forth in S. 1431:

Peaceful Nuclear Explosion.—The actual conduct of resource area experiments will involve DNR, AEC and industry. In accordance with procedures developed with AEC, the respective DNR and AEC roles will be:

DNR:

Plan, budget and fund the program.

Identify natural resource projects suitable for use of such technology.

Negotiate and administer contracts for industrial participation in such projects.

AEC:

Responsible for the development of the explosive devices and the methods for using them.

Actual conduct of the nuclear explosion.

For additional details, see pages 10 and 11 and Appendix A, pages 7-9 of the EMRA Position Paper.

Civilian Nuclear Power.—This program presented special problems because of complex interrelations and mutual interdependence that obtain among the civilian reactor program, and the highly integrated and articulated arrangement for carrying these programs forward. It requires a single management structure under an individual with authority and responsibility to both AEC and the DNR

to assure proper coordination of the policy, planning, budgeting and program implementation activities of DNR and the research, development and related activities of AEC's reactor program. Accordingly, the Director of the Division of Reactor Development and Technology also will be designated the head of the Office of Civilian Nuclear Power and report directly to the Energy and Mineral Resources Administrator. The work will be accomplished through and directed by AEC and carried out under AEC contracts administered by that agency. DNR will be responsible for energy policy, program planning and budgeting as a part of its overall energy program.

For additional details, see pages 10-11 and Exhibit A, pages 1-7 of the EMRA Position Paper.

Relationships With Other DNR Administrations.—Most of the activities of EMRA will have direct relationships with the other natural resource related Administrations. Land use planning, management of the public lands and their resources, water supplies and quality, fish and wildlife, recreation and environmental impacts are examples. Since the Secretary DNR will have EMRA whose primary concern is assuring adequate supplies of energy and minerals to meet future needs, as well as the Land and Recreation Administration, the Water Resources Administration, and the Oceanic, Atmospheric and Earth Sciences Administration, he will be in the position whereby he can evaluate all related land and actual resource considerations to assure harmony between energy and mineral development and related land use, resource and environmental factors.

Question 8. Please prepare a detailed description of the Energy and Mineral Resources Administration: its funding levels, and manpower allocations for inclusion in the record of the hearings as requested by the Committee on December 30.

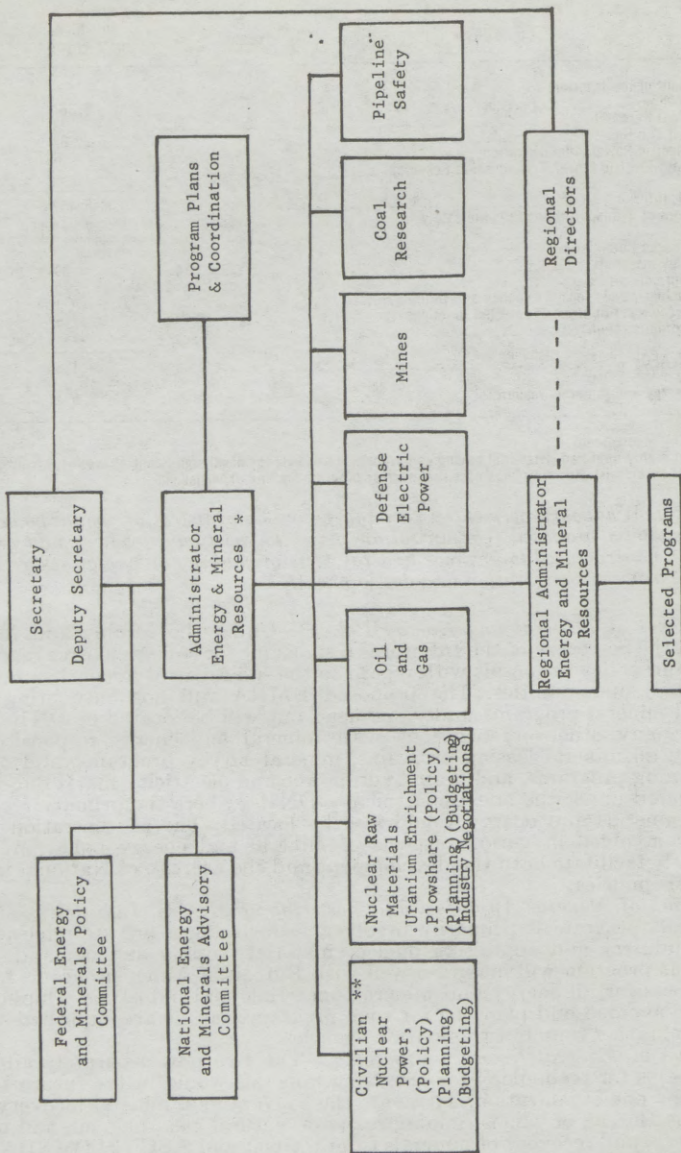
Answer. Complete details are included in the EMRA position paper as follows:

Proposed Organization: Ages 24-30.

Fiscal year 1972 Estimated Employment and Budget: Exhibit B.

Copies of the organization chart and Exhibit B are attached.

CHART 2 - PROPOSED ORGANIZATION OF ENRA



* Includes other program areas not shown below
e.g. underground electric power transmission
research and defense planning for minerals and
solid fuels.

** This office would be headed by AEC's
Director of the Division of Reactor
Development and Technology in a joint
capacity.

ENERGY AND MINERAL RESOURCES—FISCAL YEAR 1972 ESTIMATED EMPLOYMENT AND BUDGET

	Employment— full-time, permanent	Budget outlays (millions)
From Department of the Interior:		
Bureau of Mines.....	5,361	\$168
Office of Coal Research.....	23	28
Office of Oil and Gas.....	67	2
Defense Electric Power Administration.....	6	1
Underground Electric Power Transmission Research.....	2	
Subtotal, Interior.....	5,459	199
From Department of Transportation: Pipeline safety.....	27	3
From Atomic Energy Commission: ¹		
Uranium raw materials.....	89	2
Uranium enrichment.....	75	235
Civilian nuclear power reactors (policy and funding).....	(²)	333
Plowshare (policy, funding and selected functions).....	4	7
Program administration.....		3
Subtotal, AEC.....	168	580
Total, energy and minerals resources.....	5,654	782

¹ Direct activity involvement.

² A nucleus of highly qualified personnel having comprehensive knowledge of all significant phases of this program will be available to the Administrator to provide essential nuclear program staffing expertise.

Question 9. What improvements in energy policy administration would be achieved by the President's proposed reorganization plan? In particular, how would such an organization be structured to improve Federal decision making on energy issues involving conflicts between preservation and development?

Answer:

Improvement of Mineral and Energy Policy.—Under the Mining and Mineral Policy Act, the Secretary of the Interior is responsible for comprehensive reporting, planning, and policy proposals with regard to the full range of mineral and energy problems and opportunities. The proposed EMRA will not only bring most energy and mineral programs under one head but will be located in DNR which will have many other organizations with mineral and energy responsibilities. Specifically, all mineral leasing programs, mineral survey programs, and marine mineral mining programs, and most hydropower and electricity marketing would now be located under the one Department—DNR—where the primary responsibility for minerals and energy would also be located. The concentration of organizations involved in various aspects of mineral and energy policy in DNR would greatly facilitate both the development and the exercise of National mining and minerals policies.

Integration of Mineral Appraisal and Fostering of Mineral Industries.—AEC's raw materials program is primarily involved in fostering a private nuclear raw materials industry and appraising nuclear materials supply and demand. With transfer, this program will integrate well with Bureau of Mines programs for the same purposes for all energy and minerals materials and industries. Duplication can thus be avoided and planning for such programs can be accomplished at the EMRA level rather than in two separate agencies.

Integration of Mineral Recovery Programs.—The two now separately administered programs for technology for obtaining minerals would in the future be administered by one organization. These are the conventional mineral recovery programs of the Bureau of Mines (mining research, natural gas, shale oil, and petroleum recovery, and recovery of minerals from wastes) and AEC (PLOWSHARE). Planning for the full Government effort on recovery systems would now be under EMRA which should facilitate coordination and improve the capability to set rational priorities.

Integration of Emergency Planning for Minerals and Energy.—By joining the Defense Electric Administration together with the Office of Oil and Gas, the Government would now have a single organization responsible to the Office of Emergency Preparedness for emergency planning for providing adequate supplies of minerals and energy.

Classification of Public Lands for Future Mineral Development.—With the addition of 187 million acres of Forest Service lands to the 535 million acres presently administered by Interior, the Secretary of DNR would have sole responsibility

for insuring that Federal lands are properly classified. Some classes of Federal lands should probably be excluded from future mineral development. Any conflicts which would arise between preservation and development can be resolved within DNR through the Secretary's establishment and operation of a Federal land classification system.

Encourage Search for New Deposits.—The priority need to preserve selected and classified lands will encourage search for mineral deposits in other areas.

Review of Development Plans by Land Management Agencies.—With all major land management agencies (excluding DOD) part of a single purpose Department of Natural Resources, the review and resulting conflicts involving commercial production, exploration, and development of minerals can be more effectively carried out.

Question 10. How will policy decisions related to priorities and levels of Federal funding of energy related research and development programs be made?

Answer. Integration of Energy Research Policy: With establishment of EMRA, direct civilian energy research programs primarily dealing with meeting National requirements for energy will come under one organization. This should result in four program improvements:

1. Program and funding priorities can be researched and recommendations made at the EMRA level encompassing the full range of research to meet energy requirements. Program trade-offs on a cost/benefit basis can be made in the earliest stages of program and budget formulation vis-a-vis which program and the extent of effort on each energy source of transmission program is most likely to effectively meet National objectives. OMB will thus receive proposals for a balanced energy research program in the first review stages rather than requiring OMB to make decisions beyond their technical expertise among competing energy research programs as is now the case.

2. Resource and energy demand studies undertaken in EMRA would now be channeled directly into the planning process on a comprehensive basis for energy research decision-making.

3. Technical expertise on energy problems could more readily be shared with AEC in a situation where there is continuous involvement by EMRA and AEC in jointly planning for energy research.

4. EMRA would be in a much better position to respond to the Mining and Minerals Policy Act regarding total planning and policy recommending by DNR regarding energy resources and problems by being intimately involved in planning for the full range of energy research.

Question 11. What is the justification for selecting the bureaus and offices presently stated for inclusion within the Energy and Mineral Resources Administration of the proposed Department of Natural Resources?

Question 12. What is the justification for placing other energy and mineral related bureaus and offices in other administrations within the proposed Department of Natural Resources?

Answer.—In determining which bureaus, offices or programs should be included in EMRA or in another DNR administration, the principal criterion used was the same as that used in determining the components of the four proposed departments; namely, the major and central purpose of policies and their of policies and their execution. Accordingly, the basic organizational concept is to bring together within EMRA those agencies and programs that primarily relate to energy and mineral resources program policy and implementation. The primary role of the existing functions to be transferred to EMRA does directly relate to the central purpose of EMRA, as contained in the President's statement:

"The single energy authority which would thus be created would be better able to clarify, express, and execute Federal energy policy than any unit in our present structure. The establishment of this new entity would provide a focal point where energy policy in the Executive Branch could be harmonized and rationalized."

There are many other bureaus in DNR and in the rest of the Federal establishment having programs related to energy and minerals resources. However, none of these are primary mission relationships. Within DNR the land management agencies slated for the Land and Recreation Resources Administration, the components of the Water Resources Administration and the Geological Survey which is slated for the Oceanic, Atmospheric, and Earth Sciences Administration, all of these components have programs which are in part related to energy and minerals. Energy and minerals therefore are marginal responsibilities relative to

their overall mission. Recreation, land management, water resource development and earth sciences are the primary responsibilities of the non-EMRA energy functions.

Energy functions proposed for DNR, both within EMRA and in other natural resource programs are not subject to clean lines of demarcation. The important consideration is that all natural resource programs are contained in a single-purpose department—DNR—in order to facilitate policy formulation and effective program execution. The non-EMRA energy activities can serve the Secretary of DNR in their proposed capacity without damage to the cohesion of the existing organizations. In this regard, one of the considerations of the President's reorganization program is to be consistent with the primary purpose of the proposed departments and administrations with the minimum change and resulting adverse impacts. This important consideration preserves necessary program continuity and effectiveness in meeting current needs.

Question 13. In particular, what would be the responsibility of the Energy and Minerals Resources Administrator with respect to the following functions which would not be directly under his control:

(a) *the operations of the Geological Survey as a whole, and in particular the operations of the Conservation Division;*

(b) *the decisions related to the timing and terms of leasing or withholding from leasing public lands, including the Outer Continental Shelf, Oil Shale lands, coal fields, and other energy rich public lands;*

(c) *the development of policies related to federal hydro power development and power marketing?*

Answer to (a) and (b). The basis for the decision to include the Geological Survey and the National Oceanic and Atmospheric Administration in the Oceanic, Atmospheric and Earth Sciences Administration is set forth in the papers relating to the President's proposed DNR organization as follows:

"Federal efforts to increase knowledge of the physical environment and to improve our ability to predict and modify geophysical phenomena, would be brought together into one component. So organized, these programs can better serve to help us understand the earth, its waters and atmosphere, and the physical processes that govern our planet. There is now a realization of the interactions of the oceans, the atmosphere, and lands in predicting weather and understanding the causes of natural disasters. The functions of this component are:

National weather services;

Resource and environmental remote sensing studies;

Operation of environmental satellites;

Geologic and soil investigations and surveys;

Water data collection and investigations;

Environmental data services;

Earth hazard programs (earthquake, volcano, landslides, etc.);

Predictions of natural hazards and warnings for public health and safety;

Topographic and other mapping and charting services;

Ocean and lake surveys, investigations and research;

Fishery resources management, research, and assistance to industry;

Research and information services;

Technical and financial assistance to States.

Both the Geological Survey and NOAA combine scientific skills with data gathering and dissemination services required by many different users. Much of the activity of both agencies is carried out for other Federal agencies. In some earthquake, hydrology, and mapping activities, they conduct similar and sometimes overlapping operations. These duplications should be eliminated by bringing the two organizations together.

There are also major opportunities for consolidating and improving related surveying, mapping and charting programs that now exist within these organizations.

Because the services of NOAA are widely used, no compelling logic dictates its location in any specific department. However, when NOAA is combined with the Geological Survey and related science service activities, the resulting entity has closer ties to the proposed DNR than any other Department. For example, the marine resources programs of NOAA are related to DNR responsibilities regarding the development and use of offshore oil, gas, and other mineral resources. For that reason, an "Oceanic, Atmospheric and Earth Sciences" component of the DNR is proposed to emphasize that this agency serves all components of the new Department, as well as other government agencies and private users."

Considerable study was focused on the question of the appropriate location of the Conservation Division of the Geological Survey in view of its direct role in the leasing of both on- and off-shore oil, gas and mineral resources. Strong arguments can be made for combining this activity with the land and resource management responsibilities of the Land and Recreation Resources Administration since such leasing is an integral and nonseparable part of public land management. There also are strong arguments that can be presented in favor of having the Energy and Mineral Resources Administration responsible for these activities to assure that they are conducted in such a manner as to assure that the resources of the public lands are developed at a rate compatible with national energy and mineral needs. In each of these alternatives, there is the broad overriding necessity that public land energy and mineral developments be made in full harmony with other land use, natural resource and environmental considerations. In view of the Geological Survey's unique scientific, natural resource and related environmental capabilities, there are distinct advantages to continue the operations of the Conservation Division external to both the L&RRA and the E&MRA. This will assure that the Secretary of DNR will have the best basis for decisions relating to the timing and terms of leasing of public land and OCS resources based upon the recommendations of the L&RRA and the E&MRA and the separate opinions and recommendations from OAESA which will include both the considerations of the Geological Survey as well as the closely related NOAA programs, particularly those relating to the marine resources and environment. EMRA will fully participate in the process by which leasing decisions are made and leases are scheduled.

Answer to (c). Hydro power development generally is an integral part of a multiple purpose water resource project. In most instances, the primary decision factors are those associated with the best method for development and utilization of available water resources to meet agricultural, municipal, industrial and other needs. Since hydro power is a low cost clean energy source which is a significant consideration relative to development of such projects to get full benefit of both water and energy, the energy component of the decision must be fully incorporated into regional energy planning and actions. Even a single purpose hydro electric project would involve significant impacts on the management of river systems as they relate to the management and use of its waters. Accordingly, since the primary basis for decision is the management of water resources, the related programs are to be assigned to the Water Resources Administration, but subject to full coordination within DNR of all related energy considerations.

As explained in the answer to question (7), the marketing of power from Bureau of Reclamation and Corps of Engineers multipurpose water projects is a market service for but one of the products of the water resources project. Since projects are planned, constructed and operated on the basis of water resource and related land and other resource values, it was determined that the marketing function should remain within WRA. Here again, there will have to be close and positive coordination within DNR where marketing practices have significant impacts on meeting of regional energy needs.

Question 14. What is the justification for not including other existing energy related entities within the Department of Natural Resources?

Answer.—There are approximately 80 Federal organizations associated in some way with energy matters. Most of these organizations deal with energy in an indirect manner or deal with energy in a manner which is subordinate to some other purpose. For example, EPA's main purpose of protecting our environment through regulation can materially affect the supply of and demand for energy. Nevertheless, energy is subordinate to EPA's main purpose. With the exception of the Federal Power Commission, those agencies whose primary function is energy will be located in the Department of Natural Resources.

The FPC has been excluded because it is an independent regulatory agency not responsible for implementing Federal programs. Regulatory functions are properly assigned to multiheaded commissions while Federal program responsibilities are best carried out by single heads such as the Administrator for EMR.

Question 15. Inasmuch as the administration did not elect to recommend restructuring of the regulatory aspects of the Federal Power Commission or the Atomic Energy Commission or recommend restructuring of other energy related agencies, how would the Department of Natural Resources, including its Energy and Mineral Resources Administration, relate to the following organizations with respect to the formulation of energy policy?

- (a) The Environmental Protection Agency;
- (b) The Atomic Energy Commission;
- (c) The Federal Power Commission;
- (d) The Office of Emergency Preparedness;
- (e) The Office of Science and Technology;
- (f) The Oil Policy Committee;
- (g) The Council of Economic Advisers;
- (h) The Council on Environmental Quality;
- (i) The Domestic Council;
- (j) The National Security Council;
- (k) The Office of Management and Budget.

Answer:

(a) The Environmental Protection Agency greatly influences the substitution of cleaner burning fuels for those fuels with less clean combustion properties. It will be EMRA's responsibility to advise EPA of the effects of proposed regulations on energy supply and to provide technical expertise on fuels availability and technology associated with fuels combustion.

(b) The Atomic Energy Commission and the Secretary of DNR would share in preparing recommendations to the President and to Congress with respect to the development and use of nuclear energy.

(c) The Federal Power Commission will still perform its regulatory authority over the licensing rate making for electric power and natural gas industries. While electric power and natural gas concerns both FPC and EMRA, their types of concern will be different. EMRA's primary concern is with development; FPC's is with regulation.

(d) The Office of Emergency Preparedness' concern is limited to an assessment of energy supply as it affects national security. This assessment is made as part of OEP's primary role as a staff agency of the Executive Office of the President. In its energy role, OEP advises the President on the need to maintain certain energy supply levels for national security and emergency purposes.

(e) The Office of Science and Technology influences energy policy as part of its role to evaluate and advise the President on the total Federal scientific research effort. Energy research is only one component. With the creation of the proposed DNR, OST's burden to assess energy and other DNR research activities would be lessened. For example, it will be EMRA's responsibility to provide OST with necessary information and technical expertise for this Presidential staff agency to advise on Federal R&D programs.

(f) The Oil Policy Committee influences energy policy with regard to energy supply by recommending an oil import policy to OEP. EMRA provides energy intelligence to the Oil Policy Committee and handles the administration of the oil import program.

(g) The Council of Economic Advisors influences energy policy to the limited degree that as Presidential staff advisors problems affecting the Nation's economy, the Council works with data from many areas, including energy and minerals information which would be supplied by EMRA.

(h) The Council on Environmental Quality influences energy policy with regard to the impact Federal actions might have on future energy use. EMRA would review environmental impact statements as they relate to energy resources and production and impact of energy use.

(i) The Domestic Council and its Subcommittee on Energy Policy influences Federal actions on energy uses. In its current role, the Council analyses and coordinates the overall energy policy questions for the Executive Branch. With the functioning of EMRA this role of the Council would be reassessed.

(j) The National Security Council influences energy policy with regard to supply as it affects the security of the Nation. EMRA would serve as a source of mineral intelligence.

(k) The Office of Management and Budget influences energy policy in an indirect manner by advising the President on funding for Federal programs. This function of OMB would continue and would apply to EMRA as well as other agencies.

Question 16. What categories of energy policy decisions such as forecasting, contingency planning, energy research and development funding, end use controls and related decisions would be made independently within each of the above indicated agencies with and without consultation with other Federal agencies, including the proposed Department of Natural Resources?

Answer. The following table shows the functional relationships of energy policy activities of various government agencies. It is not likely that any of these agencies would make forecasting decisions without adequate consultation with EMRA. For R & D funding and end use control decisions it would be expected that these agencies would work closely with EMRA.

	Fore-casting	Contingency planning	R. & D. funding	End-use controls
Environmental Protection Agency.....			×	×
Atomic Energy Commission.....	×	×	×	×
Federal Power Commission.....	×	×		×
Office of Emergency Preparedness.....	×	×		×
Office of Science and Technology.....		×	×	×
Oil Policy Committee.....	×	×		
Council of Economic Advisors.....				
Council of Environmental Quality.....			×	×
Domestic Council.....		×	×	
National Security Council.....		×		
Office of Management and Budget.....			×	

Question 17. The following questions are intended to clarify the relationship being proposed between DNR and AEC and to describe the results which are expected from the reorganization of the AEC. The Committee believes that the precise relationship between DNR and AEC to be very significant. This aspect of the DNR proposal required description in some detail:

(a) *The proposal is silent on the AEC's regulatory functions concerning civilian nuclear reactors. Would the regulatory function remain in AEC?*

Answer. The Section-by-Section analysis of the Bill in the Gray Book specifies that the regulatory functions would remain with AEC. None of AEC's licensing and regulatory authority and responsibility would be transferred to DNR.

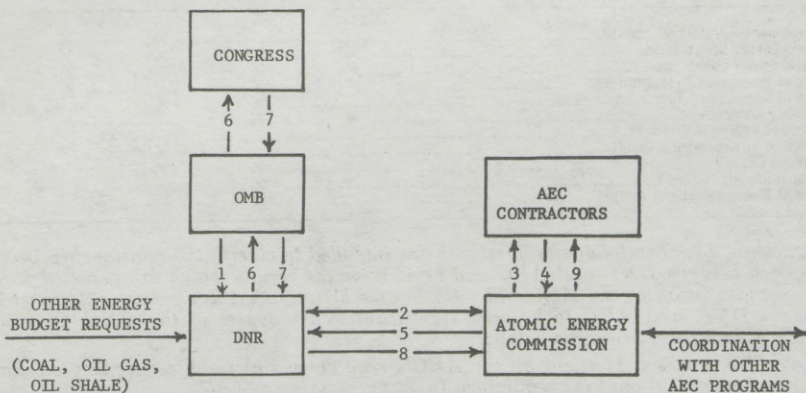
(b) *Would DAR have any policy oversight of AEC's regulatory functions? Specifically, where would proposed regulations be prepared? Would DNR have any review function regarding proposed regulations or of licenses other than the usual opportunity for comment afforded any agency?*

Answer. DNR would not have policy oversight of AEC's regulatory functions; AEC would continue to prepare proposed regulations; DNR responsibility would be confined to the usual opportunity to comment on proposed regulations or licenses afforded any other agency.

(c) *How would DNR exercise "policy and funding" authority over the civilian programs? Specifically, who would prepare the basic budget estimates and justifications? Assuming that this must be done by AEC, how would DNR exercise its authority? Would the Secretary of DNR have final authority on the level of funding, new program directions, etc., which are incorporated in the budget estimates transmitted to OMB, or would he merely have an opportunity to review and comment? Who would justify and explain the budget requests at OMB and subsequent Congressional appropriation's hearings?*

Answer. *Budgeting Sequence for Civilian Nuclear Power and Peaceful Nuclear Explosion Programs.*—The budget cycle for EMRA will follow standard budgetary practices except with respect to the CNP and PNE programs. The budget cycle for those programs (Chart attached) is designed to ensure particularly close and continuous cooperation between EMRA and AEC throughout the funding process, i.e., in the formulation of plans and budgets. The AEC will have the opportunity on a continuing basis to consult on and review EMRA recommendations of the CNP and PNE programs during the EMRA planning-budget cycle.

CHART 3
BUDGETING SEQUENCE FOR CIVILIAN NUCLEAR POWER
AND FLOWSHARE PROGRAMS

TIMINGACTIONS

JAN.	1. PRESIDENTIAL GUIDELINES
FEB.	2. BUDGET ASSUMPTIONS - DNR-AEC
	3. AEC PROGRAM ASSUMPTIONS
JUNE	4. BUDGET REQUEST - CONTRACTORS / FIELD OFFICES
AUG.-SEPT.	5. BUDGET REQUEST - AEC
SEPT.-APRIL	6. BUDGET SUBMISSION & HEARINGS

FISCAL YEAR

JULY-OCT.	7. AUTHORIZATION & APPROPRIATION AUTHORITY
JULY-OCT.	8. TRANSFER OF FUNDS
JULY-JUNE	9. ALLOTMENTS & EXPENDITURES

The budget requests for CNP and PNE activities will be submitted to OMB and Congress as an integral part of the DNR Budget. AEC personnel will participate in all phases of budget development and presentation, and will serve as principal technical witnesses with DNR representatives before Congress and OMB.

Funds appropriated to EMRA for the CNP and PNE activities will be allocated to AEC for those activities to be conducted by AEC for use consistent with approved program plans.

With respect to civilian nuclear power, the functions of policy making, planning and budgeting, coordination, assessment of resources, and establishing priorities as related to national energy planning would be transferred to DNR. However, to assure that the vital research and development program and related activities continue to benefit from the closest possible integration with other highly technical AEC programs, activities, and personnel, such work would be accomplished through and directed by AEC and carried out under AEC contracts administered by that agency.

With respect to the Plowshare program, the Department would have funding responsibility for all natural resource aspects of the program. The Department's responsibilities also would encompass the identification of programs to be undertaken which would utilize nuclear explosives, such as specific projects for gas stimulation or geothermal enhancement; negotiation and administration of contracts for industrial participation in such projects; and conduct of economic studies anticipating future provision of Plowshare services on a commercial basis. General research and development, device research and development, device technology, explosive effects tests, development of fielding systems, project execution and related activities would remain with AEC, and the Department would budget for and allocate to AEC the necessary funds for these activities.

(d) Would the Secretary of DNR have authority to recommend legislation modifying the civilian programs?

Answer. Since the Secretary DNR will be responsible for the development and implementation of energy and mineral policies and programs, he would have the authority to recommend legislation modifying the civilian programs. The AEC would be fully involved in the development of such proposals in those instances where they would have significant impact on on-going AEC programs or involve new energy programs to be assigned by the Secretary for accomplishment by AEC. This will afford the necessary mechanisms for the Secretary to fully and effectively utilize the AEC energy capabilities for the meeting of civilian energy needs. It also will assure that appropriate AEC considerations are fully incorporated into any program modifications to be recommended by the Secretary.

(e) Would the domestic safeguards programs of the Office of Safeguards and Materials Management remain in AEC or be transferred to DNR? How would safeguards programs be coordinated with the plutonium program in AEC and the uranium functions in DNR?

Answer. The safeguards program under the AEC Division of Nuclear Materials Security (formerly the Office of Safeguards and Materials Management) will remain in the AEC. In this case, the Department of Natural Resources would convert AEC safeguards policy, standards and procedures to its own directive system for implementation by its field organizations, where the nuclear materials are handled and processed. The AEC Headquarters Division of Nuclear Materials Security would carry out periodic inspections and appraisals of the safeguards performance by the Department of Natural Resources. Identified corrective measures for necessary improvements would be communicated by AEC to DNR. The Department's field operations would submit periodic material status reports to AEC Headquarters in the same way AEC field operations do at present.

(f) Similarly, the AEC Divisions of Operational Safety, of Waste and Scrap Management, and of Operations Analysis and Forecasting all perform specialized services regarding both the programs which would be transferred to DNR and those which would remain in AEC. Assuming that these Divisions would remain in AEC, how would the services be provided to the civilian programs which are transferred to DNR?

Answer. Except for the forecasting relating to the uranium enrichment functions, these organizations would remain with AEC. In the transferred programs and activities, the Department and contractors for its account would be exempt from requirements for AEC licenses, but the Department's standards and procedures for radiological protection of the public health and safety and the safeguarding of the national defense and security would be required to be consistent

with those of the Commission governing its activities, and to be established with the Commission's advice and concurrence.

The AEC Office of Planning and Analysis (which recently took over the functions of the Division of Operations Analysis and Forecasting) would not perform any functions for DNR. Since forecasts for the enriched uranium market are essential to the policy planning as well as long range planning of production capacity for uranium enrichment, it is appropriate that this function would be performed by DNR very much in the same manner as it is now performed by AEC.

(g) *The Oak Ridge Operations Office of AEC has duties relating both to programs which would be transferred to DNR and those which would be retained in AEC. How would the Oak Ridge office be administered?*

Answer. The DNR functions at the Oak Ridge Office would be administered by a Manager of Uranium Enrichment who would have all responsibilities for DNR activities which are transferred from AEC to DNR. Since AEC already has a Manager and an operating staff associated both with uranium enrichment and the other AEC activities located at Oak Ridge, there would be two managers located there. However, there would be close coordination by the two managers and DNR would endeavor to avoid duplication of administrative services which could be made available to it by AEC.

(h) *Under existing organization, the AEC enjoys a special relationship with the President. Presumably, this relationship will be retained. In the practical sense, how would the Secretary of DNR exercise "policy" influence over AEC's civilian programs if any conflict arises between the agencies?*

Answer. The reference to a "special relationship with the President" is unclear.—Legislative, policy, program and budget materials from the DNR and from AEC will be submitted to the President's Office of Management and Budget for review and appropriate decision actions. With the Secretary of DNR having full responsibility for energy policy and for recommendation of the courses of action required to assuring the most effective meeting of national needs, the President will have a more adequate basis upon which to reconcile differences of this nature if they should occur. OMB will continue to serve as the focal point for assisting in the resolution of such conflicts. In developing the DNR/AEC interface relationships as set forth in the EMRA position paper, every effort has been made to avoid serious conflicts of this nature, but some still may arise.

(i) *What are the approximate number of AEC personnel and the portion of the AEC Budget (based upon the FY 72 appropriations) which would be transferred to DNR?*

Answer. The FY 1972 personnel directly involved in the activities to be transferred are:

	Headquarters	Field	Total
Uranium raw materials.....	14	75	89
Uranium enrichment.....	17	58	75
Plowshare.....	2	2	4
Total.....	33	135	168

The fiscal year 1972 budget (outlays) for these activities are:

	(Dollars in millions)
1. Uranium raw materials.....	\$*2
2. Uranium enrichment.....	* 235
3. Civilian Nuclear Power.....	333
4. Plowshare.....	7
Program subtotal.....	577
Program administration.....	3
Total.....	580

* Excludes combined revenues of \$212 million.

(j) Please prepare flowcharts accompanied by narrative descriptions of the (1) budget and (2) policy making process as related to the reactor development and plowshare programs.

Answer—The attached Exhibit A from the EMRA position paper provides this information.

EXHIBIT A

PROJECT REVIEW AT AEC/DNR INTERFACE

(Example—Fast Flux Test Facility (FFTF))

Attached is Chart 4, which portrays the interface between AEC and DNR relative to their responsibilities for the Civilian Nuclear Power Program (CNP) and the Peaceful Nuclear Explosive Program (PNE). These are programs for which DNR would be vested with policy, planning, and budget responsibilities, while AEC would have the responsibility for program execution.

This paper describes how the collaboration would work. In Part A the example used is a major construction project in the CNP Program, i.e. the Fast Flux Test Facility (FFTF). Although this project is already under construction, it is described here, for purposes of illustration, as if it had been launched under joint AEC-DNR sponsorship. The narrative is keyed to the numbered steps on the chart.

Part B of the paper describes how the procedures in the PNE Program would differ from those in Part A.

This paper deals primarily with decision-making at the project level rather than at the program level. It does not, for example, discuss the initial planning and decision-making that would be necessary under joint AEC-DNR auspices to approve the Liquid Metal Fast Breeder Reactor Program—(LMFBR) of which FFTF is a part. Also, this paper does not describe the requirements of AEC and DNR to inform Congress and OMB, as appropriate, and consistent with their relative responsibilities for civilian nuclear power development. Generally speaking, however, DNR would play the major decision-making role in the broad areas of policy, planning and budgeting whereas AEC would take the lead in deciding the matters of project execution.

A. The FFTF Project in the CNP Program

The FFTF, a \$100 million test reactor, is an integral part of AEC's LMFBR program, which in turn is the principal element of AEC's CNP program. The FFTF was authorized in 1966, increments of funding have been provided periodically, and construction is scheduled for completion in 1974.

The original decision to build the FFTF was made by the Congress as recommended by the President and his Bureau of the Budget (now the Office of Management and Budget). In this hypothetical narrative, the decision is made by the Secretary of DNR. The sequence of events leading to the decision would be as follows:

1. Technological capabilities, developments, and planning studies

The need for a large test reactor as part of the LMFBR program would first become evident as a result of technical and other analytical studies by AEC's staff and contractors, both at headquarters and in the field. Following approval of the conception by the AEC General Manager and the AEC Commissioners, the AEC would advise the DNR of the necessity for earmarking resources to build such a reactor, in order to assure progress in the LMFBR program. Alternative proposals, particularly those that result in varying funding levels and differing times of completion, would be prepared by AEC and transmitted to DNR.

2. Preliminary projections, estimates and policy assumptions

This information would be forwarded by the AEC General Manager to the Administrator for EMRA, who would then weigh this proposed commitment of resources against his total energy program budget.

3. Planning guidance

Having evaluated the relative importance of the LMFBR program in the total scheme of energy priorities, and having evaluated the importance of the FFTF project to the LMFBR program, the Administrator of EMRA would advise the AEC General Manager whether or not to incorporate the FFTF in the AEC long-range plan for the LMFBR program. The General Manager would in turn convey this guidance to his staff and, through them, to the contractors and laboratories.

4. Long-range plan, including construction, operating plans, and contract changes

Having received the guidance from EMRA via the AEC General Manager the AEC headquarters staff and contractors would develop a specific plan and timetable for the FFTF as part of the long-range plan for the LMFBR program. This plan would be sent forward to the General Manager, who in turn would transmit it to the Administrator for EMRA. This plan would then be incorporated into the overall energy plan of the DNR and sent by the Secretary of DNR to OMB as part of the long-range planning process of the Executive Branch.

5. Guidelines (presidential and secretarial)

Prior to the budget preparation process for a given fiscal year, OMB would provide the Secretary of DNR with a total energy planning figure, based on guidance from the President. Presumably the planning figure would give preliminary recognition to the need for a large test reactor. Using this planning figure as a point of departure, the Secretary of DNR and the Administrator of EMRA would tentatively earmark the necessary funds for the FFTF in their energy budget for that year, and provide guidance to the AEC Commissioners and the AEC General Manager as a basis for AEC's budget request. The AEC General Manager would in turn pass this guidance to the AEC staff and contractors, with instructions to develop a budget proposal and justification for submission to DNR.

6. Budget submission and justification

The detailed budget proposal for an FFTF would be prepared by AEC staff, with inputs from AEC's contractors and laboratories, and presented to the General Manager for his approval. Following approval of the project by the AEC, the General Manager would transmit the budget proposal (now in the form of a \$100 M proposal for a major facility) to the Administrator of EMRA.

Following the Administrator's review, he would incorporate the project into the EMRA budget and submit it to the Secretary, who in turn would incorporate the project in the DNR budget submission to OMB. (Subsequently, the \$100 M FFTF project would be appended as a non-fund information item to the AEC Commissioner's budget submission in a general program statement to the OMB Director in order to assist OMB's total review of AEC operations.)

Based on justification material submitted by DNR and supported, if necessary, by AEC staff, the Director of OMB would make his budgetary recommendations to the President, and the President in turn would incorporate funds for the LMFBR program in his annual January budget to the Congress.

Concurrently the Director of OMB would dispatch an allowance letter to the Secretary of DNR advising him of the President's approval of the funding level for the LMFBR program and in effect instructing him to incorporate the FFTF proposal in their formal budget submission to the Congress. The Administrator of EMRA would incorporate the \$100 M in DNR's authorizing bill (which is considered by the Joint Committee on Atomic Energy) and budget to Congress.

7. Appropriation of funds

If the Congress approved the project, both with respect to its authorization and appropriation of funds, it would enact the necessary authorizing and appropriation legislation for DNR. Following apportionment of funds for the LMFBR program by OMB to the Administrator of EMRA, the Administrator would allocate funds within the LMFBR program and transfer the FFTF funds to AEC's General Manager, who would allocate funds to the civilian nuclear power program. The General Manager in turn would allot the necessary funds to the AEC field offices, which would in turn obligate the funds for construction of the FFTF project. AEC would then proceed to administer the construction (and subsequent operation) of the FFTF in the usual way.

8. Implementation

The project would be carried out by contractors and laboratories under continuing technical management guidance and direction provided by the AEC staff. The staff would keep the General Manager apprised of progress and problems on a continuing basis. Similarly, the Director of the Division of Reactor Development and Technology in his joint role as head of the Office of Civilian Nuclear Power would keep the EMRA Administrator informed. AEC and DNR would inform OMB and Congress as appropriate, consistent with their respective responsibilities for civilian nuclear power development.

B. Applicability of the FFTF Example to the Peaceful Nuclear Explosives Program

AEC's PNE Program is now focussed preponderantly on (a) developing nuclear devices that can be detonated underground in order to fracture gasbearing rock (thus stimulating additional reserves of natural gas); and (b) developing methods of using such explosives safely. The two PNE projects to date have been code-named GASBUGGY and RULISON.

The proposed organizational agreement for PNE is somewhat different than that for the CNP Program. The CNP Program is intended to be planned, budgeted and funded by DNR and administered and conducted by AEC. In contrast, the PNE program falls into three parts: (1) The development of explosive devices and the methods of using them, (2) the negotiation and detailed planning or

arrangements with the gas industry for specific experimental projects and finally (3) the actual conduct of such projects in resource areas.

Under the President's plan for DNR, the intention is that parts (1) and (3) described immediately above will be planned, budgeted, and funded by DNR and executed by AEC in exactly the same way as has already been described for the FFTF project in the CNP program. The interface between DNR and AEC is directly comparable to that described for the FFTF example.

In contrast, part (2) of the PNE program, comprising the conception and mounting of actual projects like RULISON, will involve primarily DNR and the natural gas industry with AEC participating in the planning.

Again in part (3), it would be the AEC who will be responsible for the actual conduct of the nuclear explosion.

If another project like RULISON, which was a joint project between AEC and the Austral Oil Company and largely financed by Austral, were to be conducted after the establishment of DNR, the procedure would be as follows: Based upon technical information and opportunities identified as a result of R&D at AEC (funded by DNR), the Austral Oil Company would approach DNR with a proposal for Government assistance in carrying out another demonstration project to stimulate additional supplies of natural gas. DNR would negotiate with Austral, with AEC advice, regarding the Division of funding responsibility for the project; and DNR would make an evaluation as to whether Austral's proposal was worth the Government cost involved. Having made such an evaluation, DNR would develop with the AEC and Austral the necessary plans, then secure from Congress the funds necessary to supplement the industrial funds. DNR would turn to AEC for final planning and conduct of the test, but AEC's principal responsibility (using DNR funds) would be to fabricate the nuclear device and to conduct the actual detonation of the nuclear device, to assure that this is properly and safely done.

APPENDIX

(Under authority previously granted, the following statements and communications were ordered printed:)

POSITION PAPER

on

THE ENERGY AND MINERAL RESOURCES ADMINISTRATION

in the proposed

DEPARTMENT OF NATURAL RESOURCES

DRAFT
January 26, 1972

Table of Contents

	Page
I. Introduction.....	1
II. Present Distribution of Agencies to be Included in EMRA	4
III. EMRA Areas of Responsibility	6
IV. Proposed Organization of EMRA	
1. Staff, Committee, and Board Functions	24
2. Advisory and Emergency Preparedness Organizations	26
3. Program Organization	27
4. National and Regional Program and Organizational Relationships...	29
5. Budgeting Sequence for CNP and PNE Programs	30
6. Examples of Principal Benefits	31

EXHIBIT A: Project Review at AEC/DNR Interface

B: FY 1972 Estimated Employment and Budget

I. Introduction

The United States is faced with critical and complex energy and mineral problems--possible shortages of such indispensable resources as petroleum, natural gas, uranium, copper, and chromium, for example; and environmental pollution resulting from the mining and burning of coal and the mining and smelting of mineral ores.

The goal of the Energy and Minerals Administration (EMRA) will be to assure adequate supplies of energy and minerals for the Nation without endangering its environment.

The Federal Government's responsibility for energy and minerals is far different from its responsibilities for other resources--public land and water, for example. In the case of energy and minerals, private industry performs almost all of the functions associated with development, mining, processing, and marketing. The principal Federal responsibilities involve:

- Conducting research
- Setting energy and minerals policy
- Establishing and enforcing mining health and safety standards
- Protecting the environment

The present proliferation of responsibility for energy activities within the Federal Government is not conducive to long-range energy planning. Consumer-oriented agencies, for example, strive to suppress the price of natural gas, an effort that tends to discourage development of new sources of natural gas. Environment-oriented agencies, on the other hand, plead for greater use of natural gas.

It is conflict such as this that EMRA would help to resolve along with the Environmental Protection Agency. Other examples of planning difficulties and complexities under the present organization include: Estimation of specific energy resource demand as a function of time; possible trade-offs among energy forms as a function of the social, economic, technical industrial, regulatory, environmental, and political constraints; adequate estimate of, and provision for, lead times for technological developments; regional and national energy and minerals studies; and international agreements.

The dispersion of responsibilities within the Executive Branch, particularly for energy, is complex. The President's Domestic Council (Energy Subcommittee) now studies the national energy situation and recommends action. Under the proposal the primary procedure for analyzing and coordinating energy planning and action within the Executive Branch would be performed systematically and on a continuing basis by the Department of Natural Resources.

In his June 4, 1971, energy message, the President in commenting on the proposed Energy and Minerals Resources Administration (EMRA) stated:

"The single energy authority which would thus be created would be better able to clarify, express, and execute Federal energy policy than any unit in our present structure. The establishment of this new entity would provide a focal point where energy policy in the Executive Branch could be harmonized and rationalized."

The President's comments are similarly applicable to minerals, and highlight what probably will be the most important gain to be achieved from the establishment of EMRA. Thus, the consolidation and broadening of mission responsibilities for energy and minerals into a single Federal Agency will provide, for the first time, the essential capabilities required to plan and implement effective and consistent long-range minerals and energy policies.

The following sections of this paper describe the organization, operation, and functions of the proposed Energy and Minerals Resources Administration and the linkages that will be required within the Federal structure and with the broader community of public and private agencies involved in minerals, and energy activities.

Exhibit B reflects the estimated manpower and budget for the EMRA organization.

II. Present Distribution of Agencies to be Included in EMRA

As Chart I (attached) indicates, the Energy and Minerals Resources Administration will be composed of the following agencies:

From Department of the Interior ... Bureau of Mines ... Office of Coal Research ... Office of Oil and Gas ... and Defense Electric Power Administration.

From Department of Transportation ... Office of Pipeline Safety.

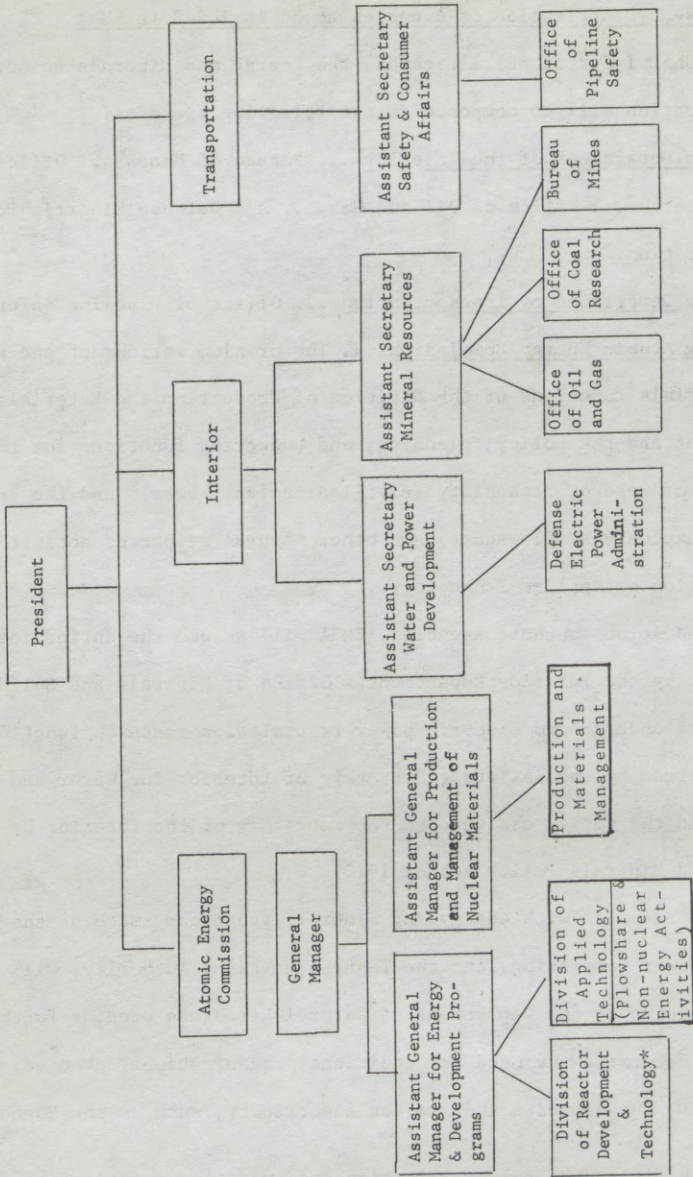
From Atomic Energy Commission ... The uranium enrichment and nuclear raw materials functions of the Division of Production and Materials Management and the policy, planning, and budgeting functions for the Division of Reactor Technology (civilian nuclear power)* and the peaceful nuclear explosives (Plowshare) and other natural resources activities of the Division of Applied Technology.

In addition to these agencies, EMRA will assume the duties formerly performed by the Interior Department's Office of Minerals and Solid Fuels; the underground electric power transmission research function now performed by the Assistant Secretary of Interior for Water and Power; and the duties assigned to the Secretary of the Interior by the Mining and Minerals Policy Act of 1970.

Some agencies with energy and minerals functions, such as the Federal Power Commission, and the Tennessee Valley Authority, will remain outside of the Department of Natural Resources pending further study to determine the need for additional organizational changes. Within DNR, the agencies that market electricity, such as the Bonneville

*And, in addition the policy, planning and budgeting functions of Shippingport and the light breeder reactor program of the Division of Naval Reactors.

CHART 1 - PRESENT DISTRIBUTION OF ORGANIZATIONS AFFECTED BY ESTABLISHMENT OF EMRA



4 a

*And in addition those portions of other organizational groups responsible for civilian nuclear power programs within the AEC, e.g., Shippingport and the light water breeder reactor program.

Power Administration and the Bureau of Reclamation, have not been assigned to EMRA because of their direct relationship to the multiple-purpose water resource functions. The electricity generated and marketed is but one product of these projects.

EMRA will have to work closely with the Geological Survey and the Bureau of Land Management to insure optimum development of energy and mineral resources on public lands. It will be EMRA's responsibility to insure that the resources on public land are developed at a rate compatible with national energy and mineral needs in harmony with other land use, natural resource and environmental considerations. The Administrators for Land and Recreation Resources and Oceanic, Atmospheric and Earth Sciences will administer the minerals and energy development programs on public lands.

The President's proposal to centralize energy and minerals responsibilities, coupled with the similar direction of Congress as demonstrated with the enactment of the Mining and Minerals Policy Act of 1970, will substantially strengthen the Federal Government's capability to develop, coordinate and carry out an effective national energy and minerals policy.

III. EMRA Areas of Responsibility

EMRA will have five major functional areas of responsibility: Policy development and planning, research and development, information and analysis, regulation and enforcement, and special proprietary functions.

1. Policy Development and Planning

EMRA will formulate and coordinate minerals and energy policy for the Secretary's recommendations to the President and his staff and the Congress. EMRA will assess national energy and minerals needs and will coordinate the establishment of national priorities; identify alternatives and recommend integrated sets of minerals and energy policy choices; provide rapid response to Presidential and Congressional needs for policy advice on pressing energy and minerals issues; develop emergency preparedness plans to meet national security needs; resolve conflicts over issues; and maintain a continuous review of Federal programs that affect minerals and energy policy and plans. EMRA also will advise, through the Secretary of DNR, the President and the Congress on matters beyond the Department's direct, assigned responsibilities in areas such as consumer affairs, environmental protection, public welfare, national security, balance of payments, regulation, trade, taxation and transportation as these affect or are affected by the production, supply and consumption of energy and minerals. EMRA will maintain close liaison with the domestic minerals and energy industries, state and local agencies, and international organizations.

Future minerals and energy policy issues will be exceedingly complex and difficult to resolve. There will be great need for intense study of policy issues, cooperative Federal actions in apparently unrelated areas, and long-range minerals and energy policy planning. Policies dealing with the management of public lands, with the allocation of funds for research and development, with air and water pollution, with the end use of fuels, and with foreign trade can greatly influence the supply, demand and costs for energy and minerals. The need to coordinate policies in these areas is rapidly increasing as the sources and uses of energy continue to diversify and as social, economic and environmental factors become more complex.

The problems of developing and implementing adequate and consistent energy and minerals policies are not confined to the Federal Government. The great variation that now exists among the policies of state and local governments in their treatment of energy and minerals problems will continue to grow unless there is adequate national policy and leadership. Substantial national, regional, and local benefits can be obtained from increased direct involvement and cooperation among states and with the Federal Government. Such benefits can be best obtained when state and local governments and industry can work with a single Federal agency as will be provided by EMRA within the DNR.

2. Research and Development

EMRA will be responsible for a broad range of research and development activities directed to obtaining the maximum benefit from domestic minerals and energy resources while keeping to a minimum adverse environmental impacts associated with the mining, processing and utilization of these resources. Major research efforts also will be devoted to protecting the health and safety of the employees in the mineral industries. Energy research programs will be carried out by EMRA in its own laboratories, by the Atomic Energy Commission, and through research contracts. A brief outline of the major research areas follow:

Coal - Research is directed to advancing coal technology and solving related environmental problems. Included are projects to convert coal to gaseous and fluid fuels, to develop devices to generate electricity more efficiently from all ranks of coal, and to devise coal preparation methods that will yield products capable of meeting pollution standards. Environmental protection, also, is being sought through research on stack gas purification, coal waste utilization, and mine-land restoration. Supplementing this work is a broad program of basic research on coal properties, chemistry, and analytical procedures.

Petroleum and Natural Gas - Research is directed to improving the development and utilization of petroleum and natural gas resources. This involves both basic and applied research to increase efficiency in the production, processing, and utilization of crude oil and natural gas. Examples of programs to increase recoveries include surveys of the performance of waterfloods, the use of steam in place of water as a flooding medium, the use of steam or hot organic diluents in allowing production of oil from tar sands or very viscous oil, and the use of nuclear explosions in AEC's Plowshare program to stimulate commercial quantities of natural gas from marginal reservoirs.

Oil Shale - This program provides scientific and engineering information concerning the resource itself and means of using the shale. Two closely related objectives are served. The first is to provide the technical basis needed by Government in establishing policy and administering a sound program for development of the Nation's major oil-shale resources which are 80 percent Federally-owned, with emphasis on safeguarding the public interest. The second is to provide the climate necessary for the start and subsequent growth of an efficient, technically-sound oil shale industry. AEC nuclear explosive technology could be essential for in-situ production methods.

Nuclear Energy - With respect to civilian nuclear power, the functions of policymaking, planning and budgeting, coordination, assessment of resources, and establishing priorities as related to national energy planning would be transferred to DNR. However, to assure that the vital research and development program and related activities can continue to benefit from the closest possible integration with other highly technical AEC programs, activities, and personnel, such work would continue to be accomplished through and directed by AEC and carried out under AEC contracts administered by that agency. In order to assure the most effective and fully coordinated management of civilian nuclear power development in AEC and DNR, the Director of the Division of Reactor Development and Technology (AEC) will also be designated the head of the Office of Civilian Nuclear Power (EMRA) and report directly to the Administrator.

With respect to the Plowshare program, the Department would have funding responsibility for all natural resource aspects of the program. The Department's responsibilities would also encompass the identification of programs to be undertaken which would utilize nuclear explosives, such as specific projects for gas stimulation or geothermal enhancement; negotiation and administration of contracts for industrial participation in such projects; and conduct of economic studies anticipating future provision of Plowshare services on a commercial basis. General research and development,

device research and development, device technology, explosive effects tests, development of fielding systems, project execution and related activities would remain with AEC, and the Department would budget for and allocate to AEC the necessary funds for these activities.

The civilian nuclear power program is concerned with: the development, demonstration, and improvement of civilian power and test reactors; certain types of isotopic power systems; waste and environmental related systems and associated equipment for general nuclear oriented research; research, development, design and demonstration efforts aimed at new and advanced nuclear and environment related technology, including tests that will lead to improvements in fuel utilization, reprocessing and waste disposal; and the development of new reactor concepts and processes; investigations of nuclear safety and environmental problems and the conduct of research and tests in reactors and other facilities that will establish the suitability and safety of a specific reactor system or nuclear process or establish the validity of environmental and safety criteria used in reactor analysis, siting, design, operation, maintenance and standards development.

The Plowshare program includes research and development at laboratories and field experiments involving nuclear explosions, sometimes involving participation of industry and conducted in the resource deposit under study, such as a natural gas field.

The uranium enrichment and nuclear raw materials programs include research and development to advance uranium enriching technology and appropriate areas related to nuclear raw materials resource development.

Urban Refuse - This work concentrates on the extracting of mineral, metal, and energy values from urban refuse by developing techniques to process incinerator residues and raw refuse so as to refine and use urban refuse, convert organic refuse to oil, pyrolysis of urban solid wastes, and to develop pollution free means to incinerate urban wastes.

Mining Health and Safety - Research is conducted to eliminate or reduce the hazards in mining through improved excavation technology, especially in regard to dust control, respiratory diseases, rock falls, monitoring and sampling devices and survival and rescue systems. Techniques are developed to safely recover methane-laden mineral deposits and to eliminate mine disasters caused by accidental ignition of explosive gases during subsurface excavation. Research is conducted leading to safer use of explosives and blasting agents; the testing, certification, and monitoring of explosives for use in coal mines; and to develop means of preventing resource waste caused by unwanted fires and explosions.

Metallurgy - Research is carried out to improve processes to extract, recover, purify, fabricate, and recycle metallic and nonmetallic minerals. Programs of advanced metallurgical

technology, abatement of pollution from metallurgical process effluents and gases, management of mineral wastes, improvement of mineral materials from urban wastes, etc., are of particular significance.

Mining - Mining research is conducted to develop improved extractive systems through technological advancement of fundamental subsystems elements to increase significantly total output at the least cost. An integral part of this objective is provision for the maintenance of health and safety and preservation of the environment.

Underground Electric Power Transmission - Current and potential underground transmission systems are assessed and research strategy and programs for developing necessary capabilities is mapped.

Research and development inputs to the Administrator include: planning for improved methods in the exploration, development, production, processing, conversion, use, conservation, and related environmental impacts of energy and mineral resources; the assessment of on-going R&D programs; the surveillance and analysis of technical developments in energy and minerals throughout the world; the development of recommendations containing alternative courses of action based on technical, economic, industrial, regulatory, environmental, social, and political

factors; the application and improvement of technological forecasting; the preparation and presentation of management briefings, and alerts when needed, relating to significant developments; analysis of plans, proposals, and for special events at the request of the Secretariat, other Executive Offices, or the Congress.

The responsibility for fossil fuels, nuclear fuels, and minerals under the aegis of a single agency will assure more effective near-term and long-range planning for an adequate, secure, and clean energy and mineral supplies at lowest acceptable costs, including social and environmental protection costs. A more adequate perspective on R&D lead times in the development of energy forms and latent mineral resource potential will result. The relative contributions in the years ahead to electric power from nuclear reactors, including converters and breeders, conventional power plants, magnetohydrodynamic (MHD) generation, fuel cells and other energy sources and conversion systems can be better assessed and furthered. Even though the fast breeder reactor will become a major contributor of electric power in the last decade or two of this century, there still will be economic, industrial, or geographic factors that will continue to make other forms of electric generation necessary.

The minerals, metals, and alloys research and resource expertise of EMRA can contribute to improvements in the extraction, production, use and reuse of minerals and the properties of mineral products, or materials necessary for the efficient generation of power.

The transmission phase of electric power is important because of the power loss and environmental factors associated with existing systems. Underground transmission research will occupy a significant place in the R&D efforts of EMRA.

Interior/AEC energy research program relationships have grown over the past few years. To improve the recovery of natural gas, Interior has participated in the AEC Plowshare Program in preshot and post shot reservoir evaluation. With the creation of EMRA such joint efforts can be further utilized and strengthened.

These are but a few examples of the need for consolidating and broadening R&D energy-minerals capabilities and of the opportunities for full consideration of all alternatives for developing the potentialities of all major energy forms.

3. Information and Analysis

This function entails the collection, compilation, analysis, and publication of energy and mineral statistics relating to resources and reserves, exploration, production, distribution, inventories, consumption, capacities, environmental problems and restrictions, and foreign trade.

The various EMRA organizational components will have the capabilities of and primary responsibilities for providing statistics and information to the Administrator. This includes the development of data, the preparation and presentation of management briefings, the development of forecasts of requirements and supply, analysis and development of options, and liaison with Government, Congress, industry, and the public.

A well-established and effective statistical and information gathering and data processing service presently functions within the Bureau of Mines, with contributions from the Office of Oil and Gas, Oil Import Administration, and the Office of Coal Research. Bureau of Mines informational services involve functions such as: mineral production and consumption statistics; mineral resource surveys; market surveys; and surveillance of industry, State, and international developments in minerals operations, technology, environmental impacts, and policies. Further effort is devoted to basic information functions such as analyses of commodities, mineral economics, and industry and Government policy. The Office of Oil and Gas and Office of Coal Research maintain industry and other agency liaison and perform analytical services. The Atomic Energy Commission, as a part of its civilian nuclear power and other activities, collects data and analyzes many aspects of the uranium and civilian nuclear power industries, including resources, reserves, industry operations, and supply-demand relationships. The Department of Transportation provides informational and analytical services in the regulation of gas transportation in its pipeline safety activity. Thus EMRA will have a comprehensive data and informational base.

The President's Energy Message emphasized that solution of the energy problem requires not only measures to increase supply but measures "to use our energy more wisely" and "to balance environmental

and energy needs." To achieve such objectives, the EMRA Administrator may find it necessary to extend or refine present information and intelligence procedures to deal in somewhat different terms with major components of energy and minerals demand as they are projected to change in future years. He will have to be sensitive to the meeting of national, regional, and local needs. This will require analysis of alternative policies to moderate demand as well as measures to meet supply requirements. Similarly, the information system may require extension to incorporate more comprehensive consideration of environmental and social factors, which increasingly emerge as constraining influences with respect to energy and mineral production, transportation, conversion and use.

There are many statistical and informational data available that generally are adequate for policy and program studies. The urgent need is for the concentration of analytical capability to develop such data into usable reports (complete with options and recommendations) that managers and other decision makers can use to facilitate coordinated policy, program, and planning actions.

The information system must be designed specifically to serve the broad policy responsibilities of the Administrator, the Secretary, the President, and the Congress. Creation of EMRA will assure that these requirements are met and that the information and intelligence generated is most effectively organized and treated to facilitate its use for all purposes.

4. Regulation and Enforcement

The objective of the EMRA regulatory and enforcement program will be to create a healthy and safe environment for the public and for workers in the mining and energy industries. At the same time, it must ensure a balanced supply-demand pattern for the energy and mineral resources of this country. The Administrator will be able to assess each program to determine and see how its practices affect mineral and energy production, transportation and availability.

The regulatory and enforcement activities of EMRA will be centered in three agencies: The Bureau of Mines, the Office of Pipeline Safety, and the Office of Oil and Gas. AEC's regulatory authority would remain with the AEC.

The Bureau of Mines is responsible for the protection of the health and safety of the workers in coal, metal, and nonmetal mines by developing and promulgating health and safety standards, conducting mine inspections, investigating accidents, issuing withdrawal orders and notices of violation, conducting research and development, assessing penalties for violations, promoting education and training, fostering State cooperation, and providing for hearings and appeals.

The Office of Pipeline Safety provides for the safe transportation of oil and gas by prescribing and enforcing safety standards and regulations, fostering State participation, promoting education and training, and providing for hearings and appeals.

The Office of Oil and Gas regulates the importation of petroleum and its products by issuing licenses, suspending or revoking licenses, verifying import compliance, and providing for hearings and appeals.

In addition to overseeing the regulatory and enforcement activities of the above three agencies, the Administrator will provide positive liaison and coordination with the Land and Recreation Administrator; the Water Administrator; the Oceanic, Atmospheric, and Earth Sciences Administrator; the Federal Power Commission; and the Atomic Energy Commission.

There are many unique close energy and mineral relationships with DNR land, recreation, and water programs because of factors such as:

- Over 50 percent of the Nation's petroleum and natural gas resources are on Federally owned lands (including the Outer Continental Shelf).
- Some 40 percent of the coal reserves, 80 percent of the oil shale, 65 percent of the uranium and 60 percent of the geothermal resources are on Federal lands.
- Adequate water supplies are essential for the processing and use of most energy and mineral resources. Such needs must be considered fully in related land use, resource, social, economic and environmental planning.
- Serious adverse environmental impacts can result from mining, processing, waste disposal, etc. These can

affect land values, other natural resources, water and air quality, public health and safety, and the general quality of life in the areas involved.

The Conservation Division of the Geological Survey, as a part of the Oceanic, Atmospheric and Earth Sciences Administration (OAESA), will provide regulatory and enforcement services to the Land and Recreation Resources Administration (LRRRA) and the Indian and Territorial Affairs Administration (ITAA) as well as EMRA. OAESA must respond effectively and take the proper actions with respect to lessee operations on the evaluation of all lease tracts in support of all related land, recreation, water, mineral and energy policies of DNR. EMRA's overview of the regulatory activities of the Conservation Division will assure appropriate uniformity in sampling techniques and enforcement procedures by the Division, the Bureau of Mines, Office of Oil and Gas, and OPS and their effect on mineral and energy exploration and production. Thus, through the Administrator of EMRA, the Secretary of DNR will have an effective coordination and regulatory apparatus for minerals policy development, coordination, and implementation.

5. Special Proprietary Operations

Special proprietary operations consist of three activities: uranium enrichment, management of the uranium stockpile, and helium conservation.

Uranium enrichment includes: operation and maintenance of three Government-owned gaseous diffusion plants at Oak Ridge, Tennessee,

Paducah, Kentucky, and Portsmouth, Ohio, to enrich uranium to meet military requirements and industry's enriched fuel requirements for nuclear reactors in the United States and abroad; improvement of the gaseous diffusion plants by installation of improved equipment; manufacture of special materials and components used in the gaseous diffusion plants; processing uranium oxide into feed stock for gaseous diffusion plants; and conducting research and development to advance uranium enrichment technology. Uranium enrichment services are available on a fee basis to domestic and foreign customers under long-term contracts.

Uranium enrichment is a complex, highly sophisticated activity involving technology of substantial significance to national security. It is currently in a transition phase to primarily a civilian market, both domestic and foreign, for which the AEC production capability represents the sole primary source of supply in the free world. Rapidly growing requirements will necessitate expansion of production capacity. Programs are under development by AEC under which (1) U.S. industrial firms will be provided access to AEC's gaseous diffusion and gas centrifuge technology and permitted to conduct independent R&D work on uranium enriching technology and (2) arrangements may be made with certain groups of foreign nations leading to the use abroad of classified U.S. technology in gaseous diffusion. These programs will require a high degree of top management attention during the next critical five year period if programmatic objectives are to be achieved.

Management of uranium stocks involves storage, and disposal of stocks of natural uranium held mostly in the form of uranium oxide stored in drums; evaluation of uranium reserves and resources; and encouragement of the domestic uranium mining industry. The present stockpile is about 50,000 tons in storage at various locations in the United States.

Helium conservation involves production, sale, and conservation of helium for essential Government agencies such as NASA, DOD, and AEC. Helium is produced for sale at two Government owned and operated plants. In addition, about 30 billion cubic feet of helium has been purchased under four supply-type contracts from five plants financed, built, and operated by private industry. The purchased helium is stored underground in a partially depleted natural gas reservoir. When needed, the stored helium will be withdrawn, purified, and sold. Purchase of helium for conservation storage was to end March 28, 1971, but the termination was challenged by the contractors and the matter is in litigation. Meanwhile, three contracts remain in force subject to ultimate resolution of the litigation.

Helium operations headquarters and the helium storage field are at Amarillo, Texas. Helium production plants are at Exell, Texas and Keyes, Oklahoma. A 425-mile Government-owned and operated pipeline system connects the conservation contractor plants in Kansas and Texas, and the two Bureau plants with the helium storage field.

Adding the uranium enrichment and stockpile management functions to EMRA will bring control of the uranium resource into closer relationship with other energy materials under a common management for setting energy priorities and implementing energy policy. Uranium enrichment and helium production are product oriented, industrial operations having similar requirements for business and industrial management involving physical control of a major natural resource. Having these operations under a common management offers opportunities for improvements and simplification of management practices, although the customers for the respective products are primarily in the private sector for uranium and the enrichment services, and primarily Government agencies for helium.

The Government is currently the sole source of uranium enrichment services in the U.S. and essentially the sole source for the non-communist nations abroad. Concern may develop from domestic and foreign customers who have established patterns of relationships with AEC in the field of atomic energy. However, in the future, those concerned with energy resources will have a single agency with which to deal on a broader spectrum regarding such resources. Regarding helium, the Government is not the sole source, there being a sizeable private helium industry which supplies the export market, most of the private market, and a large part of the Federal agency contractor market. Federal agencies are the principal users of helium but the general public is also aware of the Bureau of Mines as a supply source for helium.

IV. Proposed Organization of EMRA

The private sector of the American economy performs most of the functions associated with energy and minerals development and production. However, the three levels of government--Federal, state, and local--do influence the climate within which industry must operate. The Federal Government, particularly, is in a position to promote unity among the many organizations associated with energy and minerals production and consumption. Thus, it is essential that the Federal Government be properly structured to develop a national energy and minerals policy. Chart 2 reflects the organizational pattern proposed for EMRA.

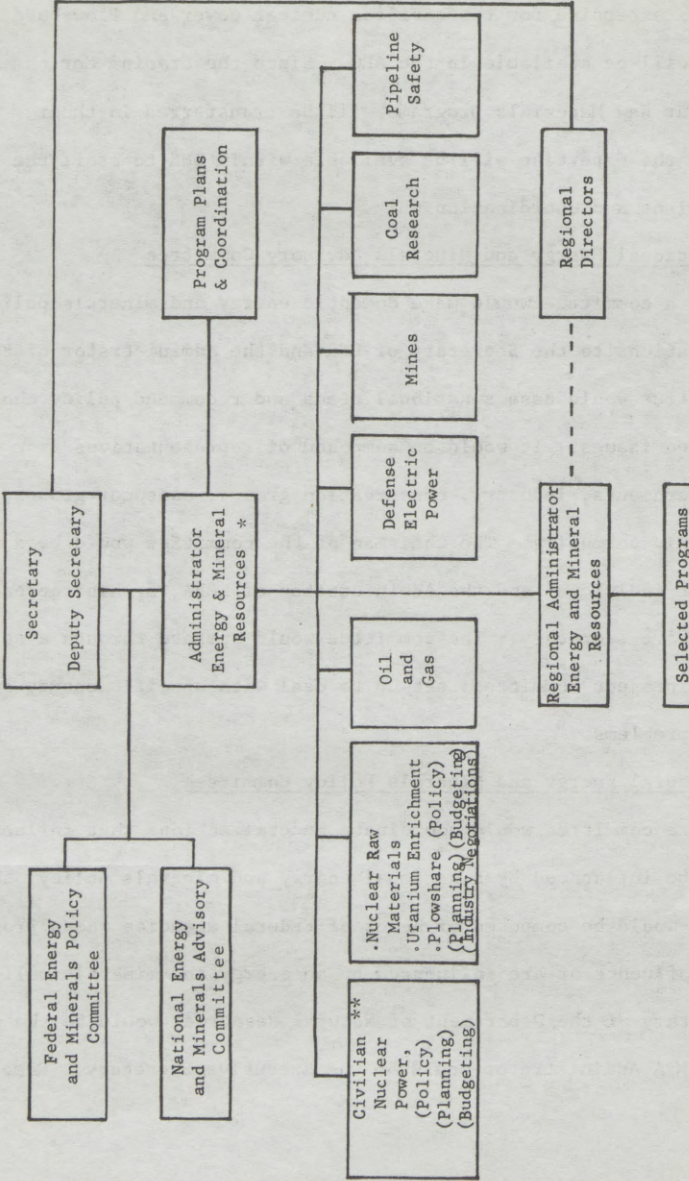
1. Staff, Committee, and Board Functions

Program Planning and Coordination Staff

This staff will provide the Administrator with the essential support capabilities for formulation of policy, development of plans and programs, program and project evaluation, consideration of alternatives, establishment of priorities, program implementation, and evaluation of accomplishments. It will include individuals with both broad and specialized knowledge in all significant energy and minerals fields.

Most of the professional expertise required for mineral and fossil fuel activities already is available within the Department of the Interior and those agencies that will be transferred to DNR.

CHART 2 - PROPOSED ORGANIZATION OF EMRA



* Includes other program areas not shown below
 e.g. underground electric power transmission
 research and defense planning for minerals and
 solid fuels.

** This office would be headed by AEC's
 Director of the Division of Reactor
 Development and Technology in a joint
 capacity.

Comparable expertise for the civilian nuclear power and Plowshare programs will be available in the AEC. Since the Uranium Enrichment and Nuclear Raw Materials programs will be transferred in their entirety, the expertise will be available within DNR to staff the Program Plans and Coordination unit.

A National Energy and Minerals Advisory Committee

Such a committee would make domestic energy and minerals policy recommendations to the Secretary of DNR and the Administrator of EMRA. The committee would assess national needs and recommend policy choices on selected issues. It would be composed of representatives from State governments, industry, conservation groups, consumer groups, and the academic community. The chairman of the committee would be a non-Government individual and the Administrator of EMRA, or his representative, the executive secretary. The committee would operate through a series of ad hoc project committees set up to deal with specific energy or minerals problems.

A Federal Energy and Minerals Policy Committee

Such a committee would coordinate Federal actions that influence or might be influenced by a national energy and minerals policy. The committee would be composed of heads of Federal agencies whose programs broadly influence or are influenced by an energy and minerals policy. The Secretary of the Department of Natural Resources would be the chairman, and the EMRA Administrator would be the Executive Secretary. Members of

the committee would vary as energy and minerals issues change. The Secretary would determine the makeup of the committee, drawing staff support from the various agencies represented, and the EMRA's own energy and minerals experts.

2. Advisory and Emergency Preparedness Functions

Three of the organizational units to be transferred to EMRA have no operational program responsibilities. They are The Office of Oil and Gas, The Office of Pipeline Safety, and The Defense Electric Power Administration. These organizations were largely advisory or responsible for emergency preparedness programs. Briefly their primary functions are:

Oil and Gas

- Coordinate Federal oil and gas programs and activities with other energy programs.
- Serve as a channel of communication between the Federal Government and the State petroleum conservation agencies, the petroleum industry, and the Interstate Oil Compact Commission.
- Prepare plans and preparedness programs to ensure adequate supplies of petroleum and natural gas to meet defense and essential civilian needs during a national emergency.
- Recommend oil import policy.
- Allocate petroleum and petroleum product imports.
- Issue import licenses.
- Verify importer compliance.

Defense Electric Power

- Prepare plans and programs to ensure adequate electric power to meet defense and essential civilian needs during a national emergency.

Pipeline Safety

- Promote pipeline safety.
- Regulate the transportation of natural gas via interstate pipelines.

3. Program Organization

The remaining portion of EMRA's organization deals with programs whose work is largely operational in nature; i.e., running laboratories; collecting and interpreting and disseminating data; operating gaseous diffusion plants, and administering the mine safety laws. Program execution for the civilian nuclear power program will be conducted by AEC. Also in the case of civilian nuclear power development, the head of EMRA's Office of Civilian Nuclear Power also will be the Director of AEC's Division of Reactor Development and Technology, reporting directly to the Assistant General Manager, Energy and Development in the AEC and to the Administrator in EMRA. The peaceful nuclear explosion program will be a joint effort with DNR identification of suitable natural resource programs and the negotiation and administration of contracts for industrial participation in such projects. AEC will be responsible for the development of the explosive devices and the methods for using them. The actual conduct of resource area experiments will involve DNR, AEC and industry. A brief delineation of DNR program areas by function follows:

Civilian Nuclear Power

- Plan, budget and fund a civilian nuclear power development program.
- Identify resources.
- Establish priorities as related to national energy planning.

Peaceful Nuclear Explosives

- Plan, budget and fund the natural resource peaceful nuclear explosive program.
- Identify natural resource projects which would use peaceful nuclear explosives.
- Negotiate and administer contracts for industrial participation in such projects.

Uranium Enrichment

- Operate, maintain and improve the three existing gaseous diffusion plants to meet military and commercial requirements for enriched uranium.
- Conduct research to improve uranium enrichment technology.
- Process uranium oxide into feed for gaseous diffusion plants.

Nuclear Raw Materials

- Collect, analyze, and disseminate data and information on domestic and international uranium and thorium and the industries that mine, process, and use these materials.
- Manage the Nation's stocks of uranium raw material.

Mines

- Conduct research and development programs on the extraction, processing, use, reuse and disposal of minerals and fuels.
- Conduct research programs to improve mining practices and to

- devise new systems that will reduce health and safety hazards to workers in the metal and nonmetal and coal-reducing industries.
- Enforce the Federal Coal Mine Health and Safety Act of 1969 and the Federal Metal and Nonmetallic Mine Safety Act.
 - Collect, analyze, and publish data and information on the domestic and international minerals and energy industries.
 - Conduct research and program to minimize the degradation of our environment resulting from past, present and future extraction, processing and use of minerals and energy materials.
 - Manage the helium program.

Coal Research

- Conduct, through a contractual program, research and development in the mining, preparation, conversion and utilization of coal with emphasis on coal gasification, liquefaction and power production.

4. National and Regional Program and Organization Relationships

EMRA's programs deal primarily with policies, controls, research, and emergency preparedness which generally are national in scope and can be most effectively managed from a central location. Energy and minerals programs which cross administrator lines within DNR and programs which are local or regional in nature could be more effective if they were managed regionally. The importance of the minerals industries varies from region to region, thus, not every region will require a regional administrator. Examples of programs that could be effectively managed by a regional administrator are:

- Regulation and coordination of regional energy and mineral development, mining, processing and waste disposal activities

with regional and state land use, natural resource and environmental plans and programs.

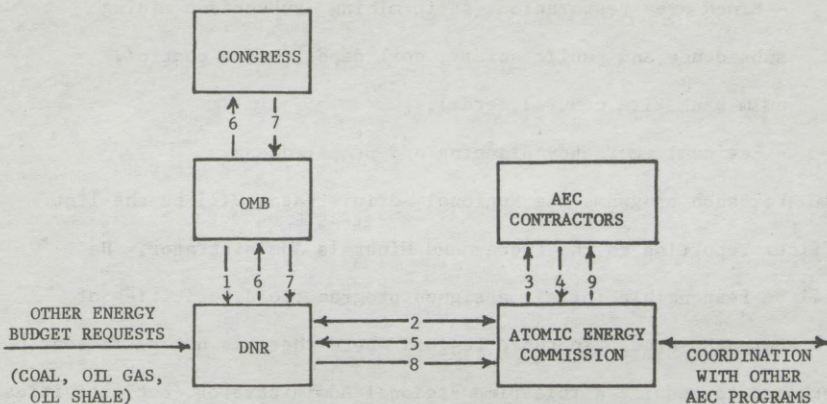
- Mined area restoration (strip mining, subsurface mining subsidence and public safety, coal deposit fire control, culm bank fire control, etc.).
- Regional emergency planning and preparedness.

For such programs the Regional Administrator will be the line officer reporting to the Energy and Minerals Administrator. He will be responsible for all assigned program field activities of his component area. In those regions where there is not sufficient workload to require a full-time Regional Administrator, but activities require regional direction, such functions would be assigned to the Regional Director.

5. Budgeting Sequence for CNP and PNE Programs

The budget cycle for EMRA will follow standard budgetary practices except with respect to the CNP and PNE programs. The budget cycle for those programs (Chart 3) is designed to ensure particularly close and continuous cooperation between EMRA and AEC throughout the funding process i.e., in the formulation of plans and budgets, the AEC will have the opportunity on a continuing basis to consult on and review EMRA recommendations of the CNP and PNE programs during the EMRA planning-budget cycle.

CHART 3
BUDGETING SEQUENCE FOR CIVILIAN NUCLEAR POWER
AND FLOWSHARE PROGRAMS

TIMINGACTIONS

JAN.	1. PRESIDENTIAL GUIDELINES
FEB.	2. BUDGET ASSUMPTIONS - DNR-AEC
	3. AEC PROGRAM ASSUMPTIONS
JUNE	4. BUDGET REQUEST - CONTRACTORS / FIELD OFFICES
AUG. - SEPT.	5. BUDGET REQUEST - AEC
SEPT. - APRIL	6. BUDGET SUBMISSION & HEARINGS

FISCAL YEAR

JULY-OCT.	7. AUTHORIZATION & APPROPRIATION AUTHORITY
JULY-OCT.	8. TRANSFER OF FUNDS
JULY-JUNE	9. ALLOTMENTS & EXPENDITURES

The budget requests for CNP and PNE activities will be submitted to OMB and Congress as an integral part of the DNR Budget. AEC personnel will participate in all phases of budget development and presentation, and will serve as principal technical witnesses with DNR representatives before Congress and OMB.

Funds appropriated to EMRA for the CNP and PNE activities will be allocated to AEC for those activities to be conducted by AEC for use consistent with approved program plans.

6. Examples of Principal Benefits

The principal benefit will be the establishment of a positive focal point for energy and mineral policy, planning, resource development and program implementation. Examples of other benefits resulting from the reorganization are:

- More adequate consideration of alternatives for meeting energy needs.
- More positive assurance that future energy and mineral needs will be met, consistent with adequate protection of the environment.
- Improved use of available research and development funds for the timely development of needed technology (broader

scope and better balance).

- Improved coordination of energy and mineral resource activities with land use planning, natural resource planning and development, multiple-use land and resource management and related environmental protection and enhancement. (e.g. oil shale, wilderness, marine resources.)
- Better evaluation and decisions relative to competing interests.
- Assure more economic and effective use of energy and mineral resources to meet primary needs or for other purposes.
- Reduce duplications, overlaps and agency rivalry.
- More adequate evaluation of alternative courses of action based upon technical, economic, industrial, regulatory, environmental, social, and political factors.
- More adequate data collection, analysis and dissemination systems to meet Federal, State, local government and industry needs.
- Improved capabilities for regulation and enforcement programs (mining Health & Safety, Pipeline Safety, oil import).
- Improved capability to cope with national and regional energy and mineral emergencies.
- Simplified and more effective budget formulation, with particular emphasis relative to overall priorities and needs.

EXHIBIT A

PROJECT REVIEW AT AEC/DNR INTERFACE
Example--Fast Flux Test Facility (FFTF)

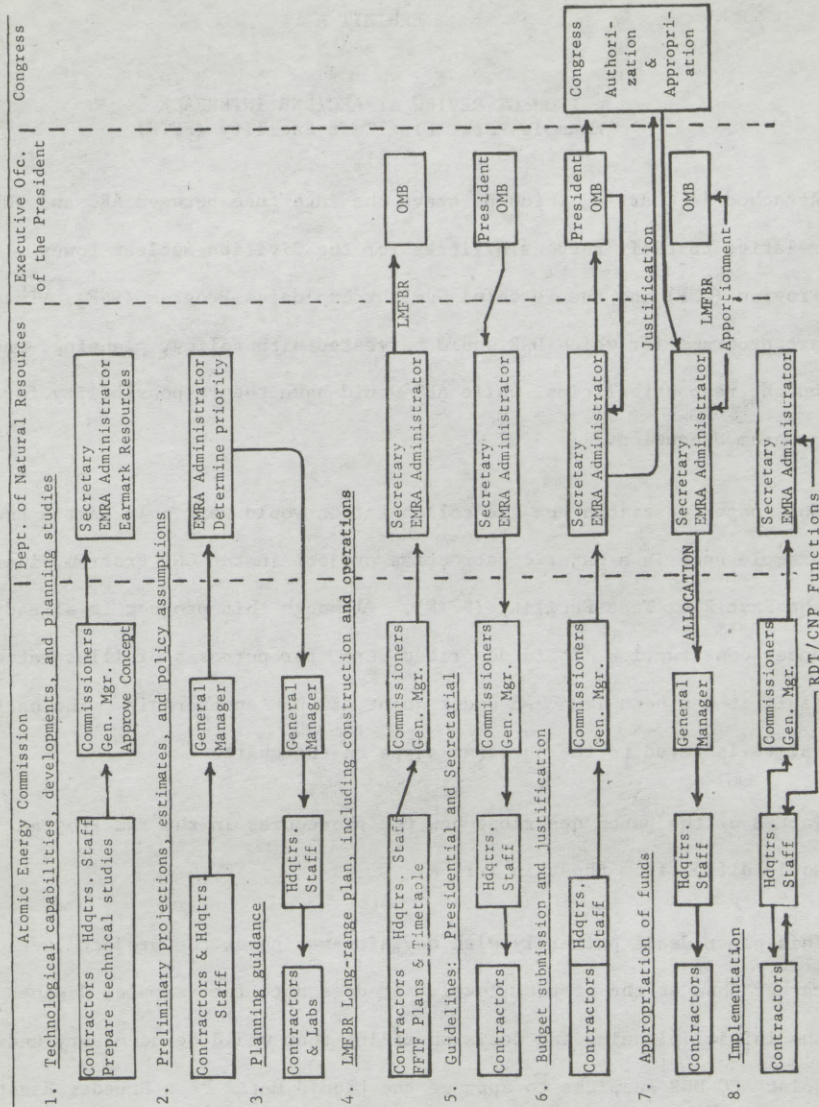
Attached is Chart 4, which portrays the interface between AEC and DNR relative to their responsibilities for the Civilian Nuclear Power Program (CNP) and the Peaceful Nuclear Explosive Program (PNE). These are programs for which DNR would be vested with policy, planning, and budget responsibilities, while AEC would have the responsibility for program execution.

This paper describes how the collaboration would work. In Part A the example used is a major construction project in the CNP Program, i.e. the Fast Flux Test Facility (FFTF). Although this project is already under construction, it is described here, for purposes of illustration, as if it had been launched under joint AEC-DNR sponsorship. The narrative is keyed to the numbered steps on the chart.

Part B of the paper describes how the procedures in the PNE Program would differ from those in Part A.

This paper deals primarily with decision-making at the project level rather than at the program level. It does not, for example, discuss the initial planning and decision-making that would be necessary under joint AEC-DNR auspices to approve the Liquid Metal Fast Breeder Reactor Program--(LMFBR) of which FFTF is a part. Also, this paper does not describe the requirements of AEC and DNR to inform Congress and OMB, as appropriate, and consistent with their relative responsibilities

CHART 4 - PROJECT REVIEW AT AEC/DNR INTERFACE
Example--Fast Flux Test Facility (FFTF)



1 a

for civilian nuclear power development. Generally speaking, however, DNR would play the major decision-making role in the broad areas of policy, planning and budgeting whereas AEC would take the lead in deciding the matters of project execution.

A. The FFTF Project in the CNP Program

The FFTF, a \$100 million test reactor, is an integral part of AEC's LMFBR program, which in turn is the principal element of AEC's CNP Program. The FFTF was authorized in 1966, increments of funding have been provided periodically, and construction is scheduled for completion in 1974.

The original decision to build the FFTF was made by the Congress as recommended by the President and his Bureau of the Budget (now the Office of Management and Budget). In this hypothetical narrative, the decision is made by the Secretary of DNR. The sequence of events leading to the decision would be as follows:

1. Technological capabilities, developments, and planning studies

The need for a large test reactor as part of the LMFBR program would first become evident as a result of technical and other analytical studies by AEC's staff and contractors, both at headquarters and in the field. Following approval of the conception by the AEC General Manager and the AEC Commissioners, the AEC would advise the DNR of the necessity for earmarking resources to build such a reactor, in order to assure progress in the LMFBR program. Alternative

proposals, particularly those that result in varying funding levels and differing times of completion, would be prepared by AEC and transmitted to DNR.

2. Preliminary projections, estimates and policy assumptions

This information would be forwarded by the AEC General Manager to the Administrator for EMRA, who would then weigh this proposed commitment of resources against his total energy program budget.

3. Planning guidance

Having evaluated the relative importance of the LMFBR program in the total scheme of energy priorities, and having evaluated the importance of the FFTF project to the LMFBR program, the Administrator of EMRA would advise the AEC General Manager whether or not to incorporate the FFTF in the AEC long-range plan for the LMFBR program. The General Manager would in turn convey this guidance to his staff and, through them, to the contractors and laboratories.

4. Long-range plan, including construction, operating plans, and contract changes

Having received the guidance from EMRA via the AEC General Manager the AEC headquarters staff and contractors would

develop a specific plan and timetable for the FFTF as part of the long-range plan for the LMFBR program. This plan would be sent forward to the General Manager, who in turn would transmit it to the Administrator for EMRA. This plan would then be incorporated into the overall energy plan of the DNR and sent by the Secretary of DNR to OMB as part of the long-range planning process of the Executive Branch.

5. Guidelines (Presidential and Secretarial)

Prior to the budget preparation process for a given fiscal year, OMB would provide the Secretary of DNR with a total energy planning figure, based on guidance from the President. Presumably the planning figure would give preliminary recognition to the need for a large test reactor. Using this planning figure as a point of departure, the Secretary of DNR and the Administrator of EMRA would tentatively earmark the necessary funds for the FFTF in their energy budget for that year, and provide guidance to the AEC Commissioners and the AEC General Manager as a basis for AEC's budget request. The AEC General Manager would in turn pass this guidance to the AEC staff and contractors, with instructions to develop a budget proposal and justification for submission to DNR.

6. Budget submission and justification

The detailed budget proposal for an FFTF would be prepared by AEC staff, with inputs from AEC's contractors and laboratories, and presented to the General Manager for his approval. Following approval of the project by the AEC, the General Manager would transmit the budget proposal (now in the form of a \$100 M proposal for a major facility) to the Administrator of EMRA.

Following the Administrator's review, he would incorporate the project into the EMRA budget and submit it to the Secretary, who in turn would incorporate the project in the DNR budget submission to OMB. (Subsequently, the \$100 M FFTF project would be appended as a non-fund information item to the AEC Commissioner's budget submission in a general program statement to the OMB Director in order to assist OMB's total review of AEC operations.)

Based on justification material submitted by DNR and supported, if necessary, by AEC staff, the Director of OMB would make his budgetary recommendations to the President, and the President in turn would incorporate funds for the LMFBR program in his annual January budget to the Congress.

Concurrently the Director of OMB would dispatch an allowance letter to the Secretary of DNR advising him of the President's approval of the funding level for the LMFBR program and in effect instructing him to incorporate the FFTF proposal in their formal budget submission to the Congress. The Administrator of EMRA would incorporate the \$100 M in DNR's authorizing bill (which is considered by the Joint Committee on Atomic Energy) and budget to Congress.

7. Appropriation of Funds

If the Congress approved the project, both with respect to its authorization and appropriation of funds, it would enact the necessary authorizing and appropriation legislation for DNR. Following apportionment of funds for the LMFBR program by OMB to the Administrator of EMRA, the Administrator would allocate funds within the LMFBR program and transfer the FFTF funds to AEC's General Manager, who would allocate funds to the civilian nuclear power program. The General Manager in turn would allot the necessary funds to the AEC field offices, which would in turn obligate the funds for construction of the FFTF project. AEC would then proceed to administer the

construction (and subsequent operation) of the FFTF in the usual way.

8. Implementation

The project would be carried out by contractors and laboratories under continuing technical management guidance and direction provided by the AEC staff. The staff would keep the General Manager apprised of progress and problems on a continuing basis. Similarly, the Director of the Division of Reactor Development and Technology in his joint role as head of the Office of Civilian Nuclear Power would keep the EMRA Administrator informed. AEC and DNR would inform OMB and Congress as appropriate, consistent with their respective responsibilities for civilian nuclear power development.

B. Applicability of the FFTF Example to the Peaceful Nuclear Explosives Program

AEC's PNE Program is now focussed perponderantly on (a) developing nuclear devices that can be detonated underground in order to fracture gasbearing rock (thus stimulating additional reserves of natural gas); and (b) developing methods of using such explosives safely. The two PNE projects to date have been code-named GASBUGGY and RULISON.

The proposed organizational agreement for PNE is somewhat different than that for the CNP Program. The CNP Program is intended to be

planned, budgeted and funded by DNR and administered and conducted by AEC. In contrast, the PNE program falls into three parts: (1) The development of explosive devices and the methods of using them, (2) the negotiation and detailed planning of arrangements with the gas industry for specific experimental projects and finally (3) the actual conduct of such projects in resource areas.

Under the President's plan for DNR, the intention is that parts (1) and (3) described immediately above will be planned, budgeted, and funded by DNR and executed by AEC in exactly the same way as has already been described for the FFTF project in the CNP program. The interface between DNR and AEC is directly comparable to that described for the FFTF example.

In contrast, part (2) of the PNE program, comprising the conception and mounting of actual projects like RULISON, will involve primarily DNR and the natural gas industry with AEC participating in the planning.

Again in part (3), it would be the AEC who will be responsible for the actual conduct of the nuclear explosion.

If another project like RULISON, which was a joint project between AEC and the Austral Oil Company and largely financed by Austral, were to be conducted after the establishment of DNR, the procedure would be as follows: Based upon technical information and opportunities identified as a result of R&D at AEC (funded by DNR),

the Austral Oil Company would approach DNR with a proposal for Government assistance in carrying out another demonstration project to stimulate additional supplies of natural gas. DNR would negotiate with Austral, with AEC advice, regarding the Division of funding responsibility for the project; and DNR would make an evaluation as to whether Austral's proposal was worth the Government cost involved. Having made such an evaluation, DNR would develop with the AEC and Austral the necessary plans, then secure from Congress the funds necessary to supplement the industrial funds. DNR would turn to AEC for final planning and conduct of the test, but AEC's principal responsibility (using DNR funds) would be to fabricate the nuclear device and to conduct the actual detonation of the nuclear device, to assure that this is properly and safely done.

Energy and Mineral Resources

F Y 1972 Estimated Employment and Budget

	Employment Full-time <u>Permanent</u>	Budget Outlays (\$ in millions)
From Department of the Interior		
Bureau of Mines	5,361	168
Office of Coal Research	23	28
Office of Oil and Gas	67	2
Defense Electric Power Administration	6	-
Underground Electric Power Transmission Research	<u>2</u>	<u>1</u>
Subtotal - Interior	5,459	199
From Department of Transportation		
Pipeline Safety	27	3
From Atomic Energy Commission*		
Uranium Raw Materials	89	2
Uranium Enrichment	75	235
Civilian Nuclear Power Reactors (policy and funding)	**	333
Plowshare (policy, funding and selected functions)	4	7
Program Administration	<u> </u>	<u>3</u>
Subtotal - AEC	168	580
Total - Energy and Minerals Resources	<u>5,654</u>	<u>782</u>

* Direct activity involvement.

** A nucleus of highly qualified personnel having comprehensive knowledge of all significant phases of this program will be available to the Administrator to provide essential nuclear program staffing expertise.

Corrected January 25, 1972

92^d CONGRESS
1ST SESSION

S. 1431

IN THE SENATE OF THE UNITED STATES

APRIL 1, 1971

Mr. PERCY (for himself, Mr. RIBICOFF, Mr. SCOTT, Mr. GRIFFIN, Mr. JAVITS, Mr. ANDERSON, Mr. BENNETT, Mr. BROCK, Mr. DOMINICK, Mr. GURNEY, Mr. JACKSON, Mr. JORDAN of Idaho, Mr. MATHIAS, Mr. MOSS, Mr. MUNDT, Mr. ROTH, and Mr. SAXBE) introduced the following bill; which was read twice and referred to the Committee on Government Operations

A BILL

To promote more effective management of certain related functions of the executive branch by reorganizing and consolidating those functions in a new Department of Natural Resources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Department of Natural
4 Resources Act."

TITLE I

DECLARATION OF PURPOSE

7 SEC. 101. (a) (1) The Congress hereby declares that
8 the general welfare of the Nation requires that its limited
9 natural resources, including energy sources, be conserved,

1 managed, and utilized so as to help achieve the highest
2 practicable environmental quality, harmony between man
3 and nature, economic and community development, indi-
4 vidual fulfillment, and security of the American people of
5 this and future generations.

6 (2) The Congress further declares that, while recog-
7 nizing the substantial responsibility of State and local gov-
8 ernments, private organizations and individuals for natural
9 resources, the Federal Government has a national respon-
10 sibility to practice, with respect to the natural resources it
11 administers, and to foster the practice of, with respect to
12 natural resources administered by others, appropriate con-
13 servation, management, and utilization policies.

14 (b) To best achieve these objectives, improve Govern-
15 ment operations, and assure the coordinated and effective ad-
16 ministration of natural resource programs, the Congress finds
17 that it is necessary to establish a Department of Natural Re-
18 sources to bring together and provide leadership and direc-
19 tion for all those Federal activities which most directly
20 relate to the discovery, assessment, preservation, develop-
21 ment, utilization, future adequacy, and enjoyment of natural
22 resources, including energy sources, achieving a sound bal-
23 ance between preservation and development. The Congress
24 further finds that it is appropriate for the Department of
25 Natural Resources to administer the trust responsibility for,

1 and selected programs to assist, the Indians, Alaska
2 Natives, and territorial peoples.

3 (c) Among other things it shall be the function of the
4 Department of Natural Resources, through providing na-
5 tional leadership and establishing effective working relation-
6 ships with State and local governments, public and private
7 institutions and individuals, and other Federal agencies, to
8 foster the conservation, management, and utilization of nat-
9 tural resources; help assure maintenance of the ecological
10 balance necessary to sustain human and unique plant and
11 animal life systems; explore and survey the earth, the
12 atmosphere, and the oceans; conduct scientific research and
13 encourage development of technology to conserve and effi-
14 ciently utilize natural resources with minimum impact on the
15 environment; undertake programs for the optimal develop-
16 ment of various energy sources, including nuclear power;
17 provide physical and economic data, maps, charts, and haz-
18 ard warnings; manage Federal lands, including national parks
19 and forests, and minerals; preserve irreplaceable park, wild-
20 erness, scientific, historic, fish and wildlife resources; assist in
21 providing outdoor recreational opportunities; and undertake
22 programs for the conservation, management, and utilization
23 of land, water, forest, range, mineral, fish and wildlife re-
24 sources; and to provide for the fulfillment of Federal trust
25 responsibilities over land and other resources of Indians,

1 Alaska Natives and territorial peoples and assist such
2 peoples to achieve their cultural and economic objectives.

3 TITLE II

4 ESTABLISHMENT OF DEPARTMENT

5 SEC. 201. (a) There is hereby established at the seat
6 of government an executive department to be known as the
7 Department of Natural Resources (hereinafter referred to
8 as the "Department"). There shall be at the head of the
9 Department a Secretary of Natural Resources (hereinafter
10 referred to as the "Secretary"), who shall be appointed by
11 the President by and with the advice and consent of the
12 Senate. The Secretary shall receive compensation at the
13 rate now or hereafter prescribed for offices and positions at
14 level I of the Executive Schedule (5 U.S.C. 5312). The
15 Department shall be administered under the supervision and
16 direction of the Secretary, who shall be responsible for the
17 efficient and coordinated management of the Department.

18 SEC. 202. (a) There shall be in the Department a
19 Deputy Secretary who shall be appointed by the President
20 by and with the advice and consent of the Senate and who
21 shall receive compensation at the rate now or hereafter pre-
22 scribed for offices and positions at level II of the Executive
23 Schedule (5 U.S.C. 5313).

24 (b) There shall be in the Department two Under Secre-
25 taries who shall be appointed by the President by and with

5

1 the advice and consent of the Senate and who shall receive
2 compensation at the rate now or hereafter prescribed for
3 offices and positions at level III of the Executive Schedule
4 (5 U.S.C. 5314).

5 (c) There shall be in the Department a Land and Rec-
6 reation Resources Administration, at the head of which shall
7 be an Administrator of Land and Recreation Resources; a
8 Water Resources Administration, at the head of which shall
9 be an Administrator of Water Resources; an Energy and
10 Mineral Resources Administration, at the head of which
11 shall be an Administrator of Energy and Mineral Resources;
12 an Oceanic, Atmospheric, and Earth Sciences Administra-
13 tion, at the head of which shall be an Administrator of
14 Oceanic, Atmospheric, and Earth Sciences; and an Indian
15 and Territorial Affairs Administration, at the head of which
16 shall be an Administrator of Indian and Territorial Affairs.
17 The Administrators appointed pursuant to this subsection
18 shall be appointed by the President by and with the advice
19 and consent of the Senate and shall receive compensation at
20 the rate now or hereafter prescribed for offices and positions
21 at level III of the Executive Schedule (5 U.S.C. 5314).

22 (d) There shall be in the Department one Assistant
23 Secretary and a General Counsel who shall be appointed
24 by the President by and with the advice and consent of the
25 Senate and who shall receive compensation at the rate now

1 or hereafter prescribed for offices and positions at level IV
2 of the Executive Schedule (5 U.S.C. 5315).

3 (e) There shall be within the Department not more
4 than twenty-five additional officers, as determined from time
5 to time by the Secretary, who shall be appointed by the
6 Secretary and shall receive compensation at the rate now or
7 hereafter prescribed for offices and positions at level IV or
8 level V of the Executive Schedule (5 U.S.C. 5315 or
9 5316), as the Secretary may specify.

10 (f) Officers appointed pursuant to this section shall per-
11 form such functions as the Secretary shall specify from time
12 to time.

13 SEC. 203. The Deputy Secretary (or in the absence or
14 disability of the Deputy Secretary or in the event of a va-
15 cancy in the Office of the Deputy Secretary, an Under Sec-
16 retary, Administrator, Assistant Secretary, or the General
17 Council, determined according to such order as the Secre-
18 tary shall prescribe) shall act for and perform the functions
19 of the Secretary during any absence or disability of the Sec-
20 retary or in the event of a vacancy in the Office of the
21 Secretary.

22 TITLE III

23 TRANSFERS

24 SEC. 301. Subject to the remaining sections of this
25 title, there are hereby transferred to and vested in the
26 Secretary:

1 (a) All of the functions of the Secretary of the In-
2 terior, the Department of the Interior, and all officers and
3 components of that Department.

4 (b) Such of the functions of the Secretary of Com-
5 merce, the Department of Commerce, and officers and com-
6 ponents of that Department, as relate to or are utilized by
7 the National Oceanic and Atmospheric Administration.

8 (c) (1) Such of the functions of the Secretary of De-
9 fense, the Secretary of the Army, the Assistant Secretary of
10 the Army for Civil Works, and the Chief of Engineers and
11 the Corps of Engineers of the Department of the Army, as
12 relate to or are utilized for civil works and civil regulatory
13 functions: *Provided*, That all civil works construction, opera-
14 tion, and maintenance, flood and coastal emergencies, and
15 related activities, which shall be funded by the Secretary,
16 shall be accomplished through and under the direction of the
17 Secretary of the Army and the supervision of the Chief of
18 Engineers.

19 (2) All of the functions of the Board of Engineers for
20 Rivers and Harbors, Coastal Engineering, Research Center,
21 Board on Coastal Engineering Research, Mississippi River
22 Commission, and California Debris Commission.

23 (d) Such of the functions of the Secretary of Agricul-
24 ture, the Department of Agriculture, and officers and com-

1 ponents of that Department, as relate to or are utilized by
2 the Forest Service.

3 (e) Such of the functions of the Secretary of Agricul-
4 ture, the Department of Agriculture, and officers and com-
5 ponents of that Department, as relate to or are utilized by
6 the Soil Conservation Service.

7 (f) Such of the functions of the Secretary of Agriculture,
8 the Department of Agriculture, and officers and components
9 of that Department, as relate to or are utilized by the Natural
10 Resource Economics Division of the Economic Research
11 Service.

12 (g) Such of the functions of the Secretary of Agricul-
13 ture, the Department of Agriculture, and officers and com-
14 ponents of that Department, as relate to or are utilized by
15 the Soil and Water Conservation Division of the Agricul-
16 tural Research Service.

17 (h) Such of the functions of the Secretary of Trans-
18 portation, the Department of Transportation, and officers
19 and components of that Department, as relate to or are
20 utilized for pipeline safety.

21 (i) All of the functions of the Water Resources Council.

22 (j) Such of the functions of the Atomic Energy Com-
23 mission, and officers and components of that Commission,
24 as relate to or are utilized for the following:

25 (1) the civilian power program: *Provided, That*

1 all research and development programs and related
2 activities, which shall be funded by the Secretary, shall
3 be accomplished through and under the direction of the
4 Commission;

5 (2) the raw materials program;

6 (3) the uranium enrichment and related distribu-
7 tion activities constituting part of the Commission's pro-
8 duction program; and

9 (4) the Plowshare program: *Provided*, That all
10 general research and development, device development,
11 explosive effect tests, development of fielding systems,
12 project execution, and related activities, which shall be
13 funded by the Secretary, shall be accomplished through
14 and under the direction of the Commission.

15 SEC. 302. Functions vested by subchapter II of chap-
16 ter 5 of title 5 of the United States Code in hearing exam-
17 iners employed by any department, agency, or component
18 thereof, the functions of which are transferred under the pro-
19 visions of this Act, shall be vested in hearing examiners of
20 the Department.

21 SEC. 303. In any case in which the head of a depart-
22 ment or agency is required to consult or obtain the approval
23 of the head of another department or agency as a condition
24 to his performance of a function and the functions of both

1 with respect to the matter involved have been transferred
2 to the Secretary, the requirement for such consultation or
3 approval is hereby terminated.

4 SEC. 304. Except as provided in the next sentence, the
5 personnel employed in connection with, and the personnel
6 positions, assets, liabilities, contracts, property, records, and
7 unexpended balances of appropriations, authorizations, allo-
8 cations, and other funds employed, held, used, arising from,
9 available to, or to be made available in connection with the
10 functions transferred to the Secretary by this Act are, sub-
11 ject to section 202 of the Budget and Accounting Pro-
12 cedures Act of 1950 (31 U.S.C. 581c), transferred to the
13 Secretary for appropriate allocation. Personnel positions
14 expressly created by statute or reorganization plan, person-
15 nel occupying those positions on the effective date of this
16 Act, and personnel authorized to receive compensation at
17 the rate prescribed for offices and positions at level I, II,
18 III, IV, or V of the Executive Schedule (5 U.S.C. 5312-
19 5316) on the effective date of the Act shall be subject to
20 the provisions of sections 306 and 501 of this Act.

21 SEC. 305. Except as provided in section 306, transfer of
22 nontemporary personnel pursuant to this title shall not cause
23 any such employee to be separated or reduced in grade or
24 compensation for one year after such transfer.

25 SEC. 306. Any person who, on the effective date of this

1 Act, held a position compensated in accordance with the
2 Executive Schedule prescribed in chapter 53 of title 5 of the
3 United States Code, and who, without a break in service, is
4 appointed in the Department to a position having duties com-
5 parable to those performed immediately preceding his ap-
6 pointment shall continue to be compensated in his new posi-
7 tion at not less than the rate provided for his previous posi-
8 tion, for the duration of his service in the new position.

9 SEC. 307. With respect to the programs and activities of
10 the Atomic Energy Commission herein transferred, the func-
11 tions of the Secretary shall be carried out under the following
12 provisions of the Atomic Energy Act of 1954 (42 U.S.C.
13 2011 et seq.), and the Secretary shall perform the functions
14 of the Commission set forth therein with respect to such trans-
15 ferred programs and activities, except as otherwise specified
16 below:

17 (a) Chapter 1, "Declaration, Findings and Purpose".

18 (b) Chapter 2, "Definitions", except that the functions
19 of the Commission set forth in subsections j (extraordinary
20 nuclear occurrence), v (production facility), z (source ma-
21 terial), aa (special nuclear material), and cc (utilization
22 facility) of section 11 shall remain with the Commission.

23 (c) The following provisions of chapter 3, "Organiza-
24 tion": sections 26 (General Advisory Committee), and 27

1 (consultation with the Department of Defense on atomic
2 energy matters; functions of the Department of Defense).

3 (d) Chapters 4, "Research", and 5, "Production of
4 Special Nuclear Material".

5 (e) The following provisions of chapter 6, "Special
6 Nuclear Material": clauses 53a (ii) and (iii) (making
7 available and distributing special nuclear material); sub-
8 section 53c (sale or lease, etc., of special nuclear material,
9 enrichment sources, sales prices, agreements with licensees,
10 use charges); subsection 53d (use charge for leased special
11 nuclear material); subsection 53f (distribution of special
12 nuclear material); section 54 (foreign distribution of spe-
13 cial nuclear material); section 55 (acquisition of special
14 nuclear material); section 56 (guaranteed purchase prices);
15 subsection 57c (limitations on distributions of special nuclear
16 material); and section 58 (Joint Committee review).

17 (f) The following provisions of chapter 7, "Source
18 Material": section 63 (domestic distribution of source mate-
19 rial), except the authority with respect to the issuance of
20 licenses and of criteria governing such issuance; section 64
21 (foreign distribution of source material), except the author-
22 ity to make the determination that the activity will not be
23 inimical to the interests of the United States; section 65
24 (reporting); section 66 (acquisition); and section 67 (op-
25 erations on lands belonging to the United States).

1 (g) Chapter 8, "Byproduct Material", except the au-
2 thority of the Commission with respect to issuance of licenses,
3 establishing exemptions from licensing, and determinations
4 under subsection 82b as to whether foreign distributions
5 would be inimical to the common defense and security.

6 (h) In chapter 9, "Military Applications of Atomic
7 Energy", the authority in clause 91b (1) relating to deliv-
8 ery of enriched uranium to Department of Defense.

9 (i) In chapter 11, "International Activities", sections
10 121 (effect of international arrangements) and 122 (policies
11 contained in international arrangements).

12 (j) In chapter 12, "Control of Information", subsec-
13 tions 144a (international cooperation pursuant to an agree-
14 ment for cooperation); 145b (restriction on access to re-
15 stricted data), except that the Commission shall make the
16 determinations relative to access to restricted data; and
17 146b (power to control or restrict dissemination of infor-
18 mation).

19 (k) In chapter 14, "General Authority", subsections
20 161a (advisory boards), c (investigations, subpoenas), d
21 (appointment and compensation of employees), e (acquisi-
22 tion and construction of facilities, etc.), f (utilization of
23 services of others), g (acquisition and disposal of property),
24 k (carrying of firearms), m (materials transactions with
25 licensees), o (reports and records) except with respect to

1 licensed activities, p (rules and regulations), q (easements),
2 r (utility and related services), t (contracts implementing
3 agreements for cooperation), u (long-term contract author-
4 ity), and v (contracts for producing or enriching special
5 nuclear material); and sections 162 (contract exemption
6 authority), 163 (service of advisory committees), 164 (elec-
7 tric utility contracts), 165 (proscribed contract practices),
8 166 (Comptroller General audit), 167 (claims settlements),
9 168 (payments in lieu of taxes), 169 (no subsidy), and
10 170 (indemnification and limitation of liability) insofar as
11 it authorizes and applies to agreements of indemnification
12 with contractors.

13 (l) In chapter 15, "Compensation for Private Property
14 Acquired", sections 171 (just compensation), 172 (con-
15 demnation of real property), and 174 (Attorney General
16 approval of title).

17 (m) In chapter 17, "Joint Committee on Atomic En-
18 ergy", section 202.

19 (n) In chapter 18, "Enforcement", section 229 (author-
20 ity to issue trespass regulations), which shall apply to any
21 facility, installation, or real property subject to the jurisdic-
22 tion, administration, or in the custody of the Secretary and
23 utilized in carrying out any of the programs and activities
24 of the Atomic Energy Commission herein transferred; section
25 230 (photographing, etc., of Commission installations), in

1 which the words "property subject to the jurisdiction, ad-
2 ministration, or in the custody of the Commission," shall be
3 deemed to include property subject to the jurisdiction, ad-
4 ministration, or in the custody of the Secretary and utilized
5 in carrying out any of the programs and activities of the
6 Atomic Energy Commission herein transferred; and section
7 232 (injunction proceedings).

8 (o) In chapter 19, "Miscellaneous", sections 251 (re-
9 ports to Congress) and 261 (appropriations).

10 SEC. 308. No license under the Atomic Energy Act of
11 1954 (42 U.S.C. 2011 et seq.) shall be required for the
12 conduct, by the Secretary or by persons under contract with
13 and for the account of the Secretary, of the programs and
14 activities herein transferred from the Atomic Energy Com-
15 mission to the Secretary. In the conduct of such programs
16 and activities, the Secretary shall establish standards and
17 procedures for radiological protection of the public health
18 and safety and the safeguarding of the national defense and
19 security that are consistent with those established by the
20 Commission to govern its own activities. Such standards and
21 procedures shall be established with the advice and concur-
22 rence of the Atomic Energy Commission.

23 SEC. 309. With respect to the programs and activities
24 of the Atomic Energy Commission herein transferred, the
25 Secretary shall have all the rights, powers, and duties of

1 the Commission under section 152 of the Atomic Energy
2 Act of 1954 (42 U.S.C. 2182), in the case of inventions
3 and discoveries, useful in the production or utilization of spe-
4 cial nuclear material or atomic energy, made or conceived in
5 the course of or under any contract, subcontract, or ar-
6 rangement entered into with or for the benefit of the Secre-
7 tary, to the same extent as if entered into with or for the
8 benefit of the Commission.

9 SEC. 310. (a) The Commissioned Officer Corps of the
10 National Oceanic and Atmospheric Administration shall be-
11 come the Commissioned Officer Corps of the Oceanic, Atmos-
12 pheric, and Earth Sciences Administration (hereinafter re-
13 ferred to as the "Commissioned Officer Corps of OAESA").
14 Members of the corps (hereinafter referred to as "com-
15 missioned officers of OAESA"), including those appointed
16 hereafter, shall be entitled to all rights, privileges, and bene-
17 fits heretofore available under any law to commissioned offi-
18 cers of the National Oceanic and Atmospheric Administra-
19 tion, including those rights, privileges, and benefits hereto-
20 fore accorded by law to commissioned officers of the former
21 Environmental Science Services Administration and to com-
22 missioned officers of the former Coast and Geodetic Survey.

23 (b) The Secretary may appoint one of the commis-
24 sioned officers of OAESA from the active list to one of the
25 positions at level IV or V of the Executive Schedule estab-

1 lished pursuant to subsection 202 (e) of this Act. Such ap-
2 pointment shall create a vacancy on the active list; and while
3 holding such position, the officer shall have rank, pay, and
4 allowances not exceeding those of a vice admiral.

5 (c) The Secretary may designate two commissioned
6 officers from the active list to serve at any one time as the
7 designated heads of two principal constituent organizational
8 entities of the Oceanic, Atmospheric, and Earth Sciences Ad-
9 ministration, or the Secretary may designate one such officer
10 as the head of such an organizational entity and the other as
11 the head of the Commissioned Officer Corps of OAESA. Any
12 such designation shall create a vacancy on the active list and
13 the officer while serving under this subsection shall have the
14 rank, pay, and allowances of a rear admiral (upper half).

15 (d) Any commissioned officer of OAESA who has
16 served under (b) or (c) and is retired while so serving or is
17 retired after the completion of such service while serving in
18 a lower rank or grade, shall be retired with the rank, pay,
19 and allowances authorized by law for the highest grade and
20 rank held by him; but any such officer, upon termination of
21 his appointment in a rank above that of captain, shall, unless
22 appointed or assigned to some other position for which a
23 higher rank or grade is provided, revert to the grade and
24 number he would have occupied had he not served in a rank

1 above that of captain and such officer shall be an extra num-
2 ber in that grade.

3 TITLE IV

4 DEFINITIONS AND ADMINISTRATIVE PROVISIONS

5 SEC. 401. (a) As used in this Act—(1) references to
6 “function” or “functions” shall be deemed to include refer-
7 ences to duty, obligation, power, authority, responsibility,
8 right, privilege, and activity, or the plural thereof, as the
9 case may be; and (2) references to “perform” or “perform-
10 ance,” when used in relation to functions, shall be deemed
11 to include the exercise of power, authority, rights, and
12 privileges.

13 (b) Any reference in this Act to any provision of law
14 shall be deemed to include, as appropriate, references thereto
15 as now or hereafter amended or supplemented.

16 SEC. 402. (a) The Secretary is authorized to prescribe
17 such policies, standards, criteria, procedures, rules, and regu-
18 lations as he may deem to be necessary or appropriate to
19 perform functions now or hereafter vested in him.

20 (b) The Secretary shall engage in such policy planning
21 and perform such program evaluation analyses and other
22 studies as may be necessary to promote the efficient and
23 coordinated administration of the Department and properly
24 assess progress toward the achievement of its missions.

25 SEC. 403. (a) The Secretary may delegate any of his

1 functions to such officers and employees of the Department
2 as he may designate, and may authorize such successive
3 redelegations of such functions as he may deem to be
4 necessary or appropriate.

5 (b) The Secretary may, from time to time, establish,
6 alter, rename, or discontinue such organizational units or
7 components within the Department as he may deem to be
8 necessary or appropriate, but such authority shall not ex-
9 tend to the discontinuance of administrations or other or-
10 ganizational units or components expressly established with-
11 in the Department by this Act or by any future Act or re-
12 organization plan.

13 SEC. 404. The Secretary is authorized to establish, alter,
14 or discontinue and to maintain such State, regional, district,
15 local, or other field offices as he may deem to be necessary
16 or appropriate to perform functions now or hereafter vested
17 in him.

18 SEC. 405. The Secretary is authorized, subject to the
19 civil service and classification laws, to select, appoint, em-
20 ploy, and fix the compensation of such officers and em-
21 ployees, including attorneys, as are necessary to perform the
22 functions now or hereafter vested in him and to prescribe
23 their functions.

24 SEC. 406. The Secretary may obtain services as author-
25 ized by section 3109 of title 5 of the United States Code, at

1 rates not to exceed the rate prescribed for grade GS-18 of
2 the General Schedule by section 5332 of title 5 of the United
3 States Code.

4 SEC. 407. The Secretary is authorized to appoint, with-
5 out regard to the civil service laws, such advisory committees
6 as he may deem appropriate for the purpose of consultation
7 with and advice to the Secretary in the performance of his
8 functions. Members of advisory committees, other than those
9 regularly employed by the Federal Government, while at-
10 tending meetings of such committees or while otherwise
11 serving at the request of the Secretary, may be paid compen-
12 sation at rates not exceeding those authorized for individuals
13 under section 5332 of title 5 of the United States Code and,
14 while so serving away from their homes or regular places of
15 business, may be allowed travel expenses, including per diem,
16 as authorized by section 5703 of title 5 of the United States
17 Code for persons in the Government service employed
18 intermittently.

19 SEC. 408. (a) Notwithstanding any other provision of
20 law, a member of the Coast Guard, the Commissioned Officer
21 Corps of OAESA, or the Regular or Reserve Commissioned
22 Corps of the Public Health Service may be appointed, de-
23 tailed, or assigned to any position in the Department other
24 than a position the occupant of which must be approved by
25 and with the advice and consent of the Senate.

1 (b) The Secretary is authorized to provide for partici-
2 pation of military personnel in the performance of his func-
3 tions. Members of the Army, the Navy, the Air Force, or
4 the Marine Corps may be detailed for service in the Depart-
5 ment by the appropriate Secretary, pursuant to cooperative
6 agreements with the Secretary.

7 (c) Appointment, detail, or assignment to, acceptance
8 of, and service in any appointive or other position in the De-
9 partment under this section shall in no way affect status,
10 office, rank, or grade which officers or enlisted men may
11 occupy or hold or any emolument, perquisite, right, privilege
12 or benefit incident to or arising out of any such status, office,
13 rank, or grade, nor shall any member so appointed, detailed,
14 or assigned be charged against any statutory limitation on
15 strengths applicable to the Armed Forces. A member so ap-
16 pointed, detailed, or assigned shall not be subject to direction
17 or control by his armed force or any officer thereof directly or
18 indirectly with respect to the responsibilities exercised in the
19 position to which appointed, detailed, or assigned.

20 SEC. 409. The Secretary is authorized to pay transporta-
21 tion expenses, and per diem in lieu of subsistence expenses,
22 in accordance with chapter 57 of title 5 of the United States
23 Code for travel between places of recruitment and duty, and
24 while at places of duty, of persons appointed for temporary or
25 seasonal services in the field service of the Department.

1 SEC. 410. The Secretary is authorized to enter into such
2 contracts and agreements, including grant agreements, with
3 public agencies and private organizations and persons; make
4 such payments (in lump sum or installments, and in advance
5 or by way of reimbursement, and with necessary adjustments
6 on account of overpayments and underpayments) ; and gen-
7 erally take such steps as he may deem to be necessary or ap-
8 propriate to perform functions now or hereafter vested in him.

9 SEC. 411. The Secretary is authorized to acquire (by
10 purchase, lease, condemnation, or otherwise) , construct, im-
11 prove, repair, operate, and maintain facilities and real prop-
12 erty. However, such authority shall apply only to facilities
13 required for the maintenance and operation of laboratories,
14 research; and testing sites and facilities, quarters, and related
15 accommodations for employees and dependents of employees
16 of the Department, and such other special purpose real prop-
17 erty as the Secretary deems to be necessary in and outside
18 the District of Columbia. The Secretary may, through the
19 Administrator of General Services, acquire, by purchase,
20 lease, condemnation, or otherwise, general purpose office and
21 warehouse buildings or parts of buildings in and outside the
22 District of Columbia for the use of the Department. Title to
23 any property or interest therein, real, personal, or mixed,
24 acquired pursuant to this section shall be in the United States.

25 SEC. 412. (a) The Secretary is authorized to provide,

1 construct, or maintain, as necessary and when not otherwise
2 available, the following for employees and their dependents
3 stationed at remote locations:

4 (1) Emergency medical services and supplies;

5 (2) Food and other subsistence supplies;

6 (3) Messing facilities;

7 (4) Audiovisual equipment, accessories, and sup-
8 plies for recreation and training;

9 (5) Reimbursement for food, clothing, medicine, and
10 other supplies furnished by such employees in emer-
11 gencies for the temporary relief of distressed persons;

12 (6) Living and working quarters and facilities; and

13 (7) Transportation for school-age dependents of
14 employees to the nearest appropriate educational facili-
15 ties.

16 (b) The furnishing of medical treatment under para-
17 graph (1) of subsection (a) and the furnishing of services
18 and supplies under paragraphs (2) and (3) of subsection
19 (a) shall be at prices reflecting reasonable value as deter-
20 mined by the Secretary.

21 (c) Proceeds from reimbursement under this section
22 shall be deposited in the Treasury and may be withdrawn
23 by the Secretary to pay directly the cost of such work
24 or services, to repay or make advances to appropriations
25 of funds which do or will bear all or a part of such cost,

1 or to refund excess sums when necessary: *Provided*, That
2 such payments may be credited to a service or working
3 capital fund otherwise established by law, and used under
4 the law governing such funds, if the fund is available for
5 use by the Department for performing the work or services
6 for which payment is received.

7 SEC. 413. The Secretary, under such terms, at such
8 rates, and for such periods not exceeding thirty years, as he
9 may deem to be in the public interest, is authorized, under
10 regulations prescribed by the President, to permit the use
11 by concessionaires, including public and private agencies,
12 corporations, associations, or other organizations or individu-
13 als, of any real property, or any facility, structure, or other
14 improvement thereon, under the jurisdiction of the Secre-
15 tary. The Secretary may require permittees under this sec-
16 tion to recondition and maintain to a satisfactory standard
17 and at their own expense, the real property, facilities, struc-
18 tures, and improvements involved.

19 SEC. 414. The Secretary is authorized to acquire any
20 of the following described rights if the property acquired
21 thereby is for use by or for, or is useful to, the performance
22 of functions vested in him—

23 (1) Copyrights, patents, and applications for pat-
24 ents, designs, processes, and manufacturing data;

1 (2) Licenses under copyrights, patents, and appli-
2 cations for patents; and

3 (3) Releases, before suit is brought, for past in-
4 fringement of patents or copyrights.

5 SEC. 415. The Secretary is authorized to engage in
6 basic and applied research and development and disseminate
7 technology through information programs, demonstrations,
8 and cooperative arrangements with such scientific and other
9 public and private organizations and persons as he may deem
10 necessary to carry out the functions now and hereafter
11 vested in him.

12 SEC. 416. (a) (1) The Secretary is authorized, within
13 his own discretion or upon the request of any person, firm,
14 organization, or others, public or private, to make special
15 studies concerning matters within his jurisdiction; to prepare
16 from the records of the Department special compilations,
17 lists, bulletins, or reports; to furnish transcripts or copies of
18 such studies, compilations, and other records; to provide
19 copies of charts, maps, or photographs; and to provide serv-
20 ices incident to the conduct of the regular work of the De-
21 partment. The Secretary may, as appropriate, require pay-
22 ment of the actual or estimated cost of such special work.

23 (2) In the case of nonprofit organizations, research or-
24 ganizations, or public organizations or agencies, the Secre-

1 tary may engage in joint projects, or perform services, on
2 matters of mutual interest, the cost of which shall be appor-
3 tioned equitably, as determined by the Secretary, who may,
4 however, waive payment of any portion of such costs by
5 others, when otherwise authorized to do so.

6 (b) All payments for work or services performed or
7 to be performed under this section shall be deposited in the
8 Treasury and may be withdrawn by the Secretary to pay
9 directly the cost of such work or services, to repay or make
10 advances to appropriations or funds which do or will bear
11 all or a part of such cost, or to refund excess sums when
12 necessary: *Provided*, That such payments may be credited
13 to a service or working capital fund otherwise established
14 by law, and used under the law governing such funds, if the
15 fund is available for use by the Department for performing
16 the work or services for which payment is received.

17 SEC. 417. The Secretary, when he deems such action
18 necessary, may make provision for the printing and distri-
19 bution of reports and other documents in such number and in
20 such manner as he deems appropriate with respect to mat-
21 ters under his jurisdiction.

22 SEC. 418. The Secretary is authorized to accept, hold,
23 administer, and utilize gifts and bequests of property, both
24 real and personal, for the purpose of aiding or facilitating
25 the work of the Department. Gifts and bequests of money

1 and proceeds from sales of other property received as gifts
2 or bequests shall be deposited in the Treasury and shall be
3 disbursed upon the order of the Secretary. Property ac-
4 cepted pursuant to this section, and the proceeds thereof,
5 shall be used as nearly as possible in accordance with the
6 terms of the gift or bequest. For the purpose of Federal
7 income, estate, and gift taxes, property accepted under this
8 section shall be considered as a gift or bequest to the United
9 States.

10 SEC. 419. The Secretary shall cause a seal of office to be
11 made for the Department of such device as he shall approve
12 and judicial notice shall be taken of such seal.

13 SEC. 420. The Secretary is authorized to establish a
14 working capital fund, to be available without fiscal year limi-
15 tation, for expenses necessary for the maintenance and opera-
16 tion of such common administrative services as he shall find
17 to be desirable in the interests of economy and efficiency.
18 There shall be transferred to the fund the stocks of supplies,
19 equipment, other assets, liabilities, and unpaid obligations re-
20 lating to the services which he determines will be performed
21 through the fund. Appropriations to the fund in such amounts
22 as may be necessary to provide additional working capital
23 are authorized. The working capital fund shall recover from
24 the appropriations and funds for which services are per-
25 formed, either in advance or by way of reimbursement,

1 amounts which will approximate the costs incurred, includ-
2 ing the accrual of annual leave and the depreciation of equip-
3 ment. The fund shall also be credited with receipts from the
4 sale or exchange of its property, and receipts in payment for
5 loss or damage to property owned by the fund.

6 SEC. 421. To the extent necessary or appropriate to
7 perform functions transferred by this Act, the Secretary may
8 exercise, in relation to the functions so transferred, any au-
9 thority or part thereof available by law, including appro-
10 priations Acts, to the official or agency from which such func-
11 tions were transferred.

12 SEC. 422. Except as may be otherwise expressly pro-
13 vided in this Act, all functions expressly conferred by this
14 Act shall be in addition to and not in substitution for func-
15 tions existing immediately before the effective date of this
16 Act and transferred by this Act.

17 SEC. 423. The Secretary shall, as soon as practicable
18 after the end of each fiscal year, make a report to the
19 President for submission to the Congress on the activities of
20 the Department during the preceding fiscal year. Such report
21 shall include a statement of his goals, priorities, and plans
22 for the Department together with an assessment of the
23 progress made toward the attainment of those objectives,
24 the more effective and efficient management of the Depart-
25 ment and the coordination of its functions.

1 SEC. 424. The Secretary, when authorized in an appro-
2 priation Act, may, in any fiscal year, transfer funds from
3 one appropriation to another within the Department: *Pro-*
4 *vided*, That no appropriation shall be either increased or de-
5 creased pursuant to this section by more than 5 per centum
6 of the appropriation for such fiscal year.

7 SEC. 425. There is hereby established a service fund
8 for the Land and Recreation Resources Administration, the
9 Water Resources Administration, the Energy and Mineral
10 Resources Administration, the Oceanic, Atmospheric, and
11 Earth Sciences Administration, and the Indian and Terri-
12 torial Affairs Administration. Each such fund shall be avail-
13 able, without fiscal year limitations, for the purpose of pro-
14 viding services on a reimbursable basis for other departments,
15 agencies, and instrumentalities of the Government and for
16 persons outside the Government as authorized by law. The
17 costs of providing such services shall be paid from the appro-
18 priate service fund. Proceeds received as reimbursement for
19 services performed with funds from a service fund shall be
20 credited to that fund. Refunds may be made from a service
21 fund whenever an advance for services is subsequently deter-
22 mined to exceed the cost of such service.

23 SEC. 426. There are hereby authorized to be appropri-
24 ated, without fiscal year limitation, such sums as may be

1 provided for from time to time in appropriation Acts to carry
2 out functions now or hereafter vested in the Secretary.

3 SEC. 427. The Secretary shall from time to time prepare
4 and publish such compilations of laws and treaties applica-
5 ble to the various program areas of the Department as he
6 deems to be in the public interest.

7 TITLE V

8 TRANSITIONAL AND CONFORMING PROVISIONS

9 SEC. 501. Whenever all of the functions of a depart-
10 ment, agency, or other body, or any component thereof,
11 affected by this Act, have been transferred from that depart-
12 ment, agency, or other body, or any component thereof,
13 whether by this Act or by this Act in combination with trans-
14 fer by another Act, presidential reorganization plan, Execu-
15 tive order, or otherwise, the department, agency, or other
16 body, or component thereof shall lapse. Whenever a depart-
17 ment, agency, or other body, or any component thereof lapses
18 pursuant to the preceding sentence, each position and office
19 therein which was expressly created by statute or reorganiza-
20 tion plan or the incumbent of which was authorized to receive
21 compensation at the rate prescribed for an office or position at
22 level I, II, III, IV, or V of the Executive Schedule (5
23 U.S.C. 5312-5316) shall lapse.

24 SEC. 502. Section 211 of the Flood Control Act of 1970,
25 84 Stat. 1818, 1829, establishing the position of the Assist-

1 ant Secretary of the Army for Civil Works, is hereby
2 repealed.

3 SEC. 503. Section 101 of title 5 of the United States
4 Code is amended by substituting "Department of Natural Re-
5 sources" for "Department of the Interior".

6 SEC. 504. Section 19 (d) of title 3 of the United States
7 Code is amended by substituting "Secretary of Natural Re-
8 sources" for "Secretary of the Interior".

9 SEC. 505. Section 201 of Reorganization Plan Numbered
10 2 of 1970 is amended by substituting the "Secretary of
11 Natural Resources" for the "Secretary of the Interior".

12 SEC. 506. The Director of the Office of Management
13 and Budget is authorized to make such additional incidental
14 dispositions of functions, personnel, personnel positions, as-
15 sets, liabilities, contracts, property, records, and unexpended
16 balances of appropriations, authorizations, allocations, and
17 other funds held, used, arising from, available to or to be
18 made available in connection with the functions transferred
19 by this Act as he may deem necessary or appropriate to
20 accomplish the intent and purposes of this Act.

21 TITLE VI

22 SAVINGS PROVISIONS

23 SEC. 601. All orders, determinations, rules, regulations,
24 permits, contracts, certificates, licenses, and privileges—

25 (1) which have been issued, made, granted, or al-

1 lowed to become effective by the President, any Federal
2 department or agency or official thereof, or by a court
3 of competent jurisdiction, in the performance of func-
4 tions which are transferred under this Act, and

5 (2) which are in effect at the time this Act takes
6 effect,

7 shall continue in effect according to their terms until modi-
8 fied, terminated, superseded, set aside, or revoked by the
9 President, the Secretary, or other authorized official, a court
10 of competent jurisdiction, or by operation of law.

11 SEC. 602. (a) The provisions of this Act shall not affect
12 any proceedings pending at the time this section takes effect
13 before any department or agency (or component thereof),
14 functions of which are transferred by this Act; but such pro-
15 ceedings, to the extent that they relate to functions so trans-
16 ferred, shall be continued before the Department. Orders
17 shall be issued in such proceedings, appeals shall be taken
18 therefrom, and payments shall be made pursuant to such or-
19 ders, as if this Act had not been enacted; and orders issued
20 in any such proceedings shall continue in effect until modified,
21 terminated, superseded, or revoked by the Secretary, by a
22 court of competent jurisdiction, or by operation of law. Noth-
23 ing in this subsection shall be deemed to prohibit the dis-
24 continuance or modification of any such proceeding under the
25 same terms and conditions and to the same extent that such

1 proceeding could have been discontinued if this Act had not
2 been enacted.

3 (b) Except as provided in subsection (d)—

4 (1) the provisions of this Act shall not affect suits
5 commenced prior to the date this Act takes effect, and

6 (2) in all such suits proceedings shall be had, ap-
7 peals taken, and judgments rendered, in the same manner
8 and effect as if this Act had not been enacted.

9 (c) No suit, action, or other proceeding commenced
10 by or against any officer in his official capacity as an officer
11 of any department or agency, functions of which are trans-
12 ferred by this Act, shall abate by reason of the enactment
13 of this Act. No cause of action by or against any department
14 or agency, functions of which are transferred by this Act,
15 or by or against any officer thereof in his official capacity
16 shall abate by reason of the enactment of this Act. Causes
17 of actions, suits, actions, or other proceedings may be as-
18 serted by or against the United States or such official of the
19 Department as may be appropriate and, in any litigation
20 pending when this section takes effect, the court may at any
21 time, on its own motion or that of any party, enter any
22 order which will give effect to the provisions of this section.

23 (d) If, before the date on which this Act takes effect,
24 any department or agency, or officer thereof in his official
25 capacity, is a party to a suit, and under this Act any function

1 of such department, agency, or officer is transferred to the
2 Secretary or any other official, then such suit shall be con-
3 tinued as if this Act had not been enacted, with the Secretary
4 or other official, as the case may be, substituted.

5 (e) Final orders and actions of the Secretary or any
6 official or component of the Department in the performance
7 of functions transferred to the Secretary by this Act shall
8 be subject to judicial review to the same extent and in the
9 same manner as if such orders or actions had been made or
10 taken by the officer, department, agency, or instrumentality
11 in the performance of such functions immediately preceding
12 the effective date of this Act. Any statutory requirements
13 relating to notices, hearings, action upon the record, or
14 administrative review that apply to any function transferred
15 to the Secretary by this Act shall apply to the performance
16 of those functions by the Secretary, or any officer or com-
17 ponent of the Department.

18 SEC. 603. With respect to any function transferred by
19 this Act and performed after the effective date of this Act,
20 reference in any other law (including reorganization plans)
21 to any department or agency or any officer or office the
22 functions of which are so transferred shall be deemed to
23 refer to the Secretary or other officials in which this Act
24 vests such functions.

25 SEC. 604. Nothing contained in this Act shall be

1 construed to limit, curtail, abolish, or terminate any func-
2 tion of the President which he had immediately before the
3 effective date of this Act; or to limit, curtail, abolish, or termi-
4 nate his authority to perform such function; or to limit,
5 curtail, abolish, or terminate his authority to delegate, redele-
6 gate, or terminate any delegation of functions.

7 TITLE VII

8 SEPARABILITY

9 SEC. 701. If any provision of this Act or the application
10 thereof to any person or circumstance is held invalid, the re-
11 mainder of this Act, and the application of such provision to
12 other persons or circumstances shall not be affected thereby.

13 TITLE VIII

14 EFFECTIVE DATE AND INTERIM APPOINTMENTS

15 SEC. 801. (a) The provisions of this Act shall take
16 effect one hundred and twenty days after the Secretary first
17 takes office, or on such earlier date as the President may pre-
18 scribe and publish in the Federal Register, except that any of
19 the officers provided for in title II of this Act may be nomi-
20 nated and appointed, as provided in that title, at any time
21 after the date of enactment of this Act. Funds available to
22 any department or agency (or any official or component
23 thereof), any functions of which are transferred to the Secre-
24 tary by this Act, may, with the approval of the President, be
25 used to pay the compensation and expenses of any officer ap-

1 pointed pursuant to this subsection until such time as funds
2 for that purpose are otherwise available.

3 (b) In the event that one or more officers required by
4 this Act to be appointed by and with the advice and consent
5 of the Senate shall not have entered upon office on the
6 effective date of this Act, the President may designate any
7 officer, whose appointment was required to be made by
8 and with the advice and consent of the Senate and who was
9 such an officer immediately prior to the effective date of
10 the Act, to act in such office until the office is filled as pro-
11 vided in this Act. While so acting such persons shall receive
12 compensation at the rates provided by this Act for the re-
13 spective offices in which they act.

Calendar No. 472

92D CONGRESS }
1st Session

SENATE }

REPORT
No. 92-485EXTENDING THE PERIOD WITHIN WHICH THE PRESIDENT MAY
TRANSMIT TO THE CONGRESS PLANS FOR THE REORGANIZA-
TION OF AGENCIES OF THE EXECUTIVE BRANCH OF THE GOV-
ERNMENT

 NOVEMBER 17, 1971.—Ordered to be printed

Mr. McCLELLAN, from the Committee on Government Operations,
submitted the following

REPORT

[To accompany H.R. 6283]

The Committee on Government Operations, to which was referred the bill (H.R. 6283) to extend the period within which the President may transmit to the Congress plans for the reorganization of agencies of the executive branch of the Government, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is in the nature of a substitute.

PURPOSE

H.R. 6283, as amended, would (1) extend until April 1, 1973, the authority of the President, under chapter 9 of title 5, United States Code (executive reorganization), to submit reorganization plans to the Congress proposing reorganizations in the executive branch; (2) limit the number of plans which the President may submit to the Congress to not more than one within any one period of 30 consecutive days; (3) prohibit the submission of a plan which deals with more than one logically consistent subject matter; (4) authorize the filing of a petition to discharge a committee to which a resolution of disapproval has been referred from further consideration thereof, if such committee has not reported it by the end of 20 calendar days, following

its introduction, instead of 10 calendar days as provided by existing law; (5) revise language in the reorganization statute so as to simplify and clarify its provisions without effecting substantive changes; and (6) amend certain language in the statute to conform to changes previously made.

Chapter 9 of title 5, United States Code, contains the codification and reenactment as positive law of the Reorganization Act of 1949, as amended. It authorizes the President to submit reorganization plans to accomplish certain stated purposes, subject to limitations specified therein. Such plans become effective at the end of 60 days of continuous session following their submission, unless disapproved prior thereto by either House of the Congress by a majority of those present and voting.

The authority of the President to submit reorganization plans expired on April 1, 1971. H.R. 6283, as amended, would extend this authority until April 1, 1973, in response to a request for such extension transmitted by the Director, Office of Management and Budget, to the President of the Senate, dated February 1, 1971, a copy of which is set forth in appendix 1. The bill, as amended, would also amend and revise certain provisions of the reorganization statute, as summarized above and detailed in a later section of this report.

SUMMARY OF PRINCIPAL PROVISIONS OF THE STATUTE

The reorganization statute requires the President to examine, on a continuing basis, the organization of all agencies of the executive branch and to determine what changes therein are necessary to accomplish the purposes of the statute, and authorizes the President to submit reorganization plans to the Congress in order to accomplish those purposes, which include (1) promoting better execution of the laws and more effective management of the executive branch; (2) reducing expenditures and increasing efficiency and economy; (3) consolidating and coordinating agencies and functions according to major purposes; (4) reducing the number of agencies by consolidating under a single head those having similar functions and abolishing those which are unnecessary; and (5) eliminating duplication and overlapping. These stated purposes are also the standards which guide the President in making his determinations as to what reorganizations he will set forth in any plans which he transmits to the Congress.

Reorganizations proposed by the President may include (1) transfers or consolidations of agencies and the functions thereof within agencies or to other agencies; (2) abolition of all or part of agencies and functions; and (3) authorizations to executive branch officers to delegate functions. Each such reorganization must be based upon a Presidential finding that the proposed action is necessary to accomplish one or more of the purposes of the statute and a statement to that effect must be included in his message transmitting the plan to the Congress. The message must also specify, with respect to each abolition of a function included in a plan, the statutory authority for the exercise of such function and the reduction of expenditures (itemized so far as practicable) which is likely to result.

Under the provisions of the reorganization statute, reorganization plans cannot (1) create a new executive department, abolish or transfer an executive department or all of its functions, or consolidate two

or more executive departments or all of their functions; (2) continue an agency or function thereof beyond the period of time authorized by law for its existence or beyond the time when it would have terminated in the absence of the plan; (3) authorize any agency to exercise new functions not expressly authorized by law when the plan is transmitted; (4) increase the term of an office beyond that provided by law for that office; or (5) transfer or consolidate with any other agency the municipal government of the District of Columbia or its functions or abolish said government or its functions. Further, if a plan provides for the appointment and compensation of the head or other officers of any agency, the term of office may not be fixed at more than 4 years, the compensation may not exceed that applicable to comparable executive branch offices and, if the appointment is not in the competitive service, it must be made by the President, subject to Senate confirmation.

Reorganization plans, submitted in accordance with the requirements of the statute, become effective as law at the end of the first period of 60 calendar days of continuous session of the Congress after the date on which the plan is transmitted to it, unless, between the date of transmittal and the end of the 60-day period, either House, by a majority of those present and voting, adopts a resolution of disapproval. For the purpose of determining whether there has been a 60-day period of continuous session, continuity is considered broken by an adjournment of the Congress sine die. However, if either House is not in session because of an adjournment to a day certain of more than 3 days, such period is excluded in the computation of the 60-day period.

The reorganization statute provides further that a reorganization plan may provide for an effective date at a time later than the date on which the plan would otherwise become effective; and a plan which is effective must be printed in the Statutes at Large in the same volume as the public laws, and in the Federal Register.

The reorganization statute makes no provision for the amendment of a plan, and the only affirmative action authorized is the adoption of a resolution of disapproval. Members of either House who desire to file a resolution of disapproval must use a prescribed form and, following introduction, the resolution is referred to the appropriate committee in each House, which, under their respective standing rules, is the Committee on Government Operations.

In order to prevent a reorganization plan from becoming effective because the committee to which a disapproval resolution has been referred failed to act upon it within the 60-day period, and to insure expeditious consideration of such resolutions, the statute provides special rules of procedure for their processing. Thus, if the committee to which such resolution has been referred has not reported it after 10 calendar days following its introduction, any Member favoring the resolution may move to discharge the committee from further consideration. Debate on a motion to discharge is limited to 1 hour, the time being divided equally between proponents and opponents of the resolution, and such motion may not be renewed with respect to any other resolution concerning the same reorganization plan. It may be noted that this provision does not mean that the committee *must* act within the 10-day period; it merely *authorizes* the filing of a discharge motion at any time after the lapse of the 10-day period.

When a committee has reported, or has been discharged from further consideration of, a resolution of disapproval, at any time thereafter it is in order to move to proceed to the consideration of the resolution, and such motion is not debatable. Both the motion to discharge and the motion to proceed to the consideration of the resolution are highly privileged, not subject to amendment, and it is not in order to move to reconsider the vote by which such motions are agreed to or disagreed to.

Debate on a resolution of disapproval is limited to no more than 10 hours, equally divided between those favoring and those opposing the resolution, and a motion further to limit debate is not debatable. An amendment to, or a motion to recommit, the resolution is not in order; nor is it in order to move to reconsider the vote by which the resolution was agreed to or disagreed to.

Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution of disapproval, motions to proceed to the consideration of other business, and appeals from decisions of the Chair relative to the application of the rules of the Senate or the House to the procedure relating to a disapproval resolution are decided without debate.

COMMITTEE AMENDMENT

H.R. 6283, as amended by the committee, incorporates the provisions of that bill, as passed by the House of Representatives on May 3, 1971, with the provisions of a companion bill, S. 878, as amended by the Subcommittee on Executive Reorganization and Government Research, which held hearings on S. 878 on March 24, 1971. As introduced, both bills provided only for a 2-year extension of the President's authority to submit reorganization plans. The committee amendment retains this provision and incorporates certain revisions, substantive, and technical conforming amendments, which are explained below.

REVISION AND CLARIFICATION

Portions of the reorganization statute have been revised and restructured in an effort to clarify and simplify its language without effecting any changes in the procedures or the substantive law provided for therein (sections 901, 903, and 904).

Section 901 purports to set forth the congressional policy and to define, in part, the subject, extent, and objectives of the delegation by the Congress of its authority to prescribe the organization and structure of executive branch departments and agencies. However, its provisions do not state clearly that they are an expression of congressional policy. Accordingly, section 901(a) has been revised so as to eliminate any ambiguity.

Section 903 states the types of reorganizations which are authorized and provides for the required finding of facts and certification thereof by the President to the Congress before the delegated authority can become operative. However, in its present form, the language is cumbersome and unnecessarily complex. Accordingly, this section has been restructured so as to clarify the requirements to be met.

Section 904 specifies certain provisions which a reorganization plan may, or must, contain, as well as certain limitations. However, it is

somewhat confusing and difficult to understand and interpret. Accordingly, this section has been revised so as to present its contents in an orderly, more concise manner.

SUBSTANTIVE AMENDMENTS

As originally introduced, H. R. 6283 and S. 878 provided only for a simple two-year extension of the President's authority to submit reorganization plans.

The House of Representatives added the following amendments: (1) a provision, contained in section 2 of the committee amendment, which would amend section 903(b) of the statute by providing that the President shall not transmit more than one reorganization plan to the Congress within any period of 30 consecutive days; and (2) a provision, contained in section 3 of the committee amendment, which would amend section 905(a) of the statute by providing that a plan may not provide for, nor have the effect of, dealing with more than one logically consistent subject matter. In support of the first amendment, the House Committee on Government Operations stated that its purpose was "to assure that the committee would not be overburdened with a superabundance of plans at any one time." (H. Rept. 92-146, p. 3.). In support of the second amendment, the House committee stated that, on occasion, a plan has been submitted which contained a variety of miscellaneous actions, completely unrelated to one another, and that the submission of such plans is not believed to be within the intent of the Congress. (H. Rept. 92-146, p. 3).

The Subcommittee on Executive Reorganization and Government Research approved an amendment to section 911(a) of the statute, contained in section 5 of the committee amendment, relative to procedures to discharge a committee to which a resolution of disapproval has been referred from further consideration thereof. Under existing law, if such committee has not reported it after the passage of ten calendar days following its introduction, any Member favoring the resolution *may* move to discharge the committee. It should be noted that this provision *does not require* the committee to report such resolution following 10 days of consideration; it merely authorizes a motion to discharge.

Experience has demonstrated that the period provided for—10 calendar days following the introduction of a resolution of disapproval—is not adequate to enable the committee to process the resolution, and the plan properly. If a reorganization plan is complex—and many of them have been—a reasonable time must be allowed for staff analysis, hearings, committee consideration and the preparation of a report. Accordingly, the committee amendment would amend section 911(a) to provide that a motion to discharge the committee will be in order after the passage of 20 calendar days following its introduction.

The Office of Management and Budget has advised that although the administration would not oppose the House amendments, it preferred that they not be adopted since they were believed unnecessary.

CONFORMING AMENDMENT

Section 904(2) of the statute contains a reference to the Board of Commissioners of the District of Columbia. Reorganization Plan No.

3 of 1967 abolished the Board of Commissioners and transferred the Board's executive powers and functions to the Commissioner. However, since a reorganization plan does not amend substantive law, specifically, legislation is required to eliminate the obsolete reference. Accordingly, section 3 of the committee amendment would amend section 904 of the statute by deleting the reference therein to the Board of Commissioners and substituting therefor the Commissioner of the District of Columbia.

HEARINGS

A hearing on S. 878, a companion bill, was held by the Subcommittee on Executive Reorganization and Government Research, to which the bill had been referred, on March 24, 1971. The only witness was Dwight A. Ink, Assistant Director, Office of Management and Budget, accompanied by Howard Schnoor, Special Consultant, who testified in support of the bill.

During the hearing, in response to an inquiry by Senator Abraham Ribicoff, chairman of the subcommittee, Mr. Ink assured the subcommittee that the Office of Management and Budget, which was afforded an opportunity to examine the committee amendment, had no objection to its provisions. In view of the pending submission of Reorganization Plan No. 1 of 1971, Senators Ribicoff and Javits raised a question concerning the validity of transmitting a reorganization plan to the Congress when the reorganization authority was likely to expire prior to the effective date of the plan, and suggested that, the Department of Justice should be requested to respond to this question. Thereafter, the subcommittee received a letter from the Department, which has been inserted in the hearing record, advising that based upon the language of the reorganization statute and the precedents, there was no reason to doubt the validity of such submission. In further explanation, the letter noted that the statute imposed limitations only upon the date of submission, but imposed no requirement that reorganization authority remain in effect during the entire period that a plan is pending before the Congress. In addition, the letter cited a number of instances in which plans were permitted to become effective under identical circumstances.

BACKGROUND

PRIOR TO 1949

Reorganization authority was first given to the President in the Executive Reorganization Act of 1932 (title IV of the act of June 30, 1932, 47 Stat. 413). As originally enacted, it authorized the President, by Executive order, to consolidate, redistribute, and transfer various agencies and functions, but did not permit him to abolish any executive departments or agency created by statute, or to transfer or eliminate its functions. The 1932 act vested permanent authority in the President and authorized congressional rejection of reorganization proposals by either House of the Congress by a majority of those present and voting. This was the only Reorganization Act which granted permanent authority, although President Truman requested it twice and Presidents Eisenhower, Kennedy, and Johnson stated that it should be granted.

The permanent authority, granted in 1932, was limited to a 2-year period less than a year later, by an amendment in an appropriation measure (act of Mar. 3, 1933, 47 Stat. 1517). While limiting the President's authority to a specified period, the 1933 act broadened the scope of that authority and made no provision for congressional disapproval.

The Reorganization Act of 1939 (53 Stat. 561) limited the authority to submit reorganization plans, as they are known today, to a period of 2 years (until January 2, 1941), and provided for congressional rejection by the adoption of a concurrent resolution. The 1939 act contained numerous limitations, and only five plans were submitted under its authority, all of which became effective.

Title I of the War Powers Act of 1941 (55 Stat. 838) authorized the President to make temporary, emergency wartime reorganizations for the duration of the war plus 6 months.

The Reorganization Act of 1945 (59 Stat. 613) again granted the President reorganization authority for a period of approximately 2 years (until April 1, 1948), despite a request for permanent authority, and provided for congressional rejection by concurrent resolution. It was substantially similar to the 1939 act in that it prohibited the abolishment or transfer of an executive department or all of the functions thereof, and it exempted 11 agencies from the operation of the act. Under this act, seven plans were submitted, of which four became effective and three were rejected.

THE 1949 ACT

The Reorganization Act of 1949 (Public Law 109, 81st Cong., 63 Stat. 203), was enacted originally as a means of expediting reorganizations in the executive branch, following submission of its reports and recommendations by the first Commission on Organization of the Executive Branch of the Government (Hoover Commission). Since it was designed primarily as a means of enabling the implementation of these recommendations, it gave the President much greater latitude than the 1939 or 1945 acts, by eliminating exemptions of specified agencies and authorizing him to submit reorganization plans providing for the creation of new departments at the Cabinet level.

The committee rejected the President's request for permanent authority, approving, instead, a 4-year period (terminating on April 1, 1953), rather than the 2-year period granted in the earlier acts. Underlying this determination was the view that, although the President should be afforded a reasonable period of time to study the extensive work and the numerous recommendations of the Hoover Commission, and to prepare and submit reorganization plans based thereon, the Congress should retain sufficient control to enable periodic review of the use of the reorganization authority.

The method of congressional rejection was also modified by providing for such action by the adoption of a resolution of disapproval by a majority of the authorized membership of either House of the Congress, rather than by the earlier requirement of a concurrent resolution which necessitated action by both Houses. Under the original 1949 act, the President submitted 41 plans, of which 29 became effective, 11 were rejected, and the substance of one plan was incorporated in a statute which provided for the nullification of the plan, prior to its effective date.

EXTENSIONS AND AMENDMENTS OF 1949 ACT

The President's authority to submit reorganization plans was subsequently extended for 2-year periods in 1953, 1955, 1957, 1961, and 1969. In 1959 this committee reported a bill extending the reorganization authority for 2 additional years, or to June 1, 1961. The House of Representatives approved an identical bill, but both measures died on the Senate calendar at the end of the 86th Congress. The 1949 act was extended again for 1 year in 1964, for approximately 3 years and 7 months in 1965 (until December 31, 1968) and for 2 years in 1969. Thus, the President has had continuous authority under the 1949 act, as amended, except for lapses from June 1, 1959, to April 7, 1961, from June 1, 1963, to July 2, 1964, from December 31, 1968, to April 1, 1969, and since April 1, 1971.

In the 1957 extension, the method of congressional rejection was amended to provide for disapproval of reorganization plans by either House of the Congress by a simple majority of those present and voting, and the 1964 extension eliminated the authority of the President to submit plans proposing the creation of new Cabinet departments.

Under the subsequent extensions, 49 plans were submitted, of which 41 became effective and eight were rejected. Thus between the effective date of the 1949 act and the effective date of the last plan submitted in the 91st Congress, 90 reorganization plans have been submitted, of which 70 became effective, 19 were rejected, and one was nullified. Between the effective date of the Reorganization Act of 1939 and January 2, 1971, a total of 102 plans have been submitted, of which 79 became effective, 22 were rejected, and one was nullified.

Set forth in appendix 2 are: table I, listing the statutes which provided the President with reorganization authority since the enactment of the Executive Reorganization Act of 1932, indicating the duration of such authority and the methods provided for congressional disapproval; table II, containing a summary of actions on reorganization plans submitted between 1939 and 1970, pursuant to authority granted by the 1939, 1945 and 1949 acts, and subsequent extensions; and table III, showing the number of reorganization plans which have been submitted by each of the Presidents who have been granted reorganization authority since the Reorganization Act of 1939. An analysis of actions taken on all reorganization plans submitted under the authority of reorganization statutes, from the 81st through the 91st Congresses appears in appendix 3 of this report.

CONCLUSION

The committee recognizes the President's need for flexibility in organizing the executive branch to achieve the level of efficiency necessary to meet present and future requirements. The creation of sound machinery to administer our laws and programs is a difficult task which is never fully completed. The committee firmly believes that the ever-increasing complexity of our society, coupled with the expenditure of vast amounts of taxpayers' money on numerous programs and activities undertaken by the Federal Government in recent years, make efficient governmental organization and administration absolutely essential.

The reorganization statute provides the necessary authority to enable the President, as Chief Executive and "general manager" of the executive branch, to engage in continuing studies of the organizational and structural requirements of the Federal Government and to submit proposals for improvements. In recognizing the value of Presidential reorganization authority, however, the Committee on Government Operations is ever mindful of the fact that responsibility for the organization and structure of the executive branch is vested by the Constitution in the Congress, and care must always be exercised to make certain that the Congress does not surrender its constitutional responsibilities.

By providing legislative standards in the statute and by limiting the duration of the reorganization authority, the Congress is afforded the opportunity periodically to assess and evaluate its use. Without these safeguards, the delegations provided for might well constitute an abdication of the authority and responsibility of the Congress in derogation of constitutional requirements.

Experience over the years has demonstrated that the President's authority to submit reorganization proposals, designed to improve the organization and modernize the structure of the Government, is a valuable and effective device in the achievement of these objectives. This committee has long recognized that the President should have this authority and the record demonstrates that this position has been fully supported by the Congress during a period of almost 40 years.

The revisions and amendments contained in the committee amendment should serve to clarify and strengthen the reorganization statute so that all Members of the Congress will have a clear understanding of the objectives of the statute and the procedures provided for thereunder.

ESTIMATED COST OF THE LEGISLATION

In response to a request by the committee, the Director of the Office of Management and Budget advised that—

* * * carrying out the bill to extend the reorganization authority of the President will not require the direct expenditure of funds even though the preparation of plans may require the investment of some time and effort in affected agencies and in OMB. On the other hand, extension of the authority will afford the President the opportunity to take actions that will result in increasing the effectiveness of Executive departments and agencies which may result in savings in the cost of government.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

Chapter 9. EXECUTIVE REORGANIZATION

§ 901. Purpose

[(a) The President shall from time to time examine the organization of all agencies and shall determine what changes therein are necessary to accomplish the following purposes;]

(a) *The Congress declares that it is the policy of the United States—*

(1) to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;

(2) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government;

(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies functions as may not be necessary for the efficient conduct of the Government; and

(6) to eliminate overlapping and duplication of effort.

(b) Congress declares that the public interest demands the carrying out of the purposes of subsection (a) of this section and that the purposes may be accomplished in great measure by proceeding under this chapter, and can be accomplished more speedily thereby than by the enactment of specific legislation.

(c) *The President shall from time to time examine the organization of all agencies and shall determine what changes in such organization are necessary to carry out any policy set forth in subsection (a) of this section.*

§ 902. Definitions

For the purpose of this chapter—

(1) "agency" means—

(A) an executive agency or part thereof;

(B) an office or officer in the executive branch; and

(C) any and all parts of the government of the District of Columbia other than the courts thereof;

but does not include the General Accounting Office or the Comptroller General of the United States;

(2) "reorganization" means a transfer, consolidation, coordination, authorization, or abolition, referred to in section 903 of this title; and

(3) "officer" is not limited by section 2104 of this title.

§ 903. Reorganization plans

[(a) When the President, after investigation, finds that—]

(a) *Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganizations he finds are necessary. Any plan may provide for—*

(1) the transfer of the whole or a part of any agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

(2) the abolition of all or a part of the functions of an agency;
 (3) the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof;

(4) the consolidation or coordination of a part of an agency or the functions thereof with another part of the same agency or the functions thereof;

(5) the authorization of an officer to delegate any of his functions; or

(6) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions []; is necessary to accomplish one or more of the purposes of section 901(a) of this title, he shall prepare a reorganization plan for the making of the reorganizations as to which he has made findings and which he includes in the plan, and transmit the plan (bearing an identification number) to Congress, together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to accomplish one or more of the purposes of section 901(a) of this title.

The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title.

(b) The President shall have a reorganization plan delivered to both Houses on the same day and to each House while it is in session, and furthermore shall not transmit more than one such plan to Congress within any period of thirty consecutive days. In his message transmitting a reorganization plan, the President shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function and the reduction of expenditures (itemized so far as practicable) that it is probable will be brought about by the taking effect of the reorganization included in the plan.

§ 904. Additional contents of reorganization plans

A reorganization plan transmitted by the President under section 903 of this title—

(1) may change, in such cases as the President considers necessary, the name of an agency affected by a reorganization and the title of its head []; and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and one or more officers of an agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary []. The head so provided may be an individual or may be a commission or board with more than one member. In case of such an appointment, the term of office may not be fixed at more than 4 years, the pay may not be at a rate in excess of that found by the President to be applicable to comparable officers in the executive branch, and, if the appointment is not to a position in the competitive service, it shall be by the President, by and with the advice and consent of the Senate, except that,

except that, in the case of an officer of the government of the District of Columbia, it may be by the Board of Commissioners or other body or officer of that government designated in the plan];

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as the President considers necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective [. However, the unexpended balances so transferred may be used only for the purposes for which the appropriation was originally made]; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan transmitted by the President containing provisions authorized by paragraph (2) of this section may provide that the head of an agency be an individual or a commission or board with more than one member. In the case of an appointment of the head of such agency, the term of office may not be fixed at more than 4 years, the pay may not be at a rate in excess of that found by the President to be applicable to comparable officers in the executive branch, and if the appointment is not to a position in the competitive service, it shall be by the President, by and with the advice and consent of the Senate, except that, in the case of an officer of the government of the District of Columbia, it may be by the Commissioner or other body or officer of that government designated in the plan. Any reorganization plan transmitted by the President containing provisions required by paragraph (4) of this section, shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

§ 905. Limitation on powers

(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of—

(1) creating a new executive department, abolishing or transferring an executive department or all the functions thereof, or consolidating two or more executive departments or all the functions thereof;

(2) continuing an agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made;

(3) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(4) authorizing an agency to exercise a function which is not expressly authorized by law at the time the plan is transmitted to Congress;

(5) increasing the term of an office beyond that provided by law for the office; [or]

(6) transferring to or consolidating with another agency the government of the District of Columbia or all the functions thereof which are subject to this chapter, or abolishing that government or all those functions[.]; or

(7) *dealing with more than one logically consistent subject matter.*

(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to the Congress before [April 1, 1971] April 1, 1973.

§ 906. Effective date and publication of reorganization plans

(a) Except as otherwise provided under subsection (c) of this section, a reorganization plan is effective at the end of the first period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 60-day period, either House passes a resolution stating in substance that the House does not favor the reorganization plan.

(b) For the purpose of subsection (a) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(c) Under provisions contained in a reorganization plan, a provision of the plan may be effective at a time later than the date on which the plan otherwise is effective.

(d) A reorganization plan which is effective shall be printed (1) in the Statutes at Large in the same volume as the public laws, and (2) in the Federal Register.

§ 907. Effect on other laws pending legal proceedings, and unexpended appropriations

(a) A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this chapter, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed by the plan.

(b) For the purpose of subsection (a) of this section, "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation or other action.

(c) A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this chapter. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(d) The appropriations or portions of appropriations unexpended by reason of the operation of this chapter may not be used for any purpose, but shall revert to the Treasury.

§ 908. Rules of Senate and House of Representatives on reorganization plans

Sections 909–913 of this title are enacted by Congress—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by section 909 of this title; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rules of that House.

§ 909. Terms of resolution

For the purpose of sections 908–913 of this title, “resolution” means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: “That the _____ does not favor the reorganization plan numbered _____ transmitted to Congress by the President on _____, 19—.”, the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one reorganization plan.

§ 910. Reference of resolution to committee

A resolution with respect to a reorganization plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

§ 911. Discharge of committee considering resolution

(a) If the committee to which a resolution with respect to a reorganization plan has been referred has not reported it at the end of **[10 calendar days]** *20 calendar days* after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the reorganization plan which has been referred to the committee.

(b) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same reorganization plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(c) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same reorganization plan.

§ 912. Procedure after report or discharge of committee; debate

(a) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(b) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or a motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

§ 913. Decisions without debate on motion to postpone or proceed

(a) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a reorganization plan, and motions to proceed to the consideration of other business shall be decided without debate.

(b) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives as the case may be to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

APPENDIX 1

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., February 1, 1971.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On January 30, 1969, the President sent a special message to the Congress requesting an extension of his reorganization authority. At that time he said:

"New times call for new ideas and fresh approaches. To meet the needs of today and tomorrow, and to achieve a new level of efficiency, the Executive Branch requires flexibility in its organization. Government organization is created to serve, not to exist; as functions change, the organization must be ready to adapt itself to those changes."

That need continues today.

In one of its first actions, the 91st Congress did extend the President's authority until April 1, 1971. The President has made significant use of the power granted:

—In 1969, he proposed a reorganization plan to strengthen the executive powers of the chairman of the Interstate Commerce Commission, thus improving the day-to-day operations of that important agency.

—In 1970, he proposed the creation of a new Office of Telecommunications Policy in the Executive Office of the President through the transfer of certain functions from the Office of Emergency Preparedness, thus enhancing our ability to deal with problems in this vital area.

—To further strengthen the Executive Office, he moved to create the Domestic Council to deal with the overall question of what we do, and the Office of Management and Budget to better deal with the question of how we do it.

—He also used his authority to create the new separate Environmental Protection Agency bringing together key programs for setting environmental standards and abating pollution.

—Finally, the National Oceanic and Atmospheric Administration was established in the Department of Commerce assembling major programs for measuring and dealing with important aspects of our environment.

The Congress allowed all of these measures to become effective.

This cooperative and time-tested executive-legislative approach to reorganization has shown itself to be sensible and effective, regardless of party alignments. It works to curtail ineffective organizational arrangements and to enable good managers to manage well.

The reorganization authority expires on April 1, 1971. We urge that it be extended for two years to help the President continue with a never-ending task of providing sound machinery to administer our laws.

Sincerely,

GEORGE P. SHULTZ,
Director.

(Enclosure.)

A BILL To extend the period within which the President may transmit to the Congress plans for reorganization of agencies of the Executive Branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 905(b), title 5, United States Code, is amended by striking out "April 1, 1971", and inserting in lieu thereof "April 1, 1973".

APPENDIX 2

TABLE I.—STATUTES PROVIDING REORGANIZATION AUTHORITY

Reorganization authority ¹	Duration of authority and termination date	Method of disapproval
Reorganization Act of 1932: Title IV of the Legislative Appropriations Act for fiscal year 1933, Public Law 212, 72d Cong.	Permanent.....	Simple resolution of either House.
Acts of Mar. 3 and Mar. 20, 1933: Amending and superseding the act of June 20, 1932.	2 years (Mar. 20, 1935).....	No provision (enactment of law required).
Reorganization Act of 1939: Public Law 19, 76th Cong. (act of Apr. 3, 1939).	2 years (Jan. 21, 1941).....	Concurrent resolution.
Title I of War Powers Act of 1941 (act of Dec. 18, 1941).	Duration of war, plus 6 months, or such earlier time as designated by Congress.	No provision.
Reorganization Act of 1945: Public Law 263, 79th Cong. (act of Dec. 20, 1945).	2 years and 3 months (Apr. 1, 1948).	Concurrent resolution
Reorganization Act of 1949: Public Law 109, 81st Cong. (act of June 20, 1949).	4 years (Apr. 1, 1953).....	Majority of authorized membership of either house: Senate, 49; House, 218.
1953 amendment: Public Law 3, 83d Cong. (act of Feb. 11, 1953).	2 years (Apr. 1, 1955).....	Same as 1949 act.
1955 amendment: Public Law 16, 84th Cong. (act of Mar. 25, 1955).	2 years (June 1, 1957).....	Do.
1957 amendment: Public Law 86-286 (act of Sept. 4, 1957).	2 years (June 1, 1959).....	Simple resolution of either House.
1961 amendment: Public Law 87-18 (act of Apr. 7, 1961).	2 years (June 1, 1963).....	Do.
1964 amendment: Public Law 88-351 (act of July 2, 1964) (no authority to create new executive departments).	1 year (June 1, 1965).....	Do.
1965 amendment: Public Law 89-43 (act of June 18, 1965) (no authority to create new executive departments).	3 years, 6 months, and 13 days (Dec. 31, 1968).	Do.
1969 amendment: Public Law 91-5 (act of Mar. 27, 1969) (no authority to create new executive departments).	2 years (Apr. 1, 1971).....	Do.

¹ The Reorganization Act of 1949, as amended, was codified and reenacted as positive law by Public Law 89-554, Sept. 6, 1966, as amended by Public Law 90-83, Sept. 11, 1967. It is now referred to as ch. 9 of title 5, United States Code (executive reorganization).

TABLE II.—SUMMARY OF ACTION ON REORGANIZATION PLANS SUBMITTED BETWEEN 1939 AND 1970

Reorganization acts, extensions and amendments	Plans submitted	Became effective	Rejected
1939.....	5	5	0
1945.....	7	4	3
1949.....	41	29	11
1953.....	12	12	0
1955.....	3	1	2
1957.....	2	1	1
1961.....	10	6	4
1964.....	5	5	0
1965.....	12	11	1
1969.....	5	5	0
Total.....	102	179	22

¹ The substance of Plan No. 8 of 1949 was incorporated in Public Law 216, 81st Cong. (Aug. 10, 1949), which provided that the plan shall not take effect.

TABLE III.—NUMBER OF REORGANIZATION PLANS SUBMITTED BY EACH PRESIDENT AND DURATION OF REORGANIZATION AUTHORITY

[The following table shows the number of reorganization plans which were submitted by each of the Presidents who have been granted reorganization authority since 1939]

	Plans
Roosevelt.....	5
Truman.....	48
Eisenhower.....	17
Kennedy.....	10
Johnson.....	17
Nixon.....	5

APPENDIX 3

Action taken on reorganization plans under authority of reorganization statutes, 81st-91st Congresses:

ACTION ON REORGANIZATION PLANS, 81ST CONGRESS

REORGANIZATION PLANS OF 1949

Plan No.	Title	Date presented to Congress	Plan accepted or rejected	Effective date
1	Department of Welfare.....	June 20, 1949	Rejected.....	
2	Bureau of Employment Security.....	do.....	Accepted.....	Aug. 20, 1949
3	Post Office Department.....	do.....	do.....	Do.
4	National Security Council and National Security Resources Board.....	do.....	do.....	Do.
5	Civil Service Commission.....	do.....	do.....	Do.
6	Maritime Commission.....	do.....	do.....	Do.
7	Public Roads Administration.....	do.....	do.....	Do.
8	National Military Establishment.....	July 18, 1949		¹ Aug. 10, 1949

REORGANIZATION PLANS OF 1950

1	Treasury Department.....	Mar. 13, 1950	Rejected.....	
2	Department of Justice.....	do.....	Accepted.....	May 24, 1950
3	Department of the Interior.....	do.....	do.....	Do.
4	Department of Agriculture.....	do.....	Rejected.....	
5	Department of Commerce.....	do.....	Accepted.....	Do.
6	Department of Labor.....	do.....	do.....	Do.
7	Interstate Commerce Commission.....	do.....	Rejected.....	
8	Federal Trade Commission.....	do.....	Accepted.....	Do.
9	Federal Power Commission.....	do.....	do.....	Do.
10	Securities and Exchange Commission.....	do.....	do.....	Do.
11	Federal Communications Commission.....	do.....	Rejected.....	
12	National Labor Relations Board.....	do.....	do.....	
13	Civil Aeronautics Board.....	do.....	Accepted.....	Do.
14	Department of Labor.....	do.....	do.....	Do.
15	Alaska and Virgin Islands public works.....	do.....	do.....	Do.
16	Assistance to school districts and water pollution control.....	do.....	do.....	Do.
17	Advance planning and war public works.....	do.....	do.....	Do.
18	Building and space management functions.....	do.....	do.....	² July 1, 1950
19	Employees' compensation functions.....	do.....	do.....	May 24, 1950
20	Statutes at large and other matters.....	do.....	do.....	Do.
21	Maritime Commission.....	do.....	do.....	Do.
22	Federal National Mortgage Association.....	May 9, 1950	do.....	² Sept. 7, 1950
23	Loans for factory-built homes.....	do.....	do.....	Do.
24	RFC transfer to Department of Commerce.....	do.....	Rejected.....	
25	National Security Resources Board.....	do.....	Accepted.....	July 9, 1940
26	Treasury Department, functions of Secretary.....	May 31, 1950	do.....	July 31, 1950
27	Creation of Department of Health, Education, and Security.....	do.....	Rejected.....	

¹The substance of Plan No. 8 of 1949 was incorporated in Public Law 216, 81st Cong., (Aug. 10, 1949), which provided that the plan shall not take effect.

²Effective date specified in the plan.

ACTION ON REORGANIZATION PLANS, 82D CONGRESS

REORGANIZATION PLAN OF 1951

Plan No.	Title	Date presented to Congress	Plan accepted or rejected	Effective date
1	Reconstruction Finance Corporation.....	Feb. 19, 1951	Accepted.....	May 1, 1951

REORGANIZATION PLANS OF 1952

1	Bureau of Internal Revenue.....	Jan. 14, 1952	Accepted.....	Mar. 14, 1952
2	Post Office Department.....	Apr. 10, 1952	Rejected.....	
3	Bureau of Customs in Treasury Department.....	do.....	do.....	
4	Department of Justice U.S. marshals.....	do.....	do.....	
5	District of Columbia government.....	May 1, 1952	Accepted.....	July 1, 1952

ACTION ON REORGANIZATION PLANS, 83D CONGRESS

REORGANIZATION PLANS OF 1953

Plan No.	Title	Date presented to Congress	Plan accepted or rejected	Effective date
1	Department of Health, Education, and Welfare.....	Mar. 12, 1953	Accepted ¹	Apr. 11, 1953
2	Department of Agriculture.....	Mar. 25, 1953	do.....	June 4, 1953
3	Office of Defense Mobilization.....	Apr. 2, 1953	do.....	June 12, 1953
4	Department of Justice.....	Apr. 20, 1953	do.....	June 20, 1953
5	Export-Import Bank of Washington.....	Apr. 30, 1953	do.....	June 30, 1953
6	Department of Defense.....	do.....	do.....	Do.
7	Foreign Operations Administration.....	June 1, 1953	do ²	Aug. 1, 1953
8	U.S. Information Agency.....	do.....	do.....	Do.
9	Council of Economic Advisers.....	do.....	do.....	Do.
10	Payments to air carriers.....	do.....	do ³	Oct. 1, 1953

REORGANIZATION PLANS OF 1954

1	Foreign Claims Settlement Commission of the United States.....	Apr. 29, 1954	Accepted.....	July 1, 1954
2	Liquidation of certain affairs of the Reconstruction Finance Corporation.....	do.....	do.....	Do.

¹ Public Law 13, 83d Cong. (Apr. 1, 1953) was enacted to provide that plan take effect 10 days after approval.² Repealed by Public Law 89-195 (Sept. 4, 1961).³ Repealed by Public Law 85-726 (Aug. 23, 1958).

ACTION ON REORGANIZATION PLANS, 84TH CONGRESS

REORGANIZATION PLANS OF 1956

Plan No.	Title	Date presented to Congress	Plan accepted or rejected	Effective date
1	Department of Defense.....	May 16, 1956	Rejected.....	
2	Federal Savings and Loan Insurance Corporation.....	May 17, 1956	do.....	

ACTION ON REORGANIZATION PLANS, 85TH CONGRESS

REORGANIZATION PLAN OF 1957

Plan No.	Title	Date presented to Congress	Plan accepted or rejected	Effective date
1	Abolition of the Reconstruction Finance Corporation.....	Apr. 29, 1957	Accepted.....	June 30, 1957

REORGANIZATION PLAN OF 1958

1	Consolidation of Federal Civil Defense Administration with Office of Defense Mobilization.....	Apr. 24, 1958	Accepted..... ¹	July 1, 1958
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¹Effective date specified in the plan.

ACTION ON REORGANIZATION PLANS, 86TH CONGRESS
REORGANIZATION PLAN OF 1959

Plan No.	Title	Date presented to Congress	Plan accepted or rejected	Effective date
1	Transfer of certain functions from the Secretary of the Interior to the Secretary of Agriculture.	May 12, 1959	Rejected	.....

¹ Basic provisions of the plan were enacted by Public Law 86-509 (June 11, 1960).

ACTION ON REORGANIZATION PLANS, 87TH CONGRESS
REORGANIZATION PLANS OF 1961

Plan No.	Title	Date presented to Congress	Plan accepted or rejected	Effective date
1	Securities and Exchange Commission functions.....	Apr. 27, 1961	Rejected.....	
2	Federal Communications Commission functions.....	do.....	do.....	
3	Civil Aeronautics Board—Reorganization.....	May 3, 1961	Accepted.....	July 3, 1961
4	Federal Trade Commission.....	do.....	do.....	July 9, 1961
5	National Labor Relations Board.....	May 24, 1961	Rejected.....	
6	Federal Home Loan Bank Board—Reorganization.....	June 12, 1961	Accepted.....	Aug. 12, 1961
7	Reorganization of maritime functions.....	do.....	do.....	Do.

REORGANIZATION PLANS OF 1962

1	Department of Urban Affairs and Housing.....	Jan. 30, 1962	Rejected.....	
2	Certain science agencies and functions.....	Mar. 29, 1962	Accepted.....	June 8, 1962

ACTION ON REORGANIZATION PLANS, 88TH CONGRESS
REORGANIZATION PLAN OF 1963

Plan No.	Title	Date presented to Congress	Plan accepted or rejected	Effective date
1	Reorganization of certain functions relating to the Franklin D. Roosevelt Library.	May 27, 1963	Accepted.....	July 27, 1963

ACTION ON REORGANIZATION PLANS, 89TH CONGRESS
REORGANIZATION PLANS OF 1965

Plan No.	Title	Date presented to Congress	Plan accepted or rejected	Effective date
1	Bureau of Customs.....	Mar. 25, 1965	Accepted.....	May 25, 1965
2	Department of Commerce: Weather Bureau and the Coast and Geodetic Survey.	May 13, 1965	do.....	July 13, 1965
3	Interstate Commerce Commission, locomotive inspection.....	May 27, 1965	do.....	July 27, 1965
4	Reorganization of various committees and other similar bodies.	do.....	do.....	Do.
5	Certain reorganizations relating to the National Science Foundation.	do.....	do.....	Do.

REORGANIZATION PLANS OF 1966

1	Community relations functions in civil rights area.....	Feb. 10, 1966	Accepted.....	Apr. 22, 1966
2	Water pollution control functions.....	Feb. 28, 1966	do.....	May 10, 1966
3	Reorganization of health functions of the Department of HEW.	Apr. 25, 1966	do.....	June 25, 1966
4	National Zoological Park in the District of Columbia.....	June 13, 1966	do.....	Aug. 23, 1966
5	National Capital Regional Planning Council.....	June 29, 1966	do.....	Sept. 8, 1966

ACTION ON REORGANIZATION PLANS, 90TH CONGRESS
REORGANIZATION PLANS OF 1967

Plan No.	Title	Date presented to Congress	Plan accepted or rejected	Effective date
1	Transfer of functions relating to approval of surrender of certain ship documents.	Feb. 27, 1967	Accepted.....	May 9, 1967
2	U.S. Tariff Commission.....	Mar. 9, 1967	Rejected.....	
3	Government of the District of Columbia.....	June 1, 1967	Accepted.....	Aug. 11, 1967

REORGANIZATION PLANS OF 1968

1	Creating a new Bureau of Narcotics and Dangerous Drugs.	Feb. 7, 1968	Accepted.....	Apr. 8, 1968
2	Transferring certain functions of the Department of Housing and Urban Development to the Department of Transportation.	Feb. 26, 1968	.....do.....	May 7, 1968
3	Bringing recreation programs under the authority of the District of Columbia Commissioner.	Mar. 13, 1968	.....do.....	May 23, 1968
4	Transfer authority to appoint RLA board members from the President to the D.C. Commissioner and give him authority to prescribe rules and regulations for the RLA.	.....do.....	.....do.....	Do.

ACTION ON REORGANIZATION PLANS, 91ST CONGRESS
REORGANIZATION PLAN OF 1969

1	Interstate Commerce Commission.....	July 22, 1969	Accepted.....	Oct. 11, 1969
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REORGANIZATION PLANS OF 1970

1	Telecommunications management and policy.....	Feb. 9, 1970	Accepted.....	Apr. 15, 1970
2	Office of Management and Budget, Domestic Council.....	Mar. 12, 1970	.....do.....	July 1, 1970
3	Environmental Protection Agency.....	July 9, 1970	.....do.....	Dec. 2, 1970
4	National Oceanic and Atmospheric Administration.....	.....do.....	.....do.....	Oct. 3, 1970

NATIONAL COAL ASSOCIATION,
Washington, D.C., February 17, 1972.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The National Coal Association (NCA) appreciates the opportunity to present the views of its membership with respect to the establishment of an Energy and Mineral Resources Administration (EMRA) within the Department of Natural Resources (DNR), as proposed in S. 1431. NCA represents the principal producers and distributors of most of the Nation's commercially mined bituminous coal, as well as many industry-related associate members. Since one of the major purposes for the creation of EMRA is to insure adequate supplies of fuel and energy to meet the future needs of our growing economy, enactment of this legislation would have a profound effect upon the coal industry.

The Federal Government must take immediate action to resolve many critical problems if our growing requirements for fuel and energy are to be met in the years ahead. Although the United States has abundant reserves of fuel, particularly coal, development of these resources has not kept pace and we are becoming increasingly dependent upon foreign sources to provide the fuel so necessary to maintain our energy-oriented economy.

The importance of energy and the fuels necessary to provide that energy is not generally recognized. However, the urgent need to maintain adequate supplies of fuel has been dramatically illustrated by what is happening in Great Britain today because its supply of coal has been suddenly interrupted. Regardless of the cause, the lack of adequate coal supplies has practically crippled a great nation. Within a few short weeks after the shutoff, homes are unheated, transportation facilities are brought to a standstill, factories are closed, and the economic stability of the nation is on the brink of disaster. It is ironic that in Great Britain, with its highly publicized North Sea discoveries of natural gas and its pioneering activity in the field of atomic power, a shutdown of its coal mines could bring this about. Because the consumer's energy requirements are usually met by the easy flick of a switch, the consumer often loses sight of the fact that the vast, interrelated energy complex on the other side of that switch is in large measure dependent upon a continual supply of coal and other fossil fuels. The significance of coal, and indeed other forms of fuel, to the functioning of an industrial economy has been brought home to us by the crisis in Great Britain.

More than a decade ago NCA spoke out for a coordinated national energy policy and stood alone in arguing that such a policy would be beneficial to the nation. Today, it is no longer merely beneficial. It is an absolute necessity.

Similarly, NCA was among the first to support the establishment of a new department of cabinet-level stature to have the overall responsibility for natural resource policy. The organizational structure and function of the Government entities involved with energy matters have a significant bearing upon the formulation and administration of policy. The comments which follow will generally be restricted to the makeup and functions of the proposed Energy and Minerals Resources Administration within DNR.

Briefly stated, the National Coal Association supports, with certain modifications, the establishment of the proposed Department of Natural Resources and a component thereunder similar to EMRA. Such a component should be concerned only with fuel and energy matters and should not have jurisdiction over nonfuel minerals. The statute should clearly set forth the purpose, functions, objectives and guidelines for the organizational makeup of the various components of DNR. The Secretary should not have complete discretion to allocate functions among the several administrations. An administrative mechanism should be created for coordinating efforts and resolving conflicts among the various administrations. The separate functions of each of the existing federal bureaus or divisions to be merged within DNR should be assigned on the basis of the functional relationship to the primary responsibility of a particular administration. Realignment of certain standing committees by Congress to reflect the changes affected by the creation of DNR would be necessary. The establishment of a joint legislative committee for Fuels and Energy could prove to be an indispensable adjunct to EMRA.

No coordinated national energy policy exists. There is only a piecemeal concoction developed in a haphazard manner to cope with bits and pieces of the problems as they emerge. As presently constituted the federal responsibility for fuel and energy matters is fragmented among many existing departments and

bureaus scattered throughout the government. This diffusion makes it difficult to launch a coordinated attack on all aspects of the energy spectrum. It makes it possible to develop a comprehensive strategy for meeting public needs, often resulting in duplication of effort. Frequently, federal offices work at cross purposes in competition with each other because they are in different chains of command. No effective channel for the resolution of their differences exists. Remedial action is essential.

The National Coal Association, therefore, endorses in principle the establishment of a Department of Natural Resources, as proposed by S. 1431. It is in the public interest that the executive branch of government be organized around the major goals and activities that are essential to the effective functioning of modern society. A vertically integrated administrative framework with the achievement of such objectives as its primary function can more effectively cope with the critical and complex problems of our vast and interrelated socioeconomic structure.

We also support the creation of an Energy and Mineral Resources Administration within DNR. However, EMRA should be concerned solely with fuel and energy matters and those minerals utilized for such purposes. Minerals used as raw materials in manufacturing processes for the production of such materials as copper, zinc, phosphate, lead or iron should not be included. The constraints, priorities, problems and institutional makeup of the fuel and energy industries are for the most part unrelated to the other mineral industries and conflicting interests can arise. The inclusion of both in EMRA would be counterproductive to the development of a coordinated energy policy. Such a component should more appropriately be designated the Fuels and Energy Administration (FEA).

The creation of a Fuels and Energy Administration should be considered as a necessary first step to the eventual establishment of a separate cabinet-level department for fuels and energy. It should serve as a transitional measure to form the nucleus for such a department. New areas of critical concern continually evolve in our dynamic and changing society. The Department of Transportation emerged from a crisis situation five years ago when we were forced to recognize that the interrelated aspects of all modes of transportation could not be effectively administered by numerous uncoordinated federal agencies. In order to sustain our transportation lifeline, it was essential to establish a new cabinet-level department devoted solely to transportation matters so that a coordinated policy could be realistically formulated and effectively implemented. A DNR administration such as FEA could provide the organizational and functional framework for the creation of a separate Department of Energy.

A Fuels and Energy Administration should not be created solely by an amalgamation of existing federal bureaus and agencies concerned with fuels and energy. Criteria outlining its functions and objectives should be clearly set forth in the statute so that it can deal comprehensively with all aspects of fuel and energy. FEA should have overall responsibility for the development and implementation of such a policy and for the activities related thereto. These concerns should include, but not necessarily be limited to; exploration and development, leasing, production, conservation, transportation, import controls, improved utilization of fuels and the research related to these matters.

The bill does not delineate, even in the broadest terms, the activities and functions that should fall within the jurisdiction of each of the administrations within DNR. Under S. 1431 the Secretary of DNR would have complete discretion with respect to allocating functions among the several administrations. While some degree of discretion to assign duties and responsibilities may be necessary, it should not be so extensive as to permit the statutory purpose of the reorganization to be frustrated. Sufficient guidelines should be set forth in the statute so that the intent of Congress cannot be vitiated or undermined by an administrative officer.

S. 1431 contains no provision for coordinating the efforts of the several administrations within DNR nor for resolving any conflicts that might arise. There is no doubt that the policies and implementation plans adopted by the various administrations will from time to time conflict to some degree. Some provision should be made in the statute for the creation of a departmental structure, at a level above and independent of the administrations (perhaps at the Under Secretary level) to provide for the coordination of activities and the resolution of conflicts in such a manner that the policies, programs and the rationale of each administration are accorded full recognition in contemplation of the requirements of the other. In no event should one administration have the authority to superimpose its programs and priorities as constraints on the function of another administration without going through the procedure for resolution of conflicts and the express written consent of the Under Secretary.

Existing Federal offices that are to become a part of DNR should be broken down into their various functions and assigned on that basis to the various administrations. There should be no hesitancy to separate sections of a particular bureau. For example, the conservation, fuel and energy functions of the U.S. Geologic Survey of the Department of Interior should be made part of FEA; whereas the remainder of the Survey could remain in the Oceanic, Atmospheric, and Earth Sciences Administration.

The establishment of a Department of Natural Resources would require the realignment by Congress of certain standing legislative committees and possibly the establishment of new committees as a result of the reorganization. NCA advocates the creation of a joint committee on fuels and energy as an indispensable adjunct to a Fuels and Energy Administration. Such a committee should have legislative authority and could be patterned after the existing Joint Committee on Atomic Energy.

It is requested that this letter be included in the printed record of these hearings.

Sincerely,

CARL E. BAGGE,
President, National Coal Association.



