DOCUMENT RESUME

04007 - [B3134380]

[Federal Energy Administration's Compliance Program in the New England Area]. EMD-77-71; B-178205. November 7, 1977. 3 pp. + enclosure (15 pp.).

Report to Sen. Thomas J. McIntyre, Chairman, Senate Select Committee on Small Business: Government Regulation and Small Business Advocacy Subcommittee; by Robert F. Keller, Acting Comptroller General.

Issue Area: Energy: Effect of Federal Financial Incentives, Tax Policies, and Regulatory Policies on Energy Supply (1610).
Contact: Energy and Minerals Div.
Budget Function: Natural Resources, Environment, and Energy: Energy (305).
Organization Concerned: Department of Energy; Federal Energy Administration.
Congressional Relevance: Senate Select Committee on Small Business: Government Regulation and Small Business Advocacy Subcommittee.
Authority: Emergency Petroleum Allocation Act of 1973 (87 Stat. 627). Federal Energy Administration Act of 1974 (88 Stat. 96).

Several compliance cases in the Boston Regional Office of the Federal Energy Administration (FEA) have remained open for periods in excess of one year. As a result, the effectiveness of the compliance program has been limited. Similar problems appear to exist nationwide.
Findings/Conclusions: The most significant factor contributing to the delays in case resolution has been FEA's inability to resolve regulatory issues arising because of the complexity of the price regulations. Until the regulations are clarified and written in a manner to eliminate ambiguity, compliance case resolution will continue to be impeded by unresolved regulatory issues. FEA's compliance program cannot be effective until the agency revises its regulations so that they can be enforced.
Recommendations: The Secretary of the Department of Energy should: conduct a thorough review of the petroleum allocation and price regulations to determine what sections need revision to eliminate vagueness and ambiguity; place top priority on resolving all outstanding regulatory issues so that compliance cases can be resolved without further delay; and complete efforts to implement the recommendations of the Task Force on Compliance and Enforcement in order to improve case processing procedures. (SC)

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-176205

NOV 7 1977

The Honorable Thomas J. McIntyre
Chairman, Subcommittee on Government
Regulation and Small Business Advocacy
Select Committee on Small Business
United States Senate

Dear Mr. Chairman:

On October 14, 1976, you requested that we examine the Federal Energy Administration's (FEA) 1/ compliance program in the New England area. You were primarily concerned with the lengthy delays by the FEA Boston Regional Office in resolving compliance cases. Specifically, you requested that we ascertain (1) the reasons why the resolution of compliance cases in the Boston region had been delayed and (2) what can be done to expedite the case resolution process.

Our analysis was primarily directed toward case resolution problems resulting from FEA's audit of five outstanding cases involving the C. H. Sprague and Son Company (Sprague). These cases had been open for at least one year as of December 31, 1976. We concentrated our efforts on these cases because of the large potential violations involved and the unresolved regulatory issues which impacted on other cases in the Boston region. We also examined 31 additional cases within the New England area which had been open for at least one year as of December 31, 1976. We discussed case resolution problems with FEA officials from the Boston Regional Office and headquarters and with attorneys representing Axel Johnson and Company, Inc., Sprague's parent firm. We also reviewed two recent task force reports and one consultant's report on FEA's compliance program.

1/Although FEA is discussed throughout this report, our specific recommendations are addressed to the newly established Department of Energy to which the functions of FEA were assigned on October 1, 1977, pursuant to the Department of Energy Organization Act (P.L. 95-91).

EMD-77-71
(00303)

As of September 6, 1977, the five cases involving Sprague had been open for periods ranging from 24 to 35 1/2 months. Also, as of September 6, 1977, 14 of the additional 31 cases we examined were still unresolved and had been open for periods ranging from 21 1/2 to 49 months.

Overall, FEA's case resolution practices were not unique to the Boston Regional Office. Specifically, we found that delays in resolving compliance cases, nationwide as well as in the Boston region, were mainly caused by untimely resolution of regulatory issues arising because of the complexity of the regulations. Also, inadequate review procedures, low priority placed on compliance activities, and insufficient staffing contributed to the delay in case resolution.

FEA recently took actions to improve its compliance program. The most significant action was taken by the FEA Administrator when, in his April 1977 testimony before the Subcommittee on Energy and Power, House Committee on Interstate and Foreign Commerce, he announced FEA's intention to establish a task force to review the agency's compliance program. The task force was established in May 1977 and reported to the Administrator on July 13, 1977. The report pointed out numerous deficiencies in the compliance program and made several recommendations for improvement. FEA initiated steps to implement the recommendations of the task force, and since its inception, the Department of Energy is continuing the effort.

Also, a Presidential task force reported its recommendations for improving the compliance program to FEA on December 10, 1976, and a consultant's study, requested by the former FEA Administrator, reported its recommendations to FEA on March 1, 1977.

In general, we agree with the conclusions and recommendations in the two task force studies and the consultant's study on FEA's compliance program. We generally believe the recommendations presented by these studies are a step in the right direction and should be implemented as quickly as possible. Specifically, we recommend that the Secretary, Department of Energy, review its regulations to identify and clarify ambiguous sections, place top priority on resolving all outstanding regulatory issues, and complete efforts to implement the recommendations of the Task Force on Compliance and Enforcement to improve case processing procedures.

Our detailed findings relating to the compliance program are presented in the enclosure to this letter. On October 4, 1977, we discussed the contents of the enclosure with Department of Energy officials. They expressed general agreement with our findings and recommendations.

As arranged with your office, we will make our report available to the Congress and other interested parties.

We hope this information will be useful to you.

Sincerely yours,

R.F. Keller

ACTING Comptroller General
of the United States

Enclosure

BACKGROUND

In order to minimize the impact of short-term petroleum shortages, the Congress passed the Emergency Petroleum Allocation Act of 1973 (87 Stat. 627). The Act granted the President specific temporary authority to deal with shortages or dislocations of crude oil, residual fuel oil, and refined petroleum products and is the basic legislative authority for the current petroleum allocation and price regulations. The Federal Energy Administration Act of 1974 (88 Stat. 96) established the Federal Energy Administration (FEA) and gave it responsibility for

--promoting stability in energy prices to the consumer,

--promoting free and open competition, and

--preventing unreasonable profits.

Under the authority of these acts, FEA established a series of regulations governing the allocation and price of crude oil and petroleum products. These regulations generally permit firms to charge prices for refined petroleum products in effect on May 15, 1973, and increase them dollar for dollar for any additional product costs incurred after that date. The regulations also permit firms to increase prices for refined products to account for increased non-product costs such as labor, maintenance, and overhead.

The regulations provide various administrative sanctions for violations of the regulations. When FEA believes a provision of the price regulations has been violated, the first step taken is an attempt to obtain a voluntary price rollback and/or a refund of overcharges through the use of a consent order. If voluntary compliance is obtained, the case is closed. If voluntary compliance cannot be achieved, FEA may issue a notice of probable violation (NOPV), a remedial order for immediate compliance (ROIC), or a remedial order (RO). NOPVs are used to initiate proceedings when FEA believes that a violation has occurred, is continuing to occur, or is about to occur. ROICs can be issued when FEA finds that: (1) there is a strong probability that a violation has occurred, is continuing to occur, or is about to occur; (2) irreparable harm will occur unless the violation is remedied immediately; and (3) the public interest requires the avoidance of such irreparable harm. An RO is issued

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when a firm's response to an NOPV does not disprove the alleged violation and FEA concludes that the violation, in fact, occurred.

FEA's compliance program is directed toward assuring industry compliance with the allocation and price regulations. The Office of Compliance within the Office of Regulatory Programs, the Office of the General Counsel, and the regional office, share the responsibility for ensuring an effective compliance program.

The Office of Compliance is reponsible for planning and directing the compliance program including developing compliance policy, providing technical guidance to the regional offices, and reviewing and approving formal enforcement actions submitted by the regional offices. This office also has the authority to issue formal enforcement actions.

The Office of the General Counsel is responsible for interpreting and clarifying regulatory issues arising from compliance audits and concurring with all formal enforcement actions submitted by the regional offices.

The regional offices are responsible for conducting audits and issuing formal enforcement actions. Regional offices must obtain the concurrence of the FEA headquarters office before issuing NOPVs involving potential violations of $1 million or more, TOs or consent orders involving potential violations of $500,000 or more, and NOPVs or ROs for which no precedent had been clearly established. Precedent is established by interpretations, rulings, clarifying guidelines, or enforcement actions previously approved by headquarters.

Historically, FEA's compliance program has been hampered by regulations which contained gaps and ambiguities and which required numerous revisions and interpretations. These ambiguities and the resulting need for regulatory interpretations have resulted in unresolved issues which have delayed the regulatory and compliance process.

In our May 1975 testimony before the Subcommittee on Oversight and Investigations, House Committee on Interstate and Foreign Commerce, we pointed out that there were numerous unresolved regulatory issues. In our April 1977 testimony before the Subcommittee on Energy and Power, House Committee on Interstate and Foreign Commerce, we

stated that FEA officials had provided us with a list of 30 unresolved issues. As of August 22, 1977, FEA listed 62 unresolved issues which were impeding compliance case resolution.

DELAYS IN CASE RESOLUTION IN THE NEW ENGLAND AREA

At the time of our review, several compliance cases in FEA's Boston Regional Office were unresolved although a considerable amount of time had elapsed since the cases were opened. Between September 1974 and December 1976, the Boston Regional Office began audit work on 10 compliance cases involving C. H. Sprague and Son, Company (Sprague). Two of these cases were subsequently transferred to other regional offices. As of September 6, 1977, five of the remaining eight cases were still unresolved and had been open for periods ranging from 22 to 35 1/2 months. An additional 31 cases, outstanding for more than one year and involving other firms, were unresolved as of December 31, 1976. As of September 6, 1977, 14 of the 31 cases were outstanding and had been open for periods ranging from 21 1/2 to 40 months.

The delays in resolving these cases have been due to several interrelated factors. In our opinion, the most significant of these are as follows:

--FEA's allocation and price regulations are unclear, ambiguous, and in many cases, at variance with traditional industry terminology and accounting practices. Thus, FEA auditors have had difficulty in interpreting and applying the regulations.

--Regulatory issues requiring legal interpretations have not been promptly resolved or remain unresolved.

--FEA did not have procedures to insure that compliance cases were reviewed and processed in a timely manner.

--Compliance activities have generally been given a low priority within FEA due in part to top management's belief that price controls would be removed in the near future.

--FEA has also had staffing problems which have impacted on the above and contributed to delays in case resolution. These included insufficient staff, unfamiliarity of staff with the petroleum industry, and staff turnover.

There were numerous unresolved regulatory issues causing case resolution delays in the Boston region. The following issues were involved in the resolution of the five Sprague cases:

--treatment of discounts;

--timing of recovery of increased product costs;

--treatment of multiple inventories;

--definition of a firm; and

--definition of a product.

A brief description of each of these issues and how they delayed the case resolution process involving Sprague is discussed below.

Treatment of Discounts

In September 1974, based on customers' complaints that their discounts had been reduced or eliminated, the Boston Regional Office began an audit of Sprague's sales of No. 6 fuel oil to certain customers. As a result of this audit, the regional office concluded that because Sprague had eliminated discounts to certain customers who had received them on May 15, 1973, it was in violation of the FEA price regulations.

The regional office based its conclusion on FEA Ruling 1974-16 which was issued in June 1974 by FEA's Office of the General Counsel to clarify the class of purchaser concept. (FEA regulations require that purchasers be grouped into classes based primarily on the prices paid. The primary function of this concept is to maintain the price differential that existed on May 15, 1973, between groups of purchasers.) This ruling stated, in effect, that "customary" discounts had to be continued to members of those classes of purchaser

identified by such customary price differentials, but "temporary" discounts could be discontinued. The ruling also stated that FEA will generally regard any discount that was in effect on May 15, 1973, and had been in effect for a period of six months or more to be a "customary" discount.

The regional office issued an RO on October 23, 1974, directing Sprague to reinstate the discounts and compute overcharges to each customer from the date the discount was discontinued. On November 5, 1974, Sprague filed an appeal to the RO which was denied by FEA. However, at the insistence of the Office of the General Counsel and because the RO contained technical deficiencies, FEA issued an NOPV on December 31, 1974. The RO was not rescinded until March 21, 1975. FEA officials explained that they were not aware that the RO and NOPV were both outstanding.

On March 3, 1975, the Office of the General Counsel issued Ruling 1975-2 to further clarify the class of purchaser concept. This ruling eliminated the six-month criteria for determining "customary" discounts by stating that competitive discounts (those given to enable a supplier to meet prices offered by a competitor) would be considered temporary regardless of how long they had been in effect. An attorney in the Office of the General Counsel told us that this change in FEA's position resulted because FEA had become more familiar with the practices within the petroleum industry.

Using the criteria in Ruling 1975-2, the regional office determined that the discounts the firm had discontinued were not "customary" but had been given for competitive reasons. Because the competitive situation had changed, the discounts could be discontinued. As a result, the regional office rescinded the NOPV on August 4, 1975--seven months after it was issued.

Although the basis for issuing the NOPV to the firm was nullified by Ruling 1975-2, the FEA regional auditor assigned to the case believes the discount customers had been overcharged because the regulations require that any temporary price in effect on May 15, 1973, be included when computing the May 15, 1973, base selling price for a class of purchaser. However, the regional office could not issue another NOPV in March 1975 because, at that time, the region was awaiting guidance from the Office of the General Counsel concerning the timing of increased product

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cost recovery. In addition, during March 1975, FEA's enforcement efforts were redirected to fuel oil sales to public utilities and the discount case was given a lower priority than the audit of the firm's sales of No. 6 fuel oil to electric utilities.

FEA headquarters officials stated that the discount issue was clarified and considered resolved in March 1975 when Ruling 1975-2 was issued. However, the discount case involving Sprague was not resolved until August 1975 when the NOPV was rescinded.

Timing of Recovery of Increased Product Costs

In March 1975, the Boston Regional Office began an audit of Sprague's No. 6 fuel oil sales to a public utility company. This audit, as well as subsequent audits of Sprague's No. 6 fuel oil sales to other utilities, was part of a national effort to review the sales of fuel oil suppliers to utilities. By May 15, 1975, the regional office had completed the audit work and drafted an NOPV. However, the NOPV was not issued until November 15, 1976, about 18 months later. One of the major issues delaying the resolution of these cases was the point in time when increased product costs can be recognized for purposes of calculating over or under recoupment of such costs.

From the outset, Sprague and FEA have disagreed over the interpretation of the reseller price rule involving the timing issue. According to Sprague's interpretation, the price rule allows a reseller to recognize increased product costs when the product is purchased. FEA, on the other hand, has maintained that increased costs can be recognized only when the product is sold. Under Sprague's interpretation, no overcharges have occurred whereas under FEA's interpretation, the firm has overcharged the utility company about $1 million.

The Boston Regional Office became aware of the firm's interpretation of the price rule during the discount case and requested clarification on numerous occasions from the Office of the General Counsel. The Office of the General Counsel provided verbal clarification at a meeting with the regional office staff on May 14-15, 1975, and furnished a written interpretation to the regional office on July 17, 1975.

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Since then, several meetings have been held between FEA and Sprague officials.

As of September 14, 1977, the issue was still in dispute. FEA headquarters officials stated that FEA's position on the issue had not changed and that an RO is forthcoming. The issue is no longer considered an unresolved regulatory issue by FEA.

Treatment of Multiple Inventories

Another issue delaying the resolution of the Sprague case was the treatment of multiple inventories. Sprague sold No. 6 fuel oil from six terminals in New England and treated each of these inventory locations as a separate cost center with separate costs and selling prices. Moreover, the sulfur content of the fuel varied among Sprague's terminals. Three terminals sold No. 6 fuel oil with a 2.4 percent sulfur content; two terminals sold No. 6 fuel oil with a 1 percent sulfur content; and one terminal sold No. 6 fuel oil with a 2 percent sulfur content.

Regional office auditors treated each terminal separately and based their calculations on separate inventories. At the May 14, 1976, meeting, Office of the General Counsel officials advised the regional office staff that the regulations required price computations to be based on a single firm-wide average cost for each product in inventory.

On May 14, 1976, FEA amended the regulations giving resellers the option of measuring increased product costs from multiple inventories. However, the amendment applied to future sales and was not made retroactive. On May 26, 1976, the Deputy Assistant Administrator for Compliance, Office of Regulatory Programs, advised the regional office that because FEA was entering into a class exception procedure to determine if the amendment should be made retroactive, further action on cases involving multiple inventories should be held in abeyance. On September 29, 1976, the Deputy Assistant Administrator advised the regional office that although FEA had denied retroactive application of the separate inventories amendment, uncertainties still remained and further action on any cases involving multiple inventories should continue to be held in abeyance. Contrary to the above instructions, the multiple inventory issue was finalized in the November 15, 1976, RO.

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According to FEA officials, the issue of treating products from different terminals as separate products was resolved with respect to Sprague in August 1977, when FEA headquarters officials advised the Boston Regional Office to treat Sprague's different sulfur grades as separate products.

Other Issues

Two other unresolved issues--definition of firm and product--arose as a result of the November 15, 1976, NOPV. FEA's audit of No. 6 fuel oil sales was made on the basis that Sprague was the firm under investigation. However, the NOPV was addressed to the parent firm, Axel Johnson and Company, Inc. FEA officials recently informed us that they have considered Sprague as the firm under investigation and the forthcoming RO will be addressed to Sprague. This issue is no longer considered an outstanding regulatory issue with respect to the Sprague case.

The regional auditors conducted their audit on the basis that separate grades of fuel oil constituted separate products. However, in direct contrast, the NOPV stated that different sulfur grades are not separate products. In August 1977, FEA headquarters officials advised the Boston Regional Office to allow Sprague to consider separate sulfur grades as separate products. Thus, the definition of a product is no longer an outstanding issue with respect to Sprague.

Case Review and Processing

FEA's case review procedures further delayed the resolution of cases in the Boston Regional Office.

FEA policy requires that both the National Office of Compliance and the Office of the General Counsel review compliance cases involving

--an NOPV with a potential violation of $1 million or more,

--an RO or consent order which involves a violation of $500,000 or more, and,

--any case for which no precedent has been established as defined by FEA's Compliance Manual.

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In addition, all compliance cases must be reviewed by the Regional Counsel. However, FEA did not have adequate procedures to ensure that such reviews were timely. The following examples illustrate case review and processing problems that occurred during FEA's audit of Sprague's sales of No. 6 fuel oil.

--On May 14, 1975, after the meeting with the Office of Compliance and the Office of the General Counsel, the regional office staff submitted a draft NOPV for General Counsel's review. Work progress reports prepared by the regional auditor in July, August, and September 1975 indicated that work on the case had been suspended pending General Counsel's review of the draft NOPV. However, in September 1975, the regional office learned that General Counsel personnel had misplaced the draft.

--As a result of an April 6, 1976, meeting among officials of Sprague, the Office of Compliance, the Office of the General Counsel, and the regional office, FEA decided to issue an NOPV to the firm. Between April 7 and June 22, 1976, the draft NOPV was in the Office of the Regional Counsel for review. The Regional Counsel told us that for most of this period, he was not reviewing the case because of higher priority work.

--Between July 1 and September 10, 1976, the draft NOPV was in the Office of Compliance Case Resolution for review. The director of this office told us the lengthy processing time was due to a backlog of cases and a lack of staff. He added that priority was given to the cases after congressional inquiries were made.

--Between September 10 and November 9, 1976, the draft NOPV was being reviewed by the Office of the General Counsel. An official told us the review time was necessary because of the complexity of regulatory issues involved and the extensive amount of support documentation that had to be reviewed.

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Both regional and headquarters officials told us that each division established its own work priorities, and no one was held accountable to meet time targets for case review.

NATIONWIDE DELAYS IN CASE RESOLUTION

The delay in resolving compliance cases is not unique to the Boston Regional Office, but appears to be a nationwide problem. In February 1977, FEA's Office of Compliance compiled a list of 30 unresolved regulatory issues which were hampering resolution of several cases nationwide. For the most part, the Office of the General Counsel was responsible for taking the necessary action to resolve the issues. As of August 22, 1977, there were 62 unresolved issues.

According to Office of the General Counsel officials, the primary reasons for continued existence of unresolved issues have been the lack of staff in the Office of the General Counsel and the fact that existing staff has been overburdened with requirements for developing new regulations. Consequently, clarification of existing regulations has received a lower priority.

A recent consultant's report on FEA's regulatory program 1/ stated, in part, that:

--FEA's regulatory program has suffered from the dual problems of a near-term decontrol philosophy at high levels of agency management and continuing uncertainty about the agency's continued existence.

--The existing regulatory program is a patchwork effort that has evolved from regulations drafted over the course of a few weeks in the crisis atmosphere of the 1973 oil embargo. These regulations were patterned after Cost of Living Council (CLC) regulations and were drafted primarily by lawyers with limited grasp of the complexities of oil industry accounting practices.

1/D. Warner North and Jerry L. Pfeifer, The FEA Petroleum Price Regulation Program: Status Assessment and Recommendations, Prepared for the Office of the Administrator, Federal Energy Administration, March 8, 1977.

--Although significant improvements have been made during the last 18 months, the existing regulations remain complex and difficult to enforce. The regulations usually have been drafted without careful assessment of their intelligibility, their enforceability, and the reporting burden they create for industry.

--Clarification and interpretation of the regulations have been slow, seriously hampering timely compliance and enforcement activities. In many cases, even where alternative clarifications had been developed, it was difficult to obtain top management commitment to a single approach as the formal agency position.

--Reestablishment of controls on selected decontrolled products may require substantial changes in the structure of the regulations. Contingency plans are needed to cope with an emergency situation such as a new oil embargo.

An earlier report by a Presidential task force 1/ pointed out similar problems with FEA's regulatory development process. The task force concluded, among other things, that unless FEA's regulations are simplified, base periods made current, and more effective sanctions established, FEA's enforcement effort, no matter how well structured and staffed, will face great difficulty in assuring compliance with the regulations, both today and in the event of a future shortage.

The most recent task force was established by the FEA Administrator in May 1977 for the purpose of reviewing FEA's compliance program and presenting solutions for problems which have impeded the compliance process. It was headed by the Director of Enforcement for the Securities and Exchange Commission. In its July 1977 report 2/, the task force identified several deficiencies in FEA's compliance program. The report stated that the compliance program:

1/Report of the Presidential Task Force on Reform of Federal Energy Administration Regulations, December 10, 1976.

2/Task Force on Compliance and Enforcement, Final Report, July 13, 1977.

--was not focused on the major refiners where resources can be best utilized;

--lacked quality personnel and proper allocation of personnel according to regional needs;

--lacked a mechanism whereby responsibility for program results could be assessed;

--lacked realistic time limits for Office of the General Counsel review of cases, and

--had personnel morale problems.

To improve the compliance program, the task force recommended that FEA:

--develop a system whereby the regional or national office would respond to requests for issue clarification on an expedited basis, with a specific turnaround time built in, and with a single person given the responsibility for resolving the issue;

--use its subpoena power to obtain information on an expedited basis;

--increase the number of qualified attorneys and auditors in the regional offices;

--establish realistic time periods for meeting goals;

--give the Assistant General Counsel for Compliance responsibility for supervising all Regional Counsels and their staffs;

--give the Deputy Assistant Administrator for Compliance direct line authority over all regional compliance personnel;

--integrate attorneys into the compliance program investigations from the initial audit stages through the case resolution process; and

--direct audit effort toward the major refiners and major independent crude oil producers and crude oil resellers.

CORRECTIVE ACTIONS

FEA took some actions to improve its compliance efforts. The North/Pfeffer study and the Task Force on Compliance and Enforcement were both requested by the FEA Administrator to review the compliance program. A September 15, 1977, letter to the Chairman, Subcommittee on Energy and Power, House Committee on Interstate and Foreign Commerce, from the FEA Administrator discussed FEA actions taken to implement the recommendations of the Task Force on Compliance and Enforcement. The Department of Energy is continuing this effort. Such actions included:

--the preparation of detailed audit plans to implement the initial stages of the audits of the 15 largest refiners;

--increase in the number and redeployment of auditors and attorneys in order to begin accelerated audit efforts at two large refiners;

--development of a proposed staffing plan consisting of attorneys, criminal investigators, and auditors to conduct investigations involving potential willful violations of FEA regulations;

--increase in the number of attorneys in the regional offices to permit their active participation in audits at earlier stages;

--initiation of the effort to allocate personnel to compliance programs other than the refiner program based on a cost/benefit analysis; and

--implementation of procedures such as concurrent review of issues by audit and legal staffs and weekly meetings to prescribe timeframes in order to expedite the resolution of regulatory issues.

Also, in February 1977, the agency implemented a priority system designed to resolve open cases in order of their significance. The system classifies cases, depending on their importance, in one of the four following categories.

--Category A involves top priority cases in which there is a likelihood of a criminal violation.

--Category B involves cases which are one year old and have an identified potential violation in excess of $150,000. These cases are considered of special interest to congressional committees and require extensive inter-regional work.

--Category C involves cases requiring normal audit work and, if necessary, may be conducted on an intermittent basis. Audit time is programmed for these cases to ensure that they progress essentially on schedule.

--Category D involves cases where audit work has been suspended because of lack of resources, higher priority work, a pending regulatory decision, or a pending exception and appeal action.

Additionally, in April 1977, FEA established a policy for regional offices and headquarters to follow in reporting and resolving issues impeding resolution of compliance cases. Under this policy, the Office of Compliance Case Resolution is responsible for ensuring that all issues, whether disclosed at the regional or national office levels, are acted upon promptly. The policy requires the Office of Compliance Case Resolution to establish procedures to ensure that issues are resolved within specified timeframes.

CONCLUSIONS AND RECOMMENDATIONS

Several compliance cases in the Boston Regional Office have remained open for periods in excess of one year. As a result, the effectiveness of the compliance program has been limited. However, we do not believe that these problems are unique to the Boston Regional Office. As pointed out in a consultant's and two task force reports, similar problems appear to exist nationwide.

In our opinion, the most significant factor contributing to the delays in case resolution has been FEA's inability to resolve regulatory issues arising because of the complexity of the price regulations. Until the regulations are clarified and written in a manner to eliminate ambiguity, compliance case resolution will continue to be impeded by unresolved regulatory issues. FEA's compliance program cannot be effective until the agency revises its regulations so that they can be enforced.

FEA took some actions to alleviate the problem such as instituting a case prioritization system and a policy for reporting issues impeding compliance case resolution. Also, FEA initiated steps to implement the recommendations of the Task Force on Compliance and Enforcement. The Department of Energy is continuing the steps initiated by FEA. The task force recommendations address several problems hampering the effectiveness of the compliance program, and it is essential that the Department of Energy complete its efforts to implement them. All of these actions are a step in the right direction and can help reduce the time needed to resolve future compliance cases. However, they will not expedite the resolution of the existing backlog of open cases until the outstanding regulatory issues are resolved.

In general, we agree with the conclusions and recommendations in the task force and consultant's studies. Specifically, we recommend that the Secretary, the Department of Energy:

--conduct a thorough review of the petroleum allocation and price regulations to determine what sections need revision to eliminate vagueness and ambiguity;

--place top priority on resolving all outstanding regulatory issues so that compliance cases can be resolved without further delay; and

--complete efforts to implement the recommendations of the Task Force on Compliance and Enforcement in order to improve case processing procedures.