REPORT BY THE U.S.

General Accounting Office

Analysis Of The Comprehensive Energy Emergency Response Procedures Report

The Energy Emergency Preparedness Act of 1982 required the President to submit a series of reports to the Congress, including one detailing "comprehensive energy emergency response procedures." The comprehensive procedures report was to describe options the President would consider using in an emergency, specify how potential response actions would be selected and implemented, and recommend additional laws that the President may need to deal with an emergency.

GAO's evaluation of the report was requested by the Chairman and several members of the Senate Committee on Energy and Natural Resources. This is the last of a series of GAO reports analyzing various report submissions made under the act. GAO notes that

- --the comprehensive procedures report lacks the desired specificity in describing options to be considered and the procedures to implement them and
- --key parts of the administration's energy emergency preparedness programs are still not ready.

GAO/RCED-83-106

FEBRUARY 17, 1983

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

RESOURCES, COMMUNITY,
AND ECONOMIC DEVELOPMENT
DIVISION

B-210236

The Honorable James A. McClure
Chairman, Committee on Energy and
Natural Resources
United States Senate

The Honorable John Warner
Chairman, Subcommittee on Energy
and Mineral Resources
Committee on Energy and Natural
Resources
United States Senate

The Honorable Henry M. Jackson
United States Senate

The Honorable Bill Bradley
United States Senate

In your August 11, 1982 letter, you asked that we monitor and analyze documents to be prepared by the administration under the Energy Emergency Preparedness Act of 1982. Specifically, you requested that we analyze the "Comprehensive Energy Emergency Response Procedures" issued by the President on December 31, 1982. This report responds to that request.

J. Dexter Peach
Director

REPORT BY THE UNITED STATES
GENERAL ACCOUNTING OFFICE

ANALYSIS OF THE COMPREHENSIVE ENERGY EMERGENCY RESPONSE PROCEDURES REPORT

D I G E S T

The Energy Emergency Preparedness Act of 1982 (EEPA) committed the United States Government to develop programs to respond to energy emergencies. The objective of these programs is to mitigate the adverse impacts such emergencies can have on the Nation.

To assist in accomplishing this objective, EEPA required the President to submit to the Congress a "comprehensive energy emergency response procedures" report (procedures report) detailing how the administration would respond to a severe energy emergency. The act required the procedures report to: (1) describe the various options the President would consider using to respond to such an emergency, including a description of the likely sequence in which such options would be implemented, (2) specify how response actions would be selected and implemented, particularly who would select and implement these actions and what procedures would be used, and (3) recommend any additional laws that the President may need to respond to a severe energy emergency.

The Chairman and several members of the Senate Committee on Energy and Natural Resources asked GAO to analyze this document and several others mandated by EEPA within 6 weeks of their transmittal to the Congress. 1/

SUMMARY OF FINDINGS

In GAO's view, the emergency response options available to the President are inadequately detailed in the procedures report and some face implementation problems. Among GAO's specific concerns:

1/GAO has issued two reports analyzing other administration documents required by EEPA: "Status of the Administration's Implementation of the Energy Emergency Preparedness Act of 1982," GAO/RCED-83-33, Oct. 8, 1982; and "Analysis of the Strategic Petroleum Reserve Drawdown Plan and the Strategic Petroleum Reserve Drawdown and Distribution Report," GAO/RCED-83-85, Jan. 3, 1983.

--Key programs, notably the Strategic Petroleum Reserve (SPR), Emergency Executive Manpower Reserves, and some International Energy Agency programs face major implementation problems.

--Key policy issues in some program areas (for example, coordination of Federal and State policies and programs) are not adequately resolved.

--Some key issues, such as the role of private stocks, are barely discussed or are omitted altogether.

In addition, the procedures report does not demonstrate that reliable emergency response procedures are available to implement the above options. Specifically:

--The descriptions of the roles of decision-makers, and those implementing their actions, lack necessary detail. As a result, the procedures to be followed within the Department of Energy and other organizations and among agencies are not clear.

--Many of the procedures have not yet been fully developed.

EMERGENCY RESPONSE "OPTIONS" ARE INADEQUATELY DETAILED AND SOME FACE IMPLEMENTATION PROBLEMS

The procedures report's descriptions of the emergency response options available to the President contain little detail on either program content or status. One cannot rely on these brief descriptions alone to determine whether the programs are effective or if deadlines for individual program elements are being met. Key programs and issues include the SPR, the Emergency Executive Manpower Reserves, international energy programs, possible Federal preemption of State laws and regulations, and private oil stocks.

The Strategic Petroleum Reserve

GAO's primary concern about the SPR is that the administration has not adequately planned for its use. In its report of January 1983 on two administration SPR planning documents required by EEPA, GAO concluded that neither document "provides much specific information about the

conditions in which SPR oil could be used in an emergency, including the amount, rate, and timing of its use." Neither these documents nor the procedures report deal with important policy questions, such as the possibility that some SPR oil might not be used to alleviate a shortage after it is sold. It is conceivable that buyers, anticipating rising oil prices during an emergency, may choose to hold onto the oil to earn extra profits. This was observed in the 1979 Iranian oil supply interruption. (See pp. 5 to 9.)

Emergency Executive Manpower Reserves

This program is intended to develop and maintain the capability to quickly augment Department of Energy staff during energy emergencies with experienced industry personnel. While Government use of industry expertise can be particularly useful during energy emergencies, several legal constraints preclude effective use of the reserves during energy emergencies at the present time. First, the reserves could be activated only in an energy emergency that would adversely affect the national defense of the United States. Second, reservists who serve or advise Federal officials during an emergency are subject to general conflict-of-interest laws and to additional civil provisions of the Department of Energy Organization Act. Third, participation of industry officials in the program may expose their companies to antitrust risks. The procedures report acknowledges that conflict-of-interest and antitrust problems have discouraged this type of industry participation in past energy supply interruptions.

There are no current plans to submit specific legislative proposals to alleviate these legal obstacles. Until these issues are resolved, the Emergency Executive Manpower Reserves may not be available for use during an energy emergency. (See pp. 9 to 11.)

International energy programs

The procedures report addresses international energy programs by broadly describing several programs relating to U.S. obligations as a member of the International Energy Agency and the North Atlantic Treaty Organization (NATO). Little detail is given on the content and status of these

programs. Many appear to be under development, but target dates for important milestones are sometimes not included.

In addition, recent GAO work in this area shows that the Government lacks effective procedures under which U.S. oil companies may participate in the International Energy Agency Emergency Sharing System with limited antitrust protection during an actual emergency; there are no standby demand restraint programs in place which may be needed to comply with International Energy Agency requirements; and there are differences among Agency member countries over prices charged for oil shared under the Emergency Sharing System. In addition, GAO is reviewing possible coordination problems in an energy emergency because of U.S. treaty commitments under the International Energy Agency and NATO activities. (See pp. 11 to 14.)

Potential conflicts between Federal and State laws and policies

A key problem only briefly discussed in the procedures report is the potential for individual States enacting their own petroleum product allocation and pricing laws and other regulatory measures. Such action would conflict with planned Federal reliance on the free market. At one point, the procedures report states that in a "severe" emergency, "The Federal Government * * * may attempt to dissuade the States from taking regulatory actions which conflict with the Federal market strategy." The procedures report does not, however, discuss possible measures the Federal Government could use to "dissuade" the States from enforcing such actions.

For example, the report does not address the difficulty and consequences of litigating, in emergency circumstances, the principles of Federal Government preemption of State allocation and price controls. (See pp. 15 to 16.)

Private oil stocks

The procedures report asserts that private oil stocks would play a major role in coping with oil supply disruptions and that private and Government stocks currently provide substantial protection against such disruptions. However, the report does not specify the role of private

oil stocks in an emergency nor does it acknowledge that these stocks have declined substantially from their peak levels in mid-1980. It is also not clear whether industry would in fact draw down stocks, and the report does not specify how the Government would assure that stocks are drawn down. In fact, industry built stocks during past disruptions in anticipation of higher prices. (See pp. 16 to 18.)

EMERGENCY RESPONSE PROCEDURES ARE VAGUE AND ARE NOT FULLY DEVELOPED

In addition to requiring options the President might use to respond to a severe energy emergency, EEPA requires the procedures report to specify the procedures to implement these actions. The report responds to this requirement by describing the Emergency Response Management System. According to the report, "The principal goal of the emergency response management system is to provide an integrated management process that will ensure the orderly and timely assessment and evaluation of and response to an energy emergency."

The report's description of response procedures lacks necessary detail

In the eight pages specifically devoted to "emergency response procedures," the procedures report does not provide comprehensive procedures, as the report's title suggests, nor does it provide the level of detail which the law requires. While the report indicates who the major participants are, including Department of Energy offices, other agencies, and interagency groups, it provides little detail on

--how Government response options would be selected and implemented,

--which individuals or groups make key decisions or select response options,

--how specific organizations would coordinate their activities, and

--what implementation procedures would be used by each participating group for different response actions. (See pp. 22 to 26.)

The emergency response procedures have not been completed

Another problem with the procedures is that they are incomplete. The report acknowledges this by stating that the Federal Government and Department of Energy are still refining the energy emergency management system. More specifically, the report states that:

--The emergency response management system is "still under development."

--The flowchart depicting this system is described as a "preliminary draft."

--Detailed procedures have not yet been developed to implement many of the response options we discussed earlier. The report acknowledges this, stating that "For each of these programs, the DOE is either currently developing detailed procedures* * *or is studying possible measures that might have potential, or is doing both."

In the meantime, many of the program "options" outlined in the report could not be implemented without great difficulty if an energy supply disruption occurred. (See pp. 26 to 27.)

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Because our evaluation was requested within 6 weeks, we did not request agency comments. However, we gave Department of Energy energy emergency preparedness officials a draft and discussed their reactions with the Deputy Assistant Secretary for Energy Emergencies. The Department's comments concerned clarification of several issues we raised. These comments have been incorporated in the text where appropriate.

Contents

ABBREVIATIONS

DOE	Department of Energy
DPA	Defense Production Act
EEPA	Energy Emergency Preparedness Act
EPAA	Emergency Petroleum Allocation Act
ERMS	Emergency Response Management System
ERWG	Emergency Response Working Group
GAO	General Accounting Office
IEA	International Energy Agency
SPR	Strategic Petroleum Reserve

CHAPTER 1

INTRODUCTION

BACKGROUND

This report is the third in a series of GAO reports, requested by the Chairman and several members of the Senate Committee on Energy and Natural Resources, to analyze documents prepared by the administration under the Energy Emergency Preparedness Act of 1982 (EEPA). 1/ Specifically, this report discusses the "Comprehensive Energy Emergency Response Procedures" report (referred to below as the procedures report) which was issued by the President on December 31, 1982.

EEPA, section 271, indicates why the procedures report was required, stating that "* * *the Federal Government shall be prepared prior to any shortage of petroleum products to respond to energy emergencies* * *as a supplement to reliance on the free market to mitigate the adverse impacts of a shortage of petroleum products on public health, safety, and welfare." It further states that the purpose of the energy emergency preparedness part of EEPA is to provide "* * *for the preparation of comprehensive energy emergency response procedures to be available for use by the President* * *."

The requirement for the procedures report is the most recent outgrowth of a longstanding effort by the Congress to ensure that the Nation is adequately prepared to deal with severe energy supply interruptions. Other efforts date back to the Arab oil embargo of 1973 and continued through a series of energy emergencies during the 1970s.

One of the major laws enacted during this period was the Emergency Petroleum Allocation Act of 1973 (EPAA). This law established a complex system of price and allocation controls. Other laws were enacted to encourage domestic energy production and conservation.

The Congress attempted to replace EPAA, which expired in September 1981, with the Standby Petroleum Allocation Act of 1982. The bill would have given the President discretionary standby

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1/The first report, "Status of the Administration's Implementation of the Energy Emergency Preparedness Act of 1982," GAO/RCED-83-33, Oct. 8, 1982, focused on whether the statutory requirements and reporting deadlines would be met. The second report, "Analyses of the Strategic Petroleum Reserve Drawdown Plan and the Strategic Petroleum Reserve Drawdown and Distribution Report" GAO/RCED-83-85, analyzed two planning documents on how the Strategic Petroleum Reserve would be used in oil supply interruptions.

authority to allocate petroleum. The President vetoed the bill, stating in his veto message:

> "Today I have ample powers to take the steps necessary to protect national security, meet treaty obligations, and assure essential public health and safety functions* * *. What I do not have, do not want, and do not need is general power to reimpose on all Americans another web of price controls and mandatory allocations."

After the veto, the Congress turned its attention to an overall review of the Nation's energy emergency preparedness as part of its consideration of the Energy Emergency Preparedness Act which was passed in August 1982. According to the Senate committee report which accompanied EEPA, such an inquiry was

> "* * *particularly appropriate as the United States is now dependent on the marketplace, and, as the President noted, on the general powers that can be used by the President to protect national security, meet our treaty obligations and assure essential public health and safety functions."

A hearing was held on energy emergency preparedness in May 1982 by the Senate Committee on Energy and Natural Resources. The Congress ultimately adopted several amendments to EEPA because, according to the committee report, "of its concern over the lack of progress made to date in our Nation's energy emergency preparedness planning, and its desire to insure that we are prepared." One of these amendments, submitted by the committee's chairman, required preparation and submission of a "comprehensive energy emergency response procedure" by December 31, 1982.

EEPA's REQUIREMENTS FOR THE COMPREHENSIVE ENERGY EMERGENCY RESPONSE PROCEDURES REPORT

EEPA, as amended, directed the President to submit to the Congress, "comprehensive energy emergency response procedures" for implementing the emergency authorities available to him. 1/ Section 272(b) requires the Comprehensive Energy Emergency Response Procedures Report (referred to below as "the Report") to contain three elements:

- --Options the President would consider using to respond to a severe energy emergency, including a description of the likely sequence in which such options would be taken.

1/EEPA required the President to provide these emergency authorities in a memorandum of law which was transmitted to the Congress on Nov. 15, 1982.

--A description of how response actions would be selected and implemented, particularly who would select and implement these actions and what procedures would be used.

--Recommendations for additional statutory authority that the President may need to respond to a severe energy emergency.

The Senate committee report accompanying EEPA suggests that these elements do not require descriptions of the actual policies and substantive decisions that would be employed in various shortage conditions. Rather the document

> "* * *should identify the response options or policies that the administration would consider using, and should include, if not precise criteria for decision-making, then at least descriptions of how decisions are made, who will make them, and the general policy considerations that will be taken into account in selecting a particular procedure or course rather than other available alternatives."

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objective was to examine how well the procedures report complied with the requirements of EEPA. We reviewed the House and Senate committee reports, conference reports, and hearings to better understand what the Congress intended to be included in the document. We also relied on our extensive past and ongoing work on energy emergency planning issues as part of our own determination of what would constitute an adequate statement on the Nation's readiness to respond to an energy emergency. This work includes a comprehensive report on energy emergency preparedness programs, issued in September 1981, and our recent analyses of two administration planning documents on the Strategic Petroleum Reserve (SPR).

The Senators specified that our reports be prepared within 30 days of the President's submission to the Congress. 1/ Because of the tight reporting deadlines, we focused our work on issues of particular concern to the Senate Committee on Energy and Natural Resources, such as the SPR, as related to us by committee staff.

We obtained additional information through interviews and review of documentation supplied by officials in the Department of Energy's (DOE's) Office of Energy Emergencies. DOE's Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness and members of his staff cooperated fully and provided us with all requested information. Our audit work was

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1/This deadline was subsequently extended for this report.

conducted in accordance with generally accepted government auditing standards.

CHAPTER 2

EMERGENCY RESPONSE OPTIONS ARE INADEQUATELY DETAILED AND SOME FACE IMPLEMENTATION PROBLEMS

In response to the legislative requirement, the procedures report describes the various options, programs, and other actions that the President would consider using to respond to an energy supply interruption. Generally, we found that the report contains little detailed information on the content and status of these options. One cannot rely on these brief descriptions alone to determine whether the programs would be effective or whether deadlines for individual program elements are being met. Among our specific concerns are:

--Key programs, notably the SPR and the Emergency Executive Manpower Reserves, face major implementation problems.

--Key policy issues in some program areas (for example, coordination of Federal and State policies and programs) are not adequately resolved.

--Some key issues, such as the role of private oil stocks, are barely discussed or are omitted altogether.

--The scenarios described in the report give little indication of how or in what sequence individual programs would be implemented.

Individual programs discussed below are:

--The Strategic Petroleum Reserve.

--The Emergency Executive Manpower Reserve.

--International energy programs.

--Coordination of Federal and State programs and policies.

--Private oil stocks.

THE STRATEGIC PETROLEUM RESERVE PROGRAM

According to the procedures report, the SPR Program "* * * has the objective of developing the policies, procedures, organizational structure and support systems required to plan and implement an effective drawdown of the Strategic Petroleum Reserve."

Progress has been made in filling the SPR, and the capability to withdraw oil from SPR caverns has already been demonstrated.

However, as we noted in our recent report, 1/ two administration documents (required by EEPA) show that more planning needs to be done to assure effective use of the SPR in an oil supply interruption. In addition, procedures for SPR drawdown and distribution are to be tested and some legal issues need to be resolved to facilitate distribution of SPR oil.

Recent administration documents do not demonstrate that SPR use has been adequately planned

In our recent report on two administration documents on the SPR, we noted that neither one provided much information about the conditions in which SPR oil would be used in an emergency, including the amount, rate, and timing of use. One of the documents, "The Strategic Petroleum Reserve Drawdown and Distribution Report," was supposed to describe alternative scenarios that could necessitate distributions from the SPR and descriptions of alternative strategies of distribution (with the theory and justification for each) that could be used to respond to each of these situations. The conference committee report accompanying EEPA stated at one point that the SPR report, "should cover in depth what crises are reasonably foreseeable and include a variety of possible measures for handling them." However, this document contained substantially less information than expected. The subjects were addressed in broad terms, particularly the "situations" and alternative strategies required by EEPA. Rather than the detailed analyses requested by the Congress, the situations and alternative strategies were presented in the document as "some simple scenarios" for "illustrative purposes." The result, we concluded, was "a report that supplies very little information on how, or whether, we can effectively use the SPR."

Another document, "The Strategic Petroleum Reserve Drawdown Plan," contains the guidelines the administration would use under any SPR drawdown. Under section 161(b) of the Energy Policy and Conservation Act of 1975 (EPCA), the administration is required to abide by the terms of the plan during any future SPR drawdown. Among the key policy decisions reflected in this document:

--The President will decide when and how to use the SPR; an automatic "trigger" would not be used.

--The basic method of distribution of SPR oil will be by competitive sale, with awards going to the highest bidders.

1/"Analyses of the Strategic Petroleum Reserve Drawdown Plan and the Strategic Petroleum Reserve Drawdown and Distribution Report" (GAO/RCED-83-85, Jan. 3, 1983.)

--The sale would be open to all interested buyers and, according to this plan, "It is intended that the universe of eligible buyers will be as large as possible to ensure efficient distribution of SPR oil."

--"Under the most extreme of circumstances," up to 10 percent of SPR oil sold could be set aside by the Secretary of Energy to alleviate special hardship caused by an oil shortage.

These policies are not discussed in detail in the plan. The administration explicitly opposed providing specific details in this plan on SPR drawdown because it could constrain the President's flexibility in dealing with an emergency. This flexibility, however, as well as several important provisions, raise some questions with important policy implications.

One question relates to whether the Government can ensure that SPR oil would actually be used to alleviate an oil shortage or whether it would be retained in private stockpiles. The plan notes that transfer of ownership to the buyer takes place at supporting terminals near the storage sites. According to the plan, "The Government's role will end at this point and the buyers will assume distribution responsibility." The plan is vague, however, about what happens to the oil after this transfer of ownership takes place. It leaves unclear the terms of DOE's "standard sales agreement" or whether the agreement would ensure that oil would not be retained in private stockpiles.

Other questions are raised by provisions for the 10-percent "set-aside." The plan states that the Secretary of Energy may set aside up to 10 percent of the SPR oil sold in any month under the most extreme circumstances. "Up to" 10 percent implies that the set-aside could be a smaller amount. As we noted in our recent report dealing with the SPR plan, however, the potential for even the maximum 10-percent set-aside to alleviate hardship during a severe emergency is limited.

Other questions raised by the SPR Plan include the following:

--Should all SPR oil (including the 10-percent set-aside oil) be sold at market prices, or should any distribution policies be invoked other than "to the highest bidder?"

--Does the Congress agree with the decision not to use an "automatic trigger" to determine when and how to use the SPR and to allow these decisions to be entirely at the discretion of the President?

--The plan notes that the SPR could be used to satisfy U.S. obligations under the International Energy Program

(IEP), but gives little indication of whether it would be used for this purpose. Under what conditions should the SPR be used to support the U.S. commitment under the IEP?

While time constraints have not allowed us to pursue these questions further in this report, we believe that they raise important issues that should be addressed in planning SPR use.

SPR drawdown procedures are to be tested

In addition to the policy issues relating to how prepared we are to use the SPR, other questions relate to the distribution system's ability to move oil and the procedures that would be followed during drawdown and distribution.

DOE has made progress on these matters. Tests have demonstrated the ability to pump oil from the caverns. As the procedures report notes, a manual is currently under development that details SPR drawdown procedures. According to the manual, it "describes the functions and activities associated with the management of SPR drawdown and distribution. It is intended to provide a comprehensive picture of a generalized response process."

The latest version of the manual includes a very detailed statement of activities to be undertaken by specific agency officials and the responsibilities of participating offices and individuals, but it does not give guidance on how or when these responsibilities shall be carried out. However, as the introduction to the manual states, "It is not intended to describe the detailed procedures used to deal with the multitude of variables associated with an actual energy emergency. The manual describes what must be done, but not how to do it." One of DOE's planned operational tests of SPR drawdown and distribution will provide a better indication of how well the procedures actually work in practice. The test, called "DIREX B," is now scheduled for July 1983. The results of the test will be addressed in one of our quarterly SPR reports.

Legal issues should be resolved to facilitate SPR drawdown and distribution

According to the procedures report, two legal issues that should be resolved to facilitate distribution of SPR oil include the possible need to (1) amend the Defense Production Act (DPA) to facilitate transportation of SPR oil and (2) amend the Export Administration Act to allow SPR oil to be refined in Caribbean refineries.

One area under study, according to the report, is the suitability of section 101 of the DPA for meeting any extraordinary requirements for SPR oil transportation which might develop. Section 101(a), as presently written, could be used by the

President to require priority for transportation of SPR oil but only for national defense-related purposes. As the procedures report notes, however, invoking national defense authority in connection with SPR use could subject SPR contractors to defense-related cost accounting standards. Past experience, the report says, suggests that this may be unacceptable to many SPR contractors.

The administration is also studying the need to waive certain statutory export restrictions to allow buyers of SPR oil to use Caribbean refineries. Some types of SPR oil that cannot be exported (for example, Alaskan North Slope Oil, Naval Petroleum Reserves oil) are commingled in storage caverns with other types of oil that may have no specific statutory restriction. Accordingly, the procedures report notes that, "Consideration might be given to legislation authorizing the President selectively to waive statutory controls on exports of SPR crude oil during drawdown and distribution under conditions of a 'severe energy supply interruption.'"

An additional question relates to the Jones Act requirement for moving SPR oil in U.S.-flag ships. The procedures report states that during a severe energy supply interruption, it may become necessary to waive this requirement. However, this requirement can only be waived when deemed necessary in the interest of national defense. Thus, such a waiver in an energy emergency would have to be accompanied by a finding that it was defense related.

Thus, the procedures report raises several potential legal problems posing constraints on how SPR oil could be transported and used during an energy emergency. According to the Acting Deputy Director of DOE's Office of Energy Emergencies, no timetable has been set for proposing remedial legislation. Until such legislation is enacted, however, these problems may hamper the SPR's use.

In summary, we have identified three issues which should be resolved to make effective use of the SPR: (1) SPR use planning must be adequately developed, (2) procedures for SPR drawdown and distribution need to be tested (such a test is scheduled for July 1983), and (3) legal issues should be resolved to facilitate the distribution of SPR oil. Issues concerning the SPR's fill rate and capacity concerns are addressed in our most recent SPR quarterly report.

EMERGENCY EXECUTIVE MANPOWER RESERVES

A major program the administration intends to use in responding to a severe energy emergency, particularly a defense-related energy emergency, is the Emergency Executive Manpower Reserve.

The objective is the development and maintenance of the capability to quickly augment DOE staff during energy emergencies

with experienced industry professionals who can help identify and assess supply and demand problems and assist in coordinating energy production and distribution. The procedures report identifies three separate reserves: The Emergency Electric Power Executive Reserve, the Emergency Petroleum and Gas Executive Reserve, and the Emergency Solid Fuels Executive Reserve.

We agree that Government use of industry expertise can be particularly useful during energy emergencies. However, several problems, some of which are acknowledged in the report and in the Department of Justice's memorandum of law on authorities now available to the President which can be used to counter an energy emergency, presently complicate the administration's ability to effectively use the reserves during a severe energy emergency. As a consequence of these problems, for example, the reserves were not activated during the 1973 oil embargo.

First, the reserves could be activated only in an energy emergency that would adversely affect the national defense preparedness of the United States. Unless they could be activated in non-defense-related crises, DOE would not be able to use them for some of the most likely kinds of energy emergencies.

Second, as the Justice Department's memorandum of law notes, reservists from the private sector who serve or advise Federal officials during an emergency are subject to conflict-of-interest laws applicable to Federal employees. According to the memorandum, section 208 of the Criminal Code is of particular concern because it imposes criminal penalties on any Government employee or "special government employee" who participates "personally and substantially" for the Government in a matter in which he, members of his family, his employer, or potential employer have a financial or employment-related interest. The procedures report concludes from this that, "section 208 could be a significant constraint on the use of WOCS [Special Government Employees serving without compensation] and Executive Reservists during emergencies." An additional problem not sufficiently discussed in the memorandum or the procedures report deals with the conflict-of-interest provisions of the Department of Energy Organization Act. These provisions would apply to reservists because the energy-related reserves are administered by DOE. Particularly important are provisions that may (1) require reservists to divest themselves of financial holdings in any energy concern and (2) prohibit any official relationship with an energy concern by a DOE supervisory employee or one authorized to make comparable decisions.

Third, as the procedures report states, "The participation of industry officials required by these programs may expose them or other companies to antitrust risks." The memorandum elaborates on this point, stating:

"It is likely that an individual called to Government service* * *would retain some ties with his or her former private employer, and would probably return to private employment upon completion of Government service. In light of these dual public and private roles, actions taken by the individual while employed by the Government might raise questions of antitrust liability for the individual and the employer."

The procedures report acknowledges that conflict-of-interest and antitrust problems have discouraged industry participation in past energy supply interruptions. During the oil embargo of 1973, the Department of the Interior attempted unsuccessfully to activate members of oil emergency manpower reserve. According to the report, "Official documentation and reactions by the press to the proposed action demonstrated that the conflict of interest and antitrust questions became paramount considerations, preventing the activation plan from being implemented."

The report does not recommend any legislation to address these problems, stating that such a recommendation, "requires considerably more study and discussion within the Administration than is possible within the time limits set for presentation of the Comprehensive Energy Emergency Response Procedures Report." According to DOE's Deputy Assistant Secretary for Energy Emergencies, it is unlikely that specific proposals would be made before 1984. Until these issues are resolved, however, the Emergency Executive Manpower Reserves may not be available for use during an energy emergency.

INTERNATIONAL ENERGY PROGRAMS

The procedures report addresses international energy programs by broadly describing several programs relating to U.S. obligations under International Energy Agency (IEA) and NATO agreements. The report states:

"This effort has as its objective the development of systems and procedures which will ensure that the United States is capable of meeting its international energy obligations."

Involvement in the International Energy Agency's Emergency Sharing System is a particularly important part of the U.S. contingency planning effort, since it commits the United States to share petroleum supplies in the event of a major disruption and to take other actions as well.

The report, however, provides insufficient information on U.S. programs to implement U.S. participation in the IEA's Emergency Sharing System. Many appear to be under development, but target dates for completion are sometimes not included. (We obtained this information from DOE officials and have included it in app. I of this report.)

Other concerns, discussed below, about these programs' effectiveness are based on recent and ongoing GAO work in this area.

Procedures for participation by U.S. oil companies in the IEA Emergency Sharing System

U.S. oil company involvement is critical to the success of the IEA's Emergency Sharing System. However, the procedures report does not deal adequately with the Government's antitrust clearance procedures covering oil companies' participation in the system, nor does it demonstrate effective progress in developing a needed oil "fair sharing" system.

Although the report states that DOE is responsible for "liaison with industry related to its plans for petroleum acquisition and distribution during disruptions," it does not address any of the issues related to management of U.S. oil company involvement in the ESS, such as reporting procedures and antitrust clearances. Other key issues omitted, which we have discussed in past work, are the following:

--DOE has yet to provide an approved revision to the plan of action which was written before development of the IEA's Emergency Sharing System. DOE has been working on the revision, which would make it compatible with the ESS, for 5 years, and U.S. oil companies deem the revisions essential for their effective participation. The statutorily-required plan should set forth in specific and descriptive detail the procedures and actions by which U.S. oil companies may participate in the IEA Emergency Sharing System with limited antitrust protection during an actual emergency.

--The procedures report does not clarify how DOE would communicate and coordinate with the IEA in an emergency. The last test of the IEA Emergency Sharing System in 1980 revealed many communication and coordination problems involving DOE's interaction with the IEA Secretariat.

According to the procedures report, "the Fair Sharing Study is intended to design a domestic fair sharing system for possible use should the IEA sharing system be triggered." Fair sharing refers to the redistribution of oil among petroleum companies operating within any one participating country so that no one petroleum company is penalized by having to share its oil under the IEA Emergency Sharing System. A fair sharing system among companies operating within the United States is crucial to the Emergency Sharing System because five of the seven largest international oil companies, and 21 of the 47 IEA reporting companies,

are American. If these companies did not actively participate in the implementation of the Emergency Sharing System, the voluntary aspect of the system would likely collapse.

In view of the importance of establishing a fair sharing system, we are concerned about the prospects for its timely completion. DOE's plans to develop a system go back at least 1-1/2 years. Yet, according to the Acting Deputy Director of DOE's Office of Energy Emergencies, a firm decision has not yet been made on when--or if--a fair sharing plan should be developed.

Demand restraint

The procedures report addresses demand restraint in a brief discussion of "* * *efforts to identify mechanisms to reduce oil demand in the U.S. to the level authorized by the IEP if the IEA Emergency Sharing System is triggered." 1/

The "generic response actions" examined are (1) rising prices to curb demand, possibly combined with additional price-related actions (for example, imposing excise taxes) and (2) supply enhancement actions (for example, using the SPR and non-oil fuels). Thus, the report's approach is consistent with the administration's opposition to imposing mandatory demand restraint measures on consumers. The first action would discourage consumption through higher prices, while the second would increase availability of domestic oil supplies.

While price, price-related, and supply enhancement actions can legally satisfy U.S. obligations if the Emergency Sharing System were activated, most other countries participating in the IEA have chosen to develop additional demand restraint contingency programs. The measures available in these programs generally include compulsory orders, allocation, and rationing. In addition, demand restraint measures could be used as a backup if the measures identified in the supply right study were not sufficient to meet IEA obligations. The IEA Secretariat, in a draft November 25, 1982 paper, noted that the United States does not have detailed demand restraint plans to implement during an energy disruption.

Under the IEA Emergency Management Manual, each participating country is deemed to have restrained demand within 21 days after a positive finding by the IEA that the oil supply shortfall is sufficient to trigger the activation of the international allocation system. Whether price and supply enhancement measures could achieve the necessary restraint within 3 weeks seems questionable, even if they were ready to implement. As noted above, DOE is currently only studying possible use of such measures.

1/Demand restraint programs are authorized by the Emergency Energy Conservation Act and the Energy Policy and Conservation Act.

In our April 6, 1982, report to the Chairman of the Subcommittee on Fossil and Synthetic Fuels, House Committee on Energy and Commerce, we stated that 21 days is too short a period to enact legislation, hire and train professional staff, and implement additional demand restraint measures in the United States. Realistically, the instruments for petroleum demand restraint implementation would have to be in place on a standby basis as contemplated by the IEP, in advance of the emergency if the required demand reduction were to be attained within the 21-day period agreed by all participating countries including the United States.

IEA allocation system tests

The allocation system tests are periodically conducted by the IEA, member countries, and participating companies to test the operational effectiveness of the ESS, train personnel in the operation of the system, and evaluate the ability of the IEA member countries to respond to severe disruptions.

In discussing the fourth such exercise, scheduled for the second quarter of 1983, the procedures report does not mention a major criticism of all IEA system tests--the failure to include prices for the oil allocated by the system. Although IEA member nations agreed not to include price in this particular test at the insistance of the United States and West Germany, the matter of pricing in an emergency remains unresolved. The issue is that if companies are not permitted to charge whatever the market will bear, they may not supply oil voluntarily and the governments of the IEA countries would have to mandate sharing. The United States has taken the position that the artificial environment of a test could establish unrealistic prices that might compromise the effectiveness of the system in an actual emergency. If the 21 IEA member countries that would share oil in a severe disruption cannot agree on pricing principles, questions arise about the viability of the ESS in an actual emergency. These differences should therefore be resolved to minimize the problems that might be encountered if and when the ESS is activated.

NATO activities

The procedures report notes that the North Atlantic Treaty requires "the United States to respond to various peacetime and wartime oil requirements of the North Atlantic Treaty Organization." A major omission is whether U.S. involvement in the NATO system would conflict with similar U.S. involvement in the IEA system. Because the two systems might be used simultaneously in a crisis, a major communication and coordination problem might occur, adversely affecting the U.S. and overall allied contingency planning efforts. While the potential extent of this problem is not known, GAO is reviewing the subject at the request of a Member of Congress.

POTENTIAL CONFLICTS BETWEEN FEDERAL AND STATE LAWS AND POLICIES

The procedures report pays little attention to the potential for conflict between Federal and State laws and policies in responding to an energy emergency. Individual States could enact their own petroleum product allocation and pricing laws which would be at variance with the Federal policy relying on the free market.

The Senate committee report accompanying EEPA noted this potential problem, stating that the Senate Committee on Energy and Natural Resources is concerned "about the fact that under existing Federal law, there is no Federal preemption of those State and local laws that could seriously inhibit operation of market allocation and pricing, and that could interfere with Federal energy emergency responses in the event of an energy shortage."

The Senate committee report noted that DOE did not respond adequately to the committee's inquiries about why a web of potentially conflicting Federal and State regulations would not be created. According to the Senate committee report, DOE responded: "We anticipate that the States will recognize that putting in place mechanisms that did not work at the Federal level, would not work at State and local levels either."

According to the Senate committee report, DOE also told the committee: "In view of the fact that Government intervention has proven in the past to create or exacerbate crises in the energy field, we certainly expect that the States would respect the lessons of history, and act accordingly." The committee report then stated that because DOE did not provide any analysis to support these statements, the issues should be discussed more thoroughly in the administration's comprehensive energy emergency response procedure.

The problem is briefly mentioned in the procedures report's discussion of response measures during a hypothetical "severe" energy emergency. Under these circumstances, according to the report, "The Federal Government* * *may attempt to dissuade the States from taking regulatory actions which conflict with the Federal market strategy." The report does not, however, discuss possible actions the Federal Government could take to "dissuade" the States from enforcing price and allocation controls. For example, it does not address the difficulty and consequences of litigating, in emergency circumstances, the principle of Federal Government preemption of State allocation and price controls. Although the Emergency Petroleum Allocation Act contained the authority to preempt these measures, that law expired in 1981. As the Justice Department's memorandum of law acknowledges, it would be extremely difficult to interpret another existing statute as authorizing preemption of these types of State laws and regulations.

This is of particular concern in view of the fact that about 20 States presently have a state set-aside program, or other type of fuel management plan, such as rationing, in their emergency energy contingency plans. More States could develop similar or more stringent measures if a severe energy supply disruption occurred. These measures are inconsistent with a Federal policy relying on the market to determine oil price and distribution and could create problems for industry if a web of State regulatory measures were to go into effect during a national energy emergency.

The prospect of many States attempting to protect their economies through such measures was also included in a recent RAND Corporation study prepared for the California Energy Commission. The study, which simulated an emergency response to a Middle Eastern oil emergency, found that participating State representatives moved to protect their economies with a number of actions conflicting with the Federal market strategy. In testimony before the House Committee on Small Business, Subcommittee on Energy, Environment, and Safety Issues Affecting Small Business, the study's supervisor said that State representatives:

> "* * *sought to control oil price and destination internally and began cooperating with each other to share oil and petroleum products interstate. The staff analysis of the simulation shows that this independent State action will lead to conflict over ten major areas under present Federal energy emergency management policy."

Among the 10 major areas of conflict identified are State petroleum product allocation and price controls.

PRIVATE OIL STOCKS

The only discussion about private oil stocks is near the beginning of the procedures report, where it states that such stocks play a major role in the administration's strategy for coping with oil supply disruptions. However, it does not say whether any program for assuring the adequacy of private stocks should be initiated nor does it indicate that any initiatives for doing so are being studied or developed. The report states that private primary stocks are at high levels and that they, along with the SPR, provide very substantial protection against major supply disruptions. However, it offers very few facts or figures to support this conclusion and those which it presents may be misleading.

Statements about private oil stocks may be misleading

The procedures report states the administration's position that relying on the market, coupled with adequate public and private stockpiles, is one of the most effective measures available for responding to shortfalls in petroleum supplies and the

associated effects on the economy and national security. It asserts that "the U.S. now has substantial protection against major supply disruptions," noting that (1) U.S. primary oil stocks are presently at very high levels and (2) combined private and Government stocks of all petroleum products and crude oil total about 1,450 million barrels (as of Dec. 10, 1982), or approximately 320 days of imports.

While these figures are technically correct, total primary oil stocks (crude and product) have declined considerably during the past year. In fact, compared to the peak of August 1980, the decline in primary oil stocks has largely offset the substantial buildup in the SPR. In other words, the protection we have bought through the SPR has been countered by losses in primary oil stocks. For example, while the SPR grew by 183 million barrels between August of 1980 and August of 1982, private stocks fell by 223 million barrels during the same period, as shown in the table below.

Since seasonality factors affect industry's stock levels, two sets of comparisons are provided--August 1980 with August 1982 and December 1980 with December 1982. Although the December comparison shows an apparent improvement over the August figures, this may be largely due to unusually warm weather and hence may be transitory. The Nation's weather from July 1, 1982, through January 2, 1983, was 10.4 percent warmer than normal and 11.0 percent warmer than the previous year.

Comparison of SPR and Industry Primary Oil Stocks

	August 1980	August 1982	Change	December 1980	December 1982	Change
	(millions of barrels)					
Industry primary oil stocks	1,357	1,134	-223	1,284	1,149	-135
SPR stocks	91	274	183	108	293	185

DOE/IEA, "Weekly Petroleum Status Report," Jan. 7, 1983. p. 6.

Although primary stocks have declined substantially, so too has oil consumption. As a result, total stocks relative to consumption continue at a high level compared with the last half of the 1970s. However, this measure is difficult to interpret, since whether stocks required for operating purposes have declined commensurately with diminishing oil consumption is not clear. In addition, part of the decline in oil consumption is attributable

to the severe economic recession. Thus, if oil consumption increases when economic growth resumes, stock levels relative to consumption may decline.

The administration's statement that the combined level of primary and SPR stocks equals approximately 320 days of imports is also misleading. Most industry stocks are needed for operations and are not available for emergency drawdown. For example, in 1981 Exxon estimated industry's minimum operating stock requirements at 950 million barrels of oil. These are primary inventories needed merely to keep the oil logistical system operating, and hence are unavailable. 1/ A minimum oil inventory requirement of this amount represented 76 percent of industry's primary oil stocks at the end of December 1981 and 83 percent at the end of December 1982.

Important information and studies are not discussed

The procedures report does not discuss several important Government studies on this issue. No mention is made of a recent study prepared for DOE that evaluated the adequacy of current petroleum inventories in the United States. 2/ The study found that "recent private sector reductions in inventory levels have run counter to public sector efforts to increase inventories--including the development of the Strategic Petroleum Reserve," and that these reductions "have obvious harmful implications viewed solely from the perspective of emergency preparedness." Even more worrisome, the study examined several international oil supply disruption scenarios and concluded that "even moderate panic buying will produce a demand for petroleum products that greatly exceeds the productive capacity of the industry and destabilizes petroleum markets."

Another omission is that the procedures report does not mention the results of other DOE studies that evaluate possible use of financial incentives to encourage industry to build up petroleum stocks above normal inventory levels for use during supply emergencies. A major DOE draft study on this subject was completed in October 1981.

SCENARIOS GIVE LITTLE INSIGHT INTO HOW ALTERNATIVE OPTIONS COULD BE USED

The procedures report states that "in order to comply as fully as possible with the intent of section 272(b)," it provides "a rough characterization of the response options the President may consider using in three hypothetical scenarios." Although not

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1/Exxon, "World Oil Inventories," Aug. 1981, pp. 6, 10-11.

2/Charles River Associates, "An Evaluation of the Adequacy of Current Petroleum Stockpiles," Aug. 1982 (Boston, Mass.)

specifically required by EEPA, the use of scenarios could have demonstrated what options would be used under different situations and how they would be implemented. In addition, they could have been used to show the sequence in which options would be used, as required by section 272(b)(2)(A). However, the report's brief scenarios do not effectively provide this information. They are vaguely described, giving little insight into the circumstances in which the administration could use different options or how these options would be implemented. Furthermore, they do not provide the options' sequence.

The scenarios are vague

The three disruption scenarios are the same ones as those presented in the administration's recent "Strategic Petroleum Reserve Drawdown and Distribution Report." They include hypothetical "mild," "moderately severe," and "severe" cases. Our January 3 analysis of that report concluded that the scenarios were "extremely vague" and would therefore "give little insight into what types of situations the Administration would consider using the Reserve."

In the procedures report, the same three scenarios give little insight about the types of situations under which the SPR and other options would be used. As in the previous SPR report, how much oil is lost in the "moderately severe" disruption is not known, nor are details on foreign and domestic oil inventory levels, production and consumption levels, and surge production capacity. While in the "moderately severe" case the time period of the disruption is said to be "closely estimated," the procedures report does not state what that time period is.

Thus, while options are listed for each of the scenarios, the exceedingly broad descriptions of all three scenarios make it hard to understand what circumstances might lead to use of an option.

In addition, little specific information is given about how an option might be used. In each of the three scenarios, the major broad program areas (for example, international energy programs, emergency public information programs) are merely listed, often with little said about how they would be implemented or which of their individual components would be used.

The sequence of options is not provided

In addition to providing little detail on how the broad program areas would be applied in each scenario, the "description of the likely sequence in which such options would be taken"--which is required by EEPA--is ignored. In the "moderately severe" case, for example, the program areas listed included international energy programs, the Executive Manpower Reserve Program, Defense Support Programs, and the SPR. The procedures report, however, does not state in which order they will be employed. Furthermore,

within a program area, such as "international energy programs," it does not state the sequence in which particular actions might be taken.

The only indication about the options' sequence is the report's statement that "this Administration would seek to respond to energy supply disruptions using the least intrusive measures first, in order to minimize interference with normal marketplace reactions to the emergency." The report, however, never categorizes measures according to their "intrusiveness" nor defines this term.

The scenarios' lack of detailed descriptions partially accounts for the lack of sequencing. As the report notes, "the use of any particular program or procedure would depend upon the specific disruption at hand, and the specific results desired at the time. * * *many factors, objectives, and circumstances must be taken into account in reaching a decision on which of the available responses--and combinations and sequence of responses--to use during a petroleum supply disruption." However, detailed scenarios could have simulated many of these "factors, objectives, and circumstances." This could have permitted a useful discussion of how various circumstances and factors, such as disruption length and oil inventory levels, would affect sequencing decisions.

CHAPTER 3

EMERGENCY RESPONSE PROCEDURES ARE VAGUE AND ARE NOT FULLY DEVELOPED

In addition to requiring the options the President might use to respond to a severe energy emergency, EEPA requires the administration to specify the procedures to implement these actions. Section 272(b)(2)(B) requires the procedures report to:

> "* * *specify how appropriate governmental actions in response to international and domestic energy shortages would be selected and implemented under such options, particularly which official Governmental entity would select and implement such actions, and what procedures would be used in doing so."

The procedures report responds to this requirement largely by describing the "emergency response management system." According to the report, "the principal goal of the emergency response management system is to provide an integrated management process that will ensure the orderly and timely assessment and evaluation of and response to an energy emergency." The report, however, has two fundamental problems in demonstrating that this goal has been achieved:

- --The description of the roles of decisionmakers, and those implementing their actions, lacks necessary detail. As a result, the procedures to be followed within DOE and other organizations, and among agencies, are not clear.

- --Many of the procedures have not yet been fully developed.

THE REPORT'S DESCRIPTION OF THE RESPONSE PROCEDURES

Section II of the procedures report addresses the Federal Government's overall emergency response procedures for managing an energy crisis. These procedures reflect the administration's belief that "effective energy emergency preparedness lies in developing processes for anticipating and responding to a multitude of potential crisis situations."

The keystone to the emergency response procedures is the Emergency Response Management System (ERMS). The process consists of three elements:

- --Organizational decisionmaking structures and procedures.

- --Implementation procedures for response options, specifying the way response measures may be initiated and managed.

--Provisions for the administrative and logistical support required for implementation.

According to the report, the emergency response management process includes all organizations dealing with energy emergencies, including "appropriate Departments, Inter-agency Groups, Senior Inter-agency Groups, and Cabinet Councils."

Within DOE, the emergency response management process is driven by an intra-agency coordination body, the Emergency Response Working Group (ERWG), which consists of representatives from all DOE offices having an emergency management role. The group is designed to

--analyze and report to the Secretary of Energy who will in turn report to other participating outside groups on the dimensions and potential impacts of an energy shortage,

--identify response options,

--prepare implementation plans for the selected response measures, and

--coordinate and monitor implementation of response measures.

A flowchart shows how the actions of this group relate to the offices in DOE and depicts more generally "the various elements, actions, and interrelationships involved in developing policy and program options for DOE and Federal decisionmakers in the event of an emergency situation." The flowchart, according to the Acting Deputy Director of DOE's Office of Energy Emergencies, depicts a "generic" decisionmaking and implementation process that could be applied to most emergency situations. While the exact flow of responsibilities may differ somewhat according to the circumstances of a specific emergency, the overall process and actors would remain essentially as depicted in the chart.

The procedures report also states that for each of the potential response options the Government will consider using in an emergency--as identified in section III of the report--DOE is either "currently developing detailed procedures" to ensure that the necessary staffing, logistical support, and operational procedures are ready or "is studying possible measures that might have potential, or is doing both."

THE REPORT'S DESCRIPTION OF RESPONSE PROCEDURES LACKS NECESSARY DETAIL

In the eight pages specifically devoted to "Emergency Response Procedures," the procedures report does not provide comprehensive procedures, as the report's title suggests, nor does it provide the level of detail which EEPA requires.

The three elements of the emergency response management process--organizational decisionmaking structures and procedures, implementation procedures for response options, and provisions for administrative and logistical support required for implementation--are identified "conceptually" but never discussed in detail. Furthermore, the report's discussion is not specific about how Government response actions would be selected and implemented, which individuals or groups would make the ultimate selection decisions, how specific organizations would coordinate their activities, and what implementation procedures would be used by each participating group for different response actions. For example, while the four major functions of the ERWG are stated, no indication is given about how the group would carry out these functions (what specific procedures it would use).

The flowchart and a brief discussion on "emergency response management implementation" provide only limited clarification on some of these questions. The flowchart presents an overview of the ERMS process from the beginning of an emergency through response implementation and termination. The chart describes the emergency through three phases: crisis identification, response decisionmaking, and response monitoring. While the chart gives some additional insight into what various offices do and in what sequence, such a chart can only give a very general indication of the actors involved and their roles. It cannot by itself adequately describe complex tasks, such as "develop response options" or "coordinate response implementation," nor can it specify the procedures for carrying out these tasks.

In contrast, a similar flowchart in DOE's "Distribution Management Manual for the Strategic Petroleum Reserve" contains an appendix with detailed information on each box in the flowchart, addressing matters such as specific tasks, who carries them out, and methods of communication among personnel. This type of detailed explanation would have been appropriate in a report discussing "comprehensive" procedures for responding to an energy emergency.

The subsequent discussion of "Emergency Response Management Implementation," which appears to correspond to the three phases illustrated in the chart, does not provide much further information on these matters. The description of these phases emphasizes the coordination of the ERWG with other agencies in crisis identification, response option development, and response implementation. However, the discussion does not clearly specify how this coordination would take place. Specifically, it does not discuss the procedures for obtaining input from other groups or involving them in response implementation, nor does it show how key documents (the Situation Analysis Report, Response Options Paper, and Response Implementation Process) would be prepared. Furthermore, it gives minimal detail on what information these documents would contain.

Interaction between DOE and other organizations is unclear

The procedures report acknowledges the importance of other agencies and groups outside DOE, stating that "the emergency response management process includes all organizations dealing with energy emergencies, including appropriate Departments, Interagency Groups, Senior Interagency Groups, and Cabinet Councils." However, little information is given about these organizations' roles; how they relate to each other; or how they relate to DOE, the agency with primary responsibility for energy emergency planning.

The report refers to the existence of "a number of formal and informal mechanisms* * *for coordination of activities with respect to energy emergency situations throughout the Federal Government." It notes that the Federal Emergency Management Agency (FEMA) has the lead responsibility for coordination of Federal responses to civilian emergencies and that the Cabinet Council on Natural Resources and Environment "provides overall policy recommendations and coordination on energy matters, including energy emergency preparedness activities." Other bodies such as the Emergency Mobilization Preparedness Board and National Security Council might also become involved.

The report, however, does not clarify what these bodies' roles are in the emergency response management system. For example, it states:

> "The Federal Emergency Management Agency has the lead responsibility for coordination of Federal responses to civilian emergencies. In this regard, the Federal Emergency Coordinator System provides a means for ready communication among Federal Agencies as well as a method for commencing speedy coordination of efforts."

This explanation of FEMA's role, however, gives little insight into the extent of its "lead responsibility" in coordinating a response to an energy emergency. It does not say, for instance, if FEMA would have a role in making policy decisions or recommendations. According to DOE's Acting Deputy Director of the Office of Energy Emergencies, FEMA would be responsible for coordinating physical communication among agencies but would not have a major policy role. DOE, he said, would have to initiate FEMA's involvement in any response activities.

Similarly, the roles of the other coordinative bodies are vague. Neither the flowchart illustrating the ERMS system nor the subsequent scenario demonstrating the three response phases specify the roles of interagency coordinative organizations, where in the process' sequence these mechanisms would come into play, and precisely what the procedures would be for interagency coordination of response activities.

Also missing is how DOE activities relate to those of other organizations with emergency planning responsibilities. The ERWG could conceivably serve this purpose but is described in the procedures report as "an intra-agency coordinative body" composed of representatives from DOE offices. The report does note that one of the functions of the ERWG is to:

> "* * * analyze and report to the Secretary of Energy, who in turn will report to the appropriate inter-agency groups, Cabinet Councils, and the President on the dimensions and possible impacts of any perceived energy shortage."

However, no mechanism for coordinating among agencies at the working level appears evident from the report's discussion of the process. The flowchart also leaves this point unclear because all of its references to "coordination" appear to relate to coordination within DOE.

Thus, the procedures report's vagueness on this subject raises questions about how the internal response management process within DOE relates to external organizations, what the roles of other groups in the decisionmaking process are, and how these other groups relate to each other.

Key decisionmaking roles are unclear

While the procedures report discusses who makes key decisions, it does not fully clarify the issue. In discussing the ERMS system, the report states:

> "Naturally, all decisions on actions relating to energy supply disruptions would be made by the Secretary of Energy, or his designee, unless the matter was of such significance that the Secretary deemed it appropriate to raise it with other Members of the Cabinet, or with the President."

This implies that the Secretary of Energy has the responsibility not only to make key decisions when an energy disruption occurs, but also to decide whether the situation merits the involvement of other agencies or the President. However, the flowchart indicates that while the Secretary of Energy would initiate the response to an energy emergency:

- --The President or his staff would give initial direction.
- --The President's staff would approve and recommend response options.
- --The President would select response options.

According to the Acting Deputy Director of DOE's Office of Energy Emergencies, the actual decisionmaking process in an energy emergency would involve consultation among the Secretary of Energy, the President, and other Cabinet members. Any major emergency would be dealt with by a "group decisionmaker" rather than by an isolated individual. However, this type of consultative decision-making is not clearly explained in the report. No procedures for such a process are specified, making it difficult to grasp if and how this potential complex process would work in an emergency.

Thus, it is unclear what kinds of decisions would be made by the Secretary of Energy, which decisions would be left to the Executive Office of the President, and what the decisionmaking roles would be of other participants in the process.

THE EMERGENCY RESPONSE PROCEDURES HAVE NOT BEEN FULLY DEVELOPED

Another general problem with the procedures--which could at least partially account for their vagueness--is that they are incomplete. This is acknowledged by the report, which states that "the Federal Government, and the DOE in particular, is refining its energy emergency management system." More specifically:

--The ERMS process is "still under development."

--The flowchart depicting the ERMS system is described as a "preliminary draft."

--Detailed procedures have not yet been developed to implement many of the response options we discussed earlier. The report acknowledges this, stating that "* * *for each of these programs, the DOE is either currently developing detailed procedures* * *or is studying possible measures that might have potential, or is doing both."

According to the Acting Deputy Director of DOE's Office of Energy Emergencies, the development of the ERMS process and detailed procedures for each specific component is a continuing process--an evolutionary process--that will not be finalized in the sense that a product will be completed and "put on the shelf." The process will continue and the system and procedures will be adapted to respond to changing circumstances. Nevertheless, it is unclear whether this process is essentially in place and being modified or whether its development is just beginning. Thus, we cannot tell from the report whether DOE views future modifications as "fine tuning," or whether it believes substantial improvements are needed.

In summary, the procedures report's description of the administration's energy emergency response procedures omits many details, giving little insight into how or whether they could

effectively implement the response options discussed earlier. Moreover, many of these procedures have not yet been finalized.

APPENDIX I

STATUS OF ENERGY EMERGENCIES PROGRAMS (note a)

	April 1982 estimated completion	Current status	Current estimated completion date
IEA planning:			
NESO Management Plan	Final Plan—2nd Q 1983	Draft 4th Q 1982	End of 2nd Q 1983
Fair Sharing Analysis	Program Plans—4th Q 1982	Initial analysis 4th Q 1982	2nd Q 1983
Supply Right Analyses	Program Plans—4th Q 1982	Initial analysis comp. 3rd Q 1982	Continuing
AST-4	Test—2nd Q 1983	Test guide 4th Q 1982	2nd Q 1983
NATO planning:			
National Oil Board Plan	Final Plan—4th Q 1982	Draft plan 4th Q 1982	2nd/3rd Q 1983
WINTEX-CIMEX Test	Test 1st Q 1983	Test preparation	End of 1st Q or beginning of 2nd Q 1983
SPR planning:			
Distribution Management Plan	Final Manual 3rd Q 1982	Draft/review 1st Q 1983	Final 3rd/4th Q 1983
Use Policy Analysis	Program devel. as appropriate	Partial analysis 4th Q 1982	Continuing
"Phase B" Exercise	Exercise 3rd Q 1982	Exercise preparation	3rd Q 1983
Private oil stocks:			
Short-term Adequacy of Stocks	Final report 3rd Q 1982	Final report 3rd Q 1982	Completed
Incentives for Private Stocks	Final report 4th Q 1982	Report being evaluated by DOE	DOE uncertain about further work

a/Established and actual dates are stated in calendar quarters.

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	April 1982 estimated completion	Current status	Current estimated completion date
Vulnerability assessment:			
Electric Power	Classified	Case study draft 1st Q 1983	Continuing
Pipeline Gas	Classified	On hold	Uncertain
Continuity of Government:			
Plan Development	Classified	Draft plan 4th Q 1983	Final 2nd Q 1984
REX-82 BRAVO	Classified	Completed	Completed
Defense preparedness planning:			
Jones Act Waiver Procedures	Final 3rd Q 1982	Draft 3rd Q 1982	Final 3rd Q 1983
DPA Invocation Procedures	Final 4th Q 1982	Draft 4th Q 1982	Final 2nd Q 1983
Major Military Emergency Planning	Continuous	Assessing DOD needs 3rd Q 1982	Completion 3rd or 4th Q 1983
FUELEX Activities	To be determined	To be determined	Uncertain
Mobilization Response Study	Final report 4th Q 1982	DOE involvement discontinued	DOE involvement discontinued
Executive Reserve Training	Continuous	Draft plan/ handbook 1st Q 1983	Uncertain
Emergency response management:			
ESRS (Energy Situation Reporting System)		Data base almost completed	System enhancement complete 4th Q 1984
Management Operating Procedures	Final Handbook 4th Q 1982	Draft Handbook 4th Q 1982	3rd Q 1983
Emergency Operating Facilities	Systems Doc. 4th Q 1982	DOE response control center 4th Q 1982	Completion 3rd Q 1983

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	April 1982 estimated completion	Current status	Current estimated completion date
Economic analysis:			
Regional Econometric Modelling	Final report 2nd Q 1982	DOE work cancelled	DOE work cancelled
Economic Effects of Supply Disruptions	Options papers 2nd Q 1983	Drafts 4th Q 1982	Complete 3rd Q 1983
Risk Assessments	Continuous	Continuing	Continuing
Public information planning:			
Emergency Public Information Plan	Final plan 3rd Q 1982	DOE order 4th Q 1982	Final 2nd/3rd Q 1983
Public Information Operations Manual	Oper. Manual 3rd Q 1982	DOE order 4th Q 1982	Final 2nd/3rd Q 1983
Communications Network	Reference guides 4th Q 1983	Network in place and expanding	Continuous
Liaison w/States, local, industry	Continuous	Continuing	Continuous

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