



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

RELEASED

119144 22581 119144

ENERGY AND MINERALS  
DIVISION

B-208211

**RESTRICTED — Not to be released outside the General Accounting Office except on the basis of specific approval by the Office of Congressional Relations**

JUL 16 1982

The Honorable Carl Levin  
Ranking Minority Member  
Subcommittee on Preparedness  
Committee on Armed Services  
United States Senate



119144

Dear Senator Levin:

Subject: Implementation of National Defense Stockpile Plans Would Require Amending Existing Legislation (GAO/EMD-82-111)

The United States cannot produce certain strategic and critical materials in sufficient amounts to support its requirements during periods of national emergency. To prevent what could be a dangerous and costly dependence on foreign supply sources during these crises, the United States maintains a National Defense Stockpile of materials to avoid military setbacks and economic damage in wartime.

On June 18, 1982, you asked us to review the Federal Emergency Management Agency's (FEMA) 5-year Annual Materials Plan for Fiscal Years 1983-1987. (See encl. I.) You asked our views on whether the plan meets the requirements in the Strategic and Critical Materials Stock Piling Act, as amended, (50 U.S.C. 98 et seq.) that

--"the purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes" and

--except for rotations, disposal of excess materials that may cause a loss to the Federal Government if allowed to deteriorate, and releases required for national defense, "no disposal may be made from the stockpile \*\*\* if the disposal would result in there being a balance in the National Defense Stockpile Transaction Fund \*\*\* after September 30, 1983, \*\*\* in excess of \$500,000,000." 1/

1/Amendment by the Omnibus Budget and Reconciliation Act of 1981, Public Law 97-35.

(008480)

522816

From a strictly legal standpoint, the plan is not required to comply with these provisions of the act. The plan is only required to indicate proposed acquisitions and disposals. However, we attempted to determine whether the proposed actions, if implemented as planned, would meet the requirements that the stockpile not be used for economic and budgetary purposes and that the stockpile Transaction Fund not exceed \$500 million. From our examination, it appears that the administration has given priority to budgetary considerations over stockpile needs, and that the 5-year plan, if implemented, will result in the \$500 million limitation on the Transaction Fund balance being exceeded. An OMB official told us that before the limitation is exceeded, appropriate amending legislation would be submitted to the Congress.

Your office subsequently asked us to determine whether proposed stockpile acquisitions appear consistent with Presidential stockpile policy included in his April 5, 1982, program plan and report to the Congress. This plan and report were required by the National Materials and Minerals Policy, Research and Development Act of 1980, Public Law 96-479. We found no apparent attempt within the administration to correlate the budget with either the President's March 13, 1981, statement or the April 5, 1982, program plan.

#### BACKGROUND

The first major Federal program to stockpile strategic and critical materials was authorized and initiated under a 1939 act and amended by the Strategic and Critical Materials Stock Piling Act of 1946. Materials were procured under this act to support U.S. industrial and military needs during an emergency.

The Strategic and Critical Materials Stock Piling Revision Act of 1979, Public Law 96-41, revised and updated the 1946 act to conform to current stockpile policy and to strengthen the legislative role in stockpile matters. The 1979 act restricts the use of stockpile materials to national defense and precludes their use for economic or budgetary purposes. It also established a separate fund in the U.S. Treasury--the National Defense Stockpile Transaction Fund--where all moneys received from the sale of stockpile materials are deposited. Moneys in the Transaction Fund are only for the acquisition of strategic and critical materials.

Title II of the Omnibus Budget Reconciliation Act of 1981 made further improvements in stockpile management. It amended the Stock Piling Act to require most moneys received from the sale of stockpile materials to remain in the Transaction Fund until appropriated and provides that moneys in the Fund, when

appropriated, remain available until expended, unless otherwise provided in appropriation acts. The act limits the balance in the Fund to \$500 million after September 30, 1983.

Title II of the Omnibus Budget Reconciliation Act of 1981 also amended the Stock Piling Act to require the President to submit to the Congress a report containing an annual materials plan for the operation of the stockpile during the next fiscal year and the succeeding four fiscal years. The report, which accompanies the President's budget for the next fiscal year, includes details of planned expenditures for acquisition and of anticipated receipts from proposed disposals of stockpile materials during the 5-year period.

### Stockpile planning

The annual materials plan is a list of stockpile materials proposed for acquisition and disposal developed each year through an interagency committee chaired by FEMA. The planning process begins when FEMA gives a list of goals, deficits, excesses, and priorities to the General Service Administration (GSA). The materials proposed for purchase and/or sale are ranked according to national security priorities. GSA makes an initial assessment of the market for these materials and determines the quantities that could be bought or sold without undue disruption of usual markets.

After GSA's market constraints are added, among other reviews, the revenue and cost projections of the annual materials plan proposal are examined. Upon inclusion of all approved revisions, the Director of FEMA submits the plan to the National Security Council and simultaneously provides a copy to the President's Office of Management and Budget (OMB). Any further revisions are made jointly by the National Security Council, OMB, and FEMA.

FEMA's list of goals, deficits, excesses, and priorities is prepared independent of the Federal budget process. However, the Transaction Fund is a GSA budget activity and, as such, subject to Presidential and congressional guidance and budget decisions. Thus, moneys flowing in and out of the Fund are treated as receipts and outlays, respectively, in GSA's fiscal year budget, and the annual materials plan is adjusted to conform to Presidential and congressional guidance and decisions on the desired unappropriated end-of-year balance in the Transaction Fund. For fiscal year 1983, the President's budget projects an end-of-year Transaction Fund balance of \$741 million.

GIVING PRIORITY TO BUDGETARY  
CONSIDERATIONS MAY REQUIRE  
AMENDING EXISTING LEGISLATION

Because the Transaction Fund can be used with other Treasury funds to balance the Federal budget, the Omnibus Budget Reconciliation Act of 1981, amending the Stock Piling Act, prohibits any stockpile disposal which would result in a Fund balance in excess of \$500 million. House Report 97-158, which accompanied the act, states that the \$500 million limitation was enacted because:

"The Committee on Armed Services expressed particular concern that management of the stockpile be consistent with the purpose set out in the (Stock Piling) Act: 'to serve the interest of the national defense only and is not to be used for economic and budgetary purposes.'"

The \$741 million projected in the President's fiscal year 1983 budget as a Transaction Fund balance on September 30, 1983, would exceed the congressionally mandated limitation by \$241 million. FEMA's 5-year plan projects that at the end of fiscal year 1987, the Fund will be at \$1.8 billion--\$1.3 billion above the \$500 million limitation.

We questioned FEMA and GSA officials concerning these apparent inconsistencies and were informed that the projected balance in the Transaction Fund reflects OMB guidance and "policy decisions." FEMA's Assistant Associate Director for Resources Preparedness informed us that the annual program plan, prepared in December 1981, focused primarily on acquisitions and included a range of options--one of which would have reduced the Transaction Fund balance below the \$500 million limitation. The plan was then revised and adjusted to match the President's fiscal year 1983 budget and long-range (through fiscal year 1987) budget projections for stockpile acquisitions and disposals provided by OMB's budget examiner for GSA. 1/

FEMA's Assistant Associate Director stated that the annual materials plan did not, in any way, influence the President's budget. He continued that FEMA advised OMB that the

---

1/Projected expenditures for stockpile acquisitions for fiscal years 1983 through 1987 total \$660 million. Estimated receipts from stockpile disposals under existing legislation total \$902 million, while receipts for disposals under proposed legislation total \$1,533.7 million.

President's fiscal year 1983 budget would exceed the limitation and that an alternative plan should be considered. However, he was advised by OMB to revise the annual materials plan to conform to the President's budget decisions.

GSA's Chief, Budget Formulation Branch, told us that GSA was advised by OMB to adjust its fiscal year 1983 budget to reflect \$592 million in disposal receipts and \$120 million in acquisition expenditures. However, \$402 million in receipts is contingent on congressional approval to dispose of stockpile silver. 1/

We approached OMB's budget examiner for GSA concerning the validity of the statements made by the FEMA and GSA officials. He stated that OMB does not support the congressionally mandated limitation on the Transaction Fund balance. He noted, however, that since the disposal of stockpile silver has been suspended, the limitation on the Transaction Fund balance may not be exceeded in fiscal year 1983. He concluded that proposed legislation to either eliminate or increase the existing limitation would be forthcoming with the President's fiscal year 1984 budget if fiscal year 1983 disposals are expected to exceed the current limitation on the Transaction Fund balance.

Finally, while FEMA is responsible for planning, programming, and reporting on the stockpile, GSA is responsible for acquiring and disposing of the materials. GSA's fiscal year 1983 congressional highlight summary identifies numerous economic benefits to be derived from disposing of excess stockpile materials, including "the reduction of dollar outflow and improvement of the overall balance of payments positions of the United States." However, the need to acquire other materials currently below stockpile goal levels in the interest of national defense is not identified as a benefit to be derived from the disposals.

It appears that the administration has given priority to budgetary considerations over national defense-related needs. However, the existing stockpile legislation precludes implementation of the administration's plans by prohibiting any

---

1/The fiscal year 1982 Defense Appropriation Act, Public Law 97-114, December 29, 1981, suspended the weekly auctions of silver from the National Defense Stockpile pending a July 1, 1982, now overdue, redetermination by the President that the over 100 million troy ounces of silver to be disposed of is excess to stockpile requirements and congressional approval of the recommended disposal method.

disposals which would result in a Transaction Fund balance in excess of \$500 million. As stated above, OMB intends to propose amending legislation to either eliminate or increase the limitation if it appears that the limitation would be exceeded.

PROPOSED STOCKPILE ACQUISITIONS  
APPEAR INCONSISTENT WITH  
PRESIDENTIAL POLICY

In a March 13, 1981, statement authorizing \$100 million for the first purchase program for the National Defense Stockpile in over 20 years, the President stated that it is now widely recognized that our Nation is vulnerable to sudden shortages in basic raw materials necessary to our defense production base. He concluded that the stockpile acquisition program is a necessary first step to decrease this vulnerability and expected that larger purchases would be made as funds from the sale of excess materials build up in the Transaction Fund.

The President's April 5, 1982, program plan and report to the Congress, required by the National Materials and Minerals Policy, Research and Development Act of 1980 states that the administration endorses "the policy that the stockpile should be sufficient to meet military, industrial, and essential civilian needs in support of the national defense in a crisis." The plan continues that the administration will seek congressional appropriations to acquire necessary stockpile materials and will provide a fiscal year annual materials plan that "matches annual budget ceilings, market conditions, immediate strategic requirements, and GSA purchase activities." It concludes that the President's acquisition and disposal program "demonstrates a serious commitment by this Administration to enhance significantly the national security."

Additionally, OMB's budget examiner for GSA told us that many of the materials currently below stockpile goals are "low priority." He implied that this is why the administration has requested only \$120 million for fiscal year 1983 stockpile acquisitions even though the Transaction Fund is projected to have a \$741 million balance at the end of fiscal year 1983. However, bauxite, chromite and chromium metal, columbium concentrates, nickel, the platinum group metals, and titanium, identified by both us 1/ and FEMA as materials for which the

---

1/U.S. General Accounting Office, "Actions Needed to Promote a Stable Supply of Strategic and Critical Minerals and Materials," GAO/EMD-82-69, June 3, 1982.

B-208211

United States appears vulnerable to supply disruptions or sharp price increases and which may be critical to national defense, are below stockpile goal levels. Over \$450 million is needed to meet the Jamaican grade bauxite goal alone. Therefore, the OMB budget examiner's statement that many of the materials currently below stockpile goal levels are low priority appears questionable.

While the President's fiscal year 1983 budget and long-range projections reflect an intention to expeditiously dispose of stockpile materials currently held in excess of goals, we do not believe that it reflects a "serious commitment" to acquire additional materials. No apparent attempt was made to correlate the budget with either the President's March 13, 1981, statement or April 5, 1982, program plan.

- - - - -

As requested by your office, we did not obtain official agency comments on this report. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of its issuance. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,



J. Dexter Peach  
Director

Enclosure

JOHN T. STANIS, MD.  
 JOHN L. STANIS, MD.  
 HENRY M. JACKSON, WASH.  
 HOWARD W. CANNON, NEV.  
 HARRY F. BYRD, JR., VA.  
 SAM NUNN, GA.  
 GARY HART, COLL.  
 J. JAMES EXON, NEBR.  
 CARL LEVIN, MICH.

## United States Senate

COMMITTEE ON ARMED SERVICES

WASHINGTON, D.C. 20510

RHETT B. DAWSON, STAFF DIRECTOR AND CHIEF COUNSEL

June 18, 1982

Honorable Charles A. Bowsher  
 Comptroller General of the  
 United States  
 General Accounting Office  
 441 "G" Street, N. W.  
 Washington, D. C. 20548

Dear Mr. Bowsher:

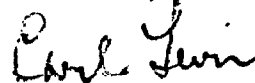
The Preparedness Subcommittee of the Armed Services Committee has a continuing interest in issues affecting the National Defense Stockpile. On April 23, 1982, Louis O. Giuffrida, Director of the Federal Emergency Management Agency, transmitted to the Congress the Annual Materials Plan for Fiscal Year 1982 and a 5-Year Annual Materials Plan for Fiscal Years 1983-1987. This Plan shows anticipated purchases for and sales from the National Defense Stockpile for Fiscal Years 1982-1987.

I would like the General Accounting Office to review the proposed 5-Year Annual Materials Plan for Fiscal Years 1983-1987 and determine whether this Plan meets all of the requirements of the 1979 Strategic and Critical Materials Stockpiling Act, as amended by the Omnibus Reconciliation Act of 1981. Specifically, I would like GAO's legal opinion as to whether the Plan meets the requirements in Section 3(b)(1) of the Act that "The purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes", and in Section 5(b)(2) that no disposal may be made from the stockpile after September 30, 1983, if the disposal would result in there being a balance in the Stockpile Transaction Fund in excess of \$500,000,000.

I would appreciate your response to this question by July 15, 1982. Members of the Committee staff have been in touch with the staff of the Energy and Minerals Division of GAO. If they have any further questions, they can contact Mr. David Lyles of the Committee staff at 224-9344.

Thank you for your attention to this matter.

Sincerely,



Carl Levin  
 Ranking Minority Member  
 Subcommittee on Preparedness

cc: Senator Gordon J. Humphrey  
 Chairman, Preparedness Subcommittee