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RYCROFT, Robert Warren, 1945-
THE FEDERAL ENERGY ADMINISTRATION:
A CASE STUDY OF ENERGY POLICY-MAKING.

The University of Oklahoma, Ph.D., 1976
Political Science, public administration

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THE UNIVERSITY OF OKLAHOMA

GRADUATE COLLEGE

THE FEDERAL ENERGY ADMINISTRATION: A CASE STUDY OF ENERGY POLICY-MAKING

A DISSERTATION

SUBMITTED TO THE GRADUATE FACULTY

in partial fulfillment of the requirements for the

degree of

DOCTOR OF PHILOSOPHY

BY

ROBERT W. RYCROFT

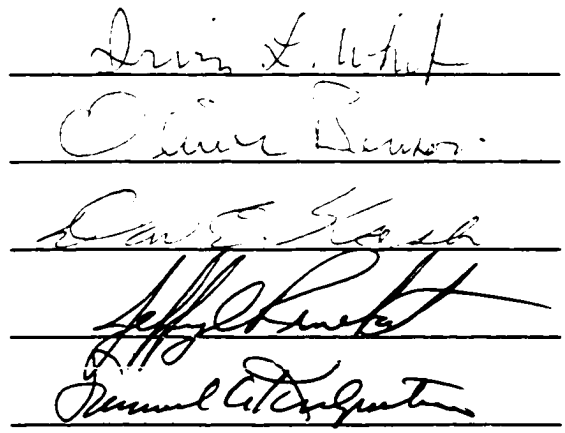
Norman, Oklahoma

1976

THE FEDERAL ENERGY ADMINISTRATION:

A CASE STUDY OF ENERGY POLICY-MAKING

APPROVED BY



DISSERTATION COMMITTEE

ACKNOWLEDGEMENTS

This study could not have been undertaken without the encouragement and advice from all members of my doctoral committee. Special appreciation is due Professors Irvin L. (Jack) White and Don E. Kash, who have provided guidance and expertise in the area of energy policy-making, as well as research support through the Science and Public Policy Program of The University of Oklahoma.

Research for the study was facilitated by a related project conducted by the Science and Public Policy Program for the National Science Foundation, and by field work at the Federal Energy Administration's National Office in Washington, D.C. Without the openness and candor of Federal Energy Administration personnel, much of the information contained in this study would have been impossible to obtain.

I also wish to express my thanks to Geri Rowden. She has shown patience and skill in the typing of this manuscript.

Finally, this effort would have been impossible without the faith in my ability which was displayed by my best friend--my wife, Marilyn.

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PART ONE

INTRODUCTION, METHODOLOGY, AND A DESCRIPTION OF THE ESTABLISHMENT OF THE FEDERAL ENERGY ADMINISTRATION

THE FEDERAL ENERGY ADMINISTRATION: A CASE STUDY OF ENERGY POLICY-MAKING

CHAPTER I

INTRODUCTION

Scope of the Study

Until the 1973 oil embargo imposed by the Organization of Petroleum Exporting Countries (OPEC), the United States had no "energy policy" as such. Decisions were made more or less independently at each level of government by a myriad of agencies for each of the separate energy resources. Within twelve months of the implementation of the boycott, however, the national policy-making apparatus had been significantly altered by the introduction of new federal organizations designed to bring order to events by coordinating and controlling decisions ranging from the research and development of energy technologies to the implementation of "life style" changing conservation strategies. Foremost among these new organizations was the Federal Energy Administration (FEA), which was charged with the task of regulating the production, distribution, and pricing of a wide range of energy fuels. This study is an attempt to

evaluate the performance of the FEA as a more coherent energy authority within the federal government. As such, the study is designed to follow in the established research tradition, termed "institutional" policy analysis, which has sought to apply principles of public administration and public policy theory to the evaluation of formal, governmental mechanisms for making decisions.[1] Perhaps no more fertile field exists for the policy analyst than the energy arena. Energy politics is more easily subjected to policy analysis than, for example, the more complex arena of international relations and foreign policy; the boundaries of the energy policy system are more clearly defined and the list of decision-making participants, while growing, remains limited.[2] Moreover, the newly created energy institutions offer attractive advantages for the policy analyst. These new organizations have been established with wide-ranging, but generally well-defined powers, goals, and objectives. And bodies such as the FEA deal with substantive problem areas which have high national visibility and can be expected to generate political controversy and debate. That this area has remained underdeveloped by political scientists can be

---

[1]See, for example, Samuel Krislov and Lloyd D. Musolf, eds., The Politics of Regulation (New York: Houghton-Mifflin, 1964); and Louis M. Kohlmeier, Jr., The Regulators (New York: Harper and Row, 1969).

[2]See David H. Davis, Energy Politics (New York: St. Martin's Press, 1974), pp. 1-16.

attributed to a number of factors, but two seem especially relevant. First, and more generally, there has been no consensus within the discipline as to the theoretical framework which best matches analytical concepts to institutional energy problem-solving; models have been developed from such disparate sources as social choice theory to more traditional interest group theory.[3] And second, the understanding of substantive energy issues by policy analysts has usually been very shallow.[4] One cannot help but be struck by how little social science in general and political science in particular contributed to the resolution of institutional problems during the 1973 energy crisis.

Purpose of the Research

The dual research purposes of this study flow directly from the problems outlined above. On the one hand, a case study of the FEA has as a research purpose contributing to the substantive knowledge of energy policy-making through the building of a descriptive base which outlines

---

[3]See Gerald Garvey, "Research on Energy Policy: Processes and Institutions," in Hans H. Landsberg, et al., eds., Energy and the Social Sciences: An Examination of Research Needs (Washington, D.C.: Resources for the Future, 1974), pp. 539-580.

[4]See Robert M. Lawrence, "Research Possibilities in the Area of the Formulation and Implementation of Energy Policy: Institutions," in Landsberg, et al., pp. 596-636; and William O. Doub, Federal Energy Regulation: An Organizational Study (Washington, D.C.: Government Printing Office, 1974).

the characteristics of the overall energy policy system, the FEA itself, and the agency's major programs. A second research purpose is to evaluate FEA performance. Hopefully, this study can contribute to the expansion of knowledge of both policy analysis theory and energy policy-making through the development and implementation of an evaluation framework which is rooted in the "bureaucratic behavior" literature of political science. But it must be emphasized that the primary goal of this analysis is to aid in the understanding of the workings of energy institutions. Any contribution to analytical theory-building is of secondary concern.

In summary, then, the research purposes of this study are as follows:

- -To describe the legislative-executive policy-making processes which led to the establishment of the FEA, the focus to be placed on energy policy structures.
- -To evaluate the bureaucratic policy-making processes which the FEA has undertaken, the focus to be placed upon energy policy functions.

Statement of the Research Problem

The establishment of the FEA is typical of the incremental, piecemeal, ad hoc responses of the energy policy system to perceived problems. Responding to the perception of an energy shortage in the early 1970s, both the legislature and the executive came forth with a series of disjointed efforts to reorganize energy policy machinery. The primary

motive behind the creation of the FEA was the need to bring a greater degree of coordination and consolidation to the energy policy system. Thus, at the broadest level, the research problem for a case study of the FEA must be stated in terms of an investigation of "institutional incoherence." More specifically, however, the research problem must be stated in terms of the application of specific evaluative criteria to specific institutional policies.

Although the choice of both criteria and policies is of necessity somewhat arbitrary, justification can and must be made in both instances. In the case of FEA policies, the choice is a fairly straightforward one. The major activities of the FEA are the regulatory programs controlling the pricing and allocation of crude oil and petroleum products.[5] Determining the most appropriate performance evaluation criteria is a more difficult task, since the list of possible standards is long and the issue-area of energy policy-making has not itself been developed enough to provide many hints.[6] The frame of reference adopted in this study is that no single evaluative criterion adequately assesses institutional behavior. Instead, a "systems analysis" approach, considering

---

[5]See Federal Energy Administration, Annual Report, 1974-1975 (Washington, D.C.: Government Printing Office, 1975), p. 1.

[6]See Charles O. Jones, An Introduction to the Study of Public Policy (Belmont: Duxbury Press, 1970), pp. 107-109, for a discussion of the problems involved in determining acceptable evaluation criteria.

energy policy organizations as social systems, has been adopted.[7] This approach relies heavily upon that part of public administration theory which focuses on bureaucratic behavior.[8] This literature has, over the last three or four decades, introduced a whole range of criteria which have influenced the design of American bureaucracy and the manner in which public policies are made in these organizations. Six policy evaluation criteria from this body of theory appear to have relevance to this study: representativeness, efficiency, equity, effectiveness, responsiveness, and responsibility.[9] They form the basic elements from which a framework for the analysis of the FEA's performance can be constructed. In the review of the literature which follows, the reasons for the utility of each of these criteria are outlined in some detail. Then, in the next chapter,

---

[7]See David Easton, The Political System (New York: Alfred A. Knopf, 1953).

[8]Examples of this extensive literature include Anthony Downs, Inside Bureaucracy (Boston: Little, Brown, 1967); Harold Seidman, Politics, Position and Power (New York: Oxford University Press, 1970); and Peter M. Blau and Marshall W. Meyer, Bureaucracy in Modern Society (New York: Random House, 1971).

[9]It should be noted that these concepts, while not central elements in most works on energy policy, are considered in some studies. This is especially the case with the standards of efficiency and effectiveness. See Stephen G. Breyer and Paul W. MacAvoy, Energy Regulation by the Federal Power Commission (Washington, D.C.: The Brookings Institution, 1974); and Edward Berlin, Charles J. Cicchetti, and William J. Gillen, Perspective on Power (Cambridge: Ballinger Publishers, 1974).

theoretical and methodological problems with these standards are discussed, the analytical framework is made explicit, a methodology incorporating these standards is developed, and the concepts are operationalized.

In summary form, then, the research problem for this study can be stated as follows:

> -Within an energy policy-making system which is characterized by "institutional incoherence," fragmentation, and incremental modes of making decisions, how representative, efficient, equitable, effective, responsive, and responsible have Federal Energy Administration policies regarding the pricing and allocation of petroleum and its products been?

Review of the Literature

Each of the six evaluative criteria to be used in this study has an extensive history in the literature of political science. The following discussion attempts to briefly place the criteria in an historical context and outline the most important aspects of the evolution, definitions, and uses of each of these concepts.

Representativeness

The concept of a "representative" policial institution is as old as political theory itself, but the concept of a "representative bureaucracy" was developed in the 1940s in an attempt to cope with the growing problems of analyzing bureaucratic responsibility. As long as political analysts had accepted the premise of a policy-administration dichotomy

which distinguished between the policy-making functions of the executive and the legislature and the administrative (or policy-implementation) activities of the bureaucracy, responsible control of public agencies had seemed a relatively simple task. In this paradigm bureaucracies were controlled by external mechanisms utilizing strategies emphasizing governmental sanctions.[10] However, with the growth of the view that policy-making and policy-implementation were interwoven, problems of analyzing political control became more complex. Once bureaucrats were seen as having substantial policy roles, then a portion of political responsibility had to be internalized and based upon such factors as the values, attitudes, beliefs, and interests of the bureaucrat himself, as well as his expertise and administrative skills. As Donald Kingsley, one of the first advocates of the concept, summarized the general idea of representativeness:

> . . . the essence of responsibility is psychological rather than mechanical. It is to be sought in an identity of aim and point of view, a common background of social prejudice, which leads the agent to act as though he were the principal . . . if the essence of responsibility is psychological, the degree to which all democratic institutions are representative is a matter of prime significance.

---

[10]See Frank J. Goodnow, Politics and Administration (New York: Macmillan, 1900); and Carl J. Friedrich, "Public Policy and the Nature of Administrative Responsibility," in Carl J. Friedrich and E. S. Mason, eds., Public Policy (Cambridge: Harvard University Press, 1940), pp. 3-24.

> No group can safely be entrusted with power who do not themselves mirror the dominant forces in society; for they will then act in an irresponsible manner or will be liable to corruption at the hands of dominant groups.[11]

Thus, the theory of all representative democratic institutions is derived from the concept of political responsibility. It is also closely related to the concept of political responsiveness, since:

> The representative system must look after the public interest and be responsive to public opinion, except insofar as non-responsiveness can be justified in terms of the public interest.[12]

Two basic elements are therefore included in the theory of any representative political structure--acting in the responsible interest of, and in a manner responsive to, the represented.[13]

Kingsley's British view of a representative bureaucracy as one which "mirrors" the population in terms of economic class was modified by American political scientists to include a broader range of representative characteristics.

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[11]Donald J. Kingsley, Representative Bureaucracy: An Interpretation of the British Civil Service (Yellow Springs, Ohio: Antioch Press, 1944), pp. 282-283. See also David E. Levitan, "The Responsibility of Administrative Officials in a Democratic Society," Political Science Quarterly 61 (December 1946): 582-583.

[12]Hanna F. Pitkin, The Concept of Representation (Berkeley: University of California Press, 1967), p. 224.

[13]Kenneth Prewitt and Heinz Eulau, "Political Matrix and Political Representation: Prolegomenon to a New Departure from an Old Problem," American Political Science Review 63 (June 1969): 429.

Thus, Norton Long proposed that the U.S. Federal Civil Service was "a better sample of the mass of the people than Congress" because of its "more effective and more responsible" representation stemming from "its origins, income level, and associations."[14] An even more sophisticated set of requisites was proposed by Paul Van Riper, who said that a representative bureaucracy must:

> . . . (1) consist of a reasonable cross section of the body politic in terms of occupation, class, geography and the like, and (2) must be in general tune with the ethos and attitudes of the society of which it is part.[15]

While Long and Van Riper enlarged the range of applicable characteristics of a representative bureaucracy, others, like Lloyd Warner,[16] sought to redefine the term in a manner more compatible with traditional American principles of merit. Thus, as V. Subramaniam points out, rather than defining representative bureaucracy in its most literal sense (every class represented in exact proportion to its numbers), Warner interpreted it to mean "a bureaucracy drawn 'from all social, racial, and religious groups on the basis

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[14]Norton Long, "Bureaucracy and Constitutionalism," American Political Science Review 46 (September 1952): 808-818.

[15]Paul P. Van Riper, History of the United States Civil Service (Evanston: Row Peterson, 1958), pp. 549-559.

[16]See Lloyd W. Warner, et al., The American Federal Executive (New Haven: Yale University Press, 1963). Also see Dwight Waldo, "Development of Theory of Democratic Administration," American Political Science Review 46 (March 1952): 81-103.

of ability'--but not necessarily in exact numerical proportion to produce 'a copy of society'."[17]

Samuel Krislov found, in reviewing this literature, four "intertwined" meanings for the concept of a representative bureaucracy:

> The most obvious is the simple representational notion that all social groups have a right to political participation and to influence. The second can be labeled the functional aspect; the wider the range of talents, types, and regional and family contacts found in a bureaucracy, the more likely it is able to fulfill its functions, with respect to both internal efficiency and social setting. Bureaucracies also symbolize values and power realities and are thus representational in both a political and analytic sense. Therefore, finally, social conduct and future behavior in a society may be channelized and encouraged through the mere constitution of the bureaucracy.[18]

Frederick Mosher has further refined the concept by observing that there are two types of representativeness--active and passive. Active (or responsible) representativeness is defined in terms of the bureaucrat advocating the interests of constituencies. As Mosher puts it, in active representation the individual administrator "is expected to press for the interests and desires of those whom he is presumed to represent, whether they be the whole people or some

---

[17]V. Subramaniam, "Representative Bureaucracy: A Reassessment," American Political Science Review 61 (December 1967): 1010 (emphasis mine).

[18]Samuel Krislov, The Negro in Federal Employment (Minneapolis: University of Minnesota Press, 1967), p. 64 (emphasis mine).

segment of the people."[19] Passive (or sociological) representativeness, on the other hand:

> . . . concerns the source of origin of individuals and the degree to which, collectively, they mirror the total society. It may be statistically measured in terms, for example, of locality or origin and its nature (rural, urban, suburban, etc.), previous occupation, father's occupation, education, family income, family social class, race, and religion.[20]

For Mosher, as with most theorists, a strong linkage between active and passive representativeness is assumed.

Efficiency and Equity

Perhaps the most common evaluative standard, the concept of efficiency has a long history in policy analysis. It has, in fact, been the justification for most administrative reform efforts in the public service and has often acquired the status of an "unquestioned moral imperative."[21] The essence of the classical argument for administrative efficiency was the "imperative" that any rational (Weberian) bureaucracy required the constant minimization of resources (inputs) and the maximization of products (outputs). In the words of Herbert Simon, it was a generally accepted

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[19]Frederick C. Mosher, Democracy and the Public Service (New York: Oxford University Press, 1968), p. 12. See also Arthur D. Larson, "Representative Bureaucracy and Administrative Responsibility: A Reassessment," Midwest Review of Public Administration 7 (April 1973): 87.

[20]Mosher, p. 12.

[21]Robert C. Fried, Performance in American Bureaucracy (Boston: Little, Brown, 1976), pp. 67-68.

tenet of the theory of public policy-making that almost all bureaucratic decisions were in some sense determined by the rational requirement to "take the shortest path, the cheapest means, toward the attainment of the desired goals."[22] Thus, in Weberian terms, bureaus were defined by their "technical superiority" over other organizational forms. In order to justify this stance, a number of factors such as task specialization, hierarchical authority, and span of control became associated with administrative efficiency through elaborate "principles of administration."[23]

More recent research has demonstrated the weaknesses of these hard and fast principles of bureaucratic efficiency. But the basic nature of the concept has not been altered. For example, one analysis, moving beyond the traditional economic framework to a consideration of the conversion processes of organizations, defines efficiency in terms of the consumption of "energy" inputs. That is, while all organizations maintain themselves only as long as they achieve "negentropy" (importing more "energy" than they produce) the "efficient" organizaton consumes less of its inputs in the policy conversion process than does the "inefficient"

---

[22]Herbert A. Simon, Administrative Behavior (New York: Free Press, 1957), p. 14.

[23]See Simon, pp. 20-21.

structure.[24] Thus, while the definitions of bureaucratic efficiency now range from the traditional standard of "doing the job at the lowest cost,"[25] to a focus on the ability of the bureaucracy to "perform without waste in the approved technical manner,"[26] the basic idea remains the same--the achievement of a ratio of inputs to outputs which increases the latter while decreasing the former.

As useful as the concept of efficiency has been to the study of bureaucratic performance, the criterion does little to answer the output concern of: "Who gets what, when, how?" As Johnson and Pierce note:

> To the extent that both costs and benefits can be measured in dollar terms, cost-benefit analysis may be used to aid in the efficient allocation of resources among alternative substantive programs. However, because most programs carry with them a decision rule dealing with distribution, the traditional economic efficiency criterion is not sufficient for decision making.[27]

Thus, the evaluation of agency outputs must include consideration for both the production and the distribution of policy

---

[24]Daniel Katz and Robert L. Kahn, The Social Psychology of Organizations (New York: John Wiley and Sons, 1966), pp. 150-151.

[25]Fried, p. 67.

[26]Louis C. Mainzer, Political Bureaucracy (Glenview, Ill.: Scott, Foresman, 1973), p. 8.

[27]Ronald W. Johnson and John M. Pierce, "The Economic Evaluation of Policy Impacts: Cost-Benefit and Cost-Effectiveness Analysis," in Frank P. Scioli, Jr. and Thomas J. Cook, eds., Methodologies for Analyzing Public Policies (Lexington, Mass.: Lexington Books, 1975), p. 135.

costs, benefits, and sanctions. This need has led to the widespread usage of the concept of equity in conjunction with the standard of efficiency, particularly in studies of regulatory agency performance. According to James Wilson:

> In evaluating these and other kinds of government regulations, there are two standards one may employ--efficiency and equity. By "efficiency" I mean that a given regulatory policy achieves a desirable objective at minimal cost; by "equity" I mean that the regulatory policy, whether efficient or not, treats those subject to it fairly--that is, treats like cases alike on the basis of rules known in advance and applicable to all.[28]

The use of equity as an evaluative criterion has traditionally emphasized the necessity for broadening the scope of administrative law and principles of "democratic administration" through the development of procedures for notice, hearing, and review for parties subject to the actions of government. It is only recently, however, that policy analysts have moved beyond consideration of equity as synonymous with equal (or identical) outputs to more sophisticated distinctions between different standards of equity. The most important distinctions for policy analysis appear to be those between potential and actual equity and those between input and output equity.

The "fairness" definition of equity outlined above by Wilson closely corresponds to what Pauly and Willett have termed "ex ante," or "before-the-fact" equity. In this

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[28]James Q. Wilson, "The Dead Hand of Regulation," Public Interest 25 (Fall 1971): 40.

definitional scheme, equity is achieved through the equalization of potential risks or opportunities. In contrast, "ex post," or "after-the-fact" equity denotes situations in which actual outputs are equalized.[29]

The difference between input equity and output equity is a distinction between the equalization of the distribution of resources, and the responsiveness of any system of allocating such resources to the perceived needs and the social values of the consumers. Lineberry and Welch discuss this issue as follows:

> The distinction between input and output equity is usually credited to James Coleman, who made a strong case for the latter as a criterion for school evaluation. For a long time the measurement of public policy output, especially in the field of education, was dominated by an input equality standard. Schools were presumed equal when they were assigned equal resources for each child . . . This standard, however, collides abruptly with the criteria of output equality and efficiency. From an output equality perspective, neither wants nor needs are considered in the use of input equality standards.[30]

Essentially, the concern of most recent policy analysts with the criterion of output equity has been that public

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[29]Mark V. Pauly and Thomas D. Willett, "Two Concepts of Equity and Their Implications for Public Policy," Social Science Quarterly 53 (June 1972): 8-10. See also Richard C. Rich, "Institutional Arrangements and Equity in Urban Service Delivery," a paper prepared for delivery at the 1976 Annual Meeting of the American Political Science Association, Chicago, September 2-5, 1976.

[30]Robert L. Lineberry and Robert E. Welch, Jr.,"Who Gets What: Measuring the Distribution of Urban Public Services," Social Science Quarterly 54 (March 1974): 709.

programs should not only produce the desired "products" but should also "work for the advantage of the community."[31] Thus, the concept has evolved away from a focus upon pure "market equity" to usages which emphasize "social equity" considerations designed to achieve "the greatest social good from available resources."[32]

Effectiveness

Along with efficiency, the concept of effectiveness has always been a primary administrative virtue pursued by political analysts. Not only were many early reforms and reorganizations of the U.S. federal system based upon the perceived desirability of improved bureaucratic performance (usually defined in terms of effectiveness, economy, and efficiency), but:

> Effectiveness has also been the goal in recent efforts to improve decision-making by cost-benefit analysis and the Planning, Programming, Budgeting (PPB) system. The stress here on effectiveness grows out of a long tradition and also reflects strong feelings in government today.[33]

Moreover, the use of effectiveness as a "touchstone" by which the utility of a bureaucratic policy system is measured has been a major factor in the movement toward developing

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[31]Gordon P. Whitaker, "Who Puts the Value in Evaluation?" Social Science Quarterly 54 (March 1974): 759.

[32]Fried, p. 68. See also Rich, pp. 3-6.

[33]Fried, p. 16.

"open" policy systems in which evaluation information is more freely available.[34]

Robert Fried has identified six different, but related meanings for the concept of effectiveness as a criterion for the evaluation of bureaucratic performance.[35] First, and most significantly, effectiveness is defined in terms of goal attainment. This is the definition most often attached to the criterion,[36] since, at least in theory, organizations are established in order to accomplish specific objectives. Second, effectiveness is often treated as being synonymous with a broader view of efficiency or productivity than has been utilized in most studies. An example of this approach is Katz and Kahn's notion of effectiveness as the maximization of return to the organization by all means (economic, technical, and political). This definition assumes two components of effectiveness: efficiency and profit.[37] A third meaning associates effectiveness with policy inputs such as the expenditure of money or manpower. This definition equates effective bureaucratic behavior with

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[34]Francis E. Rourke, Bureaucracy, Politics, and Public Policy (Boston: Little, Brown, 1969), pp. 55-78.

[35]This discussion of policy effectiveness draws heavily upon Fried, pp. 55-78.

[36]See Amitai Etzioni, Modern Organizations (Englewood Cliffs, N.J.: Prentice-Hall, 1964), pp. 8-10; and Rourke, pp. 3-7.

[37]Katz and Kahn, pp. 150-153.

effort rather than with achievement and argues that effectiveness is indicated by such things as larger staffs, higher salaries, and greater workloads.[38] The fourth way in which effectiveness is tested is through a determination of whether "beneficial influence" results from bureaucratic outcomes. The entire "social indicators" movement is a response to the attempt to evaluate program effectiveness based upon criteria of social well-being.[39] Fifth, effectiveness may be seen as sufficiency or adequacy of goals or outcomes. Implicit in this scheme is the requirement that policies must meet certain "need thresholds" independent of goal attainment, efficiency, or benefit to particular communities.[40] Finally, an effective bureaucracy is the one which survives. Effectiveness defined as survival, whether through the achievement of a balanced equilibrium between external conflicting forces or the internal maintenance of a self-regulated "dynamic homeostasis," emphasizes the requisites for continued organizational existence.[41]

One result of the confusion regarding the meaning of the concept of effectiveness has been that public

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[38]Fried, p. 70.

[39]Carol H. Weiss, Evaluation Research: Methods of Assessing Program Effectiveness (Englewood Cliffs, N.J.: Prentice-Hall, 1972), p. 4.

[40]Fried, pp. 75-76.

[41]See Etzioni, pp. 18-19.

administration and public policy theory have not resolved the question of the causes of ineffective policy application. That is, if effectiveness is defined in terms of goal attainment, factors such as the practice of creating agencies with unrealizable or utopian goals or ambiguous legislation can be cited as reasons for policies failing to meet stated objectives.[42] Similarly, the tendency for bureaucrats to behave conservatively, emphasize accommodation, and seek to limit risk while searching for personal security is often given as a negative influence by those who define effectiveness as efficiency or productivity.[43] Moreover, the effectiveness of bureaucracies is intimately related to the other evaluative criteria used in this study. This is especially so in the case of the standard of responsibility. According to Michael Cohen:

> . . . ineffective policy application often stems from the fact that an agency is caught up in a continuing political struggle among conflicting interests in society. In these cases the legislation which the agency must administer has often been passed only after several attempts, and then by a small majority. It is usually in danger of emasculation or repeal by later Congresses or legislatures. The difficulties in passing the legislation and in making its provisions strong enough to be enforced are reflections of the extreme opposition to its

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[42]Michael Cohen, "Sources of Ineffectiveness in Policy Application," Midwest Review of Public Administration 2 (August 1968): 83-85.

[43]Cohen, pp. 81-82; and Louis V. Imundo, Jr., "Ineffectiveness and Inefficiency in Government Management," Public Personnel Management 4 (March/April 1975): 92-93.

> presence in society. It is not surprising when delaying tactics, non-compliance and other efforts succeed in preventing the agency from effectively administering the policy.[44]

Responsiveness

Over the years, the movement to "debureaucratize" political activities has been a manifestation of the belief that public agencies are unresponsive to "the public interest." On the other hand, America's administrative history has emphasized the perception that these bodies, particularly regulatory commissions and "clientele agencies" are unfairly responsive to "special interests." Thus:

> At one time, enhanced responsiveness was sought through the spoils system, rotation in office, and (at the state and local levels) direct election of administrative officials. A successive wave of reformers found that the spoils system encouraged responsiveness to corruptionists and political machines, instead of the public. A neutral public service, they argued, could be trained to be "responsive through channels," that is responsive only to orders from politically accountable superiors; it would, moreover, be better <u>able</u> than party hacks to be responsive because of its skills in achieving what the community wished to be done.[45]

Policy responsiveness, therefore, has come to mean <u>both</u> "reflecting and giving expression to the will of the people" through general public opinion, and "responding

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[44]Cohen, p. 86.

[45]Fried, p. 399. See also Virginia B. Ermer, "Strategies for Increasing Bureaucratic Responsiveness," <u>Midwest Review of Public Administration</u> 9 (April/July 1975): 121-132.

easily to any and all demands" of specific parties at interest.[46] In practice, these two factors are often mixed; public administration in a democracy usually requires an agency to be responsive to a combination of congressional committees, other agencies, and the mass media in addition to interest groups and private individuals. Also, responsiveness is maintained not only by these external control mechanisms (pressure groups, media, etc.) but by the implementation of internal controls such as subordination to a politically appointed executive or ethnically balanced recruitment practices.[47] In this sense, responsiveness is closely related to the criteria of representativeness and responsibility--the "prompt acquiescence by government in popular demands for policy change" is often one of the complex of values included in the general definition of bureaucratic responsibility.[48] Similarly, a representative public service is assumed to "increase bureaucratic understanding of and responsiveness to minority views, feelings, desires, problems and needs."[49]

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[46]J. Roland Pennock, "Responsiveness, Responsibility, and Majority Rule," American Political Science Review 46 (September 1952): 790-791.

[47]See Fried, pp. 50-52.

[48]See Charles E. Gilbert, "The Framework of Administrative Responsibility," Journal of Politics 21 (August 1959): 374.

[49]Harry Kranz, "Government By All the People: The Why and How of a More Representative Public Service," Good Government 89 (Fall 1972): 3. See also Ermer, pp. 121-122.

Regardless of the source of demands and supports to which an agency must respond, bureaucratic responsiveness is a two-way flow of information and influence. While democratic theory holds that the legislature should set standards of responsiveness, leaving only the execution of a mandate to the bureaucracy,[50] in fact agencies themselves may create demands which they can then supply. Moreover:

> As a defensive reaction, trying to survive in a world of competing organizations, agencies seldom feel that they can afford to let their good works speak for themselves or practice a policy of complete and frank reporting to the public on their successes and failures. They are constantly trying for a favorable, or at least neutral public image, directly by propaganda and indirectly by cultivating friendly legislators, interest groups, and journalists.[51]

Research has demonstrated that certain types of organizational arrangements and certain modes of decision-making facilitate bureaucratic responsiveness. Among these are: (1) systematic efforts to obtain community needs and preferences; (2) attempting to give the public information as to policy alternatives and consequences; (3) open communications networks; (4) emphasis on developing feedback mechanisms; (5) training personnel to be receptive to client groups and public opinion; and (6) participation by outsiders in agency decision-making.

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[50] Whitaker, pp. 759-760.

[51] Fried, p. 53.

Responsibility

In part, the concept of bureaucratic responsibility is rooted in the idea of a policy-administration dichotomy discussed earlier. In addition, however:

> The theory as to the responsibility of administrative officials has been based on the notion of neutrality of the public service; the existence of a rigid line separating administration and execution from policy formulation; the idea that the technical character of governmental administration and the scientific nature of public administration which gave the trained public servant an opportunity to act on the basis of objectively established principles; the influence of the "fellowship of science"--the responsibility arising out of concern for the opinion of fellow technicians, who are capable of judging the actions of their colleagues in terms of scientific knowledge bearing on the decisions; the resort to the courts; and the influence of the power to hire and fire.[52]

Once it became clear that all these factors had been complicated by the exercise of policy-<u>making</u> power by administrators, then the control of this authority became a complex issue. To a great extent, the responses to this dilemma depended upon how the acquisition of bureaucratic authority was described and defined. Arch Dotson has identified five major "approaches" to the problem of administrative responsibility, including: (1) the "conservative" reaction, which saw the problem as resulting from a bureaucratic conspiracy to seize power; (2) the "rule of law" interpretation, which emphasized a breakdown of "due process" as the root cause; (3) the "executive supremacy" position, focusing on the lack

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[52]Levitan, p. 570.

of adequate management authority in the Presidency; (4) the "corporate objectivity" stance, which saw bureaucratic power as a necessary political response to complex socio-economic needs which the traditional institutions had not acknowledged; and (5) the "legislative supremacy" argument, defining the problem in terms of the loss of power by the people.[53] For all but the corporate objectivity approach, the solution to the problem of administrative responsibility was to be found in the reassertion of traditional American democratic principles of external control. The conservatives would, as far as was possible, eliminate bureaucratic activities, especially in the areas of regulatory and welfare programs. The rule of law, executive supremacy, and legislative supremacy advocates would adopt less extreme, but equally time-honored solutions--the strengthening of judicial review, executive management, and legislative sanctions, respectively.[54] The divergence of the corporate objectivity approach from these arguments has been captured best in the classic exchange between Carl Friedrich and Herman Finer. Advancing the legislative supremacy position, Finer asked the question:

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[53]Arch Dotson, "Fundamental Approaches to Administrative Responsibility," Western Political Quarterly 10 (September 1957): 701-715.

[54]Dotson, p. 716.

> Are the servants of the public to decide their own course, or is their course to be decided by a body outside themselves? My answer is that the servants of the public are not to decide their own course, they are to be responsible to the elected representatives of the public, and these are to determine the course of action of the public servants to the most minute degree that is technically feasible.[55]

Only through the implementation of external controls could "the new despotism" of the administrative state be avoided, according to Finer. Friedrich's position, on the other hand, was that external controls on bureaucratic behavior could only be partially successful at best, given the complexity of governmental tasks and the range of skills and expertise brought to bear on issues by administrators.[56] At a time when the legislature had proven unequal to the task of responding to highly technical issues and the executive had been unable to limit bureaucratic discretionary authority, the only recourse, for Friedrich, was to implement a system of administrative self-restraint based upon responsiveness to technical knowledge and popular sentiment.

From this debate emerged the two dominant conceptualizations of administrative responsibility. First, growing out of the emphasis on external controls, administrative responsibility has come to mean "accountability" or

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[55]Herman Finer, "Administrative Responsibility in Democratic Government," Public Administration Review 1 (Summer 1941): 336.

[56]Friedrich, pp. 3-4.

"answerability." This definition focuses upon the capability of political institutions to enforce sanctions on the bureaucracy. As noted by Roland Pennock:

> A person is responsible to another for his actions when he can be held to account for them by another. A government is responsible when its tenure of office is subject to control, within limits, by the electorate. Similarly, a ministry that holds power at the pleasure of the legislature is said to be responsible to the legislature.[57]

Mosher has termed this type of answerability or accountability "objective responsibility." According to this meaning, administrative policy-making control relies upon the "responsibility of a person or an organization to someone else, outside of self, for some thing or some kind of performance."[58]

In contrast, the second major connotation focused "not upon to whom and for what one is responsible (according to the law and the organization chart) but to whom and for what one feels responsible and behaves responsibly." This meaning was termed "subjective" or "psychological" responsibility by Mosher, and was assumed to be associated with such factors as professional identity, loyalty, and personal conscience.[59]

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[57]Pennock, p. 797.

[58]Mosher, p. 7. It should be noted that Friedrich, who also used the term "objective responsibility" had the exact opposite connotation in mind. For Friedrich, the reliance of bureaucrats upon "scientific standards" was "objective."

[59]Mosher, p. 8.

Thus, the location of bureaucratic control can be either from punitive restraints (or the threat of such restraints) imposed from external sources, or internal self-restraint imposed by the bureaucrats themselves. In most instances, of course, both types of controls are in evidence.

Regardless of the location of bureaucratic responsibility, two forms of administrative control have been of significance. First, there has been "formal" reliance upon established regulations, standards, and rules. And, second, administrative control has been achieved through the "informal" manipulation of bureaucratic values or norms.[60] When these control forms are combined with the location of control mechanisms, a framework for the study of bureaucratic responsibility is created which includes four categories: internal formal, internal informal, external formal, and external informal.[61]

Each of these categories focuses upon two questions: What are the roles of administrators in policy-making? And, what are the roles of policy-makers in administration? The major bureaucratic avenues for influencing policy-making are the mobilization of political support and the development of bureaucratic skills and expertise. Political support can

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[60]See Theodore M. Mills, "Equilibrium and the Processes of Deviance and Control," American Sociological Review 24 (October 1959): 671-679.

[61]Gilbert, p. 382.

be mobilized in a number of ways: public opinion can be influenced, attentive publics can be created and maintained, congressional committees can be cultivated, or identification with the President can be sought. Expertise can be developed through specialized recruitment patterns or the concentrated use of training programs. Such expertise can then be channeled into the policy-making arena either through the giving of advice to decision-makers or the use of discretionary authority to issue orders and make rules.[62] Limiting both constituency support and expertise are the political controls discussed above--congressional oversight, executive leadership, and judicial review, as well as the bureaucrat's own professionalism and morality.

The role of policy-makers in administration is closely related to these control mechanisms; a President, for example, can not only regulate the bureaucracy through his leadership authority, but he can actively manipulate administrative decisions through his political appointments and his use of public opinion levers. Similarly, congressional budgetary control and the courts' review of administrative law serve not only to limit the policy-making roles of the bureaucracy, but also to further the roles of these competing branches of government. In opposition to this

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[62]Rourke, pp. 45-55.

influence, however, the bureaucracy has the powerful built-in safeguard of the merit system.[63]

Outline of the Study

Implicit in the preceding review of the literature are a number of conceptual and operational problems. In Chapter II, these difficulties are made explicit through an outline of the methodology to be used in this study. Then, the next three chapters attempt to provide a description of the energy policy system (Chapter III), the creation of the FEA (Chapter IV), and the fuel allocation and pricing regulations (Chapter V). Part Two, the evaluation of the FEA's regulatory performance, is composed of analyses of the representativeness of the agency's decision-makers (Chapter VI), the efficiency and equity of its policy outputs (Chapter VII), the effectiveness of its policy outcomes (Chapter VIII), the responsiveness of its feedback mechanisms (Chapter IX), the responsibility of its policy inputs (Chapter X), and an overall evaluation of agency policy-making (Chapter XI).

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[63]Rourke, pp. 11-61; and Norman J. Powell, Responsible Public Bureaucracy in the United States (Boston: Allyn and Bacon, 1967), pp. 46-117. See also Emmette S. Redford, Democracy in the Administrative State (New York: Oxford University Press, 1969), pp. 38-69.

CHAPTER II

METHODOLOGY

Introduction

Although the study of institutional regulation of such processes as energy production, distribution, and pricing has traditionally been the province of the political scientist, there has been little or no systematic development of analytical concepts within the discipline to aid in this task. Theory-building in the area of institutional policy analysis has proceeded at an uneven pace as various analysts have been concerned with "market choice" mechanisms, agency "capture" by client interests, or "power elite" influences on policy-making. Very few research efforts have been directed toward assembling the disparate approaches in any comprehensive manner. The review of the literature in the previous chapter gave some indication of the resulting conceptual confusion by pointing out, in some detail, the breadth, depth, and range of the evaluative criteria of representativeness, efficiency, equity, effectiveness, responsiveness, and responsibility. It is the purpose of this chapter to develop a model for policy evaluation which

combines these six criteria in a systematic fashion. Prior to describing the methodology to be used in this model, however, it is necessary to state explicitly the underlying theoretical and methodological problems involved in applying the evaluative standards to the analysis of energy policy-making in the FEA. Such an enumeration is necessary because in each case the operationalization of a criterion is heavily dependent upon the limitations imposed by these theoretical and methodological difficulties. Following the clarification of these problems, attention is devoted to an outline of a general framework and the operationalization of each criterion. Finally, these measures are combined in an operational model for policy evaluation.

Theoretical and Methodological Problems

Important questions have been raised regarding both the underlying theory and the applicable measurement techniques for each of the evaluative criteria. The following discussion briefly outlines the most relevant of these analytical problems for each standard.

Representativeness

The problems associated with the theory of representative bureaucracy can be grouped into three general categories: (1) conceptual confusion regarding the definition of the concept; (2) reliance upon unsubstantiated assumptions;

and (3) lack of clarity regarding the relationship between representativeness and responsibility.

The most basic criticism of the concept has been the ambiguity surrounding its definition. Not only have theorists disagreed about whether the "precise" definition of representativeness as a "reproduction of the composition of the general population" is preferable to the "reasonable" idea of the bureaucracy represented by a "cross-section of the body politic,"[1] but there have been conceptual difficulties regarding the categories to be represented (economic classes versus region, for example).[2] By far the greatest definitional problem, however, has been the variety of uses of the concepts of active and passive representation. David Rosenbloom notes that at least four definitional schemes have been utilized: (1) defining representative bureaucracy in terms of passive factors alone; (2) defining it in active terms alone; (3) using both active and passive factors, but assuming a separation between these categories; and (4) assuming a strong linkage between passive and active representation.[3] The most common approach has been the latter--relying

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[1]Arthur D. Larson, "Representative Bureaucracy and Administrative Responsibility: A Reassessment, Midwest Review of Public Administration 7 (April 1973): 87.

[2]V. Subramaniam, "Representative Bureaucracy: A Reassessment," American Political Science Review 61 (December 1967): 1010.

[3]David H. Rosenbloom, "Forms of Bureaucratic Representation in the Federal Service," Midwest Review of Public Administration 8 (July 1974): 161.

upon the fairly straightforward meaning of sociological representation and to imply a strong link between such characteristics as background and pre-employment socialization and subsequent bureaucratic orientation and behavior. In addition to creating a number of problems associated with unsubstantiated assumptions (as discussed below), the use of this scheme raises additional definitional problems, since there is simply no general agreement upon what constitutes active representation. Rosenbloom identifies at least four possible patterns of active bureaucratic representation: (1) the formal-legal view of the bureaucrat as representative of the government or state; (2) the extra-normal view of the bureaucrat representing political groups through non-agency channels and structures (representing interests because of their official positions, but not through these positions); (3) the normal, or traditional view of the bureaucrat representing groups in their official capacities or within the regular agency frameworks; and (4) the captive view of the bureaucrat controlled by private interests to whom actual policy-making authority is delegated.[4] The motivations for and forms of these representation patterns vary from case to case, but Rosenbloom identifies three basic motivating factors--employment opportunities, political

[4]Rosenbloom, pp. 162-172.

ideology, and social background--and two basic forms of representation, sociological and symbolic.[5]

The theoretical assumption which has drawn the most criticism is the contention that socio-economic characteristics and pre-occupational socialization determine the later attitudes, values, and behavior of bureaucrats. Arthur Larson correctly asserts that very little research exists to support this contention.[6] Moreover, as both Larson and Kenneth Meier have argued, socialization is an ongoing learning process that does not stop for the individual upon his entering the bureaucracy. Thus, "organizational socialization will tend to dilute the influence of outside groups" and the role the agency creates for the bureaucrat may be as significant as any pre-occupational experience.[7] In addition, research has demonstrated that responsible and responsive bureaucratic behavior results from a number of other factors, including mobility and accessibility, as well as

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[5]Rosenbloom, pp. 173-174.

[6]Larson, p. 84. See Lloyd G. Nigro and Kenneth J. Meier, "Bureaucracy and the People: Is the Higher Federal Service Representative?" Bureaucrat 4 (October 1975): 300-308, for research which indicates that demographic factors are not adequate predictors of representative political attitudes of bureaucratic elites.

[7]Larson, p. 84; and Kenneth J. Meier, "Representative Bureaucracy: An Empirical Analysis," American Political Science Review 69 (June 1975): 529. See Peta E. Sheriff, "Unrepresentative Bureaucracy," Sociology 8 (September 1974): 449, for the same criticism.

representativeness.[8] Therefore, there is some question as to whether:

> . . . those concerned with the representativeness of public bureaucracies, who view the modification of social background as a means to responsiveness, besides being embarked on a difficult and perhaps futile exercise, might not achieve the desired result even if the means prove possible.[9]

Another assumption which has been controversial is the contention that traditional controls of administrative abuse (hierarchy, legislative budgeting, etc.) have proven ineffective. Meier, for example, notes that this argument contradicts evidence of bureaucratic responsiveness and cites the lack of systematic research on the question of external control failure.[10]

The relationship between representativeness and responsibility has raised questions regarding: (1) the role of bureaucratic leadership rather than a broadly representative civil service in insuring responsibility;[11] (2) the ethics of incorporating minorities into a bureaucracy in order to control them by binding them to the system;[12] and

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[8]Subramaniam, p. 1019.

[9]Sheriff, p. 459.

[10]Meier, p. 528.

[11]Meier, pp. 529-530.

[12]Earl J. Reeves, "Equal Employment and the Concept of the Bureaucracy as a Representative Institution," Midwest Review of Public Administration 6 (February 1972): 5.

(3) the problem of achieving aggregate responsibility through individual "irresponsibility" by encouraging bureaucrats to represent interests.[13]

The primary methodological difficulty in analyzing passive representativeness is that it is based on secondary variables (background variables) which may not be related to the primary ones (values.)[14] Further, in the absence of empirical indicators of the primary variables of active representation (such as bureaucratic attitudes and behavior patterns) the reliance upon secondary personnel characteristics usually limits the analysis to nominal data. Finally, attempts to compare bureaucracies with the general population according to secondary variables require consideration of such complex factors as the society's geographical distribution of social groups and public offices, and the distribution of social groups in the working age population.[15]

Efficiency and Equity

The primary difficulty associated with the theory of efficient bureaucracy lies in the wide range of attributes emphasized in the criterion of efficiency. According to Katz and Kahn, efficiency may be either "potential" or "actual"

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[13]Larson, p. 85.

[14]Meier, p. 530.

[15]David Nachmias and David H. Rosenbloom, "Measuring Bureaucratic Representation and Integration," Public Administration Review 33 (November 1973): 591.

depending upon whether an organizational design has been realized in practice.[16] Lineberry and Welch, on the other hand, distinguish "theoretical" efficiency (such as Pareto's criterion) from the "administrative" efficiency involved in obtaining the most output from the least input.[17] At the same level, Aaron Wildavsky terms the classical notion of bureaucratic maximization of objectives at the lowest cost "pure" efficiency, and the modification of organizational goals in a situation of scarce resources as "mixed" efficiency. Moreover, Wildavsky notes that both pure and mixed efficiency may be either "limited" (forced to work within systemic constraints) or "total" (modifying political goals and means to meet efficiency standards).[18]

Much the same dilemma characterizes the definition of the concept of equity in bureaucratic outputs. As was implied in Chapter I, the range of meanings attached to the concept of policy equity is broad. Included are emphases

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[16]Daniel Katz and Robert L. Kahn, The Social Psychology of Organizations (New York: John Wiley and Sons, 1966), p. 155.

[17]Robert L. Lineberry and Robert E. Welch, Jr., "Who Gets What: Measuring the Distribution of Urban Public Services," Social Science Quarterly 54 (March 1974): 708.

[18]Aaron Wildavsky, "The Political Economy of Efficiency: Cost-Benefit Analysis, Systems Analysis, and Program Budgeting," in Austin Ranney, ed., Political Science and Public Policy (Chicago: Markham Publishing, 1968), p. 56.

on: identical inputs, outputs in proportion to payment, equal results, and "fairness."[19]

As important as this lack of clarity in the dual theories of efficiency and equity is the relationship between the definitions of the two terms. That is, "efficiency cannot be defined without specifying the definition of equity or justice."[20] Unless both concepts are used in conjunction, the policy analyst runs the risk of allowing efficiency measures to become ends in themselves.[21]

For both the criteria of efficiency and equity of policy outputs, the primary methodological constraint is the paucity of agreed-upon standards of measurement. In the case of efficiency measures, Louis Imundo has concluded that:

> Progress in establishing performance standards and measuring productivity in work environments where the product is service has been limited in the private sector, while no progress has been made in government. Where standards and measurement techniques do not exist, it is difficult to measure efficiency.[22]

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[19]Richard C. Rich, "Institutional Arrangements and Equity in Urban Service Delivery," a paper prepared for delivery at the 1976 Annual Meeting of the American Political Science Association, Chicago, September 2-5, 1976, pp. 3-6.

[20]Lester C. Thurow, "Equity Versus Efficiency in Law Enforcement," Public Policy 18 (Summer 1970): 451. See also Harold Bierman, Jr. and Jerome E. Hass, "Inflation, Equity, Efficiency, and the Regulatory Pricing of Electricity," Public Policy 23 (Summer 1975): 299-315.

[21]See Robert C. Fried, Performance in American Bureaucracy (Boston: Little, Brown, 1976), pp. 69-70.

[22]Louis V. Imundo, Jr., "Ineffectiveness and Inefficiency in Government Management," Public Personnel Management 4 (March/April 1975): 90.

If the absence of comparable measures of bureaucratic efficiency is a significant methodological limitation, the problem is more crucial in the case of equity measures, where the need for formulation of operational indicators has been labelled a "paramount" research issue.[23]

Effectiveness

Thomas Dye has outlined the major problems confronting policy evaluation studies as: (1) determining what the goals of a program are; (2) evaluating programs and policies with primarily symbolic values or impact; and (3) overcoming agency bias in proving impacts of crucial programs.[24] To this list of theoretical problems with the concept of policy effectiveness should be added the difficulties of determining causality in policy outcome relationships and the diffuse nature of policy impacts and effects.[25]

The determination of organizational goals is crucial to the evaluation of goal attainment by policy outcomes. However, goals and objectives of bureaucracies may be ambiguos, hazy, or "merely a long list of pious and partly

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[23]Astrid E. Merget, "Equalizing Municipal Services: Issues for Policy Analysis," Policy Studies Journal 4 (Spring 1976): 298.

[24]Thomas R. Dye, Understanding Public Policy, 2nd ed. (Englewood Cliffs, N.J.: Prentice-Hall, 1975), pp. 332-333.

[25]James E. Anderson, Public Policy-Making (New York: Praeger, 1975), p. 102.

incompatible platitudes."[26] This incompatibility may be the result of the need to maintain different sets of goals for the diverse groups which may form an agency's constituency or it may simply be an intentional attempt by the agency to camouflage its real goals under a veil of unclear promises. In addition, agencies are often given tasks which require them to pursue "unofficial" goals.

Closely related to the problem of goal definition is the fact that a primary function of many government actions is to provide symbolic impacts. As Dye notes:

> The impact of a policy includes both its symbolic and tangible effects. Its symbolic impact deals with the perceptions that individuals have of government action and their attitudes toward it. . . . Individuals, groups, and whole societies frequently judge public policy in terms of its good intentions rather than its tangible accomplishments.[27]

Thus, the impact of public policies must include consideration not only of the material benefits, both direct and indirect, which flow from a particular decision, but the feelings and perceptions of those affected by government's symbolic actions.

The determination of agency bias and resistance to policy evaluation is both a theoretical and methodological problem. The fact that any organization has a strong vested

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[26]Carol H. Weiss, Evaluation Research: Methods of Assessing Program Effectiveness (Englewood Cliffs, N.J.: Prentice-Hall, 1972), p. 25.

[27]Dye, p. 331.

interest in seeing that its programs are presented in the most favorable manner leads to methodological problems of data availability, for example. However, the theoretical difficulties of agency bias are even more troublesome, because, ultimately, policy impact evaluation involves people evaluation.[28]

Analysis of the effects of policy actions naturally raises issues regarding causality. Stated briefly, the primary problem is that "the mere fact that action A is taken and condition B develops does not necessarily mean that a cause-and-effect relationship exists."[29] In too many policy evaluations, causality is implied without the proper development of causal theory or the employment of causal methodologies. In most cases, public policies are so complex, the data so inadequate, and the underlying theory so underdeveloped as to make causal analysis extremely difficult. Nevertheless, thinking causally about policy effectiveness may have heuristic value.[30]

Finally, the effectiveness of policy outcomes is difficult to conceptualize because impacts are usually diffuse.

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[28]See Weiss, p. 25.

[29]Anderson, p. 139.

[30]Donald S. Van Meter and Herbert B. Asher, "Causal Perspectives on Policy Analysis," in Frank P. Scioli, Jr. and Thomas J. Cook, eds., Methodologies for Analyzing Public Policies (Lexington, Mass.: Lexington Books, 1975), pp. 61-62.

Not only are effects felt by different political communities (both intended and unintended), but the results of public policies may vary over time. In addition, second and third order consequences of public policies may vary widely from the more immediate, first order outcomes.[31]

According to Johnson and Pierce, there are two very critical methodological problems involved in the evaluation of policy effectiveness (or, as they term it, "results measurement"): explicitly relating any measure to program objectives (the relevancy problem) and making the standard replicable (the measurement problem).[32] The relevancy issue, or what E. S. Quade has termed the "conceptual" problem, is closely related to the theoretical constraints outlined above:

> It is by no means obvious how the benefits of most social programs should be defined. For example, the federal government supplies money to the states and cities for law enforcement. How can we measure the effectiveness of their programs to fight crime? The first impulse is to use the number of crimes as a measure of effectiveness. This has important difficulties, however. Crime is a very heterogeneous phenomenon--murder, shoplifting, drunkenness, and

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[31]Anderson, p. 140.

[32]Ronald W. Johnson and John M. Pierce, "The Economic Evaluation of Policy Impacts: Cost-Benefit and Cost-Effectiveness Analysis," in Frank P. Scioli, Jr. and Thomas J. Cook, eds., Methodologies for Analyzing Public Policies (Lexington, Mass.: Lexington Books, 1975), p. 144. See also Tom R. Houston, Jr., "The Behavioral Sciences Impact-Effectiveness Model," in Peter H. Rossi and Walter Williams, eds., Evaluating Social Programs: Theory, Practice, and Politics (New York: Seminar Press, 1972), pp. 51-65.

> joy riding may all be crimes, but all are not equally serious.[33]

Measurement problems, on the other hand, are derived from the poor data which may be available, the fact that effects (or benefits) are distributed unevenly, and the non-market character of many inputs. Data problems are perhaps the most frustrating for the policy analyst--even if measures are developed, the information required may not be available or may be inadequate. If this difficulty can be overcome, distributional constraints remain--different people get different benefits--and those impacts may not parallel the market characteristics from which many of the cost-benefit models are derived. As a result, analysts have often turned to methodological approaches which are less than adequate, such as using work load measures, program costs, or dollar expenditures as the only indicators of effectiveness.[34]

Responsiveness

While the term "responsiveness" has long been central to the study of politics, serious definitional problems remain to be resolved. This is primarily because legislative, rather than bureaucratic, representation and responsiveness has been the focus of much of the policy research in the

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[33]E. S. Quade, Analysis for Public Decisions (New York: American Elsevier, 1975), p. 105.

[34]Quade, pp. 107-108.

past; there is not an extensive theoretical base from which to develop concepts to evaluate agency performance.[35] Crucial analytical terms such as "the public interest" and "public opinion," for example, remain elusive at best. As Roland Pennock has noted:

> The uncertainty as to the meaning and the application of the term "responsiveness" makes it impossible to say much, in general terms, about its desirability. From the broad philosophical orientation that we have assumed, it is clear that governments should be responsive to any clear and settled popular demand. Some would say that they should respond quickly to any clear expression of public opinion, whether or not "settled," while others would hold that the opinion should persist long enough to give some assurance that it represented more than a passing whim.[36]

Implicit in this critique of the conceptual confusion surrounding feedback responsiveness are the problems involved in defining public opinion and the fragmented nature of public opinion, however defined. That is, even when there is widespread articulation and aggregation of public responses to agency actions (and this may be seldom, if ever, for many organizations), there may be little unanimity in the preferences expressed by the community.[37] Moreover, there

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[35]See Warren E. Miller and Donald E. Stokes, "Constituency Influence in Congress," American Political Science Review 57 (March 1963): 45-56.

[36]J. Roland Pennock, "Responsiveness, Responsibility, and Majority Rule," American Political Science Review 46 (September 1952): 791.

[37]See Fried, pp. 106-110.

are serious theoretical difficulties in distinguishing between general public opinion and narrower interest group demands as proper indicators of community preferences. This is because:

> . . . populist democratic theory holds that the primary goal of democracy is to maximize popular sovereignty and political equality. The resulting scheme of representation places greatest emphasis on responsiveness to majority preferences. On the other hand, pluralists contend that democratic systems respond to the opinions of select portions of the constituencies, not necessarily the majority. In their view democracy becomes a process wherein the minorities, through representation, rule within guidelines established in a majority concensus.[38]

The major methodological problem related to the evaluation of feedback is that although the concept is widely employed in the literature of public policy analysis, there have been few attempts to operationalize bureaucratic responsiveness.[39] This shortcoming is in part a consequence of the theoretical difficulties discussed above, but it is also a result of the fact that measuring congruence between agency policy and public opinion, for example, may involve questions of causality which are not easily resolved. Because responsiveness is a two-way flow of influence between an agency and

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[38]William R. Shaffer and Lowell A. Wright, "The Responsiveness of U.S. Senators to Their Constituents' Policy Preferences," a paper prepared for delivery at the 1976 Annual Meeting of the Midwest Political Science Association, Chicago, April 26-May 1, 1976, p. 1.

[39]Delbert A. Taebel, "Bureaucratization and Responsiveness: A Research Note," Midwest Review of Public Administration 7 (July 1973): 199-200.

its publics and because there are always time lags in both the public's response to policies and the agency's reception of this response, it becomes extremely difficult to determine whether a given policy is in fact a reaction to a particular demand or whether the policy created the opinion.

Even where responsiveness has been operationalized, it has usually been in terms of agency distribution of easily measurable outputs (usually dollars) or legislative roll call votes.[40] Neither of these approaches has a great deal of utility for more comprehensive analysis.

Responsibility

The significance of the problems involved in defining responsibility is apparent in the following observation by Frederick Mosher:

> Responsibility may well be the most important word in all the vocabulary of administration, public and private. But it has a confusing wealth of different meanings and shades of meanings . . . .[41]

Among the most common values implied in the use of the term are: responsiveness, flexibility, consistency, stability, leadership, probity, candor, competence, efficacy, prudence,

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[40]See Russell W. Getter and Paul D. Schumaker, "Political Structure and Policy Responsiveness in the Distribution of Revenue Sharing Funds in 51 American Cities," a paper prepared for the 1976 Annual Meeting of the Southwestern Political Science Association, Dallas, April 7-10, 1976.

[41]Frederick C. Mosher, Democracy and the Public Service (New York: Oxford University Press, 1968), p. 7.

due process, and accountability.[42] As Norman Powell has noted:

> Some of these meanings of responsibility overlap, some contradict others, some are ambiguous indeed; all raise questions of how they are to be assessed and used with what emphases in what circumstances.[43]

These theoretical overlaps and contradictions have led to some serious difficulties in the operationalization of the concept of responsibility. Perhaps the overriding problem is the fact that the concept is related to the entire political system and not just to the administrative system. In addition, responsibility as an evaluative criterion is in conflict with other standards, particularly that of responsiveness. Moreover, informal and internal aspects of administrative behavior which are central to the assessment of responsibility are extremely difficult to determine and measure. Finally, most of the research upon which the theory of administrative responsibility rests is based in the pre-World War II experience of U.S. public policy and may therefore have only limited relevance to modern bureaucracy.[44]

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[42]Charles E. Gilbert, "The Framework of Administrative Responsibility," Journal of Politics 21 (August 1959): 375-378.

[43]Norman J. Powell, Responsible Public Bureaucracy in the United States (Boston: Allyn and Bacon, 1967), p. 6.

[44]Gilbert, p. 406.

A Framework for Analysis

Within the limitations imposed by these theoretical and methodological constraints, it is possible to develop general definitions for the evaluative criteria which correspond to the five major components of the policy process. The following discussion delineates the general framework for analysis to be used in this study.

Most policy analyses limit their scope to a single evaluative criterion--usually either the examination of policy outputs (efficiency) or outcomes (effectiveness). The framework developed for this study departs from this mainstream by instead opting for a systems approach which goes beyond the usual "goal model" of research to emphasize that:

> . . . organizations pursue other functions besides the achievement of official goals. They have to acquire resources, coordinate subunits, and adapt to the environment.[45]

Thus, although "outcome goal attainment" is included as a significant element in this study, the entire policy-making system is considered in the framework illustrated in Figure 1. This scheme couples the policy process components and the evaluative criteria as follows: the decision-makers are evaluated by the criterion of representativeness, outputs by both efficiency and equity, outcomes by effectiveness, feedback by responsiveness, and inputs by responsibility. This

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[45]Weiss, p. 29. See also Amitai Etzioni, "Two Approaches to Organizational Analysis: A Critique and a Suggestion," Administrative Science Quarterly 5 (1960): 257-278.

FIGURE 1

A FRAMEWORK FOR EVALUATING PUBLIC POLICY

Policy Process Component	Evaluative Criterion	Criterion Definition
Decision-Makers	Representativeness	Actual representation of clientele or passive sociological correspondence to the origins of the broader society.[1]
Outputs	Efficiency	The amount of resources used to produce a unit of output.[2]
	Equity	A situation in which actual outputs are equalized.[3]
Outcomes	Effectiveness	The degree to which the bureaucratic policy system leads to decisions which are more likely than alternative choices to bring about desired outcomes.[4]

FIGURE 1, continued

Policy Process Component	Evaluative Criterion	Criterion Definition
Feedback	Responsiveness	The extent to which the bureaucratic policy system promotes a correspondence between the decisions of bureaucrats and the preferences of the community.[5]
Inputs	Responsibility	The degree to which bureaucratic performance is limited by internal and external controls.[6]

[1]Frederick C. Mosher, Democracy and the Public Service (New York: Oxford University Press, 1968), pp. 10-14.

[2]Amitai Etzioni, Modern Organizations (Englewood Cliffs, N.J.: Prentice-Hall, 1964), pp. 8-10.

[3]Mark V. Pauly and Thomas D. Willett, "Two Concepts of Equity and Their Implications for Public Policy," Social Science Quarterly 53 (June 1972): 8-11.

[4]Francis E. Rourke, Bureaucracy, Politics, and Public Policy (Boston: Little, Brown, 1969), pp. 3-6.

[5]Rourke, pp. 3-6.

[6]Norman J. Powell, Responsible Public Bureaucracy in the United States (Boston: Allyn and Bacon, 1967), pp. 46-49.

emphasis on the process of public policy-making is another departure from the norm, but it seems easily justifiable in light of previous research. In fact, previous efforts have convinced some analysts that process must be considered:

> We see that in principle, and not only because doing so is more practical, the tests of policy-making must be applied to the policymaking process itself, and not to its results alone. The main criterion of policymaking quality then becomes: "How much does the policymaking process lead toward adoption of the policy that has the highest probable net payoff." Note that this probability cannot, in most cases, be deduced directly from any observed real output.[46]

Another crucial aspect of this framework is its reliance upon a more broadly defined notion of organizational performance than is usually the case. For the purposes of this study, performance is defined as the efficient, equitable, and effective attainment of systemic goals through responsive, responsible, and representative processes.[47]

Finally, this framework is focused upon the "regulatory" aspects of bureaucracy and, as such, has little in common with much of the policy evaluation methodology which focuses upon the "distributive" or "redistributive" impacts of social action programs.[48]

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[46]Yehezkel Dror, Public Policymaking Reexamined (Scranton, Pa.: Chandler Publishing, 1968), p. 41.

[47]See Fried, p. 15.

[48]See Rossi and Williams; Walter Williams, Social Policy Research and Analysis: The Experience in the Federal Social Agencies (New York: Elsevier, 1971); and Elmer L. Struening and Martha Guttentag, eds., Handbook of Evaluation Research (Beverly Hills: Sage Publications, 1975).

Operationalizing Concepts

Moving from the general definitions of the six evaluative criteria in Figure 1 to their specific applicability to an analysis of the performance of the FEA is the purpose of the following discussion. With each criterion, an effort is made to specify those variables (and their dimensions) which are to be applied in the evaluation in order to build a model which relates the criterion to the policy-making process as a whole.

Representativeness

For the purposes of this study, representativeness is defined as both active representation of clientele interests and passive sociological correspondence to the origins of the broader society. A strong linkage between passive and active representation is assumed, based in part upon a limited empirical research base and in part upon normative principles of democratic theory. Although, as was noted above, there is only limited data to support a contention of passive-active linkage, research has demonstrated, for example, that the racial characteristics of bureaucrats may influence proclivity for political activity.[49] Moreover, minority representation has been found to have a mixed, but

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[49]See Jeffrey C. Rinehart and E. Lee Bernick, "Political Attitudes and Behavior Patterns of Federal Civil Servants," Public Administration Review 35 (November/December 1975): 603-611.

significant, impact on certain government policies (at the state level).[50] Even more basic to the assumption, however, is the following argument by Harry Kranz:

> But the case for a more representative public service must rest largely, not on hard data, but on democratic theory and logical inference. Democratic theory holds that decisions reached by a large, diverse group are "better" than decisions arrived at by a single person or small group of elite conformists; the decision will be "better" because we subjectively believe democracy is "better" than autocracy. Exclusion is morally and ethically wrong; equal opportunity to participate is the law of the land. Similarly, logical inference leads us to believe that increasing minority representation in bureaucracy should increase minority opportunities to exercise power, reduce their feelings of alienation, and dilute the power currently exercised by elites and specialists.[51]

Because empirically demonstrable (and quantifiable) data regarding either the pre- or post-agency socialization or behavior of FEA personnel is lacking, the assumption of a passive-active representation linkage must remain grounded in this theoretical precept and in the limited supporting research base. Figure 2 illustrates the model of representative bureaucracy upon which these assumptions are based.

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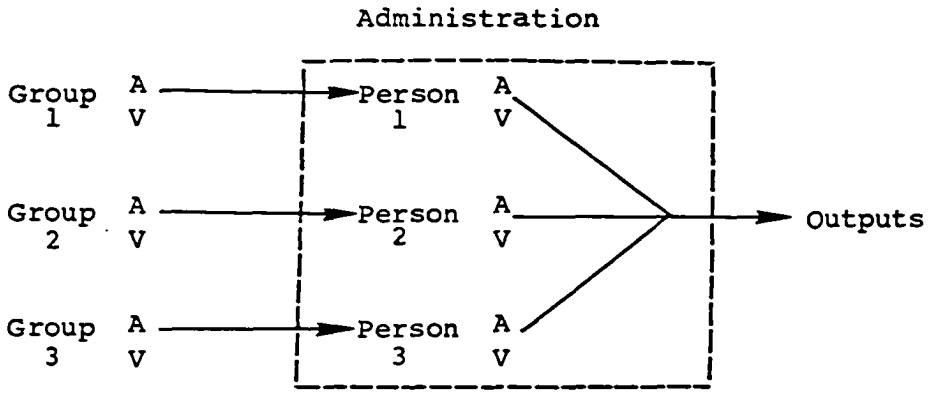
[50]Kenneth J. Meier, "The Policy Impact of Affirmative Action: Racial Representation in the States," a paper prepared for delivery at the 1976 Annual Meeting of the Southwestern Political Science Association, Dallas, April 7-10, 1976.

[51]Harry Kranz, "Government By All the People: The Why and How of a More Representative Public Service," Good Government 89 (Fall 1972): 4.

FIGURE 2

A MODEL OF REPRESENTATIVE BUREAUCRACY*



A=Attitudes; V=Values

*Mary L. Miller, "Representative Bureaucracy and Affirmative Action: Basic Issues and Concepts," a paper prepared for the 1976 Annual Meeting of the Southwestern Political Science Association, Dallas, April 7-10, 1976, p. 4.

Passive bureaucratic representativeness is defined as a public service "in which the ratio of each minority group in a particular government agency comes closest to equalling that group's percentage in the population in the area served by that office."[52] This definition focuses upon the sociological categories of sex and race, since, as Kranz has noted:

> . . . a representative public service must include appropriate participation by blacks, Indians, Spanish-origin persons, women, youth (17-24 years of age inclusive) and poor people (those from a "low-income" family), all as defined in the 1970 census.[53]

Three dimensions of the variable "sociological correspondence" (passive representation) will be analyzed by this study. The first, level of representativeness, is operationalized as the ratio of the percentage of FEA personnel in the indicator categories of sex and race to the percentage of the national population for the same categories. This simple "index of representation" provides a summary figure where 1.0 equals a "perfect" level of representation, more than 1.0 signifies "over-representation," and less than 1.0

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[52]Kranz, p. 3.

[53]Harry Kranz, "How Representative Is the Public Service?" Public Personnel Management 2 (July/August 1973): 243. As was the case with Kranz's research, however, since no comprehensive data are available for age levels or pre-employment income for FEA employees, sex and race have to suffice as the data base.

designates "under-representation."[54] A second dimension, integration of representatives, focuses upon "the degree to which the work force of an organization is socially mixed" and is measured by an "index of integration" which counts and sums the total number of differences in specified social characteristics (sex and race, for this study). This index ranges from 0 (total absence of integration) to 1.0 (maximum integration).[55] Finally, the third dimension is distribution of representativeness. This dimension taps such factors as the income and occupational distribution of minority groups through the Gini Index of Inequality. The Gini Index ranges from 0 to 1.0--from perfectly equal distribution to perfectly unequal distribution.[56] The analysis of the distribution of FEA representativeness also includes measurement of the degree of "differential incorporation" of the agency. This structural factor combines measures of organizational "stratification" (the degree to which minority personnel are

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[54]This index was developed by Subramaniam and has been utilized by almost every analyst of passive representation, although Meier is responsible for conceptualizing the dimension "level of representativeness" as it is used here. See Nachmias and Rosenbloom, p. 591, for a discussion of the methodology of this index and Peter N. Grabosky and David H. Rosenbloom, "Racial and Ethnic Integration in the Federal Service," Social Science Quarterly 56 (June 1975): 71-84. for an example of its use.

[55]See Nachmias and Rosenbloom, pp. 592-593.

[56]See Oliver E. Benson, Political Science Laboratory (Columbus: Charles E. Merrill, 1969), pp. 8-12, for a discussion of the use of the Gini Index.

clustered into jobs of lower grade, lower classifications for pay, and positions of lower responsibility) and organizational segmentation" (the degree to which minorities are isolated in various offices, programs, and geographical areas).[57] An attempt will be made to correlate indices of integration of representativeness to FEA personnel income levels as an indicator of bureaucratic stratification, and to measures of office/program importance (size and funding) as an indicator of organizational segmentation. Finally, the FEA will be placed in a typology of bureaucratic representation and an effort will be made to draw the political implications of these findings.

Efficiency and Equity

Bryan Jones has identified two "complementary models" which dominate the policy analysis literature--the systems model of process and the economic model of product.[58] Termed "policy output analysis" by Cook and Scioli,[59] the systems

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[57]Charles H. Levine, "Unrepresentative Bureaucracy," Bureaucrat 4 (April 1975): 91-92. According to Levine, "differential incorporation" is the "disparity in benefits and opportunities between privileged and underprivileged groups as a direct expression of discriminatory practices."

[58]Bryan D. Jones, "Distributional Considerations in Models of Government Service Provision," a paper prepared for delivery at the 1976 Annual Meeting of the Southwestern Political Science Association, Dallas, April 7-10, 1976, pp. 1-10.

[59]Thomas J. Cook and Frank P. Scioli, Jr., "Impact Analysis in Public Policy Research," in Kenneth M. Dolbeare, ed., Public Policy Evaluation (Beverly Hills: Sage Publications, 1975), p. 95.

model of process focuses upon the explanation of public policy (output) formation in terms of the influence of inputs from the political environment. Inputs, in this model, are usually conceptualized as demands or supports on the policy-makers. Outputs are then the "authoritative allocations of values" which result from the conversion of these inputs into specific governmental acts. Usually, these outputs have been measured by allocations of dollar expenditures, although manpower, physical facilities, political symbols, and other factors of production are also commonly utilized.[60]

The economic model of product begins where the systems model of process ends. The outputs of the systems model, most often measured by public expenditures, become the inputs of the economic model. In the economic model, government funds, personnel, and facilities are converted into services such as street maintenance, fire control, or law enforcement.[61] A similar approach, termed "policy impact research" by Cook and Scioli and "evaluation research" by Carol Weiss,[62] goes one step beyond the economic model by

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[60]See Thomas R. Dye, Politics, Economics, and the Public (Chicago: Rand-McNally, 1966), for an example of research which relates political system characteristics to policy outputs (Dye terms them "outcomes").

[61]See Donald M. Fisk and Richard E. Winnie, "Output Measurement in Urban Government: Current Status and Likely Prospects," Social Science Quarterly 54 (March 1974): 725-728.

[62]Cook and Scioli, p. 95; and Weiss, pp. 1-2.

defining outputs in terms of the impacts or effects of government services on organizational goals. Figure 3 outlines the sequential nature of these models and emphasizes their interlocking and overlapping conceptualization.

The criterion of efficiency is applicable to each of the three output types (process, product, and impact) identified in Figure 3 since the "efficiency imperative" of any rational bureaucracy requires the constant minimization of system inputs and the maximization of system outputs, regardless of the system level under consideration.[63] Efficiency, for the purposes of this study, is defined as the ratio between public expenditures and effort, as outlined in Figure 4. This approach focuses upon the economic model of product in a slightly modified form. As Figure 4 shows, inputs continue to be defined in "allocative" terms and measured by expenditure patterns. Outputs, or public service levels, are measured, however, not as effects on the environment, but as "efforts" by the policy-implementing structure at the point where the government and the "community" (the environment for a particular agency) interface.[64] Approaching outputs as "the transformation which occurs when dollars, manpower, and other factors of production are combined in an effort 'to

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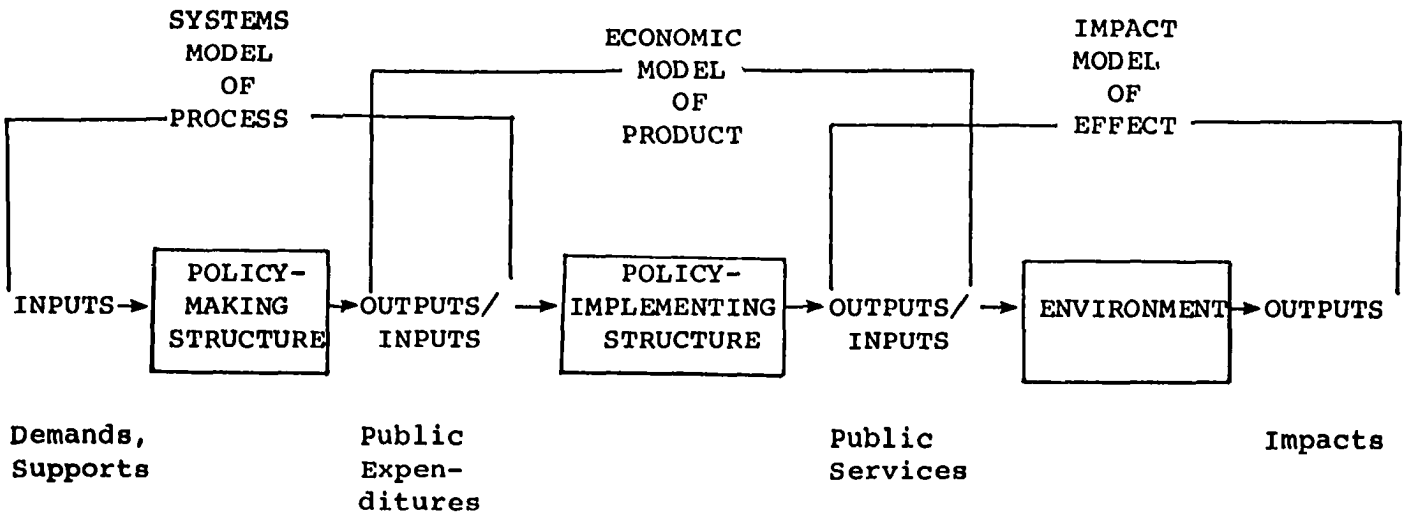
[63]William G. Scott and Terence R. Mitchell, Organization Theory: A Structural and Behavioral Analysis (Homewood: Dorsey Press, 1972), p. 5.

[64]Jones, pp. 5-6.

FIGURE 3

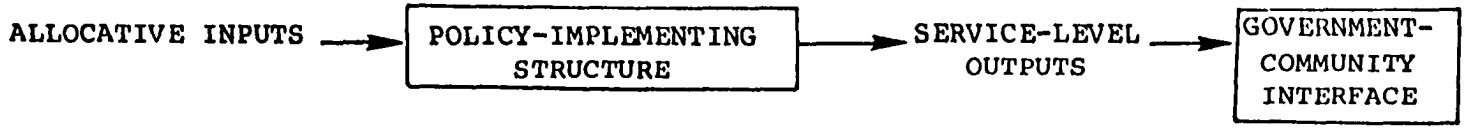
THREE MODELS OF PUBLIC POLICY OUTPUTS*



*This is an adaptation of Bryan D. Jones' illustration of the Systems-Process-Economic Product (SPEP) Model of Public Policy in his "Distributional Considerations in Models of Government Service Provision," a paper prepared for delivery at the Annual Meeting of the Southwest Political Science Association, Dallas, April 7-10, 1976, p. 9.

FIGURE 4

A MODEL OF EFFICIENT AND EQUITABLE BUREAUCRACY*



Expenditure Patterns

Effort Indicators

Equity Indicators

Efficiency = Expenditures/Effort; Equity = Equal Distribution of Effort

*This is an adaptation of Bryan D. Jones' illustration of the Two-Stage Production Process for Governmental Services in his "Distributional Considerations in Models of Government Service Provision," a paper prepared for delivery at the Annual Meeting of the Southwest Political Science Association, Dallas, April 7-10, 1976, p. 10.

produce something,'"[65] focuses efficiency considerations on the performance of various services and production of various products without examining whether these services or products affect the achievement of agency goals or objectives. The empirical question of effect is thus left to further analysis (in the evaluation of outcome effectiveness).[66]

The choice of bureaucratic effort as the focus of efficiency and equity analysis is based upon the premise that government agencies have actual control only over these "intermediate" outputs and not over "impact" outputs which may be influenced by a range of extraneous variables. Thus, it is reasonable to "regard indicators of the nature and intensity of government-community contact as what government produces, the level of services provided."[67] Moreover, the use of effort measures facilitates the development of compatible definitions of bureaucratic output equity. For this study, equity refers to the equal distribution of bureaucratic efforts at the point of government-community interface.

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[65]Elinor Ostrom, "Exclusion, Choice and Divisibility: Factors Affecting the Measurement of Urban Agency Output and Impact," Social Science Quarterly 54 (March 1974): 691 (emphasis mine).

[66]See Fried, p. 69, where the author notes that dissociating efficiency from effectiveness in this manner emphasizes efficiency measures of outputs that are really inputs (to the impact model of effect).

[67]Jones, p. 10. See also Bryan D. Jones and Clifford Kaufman, "The Distribution of Urban Public Services," Administration and Society 6 (1974): 337-360.

Distribution of bureaucratic effort is important to the policy analyst for at least three reasons: (1) there is a powerful symbolic component to governmental distribution efforts; (2) some governmental efforts have direct relationships to other output indicators; and (3) efforts, as noted above, are what governments really produce, and their distribution is itself significant.[68]

Effectiveness

The application of the criterion of effectiveness to policy outcomes, variously termed "impact analysis," "evaluation research," or "program evaluation," moves beyond consideration of governmental efforts to examine the impact or effect of such efforts on the target community. This study defines effectiveness as the impact of effort, including distributional factors, which corresponds to the agency's goals and objectives. Figure 5 graphically illustrates the relationships between service-levels (efforts), the government-community interface (equitable distribution), and policy impacts (effects). This is a variation of the impact model of effect outlined in Figure 3. According to this model, the impact of governmental effort (effectiveness) is assessed according to the degree to which an agency realizes both its stated and hidden objectives. Since a working assumption of this study is that the complexity of the energy policy-making

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[68]Jones, p. 12.

FIGURE 5

A MODEL OF EFFECTIVE BUREAUCRACY*



Effort Indicators | Equity Indicators | Effectiveness Indicators

Effectiveness = Impact (Including Equitable Distribution) of Effort

*This is a modification of Bryan D. Jones' illustration of the Two-Stage Production Process for Governmental Services in his "Distributional Considerations in Models of Government Service Provision," a paper prepared for delivery at the 1976 Annual Meeting of the Southwest Political Science Association, Dallas, April 7-10, 1976, p. 10.

system and the paucity of data makes the use of causal analysis techniques impossible in this case, there will be no attempt to specify the relationship between particular independent variables (efforts) and the dependent variables (goal attainment). Instead, the evaluation of outcome effectiveness will focus upon the changes which have taken place in the social conditions which form the FEA's raison d'etre. While the shortcomings of this approach are substantial--any number of additional variables can impinge upon a regulatory agency's goal attainment--this mode of analysis follows a rather extensive research tradition in political science. More importantly, there have been a number of analyses of the energy policy-making activities of the FEA which have at least implicitly utilized this approach.[69] Thus, defining effectiveness in terms of agency goal attainment offers some special advantages for theory-building and the replication of research.

Responsiveness

For the purposes of this study, responsiveness is defined in terms of the correspondence between agency

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[69]See Richard B. Mancke, Performance of the Federal Energy Office (Washington: American Enterprise Institute for Public Policy Research, 1975); Craig A. Wagner, "National Energy Goals and FEA's Mandatory Crude Oil Allocation Program," Virginia Law Review 61 (May 1975): 903-937; and Paul MacAvoy, Bruce E. Stangle, and Jonathan B. Tepper, "The Federal Energy Office as Regulator of the Energy Crisis," Technology Review 77 (May 1975): 39-45.

decisions and both public opinion preferences and interest group demands. Figure 6 illustrates a model of responsive bureaucracy, as the term is utilized for this study. According to this model, once policies have been articulated by decision-makers, implemented through bureaucratic effort, and have had some impact on the environment of an agency, there is almost always an attempt to secure feedback from these outcomes in order to enable the organization to adapt its behavior to changing circumstances.[70] When policy impacts produce responses, of either a favorable or negative nature, from individuals or groups in the agency's environment, the criterion of responsiveness can be used to assess the degree to which the bureaucracy is able to match its decisions to the policy preferences of the community.[71] Two concepts are central to this assessment of the feedback process. First, the response of the person or group toward whom policies have been directed must be manifested in the form of new demands or supports on the agency. Second, the bureaucracy must correctly perceive these pressures and act in a manner

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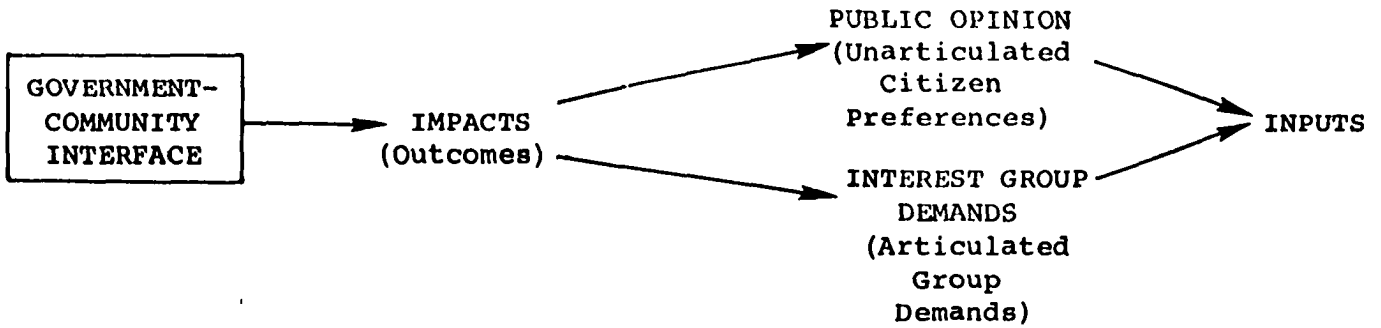
[70]See Edmund P. Fowler and Robert L. Lineberry, "Patterns of Feedback in City Politics," in David R. Morgan and Samuel A. Kirkpatrick, eds., Urban Political Analysis (New York: Free Press, 1972), pp. 361-362.

[71]Francis E. Rourke, Bureaucracy, Politics, and Public Policy (Boston: Little, Brown, 1959), pp. 3-7.

FIGURE 6

A MODEL OF RESPONSIVE BUREAUCRACY*



*This is a modification of the conceptual framework outlined in Russell W. Getter and Paul D. Schumaker, "Political Structure and Policy Responsiveness in the Distribution of Revenue Sharing Funds in 51 American Cities," a paper prepared for delivery at the 1976 Annual Meeting of the Southwestern Political Science Association, Dallas, April 7-10, 1976, p. 4.

responsive to them.[72] Thus, "the test of a responsive administrative system in a democracy is how well national and community preferences, and the policies and actions of the bureaucratic agencies, suit each other."[73]

Responsibility

As important as the manner in which a bureaucracy is responsive to information emanating from its environment is the way in which these external influences are combined with internal organizational characteristics and transformed into sources of bureaucratic power and mechanisms of bureaucratic control. Both general public opinion and specific interest group requests, for example, narrow into "inputs" into the bureaucracy when they are expressed as either demands or supports for particular policies.[74] When combined with such factors as bureaucratic professionalism, special skills, or technological expertise, these inputs determine the extent to which an agency possesses political power and the techniques by which society can control agency actions.

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[72]Bryan D. Jones, "Competitiveness, Role Orientations, and Legislative Responsiveness," Journal of Politics 35 (November 1973): 925. See also M. Kent Jennings and Harmon Ziegler, "Response Styles and Politics: The Case of School Boards," Midwest Journal of Political Science 15 (May 1971): 294.

[73]Fried, p. 49.

[74]See David R. Morgan and Samuel A. Kirkpatrick, "Inputs of the Urban Political System," in Morgan and Kirkpatrick, pp. 89-90.

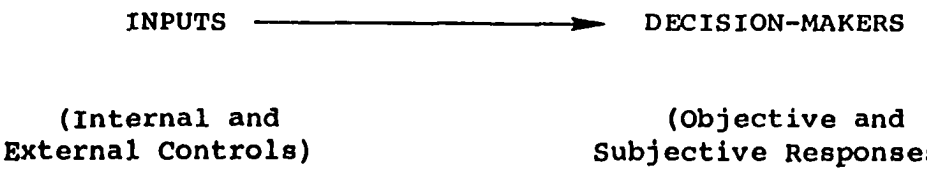
Administrative responsibility, for this study, is defined as the objective and subjective responses of bureaucrats to the combination of external and internal controls which limit bureaucratic power and performance. This concept is illustrated in Figure 7. It should be noted that this model provides for the analysis of the sources of bureaucratic power (e.g., mobilization of constituencies, or administrative expertise) within the analysis of controls; supports are assumed to be irrelevant outside a model which analyzes demands. That is, in the evaluation of internal controls, for example, the focus is upon the degree to which a source of power (expertise) is limited by and balanced with a source of control (professionalism), rather than focusing upon an independent evaluation of each factor.

A Model for the Evaluation of Public Policy

The operationalization of the evaluative criteria used in this study results in more specific definitions than those outlined earlier in the general framework for analysis (Figure 1). Figure 8 illustrates the manner in which these operational concepts have been combined to create a model for analyzing FEA performance. In this illustration, the criteria are presented as components of a policy system (the arrows indicate sequential, not causal, relationships) and the activities necessary for their measurement are made specific. Thus, the analysis of FEA decision-maker

FIGURE 7

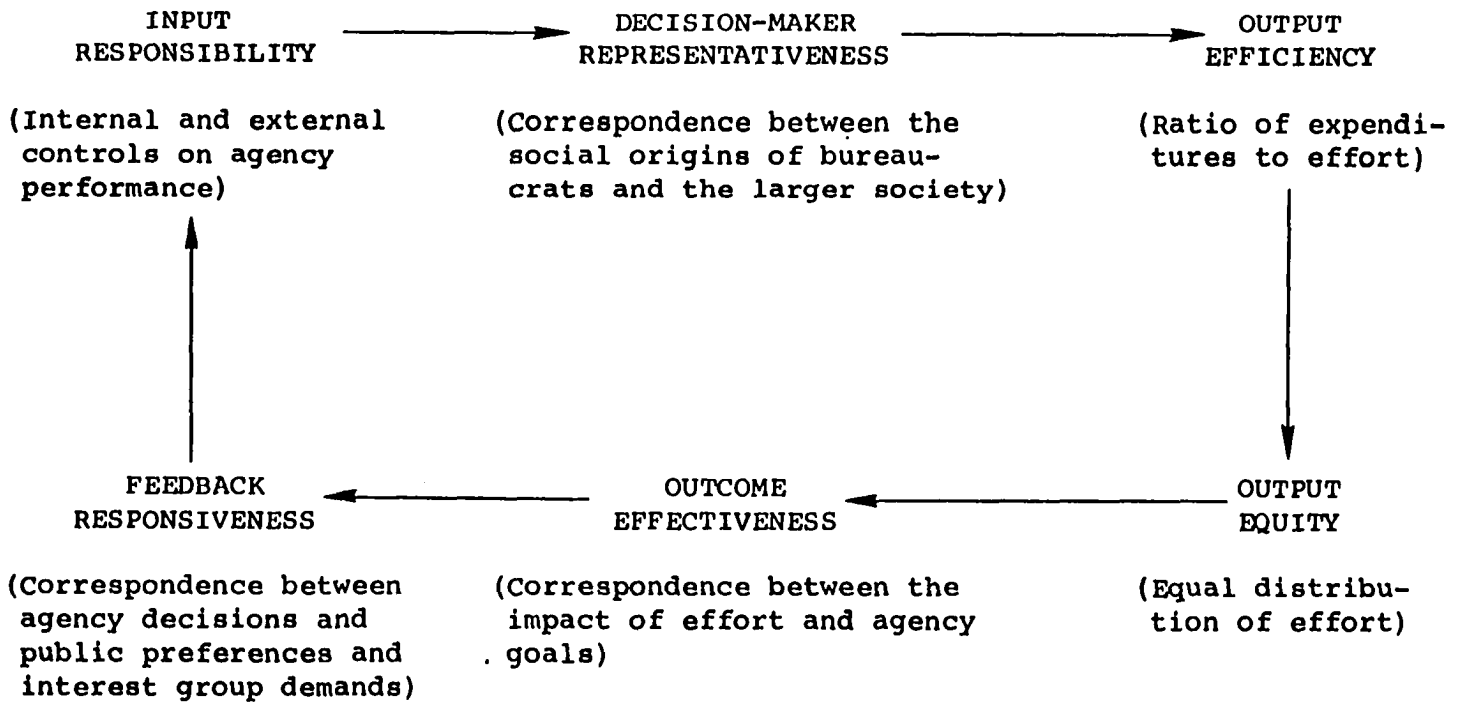
A MODEL OF RESPONSIBLE BUREAUCRACY*



*This is an illustration of the concepts discussed in Norman J. Powell, Responsible Public Bureaucracy in the United States (Boston: Allyn and Bacon, 1967), pp. 46-117; Frederick Mosher, Democracy and the Public Service (New York: Oxford University Press, 1968), pp. 7-9; and Lewis C. Mainzer, Political Bureaucracy (Glenview, Ill.: Scott, Foresman, 1973), pp. 11-14.

FIGURE 8

A MODEL FOR THE EVALUATION OF PUBLIC POLICY



representativeness (Chapter VI) will focus only upon the sociological correspondence of agency personnel to the origins of society (measured in terms of race and sex). A linkage between these variables and active clientele representation is assumed, but not demonstrated. In Chapter VII, efficiency measurement has been narrowed from the more general ratio between resources and outputs to a consideration of the expenditure-effort ratio. Equity then becomes the equal distribution of this agency effort. The focus for the evaluation of FEA efficiency and equity is the agency's compliance and enforcement effort.

Outcome effectiveness (evaluated in Chapter VIII) measures the correspondence between the impact of agency effort and organizational goals and objectives. Three sets of FEA goals will be analyzed: executive, congressional, and bureaucratic. Measurement of feedback responsiveness--the correspondence between agency decisions and public opinion and interest group demands--uses national survey data and information from the FEA's exceptions and appeals programs as a basis for Chapter IX. And evaluation of FEA's input responsibility is based on the agency's responses to internal and external controls which limit performance (Chapter X).

In each chapter, the evaluation of FEA performance will be preceded by a statement of research hypotheses drawn from the existing studies of the agency's behavior. These

hypotheses will then be tested in the course of the policy evaluation.

Summary

The design of this study draws heavily upon the research tradition, termed institutional policy analysis, which investigates the behavior patterns of formal, governmental organizations. It takes a systems analysis approach to the study of bureaucracy both because of the extensive literature which defines policy-making structures in systems terms and because of the conceptual clarity of the elements of systems theory. The choice of this approach signals some basic assumptions about the nature of politics. Primarily, this study is based on the assumption that an analysis of bureaucratic behavior must consider the entire policy process rather than any single process component. Further, this design is based on a very broad concept of bureaucratic performance--one which includes inputs and the conversion process as well as the "payoff" of administrative activities.

The nature of the design--a case study--is well suited to meet the dual research purposes of providing a descriptive "feel" for the energy policy-making area and evaluating FEA performance. Through this format it is hoped that this study can make a contribution both to empirical theory-building in the field of public policy-making and to substantive knowledge of the workings of the energy policy system.

CHAPTER III

THE ENERGY POLICY-MAKING SYSTEM

Introduction[1]

A grasp of the nature of the links between the institutions and processes of the "energy system" is basic to an understanding of the role of the Federal Energy Administration in energy policy-making. Only recently viewed in terms of an organized policy system, the large number of participants with an interest in energy policy have had a range of overlapping roles, pursued often inconsistent goals and objectives, and been active in resolving multifaceted issues in a variety of political situations. In fact, rather than a comprehensive, homogeneous framework, for the most part what exists is an interlocking set of fuel policy subsystems organized around the specific politics of coal, oil, natural gas, electricity, and nuclear energy. Of course, this segmentation of energy policy-making is not an absolute--there is considerable "spillover" in terms of participants, roles, goals and objectives, and policy issues

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[1]This chapter is based on research undertaken by the Science and Public Policy Program for the National Science Foundation under Grant SIA74-17866. See Don E. Kash, et al., Our Energy Future (Norman: University of Oklahoma Press, 1976).

from one subsystem to another. This complex system forms the policy environment within which the Federal Energy Administration must perform; the characteristics of this system have shaped every action of the new agency since its creation. The purpose of this chapter is to outline this system in terms of its historical development, its most significant participants, and the policy subsystems within which these participants interact.

History of the Energy Policy System

The history of energy policy-making in this country may be seen as an evolution through three distinct, but overlapping periods. The first period, the nineteenth century, was characterized by abundant resources and little competition between private developers. The second historical period, most of the twentieth century, saw the federal government begin to allocate resources among a pluralistic set of interests competing for the right to develop them. Period three, which began in the 1960s, has been characterized by the emergence of new policy-making participants, who broaden the range of viewpoints that must be considered in energy resource development.

Until very recently, energy resources were abundant enough to allow the evolution of piecemeal, ad hoc energy policy-making processes which were fragmented in theory and wasteful in practice. In the period prior to the turn of the

last century, a laissez-faire tradition dominated domestic resource allocation and development. During this period, except for a few natural monopolies, government generally adopted a "hands off" attitude toward private sector energy activities. Within the public sector, a "pork barrel" or "distributive" process governed energy decision-making. Central to both public and private actions was the assumption that energy resources were almost infinite in character.[2] Moreover, agents of the government, both executive and legislative, were assumed to have almost unlimited authority to disburse goods held in the public trust, including energy resources. Guided by this perception of the "free and open" nature of energy resource development, extraction processes were codified, energy prices were subsidized, and energy consumption was encouraged without consideration of environmental costs.[3] As a result of this and the federal policy of viewing public land distribution as a source of revenue, public resources rapidly passed into private hands through preemption sales, homestead allowances, and grants to the railroads. The distributive process also provided the framework for later uses of public energy resources, primarily

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[2]Robert S. Gilmour, "Political Barriers to a National Policy," Academy of Political Science, Proceedings 31 (December 1973): 184-186.

[3]John V. Krutilla and R. Talbot Page, "Towards a Responsible Energy Policy," Policy Analysis 1 (Winter 1975): 78.

through location or leasing laws. Perhaps more significantly, it was during this period that the treatment of each of the abundant energy sources as an independent entity by the government and the energy industries became commonplace.

Succeeding, but not eliminating, the processes of this early period, patterns of "pluralism"--the representation of a wide variety of value preferences and beliefs in the policy system--began to dominate energy decision-making at the beginning of the twentieth century. With the growing realization that energy resources were indeed finite, government could no longer pursue an energy policy which consisted mainly of responses to individual private interests. Rather, its role increasingly became one which required allocation and compromises among multiple interests.[4] As the number of participants grew, pluralism was reflected in national debates such as the disputes over regional versus national allocation of scarce resources and the conservation-production issue.

Although the pluralistic process clearly continues to dominate the making of today's energy decisions, since the 1960s "veto" politics have modified its impact. Because decision-making in a pluralistic society requires compromises in the allocation of resources, and because the energy system

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[4]Gilmour, pp. 186-188. See also William B. Lord and Maurice L. Warner, "Aggregates and Externalities: Information Needs for Public Natural Resource Decision-Making," Natural Resources Journal 13 (January 1973): 108.

is characterized by a limited amount of resources to allocate, there has always been a danger of stalemates. Widened participation by strong new political interests have often resulted in the use of the "environmental veto" to block energy actions in the 1970s.

Individually, and in combination, these three policy processes (distributive, pluralistic, and veto) have molded the energy system. The present system represents a complex mixture of the institutions and procedures which evolved in each of these periods. While energy was still abundant, the decision-making system, though fragmented, was characterized by both a high degree of stability and a clear differentiation between the policy roles of the public and private sectors. That is, as long as competition was minimal among private developers, government intervention was seldom necessary. In those policy areas which did require public-private interaction, the slow rate of development allowed time for mutually acceptable rules to be promulgated and modified. In this situation, each sector could predict with a fairly high degree of certainty the future actions of the other. Now, resource scarcity, spotlighted by the Arab boycott, has contributed to the breakdown of system stability. The result has been a reduction in the degree of certainty which can be attached to any domestic energy policy. In addition, international energy policy-making has become less predictable, ending 25 years of relative stability. Thus, decisions

have become clouded by uncertainty.[5] In turn, this uncertainty has triggered a major debate over public versus private solutions to energy problems. Both governmental and industrial roles in the energy system have become more complex and less clearly delineated. Decisions in both sectors have been made in an incremental manner around specific resources or functions. One result has been a proliferation of government agencies with major energy policy roles and an ever more complex set of overlapping administrative and political jurisdictions. Another has been the creation of a multitude of industry associations and energy-related interest groups. The following sections focus upon the range of public (federal, state, and local governments) and private (industry and other interest groups) participants in the modern energy policy-making system.

Participants in the Energy Policy System

At each level of government and within every sector of industry, new energy parties-at-interest have been created and old energy participants have been modified. This discussion briefly outlines the roles of government, energy companies, and environmental interest groups in energy development.

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[5]Kenneth E. Boulding, "The Social System and the Energy Crisis," Science 184 (April 19, 1974): 255.

The Federal Government

Historically, the federal government has acted both as an external "overseer" and as an active participant in the energy system.[6] In its oversight role, government has sought to coordinate energy decisions with other relevant policy arenas (such as the development of environmental standards), coordinate energy goals with broader national goals (for example, national defense and international relations objectives), and balance the social costs and benefits of energy policies (as is the case with the dual issues of inflation and unemployment). This role calls for the federal government to intervene in the energy policy system to correct policy failures.

The role of the federal government is quite different when it is an owner, producer, or consumer of energy. In these cases, the federal government is an "economic actor" performing many of the same functions as private participants. Most government participation of this sort results from its extensive resource holdings. The federal resource base includes over 50 percent of the total fossil energy resources in the U.S. (37 percent of the oil, 43 percent of the gas, 50 percent of the coal, and 81 percent of the oil shale) and approximately 50 percent of the geothermal and uranium

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[6] J. Herbert Holloman, et al., Energy Research and Development (Cambridge: Ballinger Publishers, 1975), pp. 11-14.

resources.[7] For the most part, the responsible federal officials (such as the Secretary of the Interior) have wide discretionary authority in managing these resources.[8]

The federal government has also become a major energy producer, through the creation of such electric power agencies as the Tennessee Valley Authority and through the development of nuclear facilities. Finally, the federal government is a large consumer of energy. The largest federal consumer is the Defense Department, for which special energy reserves are maintained.

Prior to 1973, an overall federal energy policy had not been articulated. After the energy crisis, however, the executive and legislative branches began to focus their efforts on defining some desired energy policy outcomes. In 1973, the Administration defined an adequate and dependable supply of energy as the general policy goal. According to former Interior Secretary Rogers Morton, the plan was "to meet the nation's essential needs and assure its prosperity and security in ways which are consistent with natural

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[7]Energy Policy Project of the Ford Foundation, A Time to Choose (Cambridge: Ballinger Publishers, 1974), p. 271; and U.S. Senate, Committee on Interior and Insular Affairs, Federal Leasing and Disposal Policies (Washington, D.C.: Government Printing Office, 1972), p. 197.

[8]See Carl McFarland, "The Unique Role of Discretion in Public Land Law," Rocky Mountain Mineral Law Institute 16 (1970): 35-58.

environmental and social objectives."[9] More specifically, Morton identified Administration energy policy objectives to include:

1. Increasing domestic production of all forms of energy.
2. Conserving energy more effectively.
3. Striving to meet energy needs at the lowest cost consistent with the protection of both the national security and the natural environment.
4. Reducing excessive regulatory and administrative impediments which have delayed or prevented construction of energy-producing facilities.
5. Acting in concert with other nations to conduct research in the energy field and to find ways to prevent serious energy shortages.
6. Applying scientific and technological capabilities, both public and private, toward utilization of our current energy resources more wisely and developing new forms of energy more rapidly.[10]

The first goal has, until very recently, received the primary emphasis. Administration statements have stressed the need for reducing energy imports, ending "vulnerability to economic disruption" by foreign energy suppliers, and providing a greater share of the energy needs of the "Free World" from U.S. supplies.[11]

In the formulation of these objectives, the Administration has placed heavy emphasis upon the operation of a market device within the energy system. Since energy became

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[9]Rogers C. B. Morton, "The Nixon Administration Energy Policy," Annals of the American Academy of Political and Social Science 410 (November 1973): 66.

[10]Morton, p. 67.

[11]"President Gerald Ford's State of the Union Address to the Ninety-Fourth Congress," Energy Users Report 21 (January 15, 1975), p. 1051.

an important issue in federal executive-legislative relations in the early 1970s, a central point on which the Democrat-controlled Congress has differed from the two Republican Presidents has been the degree to which a "free market" economy is capable of attaining national energy goals. The executive position has essentially been that "the competitive pressures of the free enterprise system could do a better job than the federal bureaucracy of ensuring sufficient energy supplies at equitable prices,"[12] while the congressional leadership has questioned the very existence of such a free market system in, at least, the oil and gas industries.

Thus, while the Congress has generally accepted the goals outlined by the executive branch, it has seriously disagreed with many of the means (public versus private) and methods (market versus government intervention) by which the objectives should be achieved. For example, the Congress has opposed outright deregulation of oil and gas as a means of increasing domestic energy supply. Similarly, presidential plans to restrain energy demand through increased prices have been countered by congressional proposals for mandatory conservation measures and tax incentives for specific conservation targets. Finally, Congress has disagreed with the Administration on the priorities assigned to energy goals.

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[12]Joel Havemann, "Crisis Tightens Control of U.S. Energy Production," National Journal Reports 7 (April 26, 1975): 619.

In general, the Democrat majority has attached more importance to domestic economic recovery than to the Administration's desire to reduce dependence upon foreign oil.[13]

The policy compromises which have resulted from these divergent viewpoints have focused largely upon the organizational modifications necessary to deal effectively with energy policy goals. Reorganization proposals since the early 1970s have had two objectives: the consolidation of institutions in order to increase domestic energy production (primarily through better coordination or information-gathering activities), and the elimination of constraints on production (usually through the elimination of regulatory functions). Even before the energy crisis, a concerted effort had been made to consolidate energy functions. As early as 1971, the President's Advisory Council on Executive Organization recommended the establishment of a Department of Natural Resources as a solution to the problems of administrative fragmentation. In 1973, the Administration proposed a reorganization plan which would have created a Department of Energy and Natural Resources (DENR), an Energy Research and Development Administration (ERDA), and a Nuclear Energy Commission, to be formed from elements of the Interior

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[13]Francis A. Gulick, "Energy-Related Legislation Highlights of the 93rd Congress and a Comparison of Three Energy Plans Before the 94th Congress," Public Administration Review 35 (July/August 1975): 349-354.

and Agriculture Departments, Atomic Energy Commission (AEC), and other agencies.[14] A major aim of this proposal was an attempt to separate energy functions from other governmental activities. After the Congress refused to approve this plan, the temporary Federal Energy Office (FEO) was created by executive order, pending legislation to establish the more comprehensive Federal Energy Administration.[15] Following the passage of the Federal Energy Administration Act in May 1974, the Energy Reorganization Act of October 1974, dissolved the AEC and created ERDA and the Nuclear Regulatory Commission (NRC).

Congressional reaction to the recent reorganization efforts in the energy system has been mixed. Proposals to legislate emergency energy powers to the President were delayed, primarily because of controversy over provisions restricting windfall profits for the petroleum industry. Similarly, impasses have developed over legislation which would alter industry tax structures, require information disclosures by the private sector, and bring the federal government into a more direct role in the exploration for and production of domestic energy.

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[14]David H. Davis, Energy Politics (New York: St. Martin's Press, 1974), pp. 185-187.

[15]Frank J. Fowlkes and Joel Havemann, "President Forms Federal Energy Body With Broad Regulation, Price Control Powers," National Journal Reports 5 (December 8, 1973): 1830-1838.

U.S. foreign policy responses have also met with only limited success. The focus of recent American efforts in the international energy policy-making arena has been to press for the cooperation of major oil-importing nations in developing programs to reduce consumption, generate new energy resources, and assure international financial stability. The American government has advanced the position that only after such programs have been agreed upon by consuming nations can constructive negotiations with the oil producing nations begin. One concrete result of this policy has been the creation of the International Energy Agency (as an autonomous organization under the Organization for Economic Cooperation and Development) to coordinate reactions to any future disruption of energy supplies by the Organization of Petroleum Exporting Countries. Other U.S. actions have included modifications in the International Monetary Fund rules to "reshuffle" surpluses of export earnings by oil producing nations, and participation in cooperative energy supply studies, such as those sponsored by the European Economic Community.[16]

State Governments

The range of state agencies participating in the energy system has been increasing, but their roles continue

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[16]Joseph A. Yager and Eleanor B. Steinberg, Energy and U.S. Foreign Policy (Cambridge: Ballinger Publishers, 1974), pp. 389-416.

to be limited. At the time of the 1973 energy crisis, state government participation in energy policy-making was severely constrained by the inability of state authorities to deal with energy supply markets which were national or international in scope, the inadequacy of traditional quasi-judicial state regulatory agencies to cope with complex, non-legal, energy problems, and the absence of effective energy policy coordination mechanisms between federal and state governments and among the states themselves.[17] Although the scope of energy supply markets and the coordination of various governmental bodies remain problems to which states have only begun to respond, some progress has been made in developing more adequate state regulatory organizations. At least forty-two new energy councils, committees and task forces had been created at the state level by 1974.[18]

Historically, states have exercised extensive authority over policy decisions in such areas as the regulation of facility siting and licensing, the availability of state-owned resources for development, and the establishment of

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[17]Joseph C. Swidler, "The Challenge to State Regulation Agencies: The Experience of New York State," Annals of the American Academy of Political and Social Science 410 (November 1973): 106-119. See also Neely Gardner, "California Jousts With the Energy Crisis," Public Administration Review 35 (July/August 1975): 336.

[18]Luther J. Carter, "Florida: An Energy Policy Emerges in a Growth State," Science 184 (April 19, 1974): 302.

prices and rates of production for intrastate energy resources. The opportunities for greater state participation in the energy system have, in many cases, been enhanced by the energy crisis. Under general federal guidelines, states have been delegated important responsibilities for formulating and adopting water and air quality criteria to meet federal requirements, collecting data to form the basis for petroleum allocation regulations, and enforcing conservation restrictions such as the 55-mile-per-hour speed limit. Moreover, as new energy facilities become larger, they often require special siting procedures which may involve several states or even several regions.[19]

As federal policies have increasingly encroached upon state authority in the energy field, however, conflicts have become serious policy constraints. Most notable in this regard are the disputes over strip mining for Western coal and offshore oil production in the Atlantic. In the case of Western coal development, a number of states have acted to pass reclamation standards more stringent than the existing federal laws, while the attempts to develop offshore oil resources have met with outright resistance from states concerned with the hazards of environmental disruption.[20]

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[19]William O. Doub, Federal Energy Regulation: An Organizational Study (Washington, D.C.: Government Printing Office, 1974), p. 19.

[20]See Arthur J. Magida, "Coastal States Seek Changes in OCS Leasing Policy," National Journal Reports 7 (February 15, 1975): 229-239.

Local Governments

If state governments have been generally ineffective in dealing with many energy problems, local governments have been overwhelmed by them.[21] While local administration of zoning ordinances, building codes, and health standards can have major impacts on energy development, the importance of these powers is often not fully appreciated.[22] The limitations of existing local institutions are in part a result of a lack of technical expertise, inadequate data bases, and a long tradition of decision-making which stressed accommodation with and wide discretionary authority for the private sector.

Because localities have continued to "decide limited issues, play a reactive role only, and make policy by default,"[23] they have increasingly found themselves following the leadership of federal, or at times state officials in implementing programs such as the allocation of fuels, which are critical for the administration of municipalities. In fact, local governments have often favored federal leadership as a means of circumventing state governments which they view as unresponsive to their needs.

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[21]Gardner, p. 336.

[22]Joan B. Aron, "Decision Making in Energy Supply at the Metropolitan Level: A Study of the New York Area," Public Administration Review 35 (July/August 1975): 344.

[23]Aron, p. 344. See also Marc Roberts, "Is There an Energy Crisis?" Public Interest 31 (Spring 1973): 238.

Examples of federal-local conflicts over energy policy are, however, easy to find. Those national energy policies which have provoked the most local resistance have been the mandatory fuel allocation program and the proposed leasing of offshore lands for petroleum exploration and development. In the case of fuel allocation, city governments have pressed for increased supplies by lobbying nationally through organizations such as the League of Cities and the National Conference of Mayors.

The offshore leasing plans have provoked even stronger responses; for example, both city and county governments in New Jersey have filed lawsuits to block implementation of the Interior Department's development programs.[24] Significantly, these local actions preceded any opposition by the state governments. Such responses are typical of the growing pressures being brought to bear on local governments to respond to new citizens' groups and consumer advocates which operate through ad hoc coalitions such as the Georgia Power Project (in the city of Atlanta) or Strike Committee on Philadelphia Electric Company (SCOPE) to influence local energy policy.[25]

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[24]"Communities File OCS Suits," National Journal Reports 7 (February 15, 1975): 238.

[25]James Ridgeway and Bettina Conner, "Toward Public Energy," Current 72 (April 1975): 11.

The Energy Industry

The most significant change in the energy industry in recent years has been the growth of conglomerates which own multiple resources. Especially important have been the acquisitions over the last decade by the oil industry of coal and uranium resources. Entry by these new "energy companies" into multiple fuel areas has generally been accomplished by acquiring energy reserves or production facilities, or through joint-venture agreements.[26]

These tendencies toward integration, coupled with recent (1973-1974) increases in energy prices and industry profits (particularly in some sectors of the oil industry), have created a political issue over the role of energy firms in public policy. Questions have been raised as to competitiveness, attentiveness to the "public interest," and the type and degree of government control over the energy industry. One view of the industry argues that "present market structures are not monopolisitic,"[27] and that to blame the energy companies alone for the energy crisis would be a "naive exaggeration" of the industry's effectiveness as a political pressure group.[28] The Ford Foundation's Energy

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[26]Thomas D. Duchesneau, Competition in the U.S. Energy Industry (Cambridge: Ballinger Publishers, 1975), p. 7.

[27]Duchesneau, p. 178.

[28]Richard L. Gordon, "Mythology and Reality in Energy Policy," Energy Policy 2 (September 1974): 195.

Policy Project, however, notes that the industry wields "exceptional political power" in the pursuit of goals which are often not congruent with the public interest.[29]

Environmental Interest Groups

Environmental interest groups represent the best known of the new participants in the energy system. In terms of organization, these groups often do not have professional staffing or large memberships. Nor do they usually control sizeable budgets or other economic or political resources. Of the more than 3,000 organizations in the U.S. concerned with the environment/energy interface, only a few of the 250 national and regional groups have had the resources to undertake major policy initiatives. For example, only about twenty environmental protection groups maintain offices in Washington,[30] and even fewer organizations have specifically focused their activities on the environmental aspects of energy policy.

The most influential environmental groups are the general public, or "citizens'," groups, including the Sierra Club, Audubon Society, Friends of the Earth, and Environmental Defense Fund, which have dedicated themselves to the achievement of such broad sociopolitical goals as the

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[29]Energy Policy Project, p. 230.

[30]S. David Freeman, Energy: The New Era (New York: Random House, 1974), p. 191.

"restoration and preservation of the earth's resources."[31] These groups have, for the most part, moved beyond a traditional emphasis on resource conservation to focus on the more general problems associated with the environment, both as a source of raw materials needed to generate energy and as a depository of the pollution resulting from the production and use of energy. Increasingly citizens' groups have come to rely upon the judicial system as a secondary "fallback" mechanism when neither the economic market nor the legislative-administrative political system have reacted to the degradation of the environment. As Michael McCloskey, conservation director of the Sierra Club, characterized this activist strategy, "We will sue and sue and sue."[32] Examples of the legal actions of citizens' groups are the suits against Consolidated Edison's planned pump-storage electric generation plant at the Storm King Mountain preserve (Scenic Hudson vs. Federal Power Commission, 1965) and against Environmental Protection Agency orders to relax air quality standards (Sierra Club vs. Ruckelshaus, 1970).

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[31]The Onyx Group, Environment U.S.A. (New York: R. R. Bowler, 1974), p. 80.

[32]Gerald Garvey, "Environmentalism Versus Energy Development: The Constitutional Background to Environmental Administration," Public Administration Review 35 (July/August 1975): 328-330. See also Walter A. Rosenbaum, The Politics of Environmental Concern (New York: Praeger, 1973).

The Energy Policy Subsystems

The preceding discussion focused upon the changing character of energy organizations, policies, and participants. All of these changes have taken place in a set of policy subsystems which have developed around coal, oil, natural gas, electricity, and nuclear energy. The following section sketches the interactions of government, industry, and labor in each of these fuel subsystems.

The Coal Policy Subsystem

Of all the energy resources, coal has been the least subject to governmental control and has the fewest links to government agencies. Although the Interior Department retains a major role in making federally-owned coal resources available for development, the major governmental interests in the coal subsystem are focused on environmental, health, and safety programs. Environmental issues hinge on two issues: surface mining and air pollution. Enforcement of strip-mining and reclamation regulations is divided between Interior and the individual state governments. Air quality standards regarding coal combustion are promulgated by the Environmental Protection Agency and implemented by the states. Federal control over the health and safety aspects of coal development has been more extensive--the Bureau of Mines and

the Mining Enforcement and Safety Administration enforce standards in this area.[33]

The most striking characteristic of the modern coal industry has been the degree to which producers are increasingly owned by corporations whose primary business is not coal. In 1973, two of the three largest coal producers, five of the top ten, and seven of the top fifteen were owned by oil conglomerates.[34] This infusion of capital and expertise from outside the traditional coal industry has slowly begun to alter the status of coal companies as the least efficiently organized, economically poorest, and "worst functioning industry in the country."[35] Handicapped by recent decreases in worker productivity (at least in part as a result of the passage of the 1969 Coal Mine Health and Safety Act), disputes over the environmental consequences of strip mining, and labor problems with the United Mine Workers (UMW), the coal industry has never been capable of the advertising, lobbying, and campaign spending levels which characterize the oil and natural gas industries. Moreover,

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[33]Science and Public Policy Program, University of Oklahoma, The Coal and Oil Shale Resource Development System: An Interim Report (Norman: Science and Public Policy Program, University of Oklahoma, 1974), pp. 202-204.

[34]James Ridgeway, The Last Play (New York: E. P. Dutton, 1973), p. 208.

[35]Glen L. Parker, The Coal Industry: A Study in Social Control (Washington: American Council on Public Affairs, 1940), p. 15.

the coal industry's political orientation and influence has been directed primarily at the state governments, since, until the late 1960s, it was at that level of government that most coal regulatory functions were carried out. Thus, coal firms today do not have the same history of contact and interaction with federal regulators as have oil and gas producers.[36]

Among the professional associations which do represent the coal industry at the national level, the most important is the National Coal Association (NCA), whose membership is composed of coal producers and "associates" (sales companies, railroads, mine equipment manufacturers, etc.). The NCA is affiliated with the Coal Exporters Association, important for its role in international trade of U.S. coke and coal. Other major industry organs are the Bituminous Coal Operators Association, composed of the major operators (and industry negotiator for labor contracts), and the National Independent Coal Operators Association, which represents smaller firms. Some coal interests are also articulated by more general business organizations such as the American Mining Congress and the American Iron and Steel Institute.[37]

Of all the energy resources, coal has been the one most influenced by labor union participation. The UMW has

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[36]See Energy Policy Project, p. 242, and Davis, pp. 17-40.

[37]National Coal Association, Bituminous Coal Facts, 1972 (Washington: National Coal Association, 1972), pp. 40-47, and Ridgeway, p. 18.

dominated the history of coal production since the 1870s, although its influence within the coal industry has varied from a low point during the 1930s (when membership fell from a 1920 peak of over 750,000 to only 75,000) to a high point during the period of "union autocracy" and militancy in the 1940s.[38] Since 1945, the UMW has retreated somewhat from its early radical stance to negotiate with the Bituminous Coal Operators Association for the control of market, production, and employment conditions. In return for the stability which these industry-union agreements have brought to the coal subsystem, the UMW paid a price. As the industry has become mechanized and diversified, many mining jobs were lost to other unions or went entirely nonunion. Between 1947 and 1973, over 300,000 mining jobs ceased to exist and the remaining coal work force of 150,000 men includes over 35,000 nonunion personnel.[39] In addition, the UMW has entered an era of competition with the International Union of Operating Engineers (IUOE), which operates the strip mining equipment utilized in most Western coal operations. About 90 percent of the UMW membership works in the deep mines of the East, so any move away from underground coal extraction techniques to stripping in the West would enable operating

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[38]Lester Velie, Labor U.S.A. (New York: Harper and Brothers, 1958), pp. 142-143; and John Hoerr, "Coal and the Mine Workers," Atlantic 235 (March 1974): 14.

[39]Hoerr, p. 20.

companies to contract with the IUOE on what some observers feel would be more favorable terms than the UMW offers.[40] Despite these threats to UMW control, the union continues to be the most significant labor force in the energy policy system, as has been demonstrated by its ability to gain passage of such important standards as the 1969 Coal Mine Health and Safety Act provisions regarding compensation for "black lung" disease victims.

The Oil Policy Subsystem

The oil industry has perhaps the most advantageous position in gaining access to its policy subsystem. As the energy industry with the greatest economic resources at its disposal (in 1972, 23 oil companies each had revenues of $250 million or more),[41] it is easily able to pay the costs associated with political involvement. In addition, the oil industry has had relatively few manpower problems since it has generally been able to come to terms with the major oil labor unions.

Other structural factors which have worked to the advantage of the petroleum companies are their high degree of vertical and horizontal integration. That is, at least

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[40]James A. Noone, "Administration Joins Opposition to Strip Mining Bill," National Journal Reports 6 (June 15, 1974): 888.

[41]John E. Gray, Energy Policy: Industry Perspectives (Cambridge: Ballinger Publishers, 1975), p. 8.

18 oil firms explore for, produce, refine, transport, and market crude oil (vertical integration), while many oil companies have diversified their energy resource holdings to enable them to produce gas, coal, or uranium (horizontal integration) or to influence the development of these resources. These factors and the fact that seven international oil companies are in a dominant world leadership position in the industry have led to a significant community of interest among oil firms on political matters, although differences between the integrated "majors" and the more specialized "independents" have somewhat weakened this consensus on controversial matters such as the removal of price controls.

The major avenue through which petroleum firms exercise policy influence is lobbying. At every level of government, industry associations such as the American Petroleum Institute (API) gather data, do research, and present policy recommendations to public officials and the media.[42] It has been estimated that over $10 million per year is spent for lobbying payrolls by the 60 oil and gas firms in Washington alone.[43] The "oil lobby" has, in fact, expanded to such an extent that foreign governments have begun to engage their own Washington lobbyists to monitor petroleum policy developments on their behalf.

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[42]A. Robert Smith, "No Shortage of Energy Lobbying," Bulletin of the Atomic Scientists 30 (May 1974): 12.

[43]Freeman, p. 179.

Campaign contributions are a second major policy lever for the petroleum industry. For example, over $5 million was supplied to the 1972 Presidential campaign by oil industry officials and stockholders.[44] Finally, oil industry positions are advanced through the government-sponsored policy advisory structure of the National Petroleum Council (NPC). Composed of members from industry associations such as the API and the Independent Petroleum Association of America, representatives of the major oil companies, and other private oil interests, the NPC has access to a broad range of energy regulatory agencies and the Congress.[45]

These advantages by the industry are balanced somewhat by the fact that the oil policy subsystem is very complex and petroleum and its products are regulated at every level of government. In addition to the Interior Department's control of federal leasing and disposal policies, oil resources are regulated at the national level by the FEA, which operates the oil allocation, conservation, and imports programs, coordinates planning and data-gathering activities, and develops policy alternatives. At the state level, each state with producing oil fields within its boundaries has regulatory authority for those operations. The Interstate Oil Compact Commission performs a coordinating role between these oil producing states and the industry.

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[44]Smith, p. 12.

[45]Davis, p. 79.

Labor has not been a major factor in the oil policy subsystem. The major labor organization in the oil and natural gas subsystems is the Oil, Chemical and Atomic Workers International Union (OCAW), which has approximately 200,000 blue-collar members.[46] Although limited in its impact on the petroleum subsystem by the relative prosperity of the entire industry and the traditionally weak unionization history of many oil states, the OCAW has taken a more active role since the energy crisis. In an attempt to gain more political leverage by expanding its membership, the OCAW in 1973 began an effort to organize the white collar (scientists and engineers, for the most part) sectors of the petroleum, chemical, and nuclear energy industries.[47] The union has also taken a more militant stand regarding industrial relations--strikes against oil companies in 1973 sought union authority over such traditional management spheres as health and safety conditions for workers.[48]

The Natural Gas Policy Subsystem

The natural gas policy subsystem is closely related to the oil subsystem, but the major industry participants in

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[46]"Professional, Trade, and Non-Governmental Organizations," The Energy Directory, Vol. 1 (New York: Environment Information Center, 1974), p. 254.

[47]"A Union for Industrial Scientists?" Science 181 (September 14, 1973): 1030.

[48]Deborah Shapley, "Shell Strike: Ecologists Refine Relations With Labor," Science 180 (April 13, 1973): 166.

the making of gas policy are neither politically as powerful nor organizationally as similar as the petroleum companies. Natural gas companies have close ties to the oil policy subsystem because many gas producers are, in fact, oil companies. But, unlike the oil industry, most natural gas companies are not characterized by vertical integration. They are, however, frequently complex organizations, because most gas producers also produce oil and many gas distribution companies also sell electrictiy. The result is an intricate industry ownership pattern in which a few large petroleum companies dominate a plethora of relatively small independent gas firms in the production sector, independently-owned companies control transmission, and both investor- and publicly-owned businesses link the transmission system to consumers. Clearly this diversity of ownership does not encourage the community of interest which characterizes the oil industry.

Foremost among the representatives of the natural gas industry is the American Gas Association (AGA), a convention of distributors and transporters. The AGA's most important policy role has been as the primary source of data on gas reserves for the Federal Power Commission (FPC). Usually in opposition to the AGA has been the consumer-oriented American Public Gas Association, composed of city-owned utilities. The major gas pipeline companies are represented by the Interstate Natural Gas Association. In

addition, the API and the NPC are partial spokesmen for the natural gas industry.[49]

At the apex of the governmental authority in the natural gas policy subsystem is the FPC, which is responsible for the regulating of pipeline construction, the pricing of interstate gas, and the allocation of gas supplies to utilities. However, of the approximately 30,000 domestic oil and gas producers, only one in ten is subject to FPC regulations. Federal law requires separate firms to transport and distribute the product, and it is the transmission companies that are the most clearly tied to the natural gas subsystem. There are over 100 regulated interstate pipeline companies (of which about 30 are considered "major"), and more than 1,500 gas distribution firms.[50] Other governmental controls are exerted on gas companies by the Interior Department, which has responsibility for leasing, and by state governments, which have control over their own producing areas.

Labor participants in the natural gas subsystem closely parallel those discussed in the oil subsystem.

The Electricity Policy Subsystem

The electric utility industry, perhaps the most complex and diverse in the entire energy policy system, is

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[49]Davis, p. 109.

[50]Gray, p. 30. See also Stephen G. Breyer and Paul W. MacAvoy, Energy Regulation by the Federal Power Commission (Washington, D.C.: The Brookings Institution, 1974), pp. 16-88.

composed of both investor-owned and public companies. The approximately 275 investor-owned firms are generally large, integrated, and produce over 70 percent of the nation's electricity, while the 2,900 public utilities are mostly small, more specialized, and account for slightly more than 20 percent of production.[51] One result of the extreme diversity of the firms included within these categories--the private sector includes both independents and subsidiaries of holding companies, while the public sector encompasses federal systems (such as the Tennessee Valley Authority), non-federal systems (state, county, and city utilities), and rural cooperatives--has been the absence of any community of interest in the electric power industry. However, the electric companies do have certain advantages in the energy system. Electric utilities comprise the largest American industry in terms of total assets, and require more annual investment than any other industry. In addition, electricity is produced everywhere in the nation; there are no "electricity states" as there are the "coal states" of Pennsylvania and West Virginia or the "oil states" of Texas and Louisiana. Finally, as the electric utility industry's position is strengthened by the politics of resource scarcity and a mushrooming demand for electric power, electric companies are gradually improving their lobbying activities and their interactions with government.

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[51]Gray, p. 20.

Although the electric utilities have developed few powerful, industrywide associations which represent industry positions to government, bodies such as the Edison Electric Institute (an industry trade association) do exchange technical, operational, and marketing data and coordinate electric power company views with both public and private interests. Cooperation between the industry and government on research and development policy issues is promoted by the Electric Research Council and the Electric Power Research Institute.[52]

While electricity generation is regulated at the federal level by the FPC, state governments have the primary regulatory role in the siting of generation plants, the setting of rate structures for utilities, and the initiating of intrastate cooperative arrangements. The FPC authorizes the licensing of hydroelectric facilities and controls prices of interstate sales of electricity, but plays only a coordinating role in the encouragement of the formation of regional electric reliability councils and the development of pooling arrangements.[53] There is no significant labor union indigenous to the electric power industry.

The Nuclear Energy Policy Subsystem

Among the five fuel subsystems, the nuclear energy policy subsystem is unique in the degree to which the resource

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[52]Gray, p. 74.

[53]Breyer and MacAvoy, pp. 89-121.

has remained a government monopoly. Between 1946 and 1974, the Atomic Energy Commission exercised extensive federal control over the entire subsystem. Since the creation of ERDA and the NRC, the gradual shift from military to civilian control within government which characterized the final years of the AEC's administration has continued, accompanied by a shift from public to private sector involvement in policy-making.

Because of the military nature of the fuel's early development, it was not until the 1950s that private industry was even allowed to participate in nuclear energy development. The special organizational arrangements implemented in the 1940s included not only the AEC, but a single joint committee in Congress to assure adequate oversight of the resource's development and control. While the subsystem has become increasingly civilianized and more outside interests have been granted access to the policy-making levers, nuclear energy continues to be dominated by those scientists and administrators with access to information and expertise previously the property of the AEC and the Joint Committee on Atomic Energy.[54]

Neither the NRC nor ERDA has the authority which once belonged to the AEC. The NRC is charged with regulating the use of atomic energy in the interests of public

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[54]Davis, p. 169.

health, safety, and protection of the environment. Responsibility for the development of atomic energy has been delegated to ERDA, through its research and development functions. Since, in recent years, over 90 percent of federal research funding has been devoted to nuclear energy, the significance of governmental control of this subsystem is apparent.

Conclusion

Two conflicting conclusions can be drawn from this description of the energy policy-making system. First, there are growing pressures for the development of more rational and comprehensive national energy policies, as reflected in the recent efforts to establish national energy goals and objectives. The most important factors in this movement toward comprehensiveness are the desires of political decision-makers to appear rational and the demands of a wide range of pressure groups to avoid the failures of previously limited approaches to planning and decision-making.

Countering the drive toward rationality in energy policy, however, are a number of factors which make such coordination difficult at best. The two most important factors, as implied in the description of energy institutions, are the complexity of the decision-making process and resource scarcity. The energy policy system, composed of the five resource subsystems organized around coal, oil,

natural gas, electricity, and nuclear energy, suffers from all the problems associated with pluralism, fragmentation, and incrementalism. Pluralistic politics requires an often debilitating process of accommodation between competing interests--a process which governmental institutions with fragmented and overlapping energy responsibilities and ad hoc, incremental modes of operating are often ill-equipped to handle. Resource scarcity resulting from the depletion of finite resources and an artificially-imposed oil embargo, intensified each of these difficulties by bringing an end to the long history of stability which had characterized the energy system.

Until the 1973 Arab oil boycott, the five resource subsystems had been relatively self-contained decision-making communities, each with a relatively stable set of participants and decision procedures. This is not to say that decisions were at all centralized or directed by comprehensive planning. Quite to the contrary, each resource development subsystem had its own unique form of problem-solving which allowed it to cope with situations in which goals, alternatives, consequences, and even the problems themselves were often undefined. Resource scarcity and the resulting instability it brought to bear on these already complex resource subsystems increased problems of pluralism by bringing more participants into every energy decision. Groups whose interests were either adversely affected or

visibly threatened began immediately to demand the right to participate in the policy process. Whether it was the agricultural sector seeking larger fuel allocations or East Coast states fearful of the consequences of offshore development, the strategy was to seek governmental action or inaction. These pressures on political institutions accustomed to assuming only limited authority over particular energy sources multiplied the problems of fragmentation.

Increasingly, after 1973, the federal government sought to develop energy agencies able to respond to participants who either did not understand the established decision-making procedures or did not subscribe to them. The FEA was established as one such response. The creation and development of this new agency is the focus of the following chapter.

CHAPTER IV

THE FEDERAL ENERGY ADMINISTRATION

Introduction

The steady convergence of formerly disparate elements into an energy crisis has been reflected in American political institutions for some time. As was pointed out in Chapter III, federal executive branch organizational policies have focused upon the consolidation of energy-related functions at least since the early 1970s. Although the reorganization of executive agencies must be assumed to be an ongoing, incomplete process even after five years, the Federal Energy Administration (FEA) represents the most comprehensive centralization of energy operations to date. In order to evaluate the regulatory performance of the FEA a basic understanding of its prescribed and actual roles in the energy policy-making system is required. Toward this end, the focus of the following discussion is upon delineating the energy reorganization proposals and policies which led up to the establishment of the FEA, and describing the agency itself.

The examination of the evolution of executive energy policy organizations prior to the creation of the FEA emphasizes the period between the election of President Nixon in November 1968 and the realization of the full impact of the Arab oil embargo in December 1973, characterized by the absence of any centralized energy policy structure in the executive branch.

The description of the FEA focuses upon a general examination of the period between the creation of the temporary Federal Energy Office (FEO) in December 1973 and the establishment of the FEA in May 1974, characterized by movement toward energy policy centralization and coordination. Then the policy-making structures and functions of the FEA are elaborated and FEA relationships with other energy agencies are examined.

A Framework for Analysis: The SET Novelty

In an attempt to develop a more comprehensive and analytical framework to understand the processes by which federal agencies are created, Carl Grafton has proposed that the primary stimulus for creation is the "socio-economic-technological (SET) novelty." Defined in terms of "a sudden shift in social, economic, or technological change,"[1] the SET novelty is composed of three elements. First, the SET

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[1]Carl Grafton, "The Creation of Federal Agencies," Administration and Society 7 (November 1975): 331.

novelty requires that there must be dramatic paradigmatic shifts within the relevant scientific and political communities. That is, there must be feelings that the existing accepted models and their applications are not functioning adequately. Second, and as a result of these shifts, individuals must begin doing things that they had not been doing before. Decision-makers, for example, must alter goals and responses as their "definition of the situation" is changed. And third, there must be a sudden shift in the order of magnitude of events in a SET novelty. Thus, a trend line over time will not permit prediction of a phenomenon after a novelty appears. These "objective" novelties are distinguished by Grafton from "perceptual" novelties, or new perceptions of already existing phenomena.[2] According to this definition, SET novelties which have led to the creation of federal agencies would include electrical power (the Rural Electrification Administration), atomic energy (the Atomic Energy Commission), and pollution (the Council on Environmental Quality and the Environmental Protection Agency).

Once this stimulus has occurred, Grafton posits a process of agency "conceptualization." Included within this process are three stages of interest group and government interaction: (1) an attempt is made to understand the implications of a SET novelty; (2) an attempt is made to modify

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[2]Grafton, pp. 332-337.

the novelty to fit socio-economic-political systems; and (3) an attempt is made to modify the socio-economic-political systems to fit the novelty. When problems arise in the conceptualization process, such as group conflict or the necessity for government resources, an "escalation tendency" of problem-solving takes place. This process tends to move from private solutions, to state and local government actions, to congressional legislation, to new federal programs, to federal agency reorganization. When a "residual problem" continues to exist, the eventual solution is then a new federal agency.[3]

In terms of the actual evolution of the agency, Grafton's framework includes consideration of four stages. The first, the "proposal point," is usually characterized by a "prestigious, respected individual or group" suggesting agency creation. The proposal itself is termed the "first proposal." Congressional review of the proposal (the "hearing point"), and the final product are the final two stages. Utilization of this framework allows comparisons to be made between the final product and the proposal, as well as enabling generalizations to be made regarding the relationships between the conceptualization process, proposals, and the final structure. As important are the framework's identification of the proponents and opponents of agency creation,

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[3]Grafton, pp. 341-347.

the time span between proposal and creation, and the influence of problem resolution escalation on all these processes.[4]

The energy crisis is one of the novelties which had not yet produced an agency at the time of Grafton's work. Since then, however, the Federal Energy Administration has been established as a direct response to the SET novelty of energy shortages. This chapter attempts to trace the evolution of the creation of the FEA according to Grafton's framework.

The Energy Crisis As A SET Novelty

The energy crisis of the 1970s meets all the criteria of an objective socio-economic-technological novelty. The events which led up to and accompanied the October 1973 oil embargo certainly represented a "sudden shift" in American industrial and governmental stances toward energy policy.[5] The abruptness with which the boycott brought home the international nature of the problem and the energy dependence of the United States forced a number of related issues to the attention of both the public and private sectors. Among the more important alterations were consideration of the implications for future economic growth of energy scarcity and

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[4]Grafton, pp. 347-358.

[5]See David H. Davis, Energy Politics (New York: St. Martin's Press, 1974), pp. 1-16.

the need to diversify energy sources as a result of such scarcity. As a consequence, energy policy-makers had to deal with new issues characterized by insufficient information and outcome uncertainty.[6] Further, the proliferation of new participants in this unstable policy arena raised questions regarding the need to develop socio-political solutions as alternatives to traditional "technical fix" options.[7]

In addition to these paradigmatic shifts, individuals did begin to do things toward achieving energy goals that they had not done before the crisis. Especially significant was the increased attention given to conservation efforts.[8] Examination of alternative energy sources also exemplified the changes in policy brought about by the boycott. Increased research was devoted to such well-known energy supply alternatives as domestic oil shale, tar sands, and geothermal resources, as well as more exotic sources such as solar energy and organic wastes.[9]

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[6]See Roger G. Noll, "Information, Decision-Making Procedures, and Energy Policy," American Behavioral Scientist 19 (January/February 1976): pp. 267-278.

[7]See Don E. Kash, "Energy in the 1970s--The Problem of Abundance to Scarcity," in Walter F. Scheffer, ed., Energy Impacts on Public Policy and Administration (Norman: University of Oklahoma Press, 1974), pp. 35-75.

[8]See Energy Policy Project of the Ford Foundation, A Time to Choose (Cambridge: Ballinger Publishers, 1974), pp. 325-343.

[9]See Science and Public Policy Program, University of Oklahoma, Energy Alternatives: A Comparative Analysis (Washington: U.S. Government Printing Office, 1975).

Finally, the energy crisis accelerated the order of magnitude shifts in phenomena such as domestic energy consumption and production, oil prices, and industry profits. Trend analysis could not have predicted, for example, that the posted price of crude oil from the Persian Gulf would increase from $1.80 per barrel in January 1970 to $11.65 per barrel by October 1973. Similarly, the 50 percent rise in oil company profits from 1972 to 1973 and the decreases in the rates of domestic energy consumption and production growth were sudden shifts in the order of magnitude which resulted from the SET novelty of energy shortages.[10]

Conceptualization of the FEA

In seeking to understand the elements of the SET novelty of the energy crisis of 1973, the political system initially reacted by undertaking studies of the existing national energy policy-making framework. Thus, as was noted in Chapter III, in 1970 the President's Advisory Council on Executive Organization (the "Ash Council") assumed a role in the development of solutions to the problems of administrative fragmentation in the energy arena. That same year, Congress increased its involvement in the learning process by authorizing a series of background documents for the National Energy Policy Study. In an effort to make the SET novelty

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[10]S. David Freeman, Energy: The New Era (New York: Random House, 1974), pp. 138-157.

fit the existing political system, a great deal of this early phase of conceptualization was devoted to debate over the recurrent charges that the fuel crisis was a deliberate conspiracy by the major petroleum firms to drive independent marketers and refiners out of business and to repeal environmental quality standards. Toward the resolution of this dispute, the Federal Trade Commission was given the task, in 1973, of analyzing the oil industry's role in the crisis.[11]

Modifying the socio-economic system to fit the novelty began with alterations in the Mandatory Oil Import Program (MOIP), the implementation of price controls on crude oil and petroleum products, and the introduction of mandatory allocation regulations for the entire range of fuel types. The MOIP, which had set a national quota for imported crude, in order to reduce the threat of foreign producers to domestic markets, was made more flexible in 1970 as a result of shortages. It was finally abolished in April 1973 and replaced by an import fee system. Oil price controls (Phases 1-4 of the Economic Stabilization Program) began in August 1971 and continue in modified form today (see Chapter V).[12]

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[11]Richard B. Mancke, "Petroleum Conspiracy: A Costly Myth," Public Policy 12 (Winter 1974): 1-13.

[12]William A. Johnson, "The Impact of Price Controls on the Oil Industry: How to Worsen an Energy Crisis," in Gary D. Eppen, ed., Energy: The Policy Issues (Chicago: University of Chicago Press, 1975), pp. 100-108.

Two major sources of dissatisfaction with import and price regulations led to the promulgation of regulations establishing allocation priorities for crude oil and petroleum products in the Emergency Petroleum Allocation Act (EPAA) of 1973. Primarily, it was felt that the small, independent oil companies needed protection from the competitive advantage enjoyed by the major firms under price controls. The second force behind the allocation legislation was the related concern for controlling inflation and preventing possible windfall profits by the large oil companies.

The passage of the EPAA in November 1973 was a significant event in the conceptualization process, since, with the arrival of mandatory allocation, the drive toward creation of a new agency to develop and implement the regulations was overwhelming.

The Escalation of Problem Resolution

Coinciding with the conceptualization process, governmental problem-solving efforts were escalating. Since, at the time of the 1973 crisis, both state and local governments appeared incapable of dealing with the significant issues (see Chapter III), the federal policy-makers became the major public participants. The federal problem resolution process which led to the creation of the FEA can be divided into three time frames, each dominated by a different set of regulatory institutions. From 1970 until January

1973, energy policy planning at the White House was carried out through Domestic Council's Subcommittee on Energy, an *ad hoc* body formed to deal with the emergency fuel shortages. At a narrower policy level, the Oil Policy Committee (OPC) had authority over oil imports and related fuel policies.[13] Beyond these restricted planning mechanisms, consideration of most energy policy during the first Nixon administration was divided among more than sixty federal agencies, bureaus and commissions. According to a study undertaken by the Senate Interior and Insular Affairs Committee, this lack of "high-level surveillance of the energy system and policy advice" constituted one of the major deficiencies in federal energy organization.[14]

To correct these problems, after the 1972 election, the Secretaries of Agriculture and Treasury (Earl Butz and George Shultz) were given greater energy policy roles by naming the former to the additional post of Counselor for Natural Resources and the latter to Assistant to the President for Economic Affairs. These assignments and the appointment of William Simon, Deputy Treasury Secretary, to the chairmanship of the OPC meant the end of the Subcommittee's policy role.

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[13] See Davis, p. 187.

[14] U.S. Senate, Committee on Interior and Insular Affairs, *Federal Energy Organization* (Washington, D.C.: Government Printing Office, 1973), pp. 11-12.

In February 1973, the President formalized the energy advisory structure by giving the title of Special Energy Committee to the trio of Shultz, Presidential Advisor for National Security Affairs Henry Kissinger, and Assistant to the President for Domestic Affairs John Ehrlichman. At the same time, Charles DiBona was appointed Special Consultant on Energy and assigned the task of establishing a separate policy analysis staff in the White House. This operation was given the name of National Energy Office (NEO) and structured to report to the President through the Special Energy Committee. The "referee" for disputes between the various energy agencies in this arrangement was the Counselor for Natural Resources.[15] As a result of these actions, by the time the President's first major energy message was finalized in March 1973, the federal energy policy-making structure had been significantly altered. Figure 9 illustrates the energy "chain of command" as it existed at that time.

Less than three months later, the Administration issued an even more comprehensive reorganization plan. In June 1973, John Love was installed as the first "energy czar" by combining the duties of the Special Energy Committee and the NEO in an Energy Policy Office (EPO). The EPO was responsible for the formulation and coordination of energy

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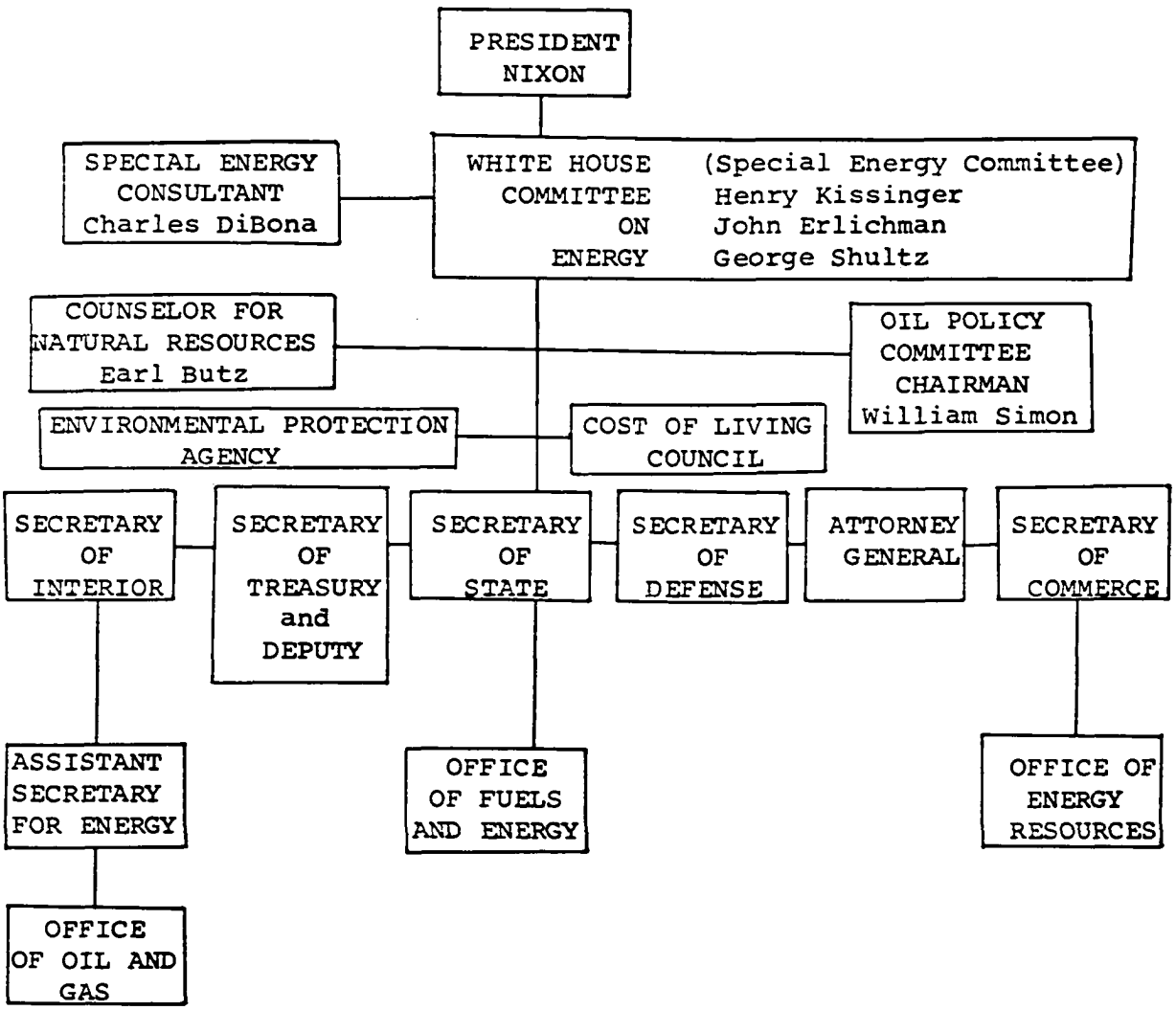
[15]Richard Corrigan, "Nixon Message Follows Months of White House Wrangling," National Journal Reports 5 (April 21, 1973): 574-575.

FIGURE 9

FEDERAL ENERGY ORGANIZATION, MARCH 1973



SOURCE: Gene T. Kinney, "Nixon Energy Team Ready, Awaits Final Policy Signal," Oil and Gas Journal 71 (March 26, 1973): 33.

policies at the highest level.[16] Although, in theory, the creation of the EPO placed it at the apex of federal decision-making for energy (especially since the new agency was given authority for providing guidance and direction to the OPC), the organization was understaffed and confronted with the growth of rival centers of power in the Treasury and Interior Departments. As a result, the EPO was unable to cope with the steadily escalating energy emergency in the summer and fall of 1973. Fuel shortages were such a major policy dilemma by November that a cabinet-level committee, given the title of the Emergency Energy Action Group (EEAG), was established to deal with the supply-demand imbalances which had developed, and an interagency task force, the Energy Emergency Planning Group (EEPG), was assigned the task of providing the EEAG with policy analysis support.[17] Figure 10 outlines the structure of federal energy organization as it appeared at the end of November 1973.

As was noted in Chapter III, this federal framework suffered from lack of overall guidance and management; the government had no coordinated energy policy-making mechanism and existing regulatory agencies tended to be inflexible and narrow-minded. Thus, the "residual problems" of uncertainty,

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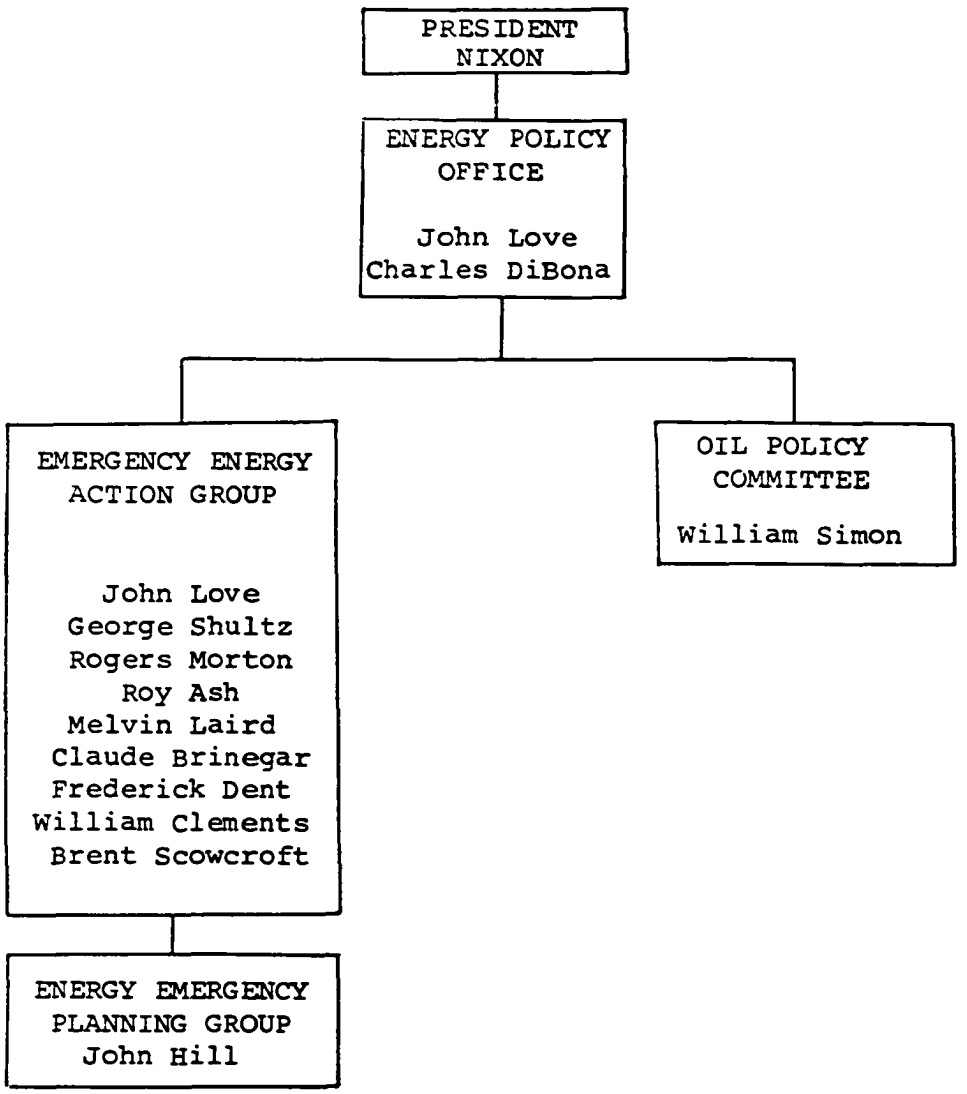
[16]"President Overhauls Energy Machinery," Oil and Gas Journal 71 (July 9, 1973): 34-36.

[17]Juan Cameron, "Reaching for an Energy Policy: Years of Drift, Weeks of Panic," Fortune 89 (January 1974): 76-77 and 158-159.

FIGURE 10

FEDERAL ENERGY ORGANIZATION, NOVEMBER 1973



SOURCE: "New Energy Emergency Actions--November 25, 1973," Energy Controls (1974): 7026-7027.

instability, delay, and policy contradiction encouraged the creation of the Federal Energy Administration.

The Creation of the FEA

Beginning in the 1970s, there had been a number of efforts to consolidate energy functions in various departments and commissions (see Chapter III). That same year, the first of several "prestigious groups" would make recommendations which would eventually lead to the FEA.

The Proposal Point

The Ash Council, as a part of its recommendation to establish a Department of Natural Resources, included a proposal for an Energy and Mineral Resources component of that agency to administer fuel policies. This recommendation was expanded and modified by the President's reorganization plan of June 29, 1973, which contained a proposal for an Energy and Mineral Resources Administration as part of the broader Department of Energy and Natural Resources (DENR). Congressional resistance to this proposition was reflected in a number of bills proposing instead the creation of a Council on Energy and/or a more comprehensive National Energy Advisory Board to take on the task of energy policy direction.[18] The inability of the Administration to gain acceptance of a comprehensive reorganization of energy

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[18]U.S. Senate, Committee on Interior and Insular Affairs, pp. 45-58.

activities at the departmental level meant that by the end of 1973 the focus of most recommendations had been narrowed to the individual agency level. Thus, in November 1973, the President asked the Congress to postpone consideration of the DENR proposal in order to concentrate on the Energy Research and Development Administration (ERDA) and the FEA.

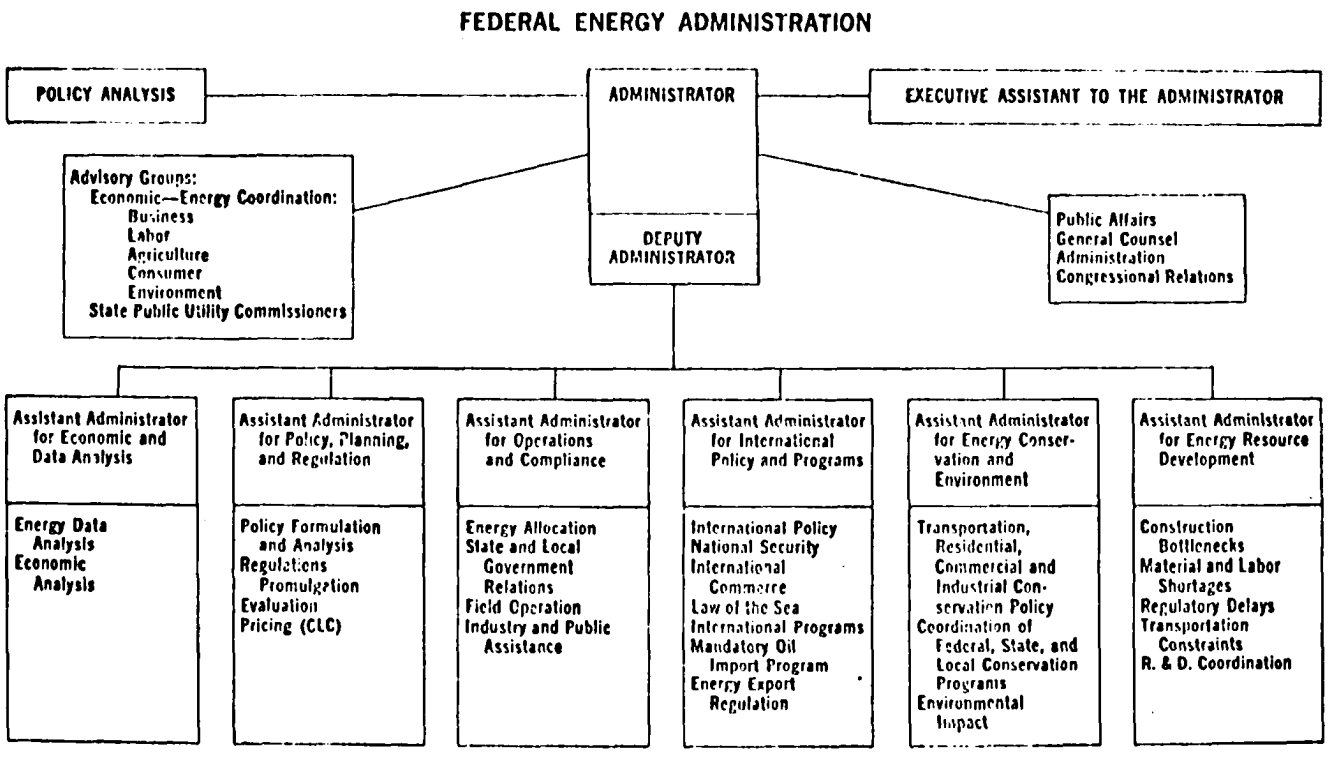
The First Proposal

On December 14, 1973, the Administration submitted to Congress a proposal for the creation of the FEA. The same day, Senator Henry Jackson introduced legislation similar to the White House proposal (S. 2776) and the House followed suit on December 5 (with H.R. 11793, introduced by Representative Chet Holifield). Figure 11 illustrates the organization of the Administration's FEA proposal.

Pending legislative approval of the FEA, Executive Order 11748, of December 4, abolished the Energy Policy Office and established the Federal Energy Office (FEO) to create the framework for the new agency and to manage and coordinate energy policy in the interim period. While the Congress debated the merits of the proposed agency, the heads of five units named to become components of the FEA were ordered to "be responsive" to the FEO. Included were four offices from the Interior Department (Petroleum Allocation, Oil and Gas, Energy Conservation, and Energy Data and Analysis) and the Cost of Living Council's Energy Division.

FIGURE 11

NIXON ADMINISTRATION'S PROPOSED FEA



SOURCE: U.S. House, Committee on Government Operations, Federal Energy Administration (Washington, D.C.: Government Printing Office, 1973), p. 198.

William Simon was named FEO Director and nominated to the post of FEA Administrator.[19]

Under this arrangement, the EEAG continued to function, with the President becoming its chairman and Simon acting as Executive Director. The staff of the EEPG was assigned to the FEO. Originally, the Administration had also planned to call up 200 specialists from the oil industry to act as an executive reserve and to aid in the implementation of mandatory fuel allocation programs, but that alternative was dropped after congressional charges of conflict-of-interest were made.[20]

While most FEO activities were directed toward the correction of short-term resource allocation and distribution problems, the interim office did have longer-term responsibilities associated with Project Independence. As could be expected of an organization which functioned for less than six months in a highly visible, highly political environment, the FEO suffered from a number of serious organizational problems. Most of the difficulties which limited

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[19]Frank V. Fowlkes and Joel Havemann, "President Forms Federal Energy Body with Broad Regulation, Price Control Powers," National Journal Reports 5 (December 8, 1973): 1830-1838.

[20]"Nixon Tries Again on Energy Policy," Business Week, December 8, 1973, pp. 34-35; "Simon Heads New Federal Energy Setup," Oil and Gas Journal 71 (December 10, 1973): 50-51; and Robert Gillette, "Energy Organization: Love's Labour's Lost," Science 183 (December 21, 1973): 1225-1226.

FEO performance were associated with personnel or program factors. For the first sixty days of its existence, the most troublesome personnel problems were the high turnover rate among employees who had been delegated to the office from other agencies and the lack of energy expertise among some government officials who were transferred. At a later stage, morale problems developed when the oil embargo ended in March and the FEO lost its "crisis spotlight." Finally, the FEO went through a leadership change when Simon was appointed Treasury Secretary and John Sawhill was named Director in April.[21]

The program problems of the FEO have been summarized as attempting to "do too many things on too many fronts." According to this analysis, the fragmentation which characterized FEO policy-making led to rules and regulations based upon extrapolations of conditions in existence prior to the energy crisis. In addition, the FEO has been accused of manifesting typical bureaucratic behavior patterns by adopting limited goals, invoking rigid operating procedures, and evaluating the future in terms of the "worst possible" event. That is, there was a focus upon avoiding the

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[21]"Bitter Sniping at Simon," Time 103 (March 18, 1974): 25; "The New Man at FEO," Time 103 (May 6, 1974): 70; and Caroline Mayer, "FEO Will Steer Different Course Under Sawhill," Oil and Gas Journal 72 (April 29, 1974): 16-17.

predictions of massive unemployment, brownouts, and general economic disruption as a result of energy shortages.[22]

The Hearing Point

In the nearly five months that the proposal to create the FEA was debated by the Congress, three sets of issues played vital roles. First, there were differences between the House and Senate regarding the specific form and duties of the new agency. As submitted to the Administration the FEA was to "plan, direct, and conduct programs related to the production, conservation, use, control, distribution and allocation of all forms of energy" and function as the primary source of energy advice to the President. Although both houses of Congress concurred with this major function, there was debate over the issues of the length of the grant of agency authority, the holding of multiple government positions by the agency's leaders, transfers of other agency functions to the new organization, and the maintenance of a White House energy office after the FEA's establishment.[23] These

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[22]See Paul W. MacAvoy, Bruce E. Stangle, and Jonathan B. Tepper, "The Federal Energy Office as Regulator of the Energy Crisis," Technology Review 77 (May 1975): 39-44; and Richard B. Mancke, Performance of the Federal Energy Office (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1975), pp. 22-24.

[23]U.S. Senate, Committee on Government Operations, Federal Energy Administration Act (Washington, D.C.: Government Printing Office, 1973); and U.S. House, Committee on Government Operations, Federal Energy Administration (Washington, D.C.: Government Printing Office, 1973).

issues were resolved in conference committee by April by adding six months to the Administration's request for the agency's lifespan (to a June 30, 1976 termination date), prohibiting concurrent office-holding by the FEA Administrator (Simon had wanted to hold Treasury and FEA posts simultaneously), restricting the President's authority to transfer additional agency funtions to the FEA, and eliminating the Administration's proposal for a small FEO to remain in the White House. Other significant results of the Senate-House conferences were the creation of an Office of Private Grievances and Redress, the elimination of a Senate-proposed Council on Energy Policy, and the specification of FEA appropriations of $75 million for fiscal 1974 and $200 million each for fiscal 1975 and 1976.[24]

The second set of issues which influenced the hearing point focused upon the conflicts within Congress regarding the FEA's role in overall energy policy organization, particularly the FEA's relationships with the other proposed energy agencies, the DENR and ERDA. At the root of the problem was the "bewildering array" of possible reorganization alternatives which Congress considered in the first few months of 1974. These included proposals to create: (1) a DENR including ERDA (Jackson's S. 1283); (2) a DENR without

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[24]U.S. Congress, Conference Committee, Federal Energy Administration Act of 1974 (Washington, D.C.: Government Printing Office, 1974), pp. 23-24.

ERDA (H.R. 9090 and S. 2135, from the President's reorganization plan of June 1973); (3) a separate agency combining ERDA and the FEA (as proposed by Representative Mike McCormack); and (4) an independent ERDA (Holifield's H.R. 11510) and an independent FEA (S. 2776 and H.R. 11793). Since Congress had already reached a stalemate over the issue of ERDA's independence by December 1973, the introduction of the FEA proposal only served to complicate an already complex situation.[25] Those legislators, like Jackson, who had initially favored a comprehensive DENR saw little need for the establishment of "interim" agencies such as the FEA, while those, like Holifield, who had argued for a separation of general energy policy from research and development (R&D) saw in the FEA a potential threat to any R&D agency's independence. These perceptions and the pressures exerted by the general public to "do something" in the short-term, when coupled with the absence of concensus on the issue within the Administration, finally resulted in the agreement to postpone consideration of DENR while establishing ERDA and the FEA separately.

As important as these internal congressional considerations were to the debate over the FEA proposal, perhaps a more significant obstacle was an external dispute with the

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[25]Claude E. Barfield, "Fuel Crisis Management Produces Reorganization Debate," National Journal Reports 6 (February 16, 1974): 229-237.

executive branch. At issue was the President's 1973 request for broader legislative authority to deal with the energy crisis. The congressional response, the National Energy Emergency Act, contained rationing, conservation, and price control provisions as well as relaxed environmental standards, but went well beyond the Administration's request in establishing windfall profit limitations. In Senate-House conferences, a price rollback on oil was substituted for the controversial windfall profit provision, but the Administratin opposed the rollback as vigorously as it had the profit limitations. In an attempt to force Administration acceptance of the rollback, therefore, the House, which actually had little opposition to the FEA proposal, held the FEA bill "hostage"--keeping it from a floor vote--until the President ended the stalemate by vetoing the National Energy Emergency Act on March 6, 1974.[26]

The Final Product

The Federal Energy Administration Act became effective on June 28, 1974. Three days before, Executive Order 11790 abolished the FEO and transferred its functions to the FEA. Figure 12 outlines the organizational structure of the new agency.

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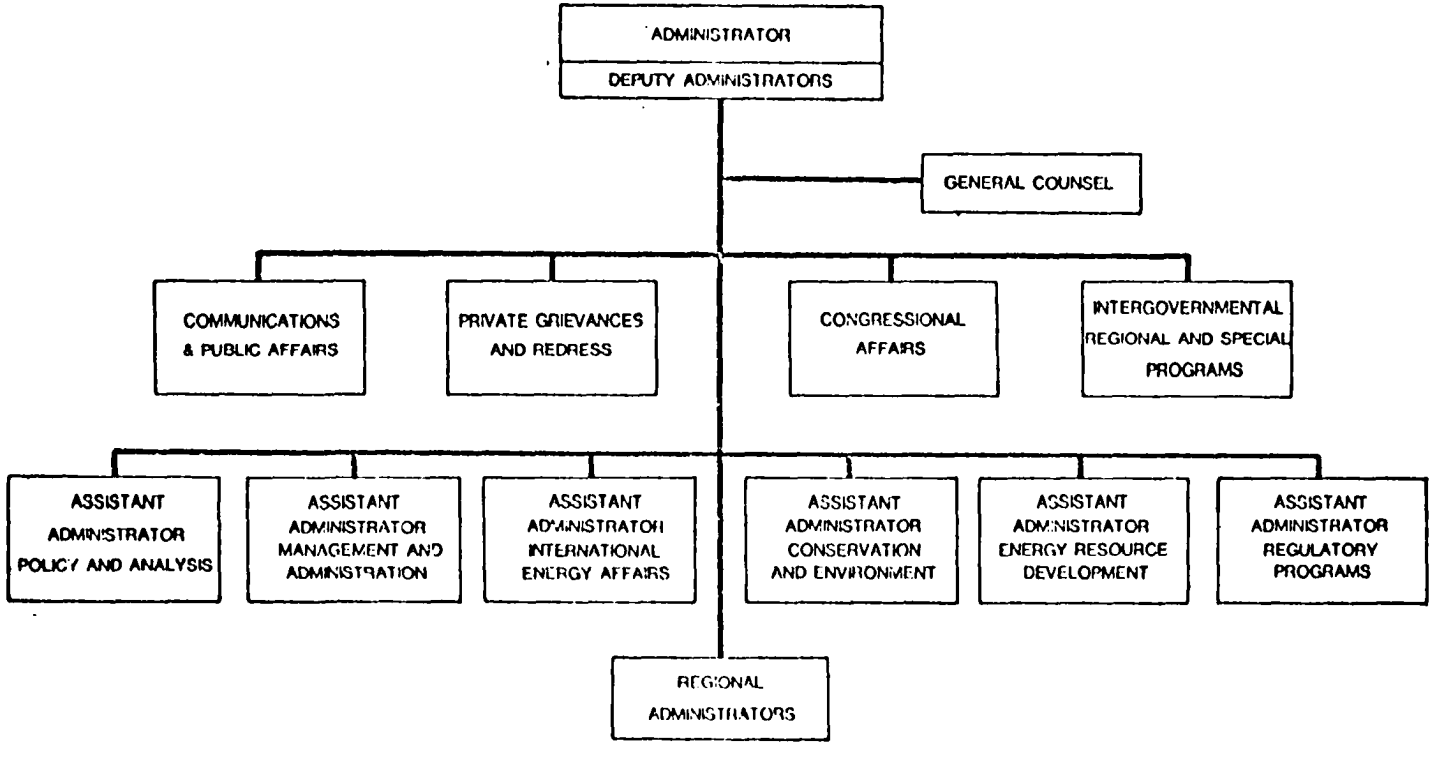
[26]James W. Curlin, "Congressional Initiatives in Energy Policy," in Walter F. Scheffer, ed., Energy Impacts on Public Policy and Administration (Norman: University of Oklahoma Press, 1974), pp. 140-141.

FIGURE 12

FEDERAL ENERGY ADMINISTRATION



SOURCE: Federal Energy Administration, Telephone Directory (Washington, D.C.: Government Printing Office, 1975), p. 6.

Structures and Functions of the FEA

The Federal Energy Administration is composed of twelve headquarters offices and ten regional offices, which are grouped into the six activity components for budgetary purposes shown in Table 1. This table outlines the funding and manpower allocations to each of these activities; it shows that regulatory programs are allocated the largest portion of the FEA's personnel, while the conservation and environment component receives the greatest share of the funding.

In terms of functions, the Office of the Administrator is the major energy policy advisor to the President, both through direct access and through the Energy Resources Council (a communication and coordination mechanism at the cabinet level which was established by the legislation which created ERDA in 1974).[27] Assisting the Office of the Administrator, which includes the Administrator, his Deputy, and their staffs, are the legal advisors of the General Counsel, the various non-governmental task forces, commissions, and liaison offices to the legislative branch (Congressional Affairs), the general population (Communications and Public Affairs), and state, local, and regional governments (Intergovernmental, Regional, and Special Programs). Providing support, personnel, and procurement services to this executive

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[27]"Morton Will Determine Energy Policy," National Journal Reports 6 (November 2, 1974): 1654.

TABLE 1

FEA BUDGET, BY ACTIVITY, ACTUAL 1975 AND 1976 ESTIMATES

Activity	Positions FY75	Positions FY76	Man-Years FY75	Man-Years FY76	Amount[a] FY75	Amount[a] FY76
Executive Dir. & Admin.	901	937	934	937	38.6	43.6
Policy & Analysis	401	400	366	400	21.8	25.7
Regulatory Programs	1338	1179	1338	1299	33.0	32.0
Conservation & Environment	282	316	255	316	18.2	141.7
Energy Res. Development	282	326	284	326	13.8	15.5
International Energy Affairs	41	42	41	42	1.3	1.6
Total	3245	3200	3218	3320	126.6	260.1

SOURCE: U.S. Senate, Committee on Appropriations, Department of the Interior and Related Agencies Appropriations for Fiscal Year 1976 (Washington, D.C.: Government Printing Office, 1975), pp. 2754-2755.

[a]In $ millions.

component as well as to the entire organization is the Office of Management and Administration.

The Office of Policy and Analysis, a combination of Interior's old offices of Oil and Gas and Data and Analysis, and the EEPG, is the FEA's energy forecasting, policy development, and data collection arm. The National Energy Information Center is operated through this office.

Project Independence is supervised by the Office of Energy Resource Development, which takes the general strategies developed by the Office of Policy and Analysis and plans the specific tactics for achieving the proper "mix" of energy supply sources. The Office of Energy Resource Development's task is to expand currently available energy sources and facilitate the movement toward new resources.

The International Energy Affairs Office is responsible for coordinating energy and national security policies with the State and Defense Departments and for overseeing U.S. international energy programs. It also attempts to "assure appropriate interface" between foreign policy and domestic actions.[28]

Promoting the efficient use of energy resources and minimizing the environmental impact of this use is the task of the Office of Conservation and Environment, a modification

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[28]Federal Energy Administration, Organizational Structure January 1975 (Washington, D.C.: Federal Energy Administration, 1975), p. 4.

of Interior's former Office of Energy Conservation. More specifically, this office works to reduce the rate of energy demand growth, to coordinate federal-state conservation programs, to identify R&D for improving energy efficiencies, to develop public awareness of conservation needs, and to analyze environmental consequences of conservation and energy policy alternatives.

The largest and most significant FEA component is the Office of Regulatory Programs, composed of an expansion of the old Office of Petroleum Allocation in Interior. This office administers federal energy allocation programs and price controls. A detailed discussion of the FEA's allocation and pricing programs follows in Chapter V.

Closely related to the regulatory programs is the Office of Private Grievances and Redress, which combines the functions of the Office of Special Redress Relief, the Office of Exceptions and Appeals, and the Oil Import Appeals Board. The Office of Exceptions and Appeals is responsible for responding to all requests for exceptions, exemptions, stays, or appeals filed with the FEA from the mandatory programs. The Oil Import Appeals Board hears appeals from the Mandatory Oil Import Program. The Special Redress Relief Office performs an "ombudsman" function by responding to all those adversely affected by FEA policies but who have no

redress from either of the other two offices discussed above.[29]

The Regional Offices are charged with the implementation of all agency programs at the field level, most significantly the allocation and pricing regulations. The offices are headquartered in the standard federal regional locations. Most of the agency's large number of regulatory personnel are assigned to the ten Regional Offices.

FEA Relationships With Other Energy Agencies

The Federal Energy Administration has two major policy foci in which its relationships with other federal energy agencies are of crucial importance: (1) energy policy development and program policy coordination; and (2) regulating the energy sector.

In the area of policy development and coordination, the FEA relies upon both formal, institutional mechanisms and informal, interpersonal contacts to produce cooperation, consultation and integration on energy matters. The foremost institutional interagency coordination body for energy policy is the Energy Resources Council, which includes in its membership 23 federal agencies or representatives in addition to the FEA. Representation on the Council insures communication between all governmental participants and promotes the

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[29]Federal Energy Administration, Quarterly Report on Private Grievances and Redress (Washington, D.C.: Federal Energy Administration, July 1, 1974 to September 30, 1974), pp. 1-3.

development of sound policy advice to the President on energy reorganization matters.

Informal FEA contacts with other energy agencies are a combination of common government service backgrounds and common agency tasks. Since the FEA was organized around offices transferred from the Interior Department and the Cost of Living Council, coordination between these established organizations and the new agency has been facilitated. Common tasks have brought the FEA into contact with, for example, ERDA (through the Office of Energy Resource Development's work with Project Independence), the Environmental Protection Agency (through the Office of Energy Conservation and Environment's fuel economy labeling program), and the State Department (by the International Energy Affairs Office's interest in U.S. bilateral and international energy agreements).

Energy sector regulation necessitates FEA coordination with the range of state government units involved in facility siting, land use, and environmental impacts. Due to the strategic nature of fuel allocations, the FEA has important ties to the Defense Department. Creation of the Nuclear Regulatory Commission and ERDA has meant that the FEA now has less responsibility for energy conservation and almost no role in research and development.[30]

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[30]Dorothy M. Bates, "Federal Interagency Coordination of Non-Nuclear Energy Research and Development," a paper prepared by the Congressional Research Service, 1975.

Conclusion

From this brief description of the evolution of the Federal Energy Administration, it appears as if the process by which the FEA was created closely corresponds to the data provided by Grafton through his SET novelty framework. For example, the advocates (Presidential advisers and key legislators) and opponents (private interest groups) of the FEA proposal were typical of the previous findings. The same can be said for the time span of agency creation--one to two years. Neither of Grafton's primary reasons for creation delays--opposition from other agencies or temporary effectiveness of other problem-solving techniques--was operative in the FEA case. Finally, Grafton's observation that "when a new agency proposal occurs after conceptualization, the first proposal is a reliable guide to the organizational structure and powers of the final product" appears to have held true for the FEA. As established in June 1974, the FEA differed from the Administration's December 1973 proposal only in terms of greater structural emphasis on feedback mechanisms (the Office of Private Grievances and Redress having been added) and slightly less functional flexibility (because of the limits placed on the transfers of other agency functions and concurrent officeholding).

Thus, the FEA has apparently undergone a relatively typical creation process. Moreover, there is some evidence that the agency has followed the typical "life cycle" pattern

of most independent regulatory bodies.[31] That is, the FEA has, during its existence, exhibited many of the traditional characteristics of a "youthful" regulatory bureaucracy. As this chapter has pointed out, the climate which the new FEO entered in 1973 featured strong demands for a regulatory response to the energy crisis. The agency entered the legislative battles of early 1974 with widespread support and attracted a number of aggressive, ambitious policy-makers. Whether the agency will follow the traditional pattern of "aging" and developing organizational rigidity is not yet clear. But there are some signs that the temporary nature of the FEA may have caused its maturation process to accelerate. For example, in just two years public, congressional, and executive support for the FEA has seriously declined.[32] Appropriations have become increasingly difficult for the agency to justify to the Congress as the organization has been unable to rally widespread interest group support. And the agency has increasingly been plagued with bureaucratic backlogs and complex workload problems. These and other issues are the subject of the policy analysis in Part Two of this study. But

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[31]See Kenneth J. Meier and John P. Plumlee, "Regulatory Administration and Organizational Rigidity," a paper prepared for the 1976 Annual Meeting of the Midwest Political Science Association, Chicago, 1976, pp. 2-4.

[32]See Edward Cowan, "Who Needs the Energy Agency?" New York Times 125 (May 30, 1976): F-1 and F-6.

first, it is necessary to briefly outline the major policy activities of the FEA: the fuel allocation and price control regulations. This is the subject of Chapter V which follows.

CHAPTER V

THE MANDATORY PETROLEUM ALLOCATION AND PRICING PROGRAMS

Introduction

The major raison d'etre for the Federal Energy Administration was the need, during the energy crisis, to minimize the economic impact of fuel shortages through the implementation of policies which would distribute petroleum and its products equitably among all consuming sectors of society. The congressional response, the mandatory fuel allocation and pricing programs, was designed to prevent economic dislocations, preserve industry competition, and control fuel prices. These functions have proven to be the most fundamental activities of the FEA; they occupy the largest portion of the agency's manpower and funding, as was discussed in Chapter IV. And these programs have been the most controversial FEA responsibilities. Critics from both the political right and left have focused upon the agency's regulation of the petroleum industry--conservatives say the FEA unfairly limits "free market" competition, while liberals accuse the agency of favoring the big oil companies.

Thus, the mandatory petroleum allocation and pricing programs are the focus of the policy analysis in Part Two of this study. Prior to evaluating the FEA's performance in these areas, however, it is necessary to describe the evolution and application of the pricing and allocation standards which have governed the distribution of crude oil and petroleum products for over two years. This chapter seeks to provide this description by analyzing: (1) the history of federal allocation and pricing regulation of the oil industry; (2) the most significant aspects of the FEA's mandatory rules and regulations; and (3) the major problems which have emerged from the application of these rules.

History of Federal Allocation and Pricing Regulation

The history of mandatory petroleum allocation and pricing rule-making is divided into three phases: (1) the initial federal interventions into oil policy via import and price controls in the period between 1959 and 1973; (2) the development of allocation regulations which were incorporated into the Emergency Petroleum Allocation Act (EPAA) of 1973; and (3) the legislative-executive dispute over the extension of EPAA controls in 1974-1975, leading to the passage of the Energy Policy and Conservation Act (EPCA) of 1975.

The Mandatory Oil Import Program

During the extended period of U.S. crude oil surpluses between the early 1930s and the mid-1950s, federal intervention in oil politics was designed to guarantee the dual goals of achieving domestic production levels which matched demand, and protecting domestic markets from expanding foreign production. In an attempt to meet the first objective, a number of oil-producing states developed "prorationing" systems designed to place limits on production and keep prices high. But these state laws proved to be ineffective without federal regulations to control crude pumped in excess of the state quotas. Legislation such as the 1935 Connally Hot Oil Act, which prohibited interstate shipment of oil in violation of these state laws, served to conserve domestic oil reserves, protect domestic oil firms, and assure domestic market stability. This legislation marked the first major federal regulation of oil allocation and pricing.[1]

As long as U.S. consumption remained well below production, this system was successful in shielding American oil interests. However, by 1947 the U.S. had become a net oil importer and foreign oil began to be seen as a threat to system stability. The reaction of the federal government was to encourage voluntary limits on imports beginning in

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[1]Richard B. Mancke, The Failure of U.S. Energy Policy (New York: Columbia University Press, 1974), pp. 72-76; and David H. Davis, Energy Politics (New York: St. Martin's Press, 1974), pp. 44 and 52.

1955. After four years in which imports increased forty percent, the Eisenhower administration imposed the Mandatory Oil Import Program (MOIP) in March 1959. Designed tc regulate the level of imports through a quota system, allocate permitted imports among domestic users, and manage program administration, the MOIP first set a national quota for imported crude, finished petroleum products, and unfinished oils at 12.2 percent of domestic production.[2] Justified in terms of "national security," the MOIP increasingly came under criticism from those who felt that the quotas were costing consumers by restricting price competition. Several investigations of the MOIP in the late 1960s were unanimous in recommending its abolishment.[3] However, it was not until April 1973 that the system of quotas was replaced with an import fee system. These fees were maintained until the Administration terminated them as part of the compromise leading to the passage of the EPCA in December 1975.[4]

Price Controls

The federal government placed controls on crude oil and petroleum products prices in August 1971. Price controls

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[2]S. David Freeman, Energy: The New Era (New York: Random House, 1974), p. 169.

[3]See Cabinet Task Force on Oil Import Control, The Oil Import Question (Washington, D.C.: Government Printing Office, 1970).

[4]See Joel Haveman, "Crisis Tightens Control of U.S. Energy Production," National Journal Reports 7 (April 26, 1975): 621.

fell into four distinct "phases." "Phase 1," the initial 90-day freeze on prices, established base levels for the later regulations. "Phase 2," lasting from November 1971 to January 1973, implemented stricter requirements for justifying price increases. "Phase 3," from January to June 1973, permitted the industry to pass on cost increases to consumers. Finally, "Phase 4," implemented in August 1973, established the price controls for petroleum and its products which continue to exist today in modified form.[5]

The most significant provisions of the "Phase 4" rules developed by the Cost of Living Council (and adopted by the FEO after it assumed control of the program in December 1973) were those creating a "two-tier" pricing system of "old" and "new" oil. Under this framework, the amount of oil produced from a given property at a level equal to or less than the amount produced from that property in 1972 was controlled at the price which prevailed on May 15, 1973, plus $1.35 per barrel. This "old" oil was thus subjected to regulation at a national average price of $5.25 per barrel. The second tier included three types of production not subject to the "old" oil ceiling price. Included within this category were stripper wells which produced less than 10 barrels

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[5]William A. Johnson, "The Impact of Price Controls on the Oil Industry: How to Worsen an Energy Crisis," in Gary D. Eppen, ed., Energy: The Policy Issues (Chicago: University of Chicago Press, 1975), pp. 100-108.

per day, any "new" oil produced from properties in excess of 1972 levels, and a volume of "old" oil equal to the amount of "new" oil produced (termed "released" oil).[6] This uncontrolled sector of oil production has averaged a price level between $10 and $12 per barrel.

With the passage of the EPCA, price controls were assured another 40 months duration, but the specific pricing formulas and mechanisms were left to Presidential discretion. As long as a new average domestic price of $7.66 per barrel is achieved (a reduction from the 1975 composite price of $8.75), the President is allowed considerable leeway in structuring the pricing system.[7]

The Emergency Petroleum Allocation Act

Less than two weeks after the MOIP was abandoned, the Economic Stabilization Act was amended to allow the President to promulgate regulations establishing priorities and allocating crude oil and petroleum products. Even prior to this legislation, "voluntary guidelines" for an allocation program had been prepared, but the amendments provided the authority for the Energy Policy Office to develop and issue its first

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[6]Johnson, pp. 108-115; Haveman, p. 622; and "Federal Energy Administration Regulations for Control of Petroleum Prices," Energy Users Report 31 (September 18, 1975): 45-64.

[7]Richard Corrigan, "'Compromise' Oil Bill Ends Up Pleasing Few," National Journal Reports 7 (December 27, 1975): 1735.

proposed regulations for mandatory petroleum allocations on August 31, 1973.[8] The propane allocation program was issued first, in October 1973, followed closely by similar rules for middle distillates. These two programs were thus well under way when the EPAA was signed into law in November. The EPAA itself mandated regulations which would: (1) protect public health, safety, welfare, and national security; (2) maintain public services; (3) maintain agricultural operations; (4) preserve "an economically sound and competitive" petroleum industry; (5) permit refineries to operate at full capacity; (6) allocate fuels to maintain exploration, production, extraction, and transportation activities in the energy sector; (7) equitably distribute fuels among geographical regions and among industrial sectors; (8) promote economic efficiency; and (9) minimize "economic distortion" and "unnecessary interference" with market mechanisms.[9]

Generally, the EPAA has sought to achieve these goals by requiring that products be made available to marketers and refiners in the same amounts as the corresponding period of the base year (1972), taking into account such factors as new entries into the market or alterations in market facilities.

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[8]Anthony M. DiLeo, "An Introduction to the Mandatory Petroleum Allocation Regulations," Louisiana Bar Journal 22 (September 1974): 108-109.

[9]U.S. Senate, Committee on Interior and Insular Affairs, Oversight--Mandatory Petroleum Allocation Programs (Washington, D.C.: Government Printing Office, 1974), pp.3-5.

If the aggregate amount available is less than that available in the base year, products are reduced proportionately.

Disputes Regarding EPAA Extension

Originally, the EPAA was written with a termination date of February 28, 1975, but it was extended until August 31, 1975, by an amendment. As early as June 1974, the Administration had begun to pressure the Congress to allow the EPAA to expire on schedule, using the argument that since oil supplies were again adequate, allocation regulations merely frustrated the "free market." However, at least two major obstacles to the Administration's proposals for decontrol existed in Congress. First, there was widespread legislative resistance to the subjection of small independent oil companies to a system free of allocation controls. At issue was the capability of the major petroleum firms to take advantage of the price disparity between "old" and "new" oil to force the independents out of business. That is, the potential existed that the major oil companies, which had access to lower priced crude, could undersell the independents. According to one analyst, the 15 largest oil firms paid only $8.70 per barrel for their crude in 1974, while 16 independents paid more than $9.20 a barrel.[10] Even with the

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[10]Joel Haveman, "Oil Allocation Pullout Frustrates Administration," National Journal Reports 6 (September 7, 1974): 1352.

protection of the EPAA, the independents' share of the retail petroleum market had decreased from 28 percent in 1972 to 17 percent in mid-1974.

The second major source of legislative opposition to termination of the EPAA was the related concern for controlling inflation and preventing possible windfall profits by the major oil companies. According to one congressional estimate, the EPAA had been responsible for preventing already large (about $10 billion in 1973) industry profits from increasing by another one-third.

In July 1974, the FEA attempted to begin a "practical demonstration" of the feasibility of incrementally exempting fuels from the mandatory regulations when residual fuel oil distribution rules were relaxed. The immediate pressure against this policy by the independents and East Coast consumers brought this experiment to a hurried end. By September 1974, the FEA had abandoned this "partial exemption" approach and outlined five alternatives for dealing with the pricing and allocation problem: (1) complete decontrol of all domestic crude, combined with some form of windfall profits tax; (2) limited decontrol, in which price controls would be removed but major firms would be limited to purchasing $5.25 per barrel oil; (3) a single price ceiling on all domestic crude (initially proposed at $7.15 per barrel); (4) a system providing financial aid to individual companies; and (5) an entitlements program to equalize oil

costs and compensate firms with little access to uncontrolled oil.

Eventually, the FEA adopted the entitlements option. The program, implemented on November 29, 1974, established a monthly average of old oil supplies to refineries and issues "entitlements" to refiners to guarantee them access to price-controlled crude.[11] This policy in no way altered the Administration's advocacy of decontrol, however. Adding another "complicated regulatory system" to those already being implemented by the FEA only increased efforts by Administration spokesmen to terminate EPAA constraints. The FEA's Deputy Administrator, John Hill, outlined the four major Administration objections to the continuation of the EPAA's regulatory programs as: (1) being inconsistent with Project Independence objectives in terms of creating disincentives to increased domestic production; (2) denying consumers the benefits of competition by restricting ease of entry into sectors of the oil industry; (3) prolonging economic distortions and inefficiencies by using an arbitrary base period; and (4) inhibiting long-range planning by the industry by constantly changing regulations to meet market conditions.[12]

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[11]See U.S. Senate, Committee on Interior and Insular Affairs, Small Refiners Exemption Act of 1975 (Washington, D.C.: Government Printing Office, 1975), p. 5.

[12]"Statement of John A. Hill, Deputy Administrator, Federal Energy Administration," before the Committee on Interior and Insular Affairs, United States Senate, September 4, 1975 (mimeographed), pp. 1-4.

For these reasons, President Ford vetoed a proposed six-month extension of the allocation regulations in September 1975. However, as a compromise, the regulations were extended on a temporary basis until an agreement with the Congress was reached via the EPCA in December. As was noted above, the provisions of the EPCA ordered a 40-month phaseout of the regulations and a conversion to standby authority.

FEA's Petroleum Allocation Regulations

As of January 1976, the FEA was charged with the continued implementation of the petroleum pricing and allocation regulations in some form for at least another three years. As the controls are gradually phased out and transferred to standby status, maintaining a balance between the goals of Project Independence (increasing domestic exploration for and production of crude oil, for example) and the objectives of the EPAA (maintaining the competitive viability of the oil industry and equitably distributing petroleum and its products) will be a major policy dilemma for the agency. For this reason, it is important to understand the general provisions of the regulations themselves, as indicators of the ways in which the fuel control systems function.

Background

The FEA's pricing regulations are divided into three sets of rules: those for producers, refiners, and resellers

(wholesalers) and retailers. The producers of crude oil are subject to the two-tier pricing system except for the "first sale" of imported crude. Refiners, resellers, and retailers are allowed a dollar-for-dollar passthrough of increased product costs to the consumers.[13]

Allocation regulations are organized around two programs: crude oil, and refined petroleum products. Those fuels included within the second category range from propane and butane to lubricants, greases, and solvents.

Base Periods

The years 1972 and 1973, chosen because they represented the most recent periods of petroleum abundance in the U.S., provide the base periods for the FEA's regulatory programs. In general, the regulations provide that a purchaser must buy supplies from his supplier of record during this period. For example, the crude oil rules specify a "freeze date" for all supplier/purchaser contractual relationships as of December 1, 1973, and base the allocations to refiners on the amount of crude refined during the year 1972.[14] There are, however, significant variations in the

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[13]"Statement of Frank G. Zarb, Administrator, Federal Energy Administration," before the Committee on Interior and Insular Affairs, May 19, 1975 (mimeographed), pp. 22-47.

[14]DiLeo, p. 107. See also Stephan A. Wakefield, "Allocation, Price Control and the FEA: Regulatory Policy and Practice in the Political Arena," Rocky Mountain Mineral Law Institute 21 (1975): 259-261.

way in which the time frames are defined for the other fuel types. The three main definitional schemes utilized are based upon: the corresponding month of a previous year (used for motor gasoline and middle distillates, for example), the corresponding calendar quarter of a previous year (for propane and butane), and an arbitrary period which overlaps more than one year (as is the case with residual fuels).

Coverage and Scope

Generally, the allocation regulations cover all petroleum and petroleum products produced, refined, or imported into the U.S. Exceptions to this rule include paraffin wax, petroleum coke, asphalt, road oil, refinery gases and natural gas.[15] There are also certain forms of the fuels regulated by the program which are excluded from the allocation provisions--for example, bottled propane and the propane content of natural gas liquids are exceptions to the coverage requirements. The scope of the allocation program generally extends to all producers, refiners, or "others who purchase or obtain" the fuels for resale, transfer, or use.

Preference Categories, Levels, and Priorities

The regulations make a distinction between the small "end-users" or resellers who purchase petroleum products and

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[15]Federal Energy Administration, Mandatory Petroleum Allocation Summary (Washington, D.C.: Federal Energy Administration, 1974), p. 1.

the larger "wholesale purchasers" who obtain allocated products from suppliers either for resale or consumption. A variety of relationships between these purchasers of petroleum (both end-users and wholesale purchasers) and the suppliers are also delineated (as discussed below). In addition, end-users, wholesale purchasers, and suppliers are identified as either "importers" or "non-importers." Finally, suppliers are divided into six categories: refiners, natural gas fractionating plants or processing plants, importers, resellers, jobbers, or retailers.

Allocation levels are determined by the availability of a particular product and are distributed according to a percentage of current requirements or base period use. While allocation levels are mandated for essential public services and critical industries (agricultural production or national defense) at 100 percent, the specific priorities for allocation are different for each fuel. Thus, motor gasoline priorities are highest for such end-users as passenger transportation services and aviation ground support vehicles, while residual fuel oil is allocated to such high priority users as manufacturers of drugs.

Supplier/Purchaser Relationships

As was mentioned above, the EPAA established fixed fuel-supply requirements by directing suppliers to maintain their 1972-1973 relationships with their purchasers. These

relationships are usually established for the duration of the allocation program, but there are provisions for mutual termination of contracts between suppliers and wholesale purchaser-consumers and end-users. Wholesale purchaser-resellers must have prior FEA approval to terminate such supplier relationships. Any new obligation between a wholesale purchaser-consumer or wholesale purchaser-reseller and a supplier must also be approved by the agency. End-users, however, may form new relationships without the agency's certification.--

Adjustments and Exceptions

Because conditions have changed for many of the fuel systems since the base period of 1972, the FEA developed a set of adjustments to base period volumes for wholesale purchasers and end-users. In cases of "unusual growth" in excess of 1972 purchases, or "increased current requirements," fuel allocations may be adjusted upward. The adjustment process may be initiated either by suppliers, wholesale producers, or end-users, but all "unusual growth" adjustments are subject to FEA validation. "Current requirement" increases are built into the regulations and take effect automatically. The allocation regulations also provide for exceptions, exemptions, interpretations, appeals, and other standard administrative procedures. These rules and regulations are discussed in detail in Chapter IX.

Problems with the Regulations

The FEO's initial attempts to develop mandatory allocation regulations were less than fully successful. The first rules, issued on January 15, 1974, were promulgated hastily and in a crisis atmosphere.[16] Comments from industry and the public were difficult to incorporate in the fifteen-day preparation period for the original proposals, and the revision process was hampered by the FEO's staffing problems. As a result, evaluations of the early rules by the Federal Trade Commission and other agencies pointed out at least four major flaws. First, the regulations provided a disincentive for increasing refinery inputs through either production or imports by their requirement that any refinery outputs which exceeded the estimates of inputs given the FEA each quarter should be allocated away in subsequent quarters. Second, the early rules required companies with supply/capacity ratios below the national average to sell petroleum to other firms. Third, the FEO's price controls discriminated against the refiner-seller who had access to crude. And fourth, the regulations resulted in regional shortages and product dislocations.[17]

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[16]See "Sweeping U.S. Allocation System Readied," Oil and Gas Journal 71 (December 17, 1973): 30-31.

[17]Craig A. Warner, "National Energy Goals and FEA's Mandatory Crude Oil Allocation Program," Virginia Law Review 61 (May 1975): 912-914.

These difficulties prompted a lawsuit against the rules by Gulf Oil Corporation (Gulf Oil Corporation vs. Simon, 1974) which had been forced to sell 12 million barrels of crude to refiners with less than the national average of 76 percent requirements. Although the District Court denied all Gulf's claims of arbitrary seizure of property, the court action did spur the FEA to revise the regulations.

By March 1974, the FEA had developed a revised set of rules aimed at eliminating equal sharing of crude by refineries by giving aid only to refiners with capacities under 175,000 barrels per day. Also proposed was a plan to let refiners keep imports above quarterly refinery input estimates. However, before the rules were enacted, the agency published a completely different mandatory allocation program on May 14, 1974, giving no reason for the abrupt change in direction.[18]

The regulations published in May are, with modification, those in effect today. The controversies they have fostered have focused upon the difficulties involved in administering the two-tier pricing system (to which the entitlements program was a response). Challenges to the present program have largely been in the form of refiner-sellers undertaking agency proceedings to attempt to gain

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[18]See "Crude-Allocation Plan to Change May 1," Oil and Gas Journal 72 (March 4, 1974): 26-27; and "Details of New Allocation Plan Told," Oil and Gas Journal 72 (March 11, 1974): 50-51.

exceptions to sales obligations, although there continue to be court tests of what some firms term the FEA's "taking of property without just compensation" (as in Union Oil Company vs. FEA, 1974, for example). There have been, however, no judicial invalidations of FEA allocation rules.[19]

Conclusion

The three major analyses of early FEO/FEA regulatory behavior are generally negative in their appraisals of the degree to which the fuel allocation and pricing regulations dealt with oil supply problems.[20] However, these evaluative efforts are limited by their reliance upon only the traditional performance criteria of efficiency and effectiveness. They lack any consideration of the broader political criteria such as the representativeness, responsiveness, or responsibility of allocation policies. That is, one gets no indication of the levels of public participation, the focus and direction of public attitudes, or the interaction between the agency's programs and its environment. The goal of the policy evaluation which follows in Part Two is to provide this broader view of Federal Energy Administration policy-making.

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[19]See Wakefield, pp. 282-283.

[20]Richard B. Mancke, Performance of the Federal Energy Office (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1975); Paul W. MacAvoy, Bruce E. Stangle, and Jonathan B. Tepper, "The Federal Energy Office as Regulator of the Energy Crisis," Technology Review 77 (May 1975): 39-45; and Wagner, pp. 903-937.

PART TWO

AN EVALUATION OF THE PERFORMANCE OF THE FEDERAL ENERGY ADMINISTRATION

CHAPTER VI

THE REPRESENTATIVENESS OF FEA DECISION-MAKERS

Introduction

The study of the public personnel who make policy decisions has traditionally emphasized the formalistic and prescriptive requisites of methods of recruitment, position classification, or other aspects of the "merit system." According to David Rosenbloom:

> The field has devoted itself almost entirely to attempting to discover the principles and practices through which public personnel systems can assure the highest degree of economy and efficiency in an apolitical sense, and it has almost completely ignored the impact of these principles and practices on such politically relevant factors as bureaucratic representativeness and individual, group, and organizational political behavior.[1]

Rosenbloom recommends that political scientists, in order to escape this narrow scope, "adopt a perspective which is more analytic of political relationships and political behavior" by moving beyond consideration of efficiency

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[1]David H. Rosenbloom, "Public Personnel Administration and Politics: Toward a New Public Personnel Administration," Midwest Review of Public Administration 7 (April 1973), p. 101 (emphasis mine).

and effectiveness criteria to study topics having more widespread ramifications. For Rosenbloom:

> The first of these areas, and perhaps the most important, is that of bureaucratic representation. In an age in which much of the policy of all governments is formulated in public bureaucracies, the potential importance of their representativeness is hard to overestimate. It can hardly be much less important, and might even be more, for example, than the representativeness of legislatures. For the most part, however, public personnel administration, which, at least in theory, has always been concerned with the relationship between the input of manpower and the quality of bureaucratic outputs, has in practice avoided any serious consideration of whether either these "inputs" or outputs do have a relationship to one another in this regard, or whether the outputs are related to anything other than technical efficiency.[2]

This chapter is an attempt to accomplish these goals by applying the criterion of representativeness to the decision-making component of the Federal Energy Administration. After a statement of the research hypotheses for FEA decision-maker representativeness, consideration is given to the level and integration of bureaucratic representativeness. This is followed by an analysis of the distribution of representativeness in the agency.

Research Hypotheses

Existing studies of the regulatory activities of the FEA provide almost no data regarding the agency's personnel characteristics; other than a few biographical

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[2]Rosenbloom, p. 105.

sketches of the organization's highest leadership, little information of this nature has been made available. However, some clues can be found for developing research hypotheses for FEA decision-maker representativeness. Most significantly, several analysts have focused upon the agency's staffing problems which resulted from the crisis situation into which the FEO was thrust, the temporary agency mandate, and the technical nature of much of the energy expertise which was needed.[3] From these factors the following hypothesis can be formulated:

> Hypothesis 1: The emergency policy environment in which the FEA was created severely constrained the overall level of agency representativeness.

In addition to these environmental limitations, the FEA's mission itself can be hypothesized as a constraint upon the achievement of bureaucratic representativeness. Research has demonstrated that federal agency integration is related to two types of bureaucratic missions: those which stress a commitment to equality or helping the disadvantaged (such as the Department of Health, Education and Welfare, for example), and those which engage in "factory type" operations (as with the Government Printing

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[3]See Richard B. Mancke, Performance of the Federal Energy Office (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1975), pp. 22-23.

office).[4] The FEA performs neither of these functions. Thus:

> Hypothesis 2: The regulatory activities undertaken by the FEA limit the integration of FEA representativeness.

Finally, some structural characteristics of the FEA give hints as to how minorities will be represented:

> Hypothesis 3: The youth, small size, and rapid growth of the FEA will facilitate the distribution of agency representativeness.

Thus, the research hypotheses for this chapter posit relatively low levels and integration of FEA representatives but relatively even distribution of FEA minorities.

Level of FEA Representativeness

In order to determine the overall level of representativeness of the FEA, comparisons must be drawn between the proportion of all members of the general population who fall into specific social categories and the proportion of FEA personnel who also fall into the same categories. The index of representativeness (I), which measures the dimension of "level-of-representativeness" is calculated as

$$I = \frac{\text{Percent in the bureaucracy with characteristic X}}{\text{Percent in the society with characteristic X}}.$$[5]

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[4]Peter N. Grabosky and David H. Rosenbloom, "Racial and Ethnic Integration in the Federal Service," Social Science Quarterly 56 (June 1975): 81-82.

[5]David Nachmias and David H. Rosenbloom, "Measuring Bureaucratic Representation and Integration," Public Administration Review 33 (November 1973): 591.

Table 2 illustrates the racial and sexual percentages for the FEA for the period since the agency's establishment (1973-1975), and Table 3 outlines the 1975 level of representativeness for the FEA and the entire federal service.

As Table 2 indicates, the early, emergency (EPO and FEO) stages of the FEA's development were characterized by extremely low minority group representation in the agency. As was hypothesized, representativeness was apparently not a major consideration in building the FEA bureaucracy during the energy crisis. In fact, it is only in the most recent data (October-December 1975) that substantial progress toward increasing minority group representation in the agency is reflected. This slow incorporation of minority interests has not characterized female representation, however. Table 2 points out the fact that the proportion of female employees of the FEA has been maintained near the 40 percent level for at least the last twelve months. Additional data suggests that female representation in the agency was over 40 percent for the year 1974 as well.[6]

The indices of level-of-representativeness (I) in Table 3 illustrate the degree to which the recent increases in the number of minority group personnel in the FEA have brought the agency to a situation of parity with the overall

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[6]Bureau of Manpower Information Systems, U.S. Civil Service Commission, Occupations of Federal White-Collar Workers (Washington, D.C.: Government Printing Office, October 31, 1974), Table A-1.

TABLE 2

FEA PERSONNEL BY RACE AND SEX, 1973-1975 *

Period	Social Category												
	Black		Span.		Ind.		Orient.		Female		Non-Min.		Total
	N	%	N	%	N	%	N	%	N	%	N	%	N
November 30, 1973[a]	1	5.6	0	0	0	0	0	0	unknown		17	94.4	18
May 31, 1974[b]	23	1.3	0	0	0	0	3	0.2	unknown		1803	98.6	1829
May 31, 1975[c]	150	3.6	17	0.5	5	0.1	10	0.3	1323	40.4	3123	95.5	3271
December 31, 1975	522	15.1	60	1.7	16	0.5	40	1.1	1329	38.4	2826	81.6	3464

[a]Data for the Energy Policy Office. SOURCE: U.S. Civil Service Commission, Minority Group Employment in the Federal Government (Washington, D.C.: U.S. Civil Service Commission, November 30, 1973), p. 39.

[b]Data for the Federal Energy Office. SOURCE: U.S. Civil Service Commission, Minority Group Employment in the Federal Government (Washington, D.C.: U.S. Civil Service Commission, May 31, 1974), p. 24.

[c]SOURCE: Bureau of Manpower Information Systems, U.S. Civil Service Commission, Central Personnel Data File (Washington, D.C.: U.S. Civil Service Commission, May 31, 1975), pp. 36.1A to 36.2C.

*Other characteristics of FEA personnel (occupation, pay grade, etc.) are outlined in the discussions of integration and distribution of agency representativeness which follow.

TABLE 3

LEVEL OF REPRESENTATIVENESS IN THE FEDERAL GOVERNMENT AND THE FEDERAL ENERGY ADMINISTRATION, BY RACE AND SEX, 1975*

Social Category	1970 General Population[a] %	1975 Federal Government[b] %	1975 Federal Government[b] Index	1975 Federal Energy Admin.[c] %	1975 Federal Energy Admin.[c] Index
Total Female[d]	36.4	30.6	0.84	38.4	1.05
Total Minority[e]	16.9	20.1	1.19	18.4	1.09
Total Black	11.0	15.0	1.36	15.1	1.37
Total Spanish	5.0	3.2	0.64	1.7	0.34
Total Indian	0.4	0.9	2.25	0.5	1.25
Total Oriental	0.5	0.9	1.80	1.1	2.20

*NOTE: % = Percentage of Total N; Index = Index of Representation.

[a]SOURCE: Harry Kranz, "How Representative Is the Public Service?" Public Personnel Management 2 (July/August 1973): 245.

[b]SOURCE: Bureau of Manpower Information Systems, U.S. Civil Service Commission, Central Personnel Data File (Washington, D.C.: U.S. Civil Service Commission, May 31, 1975), pp. 1.1A to 1.1B.

[c]SOURCE: Federal Energy Administration, "Equal Opportunity Quarterly Work Force Survey Results: Final Quarter (October-December) of 1975," February 10, 1976 (mimeographed), pp. 2 and 5.

[d]Female percentage is percentage of work force, not population

[e]Includes total Black, Spanish, Indian and Oriental.

federal government in terms of representativeness. Although the FEA's slight "over-representation" of total minorities (I = 1.09) is not as high as that of the government as a whole (I = 1.19), the agency closely parallels the general public service's level of over-representativeness for the largest and most significant category of minority personnel --Blacks are represented at levels of 1.36 and 1.37, respectively. The FEA, like the federal government, also over-represents Indian and Oriental groups in the 1975 data. Indians as a group are only slightly over-represented in the FEA (I = 1.25), while their national representation is much higher (mostly as a result of Interior Department hiring). It is only in the category of Spanish-surnamed personnel that both the FEA and the federal government under-represent a particular minority group (I = 0.34 and 0.64). Finally, it must be noted that the FEA represents women better than does the federal public service overall, although the FEA's over-representation of females is very slight.

Integration of FEA Representatives

The more sophisticated measure of agency integration of representatives is designed to move beyond consideration of the level of representation of a specific group in a bureaucracy to focus upon the degree of social mix of <u>all</u>

groups within the organization as a whole unit. The index of integration (V) is calculated as follows:

$$V = \frac{\text{Total observed differences}}{\text{Maximum possible differences}}$$

where Total observed differences = $\Sigma f_1, f_j, i \neq j$
where f = the number of ith social characteristics
and where Maximum possible differences = $\frac{n(n-1)}{2}\left(\frac{f^2}{n}\right)$
where n = the number of social characteristics
and f = total frequency.[7]

The degree of social integration for the FEA and 19 other federal agencies is outlined in Table 4. As is shown by that table, the FEA has achieved only a moderate degree of integration of its personnel (V = .39) when compared to other selected agencies. Thus, the FEA ranks twelfth of the twenty agencies for which 1974-1975 data were available. Moreover, the FEA's index of integration is lower than the measure for the entire federal service (V = .44) and lower than at least two organizations which perform similar, energy-related, functions (the Interior Department and the Federal Power Commission). This is largely due to the fact that the bulk of the FEA's minority personnel are grouped in a single category; Black bureaucrats account for over

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[7]Nachmias and Rosenbloom, pp. 592-593. See also Grabosky and Rosenbloom, pp. 77-81, for an example of the use of this standard.

TABLE 4

SOCIAL INTEGRATION OF THE FEDERAL ENERGY ADMINISTRATION AND OTHER SELECTED FEDERAL AGENCIES, BY RACE, 1974-1975*

Agency	Pct. Black	Pct. Span.	Pct. Ind.	Pct. Orient.	Pct. Other	Total N	V
GSA	36.5	3.0	0.3	1.1	59.1	36,758	.65
HEW	23.8	2.7	3.3	0.9	69.3	125,430	.58
Labor Dept.	27.4	2.3	0.4	0.9	69.0	12,715	.56
VA	25.7	2.6	0.2	0.8	70.6	179,157	.54
ICC	19.4	1.1	0.8	4.3	74.4	1,955	.51
Interior	4.5	2.1	17.1	0.6	75.7	64,948	.50
HUD	22.3	1.9	0.4	1.0	74.4	16,441	.49
Postal Svc.	20.7	2.9	0.2	0.7	75.5	557,580	.48
FPC	21.3	0.7	0.3	1.8	75.9	1,213	.47
Commerce	18.1	1.3	0.1	1.1	79.3	30,335	.42
Treasury	15.1	2.6	0.2	1.0	81.2	108,356	.40
FEA	15.1	1.7	0.5	1.1	81.6	3,464	.39
State Dept.	14.8	2.4	0.1	0.8	81.8	16,800	.39
Defense	11.6	4.5	0.3	1.1	82.5	940,280	.38
Justice	11.7	3.3	0.2	0.5	84.3	47,821	.34

TABLE 4, continued

Agency	Pct. Black	Pct. Span.	Pct. Ind.	Pct. Orient.	Pct. Other	Total N	V
AEC	7.0	5.1	0.3	1.0	86.7	7,345	.30
EPA	8.6	1.2	0.2	0.8	89.2	9,091	.25
DOT	8.0	1.6	0.6	0.7	89.0	67,424	.25
Agriculture	6.9	2.2	0.4	.05	90.1	84,254	.23
TVA	7.5	0.1	0.0	0.2	92.1	25,749	.18

*NOTE: V = Index of Integration. Data for the Federal Energy Administration is for the period October-December, 1975. Data for the FPC, ICC, AEC, and EPA is for May 31, 1974. All other agency data is for November 31, 1974. Data for the FPC, ICC, AEC, and EPA includes personnel from GS only--all other data includes personnel from all pay plans.

SOURCES: Bureau of Manpower Information Systems, U.S. Civil Service Commission, Federal Civilian Manpower Statistics: Monthly Release (Washington, D.C.: U.S. Civil Service Commission, December 1975), pp. 44-46, and January 1976, p. 41; and Federal Energy Administration, "Equal Opportunity Quarterly Work Force Survey Results: Final Quarter (October-December) of 1975," February 10, 1976 (mimeographed), pp. 2 and 5.

80 percent of the FEA's total minority representation. Nevertheless, the FEA's index of integration is higher than that for the society as a whole (V = .30) and several energy-related regulatory organizations are less integrated than the FEA (the old AEC, the Environmental Protection Agency, and the Tennessee Valley Authority).

Distribution of FEA Representativeness

While there is utility in determining both the level and the integration of a bureaucracy's representativeness, neither of these evaluative dimensions has a great deal of meaning to the policy analyst if those positions occupied by various interest group representatives in an organization are maldistributed. That is, as Earl Reeves has observed:

> In the final analysis, a genuinely representative bureaucracy must be representative in its own internal composition. And this representativeness must extend through all levels of the hierarchy. This requires an opportunity for blacks and other minorities to pursue a career with real opportunities for advancement to positions of decision-making, even if this requires the use of quotas and compensatory hiring, training and promotion programs.[8]

Thus, measures of level and integration must be utilized in conjunction with measures of inequality in order to evaluate the distributional characteristics of agency representativeness. The Gini Index of concentration serves this purpose,

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[8]Earl J. Reeves, "Equal Employment and the Concept of the Bureaucracy as a Representative Institution," Midwest Review of Public Administration 6 (February 1972): 13.

as does the Lorenz Curve of inequality. The Gini Index is calculated in the following manner:

$$G = \frac{\text{Area of inequality}}{.5}$$

where Area of inequality = curve of perfect equality minus the curve of actual distribution.[9]

The Lorenz Curve provides a graphical presentation of the area of inequality between perfect and actual representativeness. As background data for the computation of these measures of inequality, Tables 5 through 8 describe the FEA's distribution of personnel by functional office, geographical location, pay grade, and occupation.

A check of Tables 7 and 8 reveals possible maldistributions of FEA personnel both in terms of absolute numbers (total N) and proportions of minority group representation for both occupation and pay grade. The computation of Gini Indices comparing the FEA to the overall federal government, illustrated in Figure 13, confirms the "unrepresentativeness" of the FEA's General Schedule (GS) pay structure (G = .32), but shows the agency's occupational structure to be highly representative of the general public

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[9]See Kenneth J. Meier, "Representative Bureaucracy: An Empirical Analysis," American Political Science Review 69 (June 1975): 530-531.

TABLE 5

FEA PERSONNEL, BY OFFICE, RACE, AND SEX, 1975

Office	Pct. Female	Pct. Black	Pct. Span.	Pct. Ind.	Pct. Orient.	Total N
Mgmt. & Admin.	52.7	33.0	1.2	0	0.9	330
General Counsel	45.4	21.6	0	0	0	88
Nuclear Affairs	50.0	0	0	0	0	12
Regulatory Programs	40.3	19.7	0.6	0	0	310
Policy & Analysis	37.6	12.4	0.8	0	0.2	394
Cong. Affairs	57.1	11.9	4.8	0	0	42
Energy Res. Development	40.6	16.1	0	0	0.5	192
Conserv. & Environment	50.0	17.8	1.0	0	1.0	208
Intl. Affairs	37.8	4.4	0	0	0	45
Pr. Griev. & Redress	31.9	17.0	0	0	2.1	47
Comm. & Pub. Aff.	52.8	21.9	1.6	0	0	123
Int., Reg. & Sp. Pgms.	54.5	18.2	0	0	0	33
Regional Offices	31.4	10.2	2.7	1.0	1.9	1640

SOURCE: Federal Energy Administration, "Equal Opportunity Quarterly Work Force Survey Results: Final Quarter (October-December) of 1975," February 10, 1976 (mimeographed), pp. 3 and 8-19.

TABLE 6

FEA PERSONNEL, BY LOCATION, RACE, AND SEX, 1975

Location	Pct. Female	Pct. Black	Pct. Span.	Pct. Ind.	Pct. Orient.	Total N
Region I Boston	36.4	7.9	2.3	1.1	0	88
Region II New York	34.4	18.5	2.0	0	2.0	151
Region III Philadelphia	32.9	16.1	0.6	0.6	0	161
Region IV Atlanta	37.6	13.2	3.3	0	0	181
Region V Chicago	28.8	16.9	0.4	0	1.4	219
Region VI Dallas	24.1	3.0	4.7	0.7	1.0	295
Region VII Kansas City	32.7	8.6	1.8	5.5	0	162
Region VIII Denver	30.3	1.5	3.8	1.5	3.0	132
Region IX San Fran.	30.4	8.8	4.7	0.6	9.3	171
Region X Seattle	38.7	7.5	2.5	0	3.7	80
HQ Washington	44.6	19.4	0.8	0	0.4	1824

SOURCE: Federal Energy Administration, "Equal Opportunity Quarterly Work Force Survey Results: Final Quarter (October-December) of 1975," February 10, 1976 (mimeographed), pp. 20-29.

TABLE 7

FEA PERSONNEL, BY PAY GRADE, RACE, AND SEX, 1975

Grade	Pct. Female	Pct. Black	Pct. Span.	Pct. Ind.	Pct. Orient.	Total N
Sched. C	0	0	0	0	0	2
Ex. Lv.	0	0	0	0	0	17
Exp./Con.	4.9	0	0	0	2.3	41
GS 18	0	0	0	0	0	3
17	0	0	0	0	0	14
16	4.2	4.2	2.1	0	0	48
15	3.7	2.1	0.4	0	0.8	240
14	6.7	3.7	1.0	0	0.7	298
13	11.0	4.2	2.8	0.9	0.2	456
12	20.3	8.2	1.6	0.4	2.0	439
11	26.8	8.4	2.2	0.5	1.5	403
10	85.7	28.6	7.1	0	0	14
9	40.8	14.8	0	0.5	1.1	365
8	95.0	23.8	1.0	0	1.0	101
7	70.2	22.8	2.9	0.3	0.9	346
6	93.5	37.7	1.9	0	1.3	154
5	77.3	33.1	2.8	0.8	2.8	251
4	85.6	29.3	1.8	1.8	1.8	167
3	84.6	52.3	0	0	0	65
2	38.5	53.8	0	0	0	13
1	62.5	100.0	0	0	0	8
WG	6.7	100.0	0	0	0	15
Student	100.0	50.0	0	0	0	2
Fellow	0	0	0	0	0	1
FSO	0	0	0	0	0	1

SOURCE: Federal Energy Administration, "Equal Opportunity Quarterly Work Force Survey Results: Final Quarter (October-December) of 1975," February 10, 1976 (mimeographed), p. 5.

TABLE 8

FEA WHITE-COLLAR PERSONNEL,
BY OCCUPATION AND SEX, 1974*

Occupation Category	Male N	Male %	Female N	Female %	Total N
Professional	551	92.3	46	7.7	597
Administrative	919	81.5	209	18.5	1128
Technical	11	52.4	10	47.6	21
Clerical	611	33.2	1229	66.8	1840
Other	4	30.8	9	69.2	13
Unspecified	19	86.4	3	13.6	22

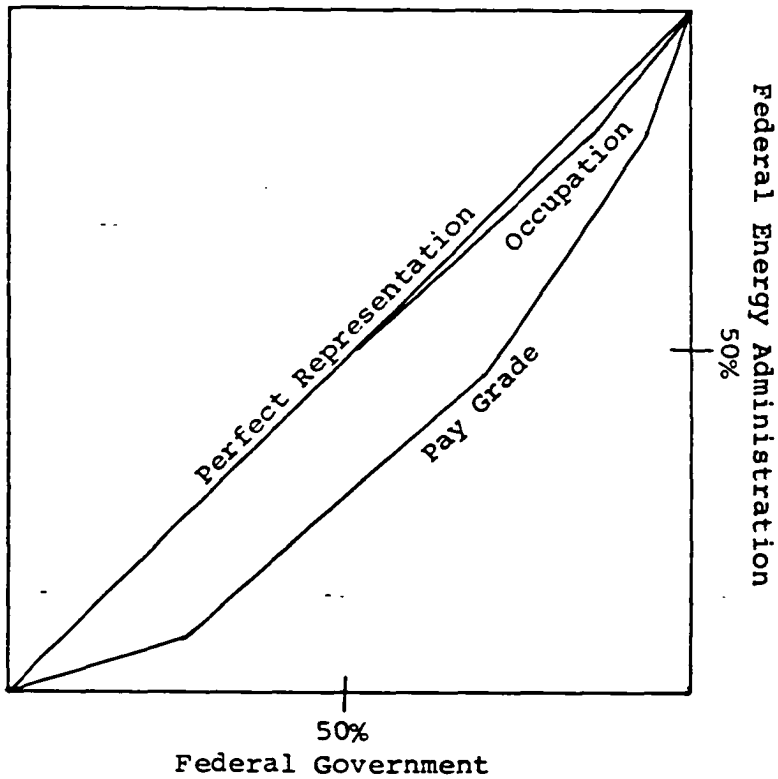
*NOTE: White-collar occupations include all General Schedule (GS) and other non-wage system personnel. For the FEA, this includes over 99 percent of total personnel.

SOURCE: Bureau of Manpower Information Systems, U.S. Civil Service Commission, Occupations of Federal White-Collar Workers (Washington, D.C.: Government Printing Office, October 31, 1974), Table A.

FIGURE 13

DISTRIBUTION OF FEA PERSONNEL:
OCCUPATION ORDERED BY STATUS,
AND PAY GRADE, 1974-1975

Occupation: G = .01
Pay Grade: G = .32



SOURCES: Federal Energy Administration, "Equal Opportunity Quarterly Work Force Survey Results: Final Quarter (October-December) of 1975," February 10, 1976 (mimeographed) p. 5; Bureau of Manpower Information Systems, U.S. Civil Service Commission, Occupations of Federal White-Collar Workers (Washington, D.C.: Government Printing Office, October 31, 1974), Tables A and A-1; and Bureau of Manpower Information Services, U.S. Civil Service Commission, Central Personnel Data File (Washington, D.C.: U.S. Civil Service Commission, May 31, 1975), p. 1.1A.

(G = .01).[10] As the Lorenz Curve in Figure 13 points out, the occupations of FEA policy-makers are distributed in almost exactly the same proportions as is the case for the entire federal government (which is, in turn, highly representative of the general population in terms of occupational variable indicators).[11] However, the FEA's pay grade distribution significantly under-represents the lower levels (GS 1-4) and over-represents the higher decision-making positions (GS 14-18). Thus, the agency is "top-heavy" when compared to a public service which itself does not represent the population in terms of income levels.[12]

Regarding the distribution of minorities within the FEA's pay and occupational structures, calculating an index of integration for each of the 18 GS grades reveals that, as Nachmias and Rosenbloom discovered for the federal services as a whole, "the degree of social integration in General Schedule grades is highest in the lower grades and lowest in the higher grades."[13] When these indices are correlated with an index of income for each of the pay grades, the inverse relationship is found to be strong

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[10]For the purposes of this study, a Gini Index of less than .25 was taken to be evidence of a representative bureaucracy. See Meier, p. 531, for a discussion of the use of this standard.

[11]Meier, p. 531.

[12]Meier, p. 532.

[13]Nachmias and Rosenbloom, p. 593.

(r = -.76, see Table 9). Thus, the FEA, like the entire federal bureaucracy, under-represents minorities at the upper, appointive, levels of the agency, while it over-represents them at the low, entry, levels. Although data categorizing minority groups by occupation are not available for the FEA, Table 8 does provide information regarding the proportion of males and females in each occupation category. This table demonstrates an obvious maldistribution of females into the lower status occupations (clerical, technical, and "other"). For example, the level of female professionals in the FEA (7.7 percent) is less than half the average for the entire federal government (19.4 percent in 1974), while the proportion of women employed in the clerical category for the agency (66.8 percent) is much higher than the public service average (48.6 percent).[14] These figures seem to indicate that the FEA's degree of "stratification" (clustering minority representatives into low grade, pay, and responsibility positions) is relatively high. In terms of structural "segmentation" (isolating minorities in certain offices or programs), however, Tables 10 and 11 show that although there is some relationship between the two best indicators of office importance (size and budget) and degree of integration of representativeness

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[14]Bureau of Manpower Information Systems, U.S. Civil Service Commission, Federal Civilian Manpower Statistics: Monthly Release (Washington, D.C.: U.S. Civil Service Commission, December 1975), p. 37.

TABLE 9

SOCIAL INTEGRATION OF FEA PERSONNEL, BY PAY GRADE, 1975

Grade	Average Income	Income Index*	V
GS 18	$37,800	2.01	.00
17	37,800	2.01	.00
16	37,397	1.99	.15
15	33,734	1.79	.07
14	28,645	1.52	.14
13	24,323	1.29	.19
12	20,376	1.08	.28
11	17,086	0.91	.29
10	16,265	0.86	.63
9	14,026	0.74	.35
8	13,640	0.72	.46
7	11,788	0.63	.51
6	10,663	0.56	.63
5	9,551	0.51	.65
4	8,538	0.45	.61
3	7,450	0.40	.62
2	6,315	0.33	.62
1	5,559	0.30	.00

$r = -.76$

*Income Index = $\frac{\text{Average Grade Income}}{\text{Average Agency Income}}$

SOURCE: Federal Energy Agministration, "Summary of Pay Plans and Salaries," March 12, 1976 (mimeographed), p. 1.

TABLE 10

SOCIAL INTEGRATION OF FEA PERSONNEL, BY OFFICE SIZE, 1975

Office	Total N	V
Policy and Analysis	394	.37
Management and Administration	330	.59
Regulatory Programs	310	.41
Region VI, Dallas	295	.22
Region V, Chicago	219	.39
Conservation and Environment	208	.40
Energy Resource Development	192	.35
Region IV, Atlanta	181	.35
Region IX, San Francisco	171	.49
Region VII, Kansas City	162	.35
Region III, Philadelphia	161	.36
Region II, New York	151	.45
Region VIII, Denver	132	.23
Communications and P.A.	123	.46
General Counsel	88	.42
Region I, Boston	88	.26
Region X, Seattle	80	.31
Private Grievances & Redress	47	.39
International Energy Affairs	45	.12
Congressional Affairs	42	.36
Intergovernmental R&SP	33	.37
Nuclear Affairs	12	.00

$r_s = .35$

SOURCE: Federal Energy Administration, "Equal Opportunity Quarterly Work Force Survey Results: Final Quarter (October-December) of 1975," February 10, 1976 (mimeographed), pp. 8-29.

TABLE 11

SOCIAL INTEGRATION OF FEA PERSONNEL, BY OFFICE FUNDING, 1975

Office	Budget	V
Regulatory Programs *	$32,964,000	.36
Policy and Analysis	21,769,000	.37
Conservation and Environment	18,225,000	.40
Management and Administration	16,326,000	.59
Energy Resource Development	13,767,000	.35
Communications & P.A.	2,550,000	.46
General Counsel	1,723,000	.42
International Affairs	1,291,000	.12
Private Grievances & Redress	832,000	.39
Intergovernmental R&SP	828,000	.37
Congressional Affairs	736,000	.36
	$r_s = .15$	

*Includes Regional Offices.

SOURCE: U.S. Senate, Committee on Appropriations, Department of the Interior and Related Agencies Appropriations, Part 5 (Washington, D.C.: Government Printing Office, 1975), pp. 2741-2784.

(r_s = .35 and .15), this relationship is not a strong one. Thus, the FEA does not appear to segment its minority representatives into less significant functional offices.

If these two characteristics of FEA "differential incorporation" of minorities--high stratification and low segmentation--are combined, the agency can be categorized according to Charles Levine's four cell typology of ideal majority/minority representation patterns shown in Figure 14. In this typology, the FEA would be characterized as a "stratified" bureaucracy. According to Levine:

> The stratified bureaucracy is the most common form of unrepresentative bureaucracy in the United States. Organizations of this type evidence substantial aggregate pay, grade, status, responsibility, and authority differentials between white males and minority group employees in the same work units. Whether discrimination stems from the practices of personnel administrators, line managers, or the composition of the existing minority manpower pool, in stratified bureaucracies minorities almost always occupy subordinate positions to their white male coworker.[15]

A representational model of a stratified bureaucracy is illustrated in Figure 15, along with similar graphic representations of each of the other three differential incorporation modes.

Conclusion

As was hypothesized, the FEA has only recently reached the level of bureaucratic representativeness of the

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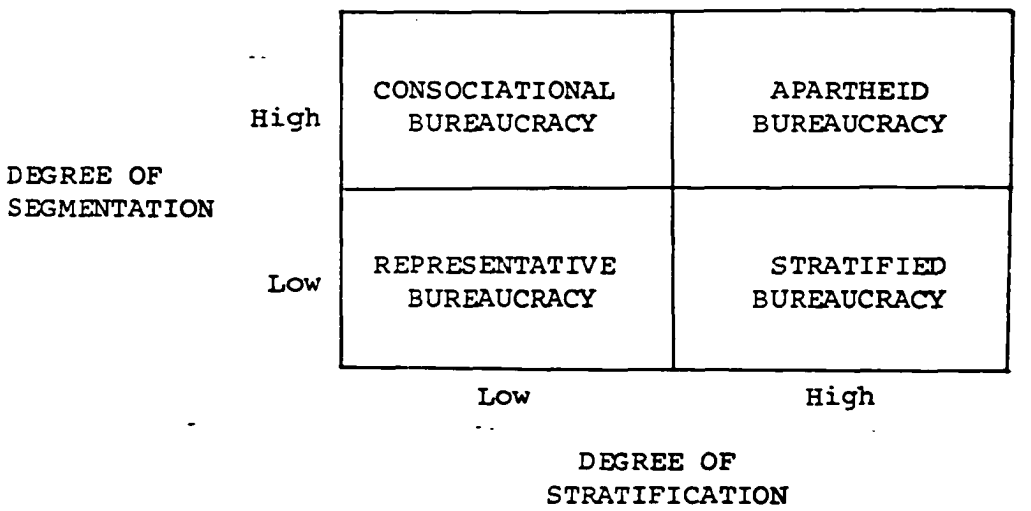
[15]Charles E. Levine, "Unrepresentative Bureaucracy: Or Knowing What You Look Like Tells You Who You Are (And Maybe What To Do About It)," Bureaucrat (April 1975): 94.

FIGURE 14

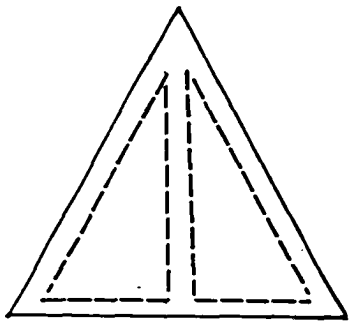
A TYPOLOGY OF DIFFERENTIAL INCORPORATION IN BUREAUCRACY



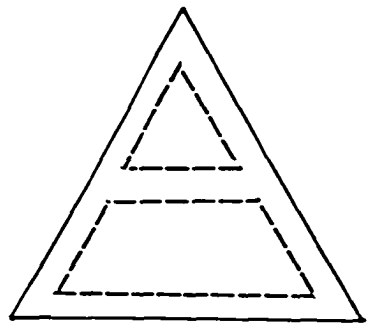
SOURCE: Charles E. Levine, "Unrepresentative Bureaucracy: Or Knowing What You Look Like Tells You Who You Are (And Maybe What To Do About It)," Bureaucrat 4 (April 1975), p. 93.

FIGURE 15

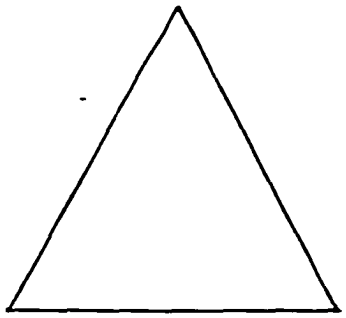
REPRESENTATIONAL MODELS OF DIFFERENTIAL INCORPORATION IN BUREAUCRACY



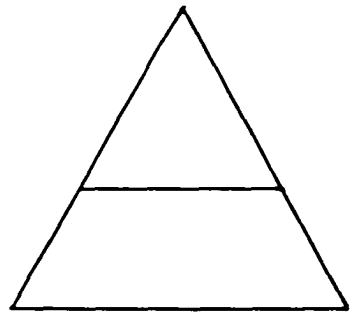
CONSOCIATIONAL BUREAUCRACY



APARTHEID BUREAUCRACY



REPRESENTATIVE BUREAUCRACY



STRATIFIED BUREAUCRACY

SOURCE: Charles E. Levine, "Unrepresentative Bureaucracy: Or Knowing What You Look Like Tells You Who You Are (And Maybe What To Do About It)," Bureaucrat 4 (April 1975), p. 93.

government as a whole and has been slower integrating its minorities than most federal agencies. Moreover, the FEA is typical of the federal bureaucracy in its maldistribution of minority representatives into the lower strata of the organization. These findings have broad implications for energy policy-making in general, and the implementation of specific programs such as the fuel allocation and pricing regulations in particular. In a period in which the number of participants in the energy policy system has undergone rapid expansion, there are still segments of the society which do not have equal access to the major energy institutions. Especially relevant among the many issues of social equity which result from this disparity in accessibility are such things as the need for federal agencies to "help lower-income families cope with shortages and sharp price increases" in energy.[16] If the assumptions of passive representativeness hold, the implementation of allocation and pricing policies responsive to and responsible for the interests of minorities is facilitated by the presence of their representatives in the FEA.

In addition to increasing bureaucratic responsiveness and responsibility by reducing the discretionary authority of unrepresentative policy-makers and aiding in agency understanding of a wider range of group interests,

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[16]Energy Policy Project, Ford Foundation, A Time to Choose (Cambridge: Ballinger Publishers, 1974), p. 334.

representativeness also affects organizational efficiency, equity, and effectiveness. According to Harry Kranz, a more representative public service would: (1) reduce adherence to bureaucratic rules and regulations and increase reliance upon equity and individual human factors in administration; (2) speed up decision-making; and (3) promote "fairer" and "better" decisions.[17] It is the issues of efficiency, equity, and effectiveness upon which the next two chapters of this study are focused.

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[17]Harry Kranz, "Government By All the People: The Why and How of a More Representative Public Service," Good Government 89 (Fall 1972): 4.

CHAPTER VII

THE EFFICIENCY AND EQUITY OF FEA OUTPUTS

Introduction

Because almost all policy processes are characterized by and defined in terms of the allocation of scarce resources, criteria incorporating standards of "economizing" public organizational actions are among the most widely utilized in the policy evaluation literature. Included in the general concept of economy in public behavior are the dual criteria of efficiency and effectiveness,[1] usually associated with the evaluation of policy outputs and outcomes, respectively. A large segment of this research has focused upon the "gross inefficiencies" of bureaus. As Lewis Mainzer puts it:

> One set of critics charges that governmental bureaucracy is incompetent. They view it as a kind of social machine, a means to achieve goals established by those external to the bureaucracy, a blunt and rusty tool, an engine full of friction and inertia.[2]

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[1]Robert J. Dworak, "Economizing in Public Organization," Public Administration Review 35 (March/April 1975), p. 158.

[2]Lewis Mainzer, Political Bureaucracy (Glenview, Ill.: Scott, Foresman, 1973), pp. 1-2.

Much of the harshest criticism has been reserved for public economic regulatory agencies, which stand accused of constantly expanding their regulatory reach, resisting deregulation, corrupting and bureaucratizing private organizations, and responding slowly to change.[3] In short, these bureaucracies are attacked for their failure to provide adequate compensating benefits for the costs which are imposed by regulations which set prices, allocate goods, and control economic activities. It is the purpose of this chapter to evaluate the Federal Energy Administration's regulatory performance by applying a criterion of efficiency which is based on the concept of bureaucratic effort at the government-community interface. In addition, the distributional characteristics of this effort will be assessed through the use of the criterion of output equity.

For the FEA's fuel allocation program, the two major areas of government-community interface are the compliance and enforcement efforts of the Office of Regulatory Programs (ORP) and the exceptions, appeals, and redress activities of the Office of Private Grievances and Redress (PGR). However, since the activities of the ORP are generally agency-initiated outputs while the efforts of the PGR are for the most part client-initiated feedback, only the compliance and enforcement program is considered in this chapter. The

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[3]James Q. Wilson, "The Rise of the Bureaucratic State," Public Interest 41 (Fall 1975): 77-103.

analysis of FEA exceptions, appeals, and redress are discussed below (in Chapter IX) as part of the evaluation of the agency's responsiveness.

The ORP is charged with the development, planning, and direction of FEA efforts to insure that allocation and pricing regulations are implemented in an equitable and efficient manner. The national compliance office has overall responsibility for program management while the ten regional compliance offices apply the FEA's regulations and procedures. Formal administrative enforcement actions available to these offices in cases of rule violation include seeking voluntary compliance, usually in the form of price rollbacks and refunds of overcharges, issuing a "notice of probable violation" (NOPV) in cases where FEA investigators believe a violation has occurred or is about to occur (the firm has ten days to respond), or issuing a "remedial order" (RO) in cases where the certainty of violations has been established (with a 30 day response period).[4]

FEA enforcement activities have been directed through six major compliance audit programs. These include the Refinery Audit and Review Program (RARP), the Crude Oil Producers Program, the Utilities Investigation, the Propane Project, the Wholesalers/Resellers Program, and the

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[4]Federal Energy Administration, "Fact Sheet on Federal Energy Administration Compliance Activities," April 9, 1975 (mimeographed), p. 1.

Retailers Program.[5] For the purposes of this study, the efficiency of these compliance and enforcement programs will be evaluated by comparing indicators of allocative inputs (manpower expenditures) with effort indicators such as number and type of voluntary compliances, NOPVs, ROs, and dollar amounts of potential and actual violations. Since efficiency has been defined as a ratio between expenditures and effort, the comparisons will seek to determine the degree to which FEA program efforts are a function of program expenditures. That is, the efficient organization, for this study, would produce high efforts from high expenditures and vice versa. First, however, three other dimensions must be investigated. There is a need to determine the actual level and pattern of expenditures in the total compliance and enforcement (C&E) program to determine whether resource allocations have themselves been a constraint on efficient policy-making. Then, the client community for each FEA program must be described--in terms, for example, of the number and type of firms and the characteristics of industry sectors within various FEA regions--as an indicator of what would be optimal resource levels and patterns. Finally, analysis will focus upon whether FEA offices and

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[5]U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, The Federal Energy Administration: Enforcement of Petroleum Price Regulations: Report (Washington, D.C.: Government Printing Office, 1975), pp. 7-8.

programs do in fact achieve policy outputs efficiently given resource levels and community characteristics.

The equity of FEA compliance and enforcement actions will be analyzed according to the distribution of these input and output indicators within the client community of the agency (the energy industry). But first, it is necessary to state explicitly the research hypotheses for the evaluation of FEA output efficiency and equity.

Research Hypotheses

The two major analyses of the regulatory activities of the FEO are in agreement that the allocation and pricing actions of the new agency met neither the criteria of equity nor efficiency. For example, Richard Mancke concludes that:

> The policies of the FEO did not achieve a just and efficient petroleum allocation among products, regions, refiners or time periods.[6]

MacAvoy, Stangle and Tepper carry this conclusion even further, giving the FEO "credit" for having created the energy crisis by its "typical" bureaucratic behavior. That is:

> Theories of bureaucratic action point to general patterns of response which the FEO clearly followed. On being presented with critical choices, bureaucracies will adopt a set of highly constrained goals, invoke standard operating procedures, and generally act so as to avoid default at all costs.[7]

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[6]Richard B. Mancke, Performance of the Federal Energy Office (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1975), p. 16.

[7]Paul W. MacAvoy, Bruce E. Stangle, and Jonathan B. Tepper, "The Federal Energy Office as Regulator of the Energy Crisis," Technology Review 77 (May 1975): 44.

These general comments, although derived from a different concept of organizational efficiency, suggest the following research hypothesis:

> Hypothesis 1: The inflexibility introduced by traditional modes of incremental bureaucratic action will lead to an inefficient ratio between FEA expenditures and effort.

In addition, one aspect of this traditional bureaucratic behavior--focusing upon "catastrophic" policy consequences in crisis situations--leads to some observations regarding the equity of FEA policy outputs:

> Hypothesis 2: The tendency to adopt pessimistic, "worst possible" views of the future will limit FEA policy alternatives and result in maldistributions of agency efforts.

Efficiency of FEA Compliance and Enforcement Efforts

As is the case with any regulatory agency, compliance and enforcement programs are a central element in the mandate of the FEA. This fact is illustrated by both budgetary data and manpower statistics. Table 1 (see Chapter IV) indicated that the overall regulatory function of the agency consumed approximately 41 percent of the positions and man-years and 26 percent of the funding for the entire organization, for 1975, with estimates for 1976 only slightly lower. This makes the regulatory activities the largest component of the agency by far. Of those resources devoted to the Office of Regulatory Programs and the Office of Private Grievances and Redress (the two components within the

regulatory budget activity), the compliance program of the ORP is allocated over 62 percent of the positions, 64 percent of the man-years, and 63 percent of the funding, as shown in Table 12. This is equal to 26 percent of the total agency positions, 26 percent of the man-years, and 17 percent of the funding, for fiscal 1975. The figures for fiscal 1976 are similar with the exception of agency funding, but that percentage is artificially lower due to the large increase in funding for the Office of Conservation and Environment.

Despite the importance which these budget figures obviously attach to the FEA's compliance and enforcement effort, the crisis environment within which the agency was created provided a number of significant administrative obstacles to the development of an efficient program. Among the most serious of these constraints were: (1) the necessity of developing, over a short period of time, a comprehensive set of enforcement priorities and goals; (2) the formulation of compliance procedures and guidelines; (3) the delineation of clear internal lines of authority and communication, particularly between the national and regional compliance offices; and (4) the creation of an overall case control and management system. Moreover, these administrative programs were complicated by what FEA enforcement personnel termed a "policy of deregulation" which emphasized the temporary nature of many of the compliance efforts. As

TABLE 12

REGULATORY ACTIVITY BUDGET, BY OFFICE AND PROGRAM, ACTUAL 1975 AND 1976 ESTIMATES

Office/Program	Positions FY75	Positions FY76	Man-Years FY75	Man-Years FY76	Amount[a] FY75	Amount[a] FY76
Office of Reg. Programs	1287	1125	1290	1245	32.1	30.9
Compliance	840	1039	858	1044	20.9	24.8
Allocation	323	0	318	115	8.8	2.9
Oil Imports	21	21	21	21	0.4	0.4
Contingency Planning	0	24	0	24	0.0	1.8
Regulation Development	71	10	64	10	1.4	0.4
Admin.	32	31	29	31	0.6	0.7
Office of Priv. Griev. & Red.	51	54	48	54	0.8	1.2
Total	1338	1179	1338	1299	33.0	32.0

[a]In $ millions.

SOURCE: U.S. Senate, Committee on Appropriations, Department of the Interior and Related Agencies Appropriations for Fiscal Year 1976 (Washington, D.C.: Government Printing Office, 1975), pp. 2765-2766.

Gorman Smith, then Acting Assistant Administrator for Operations, Regulations and Compliance, stated in early 1975:

> For some time--ever since late spring 1974--the Federal Energy Administration has been schizophrenic about its regulatory programs. The Administration's policy has been that we would deregulate the petroleum industry as soon as Congress would let us . . . In fact, we have added to our regulatory programs.[8]

As a result of these problems, questions have been raised as to the adequacy of FEA auditing procedures, the time delays in investigative efforts, the guidance available for companies on how to comply with complex regulations, and the remedies available to consumers to complain about violations and collect overcharges.[9] Underlying all these issues is the central efficiency question which focuses upon the allocation of compliance manpower and the uniformity of enforcement among FEA regions and programs which results from this allocation.

From the very first days of the Federal Energy Administration, resource expenditures in terms of manpower for the compliance program have been a policy issue. Initially, the primary difficulty was in accumulating the necessary personnel to undertake the congressional mandate, included in

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[8]U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Federal Energy Administration: Enforcement of Petroleum Price Regulations: Hearings (Washington, D.C.: Government Printing Office, 1975), p. 122.

[9]General Accounting Office, Problems in the Federal Energy Administration's Compliance and Enforcement Effort (Washington, D.C.: General Accounting Office, 1974), pp. 1-4.

the Emergency Petroleum Allocation Act, to: (1) promote stability in energy prices to the consumer; (2) promote free and open competition; and (3) prevent unreasonable profits. Until July 1, 1974, enforcement of petroleum allocation and pricing regulations was performed by the Internal Revenue Service (IRS) under an agreement with the FEA. While personnel were being hired and trained for the FEA, the IRS assigned 300 investigators to the compliance program. By July 1, when the FEA assumed full control, 850 employees had been assigned to compliance activities.[10] Figure 16 illustrates the manpower levels for this early period as well as the authorized and actual regional compliance and enforcement levels in the ensuing two-year period. As this figure shows, since December 31, 1974, the C&E program has operated at between 90 and 95 percent of authorized strength. Although these levels are greater than the FEA's original plans--Frank Zarb had vetoed a proposed reduction of C&E authorizations to 711 persons by June 30, 1975 when he came to the agency in December 1974--they remain significantly below estimates of the numbers needed. For example, when the regional offices were surveyed in June 1975 as to their manpower requirements for an enforcement effort in which all

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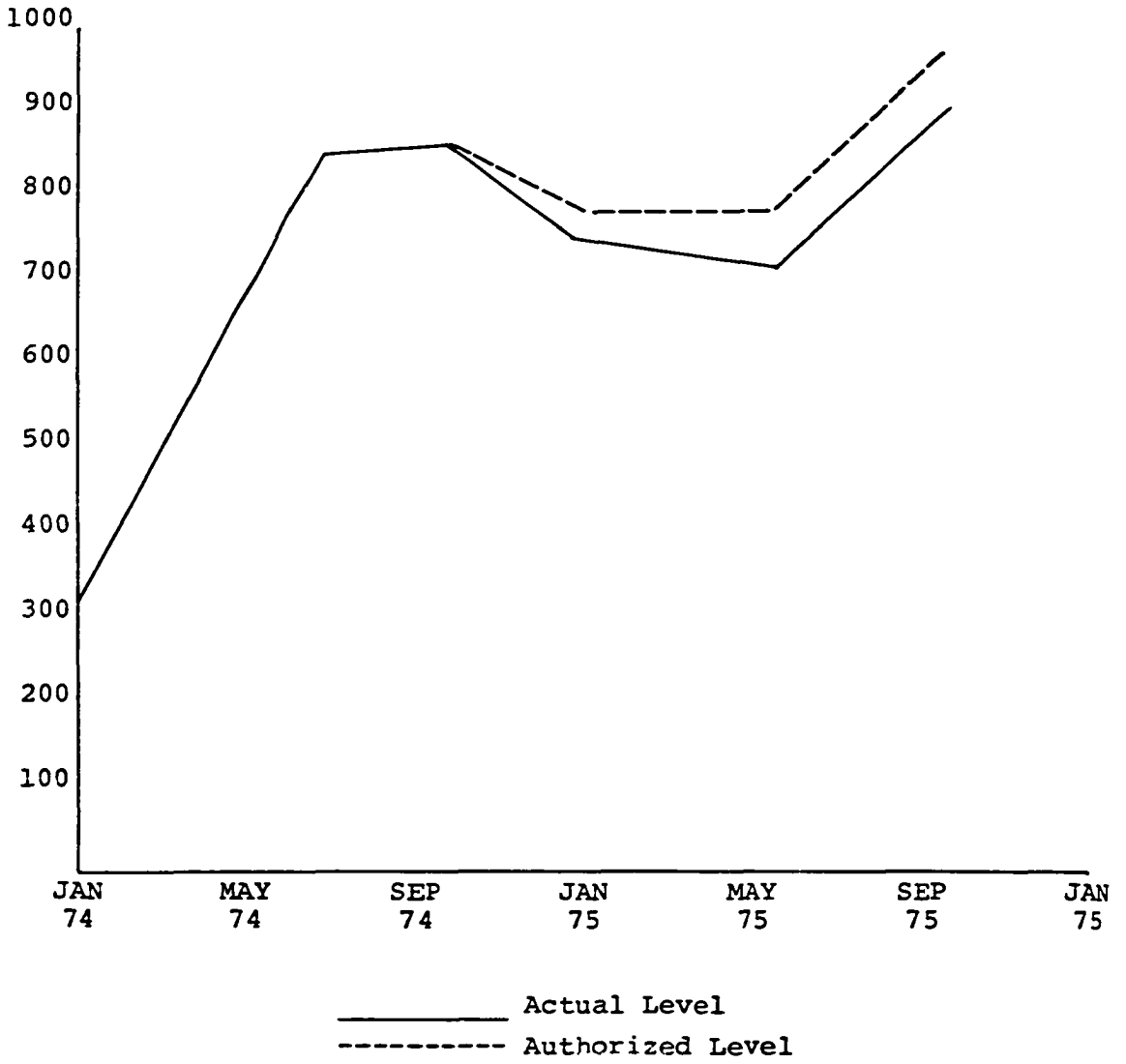
[10]U.S. Senate, Committee on Government Operations, Subcommittee on Reorganization, Research, and International Organizations, Enforcement and Compliance of FEA Oil Price Regulations (Washington, D.C.: Government Printing Office, 1975), p. 5.

FIGURE 16

AUTHORIZED AND ACTUAL REGIONAL COMPLIANCE AND ENFORCEMENT MANPOWER LEVELS, 1974 AND 1975



SOURCE: U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, The Federal Energy Administration: Enforcement of Petroleum Price Regulations: Report (Washington, D.C.: Government Printing Office, 1975), pp. 11-13.

audits would be completed in a one year period, the responses indicated that 9,047 personnel would be required. ORP's evaluation of this survey concluded that 2,021 personnel--over twice the existing level--were needed.[11] Thus, the level of manpower resources devoted to C&E efforts can be characterized as inadequate and a barrier to efficient agency policy-making. As important as the very real constraints which resource shortages place on C&E efforts, however, are the symbolic aspects of manpower levels. According to Paul Maloy, Region I C&E Direction in late 1974:

> At the proposed level of compliance staffing for this region we would be unable to maintain visibility as a symbol of agency intentions and objectives because we would be unable to respond to complaints by the public.[12]

Not only has the level of C&E manpower been insufficient, but the manner in which it has been allocated among regions and programs has had adverse consequences for agency efficiency and effectiveness. Table 13, which outlines the manpower authorizations and allocations to FEA regions for 1975, shows that there have been significant differences between regional office strengths. At the beginning of 1975,

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[11] U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Report, p. 13. It should also be noted that the FEA has experienced manpower shortages in its national compliance office. As of September 30, 1975, the headquarters component was authorized 93 C&E personnel, but had only 54 on board.

[12] U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Hearings, pp. 162-163.

TABLE 13

REGIONAL COMPLIANCE AND ENFORCEMENT STAFFING, 1975

Region	1975 Authorized	Dec. 31, 1974 Actual	Dec. 31, 1974 % Auth.	May 29, 1975 Actual	May 29, 1975 % Auth.
I-Boston	35	65	185.7	34	91.2
II-N.Y.	72	117	162.5	79	148.1
III-Phila.	74	96	129.7	71	95.9
IV-Atlanta	80	101	126.2	75	93.7
V-Chicago	109	109	100.0	100	91.7
VI-Dallas	206	97	47.1	192	93.2
VII-K.C.	79	47	59.5	77	97.5
VIII-Denver	39	31	79.5	33	84.6
IX-S.F.	70	72	102.8	46	65.7
X-Seattle	20	23	115.0	20	100.0
Total	784	758	96.7	727	92.7

SOURCE: U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Federal Energy Administration: Enforcement of Petroleum Price Regulation: Hearings (Washington, D.C.: Government Printing Office, 1975), p. 188.

the range between Region I, the most overallocated office, and Region IV, the most underallocated, was 138.6 percent. By May, significant improvements had been made in equalizing expenditures but the agency as a whole was even further below authorization. Moreover, those regions with the lowest actual-to-authorized manpower ratios were ones which had authority over major sectors of the energy industry. A comparison of the manpower allocations in Table 13 with the characterization of the various industry sectors by FEA region, in Table 14, illustrates the point. For example, Regions VI, VII, and VIII (Dallas, Kansas City, and Denver) which were severely underallocated in December 1974, and still under authorized strength five months later, had compliance and enforcement authority for 81.1 percent of U.S. crude production, 50.5 percent of crude refinery capacity, and 89 percent of propane production. This misallocation of expenditures is explained by the FEA's early emphasis on identifying violations at the retail level. Former FEA Administrator Sawhill testified before Congress in 1974 that:

> Initially the retail sector was the source of the overwhelming majority of the complaints received by the agency. We felt a clear responsibility to be responsive to those complaints, not only as a direct service to the public, but also because in a tight market situation such as prevailed during the first part of this year, the opportunity for price gouging at the retail level was perhaps the greatest.[13]

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[13]U.S. Senate, Committee on Government Operations, Subcommittee on Reorganization, Research, and International Organizations, p. 27.

TABLE 14

CHARACTERISTICS OF PETROLEUM INDUSTRY SECTORS WITHIN FEA REGIONS, 1967-1975

Region	Crude Production[a]	Refining Capacity[b]	Retail Sales Gas. Fuel Oil[c]		Utility Supplier[d]
I	0.0%	0.0%	5.2%	19.1%	14.6%
II	0.0	4.3	9.3	24.7	24.2
III	0.2	6.6	9.8	12.8	15.0
IV	3.6	4.1	15.1	11.9	16.7
V	2.2	18.2	23.3	14.5	5.7
VI	70.4	42.7	10.3	4.9	4.9
VII	2.2	3.7	6.9	4.4	0.8
VIII	8.5	4.1	3.3	1.7	0.0
IX	10.6	13.3	13.2	2.0	17.7
X	2.3	3.0	3.5	3.9	0.3

[a]in barrels per day, 1975

[b]in barrels per day, 1975

[c]in sales of retail fuel oil, LPG, and gasoline, 1967

[d]in sales of all fuel oils to utilities, 1973

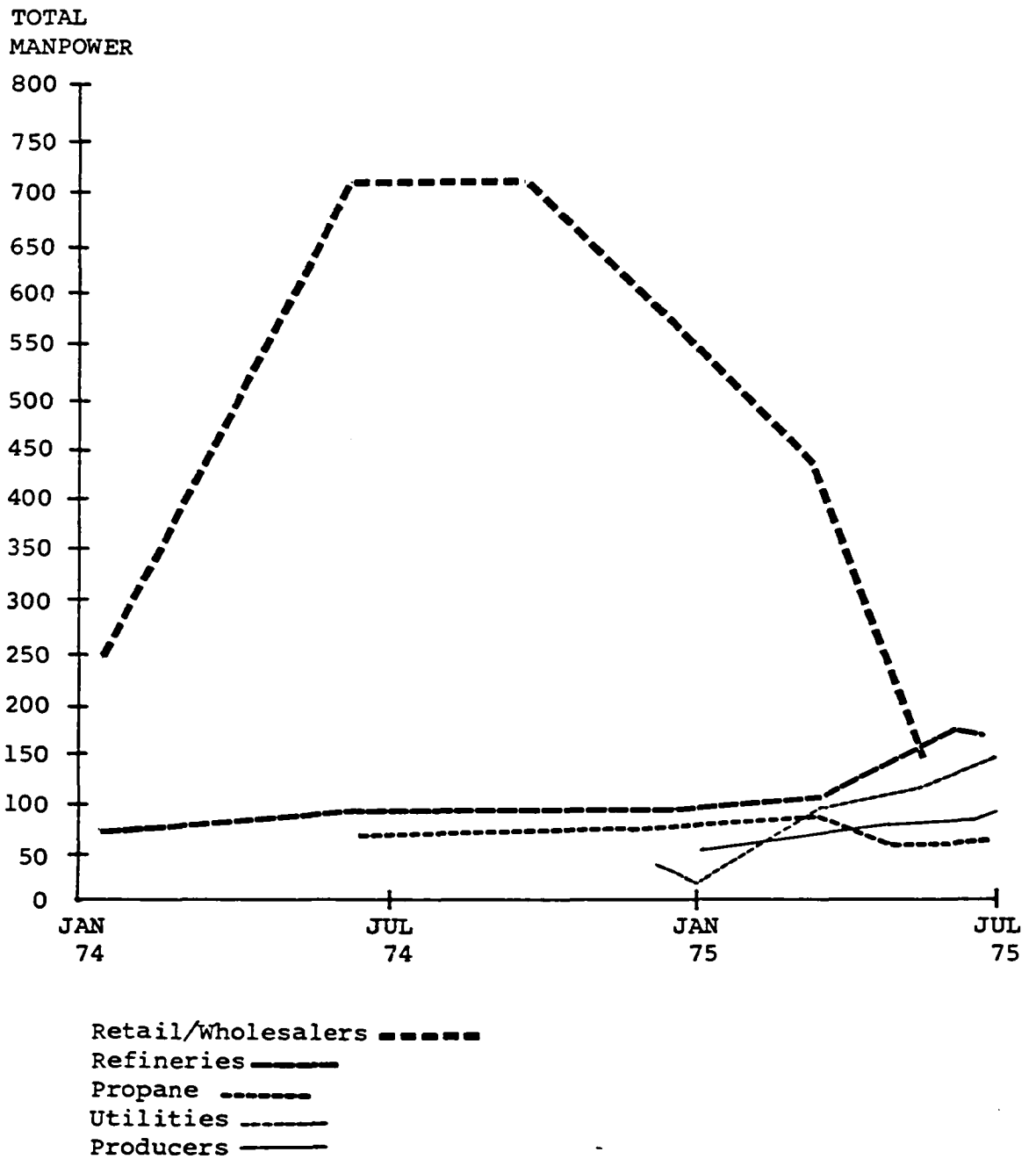
SOURCES: "Drilling to Remain High in U.S. As Oil Demand Climbs in 1976," Oil and Gas Journal 74 (January 26, 1976): 106; Leo R. Aalund, "Wide Variety of World Crudes Gives Refiners Range of Charge Stocks," Oil and Gas Journal 74 (March 29, 1976): 129; U.S. House, Committee on Science and Technology, Subcommittee on Energy Research, Development, and Demonstration, Energy Facts II (Washington, D.C.: Government Printing Office, 1975), p. 349; and American Petroleum Institute, Petroleum Facts and Figures (Washington, D.C.: American Petroleum Institute, 1971), pp. 160, 295, and 296.

Also, retail investigators required less training than was the case for other industry sectors and the violations in the retail markets were easier to detect and correct.

Thus, immediately following the creation of the new agency, C&E expenditures were concentrated in the Eastern regions where most of the 225,000 wholesale and retail firms were located. At the same time, widespread violations in the pricing of propane, which was in extremely short supply, led to the initiation of a special audit of propane wholesalers. "Project Speculator," or the "Propane Project," as this investigation was termed, was followed by the "First Audit Cycle" of petroleum refineries (RARP) in January 1974. Figure 17 outlines the manner in which the FEA manpower expenditures were allocated in 1974 and 1975, including the Utilities Investigation, begun in December 1974, and "Project Producer," initiated one month earlier. This figure graphically points out the emphasis placed on the retail/wholesale program, primarily the retail sector, throughout 1974 and 1975--an emphasis perhaps warranted by the number of firms involved and the political pressures brought to bear against the agency, but one not warranted by the nature of the petroleum industry or the goals and objectives of the petroleum allocation and pricing programs. As the figure also illustrates, the retail/wholesale investigations have received proportionately less support since the last quarter of 1974, as more manpower has been diverted away from retail audits

FIGURE 17

ALLOCATION OF FEA COMPLIANCE MANPOWER,
BY PROGRAM, 1974-1975



SOURCES: U.S. Senate, Committee on Government Operations, Subcommittee on Reorganization, Research and International Organizations, Enforcement and Compliance of FEA Oil Price Regulations (Washington, D.C.: Government Printing Office, 1975), pp. 3-9 and 22-32; U.S. House, Committee on Interstate and Foreign Commerce, Subcommittee on Oversight and Investigations, FEA Enforcement Policies (Washington, D.C.: Government Printing Office, 1975), pp. 402-416; U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, The Federal Energy Administration: Enforcement of Petroleum Price Regulations: Report (Washington, D.C.: Government Printing Office, 1975), pp. 10-14; U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Federal Energy Administration: Enforcement of Petroleum Price Regulations: Hearings (Washington, D.C.: Government Printing Office, 1975), pp. 159-194; General Accounting Office, Problems in the Federal Energy Administration's Compliance and Enforcement Effort (Washington, D.C.: General Accounting Office, 1974), pp. 5-9; General Accounting Office, Federal Energy Administration's Effort to Audit Domestic Crude Oil Producers (Washington, D.C.: General Accounting Office, 1975), pp. 5-8; General Accounting Office, Problems in the Federal Energy Office's Implementation of Emergency Petroleum Allocation Programs at Regional and State Levels (Washington, D.C.: General Accounting Office, 1974), pp. 6-9; "Statement of Phillip S. Hughes, Assistant Comptroller General of the United States on the Federal Energy Administration's Compliance and Enforcement Processes," before the Subcommittee on Administrative Practice and Procedure, Committee on the Judiciary, United States Senate, June 19, 1975 (mimeographed); Correspondence between Phillip S. Hughes, Assistant Comptroller General, and Abraham A. Ribicoff, Chairman, Committee on Government Operations, U.S. Senate, re "Problems in the FEA's Compliance and Enforcement Effort," dated March 31, 1975; Federal Energy Administration, "Fact Sheet on Federal Energy Administration Compliance Activities," April 9, 1975 (mimeographed), pp. 6-15; and Federal Energy Administration, Report to Congress on the Economic Impact of Energy Actions (Washington, D.C.: Government Printing Office, 1975), pp. 70-74.

and toward specialized wholesale enforcement programs (propane and utility suppliers) and the 19,000 domestic crude oil producers and 250 refiners. The major reason for this change in focus was that while the retail/wholesale program had uncovered substantial violations, mostly at the retail level, these infractions were in no way comparable to those estimates of overcharges by certain wholesalers, petroleum producers and refiners. Although as of September 1974, the FEA had made over 80,000 investigations of retail and wholesale firms, had found 18,000 vilations, and had refunded $51 million, as the General Accounting Office (GAO) found:

> Pricing investigations were concentrated at the retail level and the vast majority of violations were in amounts ranging from $500 to $1,500. While there appeared to be a large number of these violations, the total dollar value appears insignificant in relation to the potential violations at the refinery and primary wholesale levels.[14]

In fact, as Table 15 indicates, these estimates of larger wholesaler, producer, and refiner violations proved to be accurate. The Refinery Audit and Review Program alone, with less than 25 percent of the allocated manpower of the retail program, recovered over five times the refunds to the marketplace. Moreover, the potential impact of unresolved cases

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[14]General Accounting Office, Problems in the Federal Energy Office's Implementation of Emergency Petroleum Allocation Programs at Regional and State Levels (Washington, D.C.: General Accounting Office, 1974), p. 8.

TABLE 15

UTILITY, PRODUCER, AND REFINER VIOLATIONS, 1975*

Violations	Utilities		Producers		Refiners	
	No.	Amount[a]	No.	Amount	No.	Amount
Resolved	17	4.69	22	0.96	75	267.15
Unresolved	30	46.60	43	8.12	140	459.57
Total, Resolved and Unresolved	47	51.29	65	9.08	215	726.72

*as of June 2, 1975

[a]in $ million

SOURCE: U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, The Federal Energy Administration: Enforcement of Petroleum Price Regulations: Report (Washington, D.C.: Government Printing Office, 1975), p. 24.

was even greater, totalling in excess of $700 million.[15] However, despite GAO recommendations that the FEA further redirect its C&E effort toward RARP and Project Producer, the agency instead moved in late 1975 to rapidly increase the manpower committed to the utilities supplier program through "Project Escalator." As a result, a Senate Judiciary Committee subcommittee concluded:

> Despite the overall increase in manpower assigned to the enforcement effort, the subcommittee still seriously questions the adequacy and efficiency of FEA's current allocation of enforcement manpower. Due to the fact that virtually the entire increase in the regional compliance staff has been assigned to the utilities program, the total number of persons working on programs other than utilities has not increased. In fact, the number of personnel assigned to some key programs has actually decreased since the time of the subcommittee hearings.[16]

Finally, there appears to have been little relationship between expenditure levels for the FEA regional compliance and enforcement offices and effort levels within various programs. For example, Table 16, which compares manpower allocations and community characteristics for the ten FEA regions with caseloads, ROs and NOPVs, and refunds and penalties, for the Crude Oil Producer Program, shows no apparent relationship. That is, most of the refunds and penalties from the producers were outputs from regional

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[15] U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Report, p. 24.

[16] U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Report, p. 13.

TABLE 16

CRUDE OIL PRODUCER PROGRAM, 1975*

Region	% Manpower	% Industry	Cases	ROs & NOPVs	Refunds	Penalties
I	0.0	0.0	0	0	$ 0	$ 0
II	9.5	0.0	4	0	0	0
III	6.4	0.2	8	2	24,300	1,700
IV	7.9	3.6	6	0	0	0
V	20.6	2.2	27	0	0	0
VI	25.3	70.4	105	8	0	0
VII	6.3	2.2	24	0	499,763	32,700
VIII	15.9	8.5	20	6	158,698	0
IX	6.4	10.6	11	0	110,849	7,258
X	1.6	2.3	1	1	0	0
Total			206	17	$793,610	$46,658

*as of April 4, 1975

SOURCE: Federal Energy Administration, "Fact Sheet on Federal Energy Administration Compliance Activities," April 9, 1975 (mimeographed), pp. 16-17.

offices which had neither high manpower allocations nor high concentrations of the production industry within their boundaries (Regions VII, VIII, and IX, in particular). While Region VI (Dallas) did handle a large proportion of the caseload, ROs, and MOPVs, it collected no penalties or refunds from producers despite having responsibility for over 70 percent of domestic crude oil production. The same can be said for the Utilities Investigation, where only two regions (IV and VIII) have negotiated agreed settlements of violations as of April 1975.[17] The primary cause of this uneven enforcement effort has been a lack of uniform operating procedures in each of the FEA's regions. In effect, each regional office established its own interpretation of whether a violation was subject to penalty. There were inadequate or nonexistent guidelines regarding the conduct of audits, the determination of the intent of violations, and the collection of penalties until at least September 1975.[18] Not only has this non-uniformity caused efficiency problems within programs, it has led to difficulties in the equitable enforcement between different programs. The following discussion focuses on this and other equity issues.

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[17]Federal Energy Administration, p. 9.

[18]U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Report, pp. 9-10.

Equity of FEA Compliance and Enforcement Efforts

Two issues dominate the evaluation of FEA's compliance and enforcement effort according to the criterion of equity. The first, as mentioned above, concerns the degree to which the non-uniformity in FEA regional enforcement has led to different sectors of the oil industry being treated differently by the agency. The second focuses upon the amount of discriminatory FEA enforcement which has existed--the degree to which, for example, the agency has shown a pattern of more extensive enforcement against small firms rather than large oil companies.

In terms of the impact of the non-uniformity of enforcement upon equitable FEA policy outputs, the point has already been made that the agency's early emphasis upon investigating retail and wholesale firms preempted widespread audits of other sectors of the oil industry. As Table 17 illustrates, this concentration of expenditures and effort in one industry sector has meant that by far the largest number of investigations, over 50 percent of the refunds, and almost all the penalties have been assessed against retailers and wholesalers. Moreover, in the one exception to this retail/wholesale enforcement emphasis--the discovery of violations in the RARP totalling over $400 million--the refineries were not assessed penalties nor were they required to make any refunds. Instead, these companies are allowed, by FEA regulations, to write off the value of

TABLE 17

SUMMARY OF FEA COMPLIANCE AND ENFORCEMENT EFFORTS, BY PROGRAM, 1975*

Program	Investigations Total	Investigations Violations	Refunds	"Bank" Adjustments	Unresolved Cases No.	Unresolved Cases Amount	Penalties No.	Penalties Amount
RARP	Unknown		$ 74,800	$418,200	18	$148,600	0	0
Propane	45	22	4,038	NA	13	29,983	2	23
Utility	18	2	494	NA	1	710	0	0
Producers	48	11	794	NA	2	Unknown	8	47
Retail/ Wholesale	Over 90,000		80,484	NA	Unknown		144	864
Total	Over 90,000		$160,610	$418,200	34	$179,293	154	$934

*as of April 9, 1975, and $ values in thousands

SOURCE: This is an update of the "Recap of FEA Compliance and Enforcement Efforts by Program," in U.S. House, Committee on Interstate and Foreign Commerce, Subcommittee on Oversight and Investigations, FEA Enforcement Policies (Washington, D.C.: Government Printing Office, 1975), p. 201.

these violations against "banked costs"--potential legal price increases which the market cannot yet absorb. Since the total banks accumulated by the industry were in excess of two billion dollars by the end of 1974, the writeoff of these violations was easily accomplished.[19] Thus, while the FEA collected over $60,000 in penalties from crude producers and propane marketers for violations involving approximately one million dollars, the agency did not penalize refiners at all for violations of almost half a billion dollars. Although the actual monetary value of these penalties is not perhaps significant, the symbolic value of this policy has not been lost upon either the industry or FEA's own enforcement personnel. One unfortunate result of this inequitable situation is that, combined with the general lack of adequate enforcement guidelines and operating procedures, many regional compliance and enforcement offices chose not to force rules upon sectors of the industry they perceived as being singled out for regulatory sanctions. Maloy, testifying before Congress in June 1975, said that:

> There are no written guidelines on when to seek penalties. There has been no delegation of authority to the regions to go out and compromise penalties. In the data that has been furnished by the national office of statistical types of reports,

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[19]U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Hearings, pp. 47-48. "Banked costs" are defined as "potential legal price increases which, in the judgment of the company, the market would not absorb," and under FEA regulations they would be saved against the possibility of future price adjustment.

> we have never seen penalties asserted against the larger refineries, and we made our own decision in the region that we were not going to assess penalties on small firms when the large, major firms were not being penalized by the refinery audits.[20]

Similarly, Donald Mitchell, a former FEA auditor of crude oil producers in Region VI, said:

> We had no guidelines from the national office as far as penalties were concerned. I, myself, never advanced any penalties. I was specifically told the penalties were the sole determination of counsel, and they were the only ones that could mitigate penalties, or assess if you will, penalties, and that the auditors had nothing to do with them. Then again, I felt, that if a major refinery were going penalty free, I thought it not quite right to penalize some oil producer out there in west Texas.[21]

These comments raise the second issue of FEA output equity--discrimination against smaller, independent firms and in favor of the larger, integrated major petroleum companies. Not only did the FEA's program emphasis on retail investigations discriminate against small firms, by definition, but the entire crude oil producer program has focused upon independents. According to Smith, major producers were not monitored because the agency had the capability to track any "massive" violations by the big oil companies through the analysis of the national old-to-new oil ratio. However, this procedure does not enable the determination of individual company violations and does not negate the fact that the

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[20]U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Hearings, p. 64.

[21]U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Hearings, pp. 64-67.

FEA concentrated its compliance effort on those companies which produced only 30 percent of domestic crude oil.

Although the 30 largest petroleum refiners, producers of 85 percent of domestic refined products, were the focus of the entire first cycle and most of the second cycle of RARP, as has been noted, most of the major company violations discovered were written off against "banked costs." In addition, the manpower allocated to the audit of major refineries was consistently below authorized levels (94 of an authorized 104 in June 1975) and there were never more than four auditors assigned to any large refinery. In fact, during three months of 1975, only one auditor was assigned to Exxon and five other majors.[22]

While these program practices have had the effect of providing a pattern of more sanctions being directed against smaller firms, other factors have also influenced this situation. Most importantly, the complexity of the FEA regulations has guaranteed that the company with the largest legal staff has the greatest potential for successful compliance. As an FEA representative analyzed the absence of sanctions against companies such as Exxon, Gulf, and Texaco:

> It's not a question of more honest; its a question of more capable. They have more qualified lawyers who spend their time analyzing every line and phrase in our regulations. They have the

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[22]U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Hearings, pp. 64-67.

> highpowered auditors who have access to the numbers and the computerized capabilities, so that they have a greater capability to understand, interpret and comply with our regulations than does the small independent crude producer, who's running his records out of a log book kept in the back of a pickup truck.[23]

The long-term impacts of this regulatory advantage enjoyed by the majors are uncertain, but it would appear as if the potential exists for increasing the concentration of the petroleum industry by driving smaller, less legally competent, companies from the market as the FEA's rules and regulations become increasingly complicated. Such a result, of course, would directly contradict the congressional mandate of the FEA, which emphasized the need for government action to insure continued participation in the energy policy system by independent oil companies.

Conclusion

At the major point of FEA-industry interface, the compliance and enforcement effort, the agency's policy outputs have been both inefficient and inequitable. Although efficiency problems associated with low levels of resource expenditures, primarily across-the-board under-allocation of manpower to the C&E program, are not entirely the agency's responsibility, the FEA was responsible for the inadequate and inefficient manner in which the available personnel were

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[23]U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Hearings, p. 13.

allocated among the regional offices. Particularly damaging were the manpower shortages in Regions VI and VII, the area responsible for a large portion of the production and refining sectors of the oil industry. An equal contributor to output inefficiency was the ad hoc allocation of manpower expenditures among the various C&E programs. Early emphasis on retail and wholesale investigations was "nickel-and-dime" enforcement when compared to the potential for violations in other industry sectors, most critically the production and refining activities of major firms.

Even with this rapidly changing and misallocated compliance and enforcement program status, the FEA's outputs would probably have sufficed if there had been some demonstrable relationship between resource expenditures and policy efforts within regions. However, an examination of all the major FEA activities indicates no such relationship, with the possible exception of the propane marketers investigations, where almost the entire industry is concentrated in one region.

Adding to these difficulties is the fact that FEA outputs have been distributed across the client industry in a non-uniform, discriminatory manner which has had the effect, even if not the intent, of favoring larger oil companies over smaller firms. The agency has been slow in implementing comprehensive operating procedures and guidelines for its regional offices, has had a whole range of intra-agency

communication problems, and has often proceeded on the assumption that fuel allocation and pricing regulations, as temporary phenomena, were not worthy of the time involved in operationalizing detailed case control techniques. This confused situation has served neither the industry nor the public interest. Disorganization within the agency has made adequate industry compliance difficult at best and often impossible. As a result, case resolution has been delayed, cases have been lost, and the consumer, who is supposed to be the beneficiary of these activities in the first place, may have no access to the process nor any redress for his problem. Ultimately, as this chapter has implied but not investigated, these output deficiencies influence the degree to which the agency is able to achieve its goals and objectives. It is to this question of impact and effect upon the FEA's environment that the following chapter is addressed.

CHAPTER VIII

THE EFFECTIVENESS OF FEA OUTCOMES

Introduction

In Chapter II, three complementary and overlapping models of policy analysis were introduced--the system model of process, the economic model of product, and the impact model of effect (see Figure 3). The discussion and evaluation of the Federal Energy Administration's output efficiency and equity in the previous chapter focused upon a modification of the economic model of product which defined public services in terms of "efforts" at the point of government-community interface. It is the purpose of this chapter to go beyond consideration of whether policies are efficient or equitable in terms of outputs to an analysis of whether they are effective in accomplishing desired outcomes. This will be done by examining the degree to which the FEA's public services (outputs of the economic model of process, inputs to the impact model of effort) are transformed into effects which achieve or promote the achievement of the agency's goals. That is, "(t)he impact of governmental effort is assessed relative to the degree to which it

causes changes in the social conditions which serve as goals for the agency."[1]

The FEA has operated under three distinct sets of objectives. At the executive level, Project Independence and other programs emphasized: (1) increasing domestic production of all forms of energy; (2) reducing reliance upon insecure foreign imports of oil; and (3) providing products at the lowest possible prices.[2]

A different focus was taken by the congressional mandate to the FEA. As outlined in the Emergency Petroleum Allocation Act of 1973, the agency was assigned the following objectives:

> -Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, nonbranded independent marketers, and branded independent marketers.
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> -The allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity.

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[1]Bryan D. Jones, "Distributional Considerations in Models of Government Service Provision," a paper prepared for delivery at the 1976 Annual Meeting of the Southwest Political Science Association, Dallas, April 7-10, 1976, p. 6.

[2]See Rogers C. B. Morton, "The Nixon Administration Energy Policy," Annals of the American Academy of Political and Social Science 410 (November 1973): 66-67.

> -Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users.[3]

Finally, the FEA has pursued its own informal goals, with the primary importance attached to organizational survival. Other major bureaucratic objectives have included the acquisition of resources, the coordination of subunits, responding to economic and technological changes, and defending the agency's functions from encroachment. In addition, at least from the point of view of the agency's critics, the FEA has tended to broaden its regulatory reach, resist deregulation, bureaucratize private organizations with whom it interacts, and stimulate corruption through its rule-making and rule-adjudication functions.[4]

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[3]U.S. Senate, Committee on Interior and Insular Affairs, Emergency Petroleum Allocation Extension Act of 1974 (Washington, D.C.: Government Printing Office, 1975), pp. 4-5. The act also provided more general goals relating to the protection of the public health, safety and welfare, the maintenance of public services, the maintenance of agricultural operations, and the allocation of fuels for exploration and transportation functions related to energy production and distribution activities, in addition to calling for economic efficiency and the preservation of market mechanisms. The overall purpose of the act was to "minimize the adverse impacts of such shortages or dislocations on the American people and the domestic economy."

[4]See Karen E. House, "Getting Entrenched: Energy Agency Spends Much Energy to Insure a Long Life, Foes Say," Wall Street Journal 57 (March 9, 1976): 1; and Edward Cowan, "Who Needs the Energy Agency?" New York Times 125 (May 30, 1976): F-1.

It is these three sets of objectives--executive, legislative, and bureaucratic--which form the basis for the analysis of FEA goal attainment in this chapter.

Research Hypotheses

While analyses of the regulatory activities of the Federal Energy Office have tended to emphasize the inefficiency and inequity of that temporary organization's policy outputs,[5] studies of the FEA since 1974 have often instead focused upon the agency's ineffectiveness in attaining policy objectives. A typical evaluation of the FEA's goal attainment is the following:

> . . . FEA's allocation program may not be the appropriate method of securing these high-priority objectives . . . the allocation program might be justified only as an experimental solution for present energy problems, problems which may demand further complex federal efforts to attain significant goals.[6]

A reason often cited by observers for this policy ineffectiveness is the general and comprehensive nature of national energy goals. Thus, the following research hypothesis:

> Hypothesis 1: National energy objectives, because of their requirement for policy actions which extend beyond the scope of any single agency, will be difficult for the FEA to attain.

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[5]See Richard B. Mancke, Performance of the Federal Energy Office (Washington, D.C.: American Institute for Public Policy Research, 1974); and Paul W. MacAvoy, Bruce E. Stangle, and Jonathan B. Tepper, "The Federal Energy Office as Regulator of the Energy Crisis," Technology Review 77 (May 1975): 39-45.

[6]Craig A. Wagner, "National Energy Goals and FEA's Mandatory Crude Oil Allocation Program," Virginia Law Review 61 (May 1975): 937.

Moreover, analysts have long noted the tendency for legislatures to create public agencies with statutes which provide only vague and undefined authority and responsibility for the new organization. This leads to a second tentative assumption:

> Hypothesis 2: Typically vague authority and imprecise policy objectives included in the legislation creating the FEA will limit agency outcome effectiveness.

The third hypothesis is related to the tendency for public organizations to pursue goals other than those mandated from external sources:

> Hypothesis 3: The achievement of all other FEA goals will be subordinated to the need for bureaucratic survival and organizational viability.

FEA Attainment of Executive Energy Goals

The most significant energy policy objective advanced by the executive, through Project Independence, was to increase domestic production of all forms of energy. In particular, for the short-term, this goal focused upon the increased production of crude oil, since most other energy policy objectives (e.g., decreasing reliance upon foreign oil imports) depend at least in part upon the attainment of this end.

The two-tier pricing system for old and new oil originally developed by the Cost of Living Council but enforced by the FEA since 1974 (see Chapter V) was designed to be an incentive for increasing production in three ways. First,

the market price was to be allowed to apply to the amount of oil produced and sold in excess of the amount produced and sold in the corresponding month of 1972. Thus, it was hoped that the uncontrolled nature of this excess, or new oil, would provide an incentive to increase exploratory and production activities (old oil was regulated at a national average price of $5.25 per barrel). Second, as an additional motive toward increased production, a volume of old oil, equal to the amount of new oil produced (termed released oil), would be allowed to rise to its market level. Finally, in order to discourage the closing of marginally productive wells, all wells producing less than 10 barrels per day were permitted to remain uncontrolled.[7]

However, there were a number of disincentives to increased production which were built into the regulatory system. Two of the most important factors working against the FEA's objectives were the restrictions placed upon the availability of investment capital and the political uncertainty which the federal energy regulatory policy fostered within the petroleum industry. Capital availability problems centered upon the fact that:

> Mandated sales of oil to refiner-buyers at less than market price and the large cash payments ordered under the entitlements plan reduce substantially the

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[7]See Federal Energy Administration, Annual Report, 1974-1975 (Washington, D.C.: Government Printing Office, 1975), pp. 3-5.

> capital that refiner-sellers can invest in exploration and production.
>
> Further, the allocation schemes deprive refiner-sellers of much of the benefit of their production . . . weighted average pricing for allocations forces refiner-sellers to incur higher costs for replacement crude. And the compelled purchase of entitlements of old oil results in a higher average cost of crude to refiner-sellers who had developed large amounts of domestic oil, distributing the benefits of the refiner-seller's development to other companies. Where the benefits of exploration and development diminish, there is less incentive to increase investment.[8]

In addition, inflation has severely limited production efforts; the FEA's price ceilings are established in terms of a fixed dollar amount which has decreased in real value over time. As a result, such production techniques for old oil as tertiary recovery, which are expensive to begin with, have less appeal as time passes.[9]

As has been noted, the instability of energy policy-making has increased uncertainty and conflict at every level of government and industry (see Chapter III). Nowhere is this more apparent than in the oil industry's reaction to production incentives. Not only have companies been reluctant to invest capital when the future federal regulatory structures and processes were in doubt--the debate over the extension of the EPAA and the FEA is only one example--but a

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[8]Wagner, p. 931.

[9]U.S. House, Committee on Interstate and Foreign Commerce, Subcommittee on Energy and Power, President's Decontrol Proposals (Washington, D.C.: Government Printing Office, 1975), p. 579.

deterrent to domestic crude oil production has undoubtedly come from the belief by oil firms that the price of domestic crude will rise substantially in the future.

The impact of these factors has been mixed. Although, as Table 18 illustrates, exploratory efforts for both oil and gas have increased since the introduction of controls (there had been, by December 1975, a 30 percent increase in the monthly average of rotary rigs in operation, the number of oil wells drilled had more than doubled, and total footage drilled was up more than 68 percent), Figure 18 shows that crude oil production has nevertheless steadily decreased since early 1973. Moreover, Table 19 demonstrates the continued reliance upon old, controlled oil rather than the development of new, released, or stripper sources of production; the ratio between controlled and uncontrolled sources was slightly more unfavorable in May 1975 (62 percent to 38 percent) than it had been 17 months earlier (when the ratio was 60-40).

Production of refined petroleum products has also decreased in the case of distillate fuel oil and natural gas liquids, but residual fuel oil, motor gasoline and jet fuel production was slightly higher in November 1975 than it had been at the time of the OPEC embargo (see Table 20).

The inability of the FEA's pricing and allocation controls to provide enough incentives to markedly increase crude production can be attributed to other factors than

TABLE 18

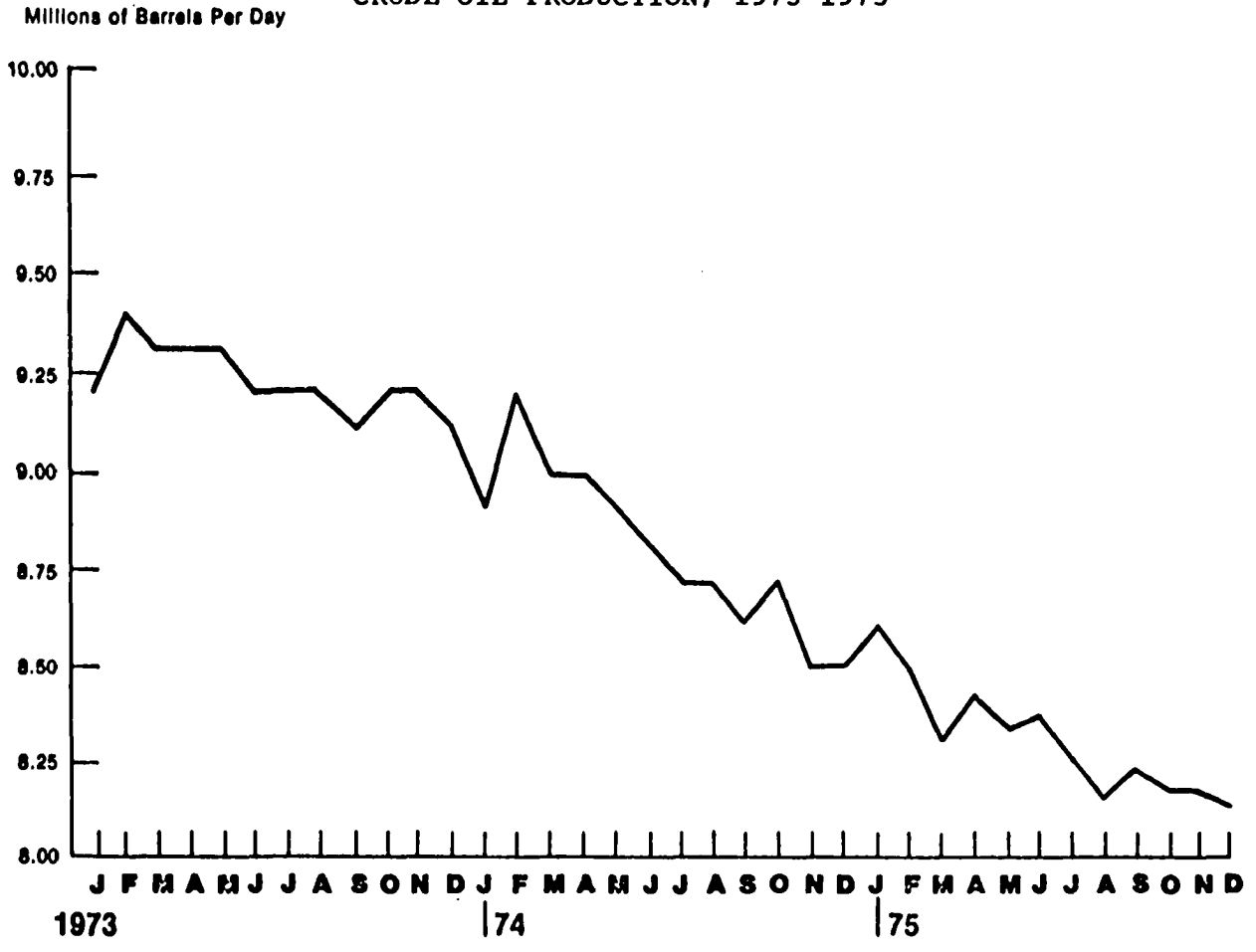
OIL AND GAS EXPLORATION, 1974-1975

Period	Rotary Rigs in Operation	Wells Drilled Oil	Gas	Dry	Total Footage	Seismic Crews
Jan 74	1,372	763	577	803	10,392	NA
Feb	1,355	901	600	816	12,160	NA
Mar	1,367	936	638	1,003	12,844	NA
Apr	1,381	947	700	945	13,349	NA
May	1,412	957	520	870	11,460	313
Jun	1,432	1,238	586	982	12,976	317
Jul	1,480	1,008	461	884	11,802	334
Aug	1,518	1,210	555	968	12,410	321
Sep	1,527	1,200	600	1,091	12,676	321
Oct	1,584	1,131	551	1,241	14,081	320
Nov	1,596	1,088	626	1,053	11,795	306
Dec	1,643	1,339	791	1,274	15,707	300
Jan 75	1,615	1,299	655	1,040	13,189	301
Feb	1,611	1,097	458	933	12,071	302
Mar	1,651	1,341	658	1,091	15,472	299
Apr	1,604	1,181	506	1,071	13,545	283
May	1,592	1,100	451	891	12,054	286
Jun	1,613	1,246	509	1,022	13,540	289
Jul	1,616	1,229	557	920	12,545	286
Aug	1,645	1,272	587	1,122	14,221	289
Sep	1,699	1,504	831	1,165	15,636	274
Oct	1,716	1,633	682	1,310	16,689	270
Nov	1,757	1,619	776	1,270	15,788	265
Dec	1,793	1,817	832	1,424	17,556	259

SOURCE: Federal Energy Administration, Monthly Energy Review (March, 1976): 60-62.

FIGURE 18

CRUDE OIL PRODUCTION, 1973-1975



SOURCE: Federal Energy Administration, National Energy Outlook, 1976 (Washington, D.C.: Government Printing Office, 1976), p. 3.

TABLE 19

SOURCES OF CRUDE OIL PRODUCTION,
1974-1975

Period	Old Oil	New Oil	Released Oil	Stripper Oil
Jan 74	60%	17%	10%	13%
Feb	62	15	10	13
Mar	60	16	11	13
Apr	60	16	11	13
May	62	15	10	13
Jun	63	15	9	13
Jul	64	15	9	12
Aug	66	14	8	12
Sep	67	13	8	12
Oct	66	14	8	12
Nov	67	13	8	12
Dec	66	14	8	12
Jan 75	58	19	10	12
Feb	61	17	9	12
Mar	60	18	10	12
Apr	61	17	9	12
May	62	17	8	13

SOURCE: Federal Energy Administration, Monthly Energy Review (March, 1976): 71.

TABLE 20

PRODUCTION OF REFINED PETROLEUM PRODUCTS*

Refined Products	December 1973	December 1974	November 1975
Distillate Fuel Oil	2,938	3,028	2,851
Residual Fuel Oil	1,158	1,350	1,230
Motor Gasoline	6,099	6,419	6,599
Jet Fuel	830	861	859
Natural Gas Liquids	2,113	2,076	1,945

*in thousands of barrels per day.

SOURCE: Federal Energy Administration, Monthly Energy Review (January, 1976): 24-31.

the disincentives built into the regulations themselves. At least as important as the limitations placed upon investment capital and the system instability generated by these controls were the competing goals around which the program was designed. For example, the new and stripper oil provisions were promulgated as much as a mechanism whereby the FEA could gradually decontrol crude oil as for their value in increasing production. In addition, factors outside the FEA's controls which led to this production situation include schedule delays in the leasing of Outer Continental Shelf lands and the development of Alaska's North Slope, and decreases in oil reserves (which were revised downward by both the FEA and the U.S. Geological Survey). However, the most important variable other than pricing and allocation controls shaping domestic oil supply since the 1950s has been the increasing reliance of the U.S. upon oil imports to make up the difference between declining domestic production and rising demand. This brings us to the executive goal of decreasing American dependence upon foreign sources of crude oil and refined petroleum products.

The large amounts of cheap foreign crude oil available for import into the U.S. from the immediate post World War II period until the early 1970s initially caused the federal government to respond by attempting to protect American markets through such devices as the Mandatory Oil Import Program's import quotas (see Chapter V). However,

by 1973, the growth in domestic demand for petroleum had so outstripped domestic production that these quotas were lifted to prevent shortages. The import fee system which followed (1973 to 1975) was designed to allow levels of imports over and above the earlier quotas for the short term, while limiting the long-term reliance upon foreign sources by attaching an accelerating cost to imported oil. This incentive was established as follows:

> Importers were granted fee-free licenses for a specified percentage of their imports based on the importers' refinery capacity and also in consideration of the old quota levels. The percentage of these fee-free allocations relative to 1973 levels are decreasing in yearly stages so that the percentage will reach zero by 1980.[10]

The OPEC embargo during the winter of 1973-1974 caused the price of imported oil to increase approximately 300 percent, resulting in additional pressures on U.S. domestic markets and the imposition of supplemental fees ($1 per barrel) on all imported crude.

The lack of effectiveness of these measures is reflected in Figure 19 and Tables 21 and 22. Figure 19, which shows the level of imports of crude oil and refined producted from 1973 to 1975, points out the fact that, despite the introduction of supplemental import fees, the nation imported even more petroleum in mid-1975 than it had prior to the energy crisis of 1973. This is not to say that

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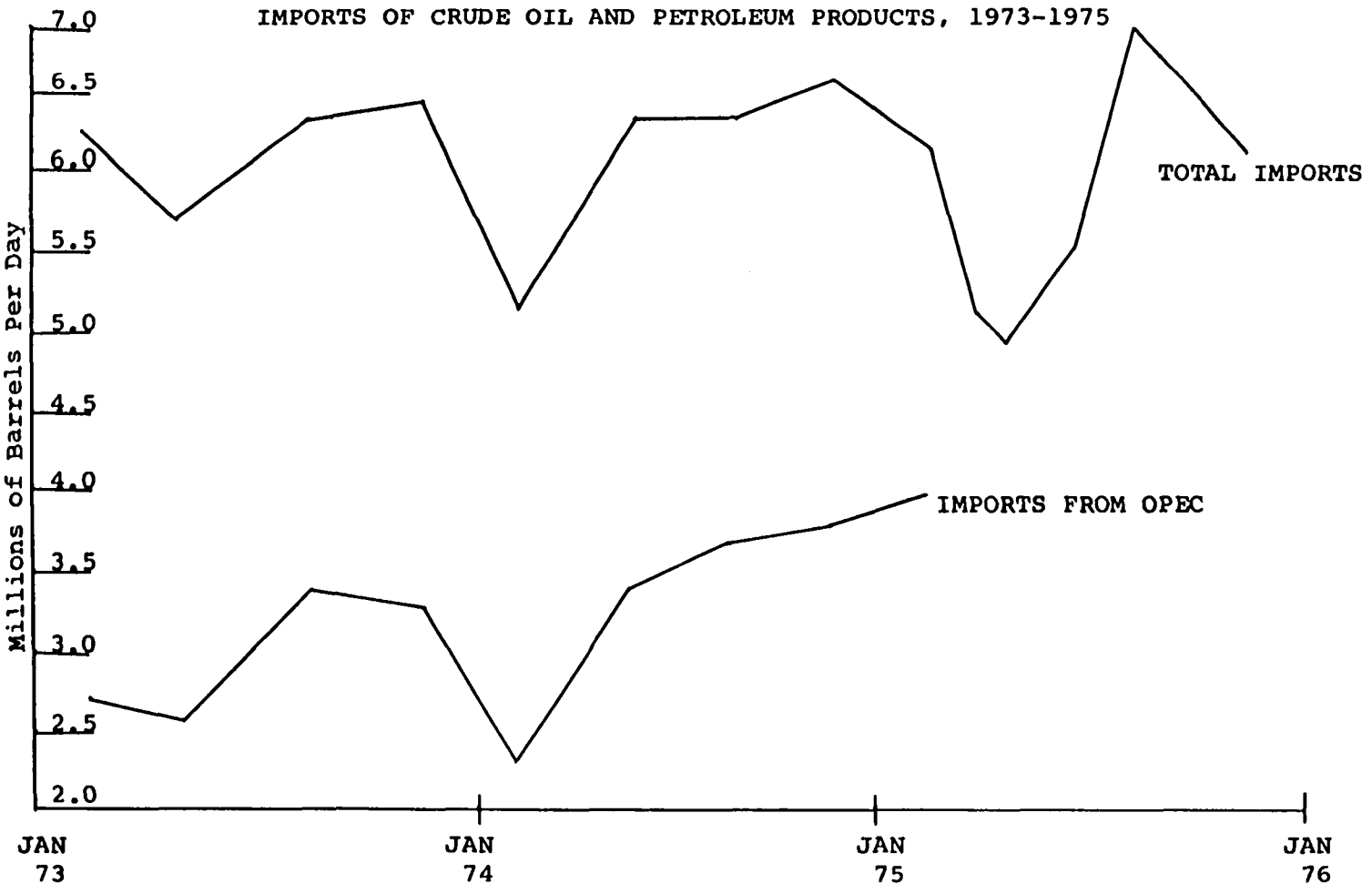
[10]Federal Energy Administration, Annual Report, p. 14.

FIGURE 19



SOURCE: Federal Energy Administration, "The Effects of Decontrol," August 18, 1975 (mimeographed), Chart 1.

TABLE 21

PETROLEUM IMPORTS, BY TYPE,
1974-1975*

Period	Crude Imports	Percent of Total	Refined Imports	Percent of Total
Jan 74	2,382	44.5	2,973	55.5
Feb	2,248	43.1	2,973	56.9
Mar	2,462	47.2	2,753	52.8
Apr	3,267	54.7	2,703	45.3
May	3,748	60.4	2,454	39.6
Jun	3,957	64.1	2,218	35.9
Jul	4,167	66.1	2,140	33.9
Aug	3,851	62.8	2,281	37.2
Sep	3,758	63.3	2,180	36.7
Oct	3,936	62.5	2,361	37.5
Nov	3,997	60.8	2,638	39.2
Dec	3,979	60.1	2,638	39.9
Jan 75	3,964	61.5	2,484	38.5
Feb	4,061	65.5	2,138	34.5
Mar	3,853	65.7	1,920	34.3
Apr	3,416	65.4	1,810	34.6
May	3,493	66.3	1,776	33.7
Jun	3,907	70.9	1,602	29.1
Jul	4,337	69.8	1,875	30.2
Aug	4,661	71.4	1,870	28.6
Sep	4,664	68.5	2,144	31.5
Oct	4,416	72.3	1,696	27.7
Nov	4,634	74.3	1,605	25.7
Dec	4,496	72.8	1,678	27.2

*in thousands of barrels per day.

SOURCE: Federal Energy Administration, Monthly Energy Review (March, 1976): 16-18.

TABLE 22

IMPACT OF OIL IMPORTS ON BALANCE OF PAYMENTS*

Year	Oil Exports	Oil Imports	Net Deficit Balance
1965	$0.4	$2.1	$1.7
1966	0.4	2.1	1.7
1967	0.5	2.1	1.6
1968	0.5	2.3	1.8
1969	0.4	2.6	2.2
1970	0.5	2.8	2.3
1971	0.5	3.3	2.8
1972	0.4	4.3	3.9
1973	0.5	7.6	7.1
1974	0.8	24.2	23.4
1975 (1st Quarter)	0.2	6.4	6.2

*in billions of dollars.

SOURCE: Federal Energy Administration, Report to Congress on the Economic Impact of Energy Actions (Washington, D.C.: Government Printing Office, 1975), p. 50.

the oil import regulations had no effect. The imposition of the supplemental fee by President Ford in February 1975 caused imports for the first quarter of that year to decrease rapidly. However, this impact was only temporary--by the second quarter, total imports had resumed their previous level.

The second significant conclusion which can be reached from the data displayed in Figure 19 is that the United States has failed not only in its policy of reducing imports, but that it has failed to develop alternative import sources to the OPEC. As of mid-1973, the U.S. received 49.7 percent of its total imported oil from the cartel; by early 1975, the proportion received from OPEC had risen to 65.8 and was still rising. The insecure nature of U.S. imports is given greater emphasis by Table 21, which points out the gradual shift in the makeup of imports. Beginning in early 1974, the U.S. began importing a larger proportion of crude and fewer petroleum products, reversing a trend which had started in the late 1960s as a result of the environmental movement (which demanded low sulfur fuels). This shift necessitated an increasing dependence upon the cartel, which had huge crude production capabilities, but little refinery capacity, and reduced the role of the more dependable Western Hemisphere suppliers of refined petroleum products.

At least two aspects of the FEA's fuel allocation programs can be cited as having contributed to the failure to

decrease petroleum import levels. The first is the provision which allows the "first sale" of imported crude into the U.S. to be exempt from price ceilings. The second is the regulation providing for a dollar-for-dollar pass-through of increased costs at each level of the fuel distribution chain. Both of these provisions were designed to allow small, independent refiners or resellers access to the price-controlled U.S. crude oil, but, according to FEA Administrator Frank Zarb, they also:

> . . . must to some degree have the undesirable effect of encouraging imports, since the burden of their higher cost is not borne solely by the importer, but shared with his competitors.[11]

Ultimately, the ineffectiveness of U.S. import policies has appeared in the unfavorable balance of payments statistics which are shown in Table 22. After having remained at a fairly moderate level for the previous decade, the balance of payments deficits for petroleum and its products nearly doubled in 1973 and more than tripled in 1974. Through the first quarter of 1975, this trend had continued. The FEA has estimated that the cost of imported oil to the American consumer in 1975 was approximately $125 per person, as compared to $15 per person in 1970.[12] This remarkable

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[11]"Statement of Frank G. Zarb, Administrator, Federal Energy Administration," before the Committee on Interior and Insular Affairs, United States Senate, May 19, 1975 (mimeographed), p. 78.

[12]Federal Energy Administration, National Energy Outlook, 1976 (Washington, D.C.: Government Printing Office, 1976), p. xxiii.

turn of events has been a direct consequence of the increase in the price of imported oil. The posted price of crude oil from the Persian Gulf increased from $1.80 per barrel in January 1970, to $11.65 per barrel by October 1973.[13] Since that time, imported oil has become even more expensive--a barrel today costs more than $12, excluding any additional import fees. Thus, the third executive energy goal, that of providing petroleum products at the lowest possible price, must be examined.

The oil pricing goal is stated most succinctly by Craig Wagner:

> Fear that the independents will be driven out of the market has inspired government programs like the crude oil allocation plan. The rationale behind these programs is evidently that the continued viability of the independents is necessary to keep oil prices at a reasonable level. Independents continue to urge that a program allocating crude oil supplies is essential to preserve the competition necessary for reasonable prices.[14]

Thus, the FEA's focus has been upon securing the highest possible level of industry competition in order to hold down domestic prices. However, at least three elements of the pricing and allocation rules appear to have operated

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[13]S. David Freeman, Energy: The New Era (New York: Random House, 1974), p. 138. See also U.S. House, Committee on Science and Technology, Subcommittee on Energy Research, Development, and Demonstration, Energy Facts II (Washington, D.C.: Government Printing Office, 1975), pp. 345-352.

[14]Wagner, p. 935.

as constraints on such competition: the fixed nature of the supplier/purchaser relationships, the cost disparities resulting from the two-tier pricing system, and the restrictions placed upon ease of entry into the industry by the Emergency Petroleum Allocation Act (EPAA).[15] Fixing supplier/producer relationships on a 1972 base period has reduced competitive bidding for fuel procurements, thus raising fuel costs to many consumers. Likewise, the two-tier system allows firms with low base period costs to maintain artificial profit margins regardless of their competitive nature. Finally, FEA control of the movement of all domestic crude has resulted in barriers to new plant construction or investment by new firms.

Figure 20 shows that the efforts of the FEA to hold down domestic crude prices have not been particularly successful. Between October 1973, and December 1974, the average wellhead price of domestic crude oil went from $4.47 per barrel to $7.23 per barrel. As Table 23 indicates, this increase resulted from the rise in the price of uncontrolled crude from $5.62 to $11.08 per barrel during the same period. The data from the same table show what this has meant to U.S. refiners who have purchased domestic crude--the refiner acquisition cost has almost doubled in the period between November 1973 and March 1975. Since the refiner is allowed

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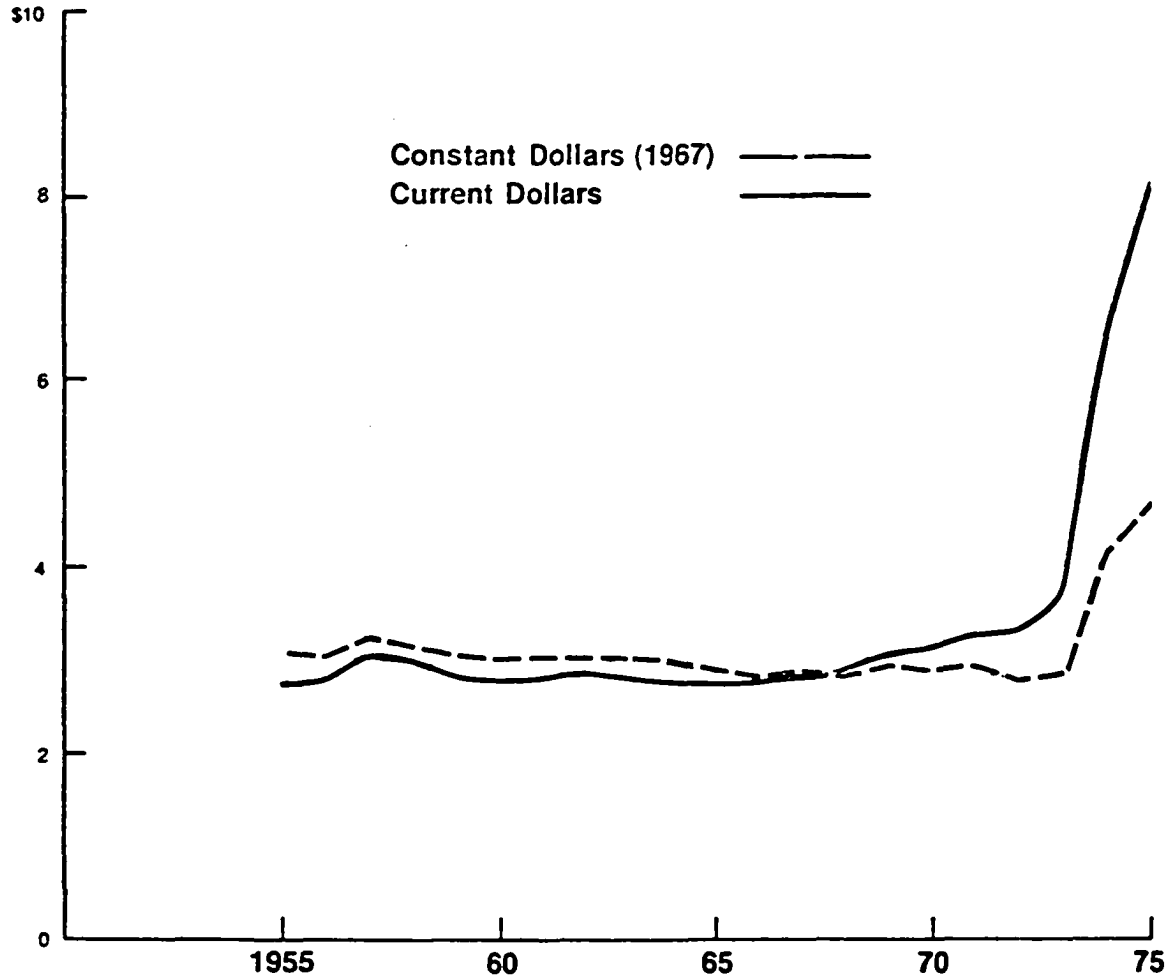
[15]"Statement of Frank G. Zarb," pp. 79-80.

FIGURE 20

AVERAGE WELLHEAD PRICE OF U.S. CRUDE



SOURCE: Federal Energy Administration, National Energy Outlook, 1976 (Washington, D.C.: Government Printing Office, 1976), p. 51.

TABLE 23

CRUDE OIL PRICES, 1973-1975*

Period	Wellhead Cost Controlled	Wellhead Cost Uncontrolled	Refiner Acquisition Cost Domestic
Nov 73	$4.25	$8.50	$5.00
Dec	5.25	9.51	5.95
Jan 74	5.25	9.82	6.72
Feb	5.25	9.87	7.08
Mar	5.25	9.88	7.05
Apr	5.25	9.88	7.21
May	5.25	9.95	7.26
Jun	5.25	9.95	7.20
Jul	5.25	9.95	7.19
Aug	5.25	9.98	7.20
Sep	5.25	10.10	7.18
Oct	5.25	10.74	7.26
Nov	5.25	10.83	7.24
Dec	5.25	11.08	7.39
Jan 75	5.25	11.28	7.78
Feb	5.25	11.39	8.29
Mar	5.25	11.43	8.29

*in dollars per barrel.

SOURCE: Federal Energy Administration, "The Price of Crude Oil," Monthly Energy Review (June, 1975): 1-10.

to pass such costs through to the consumer, the prices of almost all refined products have continued their upward spiral. For example, between the 1973 energy crisis and January 1976, the average selling price for motor gasoline increased 31 percent and residential heating oil increased 22 percent.[16] The effect of these outputs on the American public has been substantial. The Ford Foundation has estimated that in 1973 the average family spent six percent of its income on energy expenses.[17] Since that time, according to Labor Department data, this expenditure has exceeded nine percent (see Table 24). Equally significant is the fact that energy price increases have resulted in different relative and absolute costs to various income groups. An FEA report concluded:

> Prior to the oil embargo, upper income families spent about three times more money for energy than did lower income families, yet the lower income group was spending about 18 percent of their income on energy compared with only about 4.4 percent for the upper income group. By December 1974, low income groups spent about 25 percent of their income on energy, while upper income groups were spending only 5.9 percent. This disparity increased in the first quarter of 1975.[18]

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[16]Federal Energy Administration, Monthly Energy Review (March 1976): 64-68.

[17]Energy Policy Project of the Ford Foundation, A Time To Choose (Cambridge: Ballinger Publishers, 1974), p. 115.

[18]Federal Energy Administration, Report to Congress on the Economic Impact of Energy Actions (Washington, D.C.: Government Printing Office, 1975), p. 27.

TABLE 24

IMPACT OF ENERGY PRICES ON AN AVERAGE AMERICAN FAMILY

Income:	Dollar Expenditures 6/73	12/74	3/75	Percent of Income 6/73	12/74	3/75
Total Energy Expenses	$684	$907	$928	6.71	8.90	9.11
Gasoline	343	456	463	3.36	4.47	4.45
Electricity	189	239	248	1.85	2.35	2.43
Natural Gas	102	124	130	1.00	1.22	1.28
Other Fuels	50	87	85	.49	.85	.83

SOURCE: Federal Energy Administration, Report to Congress on the Economic Impact of Energy Actions (Washington, D.C.: Government Printing Office, 1975), p. 28.

Almost all economic analyses of the short-term future (until 1985) agree that the rise in costs and prices for domestic energy will continue. This prospect gives even more significance to the difficulties involved in securing private enterprise which is responsive to and representative of the public interest. Of the two alternative mechanisms available to government to achieve these ends through pricing and allocation controls--direct manipulation of production factors such as costs, and indirect influence upon market forces--the first, as the analysis above has illustrated, has proven to be of only limited effectiveness. The following discussion will consider the impacts resulting from the attempt, through the legislative mandate of the EPAA, to manipulate the competitive conditions under which the energy industry operates.

FEA Attainment of Legislative Energy Goals

The Emergency Petroleum Allocation Act provided that mandatory pricing and allocation regulations should allow the independent sectors of the oil industry access to controlled crude oil supplies. As developed by the FEA, these rules attempted to secure industry competition by protecting two sectors which, in 1973, seemed to be particularly threatened with extinction--the independent retail gasoline marketer and the independent refiner. At the retail level:

> Administration allocation regulations provided that dealers receive the amount of petroleum products

> they received in 1972 after certain adjustments for growth in business or their prorated share if supplies were below 1972 levels. The regulations also required that suppliers of retail dealers not impose more stringent credit terms and prohibited suppliers from discriminating among customers within the same class or charging prices higher than allowed by pricing regulations.[19]

Refinery competition was to be assured through three programs. First, the freeze on supplier/purchaser relationships existing in December 1973 (see Chapter V) attempted to guarantee a continuing supply of crude to small and independent refiners. However, as early as February 1974 it had become apparent that the major oil refineries (the largest 15 companies) were using their greater access to low price domestic crude to operate at a higher percent of refining capacity than either the large or small independent refineries. By April 1974, the majors' advantage resulted in the implementation of the buy/sell list which allowed refiner-buyers (the small and independent firms) to purchase crude from the larger refiner/sellers according to a set formula. Although this program increased refinery operating capacity for all sectors, it still left the majors with a substantial refining capacity advantage and a corresponding competitive edge in the price paid for the crude oil they processed. Thus, the old oil entitlements program, which allowed all

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[19] General Accounting Office, Problems of Independent Refiners and Gasoline Retailers (Washington, D.C.: General Accounting Office, 1975), p. 4.

refiners access to low priced, controlled oil, was implemented in November 1974.[20]

The effect of these programs on the competitiveness of small refiners and large independents is shown in Figures 21 and 22.[21] Figure 21, which compares the average cost of crude oil purchased by the majors, the large independents, and the small refiners for the ten months prior to the implementation of the entitlements program demonstrates the cost advantages enjoyed by the major oil companies. On the average, crude oil costs for the majors were $1.72 less than those of the large independents and 30 cents less than those of the small refiners. Figure 22, showing the effectiveness of the entitlements program in equalizing these costs, indicates that the FEA has, in fact, improved the competitive postions of the small and independent refiners. This program has had its costs, however. First, through its incentives designed to minimize old oil receipts by refiners, the entitlements program has contributed to increased crude costs.[22] Second, the program involves the addition of

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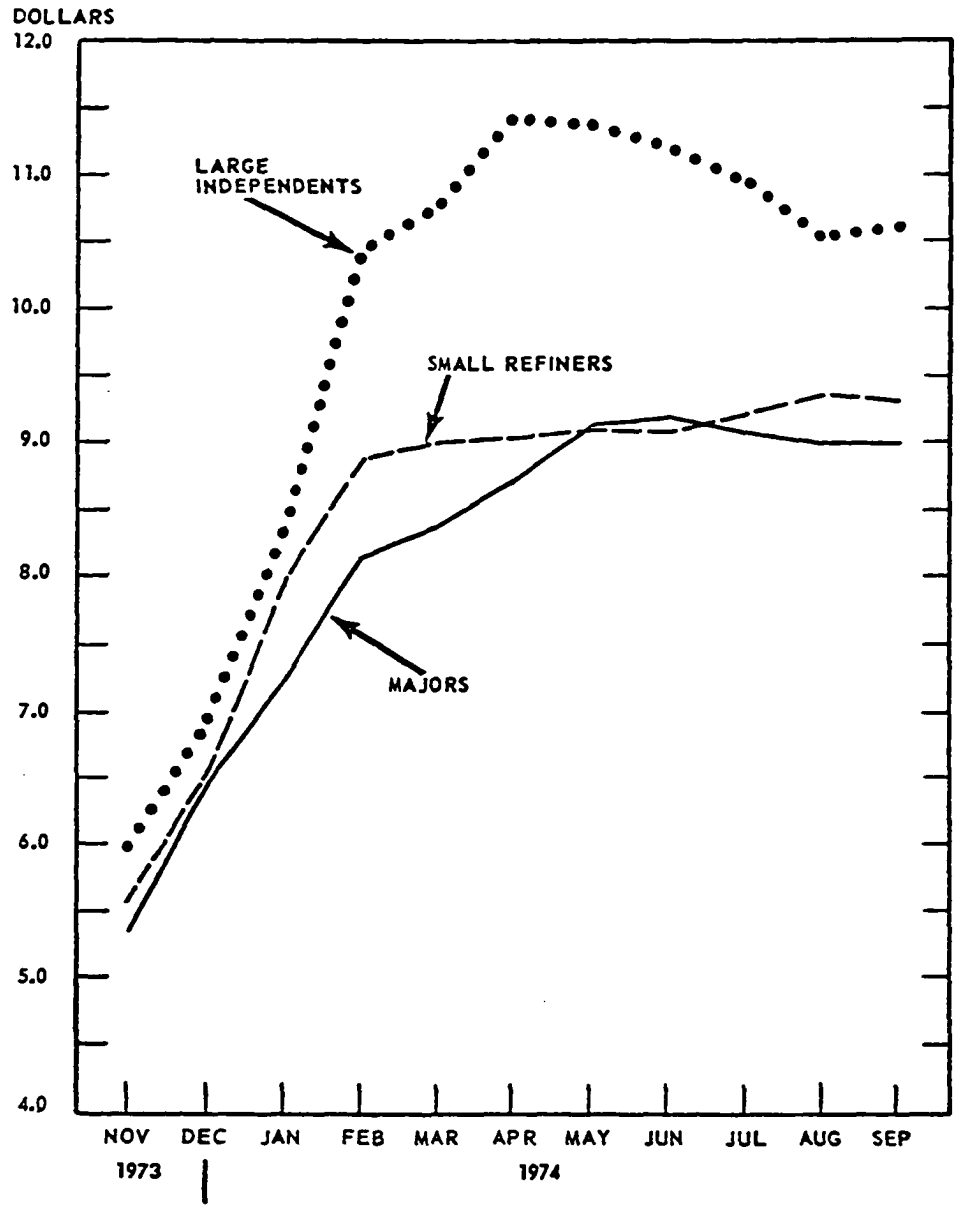
[20]Federal Energy Administration, Annual Report, pp. 22-24; Federal Energy Administration, Report to Congress, p. 59, and General Accounting Office, pp. 5-7.

[21]According to the EPAA, an independent refiner is defined as one which produces 30 percent or less of the crude it refines and a small refiner (which may also be an independent) is defined as one whose refining capacity does not exceed 175,000 barrels per day.

[22]See Federal Energy Administration, Report to Congress, pp. 60-61.

FIGURE 21

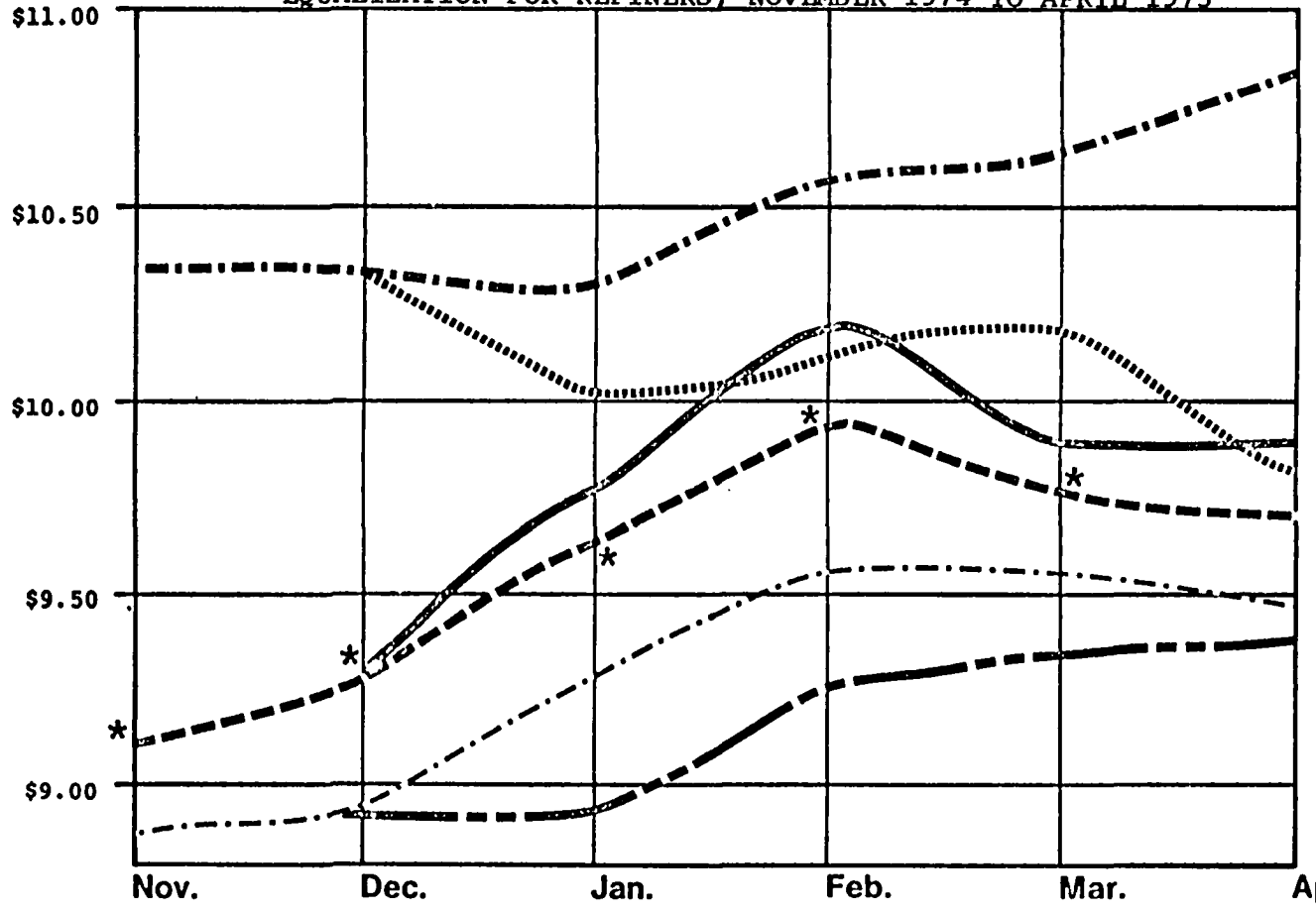
AVERAGE COST OF CRUDE PURCHASED BY REFINERS, NOVEMBER 1973 TO SEPTEMBER 1974



SOURCE: General Accounting Office, Problems of Independent Refiners and Gasoline Retailers (Washington, D.C.: Government Printing Office, 1975), p. 8.

FIGURE 22

EFFECTIVENESS OF THE ENTITLEMENTS PROGRAM IN CRUDE OIL COST EQUALIZATION FOR REFINERS, NOVEMBER 1974 TO APRIL 1975



SOURCE: Federal Energy Administration, Report to Congress on the Economic Impact of Energy Actions (Washington, D.C.: Government Printing Office, 1975), p. 62.

another layer of complex federal regulations and requires substantial compliance and enforcement to encourage successful program implementation.

Another indicator of the increased competitive viability of the small and independent sector is that during the period between January 1974 and June 1975:

> . . . while two small companies stopped refining and another closed a refinery, 11 new refineries began operating and that segment as a group expanded its capacity more than 750,000 barrels per day.
>
> This expansion of refining capacity raised the small and independent's share of the U.S. total from 20 to 32 percent. Crude oil for these new refiners, and to a large extent for the expansion of existing small plants has come from the Buy/Sell Program.[23]

Independent retail gasoline dealers were having problems competing with the major oil companies well before the 1973 energy crisis. By 1972, nonbranded independent retailers[24] had become heavily dependent upon surplus fuel from the majors. As of May 30, 1973, 1,200 gas stations had been closed due to lack of product; most of these closings involved independents.[25] With the tightening of available supplies after the 1973 embargo, independent retailers were

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[23]Federal Energy Administration, Report to Congress, p. 66.

[24]The EPAA defines a branded independent as a retailer which distributes refined products under a refiner's symbol or control. A nonbranded independent is not affiliated with a refiner except through a supply contract.

[25]Federal Trade Commission, Preliminary Staff Report on Its Investigation of the Petroleum Industry (Washington, D.C.: Government Printing Office, 1973), p. 1.

placed at an even greater competitive disadvantage. Although the available data on the number and relative market shares of various industry sectors is confusing--the FEA's reporting system was not completed as of mid-1975 and there are at least six conflicting sources for existing information--enough is known to give some indication of the effectiveness of the agency's efforts to preserve retailer competition.

Table 25, which gives the total market share of non-branded retailers from 1972 until the end of 1974, indicates that these independents lost a significant share of gasoline sales before the embargo and have yet to regain these losses, despite some limited gains under FEA regulations. Using the market share during 1972 as a base period, the nonbranded independents continued to hold 85.9 percent of this base during 1973, but only 81.2 percent of the base period during 1974.[26] This trend is also reflected in the total numbers of independent retail establishments over the same period. According to the General Accounting Office:

> Audit and Surveys, Inc., an independent surveying firm, reported a 20,000 drop in the total number of service stations operating nationwide between 1973 and 1974. Also, the Administration's March 1975 report to Congress on retail gasoline market shares stated that its November 1974 estimate of the number of stations was about 26,000 or more than 10 percent less than the number of stations in 1972.

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[26]U.S. Senate, Committee on Interior and Insular Affairs, Oversight--Federal Energy Administration Programs (Washington, D.C.: Government Printing Office, 1975), p. 158.

> Information furnished to us by the American Petroleum Institute showed a slight increase in the number of company-owned stations as of June 30, 1974, compared to December 31, 1973. Since the number of company-owned stations has increased, the overall decrease in gasoline stations had to come from the ranks of the independent dealers.[27]

Of the more than 1600 independent retailers surveyed by the General Accounting Office in 1974 who did go out of business during this period, 35 percent cited "other business or personal reasons" as the principal cause for closing. However, the other 65 percent gave as causes factors associated with the competitiveness issue (e.g. shortages of gasoline, lease terminations, lower sales, and loss of supply contracts).[28] Another important factor in this issue, at least from the viewpoint of many independent retailers, is a perception that the FEA's entitlements program has benefitted only refiners and not marketers. As the President of the Society of Independent Gasoline Marketers, Newell Baker, told Congress:

> The two-tiered pricing system of domestic crude oil resulted in drastic price disparities among refiners. The FEA was unconscionably slow in implementing the Entitlements Program which was designed to relieve this problem. Now it appears that the value derived by refiners from the sale of entitlements has been put in their pockets rather than passed on to wholesale buyers or the consuming public.[29]

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[27] General Accounting Office, pp. 11-12.

[28] General Accounting Office, pp. 12-14.

[29] U.S. Senate, Committee on Interior and Insular Affairs, Oversight, p. 138.

TABLE 25

RETAIL MARKET SHARE OF NONBRANDED INDEPENDENTS, 1972-1974

Period	Total Industry Sales[a]	Total Nonbranded Independent Sales[b]	Nonbranded Market Pct.
1st Qtr '72	22.16	.48	2.17
2nd Qtr	24.66	.55	2.22
3rd Qtr	25.41	.55	2.18
4th Qtr	23.78	.56	2.34
1st Qtr '73	23.57	.55	2.34
2nd Qtr	25.66	.49	1.90
3rd Qtr	26.68	.46	1.73
4th Qtr	25.12	.43	1.73
1st Qtr '74	22.00	.40	1.82
2nd Qtr	26.10	.45	1.68
3rd Qtr	27.42	.48	1.76
4th Qtr	25.85	.51	1.98

[a]in billions of gallons.

[b]in billions of gallons.

SOURCE: U.S. Senate, Committee on Interior and Insular Affairs, Oversight--Federal Energy Administration Programs (Washington, D.C.: Government Printing Office, 1975), p. 159.

The second major legislative goal for the FEA--enabling refineries to operate at full capacity--is one which has been modified by the related objective of expanding refinery capacity. The buy/sell list and the entitlements program were both responses to the overall goal of maintaining operating capacity percentages while encouraging capacity expansions. Since the regulations supply refiner-buyers with allocations for every increase in capacity and determine refiner-sellers' allocation obligations on the basis of capacity, there are incentives for the attainment of these goals.[30]

In fact, as Table 26 indicates, these regulations have made only a slight impact on the percentage of refinery capacity at which the industry has operated since the energy crisis. Although there was an overall increase in utilized capacity from 1974 to 1975, the 83.6 level achieved remains far below the pre-embargo level of 1972 (87.2 percent).

In terms of the effect these programs have had upon refinery capacity, Table 27 illustrates that while total capacity has grown every year since the energy crisis, each year's increase has been smaller than the previous year's. In fact, the increase for 1975 (1.5 percent) was the smallest year-to-year capacity gain in a decade. While larger capacity gains have been predicted for 1976, this table demonstrates

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[30]See Wagner, pp. 932-933.

TABLE 26

PERCENT OF REFINERY CAPACITY UTILIZED, 1972-1975*

Petroleum Administration for Defense Districts	Pct. of Capacity Used 1972	1974	1975
Total District 1	82.2	80.2	83.2
East Coast	82.0	80.7	84.8
Appalachian	83.5	76.9	72.2
Total District 2	91.1	84.3	84.8
Appalachian	103.5	90.6	89.1
Ill., Ind., Ky.	89.9	83.6	83.7
Minn., Wis., Dak.	86.5	73.2	77.8
Okla., Kan., Mo.	94.5	88.8	88.5
Total District 3	86.5	83.4	83.8
Texas Inland	94.5	81.5	80.9
Texas Gulf	83.4	83.5	86.8
Louisiana Gulf	91.0	85.9	86.8
N. La., Ark.	73.7	72.3	69.2
New Mexico	98.0	66.3	73.8
Total District 4	90.1	76.4	78.4
Total District 5	85.3	77.8	81.3
Total United States	87.2	82.1	83.6

*1973 data not available.

SOURCES: "Forecast/Review: Supply-Demand Race Continues," Oil and Gas Journal 71 (January 29, 1973): 105; "Forecast/Review: Uncertainties Plague '75 Outlook for Oil," Oil and Gas Journal 73 (January 27, 1975): 113; and "Forecast/Review: Drilling to Remain High in U.S. as Oil Demand Climbs in 1976," Oil and Gas Journal 74 (January 26, 1976): 113.

TABLE 27

INCREASES IN REFINERY CAPACITY, 1973-1976*

Year	Total Refinery Capacity	Increase from Previous Year	Percent Increase
1973	14.21	.80	5.6
1974	14.84	.63	4.2
1975	15.07	.23	1.5
1976 est.	15.93	.86	5.7

*in millions of barrels per day.

SOURCE: Leo R. Aalund, "U.S. Refining Capacity to Score Biggest Gain in '76," Oil and Gas Journal 74 (March 29, 1976): 55-57.

the limited impact which FEA's efforts have had to date. As was discussed above, the gains in capacity which have been made in the 1974-1975 period have been in the small refiner sector. For example, of the total increase of 230,000 barrels per day recorded in 1975, small refiners accounted for approximately 89 percent.[31]

In the past, the slowdown in capacity increases can be attributed to the close relationship between refining capacity and crude production. Wagner has observed this interdependency in his analysis as follows:

> . . . an increase in refining capacity--for both refiner-buyers and refiner-sellers--depends on increased production and is always contingent upon securing a reliable source of supply of crude oil for that additional capacity . . . It follows that FEA's failure to spur domestic production inhibits substantial increases in refinery capacity.[32]

The equitable distribution of fuels, both in terms of quantities and prices, among regions and industry sectors, is the third FEA objective mandated by the EPAA. Much of the discussion above has focused upon equity issues among sectors of the petroleum industry (refiners and retailers in particular) but the question of interregional allocation of fuels has not been raised. Richard Mancke's evaluation of the allocation of gasoline among regions in early 1974 was

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[31]Leo R. Aalund, "U.S. Refining Capacity to Score Biggest Gain in '76," Oil and Gas Journal 74 (March 29, 1976): 55.

[32]Wagner, p. 933.

highly critical of the inequity in the amounts distributed to various states (there was a range of 63 to 122 percent of projected needs between New Hampshire and Wyoming, for example),[33] but this problem apparently has been resolved by a combination of increased imports, relatively warm winters, and lowered domestic demand. Thus, while the issue of interregional amouts of crude and refined products has been at least temporarily resolved, the question of interregional pricing for these fuels remains.

The data in Table 28 show that the FEA has had mixed success in equitably distributing prices for gasoline and heating oil among regions. In the case of gasoline, while the price has escalated steadily since 1974 (the national average has increased more than 36 percent in the two year period), the range between the highest and the lowest regional prices has decreased each year. However, this is not the case for the allocation of heating oil, where substantial fluctuations in the interregional pricing distributions have accompanied overall price increases.

FEA Attainment of Bureaucratic Energy Goals

Because the FEA was established as a "temporary" agency, the issue of its attempts to maintain itself as an organizational unit have been controversial. A constant

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[33]Mancke, pp. 10-14.

TABLE 28

INTERREGIONAL PRICING OF FUELS, 1974-1976

Region	Gasoline[a] 1974	1975	1976	Region	Heating Oil[b] 1974	1975	1976
Northeast	21.4	27.8	33.3	New England	31.9	40.2	41.3
Mid-Atlantic	21.4	27.8	33.9	Mid-Atlantic	31.6	38.9	40.6
Southeast	21.1	27.4	33.2	Southeast	30.8	36.5	39.9
Central	21.3	28.2	34.0	East No. Ct.	30.3	33.2	38.6
Western	22.2	28.5	33.2	East So. Ct.	29.8	34.7	NA
Southwest	20.1	27.2	33.1	West No. Ct.	31.3	34.0	39.0
Pacific	21.0	27.8	33.5	West So. Ct.	NA	NA	NA
				Mountain	30.4	37.5	40.2
				West Coast	30.5	38.0	42.0
Range	2.1	1.3	0.9	Range	2.1	7.0	3.4

[a]jobber prices for regular gasoline sold by 21 leading refiners, in cents per gallon, for January of each year.

[b]residential heating oil prices, in cents per gallon, for January of each year.

SOURCE: Federal Energy Administration, Monthly Energy Review (April 1976): 57 and 59.

theme in the literature of organization theory and the analysis of bureaucracy has been the counterproductive nature of agency survival and growth. More specifically, a number of typical "dangers" associated with federal economic regulation agency maintenance and survival have been enumerated, including tendencies to broaden the scope of regulatory activities, respond slowly to technical and economic change, resist deregulation, bureaucratize private organizations, and stimulate corruption.[34] The following analysis focuses upon the degree to which the FEA has attempted to undertake these types of system maintenance activities.

A common aspect of the criticism of the bureaucratic drive for power is the inherent tendency for economic regulatory agencies to expand their scope of activities regardless of the actual social needs for the services offered. Although, as has been pointed out, there was considerable pressure, both within and without the FEO, to expand the regulatory scope of the new agency in its first months of existence (see Chapter IV), the FEA's activities have remained remarkably similar to its original functions. This is not to say that some expansionary attempts have not been made. In early January 1974, a proposal was put forward by John Dunlop, Chairman of the Cost of Living Council, to

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[34]See James Q. Wilson, "The Dead Hand of Regulation," Public Interest 25 (Fall, 1971): 39-58; and James Q. Wilson, "The Rise of the Bureaucratic State," Public Interest 41 (Fall, 1975): 56-76.

place the FEA in charge of allocating scarce building materials through an Office of Construction. That same month, the agency attempted to secure a future R&D function by establishing an Energy Research and Development Office. And in late 1975, the FEA sought to gain access to the nuclear energy policy arena through the creation of an Office of Nuclear Affairs. None of these structural extensions has proven to be permanent, however.

One of the major ironies of regulatory agencies is that many of the same organizations which were created in response to sudden social and technological changes are then unable to effectively respond to continuing changes once they have been established. As was noted above, bureaucratic inflexibility has been one of the most often cited weaknesses of the FEO in its initial fuel allocation efforts. However, since many of the early personnel and program difficulties have been resolved, these factors are not as significant. While it is still true that FEA pricing and allocation rules are tied to base periods which may have little relevance to contemporary economic and technical conditions,[35] the agency has made a concerted effort to secure feedback in the form of public comment on each of its allocation decisions (see Chapter IX). The result has

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[35]Anthony M. DiLeo, "An Introduction to the Mandatory Petroleum Allocation Regulations," Louisiana Bar Journal 22 (September 1974): 107-110.

been at least three major revisions of the crude allocation program and over 20 sets of amendments to the rules.

Almost every study of federal regulatory bodies has pointed out the tendency of these organizations to preserve the status quo and oppose any attempts to strip them of their basic functions. In at least one major policy area, however, the FEA has actually proposed the elimination of its own regulatory authority. Since June 1974, the FEA has pressured Congress to allow the EPAA to expire. However, the allocation system has been extended four times, despite FEA opposition, the last of which was the 40-month phaseout under the Energy Policy and Conservation Act of 1975.

There is substantial evidence that regulatory agencies have contributed to the "bureaucratization" of those private organizations with whom they interact. This has probably also been the case with the FEA's implementation of the mandatory petroleum allocation regulations. Most significant have been the personnel burdens placed on the oil industry by the FEA's standards. As Frank Ikard, Presisent of the American Petroleum Institute, has noted, the allocation and pricing rules require "a whole new cadre of career specialists in petroleum regulation" which number several times as many as the total government personnel assigned to implement the EPAA.

Part of the criticism of bureaucratic "amorality" rests on the assumption that "regulations make us dishonest

people." More than one political analyst, for example, has commented on the pattern of clientele reaction to regulations in terms of first trying to influence the rule-making process and then attempting to avoid compliance with unfavorable requirements. Regarding federal economic regulation agencies, analysts have asserted that controlling entry, fixing prices, and affecting profitability of private organizations stimulates corruption. Although a causal link in this relationship is difficult to demonstrate, the analysis in Chapter VII indicated that the pricing and allocation regulations were widely violated.

Thus, a good case can be made that the FEA has maintained itself without generating many of the harmful effects associated with federal economic regulatory agencies. The FEA has been conservative in its limited attempts to broaden its regulatory authority, most of which took place at any rate during the first, confused days of the FEO's authority over energy policy-making. The agency has responded, although not always successfully, to economic and technological changes with often limited personnel and expertise. And, most significantly, the new organization has encouraged, not resisted, some deregulation.

It is only in those areas pertaining to the FEA's relationships with the oil industry that some regulatory "dangers" seem to have been realized; there probably has been some bureaucratization of the controlled industry, and

there may be some corrupting influence of the agency's rules and regulations. However, both these points require serious caveats. The petroleum industry was already highly regulated prior to the creation of the FEA, and, as the 1972 campaign contribution scandals have demonstrated, the oil industry's corruption certainly did not begin with the coming of the FEA.

Conclusion

Two conclusions can be drawn from this chapter. First, the effectiveness of the FEA's fuel allocation policies has been mixed. While the agency has achieved many of the goals outlined in the EPAA's mandate, especially the maintenance of the competitiveness of independent refiners and the equitable distribution of gasoline among regions, as well as the more basic bureaucratic goal of survival, it has been markedly less effective in the attainment of the more broadly defined executive goals. Second, the major cause for this variation in outcome effectiveness lies in the fact that the FEA is a classic example of the regulatory agency which was not established solely to allocate resources effectively, but to remedy a broad range of social problems.[36] As a result, the agency has been beset with a

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[36]See Kenneth J. Meier and John P. Plumlee, "Regulatory Administration and Organizational Rigidity," a paper prepared for delivery at the 1976 Annual Meeting of the Midwest Political Science Association, Chicago, April 29-May 1, 1976, p. 1.

combination of vague, symbolic, and conflicting policy objectives. Not only are there serious ambiguities contained in almost all the tasks assigned the agency, there are a number of direct conflicts between different goals and within others. For example, the executive objective of increasing production of crude oil is somewhat frustrated by the legislative goal of insuring competition in the refiner sector of the oil industry, since the introduction of the entitlements program to enable independent refiner-buyers to gain access to old oil also has the effect of depriving large refiner-sellers of the capital needed to invest in exploration and production activities. Moreover, while the entitlements program has the desired effect of increasing competitiveness for the refiner sector of the industry, it has the internal contradiction of constraining competitiveness in the retail sector. With such incompatibility in policy objectives, it is no surprise that the FEA has been able to demonstrate only a limited level of outcome effectiveness.

One of the ways all large organizations determine the degree to which their conflicting goals are being realized and the priorities which should be attached to these objectives is through the establishment of monitoring or feedback mechanisms. The responsiveness of FEA feedback is the subject of the next chapter.

CHAPTER IX

THE RESPONSIVENESS OF FEA FEEDBACK

Introduction

Bureaucratic responsiveness is an attempt by public agencies to match their decisions to constituency preferences. These preferences are manifested through two modes of feedback: unarticulated, individualized expressions of public opinion, and articulated group demands from organized interests. This chapter is first concerned with the degree to which the Federal Energy Administration's programs have been sensitive to shifts in public opinion, as revealed in national surveys. Since there is no simple test for responsiveness, the focus will be upon answering the following questions:

-Does the agency follow public opinion, try to discover public preferences, and do its best to inform the public about policy alternatives?

-Is there much opposition to, and criticism of, agency performance?

-Does the agency respond to criticism? Does it change its behavior to answer criticism?[1]

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[1]Robert C. Fried, Performance in American Bureaucracy (Boston: Little, Brown, 1976), p. 55.

Although a variety of national opinion surveys will be utilized in this chapter, a great deal of emphasis will be placed upon a series of monthly public opinion polls on energy issues which were contracted by the FEA, beginning in September 1974 and running for a twenty-month period.[2]

A second major focus for this section is the answer to the question: Responsiveness to whom? Here the emphasis is upon a determination of the manner in which the FEA responds to organized interest groups (primarily the oil industry) which aggregate and articulate demands and supports for the agency. The exceptions and appeals program--the major government-community interface where the FEA is able to respond to industry-initiated requests--will be the activity subjected to analysis. Responsiveness at this point is important not only because it is at the interface with industry that the FEA accommodates competing values and demands, but because it is the exceptions and appeals process which gives these groups cues as to what types of demands will be accepted by the agency and what supports are needed.

Research Hypotheses

Public administration theory suggests that the responsiveness of regulatory agencies is significantly

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[2]Opinion Research Corporation, General Public Attitudes and Behavior Toward Energy Saving, Report Volumes I-XVI (September 1974 to January 1976).

affected by their level of "bureaucratization." That is, as an agency progresses through its "life cycle" and becomes increasingly structured, its responses to constituency preferences varies. At the point of agency creation, the general public is more attentive and the underdeveloped organization has established fewer obstacles to responsiveness. Thus:

> Hypothesis 1: The combination of a crisis environment, attentive publics, and evolving agency rules and procedures will provide an initial period of high FEA responsiveness to public opinion.

However, as public agencies have become more rigidly organized, and as general public attention has eroded with time, there has been a tendency for such organizations to turn to organized "clients" for support. This leads to a second hypothesis:

> Hypothesis 2: Increased emphasis on task specialization, professionalism, impersonality, and hierarchy will decrease the FEA's responsiveness to public opinion and increase its responsiveness to group demands.

FEA Responsiveness to Public Opinion

A chronic problem for any agency seeking to determine the public's reaction to government programs is the limited attention people give to most administrative politics. Francis Rourke has observed that:

> Actually, only a comparatively few agencies carry on functions that have a high degree of visibility for the general public. An agency like the FBI, which has been performing a dramatic role in American life for several decades, does command a broad pattern of

> public support that stretches throughout all strata of society . . . But the power of publicity, even in America, is not boundless, and an agency whose activities do not match the FBI's in intrinsic dramatic appeal will not equal it in public esteem no matter how assiduously it carries on public relations activity.[3]

For a time, during the height of the energy crisis, the FEA did manage to capture the national political limelight. However, as Tables 29, 30, and 31 show, an extensive FEA public never really developed. While there was initially some growth in the public's awareness that the federal government had established an agency responsible for energy policy (Table 29), especially among higher-income and college-educated segments of the population (Table 30), this trend peaked in late 1974 and has decreased in the months since. In addition, even among those who are aware of the existence of a federal energy agency, the number who are able to cite the FEA has never been more than six percent (Table 31). Moreover, specific FEA public relations programs, such as the attempts to encourage energy conservation through advertising slogans ("Don't Be Fuelish," etc.) have achieved only moderately high recognition levels among the general public.[4]

These data suggest that any analysis of the relationship between overall energy policy and public opinion

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[3]Francis E. Rourke, Bureaucracy, Politics and Public Policy (Boston: Little, Brown, 1969), p. 13.

[4]Opinion Research Corporation, Highlight Report Volume IX, pp. 25-27.

TABLE 29

PUBLIC AWARENESS OF A FEDERAL ENERGY AGENCY, 1974-1975

Period	An Agency Has Been Established	No Agency Has Been Established	Don't Know
Aug. 21 - Sep. 15, 1974	34%	20%	46%
Sep. 30 - Oct. 13, 1974	42	10	28
Oct. 28 - Nov. 10, 1974	35	21	44
Feb. 10 - Mar. 9, 1975	31	28	41
Mar. 10 - Apr. 6, 1975	24	29	47

SOURCE: Opinion Research Corporation, General Public Attitudes and Behavior Regarding Energy Saving, Highlight Report Volume X, p. 8.

TABLE 30

AWARENESS OF A FEDERAL ENERGY AGENCY,
BY SUBGROUPS, 1975

Subgroup	An Agency Has Been Established	No Agency Has Been Established	Don't Know
Total Public	24%	29%	47%
Men	32	30	38
Women	16	29	55
Less Than High School	6	38	56
High School	24	38	48
Some College	46	22	32
Income Under $10,000	14	30	56
$10,000-$15,000	29	30	41
Over $15,000	39	28	33

SOURCE: Opinion Research Corporation, General Public Attitudes and Behavior Regarding Energy Saving, Highlight Report X, p. 8.

TABLE 31

PUBLIC AWARENESS OF THE FEA,
1974-1975

Period	Percent Asked*	Cited FEA	Cited Other	Don't Know
Aug. 21 - Sep. 15, 1974	34%	6%	3%	24%
Sep. 30 - Oct. 13, 1974	42	6	3	33
Feb. 10 - Mar. 9, 1975	31	3	3	25
Mar. 10 - Apr. 6, 1975	24	5	2	16

*Asked only of those who responded that the federal government had established an agency responsible for energy policy (see Tables 29 and 30).

SOURCE: Opinion Research Corporation, General Public Attitudes and Behavior Regarding Energy Saving, Highlight Report Volume X, p. 9.

probably cannot be attributed to the FEA. That is, generalizing from the public's concern with energy as a policy issue or its rating of an Administration's handling of energy problems does not necessarily reflect parallel opinions of the FEA, given the low recognition factors cited above. Thus, polls which show increasing distrust of the federal government in energy policy and decreasing satisfaction with steps taken to achieve energy self-sufficiency, for example, cannot be attributed to any one agency. Despite these limitations, there are a number of specific policy areas where opinion data is available in which only the FEA has administrative authority. These include such key issues as the deregulation of price controls, the regulation of production and utilization sectors of energy policy, the regulation of corporate profits, import controls, competition in the energy industry, and the regional distribution of fuels. These policy issues form the basis for the analysis of FEA responsiveness to public opinion in the discussion below.

At first, the public's attitudes toward price controls on petroleum and its products were fairly accurately reflected in FEO/FEA policies. Immediately following the 1973 energy crisis, public opinion generally supported the existing federal controls. A nationwide Gallup survey in November-December 1973, for example, found that 49 percent of the public said the regulations were "about right,"

while 39 percent thought the rules should be made stricter and only six percent responded that they were too strict. As Gallup concluded:

> The willingness of many Americans to comply with the proposed controls set forth by President Nixon in his late November speech to the nation is consistent with earlier findings which have shown the public to be willing to make sacrifices for the national good in times of crisis.[5]

Although a standby gasoline rationing plan was announced by the FEO in early 1974, Gallup polls in both January and February of that year found sizable majorities opposing rationing as a method of distributing supplies. FEO chief William Simon reflected this view, saying that rationing would not work and would "put a great many rigidities in a very complex economy."[6]

However, by mid-1974, when the FEA began to move toward advocacy of a decontrol policy, the agency's actions increasingly deviated from the dominant public opinion. For example, during the period when the FEA was attempting to incrementally exempt fuels from the existing regulations (July-September 1974), a Harris survey found only 28 percent of the public in favor of deregulation of oil (42

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[5]"Few Find Energy Controls Too Strict; Wide Compliance Found," Gallup Opinion Index 103 (January 1974): 8. See also "Public Spreads Blame for Current Energy Shortages," Gallup Opinion Index 104 (February 1974): 4-5.

[6]"Americans Would Reject Gas Rationing Legislation," Gallup Opinion Index 105 (March 1974): 9-10.

percent opposed such a policy and 30 percent were "not sure").[7] Even more striking was the August 1974 survey conducted by Cambridge Survey Research which showed 71 percent holding the view that there should be no price increase to encourage domestic exploration and production.[8] This ran absolutely counter to FEA officials' statements before Congress during the hearings on extending the Emergency Petroleum Allocation Act (see Chapter V).

As the impact of the energy crisis faded and the Administration (and the FEA) pressed for an end to the emergency controls in late 1974, public opinion continued to resist the return of petroleum or its products to "free market" conditions. Opinion Research Corporation, in October 1974, wrote that:

> Generally, the public are opposed to increasing the price of anything. They do not see the pricing mechanism as a rationing mechanism, and they apparently would rather be coerced to save energy in other ways (rationing) rather than to be coerced by higher prices.[9]

Tables 32 and 33 reflect the continuing preference by a large portion of the American public for energy policies

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[7]Richard Corrigan, "The Public Attitude Toward Price Controls," National Journal Reports 7 (August 30, 1975): 1250.

[8]"Energy No Longer Viewed as Nation's Top Problem," National Journal Reports 8 (April 3, 1976): 443.

[9]Opinion Research Corporation, Highlight Report Volume V, p. 20.

TABLE 32

PUBLIC ATTITUDES TOWARD GASOLINE PRICING POLICY, 1974-1975

Subgroup	Preferred Way To Deal With Shortages: Substantially Higher Prices, But Unlimited Availability		Maintain Gas Prices, But Rationing		Somewhat Higher Gas Prices, But Limited Availability		No Answer	
	Oct. 1974	Jan. 1975	Oct. 1974	Jan. 1975	Oct. 1974	Jan. 1975	Oct. 1974	Jan. 1975
Total Public	15%	17%	45%	47%	24%	25%	16%	11%
Less Than High School	16	13	42	56	14	17	28	14
High School	16	25	47	40	28	26	9	9
Some College	13	20	47	36	33	41	7	3
Income Under $10,000	16	NA	44	NA	19	NA	21	NA
$10,000-$15,000	16	NA	56	NA	21	NA	7	NA
Over $15,000	11	NA	40	NA	39	NA	10	NA

SOURCE: Opinion Research Corporation, General Public Attitudes and Behavior Regarding Energy Saving, Highlight Report Volume V, p. 20; Volume VI, p. 5, and Volume VII, p. 21.

TABLE 33

PUBLIC ATTITUDES TOWARD GASOLINE RATIONING, 1975

Subgroup	Most Effective Way To Solve The Energy Problem							
	Rationing		Raising Prices		Other		No Answer	
	Jan.	Feb.	Jan.	Feb.	Jan.	Feb.	Jan.	Feb.
Total Public	58%	51%	27%	32%	8%	7%	7%	10%
Income Under $10,000	60	51	25	29	7	6	8	14
$10,000-$15,000	54	56	30	31	10	9	6	4
Over $15,000	56	49	30	40	10	5	4	6

SOURCE: Opinion Research Corporation, General Public Attitudes and Behavior Regarding Energy Saving, Highlight Report Volume VIII, p. 5.; and Volume IX, p. 15.

other than price increases. When asked what way they would choose to deal with future severe energy shortages, fully 45 percent responded in favor of rationing as early as October 1974. Three months later, this portion had increased slightly (Table 32). Even stronger preferences in favor of rationing were found when the question was framed in terms of finding the most effective solution to the energy problem. Table 33 shows that rationing was favored by clear majorities in both January and February 1975, although there was some increase in those supporting price increases in the latter survey. This data also reveals the fact that opposition to the FEA's stance at this time came increasingly from the lower-educated and lower-income segments of the public.

Opinion on pricing policy began to change significantly in mid-1975, as is demonstrated by Table 34. According to the Roper Public Opinion Research Center:

> The American public has been leaning in favor of gasoline rationing as a conservation measure, but when it comes down to either paying 10 cents more per gallon or being limited to 10 gallons a week, opinion shifts in favor of paying more per gallon.[10]

Thus, by a margin of 48 percent to 37 percent (with 10 percent choosing "neither" alternative and five percent

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[10]"Moderate Price Boost Preferred Over Gas Rationing," Current Opinion 3 (May 1975): 41.

TABLE 34

PUBLIC OPINION REGARDING
GASOLINE PRICING, 1975

	Way to Reduce Gasoline Consumption			
Subgroup	Rationing	Price Increase	Neither	No Opinion
National	37%	48%	10%	5%
Male	38	48	10	4
Female	36	48	10	6
White	39	47	10	4
Non-White	29	53	9	9
East	44	43	9	4
Midwest	35	51	10	4
South	34	49	10	7
West	38	50	8	4

SOURCE: "Moderate Price Boost Preferred Over Gas Rationing," Current Opinion 3 (May 1975): 41.

registering "no opinion"), the public favored the FEA's solution to the fuel distribution dilemma. Significantly, the "non-white" sector of the population accounted for much of the shift toward the pricing option.

Finally, in August 1975, public support for deregulation of all oil produced domestically underwent a complete turnaround from its position twelve months before. A Harris poll, shown in Table 35, found a 54 percent majority in favor of deregulation if it would encourage domestic oil production. According to the Harris organization:

> Close to two in every 10 people admit that they have changed their minds on the energy decontrol issue. They give three major reasons:
> -Deregulation will bring in more production at home and eventually bring prices down.
> -With decontrol we will encourage rather than discourage exploration for new oil and natural gas.
> -By encouraging exploration at home we can move toward less dependence on Middle East Oil.[11]

Although these results lead to the conclusion that the FEA has successfully influenced public opinion on the pricing/deregulation issue of the last two years, there is doubt among some observers of the validity of this data. As S. David Freeman, former Director of the Ford Foundation's Energy Policy Project, concluded of the Harris poll:

> That's kind of a slanted question. I'm sure that you can frame a slightly different question and get the answer going the other way.[12]

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[11]"Public Favors Deregulation of Oil," Current Opinion 3 (September 1975): 82.

[12]Corrigan, p. 1250.

TABLE 35

PUBLIC ATTITUDES TOWARD
OIL DEREGULATION, 1975

Period	Favor Deregulation	Oppose Deregulation	Not Sure
July 1974	28%	42%	30%
April 1975	46	31	23
July 1975	54	22	24

SOURCE: "Public Favors Deregulation of Oil," Current Opinion 3 (September 1975): 82.

Regardless of the problems with this particular poll, however, it does appear as if on the issue of oil pricing the FEA has not exhibited a high degree of responsiveness to public opinion. Instead, the agency has apparently had a role in shaping the attitudes to which it is supposed to be responsive.

Public opinion regarding the more general FEA regulatory activities--control of imports, production, and profits, for example--has been mixed. While there has been widespread support for the FEA's overall goal of reducing U.S. dependence on foreign oil--in January 1975, a Gallup poll found 74 percent of the people in favor of trying to become energy self-sufficient[13]--the public has nevertheless been divided on the issue of using imports as solutions to shortages. For example, in September 1974, a majority (58 percent) of those surveyed approved of imports as supply sources. As Opinion Research Corporation analyzed these results:

> There is general public support for virtually any method of increasing supply when the method is stated without any accompanying negative effect such as more pollution or higher prices.[14]

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[13]Richard Corrigan, "A Decision at the Polls May Not Hinge on the Price at the Pump," National Journal Reports 8 (April 3, 1976): 443. An Opinion Research Corporation poll in late 1974 had found 64 percent of the public expressing a belief that the U.S. could become energy self-sufficient. See Highlight Report Volume VI, p. 12.

[14]Opinion Research Corporation, Highlight Report Volume I, p. 14.

By January 1975, however, the public had begun to turn against the policy of allowing more imports into the country through the import fee system than the oil import quotas had permitted. Table 36 shows that 50 percent of those polled did not think that more oil should be brought in to alleviate energy shortages. Administration policy soon reflected an identical perception and position--in February 1975, the first supplemental fee was imposed on foreign imports (see Chapter V). Thus, FEA actions in the petroleum import policy area appear to have generally been responsive to unarticulated public opinion.

The information in Table 36 also indicates, however, that public attitudes toward greater federal intervention into traditionally private decisionmaking spheres went far beyond the FEA's existing roles. Clear majorities favored federal regulation of production and greater federal involvement in oil exploration activities, for example. Moreover, almost half those surveyed supported federal regulation of energy use. Toward these attitudes the FEA has not been responsive. In fact, rather than expanding its regulatory reach over the oil industry, the agency, in mid-1975, proposed the implementation of a more limited, standby allocation program to replace the existing system. According to FEA Administrator Zarb, such a program would more adequately

TABLE 36

PUBLIC OPINION REGARDING SOLUTIONS TO ENERGY SHORTAGES, 1975

Solution to Shortage	Favor	Oppose	No Opinion
The Federal Government should become involved in exploration for oil.	66%	26%	8%
The Federal Government should regulate energy production.	55	36	9
The Federal Government should regulate energy use.	48	45	7
More oil should be imported from foreign countries.	43	50	7

SOURCE: Opinion Research Corporation, General Public Attitudes and Behavior Regarding Energy Saving, Highlight Report Volume VII, pp. 11-12.

respond to an economy which was no longer handicapped by energy shortages.[15]

One exception to this trend away from broadening the scope of its regulatory authority over the private sector has been the FEA's willingness to go along with the strong public opinion favoring government control of corporate profits. In the very first days of the FEO, Assistant Administrator John Sawhill noted that while the agency favored higher prices for certain fuels in order to reduce demand, the FEO was committed to guard against windfall profits by energy corporations.[16] Even before the FEA came to advocate the decontrol of all crude prices in conjunction with a windfall profits tax (in mid-1974), the agency had given as a primary rationale for the crude oil entitlements program the fact that requiring refiners to run proportionately equal shares of controlled crude would equalize costs without increasing company profits. FEA advocacy of a windfall profits tax solidified in 1975, so that Deputy Administrator John Hill could tell Congress:

> Our analysis, confirmed with a number of small and independent refiners, indicates that rapid enactment of a windfall profits tax would be enough to assure the competitive viability of efficient small and

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[15]See "Statement of Frank G. Zarb, Administrator, Federal Energy Administration," before the Committee on Interior and Insular Affairs, United States Senate, May 19, 1975 (mimeographed), pp. 1-7.

[16]See "The Energy Czars Test Their Muscle," Business Week, December 15, 1975, p. 21.

> independent refiners. This in itself would go far to assure continued supplies of product to independent marketers since they get much of their supply from small and independent refiners.[17]

This position is compatible with the data presented in Tables 37 and 38, which illustrate public support for governmental control of company profits in general, and oil company profits in specific, across political party lines. According to Opinion Research Corporation:

> . . . there is majority support for a government ceiling on profits. Data from other ORC surveys indicate that the vote in favor of Government control of profits has risen dramatically over the last few years . . . The call for restriction of oil company profits is even more widespread. As has been the case since Wave 5 (May 1974) when this question was first posed, over seven people in ten favor restriction of oil company profits.[18]

Chapters VII and VIII pointed out the difficulties the FEA has experienced in administering pricing and allocation programs equitably across geographical regions. Not only have there been problems in the distribution of FEA compliance and enforcement personnel among the various regions, but the agency has had only limited success in equitably distributing different fuels. Initially, most of the complaints received by FEO regional offices were from the retail sector of the petroleum industry, primarily in the East Coast

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[17]"Statement of John A. Hill, Deputy Administrator, Federal Energy Administration," before the Committee on Interior and Insular Affairs, United States Senate, September 4, 1975 (mimeographed), pp. 16-17.

[18]Opinion Research Corporation, Highlight Report Volume IX, pp. 5-6.

TABLE 37

PUBLIC OPINION ON GOVERNMENT CONTROL OF COMPANY PROFITS, 1975

Response	Total Public	Republicans	Democrats
Government should limit profits	55%	52%	61%
Companies should be allowed to make all they can.	36	44	31
No opinion	9	4	8

SOURCE: Opinion Research Corporation, General Public Attitudes and Behavior Regarding Energy Saving, Highlight Report Volume IX, p. 5.

TABLE 38

PUBLIC ATTITUDES TOWARD OIL COMPANY PROFITS, 1975

Response	Total Public	Republicans	Democrats
Federal Government should limit oil company profits during an energy shortage.	72%	66%	78%
Oil Companies should be allowed to make all the profit they can to encourage increased oil production.	19	26	16
No opinion.	9	8	6

SOURCE: Opinion Research Corporation, General Public Attitudes and Behavior Regarding Energy Saving, Highlight Report Volume IX, p. 6.

states. The agency's response to demands from both the public and industry to "do something" about gasoline shortages in early 1974 was to issue emergency allocations to those states with the worst ratios of supplies to projected needs.[19] In all, 37 states received additional supplies in March 1974, raising national gasoline supplies to 89.6 percent of projected demand. Without this FEO action, only 84.6 percent of demand would have been met.[20] However, even with the emergency allocations, five eastern states (New Hampshire, New Jersey, Vermont, Virginia, and West Virginia) had only 73 percent of their projected needs in February and 85 percent in March.[21] To the protests from the National Governor's Conference, FEO Administrator Simon responded that the gasoline shortages had been exacerbated by FEO orders to refiners to focus production efforts on middle distillates. As Richard Mancke said:

> Because, during winter, adequate home heating is obviously much more important to human life than most automobile travel, the FEO concluded that Americans would find it least disruptive to reduce their consumption of gasoline proportionately more than their consumption of distillate fuel oils.[22]

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[19]See "Long Lines, Short Tempers," Newsweek 83 (March 4, 1974): 65-66.

[20]Timothy B. Clark, "Gasoline Allocation Plans Create Political Pressures," National Journal Reports 6 (March 16, 1974): 397-401.

[22]Richard Mancke, Performance of the Federal Energy Office (Washington: American Enterprise Institute for Public Policy Research, 1975), p. 8.

While Mancke is critical of this policy because it did not take into account such things as the life style changes which reductions in automobile travel meant, the data in Table 39 shows that the response by the FEO to Eastern and Midwestern interests was well founded. Oil heat users in those two regions were found more likely to feel that the energy shortages had affected them personally and they were also more likely to favor government regulation of energy use. Thus, the FEO appears to have been responding to some very real political considerations in its interregional and interfuel allocations even if those allocations did not totally resolve fuel distribution issues.[23]

FEA Responsiveness to Interest Group Demands

The legislation establishing the FEA made provision for the implementation of agency programs "so as to minimize hardship and inequity while assuring that the priority needs of the nation are met."[24] The agency was structured to respond to all parties affected by its activities through three separate components: the Oil Import Appeals Board (OIAB), the Office of Special Redress Relief (OSRR), and the Office of Exceptions and Appeals (OEA). These three elements have been organized under the Office of Private

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[23]See Victor Cohn, "The Washington Energy Show," Technology Review 77 (January 1975): 8 and 68.

[24]"Federal Energy Administration Act of 1974," Public Law 93-275, 15 USC 761, 88 Stat. 96, Section 5(b)(6).

TABLE 39

REGIONAL PERCEPTIONS OF IMPACTS OF FUEL SHORTAGES AND ATTITUDES TOWARD GOVERNMENT CONTROL OF ENERGY USE, 1975

Region	Affected by energy shortages		Government should regulate energy use[a]	
	Great deal/some	Only a little/None	Strongly Favor	Strongly Oppose
Total Public	45%	55%	21%	30%
Midwest, East				
Oil heat	53	47	39	20
Electric heat	40	60	23	15
Gas heat	34	66	18	31
South, West				
Oil heat	50	50	NA	NA
Electric heat	46	54	NA	NA
Gas heat	50	50	NA	NA

[a]This is a partial table: "mildly favor," "mildly opposed," and "no opinion" were omitted.

SOURCE: Opinion Research Corporation, General Public Attitudes and Behavior Regarding Energy Saving, Highlight Report Volume VII, pp. 29-30.

Grievances and Redress (PGR) in order to combine all agency "due process" mechanisms under a single administrative framework.[25]

The Oil Import Appeals Board analyzes and acts upon appeals related to the Mandatory Oil Import Program. Between April and December 1975, the OIAB decided 73 cases, 24 of which were approved (an approval rate of slightly less than 33 percent).[26] In each of those cases where an appeal was granted, petitioner was an independent firm (no major oil company decisions were reported by the OIAB during this period). Although data were not available for all 24 cases regarding business type, product line, and request type, the available information suggests that the OIAB, as would be expected by its mandate, was responsive to a fairly narrow cross-section of the independent petroleum industry. Most approved appeals, for example, were awarded to resellers of gasoline or crude oil. There was diversity among the requests for specific action by the OIAB, however. Most successful petitions could not be classified as requests for either price or allocation relief--they were often

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[25]As of August 1975, the OIAB ceased to be a separate entity--its functions were combined with the Office of Exceptions and Appeals.

[26]Federal Energy Administration, "Public Docket Room Listing of Petitions Filed With the Office of Exceptions and Appeals, Cumulative to March 12, 1976," pp. 56-57.

appeals for interim relief pending fee-free import authority.[27]

The Office of Special Redress Relief was intended to function as an "extraordinary assistance" mechanism for the agency by receiving and responding to grievances related to matters under the FEA's jurisdiction for which no other avenues of access were available. As the FEA defines its requirements for the OSRR:

> . . . the Office of Special Redress Relief does not become involved in regulatory case analysis and does not serve as a further avenue of appeal from determinations made by the Office of Exceptions and Appeals or the Oil Import Appeals Board. It does, however, perform a general ombudsman function within FEA, handling those matters for which an appropriate regulatory process does not exist and those matters in which the regulatory process has failed to operate as envisioned by the Federal Energy Administration Act of 1974.[28]

Despite the availability of this broadly-conceived feedback mechanism, the OSRR has not been utilized to any great extent. Only 15 cases were filed with the OSRR in 1975, and only five more grievances were processed during the first two months of 1976. Most of these cases involved requests by independent firms, often resellers of gasoline

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[27]See, for example, cases FPI0037 and FPI0038, involving Marine Petroleum Company and Power Test Corporation, in August 1975, in Federal Energy Administration, Quarterly Report on Private Grievances and Redress, July 1, 1975 to September 30, 1975 (Washington, D.C.: Federal Energy Administration, 1975), p. 138.

[28]Federal Energy Administration, Quarterly Report on Private Grievances and Redress, July 1, 1974 to September 30, 1974 (Washington, D.C.: Federal Energy Administration, 1974), p. 3.

or crude oil, for agency reevaluation of specific provisions of its regulations. Although only one of the requests for special redress was approved, many cases were denied or dismissed on the basis that the firms had not yet exhausted the alternative remedies which were available under the mandatory petroleum allocation and pricing regulations.[29]

The most significant feedback mechanism in the FEA is the Office of Exceptions and Appeals. The OEA receives, evaluates, and decides "all requests for exception, exemption, and all appeals filed with the FEA from any regulatory or other mandatory requirement administered by the agency other than the Mandatory Oil Import Program."[30] William Cockrell, a former attorney in the OEA, describes the rationale behind the exceptions and appeals procedures as follows:

> Because application of any general regulatory provision would not yield equitable results in all situations, an effective and fair regulatory program should include a process which provides for exceptions to regulatory provisions in appropriate circumstances. (An exception allows an entity to ignore the requirements of a particular regulatory provision in particular circumstances). The Office of Exceptions and Appeals of the Federal Energy Administration . . . has been the primary body performing the functions of considering applications

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[29] See cases FSG002 and FSG003, in which Asiatic Petroleum Corporation and Basin, Incorporated were ordered to seek other redress.

[30] Federal Energy Administration, Organizational Structure, January 1975 (Washington, D.C.: Government Printing Office, 1975), p. 2.

> for exception to federal energy regulations (involving petroleum products) and making recommendations for Agency action.[31]

The exceptions and appeals process has proven to be important in at least three areas of FEA policymaking: (1) in reconciling conflicting objectives and procedures in the requirements of the crude oil entitlements program; (2) in reconciling congressional goals in such legislation as the Small Business act and the energy goals of the EPAA; and (3) in reconciling the goals of expanding refinery capacity with the goals of crude oil allocation program.[32]

Usually, exceptions relief has been granted only in cases of "serious hardship" or "gross inequity." Serious hardships have generally been based on the "viability" of a firm, using such indicators as competitive pricing, profits, revenues, and product costs. Gross inequity, on the other hand, is measured more broadly, by the degree to which a firm is "uniquely affected" by experiencing a "disproportionate burden" as a result of the regulation, the degree to which regulatory purposes would be distorted by strict application of a rule, or the degree to which the rule frustrates the attainment of a national policy objective.

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[31]William F. Cockrell, Jr., "Exceptions to Federal Regulations for Management of the Energy Crisis: The Emerging Agency Case Law," Oklahoma Law Review 28 (Summer 1975): 530.

[32]William F. Cockrell, Jr., "Federal Regulation of Energy: Evolution of the Exceptions Process," Administrative Law Review 27 (Fall 1975): 238.

All OEA determinations, other than dismissals, summary denials, and requests for stays, are reviewed by the Exceptions and Appeals Review Committee, composed of Assistant Administrators and Office Directors. This committee's decision is the final FEA ruling, from which an applicant can then seek judicial review.[33]

Of the more than 2,700 petitions which have been filed with the OEA since its establishment, about half (1,361) were filed in 1975. Almost 59 percent of the 1975 cases were requests for exceptions, and another 28 percent were appeals.[34] Tables 40 and 41 show the distribution of successful requests for exceptions and appeals across sectors of the petroleum industry. As these tables illustrate, a wide variety of firms had access to the response mechanisms of the FEA during 1975. In the area of responses to exceptions requests, the OEA approved 204 of the 801 cases filed in 1975 (an approval rate of over 25 percent). Of those cases approved, Table 40 demonstrates the attention the agency gave to the troubled refinery sector of the industry, but retailers, resellers, and other business types

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[33]See Stephen A. Wakefield, "Allocation, Price Control and the FEA" Regulatory Policy and Practice in the Political Arena," Rocky Mountain Mineral Law Institute 21 (1975): 278-283.

[34]The other 13 percent of the cases was divided as follows: stays (4%); extensions (2%); oil import appeals (5%); and special grievances (1%). No requests for temporary stays were filed in 1975.

TABLE 40

APPROVED EXCEPTIONS CASES, 1975

Product	Business Type				
	Producers	Refiners	Retailers	Resellers	Others
Crude Oil	8	94	0	3	1
Heating Oil	0	1	1	16	17
Gasoline	0	0	6	4	2
Diesel Fuel	0	0	0	0	0
Natural Gas	0	5	0	1	6
Propane	0	0	5	2	3
Aviation Fuel	0	0	10	0	1
Rental Price	0	0	7	1	0
Other	1	2	1	5	1

SOURCE: Federal Energy Administration, "Public Docket Room Listing of Petitions Filed With the Office of Exceptions and Appeals, Cumulative to March 12, 1976," pp. 16-46.

TABLE 41

APPROVED APPEALS CASES, 1975

	Business Type				
Product	Producers	Refiners	Retailers	Resellers	Others
Crude Oil	2	26	0	1	0
Heating Oil	0	0	0	3	2
Gasoline	0	0	4	11	0
Diesel Fuel	0	0	0	4	0
Natural Gas	0	2	0	1	6
Propane	0	0	1	3	0
Aviation Fuel	0	0	4	1	3
Rental Price	0	0	0	0	0
Other	1	3	2	5	14

SOURCE: Federal Energy Administration, "Public Docket Room Listing of Petitions Filed With the Office of Exceptions and Appeals, Cumulative to March 12, 1976," pp. 1-15.

were also successful in making their demands upon the OEA. Moreover, almost all those cases which were approved by the agency were initiated by independents--only ten petitions from the ten largest petroleum firms were given exceptions in 1975.[35] This is probably due in large part to the restrictive definition of "serious hardship" which the FEA has applied to exceptions cases. That is, the agency has applied a standard which requires substantial decreases in net profits as the only criterion for granting exception relief. Thus, Cockrell was able to conclude from the 1974 FEA decisions:

> A result of the FEA's stringent conception of serious hardship has been that no major integrated oil company has yet received an exception based on serious hardship from the FEA. The major oil firms have made significant gains in net income in recent years, and the FEA has consistently rejected the argument sometimes made by the major integrated oil companies (as well as small and independent firms) that a serious hardship is established if a firm's profits would be less if exception relief were denied. However, the FEA has extended exception relief based on gross inequity considerations to the major firms in several instances.[36]

Appeals case resolution closely paralleled that of the exceptions process. The agency approved only 99 of the 381 appeals filed in 1975 (an approval rate of 26 percent),

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[35]The firms included in the list of the ten largest oil companies were: Exxon, Texaco, Mobil, Gulf, Standard of California, Standard of Indiana, Shell, Continental, Atlantic Richfield, and Tenneco. See John E. Gray, Energy Policy: Industry Perspectives (Cambridge: Ballinger Publishers, 1975), pp. 7-8.

[36]Cockrell, "Federal Regulation of Energy," p. 22.

and most of these successful requests were from independent companies; the major oil firms succeeded in only 13 appeals efforts (an approval rate of 17 percent). Table 41 indicates the response of the agency to a broad spectrum of the petroleum industry, but the crude oil refiners and gasoline resellers were particularly able to meet FEA criteria for the granting of appeals.

Conclusion

The Federal Energy Administration has, since its creation, been extremely sensitive to public opinion and industry demands. In fact, one of the major criticisms of the agency has been that it spends too much time and effort in self-promotion activities designed to influence both the general and attentive publics.[37] However, as the discussion above has indicated, the FEA's attention to public relations activities has not obscured its efforts to secure a broad range of policy feedback. Because of the political visibility which the energy crisis gave to the FEO in 1973 and early 1974, the Congress saw a need to structure the FEA with special access points to which information could flow from the public. In addition, the FEA has enjoyed more freedom from the constraints of the Administrative Procedures Act than is perhaps typical of most regulatory agencies because the

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[37] See Karen House, "Energy Agency Spends Much Energy to Insure a Long Life, Foes Say," Wall Street Journal 57 (March 9, 1976): 1.

Congress eliminated many of the procedural safeguards against agency abuse of due process. Moreover, the courts have been "lenient in recognizing the nature of the agency and the programs it administers."[38] All these advantages have strengthened the FEA's capabilities for responsiveness by allowing the agency a fairly broad range of discretionary authority within which to select the most appropriate remedy for any given situation. The result has been a series of energy policies which have generally reflected public opinion on oil imports and government control of oil company profits and which have influenced public opinion on matters of deregulation of petroleum and its products. The FEA has provided a range of avenues for energy industry participants to alter energy decisions--options include the Oil Import Appeals Board, the Board of Special Redress Relief, and the Office of Exceptions and Appeals. Through these access points, sectors of the industry, particularly the independent refiners and resellers, have been able to secure significant FEA policy responses. The degree to which these communication patterns have functioned as <u>controls</u> on the FEA's performance, however, remains to be ascertained. The subject of the next chapter is thus the level of responsibility exhibited by the FEA as a result of inputs of internal (discretionary) and external (sanctioned) policy control.

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[38]Wakefield, p. 279.

CHAPTER X

THE RESPONSIBILITY OF FEA INPUTS

Introduction

The degree to which an agency's powers are limited by societal controls has been termed the "bureaucratic responsibility" criterion for the analysis of public policies.[1] The input responsibility of the Federal Energy Administration will be assessed in this chapter through the use of the framework developed by Charles Gilbert[2] and outlined in Figure 23. Each of the four categories of bureaucratic control illustrated by this figure--internal formal, internal informal, external formal, and external informal--will be applied to the FEA's policy demands and supports in order to determine the level of bureaucratic responsibility which has been attained.[3]

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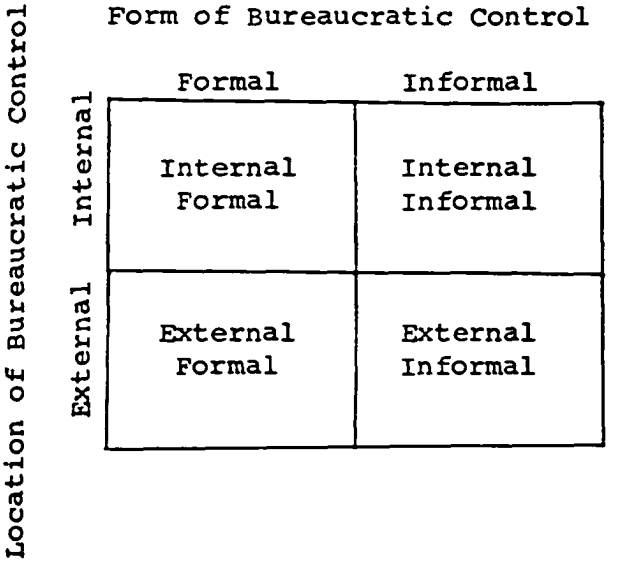
[1]Norman J. Powell, Responsible Public Bureaucracy in the United States (Boston: Allyn and Bacon, 1967), pp. 46-117.

[2]Charles E. Gilbert, "The Framework of Administrative Responsibility," Journal of Politics 21 (August 1959): p. 382.

[3]For an example of the use of this framework, see Robert W. Rycroft, "The Military Reform Movement, 1969-1972: The Development of a Bureaucratic Control System," Journal of Political and Military Sociology 3 (Fall 1975): 179-189.

FIGURE 23

A FRAMEWORK FOR EVALUATING ADMINISTRATIVE RESPONSIBILITY



SOURCE: Charles E. Gilbert, "The Framework of Administrative Responsibility," Journal of Politics 21 (August 1959): 382.

Research Hypotheses

The FEA's responses to controls on its bureaucratic power and performance have been complicated by the range of pressures placed upon the agency during its brief lifespan. As the previous chapters have illustrated, serious conflicts have existed between the executive and legislative demands made on the FEA since 1973. These conflicts have been exacerbated by the internal personnel and program problems which have plagued the new agency. Thus, the following hypotheses regarding bureaucratic responsibility will be tested in this chapter:

> Hypothesis 1: During a crisis situation, the development of internal control mechanisms (both formal and informal) within the FEA will be severely constrained.
>
> Hypothesis 2: In a political conflict, in which the executive has been weakened and the legislature is divided, external formal control efforts over the FEA will focus on the judiciary.
>
> Hypothesis 3: The early stage of development of energy interest groups will focus external informal control efforts over the FEA on the energy industry.

Responsibility of Internal Informal FEA Inputs

According to Gilbert, internal informal control emphasizes "the moral, representative, and professional" aspects of public service as sources of administrative responsibility. Included in this category are three sets of factors: (1) "moral" controls such as morale, organizational identification, and loyalty; (2) "representative" mirroring of the socio-political characteristics of a group;

and (3) "functional" responsibility, which includes consideration for the "fellowship of science" and other professional controls.[4]

Earlier (in Chapters IV and VI) it was noted that the FEO/FEA had suffered from serious personnel and organizational problems, many of which resulted from the temporary nature of the agency and the unsettled policy situation into which it was thrust. A number of these factors have contributed to a reduction in the effectiveness of internal informal "moral" controls. Difficulties began at the point of recruitment of personnel. FEA officials have testified to Congress that they faced "severe problems" in recruiting and retaining personnel because of the uncertainty regarding the duration of the agency's regulatory authority and of the lifespan of the agency itself.[5] Retainment of personnel has proven to be even more difficult than their recruitment; the agency's turnover rate of 38 percent is one of the highest in the entire federal government.[6]

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[4]Gilbert, pp. 389-395.

[5]U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, The Federal Energy Administration: Enforcement of Petroleum Price Regulations: Report (Washington, D.C.: Government Printing Office, 1975), p. 12.

[6]"Executive Budget Office Said to Seek Deep Cuts in FEA Personnel, Funds for New Law," Energy Users Report 136 (March 18, 1976): A-32. See also "Bitter Sniping at Simon," Time 103 (March 18, 1974): 25; and U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, Federal Energy Administration: Enforcement of Petroleum Price Regulations: Hearings (Washington, D.C.: Government Printing Office, 1975), p. 7.

Morale has apparently fluctuated from a high point during the energy crisis, when the nation and the agency had a sense of danger and national purpose, to a low point immediately after the oil embargo was lifted.[7]

The passive, or "sociological," representativeness of FEA personnel was extensively analyzed in Chapter VI, where a strong link was hypothesized between the sources of origin of bureaucrats (measured by such factors as sex and race, for example) and bureaucratic behavior. Active, or "responsible," representativeness, in which an administrator is expected to press for the interests of a particular group,[8] was reserved for discussion in this chapter.

From the date of its creation, the FEA has faced a problem in securing expertise in such complex areas as resource extraction, conversion, and refining while, at the same time, assuring administrative responsibility through the strict observance of conflict of interest regulations.[9] Thus, the oil industry backgrounds of FEA personnel have

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[7]See "The New Man at FEO," Time 103 (May 6, 1974): 70; and Edward Cowan, "Who Needs the Energy Agency?" New York Times 125 (May 30, 1976): F-6.

[8]See Frederick C. Mosher, Democracy and the Public Service (New York: Oxford University Press, 1968), p. 12; and Arthur D. Larson, "Representative Bureaucracy and Administrative Responsibility: A Reassessment," Midwest Review of Public Administration 7 (April 1973): 79-89.

[9]See "Nixon Tries Again on Energy Policy," Business Week, December 8, 1973, p. 34.

been a sensitive political issue since 1973. As Richard Mancke described the dilemma:

> Even after raids on other government agencies, few of the important staff positions were filled with people versed in petroleum matters. Almost no one on the staff had the first-hand experience in the oil industry that might have prevented FEO's complex pricing and allocation regulations from having their frequently undesirable consequences. The obvious way to remedy this particular staff weakness would have been to hire experienced people from the oil industry. However, because both Congress and the FEO's top leadership feared that such employees would unavoidably appear to have conflicts of interest, this alternative was not politically feasible.[10]

Eventually, through a selective hiring process and the use of advisory committees without "substantive authority," the agency was able to obtain the requisite skills to administer the allocation programs. But concern over possible conflicts of interest reached the point that the General Accounting Office (GAO) was asked to examine the circumstances under which the FEO was using a number of Presidential Executive Interchange Program Personnel. The GAO found "no indication" that these executives were involved in even a "potential" conflict of interest situation.[11]

From the limited data which has been made available, it does not appear as if the FEA has been "captured" by the

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[10]Richard B. Mancke, Performance of the Federal Energy Office (Washington, D.C.: American Enterprise Institute for Public Policy Research), 1975), p. 23.

[11]General Accounting Office, Report on the Use of Presidential Executive Interchange Personnel With Oil Industry Backgrounds by the Federal Energy Office (Washington, D.C.: General Accounting Office, 1974), p. 1.

oil industry. Depending upon the source of information, the total number of former oilmen employed by the agency in early 1974 was between 58 and 90. Of these, approximately seven were located in policy-making positions.[12] According to the FEO, this small number of people with oil backgrounds illustrated the lack of any deliberate policy of hiring professionals from the oil industry. These data, while certainly not refuting the capture hypothesis, are consistent with recent research which has shown that "recruiting agency personnel from the industry at elite levels is a phenomenon that varies widely across agencies and across time within agencies."[13] Nevertheless, the perception of an irresponsible relationship between the FEA and the petroleum

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[12]"FEO Reports 58 Former Oilmen Are Among Employees," Oil and Gas Journal 72 (March 11, 1974): 48; and Correspondence between Phillip S. Hughes, Assistant Comptroller General and Abraham A. Ribicoff, Chairman, Committee on Government Operations, U.S. Senate, re "Staffing of the Federal Energy Office," dated March 18, 1974. According to these sources, one assistant administrator, two deputy administrators, and four office and division directors were former oilmen. At least 14 of the former oilmen were located in the Office of Policy, Planning, and Regulation.

[13]Kenneth J. Meier and John P. Plumlee, "Regulatory Administration and Organizational Rigidity," A paper prepared for delivery at the 1976 Annual Meeting of the Midwest Political Science Association, April 29-May 1, 1976, Chicago, p. 8. These authors found that a sample of regulatory agencies did not rely upon the regulated industry for their personnel as the agency aged. Some agencies, such as the Federal Aviation Agency and the Civil Aeronautics Board, relied heavily upon the industry initially, but then progressively decreased their reliance upon industry as time passed.

industry remains. For example, in testimony before the Senate's Interior and Insular Affairs Committee in mid-1975, the Director of the Consumers Union of the U.S. said:

> Secret, ex parte contacts with industry in connection with rulemaking proceedings is one way in which FEA has yielded its independence and capability for disinterested decisionmaking. The creation of, and acquiescence in, apparent conflicts of interest is yet another. Consider the now-notorious "double dipping" scandal. The details of that sordid episode in FEA history have been fully laid out in the hearings held by the House Small Business Committee last fall, and I shall not reiterate them here. What stands out clearly, however, is the striking insensitivity of the top officials of FEA to the gross impropriety, if not illegality, of permitting Mr. Bowen to play so central a role in the drafting of price regulations in which his former and perhaps future employer, Phillips Petroleum, had so significant an economic stake. The nominations of Andrew Gibson and Melvin Conant to top FEA jobs despite their continuing financial interest in the prosperity of the oil industry, indicate that FEA has learned little from the "double dipping" fiasco. FEA needs the expertise that experienced industry hands possess, but there are other ways to obtain that expertise without building potential conflicts of interest into the top decisionmaking levels of the agency.[14]

Thus, the focus of the continuing debate over FEA internal informal responsibility is intimately tied to the internal formal controls associated with Presidential appointments and management.

Responsibility of Internal Formal FEA Inputs

Internal formal inputs stress "direction and control by the President and via such hierarchical methods as

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[14]U.S. Senate, Committee on Interior and Insular Affairs, Oversight--Federal Energy Administration Programs (Washington, D.C.: Government Printing Office, 1975), p. 24.

budgeting, personnel management, standards and rules of procedure, and the structuring and restructuring of formal organization."[15] In short, internal formal inputs emphasize control by the executive through hierarchy and political appointments.

The FEO was created during a period in which Presidential politics constrained effective internal formal controls. The Watergate scandal had, by late 1973, so occupied the attention of the White House and the entire executive branch that Energy Policy Office Director John Love apparently succeeded in gaining access to the President only "four or five times" during Love's five month tenure in office. Love left Washington complaining bitterly that "It has been difficult to try to do anything meaningful and even to get the attention of the President."[16] When William Simon was appointed FEO Administrator, some order was made out of the energy policy chaos, but clearly defined executive leadership was still lacking. As one unidentified White House aide described the problem in early 1974:

> Major federal reorganizations normally have taken strong, persistent Presidential pressure, combined with the backing of influential congressional

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[15]Gilbert, p. 383.

[16]Frank V. Fowlkes and Joel Havemann, "President Forms Federal Energy Body With Broad Regulation, Price Control Powers," National Journal Reports 5 (December 8, 1973): p. 1831. See also Juan Cameron, "Reaching for an Energy Policy: Years of Drift, Weeks of Panic," Fortune 89 (January 1974): 158.

> leaders. But the situation that has developed in this case is almost unprecedented.
>
> Watergate has resulted in an increasingly immobilized President, and recently the Administration has spoken with many voices about what it wants on energy reorganization.[17]

As a result of this absence of high level supervision, hierarchical control was limited; there were few clear delineations of responsibilities, the delegation of authority was blurred, and performance rewards and sanctions were uncertain. The FEO was spread too thin; it attempted to do too many things with too few resources. Mancke was outlined this early situation as follows:

> In its new and still unsettled state, the agency especially needed strong day-to-day supervision from the top. Unfortunately, its two top officials--Administrator William Simon and Deputy Administrator John Sawhill--could not supply it because they had to spend most of their time testifying before congressional committees, pleading with various interest groups, or appealing directly to the American people to conserve energy. Because Simon and Sawhill were nearly exhausted by these public relations activities, the direction of day-to-day operations was frequently left to seven assistant administrators and the general counsel. Most of these men were not accustomed to exercising such significant power and responsibility. Several knew little about energy problems. In the absence of top-level leadership and of established decision-making traditions,

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[17]Claude E. Barfield, "Fuel Crisis Management Produces Reorganization Debate," National Journal Reports 6 (February 16, 1974): 229-230. See also "Getting It Under One Roof," Time 102 (December 7, 1973): 29-30. A more detailed account of the inability of the Nixon Administration to come to grips with the energy crisis because of Watergate and its related scandals is found in Theodore H. White, Breach of Faith: The Fall of Richard Nixon (New York: Atheneum, 1975): pp. 352-379.

> these assistants and their nascent staffs inevitably spent considerable time jockeying for internal power.[18]

After Simon returned to the Treasury Department in April 1974 and Sawhill replaced him as "energy czar," President Ford faced a different administrative responsibility problem with the FEA: Sawhill began to take energy policy positions at variance with those voiced by the Administration. In particular, the FEA chief pressed hard for a more vigorous energy conservation effort than had been proposed by the President. Sawhill advocated additional gasoline taxes of 10 to 30 cents per gallon as a conservation and anti-inflation measure, and he took his proposal to the public, despite orders to fall in line. In addition, the FEA Administrator had testified before Congress that the U.S. had no short-term energy policy to reduce oil prices--an admission that hastened his forced resignation in October 1974.[19]

The reassertion of executive control over the agency through the removal of the Administrator eventually

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[18]Mancke, pp. 23-23 (emphasis mine). This evaluation is substantiated by a number of other sources. See Caroline Mayer, "FEO Will Steer Different Course Under Sawhill," Oil and Gas Journal 72 (April 29, 1974): 16-17; and "Energy: A Rivalry for Power," Time 104 (September 23, 1974): 81-82.

[19]Richard Corrigan, "Revolving Door for Energy Czars," National Journal Reports 6 (November 9, 1974): 1693, "The Gentlemanly Sacking of Sawhill," Time 104 (November 11, 1974): 61-62; and Victor Cohn, "The Washington Energy Show," Technology Review 77 (January 1975): 8 and 68.

only added to the confusion, however. In part, this was because there was a continued struggle for energy policy power within the Administration between, among others, Interior Secretary Rogers Morton, Office of Management and Budget's Roy Ash, and Simon (who was Treasury Secretary by this time).[20] But primarily, the attempt to implement internal formal controls failed because it was discovered that the President's first nominee to succeed Sawhill, Andrew Gibson, could have been guilty of a serious conflict of interest had he become FEA head. Gibson's problem was a dual one. On the one hand, Gibson would have continued to receive severance pay--one million dollars over a ten year period--from his old company, Interstate Oil Transport Company, which he then would have been responsible for regulating at the FEA. On the other, as former Maritime Administrator, Gibson was vulnerable to charges of conflict of interest in the awarding of tanker construction contracts to his old company.[21] No sooner had the executive's position vis-a-vis the agency been weakened by the necessity of withdrawing Gibson's name in favor of the new nominee, Frank Zarb, than the Administration was challenged on another high level FEA appointment. Melvin Conant had been nominated to

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[20]"Morton Will Determine Energy Policy," National Journal Reports 6 (November 2, 1974): 1654-1656.

[21]Louis M. Kohlmeier, "Choice of Gibson Could Be Controversial," National Journal Reports 6 (November 9, 1974): 1694; and "Appointments: Rushed Job," Economist 253 (November 16, 1974): 68.

an Assistant Administrator post in the agency when it was disclosed that he had received a $90,000 severance payment from Exxon Corporation prior to entering government service. Although Conant was confirmed in a close Senate vote, the incident added to the perception of the FEA as an agency which was "controlled not by the public but by the very companies that are to be regulated."[22]

Although internal formal controls appear to have stabilized and become more effective since Zarb became FEA administrator, problems continue to exist. Foremost among these difficulties is the coordination bottleneck between the agency's headquarters office and the regional offices, as described in Chapter VII. In large part, this and other breakdowns of organizational hierarchy, which continue to plague responsible energy policy administration, are the results of the inability of the last two Administrations to formulate and communicate a national energy policy to agencies such as the FEA.

Responsibility of External Informal FEA Inputs

Public participation in the administrative process comprises what Gilbert has termed "external informal" efforts to assure administrative responsibility. Included in this category are such factors as "experiments in

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[22]Mark Barbash, "Energy in Bondage," Progressive 39 (April 1975): 7.

interest-group representation, citizen participation, and 'grass roots democracy,' or the less planned interplay of organized groups and administrative agencies."[23]

In the case of the Federal Energy Administration, the two primary avenues through which the public has been allowed to participate in decisionmaking have been by the indirect impact of public opinion (discussed in Chapter IX) and through the direct mechanism of the advisory committee.

As recently as the 1940s, the advisory board of committee was a rarely utilized arrangement for allowing consultation and communication between interest groups and the bureaucracy.[24] However, in recent years such organizations have flourished. According to one analyst:

> The popularity of these committees or boards may lie in their being all things to all men. Some congressmen, for example, see them as watchdogs, protecting the public's interests against the bureaucrats . . . The administrator, on the other hand, has his own reasons for creating public advisory boards. He may regard his board as a means of winning countrywide support--a built-in lobby of enormous potential . . . . The members of an advisory board, on their part, have reasons for wanting to service. It is, of course, an honor to be asked to advise a high government official. Many are motivated by a sense of public duty. But many others have causes to promote and interests to pursue . . . .[25]

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[23]Gilbert, p. 384.

[24]Powell, p. 126.

[25]Lyle E. Schaller, "Is the Citizen Advisory Committee a Threat to Representative Government?" Public Administration Review 24 (September 1964): 179.

In the legislation establishing the FEA, provision was made for the utilization of advisory committees which were "reasonably representative of the various points of view and functions of the industry and users."[26] The agency has in fact created a diverse range of advisory groups which cover almost every FEA activity. Committees have been formed to represent various industry types (such as LP gas, coal, electric utilities, or food production, for example). Interest groups are represented by both the Consumer Affairs/Special Impact Advisory Committee and the Environmental Advisory Committee (EAC). State regulatory interests have input into FEA decisionmaking through their own group, as do certain regional interests (as in the Northeast Advisory Committee, which was established because of the unique nature of energy problems and interests in that area).[27]

While these bodies have been organized in order to secure the broadest possible spectrum of political participation and appear to function in most cases, two fundamental problems have developed with this set of bureaucratic

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[26]"Federal Energy Administration Act of 1974," Public Law 93-275, 15 USC 761, 88 Stat. 96, Section 17(a).

[27]See "New Energy Finance Advisory Committee To Hold First Meeting June 18," Federal Energy News, June 2, 1976, p. 1; and "FEA's Consumer Affairs/Special Impact Advisory Committee To Meet in Dallas," Federal Energy News, July 13, 1976, p. 1, as examples of the periodic notices which the FEA publishes regarding advisory committee meetings and participants.

controls. First, some interest groups have complained that their own limited resources constrain their ability to actively participate through these external formal avenues. The Consumers Union of the U.S., for example, has told the Congress:

> . . . it is important for this Committee to recognize that the degree of consumer participation in most FEA proceedings is essentially nil, and that all of the FEA advisory committees, press releases, and good intentions cannot change that lamentable fact. Consumers Union, for example, is the largest consumer organization in the United States and yet its total advocacy staff consists of three lawyers in Washington. And FEA is only one of the numerous agencies with important consumer impacts whose activities we seek to monitor. Needless to say, other consumer organizations, unless they are prepared to focus a substantial portion of their scant resources on FEA matters, will play even less of a role in influencing FEA policy.[28]

The second major difficulty is that even if groups are successful in aggregating and articulating their interests in the policy forums provided by an agency, there is absolutely nothing which guarantees that recommendations will be heeded. As an example of this limitation on external informal bureaucratic controls, the FEA's EAC recently threatened a mass resignation if their policy comments continued to be ignored by the agency. In response, the FEA moved to assure committee members that their advice would become part of the agency's decisionmaking process, but the

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[28]U.S. Senate, Committee on Interior and Insular Affairs, Oversight, pp. 21-22.

incident serves to spotlight the debatable influence of many advisory committees.[29]

Responsibility of External Formal FEA Inputs

The principal means to secure responsible bureaucracy have been the external formal emphases upon congressional direction and control and the "rule of law" through adjudication by the courts. The legislative branch has input into bureaucratic policymaking because:

> Through statute Congress may establish the administrative framework of an agency, including its organizational structure, the nature of the oversight to be exercised by the courts, the character of its personnel and material resources, and even build barriers to bureaucratic activities . . .[30]

The judiciary has a less significant, but nonetheless instrumental, role. Through judicial review, courts provide avenues for appeals of bureaucratic action. This is particularly the case with regard to regulatory agencies such as the FEA, "since their decisions may have so negative an effect upon the constitutionally protected rights of individual citizens to life, liberty, and property."[31]

Congressional control over the FEA may be measured in a number of ways: growth rate in agency appropriations,

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[29]See "Energy/Environment Advisers," Energy Today 3 (April 29, 1976): 126-127.

[30]Powell, p. 49.

[31]Francis E. Rourke, Bureaucracy, Politics, and Public Policy (Boston: Little, Brown, 1969), p. 14.

growth rate in agency personnel, and percent of appropriations requested that are received.[32] In addition, the congressional votes related to agency activities provide an indicator of legislative support or opposition to FEA policies.

In Chapters VI and VII, it was noted that the FEA's budget and personnel levels have increased rapidly since the agency's creation. In terms of budget appropriations, the FEA has been expanded from its FY 1975 level of approximately $130 million to a current level of about $200 million --a growth rate of 35 percent. In addition, some analysts have predicted a further expansion of the agency's budget, perhaps to as much as $440 million.[33] Because of the uncertainty surrounding the lifetime of many of the FEA's programs, not to mention that of the agency itself, the agency has been forced to rely upon supplementary requests for funds. However, in each case, the FEA has succeeded in gaining more funding than was initially requested. For example, in FY 1976, the President initially requested only $112 million for the FEA, based on the assumption that the Emergency Petroleum Allocation Act (EPAA) would expire on schedule. When, in fact, the EPAA was extended, the agency requested an additional $148 million. Eventually, the

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[32]See Meier and Plumlee, pp. 7-8.

[33]Karen E. House, "Getting Entrenched: Energy Agency Spends Much Energy to Insure a Long Life, Foes Say," Wall Street Journal 57 (March 9, 1976): 1.

budget was expanded to the $200 million limitation authorized by the Federal Energy Administration Act.

The growth in the FEA's budget is reflected in personnel statistics as well. The agency has grown from less than 1900 employees (during the days of the FEO) to its current level of over 3400 persons in two years. This is a growth rate of 44 percent for 1974 and almost six percent for 1975.

These funding and manpower data seem to support the generally accepted theory of the "life cycle" of political support for regulatory agencies.[34] According to this theory, initially, in almost any agency's "youth," congressional support is high and appropriations are secured with minimal difficulties. In the case of the FEA, the emergency atmosphere surrounding the energy crisis and the agency's birth facilitated this process. Although opposition to the organization did exist and attempts were made to cut the budget for the FEA's regulatory programs as early as 1974, the EPAA extension and the large increases in spending for conservation programs more than offset any reductions in other areas. If the "life cycle" theory holds, however, as the agency ages congressional support becomes more difficult to maintain and budgets begin to level off or decline. Usually, this process requires four to eight years of growth.

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[34]Meier and Plumlee, pp. 1-3.

Since the tenure of the FEA has not been that lengthy, one can only hypothesize about the future of external formal congressional controls. However, there are indicators, in the votes of the Congress on key FEA-related energy legislation, that the agency has been losing support in the legislative branch.

The act which created the FEA in May 1974 (PL 93-275) was passed with huge margins in both the House (353 voting in favor, 20 voting against) and the Senate (by an 86-2 margin). By mid-1975, however, FEA-related legislation was not attracting such widespread support. The bitter debate over the extension of the EPAA, documented in Chapter V, was only the first evidence of a reassertion of congressional controls over energy regulatory policies. The Energy Policy and Conservation Act of 1975, with its controversial provisions for extending price controls over a 40 month period, passed the House only by a 236-160 margin and the Senate by 58-40. Finally, the congressional debate on the extension of the FEA itself (HR 12169) has been so protracted that the agency's legislative mandate actually expired on July 30, 1976.[35]

Judicial controls on federal administrative activities, while a "historic bulwark of the American system of administrative responsibility," are severely constrained

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[35]"Federal Energy Administration Reverts to Federal Energy Office; Conferees Accept Bill," Energy Users Report 156 (August 5, 1976): A-5 to A-7.

because "judicial remedies are costly and slow."[36] Perhaps more importantly, there is a large area of administrative behavior which is simply "non-reviewable."[37] In the case of the FEA, this area of administrative discretion has been expanded beyond the usual boundaries by two events. First, the Congress eliminated many of the requirements of the Administrative Procedures Act when it created the FEA, in order to allow the agency to act more expeditiously and with greater flexibility in dealing with the national energy crisis. This action, however, "provided for the elimination of a number of the procedural requirements normally established to provide procedural due process for parties affected through the action of administrative agencies."[38] Second, the courts have interpreted FEA's regulatory authority very broadly. For example, in the case of Condor Operating Company vs. Sawhill, a temporary emergency court of appeals dismissed a challenge to an FEA order by ruling that:

> Where the obvious intent of Congress is to give the President and his delegates broad power to to what reasonably is necessary to accomplish legitimate purposes rendered necessary by a recognized emergency, and regulations are fashioned to implement the Congressional mandate, the court should not interfere with the prerogative of the agency to

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[36] Powell, p. 74.

[37] See Rourke, pp. 142-143.

[38] Stephen A. Wakefield, "Allocation, Price Control and the FEA: Regulatory Policy and Practice in the Political Arena," Rocky Mountain Mineral Law Institute 21 (1975): 278-279.

> select the remedy which for rational reasons is deemed most appropriate.[39]

The results of this rationale are outlined by Craig Wagner:

> Courts reviewing the allocation plan exhibit an extreme reluctance to overturn FEA decisions. Most of the available decisions were rendered early in the development of FEA's allocation and are colored by this time frame. Even so, the effective standard of review of FEA actions is "whether the decision of the FEA had a rational basis, given all the facts." This standard is probably the least stringent among current standards of judicial review of agency action; under it, courts have refused to invalidate any FEA crude oil allocation.[40]

Thus, it would appear as if the judiciary has not exercised significant external formal controls over the FEA.

Conclusion

The Federal Energy Administration was created under circumstances which have made the attainment of bureaucratic responsibility extremely difficult. The temporary legislative mandate of the agency weakened internal morale, organizational identity, and standards of professionalism. These problems were compounded by a general lack of Presidential direction and control; agency leadership suffered from the absence of effective executive management. Thus, internal

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[39]Craig A. Wagner, "National Energy Goals and FEA's Mandatory Crude Oil Allocation Program," Virginia Law Review 61 (May 1975): 928.

[40]Wagner, p. 927. See also Anthony M. DiLeo, "An Introduction to the Mandatory Petroleum Allocation Regulations," Louisiana Bar Journal 22 (September 1974): 117, for an evaluation of the standard of "rationality." Wakefield, pp. 282-283, also analyzes these procedures of the Economic Stabilization Act.

controls on FEA actions did not assure responsible behavior. External controls were weakened by this same set of factors. In order to allow the agency the maximum discretionary authority to deal with the energy crisis, both the legislature and the judiciary forfeited much of their control capability. In this environment, the FEA's list of duties has rapidly expanded and many of its actions have been poorly bounded and have gone without adequate supervision.

Recent trends, however, suggest that some controls are being reasserted. Particularly significant have been the extensive congressional debates regarding the tenure of the FEA and its programs. In addition, the courts may be taking a closer look at agency decisionmaking procedures. As Stephen Wakefield, a former FEA Assistant Administrator, predicts: "it is reasonable to assume that future agency action will be required to undergo far greater inspection as to the methods used in arriving at decisions than may have occurred in the past."[41]

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[41]Wakefield, p. 284.

CHAPTER XI

THE FEA IN PERSPECTIVE

This study has had two research purposes: to provide a description of the legislative-executive policy-making processes which led to the establishment of the Federal Energy Administration, and to evaluate the bureaucratic policy-making process of the FEA from its inception until the end of 1975. The first of these purposes, providing a descriptive base for the policy evaluation, was accomplished in Part One. Chapter III delineated the characteristics of the energy policy-making system; Chapter IV described the creation of the FEA; and Chapter V outlined the structure of the mandatory fuel allocation and pricing regulations. In combination, these chapters sketched the external and internal settings within which the FEA must function. This "definition of the situation" contains a number of structural factors which have both enhanced and constrained the new agency's policy-making activities.

Part Two provides the analysis of the FEA's performance by assessing the: (1) representativeness of FEA decision-makers (Chapter VI); (2) efficiency and equity of

FEA policy outputs (Chapter VII); (3) effectiveness of FEA policy outcomes (Chapter VIII); (4) responsiveness of FEA feedback mechanisms (Chapter IX); and (5) responsibility of FEA policy inputs (Chapter X). In each evaluation chapter, a number of research hypotheses regarding FEA behavior were posited and an effort was made to construct linkages between the six evaluative criteria.

This chapter will attempt to give an overall assessment of the FEA's regulatory activities by summarizing the most significant situational factors which emerged from Part One and by discussing their relationship to the FEA's performance. In addition, the most important findings from Part Two will be discussed, both in terms of hypotheses tested and the links between the various evaluative standards.

Significant Situational Factors

The setting within which the FEA was placed in 1973 included at least four characteristics which had major impacts on the agency's subsequent attempts to bring coordination and consolidation to domestic energy policy-making at the national level. These situational factors were:

1. Resource scarcity.
2. System instability.
3. Increased participation.
4. Policy fragmentation.

Resource Scarcity

As was noted in Chapter III, at about the close of the 19th century there was a realization that energy resources were indeed finite. At that time, energy policy began to change from a system of governmental responses to individual private claimants to an increasing reliance upon compromises among multiple interests, usually accomplished through the auspices of governmental oversight. Thus, resource scarcity contributed to a change in government's basic role in energy policy-making--from a purely passive, reactive role to a more active, interventionist one.[1]

Resource scarcity in the contemporary energy system is both a political and a physical phenomenon. That is, it is the result of a combination of foreign policy and environmentalism, on the one hand, and over-reliance upon petroleum and natural gas as energy resources, on the other. Foreign policy considerations, such as the oil boycott by the Organization of Petroleum Exporting Countries (OPEC), brought an end to cheap, readily available sources of imports for the United States, while the environmental movement has placed constraints on domestic energy development through legislation such as the National Environmental Policy Act of 1969.[2]

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[1]Robert S. Gilmour, "Political Barriers to a National Policy," Academy of Political Science, Proceedings 31 (December 1973): 186-188.

[2]See Frederick R. Anderson, NEPA in the Courts: A Legal Analysis of the National Environmental Policy Act (Baltimore: Johns Hopkins University Press, 1973).

The result has been a simultaneous reduction in those domestic and foreign energy resources to which the U.S. has easy access. At the same time, certain resources, especially oil and gas, have been exploited to such a degree that their domestic use exceeds their physical discovery.

The FEA was created to deal with the short-term aspects of political resource scarcity; it was designed to deal with the temporary dislocations in the energy supply system caused by the oil embargo. If the energy crisis had been the result of short-term political factors alone, the new agency's regulatory performance would perhaps have exceeded all expectations. However, many political situational factors have proven to be anything but temporary phenomena. The OPEC cartel continues to remain viable--if anything, its strength has grown, rather than dissipated. And the oil consuming nations show little tendency to organize to resist further supply interruptions. Moreover, while weakened somewhat by the politics of resource scarcity, the American environmental movement shows no signs of dissolving. Faced with these continuing political difficulties, and with the increasing constraint of long-term physical resource scarcity, the FEA's attempts to increase domestic energy supplies have faltered. In short, the combination of physical and political resource scarcity have proven to be beyond the scope of the FEA's limited authority.

System Instability

The end of resource abundance has broken the dominance of status quo energy politics at three levels: the international energy system, the domestic energy policy-making system, and the fuel policy subsystems. In international energy policy:

> . . . the rich countries are bound to use up their own fossil fuels and will be forced therefore, to rely increasingly on imports from poor countries which do not use their fossil fuels themselves but export them. This is a situation which is all too likely to lead to strains in the international system, which so far we seem to have weathered successfully but which may have ominous implications for the future.[3]

Thusfar, the FEA's policies with regard to oil imports have proven generally inadequate, as Chapter VIII indicated. A conflict in policy goals has been evident. The agency has been caught between the objectives of assuring ample supplies, keeping prices low, and conserving domestic resources (all of which point to continuing relatively high levels of imports), and the desire to remove a threat to national security and reduce balance of payments deficits (goals which call for reducing imports). More than two years after the energy crisis, this policy dilemma remains. The FEA has been reduced to such stopgap measures as developing energy stockpiles as a hedge against future embargoes.

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[3]Kenneth E. Boulding, "The Social System and the Energy Crisis," Science 184 (April 19, 1974): 255.

Domestically, resource scarcity has altered many of the "rules of the game" in the national energy policy system. No longer can either government or industry proceed with confidence that well established procedures or roles will be observed in the future. Policy alternatives which would have been "radical" before 1973 have become matters worthy of consideration in the post-boycott period. Most significant in this regard have been suggestions to modify the traditional public-private interface in energy policy.

In the U.S., the importance attached to the merits (both real and symbolic) of "free enterprise" makes any government encroachment into the private sector a fundamental policy issue. Nowhere is this more apparent than in the increasingly unstable energy arena. As the society has struggled to determine those decisions which should be left to market forces and those which should be undertaken by administrative actors, the FEA has functioned as a sort of "social experiment" in its attempts to allocate scarce resources, set energy prices, and assure competition in the energy industry. Each of these programs has been controversial, and this controversy has severely constrained FEA performance.

Finally, resource scarcity and the resulting policy uncertainty it has generated have contributed to further complicating the already complex relationships between the five energy policy subsystems, as was discussed in Chapter

III. Although the policy advisory capabilities of the FEA have been enhanced by the breakdown of some barriers between subsystems, the regulatory functions of the agency have been made more difficult by the growth of "energy conglomerates" with multiple resource holdings and interests.

Increased Participation

As the implications of energy scarcity have been communicated to the increasingly unstable energy policy system, the number of new partisans demanding access to the levers of power has risen rapidly. The pluralism of American energy policy has been reflected in the addition to the system of environmental interest groups, a broader range of labor unions, and a significant number of international actors. This increased participation has been a major factor handicapping efforts of agencies such as the FEA to fully understand and control energy activities. This is because, as Roger Noll has determined:

> . . . adding more participants to the decision-making process probably increases resistance to change. First, it makes decisions more protracted by increasing the amount of information decision makers must process and by expanding the number of issues to be considered. This reduces the expected net gains accruing from a proposal (it pushes the benefits further into the future and increases the costs of participating in the process by extending its duration and the amount of information it requires) and thereby reduces the incentive to propose a change in policy. Second, it increases the chance that the rationale for and consequences of a change will be identified as uncertain, by adding

> to the number of perspectives from which information supporting the change will be viewed.[4]

Thus, the FEA has often found itself torn between a range of parties at interest, each of which may be pressing for the implementation of any of the conflicting policy goals and objectives of the executive, legislative and judicial branches of government, not to mention the pressures exerted by other energy agencies.

Policy Fragmentation

Taken together, resource scarcity, system instability, and increased participation have produced a fragmented set of energy decision-making organizations. This fragmentation of functionally related issues and policies is reflected in the fact that of the more than 60 federal agencies, bureaus, and commissions which have been identified as having a role in energy policy-making, at least 40 have regulatory functions.[5] And at least 27 congressional committees exercise some jurisdiction over energy-related issues.[6] Further complicating

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[4]Roger G. Noll, "Information, Decision-Making Procedures, and Energy Policy," American Behavioral Scientist 19 (January/February 1976): 275.

[5]U.S. Senate, Committee on Interior and Insular Affairs, Federal Energy Organization (Washington, D.C.: Government Printing Office, 1973), p. 8; and William O. Doub, "Federal Energy Regulation--Toward a Better Way," American Bar Association Journal 60 (August 1974): 920.

[6]James W. Curlin, "Congressional Initiatives in Energy Policy," in Walter F. Scheffer, ed., Energy Impacts on Public Policy and Administration (Norman: University of Oklahoma Press, 1974), p. 123.

this situation is the fact that most of these organizations have energy functions only as an integral part of a much broader mission. In 1974, the Federal Energy Regulation Study Team identified five major deficiencies which are associated with decision-making fragmentation: (1) tendencies toward adopting narrow policy perspectives; (2) inflexibility and slow response capabilities; (3) delays, conflicts of interest, and decision bottlenecks; (4) no coordination across different policy levels; and (5) incomplete, unreliable, inaccurate, or unavailable information.[7] To this list can be added a tendency to generate conflicting policy goals and a reluctance to act at all when choices are unclear or when decisions involve great risk for the decision-maker.[8] These differences result, at least in part, from the absence at the federal level of any overall coordinating or integrating mechanism which would insure consistency in national energy policy. In theory, the FEA could have filled this role. But because the President and Congress have been either unwilling or unable to institute comprehensive solutions to policy fragmentation problems, the FEA was created

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[7]William O. Doub, Federal Energy Regulation: An Organizational Study (Washington, D.C.: Government Printing Office, 1974), pp. 13-19.

[8]Monte Canfield, Jr., and Adam E. Sieminski, "If You're So Smart, Why Ain't You Rich?--An Analysis of Impediments to Implementing Energy Conservation in the United States," Public Administration Review 35 (July/August 1975): 324.

with a temporary legislative mandate and with limited executive consolidation and integration capabilities.

Of the many situational factors which have contributed to the complex mixture of FEA achievements and omissions, none has been more important than the limitation imposed on the FEA's ability to successfully implement the fuel allocation and pricing regulations by the temporary nature of the agency's legislative mandate. The initial two-year limit on the agency's tenure and the constant legislative battles over its extension have caused internal personnel problems ranging from weakened morale to a leadership which devoted too much time toward justifying agency actions to the Congress and the media. On the other hand, the FEA's uncertain tenure has been a major factor leading to the cautious behavior of the agency in many areas where economic regulatory organizations are often seen as "dangerous." Unlike most regulatory agencies, the FEA has, since 1974, exhibited a remarkable pattern of restraint in its limited attempts to broaden its regulatory authority. In fact, the agency has encouraged, not resisted, deregulation of petroleum and its products. Overall, it appears as if the bureaucratic behavior of the FEA has been constrained by policy fragmentation. But this constraint has had both positive and negative impacts for energy policy.

The Performance of the FEA

The model used in this study considers the energy policy-making activities of the FEA as a political process composed of five components (decision-makers, outputs, outcomes, feedback, and inputs) measured by six evaluative criteria (representativeness, efficiency and equity, effectiveness, responsiveness, and responsibility). Figure 24 illustrates the operationalization of these concepts and the relative performance of the FEA according to each standard. FEA decision-maker representativeness, defined in "passive," or "sociological" terms, has three dimensions in this model: level, integration, and distribution of minority personnel into the bureaucracy. The analysis in Chapter VI indicated that on each of these dimensions the FEA could be characterized as an unrepresentative agency. For the measurement of both outcome efficiency and equity, the model focuses upon the overall pattern of agency effort at the point of government-community interface. In Chapter VII, the ratio of FEA expenditures to effort was found to be inefficient and the distribution of effort was found to be inequitable. FEA outcome effectiveness evaluates agency goal-attainment according to three dimensions based on the sources of organizational objectives: executive, legislative, and bureaucratic. The FEA has been largely ineffective in attaining executive goals, moderately effective in reaching legislatively mandated objectives, and most effective in accomplishing its

FIGURE 24

EVALUATION OF FEA PERFORMANCE

Policy Process Component	Evaluative Criterion	Empirical Indicators	Dimensions	FEA Performance
Decision-Makers	Representativeness	Correspondence between the social origins of bureaucrats and the larger society	Level	Unrepresentative
			Integration	Unrepresentative
			Distribution	Unrepresentative
Outputs	Efficiency	Ratio of manpower expenditures to bureaucratic effort	Pattern	Inefficient
	Equity	Equal distribution of bureaucratic effort	Pattern	Inequitable
Outcomes	Effectiveness	Correspondence between the impact of bureaucratic effort and agency goals	Executive	Ineffective
			Legislative	Moderately Effective
			Bureaucratic	Effective

FIGURE 24, continued

Policy Process Component	Evaluative Criterion	Empirical Indicators	Dimensions	FEA Performance
Feedback	Responsiveness	Correspondence between agency decisions and public preferences and group demands	Public Opinion	Moderately Responsive
			Interest Demands	Responsive
Inputs	Responsibility	Internal and external controls on agency performance	Internal Informal	Unresponsible
			Internal Formal	Unresponsible
			External Informal	Unresponsible
			External Formal	Unresponsible

own purposes (see Chapter VIII). Unarticulated public preferences and articulated interest group demands are the two dimensions evaluated within the general criterion of feedback responsiveness. In Chapter IX the FEA was shown to be responsive on both these dimensions. Finally, adequate bureaucratic controls on the FEA do not exist. The investigation of bureaucratic responsibility in Chapter X pointed out the failures of controls on agency activities, regardless of the dimensions of form (formal, informal) or location (internal, external).

Thus, when a broad range of evaluative criteria are applied to the FEA's policies, the agency can be seen to have enjoyed a mixture of successes and failures. The following is a more detailed summary of the major conclusions which have emerged from the application of the policy evaluation model developed for this study.

Representativeness

The FEA's decision-makers are unrepresentative of the general population, especially in the highest, policy-making positions in the agency. As was hypothesized, both the level and the integration of representativeness of the FEA were seriously limited by the crisis environment within which early staffing efforts had to take place and by the conflict of interest problems inherent in the agency's regulatory responsibilities. With regard to the distribution of FEA representatives, the agency was found to be a "stratified"

bureaucracy, evidencing some maldistributions of minority employees into lower income, status, and responsibility occupations. Such maldistributions of representatives are typical of the American federal bureaucracy. And they pose the traditional threat of an "elite" corps of policy-makers who may be insensitive to the problems of lower-income, minority groups. Thus, FEA unrepresentativeness may be linked to the lack of responsiveness the agency has occasionally demonstrated toward public opinion from the lower-income and lower-educated segments of society. An example of such a linkage would be the agency's resistance to lower class attitudes favoring gasoline rationing over price increases.

While the FEA does not mirror the society of which it is part, neither, apparently, has it been "captured" by any interest group. The analysis of agency responsibility uncovered no unusual evidence of oil industry associations in the backgrounds of FEA bureaucrats. Therefore, a balance of sorts may have been reached in the agency's unrepresentativeness in both an active and a passive sense.

Efficiency and Equity

The compliance and enforcement efforts of the fuel allocation and pricing programs have been both inefficient and inequitable. Although much of the inefficiency in the FEA's policy outputs can be traced to chronic personnel shortages, the agency has been shortsighted and inflexible

in its attempts to assure compliance with regulations. Resource expenditures, in terms of manpower, have been badly misallocated, both among regional offices and among compliance programs. And this non-uniformity has led to discriminatory enforcement. Especially troublesome has been the impact of this uneven compliance and enforcement effort on small, independent oil firms. The FEA's early emphasis on retail/wholesale investigations and the overall complexity of the allocation and pricing regulations have provided competitive advantages for the larger, integrated "majors." These policy outputs have combined to limit the degree to which the FEA can achieve the legislative goal of maintaining a high level of competitiveness in the oil industry. Thus, FEA inefficiency and inequity have contributed to constrain policy outcome effectiveness.

Effectiveness

While the FEA has been highly effective in meeting its own internal organizational goals, such as agency survival, and has achieved some of the legislative goals mandated by the Emergency Petroleum Allocation Act, it has not been effective in attaining the energy policy goals promulgated by the executive. To a great extent, these variations in FEA goal-attainment can be traced to the differences in breadth and specificity of the energy goals developed by the Congress and the President (as was hypothesized). For example, the broadly-defined executive goal of "energy

independence" has been entirely beyond the administrative authority of the FEA, while the more limited and specific legislative objectives such as insuring industry competition and increasing refinery capacity were at least within the regulatory scope of the agency. Other sources of variation in FEA outcome effectiveness have been the policy conflicts between executive and legislative energy goals and the internal contradictions within many of these objectives. Faced with such a complex range of tasks, the FEA has often turned inward to focus upon bureaucratic goals emphasizing system maintenance.

Responsiveness

It was hypothesized that the FEA would initially prove to be highly responsive to unarticulated public opinion, but would increasingly respond to articulated group demands as its "crisis spotlight" faded. Generally this has been the case. The agency has been responsive to feedback from both the general public (through polling) and to a wide spectrum of the oil industry (through the exceptions and appeals process). But the FEA has devoted almost as much of its attention to the manipulation of opinion through its public relations apparatus. Particularly on the issue of price controls on petroleum and its products, the FEA appears to have been more responsible for rather than responsive to public opinion. But despite this public relations effort, the FEA has never succeeded in establishing a

widespread public awareness of either its existence or its major energy policy functions. Thus, while the agency has developed extensive organizational mechanisms for increasing its sensitivity to public preferences, it has still spent perhaps too much time and effort in self-promotion activities and not enough in formulating policy responses.

Responsibility

The FEA has avoided being captured by its client industry, but the temporary nature of the agency's mandate has severely hampered efforts to strengthen its independence through internal controls. Agency morale, organizational identity, and standards of professionalism have been weakened by the constant threat of agency termination. When combined with the Watergate-weakened executive, internal controls on the FEA's performance were limited, as hypothesized. But the hypotheses regarding external control mechanisms were not substantiated. The petroleum industry and other interest groups have apparently made some use of external informal control frameworks, but avenues such as the advisory committee have been of only secondary importance. External formal controls have been less stringent than expected--the Congress has adequately funded the agency, although legislative support has eroded since 1973. More significantly, the judiciary has placed almost no constraints on FEA rule-making or rule-adjudication; the agency has been allowed a remarkable level of administrative discretion in its implementation of

the allocation and pricing regulations. However, recent trends point toward a narrowing of this flexibility allowed the agency. Both the legislative and judicial branches appear ready to impose more restrictions upon the FEA's regulatory activities in the future.

Implications for Policy Evaluation

This study has developed and applied a model for the evaluation of public policies which draws heavily upon the vast literature of organization theory, bureaucratic behavior, and decision-making analysis. As such, it differs both in kind and in scope from the dominant research traditions in the discipline of political science. It is different in kind because most policy evaluation efforts in the past have ignored political theory to focus upon standards adopted from other disciplines. Most notable in this regard has been the emphasis on concepts borrowed from economics (the use of cost-benefit analysis is only one example) and social psychology (as in the development of social choice models). While not a critique of this interdisciplinarity, this study has instead sought to bring some of the conceptual "tools" of political science to bear upon the analysis of public policy-making. Through this approach, a broader analytical scope can be attained. Most policy assessments have emphasized only one evaluative criterion, usually either policy output efficiency or policy outcome effectiveness. The reasons for this myopia are numerous, but a significant

element has been the temptation to utilize fiscal indicators as measures of public policies. Using a model composed of the entire range of policy process components forces the analyst to consider factors other than program funding.

The case of the Federal Energy Administration provides an excellent example of why this broader approach to policy evaluation is necessary. Criticized as an inefficient and ineffective bureaucracy by those analysts with narrow policy foci, the FEA is a classic example of a regulatory agency which was created for purposes other than the mere economic allocation of resources. The FEA was established in part as an "overseer" of oil industry competition, in part as a "receptor" of interest group demands, and in part as a political symbol of federal government action in the wake of the energy crisis. Any reform of the energy policy system must be based on analysis which has a broader definition of policy "failure" than mere inefficiency or ineffectiveness. The same principle holds true for policy evaluation in general. Consideration must be given to concepts like representativeness, equity, responsiveness and responsibility in any future research which assesses the content of public policies.

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