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Report to the Chairman, Subcommittee
on Regulation, Business Opportunities,
and Energy, Committee on Small
Business, House of Representatives

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ENERGY POLICY

Evolution of DOE's Process for Developing a National Energy Strategy



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Resources, Community, and
Economic Development Division

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February 21, 1991

The Honorable Ron Wyden
Chairman, Subcommittee on Regulation,
Business Opportunities, and Energy
Committee on Small Business
House of Representatives

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Dear Mr. Chairman:

Recognizing the need for a comprehensive national energy policy, the President and the Secretary of Energy began, in July 1989, developing such a plan. Recent energy trends and world events have again underscored this need. The war in the Middle East could disrupt Persian Gulf oil supplies and/or world oil markets. Energy consumption is expected to continue to increase in the 1990s, further increasing our dependence on foreign oil and raising concerns about the adequacy of the nation's electric generating capacity.

In your letter of September 14, 1990, you asked that we provide information on the process the Department of Energy (DOE) has used in developing the National Energy Strategy (NES) and evaluate the analyses and assumptions supporting the NES. This report deals with the first part of your request. Specifically, this report describes the original plans DOE had for developing the NES and obtaining public review of it, and the subsequent revisions to these plans.

The Executive Secretary of the White House Economic Policy Council (EPC), on the advice of the White House Counsel, declined to speak with us regarding the internal EPC and White House processes for examining options under consideration for the NES. As a result, we are unable at this time to provide complete information on the final stages of the strategy's development.

We are also unable at this time to evaluate the analyses done in preparing the NES because we have not yet been provided access to this information. DOE officials told us that they are constrained in their ability to provide this information due to White House involvement in the NES process. Further, DOE officials said that they will need time to gather and organize these analyses because the interagency analytical effort did not facilitate DOE's maintaining current, comprehensive documentation of the analyses. When we obtain this information, we will

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evaluate it and make our analysis available to you and other relevant committees.

Results in Brief

DOE began developing the NES in response to a presidential directive and a legislative requirement that the President biennially prepare and submit to the Congress a National Energy Policy Plan. The administration and DOE have invested considerable time and effort in the enormous and complex task of developing a comprehensive NES. In the early stages of this strategy's development, DOE fulfilled the administration's charge to provide for public participation by holding 18 public hearings in which hundreds of people representing a wide diversity of views on energy issues testified. This public dialogue represented an unprecedented effort by DOE to solicit the nation's views on energy policy. But as the NES development process evolved, there was less public participation in the latter stages of development than DOE originally intended.

Specifically, we found that the process for developing the NES evolved in the following respects:

- The NES Interim Report was a summary of the voluminous public comments received in the early stages of developing the NES rather than a draft strategy as DOE had originally planned.
- The NES Interim Report was originally intended to meet the requirement for the 1989 National Energy Policy Plan required by the Department of Energy Organization Act of 1977. Although the April 1990 interim report did not satisfy the criteria for the contents of the plan, DOE intends to meet the act's requirements for plans in 1989 and 1991 with its final NES report.
- DOE did not publish draft NES policy options for public comment, as it had planned earlier. The agency did, however, allow interest groups and other parties to informally review summaries of the policy options under consideration for inclusion in the NES. These option summaries did not include sufficient information on the underlying analyses to serve as the intended quality check and were not presented in a manner that facilitated comparison in terms of the President's NES objectives—to balance energy, environmental, and economic concerns.

While it is unclear to what extent public participation may have shaped DOE's strategy, we believe that the NES should ultimately be judged on its content, which will be the focus of future congressional and public debate. Releasing, when the final NES is published, the detailed analyses of all options considered for inclusion in the NES would provide an

important basis for informed congressional and public debate of the merits of the NES.

Legislative Requirements for National Energy Policy Plans

According to DOE officials, the agency began developing the NES in July 1989, in part, to meet the requirement for a National Energy Policy Plan under title VIII of the Department of Energy Organization Act (P.L. 95-91 section 801). The act requires that the President prepare and submit to the Congress a proposed National Energy Policy Plan every 2 years. According to the act, the biennial plans shall establish objectives for energy production, use, and conservation and identify strategies, resources, and legislative and administrative actions necessary to achieve the objectives.

The act also requires that the President obtain public input for the development of the plans. Specifically, the act states that the President shall

seek the active participation by regional, State, and local agencies and instrumentalities and the private sector through public hearings in cities and rural communities and other appropriate means to insure that the views and proposals of all segments of the economy are taken into account in the formulation and review of such proposed plan . . . [and] insure that consumers, small businesses, and a wide range of other interests, including those of individual citizens who have no financial interest in the energy industry, are consulted in the development of the plan.

NES Announcement, Expectations, and Initial Tasks

In July 1989, the President announced the administration's plans to develop a comprehensive NES—with the objectives of balancing energy, economic, and environmental requirements and enhancing energy security for the United States and its allies. The NES is expected to set clear goals for the future, incorporate energy policy options to meet those goals, illustrate how each of the options will be implemented at the program level, and indicate the budgetary requirements of these programs.

DOE expects the NES being developed to differ from prior National Energy Policy Plans in several respects. The most notable differences are that (1) the NES is expected to serve as a blueprint for decisions about energy—not as just a policy statement and (2) the NES will be an administration—rather than a DOE— plan because the development was an interagency process. Further, development of the NES was marked by

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significantly greater public input than was received in developing past energy plans.

The President and the Secretary of Energy articulated in the July 1989 announcement that the NES process would provide substantial opportunity for public participation. The President directed the Secretary to develop the NES in close consultation with the Cabinet, leading Members of Congress, cities, and states and to build the national consensus necessary to support the strategy. The Secretary responded by stating his intentions to forge a national consensus on energy by consulting regularly with the Congress and state and local government leaders and by seeking the counsel of public and private interest groups.

In the early stages of the NES process, DOE directed its national laboratories to conduct studies on a number of important energy topics. The agency also began developing profiles of various energy supply and use sectors. In addition, the Energy Information Administration was working to develop a reference, or "base," case against which the potential impacts of various policy options under consideration would be measured.

Substantial Public Input Occurred Through Hearings

To begin meeting the expectations it set for obtaining public input during the NES process, DOE held, throughout the nation, 18 public hearings on a variety of energy topics. Most hearing participants with whom we spoke felt DOE made an honest attempt to obtain public input through the hearings, but several groups said that the hearings were not announced very far in advance.

These public hearings were held in three rounds, involving 499 witnesses from 43 states. The hearings were either chaired by the Secretary or Deputy Secretary of Energy. In addition, high ranking officials from other agencies cochaired 11 of these hearings. The first round of five hearings, held in August and September 1989, addressed broad energy themes. These hearings generally consisted of two parts—presentations by selected panelists on issues relevant to the general hearing topic, usually followed by an open session in which interested parties who had registered were allowed to make 5-minute presentations for inclusion in the public record. The second round of hearings, held from December 1989 through February 1990, addressed specific energy issues. The third round of hearings was held in July and August 1990 after DOE determined that additional public input was needed on the topics of

energy and public health, energy pricing, and Alaskan energy production.

DOE also accepted written comments to the public record throughout the hearing process. According to DOE, there were 2,067 written submissions (including 309 sets of comments on the NES Interim Report).

From our review of Federal Register notices announcing the NES hearings, we determined that DOE provided 2 weeks' notice or less for 10 of the hearings and 1 week's or less for 6 of those hearings. For 8 of the hearings, DOE provided more than 2 weeks' notice. According to DOE officials, this short notice was often unavoidable because of the difficulty of arranging the schedules of the Secretary and Deputy Secretary of Energy and officials from other agencies who cochaired hearings.

NES Interim Report Was a Summary of Voluminous Public Comments

At the July 1989 announcement of the development of the NES, the Secretary of Energy stated his intent to complete a first draft of the NES by April 1990. He intended that this document would (1) help the Congress understand the direction of the national energy policy and how the administration plans to achieve it and (2) facilitate continued dialogue with all interested parties. Further, the concerns of these interested parties would be considered before a NES report was submitted to the President in late 1990.

DOE further outlined its intentions for the draft NES in a September 1989 NES Management Plan, an early scheduling document to guide the development of the NES within the agency. According to this management plan, DOE expected the April 1990 draft NES to include possible recommendations for new activities or major programmatic changes that would be considered for inclusion in DOE's December 1990 submission to the President. It would also include a statement of the administration's energy policy choices, along with an explanation of the reasoning behind these choices. Additionally, DOE's NES status reports to the Office of Management and Budget (OMB) indicated that DOE planned to circulate this draft NES for public review.

However, the content of the NES Interim Report published in April 1990 was not as originally planned. Rather, the NES Interim Report summarized the voluminous input received through 15 public hearings on the NES. This report contained no draft recommendations and, as stated in its preface, was not a first draft of the strategy and did not necessarily represent administration policy.

DOE officials gave several reasons why the interim report did not end up being a draft NES as DOE originally intended. We were advised by DOE officials that time constraints prevented their doing the extensive analyses necessary to carry out the agency's original plans for the interim report. Two officials within the Office of Conservation and Renewable Energy said DOE originally intended that the report would include three types of draft recommendations—those that had unanimous support within the administration, those that were looked upon favorably but needed further analysis, and those for which there were insufficient data and analysis. These two officials also thought that the EPC had influenced DOE to change its plans and to forgo including draft recommendations in the interim report. Similarly, the Associate Deputy Under Secretary for Policy Analysis attributed the decision to publish the interim report as a summary of public comments to the EPC.

In contrast, however, four other knowledgeable officials within DOE's Office of Policy, Planning, and Analysis told us that DOE never intended the NES Interim Report to be a draft NES. Three of these officials, including the Office's Principal Associate Deputy Under Secretary, stated that DOE had always intended the NES Interim Report to be nothing more than a summary of the comments generated during the public hearings. However, he added that DOE at one time considered including in the interim report several recommendations about which there was consensus. He explained that the EPC overruled this plan, holding that DOE should analyze all options before publishing any recommendations. The Associate Deputy Under Secretary for Policy Analysis also told us that DOE at one time planned to include a limited number of recommendations for which DOE had strong internal support. He said, nonetheless, that DOE never intended the interim report to be a draft of the final NES.

Most interest and industry groups with whom we spoke stated that, on the basis of DOE's early plans for the NES process, they expected the April 1990 document to be a draft NES available for their review and comment. These groups expressed disappointment that DOE did not meet these expectations for the April 1990 report, and they expressed a desire to review a draft strategy, rather than a summation of the comments they previously made during the public hearings.

One DOE official told us that DOE informally revised the September 1989 management plan as the NES process evolved and as events dictated. However, he added, DOE never formally updated or replaced this plan.

Other DOE officials said that the agency never had any formal guidance or overall planning document for the NES.

NES Interim Report and Legislative Requirements

On the basis of letters from DOE to the Congress, it appears that DOE submitted the NES Interim Report in April 1990 to meet the requirement for completing a National Energy Policy Plan in 1989. DOE informed the Congress in April 1989 of the agency's intent to defer providing this plan for 1 year—until April 1990. The Associate Deputy Under Secretary for Policy Analysis said that DOE informed the Congress again in 1990 of the agency's intent to defer the 1989 plan for another year—until April 1991—and that the final NES will serve as both the 1989 and 1991 plans. While the interim report did not satisfy criteria for the contents of the National Energy Policy Plans established by the Department of Energy Organization Act, DOE viewed this report as marking the halfway point of the effort to develop a comprehensive energy strategy. DOE anticipates that the final NES will meet the act's requirements for the content of a National Energy Policy Plan.

This plan shall, according to the statute,

- establish objectives for energy production, utilization, and conservation for periods of 5 and 10 years;
- identify the strategies that should be followed and the resources that should be committed to achieve such objectives; and
- recommend legislative and administrative actions necessary and desirable to achieve the objectives.

Public Review of NES Options Was Limited

DOE provided industry and interest groups a limited opportunity to review summary versions of the options under consideration for inclusion in the NES by conducting a series of briefings and providing controlled access at DOE headquarters' public reading room. The briefings were intended to serve as a quality check of the content of the options as well as the supporting analyses. Many participants we spoke with said that the reviews were too brief and did not meet their expectations for an opportunity to review a draft NES.

DOE held briefings for selected industry and interest groups to review the draft NES option summaries in the fall of 1990. According to DOE officials, each Assistant Secretary or Office Director within the Office of Policy, Planning, and Analysis generally contacted outside groups with whom the Office regularly works and shared the option summaries with

them. During these 2-hour briefings, DOE officials gave presentations on the options and provided these individuals with a loose-leaf binder containing the option summaries. At the end of the meetings, DOE collected these binders.

Additionally, according to a DOE official, the agency allowed, on request, groups and individuals who were not invited to review the option summaries to examine the documents in DOE headquarters' public reading room. He added that this was a fairly tightly controlled review in that a DOE official sat with the parties reviewing the option summaries, limited the review to 2 hours, collected the binders afterwards, and had parties sign a nondisclosure statement.

The option summaries typically were 1 to 3 pages long. Each generally included a brief background discussion, a section describing the estimated net economic benefits of implementing the option, a section laying out the pros and cons of the option, and a description of the actions required to implement the option. According to one DOE official, each group was provided copies of all of the options. According to the Associate Deputy Under Secretary for Policy Analysis, the option summaries were being continually revised and DOE never shared the current versions of the summaries with these groups.

DOE officials also told us that these reviews of option summaries were intended to be a quality control mechanism. Further, one of these officials said that the option summaries outlined the basic assumptions underlying the analysis of each option. He added that no major flaws in DOE's options and analyses were identified during these reviews and that DOE has revised the option summaries in response to the minor flaws identified.

In general, industry and interest groups that we contacted had similar complaints about the content of the option summaries and the circumstances under which review was allowed. The groups complained that they could provide only general comments because the summaries did not contain enough information on the analyses behind the options. Further, because the reviews only lasted 2 hours and most of each session was taken up by a briefing, groups complained that there was not enough time to examine the summaries and provide considered comments. In addition, some groups complained that the option summaries were not linked by any unifying framework outlining how various options would contribute to the NES objectives.

In response to our requests for copies of the option summaries and supporting analyses, DOE stated it was not able to provide these documents but that we could review the option summaries distributed for comment in the aforementioned briefings. We were allowed about 2 hours to review the 67 options—the time limit DOE generally applied to all industry and interest groups. It was not possible to thoroughly review this number of options in the short time we were allotted. However, our review of the summaries did not disclose a systematic attempt to lay out or identify the key assumptions or logic behind each analysis. Therefore, we, like the interest groups, found that this material was not adequate for a thorough review. Further, even if we had had more time to review the summaries, many of our comments would have been questions about the assumptions, logic, and methodology used by DOE and the other agencies involved in the analyses.

It appears that DOE recognized the public would need more than 2 hours to thoroughly review the NES options and provide the substantive comments necessary to check their quality. According to DOE's status reports to OMB, the agency had, at one point, scheduled a date to "publish NES-related issues and options papers for review and comment." In addition, a DOE official told us that it was probably unrealistic for DOE to expect considered public comment based on the option summaries. In fact, according to this official, DOE provided the complete option analyses to other federal agencies for their review because the option summaries were too brief for this purpose.

Comparison and Selection of NES Options

We observed that many of the options were not summarized in a way facilitating comparison in terms of the President's basic objectives for the NES. Specifically, the summaries did not clearly include the options' effects on economic and environmental health and on energy independence. Yet DOE's NES analysis guidelines, developed by the EPC to guide the interagency analyses, state that "NES analysis will be conducted for the purpose of examining and ranking options. . . ." and that the analytical results will provide the options' "contribution to economic, environmental and security benefits."

The limited content of the option summaries raises questions about how the options were to be ranked for, and selected by, the President. As mentioned earlier, EPC officials declined to meet with us to discuss these questions. DOE officials with whom we spoke could not definitively tell us the format in which the options and analyses were to be reported to

the President. One DOE official said that all of the options under consideration as of November 1990 would go forward to the President and that they would be grouped on the basis of the extent to which the members of the EPC agree with them. However, other DOE officials told us that some options would fall out during the review process. These officials did not know if the degree of support within the EPC would be indicated. According to the Associate Deputy Under Secretary for Policy Analysis, the only options that fell out were those overtaken by events such as the Clean Air Act Amendments of 1990 (P.L. 101-549) and the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508).

The complexity of the NES analysis is daunting. For many options, if not all, for example, it is reasonable to expect both quantified and nonquantifiable benefits and costs. It seems to us that in this final step of selecting options for inclusion in the NES, subjective judgment is inescapable. Nevertheless, it is important that information on the options included in the final NES be as complete and uniform as possible—presented in a manner that facilitates comparison in terms of the NES objectives—to allow for informed debate and discussion.

Observations

When it completes the enormous task of developing the NES, DOE hopes to have a blueprint for future energy decisions. The Secretary expects this strategy to be notably different from past energy policy plans because it was developed through an interagency process rather than by DOE alone and because the public was involved significantly in the early stages of development. This interaction with other agencies and the public represented an unprecedented effort by DOE to solicit outside views on energy issues. However, DOE's development process evolved, resulting in less public participation in the latter stages of the process than the agency originally intended. It is too early to judge the impact, if any, this may have had on the final NES, which will have to be judged on its content. Publishing the analyses and assumptions behind all options considered for inclusion in the NES will promote informed congressional and public debate of the merits of the NES.

We discussed the factual information contained in this report with DOE officials. As agreed with your office, we did not obtain formal agency comments. We performed our work between October 1990 and January 1991 in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Secretary of Energy and make copies available to others upon request. If you have any further questions, please contact me at (202) 275-1441. Major contributors to this report are listed in appendix II.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Victor S. Rezendes".

Victor S. Rezendes
Director, Energy Issues

Scope and Methodology

To determine the process the Department of Energy (DOE) and the administration used in developing the National Energy Strategy (NES), particularly the opportunities DOE provided for public input to the process, we interviewed DOE officials and representatives of groups with interests in energy policy and reviewed various DOE plans and documents. Specifically, we interviewed several DOE officials in the Office of Policy, Planning, and Analysis, which had primary responsibility for developing the NES. We also interviewed other DOE officials who were directly involved in the formulation of the strategy, in the Office of Conservation and Renewable Energy, the Office of the Secretary of Energy Advisory Board, and the Energy Information Administration. We attempted to consult staff of the White House Economic Policy Council (EPC) regarding the internal EPC and White House processes for examining options under consideration for the NES, but the staff, on the advice of the White House Counsel, declined to speak with us.

We also interviewed representatives from 15 groups—representing a broad range of interests—that have been involved in the NES process to obtain their views on DOE's development of the NES. These groups represented the oil, coal, natural gas, iron, steel, nuclear, and electric utility industries; renewable energy sources industries; environmental and citizen interests; and states and localities.

We reviewed DOE documents, plans, schedules and guidelines regarding the NES. We reviewed the NES Interim Report. We examined the Department of Energy Organization Act to determine the requirements for the biennial National Energy Policy Plans required by the act. We also briefly reviewed the 67 option summaries developed through the NES process, but were not allowed unrestricted access to them because the underlying analyses were still being reviewed by the EPC.

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