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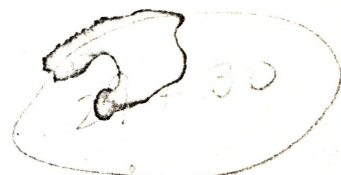
ENVIRONMENTAL PROTECTION AGENCY (EPA)

BRIEFING BOOK

Introduction

- A. General Questions
- B. Composition: Questions of Inclusion
- C. Composition: Questions of Exclusion
- D. Questions of Organizational Location
- E. Political/Organizational Effects
- F. Functions and Operation
- G. Relationship of the EPA Proposal to
the Marine Proposal

Index



Introduction

Reorganization Plan No. 3 proposes merging the major Federal pollution control programs to form a new, separate agency, the Environmental Protection Agency (EPA). The component programs of the EPA would be the Federal Water Quality Administration (FWQA), now in the Department of the Interior; the National Air Pollution Control Administration (NAPCA), parts of the Environmental Control Administration (ECA), and the pesticides research and regulatory programs of the Food and Drug Administration, all presently located in HEW; the pesticides registration authority of the Department of Agriculture; the environmental radiation protection standard-setting function of the AEC; the functions of the Federal Radiation Council; some of the pesticides research conducted by the Bureau of Sport Fisheries and Wildlife; and authority to conduct ecological research, now vested in the Council on Environmental Quality. The EPA's estimated budget and staff in FY 1971 is \$1.3 billion and 6,000 personnel.

In arriving at these recommendations, the staff examined pollution-related programs located in 15 government departments and agencies. Analysis of these programs revealed that proliferation and fragmentation markedly decreased the

effectiveness of the government's total pollution abatement effort. In fact, it appeared to make impossible the kind of integrated planning, research and standard-setting necessary in the long-run to effectively deal with pollution by means other than short-term crisis response.

What became evident was the special illogic of dividing the responsibility for pollution control according to the medium in which the contaminant occurs, i.e., air (HEW), water (mainly Interior), and land or food (HEW, Agriculture). A single pollutant source may pollute the air with smoke and chemicals, the land with solid wastes, and a river or lake with chemical and other wastes. Control of this air pollution may convert the smoke to solid wastes that then pollute land or water, and control of water-polluting effluents may convert them into solid wastes which then must be disposed of on land. Some pollutants, such as pesticides, radiation, many chemicals, and trace metals are present in all media, and these do not fit into the traditional air-water-soil categories. This fragmentation has resulted in confusion, overlap and delay in the recognition of new problems which cut across organizational boundaries. More importantly, there has been no place of central cognizance and responsibility for determining research priorities and recommending standards, for monitoring individual pollutants appearing

in different media, and for preventing the introduction of new pollutants into the environment.

A more effective approach to pollution control would involve the identification of pollutants and then the tracing of their paths through the environment, the determination of the total exposure of an individual or the environment to a pollutant or pollutants, and the evaluation of the interactions among different pollutants and different forms of pollution. Research, standard-setting and policy formulation could then occur on a comprehensive basis. A consolidation of the major existing pollution control programs is, in our judgment, necessary to accomplish these objectives. Similarly, a consolidated pollution control agency would insure that the responsibility for dealing with new environmental problems will be promptly fixed. It would also serve to simplify relations between the Federal government and state and local governments, and would enable private industry to comply more readily with pollution control regulations by providing a single enforcement agency.

Because of the broadness of the term "environmental quality," and the lack of agreement as to its meaning, the reorganization plan is based on the comparatively narrow function of controlling pollution. The criterion for

deciding what programs should be included in the new agency was that the EPA should include all those, and only those, programs or functions necessary for it to carry out its mission of integrated policy-making and pollution control. Thus, we have recommended the transfer of existing standard-setting authority covering all the major classes of pollutants to the new agency, and providing it with the research competence necessary to determine what the standards should be. In addition, the EPA will incorporate the major Federal technical assistance and grant programs which, hitherto, have been the backbone of the government's anti-pollution effort. We have not felt that it was either practical or desirable for the EPA to have a monopoly on all pollution control functions. This has often involved a delicate balancing of the EPA and existing agencies, and in several cases we have decided that particular research programs should be carried out by the agency or agencies having the primary responsibility or knowledge related to them. We anticipate that the EPA can obtain needed information or services from other agencies, on a contract basis if necessary.

Reorganization Plan No. 3 is the product of seven months of study by the President's Advisory Council on Executive Organization, headed by Mr. Roy L. Ash. The

Council staff conducted approximately 180 interviews, visited several state and local pollution control agencies, and held several seminars with non-governmental experts on environmental problems. Persons consulted included the top officials of all government programs examined, as well as former government officials, public administration experts, ecologists, pollution experts and other scientists.

A. General Questions

A1. Q. What characteristics of existing organizational arrangements led to the belief that reorganization was necessary?

A. The present Federal anti-pollution effort is divided among a number of different Departments and agencies. Some of the units are organized according to the medium (air, water, soil) in which the pollutant may travel, others are organized around particular types of pollutants (radiation, pesticides, solid wastes). This inconsistency of organizing principles causes many problems in allocating agency responsibilities and in the performance of pollution control functions. The emphasis on media in the two largest pollution control agencies (National Air Pollution Control Administration and Federal Water Quality Administration) is an even greater handicap. It fails to take into account that many, probably most, pollutants travel in several different media and that individual sources of pollution may be able to dispose of the same wastes in different media or may be polluting several media simultaneously. Also, the present categorical structure has limited the government's ability to promptly recognize

and deal with new pollution problems.

In short, the current fragmentation of pollution control programs has led not only to inefficiency, and some confusion and overlap, but has made impossible the comprehensive approaches necessary to deal with the interrelationships among different media and pollutants. A systematic and integrated attack on the pollution problem is not possible under the current organizational structure.

A2. Q. What general principles were used in drawing up the reorganization plan?

A. It was decided that the new agency's mission should be the control and prevention of environmental pollution. Only those programs absolutely necessary for the performance of this mission should be transferred, and even if the programs were necessary for the mission they should not be transferred if some process of coordination would enable the new agency to function without actually having the program under its jurisdiction.

The functions considered absolutely necessary and not able to be incorporated through a coordinative process were the setting and enforcement of standards and the applied

research necessary to determine standards. No attempt has been made to centralize all basic research, monitoring, or research on control technologies in the new agency since many of these activities form an integral part of another agency's mission and can be readily drawn upon without the necessity of consolidation within the EPA. The EPA will serve as a point of central cognizance for pollution-related activities and will draw upon other agencies for much of the information and assistance it needs. This approach is intended to minimize the disruption of on-going programs.

A3. Q. What will be the benefits of the reorganization?

A. The formation of the EPA will permit the development of comprehensive and integrated strategies for controlling and preventing pollution; it will enable standards to be set which take account of all sources and total exposure to a given pollutant; and it will allow the government to recognize new environmental threats more rapidly and to deal with them more efficiently. It will provide a central point of responsibility for environmental protection and give recognition

to the importance of the problem.

A4. Q. Will implementation of the reorganization plan save the government any money?

A. Consolidation of pollution control programs, by reducing program overlap, will allow the government to make more efficient use of the resources it has committed, and will commit, to solving pollution problems. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action. Consolidation will permit more effective cost analysis of the Federal pollution control effort.

A5. Q. Why has the Council recommended consolidation of pollution control programs when it has not recommended consolidation of consumer programs? Aren't these similar kinds of issues?

A. The Federal government's legal authority to deal with consumer problems is in an embryonic stage and not yet well defined, whereas its responsibility for dealing with pollution problems has evolved to a point where the principles guiding reorganization are more self-evident.

B. Composition of the EPA: Why were the following agencies and programs included in the EPA?

B1. Q. Radiation?

A. Radiation is clearly an environmental hazard, and one which appears in all media (air, water, soil). Its injurious effects to health are better established than those of any other form of pollution. In addition, it has the potential of doing great harm to plants, animals and other elements of ecological balance. An agency organized to deal generally with contamination of the environment would be incomplete if it lacked the authority to deal with this important environmental contaminant.

B2. Q. Pesticides?

A. Pesticides, like radiation, are a recognized environmental hazard which appear in all media. Although the focus of Federal efforts has been largely on pesticides on food, pesticides in water have been responsible for several major fish kills, and recent studies indicate that much of man's intake of pesticides may come from breathing them in as air pollutants. Current Federal efforts to deal with the effects of pesticides are scattered among several departments. An interagency agreement for the pesticide registration process includes

Agriculture, HEW and Interior. The process is cumbersome and has not worked well in the past.

Legal authority to deal with pesticide problems would be given to the new agency by transferring to it responsibility for administration of the Federal Insecticide, Fungicide, and Rodenticide Act and those portions of the Food, Drug, and Cosmetic Act covering establishment of pesticide residue levels on food.

Technical expertise on pesticides within EPA would be provided by transfer of personnel from FDA, Agriculture, and the Bureau of Commercial Fisheries, and the authority to conduct research from the Bureau of Sport Fisheries and Wildlife in Interior.

B3. Q. Air pollution control?

A. Air is one of the major media through which pollutants travel, and the National Air Pollution Control Administration (NAPCA), to be transferred from HEW, will provide much of the expertise and legal authority necessary for the new agency to control pollution. Without NAPCA and FWQA, it would be impossible for the EPA to perform its mission.

B4. Q. Water pollution control?

A. The personnel and legal authority of the Federal Water Quality Administration (FWQA), now in Interior, are vital for the success of the new agency. Water is a major medium through which pollutants travel, and the legal powers contained in the Water Pollution Control Act constitute a good part of the Federal government's authority to control pollution.

In addition to FWQA, the EPA would also include the Bureau of Water Hygiene, now located in HEW. This Bureau was split off from FWQA when the latter was transferred from HEW to Interior in 1966. The Bureau was given responsibility for the health aspects of water pollution, but the division between it and FWQA has not worked particularly well and putting the two components back together in the same agency should improve the functioning of both.

B5. Q. Solid waste disposal?

A. Solid waste disposal can create several forms of pollution. Dumping garbage and wastes is a form of land pollution and poor dumping practices often lead to water pollution problems. Burning of wastes, the other major

method of disposal, is a significant source of air pollution. Placing responsibility and expertise for solid waste disposal problems in the same agency concerned with air and water pollution problems will permit the development of more systematic and comprehensive approaches for dealing with solid wastes (e.g., "residuals management").

B6. Q. Research on the health effects of pollution?

A. As health considerations are critical in the establishment of standards for particular pollutants, the new agency must have responsibility and competence to determine health effects. To permit full assessment of the effects of pollution, EPA must have both access to health effects research done by others and its own, in-house capability. We reemphasize that this establishment of concern and competence in EPA does not imply that all health effects research be done there; the basic research programs done by other agencies--such as HEW's--need to be strengthened and the results made readily available to EPA. Health effects research is now an organic part of many of the existing programs that are being transferred, including those of HEW.

To separate it out would be to artificially fragment closely interconnected operations.

Separation, even if possible, would not work well. One cannot be assured in all instances that the EPA would get what it needs from others. Further, we are seeking to avoid having the standard-setting judgments an "administrative exercise" insulated from the research and the scientific talent. In order for the EPA to have requisite respect for, and understanding of, the health and other aspects of pollution problems and control, it needs an in-house capacity.

This in-house capacity will insure that the EPA's own research priorities can be met-- that research gaps are filled. It will make certain that the EPA is not dependent on the priorities and budget vicissitudes of other agencies.

(The intention is to give the EPA competence to conduct applied research. It should be pointed out that this research is not unique to HEW and is now carried out by other Federal agencies. Also, under the plan HEW would continue to have the competence to carry out basic environmental health research.)

C. Composition of the EPA: Why were the following agencies and programs not included in the EPA?

C1. Q. Noise pollution?

A. Although not specifically mentioned in the reorganization plan, it is expected that the problem of noise will be one of the newly identified pollutions which will receive attention. No transfers related to noise are proposed because existing Federal programs (primarily in DOT) are very small and are closely related to the primary missions of their agencies. A number of bills are being considered by Congress, bills that will expand the Federal role in noise abatement. The proposed consolidation does not preclude EPA integrating noise abatement with its other responsibilities.

C2. Q. Regulation of food in HEW?

A. Food can carry environmental contaminants to people. It is also a product that is altered as it passes from primary producer to consumer. EPA is concerned with environmental pollutants and is therefore responsible for food only as it acts as a carrier for unintentional contaminants. HEW will retain its responsibility for monitoring and regulating alterations in food as it is processed and

distributed. (C.f. questions on Pesticides and Tab A: Rationale for Transfer of Pesticides from FDA)

C3. Q. Water and sewer loans and grants in HUD, Agriculture, and Commerce?

A. Consolidating the water and sewer programs and placing them in EPA was considered. The case for allowing these programs to remain in their present agencies is at least as strong. The programs are so intimately related to the missions of their primary agencies that separation from the agency would both change the nature of the program and greatly damage the losing agency. For example, the HUD water and sewer programs are a major tool in promoting sound planning, economically integrated housing, and other HUD goals. As another example, the Economic Development Administration in Commerce would probably cease to exist if deprived of its water and sewer programs, so major a part of the agency's functions are these programs.

C4. Q. Urban ghetto sanitation programs and rat control in HUD and HEW?

A. These programs tend to be a mixture of health and urban planning programs, and therefore are more properly the responsibility of HEW

or HUD. Insofar as they are directly concerned with problems such as solid waste disposal, EPA will have to coordinate its activities closely with those of the other two Departments.

C5.. Q. Recreation?

A. Recreation is a use of the environment or a benefit derived from pollution abatement. EPA should have as its primary responsibility control of pollution--the elimination of hazards in the environment.

C6. Q. Occupational safety and health programs in HEW, Interior, DOT, Labor, and the AEC?

A. The EPA's jurisdiction should be over the general environment, not over the particular environment of the work place, because the factors involved in determining standards, enforcing them, and developing control techniques are quite different for the two kinds of environment. Occupational safety and health programs require detailed knowledge of particular industries and inspection of each individual plant or work place. These factors can be better considered and the programs more effectively carried out by agencies with knowledge of the industry or with existing expertise on occupational hazards. Some of the research done in relation

to occupational exposures will be useful to the EPA in establishing standards, and the results of such research will be readily available to EPA.

C7. Q. Water data functions of the Geological Survey in Interior and of the Agriculture Department?

A. There has been no attempt to centralize all environmental monitoring functions in the EPA. Environmental monitoring is now carried out by a wide variety of agencies of the government for the benefit of an equally wide variety of users. The EPA should make maximum use of existing monitoring capabilities. What is needed is to pull together the product of that diverse capability through improved information-sharing and data processing systems. The EPA will have (as NAPCA and FWQA, for example, now have) its own mission-related monitoring capability. This will expand as the need arises and if proves infeasible to obtain the data which it needs through existing systems located elsewhere in the government.

C8. Q. Weather modification programs?

A. The government's programs for weather modification are still in a somewhat formative stage, and are, for the most part, mission oriented--that is, closely related to the missions and

activities of the agencies that now operate them. There would be no reason for the EPA to do research or carry out programs of weather modification, but if the use of such modification became widespread, there would have to be some regulation of the practice and this might be an appropriate function for the EPA.

C9. Q. Solid waste activities of the USDA, HUD, and Interior?

A. The USDA and Interior programs are concerned primarily with research on control technologies in support of their agency missions. For example, the Bureau of Mines views their solid waste program as a mineral and resource recovery (or recycling) program first, and is only secondarily concerned with solid waste as a form of pollution. That is, to Interior, solid wastes are an alternative to natural ores as a source of minerals.

HUD's solid waste program is not an independent program, but is a part of their urban assistance effort.

EPA's solid waste programs will complement those of these agencies but, here as elsewhere, no attempt has been made to centralize all tangential pollution abatement activities in EPA.

Only those programs absolutely necessary for the performance of the EPA's mission are proposed for transfer. No attempt has been made to centralize all basic research, monitoring, or research on control technologies in the new agency, since many of these activities form an integral part of another agency's mission and can be readily drawn upon without the necessity of consolidation within the EPA. The EPA will serve as a point of central cognizance for pollution-related activities and will draw upon other agencies for much of the information and assistance it needs. This approach is intended to minimize the disruption of ongoing programs.

C10. Q. National Institute of Environmental Health Sciences in HEW?

A. NIEHS conducts basic biomedical research on the physiological effects of environmental pollutants. The organizations that use this research include the EPA, of course, but also some of the other Institutes, the medical profession, and agencies concerned with occupational health. NIEHS provides research depth not possible in a line agency charged with regulation as well as standard-setting--as is the EPA. While EPA will use NIEHS's research

results in developing criteria, there is no compelling reason to recommend consolidation. Independent, NIEHS can serve other parties as well as the EPA.

C11. Q. Environmental curriculum development in the Office of Education in HEW?

A. This program is not tied very directly to the anti-pollution effort. It is very closely related to other OE work on elementary and secondary education.

C12. Q. USDA research on the effects of air pollution on plants?

A. Much of this work is now done under contract with NAPCA, and the new agency would continue to fund such efforts. In any case, there would be no problem in the EPA obtaining the results of the research.

C13. Q. Ecological and health research carried out by the AEC's National Laboratories and by private institutions under AEC contract?

A. Much of this work is basic research and thus is not necessary for the performance of the EPA's immediate operations. The results of the research will be available to the EPA and the new agency will also be free to contract with the National Laboratories for particular research projects.

C14. Q. National Center for Atmospheric Research?

A. NCAR is actually supervised and operated by a consortium of universities, although it is funded by the National Science Foundation. Most of the research is quite basic, but the EPA would be free to contract with NCAR for particular projects.

C15. Q. Air pollution controls technology research in the Bureau of Mines (Interior), DOT and other agencies?

A. Some of these programs are presently funded by NAPCA and the EPA will assume that responsibility. Whether funded by an EPA constituent agency or not, a program that furthers its agency's missions will not be transferred unless it is an activity that is vital to the EPA's ability to discharge its mission.

As an example, aircraft contribute no more than 1% to 2% of air pollutants. Hence, control of this source is not of prime concern to the EPA, as long as it is done. DOT is interested in better aircraft engines: more powerful, more efficient, more reliable, quieter, less polluting, and so on. The expertise to build engines that degrade the environment less is directly available to DOT, not to the EPA. To properly assume

responsibility for pollution-free aircraft engines, the EPA would have to assume responsibility for engine development, per se.

C16. Q. The Council on Environmental Quality in the Executive Office of the President?

A. The scope of the CEQ's concerns is much broader than the EPA's and the functions of the CEQ are quite different. The CEQ is concerned with environmental quality broadly defined, while the EPA's mission is pollution control. The CEQ is a staff agency concerned with overseeing the functions of other Federal agencies, whereas the EPA is a line operating agency primarily concerned with carrying out its own programs. Much of the effectiveness of the CEQ depends on its small size and its location in the Executive Office, and therefore its usefulness would be greatly impaired if it were merged with the EPA.

C17. Q. The Environmental Science Services Administration

A. ESSA performs services for many Federal agencies and the bulk of its activities are not related directly to pollution control. The data collected by ESSA will be available to the EPA and the new agency will be free to contract with ESSA for services, as NAPCA now does.

D. Organizational Location of Pollution Package

D1. Q. Why was the pollution package not placed within HEW, since the health issue may be paramount and the Department has a monopoly on health research and expertise?

A. A separate agency signals the special importance that the President has attached to Federal pollution control efforts. It is clear that pollution control and environmental improvement are high priority goals in their own right, apart from other Federal programs. The health issue is important, but it is only one of several major considerations in controlling pollution. Other major aspects involved include considerations of ecology, recreation, etc. Placing the pollution package within HEW would stress the important health-related objectives of anti-pollution programs. It might, however, subject the standard-setting function to the inherent bias of that Department, to the relative disadvantage of other Departments with equally important perspectives on the problem. In short, no one existing Department has all the

requisite perspectives necessary to perform the standard-setting judgment. Each existing Department views pollution problems from the perspective of its own mission. The health aspects of pollution control are recognized under the reorganization plan by giving the EPA competence to carry out applied health research. This type of research is not unique to HEW and is now carried out by other Federal agencies. Also under the plan HEW would continue to have the competence to carry out basic environmental health research through the National Institute of Environmental Health Sciences, which would remain in the Department.

Consolidation within HEW would also mean adding to the burdens of a Department that is already second only to Defense in size. For the new agency to become an integrated operation, it needs independent top management free from conflicting responsibilities and competing claims for scarce funds.

D2. Q. Why was the pollution package not located in the Interior Department, since air, water,

and soil are natural resources, and positive gains in resource and environmental planning might result from the linking of activities causing pollution (reclamation, mining, oil drilling), conservation programs (Park Service, Fish and Wildlife, etc.) and pollution control programs? [Note that FWQA is already in Interior.]

- A. The resource aspect of pollution is only one way of looking at the problem, and not the most useful way. For purposes of policy-making, the problem is better dealt with in terms of health, ecology, etc.

Putting environmental programs in Interior would be advantageous in terms of tradeoffs or relationships with other Interior programs. However, environmental protection cuts across the entire spectrum of government activities. Because of the breadth of its mission, the EPA will have to interact with many, probably most, other Federal agencies. It will particularly have to deal with those Departments which have programs affecting sources of pollution, i.e., HUD, DOT, Agriculture, Defense and Interior. Combining environmental protection

with natural resources would permit only a partial set of tradeoffs, since its interaction with DOT, HUD, and other Departments will be just as close.

Interior is not in a good position to deal with other Departments because of the large number of Interior programs whose activities result in pollution. For maximum public credibility, the EPA should be insulated from situations which would involve it in an apparent conflict of interest. Put another way, the agency which must set standards for pollution control should not be placed in a Department which must also make decisions regarding development of a particular industry or resource.

Furthermore, many pollution problems are predominantly urban in nature, but Interior has largely been a Western and rural Department. The notable exception to this is FWQA, which would be transferred to the EPA.

D3. Q. Why was all or part of the pollution package not located in HUD, given the predominant urban nature of most pollution problems (air

pollution, solid waste disposal, water, and some pesticide problems)? What about the Departments of Transportation or Agriculture?

- A. Not all pollution problems are primarily urban in nature. Many of the problems involve interaction between urban conditions and non-urban aspects of the environment. Some, such as agricultural wastes and pesticides, are clearly not urban in nature. Similarly, DOT and Agriculture encompass important aspects of the pollution control problem, but leave out many other aspects which are equally or more important.

As indicated above, problems of pollution cut across the jurisdictions of many existing agencies. The new agency must be able to maintain its credibility in setting standards and in dealing with other agencies. This credibility would be impaired by locating it in an existing agency with a particular slant on only one part of the problem.

Also, location in HUD or DOT would make relations with state and local pollution control agencies (generally health- or resource-oriented) difficult, since the Federal organization would

then not correspond to organization at the sub-Federal level.

D4. Q. Is it possible or desirable to split pollution control programs or functions among the agencies having particular expertise (e.g., HEW--all health research and standard-setting; DOT--air pollution control research; Agriculture--pesticides research and control, etc.), with review and coordinating powers located in the Council on Environmental Quality? [This would avoid disruption caused by massive reorganization and effectively utilize existing competence.]

A. Existing fragmentation in pollution programs seriously impairs the formulation of an integrated operational strategy for pollution control. Moreover, it ignores the important interrelations between pollution sources, e.g., pollutants which cut across media lines, and interchangeability between forms of pollution--air to solid waste to water pollution. For each type of pollution there are numerous agencies which deal with some part of the problem. Confusion, overlap and neglect result. The environmental effects of many chemical and

other contaminants go unexamined because the substances appear in all media and thus cut across existing organizational boundaries. The result is a blurring of focus and some confusion as to who has responsibility for dealing with the problem. The absence of any comprehensive integrated standard-setting or enforcement is a serious handicap to the pollution control effort. In short, far more than improved coordination is necessary.

Formation of an agency with central responsibility and competence to deal with pollution control is necessary to provide the needed focus and attention on the problem. Each agency of the Federal government should and will continue to be concerned about environmental quality. (See answer to E4. below.)

The Council on Environmental Quality was not designed, and is not equipped, to bring about the day-to-day coordination necessary. The needed coordination must be done in terms of operational strategies and operating functions (such as standard-setting) which require extensive staff support, and thus cannot be done by the CEQ.

D5. Q. Could not the same objectives be achieved by consolidating only the pollution standard-setting and enforcement functions in a new or existing agency, leaving research, technical assistance, and other functions in their existing location?

A. To a limited extent, this is what the plan calls for. For example, no attempt has been made to consolidate all research on control technologies in the EPA. Much of this research is better done by the agencies possessing the expertise and familiar with the needs of their constituents. Also, technical assistance will to some extent be handled by other agencies; for example, Agriculture will continue to provide technical assistance to farmers on the use of pesticides. The basic point, however, is that an agency without scientific and technical competence could not develop and enforce standards that would be regarded as authoritative. There would be extraordinarily difficult problems of coordination if research and other functions were separated from standard-setting and enforcement. There would be major gaps in

program coverage and in attention to pressing problems. The information coming from other agencies would be subject to the bias of the particular agency's interests and activities. Even if such a split were made, the new agency would need the scientific capability to evaluate the information it received and to utilize the information for standard-setting and enforcement. Therefore, the likely result would simply be widespread duplication and inefficiency.

E. Political/Organizational Effects of the EPA

El. Q. Doesn't the EPA simply duplicate the functions of the Council on Environmental Quality (CEQ) in the EOP? Won't the existence of the EPA weaken the likelihood of the CEQ becoming an effective decision-making body?

A. The EPA does not duplicate the functions of the Council on Environmental Quality. The CEQ is basically a staff agency to the President. The EPA will be an operating line agency which sets and enforces standards. The CEQ's prime function is overseeing the efforts of other Federal agencies, whereas the EPA will be primarily involved with running its own programs. The perspective of the CEQ is broader, encompassing all aspects of environmental quality, whereas the EPA is focused on the prevention and control of pollution.

The existence of the EPA should greatly strengthen the CEQ, since the EPA will be able to provide much of the necessary research, analysis, and guidance (in terms of standards) necessary for the CEQ's work. Also, the mediating function of the CEQ will be improved because the EPA will be able to focus and

clarify the environmental aspects of Federal actions. The CEQ will be involved in settling disputes between the EPA and other Federal agencies.

E2. Q. Since the EPA offers no mechanism for resolution of interagency conflicts at the Cabinet level, won't this increase the burden on the President? Wouldn't location of the pollution package in the Department of the Interior, or any other existing agency, mitigate this effect?

A. Cabinet status offers no advantage in conflict resolution, because the Cabinet does not serve the President as a mechanism for conflict resolution. Hence, lack of Cabinet status imposes no greater burden on the President. Cabinet status offers no particular leverage in dealing with the heads of other agencies. A number of conflict-resolving mechanisms--below the President--exist: CEQ, OMB, OST, and the Domestic Council, and these will be adequate to settle disputes between the EPA and other agencies. Especially useful will be the CEQ, as it was created to take just such a role.

Locating the EPA within an existing Department would allow some conflicts to be settled internally. But as no Department spans all environmental activities, some disputes would have to be resolved externally. Hence, we will still have the problem. Indeed, disputes with other Departments and agencies may be more frequent, because of the bias (existing or presumed) of the Department housing the pollution programs.

E3. Q. Would the EPA regulate the activities of other Federal agencies?

A. The EPA would regulate the activities of other agencies in the limited sense that it would establish pollution control standards with which the other agencies would be expected to comply. This is similar to the regulations now governing pollution from Federal facilities and to the authority of the CEQ to comment on Federal projects.

E4. Q. Won't the centralization of pollution programs in one agency weaken the interest and competence of other agencies in carrying out pollution control activities related to their own expertise or programs?

A. Formation of the EPA will not weaken the interest of other agencies because environmental considerations will remain a matter of public and Presidential concern. Furthermore, the National Environmental Policy Act of 1969 specifically directs all agencies of government to weigh the environmental consequences of their activities. The CEQ is specifically charged with seeing that the objectives of this Act are carried out. It is now a matter of law that Federal agencies have an interest in environmental matters and must develop a competence to deal with them. The centralization of pollution control functions in a single agency will make it easier for other agencies to determine alternatives to minimize negative environmental impact of their activities.

The competence of other agencies will not be weakened because the plan was careful to avoid doing this. Under the plan, agencies other than just the EPA would be expected to continue the development of pollution control technologies. Also, certain specific functions were not transferred so as to avoid weakening the

agencies. Thus, for example, the AEC will continue to be responsible for engineering specifications for nuclear reactors, and Interior will continue to be responsible for solid waste research with respect to minerals.

E5. Q. Will creation of the EPA really change anything, since expertise on pollution problems will still be widely scattered in other Federal agencies?

A. Although expertise on some aspects of pollution control will still be located in other agencies (see E4. above), as well as in universities and in industry, the central responsibility will be located in the EPA. One of the major purposes of the plan is to provide a focus of responsibility for overall pollution control. One of the principal difficulties under the present organization is that divided authority and program responsibility does not allow a clear focus on the nation's pollution problems.

The EPA will need to have the competence necessary to utilize the information it obtains from other sources, and it thus will be required to have across-the-board expertise and competence and to become a central cognizance point for expertise on pollution problems.

E6. Q. How will it be assured that the EPA does not become too narrow an advocacy agency, adopting anti-pollution standards which are either economically or technologically infeasible, to the detriment of other national growth considerations?

A. The new agency will have a vested interest in preserving its credibility with the Congress and the rest of the Federal government, which will mitigate strongly against the promulgation of unreasonable standards. Also, success in abating pollution depends on having realistic standards, and thus the new agency will be required to weigh all relevant factors in the setting of standards. The authorities which the EPA will assume under existing legislation contain numerous safeguards relating to the standard-setting function. For example, the air pollution standard-setting process involves publication of available control techniques, and both the air pollution and the water pollution process calls for hearing on proposed standards. Within the EPA there will be established an economic analysis staff to assist in evaluating the economic impact of pollution control standards.

E7. Q. Won't the transfer of pollution control programs out of agencies such as the Interior and Agriculture Departments make impossible intelligent resource planning?

A. Intelligent resource planning will generally be made easier because of the existence of a single agency able to give advice on the total range of pollution control problems. The one area where extensive coordination will be required concerns the relationship of water resource activities and water pollution control. Such coordination is feasible. Consideration of water resource projects now involves the coordination of several Federal agencies, and creation of the EPA would not significantly increase the amount of coordination necessary.

E8. Q. Won't the establishment of an organization focusing on only one aspect of environmental quality (anti-pollution) make it difficult to broaden the concept or organizational base in the future?

A. There is no consensus on what aspects of public policy are encompassed within the term "environmental quality." It is sounder to take on a

manageable and well-defined job than to attempt to deal with all aspects of environmental quality, a task which is clearly unmanageable, given our current knowledge and resources. As we increase our understanding of the environment, the concerns of the agency may be expanded beyond the immediate urgent need to control pollution. However, the agency should focus for the present on doing as effective a job of pollution control as possible, and will have its hands full doing that. Regardless of advances in our understanding, it is likely that important aspects of environmental quality will continue to be properly located in other Departments, e.g., birth control in the health agency, and housing quality in the housing agency.

E9. Q. Won't establishment of the EPA cause considerable disruption of ongoing pollution abatement programs? What about morale? Will any personnel refuse to be transferred?

A. There will inevitably be some disruption of ongoing programs as a result of reorganization. Careful planning, however, can minimize the disruptions by anticipating problems. The new agency will be acquiring a large number

of experienced personnel, which will ease the problems of transition.

Existing personnel of the various anti-pollution agencies are dedicated to their work. Giving this work the status of a separate new agency should boost, not destroy, their morale.

Special provisions will be made for the 600 (approximately) members of the Public Health Service Commissioned Corps, who might otherwise find the transfer from one personnel system to another somewhat of a hardship.

E10. Q. What will be the effects on the Departments from which agencies are being transferred, such as Interior, Agriculture, and HEW?

A. In no case will the ability of the existing Departments to perform their primary mission be impaired. In some cases the functioning of the existing Departments will be improved because they will be freed of functions involving potentially embarrassing conflicts of interest, such as Agriculture's regulation of pesticides and the AEC's establishment of environmental radiation standards.

El1. Q. Won't the transfer of such programs as pesticides and radiation effects research necessitate duplication of these programs in the losing agencies (e.g., HEW, AEC) which carry out related programs?

A. Functions to be transferred from existing agencies have been carefully examined, with a view toward minimizing duplication on the part of losing agencies. In each case where a function or activity is more properly related to the overall mission of that Department than to the new environmental agency, that function or activity has not been transferred. Creation of the EPA should result in a net reduction in the duplication of pollution control functions, and future duplication can be prevented through the budgetary process.

El2. Q. Is it desirable or necessary to create an additional agency reporting to the President?

A. The Ash Council has operated on the general principle of trying to reduce the burdens on the President and his Executive Office. However, the creation of an agency to provide focus and leadership in the pollution control effort was considered more important from the

viewpoint of good administration than the
fact that it represents another independent
agency.

F. Functions and Operation of the EPA

F1. Q. Will the EPA consider the economic impact as well as health and aesthetics in its abatement programs?

A. Yes. The EPA will be responsible for considering all relevant factors in determining standards. It will draw on the expertise of other agencies and sources outside the government, as well as its own in-house capability, to provide the information necessary to weigh such factors.

F2. Q. What will be the role of the EPA in future national growth policy planning? population studies? resource or land use planning?

A. The EPA will be responsible for the pollution control aspects of such matters as growth policy, population studies, and resource and land use planning, but many other aspects of such questions are equally important. The EPA will not have the primary responsibility for such matters unless, at some future time, it is given such a charge by the President or the Congress.

F3. Q. How will the EPA work with state and local governments?

A. The formal relationship between the EPA and state and local governments will be governed by the existing statutory functions transferred. Interaction between the Federal government and state and local governments should be significantly improved by formation of the EPA because the states and localities will be able to deal with a single Federal agency on pollution matters. A number of state and local governments are now implementing or considering consolidations similar in purpose to the EPA plan.

F4. Q. What will be the regional organization of the EPA?

A. This has not yet been determined, nor has the internal structure of the EPA. These decisions will be left to the Administrator of the EPA. He must weigh the advantages of the "problem-shed" approach of NAPCA and FWQA against the disadvantages of different boundaries for different problems. In particular, as states and regions consolidate their environmental activities, it will be advantageous to them

to approach one regional office for assistance with all forms of pollution abatement.

F5. Q. Will the EPA decide such questions as the Florida jetport? the Alaska pipeline? the supersonic jet?

A. No, because such decisions should not be made only on the basis of environmental hazards, but should take full account of such hazards. In the final analysis, the decision should usually be made by the Department or agency with primary responsibility for the program. However, the EPA should bring its knowledge to bear on such decisions, and should be vigorous in advancing its views at the Presidential level, where the major issues often eventually have to be resolved.

F6. Q. What is the relationship of the EPA to the CEQ? the Domestic Council? OST? the Justice Department?

A. In many cases the EPA will turn to the CEQ for advice and assistance, because as a Presidential staff agency the CEQ can be helpful. The CEQ will often look to the EPA for information and advice because of

its much greater staff resources.

The Domestic Council will provide an additional forum for resolving interagency issues.

The relation of EPA and OST will be like that of any agency with scientific and technical interests to OST. The latter will continue to elicit scientific and technical advice from within and outside government on broad policy matters. The EPA will provide its own advisory machinery for scientific and technical matters which bear directly on its operating responsibilities.

The Justice Department will relate to the EPA as it does to other agencies, representing the U. S. government in court.

F7. Q. Will the Administrator of the EPA be a member of the Domestic Council?

A. It has not yet been decided whether the Administrator will be a full-time member of the Council. He would participate in Domestic Council deliberations when environmental matters are on the agenda.

F8. Q. What will happen to the interagency subcommittees under the Cabinet Committee on the Environment,

and to other Federal interagency committees dealing with environmental matters, after the EPA is established?

- A. The CEQ is now doing a review of all interagency committees dealing with the environment. After the formation of the EPA, the need for inter-agency coordination will be lessened, but some such committees will still be needed.

F9. Q. Will the EPA subsume all the functions of the Federal Radiation Council?

- A. Yes. The FRC was established at a time when the nation was extremely concerned with fallout from nuclear testing and before most of the current coordinating mechanisms were established in the Executive Office of the President. Inter-agency consultation and coordination concerning radiation matters will be necessary, but this can be handled adequately by the EPA with the assistance, if necessary, of the CEQ, OST, the Domestic Council, and the OMB.

F10. Q. How will the EPA set standards? Will any other agencies or private groups participate in this process?

- A. The EPA's standard-setting authority and procedures will be set in accordance with procedures required by existing statute (the Water Pollution Control Act, the Clean Air Act, etc.), which provide for consultation with all interested agencies and groups.

F11. Q. Will the EPA have its own monitoring and inspection network to insure compliance with pollution control standards?

- A. The EPA will rely on other agencies, such as ESSA and the Geological Survey, to perform much of the necessary monitoring. It will undertake its own monitoring and inspection when the results are necessary for the performance of its mission and the work is not being undertaken by other agencies. It will have the responsibility for reviewing all Federal pollution monitoring activities to insure coordination and adequate coverage.

F12. Q. Who will carry out the actual enforcement of standards and litigation?

- A. The enforcement of standards will generally be governed by existing statutory authority. In the case of environmental radiation standards,

enforcement will remain in the AEC. In the case of pesticides on food, enforcement will remain with FDA; however, the EPA will monitor and supplement FDA's surveillance. Litigation of Federal cases will be conducted by the Justice Department.

F13. Q. What kind of research will the EPA obtain through contracts to other agencies or private institutions? What research will be done in-house?

A. The EPA will contract for all types of research, but particularly for research on controls technology and for basic research on health and ecology. In-house research will be primarily directed at the standard-setting effort and will deal with the effects of pollution and the paths of pollutants through the environment.

F14. Q. How will the EPA be organized internally? How long will this take?

A. Although there has been extensive staff work on this, the specific internal structure of the EPA has not yet been cast, since such a decision must await the appointment of an

Administrator. It is agreed that for certain functions, such as research related to the establishment of standards, the new agency should not be organized on media lines. Thus existing agencies, such as NAPCA and FWQA, will to some extent be merged (lose their organizational identify), rather than simply being placed under a common chief.

It will take some time for the EPA to be fully organized internally. There are many difficult problems involved in establishing a new agency based on a new way of looking at the environment, and some problems, such as reorganizing laboratory facilities, will take several months and perhaps even a year or two to solve fully. Internal reorganization, if it is to succeed, must be achieved at an ordered pace, minimizing where possible disruption to ongoing activities.

F15. Q. Will the EPA control disposal of wastes at sea?

A. To the extent that FWQA now controls such disposal under the authority of the Federal Water Pollution Control Act, it will continue to do so.

F16. Q. Will the EPA handle agricultural run-off problems?

A. The EPA will be concerned with agricultural run-off as part of its responsibility for water pollution control.

F17. Q. Will the EPA control disposal of radioactive wastes?

A. The EPA will be responsible for general environmental radiation standards and guidelines for all nuclear activities, including the disposal of radioactive wastes. Nuclear activities are conducted within controlled "exclusion" zones by Federal agencies or under license. The EPA's standards or guidelines will apply at the boundaries of these zones and require that the flux of radioactive material passing over the boundary be less than these. Other agencies will regulate the activities within the zones to meet the EPA's general environmental standards and guidelines.

F18. Q. Will the EPA set radiation standards for other Federal facilities?

A. No, it will provide guidelines. No Federal agency regulates the activities of another, as would be implied by the word "standards."

It is not necessary for any agency to regulate the activities of another, as all Executive Branch agencies are considered equal. Executive Orders, such as the President's recent statement on environmental activities of Federal agencies, provide policy guidance. The President has directed (Executive Order of February 4, 1970) that all Federal agencies follow the FRC recommendations and AEC (part 20) regulations as guidelines in their activities. This Order also gives responsibilities to the Secretaries of HEW and Interior with respect to air and water pollution, and we would expect that this Order will be revised to conform to the proposed reorganization.

F19. Q. Will the Geological Survey in the Department of the Interior continue to be in charge of ground water pollution?

A. The USGS will continue to be the principal Federal agency with expertise in hydrology. The EPA will have responsibility for water pollution, but will depend on the USGS for its knowledge of the migration and flow of ground water in aquifers.

F20. Q. Will all of the Federal government's licensing and standard-setting authority with regard to pesticides be transferred to the EPA?

A. Yes. EPA will have the authority to register pesticides prior to their marketing under the Federal Insecticide, Fungicide, and Rodenticide Act formerly administered by USDA. In addition, EPA will have the authority to set limits on the allowable pesticide residues on raw agricultural products and for pesticides as food additives in processed foods under the Federal Food, Drug, and Cosmetic Act.

F21. Q. Will the USDA have a veto over the EPA's pesticide registration decisions? Will there be any agreement worked out on the relationship between USDA and EPA?

A. USDA will not have a formal veto over the EPA's pesticide registration decisions any more than any other department would, although if Agriculture indicates that a pesticide is not effective in killing pests, the EPA certainly would not approve its registration.

F22. Q. HEW, Interior, and USDA all review pesticide labels at present. Will these agencies

continue to review these labels after EPA assumes responsibility for administering the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)?

- A. The review of pesticide labels is an administrative arrangement developed by the Secretary of Agriculture to assist him in carrying out his responsibilities under FIFRA. The decision on whether or not this arrangement or some modification of it should be continued will be the responsibility of the new Administrator of the EPA. However, it is clear that the EPA will depend on the three agencies to provide data derived from the basic research carried out by them. To the extent that EPA does its own research in this area, it will concentrate its resources on the environmental effects of pesticides and will expect USDA, in particular, to provide advice concerning the efficacy of particular pesticides.

F23. Q. Will the EPA enforce its licensing and standard-setting decisions with regard to pesticides?

- A. The EPA will carry out all enforcement actions which are necessary to insure compliance with

the Federal Insecticide, Fungicide, and Rodenticide Act. With regard to the enforcement of food tolerances, recommendations for legal action will remain with the FDA. The surveillance and legal action functions are left with the FDA because of its overall authority for the protection of the nation's food, and the fact that these pesticide functions are carried out in close conjunction with FDA's surveillance and enforcement with regard to other food hazards. USDA will continue to enforce pesticide tolerances in its meat and poultry inspection programs for the same reasons. The EPA will supplement, where necessary, FDA's field surveillance.

F24. Q. Will the EPA do all of the research related to pesticides?

A. No. The EPA will look to USDA, Interior, and HEW to do research on the efficacy of pesticides and basic research on the effects of pesticides. The EPA will have authority and funds to conduct research on problems arising in the course of regulatory actions, and other agencies, such as USDA, HEW, and

Interior, with particular capabilities, will be expected to cooperate fully in obtaining answers to such questions.

No attempt is being made to centralize all research in the new agency, since much of that research is closely related to other agencies' missions. EPA must have a broad research authority, however, in order to ensure that its standard-setting judgments are fully informed, and that the total Federal research effort is balanced and complete.

In the area of the effects of pesticides on fish and wildlife, Interior has offered to let EPA equip or build facilities adjacent to the existing laboratories of the Bureau of Sport Fisheries and Wildlife (particularly the Patuxent and Columbia, Mo., laboratories) so as to ensure that the two agencies' research on related subjects is well coordinated and that the EPA will have access to these unique laboratories.

F25. Q. Will the EPA carry out all monitoring connected with pesticides?

A. The EPA will have responsibility to see that the total national monitoring effort is adequate.

Much of the actual sampling and analytical work will be done by agencies carrying out such work for other purposes, e.g., Interior and FDA. The results of the various monitoring efforts will be made available to the EPA. The EPA will have the authority to do supplementary monitoring in all areas where necessary.

F26. Q. What will be the impact on FDA's food additive program of transferring to EPA the FDA's authority to set tolerances for pesticides which, in the case of both research and enforcement, are often treated as food additives?

A. Efforts will be made to coordinate the two agencies' research programs in order to ensure that duplication of research does not occur. The EPA will focus on the toxicological effects of chemicals which are found generally in the environment, such as pesticides, sulfur and lead. FDA will focus on drugs and chemicals which are found primarily in food. The EPA will have the lead with regard to pesticides. Will regard to surveillance and enforcement, FDA will retain this responsibility for pesticides in food, and therefore will be able to

carry out a coordinated food protection program covering both pesticides and other hazards in food.

The general food additive authority of FDA was not transferred to the EPA, since the EPA will concentrate its efforts on those chemicals which are found in several media and which are the subject of concern both for man and for other inhabitants of the environment, such as fish, wildlife, and plants. Pesticides clearly fall within the EPA's jurisdiction. Other food additives, which as a class are restricted to man's food, do not.

F27. Q. Will the EPA use the Agricultural Extension Service to give technical assistance to the public on pesticides?

A. Yes.

F28. Q. How will the EPA's radiation monitoring relate to that carried out by the AEC?

A. Both the EPA and the AEC will do monitoring, as do the AEC and HEW now.

F29. Q. How will the EPA's water pollution program relate to Interior's work on desalinization?

A. The results of Interior's R&D on desalinization may be useful to the EPA in its development of new methods of waste water treatment. There should be no problem in the EPA's obtaining the results of this R&D work by interagency agreement.

F30. Q. Are some of the EPA's staff going to be members of the Public Health Service Commissioned Officers' Corps and others not?

A. Many of the EPA's personnel will be people who are now PHS officers. Once in EPA some will become Civil Service employees, while others will be detailed from the Public Health Service. The exact details of this transfer are being worked out by the Surgeon General and the OMB. The objective is to protect the rights of the individuals involved and to provide the EPA with the skilled personnel it needs.

F31. Q. The states now do environmental health planning and projects under the Partnership for Health program. Will this program continue? Will the EPA be in charge?

A. The amount of environmental health planning now done under Partnership for Health is rather small. That portion of it which is closely related to other health concerns would continue under the program and would be under the jurisdiction of HEW, not EPA.

F32. Q. How will the EPA relate to those agencies carrying out consumer protection or occupational safety and health functions (e.g., Bureau of Mines, FDA, Bureau of Occupational Safety and Health in HEW, registration of radioactive emissions from electronic products in HEW, the Labor Department)?

A. These agencies will utilize the research and the standards developed by the EPA, and the EPA in turn will use data developed by these agencies. Although some degree of coordination will be necessary, it will not be overly burdensome.

F33. Q. Why should pesticide functions be included in the EPA?

A. Pesticides are a major class of pollutants that are present in all environmental media, and they have serious harmful effects on

human health, plants, and animals similar to those of other contaminants. At the present time, pesticides control is one of the most organizationally fragmented of all the Federal anti-pollution efforts.

F34. Q. Why does the EPA need to have standard-setting authority for pesticides on food (from FDA) when it will have authority under FIFRA for the certification of all pesticides (from the Department of Agriculture)?

A. Under the present law, tolerance setting for pesticides on food is the only real check on the use of pesticides according to label. Tolerance levels for human health play an important part in determining conditions of use.

In order for the EPA to set comprehensive standards, it will need this authority--as well as the expertise on the toxicological aspects of pesticides now located in both the FDA and the Agriculture Department.

F35. Q.. If the FDA tolerance setting is moved to the EPA, why must some health research also be moved?

- A. It is essential that the EPA have in-house capability to determine health effects in order to ensure that the information needed to set realistic tolerance and registration standards is readily available.

The EPA will depend on at least three other agencies and the private sector for basic research related to pesticides, but experience has shown that agencies required to make rapid and specific regulatory decisions cannot always rely on other agencies to provide the necessary data when it is needed. Hence, the EPA will have to have in-house capability to do applied research.

F36. Q. Why should the EPA control the stack emissions in fossil fuel power plants, but only control radiation concentrations at the boundaries of nuclear facilities?

- A. In essence, conventional power plants have a smaller controlled-access area than nuclear facilities. Within the control area of a nuclear facility, the only people exposed to radiation hazards are the workers. Their occupational safety and health are ensured

by the activities of other agencies, Federal and state. The EPA is concerned with environmental hazards to the public.

G. Relationship of the EPA Proposal to the Marine Proposal

G1. Q. Shouldn't the EPA be responsible for marine pollution, along with other forms of pollution?

Doesn't the transfer of the oceanic package to the Commerce Department just continue the fragmentation of pollution abatement efforts along media lines?

A. None of the programs transferred to the Commerce Department has any statutory authority relating to pollution control. Hitherto, FWQA in the Department of the Interior has been responsible for ocean pollution problems, and under the recently enacted amendments to the Federal Water Pollution Control Act its authority is expanded. Thus the EPA, not the Commerce Department, will have authority over pollution of the oceans.

G2. Q. If the EPA is to be responsible for controlling marine pollution, shouldn't it have the marine programs to provide it with a scientific base?

A. The oceans have been singled out for special attention because they represent a potentially large but hitherto essentially unexplored area

of resource development and scientific inquiry. We anticipate that the EPA will draw heavily on the Commerce Department for oceanographic monitoring and analysis, just as it will rely on ESSA for monitoring and prediction of weather changes and river flows.

G3. Q. Why wasn't the whole oceanographic and atmospheric package, including ESSA, transferred to the EPA?

A. The reasons for the oceanographic and atmospheric proposal were not related to pollution control, and the functions of the Department of Commerce with respect to the oceans will not directly affect the functions of the EPA. The scientific findings of the oceanographic and atmospheric agencies will have some bearing on the EPA's work, but these findings will be readily available to the EPA. Also, the EPA will be able to contract with Commerce for specific monitoring or research projects. In short, the primary mission of the EPA is the control and prevention of pollution, and this is not a mission or function of the oceanographic and atmospheric agencies.

Index

Agriculture, Department of, B2; C3, 7, 9, 12; D2-5;
E7, 10; F21-24, 34

Agricultural Extension Service, F27

Agricultural run-off, F16

Air pollution, B3, 5; C12, 15; E6; F36

Alaskan pipeline, F5

Atomic Energy Commission, C6; E4, 10, 11; F12, 18, 28

 National Laboratories of, C13

Cabinet Committees, see Committees

Clean Air Act, F10

Commerce, Department of, C3; G1, 3

 Economic Development Administration, C3

 Environmental Science Services Administration,
 C17; F11; G2, 3

 National Oceanic and Atmospheric Administration
 (NOAA), G1

Commissioned Officers, E9; F30

Committees,

 Cabinet, F8

 interagency, F8

Conflicts, interagency, D1-3, 5; E2-4

Consumer protection, A5; F32

Council on Environmental Quality, C16; D4; E1-4; F6, 9

Defense, Department of, D1, 2

Desalinization, F29

Domestic Council, E2; F6, 7, 9

Economic analysis, E6

Enforcement, F12

Environmental interests, weakening of, E4

Environmental Protection Agency,

 advantages of, A3; B5; D4

 cabinet status, E2

 competence of, E5, 6

 credibility of, E6

 implementation of, F14

 independence of, D1, 2-4; E12

 interagency interactions, A2; B2, 6; C4, 7-10,
 12-17; D5; E1-3, 7, 8, 10, 11; F6, 8-12,
 17-29, 34, 35; G1-3

 internal structure, D4; F4, 14

 mission, A2, 3; C5; E1, 5, 6; F36; G1, 2

 future, E8

 narrow advocacy, E6

 pesticides, B2

 radiation, B1

 regional organization, F4

 research, A2; B6; F13

EPA, see Environmental Protection Agency

Executive Office of the President, C16; E1

Executive Orders, F18

FDA, see Health, Education, and Welfare

Federal Food, Drug, and Cosmetic Act, B2

Federal Insecticide, Fungicide, and Rodenticide Act
 (FIFRA), B2; F20, 22, 23

Federal Radiation Council, F9, 18

Federal Water Pollution Control Act, F10, 15; G1

Florida jetport, F5

Food, B2

Food, Drug, and Cosmetic Act, see Federal Food, Drug, and Cosmetic Act

Food regulation, C2

FWQA, see Interior

Health, Education, and Welfare, Department of, B2-4, 6; C2, 4, 6, 7; D1, 4; E9-11; F18, 22, 28, 30, 31

Bureau of Occupational Safety and Health, F32

Bureau of Water Hygiene, B4

Food and Drug Administration, B2; F12, 20, 23, 25, 26, 32, 34, 35

National Air Pollution Control Administration, A1; B3; C7, 12, 17; F4, 14

National Institute of Environmental Health Sciences, C10; D1

Office of Education, C11

Health research, B6; D1; E11; F35

Housing and Urban Development, Department of, C3, 4, 9; D2, 3

Interior, Department of the, B2, 4; C6, 7; D2; E2, 4, 7, 10; F18, 22, 24, 25; G1

Bureau of Commercial Fisheries, B2

Bureau of Mines, C9, 15; F30

Bureau of Sport Fisheries and Wildlife, B2; F24

Federal Water Quality Administration, A1; B3, 4; C7; D2; F4, 14, 15; G1

transfer in 1966, B4

Interior, continued

Geological Survey, U. S., C7; F11, 18

National Park Service, D2

Justice, Department of, F6, 12

Labor, Department of, C6

Media,

air, A1; B1, 2, 3

food, B2; F12, 34

soil, B1

water, A1; B1

Monitoring,

food, F23, 25, 26

network, C7; F11

radiation, F28

NAPCA, see Health, Education, and Welfare

National Environmental Policy Act of 1969, E4

National growth policy, F2

National Science Foundation, C14

National Center for Atmospheric Research, C14

Natural resources, D2

NOAA, see Commerce

Noise pollution, C1

Occupational safety and health, C6; F32

Office of Management and Budget, E2; F9, 30

Office of Science and Technology, E2; F6, 9

Organizational structure,

existing, A1

disruption of, E9, 10

problems with, A1; B2; D4; F33

Partnership for Health, F31

Personnel, E9

Pesticides, A1; B2; D3, 5; E10, 11; F12, 20-27, 33, 34

Population studies, F2

Problem-sheds, F4

Public Health Service, see Commissioned Officers

Radiation, A1; B1; E10, 11; F9, 12, 17, 18, 32, 36

Radioactive wastes, F17

Recreation, C5

Reorganization,

advantages of, A3, 4; E4, 11

consumer programs, A5

implementation, A4

principles of, A1, 2; B5; C1, 3-10, 15-17; D4, 5;
G1-3

Residuals management, B5

Resource planning, E7; F2; G2

Sewer programs, C3

Solid wastes, A1; B5; C9

SST, F5

Standard setting, D5; E5, 6; F1, 10, 18, 34, 35

State and local agencies, D3; F3, 31

Surgeon General, F30

Transportation, Department of, C1, 6, 15; D2, 3, 4

Urban problems, C4; D3

Waste disposal at sea, F15

Water pollution, B4, 5; E6, 7; F16, 18, 29

Water Pollution Control Act, see Federal Water
Pollution Control Act

Weather modification, C8