

August 2003

ENERGY TASK FORCE

Process Used to Develop the National Energy Policy



G A O

Accountability * Integrity * Reliability



Highlights of [GAO-03-894](#), a report to congressional requesters

Why GAO Did This Study

On January 29, 2001, the President established the National Energy Policy Development Group (NEPDG)—a group of cabinet-level and other senior administration officials, chaired by the Vice President—to gather information, deliberate, and recommend a national energy policy. The group presented its final report to the President in May 2001. GAO was asked to (1) describe the process used by the NEPDG to develop the *National Energy Policy* report, including whom the group met with and what topics were discussed and (2) determine the costs associated with that process.

Although appointed NEPDG Chair, the Vice President elected not to respond to GAO's request for certain factual NEPDG information. Accordingly, as authorized by GAO's access-to-records statute, and after exhausting efforts to achieve a resolution and following the processes specified in that statute, GAO filed suit in U.S. District Court to obtain the information. The district court later dismissed GAO's suit on jurisdictional grounds, without reaching the merits of GAO's right to audit and evaluate NEPDG activities or to obtain access to NEPDG records. For a variety of reasons, GAO decided not to appeal the district court decision.

DOE, Interior, and EPA reviewed the draft report and chose not to comment. OVP declined an offer to review the draft and comment.

www.gao.gov/cgi-bin/getrpt?GAO-03-894.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robert A. Robinson at (202) 512-3841 or robinsonr@gao.gov.

ENERGY TASK FORCE

Process Used to Develop the *National Energy Policy*

What GAO Found

According to the best information that GAO could obtain, the *National Energy Policy* report was the product of a centralized, top-down, short-term, and labor-intensive process that involved the efforts of several hundred federal employees governmentwide. In the 3 ½ months between the inception of NEPDG and its presentation of the final report, the Principals (the Vice President, selected cabinet-level and other senior administration officials) and their support staff (Support Group) controlled most facets of the report's development, including setting meeting schedules and agendas, controlling the workflow, distributing work assignments, rewriting chapters, and approving recommendations. Senior agency officials served on a select interagency Working Group, while the majority of agency staff working on the NEPDG effort played a tributary role, helping their agencies fulfill their NEPDG-related obligations and responding to the Support Group's subsequent requests for information, review, or comment.

In developing the *National Energy Policy* report, the NEPDG Principals, Support Group, and participating agency officials and staff met with, solicited input from, or received information and advice from nonfederal energy stakeholders, principally petroleum, coal, nuclear, natural gas, and electricity industry representatives and lobbyists. The extent to which submissions from any of these stakeholders were solicited, influenced policy deliberations, or were incorporated into the final report cannot be determined based on the limited information made available to GAO. NEPDG met and conducted its work in two distinct phases: the first phase culminated in a March 19, 2001, briefing to the President on challenges relating to energy supply and the resulting economic impact; the second phase ended with the May 16, 2001, presentation of the final report to the President. The Office of the Vice President's (OVP) unwillingness to provide the NEPDG records or other related information precluded GAO from fully achieving its objectives and substantially limited GAO's ability to comprehensively analyze the NEPDG process.

None of the key federal entities involved in the NEPDG effort provided GAO with a complete accounting of the costs that they incurred during the development of the *National Energy Policy* report. The two federal entities responsible for funding the NEPDG effort—OVP and the Department of Energy (DOE)—did not provide the comprehensive cost information that GAO requested. OVP provided GAO with 77 pages of information, two-thirds of which contained no cost information while the remaining one-third contained some miscellaneous information of little to no usefulness. OVP stated that it would not provide any additional information. DOE, the Department of the Interior, and the Environmental Protection Agency (EPA) provided GAO with estimates of certain costs and salaries associated with the NEPDG effort, but these estimates, all calculated in different ways, were not comprehensive.

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Abbreviations

DOE	Department of Energy
EPA	Environmental Protection Agency
NEPDG	National Energy Policy Development Group
OVP	Office of the Vice President

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United States General Accounting Office
Washington, D.C. 20548

August 22, 2003

Congressional Requesters:

As one of the new administration's first major actions, on January 29, 2001, the President created a group of cabinet-level and other senior federal officials, chaired by the Vice President, to develop a national energy policy. The President charged the group, called the National Energy Policy Development Group (NEPDG), with developing "a national energy policy designed to help the private sector, and government at all levels, promote dependable, affordable, and environmentally sound production and distribution of energy for the future."¹ NEPDG presented its final report to the President on May 16, 2001.² The report contained over 100 recommendations for executive actions or new legislation. The Congress is now considering the energy-related legislative proposals.

You asked us to examine the process used by the President's energy policy taskforce.³ Specifically, our objectives were to (1) describe the process used by NEPDG to develop the *National Energy Policy* report, including whom the group met with and the topics discussed at these meetings, and (2) determine the costs associated with that process. In order to close out this request, we are providing a limited analysis based on the best information that has been made available to us.

To address our objectives, we followed a two-pronged information gathering effort. First, starting in the spring of 2001, we began gathering information from several federal agencies involved in the report's development—the Department of Energy (DOE), the Department of the Interior (Interior), and the Environmental Protection Agency (EPA). At each of the agencies, we interviewed senior agency officials that were involved in the NEPDG effort and received written correspondence and other materials from them providing detailed responses to our questions. Agency officials based most of their answers on their best recollections or

¹Pres. Memorandum (Jan. 29, 2001).

²*National Energy Policy: Report of the National Energy Policy Development Group*. U.S. Government Printing Office (Washington, D.C.: May 2001).

³In April 2001, Representatives Henry A. Waxman and John D. Dingell asked us to examine the process and costs associated with the NEPDG. Subsequently, Senators Joseph I. Lieberman, Ernest F. Hollings, Carl M. Levin, and Byron L. Dorgan, chairs of their respective committees or subcommittees at the time of their request, also requested this analysis.

on information reconstructed from electronic schedules. Our meetings with officials yielded information regarding the meetings that Cabinet-level agency officials attended and meetings that agency officials held with NEPDG support staff (Support Group). Officials also provided us with selected information on meetings held with nonfederal energy stakeholders to discuss issues related to energy aspects of their agency's activities.

Second, also starting in spring of 2001, we initiated contact with the Office of the Vice President (OVP), as NEPDG Chair, to obtain NEPDG records responsive to your request. From the outset, OVP did not respond to our request for information, including descriptive information on the process by which the *National Energy Policy* report was developed, asserting that we lacked statutory authority to examine NEPDG activities. We were also denied the opportunity to interview staff assisting the Vice President on the NEPDG effort. As a result, throughout the spring and summer of 2001, we engaged in extensive attempts to reach an agreement with OVP on our information request in an effort to fulfill our statutory responsibilities in a manner that accommodated the Vice President's asserted need to protect certain executive deliberations. Importantly, we significantly narrowed the scope of our review by, among other things, withdrawing our initial request for minutes of NEPDG meetings. We also offered flexibility in how we would access certain documents. Despite our concerted efforts to reach a reasonable accommodation, the Vice President denied us access to virtually all requested information, with the exception of a few documents purportedly related to NEPDG costs that OVP provided to us. The Vice President's denial of access challenged GAO's fundamental authority to evaluate the process by which NEPDG had developed a national energy policy and to obtain access to records that would shed light on that process. As authorized by GAO's access-to-records statute, after exhausting the processes specified in that statute for achieving a resolution and receiving a request from two senate full committee chairs and two senate subcommittee chairs to pursue our evaluation,⁴ we filed suit in the U.S. District Court for the District of Columbia on February 22, 2002, to obtain

⁴31 U.S.C. § 717(b)(3) requires GAO to conduct evaluations requested by chairs of congressional committees of relevant jurisdiction.

the limited factual NEPDG information that we had requested.⁵ On December 9, 2002, the district court dismissed GAO's suit on jurisdictional grounds, without reaching the merits of GAO's authority to audit and evaluate NEPDG activities or to obtain access to NEPDG records.⁶ After considerable bipartisan outreach efforts to the Congress, GAO decided not to appeal the district court decision.⁷ A detailed chronology of our efforts to obtain access to NEPDG records can be found on GAO's Web site.

OVP's unwillingness to provide NEPDG records and other related information precluded us from fully achieving our objectives in accordance with generally accepted government auditing standards and substantially limited our ability to answer the questions you asked and the depth of our analysis. Yet, given the unique circumstances surrounding this request, our protracted attempts to acquire this information, and the availability of certain related documents in the public realm, we gathered and analyzed available information on the NEPDG effort to provide as robust an account as possible under the circumstances. Specifically, in order to more fully analyze and describe the NEPDG report development process, beginning in March 2002, we obtained, reviewed, and analyzed NEPDG-related information from federal agencies involved in the NEPDG effort that was

⁵As authorized by 31 U.S.C. § 716(b)(1), the Comptroller General sent a formal request for the NEPDG records to OVP on July 18, 2001. After a requisite 20-day period passed without any meaningful action, the Comptroller General reported on August 17, 2001, to the Congress, the President, the Vice President, and other officials, that OVP had not provided the requested information. After a second requisite 20-day period passed, again without any meaningful action, and subsequent to a reasonable amount of time after the tragic events of September 11, 2001, and additional attempts to reach resolution of this matter, the Comptroller General filed suit on February 22, 2002, as authorized by 31 U.S.C. § 716 (b)(2). The executive branch chose not to invoke the "safety valve" certification mechanism in 31 U.S.C. § 716 (d)(1)(C) that would have precluded GAO from taking the unprecedented step of going to court. Furthermore, the President did not seek to protect the information from disclosure by claiming that it was subject to executive privilege.

⁶*Walker v. Cheney*, 230 F. Supp. 2d 51 (D.D.C. 2002).

⁷Although GAO believes the district court's decision is incorrect, as detailed in the Comptroller General's statement on February 7, 2003, continuing to pursue GAO's access request through the courts would have required significant time and resources over several years. At the same time, several private litigants are seeking much of the same NEPDG information from OVP that GAO sought, and we plan to obtain those records, if these cases are successful. Moreover, because the district court's decision in GAO's case did not reach the merits of GAO's audit or access authority, the decision in no way diminishes these authorities or the obligation of agencies to provide GAO with information. The court's decision is confined to the unique circumstances posed by this particular case and does not preclude GAO from filing suit on a different matter involving different facts in the future.

released under court order in four other ongoing lawsuits filed under other statutes.⁸ The agencies releasing documents included DOE, Interior, and EPA, as well as the Department of Transportation, Department of Commerce, Department of Agriculture, and the Office of Management and Budget. We could not independently verify some of the information contained in these documents because the agencies had redacted data from more than one-third of the pages. The agencies asserted that the redacted information was exempt from production under the Freedom of Information Act because it reflected deliberative processes among other things. For the thousands of pages that contained some information responsive to our objectives, we compared and contrasted their contents, sought corroboration from other sources, and pieced together a general description of the *National Energy Policy* report development process. Included in these pages were several hundred E-mails and other documents generated by OVP or the Support Group. Some of these documents revealed information about the process used to develop the NEPDG report, but none of them contained cost information beyond that which we had previously obtained.

Results in Brief

According to the best information that we could obtain, the *National Energy Policy* report was the product of a centralized, top-down, short-term, and labor-intensive process that involved the efforts of several hundred federal employees governmentwide. NEPDG—comprised mostly of cabinet-level officials (Principals)—and its Support Group—comprised mostly of select DOE officials detailed to OVP—controlled most facets of the report’s development. Officials from each participating agency served on a select interagency working group (Working Group), which prepared draft report chapters for the Principals’ review. Agency staff played a tributary role, helping their respective agency complete its NEPDG-related

⁸These suits have since been consolidated into two lead suits: *Natural Resources Defense Council v. Department of Energy*, No. 1:01CV2545 (D.D.C.) (filed under the Freedom of Information Act (FOIA)), and *Judicial Watch, Inc. v. NEPDG et al.*, No. 01-1530 (D.D.C.) (filed under the Federal Advisory Committee Act (FACA) and other statutes). OVP has refused to produce any documents to date in either litigation and the Vice President filed an action in the U.S. Court of Appeals for the D.C. Circuit seeking to have the latter district court case dismissed. See *In re Cheney*, No. 02-5354 (D.C. Cir.). On July 8, 2003, the D.C. Circuit denied the Vice President’s petition in the D.C. Circuit; the Vice President is seeking rehearing of this denial. As part of the court proceedings in the consolidated FACA cases, DOE, Interior, and EPA produced interrogatory responses, which were provided to us. Certain documents generated by OVP personnel were produced in the *NRDC v. DOE* FOIA cases, but these were produced by other agencies, not by OVP.

assignments, providing draft outlines and chapters to the Working Group and Principals, and responding to the Support Group's subsequent requests for information, review, or comment. In developing the *National Energy Policy* report, the Principals, Support Group, and participating agency staff also met with, solicited input from, or received information and advice from nonfederal energy stakeholders, principally petroleum, coal, nuclear, natural gas, and electricity industry representatives and lobbyists. To a more limited degree, they also obtained information from academic experts, policy organizations, environmental advocacy groups, and private citizens. The extent to which submissions from any of these stakeholders were solicited, influenced policy deliberations, or were incorporated into the final report is not something that we can determine based on the limited information at our disposal. Nor can we, because of OVP's unwillingness to provide us with information, provide a comprehensive listing of the dates or purposes of these meetings, their attendees, or how the attendees, when solicited, were selected. NEPDG held periodic meetings and conducted its work in two distinct phases: the first culminating in a March 19, 2001, briefing on challenges relating to energy supply and the resulting economic impact; the second ending with the May 16, 2001, presentation of the final report to the President.

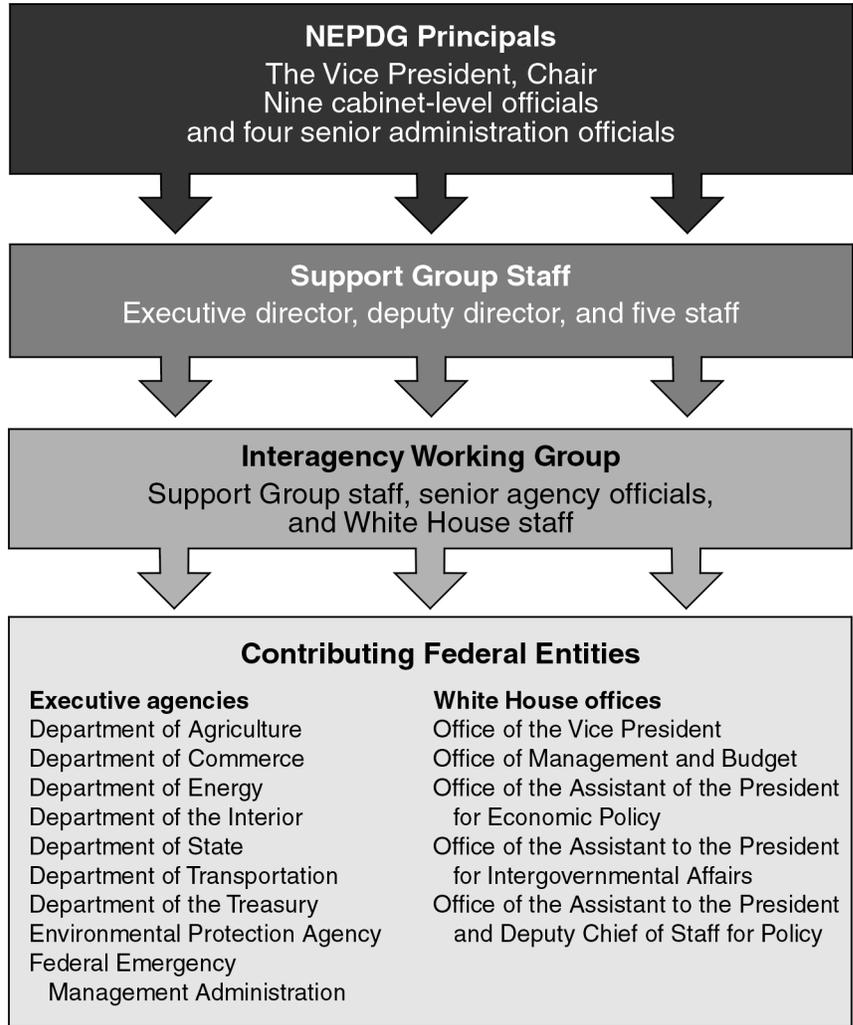
None of the federal entities involved in the NEPDG effort that we contacted provided us with a complete accounting of the costs that they incurred during the development of the *National Energy Policy* report. The two federal entities responsible for funding the NEPDG effort—OVP and DOE—did not provide us with the comprehensive cost information that we requested. Instead, OVP provided us with 77 pages of information, two-thirds of which contained no cost information or were essentially blank, while the remaining one-third contained some miscellaneous information—such as a meal receipt or telephone bills—of little to no usefulness. In response to our requests seeking clarification of the provided information, OVP stated that it would not provide any additional information. DOE, EPA, and Interior provided us with estimates of their costs associated with the report development process, but these estimates, all calculated in different ways, were not comprehensive. DOE provided us with selected cost information, including salary estimates for its employees detailed to OVP, printing and publication costs, and other incidental expenses. EPA and Interior provided salary cost estimates for some of their senior officials involved in the report's development. The precision of these estimates varied. Although most of the identified costs were salary-oriented, officials noted that employees did not specifically record the amount of time spent on NEPDG-related tasks because many of them

already worked on energy policy and thus would have likely conducted a substantial portion of the work even without the NEPDG project taking place. One agency cautioned us not to expect its salary estimate to be precise, noting that it had been primarily based on employee recollection and guesswork.

The *National Energy Policy* Report Was the Product of a Centralized, Top-Down Process

The *National Energy Policy* report was the product of a short-term, labor-intensive process that involved the efforts of several hundred federal employees governmentwide. In the 3½ months between NEPDG's inception and its presentation of the final report, the Principals and Support Group controlled most facets of the report's development, including setting meeting schedules and agendas, controlling the workflow, distributing work assignments, rewriting chapters, approving recommendations, and securing the report's contents from premature disclosure. Senior agency officials served on a select interagency Working Group, while the majority of staff working on the NEPDG effort played a tributary role, (1) helping their agency fulfill its NEPDG-related obligations, (2) providing NEPDG with analytical information, and (3) responding to the Support Group's subsequent requests for information, review, or comment. In developing the *National Energy Policy* report, the NEPDG Principals, Support Group, and participating agency staff also met with, solicited input from, or received information and advice from nonfederal energy stakeholders, primarily petroleum, coal, nuclear, natural gas, electricity industry representatives and lobbyists. To a more limited degree, they also received information from academic experts, policy organizations, environmental advocacy groups, and private citizens. NEPDG met and conducted its work in two distinct phases: the first phase culminated in a March 19, 2001, briefing on challenges relating to energy supply and the resulting economic impact; the second phase ended with a May 16, 2001, presentation of the final report to the President. Figure 1 depicts the top-down process and its participants.

Figure 1: Structure Used in Developing the *National Energy Policy*^a



Source: GAO.

^aAll of the tiers shown here to some extent met with, solicited input from, or received information and advice from nonfederal energy stakeholders.

Cabinet-Level Officials and Support Group Staff Controlled the Report Development Process

In a January 29, 2001, memorandum, the President established NEPDG—comprised of the Vice President, nine cabinet-level officials, and four other senior administration officials—to gather information, deliberate, and

make recommendations to the President by the end of fiscal year 2001.⁹ The President called on the Vice President to chair the group, direct its work and, as necessary, establish subordinate working groups to assist NEPDG. The President requested NEPDG to submit two reports: the first, an assessment of the difficulties experienced by the private sector in ensuring that local and regional energy needs are met; the second, a report outlining a recommended national energy policy designed to help the private sector, and as necessary and appropriate, federal, state, and local governments, to promote dependable, affordable, and environmentally sound production and distribution of energy for the future. More specifically, the memorandum mentioned four areas of concentration: (1) growing demand for energy; (2) the potential for disruptions in energy supplies or distribution; (3) the need for responsible policies to protect the environment and promote conservation; and (4) the need for modernization of the energy generation, supply, and transmission infrastructure.

NEPDG Principals

The 14 NEPDG members—the Vice President, 9 Cabinet-level officials, and 4 other senior administration officials—were responsible for developing the *National Energy Policy* report. In a series of formal meetings convened by the Vice President, the group presented briefings, received assignments and the latest drafts, and discussed agenda items and recommendations. The following list shows the NEPDG members.

- The Vice President, NEPDG Chair;
- The Secretary of State;
- The Secretary of the Treasury;
- The Secretary of the Interior;
- The Secretary of Agriculture;
- The Secretary of Commerce;

⁹In the *Judicial Watch* FACA litigation now pending in district court (see footnote 8), the plaintiffs contend that NEPDG membership was not limited to these federal officials but also included certain nonfederal parties. The court has not yet decided this issue, and this report takes no position on it.

-
- The Secretary of Transportation;
 - The Secretary of Energy;
 - The Director of the Federal Emergency Management Agency;
 - The Administrator of the Environmental Protection Agency;
 - The Director of the Office of Management and Budget;
 - The Assistant to the President and Deputy Chief of Staff for Policy;
 - The Assistant to the President for Economic Policy; and
 - The Deputy Assistant to the President for Intergovernmental Affairs.¹⁰

NEPDG formally convened 10 times between January 29, 2001, and May 16, 2001. Meetings were held on the following dates: January 29, February 9 and 16, March 12 and 19, April 3, 11, and 18, May 2 and 16, 2001.¹¹ All but two of the meetings were held in the Vice President's Ceremonial Office. According to OVP staff and other federal officials who attended these formal meetings, attendance was strictly limited to officers and employees of the federal government. These officials indicated that none of the Principals' meetings was open to the public nor did any nonfederal participants attend. However, no party provided us with any documentary evidence to support or negate this assertion. Due to space constraints, the Principals' meetings typically included the Vice President, the Principals and their accompanying staff, the Support Group, and members of the Vice President's staff. For meetings that took place when the Principals could not be present, or when the Principal had yet to be appointed, another agency official would attend instead. Agency officials participating in these meetings could not recollect whether official rosters or minutes were kept at the meetings.

¹⁰The President originally named the Assistant to the President for Intergovernmental Affairs as an NEPDG member. However, because the President had not appointed anyone to serve in this position, the Vice President instead invited the Deputy Assistant to the President and Director of Intergovernmental Affairs to attend the meetings.

¹¹NEPDG Principals met one more time on July 13, 2001, after the publication of the final report. We did not include this meeting in our total because it lay beyond the scope of our review.

The 10 Principals' meetings covered a variety of topics, depending on the status of efforts on the report and concerns raised about these efforts. The Support Group developed the meeting agendas and sent them out to agencies shortly before the meetings commenced. According to the proposed meeting agendas and our discussions with agency officials, the meetings generally lasted between 1 and 2 hours, and nearly all of them included a brief update on the California energy situation. The early meetings involved more procedural discussions than the later meetings, which focused more on a discussion of specific policy recommendations. (See table 1.)

Table 1: NEPDG Principals' Meetings from January 29 to May 16, 2001

Meeting date	Location	Meeting agenda
January 29, 2001	The Vice President's Ceremonial Office, Eisenhower Executive Office Building (EEOB)	A brief, ceremonial event at which the President announced the formation of NEPDG, its mission, membership, and chair.
February 9, 2001	The Vice President's Ceremonial Office, EEOB	(1) Status report on the California crisis, (2) Discussion of Senator Murkowski's and Congressman Barton's pending legislative initiatives, (3) Discussion of the seven working subgroups to be established: short-term energy supply; programs for consumers and low-income households; economic impact of energy; development of alternative and renewable energy sources; conservation and increased energy efficiency; increased production of traditional energy sources; infrastructure investment, integrity, and safety; and national energy security and international affairs.
February 16, 2001	The Vice President's Ceremonial Office, EEOB	(1) Briefing on California/Western electricity and natural gas situation, (2) Energy Information Administration briefing on its <i>Annual Energy Outlook 2001</i> , and (3) Review of final report outline.
March 12, 2001	The Vice President's Ceremonial Office, EEOB	An Energy Information Administration briefing, distribution of final draft interim report, discussion of rollout, and status update on final report.
March 19, 2001	The White House, Cabinet Room	Oral presentation of interim report to the President.
April 3, 2001	The Vice President's Ceremonial Office, EEOB	Discussions of the following issues/recommendations: Corporate Average Fuel Economy standards; a multi-pollutant strategy; nuclear energy; Outer Continental Shelf/Arctic National Wildlife Refuge; safe drinking water/hydraulic fracturing; energy efficiency. A last-minute agenda item was added shortly before the meeting.
April 11, 2001	The Vice President's Ceremonial Office, EEOB	Discussions of the following issues/recommendations: carbon dioxide, hydropower licensing, Coastal Zone Management Activities, tax credit issues, and permitting.

(Continued From Previous Page)

Meeting date	Location	Meeting agenda
April 18, 2001	The Vice President's Ceremonial Office, EEOB	(1) Update on California energy situation; (2) update on final written report to the President; (3) discussion of key report issues and proposed recommendations: energy policy principles, tax credit issues, New Source Review reform, reformulated gas, and electricity deregulation; and (4) an executive session without staff to further discuss proposed recommendations.
May 2, 2001	The Vice President's Ceremonial Office, EEOB	Agenda items: (1) Update on California energy situation; (2) Update on final written report to the President; (3) Discussion of following energy issues: spiking gasoline prices, refineries, New Source Review, boutique fuels, final report rollout status. An executive session followed for further discussion.
May 16, 2001	The White House, Cabinet Room	Presentation of final report to the President.

Source: GAO.

NEPDG Support Group

A support staff of seven—six DOE employees assigned to OVP and one White House fellow—assisted NEPDG in developing the *National Energy Policy*. The Support Group consisted of an executive director, a deputy director, two senior professionals, a communications director, the fellow, and a staff assistant.¹²

The Support Group served as the hub of the overall NEPDG effort and coordinated its workflow. Among its many tasks, the Support Group assigned specific responsibilities and chapters to individual agencies; established and presided over an interagency Working Group; scheduled and attended NEPDG-related meetings and determined their agendas; set internal deadlines; controlled the workflow; served as a central collection and distribution point for participating agencies' draft outlines, report chapters, comments, and recommendations; and drafted the final report. The executive director and deputy director also held meetings with various agency staff to discuss their agencies' input to individual chapters, conduct peer review sessions, and discuss other issues.

The Support Group did not generally discuss its activities with staff at the agencies. Instead the Support Group frequently used meetings as a forum to unveil new assignments, drafts, topics, and guidance for Working Group members to deliver back to their respective agencies. The Support Group staff, specifically the executive director and deputy director, provided

¹²Two members of the Support Group staff joined the NEPDG effort in April 2001: a senior professional, who was brought in to help draft the final report, and the communications director, who was brought in to develop a marketing strategy for rolling out the final report.

instructions to the Working Group participants and coordinated the activities of each participating agency. Agencies transmitted their work product to other Working Group members largely through the White House.

NEPDG Interagency Working Group

To coordinate the day-to-day work of developing the *National Energy Policy* report, the NEPDG executive director established an interagency Working Group, comprised of staff-level officials from each participating agency and several White House and Support Group staff. The NEPDG executive director and deputy director oversaw the Working Group's activities, instructed participating agencies on their roles and assignments, and facilitated communication among the Working Group participants. The Working Group developed a draft outline for the energy policy report and relayed work assignments to the agencies responsible for particular areas. Available information did not allow us to determine the number of Working Group meetings held or the number of attendees at any given meeting.

NEPDG members were free to assign one or more staff to the Working Group. The Working Group met frequently in February and March 2001 to review the latest outlines and drafts, report on the status of their specific assignments, represent agency views, provide comments to other agencies, and obtain further instructions. For example, the first Working Group meeting held on February 9, 2001, concentrated on the group's approach to developing a national energy policy and the milestones for completing the process. The second meeting held on February 13, 2001, focused on determining the chapters that would be included in the final report. Subsequent meetings typically involved a review of drafts in which the lead authors would lead discussion on a chapter's main points. Attendees would comment on the chapters or propose new or revised text for the group's discussion. The Working Group considered various alternatives in language, tone, and recommendations for the report and then decided on a particular course of action to recommend to the Vice President.

The Working Group met often in February and March 2001, generally several days before and immediately following the Principals' meetings. Most of these meetings took place in the Vice President's Ceremonial Office, although several had to be rescheduled elsewhere. Working Group meetings were frequently cancelled or postponed as a result of scheduling conflicts. In a sworn declaration submitted to the court in one of the

lawsuits seeking NEPDG records,¹³ the NEPDG deputy director stated that all attendees at the Working Group meetings were federal employees, with one exception—a contractor, who engaged in providing technical writing and graphic design services, worked with the group and sat in on portions of no more than three of the meetings. However, attendance lists and minutes of these meetings, if kept, were not made available to us, nor were members of the Support Group allowed to discuss these meetings with us. Thus we were unable to verify any assertions about the composition of personnel at the meetings or about the general subjects discussed.

The Working Group met with Support Group staff for the last time on April 3, 2001. For the remainder of April 2001, the Support Group worked alone, condensing the list of potential recommendations for NEPDG discussion and recasting the chapters to fit the recommendations. During this period, the Support Group contacted agencies primarily to verify facts or rewrite specified sections of the report. Agency officials rejoined the process after April 30, 2001, when the Support Group released the draft chapters for final comment.

Staff from Multiple Federal Agencies Participated in the NEPDG Effort

The development of the *National Energy Policy* report involved hundreds of staff from nine federal agencies and several White House offices. Agencies had considerable latitude in determining how to staff their NEPDG assignments. Most agencies developed a multilevel, top-down process coordinated by the agency's lead NEPDG contact or Working Group member. Generally, the NEPDG Support Group forwarded specific writing assignments, information requests, meeting times and agendas to the agency contacts, who then disseminated the information to a coordination team. The coordination team distributed assignments to lead officials in offices or bureaus throughout the department. These officials then assigned staff to complete the tasks. When the completed work had interoffice concurrence, it was then passed back up the chain of command. The NEPDG agency staff contact then reviewed and approved all agency submissions before releasing them to the Principals, the Support Group, or other agencies for review or comment. Agency staff contacts also held regular update meetings with the coordination team and provided assorted updates and briefings to the agency Principal. Not all agencies experienced the same workload. For example, DOE, which was assigned the lead role in developing multiple chapters, had greater responsibilities, more meetings

¹³Declaration of Karen Y. Knutson, *Judicial Watch, Inc. v. NEPDG et al.*, No. 01-1530 (D.D.C.) (Sept. 3, 2002).

to attend, and larger efforts to coordinate than some other agencies, such as Interior, that played more of an advisory role. Frequent interaction also took place between agencies in developing the report chapters.

More than 80 DOE employees from eight departmental offices had direct input into the development of the *National Energy Policy* report, including science specialists and representatives with significant science expertise. DOE's Senior Policy Advisor to the Secretary led the department's internal effort to develop information for an interim and final report, and to identify policy recommendations for the report. The official joined the Acting Director of the then Office of Policy in periodic meetings with the Support Group staff and other agency officials to discuss drafts of specific chapters. In addition, the official joined DOE Office of Policy and program officials to relay comments from NEPDG meetings and to coordinate writing activities within DOE. The Acting Director of the Office of Policy, who was responsible for the day-to-day coordination and management of the process of producing DOE's contributions to the NEPDG effort, led a coordination team of senior managers from the department's Office of Energy Efficiency and Renewable Energy, Office of Nuclear Energy, Office of Fossil Energy, Office of Policy, Office of International Affairs, Energy Information Administration, and the Bonneville Power Administration. The team was charged with coordinating the writing of chapters, and each office formed a similar group within their areas of expertise to write its respective chapters. The Office of Policy took the lead on chapter 1 (*Taking Stock*), Energy Efficiency took the lead on chapter 4 (*Using Energy Wisely*) and chapter 6 (*Nature's Power*), and Fossil Energy took the lead on chapter 5 (*Energy for a New Century*). In addition, DOE contributed draft sections to chapters for which other agencies had been assigned the lead role. Each office developed recommendations and, after internal discussions, forwarded them for high-level review within DOE before they were released to the NEPDG Principals for review.

DOE staff researched historical information about energy and energy markets; identified key energy issues; examined and analyzed the current situation in energy markets; discussed likely energy issues, such as energy production, conservation and energy efficiency, energy prices, renewable and alternative energy sources, and national energy security; and prepared issue papers, memoranda, and talking points relating to these subjects. They also assisted with writing and reviewing drafts of report chapters, providing supporting statistical and other information, reviewing and responding to comments from other executive branch components, fact-

checking, developing citations and graphics, and briefing the Secretary on energy policy issues.

Interior was not assigned a lead role in writing any of the report chapters. The department's relationship with NEPDG, including the Working Group and Support Group staff, therefore consisted of the discussions at Principals' and Working Group meetings, comments on drafts, provision of an options paper, and responses to questions from NEPDG staff. To support the NEPDG effort, Interior's Office of Policy Analysis formed an energy task force comprised of 11 issue teams to examine opportunities to make more energy available from public lands and to streamline and improve various planning and permitting processes for facilitating energy development. Approximately 100 Interior employees, representing 13 departmental offices or bureaus, helped to develop information for the NEPDG effort. These teams helped develop an internal paper that agency officials used during Working Group discussions of other agencies' draft chapters.

EPA's general role was to ensure that environmental issues were accurately and adequately addressed and reflected in the development of the report. More than 110 EPA employees participated in the agency's internal NEPDG efforts. EPA's Associate Administrator for Policy, Economics, and Innovation served as the lead manager of the agency's NEPDG activities, overseeing its role in drafting the report chapter on the environment (*Protecting America's Environment*) and analyzing environmental issues contained in the other draft chapters of the report. This EPA official and two senior managers from the Office of Air and Radiation worked closely with senior staff from other offices within EPA and senior officials from other contributing agencies. The office leads circulated the draft to others, usually to staff within their particular office, as they deemed appropriate. The managers reviewed documents each time EPA staff prepared or revised them. Upon approval, EPA's draft was then conveyed to the Support Group.

Nonfederal Energy Stakeholders Contributed to the NEPDG Effort

The NEPDG Principals, Support Group, Working Group, and participating agency officials met with, solicited input from, or received information and advice from a variety of nonfederal energy stakeholders while developing the *National Energy Policy* report. According to our analysis of agency documents produced under court order, stakeholder involvement in the NEPDG process included private citizens offering general energy advice to the President, industry leaders submitting detailed policy recommendations to NEPDG, and individual meetings with Principals as

well as the Vice President. The extent to which submissions from any of these stakeholders were solicited, influenced policy deliberations, or were incorporated into the final report is not something that we can determine based on the limited information at our disposal. Nor can we provide a comprehensive listing of the dates or purposes of these meetings, their attendees, or how the attendees, when solicited, were selected, because of OVP's unwillingness to provide us with information.

The Principals met with a variety of nonfederal entities to discuss energy issues and policy. DOE reported that the Secretary of Energy discussed national energy policy with chief executive officers of petroleum, electricity, nuclear, coal, chemical, and natural gas companies, among others. The Secretary of Energy also reportedly asked nonfederal parties for their recommendations for short- and long-term responses to petroleum product price and supply constraints. Several corporations and associations, including Chevron, the National Mining Association, and the National Petrochemical & Refiners Association, provided the Secretary of Energy with detailed energy policy recommendations. EPA reported that agency managers—including the EPA Administrator—held many meetings with outside parties, where the issue of energy policy was raised. For example, according to the Administrator's schedule, the Administrator and agency staff met separately with the Alliance of Automobile Manufacturers, the Edison Electric Institute, and a group of environmental and conservation leaders. Interior reported that the Secretary of the Interior and staff attended meetings with private industry to discuss energy issues, including one meeting with Rocky Mountain-based petroleum companies interested in leasing federal lands and another meeting with an Indian tribe from Pyramid Lake, Nevada interested in building a power plant on its lands. In addition, in its response to a congressional inquiry, OVP reported that the Vice President met with the chairman and chief executive officer of Enron Corporation to discuss energy policy matters.¹⁴ The Vice President also received a lobbying group's appeal to stop treating carbon dioxide as a pollutant and policy recommendations from a coalition of utilities, coal producers and railroads calling itself the Coal-Based Generation Stakeholders. We cannot determine the extent to which any of these communications with NEPDG Principals affected the content or development of the final report.

¹⁴David S. Addington, Counsel to the Vice President, to the Honorable Henry A. Waxman, U.S. House of Representatives (Jan. 3, 2002).

In response to another congressional inquiry,¹⁵ the NEPDG executive director reported that the Support Group staff held meetings with individuals involved with companies or industries, including those in the electricity, telecommunications, coal mining, petroleum, gas, refining, bioenergy, solar energy, nuclear energy, pipeline, railroad and automobile manufacturing sectors; environmental, wildlife, and marine advocacy; state and local utility regulation and energy management; research and teaching at universities; research and analysis at policy organizations; energy consumers, including consumption by businesses and individuals; a major labor union; and about three dozen Members of Congress or their staffs. However, the NEPDG executive director did not specify the frequency, length, or purpose of the meetings, or how participants were selected to attend. In addition, OVP reported that the Support Group staff also met with numerous nonfederal stakeholders during the development of the final report, including a meeting with representatives of various utilities and two meetings with representatives of Enron Corporation.¹⁶

Finally, senior agency officials participated in numerous meetings with nonfederal energy stakeholders to discuss the national energy policy. Based on our analysis of the agency documents produced under court order, senior DOE officials, in addition to attending meetings with the Secretary of Energy, met with a variety of industry representatives, lobbyists, and energy associations, including the American Coal Company, Small Refiners Association, the Coal Council, CSX, Enviropower, Inc., Detroit Edison, Duke Energy, the Edison Electric Institute, General Motors, the National Petroleum Council, and the lobbying firm of Barbour, Griffith & Rogers. These senior DOE officials also solicited recommendations, views, or points of clarification from other parties. For example, one senior DOE official solicited detailed energy policy recommendations from a variety of nonfederal energy stakeholders, including the American Petroleum Institute, the National Petrochemical and Refiners' Association, the American Council for an Energy-Efficient Economy, and Southern Company. This official also received policy recommendations from others, including the American Gas Association, Green Mountain Energy, the National Mining Association, and the lobbying firms the Dutko Group and

¹⁵Responses of Andrew Lundquist, Executive Director for the National Energy Policy Development Group, to questions from the Ranking Minority Members of the House Committee on Government Reform and the House Committee on Energy and Commerce (May 4, 2001).

¹⁶Addington to Waxman (Jan. 3, 2002).

the Duberstein Group. Senior EPA officials, in addition to accompanying the Administrator to meetings with nonfederal energy stakeholders, discussed issues related to the development of an energy policy at meetings with the Alliance of Automobile Manufacturers, the American Public Power Association, and the Yakama Nation Electric Utility. Interior told us that senior agency officials met with nonfederal parties to discuss energy policy or other energy-related issues, but provided us with no further details about these meetings.

In addition to the meetings listed above, the agency documents reveal that the NEPDG Principals, Support Group, and agency staff received a considerable amount of unsolicited advice, criticisms, meeting requests, and/or recommendations from other parties, including private citizens; university professors; local, state, and international officials; regional energy stakeholders; and a variety of interest groups representing energy-related causes. Again, because of the limited information available to us, we cannot determine the extent to which these communications affected the content or development of the final report.

The *National Energy Policy* Report Was Developed in Two Distinct Phases

The *National Energy Policy* report was developed in two distinct phases, in accordance with the general criteria defined in the President's January 29, 2001, memorandum. The first phase involved the development of an outline; the distribution of research and writing assignments to participating agencies; and the development of narrative, topical chapters that ultimately formed the basis of the final report. The first phase culminated in a March 19, 2001, presentation to the President on energy supply disruptions and their regional effects. In the second phase, agency officials reviewed and finalized draft chapters; consolidated a list of options and recommendations and discussed them with the Working Group; and developed short position papers on each of the recommendations that the Working Group considered to be controversial. These papers served as the primary basis for discussion at subsequent Principals' meetings. After the final meeting of the Working Group on April 3, 2001, the Support Group took the provided materials under consideration and drafted the final report. Agency officials had a final opportunity to review the partial draft of the recommendations before the report was finalized, published, and presented to the President on May 16, 2001, as the *National Energy Policy*.

NEPDG Drafted Chapters and Prepared an Interim Report in the First Phase

In the first week of the administration, the Vice President worked with the soon-to-be-named NEPDG executive director to define the process for developing a proposed national energy policy. They decided that a group of senior federal officials would generate an interim report that would detail energy supply problems and a final report that would outline solutions. The President's memorandum, released on January 29, 2001, reflected this work plan.

In early February 2001, the NEPDG executive director distributed a memorandum at the first Working Group meeting detailing the group's mission, reporting requirements, and a proposed structure of seven targeted interagency workgroups to review specific issue areas. At the meeting, the Support Group named lead agencies to coordinate the development of each of the 10 assigned chapters.¹⁷

The Support Group tasked the lead agencies—DOE, DOT, EPA, Treasury, and the State Department—with developing a report outline for each of their assigned chapters to be forwarded to the White House for final approval. The Support Group instructed agencies to write chapters without proposing improvements, noting that the draft chapters would not be sent to the President, but would serve as the basis of a more detailed version that NEPDG would use when drafting the final report. While the drafting of chapters for the final report continued, the Support Group, Working Group, and participating agency staff focused much of their collective effort throughout February on developing sections of an interim report. The Support Group released the interim report to the Principals for review in early March 2001, then shifted its attention to the second phase of the process—finalizing the draft and making recommendations. The interim briefing, which took place at the White House on March 19, 2001, mostly consisted of oral presentations on the energy supply and demand situation and short-term regional energy supply disruptions.

NEPDG Selected Recommendations and Finalized the Report in the Second Phase

Immediately following the March 19, 2001, presentation of the interim report to the President, the Working Group met to refine the chapters of the final report and to discuss potential recommendations that agencies had accumulated. The Support Group provided the agencies with a copy of the Bush-Cheney energy-related initiatives developed during the presidential campaign, asking them to ensure that they incorporated these initiatives

¹⁷The number of chapters was later reduced from 10 to 8, as several chapters were consolidated during the writing process.

when developing their respective recommendations. They asked each agency in the Working Group to prepare an “option paper” that included proposals for streamlining energy production and steps to implement them.

In March 2001, the Working Group continued to develop chapters and discuss recommendations, and pared down each agency’s list of potential recommendations. The Support Group prepared five one-page issue paper summaries of the recommendations that the Working Group considered to be controversial—a multi-pollutant strategy, fuel efficiency standards, energy efficiency, nuclear energy, and the moratoria on Outer Continental Shelf leasing—to the Principals for further discussion. Shortly before the April 3, 2001, Principals’ meeting, the Support Group added a last-minute agenda item to be discussed with the other recommendations. The actual agenda item, however, had been redacted from the documents that we reviewed.

In early April 2001, the Support Group stopped accepting comments on the proposals and began sorting through them, asking agencies to incorporate what the Support Group deemed to be the less controversial recommendations into the draft chapters. For the remainder of April 2001, the Support Group mostly worked alone, selecting recommendations to present to NEPDG Principals and rewriting the chapters to fit the recommendations. The Principals met to discuss several of the potentially more controversial recommendations and to decide which proposals to add to the chapters. In some cases, agencies were told to rewrite sections of the chapters to incorporate the proposed recommendations.

The agencies continued to draft their chapters and incorporate various other agencies’ comments until the Support Group issued a deadline and requested the final submission of chapters for editing. The Support Group then released the drafts to all of the agencies for a cursory review, informing agency officials that the drafts were now considered “final” and that only high priority comments would be accepted.

The Support Group asked agencies to protect their lists of proposed recommendations, instructing officials to hold all proposals closely and not to circulate them. The Support Group then sent the draft chapters to the agencies without any recommendations. On April 30, 2001, the Support Group invited each agency’s Principal or chief of staff to visit the White House for an on-site review of the final draft recommendations. The Support Group continued to make last-minute alterations to the report to incorporate revised recommendations, called on the agencies to verify

facts and to provide citations, and ushered the final draft through the editing and printing processes. On May 16, 2001, the Vice President presented the final *National Energy Policy* report to the President. The final report contained over 100 proposals to increase the nation's energy supply. The presentation brought the *National Energy Policy* report development process to a close.

Federal Agencies Did Not Track the Amount of Public Money Spent on NEPDG Activities

None of the key federal entities involved in the NEPDG effort provided us with a complete accounting of the costs they incurred during the development of the *National Energy Policy* report. Several agencies provided us with rough estimates of their respective NEPDG-related costs; but these estimates, all calculated in different ways, were not comprehensive. The two federal entities responsible for funding the NEPDG effort—OVP and DOE—did not provide us with the comprehensive cost information we requested. OVP provided us with 77 pages of information, two-thirds of which contained no cost information, while the remaining one-third contained miscellaneous information of little to no usefulness. In response to our requests seeking clarification on the provided information, OVP stated that it would not provide any additional information. DOE, EPA, and Interior provided us with their estimates of costs associated with the NEPDG effort, which aggregated about \$860,000. DOE provided us with selected cost information, including salary estimates, printing and publication costs, and other incidental expenses. EPA and Interior provided salary cost estimates for some of their senior officials involved in the report's development. DOE and Interior officials reported that although most of the identified costs were salary-oriented, employees had not specifically recorded the amount of time they had spent on NEPDG-related tasks because many of them already worked on energy policy and thus would have likely conducted a substantial portion of the work, even without the NEPDG project taking place. An Interior official cautioned us not to expect a precise estimate, noting that the estimate primarily had been based on employee recollection and guesswork.

DOE and OVP Were Responsible for Funding NEPDG Activities

In his January 29, 2001, memorandum that established NEPDG, the President instructed the Vice President to consult with the Secretary of Energy to determine the need for funding. DOE was to “make funds appropriated to the Department of Energy available to pay the costs of personnel to support the activities of the Energy Policy Development Group.” The memorandum further stated that if DOE required additional

funds, the Vice President was to submit a proposal to the President to use “the minimum necessary portion of any appropriation available to the President to meet the unanticipated need” or obtain assistance from the National Economic Council staff.¹⁸

OVP Provided Limited Cost Information Responsive to Our Request Regarding NEPDG’s Receipt, Disbursement, and Use of Public Funds

In response to our inquiry about the NEPDG’s receipt, disbursement, and use of public funds, OVP provided us with 77 pages of “documents retrieved from the files of the Office of the Vice President responsive to that inquiry.”¹⁹ The Vice President later referred to these documents as “responsive to the Comptroller General’s inquiry concerning costs associated with the Group’s work.”²⁰ Our analysis of the documents, however, showed that they responded only partially to our request.

The documents that OVP provided contain little useful information or insight into the overall costs associated with the National Energy Policy development. Of the 77 pages that we received, 52 contained no cost information while the remaining 25 contained some miscellaneous information of little to no usefulness. For example, OVP provided us with two pages illustrating a telephone template and four pages containing indecipherable scribbling, but no discernible cost information. OVP also provided documents that contained some miscellaneous information, predominantly reimbursement requests, assorted telephone bills and random items, such as the executive director’s credit card receipt for pizza. In response to our requests seeking clarification of the provided information, OVP stated that it would not provide us with any additional information. Consequently, we were unable to determine the extent to which OVP documents reflected costs associated with the report’s development.

DOE Did Not Comprehensively Track Overall NEPDG Costs

DOE reported spending about \$300,000 on NEPDG-related activities, more than half of which was used for the salaries of its employees detailed to OVP and two designated DOE staff contacts for the period from January 29,

¹⁸Pres. Memorandum (Jan. 29, 2001).

¹⁹Letter from David Addington, Counsel to the Vice President, to Anthony Gamboa, General Counsel, the U.S. General Accounting Office (June 21, 2001).

²⁰Letter from the Vice President to the U.S. House of Representatives (Aug. 2, 2001).

2001, through May 29, 2001. DOE reported spending most of the remaining funds to print and produce 10,000 policy publications and graphic support, pay for 16 large briefing boards, and reimburse the NEPDG executive director for his lodging and per diem expenses. DOE did not provide any information on the Support Group members' requests for the reimbursement of taxi, parking, meal, or duplicating expenditures contained in the 77 pages of OVP documents. However, DOE officials noted that the department did not pay for furniture, telephones, or other expenses that DOE employees on the Support Group may have incurred setting up their offices, saying that they assumed that the White House paid these costs.

EPA Provided Estimates of Its NEPDG-Related Salary Costs, but Did Not Include Its Incidental Expenses

EPA reported spending an estimated \$131,250 in NEPDG-related costs to pay the salaries of the officials most involved in NEPDG activities. EPA officials calculated this estimate by taking the number of full-time equivalents, the officials' average annual salaries, and prorating the amount for the 3½ months they spent working on the NEPDG effort. EPA officials also reported that the agency incurred multiple incidental expenses in helping to prepare the NEPDG report, such as taxi fares, duplication costs, and courier fees, but they neither itemized these expenditures nor provided us with any further documentation.

Federal Employee Salaries Accounted for All of Interior's Reported NEPDG-Related Costs

Interior reported spending an estimated \$430,000 on salary-related costs associated with the NEPDG report development. It also reported that it did not incur any NEPDG-related contracting costs. The agency official who provided us with the estimate warned that although it was the best possible, its precision was uncertain because it had been based on employees' personal recollections and guesswork as to the amount of time they spent working on NEPDG-related activities. The official then added an additional 20 percent to the estimated sum to reflect the employee benefits that accrued during the period. Interior did not create a unique job code or accounting process to track the time that Interior employees spent on developing the NEPDG report. According to one official, many of the staff involved with the NEPDG effort already worked on energy policy for their respective bureaus or offices and thus a substantial portion of the work would likely have been conducted, even without the NEPDG project taking place.

Agency Comments

We provided DOE, Interior, and EPA with an opportunity to review and comment on a draft of this report. Representatives from each of these three agencies reviewed the report and chose not to provide written comments. Interior and EPA provided several technical clarifications orally, which we incorporated, as appropriate, into the final report. We also provided OVP with an opportunity to review and comment on our draft report, but the office did not avail itself of the opportunity.

We conducted our review from May 2001 through July 2003. We plan no further distribution of this report until August 25. On that date, we will send copies of this report to interested congressional committees. This report is also available on GAO's home page at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please call me at (202) 512-3841. Key contributors to this report are listed in appendix I.



Robert A. Robinson
Managing Director, Natural Resources
and Environment

List of Congressional Requesters

Senate

The Honorable Joseph I. Lieberman^a
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Ernest F. Hollings^a
Ranking Minority Member
Committee on Commerce, Science,
and Transportation
United States Senate

The Honorable Carl M. Levin^a
Ranking Minority Member
Permanent Subcommittee on
Investigations
Committee on Governmental Affairs
United States Senate

The Honorable Byron L. Dorgan^a
Ranking Minority Member
Subcommittee on Competition,
Foreign Commerce, and
Infrastructure^b
Committee on Commerce, Science,
and Transportation
United States Senate

House

The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government
Reform
House of Representatives

The Honorable John D. Dingell
Ranking Minority Member
Committee on Energy and
Commerce
House of Representatives

^aAt the time of their joint request to GAO, the four senators were chairmen of their respective committees or subcommittees.

^bThis subcommittee was formerly called the Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism.

GAO Contacts and Staff Acknowledgment

GAO Contacts

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Acknowledgment

In addition to the individuals named above, Doreen Feldman, Lynn Gibson, Richard Johnson, Bob Lilly, Jonathan S. McMurray, Susan Poling, Susan Sawtelle, Amy Webbink, and Jim Wells made key contributions to this report.

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