Environmental Protection Agency: Chaos or "Creative Tension"?

When William D. Ruckelshaus left the relative serenity of the Justice Department last fall to assume command of the Environmental Protection Agency, he predicted that it would take him 3 months to put his vast new fief in order before proceeding full speed with the business of fighting pollution. But the job of assembling a new agency from the inherited bits and pieces of others has turned out to be a more complicated and contentious task than Ruckelshaus had imagined, and his prediction now seems wonderfully optimistic.

As it happened, a raft of circumstances, ranging from congenital deficiencies in the newborn agency to jurisdictional wrangling among EPA's top management, have conspired to hamper the development of the new agency. After nearly 9 months, the EPA is still working out details of its organizational structure, still thrashing out internal working policies, and still hunting for people to fill key positions in regional offices across the country and in its Washington headquarters. As time goes on and the turmoil continues, some observers outside the agency but inside the Administration express concern that EPA's management difficulties may come to reflect poorly on the agency's overall competence—and may thus impair the EPA's influence with its sister federal agencies, Congress, and industry.

"When I first came into this job, I said it would take us 3 months to get settled," Ruckelshaus said in a recent interview. Nevertheless, he went on, "For 9 months we've put up with peoples' jobs changing and with uncertainty about who will be located where and who will be responsible to whom." He said he expects the disruptions to "taper off rather rapidly now," but he believes it will be a year or more before reorganization "stops being a factor in our morale and in everything we do."

The simplest explanation for this extended turmoil, he said, is that the process of pulling the agency together has been "more complicated than I thought. It has taken time to become familiar enough with the agency's components and their problems to make some rational decision about what our organizational structure ought to be like."

He and other EPA officials feel that the difficulty of piecing their agency together has been compounded by the physical separation of its 2000 headquarters employees, whose offices are at ten locations scattered throughout the District of Columbia and surrounding suburbs. Many of the 2000 are still at the same desks they occupied before EPA came into existence last December, and they have become acquainted with their new colleagues and superiors chiefly by means of telephone and memoranda—an impersonal situation which agency officials say has aggravated feelings of uncertainty and problems of morale among the rank and file.

After 3 months' delay, a scheduled move to permanent headquarters in a Washington office-shopping complex is only now beginning and phone communications still leave much to be desired. "I can only give you his most recent number and you can track him down from there," an operator told a reporter trying to reach one of five assistant administrators at the EPA last week.

Another handicap borne by Ruckelshaus and his top assistants has been a division of their energies between internal organizational problems and the pursuit of polluters. From the beginning, legislated deadlines and court actions obliged the new agency to make some hard decisions on such controversial matters as the setting of national air quality standards and determining the safety of pesticides like DDT. "We were on the griddle from the very start," says John Quarles, Jr., EPA's general counsel and chief enforcement officer. To some extent, however, the EPA has set its own high level of heat under the griddle. Pledging fair but vigorous enforcement of pollution laws, Ruckelshaus endeavored not only to maintain the momentum of regulatory programs he had inherited but to accelerate them whenever possible. Thus by last month, the EPA could boast of having taken 110 corporate polluters of the nation's waterways to court since December, in contrast to only two similar court actions initiated by the government before the EPA came into existence. Such vigor has won high praise from environmentalists, but the agonies of assembling a new agency while squeezing performance out of it have been considerable. "It's like trying to run a 100-yard dash while undergoing an appendectomy," Ruckelshaus says.

All this would merely seem to reaffirm the old axiom that bureaucratic reshufflings always take longer than anyone hopes or expects. Nevertheless, some close observers attribute EPA's continuing turmoil, at least partly, to what they see as a leanness of managerial talent in the agency's top echelons. One presidential adviser, who counts himself among EPA's White House allies, described the jurisdiction of one EPA assistant administrator as being in "disarray" and said he feared that such signs of administrative weakness may persist, to the agency's detriment.

Such allegations are all the more significant in light of what appears to be a starring role for EPA in achieving no less than two of the "six great goals" that President Nixon enunciated in his State of the Union message last January. Clearly it is up to the EPA more than to any other agency to "restore and enhance" the nation's environment as the President pledged. It is also the firm belief of some high EPA officials that their agency is to serve as a "showcase" or "proving ground" for the Nixon promise to reorganize the executive branch and bring about more effective government.

The evidence of managerial weakness at EPA is largely circumstantial: Some of the five assistant administrators seem to have spent an inordinate time organizing their own staffs and sparring with each other over slices of jurisdiction within the EPA. (A long delay in appointing the deputy administrator, Robert W. Fri, who might have served as straw boss for squabbling assistants, could explain this situation.) Also, the evidence seems reinforced by signs of persistent greenness at the top.

For example, an assistant administrator appeared recently before a congressional hearing so ill-prepared that the committee simply dismissed him from testifying. This month, a top aide

of Ruckelshaus living in a suburban Virginia county angered local pollution control officials by testifying at a public hearing in favor of granting a local developer an open burning permit. Although the aide said that he offered his views as a citizen, he made repeated reference to his position at EPA but failed to mention that his wife worked for the developer.

On-the-Job Training

Whatever the long-term significance of such gaffes, it can be said that the agency's top echelons are not heavily endowed with experience in government administration or with environmental expertise. Of the seven highest appointees—Ruckelshaus, his deputy, and five assistant administrators—only two have previously spent any signficant time at the policy-making level of a federal agency. One, John Quarles, was a Boston lawyer 3 years ago when he joined the Interior Department and became an assistant to former Secretary Walter J. Hickel. The other, David D. Dominick, a cousin of Republican Senator Peter Dominick of Colorado, was commissioner of the Federal Water Quality Administration (FWQA) for 2 years before and, for a while, after its transfer to the EPA. Dominick, 34, has been quoted as saying that he spent his first year at the FWQA "in what might be called an extended training period," traveling to regional offices and boning up on problems of water pollution. Notably innocent of administrative experience and environmental expertise before that job, he had previously served as legislative assistant to Senator Clifford Hansen (R–Wyo.). Dominick is now assistant administrator for categorical programs at EPA where he heads the offices of pesticides, radiation, and solid waste.

Although environmentalists generally hold both Quarles and Dominick in high regard—describing them as sincere and "quick learners"—the leaders of some conservation groups have expressed surprise at Dominick's promotion, in May, from EPA's water program to his present job. The Washington representative of one national conservation organization said that he thought Dominick had had "quite an expensive on-the-job training course at the FWQA" and was just beginning to perform well there.

As for Ruckelshaus, his major experience in government administration has been supervising 200 attorneys at the Justice Department's Civil Division, a position which the Nixon Administration found for him after his unsuccessful run against Indiana's Democratic Senator Birch Bayh in 1968.

As a former deputy state attorney general in Indiana, Ruckelshaus earned some notice for his interest in environmental affairs by drafting a state air pollution control law in the early 1960's. (Among its several weaknesses, the law contained no provision for fines, but it was considered a model statute in its time.) His appointment to the EPA, however, may have less to do with his interest in pollution than with the fact that the Indiana Republican Party delivered a larger margin of votes to Richard Nixon than any other state organization in 1968, but by 1970 still had little to show for it in the way of prestigious appointments. Indeed, even conservationists who have the greatest admiration for William Ruckelshaus—and there are many—presume that he is being groomed for bigger and better things—a try at the Indiana governorship perhaps, or another run for Birch Bayh's seat in 1974. Ruckelshaus, of course, will only say that he is "totally absorbed" in his present job.

Perhaps unfortunately for his agency, suspicions that political hiring took precedence over talent hunting at EPA have not been laid to rest by subsequent appointments. Apart from Ruckelshaus, two of the agency's six other highest officials not only are without expertise in environmental matters but also are Republican attorneys from Indiana. Among them is Donald M. Mosiman, Ruckelshaus' former campaign manager and the assistant administrator for "media" (air and water) programs. (The outstanding exception to this pattern is Stanley M. Greenfield, a California Democrat who headed the Rand Corporation's environmental studies section for 10 years and who now occupies the assistant administrator slot at EPA having the least to do with policy of interest to politicians—that of research and monitoring.) Membership in the "Indiana gang," as EPA insiders call it, is swelled by half a dozen of the energetic young attorneys on Ruckelshaus' personal staff, who have followed him since his campaign days.

For his part, Ruckelshaus, who has gained a reputation as one of the Nixon team's more open and candid players, says that he has heard the accusations of "cronyism" and responds this way:

"In your lifetime you know perhaps a dozen people really well, and of these there may be half a dozen you can really trust and rely upon—people whom you've watched perform under pressure. I tried to get the people I knew who were like this, and to some extent I've succeeded. For the positions they're in, you need judgment, and watching a man's performance is the only way to measure his judgment."

If indeed the EPA suffers from ineptness or managerial weakness at the top, the impact of these shortcomings on the agency's development is all but impossible to identify amid the consequences of inborn flaws, the agency's abrasive relations with "contributing" agencies, and the necessity for drastically restructuring the programs it inherited.

Prenatal Problems

In no small measure, the EPA has been handicapped from the start by deficiencies and delays, the causes of which can be traced back to its gestation, long before the first working day last December. For one thing, portions of EPA, as they were transferred to the new agency, were seriously lacking in senior career administrators and key technical personnel, a fact which helped to stall the momentum of some programs once they were severed from parent agencies. Moreover, major decisions concerning precisely which people, funds, and facilities belonged to EPA and which did not were still being negotiated with recalcitrant "contributing" agencies weeks after the EPA came into existence. As one high-level career man at EPA described the situation, "When we put all the pieces together they still didn't add up to a whole agency." In a sense, then, the EPA suffered something of a premature birth.

The Ash council (see box) and the White House had provided only the vaguest guidelines for selecting and assembling the EPA's components from other agencies, thereby giving planners of the new agency a free hand in structuring EPA but, at the same time, limiting their ability to wrest the necessary components from such agencies as HEW.

Details of the initial organization were to be worked out by a 15-man task force gathered from a variety of federal agencies under the auspices of the Office of Management and Budget (OMB), and headed by Howard Messner, a 34-year-old management

analyst at the OMB, who later moved to the EPA to head its Office of Administration. The task group's objectives were, first, to arrange for the transfer of programs to the EPA, and, second, to devise some preliminary organizational structure for the new agency.

Messner—a vigorous, intense man who is given to waving his burning cigar as a pointer—recalls that the enormity of the project became gradually apparent as his group began to inventory what they called "the inheritance"—$1.4 billion in appropriations, 21 diverse grant programs, and 5400 people scattered in 157 locations which ranged from a floating barge moored off Port Everglades, Florida, to a water quality laboratory in College, Alaska. (In fiscal 1972, EPA's budget will rise to $2.4 billion and its nationwide staff to about 8500.) Shortly after Ruckelshaus was appointed on 6 November, Messner says, the OMB group made a chart of the EPA's holdings, as best they were known, for the edification of the new administrator. "The chart covered a whole office wall," Messner says. "Bill and I just sat down and laughed at the thing. Its complexity was incredible."

The process of assembling a new agency from the transplanted organs of five different donors was complicated still further, as the OMB group was eventually to learn, by the fact that some of the incoming units consisted almost exclusively of technical personnel, and lacked senior managers. Although the air and water pollution control programs were transferred to EPA as essentially intact and self-sufficient units, programs for regulating pesticides and radiation did not, largely because these programs had been exhumed from under as many as three or four layers of authority in their parent agencies.

Another difficulty encountered by the OMB group was the reluctance of some agencies—HEW in particular—to part with managers, scientists, and laboratories. As a result, negotiations to determine who was to own what dragged on long past EPA's first working day. "We were still opening Christmas packages in mid-February, finding out what belonged to us," one EPA official recalls. Perhaps the pinnacle of negotiated absurdity was reached in the case of HEW's Twinbrook Research Laboratory at Rockville, Maryland, a radiological health facility. Here, OMB negotiators and HEW agreed to split ownership of the lab down the

The Genesis of a New Agency

The EPA originated with the President's Council on Executive Organization, headed by Roy L. Ash, a major contributor to the Republican Party and the president of Litton Industries, Inc., one of the nation's larger conglomerates. Although the Ash council never divulged details of its recommendations, it is said to have first promoted the idea of an independent pollution control agency early last year—about the same time that Senator Edmund Muskie (D–Maine) was publicly advancing essentially the same idea. EPA officials say the Ash council assigned the creation of their agency top priority after reorganization of the President's own office. During the spring of 1970 White House advisers drew up an outline of the new agency and on 9 July 1970 the President issued an executive order describing the EPA's goals and makeup.

Inherited Bureaus

Under the order the EPA was to be formed by amalgamating 15 components stripped away from five departments and independent agencies. The Interior Department gave up its Federal Water Quality Administration and the FWQA's billion dollar budget for building sewage collection and treatment facilities. The Department of Health, Education, and Welfare (HEW) contributed the Bureau of Water Hygiene, which monitored (but had no power to enforce) the quality of the nation's drinking water. HEW also donated its National Air Pollution Control Administration and its miniature Bureau of Solid Waste Management.

In addition, the EPA acquired the Agriculture Department's authority to license pesticides and to regulate their use; the Food and Drug Administration's authority to set pesticide tolerance in food and to monitor compliance with those limits; and a small portion of the Interior Department's pesticides research capability.

Finally, the EPA assumed some but not all of the Atomic Energy Commission and HEW authority for setting environmental radiation standards and for monitoring the nuclear industry's compliance. The new agency also absorbed the duties and staff of the Federal Radiation Council.

Single Agency Rationale

The point of consolidating all these programs into one agency, the President said last year, was to treat the environment as a "single interrelated system" insofar as pollution was concerned. The singularity of the EPA was somewhat blemished, however, by two deletions: The FDA retained the authority to confiscate food contaminated by pesticides, thereby denying EPA the ability to enforce the limits on pesticides in food which it was charged with setting and monitoring. In addition, the Department of Housing and Urban Development (HUD) held onto its $350 million sewer construction program, leaving the EPA with the job of financing treatment plants and large interceptor sewers but not the smaller and far more numerous collection lines that feed into the interceptors.

Whether or not Congress perceived these deletions as flaws in EPA's makeup, there was little it could do to correct them. Under the law, Congress can either accept an executive order unaltered or veto it. (The White House was also limited by law to forming the new agency solely from existing entities. But in using an executive order the White House effectively prevented parochial interests in Congress from imposing their own organizational structure on the EPA, as they had in the creation of the Department of Transportation in 1966 and HUD in 1965.) In the end, Congress took no action and the executive order went into effect automatically on 2 October. Thereafter, the Administration had until 2 December to organize the new agency.—R.G.

middle, dividing research teams, even severing some researchers from their technical assistants, and generally pleasing no one. Both EPA and HEW are still squabbling over the divided laboratory, in the knowledge that whoever loses will have to build a similar facility from scratch.

Many of these difficulties and much of the resulting confusion were exemplified in the merger of three federal pesticide programs (or rather, fragments of them) into one, under the EPA banner. The initial move in December was accomplished almost exclusively on paper, leaving most of the transferred employees still sitting at the same desks but writing on new stationery and being sought at new and frequently changing telephone numbers.

At first, EPA's pesticide headquarters office consisted of a small room in a rather shabby downtown Washington office building, one telephone, and a harried acting director named Raymond E. Johnson, on loan from Interior. Somewhat in the manner of a bookie, Johnson moved his office three times in 5 months and logged 600 telephone calls in the first 6 weeks—mostly from industry representatives "anxious to impress their needs on me," he says.

Johnson soon discovered several snafus, including the EPA's acquisition of a pesticide laboratory in Atlanta, complete with staff but minus its director. On the other hand, EPA found itself the owner of a pesticide laboratory near Washington that had a director but no staff. Far worse, HEW had clung tenaciously to its coterie of toxicologists with the result that EPA had virtually none. The consequences were predictable: To the dismay of the agricultural chemical industry, the nation's pesticide regulation program ground to a near-halt for several weeks, while a backlog of 6200 pesticide registration and food tolerance actions accumulated, and EPA officials worked frantically to round up some toxicologists of their own. "We knew this would happen," Johnson said. "We tried to prevent it, but when you lose your toxicologists, it's inevitable." (The backlog is now down to about 2000 registration applications and the time required to process them has been cut in half.)

EPA's Other Role

Such confusion served to compound the complexity of EPA's second major mission—that of presenting itself as a "showcase" for bureaucratic reform. In keeping with this role, Ruckelshaus and his management aides have tried not merely to herd their rather motley confederation of pollution programs under a new administrative superstructure, but also have radically dissected these programs and reassembled them along very different lines. The two key features of this reorganization reflect principles of reform which are by no means new to government, but which the Nixon Administration has pursued with unusual vigor: "functional" grouping of agency activities and "decentralization."

Initially, EPA officials collected their 15 programs into five topical "offices" —water, air, radiation, pesticides, and solid waste—with each office run by an acting commissioner responsible to Ruckelshaus. Then on 30 April, EPA abandoned this interim arrangement, abolished the commissioners' jobs, and began functionalizing with a vengeance —uprooting administrative, enforcement, and research-and-monitoring units from the five offices and placing each of these functions under one of three assistant administrators, all of whom are directly responsible to Ruckelshaus. Thus, for instance, one man—John Quarles—now has direct authority over the enforcement functions formerly dispersed among air, water, and pesticide programs in three federal departments.

Vestiges of the old topical programs still remain in the EPA, though chiefly for purposes of setting standards. A fourth assistant administrator presides over the remnants of air and water (so-called "media") programs and a fifth oversees the considerably reduced offices of pesticides, radiation, and solid waste (or "categorical" programs). EPA officials say these vestiges remain partly because slicing up inherited budgets along functional lines has proved "incredibly complicated" and partly in order to placate congressmen who feel uneasy about seeing their legislative handiwork dismantled. (Just who feels uneasy is unclear. Staff assistants to Senator Edmund Muskie, the chief architect of the air and water quality administrations, express concern that functional reorganization has not gone far enough.) The categorical programs are also said to serve as points of contact for state and local officials concerned with specific issues and as "centers of advocacy" within the EPA. Nevertheless, Ruckelshaus says the EPA "may go all the way in a year or so" in its functional reorganization.

A second, and continuing, metamorphosis at EPA is characterized by Messner, the deputy assistant administrator for administration, as a "major step in the decentralization of the federal government." This effort involves a substantial shift to the EPA's regional offices of authority to deal with state pollution officials, to initiate court action against polluters, and to award construction and planning grants to states and municipalities.

In the process, regional offices acquired from other agencies have been merged, a new one has been created, and an old one moved. In an upheaval that began on 28 June, components of the field offices have been uprooted and transplanted along functional lines, regional enforcement arms—virtually nonexistent under the old regime—have been established, and the agency has been picking new regional directors, preferably Republican, rated at the unusually high civil service level of GS-17, in the $30,000 salary range. So far the agency has named three of the ten regional directors.

A Traumatic Time

These alterations have brought from EPA's inherited bureaucrats reactions ranging from enthusiasm to near hysteria. "There is no question that this agency has been traumatized," Messner says. "People are being asked to look at their jobs with a new perspective, and it's hard."

But morale, he says, is not bad. "It's indefinable. What we have is not chaos. I call it 'creative tension.' Some people are excited about the changes taking place, and others are being dragged along kicking and screaming. I've had senior administrators come in my office and tell me this agency is a disaster. But on the other hand, we have people who have been waiting 20 years to build an agency like this. Out of all this disruption I believe we've made progress, that we've done a great thing."

Whatever the shortcomings, real or illusory, of EPA's upper echelons, one senses among them a refreshing élan rarely found in regulatory agencies. This ambiance is evident in the determination of Ruckelshaus and his top assistants to strike a high profile in the enforcement of pollution laws, and it is evident among the agency's planners who see in EPA an unusual opportunity to build a federal agency that will stand as the very model of tight corporate

efficiency, which the President seems to seek. But success has yet to be attained, "and the vote won't be in for another 2 or 3 years," Ruckelshaus says, or perhaps fervently hopes.

Nevertheless, he and other EPA officials are convinced that their reorganization plan has already produced a fresh, if somewhat shell-shocked new agency—one in which administrative control is tighter from the top down and where communication is freer from the bottom up. Lines of authority have been simplified and shortened, with the result that some pollution programs have been disencumbered of at least two layers of bureaucracy, and once obscure subagencies and far-flung laboratories now feel as if they are "right in the ball game," as Howard Messner says.

At headquarters, he asserts, the new centralization of authority around Ruckelshaus makes for new accountability in decision-making. "For individual administrators, we've moved from a low-risk to a high-risk operation. . . . What we're seeking is accountability—define a mission, tell somebody to do it, and watch how he performs."

"A lot of guys are going to have new heartaches and headaches," Messner says, "but I suspect it's what the President wanted."—ROBERT GILLETTE

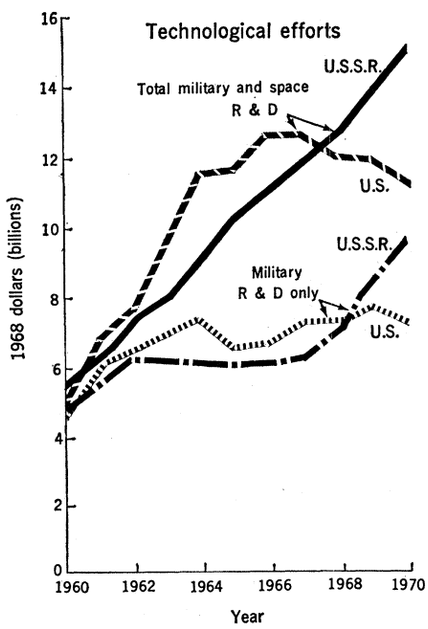
Arms Race: Scientists Question Threat from Soviet Military R&D

In a well-documented presentation before Congress, the Federation of American Scientists (FAS) has released a good deal of steam from the Defense Department's latest drive to inflate its budget on the basis of a threat from the Soviet Union. In the process, FAS has established itself as a source of independent expertise on military matters. The arms race just could slow down somewhat as a result.

"If the Soviets continue to increase their effort devoted to military-related research and development, and we continue our present trend," John S. Foster, Jr., the Defense Department's director of research and engineering, told a House subcommittee, "within the next few years the Soviet Union will assume technological superiority."

In a series of such statements over the past year, Foster and his colleagues have actively broadcast the notion of a gap in weapons technology between the Soviets and the United States. In their view, the gap may engender a "technological surprise" in the form of a weapon for which we lack adequate defense or deterrent power. Research and development has thus appeared as the latest generation in the family of gaps that the Defense Department presents to the Congress and the public from time to time as rationale for increased funds. In 1955 it was the bomber gap, in 1960 the missile gap, in 1967 the ABM, and in 1969 the large-missile gap.

Unlike its predecessors, the technology gap does not come attached to requests for specific weapons systems. Rather, as Foster put it, the new analysis of a potential Soviet threat is "presented as background to provide an understanding of the current situation and give some indication of what the U.S. has to do in the future if it is to cope with the problem." The Pentagon is seeking primarily to reverse a downward trend in congressional appropriations for military R&D and then, perhaps, to create an atmosphere in which Congress might be increasingly willing to spend more in the years to come. Congress cut the Administration's requests for military R&D by $1.1 and $0.4 billion for the past 2 fiscal years. The budget for fiscal 1972, still before Congress, contains a request for an $800 million increase over the 1971 level of $7.0 billion.



Defense Department figures comparing U.S. and U.S.S.R. expenditures for military and space technology. Both the Federation of American Scientists and the General Accounting Office have questioned the reliability of the techniques used to determine these amounts.

The Pentagon's strategy appears, however, to be falling far short of its goals—due primarily to the efforts of FAS to demonstrate that the technology gap is little more than a figment of the Pentagon's imagination. In a scholarly report issued 6 May * entitled *Is There an R&D Gap?*, and in subsequent testimony before Congress, FAS has doggedly pursued Foster and his associates, focusing both on contradictions and discrepancies in their public statements and on flaws in the methodology they used to analyze the supposed threat. The report noted that Foster has successively argued that the United States will lose its technological superiority in "a decade," "the next several years," "in two years," "in the latter half of this decade," and "in the middle of this decade." "This entire episode," concluded the FAS report, "has been a classical numbers game featuring selective disclosure, questionable assumptions, exaggeratedly precise statements, misleading language, and alarmist, non sequitur conclusions."

To date, the FAS has achieved surprising success in its challenge to the Pentagon. Several influential members of Congress have listened to their ar-

* A copy of the report, along with extensive testimony and the Defense Department's response can be found in part 4 of the 1972 Senate *Hearings on Authorization for Military Procurement.* Available free of charge from the Senate Armed Services Committee, Washington, D.C. 20510.