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THE WHITE HOUSE  
WASHINGTON

18 Mar 80

Jim McIntyre

The attached was returned in  
the President's outbox today  
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Rick Hutcheson

cc: Lloyd Cutler  
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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

Jim  
J

## PRESIDENTIAL DECISION MEMORANDUM

MEMORANDUM FOR THE PRESIDENT

FROM:

James T. McIntyre, Jr.

Jim

SUBJECT:

Reorganization of the Nuclear Regulatory Commission (NRC)  
and related matters.

I. Purpose. This memorandum deals with several matters related to nuclear safety including:

- o A proposed Presidential Reorganization Plan for your approval aimed at improving the internal management of the NRC by strengthening the powers of the Chairman.
- o The issue of whether we should use the NRC Reorganization Plan as a vehicle to transfer nuclear export licensing from NRC to the Executive branch.
- o A brief information report to you as to the status of several related actions including establishment and appointment of members to a Nuclear Safety Oversight Committee to monitor and advise you of progress in achieving nuclear safety reforms.

### II. NRC Reorganization

A. Background. In your December response to the Kemeny Commission report, you stated that you would submit a reorganization plan to the Congress to strengthen the Chairman of NRC so that he can effectively lead the staff in carrying out the NRC safety mission. Your statement specified that the Chairman must have the power to act on a daily basis as chief executive officer, must be able to select key personnel and must be able to act on behalf of the Commission during an emergency.

Since your response to the Kemeny Commission, another major study of the NRC has joined that Commission in recommending that the NRC be replaced by a single administrator executive agency on the model of EPA. This second study, released January 24, 1980, was commissioned by the NRC itself and conducted by the firm of Mitchell Rogovin, a private Washington attorney.

The single administrator executive agency model has substantial merit and some of your advisors continue to favor it. Others strongly oppose it, believing that the independent commission form is essential to credible nuclear safety regulation. Almost everyone agrees, however, that abolishing the Commission is not a wise course of action at this time. Our Hill consultation indicated that *none* of the directly involved Congressional Members would support such a change except Congressman McCormack

of Washington. Many Members of Congress fear that concentration of power in a single administrator acting under Presidential direction will narrow the diversity of viewpoints and reduce safeguards against unwise decisions. Many nuclear proponents fear that efforts to abolish the Commission, which could not be done by reorganization plan, would provoke a prolonged legislative battle injurious to nuclear energy. This would leave the NRC in a leadership limbo for months and, even if the bill passed, there would be additional disruption and delay during a difficult transition.

*B. NRC's Executive Leadership Problem.* Nuclear safety regulation is a highly technical undertaking which requires continuous decentralized monitoring by qualified staff. In this respect it is unique among independent regulatory agencies and, as a result, NRC has a greater need for clear executive leadership than is common to the others. In spite of this need, the NRC depends more heavily on collegial administration, and has a Chairman who has little authority. This condition of diffused leadership is rooted in the five year history of the NRC, and of the AEC from which it evolved. (A brief digest of this history, highlighting the leadership issue, is attached as Tab A.)

The present NRC statutes contain a number of provisions which limit the ability of the Chairman to exercise any real executive power. The practical effect of the Chairman's weak and ambiguous authority is that executive leadership rests with the collegial body — an inherently poor source of clear direction and supervision. In this leadership vacuum the heads of NRC's major units act as self-directed and sometimes competitive power centers. Coordinated efforts to set and pursue priority objectives are lacking, as documented in recent studies by GAO and others. Operating officials must obtain guidance and supervision from five individual Commissioners, each of whom "own 20% of the business".

For further information we have attached, at Tab B, a factual description and chart of the organization and operation of NRC as it now operates and a chart showing the proposed organization.

### *C. Proposed NRC Reorganization Plan.*

*1. General.* In developing an NRC Reorganization Plan, our guiding principle has been to give the Chairman the strongest possible powers consistent with retention of the collegial commission form of organization. We have also been sensitive to the political realities at this critical point in the history of nuclear power. We have identified four main areas in which opportunities exist, through a reorganization plan, to increase the Chairman's ability to manage the NRC. These areas are:

- o Distinguishing the respective roles of the Commission and the Chairman;
- o Establishing a direct reporting and supervisory relationship between the Chairman and the NRC staff;
- o Increasing the Chairman's appointive powers; and
- o Consolidating NRC's emergency response powers in the Chairman.

All of these areas are interlocking and reinforcing. We designed our recommendations so that they would be mutually consistent and, therefore, comprise a coherent leadership reform package. We have considered a range of sub-options in each of these areas. We believe our

recommendations, as described and briefly discussed below, strike the right balance between collegial diversity and effective management.

Some improvement in NRC's performance has been apparent over the past months, spurred by outside criticisms. However, there is no assurance that recent internal management reforms will be sustained and institutionalized without formal action and statutory revision through a reorganization plan. Moreover, certain improvements cannot be instituted without changes to the statutes. We are perfecting the Reorganization Plan and have attached a draft at Tab C.

## 2. Distinguishing Commission vs. Chairman Roles

a. Present Situation. The NRC statutes contain inconsistent provisions as to the respective powers of the full Commission and of the Chairman. As a result, the Chairman's statutory authority to act as chief executive is ambiguous and, in the NRC tradition, has never been effectively exercised. An amendment in 1975 provided that the Chairman shall be the "principal executive officer," defined in the same terms used in the statutes of other regulatory commissions. However, the 1975 amendment did not affect a contradictory provision which had been carried over from AEC statutes. This provision states that "each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission." This latter provision has been used, in effect, to negate the grant of executive powers to the Chairman.

b. Proposal. We propose to transfer powers to the Chairman so he can act as chief executive officer within the broad policy guidance of the full Commission. Specifically we would remove the ambiguity of the Chairman's powers by making clear that the "equal authority and responsibility" provision relates only to the Commission's rulemaking, adjudication and policy functions not to day-to-day management of the agency. The Chairman would be responsible, under policies established by the full Commission, for management of the agency including functions vested in him by the Plan and for support of the collegial functions of the Commission.

c. Discussion. Our proposal accepts the concept of a collegial commission while reinforcing the role of the Chairman. It would remove the statutory ambiguity that has historically limited the NRC Chairman in exercising leadership over staff. This will appeal to nuclear proponents. Diversity of views from the collegial body would continue for adjudication, rulemaking and policy functions. This would reassure the nuclear skeptics.

We considered, but rejected, an option that would give the Chairman power to act as manager without accountability to the full Commission. Such an arrangement would be unparalleled among federal commissions and would be somewhat analogous to a corporate president who is not accountable ultimately to his Board of Directors. Both pro and anti nuclear interests on the Hill would oppose this much concentration of power in the Chairman as not consistent with an agency headed by a collegial body. Chairman Ahearne accepts the view stated by the other Commissioners that the full Commission should retain the ultimate authority within NRC.

d. Decision

I agree to proposed action \_\_\_\_\_ ✓

Do not agree \_\_\_\_\_

3. Reporting Relationships.

a. Present Situation. There is no line authority extending from the Chairman down through the organization. Instead, supervision of the operating staff is left, by law and in fact, to the collective Commission. This is depicted in the "present" NRC organization chart provided in Tab B. The critical position of Executive Director for Operations (EDO) and the five principal line offices of NRC are accountable directly to the five Commissioners equally. The Public Affairs Director and the Congressional Relations Director report equally to all Commissioners even though the Chairman, by law, is charged with being the spokesman for NRC. The resulting disconnected and diffused chain of command is encouraged by several provisions of law and has been reinforced by the personal style of the incumbents.

The EDO may not now limit certain office heads from communicating with or reporting directly to the Commission. The original intent of this provision was to provide a safety valve to help prevent bureaucratic suppression of vital safety issues. In practice, the provision has been used to justify regular circumvention of the EDO on day-to-day routine business.

b. Proposal. We would establish a normal chain of command from Chairman to the EDO and from EDO to the five operating offices. We would also provide that the Commission-level Offices of Public Affairs and Congressional Relations report to the Chairman (as NRC spokesman) instead of to the Commission. Finally, we would alter the provision in law which states that certain office heads may report directly to the Commission, so as to limit it to its original intent — preventing bureaucratic suppression of a safety alert.

c. Discussion. The EDO position is critical to the ability of the Chairman to function effectively as Chief Executive Officer. The Chairman must be freed from detailed staff supervision so that he can effectively serve as leader of the collegial body and as spokesman for the agency. To facilitate this, the EDO should have his authority delegated from the Chairman, under whose direction he operates.

The EDO, in turn, must supervise the principal office heads, including responding to the information needs of the members. Requests for information by Commissioners, other than routine, should be passed down through the EDO. Any problems in satisfying these needs should be worked out, if need be, between the Chairman and the other members.

The four Commissioners would prefer to have the EDO and the office heads report to the Commission. They would accept this reporting relationship being "through the Chairman". Chairman Ahearne agrees with our proposal to have these officers report to the Chairman who, in turn, is responsible to the Commission for staff operations.

d. Decision

I agree to proposed action \_\_\_\_\_ ✓

Do not agree \_\_\_\_\_

4. Appointive Powers

a. Present Situation. The law gives the NRC Chairman the power to make appointments to NRC positions, except that three statutory line offices, the EDO, and five other unnamed positions are to be appointed by the Commission. No special role for the Chairman is provided in law in the case of these nine critical appointments. In addition, the law provides that appointment of heads of "major administrative units" are subject to Commission approval.

In practice, the Commission makes at least sixteen key appointments without Chairman initiative, including the nine assigned by law, and seven others. Similarly the Commission appoints the Chairman and members of the licensing board panel, the appeals panel and the members of the Advisory Committee on Reactor Safeguards. The Commission also approves nominations by the staff (not by the Chairman) to about 25 other positions which are deemed by the Commission to be heads of "major administrative units" or of equivalent importance.

In summary, the law acts as a barrier to a strong role by the Chairman in the selection and appointment of key people, and the Commission assumes appointive powers through an interpretation of the law which exceeds that which is expressly authorized. As a result, the Chairman's ability to supervise and direct execution of the NRC program is not reinforced by any responsibility for the appointment or removal of key persons.

b. Proposal. We propose that the appointive powers be transferred by plan so that the Commission does not have sole appointive power for any positions. Instead, we propose that the Chairman initiate appointments in all cases, but that a specified and limited number of appointments be subject to approval by a Commission majority. These positions, which are intimately associated with the adjudicative or policy functions of NRC, include the Chairman and members of the licensing board, the licensing appeals board, the Advisory Committee on Reactor Safeguards, the heads of the six Commission level offices (excluding Public Affairs and Congressional Relations), the EDO and the heads of the five line offices. Action to remove persons from any of these positions would be proposed by the Chairman or any Commission member and would be subject to Commission approval. All other major staff positions would be appointed or removed by the Chairman without referral to the Commission.

c. Discussion. The approach we propose will give the Chairman a positive role in making appointments, thereby enhancing his position in directing NRC's staff. It will also help avoid the protracted stalemates that have occurred in filling some key vacancies. The Chairman would also be authorized to make interim appointments to positions for which permanent appointments require Commission approval. He would have sole appointment authority to all positions not specified. The Commissioners of NRC have agreed to the limitation of their appointive powers as described, provided they retain the power to approve appointments to the designated key positions and can initiate removal actions for such positions on their own.

However, Chairman Ahearne, Frank Press, DOE, and State believe the Chairman should be given unilateral personnel authority over additional key positions. Ahearne proposes that the Chairman also appoint unilaterally the Executive Director for Operations (EDO) and the heads of the five major offices. In the view of Frank Press, DOE, and State this goes too far, since it would include positions that engage in adjudication and rulemaking. However, they would authorize the Chairman to appoint unilaterally the Executive Director for Operations, the Executive Legal Director, the Director of Nuclear Regulatory Research, the Director of Inspection and Enforcement, and the Director of Standards Development. These are seen as performing executive and service functions. The EDO would essentially be the Chairman's deputy in managing NRC, and it can be argued that the Chairman's selection should not be subject to Commission approval. Moreover, giving the Chairman unilateral appointment power for these positions would strengthen his capacity to manage the NRC.

The four members of the Commission other than Ahearne, Senators Ribicoff, Glenn, Hart, Percy, and Javits, as well as Congressmen Udall and Moffett all believe that unilateral appointment of these positions would give more power to the Chairman than is compatible with the commission form. They feel that the Commission should be able to express their approval of the limited number of officials who, collectively, are very instrumental to the performance and attitude of the agency. Commission endorsement of these key officials, who have been selected by the Chairman, will increase the Commission's confidence in the staff.

d. Decision

I agree to the approach proposed  
by OMB. \_\_\_\_\_

I agree with the approach proposed ✓  
by Press, DOE, and State. \_\_\_\_\_

5. Emergency Response

a. Present Situation. NRC's mission in the event of a reactor emergency is twofold. First, the NRC is authorized to direct action by the plant operators, if need be, to contain the problem. Secondly, the NRC must provide timely and reliable advice on protective measures to civil authorities, including local officials, the Governors and the President, as well as to the media and general public.

Neither the Chairman nor any other Commissioner can legally act for NRC in the event of a nuclear emergency because statutes have been interpreted by the NRC to prevent the Commission from delegating its powers to any of its members, including the Chairman. Thus emergency response direction at the political appointee level must involve the full Commission. The Commission has recently agreed to permit one Commissioner to informally take the lead (former Chairman Hendrie did so in the recent Florida incident), but he cannot take any legal action on behalf of the NRC. An emergency response team has been formed by NRC comprised of selected staff officers headed by the EDO. This mechanism provides the trained technical staff advice that must be relied on in any emergency. The issue is to empower the

Chairman or another Commission member to act for NRC in an emergency situation and to supervise the staff. Doing so will avoid the need for all five members to act together or to deliberate as to who should be formally authorized to act.

b. Proposal. We would transfer authority to act for the NRC in the event of an emergency to the Chairman, with the added authority in the Chairman to delegate his powers to another Commissioner.

c. Discussion. There is general agreement that directing the NRC during a nuclear emergency is not a task for collegial management. Similarly, deciding on what advice to give "outside the fence" cannot be arrived at collegially. The Commission would like authority to delegate its power to one of its members rather than have the law fix authority in the Chairman. They want discretion to select the best suited member to act for NRC in a crisis, although they concede that technical expertise as such is not required. Chairman Ahearne believes the emergency response assignment should be given by law to the Chairman and not be open to group deliberation and possible recision. He feels the Chairman is best able to carry out this responsibility because his role as chief executive officer gives him the greatest familiarity with the organization and capabilities of key staff members who must be relied on in an emergency.

We agree with Ahearne. Emergency response powers should be assigned unequivocally and should not be subject to recall by the Commission. The criteria for selecting a Chairman should include the qualities needed to direct an emergency response. Needed flexibility to cope with unforeseen contingencies, such as illness of the Chairman or two concurrent emergencies, can be provided by authorizing the Chairman to delegate his emergency response powers to another member. We anticipate general support for this proposal on the Hill.

d. Decision

I agree to proposed action \_\_\_\_\_ ✓

Do not agree \_\_\_\_\_

D. Other Actions Considered for Inclusion in the Plan. A number of other possible actions which do not relate to strengthening the Chairman were reviewed for inclusion in the Reorganization Plan. These are briefly noted below. We have not provided for your decision in these cases, but, of course, we will accept any instructions you may wish to give.

1. Transfer certain NRC functions not directly related to its domestic safety mission. Both the Kemeny and Rogovin reports referred to "non-safety" functions of NRC as prospects for transfer elsewhere. Neither report made any examination of the implications or alternatives. One candidate for transfer is the licensing of nuclear exports which is separately addressed in section III below.

The second candidate for transfer is the function of making anti-trust findings required by law as part of the review of reactor license applications. Justice makes a review and advises NRC. NRC holds hearings, if necessary, and makes the final findings. NRC estimates that utilities covering 80% of the country have by now been reviewed and the function is not so burdensome as in the past. Justice does not want the function and, on balance, NRC would prefer to retain it. The function is not a drain on the Commission and does not distract it from its prime mission. If NRC had to await findings from Justice to complete a licensing action, it would lose a measure of control over its process.

We conclude that the anti-trust findings should remain as an NRC function.

2. Inspector General or equivalent. Suggestions have been made that a capability be added within NRC to independently assess the effectiveness of the agency in achieving and maintaining its safety goals. Several ways to do this have been advanced. Rogovin proposes a Nuclear Safety Board generally analogous to the National Transportation Safety Board. Congressman Moffett would extend the Inspector General Act of 1978 to include the NRC. Either of these approaches would probably exceed the reorganization authority. A unit within the NRC, however, could be added by plan, but the NRC Commissioners have not come to any conclusion as to what they need or how it should be structured.

We agree that there is merit to the concept of a management audit capability within NRC. It would help the Commission oversee the performance of the agency as it operates under the Chairman's direction. We have concluded, however, that such a unit should not be established by this Reorganization Plan since the Commission has all the power needed to establish such a unit when it determines what it requires. We propose to support in principle the idea of an internal review or audit capability in the Message to Congress. We will also urge in the accompanying fact-sheet that NRC determine how this need can best be met and request that they present a proposal as part of their budget submission.

3. Office of Public Counsel and intervenor funding. By reorganization plan we could create an Office of Public Counsel within NRC to assist the public in participating in NRC rule-making and adjudication. We could not grant intervenor funding authority by plan. Within recent weeks the Comptroller General has ruled that NRC may fund intervenors if the Commission finds that doing so is necessary to properly review a particular license application. This Comptroller General decision is, however, far less than a direct Congressional mandate to engage in intervenor funding. It therefore appears unlikely that the NRC will act on the Comptroller's decision because of the vehement opposition to intervenor funding by their appropriation sub-committee chairmen. We also anticipate that Chairman Brooks of the House Government Operations Committee, who will chair the NRC Reorganization Plan hearing, will continue his past strong opposition to intervenor funding.

In spite of known opposition, your Administration has consistently supported the principle of intervenor funding. The NRC budget for FY81 includes a request for \$500,000 for a pilot program even though the likelihood is that it will be knocked out.

We conclude that the Plan should not provide for an office to administer intervenor funding on the grounds that the NRC has very limited authority, at best, to fulfill the function and, as yet, no funds specifically to fund intervenors. At the same time we believe that we should publicly encourage NRC to include consideration of intervenor funding as part of their review and upgrading of the licensing process as called for by Kemeny and Rogovin. If legislation is needed to provide a clear Congressional mandate for intervenor funding, that should be considered in their review. The Commission could then act on its own authority to establish an Office of Public Counsel, or equivalent, to administer the program.

*E. Congressional Assessment of Internal NRC Management Reforms.* We have consulted closely with the Members and Chairmen of the House Government Operations Committee, Senate Governmental Affairs Committee, and with those Members of both House and Senate most concerned with nuclear affairs. We believe the Plan represents a sound balance between Commission and Chairman. Absent an export licensing transfer, which we discuss below, the Plan can be successfully defended before Congress as a significant and needed step toward more assured attention to nuclear safety. As long as we can make this the underlying theme, we should attract a wide base of support for the Plan, including those who are anxious about control of nuclear hazards as well as those who are concerned that loss of public credibility is a threat to the future of the nuclear industry.

Throughout our consultations, the most active concern about the forthcoming Plan has been expressed by those who equate continued reliance on the collegial powers of the Commission with assurance of safety and strong safeguards. They were fearful that the Plan may emerge as a "back-door" way to establish a single-administrator agency. Senator Hart and Congressmen Udall and Moffett or their staffs have been the chief exponents of this view. We can expect these Members to press for reassurances in our testimony, or even amendments to the Plan, to reinforce their position.

Considerable sentiment has developed in the Senate for a very different approach which would transfer all executive and substantial appointive power to the Executive Director for Operations rather than to the Chairman as we propose. We have resisted this as both unworkable and contrary to your announced intention to strengthen the Chairman.

Nuclear power proponents on the Hill, and especially Symms, Wydler, McCormack and Fuqua in the House, are quite supportive of a strengthened Chairman. They would generally favor a plan that goes further in this direction than we have proposed. However, they have not demonstrated as much sustained interest in the Reorganization Plan as those referred to in the preceding paragraph. Also, it should be noted that these nuclear proponents have real reservations about too much unilateral appointive power in a Chairman who, in turn, serves at the pleasure of the President.

In summary, we feel that the internal management reforms in the Plan as proposed can be successfully defended in Congress. Moreover, it can be presented as one more action on your part to assure the safety of nuclear power and, consequently, to help preserve the continued availability of this vital energy source.

*III. Nuclear Export Licensing.* We require a decision on whether the NRC Reorganization Plan should transfer nuclear export licensing functions from NRC to the Executive branch.

*A. Background.* Under current law (including the Nuclear Nonproliferation Act of 1978), the NRC issues licenses for the export of nuclear materials and equipment to foreign countries. It does so only upon receiving judgment from the State Department, on behalf of the Executive branch, that a proposed export meets criteria specified in the NNPA and is not "inimical to the common defense and security". If NRC does not approve a license after an "independent check" of the Executive branch findings, the President may still overrule the NRC and authorize the export. If this happens, the issue goes to the Congress under a legislative veto provision.

Although your December 7, 1979 response to the Kemeny Commission recommendations said that a transfer of non-safety statutory responsibilities "will not now be pursued," the NRC has recommended that the export licensing function be moved to the Executive branch, and the State Department is urging that NRC's export licensing function be transferred to State as part of the NRC Reorganization Plan. At the request of State, Frank Press, and Lloyd Cutler, we are presenting the nuclear export transfer issue to you for decision.

*B. Options Considered*

*Option 1. Transfer NRC licensing function to the State Department.* Under the State Department approach, the licensing function would be transferred from NRC to State, and NRC would no longer be involved in nuclear export matters. State would continue to consult with Executive branch agencies specified in the NNPA to determine if a proposed export met statutory requirements. If any agency believed these criteria were not met, but State believed the export should nevertheless be approved, the matter would be referred to the President for decision. A Presidentially approved export license would continue to be subject to Congressional veto.

Despite recent NRC actions to delegate more of the export licensing functions to staff, a 3-2 majority of the Commission itself has concluded that involvement by the NRC in international licensing issues results in a significant diversion of Commission time and staff resources from its primary duty to assure nuclear safety at home. The Commission majority also feels that its expertise in export licensing matters is limited.

Proponents of transfer believe it is undesirable, in principle, for an independent regulatory commission to exercise such a check on Executive branch determinations in a sensitive aspect of foreign and national security policy. NRC does not have inherent expertise in foreign affairs or responsibility for the overall effects its decisions might have on our relations with other nations. The President's initiative in taking actions to further U.S. foreign policy, including the goals of nonproliferation, is delayed and to some extent confused by placing responsibility for licensing decisions outside the Executive branch, even though the President retains ultimate authority to override the NRC.

State believes that our present image of unreliability as a nuclear supplier is seriously damaging to our nonproliferation effort worldwide; and that our image and capability would be greatly improved by establishing control of the nuclear export licensing process within the Executive branch

(although subject to a Congressional veto). Proponents believe that the Reorganization Plan offers a unique opportunity to correct what they see as a procedural defect in the law. They emphasize that the transfer need not diminish the Administration's strong nuclear nonproliferation policy.

While the NRC has special obligations under the law to consider outside views, it applies the same standards and criteria to licensing judgments that the Executive branch agencies have already applied. To the Executive Departments involved, the NRC "independent check" is a redundant rehash of the same data, intelligence, and foreign policy judgments that they have already considered.

Recognizing the political uncertainty of the Congressional reaction to the transfer, proponents of it note that the Plan can be amended within 30 days to delete the export licensing provisions if opposition appears too powerful. Thus the internal NRC management reform aspects of the Plan need not be jeopardized.

*Option 2. Retain export licensing in NRC.* Opponents of transferring export licensing by this Plan question the merits, politics, legality, and timing of the proposal.

On the merits, opponents of the transfer assert that an independent check of Executive branch determinations is necessary to assure that the most careful possible scrutiny is given to the nonproliferation implications of licensing decisions. The NRC review provides a counterweight to the large incentives for the Executive branch to promote nuclear exports, such as business pressures, balance of payments concerns, and short-term gains in foreign relations. They point out that this Administration is on record as specifically supporting "the independent role of the NRC in the export licensing process" in urging passage of the NNPA two years ago.

Politically, it is clear that some key Members of Congress feel strongly about maintaining the NRC's independent check and the Congressional review it can set in motion. While Option 1 provides that Congress will have an opportunity to review cases in which any participating agency maintains that export criteria are not met, this procedure would involve Executive branch agencies presenting different viewpoints to Congress for ultimate resolution and may be neither desirable nor believable to Congress. This provision for a legislative veto triggered by disagreement within the Executive branch is a precedent that weakens our long-standing argument against legislative vetoes in general. Opponents in Congress will question whether the Executive branch will be as likely to involve Congress as would be the independent NRC. Critics question the political wisdom of entering battle on a nuclear issue against environmental groups and liberal Democrats, in which the Administration's principal supporters would be conservatives, Republicans, and nuclear industry advocates. It is certain that the export licensing debate would overshadow the Plan's primary and less controversial objective of strengthening the internal management of the NRC. The NRC Commissioners are more deeply divided on this issue than on any other changes incorporated in the Plan. Two Commissioners, Bradford and Gilinsky, will testify against a transfer.

The critics of the transfer proposal feel that the Reorganization Act should not appear to be used to change substantive foreign policy. An argument can be made that a transfer of this nature stretches the legal limits of the Reorganization Act. It could harm our current effort to renew the authority this year, or lead to crippling amendments to the authority in 1981. The assertion that the Plan can easily be amended within 30 days to remove the export licensing transfer runs counter to

our 1977 statement that this provision was intended to be used only for minor or technical amendments.

With regard to timing, several factors are involved. In the present context of trouble in Southwest Asia, the transfer might be interpreted (whether justifiably or not) as signaling a change in our substantive nonproliferation policy, particularly if the rationale is that we will be a "more reliable supplier" after the change. The *Los Angeles Times*, *Washington Post*, *Philadelphia Inquirer*, and *Wall Street Journal* have already published editorials opposing a transfer largely on these grounds. Critics also assert that another change in the decision-making process, less than two years after passage of the NNPA, can actually stimulate foreign concerns about our stability of purpose as a reliable nuclear supplier. This would particularly be the case if we were forced to amend the Plan to restore NRC's role after a strong public case had been made against it. Finally, they note that a transfer now would short-circuit a forthcoming GAO assessment of nonproliferation policy implementation, which was provided for in the NNPA to give Congress recommendations on any necessary changes after three years of experience.

*Option 3. Procedural reform in nuclear export licensing.* Lloyd Cutler has recently suggested a third, compromise approach aimed at accomplishing the major goals of a complete transfer while responding to Congressional demands for an independent check by NRC and by Congress. Specifically, licensing authority would be transferred from NRC to the President (who already has the ultimate authority under the NNPA). The President would delegate operating functions to the Secretary of State. License applications would be received by the State Department, with notice to NRC. State would, as it currently does, investigate and determine, with other Executive branch agencies specified in the NNPA, whether or not the requested permission to export meets the criteria specified in the NNPA. So finding, a license would be approved subject to comment by NRC and, if NRC's comment is adverse, final decision by the President. NRC would have a reasonable, fixed additional period (e.g., 30 or 60 days) from the initial approval by State to provide for whatever public participation it deems necessary and to register its own position. If the President ultimately approves a license against an NRC recommendation, the matter would go to Congress under the current legislative veto provision. We would continue to reserve our position as to the constitutionality of an actual veto.

*Proponents of the third option assert that it would:*

- o Provide a more timely and centralized decision process which may reduce the impression created by the present procedures that we are an unreliable and procrastinating supplier of nuclear fuels – an impression that, in the opinion of State, helps to drive other nations toward reprocessing and the breeder in order to reduce their present dependence on us.
- o Reemphasize the President's resolve to prevent nuclear weapons proliferation by centralizing the objective in the White House, while delegating operating authority to State subject to NRC comment.
- o Be responsive to the Congressional insistence on both the NRC check and the opportunity for Congress to review controversial cases, and serve as a good example of prior and substantive consultation with Congress.

- o Be consistent with precedents in bank merger legislation, in which Federal Reserve approval is stayed for thirty days while Justice reviews it, and in the International Economic Emergency Powers Act, under which Presidential licensing authority is delegated for operational purposes to a Department.
- o Be in harmony with the Administration's previous policy of support for an independent role for the NRC in export licensing, subject to ultimate Presidential approval.
- o Essentially be a re-sequencing and therefore less vulnerable than Option 1 to the charge that we are exceeding the intent of the reorganization authority.

Opponents of this option will argue that, even though NRC has notice at the time the Executive branch begins its own appraisal, the firm time limit after Executive branch action will reduce opportunity for environmental review or public participation, and encourage the Executive branch to limit NRC's access to information. Since the NRC would continue to be distracted from its primary duty of assuring domestic nuclear safety, this option is not as responsive to the rationale for change given by the majority of the NRC and by both the Kemeny and Rogovin reports. Should NRC respond to time pressure by elevating more controversial cases to the President for decision, the required subsequent review by Congress may undesirably increase the controversy level and create more uncertainties than presently exist. Under existing procedures, only one case, an export to India in 1978, has been referred to Congress.

Whether the compromise would actually increase support in Congress is questioned by proponents of both of the other options. It has been difficult to gauge, both because the option appeared after most consultations had taken place, and because it is designed to appeal to moderates who have not focussed on the issue and are unlikely to form an opinion until a concrete proposal is made. The objections to option 1 based on timing apply equally to this option.

*C. Congressional Assessment of Export Licensing Transfer Options* Congressional consultations on option 1 indicate that a reorganization plan which included a provision to transfer export licensing authority from NRC to State would have little, if any, chance of success. While there is some support for the proposal in both Houses, it is shallow and weak. The opposition to such a provision is intense, well-organized, and includes the Chairmen of both the House Government Operations Committee and Senate Governmental Affairs Committee. To have any chance of success, a transfer will require active leaders in each House. Since none have emerge, it is clear that a plan containing a transfer provision would be defeated in both Houses.

In the Senate Governmental Affairs Committee, only Senator Mathias will actively support transfer. Opponents include Chairman Ribicoff, who will follow the lead of Senator Glenn, Chairman of the Energy and Nuclear Proliferation Subcommittee, and Senators Levin and Percy. Javits, who with Glenn and Percy is on Governmental Affairs and Foreign Relations, will not oppose Ribicoff. Although sympathetic to transfer, Senators Stevens and Jackson will not participate actively because of time constraints.

Outside the Committee, Senators Church and McClure will support transfer. Cranston and Hart will actively oppose. Hart is Chairman of the Environmental and Public Works Subcommittee on

Nuclear Regulation, which has authorization jurisdiction over NRC. This puts him in a jurisdictional struggle with Church.

The key to passage in the House is concurrence of the Government Operations Committee. Chairman Jack Brooks and a majority of the Committee's Democrats are opposed to transfer. Republicans, led by Wydler and "Bud" Brown, could create a slim majority on the Committee for a plan including transfer. A floor fight would pit liberals (Udall and Bingham) against nuclear proponents (McCormack, Symms and Goldwater). Chances for passage are poor.

The compromise proposal, option 3, has not won over opponents of transfer and has had the effect of diminishing the support of some Members who either support State for jurisdictional reasons or support the nuclear industry's desire to have the NRC out of export licensing altogether. We believe that it, too, has little chance of passage, but since it preserves a role for the NRC, may be fought with less intensity. No major support for it has developed and it will be opposed by Senators Ribicoff, Glenn, Hart, and Cranston and Congressman Moffett. They oppose limiting the NRC role as an independent check whether under the guise of substantive transfer, as State proposes, or procedural "re-sequencing", as option 3 proposes. They maintain that even if the option 3 compromise were procedural, it has a substantive policy impact by limiting NRC time for consideration and reducing NRC to an advisory role, weakening the independent check. Congressman Bingham, the chief House sponsor of the NNPA, finds option 3 less objectionable than outright transfer to State but still opposes including it in the Plan. He feels that option 3 would still be very contentious and may be seen as a weakening of the Administration's nonproliferation policy.

In summary, including either transfer option in the Plan without prior evidence of strong support would put the Administration in the position of having the whole Plan disapproved unless the transfer provision were removed from the Plan within the 30-day amendment period, after the Administration had received the brunt of the criticism from nonproliferation forces. The controversy could be politically damaging because the Administration will be seen by many Members and interest groups as backing away from its support of nonproliferation.

Beyond the questions on the merits of the proposal lies the question of timing. Few Members relish the prospect of being forced to vote on a nuclear issue in an election year, particularly when the issue will be addressed by a GAO report mandated for March 1981 under the Nuclear Nonproliferation Act.

*D. Agency and Staff Positions.* State, Defense, Commerce, ACDA, NSC, and Frank Press recommend option 1, the complete transfer. Option 3 is acceptable as a fallback choice to each of them.

Energy also prefers option 1, but if it is not feasible politically, DOE recommends option 2.

Justice opposes option 1 insofar as it triggers a legislative veto on Executive branch disagreement.

CEQ opposes any change in NRC's current role, and feels that option 3 is no more acceptable than option 1. Both transfer options would signal a more lenient policy on exports.

OMB, Stu Eizenstat, and Jack Watson recommend option 2. Anne Wexler's consultations confirm that a transfer initiative would be very controversial. Very strong opposition from environmental groups will outweigh nuclear industry support for a transfer. She also finds option 2 the best alternative.

Lloyd Cutler supports option 3, and is convinced that it can be persuasively defended in Congress.

The NRC is split. Three Commissioners feel that export licensing is a diversion and should be transferred, though at least one of them, Chairman Ahearne, does not believe it should be done in this Plan. Commissioners Bradford and Gilinsky dispute the "diversion" argument and believe that any choice but option 2 would send a message abroad that the U.S. is relaxing its nonproliferation stance. They and the Chairman predict that option 3 would result in more controversial cases being referred to the President and Congress.

*Based on final  
& OMB info,  
Option 1, which I  
prefer, would kill  
the plan -  
let's try preparing  
separate  
legislation similar to  
Option 1 (Hold it)*

**E. Decision**

Option 1 — Remove NRC from export licensing by transferring its responsibility to State, with subsequent decision by the President if any agency believes export criteria are not met. A decision by the President to authorize such an export would be subject to existing legislative veto. (State, Energy, DOD, Commerce, ACDA, OSTP, and NSC recommend.)

Option 2 — Deal only with internal NRC restructuring in the plan and make no change in export licensing. (OMB, Eizenstat, Wexler, Watson, and CEQ recommend.)

Option 3 — Transfer licensing to the President, with operating functions delegated to State, and provide fixed NRC review period with subsequent decision by the President if NRC objects to a license, subject to existing legislative veto if the President overrules NRC. (Cutler recommends.)

*How much can  
I expedite NRC/State  
decisions?*

**IV. Related Actions Being Taken.** Several actions are underway to implement other decisions you have announced regarding the Kemeny proposals. These are reported here for your information. They do not require decision or action by you at this time.

**A. Nuclear Safety Oversight Committee.** A proposed Executive Order which would establish a Nuclear Safety Oversight Committee is being forwarded to you separately for your signature. This would be a public advisory committee to advise you of progress by NRC and the nuclear industry in achieving the safety reforms identified as needed by the TMI experience and called for by you in your public response to the Kemeny Commission.

The Kemeny Commission recommended an Oversight Committee of a somewhat different character than the one proposed in this order. They had in mind a permanent committee of 15 members with balanced views. Such a body would have partially offset the loss of diversity in nuclear safety policy resulting from Kemeny's proposed conversion of NRC to a single administrator agency. While you rejected the single administrator idea, your statement in response to Kemeny indicated that you would establish a smaller - 5 member - advisory committee of limited duration to give you expert advice

on progress being made by NRC, other Federal agencies, the States and the utilities in improving the safety of nuclear reactors.

The members would be Presidentially appointed and would be part-time. The Oversight Committee would be a working unit rather than honorific. A small staff of 4 or 5 professionals would support the members. The White House Personnel Office is sending you separately a list of nominations, with which Frank Press and OMB concur, for your approval. The Committee will be funded initially by DOE and HEW. FY81 funds, as required, will be requested by supplemental.

*B. FEMA Role in Nuclear Emergencies.* FEMA has assumed the lead in off-site emergency planning and is building its capability to review State emergency preparedness plans. NRC and FEMA have reached a Memorandum of Understanding on their respective roles. We are working to assure that the NRC authorization bill, now in conference, will confirm FEMA's and NRC's respective roles in off-site emergency response that conforms with your acceptance of Kemeny's recommendation regarding FEMA.

*C. Additional Budget.* We have requested additional appropriations for NRC in a FY'80 supplemental for \$49.2 million and in the FY'81 regular budget. These increases will be used for safety related research, analysis of technical data from the TMI accident, and to initiate programs for improved plant operator training and qualification. Small supplementals for FEMA and DOE have also been requested.

*D. Office Space Consolidation.* GSA has been instructed to give top priority to overcoming the serious physical separation of the Commissioners and the Commission level offices in D.C. from the five or six locations of the staff in nearby Maryland. This is regarded as a very real barrier to program effectiveness as well as a cost burden. GSA is examining both lease-purchase and construction possibilities to meet NRC needs. When completed, a prospectus will be reviewed by OMB and forwarded to Congress on an accelerated schedule. As an interim measure, GSA is exploring alternatives for consolidating the Commissioners with the principal staff offices. We will continue to press this matter with GSA and NRC and support their work on it with the Congress.

*E. NRC Actions.* Most of the Kemeny proposals require direct action by the NRC. In addition to the Kemeny Report, the NRC now has the benefit of corroborating advice from Rogovin, GAO and its own internal review. The Commission has established a prioritized list of actions to be completed as a condition to the resumption of the reactor licensing process. As requested by you, these actions are targeted for completion by the end of June.

*F. Industry Action.* The nuclear industry has been very active since TMI in examining its practices in order to improve safety and to rebuild its damaged public credibility. Frank Press, on your behalf, has written to leaders of the industry, including utilities and manufacturers, urging them to implement your Kemeny decisions and to cooperate with your advisory Nuclear Safety Oversight Committee.

*V. Next Steps.* If you approve the NRC reorganization proposal, we will complete a plan for transmittal to the Congress.

Do you wish to participate in a public session to make a statement and sign the Message and Executive Order – or shall we plan on routine handling without your public participation?

Schedule me to participate publicly \_\_\_\_\_

Proceed with routine handling \_\_\_\_\_ ✓

As usual, it is helpful, in dealing with Congress, to review the draft Plan with selected Members and committee staffs before it is formally submitted. We have begun this process, using a draft version that does not transfer the nuclear export licensing function. If you decide to transfer this function, we will need an additional week following that decision to add this to the Plan and make further contacts before your submission of the Plan to Congress.



## Tab A - History of the NRC

The history of the Nuclear Regulatory Commission and of its predecessor, the Atomic Energy Commission, has been marked by controversy between proponents of collegial and single direction of the agencies' management. To a considerable extent this has been a struggle between the Congress, with its former Joint Committee on Atomic Energy finding the Commission form conducive to close Congressional oversight, and the President looking to the Chairman to provide policy initiatives and management direction. Both points of view are reflected in existing legislative provisions directed at NRC's management, and as a result the law is ambiguous and the key incumbents have been uncertain how to conduct their offices.

The Atomic Energy Act of 1946 placed a commission over AEC to obtain a diversity of views and make the agency independent of the Executive in dealing with the awesome new technology and its military potential. Regulation of private utilities in developing nuclear power was not then in AEC's mission. The term "Chairman" appeared only once in the Act, in referring to the President's designation to that post. A General Manager was established to discharge the administrative and executive functions. Originally to be appointed by the President subject to Senate confirmation, a later amendment placed the authority in the Commission to appoint the General Manager.

The Atomic Energy Act of 1954, following President Eisenhower's historic "Atoms for Peace" speech, opened up the field to commercial development. It also provided some delineation of the role of the Chairman. The original bill would have made the Chairman the "principal officer"; as enacted, he became the "spokesman". Chairman Lewis Strauss, with close ties to President Eisenhower, had been making policy statements and commitments without concurrence of fellow Commissioners. Angered at this development, the Congress enacted a provision that "each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission." An amendment the following year provided that each Commissioner have full access to all information related to his duties. These two provisions, which are still in the law, made all Commissioners, including the Chairman, essentially co-equal in managing the agency.

The growth in applications of nuclear energy led to increased difficulties in managing the agency. Under the Kennedy Administration the Commission supported reconstituting AEC to be an Executive agency under a single administrator. The JCAE promptly turned this down, as well as a similar proposal under the Johnson Administration.

The Energy Reorganization Act of 1974 split off the regulatory functions of AEC and assigned them to NRC. The non-regulatory or operating functions were assigned to ERDA and later placed in DOE. Within AEC the regulatory functions had been carried out by a division not under the General Manager but with oversight by a single Commissioner. As contrasted with the powerful position of General Manager under AEC, the new legislation merely provided that in NRC there be an Executive Director for Operations (EDO) who "shall serve at the pleasure of and be removable by the Commission" and "shall perform such functions as the Commission shall direct...".

The legislation also created three statutory line offices: Offices of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, and Nuclear Regulatory Research. The Directors of these three Offices "may. . . report directly to the Commission" and the EDO "shall not limit their authority" to do so. A later provision directed that the EDO be kept informed of communications up and down the line.

The first Chairman of NRC found that as "spokesman" he had visibility and accountability for agency performance, but lacked authority to manage the agency's activities. Moreover, the EDO had no authority to manage the line offices, either in statute or by delegation of the Commission. Therefore, in 1975 the Chairman, without informing three other Commissioners, proposed legislation to the Congress to strengthen his authority. Senator Baker introduced the amendment, stating the Chairman was the obvious candidate to be the leader in carrying out NRC's difficult management responsibilities. This was enacted, the Chairman being authorized to be the "principal executive officer" and thereby to make appointments, to assign work, and to expend funds, in the conformance with the Commission policies. This is a provision common to the Chairmen of other regulatory commissions.

This authority has never been exercised since the three aggrieved commissioners did not go along. The one Commissioner who collaborated with the Chairman replaced the Chairman. He did not seek to exercise the new formal powers because the same anger was directed at him.



## Tab B - Organization and Operation of NRC

The accompanying organization chart entitled "Present NRC Organization and Operation", shows the principal units of the NRC and how they presently relate to each other. The solid lines on the chart represent actual relationships, whereas the dotted lines represent "official" reporting relationships. This chart does not conform with the "official" NRC organization chart in a number of respects. The encircled numbers on the chart correspond to the explanatory comments below.

1. The Commission - comprised of the five members who collectively serve as the "Head of the Agency" in whom regulatory responsibilities and authorities are vested. Over NRC's history a pattern has developed in which each Commissioner "owns 20% of the business". We propose to restrict the Commission to policy, rule-making and adjudication with the Commission acting as a body rather than as five individuals.
2. The Chairman - is designated by the President and serves as such at his pleasure. The Chairman is by law, the "principal executive office", and the "spokesman" for the agency. However, as a result of other provisions of law and de facto practice, the Chairman has little real power that distinguishes him from the other members. For example, as represented by the chart, the operating staff of the NRC reports directly, in practice, to the five individual commissioners.
3. The Executive Director for Operations (EDO) - This position is created by statute and reports to the Commission. The incumbent is appointed by the Commission and performs such functions as the Commission assigns. We propose to have the EDO report to and be supervised by the Chairman, as depicted by the second chart which is entitled "Proposed NRC Organization and Operation". The Chairman would also appoint the EDO, subject to approval by the Commission.
4. Operating Offices - Five operating offices perform the major work of the agency and account for the great bulk of the total staff resources. The Office Directors report to the Commission, by-passing the EDO in all but a nominal sense. These Office Directors cannot look to either the EDO or the Chairman as a source of unified direction and supervision.

The names of the Offices as shown are reasonably descriptive of the functions performed. The following notations add a few key points:

- o Office of Nuclear Reactor Regulation (NRR)

Works with license applicants in an essentially adversarial way over an extended time while issues concerning the site and design of the reactor are worked out. Once NRR is satisfied that the proposed reactor is safe, they become in effect, a party of the application during the remainder of the hearing and licensing process.

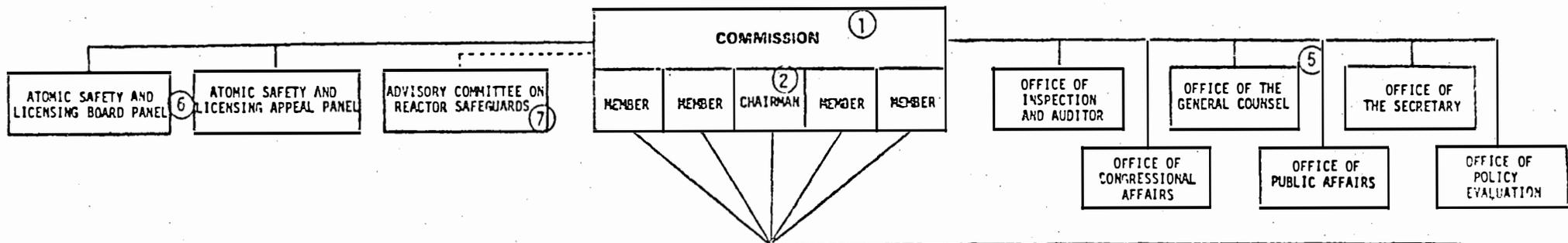
- o Office of Inspection and Enforcement (I&E)

Maintains an on-site regulatory presence to inspect construction work in process as well as plants in operation. Enforcement actions are taken by I&E as indicated including issuing NRC orders to applicants or operators to make corrections, or suspend construction or operation. I&E may also impose fines as penalties.

- o Office of Nuclear Material Safety and Safe-Guards (NMSS)

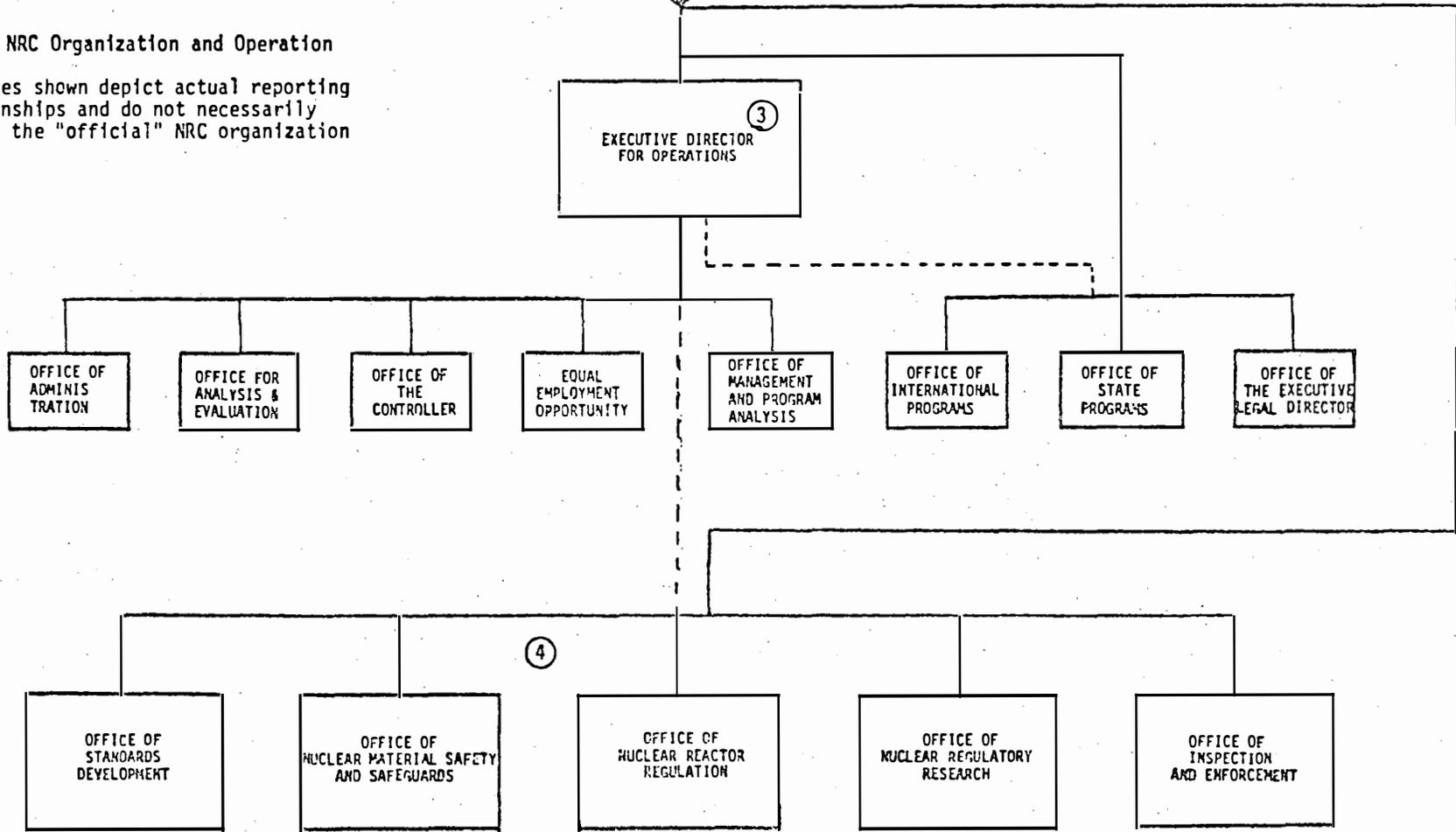
This office represents NRC in policy studies and licensing actions away from reactor sites - e.g., mining and milling, fuel enrichment, transport, and disposal.

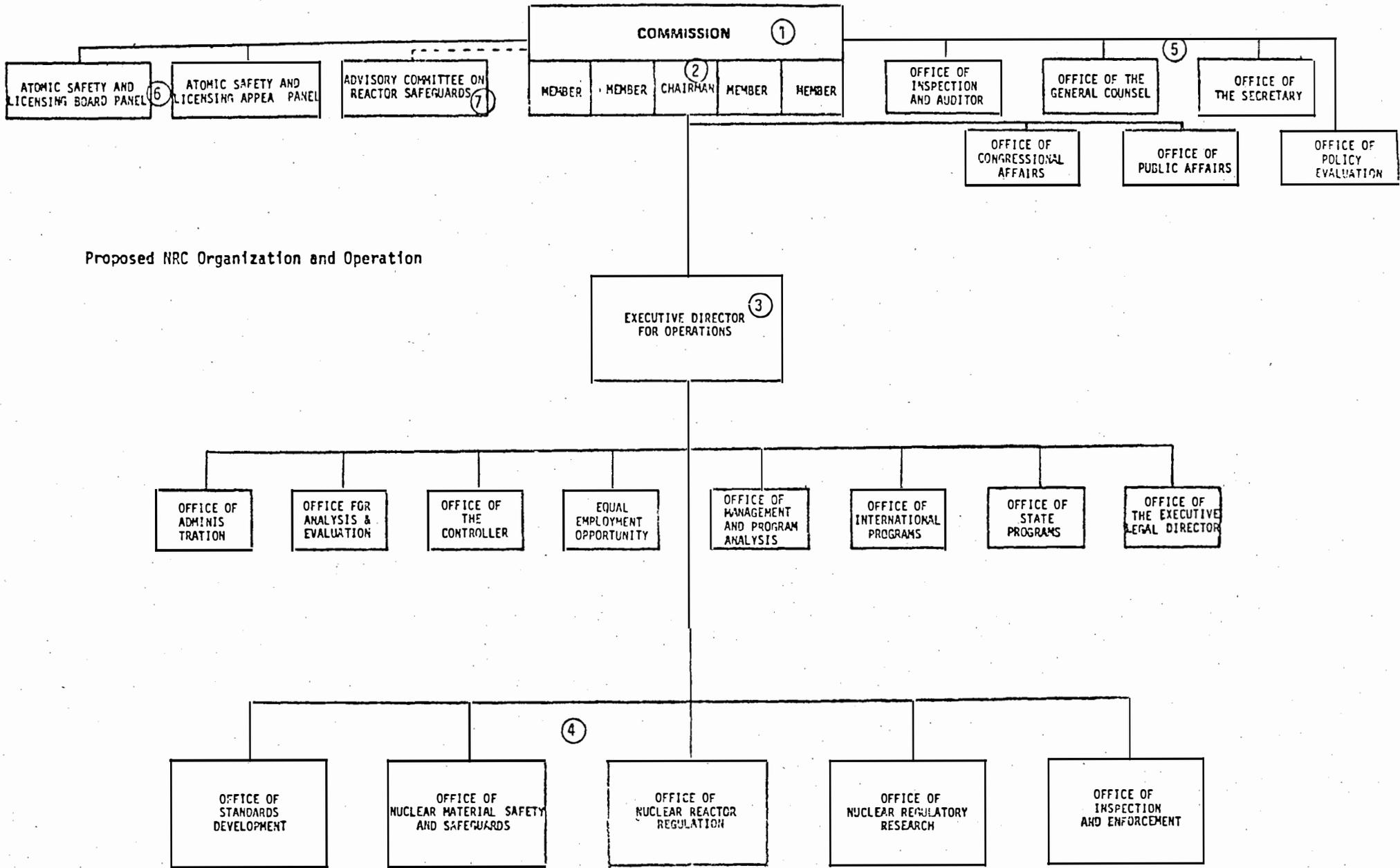
5. Commission-level Offices - General Counsel, Secretary, Policy Evaluation, and Inspection and Audit - these offices provide staff support to the Commission in performing its collegial tasks. The Office of Public Affairs and the Office of Congressional Relations both relate to the Chairman's role of spokesman for the agency. Nevertheless, they report to the Commission rather than to the Chairman. We propose that these two offices, which support the spokesman role, shall report to the Chairman.
6. The Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeals Panel - handle license and other adjudicative decisions. The first holds hearing on reactor license cases and makes the initial decision primarily addressing technical issues. The second body hears appeals on reactor license decisions or other licenses and adjudications, emphasizing the legal adequacy of the case and assuring that the record is properly developed.
7. Advisory Committee on Reactor Safeguards (ACRS) - This is a group of highly regarded technical persons who serve part-time in reviewing the technical safety adequacy of each proposed reactor. The ACRS makes an independent evaluation and advises the licensing panels of improvements or corrections needed before a license should be granted.



**Present NRC Organization and Operation**

(The lines shown depict actual reporting relationships and do not necessarily reflect the "official" NRC organization chart.)





Proposed NRC Organization and Operation



REORGANIZATION PLAN NO. 1 OF 1980

Prepared by the President and submitted to the Senate and the House of Representatives in Congress assembled \_\_\_\_\_, 1980, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

NUCLEAR REGULATORY COMMISSION

Section 1. (a) Those functions of the Nuclear Regulatory Commission, hereinafter referred to as the "Commission", concerned with:

- (1) policy formulation;
- (2) rulemaking, as defined in section 553 of title 5 of the United State Code;
- (3) adjudications, as defined in section 551 (6) and (7) of title 5 of the United States Code;

shall remain vested in the Commission. The performance of all or any portion of those functions may be delegated by the Commission to the Chairman of the Nuclear Regulatory Commission, hereinafter referred to as the "Chairman", to a member of the Commission or to the staff through the Chairman.

(b)(1) With respect to the officers or successor officers listed in paragraphs 2 and 3 of this subsection:

The Chairman shall initiate the appointment, subject to the the approval of the Commission. The Chairman or a member of the Commission may initiate an action for removal, subject to the approval of the Commission.

- (2) The following officers or successor officers duly established by statute:
  - (i) Executive Director for Operations,
  - (ii) Director of Nuclear Reactor Regulation,
  - (iii) Director of Nuclear Material Safety and Safeguards,
  - (iv) Director of Nuclear Regulatory Research.

(3) The following officers or successor officers duly established by the Commission:

- (i) Director of the Office of Inspection and Enforcement,
- (ii) Director of the Office of Standards Development,
- (iii) Director of the Office of Policy Evaluation,
- (iv) Director of the Office of Inspector and Auditor,
- (v) General Counsel,
- (vi) Executive Legal Director,
- (vii) Secretary of the Commission,
- (viii) Chairman, Vice-Chairman and Members of the Atomic Safety and Licensing Board Panel, and
- (ix) Chairman, Vice-Chairman and Members of the Atomic Safety and Licensing Appeal Panel.

Board Panel, and

Appeal Panel.

(4) The Chairman of the Commission shall also initiate the appointment of the Members of the Advisory Committee on Reactor Safeguards which shall take effect upon the approval of the Commission. The provisions for appointment of the Chairman of the Advisory Committee on Reactor Safeguards and the term of the members shall not be affected by the provisions of this Reorganization Plan.

(c) The Commission shall act as provided by subsection 201 (a)(1) of the Energy Reorganization Act of 1974, as amended [42 U.S.C. 5841 (a)(1)] in the performance of the functions of the Commission, described in subsections (a) and (b) of this section.

(d) Each member of the Commission shall continue to appoint, supervise and remove the personnel employed in his or her immediate office.

Section 2. (a) All other functions of the Commission, not specified by section 1 of this Reorganization Plan, are hereby transferred to the Chairman. The Chairman, in the performance of such functions, shall be the principle executive officer, in accordance with subsections 201 (a)(2), (3), (4), and (5) of the Energy Reorganization Act of 1974, as amended [42 U.S.C. 5841 (a)(2), (3), (4), and (5)], except as otherwise required by this Reorganization Plan, and shall:

(1) exercise all of the executive and administrative functions of the Commission, including the appointive powers of the Chairman as provided by this Plan and the supervision of personnel employed under the Commission;

(2) distribute business among such personnel and among administrative units and offices of the Commission;

- (3) determine the use and expenditure of funds of the Commission; and
- (4) prepare and submit to the Commission for its consideration and approval —
  - (i) proposals for the reorganization of the major offices within the Commission;
  - (ii) the budget estimate for the Commission; and
  - (iii) the proposed distribution of appropriated funds according to major programs and purposes.

The Chairman as principal executive officer shall be governed by the general policies of the Commission and by such regulatory decisions, findings, and determinations, including those for reorganization proposals, budget revisions and distribution of appropriated funds, as the Commission may by law, including this Plan, be authorized to make.

(b) The Chairman shall be responsible for assuring that the staff under his direction is responsive to the requirements of the Commission in the performance of the functions continued in the Commission by section 1 of this Reorganization Plan.

(c) There is hereby transferred to the Chairman the function of appointing and removing, without any further action by the Commission, all officers and employees under the Commission other than those whose appointment and removal are specifically provided for by subsection 1 (b) and (d) of this Reorganization Plan. In exercising such function, the Chairman shall consult with other members of the Commission as the Chairman deems appropriate.

Section 3. (a) Notwithstanding section 1 of this Reorganization Plan, there are hereby transferred to the Chairman all the functions vested in the Commission pertaining to an emergency incident at a particular facility or concerning materials licensed or regulated by the Commission, including the functions of declaring, responding, issuing orders, determining specific policies, directing and coordinating actions relative to such emergency incident.

(b) The Chairman may delegate the authority to perform such emergency functions, in whole or in part, to any of the other members of the Commissions. Such authority may also be redelegated, in whole or in part, to the staff of the Commission.

(c) In acting under this section, the Chairman, or other members of the Commission delegated authority under subsection (b), shall conform to the policy guidelines of the Commission. To the maximum extent possible under the emergency conditions, the Chairman shall inform the Commission of actions taken relative to the emergency incident, but this provision shall not affect the independence of the Chairman in exercising the emergency functions.

(d) Following the conclusion of the emergency incident, the Chairman, or the member of the Commission delegated the emergency functions under subsection (b), shall render a complete and timely report to the Commission on the actions taken during the emergency.

Section 4. (a) In the performance of those functions transferred to the Chairman by section 2(a) and this section, the Chairman may make such delegations and provide for such reporting as the Chairman deems necessary, except that the head of any component organization within the Commission may communicate directly to the Commission, or to any member of the Commission, whenever in the view of such officer a critical problem of public health and safety or common defense and security is not being properly addressed.

(b) The Executive Director for Operations shall report to the Chairman and shall be responsible for such functions as the Chairman shall direct.

(c) The function of the Directors of the Office of Nuclear Reactor Regulation, the Office of Nuclear Material Safety and Safeguards, and the Office of Nuclear Regulatory Research of reporting directly to the Commission is hereby transferred so that such officers report to the Chairman, or as directed by the Chairman. The function of receiving such reports is hereby transferred from the Commission to the Chairman.

(d) The heads of the Commission level offices or successor offices, of General Counsel, Secretary to the Commission, Office of Policy Evaluation, Office of Inspector and Auditor, the Atomic Safety and Licensing Board Panel and Appeal Panel, shall continue to report directly to the Commission and the Commission shall continue to receive such reports.

Section 5. The provisions of this Reorganization Plan shall take effect October 1, 1980, or at such earlier time or times as the President shall specify, but no sooner than the earliest time allowable under section 905 of title 5 of the United States Code.

FRANK MOORE

THE WHITE HOUSE

WASHINGTON

March 14, 1980

MEMORANDUM FOR THE PRESIDENT

FROM:

Frank Moore *F.M.*

SUBJECT:

Congressional Assessment Of Nuclear Regulatory  
Commission Reorganization Plan

Close consultations with Members and the Chairmen of the House Government Operation Committee and the Senate Governmental Affairs Committee, and with Members of both House and Senate on both sides of the nuclear power issue indicate that the plan, absent an export licensing provision, has a good chance for success in Congress. Including in the plan either of the export licensing options which are in the Presidential Decision Memorandum, will likely cause defeat of the plan.

Separate congressional assessments have been made of two propositions: first, the question of including in the plan a provision for transfer of NRC's responsibility for licensing nuclear exports; second, absent a transfer provision, the plan as it relates to the internal structure of NRC.

Transfer Of Export Licensing As Part Of The NRC Plan

A reorganization plan which contains an export licensing transfer provision would have little chance of success. There is some support for transfer in both Houses. It is shallow and weak in the House and while stronger in the Senate, it is not enough to assure passage. The opposition to transfer is intense, well-organized and includes the Chairmen of both the House Government Operations Committee and Senate Governmental Affairs Committee. To have any chance of success, a transfer will require active leaders in each House. None have emerged in the House and a plan containing a transfer provision would likely be defeated in the House. Senators Church and McClure, with the nominal assistance of Senator Jackson, will lead proponents of transfer in the Senate. The controversy in both Houses will be politically damaging because the Administration will be seen by many Members as backing away from support of non-proliferation.

In the Senate Governmental Affairs Committee, opponents include Chairman Ribicoff, who will follow the lead of Senator Glenn, Chairman of the Energy and Nuclear Proliferation Subcommittee, and Senators Levin and Percy. Several Committee Members will remain neutral including Javits, Chiles and Eagleton; the rest are uncommitted. Senator Mathias is the only active supporter on the Committee at this point. Senators Stevens and Jackson support transfer, but their participation will be limited because of time constraints. Without strong leadership against Ribicoff and Glenn, it will be difficult to get a transfer provision through Committee.

Outside the Committee, Senators Church and McClure will lead support for transfer. Ten other Senators have indicated by letter that they support Church and McClure. Cranston and Hart will actively oppose. Hart is Chairman of the Environmental and Public Works Subcommittee on Nuclear Regulation, which has authorization jurisdiction over NRC. This puts him in a jurisdictional struggle with Church. If the transfer proposal is successful in the Senate, it will be by close votes in both Committee and on the floor. The Administration will suffer the same political damage win or lose, and the plan will likely fail in the House.

The key to passage in the House is concurrence of the Government Operations Committee. Chairman Jack Brooks and a majority of the Committee's Democrats are opposed to transfer. Republicans, led by Wydler and "Bud" Brown, could possibly create a slim majority on the Committee for a plan including transfer. A floor fight would pit liberals (Udall and Bingham) against nuclear proponents (McCormack, Symms and Goldwater). Congressman Dingell opposes transfer. Chances for passage are poor.

The Cutler compromise proposal, Option 3, has not won over opponents of transfer and has the effect of diminishing the support of some Members who either support State for jurisdictional reasons or support the nuclear industry's desire to take the NRC out of export licensing altogether. Although it might not be fought with the same intensity as would Option 1, the transfer to State, it does not have a good chance of passage. No major support for it has developed and it will be opposed by Senators Ribicoff, Glenn, Hart, and Cranston. Senator Ribicoff will follow their lead. They oppose limiting the NRC role as an independent check whether under the guise of substantive transfer, as State proposes, or procedural "re-sequencing", as Option 3 proposes. They maintain that even if the Option 3 compromise were procedural, it has a substantive policy impact by limiting NRC time for consideration and reducing NRC to an advisory role, weakening the independent check. Congressman Bingham, the non-proliferation leader in the House, finds the Cutler proposal less objectionable than Option 1, but would not support it. He

states that it might signal a retreat from the Administration's non-proliferation policy.

Including either transfer option in the plan would probably put the Administration in the position of having the whole plan disapproved unless the transfer provision were removed from the plan within the 30-day amendment period, after the Administration had received the brunt of the criticism from non-proliferation forces.

Beyond the questions on the merits of the proposal lies the question of timing. Few Members relish the prospect of being forced to vote on a nuclear issue in an election year, particularly when the issue will be addressed by a GAO report mandated under the Nuclear Non-Proliferation Act of 1978, for March 1981. Many Members, including Chairman Ribicoff, oppose inclusion of a transfer proposal in the reorganization plan because such a major, and controversial, policy question goes beyond the intent of the Reorganization Act. This may affect our present negotiations in the Senate Governmental Affairs Committee on extending reorganization authority.

#### The Plan As It Relates To Internal Structure Of NRC

The licensing transfer issue aside, the plan is seen as a reasonable balance between Commission and Chairman which can be presented to Congress as a significant step toward more assured attention to nuclear safety. With this underlying theme, we should attract a wide base of support for the plan, including those who are anxious about control of nuclear hazards and those who are concerned that loss of public confidence in the safe management of nuclear power is a threat to the future of the nuclear industry.

Throughout our consultations, the most active concern about the plan has been expressed by those who equate continued reliance on the collegial powers of the Commission with assurance of safety and strong safeguards. They have been anxious that the plan may emerge as a "back-door" way to establish a single-administrator agency. Senator Hart and Congressmen Udall and Moffett have been the chief proponents of this view. We can expect these Members to press for reassurances in our testimony, or even amendments to the plan to reinforce their position.

Nuclear power proponents on the Hill, and especially Symms, Wydler, McCormack and Fuqua in the House, are quite supportive of a strengthened Chairman. They would generally favor a plan that goes further in this direction than we have proposed. However, they have not demonstrated as much sustained interest in the reorganization plan as those referred to in the preceding paragraph. Also, it should be noted that these nuclear

proponents had real reservations about too much unilateral appointive power in a Chairman who, in turn, serves at the pleasure of the President.

In summary, the plan as proposed, absent an export licensing transfer provision, can be successfully defended in Congress. It can be presented as one more action on your part to assure the safety of nuclear power and, consequently, to help maintain the continued availability of this vital energy source.

LLOYD CUTLER

THE WHITE HOUSE

WASHINGTON

March 10, 1980

MEMORANDUM FOR THE PRESIDENT

FROM: LLOYD CUTLER

SUBJECT: Transfer of Nuclear Export Licensing

The PDM on NRC reorganization includes an "Option 3/Procedural Reform in Nuclear Licensing" which I proposed. In support of this option, I would make two further points:

1) This option removes NRC as the nominal licensor. We are, as far as I know, the only country in the world that handles its nuclear exports through an independent regulatory agency. It also provides firm time limits for NRC comment. It leaves the final decision with you, as provided in the present law.

It is true that the current statutory provisions set a time limit---120 days---but the running of this "clock" can be stopped by either commencing a public hearing or making a request from the Executive branch for information. In these circumstances, the President, who currently has the ultimate authority in this matter, may not authorize the export until 60 days after either the completion of the hearing or the response to the request for information; the length of both of these delays is of unspecified duration, sometimes taking nine months or more.

2) It is a favorable time to act on this matter, or at least as favorable a time as there is likely to be. The Kemeny Commission, the Rogovin Report, and even a majority of NRC itself, have all recommended a reduced NRC role in nuclear export licensing. Only something less than a complete transfer, however, appears politically feasible.

The compromise option ought to be the sort of middle ground for which we can build support in Congress since Congress is well aware of the two opposing positions and is itself deeply divided on the issue.

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FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
memo w/att	Zbigniew Brzezinski to the President. Re: Transfer of Export Approval Function from NRC. (33 pp.)	3/11/80	A

FILE LOCATION

Carter Presidential Papers- Staff Offices, Office of Staff Sec.-  
Pres. Handwriting File, "3/18/80 [2]." Box 176

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THE WHITE HOUSE  
WASHINGTON~~CONFIDENTIAL~~

March 11, 1980

INFORMATION

MEMORANDUM FOR: THE PRESIDENT  
FROM: ZBIGNIEW BRZEZINSKI *ZS*  
SUBJECT: Transfer of Export Approval  
Function from NRC (C)

I vote for Option #1, which would transfer the export approval function from the NRC to the State Department. Nuclear exports have become a major source of contention between the US and its allies; this important element of our foreign policy should not be handled by an agency without foreign policy competence. I presume that this is one of the reasons why a majority of the NRC voted for transfer. As you know, Cy Vance strongly favors this course. (e)

I would find the compromise in Option #3 acceptable. This option would transfer the export function to State, but leave NRC with the right to dissent, in which case the disagreement would be referred to you for decision. (e)

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BY *KS* NARA DATE *12/10/83*

~~CONFIDENTIAL~~

Review on March 11, 1986

THE SECRETARY OF STATE  
WASHINGTON

MEMORANDUM FOR: THE PRESIDENT  
From: Cyrus Vance *ced*  
Subject: Nuclear Regulatory Commission  
Reorganization Plan

I am writing to comment on the options dealing with the transfer of the Nuclear Regulatory Commission's nuclear export function set forth in OMB Director McIntyre's Presidential Decision Memorandum on NRC reorganization.

The NRC reorganization is intended to strengthen the Commission's ability to deal with domestic health and safety issues. We strongly support the options which strengthen the domestic role of the Commission and the Chairman's powers to act as an effective Chief Executive and administrator. In that light your decision on the options concerning transfer of the export licensing is a domestic matter. We note, however, that the Kemeny and Rogovin Commissions, as well as a majority of the NRC, have recommended that nuclear export licensing functions be removed from the NRC to enable the Commission to focus exclusively on domestic health and safety issues. Option 1 would accomplish this.

From a foreign policy perspective, transfer of the NRC's export licensing function would be a great benefit. Our exports of nuclear materials and technology are a most important instrument to encourage nations to adopt and abide by strict non-proliferation conditions. This instrument is effective only to the degree that US supply is considered abroad to be predictable and reliable.

With the export license function residing in the NRC, nations with which we deal lack confidence that undertakings of the Executive Branch will be fulfilled in a timely and predictable manner. I am persuaded that a precondition for restoring our image as a reliable supplier would be to return the export licensing function to the Executive Branch. The sooner this is accomplished the better.

I therefore strongly support Option 1. I believe the Department of State would ensure as thorough and strict a review of nuclear exports as under the current system, but would be in a significantly enhanced position in dealing with foreign countries on non-proliferation matters.

If you do not favor Option 1, or if you believe that likely Congressional opposition militates against advancing it at this time, then I recommend Option 3.

~~**CONFIDENTIAL**~~

COVER SHEET

---

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

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Per: Rac Project

ESDN: NLG-126-21-4-1-3

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COVER SHEET

OMB FORM 68

MAR 67

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

*Kevin Wolford*  
246

*from: Henry*

*received by HW*  
**MAR 11 1980**

March 11, 1980

~~CONFIDENTIAL~~

INFORMATION

MEMORANDUM FOR: THE PRESIDENT

FROM: Transfer of Export Approval  
Function from NRC (Ø)

I vote for Option #1, which would transfer the export approval function from the NRC to the State Department. Nuclear exports have become a major source of contention between the US and its allies; this important element of our foreign policy should not be handled by an agency without foreign policy competence. I presume that this is one of the reasons why a majority of the NRC voted for transfer. As you know, Cy Vance strongly favors this course. (Ø)

I would find the compromise in Option #3 acceptable. This option would transfer the export function to State, but leave NRC with the right to dissent, in which case the disagreement would be referred to you for decision. (Ø)

Zbigniew Brzezinski

~~CONFIDENTIAL~~

Review on March 11, 1986

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EXECUTIVE BRANCH COMMENTS: NRC

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EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

*received by HW*  
MAR 10 1980

March 10, 1980

MEMORANDUM FOR HARRISON WELLFORD

FROM: Gus Speth

SUBJECT: 3/6/80 Draft of NRC Reorganization

I am very concerned that agency votes may have been solicited based on this draft and the inadequate discussion of Option 3 (export licensing) contained in it. I have drafted a new section on the "cons" of Option 3 and believe it is more accurate and complete. If Option 3 attracted adherents other than Lloyd, I believe it would be appropriate to recirculate the export licensing portion of the decision memo for further consideration by reviewing agencies.

CEQ's comments are noted in the margins. The insert for p. 13 is attached.

Substitute for portions on p.13

Opponents of the third option assert that it would:

- ° substantially eliminate the independent NRC check since any NRC action would be discretionary and a 3-2 majority favors non-involvement;
- ° lead to protracted debates within the NRC over whether it should become involved in particular exports; should the majority shift to favor involvement either in particular cases or in general, this option would not be responsive to the rationale for change given in the Rogovin report -- freeing up more NRC time for domestic safety concerns;
- ° lead to a period of heightened uncertainty and squabbling regarding the relative roles of NRC and State;
- ° weaken the NRC's role by removing the licensing function from it and limiting its access to information (already a source of occasional contention between State and NRC);
- ° send a signal internationally that the U.S. is weakening current non-proliferation policies by reducing the NRC role in favor of a more accommodating position on exports;
- ° not be viewed as a satisfactory compromise by non-proliferation advocates in Congress who would most likely challenge it as with Option 1. Commissioners Gilinsky and Bradford would testify against this option as with Option 1;
- ° be better accomplished by a Memorandum of Understanding between State and NRC, to the extent it aims at procedural, housecleaning reforms; and
- ° [add others that have been omitted]

THE WHITE HOUSE

WASHINGTON

March 10, 1980

*received by HW*  
MAR 10 1980

296  
MEMORANDUM FOR HARRISON WELLFORD

FROM:

ANNE WEXLER *AW*

SUBJECT:

NUCLEAR REGULATORY COMMISSION  
REORGANIZATION PLAN

The only part of the plan on which I will comment is the proposal for transfer of NRC's nuclear export licensing function. As you know, this proposal is very controversial, and I have had communications from business and from environmental groups.

The President should be told in your memorandum that environmental interests (including two major groups, the Sierra Club and Friends of the Earth) strongly oppose such transfer. He should also be told that business interests involved with nuclear power (e.g., Westinghouse) favor transfer of authority to STATE.

My own conclusion is that Option 2 -- no transfer -- is the best option. The environmental groups are prepared to fight us, and they have substantial support among Democrats in Congress. Other than the nuclear exporting companies, I know of no significant support for the transfer. In any event, this transfer is not needed to implement the Kemeny Commission report. I see no reason to do it now through a mechanism of questionable legality (use of the Reorganization Act to achieve substantive foreign policy goals) which could endanger what otherwise appears to be a sensible and necessary reorganization.

THE WHITE HOUSE

WASHINGTON

March 10, 1980

*received by HW*  
MAR 11 1980

MEMORANDUM FOR JIM MCINTYRE

FROM:

JACK WATSON *Jack*

SUBJECT:

NRC Reorganization Plan

I have reviewed the PDM on the NRC Reorganization Plan and submit the following comments.

C. PROPOSED NRC REORGANIZATION PLAN

- (2) Distinguishing the role of the Commission versus the Chairman.

I concur with the proposed action, but recommend that we further clarify the role of the Commission in policy matters by adding the following sentence to paragraph 2(b):

"The Commission would retain power to determine what actions constitute policy formulation and thereby require Commission involvement."

- (3) Report Relationships

I concur with the proposed action, but recommend we add language to make sure that the Chairman does not use his authority to withhold information from the Commission. I suggest that we insert the following statement:

"All reports to the Chairman and/or the EDO should be made available by the Chairman/and/or the EDO to the Commissioners." This could be appropriately inserted in section 3(a), right after the second sentence of the second paragraph.

- (4) Appointive Powers.

I agree with the proposed action.

- (5) Emergency Action.

I agree with the proposed action.

D. OTHER ACTIONS

I concur with the proposed action to include in the President's message a statement urging the NRC to establish an Office of the Inspector General. Given the problems that may arise in Congress if we push for an Office of Public Counsel, I concur with your recommendation that we not proceed to recommend such action at this time.

I have no comment to make on the export licensing issue.

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF SCIENCE AND TECHNOLOGY POLICY

WASHINGTON, D.C. 20500

March 11, 1980

MEMO TO: Harrison Wellford  
FROM: Frank Press *FP/CAM*  
SUBJECT: NRC Reorganization

In light of your comments on the political acceptability of Option 3, we would like to revise our vote on export licensing. Our comment should now read:

"In light of the recommendation of the majority of the NRC commissioners and the Kemeny and Rogovin reports that the NRC focus its attention on domestic nuclear safety, OSTP supports the selection of Option 1. If the export licensing proposal threatens to jeopardize the reorganization plan, the Administration could retreat to Option 2 in thirty days."

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF SCIENCE AND TECHNOLOGY POLICY  
WASHINGTON, D.C. 20500

*received by HW*  
MAR 10 1980

March 10, 1980

NOTE TO: Harrison Wellford  
FROM : Frank Press *FP*  
SUBJECT: NRC Reorganization

We find the decision memorandum on the reorganization plan to be well-crafted. There are two points which we wish to raise:

1. Both DOE and the Chairman of the NRC have asked that more positions be subject to unilateral appointment by the Chairman than contemplated by the draft Reorganization Plan, and thus we believe that this issue should be presented to the President. OSTP also supports somewhat greater unilateral appointment power. We believe that the Chairman's authority might appropriately be extended to the Executive Director for Operations, the Director of the Office of Nuclear Regulatory Research, the Director of the Office of Inspection and Enforcement, and the Executive Legal Director, rather than the full list offered by DOE. We believe, however, that those supporting stronger appointment powers could compromise on a single alternative to the one that you are proposing.

2. OSTP has decided to support Option 3 on export licensing. Our position should be recorded:

"Although the complete transfer of export licensing authority from the NRC might best enable the NRC to focus its attention of domestic nuclear safety, OSTP supports Option 3 in light of the substantial Congressional opposition to transfer.

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY  
WASHINGTON

*received by HW*  
MAR 10 1980

OFFICE OF  
THE DIRECTOR

March 10, 1980

MEMORANDUM

TO: OMB - Mr. McIntyre

FROM: ACDA - Ralph Earle II 

SUBJECT: Nuclear Regulatory Commission Reorganization Plan

REFERENCE: Your Memorandum of March 6, 1980

I have reviewed the proposed Presidential Decision Memorandum on a reorganization plan for the Nuclear Regulatory Commission, and have the following views on the nuclear export licensing function.

Putting aside Congressional considerations, I favor Option 1, the proposal to transfer the export licensing function of the NRC to the Department of State, provided the existing interagency procedures for reaching the judgement of the Executive Branch remain in effect. These existing Executive Branch procedures constitute the primary mechanism for protecting U.S. non-proliferation interests and should not be undermined.

While there is some risk that transferring the licensing function from the NRC could be seen as a weakening of our resolve on non-proliferation, there is clearly a perception abroad that the U.S. is unreliable in honoring our nuclear supply commitments. This has done harm to our relations with important allies, whose help we need in dealing with countries of major proliferation concern, such as Pakistan. Thus, the NRC's role, while intended to enhance U.S. non-proliferation interests, can have the opposite effect in some cases. The Executive Branch agencies, including ACDA, have been effective "watch dogs" of our non-proliferation interests, and possess the technical as well as the foreign policy expertise needed to carry out this function.

As a second choice, I could, also apart from Congressional considerations, support Option 3, again assuming that the existing interagency procedures for reaching Executive Branch judgements remain in effect.

THE SECRETARY OF STATE  
WASHINGTON

*received by H/W*  
MAR 11 1980

MEMORANDUM FOR: THE PRESIDENT  
From: Cyrus Vance *cel*  
Subject: Nuclear Regulatory Commission  
Reorganization Plan

I am writing to comment on the options dealing with the transfer of the Nuclear Regulatory Commission's nuclear export function set forth in OMB Director McIntyre's Presidential Decision Memorandum on NRC reorganization.

The NRC reorganization is intended to strengthen the Commission's ability to deal with domestic health and safety issues. We strongly support the options which strengthen the domestic role of the Commission and the Chairman's powers to act as an effective Chief Executive and administrator. In that light your decision on the options concerning transfer of the export licensing is a domestic matter. We note, however, that the Kemeny and Rogovin Commissions, as well as a majority of the NRC, have recommended that nuclear export licensing functions be removed from the NRC to enable the Commission to focus exclusively on domestic health and safety issues. Option 1 would accomplish this.

From a foreign policy perspective, transfer of the NRC's export licensing function would be a great benefit. Our exports of nuclear materials and technology are a most important instrument to encourage nations to adopt and abide by strict non-proliferation conditions. This instrument is effective only to the degree that US supply is considered abroad to be predictable and reliable.

With the export license function residing in the NRC, nations with which we deal lack confidence that undertakings of the Executive Branch will be fulfilled in a timely and predictable manner. I am persuaded that a precondition for restoring our image as a reliable supplier would be to return the export licensing function to the Executive Branch. The sooner this is accomplished the better.

I therefore strongly support Option 1. I believe the Department of State would ensure as thorough and strict a review of nuclear exports as under the current system, but would be in a significantly enhanced position in dealing with foreign countries on non-proliferation matters.

If you do not favor Option 1, or if you believe that likely Congressional opposition militates against advancing it at this time, then I recommend Option 3.



DEPARTMENT OF STATE  
AMBASSADOR AT LARGE  
WASHINGTON

February 20, 1980

Dear Mr. President:

I understand that in considering the Kemeny Report you did not specifically address the question of whether the NRC should retain its responsibility for licensing exports of nuclear equipment and material.

I am advised that OMB is now charged with drafting a reorganization plan for the NRC.

I urge that the plan provide for relieving the NRC of responsibility for licensing nuclear exports, a foreign policy function which clearly should be in the Executive Branch.

Having this function in an independent agency has been a major cause of the continuing perception abroad that the U.S. is not a reliable supplier, a belief that has been a major negative factor in our nonproliferation efforts. In my judgment the U.S. will never be considered a reliable supplier while NRC retains this function.

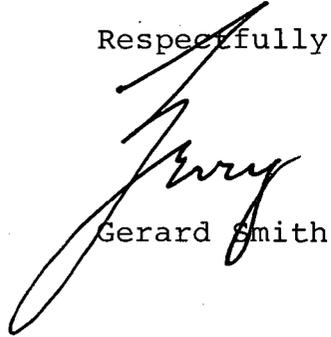
If this licensing function, which impacts abroad, is assigned to the Department of State or elsewhere in the Executive Branch, the change would, I believe, commend itself to a broad spectrum of Congressional opinion. Beyond its merits for the conduct of foreign policy, the change would give the Commission much more time to devote to its programs of assuring reactor safety. While some in the Congress will be negative to such a move, those on the Hill concerned with both

The President  
The White House,  
Washington, D. C.

- 2 -

domestic nuclear safety and foreign relations should find this approach attractive. The move will be much easier to accomplish as a part of NRC domestic reorganization than it would be at a later time.

Respectfully,

A handwritten signature in black ink, appearing to read "Gerard Smith", is written over the typed name. The signature is stylized with a large, sweeping loop at the end.

Gerard Smith

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CHIEF COUNSEL AND STAFF DIRECTOR

## United States Senate

COMMITTEE ON  
GOVERNMENTAL AFFAIRS  
SUBCOMMITTEE ON ENERGY, NUCLEAR  
PROLIFERATION AND FEDERAL SERVICES  
WASHINGTON, D.C. 20510

February 22, 1980

Ack FM/OMB  
CONGRESSIONAL  
LIAISON

FEB 26 1980

001813CL

cc: Tafe

The President  
The White House  
Washington, D. C.

Dear Mr. President:

We understand that you will soon be asked to make a decision on the content of the NRC Reorganization Plan to be sent to the Congress. An active and heavy lobbying effort is being mounted by the Department of State to remove the responsibility for nuclear export licensing from the Nuclear Regulatory Commission and to place it within the State Department.

We oppose this proposal. For many years the United States stressed nuclear trade. Concern for nonproliferation took second place, perhaps understandably, because nuclear weapons technology was not widespread. It remained the province of the major powers; with time, that situation has changed. Earlier, there was no independent check of the decisions on exports made by the Atomic Energy Commission and this lack of review from the standpoint of nonproliferation was a major contributing factor to the laxity that characterized U. S. policy at that time. This problem was rectified when the Energy Reorganization Act of 1974 (the law that created the NRC) was enacted. The principle of an independent check on an Executive Branch recommendation regarding an export license was further enhanced through the passage of the Nuclear Nonproliferation Act of 1978. Later on in this letter we shall explain why we think that the act of removing export licensing from an independent body such as the NRC would effectively negate a major part of the NNPA, the effect of which would be to raise serious questions regarding the Administration's commitment to an effective nonproliferation policy.

8405

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The President  
February 22, 1980  
Page Two

The arguments which are being advanced in favor of stripping export licensing from the NRC are three-fold.

° First, it is claimed that an independent agency reviewing a recommendation by the Department of State or the Executive Branch, presents an image of unreliability for the United States as a supplier.

° Secondly, it is claimed that nonproliferation is a foreign policy issue and that the NRC has no business making foreign policy decisions.

° And finally, it is claimed that the NRC is being diverted from what its major task should be, which is consideration of nuclear safety. Let us examine these arguments in turn.

#### The Unreliable Supplier Argument

The existence of an independent review does indeed inject an element of uncertainty in terms of the time within which a decision could be rendered regarding a given export license. The more sensitive the license, the more uncertain the time because of the probable need for a public hearing. But the law (in this case, the NNPA) provides for specific bounds on the time which the NRC may take in reviewing a license application (excluding hearings and the time needed for the processing of information requests to the State Department). Moreover, an NRC decision to reject the license application on the technical grounds they are charged to review, can be overturned by a Presidential Executive Order, for other more pressing concerns, which has already happened in the case of a fuel license for the Tarapur reactors in India. Congress may review the President's decision and reverse it. Nevertheless, such a situation would only crop up in cases where the issuance of a license was unusually controversial and, unless one is prepared to make the argument that the United States ought to be a reliable supplier to everyone regardless of nonproliferation considerations, it would appear that in some cases assurances of supply should not be completely automatic. To our knowledge, there are no examples where the NRC raised serious questions regarding the propriety of issuing a license to a country which everyone agreed did not present a proliferation problem. Finally, it must be pointed out that the first instance of serious doubt arising as to the reliability of the United States as a nuclear supplier occurred not because of the NNPA, but as a result of closing the order books on new enrichment contracts in 1974, a move taken by the

2

The President  
February 22, 1980  
Page Three

Nixon Administration in order to pressure Congress into creating a private nuclear enrichment industry. It is also worthy to note that the NNPA contains provisions designed to enhance the reliability of the U. S. as a nuclear supplier.

#### The Foreign Policy Argument

The argument is made that nuclear export licensing should be removed from the NRC because nonproliferation is a foreign policy issue. The alternative view is that the State Department does not have the technical expertise to make important judgments that must be taken into consideration. With either view, NRC rejection of a license is no longer the final outcome of the licensing process. Ultimately, the President and the Congress share responsibility for the final result. While it is true that in making a finding on the inimicality of a nuclear export to the common defense and security of the United States, the NRC does not have the expertise to integrate all possible factors that might go into such a finding, it does have access to the Executive Branch view in this area and to all available Executive Branch information as well. Non-proliferation risks involve examining political situations as well as technical situations, including such vital issues as safeguards effectiveness. Since politics is not a science, there is necessarily a considerable level of uncertainty in any judgment provided by the Executive Branch on the issue of inimicality, and that uncertainty is large enough to warrant review of such judgment by an independent agency with responsibilities to both the Legislative and Executive Branches of government.

#### The Split Time Argument

We are aware that some of the Commissioners feel that the NRC has spent too much time on export licensing and has thereby devoted insufficient time to the safety of domestic nuclear reactors. We are not in a position to evaluate the merits of this argument, although we recognize that there is some disagreement among the Commissioners on this point. It would appear to us that this problem can be rectified by a reorganization within the Commission more properly than by removing a highly important matter such as export licensing entirely from the Commission.

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The President  
February 22, 1980  
Page Four

The main thrust of our concern, Mr. President, is not that the present organizational setup is the only way of dealing with nuclear export licensing matters, but if an alternative to NRC is considered, it should have the same independence that NRC now has.

Another concern related to all of the above is the issue of the legality of the implementation of the State Department proposal. The Reorganization Act of 1977 specifies in section 903(a)(2) that no reorganization plan can abolish an "enforcement function or statutory program". The Senate report on this legislation explains this provision as precluding abolition of "any function previously mandated by Congress through statute". There is the possibility that the transfer of NRC's export licensing functions could result in the effective elimination of the Congressional review procedures regarding controversial export licenses, set forth in the Nuclear Nonproliferation Act. Such a recision of Congress' statutorily mandated role by executive reorganization appears to go well beyond the accepted scope of such Presidential reorganization authority.

While we believe the above concerns should be sufficient reason for rejecting the State Department recommendation, there are other reasons why it is unfortunate that this issue has been raised, particularly at the present time. There has been discussion in recent months regarding the commitment of the Administration to its nonproliferation policy. Some of the criticism stems from a perception, whether mistaken or not, that the implementation of the policy and in particular, the implementation of the NNPA, is not being carried out in full measure. It is not our intent to discuss the merit of that argument, but rather to indicate the kind of atmosphere in which decisions on nonproliferation are presently being taken. On the South Asian subcontinent we are already in the process of making decisions which are having the effect of reversing previous decisions taken on nonproliferation grounds. Given the rapidly changing world situation, these decisions are fully understandable and undoubtedly have the support of a majority of Americans, but these same decisions cannot help but have a major impact with respect to our nonproliferation policy in other parts of the world. If we supply Pakistan, we must supply India. In that case, what can we ask of EURATOM, or of Japan, or of South Korea or Taiwan? Unfortunately, the Russian threat in Afghanistan has produced a giant step backward in our nonproliferation policy.

The President  
February 22, 1980  
Page Five

But it is one thing to take a step backward and it is another thing to turn completely around and head in the opposite direction. If we lose the independent review of the Executive Branch judgment on nuclear export licenses, we will have returned to the situation which existed prior to the advent of your Administration except that the State Department will be playing the role that was previously played by the Atomic Energy Commission. We have no doubt that there are many in the bureaucracy who have always believed that "those were the good old days" and would like to see them return. But, we share with you, Mr. President, a sincere concern about the spread of nuclear weapons throughout the world, particularly in light of the presently rapidly changing world situation, and because of that concern we oppose any change in the present role of the Nuclear Regulatory Commission.

Sincerely,

2 *John Glenn*  
John Glenn

3 *Carl Levin*  
Carl Levin

5 *GARY HART*  
Gary Hart

1 *Abraham Ribicoff*  
Abraham Ribicoff  
4 *Alan Cranston*  
Alan Cranston

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# United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, D.C. 20510

WILLIAM S. BADER, STAFF DIRECTOR

February 20, 1980

The Honorable James T. McIntyre, Jr.  
Director, Office of Management and Budget  
Room 255  
Old Executive Office Building  
Washington, D.C. 29593

Dear Mr. McIntyre:

I am aware that the reorganization plan for the Nuclear Regulatory Commission will be submitted to the Congress shortly. As part of that reorganization plan, I urge that the export licensing function currently vested in the Nuclear Regulatory Commission be transferred to the Department of State.

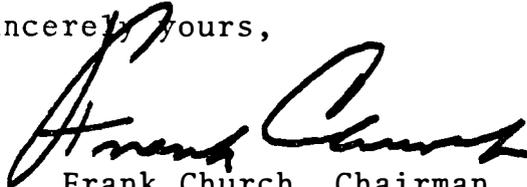
The Nuclear Regulatory Commission has a critical national responsibility of insuring that nuclear powerplants in this country are designed, constructed, and operated in a manner which will protect the health and safety of the American people. With this important role, its responsibilities with regard to export licensing have been adjudged by the commissioners of the Nuclear Regulatory Commission to be a substantial diversion of their time and effort from safety questions. Both the Kemeny Commission and Rogovin reports have recommended the transfer of this responsibility to the Department of State.

It is also appropriate for this function to be transferred to the Department of State since exports of nuclear technology are an integral part of our foreign policy, with clear ties to the nuclear non-proliferation objective. Since the Department of State currently has the responsibility under the Nuclear Non-proliferation Act of 1978 to prepare the executive branch recommendations to the Nuclear Regulatory Commission, it has the current capability to insure that these export licensing decisions are made in a prompt yet prudent manner.

Honorable James T. McIntyre, Jr.  
February 20, 1980  
Page 2

I support the transfer of this export licensing function to the Department of State because it makes eminent sense from a management point of view and increases the predictability of the decision process for foreign nations seeking to purchase U.S. nuclear Technology.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank Church". The signature is fluid and cursive, with a large initial "F" and "C".

Frank Church, Chairman  
Committee on Foreign Relations

NINETY-SIXTH CONGRESS

MORRIS K. UDALL, ARIZ., CHAIRMAN

HILLIP BURTON, CALIF.  
 ROBERT W. KASTENMEIER, WIS.  
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 ROBERT J. LAGOMARSINO, CALIF.  
 DAN MARRIOTT, UTAH  
 RON MARLENEE, MONT.  
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 DOUGLAS K. BEREUTER, NEBR.  
 MELVIN H. EVANS, V.I.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS  
 U.S. HOUSE OF REPRESENTATIVES  
 WASHINGTON, D.C. 20515

8 FEB 15 4:16  
 February 13, 1980

MANAGEMENT AND BUDGET

CHARLES CONKLIN  
 STAFF DIRECTOR

ROBERT A. REVELES  
 ASSOCIATE STAFF DIRECTOR

LEE MC ELVAIN  
 GENERAL COUNSEL

STANLEY SCOVILLE  
 SPECIAL COUNSEL  
 FOR LEGISLATION

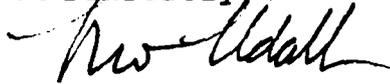
GARY G. ELLSWORTH  
 MINORITY COUNSEL

Honorable James T. McIntyre, Jr.  
 Director, Office of Management and Budget  
 Washington, D.C. 20503

Dear Mr. McIntyre:

I support my colleagues who have opposed including provisions in the President's Nuclear Regulatory Commission reorganization proposal that would reduce or eliminate the NRC's role in nuclear exports. Because the question of responsibility for exports is so important, and the need for change neither apparent nor pressing, any modification in the NRC's responsibility in this regard should be made through legislation and not via a reorganization proposal.

Sincerely



MORRIS K. UDALL  
 Chairman

Honorable Morris K. Udall  
Chairman  
Committee on Interior and Insular Affairs  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of February 13, 1980, expressing opposition to removal of the Nuclear Regulatory Commission's responsibilities in the area of nuclear export licensing.

It is true that consideration is being given, in the development of the forthcoming reorganization plan designed to strengthen NRC's domestic nuclear regulatory capabilities, to a possible transfer of the Commission's nuclear export licensing function to another agency. Some Members of Congress and of the NRC itself have urged us to propose such a transfer.

Your knowledgeable criticism of the proposal will, I assure you, be carefully considered before a decision is made. Congress must, of course, approve any change that may be proposed.

Sincerely,

(Signature)

cc: DO Records  
Director's Chron  
Mr. Wellford  
Congressional Relations  
Mr. Jayne  
Mr. Harsch  
Mr. Dinsmore  
PRP:NR/E:File/Chron/Read  
PRP:NR/E: NStevens/lw/2/22/80

CLEMENT J. ZABLOCKI, WIS., CHAIRMAN

FOUNTAIN, N.C.  
WYATT B. PARCELL, FLA.  
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LESTER L. WOLFF, N.Y.  
JONATHAN S. BINGHAM, N.Y.  
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CARDISS COLLINS, ILL.  
STEPHEN J. SOLARZ, N.Y.  
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TONY P. HALL, OHIO  
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JOEL PRITCHARD, WASH.  
MILLCENT FENWICK, N.J.  
DAN QUAYLE, IND.

# Congress of the United States

## Committee on Foreign Affairs

House of Representatives

Washington, D.C. 20515

PI2: 32

January 30, 1980

JOHN J. BRADY, JR.  
CHIEF OF STAFF

Honorable James T. McIntyre, Jr.  
Director  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. McIntyre:

We write to express our strong opposition to any effort within the context of the President's Nuclear Regulatory Commission reorganization proposal to remove the NRC's statutory responsibilities in the area of nuclear export licensing.

Only two years ago, with the invaluable assistance of this Administration, the Congress voted overwhelmingly to give the Nuclear Regulatory Commission major responsibilities in carrying out President Carter's nuclear non-proliferation policy. Indeed, at that time, the Administration communicated explicitly its support of the independent role of the NRC. Since then, the NRC has successfully both codified its procedures to permit more Commission time to be spent on other regulatory matters, and demonstrated sensitivity to foreign policy considerations in the nuclear non-proliferation area.

We would point out that neither the Report of the Presidential Commission on Three Mile Island, nor the detailed study contracted by the Nuclear Regulatory Commission (the "Rogovin" report) contains any analysis of the impact or importance of the NRC's role in nuclear export licensing. Calls for the transfer of these responsibilities must be regarded in that light. We would certainly be prepared to consider alternative proposals to upgrade, if necessary, the resources available for NRC's nuclear export licensing activities or to take other measures to preserve a technically expert and independent input into the export licensing process.

At a time when foreign nations are extremely sensitive to any changes in United States international nuclear non-proliferation commitments, we urge

that the scope of the President's proposed NRC reorganization plan be confined to changes truly affecting the safe operation of domestic commercial nuclear facilities.

Sincerely,

*Jonathan Bingham*  
*Clement J. Zablocki*  
*Robert J. Lagomarsino*  
*Dante Fascell*  
*Benjamin S. Rosenthal*  
*L. H. Fountain*

Jonathan B. Bingham  
Clement J. Zablocki  
Robert J. Lagomarsino  
Dante Fascell  
Benjamin S. Rosenthal  
L.H. Fountain

cc: Hon. Cyrus R. Vance  
Hon. Zbigniew Brzezinski  
Hon. John F. Ahearne  
Hon. Richard Kennedy  
Hon. Joseph Hendrie  
Hon. Victor Gilinsky  
Hon. Peter Bradford

pba

Identical letter sent to: Hon. Jonathan B. Bingham  
Hon. Robert J. Lagomarsino  
Hon. Dante Fascell  
Hon. Benjamin S. Rosenthal  
Hon. L. H. Fountain

MAR 3 1980

Honorable Clement J. Zablocki  
Chairman  
Committee on Foreign Affairs  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of January 30, 1980, in which you and five of your colleagues express opposition to removal of the Nuclear Regulatory Commission's responsibilities in the area of nuclear export licensing.

It is true that consideration is being given, in the development of the forthcoming reorganization plan designed to strengthen NRC's domestic nuclear regulatory capabilities, to a possible transfer of the Commission's nuclear export licensing function to another agency. Some Members of Congress and of the NRC itself have urged us to propose such a transfer.

Your knowledgeable criticism of the proposal will, I assure you, be carefully considered before a decision is made. Congress must, of course, approve any change that may be proposed.

Sincerely,

(Signed) John F. White

cc: DO Records  
Director's Chron  
Mr. Wellford  
Congressional Relations  
Mr. Jayne  
Mr. Harsch  
Mr. Dinsmore  
PRP:NR/E:File/Chron/Read  
PRP:NR/E:NStevens/lw/2/15/80

TOBY MOFFETT, CONN., CHAIRMAN  
ROBERT F. DRINAN, MASS.  
FLOYD J. PITHIAN, IND.  
ANDREW MAGUIRE, N.J.  
PETER H. KOSTMAYER, PA.  
MIKE SYNAR, OKLA.

PAUL H. MCCLOSKEY, JR., CALIF.  
ARLAN STANGELAND, MINN.  
JOEL DECKARD, IND.

MAJORITY—225-9427  
MINORITY—225-3718

NINETY-SIXTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
ENVIRONMENT, ENERGY, AND NATURAL RESOURCES  
SUBCOMMITTEE  
OF THE  
COMMITTEE ON GOVERNMENT OPERATIONS  
RAYBURN HOUSE OFFICE BUILDING, ROOM B-371-B-C  
WASHINGTON, D.C. 20518

February 5, 1980

Mr. W. Harrison Wellford  
Executive Associate Director  
Office of Management and Budget  
Executive Office Building  
Washington, D.C. 20503

Dear Harrison:

Our discussion last Wednesday on the President's reorganization plan for the Nuclear Regulatory Commission was quite fruitful. As you continue consideration of these proposals, I hope you will bear in mind the following concerns I have regarding the reorganization plan.

1) Strengthening the Chairman. I do not believe a clear case has been made for an extensive redistribution of the appointive and other executive powers between the chairman and the commissioners. The clarion call of the Rogovin report with which I concur is for greater monitoring of on-line nuclear power plant operations. I believe the current commission form is adequate to achieve that mission, assuming the commissioners are sufficiently galvanized. There are heartening indications that the Commission is already moving in the right direction.

The risk of excessive strengthening of the chairman is that a future chairman in the minority--whether appointed by a Democratic or a Republican President--could effectively override the will of the Commission majority through manipulation of executive powers, particularly the appointive power. That would negate the President's publicly expressed decision not to abandon the commission form for a single-headed agency.

2) Strengthening Internal NRC Review. The Rogovin report and other TMI studies indicate the need for better review of the NRC's regulatory actions. Rogovin suggests the creation of a new Nuclear Safety Board to independently investigate safety-related incidents, check the NRC staff's effectiveness in monitoring plant safety, and oversee the impact of the NRC's regulatory actions generally.

Mr. W. Harrison Wellford  
February 5, 1980  
Page Two

While the objective of an independent entity capable of such oversight of the Commission is laudable, another formula might better reach that goal while meeting other concerns. For example, closing this gap in the NRC's internal management could be done by adapting the form of the Inspectors General, as established in the Inspector General Act of 1978, to current NRC needs. Among the principal attractions of the IG concept is the duty to report regularly to Congress, the status as an advise-and-consent appointee independent of the commission, and the protection of whistleblowers.

The NRC already has a Director of the Office of Inspector and Auditor acknowledged as the nearest NRC analogue of the IG's, but that officer lacks the needed independent statutory basis, the relationship with Congress and the broad mandate to pursue allegations of non-compliance with safety rules or of ineffective regulation of the nuclear industry. It would be possible within the framework of the reorganization plan to elevate the status of that office and stipulate powers and duties mirroring those of existing IG's.

Even if the President decides that the proposal for an internal board is preferable, the features of the Inspectors General which I have highlighted would be important attributes to incorporate into that form.

3) Creating an Office of Public Counsel. I strongly support this recommendation and the tandem proposal for funding of public intervenors in NRC proceedings. The office of public counsel concept is thoroughly compatible with the President's position regarding the need for consumer and public advocates within agencies. A public counsel would be empowered to intervene in agency proceedings where necessary to assure the presentation of vital safety issues, and would provide technical and legal counsel to public intervenors.

The need for such an internal public advocate is particularly acute in this agency at this time: taking all the disparate recommendations together, the Commission is headed for a critical 18-month period that will determine the safety of the nuclear industry--hence the general public safety. Creation of an office with the mandate and the resources persistently to raise safety questions in these crucial months will be a major reassurance to the public that the Administration and the Commission truly are heeding the TMI warning. Beyond this period, the existence of a public counsel would be a major deterrent to any relapse of the Commission from primary attention to the public safety issues posed by the growing nuclear industry.

Mr. W. Harrison Wellford  
February 5, 1980  
Page Three

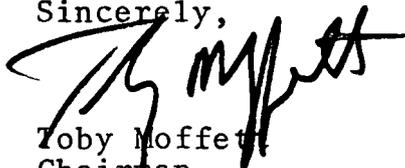
Moreover, the public counsel is an efficient and fair mechanism for administering the public participation funding program which I also strongly advocate. Public participation in NRC proceedings is necessary not only to insure a salutary outcome, but also to assure a deeply concerned public that safety issues potentially affecting thousands of lives are in fact being faced by the Commission. Public participation in the complex technical work of the Commission is often precluded absent financial support. Since the Commission already has taken the commendable first step by requesting an appropriation in its upcoming budget for intervenor funding, the creation of a public counsel office to administer that program is complementary.

As you well know, Congress has not always been receptive to either the notion of public advocates within agencies or to public participation funding. But both are four-square with the Administration's own past positions, and they should be fought for here. They are appropriate within the framework of a reorganization plan, where any opponents of the concepts are put to a greater burden to raise affirmative objections to the elements of the plan.

4) Export Licensing. I was pleased to hear your assurances that despite some internal Administration interest in a shift of responsibilities over nuclear exports, the reorganization plan does not contemplate any such step. It is my view that this issue is too controversial to be included in a reorganization plan, since Congress is sure to want an extensive debate over this matter before taking any action.

I look forward to hearing from you on these matters.

Sincerely,



Toby Moffet  
Chairman

cc: Honorable Jack Brooks  
TM:bhc

3:15 PM

THE WHITE HOUSE

WASHINGTON

MEETING WITH NATIONAL CATTLEMEN'S ASSOCIATION

Tuesday, March 18, 1980

3:05 P.M.

Old Executive Office Building - Room 450

FROM: Anne Wexler *AW*

I. PURPOSE

Drop-by appearance and brief remarks to the Board of Directors of the National Cattlemen's Association.

II. BACKGROUND

The National Cattlemen's Association is the only national organization representing the beef cattle industry in the United States, and the largest group in the agricultural sector. It is comprised of fifty affiliated state cattlemen's organizations and national breed associations.

The group will be briefed on foreign and domestic policy issues prior to your remarks. They are most concerned about the role that they play in combating inflation through productivity, food prices, and balance of trade/exports. They have been generally supportive of administration policies, particularly those related to fiscal restraint and reduction of government regulation. After the veto in 1978, they supported the meat import legislation which was passed.

III. PARTICIPANTS AND PRESS PLAN

A. Participants: The Board of Directors of the National Cattlemen's Association, including representatives of each state affiliate and breed association (approximately 200 people).

Speakers will be Robert Hunter (NSC), Fred Kahn, and Jim Williams, Deputy Secretary of Agriculture. Fred Kahn will be answering questions when you arrive. Agenda attached.

B. Press Plan: White House Photographer.

IV. TALKING POINTS

To be provided by speechwriters.

THE WHITE HOUSE

WASHINGTON

National Cattlemen's Association

Briefing Agenda

March 18, 1980

Room 450

2:00 - 3:45 p.m.

2:00	Michael Chanin Deputy Assistant to the President	Introduction
2:05 - 2:35	Robert Hunter Staff Member National Security Council	Foreign Policy
2:35 -	Fred Kahn Adviser to the President on Inflation	Economic Outlook
3:00	The President	Remarks
3:10 - 3:40	Jim Williams Deputy Secretary Department of Agriculture	Farm Policy

Tuesday 3:00 pm.

THE WHITE HOUSE  
WASHINGTON

March 14, 1980

MEMORANDUM FOR THE PRESIDENT

From: Al McDonald  
Rick Hertzberg  
Achsah Nesmith *AK*

Subject: Presidential Talking  
Points: National  
Cattlemen's Assoc.

Scheduled delivery:  
Tue, March 18, 1980  
3 P.M., Room 450

The Presidential Talking Points for  
this occasion are attached.

Clearances

David Rubenstein  
Ray Jenkins

[Lynn Daft, x6560, will verify names in salutation by 11 A.M. on Monday.]

Achsah Nesmith  
A-2 3/14/80  
Scheduled Delivery:  
Tues., March 18, 3 P.M.

National Cattlemen's Association

*MERLYN*

1. PRESIDENT ~~MERLAND~~ CARLSON, LAUREN CARLSON (Past President),  
BILL SWAN (V.P.), *↑* BILL McMILLAN (V.P.):

*GEORGE SPENCER (EXEC V.P.)*

2. IT'S A SPECIAL PLEASURE FOR ME TO HAVE YOU HERE. OUR NATION GOT A GOOD START WITH FARMERS IN THE PRESIDENCY -- GEORGE WASHINGTON WAS OUR FIRST. EVEN JOHN ADAMS FARMED, AND ABIGAIL CONTINUED TO RUN THE FARM WHILE HE WAS OFF IN THE CONTINENTAL CONGRESS AND WHILE HE WAS IN FRANCE NEGOTIATING THE PEACE TREATY WITH ENGLAND. I BELIEVE THOMAS JEFFERSON WAS OUR LAST FARMER PRESIDENT BEFORE I CAME INTO OFFICE. SOME THINGS ABOUT FARMING I DO NOT MISS -- THE DRUDGERY AND SHEER PHYSICAL DISCOMFORT OF CHOPPING COTTON OR PICKING *Velvet beans* OKRA, FOR INSTANCE. YET ESPECIALLY THIS TIME OF YEAR, WHEN THE TREES ARE BUDDING AND THE PROMISE OF A NEW SEASON IS AS FRESH AS THE WIND, I WANT TO GET OUT AND PLANT SOMETHING, OR JUST WALK IN THE FIELDS AND SMELL THE AIR AND FEEL THE WARM EARTH.

3. SOMETIMES YOUNG PEOPLE ASK ME WHAT BOYHOOD EXPERIENCES ON THE FARM HELPED MOST TO PREPARE ME FOR BEING PRESIDENT. AFTER A LONG DAY OF WRESTLING WITH THE PROBLEMS OF THE NATION, TRYING TO PERSUADE THOSE WHO REPRESENT A MYRIAD OF SPECIAL INTERESTS TO UNITE BEHIND ACTIONS WHICH ARE ESSENTIAL FOR THE NATION, I WONDER IF THE BEST PREPARATION I HAD FOR THIS JOB WAS SOMETHING NOT MANY PEOPLE DO TODAY -- PLOWING WITH A MULE.

HARRY TRUMAN WAS A FARMER AS A YOUNG MAN, TOO. REMEMBERING HIS OWN DAYS BEHIND A MULE, HE OBSERVED THAT FARMING GAVE A MAN

TIME TO THINK...IF HE WOULD. FOR THAT REASON, HE RESPECTED THE OPINIONS OF FARMERS, AT LEAST THOSE WHO TOOK ADVANTAGE OF THEIR OPPORTUNITY. LIKE HIM, I HAVE HAD TO TAKE SOME TOUGH ACTIONS, SUCH AS THE SOVIET GRAIN EMBARGO, AND YOUR SUPPORT HAS MEANT A LOT TO ME.

4. OUR NATION FACES SOME SERIOUS PROBLEMS, PROBLEMS OF ENERGY, DEFENSE, INFLATION, PROBLEMS THAT REQUIRE ALL OF US TO SACRIFICE AND MAKE CHOICES. IT IS ESSENTIAL TO OUR COUNTRY'S ECONOMIC HEALTH THAT WE GET CONTROL OF INFLATION AND THAT WE BEGIN TO DO SO NOW. IT IS ALSO ESSENTIAL THAT WE GO ABOUT IT PRUDENTLY AND INTELLIGENTLY. THE ATTITUDE "DO SOMETHING, ANYTHING" WILL NOT SOLVE OUR PROBLEMS, WHETHER APPLIED TO OUR ECONOMY OR INTERNATIONAL RELATIONS. THAT SCATTER-SHOT APPROACH CAN ENDANGER OUR PEOPLE AND DEFEAT THE VERY GOALS WE SEEK.

5. YOU CATTLEMEN REMEMBER BETTER THAN MOST THE DISASTROUS EFFECT OF THE 60-DAY FREEZE ON MEAT PRICES IN MID-1973. CATTLEMEN WERE LOSING \$100 A HEAD ON CATTLE. AT ONE POINT THAT SUMMER 46 BEEF PACKING HOUSES WERE CLOSED CAUSING 6,000 WORKERS TO BE LAID OFF. THE LIQUIDATION OF HERDS THAT BEGAN THEN WENT ON FOR ANOTHER 4 YEARS BEFORE THE POLICIES OF THIS ADMINISTRATION, WHICH YOU HELPED DEVELOP, COULD TAKE EFFECT. BREEDING HERDS WERE REDUCED 20 PER CENT IN 3 YEARS. IT WAS THE MOST SEVERE HERD LIQUIDATION IN OUR NATION'S HISTORY. YOU ARE ONLY NOW BEGINNING TO RECOVER.

WHEN I MET WITH REPRESENTATIVES OF YOUR ORGANIZATION A YEAR AND A HALF AGO, I PLEDGED THAT I WOULD NEVER IMPOSE PRICE CONTROLS ON MEAT. I HAVE KEPT THAT PLEDGE AND I WILL CONTINUE TO KEEP IT.

I ALSO REALIZE THAT YOU ARE AT A CRITICAL POINT IN YOUR PRODUCTION CYCLE, WHERE CREDIT IS VITAL IF YOU ARE TO CONTINUE THE LONG AND EXPENSIVE PROCESS OF REBUILDING YOUR HERDS. OUR CREDIT POLICIES ARE AIMED AT REDUCING EXCESSIVE CONSUMER BORROWING TO BUILD A STRONG ECONOMIC BASE FOR A MORE PRODUCTIVE, MORE PROSPEROUS AMERICA. FARMERS ARE PARTICULARLY VULNERABLE TO THE COST-PRICE SQUEEZE. FARMING IS THE MOST COMPETITIVE SECTOR OF OUR ECONOMY, AND YOU CANNOT PUT YOUR CALVES IN STORAGE TO WAIT FOR BETTER CONDITIONS.

WE ARE GOING TO HAVE TO MAKE CUTS IN THE FEDERAL BUDGET, NOT JUST IN OTHER PEOPLE'S PROGRAMS, BUT IN PROGRAMS WE ALL CARE ABOUT. WE ARE ALL GOING TO HAVE TO FACE UP TO THE FACT THAT IT IS ESSENTIAL TO OUR NATION'S INTEREST -- AND THE INTERESTS OF EVERY INDIVIDUAL -- THAT WE HAVE A STRONG DEFENSE AND A STRONG ECONOMY. THAT MEANS SOME BELT-TIGHTENING FOR EVERYONE.

THIS IS TRUE OF ENERGY, AS WELL. WE HAVE MADE GOOD PROGRESS IN CUTTING OUR IMPORTS OF FOREIGN OIL -- DOWN 1 MILLION BARRELS A DAY FROM WHEN I FIRST TOOK OFFICE. STILL ALL OF US MUST CONSERVE MORE. WE MUST BE GOOD STEWARDS OF THE ENERGY WE HAVE, AND WE MUST DEVELOP ALTERNATIVE ENERGY SOURCES.

6. JUST AS THERE ARE NO EASY, PAINLESS SOLUTIONS TO INFLATION -- WE CANNOT SIMPLY OUTLAW INFLATION -- NEITHER ARE THERE ANY SIMPLE SOLUTIONS TO THE INTERNATIONAL CONFLICTS AND THREATS BEFORE US. WE ARE TRYING EVERY AVAILABLE AVENUE TO SECURE THE SAFE RELEASE OF THE AMERICANS HELD HOSTAGE IN IRAN AND COLOMBIA. IT IS EASY TO BECOME IMPATIENT BUT TO URGE THAT WE SHOULD "DO SOMETHING, ANYTHING" IS BOTH DECEPTIVE AND DANGEROUS.

*Markets  
Gold  
Bonds  
#*

7. THE SPIRIT OF INDEPENDENCE, THE WILLINGNESS TO WORK LONG AND HARD, TO ACCEPT RESPONSIBILITY AND TAKE RISKS TO MAINTAIN THAT INDEPENDENCE FOR YOURSELF AND YOUR CHILDREN IS PART OF THE HERITAGE OF EVERY YOUNGSTER WHO GROWS UP ON A FARM. THE VALUES OF THRIFT, OF COOPERATION, THE CONSTANT EFFORT TO IMPROVE YOUR OPERATION, THE CLOSE FAMILY AND COMMUNITY TIES, THE NEED TO CONSERVE NATURAL RESOURCES AND USE THEM WISELY TO BRING FORTH THE LAND'S ABUNDANCE -- THESE ARE OUR HERITAGE. THEY ARE INFINITELY PRECIOUS TO ME, AS I KNOW THEY ARE TO YOU. IT IS THESE VALUES, THESE HARD-WON PRACTICAL LESSONS, THIS CAPACITY TO ENDURE AND HOLD TO OUR TRUE PURPOSES THAT HAS MADE THIS NATION STRONG AND PROSPEROUS AND KEPT IT FREE. IN THE NEXT DAYS AND MONTHS WE WILL ALL BE CALLED UPON TO DRAW ON THIS STRENGTH AND THE LESSONS THE LAND HAS TAUGHT US.

# # #

THE WHITE HOUSE  
WASHINGTON

March 18, 1980

*Susan*  
*R.H.*  
*done*

MEMORANDUM FOR:

RICK HUTCHESON

FROM:

LYNN DAFT *LD*

SUBJECT:

Salutations for President's  
Meeting with the National  
Cattleman's Association

Rick, here is one correction and one addition for the President's salutation to the National Cattleman's Association this afternoon:

Correction: The correct spelling of the name of the NCA President is MERLYN CARLSON.

Addition: After BILL SWAN (V.P.) insert the following name and title -- GEORGE SPENCER (EXEC. V.P.).

Thanks!

*Rick Hutcheson*

THE WHITE HOUSE  
WASHINGTON

March 14, 1980

MEMORANDUM FOR THE PRESIDENT

From: Al McDonald  
Rick Hertzberg  
Achsah Nesmith

Subject: Presidential Talking  
Points: National  
Cattlemen's Assoc.

Scheduled delivery:  
Tue, March 18, 1980  
3 P.M., Room 450

The Presidential Talking Points for  
this occasion are attached.

Clearances

David Rubenstein  
Ray Jenkins

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 14, 1980

TO: LYNN DAFT

FROM: TOM TEAL

SUBJECT: PRESIDENTIAL SALUTATIONS FOR THE NATIONAL  
CATTLEMEN'S ASSOCIATION

Attached is a copy of the talking points submitted to the President today for the Cattlemen's briefing in Room 450 EOB on Tuesday, March 18, at 3 P.M.

Point One contains the names of several people to be recognized by the President. These names will need to be confirmed or corrected on the day of the event to reflect actual attendance. If the names are correct as they stand, they can be confirmed by calling Bill Simon's office (x7052). In the case of additions or deletions, however, a written memo should be submitted to Rick Hutcheson. In either case, the names should be updated no later than 11 A.M. on the day of the event, Tuesday, March 18.

cc: Rick Hutcheson  
Al McDonald  
Susan Clough

[Lynn Daft, x6560, will verify names in salutation by 11 A.M. on Monday.]

Achsah Nesmith  
A-2 3/14/80  
Scheduled Delivery:  
Tues., March 18, 3 P.M.

National Cattlemen's Association

1. PRESIDENT MERLAND CARLSON, LAUREN CARLSON (Past President), BILL SWAN (V.P.), BILL McMILLAN (V.P.):
  
2. IT'S A SPECIAL PLEASURE FOR ME TO HAVE YOU HERE. OUR NATION GOT A GOOD START WITH FARMERS IN THE PRESIDENCY -- GEORGE WASHINGTON WAS OUR FIRST. EVEN JOHN ADAMS FARMED, AND ABIGAIL CONTINUED TO RUN THE FARM WHILE HE WAS OFF IN THE CONTINENTAL CONGRESS AND WHILE HE WAS IN FRANCE NEGOTIATING THE PEACE TREATY WITH ENGLAND. I BELIEVE THOMAS JEFFERSON WAS OUR LAST FARMER PRESIDENT BEFORE I CAME INTO OFFICE. SOME THINGS ABOUT FARMING I DO NOT MISS -- THE DRUDGERY AND SHEER PHYSICAL DISCOMFORT OF CHOPPING COTTON OR PICKING OKRA, FOR INSTANCE. YET ESPECIALLY THIS TIME OF YEAR, WHEN THE TREES ARE BUDDING AND THE PROMISE OF A NEW SEASON IS AS FRESH AS THE WIND, I WANT TO GET OUT AND PLANT SOMETHING, OR JUST WALK IN THE FIELDS AND SMELL THE AIR AND FEEL THE WARM EARTH.
  
3. SOMETIMES YOUNG PEOPLE ASK ME WHAT BOYHOOD EXPERIENCES ON THE FARM HELPED MOST TO PREPARE ME FOR BEING PRESIDENT. AFTER A LONG DAY OF WRESTLING WITH THE PROBLEMS OF THE NATION, TRYING TO PERSUADE THOSE WHO REPRESENT A MYRIAD OF SPECIAL INTERESTS TO UNITE BEHIND ACTIONS WHICH ARE ESSENTIAL FOR THE NATION, I WONDER IF THE BEST PREPARATION I HAD FOR THIS JOB WAS SOMETHING NOT MANY PEOPLE DO TODAY -- PLOWING WITH A MULE.

HARRY TRUMAN WAS A FARMER AS A YOUNG MAN, TOO. REMEMBERING HIS OWN DAYS BEHIND A MULE, HE OBSERVED THAT FARMING GAVE A MAN

TIME TO THINK...IF HE WOULD. FOR THAT REASON, HE RESPECTED THE OPINIONS OF FARMERS, AT LEAST THOSE WHO TOOK ADVANTAGE OF THEIR OPPORTUNITY. LIKE HIM, I HAVE HAD TO TAKE SOME TOUGH ACTIONS, SUCH AS THE SOVIET GRAIN EMBARGO, AND YOUR SUPPORT HAS MEANT A LOT TO ME.

4. OUR NATION FACES SOME SERIOUS PROBLEMS, PROBLEMS OF ENERGY, DEFENSE, INFLATION, PROBLEMS THAT REQUIRE ALL OF US TO SACRIFICE AND MAKE CHOICES. IT IS ESSENTIAL TO OUR COUNTRY'S ECONOMIC HEALTH THAT WE GET CONTROL OF INFLATION AND THAT WE BEGIN TO DO SO NOW. IT IS ALSO ESSENTIAL THAT WE GO ABOUT IT PRUDENTLY AND INTELLIGENTLY. THE ATTITUDE "DO SOMETHING, ANYTHING" WILL NOT SOLVE OUR PROBLEMS, WHETHER APPLIED TO OUR ECONOMY OR INTERNATIONAL RELATIONS. THAT SCATTER-SHOT APPROACH CAN ENDANGER OUR PEOPLE AND DEFEAT THE VERY GOALS WE SEEK.

5. YOU CATTLEMEN REMEMBER BETTER THAN MOST THE DISASTROUS EFFECT OF THE 60-DAY FREEZE ON MEAT PRICES IN MID-1973. CATTLEMEN WERE LOSING \$100 A HEAD ON CATTLE. AT ONE POINT THAT SUMMER 46 BEEF PACKING HOUSES WERE CLOSED CAUSING 6,000 WORKERS TO BE LAID OFF. THE LIQUIDATION OF HERDS THAT BEGAN THEN WENT ON FOR ANOTHER 4 YEARS BEFORE THE POLICIES OF THIS ADMINISTRATION, WHICH YOU HELPED DEVELOP, COULD TAKE EFFECT. BREEDING HERDS WERE REDUCED 20 PER CENT IN 3 YEARS. IT WAS THE MOST SEVERE HERD LIQUIDATION IN OUR NATION'S HISTORY. YOU ARE ONLY NOW BEGINNING TO RECOVER.

WHEN I MET WITH REPRESENTATIVES OF YOUR ORGANIZATION A YEAR AND A HALF AGO, I PLEDGED THAT I WOULD NEVER IMPOSE PRICE CONTROLS ON MEAT. I HAVE KEPT THAT PLEDGE AND I WILL CONTINUE TO KEEP IT.

I ALSO REALIZE THAT YOU ARE AT A CRITICAL POINT IN YOUR PRODUCTION CYCLE, WHERE CREDIT IS VITAL IF YOU ARE TO CONTINUE THE LONG AND EXPENSIVE PROCESS OF REBUILDING YOUR HERDS. OUR CREDIT POLICIES ARE AIMED AT REDUCING EXCESSIVE CONSUMER BORROWING TO BUILD A STRONG ECONOMIC BASE FOR A MORE PRODUCTIVE, MORE PROSPEROUS AMERICA. FARMERS ARE PARTICULARLY VULNERABLE TO THE COST-PRICE SQUEEZE. FARMING IS THE MOST COMPETITIVE SECTOR OF OUR ECONOMY, AND YOU CANNOT PUT YOUR CALVES IN STORAGE TO WAIT FOR BETTER CONDITIONS.

WE ARE GOING TO HAVE TO MAKE CUTS IN THE FEDERAL BUDGET, NOT JUST IN OTHER PEOPLE'S PROGRAMS, BUT IN PROGRAMS WE ALL CARE ABOUT. WE ARE ALL GOING TO HAVE TO FACE UP TO THE FACT THAT IT IS ESSENTIAL TO OUR NATION'S INTEREST -- AND THE INTERESTS OF EVERY INDIVIDUAL -- THAT WE HAVE A STRONG DEFENSE AND A STRONG ECONOMY. THAT MEANS SOME BELT-TIGHTENING FOR EVERYONE.

THIS IS TRUE OF ENERGY, AS WELL. WE HAVE MADE GOOD PROGRESS IN CUTTING OUR IMPORTS OF FOREIGN OIL -- DOWN 1 MILLION BARRELS A DAY FROM WHEN I FIRST TOOK OFFICE. STILL ALL OF US MUST CONSERVE MORE. WE MUST BE GOOD STEWARDS OF THE ENERGY WE HAVE, AND WE MUST DEVELOP ALTERNATIVE ENERGY SOURCES.

6. JUST AS THERE ARE NO EASY, PAINLESS SOLUTIONS TO INFLATION -- WE CANNOT SIMPLY OUTLAW INFLATION -- NEITHER ARE THERE ANY SIMPLE SOLUTIONS TO THE INTERNATIONAL CONFLICTS AND THREATS BEFORE US. WE ARE TRYING EVERY AVAILABLE AVENUE TO SECURE THE SAFE RELEASE OF THE AMERICANS HELD HOSTAGE IN IRAN AND COLOMBIA. IT IS EASY TO BECOME IMPATIENT BUT TO URGE THAT WE SHOULD "DO SOMETHING, ANYTHING" IS BOTH DECEPTIVE AND DANGEROUS.

7. THE SPIRIT OF INDEPENDENCE, THE WILLINGNESS TO WORK LONG AND HARD, TO ACCEPT RESPONSIBILITY AND TAKE RISKS TO MAINTAIN THAT INDEPENDENCE FOR YOURSELF AND YOUR CHILDREN IS PART OF THE HERITAGE OF EVERY YOUNGSTER WHO GROWS UP ON A FARM. THE VALUES OF THRIFT, OF COOPERATION, THE CONSTANT EFFORT TO IMPROVE YOUR OPERATION, THE CLOSE FAMILY AND COMMUNITY TIES, THE NEED TO CONSERVE NATURAL RESOURCES AND USE THEM WISELY TO BRING FORTH THE LAND'S ABUNDANCE -- THESE ARE OUR HERITAGE. THEY ARE INFINITELY PRECIOUS TO ME, AS I KNOW THEY ARE TO YOU. IT IS THESE VALUES, THESE HARD-WON PRACTICAL LESSONS, THIS CAPACITY TO ENDURE AND HOLD TO OUR TRUE PURPOSES THAT HAS MADE THIS NATION STRONG AND PROSPEROUS AND KEPT IT FREE. IN THE NEXT DAYS AND MONTHS WE WILL ALL BE CALLED UPON TO DRAW ON THIS STRENGTH AND THE LESSONS THE LAND HAS TAUGHT US.

# # #

National Security Council Meeting 3/18/80

THE WHITE HOUSE  
WASHINGTON

NSC

3/18/80

Iran - pressure A -

Afghanistan - insurgents -

SU - Lt Br - <sup>Allica</sup> Neutral - PR

Allies <sup>press</sup> support - Olym - Cocom - <sup>US</sup> West

M.I. - emph strength

Mid E. - S/B/ Weizman?

Eth. Yemen, Angola

Muslim support (Palestinian)

Energy

3rd world relationships