PREPARED TESTIMONY

SUBMITTED BY

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UNITED STATES NUCLEAR REGULATORY COMMISSION

TO

SUBCOMMITTEE ON ENERGY AND THE ENVIRONMENT

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

RESTRUCTURING THE NRC

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Mr. Chairman, Members of the Subcommittee, I am pleased to offer my comments on the proposed disestablishment of the Nuclear Regulatory Commission and its replacement by a new Nuclear Safety Agency.

We have been focusing primarily on two alternatives: an agency directed in both policy and operations by a Commission of equal status members, or an agency headed by a single individual vested with both policy and operational authority in all matters. A third alternative, which is the full implementation and strengthening of the Presidentially prepared NRC Reorganization Plan No. 1 of 1980, in my opinion, is superior to either of these organizational models. In that Plan, the Chairman of the Commission is the principal executive officer of the Agency and is responsible for the management of all operational matters. The other Commissioners are limited to policy setting, rulemaking, and adjudications. By formally adopting Plan No. 1 and by enacting legislation to designate the Chairman of the Commission as the Chief Executive Officer of the Agency, both the policy making advantages of a Commission and the management efficiencies of a Single Administrator organization can be achieved. Such a change would strengthen the present Agency and would avoid the disruptive consequences of a total reorganization of the Agency top management.

I have functioned both as a chief executive officer and as a policy setter in various organizations of the type that could result from the simple change I advocate. A board of directors or a board of trustees sets policy and a chief executive officer runs the organization which carries out those policies. Those who set policy in such an organization must understand the difference between day by day operational matters and policy

setting. Experienced corporate managers have learned this distinction and intuitively know how to avoid intruding into operational matters when they serve as policy setters on boards. Of course, operational line management responsibility and accountability must be vested in a single individual. A policy and adjudicatory board cannot provide the day-to-day supervision that is necessary, nor can it make the daily operational decisions that must be made for an organization to run smoothly and efficiently. A suitably constituted commission can discipline itself to act at the fastest pace the law allows while avoiding those activities which are not their proper domain.

I have seen no convincing evidence in recent Federal government history that any one type of organizational structure is, in itself, notably more effective than any other. Rather, it is the quality, capability and dedication of the individuals who run organizations that determine the results. Both single administrator agencies and commissions have had their successes and failures. What a single administrator agency may gain in single point accountability and perhaps some marginal increase in efficiency, can be lost in decreased public openness in decision making, breaks in continuity over changing administrations, and less likelihood of inclusion of the full range of policy options.

I would like to elaborate briefly on two principal disadvantages of a single administrator agency, a lack of diversity of point of view and a lack of public visibility of decision making.

First, a single administrator agency should be headed by a strong personality. The subordinates of such individuals tend to be people who are selected for their capacity to carry out decisions effectively but not necessarily to set policy, and they are unlikely to advance any counter views on policy matters to those held by their superior. A diversity of viewpoints on policy matters is most likely to come from a group of individuals who are not subordinate to the administrator and who have had the kind of broad experience that should be required of those who set policy. Such individuals should be peers, not subordinates, of the administrator and should have had career records of accomplishment that command the respect of each other and of the administrator.

Second, a move from a Commission to a single administrator agency can result in a decrease in visible public accountability. Commissioners' decision making must be carried out in open public meetings with high visibility. Each Commissioner can be required by Congress to account for his or her decisions, which are all on the public record. By contrast decisions made by a single administrator together with his or her subordinates are less immediately visible and are not made before the eyes of the public. While a single administrator can also be called to account by Congress, day by day policy and operational decisions are not made in public view and are much less immediately visible. Therefore a move from Commission to single administrator organization can result in less rather than greater accountability.

We all, I believe, recognize the very complex nature of nuclear technology. We also recognize the fallibility of any one individual --

whether he or she be a licensed operator of a nuclear power station, a licensed therapist administering a radiopharmaceutical to a patient, or the single administrator of a Federal agency whose mandate is protection of public health and safety. A collegial body of highly qualified individuals is a time-honored means to establish sound bases for formulating effective and efficient policies when strong historical experience is lacking. In a number of areas the Commission will be facing new far-reaching policy issues in the next few years. These are likely to include licensing decisions on waste disposal and related issues and the regulatory consequences of the development of a future generation of nuclear power plants. For these tasks the multiple viewpoints of a Commission, with explicit visibility to the public of their decision making, have important advantages.

My most serious concerns regarding a change from Commission to single administrator governance of the NRC at this time is that such a change may divert attention from the legislative action needed to improve and streamline nuclear regulatory processes, disrupt regulatory staff's ability to function at its peak, provide an opportunity for those licensees so inclined to go slowly on actions which improve safety but are not yet required, and create a serious leadership vacuum during a prolonged transition period. I am not opposed to a single administrator organization, but I am also not persuaded that the expected improvements that have provided the motivation for a governance change will occur by enactment of S . I believe the simpler approach that I have described would be better.

On the matters of a Nuclear Safety Board, an Inspector General, and a Statutory Office of Investigations, I support these as part of the Agency and see no reason why they should not be included directly in either the present Commission structure or in the modified Commission organization with the Chairman designated as CEO that I believe would be best.

I agree with all of Chairman Zech's comments and concerns on these three subjects as they are defined in S . I also support his statements regarding the independence of the Federal agency regulating nuclear energy. It should not be made part of another Federal agency. As is now the case, its regulatory decisions including proposed and final rules should not be subject to review by the Office of Management and Budget.

With the exception of my position on the Single Administrator governance of nuclear regulation, I agree with the Chairman as to the remainder of his testimony relating to the Nuclear Safety Board, Inspector General and Statutory Office of Investigations. I also concur with the Chairman's testimony relative to the specific bills introduced in the House of Representatives.