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NRC MANUAL

BULLETIN

NO. 1302-2

DATE: November 4, 1987

SUBJECT: REVISIONS TO THE NRC SHUTDOWN PLAN: CONTINGENCY PLAN FOR
PERIOD OF LAPSED APPROPRIATIONS

This Bulletin revises the responsibilities and authorities contained in this chapter to conform to the NRC reorganization, effective April 12, 1987. These changes will be reflected in the next revision of the chapter.

Paragraph 033 and Appendix Part III, Section B - change the Director, Office of Congressional Affairs, to the Director, Office of Governmental and Public Affairs.

Paragraph 034, Item g - change the Director, Office of Administration, to the Director, Office of Personnel.

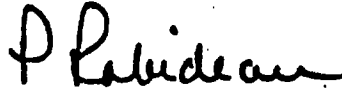
Paragraph 035 and Appendix Part III, Section B - change the Executive Legal Director to the General Counsel.

Paragraph 036 and Appendix Part III, Section B - change the Controller and/or Director, Office of Resource Management (RM), to the Controller.

Paragraph 037, Items a, b, c, d, g, h and j, and Appendix Part III, Section B, except NF+29, 2nd paragraph - change the Director, Office of Administration or Designee, to the Director, Office of Personnel or Designee.

Paragraph 037, Items e, f, i, k and l, and Appendix Part III, Section B, NF+29, 2nd paragraph - change the Director, Office of Administration, to the Director, Office of Administration and Resources Management.

Exhibits 3 and 4 - change the Director, Division of Organization and Personnel, Office of Administration, to the Director, Office of Personnel.



Peter J. Rabideau, Director
Division of Budget and Analysis
Office of Administration and
Resources Management

Form NRC-489
(1-76)

U. S. NUCLEAR REGULATORY COMMISSION
NRC MANUAL
TRANSMITTAL NOTICE

CHAPTER NRC-1302 SHUTDOWN PLAN: CONTINGENCY PLAN FOR
PERIODS OF LAPSED APPROPRIATIONS

SUPERSEDED:

	Number	Date
Chapter	_____	_____
Page	_____	_____
	_____	_____
	_____	_____
Appendix	_____	_____

TRANSMITTED:

	Number	Date
TN	1300-5	_____
Chapter	NRC-1302	12/21/82
Page	_____	_____
	_____	_____
Appendix	NRC-1302	12/21/82

REMARKS:

This new chapter and appendix implement OMB regulations and provide guidance and instructions for suspending non-essential agency activities, should the Congress fail to appropriate funds for normal agency operations.

U.S. NUCLEAR REGULATORY COMMISSION
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RM

CHAPTER 1302 SHUTDOWN PLAN: CONTINGENCY PLAN FOR PERIODS OF LAPSED
APPROPRIATIONS

1302-01 COVERAGE

This chapter and its appendix implement the Office of Management and Budget (OMB) Bulletin No. 80-14 of August 28, 1980 and provide guidance and instructions for suspending non-essential agency activities should the Congress fail to appropriate funds for normal agency operations. The plan does not address unexpected contingencies.

1302-02 OBJECTIVES

021 To implement OMB Bulletin No. 80-14 in accordance with the Anti-deficiency Act (31 U.S.C. 665) and the opinion of the Attorney General of the United States.

022 To provide guidance for the orderly suspension of non-essential activities when it is anticipated that there will be an exhaustion of funds.

023 To identify essential functions that will continue although all available NRC funds have been exhausted.

1302-03 RESPONSIBILITIES AND AUTHORITIES

031 The Chairman or Designee:

- a. ensures execution of the Shutdown Plan.
- b. determines the essential functions of the agency.
- c. submits the list of essential functions to OMB for transmittal to Congress if necessary.

032 The General Counsel:

- a. assists the Chairman or his designee in determining the agency's essential functions.

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- b. provides the Chairman or his designee with legal advice during the period of lapsed appropriations.
- c. drafts Commission orders on issues arising from an exhaustion of funds.
- d. defends the Commission in judicial proceedings arising from a lapse in appropriations or an exhaustion of funds.

033 The Director, Office of Congressional Affairs, coordinates (consistent with EDO guidance) with the appropriate Congressional committees to reallocate available funds as necessary at the earliest indication of lapses in appropriation.

034 The Executive Director for Operations or Designee:

- a. directs and ensures the implementation of Chapter NRC-1302, Shutdown Plan: Contingency Plan for Periods of Lapsed Appropriations.
- b. informs offices of targeted office strength to perform essential functions.
- c. approves the lists of employees to be furloughed and those to be retained when all available funds are exhausted.
- d. issues notice of general information on agency funding to all employees. (See Exhibit 1.)
- e. signs notice to all employees indicating that all available funds have been exhausted. (See Exhibit 2.)
- f. authorizes issuance of furlough notices to non-essential employees and, where applicable, to any employees retained for essential functions if or when these functions are completed in accordance with Chapter NRC-4171.
- g. reviews and adjusts, if necessary, the lists of employees to be retained or furloughed when all available funds are exhausted and transmits lists to the Director, Office of Administration.
- h. authorizes issuance of notices of extended furloughs if shutdown exceeds 30 days in accordance with Chapter NRC-4170.
- i. authorizes the notification of the Office of Management and Budget (OMB), the Office of Personnel and Management (OPM), the Department of Treasury (Treasury), and the General Services Administration (GSA) if operations have to be permanently suspended.
- j. authorizes dissemination of information to radio stations that carry NRC weather emergencies regarding the status of the agency.

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NRC-1302-035

035 The Executive Legal Director:

- a. provides the Executive Director for Operations with legal advice regarding shutdown activities.
- b. provides legal advice to the staff in support of essential activities when all available funds are exhausted.

036 The Controller and Director, Office of Resource Management :

- a. determines the amount of funds available to operate at the earliest indication of funding difficulty.
- b. advises the Executive Director for Operations of the availability of funds on a daily basis.
- c. reallocates, to the extent permitted, all available funds in order to forestall the fund-interruption date as long as possible prior to initiation of orderly shutdown activities.
- d. determines time period that the agency can operate before all available funds are exhausted.
- e. notifies the Executive Director for Operations when all available funds have been exhausted.
- f. processes personnel payrolls for periods prior to fund interruption.
- g. establishes records of deferred payment for personnel retained during shutdown.
- h. takes necessary actions to adjust allotments as appropriate during periods of lapsed appropriations.
- i. coordinates to ensure that no contractual or other financial obligations are entered into after a lapse in appropriations other than those deemed essential.
- j. ensures that funds are not disbursed.
- k. provides notice on agency funding (see Exhibit 2), revised as necessary, to EDO for signature.

037 The Director, Office of Administration, or Designee:

- a. consults with the employee's union regarding actions that will impact bargaining unit employees.

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FOR PERIODS OF LAPSED APPROPRIATIONS**

- b. reviews lists of employees to be retained and those to be furloughed to assure that each employee's name appears on either the retention list or furlough list.
- c. reviews and directs issuance of furlough notices to all non-essential employees. (See Exhibit 3.)
- d. directs the processing of personnel records in connection with the issuance of furlough notices.
- e. issues "stop work" orders to NRC contractors for contracts other than those deemed essential when all funds are expended. (See Exhibit 7.)
- f. issues termination notices to NRC contractors for contracts other than those deemed essential when shutdown exceeds 30 days. (See Exhibit 8.)
- g. issues furlough notices in accordance with Chapter NRC-4171 when applicable to employees retained as these functions are completed.
- h. issues extended furlough notices to appropriate personnel in accordance with NRC Chapter and Appendix 4170 when shutdown exceeds 30 days. (See Exhibit 4.)
- i. identifies to the Executive Director for Operations and the Controller those contracts that should be kept in place or entered into to provide support services (i.e., telecommunications, guard services).
- j. disseminates information to radio stations that carry NRC weather emergency announcements to announce status of the agency.
- k. ensures the inventory and transfer of all personal and real property to GSA (see Exhibit 6) if agency operations have to be permanently suspended.
- l. ensures the transfer of agency records to GSA (see Exhibit 5) if agency operations have to be permanently suspended.

038 Directors of Offices and Regional Administrators:

- a. prepare a list of employees to be furloughed by name, social security number, grade, job title, office, division and branch.
- b. transmit to the Executive Director for Operations the list of employees to be furloughed.

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- c. prepare a list of employees to be retained by name, social security number, grade, job title, function to be performed, office, division, and branch concomitant with the number of persons to be retained by each office for essential functions.
- d. transmit to the Executive Director for Operations the list of employees to be retained for the essential functions listed in Appendix 1302, Part II.
- e. maintain essential functions, consistent with EDO guidelines, as delineated in Appendix 1302, Part II.
- f. issue "stop work" order to DOE laboratories for contracts other than those deemed essential when all funds are exhausted. (See Exhibit 7.)
- g. issue termination notices to DOE laboratories for contracts other than those deemed essential when shutdown exceeds 30 days. (See Exhibit 8.)

1302-04 DEFINITIONS (FOR PURPOSES OF THIS CHAPTER)

- 041 "Lapse in Appropriation" - The date on which NRC has no new funding authority due to lack of action by Congress, generally the beginning of a fiscal year.
- 042 "Exhaustion of Funds" - The point at which all available NRC monies have been obligated.
- 043 "Shutdown Activities" - Those activities necessary to be accomplished to limit operations to essential functions.

1302-05 BASIC REQUIREMENTS

- 051 Applicability. This chapter and its appendix apply throughout NRC.
- 052 References.
 - a. Antideficiency Act (31 U.S.C. 665).
 - b. Attorney General's Decision--letter to the President dated April 25, 1980.
 - c. Office of Management and Budget Bulletin 80-14 dated August 28, 1980.
 - d. Office of Management and Budget Memorandum dated September 10, 1980.

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- e. Office of Management and Budget Memorandum dated September 30, 1980.
- f. Attorney General's Decision dated January 16, 1981.
- g. Office of Personnel Management Memorandum to Heads of Executive Departments, Agencies, and Independent Establishments dated November 20, 1981.
- h. Office of Personnel Management Memorandum for Directors of Personnel dated September 10, 1980 and March 25, 1982.
- i. Office of Personnel Management Memorandum to Directors of Personnel dated August 5, 1982.
- j. NRC Chapter and Appendix 4171.
- k. NRC Chapter and Appendix 4170.

PART I

INTRODUCTION

A. BACKGROUND

1. In 1974 Congress enacted the Congressional Budget and Impoundment Control Act which requires Congress to pass all appropriation legislation by September 15 preceding the start of the fiscal year. However, since FY 1979 many agencies have suffered lapses in appropriations. The NRC was without new appropriations or continuing resolution authority for the first 18 days of FY 1979. At that time, it was the policy of the Executive Branch to continue normal operations even though Congress had failed to enact either appropriations or a continuing resolution.
2. On April 25, 1980, at the request of the President, the Attorney General issued an opinion that the language and legislative history of the Antideficiency Act (31 U.S.C. 665) unambiguously prohibits agency officials from incurring obligations in the absence of appropriations.
3. On September 30, 1980, the Director of the Office of Management and Budget circulated a memorandum to the heads of all departments and agencies delineating activities that by law could continue during a period of exhaustion of funds. Essentially, the memorandum in part stipulated that agencies may continue to:
 - a. provide for national security, including the conduct of foreign relations essential to the national security and safety of life and property.
 - b. provide for the performance of contract obligations under no-year or multi-year funds remaining available.
 - c. conduct essential activities to the extent that they protect life and property, including:
 - (1) activities essential to ensure continued public health and safety, including safe use of food and drugs and safe use of hazardous materials;
 - (2) emergency and disaster assistance;
 - (3) activities that ensure production of power and maintenance of power distribution.

- d. process payrolls for periods prior to fund interruptions.
 - e. provide support services necessary to continue these essential functions.
4. On January 16, 1981, the Attorney General issued another opinion regarding agency shutdown to clarify and broaden the scope of the April opinion. This opinion addressed the "more complex legal questions posed by a general Congressional failure to enact timely appropriations, or the proper course of action to be followed when no prolonged lapse in such a situation is anticipated."¹ In part, the guidance contained in the OMB Bulletin and the Attorney General's opinion mentioned above requires that agencies:
- a. reallocate to the extent legally permissible all available funds to forestall the fund interruption date as long as possible.
 - b. limit operations to minimum essential services at the time that spending authority ceases, or all funds are exhausted.
 - c. provide support services necessary to continue these essential functions.
 - d. process necessary personnel actions and records.
 - e. begin shutdown activities when all available funds are exhausted.

Moreover, the Attorney General recommends that in preparing contingency plans for periods of lapsed appropriations, each government agency provide for the Director of the Office of Management and Budget a written description of what the head of the agency, assisted by its General Counsel, considers to be the agency's emergency functions. OMB will then transmit the list to Congress.

B. NRC FUNDING

NRC, since its inception, has had annual appropriations of "no-year" funds. "No-year" funds are funds that can be used by the agency until they are completely expended. As such, these prior-year funds can be used to fund the agency's necessary activities in times of lapsed appropriations.

¹Letter to the President from Benjamin R. Civiletti, Attorney General, dated January 16, 1981.

C. NRC EMPLOYEE RIGHTS, OBLIGATIONS AND BENEFITS

NRC employees' rights, benefits and obligations will be affected when NRC exhausts all of its available funds. NRC personnel will be divided into two categories: (1) employees in a nonpay, nonwork or furlough status and (2) those in a delayed-pay work status performing essential functions. Employees in the nonpay, nonwork category will be furloughed at the time that the agency is required by law to maintain only minimum essential functions. The latter group will be retained to carry on those minimum essential activities that are necessary to protect the health and safety of the public. NRC employees engaged in shutdown activities are required to report for work to perform shutdown activities as necessary. The following paragraphs summarize actions that could occur and employees rights relating to these actions if all available NRC funds are exhausted.

1. Pay

- a. Employees who are retained after all NRC funds are exhausted will be paid for those hours worked when funds are appropriated. However, no monies can be disbursed during the period when all NRC funds are exhausted and additional funds have not been appropriated. Therefore, NRC employees will be working for delayed pay.
- b. Employees who are furloughed will receive no pay because no work was performed.
- c. Employees will be paid for the period worked prior to the beginning of shutdown activities.

2. Furloughs

a. Less than 30 days

- (1) Employees who are furloughed for 30 days or less will be furloughed in accordance with Chapter NRC-4171, Separations and Adverse Actions, and the collective bargaining agreement.
- (2) Employees with at least one year of current continuous employment under an appointment other than temporary who are furloughed for 30 days or less may appeal the agency's action under the provisions of Chapter NRC-4156, Appeals from Adverse Actions, or if appropriate, grieve the actions pursuant to the provisions of the negotiated collective bargaining agreement, but not both.

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- (3) Veteran preference eligibles with at least one year of current continuous employment in the same or a similar position may appeal to the Merit System Protection Board (MSPB) as an alternative to the agency grievance procedure and the collective bargaining agreement grievance procedure.

b. Greater than 30 days

- (1) If furloughs exceed 30 days, employees in furlough status will have those furloughs continue in accordance with OPM reduction-in-force provisions and Chapter NRC-4170, Reduction In Force.
- (2) Furloughed employees may appeal application of OPM and Chapter NRC-4170 regulations to MSPB or, if appropriate, grieve the actions pursuant to the provisions of the negotiated collective bargaining agreement, but not both.

c. Service Computation

A furlough does not constitute a break in service.

3. Annual or Sick Leave Status

a. Annual

- (1) Managers may not grant annual leave to employees who would otherwise be furloughed because of exhaustion of all available funds.
- (2) Annual leave may not be granted during an exhaustion of funds.
- (3) Employees to whom annual leave has already been granted prior to an exhaustion of funds may be permitted to complete such leave. Upon completion of such leave, employees must then be furloughed or returned to duty to perform essential functions. However, agency heads have discretion to cancel all annual leave upon exhaustion of all available funds and place affected employees on furlough or return them to duty.

b. Sick

- (1) Managers may allow an employee to continue sick leave after exhaustion of all available funds to the extent of accrued sick leave, and to the extent the employee

remains sick. The employee after an illness will either be furloughed or returned to work to perform essential activities.

- (2) Sick leave granted prior to an exhaustion of funds may be taken during an exhaustion of funds. However, managers may cancel sick leave scheduled for routine appointments or examinations.
- (3) Managers may not grant sick leave to an employee on furlough because of an exhaustion of all available funds.
- (4) An employee on annual leave during an exhaustion of funds may be granted sick leave to the extent of the accrued sick leave and illness.

4. Annual and Sick Leave Accrual

- a. Leave is not accrued during an exhaustion of funds.
- b. Persons in a delayed pay status will be credited annual and/or sick leave retroactively on a pro rata basis.
- c. An employee does not accrue annual or sick leave during any pay period in which the employee is in a furlough status for the entire pay period.
- d. Leave will accrue for days worked during a pay period on a pro rata basis.

5. Benefits

a. Retirement

- (1) Retirement coverage continues for all employees (furloughed or retained) providing the agency is still in existence. Length of service creditable toward retirement is granted if the furlough period does not exceed an aggregate of six months in one calendar year.
- (2) Eligibility for early retirement is not triggered by a temporary exhaustion of funds.

b. Life Insurance

Regular or Optional Life Insurance coverage continues up to 12 months for all employees (furloughed or retained) without cost to the employee.

c. Health Insurance

Enrollment for employees who are furloughed for 30 days or less continues.

d. Retroactive Payment of Benefits

If funds are appropriated retroactively, total employee contributions for health and life insurance benefits will be withheld from retroactive pay of employees in a deferred pay status.

PART II

ESSENTIAL FUNCTIONS TO BE CONTINUED

A. INTRODUCTION

1. The Attorney General's decision of January 16, 1981, and the OMB memorandum of September 30, 1980, provide for the continuation of minimum essential activities and support of these activities when all available funds have been expended.
2. Therefore, in order that NRC carry out its responsibility to protect the health and safety of the public, the following list of essential functions may be maintained subsequent to an exhaustion of funds. These functions will continue indefinitely unless or until specifically directed by Congress to terminate all agency activities. Offices will retain only those employees necessary to perform these functions. The list of functions is based on NRC's Essential Uninterruptible Functions, SECY 77-316; The Atomic Energy Act of 1954, as amended; and Executive Order 11953, dated January 7, 1977. This list is meant to be as comprehensive as possible, but other legally authorized functions may be performed as circumstances dictate in order to protect life and property.
3. These essential functions, though broadly stated, are not to imply that we are to continue all of our normal activities. These functions should include only those items that if not carried out would endanger public health and safety. Adjudicatory proceedings and litigation, policy decisions or activities that support routine licensing activities and routine licensing activities are not essential to the protection of life and property.
4. The Attorney General's opinion of January 16, 1981 suggests two rules for identifying those functions for which government officers may employ personal services for compensation in excess of legal authority. First, there must be some reasonable and articulable connection between the function to be performed and the safety of human life or the protection of property. Second, there must be some reasonable likelihood that the safety of human life or the protection of property would be compromised, in some degrees, by delay in the performance of the function in question.
5. It is not anticipated that NRC will perform only essential functions for an extended period of time.

B. ESSENTIAL FUNCTIONS

1. Regulation

Continue to control the possession, use, transfer, import and export of licensed nuclear materials and facilities.

2. Emergency and Physical Protection

Assure that Commission-licensed nuclear facilities and activities do not constitute an unnecessary hazard to public health and safety.

3. Contingency Plans

Maintain and participate in the implementation of contingency plans as appropriate for dealing with threats, thefts, sabotage relating to special nuclear materials, high-level radioactive wastes, and nuclear facilities.

4. Facility and Nuclear Materials Security and Safeguards

Assure the continued maintenance by licensees of security and safeguards programs at licensed facilities and for nuclear materials.

5. State Relations

Maintain liaison that is deemed essential with states concerning the Agreement States materials licensing program and the radiological incident emergency planning program.

6. International Liaison

Maintain liaison that is deemed essential with the U.S. Government and foreign nations with respect to the export/import licensing, international safeguards and intelligence activities, and health, safety, and environmental issues.

7. Adjudicatory Proceedings and Litigation

Continue adjudicatory proceedings deemed essential to ensuring continued public health and safety, production of power, and maintaining the power distribution system.

8. Administration

Maintain adequate support staff (clerical/secretarial/administrative) to facilitate shutdown and to support essential activities.

PART III

CHECKLIST AND TIMETABLE FOR ACTIONS REQUIRED DURING SHUTDOWN

A. INTRODUCTION

Actions are required prior to, during, and immediately following an exhaustion of all available NRC funds. These actions and the time frames in which they are to be performed follow. The date indicated in the checklist represents:

1. work days prior to no funds (NF - number of work days),
2. date of no funds (NF), and
3. work days following no funds (NF + number of work days).

B. TIMETABLE AND ACTIONS

DATES

ACTIONS

Date of lapsed
appropriations

The Director, Office of Resource Management (RM), determines the amount of funds remaining and the number of days the agency can possibly operate before shutdown will be required.

The Director, RM, notifies the Executive Director for Operations (EDO) of availability of funds on a daily basis.

NF-10

The Director, RM, notifies the EDO and the Office of Congressional Affairs (CA) of potential reallocation of funds to forestall the fund interruption date.

The Director, Office of Congressional Affairs, notifies the appropriate Congressional Committees of potential reallocation of funds.

The EDO issues notice to all employees (Exhibit 1) informing them of possible lapse in funding.

NF-8

The EDO informs offices of their targeted office strength to perform essential activities when all funds are exhausted using the criteria established in Part II.

NF-7

Office Directors and Regional Administrators submit to the EDO in writing (1) the connection between the function to be performed and the protection of life and property and (2) the basis for determining that safety of life and property would be compromised by delay in the performance of the functions in question.

Office Directors and Regional Administrators prepare lists of employees to be retained and furloughed by name, social security number, grade, job title, division, and branch. For those employees being retained, identify the function that each employee will perform. These lists are to be developed using the criteria established in Part II and guidance from the EDO.

NF-4

Office Directors and Regional Administrators review and revise as necessary lists of employees to be furloughed.

Office Directors and Regional Administrators transmit lists of employees to be furloughed to EDO.

Office Directors and Regional Administrators identify those contracts that should be kept in place or entered into.

NF-2

The EDO approves lists of employees to be furloughed and submits it to the Director, Office of Administration, for processing.

RM prepares notice on agency funding (Exhibit 2) and submits to EDO for signature.

NF-1

The EDO issues notice (Exhibit 2) to all employees informing them of the exhaustion of all available funds and the possibility that employees will have to be furloughed.

NF-0

Office Directors and Regional Administrators inform essential employees to continue activities that are deemed essential. Non-essential employees upon reporting for work are instructed to perform only those functions associated with the orderly suspension of agency activities, i.e.,

1. Notify outside parties of agency status.
2. Cancel meetings, etc.

3. Secure all files.
4. Document status of individual cases and projects.
5. Date stamp and secure all mail received but do not process further.
6. Answer telephones, but only to inform callers of our status and not to respond to new business matters unless of an emergency nature.

Office Directors and Regional Administrators notify employees who will be retained for essential activities.

The EDO authorizes the Office of Administration (ADM) to issue furlough notices to employees not being retained to perform essential functions in accordance with Chapter NRC-4171. (Exhibit 3)

Office Directors and Regional Administrators require employees in a travel status to return to duty station unless travel is for the protection of public health and safety or for purposes of shutdown activities.

OGC and ELD terminate adjudicatory proceedings and litigation as is legally permissible.

Office Directors and Regional Administrators inform employees to listen to radio stations that handle weather emergencies for the status of the agency.

Office Directors and Regional Administrators excuse personnel receiving furlough notices.

RM informs all offices that no obligations can be incurred without the Controller's prior approval.

The EDO authorizes ADM to furlough any additional employees who have completed shutdown activities.

EDO consults with the OMB and OPM regarding shutdown activities.

Office Directors and Regional Administrators take whatever administrative actions necessary to ensure protection and security of NRC property and personnel.

NF + 1

NF + 2 - 28

Continue essential activities.

ADM disseminates information to radio stations that handle NRC weather emergencies to announce status of agencies if necessary.

NF + 29

The EDO authorizes ADM to issue furlough notices in accordance with NRC Chapter and Appendix 4170 (Exhibit 4).

ADM issues termination notices to NRC contractors.

Office Directors and Regional Administrators issue termination notices for contracts with DOE laboratories.

Continue essential activities.

NF + 30 and forward

Continue essential activities.

EXHIBIT 1

TO: All NRC Employees

SUBJECT: GENERAL INFORMATION ON AGENCY FUNDING

Due to the absence of Congressional action on funding legislation, it appears that the NRC will be limited to using the relatively small amount of unobligated funds available at the end of the year plus whatever funds can be deobligated and reallocated to sustain the agency's operations. NRC may be required to commence activities to achieve an orderly shutdown of agency activities, including furloughing all those employees whose services are not needed to help accomplish the shutdown or to protect the public health and safety.

Pursuant to direction from OMB and consistent with guidance from the Attorney General, NRC has developed the NRC Shutdown Plan which provides for an orderly shutdown of NRC in the event all available funds are exhausted. This Plan provides for the conduct of only that business necessary for the orderly though temporary termination of agency activities, and the protection of life and property.

We do not anticipate a permanent lack of funding. However, we still feel this notice is necessary for your general information should a short funding hiatus occur. In the event all available funds are exhausted, supervisors will refer to the NRC Shutdown Plan for specific guidance (Chapter NRC-1302).

The following paragraphs summarize actions that could occur and your rights relating to these actions if there is a period where all available funds are exhausted. NRC personnel will be divided into two categories: (1) employees in a nonpay, nonwork or furlough status and (2) those in a deferred-pay work status performing essential functions. Employees in the nonpay, nonwork category will be furloughed at the time the agency is required by law to maintain only minimum essential functions. The latter group will be retained to carry on those minimum essential activities that are necessary to protect the health and safety of the public. In the event all available NRC funds are exhausted, Office Directors will identify those employees in each of the two categories.

1. Pay

- a. Employees who are retained after all NRC funds are exhausted will be paid for those hours worked when funds are appropriated. However, no monies can be disbursed during the period when all NRC funds are exhausted and additional funds have not been appropriated. Therefore, NRC employees will be working for delayed pay.

- b. Employees who are furloughed will receive no pay because no work was performed.
- c. Employees will be paid for the period worked prior to the beginning of shutdown activities.

2. Furloughs

a. Less than 30 days

- (1) Employees who are furloughed for 30 days or less will be furloughed in accordance with Chapter NRC-4171, Separations and Adverse Actions, and the collective bargaining agreement.
- (2) Employees with at least one year current continuous employment under an appointment other than temporary who are furloughed for 30 days or less may appeal the agency's action under the provisions of Chapter NRC-4156, Appeals from Adverse Actions, or if appropriate, grieve the actions pursuant to the provisions of the negotiated collective bargaining agreement, but not both.
- (3) Veteran preference eligibles with at least one year of current continuous employment in the same or similar position may appeal to the Merit System Protection Board (MSPB) as an alternative to the agency grievance procedure and the collective bargaining agreement grievance procedure.

b. Greater than 30 days

- (1) If furloughs exceed 30 days, employees in furlough status will have those furloughs continue in accordance with OPM reduction-in-force provisions and Chapter NRC-4170, Reduction In Force.
- (2) Furloughed employees may appeal application of OPM and Chapter NRC-4170 regulations to MSPB or, if appropriate, grieve the actions pursuant to the provisions of the negotiated collective bargaining agreement, but not both.

c. Service Computation

A furlough does not constitute a break in service.

3. Annual or Sick Leave Status

a. Annual

- (1) Managers may not grant annual leave to employees who would otherwise be furloughed because of exhaustion of all available funds.

- (2) Annual leave may not be granted during an exhaustion of funds.
- (3) Employees to whom annual leave has already been granted prior to an exhaustion of funds may be permitted to complete such leave or returned to duty to perform essential functions. Upon completion of such leave, employees must then be furloughed. However, agency heads have discretion to cancel all annual leave upon exhaustion of all available funds and place affected employees on furlough or return them to duty.

b. Sick

- (1) Managers may allow an employee to continue sick leave after exhaustion of all available funds to the extent of accrued sick leave, and to the extent the employee remains sick. The employee after an illness will either be furloughed or returned to work to perform essential activities.
- (2) Sick leave granted prior to an exhaustion of funds may be taken during an exhaustion of funds. However, managers may cancel sick leave scheduled for routine appointments or examinations.
- (3) Managers may not grant annual or sick leave to an employee on furlough because of an exhaustion of all available funds.
- (4) An employee on annual leave during an exhaustion of funds may be granted sick leave to the extent of the accrued sick leave and illness.

4. Annual and Sick Leave Accrual

- a. Leave is not accrued during an exhaustion of funds.
- b. Persons in a delayed pay status will be credited annual and/or sick leave retroactively on a pro rata basis.
- c. An employee does not accrue annual or sick leave during any pay period in which the employee is in a furlough status for the entire pay period.
- d. Leave will accrue for days worked during a pay period on a pro rata basis.

5. Benefits

a. Retirement

- (1) Retirement coverage continues for all employees (furloughed or retained) providing the agency is still in existence. Length

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of service creditable toward retirement is granted if the furlough period does not exceed an aggregate of six months in one calendar year.

- (2) Eligibility for early retirement is not triggered by a temporary exhaustion of funds.

b. Life Insurance

Regular or Optional Life Insurance coverage continues up to 12 months for all employees (furloughed or retained) without cost to the employee.

c. Health Insurance

Enrollment for employees who are furloughed for 30 days or less continues.

d. Retroactive Payment of Benefits

If funds are appropriated retroactively, total employee contributions for health and life insurance benefits will be withheld from retroactive pay.

William J. Dircks
Executive Director for Operations

CONTACT:

EXHIBIT 2

TO: All NRC Employees
SUBJECT: AGENCY FUNDING

As of today, NRC has obligated all funds available to continue normal staff operations. The Antideficiency Act prohibits the agency from incurring obligations in the absence of appropriations except for activities related to shutting down the agency and those services deemed essential to public health and safety. Therefore, NRC is required to cease operations except for activities related to the orderly suspension of agency business, and as required by statutory authority, protecting the health and safety of the public.

Activities associated with the orderly termination of agency business should normally be limited to:

- Notifying outside parties of agency status.
- Cancelling meetings, etc.
- Securing all files.
- Documenting status of individual cases and projects.
- Date stamping and securing all mail received without further processing.
- Answering telephones, only to inform the caller of our status and not to respond to new business matters unless of an emergency nature.

By direction of the Chairman, all employees are to report to work tomorrow. It is hoped that obligational authority will clear the Congress at this time. If it does not, non-essential employees will be furloughed. We will keep you advised as the situation changes.

William J. Dircks
Executive Director for Operations

EXHIBIT 3

MEMORANDUM FOR: Employee's Name

FROM: Director, Division of Organization and Personnel
Office of Administration

SUBJECT: NOTICE OF FURLOUGH NOT TO EXCEED 30 DAYS

The memorandum of (date from Exhibit 2), subject, "Agency Funding," notified you of funding difficulty and the possible need to furlough some employees. All available NRC funds have been obligated. In order to comply with the requirements of the Antideficiency Act, NRC must limit its activities to those related to phasing down the agency and those deemed essential to public health and safety. Therefore, it is necessary to furlough you effective (month, day, year) at (time).

This action is being taken under the furlough provisions of NRC Chapter and Appendix 4171, Separations and Adverse Actions. Normally those regulations require that the effective date of the furlough be no less than 30 days from the date of the specific notice of furlough. However, because the agency lacks funds to legally pay nonessential employees during this notice period, the 30-day notice period is being waived under the provisions of NRC Chapter and Appendix 4171 and 5 CFR 752.404(d)(2).

If you believe that this action is improper, you may appeal the Agency's action under the provisions of Chapter NRC-4156, Appeals from Adverse Actions, or if appropriate, grieve the action pursuant to the provisions of the negotiated collective bargaining agreement, but not both, within 15 days of the date of this notice.

An employee who is a veteran preference eligible may appeal to the Merit System Protection Board (MSPB) as an alternative to the agency grievance procedure and the collective bargaining agreement grievance procedure.

In the unlikely event that this furlough exceeds 30 days, you will be issued another furlough notice in accordance with the provisions of Chapter NRC-4170 and advised of the applicable appeal rights.

When funding is provided by the Congress, we will notify all employees through public news media (radio, television, and newspapers) to return to duty. You will be expected to report for work at the beginning of your next regular tour of duty after such notification.

This action is in no way a reflection on your performance, conduct, character, or loyalty. Your contribution to the NRC is appreciated, and the necessity for this action is sincerely regretted.

EXHIBIT 4

MEMORANDUM FOR: Employee's Name

**FROM: Director, Division of Organization and Personnel
Office of Administration**

SUBJECT: NOTICE OF FURLOUGH EXCEEDING 30 DAYS

The NRC has now been without funds for 30 days. As indicated in your previous notice of furlough, your furlough will continue under provisions of the Office of Personnel Management reduction-in-force provisions and Chapter NRC-4170, Reduction in Force, effective (month, day, year).

If you believe this action to be improper, you may appeal to the Merit System Protection Board (MSPB), or if appropriate, grieve the action pursuant to the provisions of the negotiated collective bargaining agreement, but not both, within 15 days of the date of this notice.

When funding is provided by the Congress, we will notify all employees through public news media (radio, television, and newspapers) to return to duty. You will be expected to report for work at the beginning of your next regular tour of duty after such notification.

We regret the inconvenience and hardship created by this funding hiatus.

EXHIBIT 5

GSA DRAFT - JUNE 1980

**Specific Guidelines for Records Disposition in conjunction with an
orderly termination of activities due to funding interruption**

The records of executive agencies whose functions are terminated or in the process of liquidation are expressly subject to 41 CFR 101-11.4. Upon notice that the agency's appropriation or a continuing resolution has not been approved, the headquarters office responsible for records management should contact the GSA National Archives and Records Service, Office of Federal Records Centers (724-1614) to discuss records disposition procedures. Staff members of the Office of Federal Records Centers are available to provide advice and assistance in determining the appropriate disposition of the records.

Under these circumstances the agency is responsible for the following activities. Relevant reference materials and forms are listed at the end of this attachment. The forms and handbooks will be provided by the Office of Federal Records Centers.

1. Prepare inventory of records on hand in agency using GSA Form 3119, "Files Survey Record." Records which are security classified, subject to court ordered "freezes" on disposition, or involved in claims and litigation should be identified.
2. Identify and segregate personal papers of officials from official agency records. Ensure that only personal papers are removed from Federal custody.
3. Destroy non-record materials.
4. Apply approved agency records disposition schedule and the general records scheduled to effect disposition of immediately disposable records.
5. Offer to National Archives and Records Service on an SF 258, "Request to Transfer, Approval, and Receipt of Records," any unscheduled permanent records.
6. Prepare SF 135, "Records Transmittal and Receipt," for scheduled temporary and permanent records that will be sent to the nearest Federal Archives and Records Center.

7. Draw up a disposal list of unscheduled temporary records for which immediate destruction is requested. Submit to NARS on an SF 115, "Request for Records Disposition Authority."
8. Submit SF 115 for unscheduled records with unexpired administrative, legal, or fiscal value for storage in the FARC.
9. Take no action to box or ship records until specific instructions are received from GSA's National Archives and Records Service.

References:

1. Federal Property Management Regulations (FPMR) 101-11.4 which discusses the establishment and maintenance of a disposition program; GSA FPMR Bulletin B-46, procuring boxes; B-57, Privacy Act information for records stored in the FARCS; B-65 and 99, personal papers.
2. Disposition of Federal Records handbook (Federal Stock No. 610-01-055-8704)
3. Federal Archives and Records Center handbook (Federal Stock No. 7610-00-298-69)
4. General Records Schedules
5. Agency records disposition schedules that have been approved by the Archivist of the United States

Forms Needed:

GSA 3118, "Files Survey Record"

SF 115, "Request for Records Disposition Authority"

SF 135, "Records Transmittal and Receipt"

SF 258, "Request to Transfer, Approval, and Receipt of Records to National Archives of the United States"

In cases where litigation is involved, the applicable files shall be screened by the holding agency for harm to the Government if any of the records are released under a Freedom of Information Act request. A certificate shall be attached to the records involved of the harm to either Department of Justice litigation and possible Internal Revenue Service action if the records are made public under Freedom of Information Act requests. A format for the inventory is attached.

EXHIBIT 6

GSA Draft - June 1980

**Specific Guidelines for the disposition of Real and Personal Property
in conjunction with an orderly termination of activities due to
funding interruptions**

The real and personal property of agencies whose functions are being terminated or in the process of liquidation are subject to the procedures contained in 41 CFR 101-47 and 101-43 respectively.

Upon notification that the agency's appropriation or a continuing resolution has not been approved, the headquarters office responsible for property management will notify the GSA Federal Property Resources Service (FPRS). Officials of FPRS will be available to consult with agencies' officials concerning the orderly disposition of property.

Under these circumstances the agency is responsible for the following activities. Relative reference materials and forms are listed at the end of this attachment.

1. Conduct an inventory of real and personal property or review the existing inventory to determine if it is up to date.
2. Take action to prepare a Report of Excess Personal Property, Standard Form 120, in accordance with 41 CFR 101-43-311 for all personal property anticipated to be reported excess if the appropriation or a continuing resolution is not enacted.
3. Take action to prepare a Report of Excess Real Property, Standard Form 118, or on other appropriate forms, in accordance with 41 CFR 101-47.202 for all real property anticipated to be reported excess if the appropriation or a continuing resolution is not enacted.
4. Reports will be submitted to the GSA regional office serving the area where the property is located.
5. As part of their termination activities, agencies shall retain custody of all excess personal property until disposition action is directed by GSA. Agencies should also retain custody of all excess real property and shall perform essential physical care, handling, protection and maintenance and repairs until disposition action is directed by GSA.

References:

Federal Property Management Regulations, 41 CFR 101-43, Utilization of Personal Property; 41 CFR 101-47, Utilization and Disposal of Real Property.

Forms:

- SF 120, Report of Excess Personal Property
- SF 120A, Continuation Sheet
Instructions for preparing SF 120
- SF 121, Annual Report of Utilization and Disposal of Excess and Surplus
Personal Property
Instructions for preparing SF 121
- SF 118, Report of Excess Real Property
 - 118a, Buildings, Structures, Utilities and Miscellaneous Facilities
 - 118b, Land
 - 118c, Related Personal Property
Instructions for preparing SF 118, 118a, b, and c

**SHUTDOWN PLAN: CONTINGENCY PLAN
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NRC Appendix 1302

EXHIBIT 7

(Date)

ABC Company

Gentlemen:

SUBJECT: STOP WORK ORDER FOR CONTRACT NO. _____

In accordance with clause _____, STOP WORK ORDER, of the General Provisions of subject contract, you are hereby required to stop all of the work called for in the subject contract for a period of ninety (90) days after your date of receipt of this Stop Work Order.

Sincerely,

NOTE: For DOE work, the contract number should refer to FIN and the first phrase should refer to Chapter NRC-1102, Exhibit 4, paragraph 8.

EXHIBIT 8

(Date)

ABC Company

Gentlemen:

(The body of this termination letter should conform with
41 CFR 1-8.801-2, the federal procurement regulations.)

Sincerely,