

## Office of the White House Press Secretary

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THE WHITE HOUSE

## FACT SHEET

## REORGANIZATION PLAN FOR THE NUCLEAR REGULATORY COMMISSION

I. Purpose of the Reorganization

On December 7, 1979, the President responded to the recommendations of his Commission on the Accident at Three Mile Island, and set forth steps that are now being taken to address those recommendations. The President stated that he would send to the Congress a Reorganization Plan to strengthen the ability of the Nuclear Regulatory Commission (NRC) to regulate nuclear safety. The Plan clarifies the duties of the Chairman as principal executive officer. In addition to directing the day-to-day operations of the agency, the Chairman will take charge of the Commission's response to nuclear emergencies and, as principal executive officer, will be guided by Commission policy and subject to Commission oversight.

The need for more effective management of NRC has been amply demonstrated over the past year. The accident at Three Mile Island one year ago revealed serious shortcomings in the agency's ability to respond effectively during a crisis. The lessons learned from that accident go beyond crisis management, however. They provide the impetus for improving the effectiveness of all aspects of the government regulation of nuclear energy.

Intensive investigations undertaken since the Three Mile Island accident have revealed management problems at the NRC. These problems must be rectified if the Commission is to be a strong and effective safety regulator.

-- The Kemeny Commission concluded that the underlying problem at Three Mile Island stemmed not from deficient equipment, but rather from compounded human failures. This included the inability of the NRC to pursue its safety mission in view of its existing management policies and practices. The report cited a lack of "closure" in the system to ensure that safety issues are raised, analyzed and resolved. Kemeny Commission members also concluded that the NRC relies too heavily on licensing, and pays insufficient attention to ensuring the safety of plants once they are in operation.

During the course of its investigation, the Kemeny Commission found serious managerial problems at the top of NRC. It noted that the Commissioners and the Chairman are unclear as to their respective roles. Uncertain, diffused leadership of this kind leads to highly compartmentalized offices that operate with little or no effective guidance and little coordination.

-- A recently completed independent study conducted by the firm of Mitchell Rocovin for the NRC also found serious fault with the Commission's management and has called for a major reorganization overhaul. This report states that there is no authoritative manager but, instead, five equally responsible Commissioners who deal individually with office directors who, in turn, head their own "independent fiefdoms."

-- Likewise, a recent report of the General Accounting Office notes the failure of the NRC to define either the authority of the Chairman or that of the Executive Director for Operations. The staff lacks policy guidance and top management leadership to set priorities and resolve safety issues. There are unreasonable delays in developing policies to guide the licensing and enforcement activities of the agency.

The central theme in all three of these studies is the failure of the NRC to provide unified leadership and consistent direction of the agency's activities. The present statutes contain conflicting and ambiguous provisions for managing the agency. Important corrective actions cannot or will not be taken by the Commission until the laws are changed. Failure to do so constitutes a continuing nuclear safety hazard.

The present Reorganization Plan will improve the effectiveness of the NRC by giving the Chairman the powers he needs to ensure efficient and coherent management in a manner that preserves, in fact enhances, the commission form of organization.

The balance of this Fact Sheet contains the following sections:

- II. Description and Brief Discussion of Specific Changes;
- III. Benefits of the Plan;
- IV. Recommended NRC Implementation Actions Which Are Not Appropriate for a Reorganization Plan;
- V. Nuclear Safety Oversight Committee and Other Safety-Related Actions; and
- VI. Questions and Answers.

## II. Specific Changes of the Plan

This Reorganization Plan will increase the Chairman's ability to serve effectively as the principal executive officer in four specific ways.

A. Clarify Commission/Chairman Roles. The NRC is now managed collectively by the five Commissioners. The Chairman exercises few, if any, powers that differ from those of the other four members. This situation of diffused supervision and management derives in part from the NRC statutes and in part from the practices that have developed over the history of the agency. The Chairman is designated by present law as the "principal executive officer" of the agency. However, an inconsistent provision of the law states that "each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission."

The Plan will resolve this ambiguity by clearly distinguishing the respective roles of the Commission and the Chairman. The Commission will continue to be responsible for policy formulation, rulemaking and adjudication as functions which should have collegial deliberation. The Commission will have access to all information needed to carry out its functions. The Chairman, as the principal executive officer, will be responsible for all other functions, including the management and direction of the NRC operating staff.

The Commission remains the ultimate authority of the agency. In the event of disagreement as to what constitutes policy or whether the policy is being faithfully executed, the Commission, by a majority vote, prevails. In major agency management matters, the Chairman will prepare and propose, for Commission approval, such course-setting documents as the NRC annual budget, major reorganizations or annual operating plans and priorities.

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B. Reporting Relationships. Under present law and practice, no NRC official reports to, or is supervised by, the Chairman. Supervision of the operating staff is left to the collective Commission. The five main operating offices report only nominally to the Executive Director for Operations. Consequently, the chain of command is confused, and weakens the ability of NRC's top management to give clear directions or impose discipline in carrying them out. The individual offices should work closely together on common objectives in the complex field of nuclear safety. However, a forceful coordinating authority is lacking and, as a result, these offices often pursue separate and even competing goals. (Present and proposed organization charts are attached to this Fact Sheet.)

The Reorganization Plan provides that the Executive Director for Operations (EDO) report directly to the Chairman and perform functions delegated by the Chairman. This is critical to the Chairman's ability to manage the agency while also performing his other responsibilities.

Most Commission-level staff offices will continue to report to the full Commission, rather than to the Chairman, since they directly assist the Commission in fulfilling its collegial functions. Two exceptions are the Office of Congressional Affairs and the Office of Public Affairs. These offices will report to the Chairman, whom they directly support in his capacity as spokesman for the agency.

The Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel will continue to report directly to the Commission since they make adjudicative decisions on behalf of the Commission. The Advisory Committee on Reactor Safeguards will also report to the Commission.

Current law contains a provision which authorizes three statutory office heads to report directly to the Commission and, in effect, by-pass the EDO. The original intent was to prevent the EDO from stopping these office heads from conveying important safety concerns to the Commission. The Plan retains the "safety valve" intent of this provision and makes it apply to heads of all components. But the Plan makes it clear that the provision is not meant to prevent a regular chain of command from the Chairman through the EDO to the staff.

C. Appointive Powers. At present, the Chairman plays no part in key appointments other than serving as one of five Commissioners. Under existing law and practice, the Commission appoints nearly 80 positions. The remaining positions are appointed by subordinate staff with no involvement by the Chairman. This clearly reduces the Chairman's authority as manager of the agency.

The Reorganization Plan would authorize the Chairman to initiate action on all appointments and to have sole appointment power for all but specified key positions (listed below) which are especially important in supporting the Commission in its assigned responsibilities. Specifically, the Chairman would have to obtain Commission approval of appointments to the following positions:

- Director of Nuclear Reactor Regulation;
- Director of Nuclear Material Safety and Safeguards;
- General Counsel;
- Director of the Office of Policy Evaluation;
- Director of the Office of Inspector and Auditor;
- Secretary of the Commission;
- Chairman, Vice Chairman and Members of the Atomic Safety and Licensing Board Panel;
- Chairman, Vice Chairman and Members of the Atomic Safety and Licensing Appeal Panel; and
- Members of the Advisory Committee on Reactor Safeguards.

The Chairman may, on his own authority, remove individuals from positions subject to his sole appointment authority. Removal of persons from the designated key positions which require Commission approval may be initiated by the Chairman or by any other member of the Commission. They are subject to Commission approval in either case.

D. Emergency Response. The accident at Three Mile Island clearly revealed that NRC's response to a nuclear emergency should not be managed by a committee. The decisions of the NRC in an emergency must be made more promptly and communicated more clearly than can reasonably be expected of a collegial body acting by majority vote.

Present law, however, prevents the Commission from delegating its emergency response powers to the Chairman or to any other member to act for the Commission. Thus, in an emergency, the staff must report to and receive supervision from the full Commission. When the President, a Governor or local official seeks advice about what action to take, no one politically appointed and accountable person can speak for the NRC. The Commission must deliberate and act collegially.

The Reorganization Plan would change this by specifically authorizing the Chairman to act for NRC in an emergency. Approval of policy and advance plans for dealing with various contingencies would continue to be the responsibility of the Commission. Responding to a particular emergency would be fully the responsibility of the Chairman. During an extended emergency, the Chairman would keep the Commission informed as circumstances permit. Following an emergency, the Chairman would report to the Commission on conditions found and actions taken. This would maintain accountability to the Commission and help strengthen emergency response policies and plans for future application. The Chairman's report would not be in lieu of an independent investigation directed by the Commission into the cause of the emergency or adequacy of response by NRC or others.

To provide for possible contingencies such as the Chairman's unavailability when an incident arises, the Plan provides that he may delegate this authority for a specific emergency to any other Commissioner. Nothing in this proposal prevents the Chairman from seeking advice or assistance from one or more Commissioners during an emergency if, in his judgment, it would be useful to do so.

### III. Benefits of the reorganization

The realignment and clarification of management authority within the policy framework set by the Commission will help achieve NRC's nuclear safety objectives:

- Free of the burden of activities not integral to policy-making, rulemaking and licensing, the Commission can concentrate on those functions which require collegial judgment and which recent studies have found to be receiving insufficient attention, e.g., policy guidance on issues such as reactor siting in relation to population concentrations.
- The Commission can for the first time realistically look to one individual, the Chairman, to be accountable for effective management of the agency in keeping with their policies. The Chairman, in turn, can hold the EDO and office heads accountable for their performance. This is in contrast to the present situation where accountability is diffused and cannot be clearly fixed. In addition to the Commission, Congressional and public accountability is also enhanced by assigning management authority to the Chairman.
- Any future nuclear emergency can be met by more authoritative, prompt and clear response from the politically accountable level of NRC. This will help avoid unnecessary confusion and contradictory instructions and advice from NRC, as occurred during the Three Mile Island accident.

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- Policy issues arising from operating experience can be surfaced more systematically to the Commission for its guidance and priority setting. Safety issues, such as providing for improved operator training, can be pursued more aggressively by the staff under supervision of the EDO acting for the Chairman. Contributions to the analyses from the several operating offices can be coordinated by the EDO, unlike the present situation in which there is no central point of coordination. Final selection among alternatives and promulgation of policy decisions remains with the Commission.
- The Commission, while free of the detail of administrative management, retains ultimate control over major actions in this realm by exercising approval rights over the Chairman's proposals in matters such as the annual budget, major reorganizations, or appointments to positions that are closely involved in policy and adjudication.
- The Commission will have more time to oversee or directly participate in major (license or other) adjudications which have great significance either in their own right or in terms of their precedent-setting character.
- Giving the Chairman real authority for managing the agency creates a focus for integrating policy setting with the execution of policy. The Chairman will continue to participate in, and in fact chair, the policy formulation process dealing with matters such as reforming the license process or resolving generic safety and reactor design issues. The Plan will put him in a position to follow through to see that the policies are being effected.
- The morale and motivation of key NRC officials will be improved by receiving direction from one supervisor, rather than trying to be responsive to five individual Commissioners who often express contrary views. This, in turn, will affect all staff members.

#### IV. Recommended NRC Actions Not Appropriate for a Reorganization Plan

In the course of preparing the Reorganization Plan and consulting with NRC, Members of Congress and others, a number of possible actions were considered for inclusion. Two with particular merit are endorsed in principle by the President's Message transmitting the Reorganization Plan. They are not, however, included in the Plan for reasons noted below.

A. Intervenor Funding. Suggestions have been made that this Plan could establish an Office of Public Counsel to assist public intervenors regarding matters before the NRC and, in particular, to administer a program of intervenor funding.

The Reorganization Act of 1977, under the terms of which this Plan is transmitted, cannot create new substantive authority such as providing intervenor funding. However, this Administration has consistently supported intervenor funding. Persons to be represented before NRC are faced with the need for very expensive technical assistance. In response to these circumstances, the President's budget for FY 1981 includes \$500,000 for intervenors, to be made available chiefly to local communities affected by a reactor license request. The Comptroller General has recently rendered a decision to the effect that NRC can use funds for intervenors if it finds that doing so is required to decide on a particular license application.

Congress has not yet appropriated funds specifically for this purpose. NRC should assess the need for intervenor assistance, including funding, in consultation with the Congress and the interested public. Such an assessment could well be incorporated in the overall review of NRC's licensing procedures as called for by the Kemeny and Rogovin studies. NRC could then propose legislation to authorize intervenor funding under specified circumstances and authorize appropriations. An office within NRC to administer this activity could be established by the enabling legislation or left to the Commission to do under its own authority. Creating such an office by Plan, in advance of legislative authorization and funds for the activity, would have little meaning.

B. Independent Safety Review or Inspector General. A second meritorious idea endorsed in principle by the President's Message is an entity to assess independently NRC's effectiveness in accomplishing its safety mission.

The Commission can establish a unit within NRC, but not within the Chairman's jurisdiction, to assist the Commission in overseeing the Chairman's performance of management responsibilities. Such a unit could be established by the Commission under its own authority. A reorganization plan is not required for this purpose. Consideration by the Commission of what is needed and appropriate could be taken up as part of implementing the Reorganization Plan. If additional resources are needed, the requirement should be included as part of the next budget submission for NRC.

V. Nuclear Safety Oversight Committee  
and Other Safety-Related Actions

This Reorganization Plan carries out one of the decisions by the President in response to the recommendations of his (Kemeny) Commission on the Accident at Three Mile Island. A number of other decisions and actions to assure nuclear safety were also announced by the President in his December 7th, 1979, response to the Kemeny recommendations. (See White House Press Release and Fact Sheet of December 7, 1979, for details.)

A major action by the President in fulfilling his commitments in December is the establishment of a Nuclear Safety Oversight Committee. This Committee has been created by Executive Order No. 12202, signed on March 18, 1980.

The Committee is to advise the President on the progress of Federal and State authorities and the nuclear power industry in improving the safety of nuclear power and in implementing the approved recommendations of the President's Commission on the Accident at Three Mile Island. An independent source of advice to the President is particularly important since many of the most significant nuclear safety improvements require action by institutions not subject to Presidential direction -- NRC, States and the nuclear industry.

The Committee is comprised of five members of the public who have relevant expertise and who can be fully objective in the difficult judgments required of them. Members will serve part-time and will receive compensation for time spent in the work of the Committee, as well as for travel expenses. A small staff will support the work of the Committee. Initially, the Committee will be supported by transfer of funds from the Department of Health, Education and Welfare and the Department of Energy. The Administration will seek appropriations for the Oversight Committee for FY 1981.

All reports of the Committee will be available to the public and to Congress. The Executive Order which established the Committee singles out, for early attention and reporting, the progress of the NRC and the nuclear industry in upgrading the selection criteria and the training of utility operating personnel.

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VI. Questions and Answers

1. Q. What does this Plan do for nuclear safety?

A. The mission of NRC is to assure nuclear safety. To the extent the agency can be made more effective in accomplishing that mission, safety is enhanced. Weakness in NRC's performance is well-documented, including insufficient attention to policy issues by the Commission and a lack of authority by the Chairman, supported by the EDO, to manage the agency. Overcoming these weaknesses which pose a threat to the safety mission is the purpose of this Plan. A better ability to respond promptly and clearly to any nuclear emergency also is a direct contribution to nuclear safety.

2. Q. Are you saying that this Plan will prevent TMI-type accidents or would have prevented TMI itself?

A. Such a question is too speculative to answer. It is reasonable to assume, however, that major weaknesses, such as inadequate operator training, can be more readily overcome by an NRC that can define policy more clearly and direct and monitor its application more forcefully. In any case, we cannot safely tolerate the continuation of the weak management system that has characterized NRC. In addition, the Plan will directly improve NRC's ability to respond more effectively in the event of any future accident.

3. Q. Doesn't your Plan to strengthen the Chairman create a "single administrator" via a "back-door" method?

A. No. The Chairman will indeed be strengthened so that he can serve effectively as the principal executive officer and see that issues get resolved and policies implemented. This ingredient has been sorely lacking. But the Chairman must operate within the framework of the full Commission and the policies it sets. The Commission can effectively assure that the Chairman is accountable and cannot arbitrate nuclear safety policy as a single administrator might.

4. Q. What is left for the Commission to do? Why would anyone want to be a Commissioner under your Plan?

A. The Commission continues to have full responsibility for policy formulation, promulgation of NRC rules and adjudications. These functions are the heart of the regulatory program and the functions which should have the benefit of the collegial views represented by the Commission. This work has not received adequate attention in the past, and important work remains to be done in these areas. This is challenging work that should attract high-caliber persons who are interested in participating as colleagues in its performance. On the other hand, a person who wants to be a day-to-day manager should not be attracted because this is not the nature of the work of the Commissioners.

5. Q. The Chairman is to be responsible for "all other" functions not assigned to the Commission. What are they?

A. The Chairman is responsible for effective and efficient management of the agency consistent with the Commission's policies. He has authority and responsibility for all matters of administrative management such as budget,

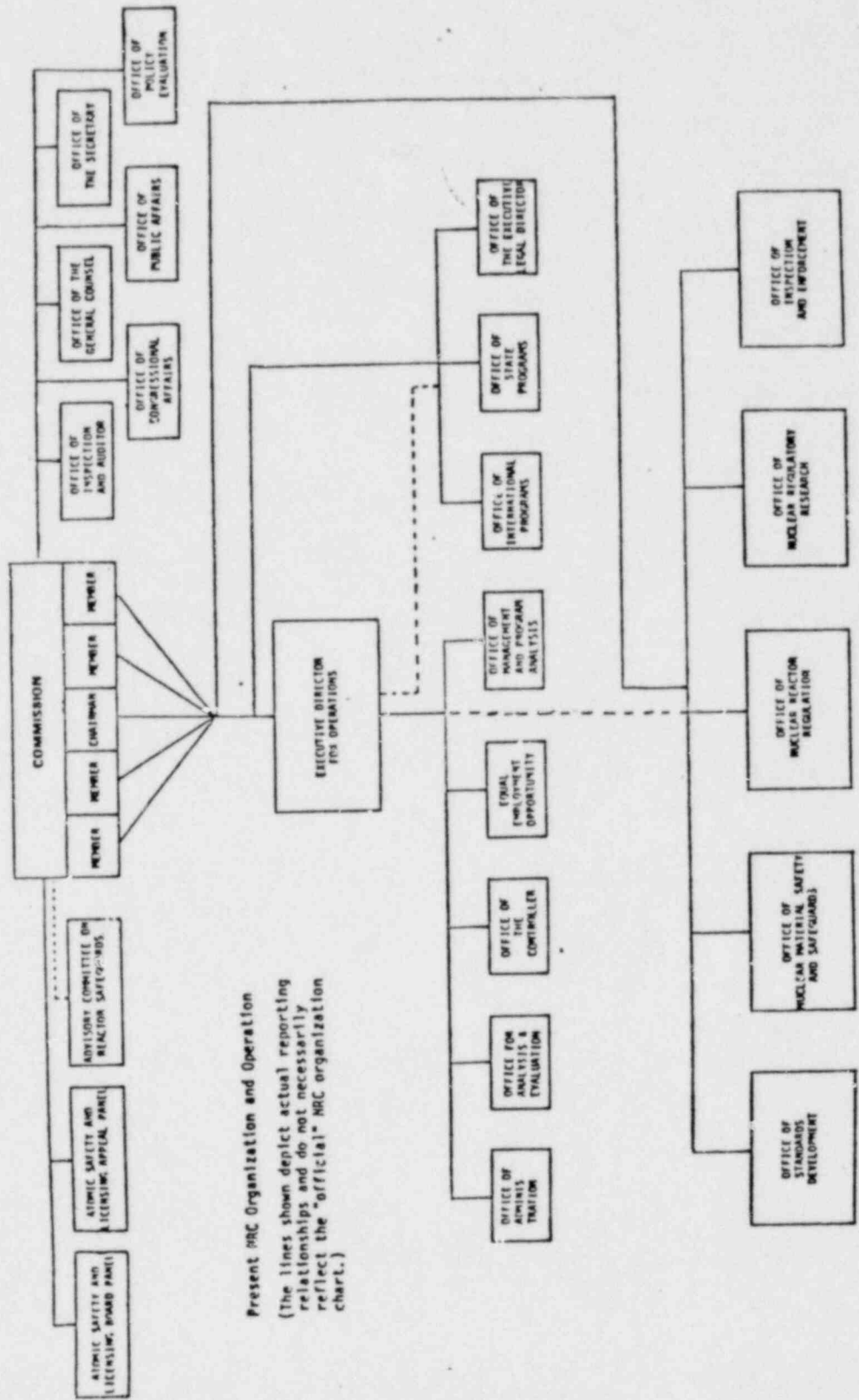
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personnel, office space and so on, with the proviso that major decisions in these areas are presented to the Commission for its approval. For example, the Commission will approve the annual budget prepared by the Chairman.

The Chairman must also see to it that the agency is responsive to the Commission's needs for staff support in performing its functions and in implementing its decisions. This includes, for example, analyses of policy issues identified by the Commission and enforcing the terms of licenses granted under authority of the Commission.

6. Q. Why are some major staff positions subject to appointment and removal concurrence of the Commission, while others are appointed or removed by the sole authority of the Chairman?
- A. Those positions that most closely support the policy and adjudicative functions of the Commission are subject to appointment and removal authority of that body. These include the Director of Nuclear Reactor Regulation, the Director of Nuclear Safety and Safeguards, the Chairmen and members of licensing boards and heads of units in the immediate office of the Commission. The Chairman has sole personnel authority over other positions that are more executive or implementation-oriented in order to have the management capability needed to direct the staff.





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

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TO THE CONGRESS OF THE UNITED STATES:

I am submitting herewith to the Congress Reorganization Plan No. 1 of 1980, under authority vested in me by the Reorganization Act of 1977 (Chapter 9 of Title 5 of the United States Code). The Plan is designed to strengthen management of the Nuclear Regulatory Commission in order to foster safety in all of the agency's activities.

The need for more effective management of the Nuclear Regulatory Commission has been amply demonstrated over the past year. The accident at Three Mile Island one year ago revealed serious shortcomings in the agency's ability to respond effectively during a crisis. The lessons learned from that accident go beyond crisis management, however. They provide the impetus for improving the effectiveness of all aspects of the government regulation of nuclear energy.

In my statement of December 7, 1979, I responded to the recommendations of my Commission on the Accident at Three Mile Island and set forth steps now being taken to address those recommendations. I stated that I would send to Congress a Reorganization Plan to strengthen the Nuclear Regulatory Commission's ability to regulate nuclear safety. I am submitting that Plan today.

The Plan clarifies the duties of the Chairman as principal executive officer. In addition to directing the day-to-day operations of the agency, the Chairman would take charge of the Commission's response to nuclear emergencies and, as principal executive officer, would be guided by Commission policy and subject to Commission oversight.

#### MANAGEMENT PROBLEMS

Intensive investigations undertaken since the Three Mile Island accident have revealed management problems at the Nuclear Regulatory Commission. These problems must be rectified if the Commission is to be a strong and effective safety regulator.

- My Commission, called the Kemeny Commission after its Chairman, Dr. John Kemeny, concluded that the underlying problem at Three Mile Island stemmed not from deficient equipment but rather from compounded human failures. This included the inability of the Nuclear Regulatory Commission to pursue its safety mission effectively in view of its existing management policies and practices. The Kemeny Commission reported a lack of "closure" in the system to ensure that safety issues are raised, analyzed and resolved. Kemeny Commission members also concluded that the Nuclear Regulatory Commission relies too heavily on licensing, and pays insufficient attention to ensuring the safety of plants once they are in operation.
- During the course of its investigation, the Kemeny Commission found serious managerial problems at the top of the Nuclear Regulatory Commission. It noted that the Commissioners and the Chairman are unclear as to their respective roles. Uncertain, diffuse leadership of this kind leads to highly compartmentalized offices that operate with little or no effective guidance and little coordination.
- A recently completed independent study authorized and funded by the Nuclear Regulatory Commission itself also found serious fault with the Commission's management and called for a major organizational overhaul. The report states that there is no authoritative manager but, instead, five equally responsible Commissioners who deal individually with office directors who, in turn, head their own "independent fiefdoms."
- Likewise, a recent report of the General Accounting Office notes the failure of the Nuclear Regulatory Commission to define either the authority of the Chairman or that of the Executive Director for Operations.

The staff lacks policy guidance and top management leadership to set priorities and resolve safety issues. There are unreasonable delays in developing policies to guide the licensing and enforcement activities of the agency.

The central theme in all three of these studies is the failure of the Nuclear Regulatory Commission to provide unified leadership and consistent direction of the agency's activities. The present statutes contain conflicting and ambiguous provisions for managing the agency. Important corrective actions cannot or will not be taken by the Commission until the laws are changed. Failure to do so constitutes a continuing nuclear safety hazard.

The present Reorganization Plan would improve the effectiveness of the Nuclear Regulatory Commission by giving the Chairman the powers he needs to ensure efficient and coherent management in a manner that preserves, in fact enhances, the commission form of organization.

#### COMMISSION

Under the proposed Plan, the Commission would continue to be responsible for policy formulation, rulemaking and adjudication as functions which should have collegial deliberation. In addition, the Commission would review and approve proposals by the Chairman concerning key management actions such as personnel decisions affecting top positions which directly support Commission functions, the annual budget, and major staff reorganizations. In carrying out its role, the Commission would have the direct assistance of several Commission-level offices as well as the licensing board, the appeal panel, and the Advisory Committee on Reactor Safeguards. The Plan would not alter the present arrangement whereby the Commission, acting on majority vote, represents the ultimate authority of the Nuclear Regulatory Commission and sets the framework within which the Chairman is to operate.

## CHAIRMAN

Under the Plan, the Chairman would act as the principal executive officer and spokesman for the Commission. To accomplish this, those functions of the Nuclear Regulatory Commission not retained by the Commission would be vested in the Chairman, who is currently coequal with the Commissioners in all decisions and actions. The Chairman would be authorized to make appointments, on his own authority, to all positions not specified for Commission approval and would be responsible to the Commission for assuring staff support by the operating offices in meeting the needs of the Commission. The Executive Director for Operations would report directly to and receive his authority from the Chairman. Heads of operating offices would also report to the Chairman or, by delegation, to the Executive Director for Operations. Office heads would also be authorized to communicate directly with members of the Commission whenever an office head believed critical safety issues were not being addressed.

## EMERGENCY MANAGEMENT

The Nuclear Regulatory Commission's ability to respond decisively and responsibly to any nuclear emergency must be fully ensured in advance. Experience has shown that the Commission as a whole cannot deal expeditiously with emergencies or communicate in a clear, unified voice to civil authorities or to the public. But present law prevents the Commission from delegating its emergency authority to one of its members. The Plan would correct this situation by specifically authorizing the Chairman to act for the Commission in an emergency. In order to ensure flexibility, the Chairman would be permitted to delegate his authority to deal

with a particular emergency to any other Commissioner. Plans for dealing with various contingencies would be approved by the Commission in advance. The Commission would also receive a report from the Chairman or his designee describing the management of the emergency once it was over.

#### ACTIONS NOT INCLUDED IN THIS PLAN

Not included in this Plan are two actions that I support in principle but that need not or cannot be accomplished by means of a Reorganization Plan. First the Commission, as part of its implementation of this reorganization, can and should establish an internal entity to help oversee the performance of the agency as it operates under the Chairman's direction. This action does not require a Reorganization Plan. Second, I have consistently favored funding assistance to intervenors in regulatory proceedings. This is particularly important in the case of nuclear safety regulation. I therefore encourage the Commission to include consideration of intervenor funding as part of its review and upgrading of the licensing process, as called for by the Kemeny Commission. I have also requested Congress to appropriate funds for this purpose. This activity cannot be authorized by a Reorganization Plan.

#### NO ADDED COSTS

This proposed realignment and clarification of responsibilities would not result in an increase or decrease of expenditures. But placing management responsibilities in the Chairman would result in greater attention to developing and implementing nuclear safety policies and to strict enforcement of the terms of licenses granted by the Commission.

Each of the provisions of this proposed reorganization would also accomplish one or more of the purposes set forth in 5 U.S.C. 901(a). No statutory functions would be abolished by the Plan; rather they would be consolidated or reassigned in order to improve management, delivery of services, execution of the law, and overall operational efficiency and effectiveness of the Commission.

By Executive Order No. 12202, dated March 18, 1980, I established a Nuclear Safety Oversight Committee to advise me of progress being made by the Nuclear Regulatory Commission, the nuclear industry, and others in improving nuclear safety. I am confident that the present Reorganization Plan, together with the other steps that have been or are being taken by this Administration and by others, will greatly advance the goal of nuclear safety. It would permit the Commission and the American people to hold one individual -- the Chairman -- accountable for implementation of the Commission's policies through effective management of the Commission staff. Freed of management and administrative details, the Commission could then concentrate on the purpose for which that collegial body was created -- to deliberate on the formulation of policy and rules to govern nuclear safety and to decide or oversee disposition of individual cases.

THE WHITE HOUSE,



5/5/80

TO THE CONGRESS OF THE UNITED STATES:

I herewith transmit the following amendments to Reorganization Plan No. 1 of 1980, which I sent to the Congress on March 27, 1980.

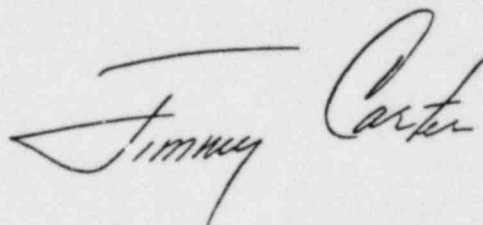
The amendments to Reorganization Plan No. 1 are consistent with my original intent of strengthening the management of the Nuclear Regulatory Commission in order to improve safety in all of the agency's activities, while preserving the advantages of the Commission form. The amendments reinforce the purpose of the Plan in two respects. First, the amended Plan gives the Commission a greater role in selection of key program officers of the agency by adding four positions to the list of appointments initiated by the Chairman for the Commission's advice and consent. These are the Executive Director for Operations, the Director of Inspection and Enforcement, the Director of Nuclear Regulatory Research, and the Director of Standards Development. Each of these positions contributes to nuclear safety regulation, and each performs functions that help determine the policy and performance of the agency.

The Advisory Committee on Reactor Safeguards advises the Commission as a whole. Since its members serve renewable 4-year terms, another amendment provides that a Commission member, as well as the Chairman, can initiate an appointment to the Advisory Committee on Reactor Safeguards for approval by the Commission.

As a means to ensure that the flow of information to the Commission will not be restricted, the Plan has been amended to make explicit that the Chairman, and the Executive Director of Operations through the Chairman, shall keep the Commission fully and currently informed.

The second general purpose of the amendments is to provide for more effective executive management of the agency by making more explicit the responsibilities of the Chairman and the Executive Director for Operations acting under his direction. As amended, the Plan charges the Chairman with planning for the development of policy for consideration and approval by the Commission. In the past, this responsibility has not been clearly fixed and has consequently been neglected. The amended Plan continues to make clear that the Executive Director for Operations reports to the Chairman. An amendment, however, requires the Chairman to delegate to the Executive Director for Operations the authority to appoint the staff and the day-to-day administration of the agency. Under this arrangement, the Chairman retains responsibility for the delegated functions but will be better able to handle his other leadership tasks.

In summary, the amendments I am transmitting to Reorganization Plan No. 1 of 1980, based on review and hearings conducted by the Congress and on continued consultations, will help establish a more accountable central management structure for the Nuclear Regulatory Commission as it pursues its statutory objective of ensuring safety in the use of nuclear power.

A handwritten signature in cursive script that reads "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the typed text.

THE WHITE HOUSE,

May 5, 1980.

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AMENDMENTS TO  
REORGANIZATION PLAN NO. 1 OF 1980

Prepared by the President and submitted to the Senate and the House of Representatives in Congress assembled May 5, 1980, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

Reorganization Plan No. 1 of 1980, which was transmitted to the Senate and the House of Representatives in Congress assembled on March 27, 1980, is hereby amended to read as follows:

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 States Code, except that those matters set forth in 553(a)(2) and (b) which do not pertain to policy formulation orders or adjudications shall be reserved to the Chairman of the Commission;
- (3) orders and adjudications, as defined in section 551 (6) and (7) of Title 5 of the United States Code;

shall remain vested in the Commission. The Commission may determine by majority vote, in an area of doubt, whether any matter, action, question or area of inquiry pertains to one of these functions. The performance of any portion of these functions may be delegated by the Commission to a member of the Commission, including the Chairman of the Nuclear Regulatory Commission, hereinafter referred to as the "Chairman", and to the staff through the Chairman.

(b)(1) With respect to the following officers or successor officers duly established by statute or by the Commission, the Chairman shall initiate the appointment, subject to the approval of the Commission; and the Chairman or a member of the Commission may initiate an action for removal, subject to the approval of the Commission:

- (i) Executive Director for Operations,
- (ii) General Counsel,

- (iii) Secretary of the Commission,
- (iv) Director of the Office of Policy Evaluation,
- (v) Director of the Office of Inspector and Auditor,
- (vi) Chairman, Vice Chairman, Executive Secretary, and Members of the Atomic Safety and Licensing Board Panel,
- (vii) Chairman, Vice Chairman and Members of the Atomic Safety and Licensing Appeal Panel.

(2) With respect to the following officers or successor officers duly established by statute or by the Commission, the Chairman, after consultation with the Executive Director for Operations, shall initiate the appointment, subject to the approval of the Commission, and the Chairman, or a member of the Commission may initiate an action for removal, subject to the approval of the Commission:

- (i) Director of Nuclear Reactor Regulation,
- (ii) Director of Nuclear Material Safety and Safeguards,
- (iii) Director of Nuclear Regulatory Research,
- (iv) Director of Inspection and Enforcement,
- (v) Director of Standards Development.

(3) The Chairman or a member of the Commission shall initiate the appointment of the Members of the Advisory Committee on Reactor Safeguards, subject to 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.

(4) The Commission shall delegate the function of appointing, removing and supervising the staff of the following offices or successor offices to the respective heads of such offices: General Counsel, Secretary of the Commission, Office of Policy Evaluation, Office of Inspector and Auditor. The Commission shall delegate the functions of appointing, removing and supervising the staff of the following panels and committee to the respective Chairmen thereof: Atomic Safety and Licensing Board Panel, Atomic Safety and Licensing Appeal Panel and Advisory Committee on Reactor Safeguards.

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

(d) 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 its functions as described in subsections (a) and (b) of this section.

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 shall be the official spokesman for the Commission, and shall appoint, supervise, and remove, without further action by the Commission, the Directors and staff of the Office of Public Affairs and the Office of Congressional Relations. The Chairman may consult with the Commission as he deems appropriate in exercising this appointment function.

(b) The Chairman shall also be the principal executive officer of the Commission, and shall be responsible to the Commission for developing policy planning and guidance for consideration by the Commission; shall be responsible to the Commission for assuring that the Executive Director for Operations and the staff of the Commission (other than the officers and staff referred to in sections (1)(b)(4), (1)(c) and (2)(a) of this Reorganization Plan) are responsive to the requirements of the Commission in the performance of its functions; shall determine the use and expenditure of funds of the Commission, in accordance with the distribution of appropriated funds according to major programs and purposes approved by the Commission; shall present to the Commission for its consideration the proposals and estimates set forth in subsection (3) of this paragraph; and shall be responsible for the following functions, which he shall delegate, subject to his direction and supervision, to the Executive Director for Operations unless otherwise provided by this Reorganization Plan:

- (1) administrative functions of the Commission;
- (2) distribution of business among such personnel and among administrative units and offices of the Commission;
- (3) preparation of
  - (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.
- (4) 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 subsections 1(b), (c) and 2(a) of this Reorganization Plan.

(c) The Chairman as principal executive officer and the Executive Director for Operations 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. The Chairman and the Executive Director for Operations, through the Chairman, shall be responsible for insuring that the Commission is fully and currently informed about matters within its functions.

Section 3. (a) Notwithstanding sections 1 and 2 of this Reorganization Plan, there are hereby transferred to the Chairman all the functions vested in the Commission pertaining to an emergency concerning a particular facility or materials licensed or regulated by the Commission, including the functions of declaring, responding, issuing orders, determining specific policies, advising the civil authorities and the public, 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 Commission. Such authority may also be delegated or redelegated, in whole or in part, to the staff of the Commission.

(c) In acting under this section, the Chairman, or other member 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 or other member of the Commission delegated authority under subsection (b), shall inform the Commission of actions taken relative to the emergency.

(d) Following the conclusion of the emergency, 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) The Chairman may make such delegations and provide for such reporting as the Chairman deems necessary, subject to provisions of law and this Reorganization Plan. Any officer or employee under the Commission may communicate directly to the Commission, or to any member of the Commission, whenever in the view of such officer or employee 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 for all matters to the Chairman.

(c) The function of the Directors of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, and Nuclear Regulatory Research of reporting directly to the Commission is hereby transferred so that such officers report to the Executive Director for Operations. The function of receiving such reports is hereby transferred from the Commission to the Executive Director for Operations.

(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, and Advisory Committee on Reactor Safeguards 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 906 of Title 5 of the United States Code.

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 States 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 any portion of those functions may be delegated by the Commission to a member of the Commission, including the Chairman of the Nuclear Regulatory Commission, hereinafter referred to as the "Chairman", and to the staff through the Chairman.

(b)(1) With respect to the following officers or successor officers duly established by statute or by the Commission; the Chairman shall initiate the appointment, subject to the approval of the Commission; and the Chairman or a member of the Commission may initiate an action for removal, subject to the approval of the Commission:

- (i) Director of Nuclear Reactor Regulation,
- (ii) Director of Nuclear Material Safety and Safeguards,
- (iii) General Counsel,
- (iv) Secretary of the Commission,
- (v) Director of the Office of Policy Evaluation,
- (vi) Director of the Office of Inspector and Auditor,



- (vii) Chairman, Vice-Chairman and Members of the Atomic Safety and Licensing Board Panel,
- (viii) Chairman, Vice-Chairman and Members of the Atomic Safety and Licensing Appeal Panel.

(2) The Chairman 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 (43 U.S.C. 5841 (a) (1)) solely in the direct performance of functions of the Commission, described in subsections (a) and (b) of this section, and only when such functions have not been delegated pursuant to subsection (a) of this section.

(d) Each member of the Commission shall continue to appoint, remove and supervise 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 principal executive officer 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 the Chairman's 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 subsections 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.

(d) The Chairman shall delegate the function of appointing, removing, and supervising the staff of the following offices or successor offices to the respective head of such offices: General Counsel, Secretary of the Commission, Office of Policy Evaluation, Office of Inspector and Auditor. The Chairman shall delegate the function of appointing, removing and supervising the staff of the following panels and committee to the respective Chairman thereof: Atomic Safety and Licensing Board Panel, Atomic Safety and Licensing Appeal Panel and Advisory Committee on Reactor Safeguards.

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 at a particular facility or concerning materials licensed or regulated by the Commission, including the functions of declaring, responding, issuing orders, determining specific policies, advising the civil authorities and the public, 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 Commission. Such authority may also be delegated or redelegated, in whole or in part, to the staff of the Commission.

(c) In acting under this section, the Chairman, or other member 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 or other member of the Commission delegated authority under subsection (b), shall inform the Commission of actions taken relative to the emergency.

(d) Following the conclusion of the emergency, 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) The Chairman may make such delegations and provide for such reporting as the Chairman deems necessary. 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 functions of the Directors of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, and 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, and Advisory Committee on Reactor Safeguards 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.

October 10, 1980

UNITED STATES  
NUCLEAR REGULATORY COMMISSION SECY-80-467  
WASHINGTON, D. C. 20555

**INFORMATION REPORT**

For: The Commissioners

From: John G. Davis, Director  
Office of Nuclear Material Safety and Safeguards

Thru: Executive Director for Operations *W. J. Davis*

Subject: EXTENSION OF INDEMNITY COVERAGE TO MATERIALS  
LICENSEES OTHER THAN THOSE POSSESSING AND  
USING PLUTONIUM

Purpose: To report to the Commission on the status of the  
feasibility of extending indemnity coverage to  
licensees involved in highly enriched uranium processing  
and fabrication, spent fuel storage, radioisotope  
source preparation, and other materials activities.

Issue: This paper covers an information matter.

Discussion: Background -

When the Price Anderson Act was amended and extended in 1975, the Congress directed that the Commission re-examine the feasibility of extending indemnity coverage to plutonium licensees. This was done; and in early 1977 10 CFR Part 140 was amended to require financial protection and provide indemnity coverage for persons authorized to possess five kilograms or more of plutonium and to use one kilogram or more of plutonium (both excluding sealed sources and fuel rods).

In the course of its deliberations (SECY-76-444) the Commission asked that the staff report back on the feasibility of extending indemnity coverage to other materials licensees -- specifically those processing and fabricating highly enriched uranium, those preparing large radioisotope sources, and those handling and storing spent fuel. The Commission also requested that the threshold values selected for plutonium processing and other materials licensees be examined to determine that they are reasonable.

Contact:  
Peter Loysen, NMSS  
42-74205

DUPLICATE DOCUMENT

Entire document previously  
entered into system under:

ANO 8010300570

No. of pages: 12

Enclosure 3

A Staff Analysis Re:  
Feasibility of Applying Price-Anderson  
Indemnification to Byproduct  
Material Licensees

Operations and Planning Branch  
Office of Nuclear Material Safety  
and Safeguards  
U.S. Nuclear Regulatory Commission

July 1979

DUPLICATE DOCUMENT

Entire document previously  
entered into system under:

ANO 8010300578

No. of pages: 21

December 30, 1980



SECY-80-555

**POLICY ISSUE**  
(Notation Vote)

FOR: The Commissioners  
FROM: William J. Dircks, Executive Director for Operations  
SUBJECT: PLAN FOR IMPROVING THE TECHNICAL CAPABILITY OF LICENSEE PERSONNEL  
PURPOSE: To inform the Commission of our plans for improving the technical capability of licensee personnel.  
DISCUSSION: Section 307(a) of the NRC Authorization of Appropriations for Fiscal Year 1980 authorized and directed the Commission to prepare a plan for improving the technical capability of licensee personnel to safely operate utilization facilities licensed under Section 103 or 104(b) of the Atomic Energy Act of 1954. Further, the Commission was directed to transmit to the Congress the plan required by this subsection within 6 months after the enactment of the Act.

RECOMMENDATION: Enclosed is a description of the subject plan showing each improvement. The elements of the plan are those addressed in Tasks I.A.1 through I.A.4, I.B.1, and II.B.4 of the TMI-2 Action Plan (NUREG-0660).  
We recommend that the Commission:  
1. Approve the letter and report as enclosure for transmittal to Congress.  
2. Note that similar letters forwarding the reports will be sent to the appropriate Congressional Committees.

*William J. Dircks*  
William J. Dircks  
Executive Director for Operations

Enclosure:  
Draft letters to President of Senate and Speaker of House transmitting subject report

Contact:  
Joel J. Kramer, NRR  
49-28446

DUPLICATE DOCUMENT  
Entire document previously entered into system under:  
ANO 8101200620  
No. of pages: 16