

229814

THE WHITE HOUSE
WASHINGTON

August 15, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN *PC*
SEAN MALONEY *SM*

SUBJECT: H.R. 408 -- International Dolphin Conservation Program Act

Attached for your signature is a bill that will (i) implement an international agreement to protect dolphins; (ii) lift the current U.S. embargo on tuna imports from Mexico, Colombia, Venezuela and Japan; and (iii) revise U.S. "dolphin-safe" tuna labeling standards.

Background. The 1992 International Dolphin Conservation Program (IDCP) established a non-binding framework to protect dolphins being killed in the course of commercial yellowfin tuna fishing in the eastern, tropical Pacific Ocean. In 1995, the U.S. and 11 other nations agreed to make the IDCP measures binding, subject to the changes in U.S. law contained in H.R. 408.

The bill lifts the current U.S. embargo on tuna from countries whose commercial fishing fleets conform with the IDCP. It directs the Commerce Department to study and report to Congress by 1999 the effects on dolphin populations of a commercial fishing practice known as "dolphin setting," in which fishing boats deploy large nets around dolphin schools in order to catch the yellowfin tuna that frequently swim below the dolphins. Commercial fishermen have sharply lowered dolphin mortality rates (*i.e.*, from 100,000 killed in 1989 to 3,000 in 1996) by modifying the dolphin setting method to include so-called "backdown" netting, which enables dolphins to swim safely over retracting nets.

Nonetheless, under H.R. 408, tuna caught by this modified method may not be labeled "dolphin-safe" until at least 1999, when Commerce must report whether dolphin setting has a significant adverse impact on dolphin populations. If Commerce finds the practice to be acceptable, current regulations will be changed to allow tuna caught using dolphin setting to be labeled "dolphin-safe." H.R. 408 requires Commerce to develop a uniform "dolphin-safe" label for use on tuna caught in conformance with federal standards. The bill further directs Commerce to issue new regulations requiring tuna boat permitting and onboard observers to monitor new per-vessel annual dolphin mortality limits.

Finally, the bill directs State and Interior to conclude additional agreements to support the IDCP framework. Your signing statement expresses some concern over the constitutionality of this element of the legislation and construes it to be advisory within the Executive branch.

The bill has received all necessary clearances. It passed the House 262-166 and the Senate unanimously. We recommend that you sign the bill. **Last day for action is today.**



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

August 8, 1997

Bill is
here

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 408 - International Dolphin Conservation Program Act
Sponsors - Rep. Gilchrest (R) Maryland and 29 others

Last Day for Action

August 15, 1997 - Friday

Purpose

(1) Implements an international agreement to protect dolphins in the eastern tropical Pacific Ocean; (2) lifts the embargo on the importation into the United States of certain tuna; (3) revises the standards for labeling tuna products as "dolphin safe"; and (4) contains miscellaneous "dolphin"-related provisions.

Agency Recommendations

Office of Management and Budget	Approval (Signing statement attached)
Department of Commerce	Approval (Signing statement attached)
Department of State	Approval (Signing statement attached)
Marine Mammal Commission (MMC)	Approval
Office of the U.S. Trade Representative (USTR)	Approval
Department of the Interior	Approval (Informally)
Department of the Treasury	Approval (Informally)
Council on Environmental Quality (CEQ)	Approval (Informally)
Office of Science and Technology Policy (OSTP)	Approval (Informally)
Department of Justice	No objection
Department of Transportation	No objection (Informally)
Environmental Protection Agency	No comment (Informally)
Office of Consumer Affairs	No comment (Informally)
National Science Foundation	No comment (Informally)
Federal Trade Commission	No response

Discussion

The International Dolphin Conservation Program (IDCP), a non-binding international agreement, was established in 1992 under the auspices of the Inter-American Tropical Tuna Commission (IATTC). The IDCP is intended to protect dolphins from being killed or seriously injured by commercial fishing for yellowfin tuna in the eastern tropical Pacific Ocean (ETPO), which stretches from southern California to Chile.

In October 1995, the United States and 11 other countries signed the Panama Declaration, an agreement to make IDCP conservation measures binding, subject to changes in U.S. law. H.R. 408 contains the changes in U.S. law necessary to provide the basis for the binding international agreement envisioned by the Panama Declaration.

Background

According to the report of the House Resources Committee on H.R. 408, schools of yellowfin tuna tend to swim below schools of dolphin. Commercial fishing vessels deploy large purse-seine nets around the dolphin to harvest the tuna below. (This fishing method is known as "setting on dolphins" or "dolphin sets".) Dolphins can be unintentionally killed or seriously injured when the nets are hauled in.

Current law addresses concerns about dolphin mortality by prohibiting the importation of tuna from countries whose vessels set on dolphins and by setting labeling standards for "dolphin safe" tuna. (Tuna imports from Mexico, Colombia, Venezuela, and Japan are currently embargoed.) These measures to reduce dolphin mortality have been effective -- it is estimated that fewer than 3,000 dolphins were killed in the ETPO in 1996, a decline from 100,000 in 1989.

According to statements made on the Senate floor, the dramatic decline in dolphin mortality has occurred without a significant decline in the use of "dolphin sets". The decline in mortality is attributed, instead, to the increased use of the "backdown" technique, a method of hauling in the net that allows dolphins to swim over the top. Also, other currently used tuna fishing techniques have recently been shown to result in significantly higher mortality of other species, including sharks and endangered sea turtles.

Major Provisions of H.R. 408

The most significant provisions of H.R. 408 are described below. Other provisions are described in the Attachment.

Lifting of Embargo. H.R. 408 would lift the current embargo on tuna caught using "dolphin sets" in the ETPO by vessels of countries conforming with the IDCP. The lifting of the embargo would be contingent upon regulations being issued by the Commerce Department.

Research. The Secretary of Commerce, in consultation with the Marine Mammal Commission and the IATTC, would be required to begin a study on October 1, 1997, of the effects on dolphin population of "setting on dolphins". The bill would authorize appropriations for this study totaling \$11 million during FYs 1998-2001. Based on the study, and other relevant information, the Secretary would be required to publish in the Federal Register, in March 1999, an initial finding of whether "setting on dolphins" is having a significant adverse impact on any depleted dolphin stock in the ETPO. A second finding would have to be published between July 1, 2001, and December 31, 2002. These findings would trigger certain labeling requirements, as described below.

"Dolphin Safe" Labeling Standard. Current law prohibits the use of a "dolphin-safe" label for tuna harvested in the ETPO if the tuna was harvested by "setting on dolphins", regardless of whether or not any dolphins were killed or seriously injured. If the Secretary finds in March 1999 that "dolphin sets" do not have a significant adverse impact on dolphin stocks, this standard would change. The new standard would allow ETPO tuna caught using "dolphin sets" to be considered "dolphin safe" if the captain and an observer certified that no dolphins were killed or seriously injured. The change would be effective on a date established by the Secretary of Commerce pursuant to the March 1999 finding. Tuna caught outside the ETPO would be subject to a comparable labeling standard.

If the Secretary's March 1999 finding is that dolphin sets do have an adverse impact, the labeling standard would not change. If the Secretary finds an adverse impact in 2001 or 2002, the old standard would be restored (or remain in place if an adverse impact had been found in 1999). If the Secretary finds no adverse impact in 2001 or 2002, the new standard would remain in effect.

Federal "Dolphin Safe" Labeling Mark. The Secretary of Commerce would be required to develop a "dolphin safe" mark that could be used in labeling tuna that meets the standards described above. (The marks currently in use by certain tuna canning companies were developed by those companies.) Tuna canners could use alternative marks referring to dolphins or other marine mammals (e.g., a mark developed by an environmental group) only if: (1) the tuna meets the same standards as required for the Federal mark; (2) the alternative mark is not used together with the Federal mark; and (3) the alternative mark does not mislead or deceive consumers about the level of dolphin protection under the IDCP. Commerce, in consultation with the Treasury, would be required to issue regulations to establish a program to track and verify domestically that tuna labeled "dolphin safe" is labeled correctly.

Regulations. H.R. 408 would require the Secretary of Commerce to issue regulations to implement the IDCP and to govern the taking of marine mammals in the ETPO. The regulations would include requiring an observer on each vessel; establishing per vessel maximum annual dolphin mortality limits; and total dolphin mortality limits. The mortality limits would have to be consistent with the IDCP. Regulations could be issued on an emergency basis if the Secretary determines that incidental mortality and serious injury of marine mammals is likely to have a significant adverse impact on the stock or species.

Permits. The Secretary of Commerce would be required to issue permits to U.S. vessels to authorize participation in the IDCP. A vessel could not operate in the yellowfin tuna fishery in the ETPO without a permit. A fee could be charged for issuance of a permit at a level not to exceed the administrative costs of its issuance and the fees could be spent for those costs.

International Negotiations. H.R. 408 would require the Secretary of State to seek: (1) the binding international agreement envisioned by the Panama declaration, with specified dolphin mortality limits; and (2) to establish standards and measures for a bycatch reduction program for vessels fishing for yellowfin tuna in the ETPO. ("Bycatch" refers to the unintentional catch of species other than tuna.) In addition, the bill would require the Secretary of the Interior, through the Secretary of State, to initiate negotiations to revise the Convention that established the IATTC (e.g., by incorporating certain conservation provisions and revising the contributions for expenses of the Commission).

The Department of Justice advises that these provisions, which appear to dictate to the President the content of negotiations with foreign countries, raise constitutional concerns. In its enrolled bill views letter, the Department has submitted suggested language for a signing statement to address these concerns.

Effective Date. The provisions of the Act would generally not take effect until: (1) the Secretary of State certifies that a binding resolution of the IATTC or other legally binding resolution establishes that the IDCP is in force; and (2) the Secretary of Commerce certifies that sufficient funding is available to complete the first year of the study on the effects of "setting on dolphins" and that the study has begun. Regulations to implement the Act could be issued at any time after the date of enactment of H.R. 408.

Pay-As-You-Go Scoring

H.R. 408 would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. This Office's preliminary estimate is that the net increase in receipts would be less than \$500,000 per year.

Agency Views

The Department of State advises that H.R. 408 "achieves an important balance in both preventing dolphin mortality and protecting small tuna and other species from harm." According to State, current U.S. law has caused the U.S. purse seiners, which once dominated the ETPO tuna fishery, to fish elsewhere, and H.R. 408 would allow them to return to the ETPO "on an equal footing with foreign vessels".

The Department of Commerce advises that "[f]ailure to enact H.R. 408 could result in the collapse of the existing informal voluntary international program protecting dolphins, leading to greatly increased dolphin kills." Commerce states that the change in the "dolphin safe" labeling standard will "reduce the economic pressure to shift toward ecologically unsound fishing practices."

Conclusion and Recommendations

We join State, Commerce, and other interested agencies in recommending approval of the enrolled bill. H.R. 408 passed the House by a vote of 262-166. An amended version passed the Senate by a vote of 99-0, and the House concurred in the Senate amendment by unanimous consent.

Attached for your consideration is a signing statement based on drafts supplied by State, Commerce, and Justice. The statement has been reviewed and approved by these three Departments and by Interior, USTR, MMC, CEQ, OSTP, staff from the White House Offices of Counsel and Legislative Affairs, and this Office.

A handwritten signature in black ink, appearing to read 'F. D. Raines', with a stylized flourish at the end.

Franklin D. Raines
Director

Enclosures

Other Provisions of H.R. 408

Other provisions of H.R. 408 would:

- Require the Secretary of Commerce to appoint a Scientific Advisory Subcommittee to the Commissioners' General Advisory Committee. The appointments would be made by the Secretary after consultation with the U.S. Commissioners to the Inter-American Tropical Tuna Commission (IATTC). The Subcommittee, to be composed of between five and 15 members, would advise on conservation of ecosystems and related matters.
- Require Commerce to conduct research to improve fishing techniques for yellowfin tuna. Appropriations of \$3 million for each of FYs 1998 to 2001 would be authorized for this purpose.
- Require that at least one of the United States Commissioners appointed by the President to the IATTC be the Administrator, or an appropriate officer, of the Commerce Department's National Marine Fisheries Service. This replaces the current requirement that at least one appointee be "an officer of the Department of Commerce."
- Require annual reports from Commerce to the Congress on subjects including: results of research under the Act; status and trends of stocks of tuna; and activities of the International Dolphin Conservation Program.

STATEMENT BY THE PRESIDENT

I am pleased today to sign into law H.R. 408, the "International Dolphin Conservation Program Act". This Act is the product of a bipartisan effort in Congress working with my Administration, a number of major environmental groups, and U.S. fishermen. This Act will ensure that one of the best international programs to conserve marine resources will be strengthened and continued.

The protection of dolphins in the eastern tropical Pacific Ocean, where schools of these marine mammals and schools of yellowfin tuna swim together, has long been a high priority for the United States. Strengthening the International Dolphin Conservation Program through this legislation is a major victory for strong international efforts to protect dolphins caught during tuna fishing in this region.

H.R. 408 recognizes that ongoing international efforts have been a tremendous success -- dolphin mortalities have been reduced more than 98 percent from previous levels. The foreign nations with fishing fleets that have contributed to this success will no longer have embargoes on their tuna products if they participate effectively in this international program.

One of the major provisions of this Act is the change in the definition of the standard for the dolphin safe label on canned tuna sold in the United States. The definition of "dolphin safe" will be changed to mean that no dolphins were killed or seriously injured during harvesting of the tuna. The label change will take effect in March 1999 unless the Secretary of Commerce determines that tuna fishing by encircling dolphins has a significant adverse impact on dolphin stocks. Our policy on this question has been and will continue to be based on the best available scientific information.

H.R. 408 also contains provisions that could be construed to direct how the Nation's foreign affairs should be conducted. These sections are section 4(e), that portion of section 6(c) that would amend section 302 of the Marine Mammal Protection Act, and section 7(c). The Constitution vests the President with special authority to conduct the Nation's foreign affairs, and this authority necessarily entails the exercise of discretion. Accordingly, these provisions will be construed to be advisory within the Executive branch.

In approving H.R. 408, I would like to recognize Congressmen Gilchrest, Cunningham, Saxton, Cardin, and Green and Senators Breaux, Stevens, McCain, Kerry, Snowe, and Hollings for their efforts in the passage of this legislation.

The strictly enforced dolphin protection regime which this Act endorses is a model of effective international cooperation on an important environmental matter. I am pleased to approve H.R. 408.

Phil - 8/12

Here is the revised memo.

Melanne is hoping we can get the President's choices this week so the medalists can

^{8/1}
Todd - Phil

Here is the decision memo for the Humanities Awards. Let me know if it is okay.

— kathy

be alerted. The awards ceremony is in 6 weeks.

thanks

— kathy

Candidates for the
1997 National
Humanities
Medal

Circulate

with copy

back to me

230669

THE WHITE HOUSE
WASHINGTON

97 AUG 12 4 5 35

August 12, 1997

PRESIDENTIAL ACTION MEMORANDUM

FROM: Ellen Lovell, Melanne Verveer *W*

Attached is a list of first and second priority candidates for the 1997 National Humanities Medal (formerly the Frankel Prize in the Humanities). The National Endowment for the Humanities has changed the selection process for the Medal to include Presidential participation. Nominations for the Medal were solicited by the Endowment; finalists were selected by the National Council on the Humanities and reviewed by the Chairman of the Endowment. You will select 6 awardees from the attached list of 13 candidates. NEH allows for the selection of 12 medalists, but we advise that you select only 6 -- in keeping with the number of Frankel Prizes that were traditionally awarded.

The National Humanities Medal honors groups or individuals whose work has deepened the nations' understanding of the humanities, broadened our citizens' engagement with the humanities, or helped preserve and expand Americans' access to important resources in the humanities. The Humanities Medal, like the Frankel Prize, will be awarded at the arts medals ceremony at the White House.

Please choose a total of six recipients for the 1997 National Humanities Medal from the following first and second priority lists of nominees. Unlike the NEA medals, the nominees are not in distinct categories of cultural achievement. A brief summary of each nominee is attached. The First Lady believes that Paul Mellon and his wife would be especially strong candidates for the medal.

First Priority Nominees

1.	Nina Archabal	Administrator	MN	_____
2.	David A. Berry	Administrator	NJ	_____
3.	Richard J. Franke	Administrator	IL	_____
4.	Don Henley	Musician	CA	_____
5.	Maxine Hong Kingston	Scholar/Author	CA	_____
6.	Luis Leal	Scholar/Author	CA	_____

Second Priority Nominees

7.	Anna Deavere Smith	Writer, Performer, Educator	CA	_____
8.	Patricia Battin	Administrator	DC	_____
9.	Paul Mellon	Philanthropist	VA	_____
10.	William Friday	Scholar/Author	NC	_____
11.	Jacquelyn Dowd Hall	Scholar/Author	NC	_____
12.	Meyer Reinhold	Scholar/Author	TN	_____
13.	Martin Marty	Scholar/Author	IL	_____

1. **NINA ARCHABAL**, *St. Paul, MN*

Nina Archabal is the director of the Minnesota Historical Society where she restored trust in a historical society that had been organized in territorial days, and managed to make it the largest in the nation, raising \$20 million dollars in private support. Under her leadership, the center has mounted fifteen major exhibits focussing on the many peoples who have come to Minnesota, from the Ojibwe and Dakota to the Mung. From 1994 to 1996 she served as chair of the board of the American Associations of Museums, and she currently serves on the board of directors of the American Folklife Center.

2. **DAVID A. BERRY**, *Millburn, NJ*

David Berry serves as executive director and chair of the board of directors of the Community College Humanities Association (CCHA). Berry has been a leader in numerous projects that seek to strengthen the role of the humanities in community college education, including several summer institutes for college faculty on topics ranging from classical Greek character to the interrelationships of culture and technology in modern American life. Over the past ten years, he has played a leading role in the wide-ranging humanities curriculum development projects of the American Association of Community Colleges, which have strengthened general humanities programs, foreign language instruction, and American Studies in the nation's two year colleges.

3. **RICHARD J. FRANKE**, *Chicago, IL*

Richard Franke is the former chairman and CEO of the John Nuveen Company and from 1988 to 1990 was chairman of the Chicago Humanities Council. He was instrumental in organizing the Chicago Humanities Festival, which has since grown into a city-wide, four-day, event that now attracts 25,000 people to 85 programs sponsored by 26 institutions. Franke's interest in advancing the cause of the arts and humanities is also evident from his extensive record of service on a variety of cultural commissions and boards, among them the President's Committee on the Arts and the Humanities, Americans United to Save the Arts and Humanities, and the National Trust for the Humanities.

4. **DON HENLEY**, *Los Angeles, CA*

Don Henley, one of the founders of the pop music group *The Eagles*, is the founder and chief spokesperson of the Walsen Woods Project, an effort to protect land of the historical and environmental significance in the area surrounding Walden Pond in Concord and Lexington, Massachusetts. Since the project's launching in 1990, Henley has helped to raise approximately \$15 million by organizing benefit concerts, record sales and other fund-raisers.

5. **MAXINE HONG KINGSTON**, *Oakland, CA*

Maxine Hong Kingston, a writer and former English teacher whose works have received numerous honors, is a senior lecturer at the University of California, Berkeley. Her 1976 book, *The Woman Warrior*, received the national Book Critics Circle award for non-fiction and was named one of the top ten nonfiction works of the decade by *Time* magazine. *China Men*, 1981, received the American Book Award and was the runner-up for the Pulitzer Prize. Her most recent novel is *Tripmaster Monkey: His Fake Book*, 1989.

6. **LUIS LEAL**, *Santa Barbara, CA*

In a career spanning more than fifty years, internationally renowned literary scholar Luis Leal has contributed significantly to the study and understanding of Mexico and Latin America, and of the experiences of Chicanos in the United States. Leal has written 16 books, including *A Brief History of the Mexican Short Story*; *Decade of Chicano Literature, 1970- 1979: Critical Essay and Bibliography*, and, most recently, *No Longer Voiceless*. He has also won numerous awards and honors, including, in 1988, the Distinguished Scholarly Award from the National Association for Chicano Studies in recognition of his lifelong achievement in the field, and, in 1992, the Mexican Order of the Aztec Eagle. In 1995, the University of California, Santa Barbara, where Leal has taught since 1979, established the Luis Leal Endowed Chair in Chicano Studies, the only position of its kind in the nation.

7. **ANNA DEAVERE SMITH**, *San Francisco, CA*

Writer, performer, and educator Anna Deavere Smith offers what one writer describes as "a new framework from which to assess race and class in American culture." She has been nationally recognized for her two one-woman shows, *Fires in the Mirror: Brooklyn, Crown Heights and Other Identities*, an Off-Broadway production that was later adapted for PBS as an "American Playhouse" presentation, and *Twilight: Los Angeles, 1992*, an award-winning Broadway production that explored issues of race and class in the aftermath of the Rodney King verdict. In recognition of her achievements, the MacArthur Foundation named Smith a MacArthur Fellow in 1996.

8. **PATRICIA BATTIN**, *Washington, D.C.*

Patricia Battin has been a forceful voice for progress within the American and international library communities for the last twenty-five years. She is perhaps best known for her leadership as the first president of the Commission on Preservation and Access, which the Council on Library Resources established in 1986 to work for the preservation of the written record stored in American libraries and archives and to ensure access by scholars and the general public to all elements of that record. It was her compelling Congressional testimony that led Congress to request that NEH develop a long-term plan for the microfilming of the nation's brittle books.

9. **PAUL MELLON**, *Upperville, VA*

Over his long career, philanthropist Paul Mellon has contributed millions of dollars of his family fortune in support of the humanities and the arts in the United States. In 1941, Mellon and his sister, Aisla, joined forces to establish the Andrew W. Mellon Foundation, an institution that has since become the nation's largest non-federal funder of the humanities and a major contributor to higher education programs, dispensing \$45 million in these areas last year alone. Mellon's name has been most closely associated with the National Gallery of Art, which was founded by his father in 1937. Mellon has been the driving force behind the building of other premier centers of art and culture across the country, such as the Yale Center for British Art in New Haven, the West Wing of the Virginia Museum of Fine Arts in Richmond, and the Paul Mellon Arts Center at Choate Rosemary Hall in Wallingford, Connecticut. He has also had an abiding interest in libraries, particularly the Pierpont Morgan Library in New York, and the publication of selected works of literature.

10. **WILLIAM FRIDAY**, *Chapel Hill, NC*

William Friday, president emeritus of the university of North Carolina, is currently Executive Director of the William Rand Kenan, Jr. Charitable Trusts, an organization that has established Kenan Professorships on many college campuses. During his thirty years of leadership of the university of North Carolina system (1956 - 1986), Friday also served on numerous national boards and commissions concerned with educational issues in the United States, including the Carnegie Commission on Higher Education, the President's Task Force on Education (1966 - 1967), and the Commission on the National Changes in Education, and he was a decisive voice in the foundation of the National Humanities Center in 1976.

11. **JACQUELYN DOWD HALL**, *Chapel Hill, NC*

Jacquelyn Dowd Hall has been described as "one of the foremost public humanists in contemporary America." Currently the occupant of the Julia Cherry Spruill chair in history at the University of North Carolina at Chapel Hill, Hall has over the past two decades produced a series of prize-winning books and articles, directed UNC's Southern Oral History Project, and Co-directed the Duke-UNC Center for Research on Women. Her work at the intersection of Southern history, women's history, labor history, and oral history has transformed our understandings of each of these fields. Her scholarly influence can be traced back to the 1979 publication of *Revolt Against Chivalry: Jessie Daniel Ames and the Women's Campaign Against Lynching*. Under her leadership, the Southern Oral History Project has offered over 100 public presentations, workshops, and performances at community centers, union halls, state parks, public libraries and schools, correctional facilities, and local voluntary organizations across the South.

12. **MEYER REINHOLD**, *Nashville, TN*

Currently a visiting scholar at Vanderbilt University, Meyer Reinhold is professor emeritus and Byler Distinguished Professor emeritus of the University of Missouri, Colombia, and director emeritus of the Institute for the Classical Tradition at Boston University. Now in his eighty-seventh year, Reinhold is still an active scholar, having just published his seventeenth book, *Jewish Thought Among the Greeks and Romans*, and having helped to found the *International Journal of the Classic Tradition*, of which he is co-editor. As a new professor at the Brooklyn College in 1933, he found the classes in Greek and Latin dwindling in size as the number of students learning the ancient languages decreased. He took the then radical step of introducing a series of new courses offered in translation, and enrollments increased until the Brooklyn classics department became for a time the largest in the country. His pioneering efforts led much later to the famed Brooklyn Core Curriculum.

13. **MARTIN MARTY**, *Chicago, IL*

Martin Marty is Fairfax M. Cone Distinguished Service Professor at the Divinity School of the University of Chicago, editor of the *Christian Century* magazine, and author of many books on a variety of religious subjects. From 1950 until 1963, when he began teaching the history of Christianity at the University of Chicago, Marty was a pastor in the Lutheran Church. His books include: *The Search for a Usable Future* (1986); *Righteous Empire: The Protestant Experience in America* (1970), which has won the National Book Award; *A Cry of Absence: Reflections for the Winter of the Heart* (1981); *Pilgrims in Their Own Land: Five Hundred Years of Religion in America* (1984), for which he received a Christopher Award; and two volumes of *Modern American Religion - The Irony of It All* (1986) and *The Noise of Conflict* (1991).

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/12 ACTION/CONCURRENCE/COMMENT DUE BY: _____SUBJECT: National Humanities Medal

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	McCURRY	☐	☐
BOWLES	☐	☒	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☐	☒	RADD	☐	☐
MATHEWS	☐	☒	REED	☐	☐
RAINES	☐	☐	RUFF	☐	☐
BAER	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☐	☐
ECHAVESTE	☐	☐	SPERLING	☐	☐
EMANUEL	☐	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☐	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☐	☐	_____	☐	☐
LINDSEY	☐	☐	_____	☐	☐
MARSHALL	☐	☐	_____	☐	☐
			_____	☐	☐

REMARKS:

*Will go to POTUS Wed or Thru unless
you have any objections*

RESPONSE:

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/12 ACTION/CONCURRENCE/COMMENT DUE BY: _____SUBJECT: National Humanities Medal

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VICE PRESIDENT	☐	☐	McCURRY	☐	☐
BOWLES	☐	☒	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☐	☒	RADD	☐	☐
MATHEWS	☐	☒	REED	☐	☐
RAINES	☐	☐	RUFF	☐	☐
BAER	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☐	☐
ECHAVESTE	☐	☐	SPERLING	☐	☐
EMANUEL	☐	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☐	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☐	☐	_____	☐	☐
LINDSEY	☐	☐	_____	☐	☐
MARSHALL	☐	☐	_____	☐	☐
			_____	☐	☐

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Will go to POTUS Wed or Thv unless

RESPONSE:

you have any objections

THE WHITE HOUSE
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107 AUG 12 1997

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5.	Maxine Hong Kingston	Scholar/Author	CA	_____
6.	Luis Leal	Scholar/Author	CA	_____

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William Friday, president emeritus of the university of North Carolina, is currently Executive Director of the William Rand Kenan, Jr. Charitable Trusts, an organization that has established Kenan Professorships on many college campuses. During his thirty years of leadership of the university of North Carolina system (1956 - 1986), Friday also served on numerous national boards and commissions concerned with educational issues in the United States, including the Carnegie Commission on Higher Education, the President's Task Force on Education (1966 - 1967), and the Commission on the National Changes in Education, and he was a decisive voice in the foundation of the National Humanities Center in 1976.

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Jacquelyn Dowd Hall has been described as "one of the foremost public humanists in contemporary America." Currently the occupant of the Julia Cherry Spruill chair in history at the University of North Carolina at Chapel Hill, Hall has over the past two decades produced a series of prize-winning books and articles, directed UNC's Southern Oral History Project, and Co-directed the Duke-UNC Center for Research on Women. Her work at the intersection of Southern history, women's history, labor history, and oral history has transformed our understandings of each of these fields. Her scholarly influence can be traced back to the 1979 publication of *Revolt Against Chivalry: Jessie Daniel Ames and the Women's Campaign Against Lynching*. Under her leadership, the Southern Oral History Project has offered over 100 public presentations, workshops, and performances at community centers, union halls, state parks, public libraries and schools, correctional facilities, and local voluntary organizations across the South.

12. **MEYER REINHOLD**, *Nashville, TN*

Currently a visiting scholar at Vanderbilt University, Meyer Reinhold is professor emeritus and Byler Distinguished Professor emeritus of the University of Missouri, Colombia, and director of emeritus of the Institute for the Classical Tradition at Boston University. Now in his eighty-seventh year, Reinhold is still an active scholar, having just published his seventeenth book, *Jewish Thought Among the Greeks and Romans*, and having helped to found the *International Journal of the Classic Tradition*, of which he is co-editor. As a new professor at the Brooklyn College in 1933, he found the classes in Greek and Latin dwindling in size as the number of students learning the ancient languages decreased. He took the then radical step of introducing a series of new courses offered in translation, and enrollments increased until the Brooklyn classics department became for a time the largest in the country. His pioneering efforts led much later to the famed Brooklyn Core Curriculum.

13. **MARTIN MARTY**, *Chicago, IL*

Martin Marty is Fairfax M. Cone Distinguished Service Professor at the Divinity School of the University of Chicago, editor of the *Christian Century* magazine, and author of many books on a variety of religious subjects. From 1950 until 1963, when he began teaching the history of Christianity at the University of Chicago, Marty was a pastor in the Lutheran Church. His books include: *The Search for a Usable Future* (1986); *Righteous Empire: The Protestant Experience in America* (1970), which has won the National Book Award; *A Cry of Absence: Reflections for the Winter of the Heart* (1981); *Pilgrims in Their Own Land: Five Hundred Years of Religion in America* (1984), for which he received a Christopher Award; and two volumes of *Modern American Religion - The Irony of It All* (1986) and *The Noise of Conflict* (1991).

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/12 ACTION/CONCURRENCE/COMMENT DUE BY: _____SUBJECT: National Humanities Medal

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	McCURRY	☐	☐
BOWLES	☐	☒	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☐	☒	RADD	☐	☐
MATHEWS	☐	☒	REED	☐	☐
RAINES	☐	☐	RUFF	☐	☐
BAER	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☐	☐
ECHAVESTE	☐	☐	SPERLING	☐	☐
EMANUEL	☐	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☐	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☐	☐	_____	☐	☐
LINDSEY	☐	☐	_____	☐	☐
MARSHALL	☐	☐	_____	☐	☐
			_____	☐	☐

REMARKS:

Will go to POTUS Wed or Thv unless

RESPONSE:

you have any objections

THE WHITE HOUSE
WASHINGTON

1997 AUG 12 PM 9:08

August 12, 1997

PRESIDENTIAL ACTION MEMORANDUM

FROM: Ellen Lovell, Melanne Verveer 

Attached is a list of first and second priority candidates for the 1997 National Humanities Medal (formerly the Frankel Prize in the Humanities). The National Endowment for the Humanities has changed the selection process for the Medal to include Presidential participation. Nominations for the Medal were solicited by the Endowment; finalists were selected by the National Council on the Humanities and reviewed by the Chairman of the Endowment. You will select 6 awardees from the attached list of 13 candidates. NEH allows for the selection of 12 medalists, but we advise that you select only 6 -- in keeping with the number of Frankel Prizes that were traditionally awarded.

The National Humanities Medal honors groups or individuals whose work has deepened the nations' understanding of the humanities, broadened our citizens' engagement with the humanities, or helped preserve and expand Americans' access to important resources in the humanities. The Humanities Medal, like the Frankel Prize, will be awarded at the arts medals ceremony at the White House.

Please choose a total of six recipients for the 1997 National Humanities Medal from the following first and second priority lists of nominees. Unlike the NEA medals, the nominees are not in distinct categories of cultural achievement. A brief summary of each nominee is attached. The First Lady believes that Paul Mellon and his wife would be especially strong candidates for the medal.

First Priority Nominees

1.	Nina Archabal	Administrator	MN	_____
2.	David A. Berry	Administrator	NJ	_____
3.	Richard J. Franke	Administrator	IL	_____
4.	Don Henley	Musician	CA	_____
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THE WHITE HOUSE
WASHINGTON

August 14, 1997

2312413
4-15-97

MR. PRESIDENT:

The attached memo from Ellen Lovell recommends that you accept Germany's invitation and commit the United States to participate in Expo 2000 (the World's Fair) in Hannover, Germany. *If you agree, you would announce U.S. participation tomorrow at the Archives where you will kick off of the Millenia project.* As you know, Ellen is heading up this project.

At present, we are the only major country not to have committed to participate in Expo 2000. Germany highly values our participation and has indicated that they consider it important to our relations with them. The U.S. has participated in every World's Fair since 1851.

U.S. participation would consist of a pavilion/exhibition echoing the themes of the Fair -- "Mankind, Nature and Technology." Since Seville in 1992, these pavilions have been privately funded because Congress has barred using appropriated funds for World's Fairs. You appointed Terry McAuliffe as Commissioner General for the 1993 Korea effort, and Tony Coelho for 1998 in Portugal.

If you agree to commit the U.S. to participate, Ellen will come back to you in the fall with decisions on how to proceed. **NSC and John Podesta concur in Ellen's recommendation.**

☐ Agree to participate ☐ Disagree ☐ Discuss

Phil Caplan 

231243

THE WHITE HOUSE
WASHINGTON

57 AUG 14 AM 10:44

August 14, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: ELLEN LOVELL
MICHAEL WALDMAN

SUBJECT: UNITED STATES PARTICIPATION IN EXPO 2000 IN GERMANY

The first truly major world's fair in over two decades will be held in the Year 2000 in Hannover, Germany. At present, the United States is the only major country that has not committed to participate. The Government of Germany has asked the United States to do so. The purpose of this memorandum is to describe the background of this invitation, discuss the options, and recommend next steps to take.

In sum, we recommend that you commit the United States to participation in Expo 2000, a step that would at the very least allow private business to begin organizing a pavilion. This could be announced as part of the White House Millennium Program event this week.

BACKGROUND – EXPO 2000

Expo 2000 is the next large-scale world's fair, scheduled for the summer and fall of 2000, in Hannover, Germany (about 100 miles west of Berlin). The theme is "Mankind - Nature - Technology" and it will focus on issues including the environment and technology. Germany expects some 40 million visitors to be attracted by the exhibitions. This fair will be Germany's major celebration of the millennium, and is expected to be seen as a significant commemoration of European unity and integration, as well as the coming of the new century.

The United States has participated at every world's fair since 1851. The U.S. is a member of an international treaty organization, the Bureau of International Expositions (located in Paris) which designates the sites of these fairs. In size, attendance and significance, Expo 2000 will be the most important such exhibition since the Expo held in Osaka, Japan in 1970. Throughout modern history, world's fairs have been significant milestones, marking new technologies, new alliances, or momentous moments in the calendar. The elevator, the electric light bulb, the ferris wheel, television, and moon rocks were first shown to a mass audience at world's fairs. Nations have staged fewer major fairs in recent years, as interest in technology has diminished, as television has exposed the public to new developments, and as permanent exhibits such as Disney World have gained popularity. Smaller-scale fairs have continued to be held (including

New Orleans (1985), Seville, Spain (1992), Korea (1993) and Lisbon (1998)). Some have complained of a glut of minor fairs, which has led to congressional reluctance to spend U.S. funds to participate. After 2000, the Bureau of International Exhibition will designate a world expo only every four years.

At all major world's fairs this century, the United States' pavilion has been among the most important sites, offering a chance to show off our national leadership.

UNITED STATES PARTICIPATION

Germany's invitation. To date, the United States has not committed to participate in Expo 2000. It is the only major nation that has not done so. Chancellor Helmut Kohl first wrote to you in April 1995 to invite the United States to participate in Expo 2000. Your response noted U.S. interest and also that our participation was dependent upon private sector support. German government officials have indicated that a decision is important to our relations with Germany; the National Security Council confirms this. At present, 143 nations and organizations have agreed to participate, including the United Kingdom, Russia, Canada, Mexico, France, and Italy, as well as the European Union.

Legislative History. Earlier in the history of U.S. participation in Expos and Worlds Fairs, Congress appropriated funds for the United States to take part in these international events. Some of the recent appropriations are listed below:

Knoxville, TN, 1982 World's Fair - \$22M

New Orleans, 1985 - \$10M

Tsukuba, Japan, 1985 - \$7M

Vancouver, B.C., 1986 - \$7M

Brisbane, Australia, 1988 - \$8M

For the 1992 World's Fair in Seville, Spain, Congress approved reprogramming \$13M in USIA's budget to fund half of the U.S. Pavilion; the other half of the cost was raised privately. After Seville, Congress prohibited USIA from using any of its funds for these events. Since then, the main role of the U.S.-named Commissioner General has been to raise private funds for our pavilion or exhibition.

Congress passed a joint resolution in support of the Lisbon 1998 Expo - the first such resolution. It has not helped stimulate more private contributions to the U.S. exhibition in Portugal. In fact, U.S. Commissioner General Tony Coelho will find most of the support from federal agencies; it is expected that NIH and the Department of the Navy will each provide \$4 million from funds already appropriated to the agencies.

Private Sector Role. Congress has not made a direct appropriation to build a U.S. pavilion or mount an exhibition at international expositions since the Seville world's fair in 1992. The U.S. Information Agency closed its International expositions office in 1992 and decided not to

participate in world's fairs unless it was through a private sponsor. In fact, in 1994 Congress barred USIA from spending any money on such expositions unless expressly authorized and appropriated. Since 1992, any U.S. presence at international exhibitions has been funded by the private sector.

Therefore, since 1992, the U.S. has named a Commissioner General to head our private participation efforts. Terry MacAuliffe was the U.S. Commissioner General for the 1993 small-scale expo in Korea, where the Amway Corporation represented the United States, and Tony Coelho is spear-heading private support for the Lisbon, Portugal Expo 98, which is based on the theme of oceans. We are the only major nation that has relied exclusively on private sector funding for our national pavilion.

Support for U.S. participation. Interest in U.S. participation continues to grow. Kansas City, which is sister city to Hannover, is interested in playing a role. (It would like to host Expo 2004.) The Department of State reports that McDonnell-Douglas and Sprint, headquartered in St. Louis and Kansas City, are thought to be interested.

The German government has actively tried to promote support for U.S. participation. It is working with the Congressional Study Group on Germany to have a resolution introduced in Congress to join Expo 2000. Recently, a resolution urging California and U.S. participation was introduced in the California legislature. We have met with the Economic and Commercial Counselor of the Embassy of the Federal Republic of Germany who asserted that his country's goal is to ensure U.S. participation as soon as possible.

NEXT STEPS FOR U.S. PARTICIPATION

U.S. participation depends on your accepting Germany's invitation.

The next steps after deciding to participate in Expo 2000 are:

- The naming of the U.S. Commissioner General;
- Securing private funds, probably about \$30 million, or seeking an appropriation for all or part of the U.S. exhibition.

To raise the amount of private support necessary for the United States to create a presence for which we be proud in Germany, estimated at \$30 million, it may be wise to name a corporate leader as Commissioner General. We will come back to you in September for decisions on the United States Commissioner General and whether to approach Congress for funding.

We recommend:

· you formally accept Germany's invitation when you announce your White House Millennium Program on August 15.

_____ Agree

_____ Disagree

_____ Let's discuss

WHITE HOUSE STAFFING MEMORANDUM

DATE: 8/13 ACTION/CONCURRENCE/COMMENT DUE BY: 8/14SUBJECT: U.S. participation in Expo 2000

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA - <i>ok - see attached</i>	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☒	☐	RUFF	☒	☐
BAER	☐	☐	SMITH	☐	☐
BERGER	☒	☐	SOSNIK	☒	☐
ECHAVESTE	☒	☐	SPERLING	☐	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☒	☐	VERVEER	☒	☐
IBARRA	☒	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☒	☐	<u>Kerrick</u>	☒	☐
LINDSEY	☐	☐	<u>Munira</u>	☒	☐
MARSHALL	☐	☐	_____	☐	☐
			_____	☐	☐

REMARKS:

Please advise

RESPONSE:

THE WHITE HOUSE
WASHINGTON

37 AUG 13 PM 11:24

August 13, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: ELLEN LOVELL *ELM*
MICHAEL WALDMAN

SUBJECT: UNITED STATES PARTICIPATION IN EXPO 2000 IN GERMANY

The first truly major world's fair in over two decades will be held in the Year 2000 in Hannover, Germany. At present, the United States is the only major country that has not committed to participate. The Government of Germany has asked the United States to do so. The purpose of this memorandum is to describe the background of this invitation, discuss the options, and recommend next steps to take.

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WHITE HOUSE STAFFING MEMORANDUM

DATE: 8/13 ACTION/CONCURRENCE/COMMENT DUE BY: 8/14SUBJECT: U.S. participation in Expo 2000

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
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McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☒	☐	RUFF	☒	☐
BAER	☐	☐	SMITH	☐	☐
BERGER	☒	☐	SOSNIK	☒	☐
ECHAVESTE	☒	☐	SPERLING	☐	☐
EMANUEL	☒	☐	STRETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☒	☐	VERVEER	☒	☐
IBARRA	☒	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☐	☐
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MICHAEL WALDMAN

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Legislative History. Earlier in the history of U.S. participation in Expos and Worlds Fairs, Congress appropriated funds for the United States to take part in these international events. Some of the recent appropriations are listed below:

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Support for U.S. participation. Interest in U.S. participation continues to grow. Kansas City, which is sister city to Hannover, is interested in playing a role. (It would like to host Expo 2004.) The Department of State reports that McDonnell-Douglas and Sprint, headquartered in St. Louis and Kansas City, are thought to be interested. In a May 24, 1997 memorandum to the National Security Council, the Department of State recommended that Kansas City Mayor Emanuel Cleaver be considered as U.S. Commissioner General for Expo 2000. Kansas City is also celebrating its 150th anniversary in 2000; however, Mayor Cleaver is leaving office in 1998. To raise the amount of private support necessary for the United States to create a presence for which we be proud in Germany, estimated at \$30 million, it may be wise to name a corporate leader as Commissioner General.

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U.S. participation would depend on:

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McLARTY	☐	☐	NASH	☐	☐
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RAINES	☒	☐	RUFF	☒	☐
BAER	☐	☐	SMITH	☐	☐
BERGER	☒	☐	SOSNIK	☒	☐
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			_____	☐	☐

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97 AUG 13 AM 11:24

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'97 AUG 13 AM 11:24

THE WHITE HOUSE
WASHINGTON

August 13, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: ELLEN LOVELL 
MICHAEL WALDMAN

SUBJECT: UNITED STATES PARTICIPATION IN EXPO 2000 IN GERMANY

The first truly major world's fair in over two decades will be held in the Year 2000 in Hannover, Germany. At present, the United States is the only major country that has not committed to participate. The Government of Germany has asked the United States to do so. The purpose of this memorandum is to describe the background of this invitation, discuss the options, and recommend next steps to take.

In sum, we recommend that you commit the United States to participation in Expo 2000, a step that would at the very least allow private business to begin organizing a pavilion. This could be announced as part of the White House Millennium Program event this week.

BACKGROUND – EXPO 2000

Expo 2000 is the next large-scale world's fair, scheduled for the summer and fall of 2000, in Hannover, Germany (about 100 miles west of Berlin). The theme is "Mankind - Nature - Technology" and it will focus on issues including the environment and technology. Germany expects some 40 million visitors to be attracted by the exhibitions. This fair will be Germany's major celebration of the millennium, and is expected to be seen as a significant commemoration of European unity and integration, as well as the coming of the new century.

The United States has participated at every world's fair since 1851. The U.S. is a member of an international treaty organization, the Bureau of International Expositions (located in Paris) which designates the sites of these fairs. In size, attendance and significance, Expo 2000 will be the most important such exhibition since the Expo held in Osaka, Japan in 1970. Throughout modern history, world's fairs have been significant milestones, marking new technologies, new alliances, or momentous moments in the calendar. The elevator, the electric light bulb, the ferris wheel, television, and moon rocks were first shown to a mass audience at world's fairs. Nations have staged fewer major fairs in recent years, as interest in technology has diminished, as television has exposed the public to new developments, and as permanent exhibits such as Disney World have gained popularity. Smaller-scale fairs have continued to be held (including

New Orleans (1985), Seville, Spain (1992), Korea (1993) and Lisbon (1998)). Some have complained of a glut of minor fairs, which has led to congressional reluctance to spend U.S. funds to participate. After 2000, the Bureau of International Exhibition will designate a world expo only every four years.

At all major world's fairs this century, the United States' pavilion has been among the most important sites, offering a chance to show off our national leadership.

UNITED STATES PARTICIPATION

Germany's invitation. To date, the United States has not committed to participate in Expo 2000. It is the only major nation that has not done so. Chancellor Helmut Kohl first wrote to you in April 1995 to invite the United States to participate in Expo 2000. Your response noted U.S. interest and also that our participation was dependent upon private sector support. German government officials have indicated that a decision is important to our relations with Germany; the National Security Council confirms this. At present, 143 nations and organizations have agreed to participate, including the United Kingdom, Russia, Canada, Mexico, France, and Italy, as well as the European Union.

Legislative History. Earlier in the history of U.S. participation in Expos and Worlds Fairs, Congress appropriated funds for the United States to take part in these international events. Some of the recent appropriations are listed below:

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Congress passed a joint resolution in support of the Lisbon 1998 Expo - the first such resolution. It has not helped stimulate more private contributions to the U.S. exhibition in Portugal. In fact, U.S. Commissioner General Tony Coelho will find most of the support from federal agencies; it is expected that NIH and the Department of the Navy will each provide \$4 million.

Private Sector Role. Congress has not allowed appropriated funds to build a U.S. pavilion or mount an exhibition at international expositions since the Seville world's fair in 1992. The U.S. Information Agency closed its International expositions office in 1992 and decided not to participate in world's fairs unless it was through a private sponsor. In fact, in 1994 Congress

barred USIA from spending any money on such expositions unless expressly authorized and appropriated. Since 1992, any U.S. presence at international exhibitions has been funded by the private sector.

Therefore, since 1992, the U.S. has named a Commissioner General to head our private participation efforts. Terry MacAuliffe was the U.S. Commissioner General for the 1993 small-scale expo in Korea, where the Amway Corporation represented the United States, and Tony Coelho is spear-heading private support for the Lisbon, Portugal Expo 98, which is based on the theme of oceans. We are the only major nation that has relied exclusively on private sector funding for our national pavilion.

Support for U.S. participation. Interest in U.S. participation continues to grow. Kansas City, which is sister city to Hannover, is interested in playing a role. (It would like to host Expo 2004.) The Department of State reports that McDonnell-Douglas and Sprint, headquartered in St. Louis and Kansas City, are thought to be interested. In a May 24, 1997 memorandum to the National Security Council, the Department of State recommended that Kansas City Mayor Emanuel Cleaver be considered as U.S. Commissioner General for Expo 2000. Kansas City is also celebrating its 150th anniversary in 2000; however, Mayor Cleaver is leaving office in 1998. To raise the amount of private support necessary for the United States to create a presence for which we be proud in Germany, estimated at \$30 million, it may be wise to name a corporate leader as Commissioner General.

The German government has actively tried to promote support for U.S. participation. It is working with the Congressional Study Group on Germany to have a resolution introduced in Congress to join Expo 2000. Recently, a resolution urging California and U.S. participation was introduced in the California legislature. We have met with the Economic and Commercial Counselor of the Embassy of the Federal Republic of Germany who asserted that his country's goal is to ensure U.S. participation as soon as possible.

NEXT STEPS FOR U.S. PARTICIPATION

U.S. participation would depend on:

- the President accepting Germany's invitation;
- the naming of the U.S. Commissioner General;
- securing private funds, probably about \$30 million, or seeking an appropriation for all or part of the U.S. exhibition.

We recommend:

· you formally accept Germany's invitation when you announce your White House Millennium Program on August 15;

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· we identify a corporate CEO or national leader with substantial business or cultural ties to Germany to name as Commissioner General (the post does not require Senate confirmation).

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NEXT STEPS FOR U.S. PARTICIPATION

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WHITE HOUSE STAFFING MEMORANDUM

DATE: 8/13 ACTION/CONCURRENCE/COMMENT DUE BY: 8/14SUBJECT: U.S. participation in Expo 2000

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☐	☐
RAINES	☒	☐	RUFF	☒	☐
BAER	☐	☐	SMITH	☐	☐
BERGER	☒	☐	SOSNIK	☒	☐
ECHAVESTE	☒	☐	SPERLING	☐	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☒	☐	VERVEER	☒	☐
IBARRA	☒	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☒	☐	<u>Kerrick</u>	☒	☐
LINDSEY	☐	☐	<u>Munira</u>	☒	☐
MARSHALL	☐	☐		☐	☐
				☐	☐

REMARKS:

Please advise

RESPONSE:

agree

THE WHITE HOUSE
WASHINGTON

197 AUG 13 04:11:24

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· we explore the possibility of a one-time congressional appropriation to assist U.S. participation.

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~~Lesson~~
The attached memo from Ellen Loell seeks a decision from you on three issues: 1) whether the U.S. should accept Garry's invitation to participate in Expo 2000 (the world's fair) in Hannover, Germany, and whether to announce this tomorrow in your Milken speech; 2) what sort of person to name as Committee Counsel to Garry; and 3) whether to explore the possibility of a one-time appropriation from Congress to assist U.S. participation. The only pressing issue is the first however -- you do not have to decide 2 & 3.

- Conclusion The U.S. has participated in every World's Fair since 1893. At present, the U.S. is the only major country not to have committed to participate. ~~in Hannover~~
Garry has invited us to Hannover, but.

Our participation consists primarily of ~~the~~ a ^{U.S.} pavilion, ^{which} Since 1992, Congress has prohibited ~~from being~~ ~~being~~ ~~used~~ ~~to fund~~ ^{appropriations for,}

U.S. participation. The private sector has funded the two fairs since 1992. Tony McMillin is

3 In order to participate, there would have to be a U.S. pavilion/exhibit ~~that~~ ^{which} echoes the theme of the ~~Expo~~ ^{Exposition}. Since 1992 Congress has prohibited the use of appropriated ~~money~~ ^{money} to build such a pavilion. U.S. participation in the last 2 ^{years} has come exclusively from the private sector. According to the NSC, Garry would highly value our participation.

Support for

U.S. Policy

Public private sector

Boeing?

~~Public Sector~~ ~~also~~

State reports but McDonnell-Douglas & Spirit are both interested in sponsoring the 2000 Olympic bid. Both are headquartered in Missouri. ~~the~~ Kansas City, Missouri sister city, is interested in hosting Expo 2004. ~~Boeing~~

In the public sector, KC Mayor Emanuel Cleaver has expressed interest in having Council for Humana. The ~~issue~~ issue here is, what sort of person should you appoint to head this effort. It is recommended that you appoint a prominent CEO on a national basis to lead the effort. You do not have to make this decision now.

as it will take about \$50

million in private funds.

Current Support - ^{One} ~~idea~~ option for perhaps is seeking a ~~corporate~~ ^{corporate} sponsor

Do any with 2 + 3



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

230715

THE DIRECTOR

August 11, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Franklin D. Raines
Director

SUBJECT: First and Second Special Messages on Line Item Veto for FY 1997

SUMMARY: Attached for your consideration are the first and second Special Messages on Line Item Veto for FY 1997, to be transmitted to the Congress no later than August 11, 1997, in accordance with the Line Item Veto Act.

BACKGROUND: The Line Item Veto Act permits the President to cancel any dollar amount of discretionary budget authority, any item of new direct spending, or any limited tax benefit if he finds that such cancellation will reduce the Federal deficit, not impair any essential Government functions, and not harm the national interest.

The Line Item Veto Act permits the Congress to insert in a tax bill a list of any limited tax benefits contained in the bill. The "Taxpayer Relief Act of 1997," H.R. 2014, contains such a list. The first Special Message contains two limited tax benefits from this list that would be canceled. These limited tax benefits affect the Department of the Treasury.

The second Special Message contains one item of new direct spending that would be canceled. This item of new direct spending was provided in the "Balanced Budget Act of 1997," H.R. 2015, and affects programs of the Department of Health and Human Services.

The reasons for each of these proposed cancellations are contained in the enclosed Special Messages. As indicated in the Messages, each of the cancellations will reduce the Federal deficit, not impair any essential Government functions, and not harm the national interest.

RECOMMENDATION: I recommend that these Special Messages be transmitted to the Congress.

Attachments

August 11, 1997

Dear Mr. President:

In accordance with the Line Item Veto Act, I hereby cancel one item of new direct spending, as specified in the attached report, contained in the "Balanced Budget Act of 1997" (H.R. 2015). I have determined that this cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachment, constitutes a Special Message under Section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

The Honorable Albert Gore, Jr.
President of the Senate
Washington, D.C. 20510

August 11, 1997

Dear Mr. President:

In accordance with the Line Item Veto Act, I hereby cancel two limited tax benefits, as specified in the attached reports, contained in the "Taxpayer Relief Act of 1997" (H.R. 2014). I have determined that each of these cancellations will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachments, constitutes a Special Message under Section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

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CANCELLATION OF LIMITED TAX BENEFIT
Report Pursuant to the Line Item Veto Act, P.L. 104-130

Bill Citation: "Taxpayer Relief Act of 1997" (H.R. 2014)

1(A). Limited Tax Benefit: Section 1175. This item is identified as a limited tax benefit at Section 1701(54) of the bill. Section 1175, "Exemption for Active Financing Income", is canceled in its entirety.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: Prior to 1987, income earned in connection with the active conduct of foreign financial services businesses, including interest, dividends and certain gains, generally was exempt from current U.S. tax. However, the Tax Reform Act of 1986 eliminated or curtailed this benefit based on serious concerns regarding the mobility of such income and the ease with which financial services entities could shift income to tax-haven jurisdictions. See P.L. 99-514, section 1221(a)(1). The canceled item would have enacted a new exemption for such income for a single year (1998), and would not have addressed adequately the concerns that led to the repeal of the prior exemption in 1986. The one-year restoration of an exemption for this income would have decreased Federal receipts, would have allowed the tax-haven abuses that previously existed, and would have provided preferential tax treatment to a limited group of taxpayers. The legislative history and purposes of this provision were considered, but did not outweigh the foregoing reasons for cancellation.

1(D). Estimated Fiscal, Budgetary, and Economic Effect of Cancellation: As a result of the cancellation, Federal receipts will not decrease by an estimated \$317 million over 5 years. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

1(F). Adjustments to Discretionary Spending Limits: Not applicable.

CANCELLATION OF LIMITED TAX BENEFIT
Report Pursuant to the Line Item Veto Act, P.L. 104-130

Bill Citation: "Taxpayer Relief Act of 1997" (H.R. 2014)

1(A). Limited Tax Benefit: Section 968. This item is identified as a limited tax benefit at Section 1701(30) of the bill. Section 968, "Nonrecognition of Gain on Sale of Stock to Certain Farmers' Cooperatives", is canceled in its entirety.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: The canceled item would have allowed deferral of gain recognition on the sale of certain corporate stock of farm-product refiners and processors to an eligible farmers' cooperative, thereby providing an exception to the general rule that gain is recognized when stock is sold. Under current law, gain deferral is permitted on the sale of qualified securities of a corporation to an employee stock ownership plan (ESOP) or an eligible worker-owned cooperative; however, these provisions of current law contain appropriate restrictions that would not have applied to transactions covered by the canceled item, notably restrictions that the seller's stock must not be traded on a securities market and that the seller must not be a corporation. While the Administration wants to encourage value-added farming through the purchase by farmers' cooperatives of refiners or processors of agricultural goods, the cancellation of this provision is nonetheless compelled by two narrow but important considerations. First, the canceled item would have created opportunities for complete avoidance of tax on the gain from a sale of a refiner or processor because it lacks the safeguards that apply to sales of stock to ESOPs. Second, this provision failed to target its benefits to small-and-medium-size cooperatives. The canceled item would not have benefitted farmers generally, would have decreased Federal receipts, would have created opportunities for abusive tax planning, and would have provided preferential tax treatment to a limited group of taxpayers. The legislative history and purposes of this provision were considered, but did not outweigh the foregoing reasons for cancellation.

1(D). Estimated Fiscal, Budgetary, and Economic Effect of Cancellation: As a result of the cancellation, Federal receipts will not decrease by an estimated \$98 million over 5 years and \$155 million over 10 years. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

1(F). Adjustments to Discretionary Spending Limits: Not applicable.

CANCELLATION OF ITEM OF NEW DIRECT SPENDING
Report Pursuant to the Line Item Veto Act, P.L. 104-130

Bill Citation: "Balanced Budget Act of 1997" (H.R. 2015)

1(A). Item of New Direct Spending: Section 4722(c). Subsection (c), "Waiver of Certain Provider Tax Provisions", of Section 4722, "Treatment of State Taxes Imposed on Certain Hospitals", is canceled in its entirety. The remainder of Section 4722 is not canceled.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: In the past, Federal Medicaid spending increased dramatically because some States used disproportionate share hospital payments and related special financing mechanisms such as levying taxes on health care providers to effectively lower their share of Medicaid spending. Lowering a State's share of Medicaid spending allows the State to generate additional revenues that can potentially be used for non-Medicaid purposes. In 1991, Congress limited the growth in Medicaid spending by enacting legislation to restrict the ability of States to use certain types of provider taxes as their share of Medicaid spending. See Section 1903(w) of the Social Security Act, 42 U.S.C. 1396b(w). Congress required that provider taxes be uniform and broad-based in order to qualify as a State's "matching" funds. The canceled item would have deemed taxes, fees, or assessments that were collected by the State of New York from a health care provider before June 1, 1997, and for which a waiver has been applied for, to be permissible health care related taxes in compliance with the requirements of Medicaid law. The canceled item, which would have constituted new direct spending, would have given preferential treatment to only one State (New York), by allowing that State to continue relying upon impermissible provider taxes to finance its Medicaid program. This preferential treatment would have increased Medicaid costs, would have treated New York differently from all other States, and would have established a costly precedent for other States to request comparable treatment. The legislative history and purposes of this provision were considered, but did not outweigh the foregoing reasons for cancellation.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Outlay Changes (in billions of dollars) ¹

<u>FY1998</u>	<u>FY1999</u>	<u>FY2000</u>	<u>FY2001</u>	<u>FY2002</u>	<u>Total</u>
-\$0.2	0	0	0	0	-\$0.2

1(F). Adjustments to Discretionary Spending Limits: Not applicable

2(A). Agency: Department of Health and Human Services

2(A). Bureau: Health Care Financing Administration

2(A). Governmental Function (Account): Medicaid (Grants to States for Medicaid)

2(B). States and Congressional Districts Affected: New York and all Congressional Districts in New York.

2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: One.

¹ Based on CBO estimates. Final Administration scoring may vary.

THE WHITE HOUSE
WASHINGTON

August 4, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN *PC*
SEAN MALONEY *SM*

SUBJECT: H.R. 2015 -- Balanced Budget Act of 1997 229619
H.R. 2014 -- Taxpayer Relief Act of 1997 229616

Tomorrow you will sign both bills in a South Lawn ceremony. Together they implement the bipartisan budget agreement announced on May 2, 1997. This legislation will produce an estimated \$768 billion in deficit savings over the next ten years (FY's 1998-2007) and balance the budget in FY 2002. Tomorrow afternoon we will present you with written signing statements for your signature. Recognizing your familiarity with the bills, we have set forth below an abbreviated summary of each for your reference.

I. H.R. 2015 -- The Balanced Budget Act of 1997

- Medicare** Reduces Medicare outlays by \$112 billion in FY's 1998-2002; by \$385 billion through 2007; establishes pilot program of Medical Savings Accounts for nearly 400,000 Medicare enrollees; establishes a 17-member Bi-Partisan Commission to report by spring, 1999 with recommendations on Medicare's future.
- Medicaid** Reduces Medicaid outlays by \$14 billion during FY's 1998-2002 through lower hospital payments and greater State flexibility; restores Medicaid benefits for 30,000 disabled kids, who would have otherwise lost their SSI payments under strict new disability definitions; provides \$24 billion to States in FY's 1998-2002 to insure 5 million uninsured kids.
- Welfare** Provides \$11.5 billion to restore SSI and Medicaid benefits to legal immigrants; extends refugees' and asylees' five-year exemption from immigrant aid restrictions to seven years; provides \$3 billion in FY's 1998-1999 to States to fund Welfare-to-Work programs, including private sector wage subsidies and job vouchers for placement, readiness and post-employment services in targeted high-poverty areas.
- Food Stamps** Increases Spending by \$1.5 billion during FY's 1998-2002; including \$580 million for States to exempt up to 15% of caseloads from last-year's "3-in-36" months benefit limit and \$920 million for States to create workslots for 235,000 able-bodied adults.

<i>Spectrum Allocation</i>	Broadens FCC's Authority to auction the spectrum beyond the current expiration date and to reallocate 120 Megahertz of spectrum for assignment by competitive bidding.
<i>D.C. Plan</i>	Provides for federal takeover of the District's pension plans for police officers, firefighters, teachers, and judges, thereby assuming \$4.8 billion unfunded pension liability; repeals annual federal payment to the District of \$660 million, replacing it with an appropriation of \$190 million in FY 1998; District would be allowed to borrow up to \$300 million from Treasury to finance its deficit; renders key mayoral appointments subject to approval by D.C. Control Board; other appointments made directly by Board; power to remove mayoral appointees vested with the Board; authorizes federal appropriations for D.C. Courts, oversight of felony offenders; closes Lorton by 2001.
<i>Housing</i>	Extends current cost controls on housing projects, producing savings of \$1.8 Billion during FY's 1998-2002.
<i>Student Loans</i>	Reduces Spending by \$1.8 Billion during FY's 1998-2002, without reducing benefits or increasing costs to students or their families, by requiring guaranty agencies to return \$1 billion of current excess cash reserves.
<i>Civil Service</i>	Increases Employee and Agency Contributions to the Civil Service Retirement System and the Federal Employees Retirement System, producing savings of \$5 billion during FY's 1998-2002.
<i>Veterans</i>	Reduces spending by \$2.7 billion during FY's 1998-2002; would allow VA to keep medical care copayments and other fees it collects for use in paying expenses.
<i>Asset Sales/Fees</i>	Extends Vessel Tonnage Fees; authorizes the sale of Governors Island in N.Y. Harbor for \$500 million and of the air rights above D.C.'s Union Station for \$40 million in FY 2002.
<i>Enforcement</i>	Establishes discretionary spending Caps, producing savings of \$139 billion through FY 2002.
<i>Debt Limit</i>	Increases current limit to \$5.95 trillion, which should accommodate necessary borrowing through December, 1999.

II. H.R. 2014 -- The Taxpayer Relief Act of 1997

Treasury supports the bill and notes that it fulfills the four broad tests established for the

legislation. However there are several objectionable provisions, including the capital gains provisions, some of the IRA provisions and the increase in the estate tax. Notable omissions include proposals to: extend the excise tax exemption for ethanol; stimulate investments in CDFI; facilitate restructuring the affordable housing portfolio across the country; and provide tax incentives in Puerto Rico. Other provisions include:

Children \$400 Credit/\$500 in 1999 and thereafter for kids under 17, phased out for incomes over \$110,000 (joint filers) or \$75,000 (single filers); credit is calculated before EITC.

Education Hope Scholarships -- two years post-secondary education; equal to 100% of first \$1000 of eligible expenses; 50% of second \$1000; separate credit for students in taxpayer's household; phased out for incomes between \$80,000 and \$100,000 (joint filers), between \$40,000 and \$50,000 (single filers). Lifetime Learning Credit -- 20% of first \$5,000 of eligible expenses through 2002, 20% of first \$10,000 thereafter; no limit on number of taxable years; effective after July 1, 1998. Education IRA's -- permits contribution of up to \$500/child for incomes of \$150,000 (joint filers) and \$95,000 (single filers); contributions are not tax deductible but earnings accumulate tax-free and distributions would be excludable from income if used for post-secondary education expenses; effective January 1, 1998; also permits tax-free withdrawals from regular IRA's for approved educational expenses. Miscellaneous -- extends for 3 years exclusion from taxable income of up to \$5250 of employer-provided undergrad benefits; permits \$2500/yr deduction phased in over four years of interest on educational loans; excludes from income certain loan amounts forgiven in exchange for community service; repeals \$150-million cap for certain tax-free bonds issued by higher education institutions; provides tax incentives for elementary and secondary school repair and renovation in poor neighborhoods; enhances charitable contribution deduction for computer equipment; and permits pre-paid State tuition plans' earnings to cover certain educational expenses.

IRA's Increases Eligible Income Level -- from \$25,000-\$35,000 now to \$50,000-\$60,000 in 2005 (single filers); from \$40,000-\$50,000 now to \$80,000-\$100,000 in 2007 (joint filers); permits deductible contributions from spouse of employee in employer-sponsored retirement plan (phased out for incomes between \$150,000 and \$160,000). Roth IRA's -- effective January 1, 1998; \$2000/yr nondeductible contributions indexed for inflation; phased out for incomes between \$95,000-\$110,000 (single filers) and \$150,000-\$160,000 (joint filers); distributions tax-free after 5 years under certain conditions; also for first-time home buyer expenses up to \$100,000 lifetime cap.

Capital Gains Max. Indiv. Rate Drops from 28% to 20%; drops to 10% for taxpayers in 15% bracket; effective May 7, 1997 for investments held longer than 18 months; rate

drops further for 5-year investments after 2001, particularly for 15% bracket taxpayers; Couples may exclude from taxable income up to \$500,000 of gain from principal residence; single taxpayers may exclude up to \$250,000; home must have been principal residence and owned for 2 of previous five years.

- Welfare To Work*** Credit equal to 35% of first \$10,000 of annual wages paid in first year to long term welfare recipient; 50% of first \$10,000 paid in second year; credit limited to two years; Expanded Work Opportunity Credit -- extends to June 30, 1998 credit that employers can claim for first \$6000 paid to individuals hired from certain groups; adds SSI beneficiaries to that group.
- EZ's*** Authorizes 2 New Empowerment Zones -- effective January 1, 2000; must be designated within 180 days; also authorizes new round of 20 competitively selected EZ's.
- Environment*** Brownfields -- permits immediate write-offs of clean-up costs of empowerment zones, enterprise communities and scores of other designated sites.
- Estates*** Increases amount taxpayer can transfer free of gift and estate taxes from \$600,000 to \$1 million by 2006; also establishes new exemption for taxpayer's interest in family-owned farm or small business.
- Transp'tation*** Airlines -- lowers current 10% excise tax to 7.5% on domestic flights and creates certain new fees; Amtrak -- provides effective tax refund of \$2.3 billion; Highways -- transfers 4.3-cents-per-gallon tax from General Fund to Highway Trust Fund, producing an additional \$39.6 billion over the next 6 years for highway and transit programs.
- D.C. Taxes*** Designates D.C. Enterprise Zone within which businesses and individuals receive special tax incentives (e.g., 20% wage credit for first \$15,000 paid to D.C. resident working in Zone, immediate deduction of \$20,000 expenditures for qualified Zone properties, etc.); eliminates for 10 years capital gains tax on sale of qualified assets held over 5 years in D.C. areas with poverty rate above 10%; also provides first-time D.C. home buyer credit of \$5000 for middle income taxpayers.
- Small Business*** Provides that home office qualifies as "principal place of business" and permits deduction for the business portion of expenses related to operating the home; repeals corporate alternative minimum tax for small businesses; increases percentage of insurance premiums that self-employed individuals may deduct from income from 40% now to 80% in 2006 and 100% in 2007.
- Tobacco*** Increases the tax on cigarettes from 24 cents to 34 cents in 2000, to 39 cents in 2002; revenues will fund the Children's Health Initiative.

230259
(not 230281)

Over Monday

THE WHITE HOUSE
WASHINGTON

August 11, 1997

8-12-97

MR. PRESIDENT:

The attached Berger/Hilley memo seeks your approval to permit the State Department to consult with and notify Congress that you intend to transfer \$4 million from State's Economic Support Funds (ESF) account to a peacekeeping account at DoD to supplement the African Crisis Response Initiative (ACRI).

Background. As you know, the ACRI will train and equip troops from various African nations to respond to humanitarian crises in Africa. A total of \$15 million has been allocated to the ACRI for FY '97 gathered from various funds at State and DoD, including \$4 million from the ESF. The money will be used to train and equip two Ethiopian battalions. But under the Foreign Assistance Act (FAA), you are prohibited from using ESF funds for military or paramilitary purposes unless you certify that it is "necessary for the purposes" of the FAA.

By permitting State to consult with and notify Congress, you will begin the process of transferring the \$4 million to the peacekeeping account to fully fund our commitment to the ACRI. Once the consultations are complete and assuming there are no serious Congressional objections, you will issue a determination to authorize the transfer.

___ Approve ___ Disapprove ___ Discuss

Phil Caplan

Phil

THE WHITE HOUSE
WASHINGTON

August 6, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER (10) For
JOHN HILLEY [Signature]

SUBJECT: Use of Section 610(a) of the Foreign Assistance Act of 1961, as amended, to Transfer \$4 Million in FY 1997 Economic Support Funds to the Peacekeeping Operations Account

Purpose

To authorize the Department of State to consult with and notify Congress of your intent to transfer \$4 million from FY 1997 Economic Support Funds (ESF) to the Peacekeeping Operations (PKO) Account.

Background

Last August, State and DOD began developing a multilateral initiative to enhance the capacity of select African nations to respond to emerging humanitarian crises, such as those in Burundi and the former Zaire. This effort has evolved into the African Crisis Response Initiative (ACRI), which will train and equip peacekeeping troops in Uganda, Senegal, Mali, Malawi, Tunisia, Ghana and Ethiopia in fiscal years 1997 and 1998, and conduct joint training exercises in fiscal year 1998 and beyond.

A total of \$15 million has been allocated to the ACRI for FY 1997. PKO and FMF funds have been released to support initial program requirements. We now need the ESF to complete the FY 97 program. ESF will provide training and equipment for two Ethiopian battalions. However, since there is a legal prohibition against using ESF for military or paramilitary purposes, we must transfer these Economic Support Funds into the

cc: Vice President
Chief of Staff

PKO account pursuant to the authority contained in section 610(a) of the Foreign Assistance Act (FAA).

To exercise your authority under section 610(a), you must, after appropriate Congressional consultations and notifications have taken place, determine in writing that the exercise of the transfer authority is "necessary for the purposes of" the FAA.

The Department of State recommends, and we concur, that you authorize the Department to consult with and notify Congress of your intent to transfer \$4 million from FY 97 ESF to the PKO account to support the African Crisis Response Initiative.

Following consultations and completion of the 15-day notification period, and assuming Congressional reaction does not indicate a contrary course of action, we will submit for your signature the required determination to authorize the transfer of funds.

RECOMMENDATION

That you authorize the Department of State to consult with and notify Congress of your intent to use your authority under section 610(a) of the FAA to transfer \$4 million from FY 97 ESF to the PKO account.

Approve _____

Disapprove _____

Attachments

Tab A State's Letter of Notification
Tab B Memorandum of Justification

Sample letter to Congress

Same letter to:

Chairman and Ranking Minority Member, HIRC
Chairman and Ranking Minority Member, HAC
Chairman and Ranking Minority Member, HACFO
Chairman and Ranking Minority Member, SFRC
Chairman and Ranking Minority Member, SAC
Chairman and Ranking Minority Member, SACFO
Speaker of the House

Dear Mr. Chairman:

I wish to inform you that the President proposes to exercise his authority under section 610(a) of the Foreign Assistance Act of 1961, as amended (the "Act") to authorize that \$4 million of funds made available for Chapter 4 of Part II of the Act, be transferred to, and consolidated with, funds made available under Peacekeeping Operations (PKO) under Chapter 6 of Part II of the Act.

This letter also provides required notifications pursuant to applicable provisions of law, including Title V, Chapter 7 (Peacekeeping Operations) of P.L. 104-208, and section 634A of the Act, of the State Department's intent to provide up to \$4 million in training and equipment to Ethiopia in support of the African Crisis Response Initiative (ACRI).

As indicated in the course of previous consultations with interested committee staff, and as detailed in the attached Memorandum of Justification, we believe that the use of these funds in the manner described will enhance these countries' interoperability and capacity to respond to peacekeeping and humanitarian crises in Africa.

Please do not hesitate to contact us if we can be of help on this or any other matter.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:

Memorandum of Justification

MEMORANDUM OF JUSTIFICATION
UNDER SECTION 610 OF THE FOREIGN ASSISTANCE ACT
TO TRAIN AND EQUIP AFRICAN FORCES UNDER THE
AFRICAN CRISIS RESPONSE INITIATIVE

One of the Administration's highest security-related priorities in Africa is the African Crisis Response Initiative (ACRI), the goal of which is to work with select African nations to create effective, rapidly deployable peacekeeping units that can operate together to respond to regional contingencies. In FY 97, the Administration has allocated \$15 million for the ACRI, of which \$4.5 million is from Foreign Military Financing (FMF), \$6.5 million through the Peacekeeping Operations Account (PKO), and \$4 million from Economic Support Funds (ESF). Because of statutory restrictions on using ESF for military or paramilitary purposes, we propose transferring these ESF funds into the PKO account using the President's authority under section 610(a) of the Foreign Assistance Act of 1961, as amended (the "Act"). These funds will be used to provide training and equipment for two Ethiopian battalions.

Under the ACRI, the United States will provide supplemental training and equipment to improve the existing capacity of certain African states to respond to humanitarian crises or peacekeeping contingencies. The long-term goal is to develop interoperable units among participating African states to allow a multinational force of seven to eight thousand African troops to conduct effective operations under the leadership of African commanders. The Departments of State and Defense have collaborated to create a multi-phase approach that will combine initial training by the U.S. Special Forces with periodic sub-regional exercises among participating African states.

By developing the indigenous capacity for African nations to respond rapidly to and contain emerging regional crises, the ACRI should reduce the need for large-scale use of U.S. financial and personnel resources in the event of an actual contingency. The United States is working closely with the United Kingdom and France in order to ensure the ACRI complements and maximizes the utility of their ongoing training efforts in the region. Together, the U.S., U.K. and France are establishing a coordinating mechanism for our -- as well as other donor countries' -- respective contributions to capacity building in Africa.

Phil
Phil;

Regarding the African Crisis Response Initiative (ACRI) paper, my Africa shop reports...

- ACRI is recognized term but is not tied to a specific appropriation.
- The \$15 million was swept together from State and DoD programs, including Economic Support Funds (State) and Foreign Military Financing (DoD).
- Any funds transfers are generally below the threshold level necessary for formal re-programming actions.
- This action is necessitated by a prohibition against using ESF funds for military or paramilitary purposes, thus the proposal to transfer \$4 million to the Peacekeeping Operations (PKO) (State) account under the auspices of the Foreign Assistance Act (FAA).
- The \$4 million is part of the \$15 million.
- State and DoD are aboard with this plan.

If this is not clear or needs to be in the paper, send it back and we will fix.

Kevin
Kevin Cosgriff
x- 69432

'97 AUG 6 PM 12:36

THE WHITE HOUSE
WASHINGTON

August 6, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER (10) For
JOHN HILLEY *John Hilley*

SUBJECT: Use of Section 610(a) of the Foreign Assistance Act of 1961, as amended, to Transfer \$4 Million in FY 1997 Economic Support Funds to the Peacekeeping Operations Account

Purpose

To authorize the Department of State to consult with and notify Congress of your intent to transfer \$4 million from FY 1997 Economic Support Funds (ESF) to the Peacekeeping Operations (PKO) Account.

Background

Last August, State and DOD began developing a multilateral initiative to enhance the capacity of select African nations to respond to emerging humanitarian crises, such as those in Burundi and the former Zaire. This effort has evolved into the African Crisis Response Initiative (ACRI), which will train and equip peacekeeping troops in Uganda, Senegal, Mali, Malawi, Tunisia, Ghana and Ethiopia in fiscal years 1997 and 1998, and conduct joint training exercises in fiscal year 1998 and beyond.

where?
A total of \$15 million has been allocated to the ACRI for FY 1997. PKO and FMF funds have been released to support initial program requirements. We now need the ESF to complete the FY 97 program. ESF will provide training and equipment for two Ethiopian battalions. However, since there is a legal prohibition against using ESF for military or paramilitary purposes, we must transfer these Economic Support Funds into the

cc: Vice President
Chief of Staff

*State Accts -- do reprogram needed
FMF - Foreign Military Financing (DOD)*

PKO account pursuant to the authority contained in section 610(a) of the Foreign Assistance Act (FAA).

To exercise your authority under section 610(a), you must, after appropriate Congressional consultations and notifications have taken place, determine in writing that the exercise of the transfer authority is "necessary for the purposes of" the FAA.

The Department of State recommends, and we concur, that you authorize the Department to consult with and notify Congress of your intent to transfer \$4 million from FY 97 ESF to the PKO account to support the African Crisis Response Initiative.

Following consultations and completion of the 15-day notification period, and assuming Congressional reaction does not indicate a contrary course of action, we will submit for your signature the required determination to authorize the transfer of funds.

RECOMMENDATION

That you authorize the Department of State to consult with and notify Congress of your intent to use your authority under section 610(a) of the FAA to transfer \$4 million from FY 97 ESF to the PKO account.

Approve _____

Disapprove _____

Attachments

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Sincerely,

Barbara Larkin
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Legislative Affairs

Enclosure:

Memorandum of Justification

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By developing the indigenous capacity for African nations to respond rapidly to and contain emerging regional crises, the ACRI should reduce the need for large-scale use of U.S. financial and personnel resources in the event of an actual contingency. The United States is working closely with the United Kingdom and France in order to ensure the ACRI complements and maximizes the utility of their ongoing training efforts in the region. Together, the U.S., U.K. and France are establishing a coordinating mechanism for our -- as well as other donor countries' -- respective contributions to capacity building in Africa.

Last entry p. 2
attached

File

THE WHITE HOUSE
WASHINGTON

August 9, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN *PC*
SEAN MALONEY *SM*
SUBJECT: Recent Information Items

We are forwarding the following recent information items:

- 8-11-97
- (A) **Navy Secretary Dalton's update on BRAC.** Forwarded by John Podesta. John has been "riding herd on the issue" and says, "We have finally gotten some action out of the Navy." (E.g, the Glenview, Illinois Naval Air Station has finally been resolved.) "Dorothy Robyn and Laura Marcus have done an excellent job keeping on top of DoD and the services. We'll stay on top of this."
 - (B) **Jennings Memo re: Prostate Cancer** -- In response to your request. There has been a "noticeable increase" in deaths associated with prostate cancer, which kills 40,000 men annually. Cases are projected to increase by 90% between 1985 and 2000. The Medicare screening coverage contemplated under your balanced budget has "promising potential to save lives," because of the value of early detection. Generally, the Administration and Congress defer to scientists on these matters. As such, the budget agreement gives HHS time to evaluate the science and the cost-effectiveness under Medicare -- coverage won't be available until 2000. The coverage is part of a package of new Medicare cancer-preventive reforms that will extend coverage to colorectal screening, mammography, pap smears, and pelvic exams. These reforms are achievements worth highlighting.
 - (C) **Peter Hart survey for the AFL-CIO on fast-track authorization.** Forwarded by Podesta. Report shows "substantial public opposition to congressional approval" (i.e., by 66% to 19% people say free trade agreements have cost U.S. jobs). Americans believe fast-track authority (i) speeds up a process that should proceed more slowly; (ii) prevents Congress from improving trade agreements, and (iii) gives too much power to the President. *We have sent copies to Jay Berman, Vicki and Mack.*
 - (D) **Berger Response re: Sleeping Sickness in Sudan** -- You read a NYT article on the Sudanese epidemic and asked, "Can we do anything to help?" Sandy responds that a team of CARE specialists (including CDC representatives) is finalizing a survey that may indicate that nearly 20% of a major Sudanese area's population has the deadly disease. The U.S. humanitarian assistance program in Sudan is one of our largest and has provided over \$600 million in aid since 1988. This year over \$8 million was provided to support

primary health care programs, but those programs do not currently extend to the affected areas. New prevention and control measures related to the epidemic will be considered upon completion of CARE's survey. The U.S. Office of Foreign Disaster Assistance will review other options, including encouraging groups like the Carter Center to get involved and U.S. pharmaceutical companies to donate drugs.

- (E) **Jesse Jackson Zimbabwe Speech** -- Sandy sends along Jackson's remarks to the Sullivan conference in Harare, Zimbabwe. He says the speech is "well worth the reading -- for the music and the words." He has asked Jesse to "help us think about African trip."
- (F) **NBC/WSJ Poll from Rahm** -- Peter Hart sent Rahm a good 3-page summary of his latest poll conducted between July 26 and 28 (just before budget deal was finalized).
Highlights: (1) job approval at 56%, with equal approval among men and women, 62% approval of handling of the economy, including 50% approval from self-described conservatives; (2) budget agreement approval at 54% with Americans saying they agree more with you and the Democrats than with the Republicans on the budget (44% to 36%); (3) Americans feel more positive about the political system in Washington; Congress now has its highest approval rating of the 1990's (48%); 54% say you and the Congressional Republicans are working well together; (4) only 28% of Americans say they are interested in the Senate campaign financing hearings, with the most interested being Republicans.

We have also received the following item:

- **Thank you note from Rudy DeLeon.** Via John Podesta. Rudy was Secretary Aspin's Chief of Staff at DoD. For the past few years he has been the #2 at the Air Force. You nominated him to be UnderSecretary of Defense for Personnel and Readiness. He was just confirmed by the Senate and thanks you for the continued honor and opportunity to serve the Administration.



THE UNDER SECRETARY OF THE AIR FORCE

WASHINGTON

August 1, 1997

The President
The White House
Washington, DC 20500

Dear Mr. President:

With the Senate confirmation process completed, I wanted to express my appreciation for the honor and opportunity to serve in your administration. Thank you for the nomination as Under Secretary of Defense for Personnel and Readiness.

The responsibilities of the new position cover almost every element of military personnel policy, health affairs, and readiness. On behalf of the Administration, I will devote all of my effort and ability to serve the men and women of our armed forces.

Sincerely,

A handwritten signature in dark ink, reading "Rudy de Leon". The signature is fluid and cursive, with the first name "Rudy" being more prominent than the last name "de Leon".

Rudy de Leon



THE UNDER SECRETARY OF THE AIR FORCE
WASHINGTON

August 1, 1997

The President
The White House
Washington, DC 20500

Dear Mr. President:

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Sincerely,

A handwritten signature in cursive script, reading "Rudy de Leon".

Rudy de Leon



THE UNDER SECRETARY OF THE AIR FORCE
WASHINGTON

August 1, 1997

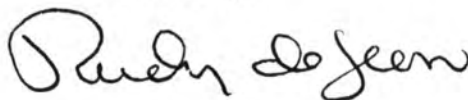
The President
The White House
Washington, DC 20500

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The responsibilities of the new position cover almost every element of military personnel policy, health affairs, and readiness. On behalf of the Administration, I will devote all of my effort and ability to serve the men and women of our armed forces.

Sincerely,



Rudy de Leon



THE UNDER SECRETARY OF THE AIR FORCE

WASHINGTON

August 1, 1997

The President
The White House
Washington, DC 20500

Dear Mr. President:

With the Senate confirmation process completed, I wanted to express my appreciation for the honor and opportunity to serve in your administration. Thank you for the nomination as Under Secretary of Defense for Personnel and Readiness.

The responsibilities of the new position cover almost every element of military personnel policy, health affairs, and readiness. On behalf of the Administration, I will devote all of my effort and ability to serve the men and women of our armed forces.

Sincerely,

A handwritten signature in cursive script that reads "Rudy de Leon".

Rudy de Leon

229438



THE WHITE HOUSE
WASHINGTON

August 8, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN *PC*
SUBJECT: Smoking in the Federal workplace

8-9-97

Attached is a copy of the Executive Order you will discuss in your radio address tomorrow morning. The EO:

- Prohibits smoking in interior space owned, rented, or leased by the Executive Branch of the Federal government, such as office space and National Park Service visitor centers and restaurants. Embassies and consulates abroad will be covered.
- Allows agencies to have indoor designated smoking areas that are enclosed and ventilated directly to the outside. Agency heads may not require workers to enter such areas during business hours while smoking is occurring.
- Prohibits smoking in front of building air intake ducts in outside areas under the federal government's control.
- Directs agency heads to evaluate the need to limit smoking at doorways and in courtyards. (Previous drafts directed agency heads to ban smoking in these areas; now agency heads will study the matter and then take action if warranted.)
- Requires heads of Executive Branch agencies to implement the order within one year, and encourages agencies to offer smoking cessation assistance to their workforce.

The EO does not apply to Congress or the Judicial branch and it does not cover residential areas in federal buildings (i.e., smoking in barracks and prisons will still be allowed). Independent agencies are encouraged under the EO to implement these policies.

If you have no objection, we'll have the EO executed on your behalf tomorrow.

___ Approve EO ___ Disapprove ___ Discuss



229438

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

July 31, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:

Franklin D. Raines
Director

SUBJECT:

Proposed Executive Order Entitled "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was prepared by the Department of Health and Human Services. The proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government.

BACKGROUND: The health risks of smoking and exposure to smoke are documented by reports of the Department of Health and Human Services, the Environmental Protection Agency, and the United States Surgeon General. The evidence indicates that smoking is a preventable cause of diseases and that exposure to tobacco smoke is a cause of diseases. To protect Federal Government employees and members of the public using federal facilities from exposure to tobacco smoke, the proposed Executive order would take certain actions to prohibit smoking in all interior spaces controlled by the Executive branch of the Federal Government.

Specifically, the proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government, subject to several exceptions. The order would not apply to residential accommodations for persons in federally-owned buildings. It would not apply to federally-owned buildings, leased, rented or provided in their entirety to nonfederal parties. It would not apply to places of employment in the private sector or in other nonfederal governmental units that serve as duty stations for federal employees. It would give agency heads the authority to establish limited and narrow exceptions to the order as necessary to accomplish agency missions.

None of the affected agencies objects to the proposed Executive order.

RECOMMENDATION: I recommend that you sign the proposed Executive order.

Attachment



U. S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

July 31, 1997

MEMORANDUM

Re: Proposed Executive Order Entitled "Protecting
Federal Employees and the Public from Exposure to
Tobacco Smoke in the Federal Workplace"

The attached proposed Executive Order was prepared by the Department of Health and Human Services. The Office of Management and Budget, with the approval of the Director, forwarded it to this Department for review with respect to form and legality.

The proposed Order states that it is the policy of the Executive branch to establish a smoke-free environment for federal employees and visitors to Executive branch facilities. The Order would prohibit the smoking of tobacco products in all interior space owned, rented, or leased by the Executive branch, and all outdoor areas under Executive branch control at entrances of federal buildings, at air intake ducts, or within courtyards.

The Order provides for several exceptions to the general policy. The Order does not apply in designated smoking areas as defined in the Order; any residential accommodations for persons residing voluntarily or involuntarily in a federal facility; federal duty stations in places of employment in the private sector or other nonfederal government units; or federally-owned buildings rented, leased, or otherwise provided for use to nonfederal parties. In addition, the head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions.

The proposed Order is approved with respect to form and legality.

Dawn E. Johnsen
Acting Assistant Attorney General



U. S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

July 31, 1997

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed Executive Order entitled "Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace." This proposed Executive Order was submitted by the Department of Health and Human Services. The Office of Management and Budget, with the approval of the Director, has forwarded it to this Department for review with respect to form and legality.

The proposed Executive Order is approved with respect to form and legality.

Respectfully,

Dawn E. Johnsen
Acting Assistant Attorney General



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 31 1997

Honorable Janet Reno
United States Attorney General
Washington, D.C. 20530

Dear Madam Attorney General:

Enclosed in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive order entitled "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace." The proposed order, which was prepared by the Department of Health and Human Services, would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government.

The health risks of smoking and exposure to smoke are documented by reports of the Department of Health and Human Services, the Environmental Protection Agency, and the United States Surgeon General. The evidence indicates that smoking is a preventable cause of diseases and that exposure to tobacco smoke is a cause of diseases. To protect Federal Government employees and members of the public using federal facilities from exposure to tobacco smoke, the proposed Executive order would take certain actions to prohibit smoking in all interior spaces controlled by the Executive branch of the Federal Government.

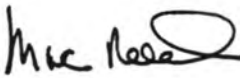
Specifically, the proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government, subject to several exceptions. The order would not apply to residential accommodations for persons in federally-owned buildings. It would not apply to federally-owned buildings, leased, rented or provided in their entirety to nonfederal parties. It would not apply to places of employment in the private sector or in other nonfederal governmental units that serve as duty stations for federal employees. It would give agency heads the authority to establish limited and narrow exceptions to the order as necessary to accomplish agency missions.

None of the affected agencies objects to the proposed Executive order.

Your staff may direct any questions concerning this proposed Executive order to Mr. Mac Reed of this office (395-3563).

This proposed Executive order has the approval of the Director of the Office of Management and Budget.

Sincerely,


Robert G. Damus
General Counsel

Enclosure

EXECUTIVE ORDER

PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to protect Federal Government employees and members of the public from exposure to tobacco smoke in the federal workplace, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Executive branch to establish a smoke-free environment for federal employees and members of the public visiting or using federal facilities. The smoking of tobacco products is thus prohibited in all interior space owned, rented, or leased by the Executive branch of the Federal Government, and all outdoor areas under Executive branch control at entrances of federal buildings, at air intake ducts, or within courtyards.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions:

- (a) The order does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.
- (b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.
- (c) The order does not extend to federally-owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.
- (d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more federal employees.
- (e) The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exception shall be in writing,

approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

Sec. 3. Smoking cessation programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 4. Responsibility for implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the Legislative and Judicial branches. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 5. Phase-In of implementation. Implementation of the policy set forth in this order shall be achieved no later than one year after issuance of this order. This one year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to Executive branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

Sec. 6. Consistency with other laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 et seq.) and the National Labor Relations Act (29 U.S.C. 151 et seq.) Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies are required to review their current policy to confirm that agency policy comports with this order. Agency policies found not in compliance shall be revised to comply with the terms of this order.

Sec. 7. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or

affect in any way the liability of the Executive branch under the Federal Tort Claims Act.

Sec. 8. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the federal workplace for employees and members of the public visiting or using federal facilities.

THE WHITE HOUSE,

THE WHITE HOUSE
WASHINGTON

August 8, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN *Phm*

SUBJECT: Smoking in the Federal workplace

Attached is a copy of the Executive Order you will discuss in your radio address tomorrow morning. The EO:

- Prohibits smoking in interior space owned, rented, or leased by the Executive Branch of the Federal government, such as office space and National Park Service visitor centers and restaurants. Embassies and consulates abroad will be covered.
- Allows agencies to have indoor designated smoking areas that are enclosed and ventilated directly to the outside. Agency heads may not require workers to enter such areas during business hours while smoking is occurring.
- Prohibits smoking in front of building air intake ducts in outside areas under the federal government's control.
- Directs agency heads to evaluate the need to limit smoking at doorways and in courtyards. (Previous drafts directed agency heads to ban smoking in these areas; now agency heads will study the matter and then take action if warranted.)
- Requires heads of Executive Branch agencies to implement the order within one year, and encourages agencies to offer smoking cessation assistance to their workforce.

The EO does not apply to Congress or the Judicial branch and it does not cover residential areas in federal buildings (i.e., smoking in barracks and prisons will still be allowed). Independent agencies are encouraged under the EO to implement these policies.

If you have no objection, we'll have the EO executed on your behalf tomorrow.

____ Approve EO ____ Disapprove ____ Discuss

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

August 9, 1997

EXECUTIVE ORDER

- - - - -

PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM
EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to protect Federal Government employees and members of the public from exposure to tobacco smoke in the Federal workplace, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the executive branch to establish a smoke-free environment for Federal employees and members of the public visiting or using Federal facilities. The smoking of tobacco products is thus prohibited in all interior space owned, rented, or leased by the executive branch of the Federal Government, and in any outdoor areas under executive branch control in front of air intake ducts.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions: (a) The order does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.

(b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.

(c) The order does not extend to those portions of federally owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.

(d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more Federal employees.

(e) The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exception shall be in writing, approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

Sec. 3. Other Locations. The heads of agencies shall evaluate the need to restrict smoking at doorways and in courtyards under executive branch control in order to protect workers and visitors from environmental tobacco smoke, and may restrict smoking in these areas in light of this evaluation.

more

(OVER)

Sec. 4. Smoking Cessation Programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 5. Responsibility for Implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the legislative and judicial branches. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 6. Phase-In of Implementation. Implementation of the policy set forth in this order shall be achieved no later than 1 year after the date of this order. This 1 year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to executive branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

Sec. 7. Consistency with Other Laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 et seq.) and the National Labor Relations Act (29 U.S.C. 151 et seq.) Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of Federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies shall review their current policy to confirm that agency policy comports with this order, and policy found not in compliance shall be revised to comply with the terms of this order.

Sec. 8. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or affect in any way the liability of the executive branch under the Federal Tort Claims Act.

Sec. 9. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the Federal workplace for employees and members of the public visiting or using Federal facilities.

WILLIAM J. CLINTON

THE WHITE HOUSE,
August 9, 1997.

#

8-1-97

Copy given to Clerk



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'97 JUL 31 PM 7:30

July 31, 1997

Executive Order:

*Protecting Federal
Employees and the
Public from Exposure to
Tobacco Smoke in
the Federal Workplace*

MEMORANDUM FOR THE PRESIDENT

FROM: Franklin D. Raines 
Director

SUBJECT: Proposed Executive Order Entitled "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was prepared by the Department of Health and Human Services. The proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government.

BACKGROUND: The health risks of smoking and exposure to smoke are documented by reports of the Department of Health and Human Services, the Environmental Protection Agency, and the United States Surgeon General. The evidence indicates that smoking is a preventable cause of diseases and that exposure to tobacco smoke is a cause of diseases. To protect Federal Government employees and members of the public using federal facilities from exposure to tobacco smoke, the proposed Executive order would take certain actions to prohibit smoking in all interior spaces controlled by the Executive branch of the Federal Government.

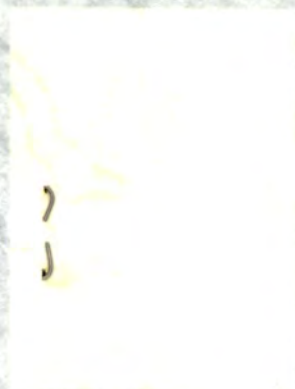
Specifically, the proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government, subject to several exceptions. The order would not apply to residential accommodations for persons in federally-owned buildings. It would not apply to federally-owned buildings, leased, rented or provided in their entirety to nonfederal parties. It would not apply to places of employment in the private sector or in other nonfederal governmental units that serve as duty stations for federal employees. It would give agency heads the authority to establish limited and narrow exceptions to the order as necessary to accomplish agency missions.

None of the affected agencies objects to the proposed Executive order.

RECOMMENDATION: I recommend that you sign the proposed Executive order.

Attachment

229438



[Handwritten signature]

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535



U. S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

July 31, 1997

MEMORANDUM

Re: Proposed Executive Order Entitled "Protecting
Federal Employees and the Public from Exposure to
Tobacco Smoke in the Federal Workplace"

The attached proposed Executive Order was prepared by the Department of Health and Human Services. The Office of Management and Budget, with the approval of the Director, forwarded it to this Department for review with respect to form and legality.

The proposed Order states that it is the policy of the Executive branch to establish a smoke-free environment for federal employees and visitors to Executive branch facilities. The Order would prohibit the smoking of tobacco products in all interior space owned, rented, or leased by the Executive branch, and all outdoor areas under Executive branch control at entrances of federal buildings, at air intake ducts, or within courtyards.

The Order provides for several exceptions to the general policy. The Order does not apply in designated smoking areas as defined in the Order; any residential accommodations for persons residing voluntarily or involuntarily in a federal facility; federal duty stations in places of employment in the private sector or other nonfederal government units; or federally-owned buildings rented, leased, or otherwise provided for use to nonfederal parties. In addition, the head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions.

The proposed Order is approved with respect to form and legality.

Dawn E. Johnsen
Acting Assistant Attorney General



U. S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

July 31, 1997

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed Executive Order entitled "Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace." This proposed Executive Order was submitted by the Department of Health and Human Services. The Office of Management and Budget, with the approval of the Director, has forwarded it to this Department for review with respect to form and legality.

The proposed Executive Order is approved with respect to form and legality.

Respectfully,

A handwritten signature in cursive script, reading "Dawn E. Johnsen", is written over the typed name.

Dawn E. Johnsen
Acting Assistant Attorney General



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 31 1997

Honorable Janet Reno
United States Attorney General
Washington, D.C. 20530

Dear Madam Attorney General:

Enclosed in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive order entitled "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace." The proposed order, which was prepared by the Department of Health and Human Services, would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government.

The health risks of smoking and exposure to smoke are documented by reports of the Department of Health and Human Services, the Environmental Protection Agency, and the United States Surgeon General. The evidence indicates that smoking is a preventable cause of diseases and that exposure to tobacco smoke is a cause of diseases. To protect Federal Government employees and members of the public using federal facilities from exposure to tobacco smoke, the proposed Executive order would take certain actions to prohibit smoking in all interior spaces controlled by the Executive branch of the Federal Government.

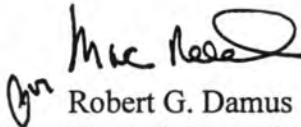
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None of the affected agencies objects to the proposed Executive order.

Your staff may direct any questions concerning this proposed Executive order to Mr. Mac Reed of this office (395-3563).

This proposed Executive order has the approval of the Director of the Office of Management and Budget.

Sincerely,


Robert G. Damus
General Counsel

Enclosure

EXECUTIVE ORDER

PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to protect Federal Government employees and members of the public from exposure to tobacco smoke in the federal workplace, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Executive branch to establish a smoke-free environment for federal employees and members of the public visiting or using federal facilities. The smoking of tobacco products is thus prohibited in all interior space owned, rented, or leased by the Executive branch of the Federal Government, and all outdoor areas under Executive branch control at entrances of federal buildings, at air intake ducts, or within courtyards.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions:

- (a) The order does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.
- (b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.
- (c) The order does not extend to federally-owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.
- (d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more federal employees.
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approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

Sec. 3. Smoking cessation programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 4. Responsibility for implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the Legislative and Judicial branches. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 5. Phase-In of implementation. Implementation of the policy set forth in this order shall be achieved no later than one year after issuance of this order. This one year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to Executive branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

Sec. 6. Consistency with other laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 et seq.) and the National Labor Relations Act (29 U.S.C. 151 et seq.) Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies are required to review their current policy to confirm that agency policy comports with this order. Agency policies found not in compliance shall be revised to comply with the terms of this order.

Sec. 7. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or

affect in any way the liability of the Executive branch under the Federal Tort Claims Act.

Sec. 8. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the federal workplace for employees and members of the public visiting or using federal facilities.

THE WHITE HOUSE,



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'97 JUL 31 PM 7:30

THE DIRECTOR

July 31, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:

Franklin D. Raines
Director

SUBJECT:

Proposed Executive Order Entitled "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was prepared by the Department of Health and Human Services. The proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government.

BACKGROUND: The health risks of smoking and exposure to smoke are documented by reports of the Department of Health and Human Services, the Environmental Protection Agency, and the United States Surgeon General. The evidence indicates that smoking is a preventable cause of diseases and that exposure to tobacco smoke is a cause of diseases. To protect Federal Government employees and members of the public using federal facilities from exposure to tobacco smoke, the proposed Executive order would take certain actions to prohibit smoking in all interior spaces controlled by the Executive branch of the Federal Government.

Specifically, the proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government, subject to several exceptions. The order would not apply to residential accommodations for persons in federally-owned buildings. It would not apply to federally-owned buildings, leased, rented or provided in their entirety to nonfederal parties. It would not apply to places of employment in the private sector or in other nonfederal governmental units that serve as duty stations for federal employees. It would give agency heads the authority to establish limited and narrow exceptions to the order as necessary to accomplish agency missions.

None of the affected agencies objects to the proposed Executive order.

RECOMMENDATION: I recommend that you sign the proposed Executive order.

Attachment



U. S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

August 8, 1997

MEMORANDUM

Re: Proposed Executive Order Entitled "Protecting
Federal Employees and the Public from Exposure to
Tobacco Smoke in the Federal Workplace"

The attached proposed Executive Order was prepared by the Department of Health and Human Services. The Office of Management and Budget, with the approval of the Director, forwarded it to this Department for review with respect to form and legality.

The proposed Order states that it is the policy of the Executive branch to establish a smoke-free environment for federal employees and visitors to Executive branch facilities. The Order would prohibit the smoking of tobacco products in all interior space owned, rented, or leased by the Executive branch.

The Order provides for several exceptions to the general policy. The Order does not apply in designated smoking areas as defined in the Order; any residential accommodations for persons residing voluntarily or involuntarily in a federal facility; federal duty stations in places of employment in the private sector or other nonfederal government units; or federally-owned buildings rented, leased, or otherwise provided for use to nonfederal parties. In addition, the head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions.

The proposed Order is approved with respect to form and legality.

Dawn E. Johnsen
Acting Assistant Attorney General



U. S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

August 8, 1997

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed Executive Order entitled "Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace." This proposed Executive Order was submitted by the Department of Health and Human Services. The Office of Management and Budget, with the approval of the Director, has forwarded it to this Department for review with respect to form and legality.

The proposed Executive Order is approved with respect to form and legality.

Respectfully,

Dawn E. Johnsen
Acting Assistant Attorney General

Phil:

8/8/97, 5:50p

Here is new Smoking E.O. w/ OMB,
DPC edits. Copy of DOJ has also
attached. OMB will bring orig's
later tonight. Sentence 2 in Sec. 1
rather poor but too sensitive for me
to touch. Any D's please call

Jane/CLKs



U. S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

August 8, 1997

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Dawn E. Johnsen
Acting Assistant Attorney General



U. S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

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The proposed Executive Order is approved with respect to form and legality.

Respectfully,

Dawn E. Johnsen
Acting Assistant Attorney General



U. S. Department of Justice

Office of Legal Counsel

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Washington, D.C. 20530

August 8, 1997

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The Order provides for several exceptions to the general policy. The Order does not apply in designated smoking areas as defined in the Order; any residential accommodations for persons residing voluntarily or involuntarily in a federal facility; federal duty stations in places of employment in the private sector or other nonfederal government units; or federally-owned buildings rented, leased, or otherwise provided for use to nonfederal parties. In addition, the head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions.

The proposed Order is approved with respect to form and legality.

Dawn E. Johnsen
Acting Assistant Attorney General



U. S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

August 8, 1997

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The White House.

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The proposed Executive Order is approved with respect to form and legality.

Respectfully,

Dawn E. Johnsen
Acting Assistant Attorney General

EXECUTIVE ORDER

- - - - -

PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to protect Federal Government employees and members of the public from exposure to tobacco smoke in the Federal workplace, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the executive branch to establish a smoke-free environment for Federal employees and members of the public visiting or using Federal facilities. The smoking of tobacco products is thus prohibited in all interior space owned, rented, or leased by the executive branch of the Federal Government, and all outdoor areas under executive branch control at entrances of Federal buildings, at air intake ducts, or within courtyards.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions: (a) The order does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.

(b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.

(c) The order does not extend to federally owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.

(d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more Federal employees.

(e) The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exception shall be in writing, approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

Sec. 3. Smoking Cessation Programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 4. Responsibility for Implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the legislative and judicial branches. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 5. Phase-In of Implementation. Implementation of the policy set forth in this order shall be achieved no later than 1 year after the date of this order. This 1-year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to executive branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

Sec. 6. Consistency with Other Laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 *et seq.*) and the National Labor Relations Act (29 U.S.C. 151 *et seq.*). Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of Federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies shall review their current policy to confirm that agency policy comports with this order, and policy found not in compliance shall be revised to comply with the terms of this order.

Sec. 7. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or affect in any way the liability of the executive branch under the Federal Tort Claims Act.

Sec. 8. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the Federal workplace for employees and members of the public visiting or using Federal facilities.



THE WHITE HOUSE,

EXECUTIVE ORDER

Edits
Steve Aiken
AUG - 8 1997

PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM
EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to protect Federal Government employees and members of the public from exposure to tobacco smoke in the federal workplace, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Executive branch to establish a smoke-free environment for federal employees and members of the public visiting or using federal facilities. The smoking of tobacco products is thus prohibited in all interior space owned, rented, or leased by the Executive branch of the Federal Government, ^{in any} and all outdoor areas under Executive branch control ^{in front of} ~~at entrances of federal buildings, at air intake ducts, or within courtyards~~.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions:

- (a) The order does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.
- (b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.
- (c) The order does not extend to ^{those portions of} federally-owned buildings leased, rented, or

otherwise provided in their entirety to nonfederal parties.

- (d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more federal employees.
- (e) The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exception shall be in writing.

approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

Sec. 3 ← *Insert paragraph below*

Sec. 3.4 Smoking cessation programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 4 Responsibility for implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the Legislative and Judicial branches. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 5 Phase-In of implementation. Implementation of the policy set forth in this order shall be achieved no later than one year after issuance of this order. This one year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to Executive branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

Sec. 6 Consistency with other laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 *et seq.*) and the National Labor Relations Act (29 U.S.C. 151 *et seq.*) Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies are

required to review their current policy to confirm that agency policy comports with this order.

Agency policies found not in compliance shall be revised to comply with the terms of this order.

Sec. 2¹ Cause of Action This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or

²
Office Location
~~Additional~~

Section 3 Discretionary Authority

The heads of agencies shall evaluate
The need to restrict smoking
at doorways and in courtyards
to protect workers and
visitors from environmental
tobacco smoke and take
the action, if any, necessary as they
deem appropriate.

they deem
necessary.

~~under Executive Branch control~~
under Executive Branch control

affect in any way the liability of the Executive branch under the Federal Tort Claims Act.

Sec. 3. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the federal workplace for employees and members of the public visiting or using federal facilities.

THE WHITE HOUSE,

Executive Order to Protect Federal Workers from Environmental Tobacco Smoke Q&A

Q: What will the executive order do?

A: The executive order announced today will prohibit smoking in federal executive branch facilities, with limited exceptions. Agencies may allow smoking in designated areas if they are ventilated directly to the outside and maintained under negative pressure to keep smoke from entering other indoor areas. In addition, agencies may allow smoking in residential accommodations such as military housing or prisons, or where necessary to accomplish agency missions, such as for undercover operations, certain military activities, or diplomatic situations.

Q: Does the order prohibit smoking in outdoor areas as well?

A: The order prohibits smoking in front of air intake ducts. It also directs the heads of federal agencies to evaluate the need to limit smoking at doorways and in courtyards.

Q: Didn't earlier drafts of the executive order include a much more restrictive ban on outside smoking?

A: All executive orders go through many drafts and are subject to many changes. After careful review, the Administration decided that a general ban on smoking at entranceways and in courtyards would be inappropriate, given the wide variation among such areas. Instead, agency officials have authority to restrict smoking in these areas, based on their evaluation of the need to do so to protect workers and visitors from exposure to ETS.

Q: What facilities will this executive order cover?

A: All federal executive branch workplaces under federal control, including leased space. This includes office buildings, visitors' centers and restaurants in federal parks, and the growing number of One Stop Shops or U.S. General Stores where federal agencies gather together to provide services to the public.

Q: Does the executive order cover the Congress and courts as well?

A: No. Executive Orders apply only to agencies and employees of the executive branch. The Congress and Judiciary are independent and separate branches of government. The Administration encourages Congress and the Judiciary to adopt measures that protect their employees and members of the public from the adverse health effects of environmental tobacco smoke.

Q: Does this executive order cover the military?

A: Yes. The military has been subject to a 1994 policy prohibiting smoking in all Department of Defense workplaces. The executive order announced today goes further than the current DOD policy, because it also covers restaurants and recreational facilities.

Q: Why is it necessary to ban smoking in federal work areas? Aren't separate smoking areas sufficient?

A: The simple separation of smokers and nonsmokers within the same airspace reduces but does not eliminate exposure to environmental tobacco smoke. Separate smoking areas are acceptable only if they are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure with respect to surrounding spaces.

Q: What is the cost to the government of the EO?

A: GSA expects that the cost of complying with the EO will be minimal. Agencies may incur costs associated with improving ventilation. But prohibiting smoking in workplaces lowers employers' expenditures on health and life insurance, workers' compensation, property damage and maintenance, and employee absenteeism.

Q: How many federal agencies already have no smoking policies?

A: About 15 agencies are smoke-free; almost all the rest have policies in place to minimize exposure to second-hand smoke in the workplace. But many non-smoke-free agencies will have to upgrade their protections of nonsmokers in order to comply with the EO requirements, such as separate ventilation systems for any smoking areas. For example, the Department of Transportation allows smoking in smoking lounges that may not meet the strict ventilation requirements of the EO. Other agencies such as the Departments of Energy and Housing and Urban Development currently allow smoking areas in restrooms, offices, or other spaces used concurrently by smokers and nonsmokers. In all, more than half of the 1.9 million federal executive branch employees work in agencies that will have to strengthen their policies.

Q: Would the proposed settlement with the tobacco industry have any impact on workplace smoking?

A: The proposed settlement includes far-reaching provisions to protect workers and the public from ETS. The settlement would restrict indoor smoking in "public facilities," including most private and public workplaces and fast-food restaurants. Certain facilities such as bars, clubs, casinos, and prisons would be exempt. The specifics of the settlement provisions will be carefully evaluated during the Administration's formal review of the proposed settlement led by Secretary Shalala and Domestic Policy Advisor Bruce Reed.

Q: Does the EO require agencies to aid smoking employees in the transition to more smoke-free workplaces by offering them cessation programs?

A: The EO encourages agency heads to offer smoking cessation programs. In the past, upon implementing more protective smoking policies, the majority of federal agencies have offered some type of cessation program at agency cost or for a nominal fee. The Office of Personnel Management (OPM) supports and encourages these programs and assists agencies in making them available to employees.

Q: Do federal employees' health insurance plans cover smoking cessation assistance?

A: The government provides health services to 10 million federal employees, retirees, and their families through 375 health benefit plans. Individual plan coverage to aid members in smoking cessation varies. Federal employees should refer to their plan brochure for specific coverage information.

Generally, fee-for-service plans cover up to \$100 towards the cost of enrollment in one smoking cessation program per member per lifetime after the calendar year deductible has been met. Many fee-for-service plans also cover the cost of smoking cessation drugs that require a prescription; some cover the cost of non-prescription drugs as a part of the \$100 lifetime benefit to aid in smoking cessation. Benefits in Health Maintenance Organizations (HMO's) vary.

Q: What other steps have you taken to reduce Americans' exposure to environmental tobacco smoke?

A: In 1993, the Administration supported legislation (H.R. 3434) to extend ETS workplace protection to most workers. And, in 1994, President Clinton signed into law the "Goals 2000: Educate America Act," which prohibited smoking in federally-funded children's services facilities, including most elementary and secondary schools.

The Administration has also vigorously pursued a research agenda that has revealed environmental tobacco smoke to be a cause of lung cancer, a risk factor for coronary heart disease in adult nonsmokers, and a cause of respiratory disease in hundreds of thousands of children.

Q: Isn't OSHA planning to issue a regulation on ETS?

A: OSHA has been working on a rule that addresses environmental tobacco smoke and other indoor air pollutants. With respect to ETS, OSHA's rule would require federal and private employers to prohibit smoking in workplaces, except in separately ventilated areas.

Q: When will OSHA publish its rule? Why has OSHA spent so long working on this

proposal?

A: OSHA's April 4, 1994 proposal on indoor air quality evoked the largest public response in the agency's history, with more than 115,000 comments received when the comment period closed in August 1995. Public hearings began September 20, 1994 and ran until March 13, 1995, with more than 400 witnesses testifying. The post-hearing comment period ended January 16, 1996. OSHA is continuing to review the comments and testimony from concerned Americans before proceeding. This process was slowed significantly throughout Fiscal Years 1995 and 1996, due to the uncertainty surrounding OSHA's budget; this period included hiring freezes, staff cutbacks, and the government shutdown. OSHA is working hard to complete the rule, but has not set a release date.

HEALTH EFFECTS OF ENVIRONMENTAL TOBACCO SMOKE**Q: What are the health effects of environmental tobacco smoke (ETS)?**

A: ETS causes disease in healthy nonsmokers and is a major source of harmful indoor air pollution.

The Environmental Protection Agency (EPA) has concluded that ETS is responsible for approximately 3,000 lung cancer deaths each year in nonsmoking adults. ETS also threatens the health of hundreds of thousands of children with asthma and other respiratory illnesses. Similar findings were made previously by the National Academy of Sciences, the Surgeon General, and the National Institute for Occupational Safety and Health.

A recent, well-received study by Harvard researchers (Kawachi et al., 1997) found that regular exposure among healthy, nonsmoking women to environmental tobacco smoke at home or at work increased their risk of coronary heart disease 91%. Even occasional exposure increased their risk by as much as 58%. The increased risk for heart disease is generally estimated at 30%. Further studies on the relationship between involuntary smoking and cardiovascular disease are needed in order to conclusively determine the causal relationship between involuntary smoking and cardiovascular disease.

Q: Haven't the EPA's numbers been largely discredited?

A: Absolutely not. The EPA's report was the subject of an extensive open review both by the public and by EPA's Science Advisory Board (SAB), a panel of independent scientific experts. The panel concurred in the methodology and unanimously endorsed the conclusions of the final report. The report has also been endorsed by the U.S. Department of Health and Human Services and many major health organizations.

Q: Do you have estimates of the total costs to society related to exposure to

environmental tobacco smoke?

A: Such estimates are not available for environmental tobacco smoke exposure -- only for active smoking. Direct medical costs associated with smoking are estimated at \$50 billion per year. In 1990, the estimated indirect losses associated with premature morbidity and premature mortality from direct smoking were \$6.9 billion and \$40.3 billion, respectively.

Q: How many people are exposed to environmental tobacco smoke in the workplace?

A: In 1996, the Centers for Disease Control and Prevention (CDC) concluded that the workplace, in addition to the home environment, are significant sources of ETS exposure in the U.S. Of working adults who were non-tobacco users, 47.7% reported exposure to ETS at home or at work. Among adult non-tobacco users, the prevalence of reported exposure to ETS at work was greater than reported exposure to ETS at home. These findings support previous studies that have indicated the workplace is a major source of ETS exposure, particularly among nonsmokers who are not exposed at home.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 8/4 ACTION/CONCURRENCE/COMMENT DUE BY: 8/6SUBJECT: Proposed Executive Order - Smoking in the Federal Workplace

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☒	☐
RAINES	☐	☐	RUFF	☒	☐
BAER	☐	☐	SMITH	☐	☐
8/6/97 BERGER concur - attached	☒	☐	SOSNIK	☒	☐
ECHAVESTE	☐	☐	SPERLING	☐	☐
EMANUEL 8/4 by tel. concur	☒	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☒	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☒	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☒	☐	<u>Kagan</u>	☒	☐
LINDSEY	☐	☐	_____	☐	☐
MARSHALL	☒	☐	_____	☐	☐
			_____	☐	☐

REMARKS:

To be signed in conjunction with radio address -- any comment?

RESPONSE:

EXECUTIVE ORDER

PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to protect Federal Government employees and members of the public from exposure to tobacco smoke in the federal workplace, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Executive branch to establish a smoke-free environment for federal employees and members of the public visiting or using federal facilities. The smoking of tobacco products is thus prohibited in all interior space owned, rented, or leased by the Executive branch of the Federal Government, and all outdoor areas under Executive branch control at entrances of federal buildings, at air intake ducts, or within courtyards.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions:

- (a) The order does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.
- (b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.
- (c) The order does not extend to federally-owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.
- (d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more federal employees.
- (e) The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exception shall be in writing,

approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

Sec. 3. Smoking cessation programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 4. Responsibility for implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the Legislative and Judicial branches. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 5. Phase-In of implementation. Implementation of the policy set forth in this order shall be achieved no later than one year after issuance of this order. This one year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to Executive branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

Sec. 6. Consistency with other laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 et seq.) and the National Labor Relations Act (29 U.S.C. 151 et seq.) Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies are required to review their current policy to confirm that agency policy comports with this order. Agency policies found not in compliance shall be revised to comply with the terms of this order.

Sec. 7. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or

affect in any way the liability of the Executive branch under the Federal Tort Claims Act.

Sec. 8. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the federal workplace for employees and members of the public visiting or using federal facilities.

THE WHITE HOUSE,

EXECUTIVE ORDER

PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE

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- (b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.
- (c) The order does not extend to federally-owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.
- (d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more federal employees.
- (e) The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exception shall be in writing,

approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

Sec. 3. Smoking cessation programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 4. Responsibility for implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the Legislative and Judicial branches. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 5. Phase-In of implementation. Implementation of the policy set forth in this order shall be achieved no later than one year after issuance of this order. This one year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to Executive branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

Sec. 6. Consistency with other laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 et seq.) and the National Labor Relations Act (29 U.S.C. 151 et seq.) Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies are required to review their current policy to confirm that agency policy comports with this order. Agency policies found not in compliance shall be revised to comply with the terms of this order.

Sec. 7. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or

affect in any way the liability of the Executive branch under the Federal Tort Claims Act.

Sec. 8. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the federal workplace for employees and members of the public visiting or using federal facilities.

THE WHITE HOUSE,

White House

MEMORANDUM FOR THE FILE

FROM: Mac Reed *MR* 7-29-97
Assistant General Counsel

SUBJECT: Proposed Executive Order Entitled "Protecting Federal Employees from Exposure to Tobacco Smoke in the Federal Workplace"

The following Executive departments and agencies do not object to the proposed Executive order:

- 1. Department of Defense S. Brick (703-697-1305)
- 2. Department of Agriculture G. Broadway (720-1272)
- 3. Department of Justice R. Hart (514-2027)
- 4. Department of Commerce M. Levitt (482-3151)
- 5. Department of Transportation T. Herlihy (366-4687)
- 6. Department of the Interior J. Bishop (208-6193)
- 7. Department of State J. Norton (647-4463)
- 8. Department of the Treasury R. Carro (622-1146)
- 9. Department of Housing and Urban Development J. Lisher (708-1793)
- 10. Department of Labor D. Crone (219-8106)
- 11. Department of Education J. Kristy (401-8313)
- 12. Department of Health and Human Service E. Bradley (619-0178)
- 13. Department of Energy J. Mahaley (586-8618)
- 14. Department of Veterans Affairs P. Hagle (273-6666)
- 15. Central Intelligence Agency D. Eilenberger (703-874-3100)

16. General Services Administration B. Robinson (510-3956)
17. Office of Personnel Management J. Woodruff (606-1424)
18. Office of Science and Technology Policy J. Gibbons (456-7116)
19. Environmental Protection Agency G. Yamada (260-8064)
20. White House Office on Domestic Policy B. Reed (456-6515)
21. Council on Environmental Quality K. McGinty (456-6224)
22. National Security Council J. Baker (456-9111)
23. White House Counsel's Office C. Ruff (456-2632)



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 18, 1997

MEMORANDUM FOR DESIGNATED AGENCY HEADS
(SEE ATTACHED DISTRIBUTION LIST)

FROM: Mac Reed *WR*
Assistant General Counsel

SUBJECT: Proposed Executive Order Entitled "Smoking in the Federal Workplace"

Attached is a proposed Executive order entitled "Smoking in the Federal Workplace."

It was prepared by the Department of Health and Human Services, in accordance with the provisions of Executive Order No. 11030, as amended.

On behalf of the Director of the Office of Management and Budget, I would appreciate receiving any comments you may have concerning this proposal. If you have any comments or objections, they should be received no later than close of business Friday, July 18, 1997. Please be advised that agencies that do not respond by the July 18, 1997 deadline will be recorded as not objecting to the proposal.

Comments or inquiries may be submitted by telephone to me (Phone: 395-3563; Fax: 395-7294).

Thank you.

Attachments - Distribution List
Proposed Executive Order

cc: Jack Lew
Josh Gotbaum
Gordon Adams
T.J. Glauthier
Joe Minarik
Ken Apfel
Sally Katzen
Steve Kelman
Ed DeSeve
Michael Deich
Bill Halter
Jill Blickstein

DISTRIBUTION LIST

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Secretary
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Honorable Robert E. Rubin
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Honorable Daniel R. Glickman
Secretary
Department of Agriculture

Honorable Andrew Cuomo
Secretary
Department of Housing and Urban Development

Honorable Janet Reno
United States Attorney General

Honorable William M. Daley
Secretary
Department of Commerce

Honorable Rodney Slater
Secretary
Department of Transportation

Honorable Bruce Babbitt
Secretary
Department of the Interior

Honorable Alexis Herman
Secretary
Department of Labor

Honorable Richard W. Riley
Secretary
Department of Education

Honorable Donna E. Shalala
Secretary
Department of Health and Human Services

Honorable Federico Pena
Secretary
Department of Energy

Honorable Jesse Brown
Secretary
Department of Veterans Affairs

Honorable Carol M. Browner
Administrator
Environmental Protection Agency

Honorable George Tenet
Acting Director
Central Intelligence Agency

Honorable David J. Barram
Administrator
General Services Administration

Honorable Daniel S. Goldin
Administrator
National Aeronautics and Space Administration

Honorable James B. King
Director
Office of Personnel Management

Honorable Bruce Reed
Assistant to the President for
Domestic Policy

Honorable Kathleen McGinty
Chair
Council on Environmental Quality

Honorable John Gibbons
Assistant to the President and Director
Office of Science and Technology Policy

Honorable Charles Ruff
Counsel to the President

Honorable Todd Stern
Assistant to the President
and Staff Secretary

Honorable Ron Klain
Chief of Staff to the Vice President

EXECUTIVE ORDER

SMOKING IN THE FEDERAL WORKPLACE

Employees of the Federal Government and members of the public visiting or using federal facilities should be protected from exposure to environmental tobacco smoke. The health risks of smoking and exposure to smoke are clearly documented by reports of the Department of Health and Human Services and of the Environmental Protection Agency (EPA). In 1986, the U.S. Surgeon General concluded that exposure to environmental tobacco smoke (ETS) was a cause of lung cancer in otherwise healthy nonsmokers. In 1993, the U.S. Environmental Protection Agency confirmed this finding and categorized ETS as a Group A carcinogen, meaning that it was a known cancer-causing agent in humans. Since these reports, numerous studies have linked ETS exposure to various illnesses including asthma and heart disease. IN fact, two recent studies found that exposure to secondhand smoke increased the risk of death from heart disease. The number of nonsmokers who die from exposure to ETS has been estimated to be as high as 56,000 each year. The evidence indicates that smoking is a preventable cause of diseases; exposure to environmental tobacco smoke is a cause of diseases, including lung cancer, in exposed persons, including healthy nonsmokers; and the simple separation of smokers and nonsmokers within the same air space does not eliminate the exposure of nonsmokers to environmental tobacco smoke.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Executive Branch to establish a smoke-free environment for federal employees and members of the public visiting or using federal facilities. The smoking of tobacco products is thus prohibited in all interior space owned, rented or leased by the Executive Branch of the Federal Government, except as otherwise provided in this order.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions.

- (a) The order does not apply in designated smoking areas which are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient

to contain tobacco smoke within the designated area. Employers shall not require workers to enter such areas during business hours while smoking is ongoing.

- (b) The order does not extend to outdoor areas under Executive Branch control except within 50 feet of the entrance of federal buildings, within 50 feet of air intake ducts or within courtyards.
- (c) The order does not extend to any enclosed residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the federal government.
- (d) The order does not extend to federally-owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.
- (e) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more federal employees.
- (f) The head of any agency may establish limited and narrow exceptions which are essential to accomplish agency missions. Such exception shall be in writing, approved by the agency head and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to approve such exceptions may not be delegated.

Sec. 3. Responsibility for Implementation of Order. The heads of agencies of the Executive Branch are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive Agency, as defined in 5 U.S.C. 105, and any employing unit or authority of the Federal Government, other than those of the Legislative and Judicial Branches.

Sec. 4. Phase-In of Implementation of Order. Implementation of the policy set forth in this order shall be achieved no later than one year after issuance of this order. This one year phase-in is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to Executive

Branch facilities about the requirements of this order and the health risks of exposure to environmental tobacco smoke, and to undertake related activities as necessary. All heads of agencies should consult with employee representatives about the implementation of this order.

Sec. 5. Consistency with Other Law. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq., the National Labor Relations Act 29 U.S.C. 151 et seq. Nothing herein shall be construed to impair or alter the powers and duties of federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this Executive Order. Agencies are required to review their current policy to confirm that agency policy comports with this Executive Order. Agency policies found not in compliance shall be revised to comply with the terms of this Executive Order.

Sec. 6. Cause of Action. Nothing in this order shall be construed to create a new cause of action against the United States, or to affect in any way the liability of the Executive branch under the Federal Tort Claims Act.

Sec. 7. Construction. Nothing in this order shall limit an agency head from establishing more protective policies for employees and members of the public visiting or using federal facilities.

THE WHITE HOUSE,



Assistant Secretary for Health
Office of Public Health and Science
Washington D.C. 20201

MEMORANDUM FOR THE PRESIDENT

I respectfully submit for your consideration a proposed Executive Order to prohibit smoking in federal executive branch facilities.

Strong scientific evidence documents that exposure to environmental tobacco smoke (ETS) is a serious risk to health. ETS is a known cause of diseases, including lung cancer, in healthy nonsmokers and is a major source of harmful indoor air pollution. ETS is responsible for approximately 3,000 lung cancer deaths each year in nonsmoking adults. ETS also threatens the health of hundreds of thousands of children with asthma and other respiratory illnesses.

Major scientific reports of the Department of Health and Human Services (HHS 1986, 1991, 1996, 1997) and the Environmental Protection Agency (EPA 1993) document these findings. HHS, EPA, and most recently the Department of Labor (DOL), recommend that smoking either be prohibited indoors, or be permitted indoors only in separately-ventilated areas. Protecting nonsmokers from the health consequences of ETS exposure is the primary goal of restrictions on smoking in the workplace.

Our Administration has supported and advocated eliminating indoor exposure to ETS. The most far-reaching effort is DOL's proposed occupational standard to eliminate ETS exposure in virtually all workplaces nationwide. During the 103rd Congress the Administration also supported legislation (H.R. 3434) to prohibit ETS exposure in public buildings and on March 31, 1994 you signed P.L. 103-227, the "Goals 2000: Educate America Act" which prohibited smoking in federally-funded children's services facilities, including most elementary and secondary schools.

Existing General Services Administration (GSA) regulations on this subject were published seven years before the EPA report. The GSA regulations apply to approximately 10 percent of federal domestic facilities and do not cover those federal buildings which are under the control of federal departments and agencies with statutory real property authority. The 1986 GSA rules permit smoking in areas designated by agency heads and do not require that such areas be ventilated separately.

Mr. President, the simple separation of smokers and nonsmokers within the same airspace does not eliminate ETS exposure. As a result, many federal agencies are not now smokefree and federal workers and visitors to federal buildings are exposed unnecessarily to ETS. In view of

the solid science base and the Administration's public commitment to reducing ETS exposure, it seems inadvisable to continue to permit smoking in federal indoor workplaces.

The Executive Branch has legal authority and strong scientific justification to move ahead to prohibit smoking in federal workplaces. The most expedient mechanism to announce and implement an Executive Branch smoke-free workplace policy would be a Presidential Executive Order. An Executive Order would apply more broadly and could be implemented more quickly than other approaches.

The issuance of an Executive Order would produce substantial savings rather than costs. The federal Government would be promoting the health of its employees while saving money due to reduced sick days, building maintenance, and furniture and carpet replacement. Some studies estimate conservatively that smoking in the workplace costs employers one thousand dollars annually for each employee who smokes. As the nation's largest employer, the issuance of an Executive Order to protect worker health would set an important example to other employers considering adopting smokefree policies.

A proposed Executive Order is attached for your consideration.



Donna E. Shalala

Attachment

'97 AUG 6 10:40

WHITE HOUSE STAFFING MEMORANDUM

DATE: 8/4 ACTION/CONCURRENCE/COMMENT DUE BY: 8/6SUBJECT: Proposed Executive Order - Smoking in the Federal Workplace

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☒
BOWLES	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RADD	☐	☐
MATHEWS	☒	☐	REED	☒	☐
RAINES	☐	☐	RUFF	☒	☐
BAER	☐	☐	SMITH	☐	☐
BERGER	☒	☐	SOSNIK	☒	☐
ECHAVESTE	☐	☐	SPERLING	☐	☐
EMANUEL	☒	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☒	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☒	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☒	☐	<u>Kagan</u>	☒	☐
LINDSEY	☐	☐		☐	☐
MARSHALL	☒	☐		☐	☐
				☐	☐

REMARKS:

To be signed in conjunction with radio address -- any comment?

RESPONSE:

August 6, 1997

NSC concurs with the proposed Executive Order "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace."

for Glen T. Davies
Executive Secretary

Staff Secretary
Ext. 6-2702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'97 JUL 31 PM 7:30

THE DIRECTOR

July 31, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Franklin D. Raines 
Director

SUBJECT: Proposed Executive Order Entitled "Protecting Federal Employees and the Public from Exposure to Tobacco Smoke in the Federal Workplace"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was prepared by the Department of Health and Human Services. The proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government.

BACKGROUND: The health risks of smoking and exposure to smoke are documented by reports of the Department of Health and Human Services, the Environmental Protection Agency, and the United States Surgeon General. The evidence indicates that smoking is a preventable cause of diseases and that exposure to tobacco smoke is a cause of diseases. To protect Federal Government employees and members of the public using federal facilities from exposure to tobacco smoke, the proposed Executive order would take certain actions to prohibit smoking in all interior spaces controlled by the Executive branch of the Federal Government.

Specifically, the proposed order would prohibit the smoking of tobacco products in all interior space owned, rented or leased by the Executive branch of the Federal Government, subject to several exceptions. The order would not apply to residential accommodations for persons in federally-owned buildings. It would not apply to federally-owned buildings, leased, rented or provided in their entirety to nonfederal parties. It would not apply to places of employment in the private sector or in other nonfederal governmental units that serve as duty stations for federal employees. It would give agency heads the authority to establish limited and narrow exceptions to the order as necessary to accomplish agency missions.

None of the affected agencies objects to the proposed Executive order.

RECOMMENDATION: I recommend that you sign the proposed Executive order.

Attachment

EXECUTIVE ORDER

PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to protect Federal Government employees and members of the public from exposure to tobacco smoke in the federal workplace, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Executive branch to establish a smoke-free environment for federal employees and members of the public visiting or using federal facilities. The smoking of tobacco products is thus prohibited in all interior space owned, rented, or leased by the Executive branch of the Federal Government, and all outdoor areas under Executive branch control at entrances of federal buildings, at air intake ducts, or within courtyards.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions:

- (a) The order does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.
- (b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.
- (c) The order does not extend to federally-owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.
- (d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more federal employees.
- (e) The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exception shall be in writing,

approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

Sec. 3. Smoking cessation programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 4. Responsibility for implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the Legislative and Judicial branches. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 5. Phase-In of implementation. Implementation of the policy set forth in this order shall be achieved no later than one year after issuance of this order. This one year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to Executive branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

Sec. 6. Consistency with other laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 et seq.) and the National Labor Relations Act (29 U.S.C. 151 et seq.) Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies are required to review their current policy to confirm that agency policy comports with this order. Agency policies found not in compliance shall be revised to comply with the terms of this order.

Sec. 7. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or

affect in any way the liability of the Executive branch under the Federal Tort Claims Act.

Sec. 8. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the federal workplace for employees and members of the public visiting or using federal facilities.

THE WHITE HOUSE,

EXECUTIVE ORDER

PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to protect Federal Government employees and members of the public from exposure to tobacco smoke in the federal workplace, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Executive branch to establish a smoke-free environment for federal employees and members of the public visiting or using federal facilities. The smoking of tobacco products is thus prohibited in all interior space owned, rented, or leased by the Executive branch of the Federal Government, and all outdoor areas under Executive branch control at entrances of federal buildings, at air intake ducts, or within courtyards.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions:

- (a) The order does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.
- (b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.
- (c) The order does not extend to federally-owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.
- (d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more federal employees.
- (e) The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exception shall be in writing,

approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

Sec. 3. Smoking cessation programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

Sec. 4. Responsibility for implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the Legislative and Judicial branches. Independent agencies are encouraged to comply with the provisions of this order.

Sec. 5. Phase-In of implementation. Implementation of the policy set forth in this order shall be achieved no later than one year after issuance of this order. This one year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to Executive branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

Sec. 6. Consistency with other laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 et seq.) and the National Labor Relations Act (29 U.S.C. 151 et seq.) Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies are required to review their current policy to confirm that agency policy comports with this order. Agency policies found not in compliance shall be revised to comply with the terms of this order.

Sec. 7. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or

affect in any way the liability of the Executive branch under the Federal Tort Claims Act.

Sec. 8. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the federal workplace for employees and members of the public visiting or using federal facilities.

THE WHITE HOUSE,

EXECUTIVE ORDER

PROTECTING FEDERAL EMPLOYEES AND THE PUBLIC FROM EXPOSURE TO TOBACCO SMOKE IN THE FEDERAL WORKPLACE

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to protect Federal Government employees and members of the public from exposure to tobacco smoke in the federal workplace, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Executive branch to establish a smoke-free environment for federal employees and members of the public visiting or using federal facilities.

The smoking of tobacco products is thus prohibited in all interior space owned, rented, or leased by the Executive branch of the Federal Government, and all outdoor areas under Executive branch control at entrances of federal buildings, at air intake ducts, or within courtyards.

Sec. 2. Exceptions. The general policy established by this order is subject to the following exceptions: ?

- (a) The order does not apply in designated smoking areas that are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure (with respect to surrounding spaces) sufficient to contain tobacco smoke within the designated area. Agency officials shall not require workers to enter such areas during business hours while smoking is ongoing.
- (b) The order does not extend to any residential accommodation for persons voluntarily or involuntarily residing, on a temporary or long-term basis, in a building owned, leased, or rented by the Federal Government.
- ✓ (c) The order does not extend to federally owned buildings leased, rented, or otherwise provided in their entirety to nonfederal parties.
- ✓ (d) The order does not extend to places of employment in the private sector or in other nonfederal governmental units that serve as the permanent or intermittent duty station of one or more federal employees.
- ✓ (e) The head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions. Such exception shall be in writing,

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8-7-97

approved by the agency head, and to the fullest extent possible provide protection of nonsmokers from exposure to environmental tobacco smoke. Authority to establish such exceptions may not be delegated.

✓ Sec. 3. Smoking Cessation Programs. The heads of agencies are encouraged to use existing authority to establish programs designed to help employees stop smoking.

✓ Sec. 4. Responsibility for Implementation. The heads of agencies are responsible for implementing and ensuring compliance with the provisions of this order. "Agency" as used in this order means an Executive agency, as defined in 5 U.S.C. 105, and includes any employing unit or authority of the Federal Government, other than those of the ~~Legislative and Judicial~~ branches. Independent agencies are encouraged to comply with the provisions of this order.

✓ Sec. 5. Phase-In of Implementation. Implementation of the policy set forth in this order shall be achieved no later than ⁽¹⁾ ~~one~~ year after ^{the date} ~~issuance~~ of this order. This ⁽²⁾ ~~one~~ year phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Agency heads are directed during this period to inform all employees and visitors to ~~Executive~~ branch facilities about the requirements of this order, inform their employees of the health risks of exposure to environmental tobacco smoke, and undertake related activities as necessary.

✓ Sec. 6. Consistency with Other Laws. The provisions of this order shall be implemented consistent with applicable law, including the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 ^(italics) ~~et seq.~~) and the National Labor Relations Act (29 U.S.C. 151 ^(italics) ~~et seq.~~) Provisions of existing collective bargaining agreements shall be honored and agencies shall consult with employee labor representatives about the implementation of this order. Nothing herein shall be construed to impair or alter the powers and duties of federal agencies established under law. Nothing herein shall be construed to replace any agency policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of this order. Agencies ~~are~~ ^{shall} ~~required to~~ review their current policy to confirm that agency policy comports with this order, ^{and} ~~Agency policies found not in compliance shall be revised to comply with the terms of this order.~~

Sec. 7. Cause of Action. This order does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person or

affect in any way the liability of the Executive branch under the Federal Tort Claims Act.

Sec. 8. Construction. Nothing in this order shall limit an agency head from establishing more protective policies on smoking in the federal workplace for employees and members of the public visiting or using federal facilities.

THE WHITE HOUSE,

EXECUTIVE ORDER

Q: What will the executive order do?

A: The executive order announced today will prohibit smoking in federal executive branch facilities, with limited exceptions. Agencies may allow smoking in designated areas only if they are ventilated directly to the outside and maintained under negative pressure to keep smoke from entering other indoor areas.

Q: Does the order prohibit smoking in outdoor areas as well?

A: The order prohibits smoking in front of air intake ducts. It also directs the heads of federal agencies to evaluate the need to limit smoking at doorways and in courtyards.

Q: What are the exceptions to the executive order?

A: The order does not extend to any residential accommodations such as military housing or prisons. In addition, the head of any agency may establish limited and narrow exceptions that are necessary to accomplish agency missions, such as for undercover operations, certain military activities, or diplomatic situations.

Q: What facilities will this executive order cover?

A: All federal executive branch workplaces under federal control, including leased space. This includes office buildings, visitors' centers and restaurants in Federal Parks, and the growing number of One Stop Shops or U.S. General Stores which are centers where federal agencies gather together to provide services to the public.

Q: Does the executive order cover the Congress and courts as well?

A: No. Executive Orders only apply to agencies and employees of the Executive branch. The Congress and Judiciary are independent and separate branches of government. The Administration encourages Congress and the Judiciary to adopt measures that protect their employees and members of the public from the adverse health effects of environmental tobacco smoke.

Q: Will the executive order cover embassies and consulates abroad?

A: Yes.

Q: Does this executive order cover the military?

A: Yes. The military has been subject to a 1994 policy prohibiting smoking in all Department of Defense workplaces. The executive order announced today goes even further than the DOD policy, however, because it covers restaurants and recreational facilities.

Q: What changes will DOD make to their current policy which allows smoking in residences, prisons, clubs, restaurants, bowling alleys, and other recreational facilities?

A: DOD understands the grave health risks posed by ETS. The agency improved its smoking policy in March 1994 to make all DOD workplaces smoke-free. The exceptions for smoking in residential and prison accommodations will continue to be appropriate under the EO. DOD is concerned about the exposure of nonsmoking personnel to ETS in their recreational facilities and will use part of the year-long implementation period to consult with personnel in charge of these facilities about ways of reducing their patrons' exposure to ETS.

Q: How will the EO be enforced?

A: Facility managers in GSA regional offices will administer the EO, and OSHA will enforce it.

Q: Why did it take you so long to issue this order?

A: We have made a lot of progress without the executive order. Over 15 agencies have smoking bans, including the White House and the Department of Health and Human Services. But the evidence that ETS is harmful continues to grow, and not all agencies have comprehensive policies. That is why the President is acting today.

Q: Why is it necessary to ban smoking in federal work areas? Aren't separate smoking areas sufficient?

A: The simple separation of smokers and nonsmokers within the same airspace reduces but does not eliminate exposure to environmental tobacco smoke. Separate smoking areas are only acceptable if they are enclosed and exhausted directly to the outside and away from air intake ducts, and are maintained under negative pressure with respect to surrounding spaces.

Q: What is the cost to the government of the EO?

A: GSA expects that the cost of complying with the EO will be minimal. Agencies may incur costs associated with improving ventilation. But prohibiting smoking in workplaces lowers employers' expenditures on health and life insurance, workers' compensation, property damage and maintenance, and employee absenteeism.

Q: How many federal agencies already have no smoking policies?

A: Nearly every federal agency has a policy in place that is designed to minimize exposure to second-hand smoke in the workplace. In 1995, GSA issued the most recent regulations requiring agencies to minimize environmental tobacco smoke exposures in GSA-owned and -leased properties, which amount to about 40% of federal office space. But many agencies will have to upgrade their protections of nonsmokers in order to comply with the EO requirements, such as separate ventilation systems for any smoking areas.

Q: How is this executive order different from the existing GSA regulation?

A: The GSA rule requires the designation of smoking areas within workplaces, but is not as protective as the EO. For example, it does not ensure that smoking areas will be separately ventilated to the outside. And the EO applies to all facilities under Executive Branch control, whereas the GSA regulation applies only to GSA-owned or -leased buildings.

Q: What is the benefit of this executive order if most federal buildings are already smoke-free?

A: Although over 15 agencies are smoke-free, including the White House and the Department of Health and Human Services, more than half of the 1.9 million Federal Executive Branch employees work in agencies that will have to strengthen their policies. Some agencies such as the Department of Transportation limit smoking to smoking lounges that may not meet the strict ventilation requirements of the EO. Other agencies such as the Departments of Energy and Housing and Urban Development currently allow smoking areas in restrooms, offices, or other spaces used concurrently by smokers and nonsmokers. They will have to make these areas smoke-free.

Q: Does the EO require agencies to aid smoking employees in the transition to more smoke-free workplaces by offering them cessation programs?

A: The EO encourages Agency Heads to offer smoking cessation programs. In the past, upon implementing more protective smoking policies, the majority of federal agencies have offered some type of cessation program at agency cost or for a nominal fee.

Q: Is there a government-wide policy on smoking cessation programs in Federal agencies?

A: While there is no requirement that agencies establish such programs, the Office of Personnel Management (OPM) supports and encourages agency-authorized programs aimed at health promotion and disease prevention, including smoking cessation programs. OPM assists agencies in establishing or locating programs designed to help employees stop smoking.

Q: Do federal employees' health insurance plans cover smoking cessation assistance?

A: The government provides health services to 10 million federal employees, retirees, and their families through 375 health benefit plans. Individual plan coverage to aid members in smoking cessation varies. Federal employees should refer to their plan brochure for specific coverage information.

Generally, fee-for-service plans cover up to \$100 towards the cost of enrollment in one smoking cessation program per member per lifetime after the calendar year deductible has been met. Many fee-for-service plans also cover the cost of smoking cessation drugs that require a prescription; some cover the cost of non-prescription drugs as a part of the \$100 lifetime benefit to aid in smoking cessation.

Benefits in Health Maintenance Organizations (HMO's) vary greatly; the Prescription Drugs Benefits section of each plan's brochure specifies whether drugs to aid in smoking cessation are covered or excluded. Generally, members must contact their HMO to find out whether classes are offered for smoking cessation and whether they require any payment by the member.

Q: What other steps have you taken to reduce American's exposure to environmental tobacco smoke?

A: In 1993, the Administration supported legislation (H.R. 3434) to extend ETS workplace protection to most workers. And, in 1994, President Clinton signed into law the "Goals 2000: Educate America Act," legislation that prohibited smoking in Federally-funded children's services facilities, including most elementary and secondary schools.

The Administration has also vigorously pursued a research agenda that has exposed environmental tobacco smoke as a cause of lung cancer, a risk factor for coronary heart disease in adult nonsmokers, and a cause of respiratory disease in hundreds of thousands of children.

Q: Would the proposed settlement with the tobacco industry have any impact on workplace smoking?

A: The proposed settlement includes far-reaching provisions to protect workers and the public from ETS. The settlement would restrict indoor smoking in "public facilities," including most private and public workplaces and fast-food restaurants. Certain facilities, such as bars, clubs, prisons, and casinos, would be exempt. The specifics of the settlement provisions will be carefully evaluated during the Administration's formal review of the proposed settlement led by Secretary Shalala and Domestic Policy Advisor Bruce Reed.

Q: Workers from a number of federal agencies recently staged a rally to bring attention to the issue of Sick Building Syndrome, Multiple Chemical Sensitivity, and other indoor air pollution issues. Is the Federal government going to respond to these concerns as well as ETS?

A: We are going to respond to the best of our ability. EPA has published guidance for offices, school, and homes. Several federal agencies, including EPA, OSHA, and the Public Health Service, are working with the private sector to better understand the health risks of indoor air pollutants.

Q: Isn't OSHA planning to issue a regulation on ETS?

A: OSHA has been working on a rule that addresses environmental tobacco smoke and other indoor air pollutants. With respect to ETS, OSHA's rule would require federal and private employers to prohibit smoking in workplaces, except in separately ventilated areas.

Q: When will OSHA publish its rule? Why has OSHA spent so long working on this proposal?

A: OSHA's April 4, 1994 proposal on indoor air quality evoked the largest public response in the agency's history, with more than 115,000 comments received when the comment period closed in August 1995. Public hearings began September 20, 1994 and ran until March 13, 1995, with more than 400 witnesses testifying. The post-hearing comment period ended January 16, 1996. OSHA is continuing to review the comments and testimony from concerned Americans before proceeding. This process was slowed significantly throughout Fiscal Years 1995 and 1996, due to the uncertainty surrounding OSHA's budget; this period included hiring freezes, staff cutbacks, and the government shutdown. OSHA is working hard to complete the rule, but has not set a release date.

HEALTH EFFECTS OF ENVIRONMENTAL TOBACCO SMOKE

Q: What are the health effects of environmental tobacco smoke (ETS)?

A: ETS causes disease in healthy nonsmokers and is a major source of harmful indoor air pollution.

The Environmental Protection Agency (EPA) has concluded that ETS is responsible for approximately 3,000 lung cancer deaths each year in nonsmoking adults. ETS also threatens the health of hundreds of thousands of children with asthma and other respiratory illnesses. Similar findings were made previously by the National Academy of Sciences, the Surgeon General, and the National Institute for Occupational Safety and Health.

A recent, well-received study by Harvard researchers (Kawachi et al., 1997) found that regular exposure among healthy, nonsmoking women to environmental tobacco smoke at home or at work increased their risk of coronary heart disease 91%. Even occasional exposure increased their risk by as much as 58%. The increased risk for heart disease is generally estimated at 30%. Further studies on the relationship between involuntary smoking and cardiovascular disease are needed in order to conclusively determine the causal relationship between involuntary smoking and cardiovascular disease.

Q: Haven't the EPA's numbers been largely discredited?

A: Absolutely not. The EPA's report was the subject of an extensive open review both by the public and by EPA's Science Advisory Board (SAB), a panel of independent scientific experts. The panel concurred in the methodology and unanimously endorsed the conclusions of the final report. The report has also been endorsed by the U.S. Department of Health and Human Services and many major health organizations.

Q: Do you have estimates of the total costs to society related to exposure to environmental tobacco smoke?

A: Such estimates are not available for environmental tobacco smoke exposure -- only for active smoking. Direct medical costs associated with smoking are estimated at \$50 billion per year. In 1990, the estimated indirect losses associated with premature morbidity and premature mortality from direct smoking were \$6.9 billion and \$40.3 billion, respectively.

Q: How many people are exposed to environmental tobacco smoke in the workplace?

A: In 1996, the Centers for Disease Control and Prevention (CDC) concluded that the workplace, in addition to the home environment, significantly contributes to ETS exposure in the U.S. Of working adults who were non-tobacco users, 47.7% reported exposure to ETS at home or at work. Among adult non-tobacco users, the prevalence of reported exposure to ETS at work was greater than reported exposure to ETS at home. These findings support previous studies that have indicated the workplace is a major source of ETS exposure, particularly among nonsmokers who are not exposed at home.

President Clinton Issues Executive Order to Protect Federal Employees from Environmental Tobacco Smoke

August 9, 1997

President Clinton signed an executive order that will ban smoking in all federal Executive Branch facilities, except in limited circumstances. Today's action is an important step to protect the health of federal employees, and the members of the public who visit or use federal facilities, from the health risks of environmental tobacco smoke (ETS).

Making Federal Facilities Smoke-Free

Federal agencies' smoking policies vary, and many must be strengthened to fully protect federal workers and visitors from ETS exposure. Over 15 federal agencies ban smoking indoors. But many agencies still allow smoking in areas where non-smokers and visitors may be exposed to ETS. The President's Executive Order:

- o Prohibits smoking in interior space owned, rented, or leased by the Executive Branch of the federal government, such as office space and National Park Service visitors' centers, except in limited circumstances.
- o Allows agencies to have indoor designated smoking areas that are enclosed and exhausted directly to the outside. Agency heads may not require workers to enter such areas during business hours while smoking is occurring.
- o Prohibits smoking in front of building air intake ducts in outside areas under the federal government's control.
- o Directs agency heads to evaluate the need to limit smoking at doorways and in courtyards.
- o Requires heads of Executive Branch agencies to implement the order within one year, and encourages agencies to offer smoking cessation assistance to their workforce.

Implementing Strong, Science-Based Measures

Strong scientific evidence documents that exposure to ETS is a serious health risk:

- o ETS is a known cause of lung cancer in healthy non-smokers, and is associated with increases in death rates from cardiovascular disease in non-smokers.
- o The Environmental Protection Agency (EPA) estimates that ETS is responsible for about 3,000 lung cancer deaths each year in nonsmoking adults.
- o Environmental tobacco smoke also threatens the health of hundreds of thousands of children with asthma and other respiratory illnesses.
- o In 1986 the Surgeon General found that simple separation of smokers and nonsmokers within the same airspace may reduce but does not eliminate ETS exposure to nonsmokers.

Building on the President's Record

In August, 1996 President Clinton announced a comprehensive Food and Drug Administration rule to protect children from tobacco. The regulation seeks to reduce children's tobacco use by 50% over seven years by restricting children's access to cigarettes and smokeless tobacco and by reducing the products' appeal. Two provisions of the rule are already in effect:

- o Retailers are prohibited from selling cigarettes and smokeless tobacco products to anyone under age 18;
- o Retailers must verify age by photo ID for anyone under the age of 27 purchasing these