

THE WHITE HOUSE

WASHINGTON

March 23, 1978

Dear Mr. Chairman:

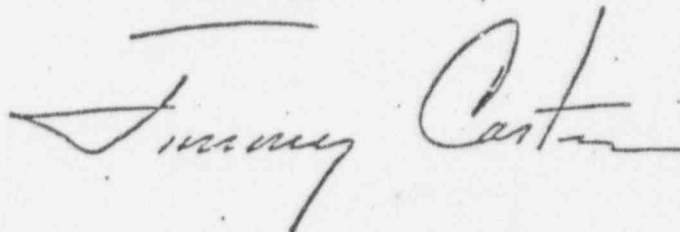
Today I issued an Executive Order to improve government regulations. This Order will open up new opportunities for public participation in the regulatory process, require regulations to be clearer and more understandable, and assure more effective oversight of the development of agency regulations.

I believe that this effort is one of the most important reform initiatives to be undertaken by my Administration. I have asked the members of the Cabinet and other agency heads to give personal priority and attention to implementing the Order. To be fully effective and achieve the full range of needed improvements, I believe that it would be useful for the independent regulatory commissions to initiate a voluntary effort to achieve similar procedural reforms.

As you know, public comment on whether or not to apply these procedures to independent regulatory agencies was specifically sought in the November 18, 1977 notice in the Federal Register. The overwhelming response was that these agencies should adopt the provisions of the Order. The public is seeking a change. They are encouraging us to seek new approaches to the way in which government regulates. They point out that if regulations were simpler, less burdensome, and more clearly understandable, people would be better able to comply with them.

I believe that the new spirit of openness, simplicity and clarity advocated in this Executive Order responds to the public's concerns. I know that many important reforms are already underway in the independent agencies and I believe that the requirements of the Order complement these efforts. I am asking you as Chairman of your agency to initiate your own program to incorporate the provisions of the Order. In addition, it would be useful for you to report progress on your efforts to the Congress and to me by June 30, 1978. I look forward to reviewing these reports.

Sincerely,



The Honorable Joseph Mallam Hendrie  
Chairman  
Nuclear Regulatory Commission  
Washington, D.C. 20555

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

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February 2, 1981

M-81-6

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

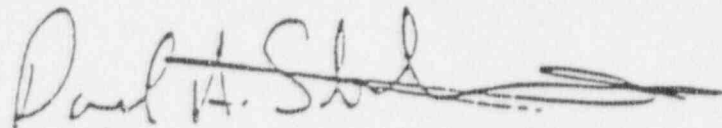
SUBJECT: Legislative Coordination and Clearance

This is to call your attention to the Executive branch's legislative coordination and clearance process and to request that incoming policy officers of the new Administration be thoroughly briefed on this subject.

The attached paper sets forth the major elements and the essential purposes of the clearance process. Office of Management and Budget Circular No. A-19 presents in detail the requirements and procedures for the coordination and clearance by OMB of Executive agency recommendations on proposed, pending, and enrolled legislation.

I want to stress the importance of adherence to the requirements of the clearance process so that it will serve the needs of the President by assuring that agency legislative proposals and recommendations are consistent with his policies and programs. I also want to emphasize the need for timeliness. Agency legislative proposals and reports and testimony on pending legislation should be submitted to OMB as far in advance as feasible of the date on which they need to be cleared in order to allow sufficient time for their review and coordination with other agencies.

In that connection, we want to have transmitted to Congress as promptly as possible all proposed legislation necessary to support the President's economic policy and the 1982 Budget as revised by this Administration. As decisions are made on these matters, you should give top priority to submitting draft legislation to OMB for review and clearance. My staff will be in touch with yours on scheduling details.

  
David A. Stockman  
Director

Attachment

Feb. 10  
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## THE LEGISLATIVE CLEARANCE FUNCTION

This paper briefly describes the major elements of the legislative clearance function which the Office of Management and Budget (OMB), working with other elements of the Executive Office of the President and with the agencies, carries out on behalf of the President. The function is designed to serve the needs of the President in carrying out his legislative responsibilities.

### Background

The President's legislative responsibilities are founded in his constitutional duties and powers to: (1) require the opinion in writing of the principal officer in each of the Executive departments, (2) take care that the laws are faithfully executed, (3) give the Congress information on the State of the Union, (4) recommend to the Congress such measures as he judges necessary, (5) approve or disapprove bills passed by the Congress, and (6) convene either or both Houses of Congress.

The legislative clearance function originated in the early 1920's in the Administration of President Harding. It grew out of the control over the budget given to the President by the Budget and Accounting Act of 1921. In its initial years, the clearance function was largely confined to bills involving expenditures, but it was later extended by President Roosevelt to all bills. A detailed description of the development of the legislative clearance function is contained in an article by Richard Neustadt, "The Growth of Central Clearance," in the American Political Science Review of September 1954.

OMB Circular A-19 sets forth the basic guidelines and procedures for carrying out the function. These procedures have been substantially the same for more than 40 years.

### Description of Current Clearance Procedures

The clearance function covers agency legislative proposals, agency reports and testimony on pending legislation, and enrolled bills.

Legislative Proposals -- All bills that Executive agencies wish to transmit to the Congress are sent to OMB for clearance. There they are reviewed and a determination is made on what additional data and information are needed and what other agencies have substantial interests and should be asked to comment.

Agencies whose views are asked may favor a draft bill or have no objection. It is likely, however, that one or more of them will propose substantive or technical amendments, or perhaps a complete substitute. Divergent views may be reconciled by telephone or by letter. If appropriate, a meeting of the interested agencies will be arranged by OMB staff.

After review, analysis, resolution of issues, and obtaining appropriate policy guidance, OMB advises the proposing agency that (1) there is "no objection" from the standpoint of the Administration's program to the submission of the proposed draft bill to the Congress, (2) the proposed bill is "consistent with the Administration's objectives," or (3) the proposed bill is "in accord with the President's program." This "advice" is conveyed by the submitting agency to the Congress in its transmittal letter. On the other hand, if the agency is advised that its proposed bill conflicts with an important Administration objective, or is not in accord with the President's program, it may not transmit the bill to the Congress. Draft bills in the first category, i.e., "no objection" bills, are normally considered part of the agency's legislative program as contrasted to the President's legislative program which consists of bills in the second and third category.

The above are simply illustrative of the range of advice given, and there are many possible variations or qualifications, including suggested amendments to eliminate other agencies' objections.

Reports on Pending Legislation. -- If agencies are asked by congressional committees to report or testify on pending legislation or wish to volunteer a report, similar clearance procedures are followed. Agencies are given "advice" which they transmit in their reports or include in their testimony. In the case of reports, however, receipt of advice contrary to the views expressed in the proposed report does not require an agency to change its views, but the agency is expected to review its position.

Enrolled Bills -- After Congress has completed action on a bill, it is enrolled and sent to the President for his approval or disapproval. The Constitution provides that the President shall take action within 10 days after receipt of the bill, not including Sundays.

To assist the President in deciding his course of action on a bill, OMB requests each interested agency to submit within 48 hours its analysis and recommendation in a letter to OMB, signed by the head of the agency or other Presidential



appointee. OMB prepares a memorandum to the President on the enrolled bill which transmits these views letters and summarizes the issues and various views and recommendations. If an agency recommends disapproval or a signing statement, it is responsible for preparing a draft of an appropriate statement for the President's consideration.

Volume of Activity -- During the 95th Congress, 19,387 bills and joint resolutions were introduced in the two Houses. The agencies submitted to OMB for clearance approximately 7,000 proposed reports on bills and 900 draft bills. OMB received congressional committee requests for its views on 3,400 bills. The 95th Congress enacted 603 public and private laws.

#### Relationship to the President's Legislative Program

The legislative recommendations of the President in his three regular annual messages -- State of the Union, Budget, and the Economic Report -- together with those in any special messages or other communications to the Congress generally constitute the President's legislative program. These recommendations have had their origin in many sources. One major source is the agencies themselves. Each year, along with their budgets, departments and agencies submit to OMB proposed agency legislative programs for the coming session of Congress.

Other major sources include bills introduced in the Congress and proposals of commissions, panels, and task forces established by law or by administrative order to examine and recommend on particular subjects.

In conjunction with the legislative clearance function, OMB and the agencies assist the White House staff in the development of the President's program. Each President develops his legislative program, of course, through methods of his own choice; and the form and nature of OMB and agency assistance vary, depending on the President's wishes. Almost always, however, it has involved the application of clearance procedures to the draft bills that are prepared to carry out the President's legislative recommendations.

The existence of the President's program gives the legislative clearance process coherence, a set of goals, and greater significance. It provides general guidance for the Executive branch, both in shaping proposals that are not part of the President's program and in commenting on bills before the Congress.

## Purposes of the Clearance Function

As noted earlier, the function is essentially a staff service for the President performed in accordance with his wishes and designed to assist him in carrying out his legislative responsibilities. It has several purposes, of which some assist the Congress and the Executive agencies themselves, as well as the President:

it provides a mechanism for bringing together and staffing out agency legislative proposals which the President may wish to include in his legislative program;

it helps the agencies develop draft bills that are consistent with and that carry out the President's policy objectives;

it is a means of keeping Congress informed (through the "advice" transmitted by the agencies) of which bills are part of the President's program and of what the relationship of other bills is to that program;

it provides a mechanism for assuring that Congress gets coordinated and informative agency views on legislation which it has under consideration;

it assures that bills submitted to Congress by one agency properly take into account the interests and concerns of other affected agencies and will therefore have the general support of such agencies;

it provides a means whereby divergent agency views can be reconciled.