



United States
Department of
Agriculture

Office of
Budget Analysis

May 2002

DM-1260

Legislative Reports and Proposals



Legislative Reporting Procedures

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U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

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| DEPARTMENTAL MANUAL | | NUMBER: 1260-001 |
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| Legislative Reports and Proposals | April 12, 2002 | |
| | OPI: Office of Budget and Program Analysis | |

1 PURPOSE

This manual provides detailed instructions concerning the preparation, review and clearance of the various types of legislative reports. All individuals who prepare, review or clear legislative reports must follow these instructions.

2 SPECIAL INSTRUCTIONS/CANCELLATIONS

This manual replaces the previous manual dated June 15, 1984.

3 ABBREVIATIONS

- CFR - Code of Federal Regulations
- DR - Departmental Regulation
- DM - Departmental Manual
- LRTS - Legislative Reports Tracking System
- OBPA - Office of Budget and Program Analysis
- OCR - Office of Congressional Relations
- OES - Office of the Executive Secretariat
- OGC - Office of the General Counsel
- OSEC - Office of the Secretary
- OMB - Office of Management and Budget
- USDA - U.S. Department of Agriculture

4 INQUIRIES

Direct all inquiries to the Legislative, Regulatory and Automated Systems Division in the Office of Budget and Program Analysis at (202) 720-1272.

5 WHAT IS A LEGISLATIVE REPORT?

A legislative report is any written expression of official USDA position on a proposed bill or draft legislation, an enrolled bill, another agency's proposed legislation or report to Congress, or proposed executive orders and proclamations. Legislative reports serve to initiate discussions about legislation and certain proposed administrative actions and also aid the administration in developing a unified position.

6 WHO REQUESTS LEGISLATIVE REPORTS?

- a OMB. OMB solicits USDA's views on a wide range of legislative documents: e.g., legislative proposals from other Departments or agencies; proposed reports on pending congressional action reports prepared by various branches of the government; proposed executive orders; enrolled bills pending Presidential action, etc. These documents address issues that affect, or have the potential to affect, USDA or USDA programs.
- b Congress. Members of Congress and committees solicit USDA's views on draft legislation or on an introduced bill.

Note: Testimony requested by a congressional committee is not a legislative report as defined by this directive.

- c USDA. USDA agencies may request a voluntary report. Determining the necessity for a voluntary report is the responsibility of each agency and office. An agency or office may initiate a voluntary report by contacting OBPA.

7 OBPA OVERSEES ALL LEGISLATIVE REPORTS AT USDA

OBPA serves as the clearinghouse agency for all legislative reports at USDA within established deadlines. Specifically, OBPA:

- a Initiates Tracking in its LRTS upon receipt of a legislative request; this system allows OBPA to monitor the progression and clearance of legislative reports, from start to completion, within USDA clearance channels, including OMB if the report is addressed to Congress, while ensuring that deadlines are met;
- b Assigns a Preparing Agency to write a legislative report based on program and historical data;
- c Prepares a Red Jacket folder and contacts the preparing agency's legislative contact to secure delivery of the jacket;
- d Sends Advance Copies of the legislative request to other affected agencies and reviewers, as necessary.

Note: OBPA routinely routes new legislative report requests to USDA agencies. It is each agency's responsibility to identify reports of interest to them and to request that OBPA include the agency in clearance channels.

8 THE CONTENTS OF A RED JACKET FOLDER

A red jacket folder denotes a legislative report as it is routed through USDA clearance channels; appendix A, figure A-1.

- a Information included on the cover of a red jacket:
 - (1) The bill number or agency report code;
 - (2) The OBPA tracking number;
 - (3) The short title of the report;
 - (4) The name of the legislative contact of the preparing agency;
 - (5) The due date assigned for the preparing agency to complete its report;
 - (6) The name of the OGC contact;
 - (7) The name of the OBPA contact;
 - (8) Any other reviewer contacts or useful information.

b Information included within a red jacket:

- (1) The requesting legislative referral document from OMB or congressional letter that initiates the request;
- (2) The bill or draft legislation;
- (3) The draft legislative report (see section 9);
- (4) A salmon-colored clearance signature page (appendix B, figure B-6) that includes the title of the bill or report, the tracking number, and all of the agencies, reviewers, and policy officials at USDA that will eventually review and clear the report;

Note: Preparing agencies may add additional reviewers.

- (5) Historical or background information. OBPA maintains a file on past legislative reports that may be helpful to preparing agencies and reviewers of current requests.

9 THE ROLE OF THE PREPARING AGENCY

The preparing agency writes a legislative report.

a Writes a report in compliance with USDA deadlines.

- (1) Reports should generally be limited to two pages. If more space is needed to treat the subject adequately, then additional material should be included as an enclosure.
 - (a) The initial draft should be double spaced on salmon-colored paper.
 - (b) The drafter's name and telephone number should appear in a ledger bar at the end of the report so that reviewers can contact the drafter directly during clearance, if necessary. This will also expedite clearance; appendix B, figure B-5.
- (2) Reports should be consistent with other USDA documents unless it is intended that the policy should change.
- (3) Content of Reports. Legislative reports shall be prepared using the format shown in appendix B; figure B-1 is for a report to Congress and figure B-2 is for a report to OMB. When it will assist clearing officials, the agency should add copies of relevant supporting documents to the decision file, e.g., previous related reports, testimony, etc.

- b Consultation and Clearance With Other Agencies. Identifies other offices, agencies, or departments with a substantial interest in a report and secures their clearance on the salmon copy.
- c Red Jacket Handling Requirements:
 - (1) Signs the clearance signature page indicating that the agency head or administrator has cleared the report.
 - (2) Attaches the salmon draft report to the top of the clearance signature page to include within the red jacket. The draft report should include a contact name and telephone number.
 - (3) Contacts the OBPA analyst listed on the cover of the red jacket as soon as the report has been completed, signed and ready for OGC review.
- d Requesting extension of due date. If the report cannot be completed within the due date noted on the cover of the red jacket, an extension may be requested by contacting the OBPA analyst listed on the cover of the red jacket.
- e Use of “no comment”, “concur”, and “no objection” responses. When agencies have nothing to add by way of substantive views on a request, they may prepare these types of responses as long as they are written in the form of a letter.
- f Marking up draft legislative reports and proposals from other agencies. OMB frequently solicits views on other agency’s letters with short deadlines. Handwritten comments and edits are acceptable provided they are accompanied by a USDA cover letter indicating such. If necessary, preparing agencies may follow-up with a more comprehensive report after consulting with OBPA.
- g Avoid contacting OMB and Congress directly without approval. Writers of legislative reports are not authorized to contact OMB directly to release USDA’s position until the report has been signed by the Secretary’s office or has been expressly approved by a policy official to release to OMB, in which case OBPA would contact OMB.
- h Advise OCR and OBPA of all direct requests. The preparing agency shall advise OCR and OBPA immediately by telephone of all requests for reports received directly from Congress.

- i Use electronic files during final clearance to avoid delays.
Preparing agencies should provide OBPA with the electronic file copy of the report during final clearance (after the report has cleared OGC, OBPA, and the appropriate Under or Assistant Secretary). Use of electronic files expedites the clearance of legislative reports with short deadlines.
- j Special consultation with OGC required for legislation involving litigation. When provisions in a report involve pending litigation that USDA is involved or interested in, OGC shall be consulted during preparation.

10 REVIEWING AND CLEARING LEGISLATIVE REPORTS AT USDA

Legislative reports must be reviewed and cleared by several Departmental levels to ensure that USDA speaks with “one voice.”

Generally, all legislative reports must have OGC, OBPA, and Under or Assistant Secretary review and clearance before they can be forwarded to the Secretary’s office. Clearance is indicated by a signature on the salmon-colored clearance page by the appropriate official. Reports requested by OMB are eligible for signature upon submission to the Secretary’s office. Legislative reports addressed to Congress must additionally clear OMB after they have cleared the Secretary’s office before they can be signed and sent to Congress

a Some General Guidelines for Reviewers of Legislative Reports.

- (1) Clearance Signatures. The heads of agencies and staff offices will clear the report by signing and dating the salmon-colored clearance signature sheet; appendix B, figure B-6.
- (2) Working Changes. Pen-and-ink changes to the draft report should be made on the double-spaced, salmon-colored copy. Each change must be identified by the agency’s acronym in the margin.
- (3) Using Note to Reviewers Memorandums:
 - (a) Required when non-clearance is indicated. Heads of agencies, staff offices and policy officials must sign a note to reviewers memorandum supporting their position for not clearing a legislative report. The presence of the note to reviewers should be noted on the clearance signature page and the memorandum prominently displayed inside the red jacket; appendix A, figure A-2.

- (b) Useful when contributing analytical value. Reviewers of legislative reports may determine that a note to reviewers memorandum would facilitate the report's clearance through USDA by summarizing its contents or noting something that may not otherwise be clear to the reviewer; appendix A, figure A-3.
 - (4) Avoid Retyping to Expedite USDA Clearance. Reports should be marked-up and cleared to the extent possible before being returned to the preparing agency for retyping prior to its review and clearance by the Secretary. Retyping should not occur unless the copy becomes unreadable.
 - (5) Requesting Extension of Deadlines. If review by any agency cannot be completed within the due date noted on the red jacket, an extension may be requested by contacting OBPA in advance of the due date.
 - (6) Confidential Nature of Reports. Proposed legislative reports do not represent the official position of USDA until signed by the Office of the Secretary. Release of USDA reports outside of official review channels is not permitted. Any questions on the status of legislative reports should be referred to OBPA.
 - (7) Avoid contacting OMB or Congress directly without approval. Reviewers of legislative reports are not authorized to contact OMB or Congress directly to release USDA's position until the report has been signed by the Office of the Secretary.
- b Order of USDA Clearance.

The following USDA agencies/officials typically clear legislative reports. The order for clearance is sequential; appendix A, figure A-4:

- (1) Preparing agency.
- (2) Other impacted program agencies.
- (3) OGC.
- (4) OBPA.
- (5) Under or Assistant Secretary.

- (6) OCR.
- (7) OES.
- (8) Office of the Secretary.

Note: Legislative Reports addressed to OMB are eligible for signature upon submission to the Secretary's office; reports addressed to Congress that are received in the Secretary's office for the first time cannot be signed, only approved for OMB review.

c Reviewing Agencies other than OGC and OBPA. Agencies shall review the report to assure that the stated position will not adversely affect existing programs or proposals of the reviewing agency. Divergent views between the preparing agency and subsequent reviewers must be considered before the report clears USDA. Agencies may approve the report as drafted; have no objection; propose substantive or technical amendments; or a complete substitute report.

d OGC Review.

OGC reviews the legislative report for legal sufficiency including:

- (1) The interpretation of relevant statutes and congressional intent;
- (2) The effect of provisions of existing law, pending litigation or pending rulemakings, if relevant;
- (3) The legal implications of enactment or of recommended changes;
- (4) Whether the legislation as drafted reflects the policy intention of USDA expressed in the report;
- (5) Whether the report is responsive, in proper format and cleared by appropriate agencies, and consistent with USDA policy.

e OBPA Review.

OBPA reviews the report to ensure that it is:

- (1) Consistent with the program, policy and budgetary objectives;
- (2) Based on adequate analysis;
- (3) Programmatically sound;

- (4) Technically adequate in matters such as format, address, responsiveness, timeliness, clearance signatures, and number of copies.

f USDA Policy Official Review.

All Legislative Reports must have policy-level review.

- (1) Under and Assistant Secretary Review. These officials, including the Assistant Secretary for Congressional Relations, review each report to assure consistency with guidance given to the agency and that the document presents the strongest possible case for USDA's position.
- (2) OES reviews the report for proper grammar and formatting, as well as the style and writing preferences of the Secretary.
- (3) Secretary, Deputy Secretary, Chief of Staff, and Executive Assistant. In addition to reviewing the report and supporting documents, the Secretary, Deputy Secretary, Chief of Staff, and Executive Assistant also review and consider additional information presented to them by an Under or Assistant Secretary, the General Counsel, and the Director of OBPA.

11 OMB REVIEW

OMB serves as the clearinghouse of executive branch correspondence with Congress. Their role is to ensure that all agency views are taken into consideration in developing the Administration's position. When an agency intends to submit a legislative proposal to Congress or a legislative report in answering a Member's inquiry on a particular bill or draft legislation, the agency must first clear the proposal or report through OMB.

- a OMB Review and Advice. OMB examiners review the report and solicit comments from other departments and agencies. Once OMB has completed its review, OMB advises USDA whether the report conforms with Administration policy and may suggest changes. USDA must respond to OMB's advice and may not send legislative reports and proposals to Congress without OMB's approval.

Note: OMB's advice is received by USDA through OBPA. If substantive changes are suggested, then OBPA coordinates with the preparing agency, OGC, and any other appropriate official to determine whether the changes should be accepted or further negotiated.

- b Actions Upon Receiving OMB Clearance. OBPA prepares an “After OMB Clearance” salmon sheet to include in the red jacket; appendix B, figure B-7. OMB’s specific advice and whether it has been incorporated into the report should be prominently displayed. Non-substantive changes require only the appropriate Under or Assistant Secretary, OCR, and OES clearance before going to the Secretary’s office for final signature. More substantive changes may also require the preparing agency and OGC clearance.

12 ENROLLED BILL REPORTS

Enrolled Bill – a bill or resolution that has passed both houses of Congress and is awaiting presidential action.

- a Highest Priority. Enrolled bill reports receive the highest priority as USDA has only 48 hours from the receipt of the request from OMB to the delivery of the signed report to OMB. This 48 hour period includes Saturdays and holidays, but excludes Sundays. Agencies should anticipate the need for enrolled bill reports by monitoring legislative action closely. After Congress has reached an agreement with respect to a bill that USDA has an interest in, agencies should use the final version of the bill (printed in the Congressional Record) as a basis to begin preparation of the enrolled bill report. Bill text can also be accessed via on-line sources (www.thomas.loc.gov).
- b Contents of an Enrolled Bill Report. An enrolled bill report must contain USDA’s recommendation regarding the President’s signing or vetoing of the bill. (“No Comment” responses are not acceptable for enrolled bill requests.) They should be no longer than two pages in length and shall generally contain all of the elements in appendix B, figure B-3.

Note: If USDA has a significant role in the enrolled bill, then OMB may request a signing statement (appendix B, figure B-8) or veto message (appendix B, figure B-9) to accompany the enrolled bill report.

13 SIGNING LEGISLATIVE REPORTS

- a Legislative reports addressed to OMB. These reports are eligible for signature upon initial review and approval by the Secretary’s office. OBPA sends the original signed report to OMB and makes copies available to the preparing agency and the reviewing agencies.

- b Legislative reports addressed to Congress. These reports must additionally have OMB clearance before they can be signed. Upon signature, OBPA will return the original signed report to the preparing agency for transmittal to Congress. OBPA will indicate the number of copies to be sent to Congress and to whom.

14 PREPARATION OF THE LEGISLATIVE PROGRAM

The USDA Legislative Program is prepared in conjunction with the preparation of the annual program and budget estimates. Each year, as part of the budget and annual "Agency Estimates Call Memorandum," detailed instructions are provided to guide agencies in the preparation of their recommendations, i.e., agency Legislative Program Proposals, for the USDA Legislative Program.

The USDA Legislative Program is developed from Legislative Program Proposals transmitted by the agencies, with policy approval, to OBPA and OGC. The program provides USDA agencies with an advance indication of the legislation being considered for submission to the next session of Congress. The program includes a brief summary of each piece of legislation USDA intends to propose, a list of provisions of law, which will expire by December 31 of the year following the budget year, and recommendations regarding extension of such provisions.

The program is sent to OMB as part of the budget each fall and is "Administratively Confidential" until release of the President's budget the following February.

Specific proposals can be added or deleted from the USDA Legislative Program at any time if circumstances warrant such action. Agencies may review the Legislative Program to identify another agency's legislative proposal that they would like to clear.

15 PREPARING LEGISLATIVE PROPOSALS

A legislative proposal requests Congress to enact a change in law and explains the rationale for such change. It consists of two identical letters, one addressed to the President of the Senate and the other to the Speaker of the House. The letters shall enclose draft legislation. The objective is to have members of Congress sponsor and introduce the legislation in their respective chambers.

President's Budget Proposal - Each year the President submits a budget which includes description of legislation in support of the budget. Each agency is responsible for submitting legislative proposals described in the budget within the agency's area. OBPA will alert agencies of the need to prepare such proposals.

- a Schedule for Proposal Development. Legislative proposals will be prepared and cleared in accordance with the schedule and requirements in the annual "Agency Estimates Call Memorandum" and according to the directions for legislative reports in this directive.
- b OGC will assist agencies in drafting legislation for USDA. Agencies should consult with OGC in drafting legislative proposals.
- c Contents of a Legislative Proposal (see example package in appendix D):

- (1) a transmittal letter to the Speaker of the House;
- (2) a transmittal letter to the President of the Senate;
- (3) the proposed legislation;
- (4) section-by-section analysis;

A document that describes, section-by-section, the intended effect of each substantive provision of a bill or legislative proposal.

- (5) Ramseyer (or Cordon), if appropriate;

A Ramseyer or Cordon is a document that graphically portrays the changes which a bill or legislative proposal would make in the text of existing law. Material that would be deleted from existing law is enclosed in boldfaced brackets "[]" while language that would be added is inserted at the appropriate place(s) in italic (if italic typeface is unavailable, language to be added to the text of existing law may be underscored). Preparing agencies may include Ramseyers or Cordons as part of a legislative proposal to illustrate the changes in law.

- (6) Other information required by statute, Administration policies, or that would be useful such as a note to reviewers memorandum on the projected budgetary or other effects of the proposal.

16 REVIEWING AND CLEARING LEGISLATIVE PROPOSALS

All legislative proposals are subject to review and approval by OMB prior to transmittal to Congress to ensure that they are in accord with the Administration's goals and programs. Legislative proposals are routed through USDA clearance channels in red jackets; legislative proposals are distinguished from legislative reports by the "AG" code on the cover of the red jacket. The review and clearance of legislative proposals is identical to those of legislative reports in sections 10 and 11 of this manual.

17 SIGNING LEGISLATIVE PROPOSALS

Legislative Proposals must have OMB clearance before they are eligible for signature. Upon signature by the Secretary, OBPA will return the original signed Speaker and Presidential letter along with the bill language and section-by-section analysis to the preparing agency for transmittal to Congress. OBPA will indicate to the agency how many copies are to be sent to the respective congressional committees.

18 REFERENCES

Agency legislative personnel must be familiar with the following:

- a OMB Circular No. A-19 – Legislative Coordination and Clearance.
This circular outlines procedures for the coordination and clearance by OMB of agency recommendations on proposed, pending and enrolled legislation. It also includes instructions on the timing and preparation of agency legislative programs and legislative proposals.
- b OMB Circular A-11 – Preparation and Submission of Budget Estimates.
This circular provides instructions for the preparation of annual estimates, including requirements for those estimates for which additional authorizing legislation is required for the budget year.
- c 40 CFR 1500-1508 and 7 CFR 3100. These CFR parts discuss the requirements for environmental assessments and impact statements prepared by an agency regarding legislative proposals.
- d Civil Rights Impact Analysis DR 4300-4. This Departmental Regulation may be required for legislative proposals under this directive.

- e Departmental Regulation 1512-1. This Departmental Regulation has requirements pertaining to the preparation of Regulatory Impact Analyses for legislative proposals expected to have a major impact in terms of Federal or non-Federal costs or burdens.
- f Annual "Agency Estimates Call Memorandum". This OBPA memorandum for budget and legislation has requirements pertaining to the USDA Legislative Program and preparation of Statements of Effects required on Legislative Program Proposals with budget impact. This can be acquired from the OBPA, Budget Control and Analysis Division.
- g Executive Order 13132 on Federalism. This executive order requires that agencies draft its regulations, legislative comments or proposed legislation consistent with the principles of Federalism.
- h Executive Order 12988 on Civil Justice Reform. This executive order specifies requirements for agencies in developing legislative proposals in order to minimize litigation.

19 ON-LINE LEGISLATIVE SOURCES

- a Thomas – www.thomas.loc.gov
- b Senate Agriculture Committee – www.senate.gov/~agriculture
- c House Agriculture Committee – www.agriculture.house.gov
- d U.S. CODE – <http://uscode.house.gov>

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY

HANDLE PROMPTLY: Send by messenger to next person.

**Appendix A
FIGURE A-1**

**LEGISLATIVE
REPORT**

Bill Number: H.R. 1791

Track Number: 44131

Received by OBPA: 5/22/2002

Animal Protection Act

| | | | | | | |
|---|--|----|-----------------|---|---|---|
| After signature, preparing agency makes and sends the following number of copies: | NOTE TO AGENCY: If Environmental Statement Sec. 102(2)(C) is required, is it attached? | | PRIORITY RATING | | | |
| | YES | NO | 1 | X | 2 | 3 |

| | |
|--------------------------------|-------------------|
| RE MARKS: SPECIAL INSTRUCTIONS | FOR OBPA USE ONLY |
|--------------------------------|-------------------|

| DATE DUE | SEND TO | IN OUT | DATE DUE | SEND TO | IN OUT |
|----------|----------------|-----------|----------|-------------------------|-----------|
| 5/29 | John O'Brien | / | | Under Secretary | / |
| | APHIS 1147-S | | | MRP 224-W | |
| | David Jackson | / | | Office of the Secretary | / |
| | OGC 2004-S | | | 200-A | |
| | Mary Smith | / | | | / |
| | OBPA 118-E | | | | |
| | Linda Thompson | / | | | / |
| | OCR 213-A | | | | |
| | Bruce Johnson | / | | | / |
| | OES 116-A | | | | |
| | | / | | | / |
| | | | | | |

Appendix A

FIGURE A-2

NOTE TO REVIEWERS

FROM: Stephen Dewhurst
Director

SUBJECT: Legislative Report on S. 1540 - Technical Correction to laws governing Empowerment Zones and Enterprise Communities (EZ/EC)

OBPA has not cleared the attached legislative report for the following reasons:

- We think the report could be improved by providing a brief explanation of the substance of the legislation. We checked the Congressional Record and have attached substantive comments made when the legislation was introduced. Perhaps they could be used as a basis for a short paragraph that could be included in the report.
- Our understanding of this legislation is that it is intended to extend to Areas adjoining Round 1 Empowerment Zones and Enterprise Communities (EZ/EC) certain benefits of these zones and communities without their having to meet the poverty level criteria on eligibility. In short, it would allow some affluent areas to receive the benefits of the EZ/EC initiative. Apparently, this provision was included in the authorizing legislation for Round II, but was not part of Round I. It might be useful to know in the legislative report whether any of the Round I rural EZ/EC designees are likely to be affected by the legislation.

Attachment

Appendix A

FIGURE A-3

NOTE TO REVIEWERS

FROM: Stephen Dewhurst
Director

SUBJECT: Legislative Report on H.R. 1504 – Legislation to Amend the Plant Quarantine Laws, known as the Plant Protection Act

A variety of laws dating back to 1912, known as the plant quarantine laws no longer keep pace with today's advances in science, plant production, and biotechnology. H.R. 1504 addresses these concerns by clarifying the Animal and Plant Health Inspection Service (APHIS) role that ensures the protection of U.S. plant resources. This proposed legislation essentially accomplishes the plant pest provisions of the Department's broader legislative proposal.

H.R. 1504 specifically provides for a number of plant protection improvements over existing law, as follows:

- it clarifies authority to address noxious weeds,
- it defines biological control organisms as beneficial agents,
- it requires actions to be science and/or risk based,
- it refines analytical requirements necessary to support greater trade under the multilateral regimes of NAFTA and the WTO,
- it increases the cap on civil penalties from \$1,000 to \$50,000 per violation,
- it provides investigatory and enforcement tools to APHIS similar to those used by other regulatory agencies, and
- it strengthens partnerships with States, reaffirms Federal preemption, and allows for special State and/or regional situations for quarantines.

APHIS' draft response suggests four minor changes to the proposed legislation. First, it suggests language so that the legislation would apply to goods in international as well as interstate commerce. Second, it suggests a special definition of noxious weeds be applied to Federal land management agencies at the request of the Forest Service. Third, it suggests clarifying the intention of the legislation regarding extraordinary emergencies to include noxious weeds. Fourth, it suggests that the warrant provisions could be executed by any authorized USDA employee.

The draft response concludes that no additional cost would be incurred for the next seven fiscal years.

FIGURE A-4
FLOW CHART IN THE USDA LEGISLATIVE REPORTS CLEARANCE PROCESS

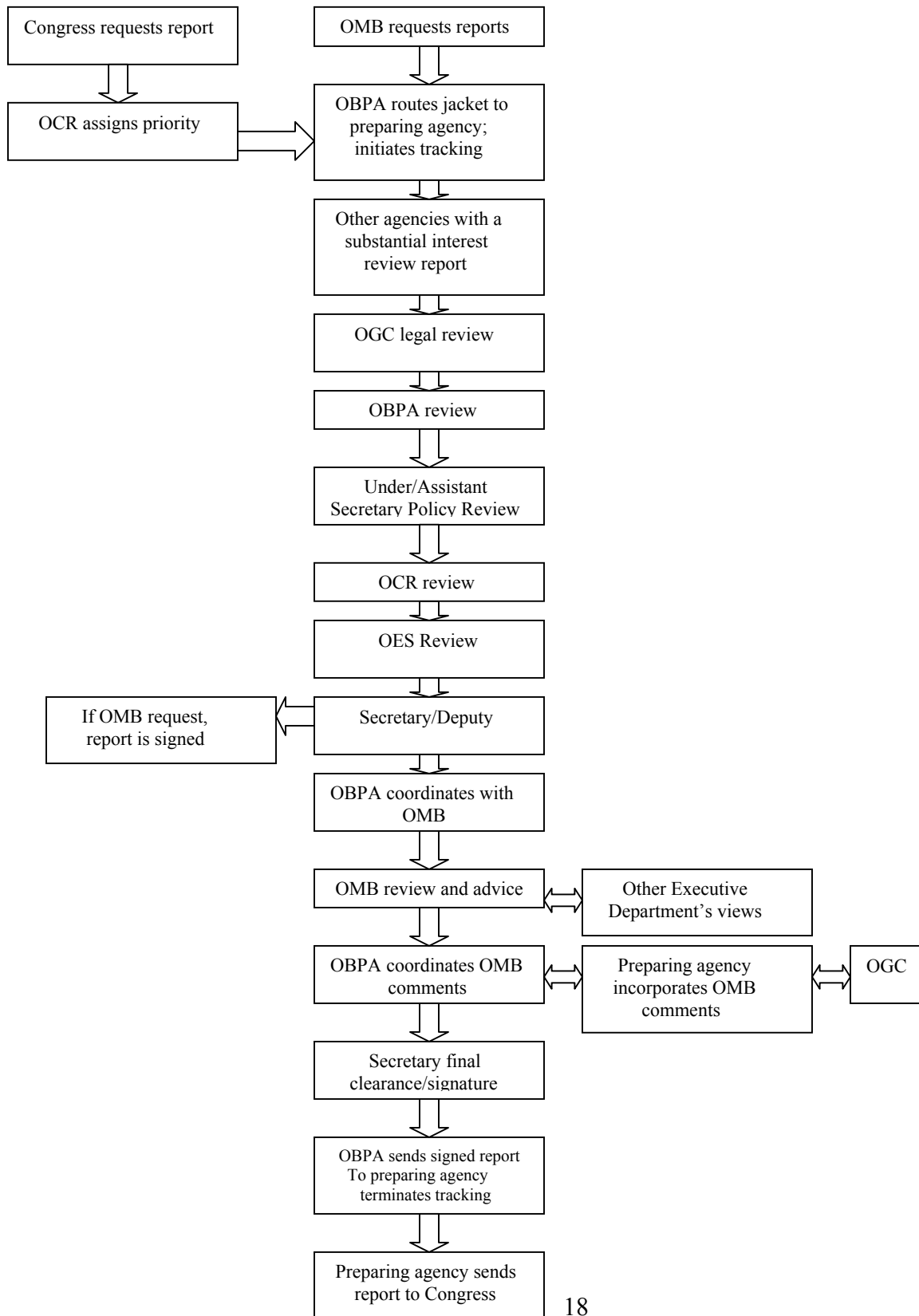


FIGURE B-1

SAMPLE REPORT TO CONGRESS

1 → The Honorable Larry Combest, Chairman
 Committee on Agriculture
 House of Representatives
 Washington, D.C. 20515

Dear Mr. Chairman:

2 → This is in reply to your request of March 1, 2001, for a report on H.R. 609, a bill "To amend the Export Apple and Pear Act (Act) to limit the applicability of the Act to apples."

3 → The Department of Agriculture (USDA) recommends that the bill be enacted.

4 → H.R. 609 would exclude pears from Federal quality standards as currently established under the Act and thereby provide greater flexibility to the United States (U.S.) pear industry in responding to international markets.

5 → Because private contractual arrangements between buyers and sellers increasingly are controlling the quality of U.S. pear exports, USDA believes mandatory Federal quality standards are no longer needed to assure the high seasonal changes in the quality of the U.S. pear crop.

Minimum requirements would continue under existing State regulations if H.R. 609 is enacted. For example, Washington regulates minimum grade requirements and both Oregon and California have minimum requirements for maturity and grade defects. In addition, two Federal marketing orders for pears produced in Oregon and Washington offer the opportunity for pear producers and handlers to establish minimum requirements for pear exports.

6 → Enactment of H.R. 609 would not result in increased USDA outlays.

7 → The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Thank you for the opportunity to comment on this bill.

8 → Sincerely,

Ann M. Veneman
 Secretary

9,10 →

| |
|--|
| <p><u>Number of Copies</u> Original & 1 copy for addressee; 1 copy and original salmon for OES, (See figure B-4 for instructions on clearance signature page); 1 copy for preparing agency; 1 copy for OGC; Other copies as requested.</p> |
|--|

FIGURE B-1 (continued)

INSTRUCTIONS FOR PREPARATION OF REPORTS TO CONGRESS

NOTE: If it is necessary for the report to be longer than two pages to fully explain USDA's position including pertinent facts, analysis, suggested amendments, etc., briefly summarize the reasons for the position taken and include a more detailed explanation as an enclosure.

Key: to the numbers in the example on the opposite page.

1. **ADDRESSEE.** Replies to requests received from committee chairmen and letters relating to legislation pending before a committee should be addressed to the appropriate committee chairman.
2. **IDENTIFY THE BILL.** The first paragraph must reference the request by date, the bill number and the exact title (not the popular title) of the bill. Enclose the title of the bill in quotation marks.
3. **SPECIFIC RECOMMENDATION.** The specific recommendation of USDA should be indicated in the second paragraph of the report. (Appendix B, figure B-10).
4. **PURPOSE OF LEGISLATION.** The letter shall contain a concise analysis of the principal provisions of the draft bill being proposed.
5. **BACKGROUND AND JUSTIFICATION OF POSITION.** The report should contain the strongest possible case for USDA's position.
6. **COST ANALYSIS AND STAFF YEAR ESTIMATES.** Discuss the cost and savings factors. An estimate of the first year and recurring and nonrecurring governmental and nongovernmental costs of the action should be included as well as estimates for the succeeding five years and, as appropriate, the relationship of these costs to those in the President's budget. Estimates of staff years of employment and personnel required to carry out the provisions of the legislation in the budget year and for succeeding fiscal years is also required. For more detailed information, see OMB Circulars Nos. A-11 and A-19 and refer to the statutory provisions of P.L. 89-554 and P.L. 91-510 provided for reference in appendix C.
7. **OMB ADVICE PARAGRAPH.** The concluding paragraph on legislative reports to the Congress will state OMB' advice regarding the relationship of the USDA's report to the program of the President. See appendix B, figure B-11 for specific wording used and the distinction between the different types of advice.
8. **SINCERELY** should be added with the Secretary's name.
9. **ENCLOSURES** may include materials required by specific legislation, draft bills, environment impact statements if required, impact analyses, detailed cost data, suggested amendments and other information as appropriate.
10. **CLEARANCE SIGNATURE PAGE.** See instructions in appendix B, figure B-4.

Appendix B

FIGURE B-2

SAMPLE REPORT TO OMB

1 → The Honorable Mitchell E. Daniels, Jr.
 Director
 Office of Management and Budget
 Washington, D.C. 20503

Dear Director Daniels:

2 → This is in reply to your request of October 19, 2001, for the views of the Department of Agriculture (USDA) on the Department of Commerce’s draft bill entitled “National Marine Aquaculture Act of 2001.”

3 → USDA opposes submission of the draft bill to the Congress in its present form.

4 → The draft bill would refocus many existing programs within the Department of Commerce (DOC) in order to assist coastal States in promoting, where appropriate, the sustainable development of a competitive United States marine aquaculture industry. The bill provides economic and environmental safeguards to expand the marine aquaculture industry into the U.S. Exclusive Economic Zone by authorizing the Secretary of Commerce to issue long-term leases for the operation of aquaculture facilities located therein.

5 → Specifically, USDA objects to: a) developing a separate national aquaculture bill for marine aquaculture that partitions or splits Federal authorities and responsibilities for aquaculture based on definitions contained in the draft bill; b) establishing separate national policies for marine aquaculture, and establishing a separate and independent research initiative for marine aquaculture; and c) indirectly establishing the DOC as the lead agency for marine aquaculture and the increased broad regulatory authority for DOC in marine aquaculture contained in the draft bill.

As an alternative to the proposed legislation, USDA supports the implementation of the policies and purposes of the National Aquaculture Act of 1980. USDA supports strong cooperation and collaboration with DOC in support of marine aquaculture through the National Science and Technology Council’s Joint Subcommittee on Aquaculture. USDA urges that if the Administration decides to develop an aquaculture research initiative, it should be a Federal-wide initiative coordinated through the Joint Subcommittee on Aquaculture and include both fresh water and marine aquaculture.

Thank you for the opportunity to comment on this draft bill.

7 → Sincerely,

8,9 → Ann M. Veneman
 Secretary

Number of Copies
 Original & 2 copies for addressee;
 1 copy and original salmon for OES, (See figure B-4 for instructions on clearance signature page); 1 copy for preparing agency; 1 copy for OGC; Other copies as requested.

APPENDIX B

FIGURE B-2 (continued)

INSTRUCTIONS FOR PREPARATION OF REPORTS TO OMB

NOTE: If it is necessary for the report to be longer than two pages to fully explain USDA's position including pertinent facts, analysis, suggested amendments, etc., briefly summarize the reasons for the position taken and include a more detailed explanation as an enclosure.

Key: to the numbers in the example on the opposite page.

1. **ADDRESSEE.** Replies to requests received from committee chairman and letters relating to legislation pending before a committee should be addressed to the appropriate committee chairman.
2. **IDENTIFY THE BILL.** The first paragraph must reference the request by date, the bill number and the title of the bill. Enclose the title of the bill in quotation marks.
3. **SPECIFIC RECOMMENDATION.** The specific recommendation of USDA should be indicated in the second paragraph of the report. (See sample position paragraphs in figure B-10).
4. **PURPOSE OF LEGISLATION.** The letter shall contain a concise analysis of the principal provisions of the draft bill being proposed.
5. **BACKGROUND AND JUSTIFICATION OF POSITION.** The report should contain the strongest possible case for USDA's position.
6. **COST ANALYSIS AND STAFF YEAR ESTIMATES.** Discuss the cost and savings factors. An estimate of the first year and recurring and nonrecurring governmental and nongovernmental costs of the action should be included as well as estimates for the succeeding five years and, as appropriate, the relationship of these costs to those in the President's budget. Estimates of work years of employment and personnel required to carry out the provisions of the legislation in the budget year and for succeeding fiscal years is also required. For more detailed information, see OMB Circulars Nos. A-11 and A-19 and refer to the statutory provisions of P.L. 89-554 and P.L. 91-510 provided for reference in appendix C. (Not shown on example)
7. **SINCERELY** should be added with the Secretary's name.
8. **ENCLOSURES** may include materials required by specific legislation, draft bills, environmental impact statements if required, impact analyses, detailed cost data, suggested amendments and other information as appropriate.
9. **CLEARANCE SIGNATURE PAGE.** See instructions in appendix B, figure B-4.

Appendix B

FIGURE B-3

SAMPLE REPORT ON AN ENROLLED BILL

1 →

The Honorable Mitchell E. Daniels, Jr.
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Director Daniels:

2 →

This is in reply to your request of October 19, 2001, concerning the views of the Department of Agriculture (USDA) on the enrolled bill H.R. 1197, "To amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for further purposes."

3 →

USDA recommends that the President sign the enrolled bill.

4 →

The bill clarifies that a plant patent issued under title 35 of the United States Code includes the right for the patent owner to exclude others from using, offering for sale, selling, or importing both the entire plant and any of its parts. The bill also provides access to electronic patent information.

5 →

Because current U.S. patent law only provides patent protection for entire plants, plant parts are often traded in U.S. markets to the detriment of U.S. plant patent holders who lose royalty income and maybe less likely to invest in domestic research and breeding. By clarifying that U.S. patent law protects the owner of a plant patent against the unauthorized sale of plant parts taken from plants illegally reproduced, H.R. 1197 will strengthen the ability of U.S. plant patent holders to enforce their patent rights, an objective USDA supports and thus consequently recommends that the bill be signed.

7 →

Sincerely,

8,9 →

Ann M. Veneman
Secretary

Number of Copies
Original & 2 copies for addressee;
1 copy and original salmon for OES, (See figure B-4 for instructions on clearance signature page);
1 copy for preparing agency; 1 copy for OGC;
Other copies as requested.

Appendix B
FIGURE B-3 (continued)

INSTRUCTIONS FOR PREPARATION OF ENROLLED BILL REPORTS

NOTE: Agencies must complete their preparation of enrolled bill reports within 24 hours of request. The report should be two pages or less in length.

Key: to the numbers in the example on the opposite page.

1. **ADDRESSEE.** Replies to OMB requests should be addressed to the Director, Office of Management and Budget.
2. **IDENTIFY THE BILL.** The first paragraph must reference the enrolled bill number, and the exact title (not the popular title) of the bill. Enclose the title of the bill in quotation marks.
3. **SPECIFIC RECOMMENDATION.** The specific recommendation for approval or disapproval shall be in the second paragraph. When approval is recommended and the measure is of high public interest, the preparing agency may provide a draft signing statement, see figure B-8 for an example. When disapproval is recommended, the preparing agency must prepare a draft veto message to accompany the report, see figure B-9 for an example.
4. **PURPOSE OF LEGISLATION.** The letter shall contain a concise analysis of the principal provisions of the draft bill being proposed.
5. **BACKGROUND AND JUSTIFICATION OF POSITION.** The report should contain the strongest possible case for USDA's position. Any comments, criticisms or other special considerations which sustain USDA's position and which might assist the President in reaching a decision should also be included. Identify any factors that might warrant Presidential action by a particular date.
6. **AMENDMENTS.** The report should indicate whether Congress has amended the bill in a manner that might affect the position previously taken by the Administration with respect to the bill. (Not shown on example)
7. **SINCERELY** should be added with the Secretary's name.
8. **ENCLOSURES** include a draft signing statement or a draft veto message as discussed in item 3 above.
9. **CLEARANCE SIGNATURE PAGE.** See instructions in appendix B, figure B-4.

Appendix B

FIGURE B-4

INSTRUCTIONS FOR PREPARING CLEARANCE SIGNATURE PAGE

1 CLEARANCE SIGNATURE PAGE

Preparing agencies should prepare a clearance signature page for their agency head on a separate salmon page and blocks for all other officials at the agency head level or above who are expected to clear the report. Such officials include other agency or staff office heads and policy officials. They should be listed in the order of expected clearance. Extra salmon pages shall be added when necessary. However, to avoid extra salmon pages as much as possible, clearance signature blocks shall appear in two columns as indicated below.

When a substantive change is made that requires the letter to be re-cleared, a new final page with clearance signature blocks must be prepared and used just as it always has. Only the head, acting head, or other designated official of the agency or office shall sign and date the signature block on the salmon copy. The signature should appear over the typewritten name of the agency head. When an official other than the agency head signs, the signature and the typed name of such official should appear over the agency head's name indicating that the approval is for the agency head. All other officials within an agency who review or approve legislative reports should do so in accordance with the agency's system, but such review and approval should not be indicated on the salmon copy.

2 DETAILED REQUIREMENTS FOR SETTING UP THE CLEARANCE SIGNATURE PAGE

The requirements below are shown in figure B-6

- a Title of bill or report, track number
- b The signature line should be 25 spaces long, followed by two blank spaces, and then a nine space line for the date. If a second column is required, it should begin five spaces after the prior date line. Type the preparing agency/staff office acronym and the name of the "Date" below the date line.
- c There should be three blank lines between the agency/staff office acronym and succeeded blocks provided for each agency/staff office head or policy official expected to clear the reports. These will include other involved agencies, the General Counsel, the Director of OBPA, the appropriate Under or Assistant Secretary, the Chief of Staff, the Deputy Secretary, and the Secretary. The blocks should be listed in the expected clearance order.
- d If additional clearances are later determined to be necessary, they should be added to the right of the list on the salmon copy by the office(s) that makes the determination. Extra salmons shall be added when necessary.

Appendix B

FIGURE B-5

SAMPLE LAST PAGE OF SALMON FILE COPY

The Honorable Larry Combest

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Thank you for the opportunity to comment on this bill.

Sincerely,

Ann M. Veneman
Secretary

FSA/JMANNION/FARMBILL/2/19/02/X720-4467

Appendix B

FIGURE B-6

SAMPLE CLEARANCE SIGNATURE SALMON PAGE

CLEARANCE SIGNATURES

(Title of bill or report, track number)

(XXX), (Agency Head Name) Date

OGC, (Name) Date

OBPA, (Director's Name) Date

Under Secretary, (Name)
(or Asst. Secretary) Date

OCR (Name) Date

OES (Name) Date

Executive Assistant (Name) Date

Deputy Secretary (Name) Date

Secretary (Name) Date

Appendix B

FIGURE B-7

AFTER OMB CLEARANCE

(Title of the bill or report, track number)

Under Secretary – MRP Date

OES Date

OCR Date

Executive Assistant Date

Deputy Secretary Date

Secretary Date

****Secretary for Signature****

Appendix B

FIGURE B-8

SAMPLE SIGNING STATEMENT

I have signed into law today S. 1150, the "Agricultural Research, Extension, and Education Reform Act of 1998." The Act restores food stamp benefits to certain legal immigrants and others who should not have been excluded from the program under provisions of the 1996 welfare reform bill. In addition, it provides direct funding for crop insurance delivery expenses, thereby ensuring that farmers will have needed crop insurance coverage. It also provides an infusion of funding for agriculture research, extension, and education to strengthen the technology-based competitive advantages that U.S. farmers now enjoy.

I believe the Act's overwhelming bipartisan support is evidence of a strong consensus for reforms in agriculture and welfare policies and indicates that the Federal government has not, and will not, abandon its basic responsibilities to individuals who are in need of assistance and to farmers who now compete in a global market place.

The Food Stamp provisions continue to promote work and responsibility while restoring eligibility to elderly and infirm individuals who, as legal residents of the United States when welfare reform was enacted, were fully entitled to participate in the Food Stamp program. Many of these individuals have limited means of support. The unnecessarily harsh measures of welfare reform have no doubt had an adverse effect on their well-being. In restoring program benefits to these individuals, the Act preserves a fundamental principle of welfare reform by requiring sponsors to assume full responsibility for food and financial security of immigrants who have come to this country since 1996.

*Note: Type double-spaced; use legal size bond paper; prepare original and one copy.

Appendix B

FIGURE B-9

SAMPLE VETO MESSAGE

To the Senate:

I return herewith, without my approval, S. _____, entitled, "An act for the relief of John Doe."

This bill authorizes and directs the Commissioner of Internal Revenue to act upon the claim filed by John Doe of Central City, Illinois, for a refund of processing taxes under the provisions of section 15(e) of the Agricultural Adjustment Act. This bill directs the Commissioner of Internal Revenue to treat the claim in question as though there were not a statute of limitations provided in such matter. In section 601 of the Revenue Act of 1936, certain refunds of taxes collected by virtue of the Agricultural Adjustment Act were authorized and a provision was inserted to the effect that no refund was to be allowed unless the claimant filed his claim prior to January 1, 1937. The record shows that the claim of John Doe was filed subsequent to that date. From time to time there have been submitted to me other bills which propose to exempt certain taxpayers from the operation of the statute of limitations by extending the time for the refunding of certain taxes to such taxpayers. On these occasions, I expressed my accord with the settled policy of Congress that it is sound to include in all revenue acts time limitations after which it becomes impossible for the Government to collect additional taxes, or for the taxpayer to obtain a refund of an over-payment of tax. I pointed out in many such instances that legislation, such as the proposed bill, selects one taxpayer for special treatment by exempting him from that policy. In this regard the present measure, S._____, does not differ in principle from other such bills which I have considered on prior occasions. I am not aware of any circumstances that would justify an exception in this case to the long-established policy of Congress. I must reiterate my belief that legislation of this character should not be used to relieve individuals or special classes of taxpayers from the consequence of their failure to file refund claims within the period fixed by law.

*Note: Type double-spaced; use legal size bond paper; prepare original and one copy.

Appendix B

FIGURE B-10

SAMPLE POSITION PARAGRAPHS ON REPORTS TO THE CONGRESS

FAVOR

The Department of Agriculture (USDA) recommends that the bill be enacted.

OPPOSE

The Department of Agriculture (USDA) does not recommend enactment of this bill.

FAVOR WITH AMENDMENTS

The Department of Agriculture (USDA) recommends that the bill be enacted if amended to..... (Describe the nature and purpose of the proposed amendment (s) and then attach the specific language to the report).

NO OBJECTIONS

The Department of Agriculture (USDA) has no objection to the enactment of this bill.

DEFER TO OTHER DEPARTMENT

The Department of Agriculture (USDA) defers to _____ Since (this bill does not directly affect the operations USDA).*

*USDA must give a reason for why it defers. The reason shown is just an example.

Appendix B

FIGURE B-11

OMB ADVICE PARAGRAPHS AND THEIR IMPLICATIONS

The concluding paragraph on legislative reports to the program of the President. The specific paragraphs are listed below along with a discussion of their implications.

“NO OBJECTION” PARAGRAPH.

“The Office of Management and Budget advises that there is no objection to the presentation of this report (in the case of proposals initiated by USDA, say ‘proposed legislation’ instead of report) from the standpoint of the Administration’s program.”

IMPLICATIONS OF “NO OBJECTION” PARAGRAPH. Advice that there is no objection to a bill from the standpoint of the Administration’s program is given on the large number of USDA draft bills that deal with matters primarily of USDA concern and do not bear a direct or immediate relationship to the President’s program or the Administration’s objectives. In effect, such advice indicates to Congress that OMB knows of no reason why the President would not approve the bill if Congress should enact it.

Advice to a department that there is no objection from the standpoint of the Administration’s program to its submission of a report (or testimony) on a bill to a committee of Congress does indicate any commitment as to ultimate Presidential approval or disapproval of the bill if it is enacted. Nevertheless, such “no objection” clearance does set up certain presumptions. If all agencies’ views are favorable, the presumption is that no major objection to the bill is known and that the agencies affected will recommend Presidential approval if it becomes enrolled. If all departments’ views are adverse, the presumption is that the departments may wish to recommend a veto if the bill becomes enrolled.

Infrequently, “no objection” clearance is given to Department reports expressing divergent views on the same bill. When this is done, it normally means that there is no objection to the bill if Congress acts favorably after considering the adverse views. Occasionally, it means that the Administration’s position is being reserved pending resolution of the Departments’ differences, and this reservation may be explicitly stated. The interested departments are advised of each other’s differing views in these cases.

FIGURE B-11 (continued)

“CONSISTENT WITH” PARAGRAPH

“The Office of Management and Budget advises that there is no objection to the presentation of this report and that enactment of the legislation (or proposed legislation if initiated USDA) would be consistent with the Administration’s program.”

IMPLICATIONS OF “CONSISTENT WITH” PARAGRAPH. “Consistent with” advice is used where the relationship of a legislative proposal or a bill to the Administration’s objectives is direct and the Administration’s expressed support is desirable, but the item does not warrant personal identification with, or support by, the President. “Not consistent with” advice signals to Congress that there are major objections to a bill, but does not indicate as clearly as “not in accord” advice that a veto would be considered if it were enacted.

“IN ACCORD” PARAGRAPH

“The Office of Management and Budget advises that there is no objection to the presentation of this report and that enactment of ‘bill number’ or ‘this proposed legislation’ would be in accord with the President’s program.”

IMPLICATIONS OF “IN ACCORD” PARAGRAPH. When a department or a committee of Congress is advised that enactment of a bill would be in accord with the program of the President, the advice means that the bill is of sufficient importance for the President to give it his personal and public support. That identification of the legislative proposal with the President is made in a variety of ways; e.g., by inclusion in one of his regular messages (State of the Union, Economic, Budget), a special message, speech, press conference, letter or leadership meeting.

IMPLICATIONS OF “NOT IN ACCORD” PARAGRAPH. “Not in accord” advice indicates that a bill is so contrary to the President’s legislative proposals or other policies or is otherwise so objectionable that should it be enacted in its current form, a veto would be considered. It is not, however, necessarily a commitment to veto.

QUALIFIED ADVICE

In some cases the advice given is qualified. For example, the advice may be that there would be no objection to enactment of the bill from the standpoint of the Administration’s program, or that the bill would be consistent with the Administration’s objectives, if it were revised in specified respects. OMB will specify the exact wording to be used in these cases.

APPENDIX C

COST ANALYSIS STATUTORY PROVISIONS

PUBLIC LAW 89-554 (5 U.S.C. 2953)

(a) Each report, recommendation or other communication, of an official nature, of an Executive agency which--

- (1) relates to pending or proposed legislation which, if enacted, will entail an estimated annual expenditure of appropriated funds in excess of \$1,000,000;
- (2) is submitted or transmitted to Congress or a committee thereof in compliance with law or on the initiative of the appropriate authority of the executive branch; and
- (3) officially proposes or recommends the creation or expansion, either by action of Congress or by administrative action, of a function, activity or authority of the Executive agency to be in addition to those functions, activities and authorities there of existing when the report, recommendation or other communication is so submitted or transmitted;

shall contain a statement, concerning the Executive agency, for each of the first five fiscal years during which each additional or expanded function, activity or authority so proposed or recommended is to be in effect, setting forth the following information-

- (A) the estimated maximum additional—
 - (i) man-years of civilian employment, by general categories of positions;
 - (ii) expenditures for personal services; and
 - (iii) expenditures for all purposes other than personal services;

which are attributable to the function, activity or authority and which will be required to be effected by the Executive agency in connection with the performance thereof; and

- (B) such other statement, discussion, explanation or other information as is considered advisable by the appropriate authority of the executive branch or that is required by Congress or a committee thereof.

- (b) Subsection (a) of this section does not apply to--
- (1) the Central Intelligence Agency;
 - (2) a Government controlled corporation; or
 - (3) the General Accounting Office.

PUBLIC LAW 91-510, THE LEGISLATIVE REORGANIZATION ACT OF 1970
SECTIONS 252(a) (2 U.S.C. 190j) and 252(b)

Section 252(a) provides:

(1) The report accompanying each bill or joint resolution of a public character reported by any committee of the Senate (except the Committee on Appropriations) shall contain:

(A) An estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years), except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period; and

(B) A comparison of the estimate of costs described in subparagraph (A) made by such committee with any estimate of costs made by Federal agency; or

(C) In lieu of such estimate or comparison, or both, a statement of the reasons why compliance by the committee with the requirements of subparagraph (A) or (B), or both, is impracticable.

(2) It shall not be in order in the Senate to consider any such bill or joint resolution if such bill or joint resolution was reported in the Senate after the effective date of this subsection and the report of that committee of the Senate which reported such bill or joint resolution does not comply with the provisions of paragraph (1) of this subsection.

Section 252(b) amends the Rules of the House of Representatives by adding similar language applicable to House committees.

Appendix D

FIGURE D-1


SAMPLE LETTER TRANSMITTING A PROPOSAL

- 1 → The Honorable J. Dennis Hastert, Speaker
U.S. House of Representatives
The Capitol
Washington, D.C. 20515
- Dear Mr. Speaker:
- 2 → I am transmitting, for the consideration of the Congress, this enclosed draft bill, "To authorize the imposition of civil penalties for persons who harm animals used for official inspection by the Department of Agriculture, and for other purposes."
- 3 → The U.S. Department of Agriculture (USDA) recommends that the draft bill be introduced and enacted.
- 4,6 → One of the ways USDA's Animal and Plant Health Inspection Service helps protect American agriculture is through its agriculture quarantine and inspection (AQI) program, by which inspectors examine cargo and passenger baggage for high-risk material that could carry pests or diseases. In many ports, inspectors use trained dogs to sniff for fruits and meat in passenger baggage. The dogs, known as the Beagle Brigade, are an important part of the AQI workforce, achieving a high level of accuracy in their work.
- While most passengers find the dogs a friendly and fascinating presence in the ports, some do not respond so kindly. There have been a number of incidents in which the animals have been hit or kicked. In the most notable case, Barney, working at Miami International Airport, was kicked by an angry passenger. Barney was so affected by this experience he had to be retired from the Beagle Brigade. Although the passenger was charged under local laws with injury to a police dog, no further action was taken on the charge. Local law is the only recourse available when a dog is harmed, and the laws vary widely.
- USDA believes it needs a strong penalty to protect these dogs, who are critically important inspection resources, and the draft legislation would provide it. The proposed bill would establish a maximum civil penalty of \$10,000 for harming or interfering with an animal used for inspection; this amount is the estimated cost of training one dog. The draft bill also provides authority for enforcing the penalty, including subpoena authority.
- 8 → The Omnibus Budget Reconciliation Act that all revenue and direct spending legislation meet a pay-as-you-go (PAYGO) requirement. That is, no such bill should result in a net budget cost; if it does, it could contribute to a sequester if it is not fully offset. The estimated net budgetary effect of this proposal is zero.
- 10 → The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation to Congress from the standpoint of the Administration's program.


FIGURE D-1 (continued)

The Honorable J. Dennis Hastert, Speaker
Page 2


I am sending an identical letter to the President of the Senate.

11 

Sincerely,

12 

Ann M. Veneman
Secretary

13 

Enclosure

Number of Copies
Original & 2 copies for addressee;
10 white copies of the entire package for OMB;
1 copy and original salmon for OES, (See figure B-4 for instructions on clearance signature page);
1 copy for preparing agency; 1 copy for OGC;
50 copies for congressional committees (after signature by the Secretary by the preparing agency);
Other copies as requested.

FIGURE D-2

INSTRUCTIONS FOR PREPARATION OF LEGISLATIVE PROPOSAL
TRANSMITTAL LETTER

NOTE: Generally if it is necessary for the report to be longer than two pages to fully explain USDA's position including pertinent facts, analysis, suggested amendments, etc., briefly summarize the reasons for the position taken and include a more detailed explanation as an enclosure.

Key: to the numbers in the example on the opposite page.

1. **ADDRESSEE.** Two transmittal letters are required; (1) a transmittal letter to the Speaker of the House, (2) a transmittal letter to the President of the Senate.
2. **IDENTIFY THE BILL.** The first paragraph should reference the proposal as a draft bill for the consideration of the Congress and the exact title of the proposal. Enclose the title in quotation marks.
3. **SPECIFIC RECOMMENDATION.** The second paragraph of the report should state that USDA recommends enactment of the proposal.
4. **PURPOSE OF LEGISLATION.** The letter shall contain a concise analysis of the principal provisions of the draft bill being proposed.
5. **PREVIOUS REPORTS AND BILLS** sent to the Congress may be referenced briefly, when appropriate (Not shown on example.)
6. **BACKGROUND AND JUSTIFICATION OF POSITION.** The report should contain the strongest possible case for the Department's position.
7. **AMENDMENTS SUGGESTED BY USDA.** Not applicable.
8. **COST ANALYSIS AND WORK YEAR ESTIMATES.** Discuss the cost and savings factors. An estimates of the first year and recurring and nonrecurring governmental and nongovernmental costs of the action should be included and, as appropriate, the relationship of these costs to those in the President's budget. Estimates of work years of employment and personnel required to carry out the provisions of the legislation in the budget year and for succeeding fiscal years is also required. For more detailed information, see OMB Circulars Nos. A-11 and A-19 and refer to the statutory provisions of P.L. 89-554 and P.L. 91-510 provided for reference in appendix C.
9. **NEPA PARAGRAPH.** i.e. "Enactment of this proposed legislation would have no significant effect on the quality of the human environment" if environmental impact statement is enclosed with the legislative proposal. If environmental impact statement is enclosed or is available for insertion elsewhere, so state. The National Environmental Policy Act of 1969 (P.L. 91-190), 40 CFR 1500-1508 and 7 CFR 3100 require the preparation of an environmental impact statement in connection with legislative proposals which would significantly affect the quality of human environment. Agencies may have additional specific instructions or rules on these statements, which must be followed. Not applicable to sample.

FIGURE D-2 (continued)

10. **OMB ADVICE PARAGRAPH.** The concluding paragraph on legislative proposals to the Congress will state OMB's advice regarding the relationship of the Department's report to the program of the President. See appendix B, figure B-11 for specific wording used and the distinction between the different types of advice.
11. **SINCERELY** should be added with the Secretary's name.
12. **ENCLOSURES** include the bill language, (appendix D, figure D-3), a section-by-section analysis of the proposed legislation, (figure D-4), a statement of changes in existing law (Ramseyer/Cordon) where the legislative proposal would amend existing law and environmental impact statements if and other information required by statute.
13. **CLEARANCE SIGNATURE PAGE.** See instructions in appendix B, figure B-4.

FIGURE D-3

SAMPLE PROPOSAL

A BILL

To authorize the imposition of civil penalties for persons who harm animals used for official inspection by the Department of Agriculture, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CIVIL PENALTY.

(a) IN GENERAL.-Any person who causes harm to, or interferes with, an animal used for the purposes of official inspections by the Department of Agriculture, may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary of Agriculture not to exceed \$10,000.

(b) FACTORS IN DETERMINING CIVIL PENALTY.-In determining the amount of a civil penalty, the Secretary of Agriculture shall take into account the nature, circumstance, extent, and gravity of the offense.

(c) SETTLEMENT OF CIVIL PENALTIES.-The Secretary of Agriculture may compromise, modify, or remit, with or without conditions, any civil penalty that may be assessed under this section.

(d) FINALITY OF ORDERS.-The order of the Secretary of Agriculture assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of the order of the Secretary of Agriculture may not be reviewed in an action to collect the civil

FIGURE D-3 (continued)

penalty. Any civil penalty not paid in full when due under an order assessing the civil penalty shall thereafter accrue interest until paid at the rate of interest applicable to civil judgments of the courts of the United States.

SECTION 2. SUBPOENA AUTHORITY.

(a) IN GENERAL.-The Secretary of Agriculture shall have power to subpoena the attendance and testimony of any witness, and the production of all documentary evidence relating to the enforcement of this Act or any matter under investigation in connection with this Act.

(b) LOCATION OF PRODUCTION.-The attendance of any witness and the production of documentary evidence may be required from any place in the United States at any designated place of hearing.

(c) ENFORCEMENT OF SUBPOENA.-In case of disobedience to a subpoena by any person, the Secretary of Agriculture may request the Attorney General to invoke the aid of any court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, in requiring the attendance and testimony on any witness and the production of documentary evidence. In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary of Agriculture and give evidence concerning the matter in question or to produce documentary evidence. Any failure to obey the court's order may be punished by the court as a contempt

FIGURE D-3 (continued)

of the court.

(d) COMPENSATION.-Witnesses summoned by the Secretary of Agriculture shall be paid the same fees and mileage that are paid to witnesses in courts of the United States, and witnesses whose depositions are taken, and the persons taking the depositions shall be entitled to the same fees that are paid for similar services in the courts of the United States.

(e) PROCEDURES.-The Secretary of Agriculture shall publish procedures for the issuance of subpoenas under this Act. Such procedures shall include a requirement that subpoenas be reviewed for legal sufficiency and signed by the Secretary of Agriculture. If the authority to sign a subpoena is delegated, the agency receiving the delegation shall seek a review for legal sufficiency outside that agency.

(f) SCOPE OF SUBPOENA.-Subpoenas for witnesses to attend court in any judicial district or testify or produce evidence at an administrative hearing in any judicial district in any action or proceeding arising under this Act may run to any other judicial district.

Appendix D

FIGURE D-4

United States Department of Agriculture

Section-by-Section Analysis

SECTION 1

Section 1 authorizes the Secretary to assess a maximum civil penalty of \$10,000 for any person who causes harm to, or interferes with, an animal used for the purposes of official inspections by the Department of Agriculture. Factors for determining the level of the penalty would include the nature, circumstance, extent, and gravity of the offense. The Secretary would also be authorized to compromise, modify, or remit any penalty assessed. The Secretary's order assessing a civil penalty is final. Unpaid penalties shall accrue interest.

SECTION 2

Section 2 authorizes the Secretary to issue subpoenas for the attendance and testimony of any witness and the production of documentary evidence relating to the enforcement of the Act or any matter under investigation under the Act. Section 2 also establishes parameters regarding the issuance and enforcement of the subpoena, authorizes compensation for witnesses and those taking depositions, and requires the Secretary to publish procedures for the issuance of subpoenas, which must include a requirement that subpoenas be reviewed for legal sufficiency.

