THE WHITE HOUSE

WASHINGTON

October 7, 1975

MEMORANDUM FOR

THE CABINET

SUBJECT: AGENDA FOR CABINET MEETING
WEDNESDAY, OCTOBER 8, 1975
11:00 A.M., THE CABINET ROOM

Introduction	The President	10 minutes
Follow-up on President's Economic Speech	James Lynn	20 minutes
Regulatory Reform Activities in the Departments	James Cannon	30 minutes
Briefing on the Concorde Entry Question	Secretary Coleman	10 minutes

JAMES E. CONNOR
SECRETARY TO THE CABINET

- Thank you, Mr. President.

- Since Secretary Coleman has just announced our airline regulatory reform--a major reform initiative--I agree that this is an appropriate time to review our efforts at regulatory reform.

- As Bill, Earl, John, ~~and Russ~~ have indicated, we are moving forward on reform within the Departments and Agencies.

- Since this is Rod Hills' last Cabinet meeting and he has been central in our reform effort, I would like him to summarize where he thinks we are in this effort and where he thinks we are going.

5. I have been concerned recently that our program for regulatory reform activities in the Departments and agencies has not been moving very rapidly. I have asked Jim Cannon to report on the situation for us, but before Jim begins, I would like to make a few points.

An important element is examining our own Department and Agency regulations to make sure we are not administering costly and outdated regulations. Bill Coleman, can you tell us what action DOT has taken to review and improve its regulations?

Earl Butz made some interesting comments about the Agriculture Department's regulations when we met with the Independent Regulatory Commissioners. Earl, can you tell us what action USDA is taking?

As I talk with people around the country, I often hear about problems with the Department of Labor's OSHA regulations. John Dunlop, would you brief us on what you are doing to improve regulation in this area?

Recently, the press has been writing about regulatory changes at EPA. Russ Train, could you outline the initiatives underway at your agency?

I want to emphasize again that we must get our own regulatory house in order, and I expect results by the end of the year.

Now, I'd like Jim Cannon to sum up the situation and point out where other problem areas may arise. Jim, . . .

6. As you all know, the issue of the entry of the Concorde into some of our airports is one we have to face. I have asked Bill Coleman to bring us up to date on the situation and the problems he foresees. Bill, . . .

Does anyone have any comments on this situation? Brent Scowcroft, would you like to add anything?

THE WHITE HOUSE

WASHINGTON

October 7, 1975

CABINET MEETING

Wednesday, October 8, 1975
11:00 a.m.
The Cabinet Room

From: James E. Connor

I. BACKGROUND, PARTICIPANTS & PRESS PLAN

1. Background: You last met with the Cabinet on Monday, October 6th, when you briefed them on your tax speech of that evening. Your previous meeting with the Cabinet was on September 17th when the New York financial situation, the sale of U. S. grain abroad, the busing situation and the Domestic Council Public Forums were discussed, along with up-dates in the economic and energy areas.

2. Participants: Attached at Tab A

3. Press Plan: Press Photo at Beginning of Meeting, and David Kennerly Photo.

II. TALKING POINTS

1. I consider my speech Monday evening one of the most significant I have delivered since I have been in office. Although my program will face a difficult road in the Congress, I am convinced that this package represents a program which will find favor with the American people. As I said before, we want to give the country back to the people; we want the American people to stop giving more and more of their money to the government.

2. I want to emphasize again that it is important that my two proposals be regarded as one package. The two proposals are tied together, and we must always join them together when we talk about our economic programs.

3. Here are some ways that you can help me maintain the momentum:

Insure that your key people understand the intricacies of this policy and the basic direction in which we will be moving. Particularly they must understand that the tax cut and the expenditure cuts are irrevocably linked.

Get out around the country and keep this issue in front of the American people through your speeches and meetings.

Make sure your key people carry this message effectively when they are speaking and meeting with others outside the Administration. Particularly make sure your Congressional Relations and Public Information Offices are well briefed on what you expect of them.

Review thoroughly your expenditure requirements. This should be the most thorough review your department has ever undertaken. OMB will be working closely with you on this effort.

Prepare meticulously for your appropriations and budget hearings in front of your respective committees. It is in the committees that the key battles will be fought if we are to hold our expenditures to the levels that are required if this new policy direction is to work.

I am sure you can think of many other things that you can do to assist in this effort. Use your initiative and your imagination to get our message across.

4. I have asked Jim Lynn to describe the specific areas where growth is expected to occur, and I know he will want to say a few words about the cooperation he will need from you in establishing the appropriate budget levels. Jim, . . .

5. I have been concerned recently that our program for regulatory reform activities in the Departments and agencies has not been moving very rapidly. I have asked Jim Cannon to report on the situation for us, but before Jim begins, I would like to make a few points.

An important element is examining our own Department and Agency regulations to make sure we are not administering costly and outdated regulations. Bill Coleman, can you tell us what action DOT has taken to review and improve its regulations?

Earl Butz made some interesting comments about the Agriculture Department's regulations when we met with the Independent Regulatory Commissioners. Earl, can you tell us what action USDA is taking?

As I talk with people around the country, I often hear about problems with the Department of Labor's OSHA regulations. John Dunlop, would you brief us on what you are doing to improve regulation in this area?

Recently, the press has been writing about regulatory changes at EPA. Russ Train, could you outline the initiatives underway at your agency?

I want to emphasize again that we must get our own regulatory house in order, and I expect results by the end of the year.

Now, I'd like Jim Cannon to sum up the situation and point out where other problem areas may arise. Jim, . . .

6. As you all know, the issue of the entry of the Concorde into some of our airports is one we have to face. I have asked Bill Coleman to bring us up to date on the situation and the problems he foresees. Bill, . . .

Does anyone have any comments on this situation? Brent Scowcroft, would you like to add anything?

Attendees - Cabinet Meeting
October 8, 1975
The Cabinet Room

The President
The Vice President

The Secretary of the Treasury, William Simon
The Secretary of Defense, James Schlesinger
The Attorney General, Edward Levi
The Secretary of Agriculture, Earl Butz
The Secretary of Labor, John Dunlop
The Secretary of HEW, F. David Mathews
The Secretary of Transportation, William Coleman
The Acting Secretary of the Interior, Kent Frizzell
The Deputy Secretary of State, Robert Ingersoll (for Secretary Kissinger who has an appearance on the Hill)
The Under Secretary of Commerce, James A. Baker (for Secretary Morton who is out of the country)
The Under Secretary of Housing and Urban Development, John D. Rhinelander (for Secretary Hills who has a speech out of the city)
The Counsel to the President, Philip Buchen
The Special Representative for Trade Negotiations, Frederick Dent
The Director of the Office of Management and Budget, James Lynn
The Counsellor to the President, Robert Hartmann
The Counsellor to the President, Jack O. Marsh
The U. S. Representative to the United Nations, Daniel P. Moynihan
The Assistant to the President, Donald Rumsfeld

White House/Executive Office:
Bill Baroody, Assistant to the President for Public Liaison
James Cannon, Assistant to the President for Domestic Affairs
Richard Cheney, Deputy Assistant to the President
James Connor, Secretary to the Cabinet
Max Friedersdorf, Asssistant to the President for Legislative Affairs
Alan Greenspan, Chairman, CEA
Ronald Nessen, Press Secretary to the President
Gen. Grent Scowcroft, Deputy Assistant to the President, National Security Affairs
L. William Seidman, Assistant to the President for Economic Affairs
John Venneman, Assistant to the Vice President
Paul McAvoy, Member, CEA

Note:
Russell Train, Frank Zarb and Mary Louise Smith are unable to attend due to previous speaking commitments out of the city.

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

October 8, 1975

MEMORANDUM FOR: Honorable James M. Cannon
Executive Director
Domestic Council

FROM: William T. Coleman, Jr.

I see from today's Cabinet meeting agenda you will be giving a briefing on regulatory reform within the departments. For background, I would like to give you this internal memorandum which gives the status of things in the Department of Transportation.

Enclosure

Form DOT F 1320.1 (1-67)

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

DATE: September 18, 1975

In reply refer to:

SUBJECT: Status Report on Regulatory Reform

FROM : Regulatory Reform Task Force

TO : The Deputy Secretary

To bring you up to date, here is a review of actions now underway to encourage better attention to costs in formulating regulatory decisions and a summary of what we view as appropriate next steps.

Actions Underway

In response to your memorandum of August 7, the modes have reported to us that, with the exception of a couple of limited areas, there are no statutory obstacles to weighing costs in making regulatory decisions. TGC has reviewed these responses and is in agreement with that conclusion.

Furthermore, the modes have told us that in nearly every area in which they regulate, economic consequences are calculated and considered early in the process.

1. Improving internal coordination of regulatory actions

Both FAA and the Coast Guard have instituted processes to provide broad policy review of proposed regulations before they are issued as NPRMs. Such review is intended to thoroughly air proposals within the mode. The Coast Guard's Marine Safety Council, which reviews all regulatory proposals before they are sent to the Commandant, has begun to include an assessment of anticipated economic impact in the back-up for each proposal. These policy reviews could be used as examples for encouraging better internal coordination in the other modes.

FHWA is considering setting up a coordinated internal review of proposed Motor Carrier Safety regulations. NHTSA is revising its procedures for review of proposed Motor Vehicle Safety regulations to give more emphasis to environmental and economic consequences. UMTA has no overall policy body to consider proposed regulations.

2. Evaluation of the most expensive regulatory actions

The inflation impact procedures, now in the process of final approval by OMB, require extensive economic evaluation of regulatory actions and legislative proposals resulting in cost increases of $50M or more in any industry or $100M overall. We have met with representatives of each of the modes to discuss the procedures and work out problems. They are beginning to develop a little more sensitivity to costs.

3. Review of existing regulations

The FAA has undertaken a biennial review of its major areas of regulation, air worthiness and operations regulations. Affected interest groups are invited to propose changes. The review has resulted in changes in several regulatory requirements.

In the Coast Guard, as in the other modes, there is no systematic review of existing regulations to determine their cost-effectiveness. However, the Coast Guard has proposed and is in the last stages of OMB clearance on a legislative proposal to remove major statutory obstacles to modernization of its oversight of maritime commerce. Coast Guard advisory committees have also been asked to recommend changes in the existing scheme of regulations which would cut costs without sacrificing necessary oversight.

4. A forgotten Departmental Order

TGC has reviewed existing Departmental/OMB directives to determine to what degree we currently require consideration of economic consequences of regulatory actions. This review has turned up a Departmental Order creating a Regulatory Council intended to consider overall policy issues associated with proposed regulations The Council exists only on paper.

Recommended Next Steps

1. Improving attention to costs

While the responses to your memorandum stated that cost consequences are considered in nearly every regulatory area within the Department, our own experience indicates that such consideration often does not take place or is not given serious attention. We believe that there is a need (1) to improve the quality of economic analysis (2) to assure that it is available as early as possible in the process, and (3) to encourage its full consideration.

There are two roads we could follow in trying to improve cost-consciousness. The chief issue is to what degree it is necessary or desirable to require OST review and approval of modal regulatory decisions.

Alternative 1: A regulatory clearance process

A good argument can be made that the regulatory process is far too decentralized within the Department. All other decisions of significant impact are reviewed and approved by OST through the budget process, the legislative clearance process, or both. In the regulatory area, emphasis on expertise and on immunity from political corruption has, over time, insulated decisions from the constructive crossfire of conflicting interests within the Department. In no other guise would we permit hundred-million dollar decisions to be made in the name of the Department without Secretarial review. Frequently, the only real difference between regulatory and legislative proposals is the degree to which Congress has chosen to delegate authority in a particular area.

Alternative 1, then, would provide for review and approval by the Secretary of all important regulatory actions before they are publicly proposed. The most appropriate model would be the legislative clearance process.

We do not recommend this alternative at this time for several reasons. (1) We believe that our present objectives can be met without taking this road, as you will see in the discussion of Alternative II. (2) We would probably lose ground on one of the President's objectives by inadvertently becoming agents of backlog and delay. (3) No mater how we were to cut it, OST review would mean substantially more resources allocated, bodies added, and at least the appearance of reinforcement of the heavy hand of government.

Alternative 2: Place the responsibility for cost-cutting with the modes (A) without OST oversight; or (B) with OST oversight.

Under this alternative, the Secretary would direct the modes to calculate and consider cost consequences in all areas where they have the legal authority to do so as early in the process as is possible. Specific procedures for doing that would be left to them. It would be coupled with a Department-wide effort to standardize and improve cost-benefit techniques (an attempt at this is now getting underway in TPI). It could be viewed as Phase I of the regulatory reform effort. If it is not producing results in six months, it could be replaced with a more direct OST role.

Alternative 2(A)

We could issue such a directive and leave it at that. Several of the modes have shown signs of taking initiative in this direction on their own. We could allow implementation to take its own course and evaluate the situation in six months. This approach would place no demands on OST resources and would communicate initial confidence that the modes can get the job done.

Alternative 2(B)

Under this approach, the Secretary's directive would be coupled with OST auditing the results. We would look at selected regulatory actions, after the fact, to see what kind of economic analysis was available to the Administrator, how early it was available, and whether it was weighed in along with other appropriate considerations. We would also look for unnecessary delays. Such information is already at hand for the most expensive regulatory proposals in the form of TPI review of inflation impact evaluations which are beginning to be produced.

We believe that this is the best approach. It appropriately places responsibility where expertise and operating control now exist, in the modes. It recognizes the fact that each mode has evolved its own regulatory process in response to its own demands and strengths and would result in minimal disruption of those processes. Its major weakness is that it would not provide the Secretary with before-the-fact information on important regulatory proposals and their probable impact. This problem could be addressed by the early warning system (see below).

2. The early warning system

As a first step, TGC has asked the modes to submit summaries of regulatory proposals in the works which are either costly or are likely to be controversial for other reasons. In response, NHTSA has submitted a lengthy list of such proposals. In determining what use should now be made of these listings, we again face the issue of the appropriate role of OST versus the role of the modes.

We recommend that full responsibility be placed with the Administrators to alert the Secretary to potentially costly or controversial regulatory proposals before they are publicly proposed. The alert would take the form of a memo from the Administrator to the Secretary summarizing the proposal and the reasoning behind it with emphasis on probable economic consequences and political impact. It would take place as soon as the mode has developed the proposal and at least several weeks before publication. The process would be set in motion by a memorandum from the Secretary to the Administrators asking that this be done.

3. Review of existing regulations

We believe that the next step should be to ask the major interest groups affected by Departmental actions for three to five suggestions of the most wasteful or unnecessary regulations, patterns of regulation, or practices under the Department's control.

Before we do that, however, we should make a considered judgment that we are prepared to allocate the resources necessary to follow up on these suggestions. If we do not, such a request could backfire badly. We would be asking the interest groups to do some work, raising expectations, and letting ourselves in for further charges of government unresponsiveness.

If that decision is made, the scenario would be as follows. The request would be made by means of letters to the major interest groups accompanied by a public statement by you or the Secretary and a notice in the Federal Register. Responses would be transmitted by the Secretary to the appropriate Administration for their views. OST staff would then review the suggestions and Administration responses and recommend appropriate action to the Secretary.

4. Reducing delays caused by the OST coordination process

One of the suggestions in response to your memorandum to the Administrators was that the OST coordination process be reviewed to determine where changes could be made to produce quicker action on proposals from the modes. Because we suspect that the process could be made more efficient and as a gesture to the modes that we are attempting to clean our own house as well as theirs, we recommend that TAD-20 be assigned responsibility for such a review.

We would like to discuss these recommendations with you at your convenience.

Bob Brown	Peyton Wynns	Bob Ross	Mary Graham