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August 5, 1977

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Mr. Jim Tozzi
Branch Chief, Environment
Office of Management and Budget
8222 New Executive Office Building
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Dear Jim:

Thanks so much for taking the time to share your thoughts on OMB's "Quality of Life" interagency review process. Your ideas will be very useful in helping us to form recommendations on improving decisionmaking in the executive branch.

Enclosed is a copy of my rough notes of our discussion. When you have time, could you please review it to see if my recollections of your ideas are accurate. I would also appreciate your indication of whether you wish to be quoted in our research papers on all or part of the discussion. Any specific remarks on specific individuals, of course, will not be used. If I haven't heard from you, I will call in about three weeks to check on your reactions.

Again, thanks for your help.

Sincerely,

Kathryne Bernick
Assistant Staff Director

INTERVIEW WITH JIM TOZZI
BRANCH CHIEF
ENVIRONMENT BRANCH
NATURAL RESOURCES DIVISION, OMB
JULY 18, 1977

Subject: Interagency Review Process

1. Question: When did you arrive at OMB?

Answer: July 1972.

Environment, Health & Safety

2. Question: Why didn't the Quality of Life Process apply to agencies outside of the Natural Resources Division?

Answer: Putting aside those regulations which have to do with the expenditure of funds, which were reviewed as part of the normal budget review, the other agencies were not subject to the Quality of Life Review. The reason was that they don't tend to raise interagency conflicts and the examiners didn't think it was very germane. However, some of FDA's regulations could have been subject to the "Quality of Life Review."

3. Question: What was the average time involved in the Quality of Life Review?

Answer: Check a study done by Al Alm. Jim Janis would have this. OMB felt it was about right. The median time from when the agencies transmitted the regulations to OMB until the regulation was signed was 104 days. Of that 56 days was for OMB review and 54 days was for the final EPA review. The median time for the interagency review was 18 days. Check Environmental Reporter, page 694695 in 1976. OMB certainly delayed regulations, but it never actually halted one from going out except maybe in the case of selective enforcement standards. EPA wanted the regs out and OMB said no. EPA issued the regulation over OMB's objections. It was held up first for a long time, maybe half a year.

Precedent

4. Question: What do you think of the National Academy proposal to have a concurrent "quality of life" and public comment period?

Answer: He strongly prefers the old method, but he will accept the National Academy conclusion if you are going to have any regulatory review at all. (*Procedural*)

5. Question: What do you think of EPA's internal interagency review process? Do the working groups ever actually work? Are there any complaints from other agencies?

Answer: *Many of the agencies side track*
EPA doesn't take the other comments seriously. There is no policeman for the process. The other agencies can write comments, but EPA doesn't even comment on them. The working groups do

exist and the other agencies do participate. The Quality of Life Review is continuing for the other agencies under the Natural Resources Division. The Domestic Policy Group is considering a revival tied into the inflation impact statement revival, but it has wilted on the vine for a while.

6. Question: How often was a proposal kicked upstairs? What sort of things were elevated to the White House level?

Answer: Maybe a ~~dozen~~ dozen a year were at the assistant secretarial-political officer level, out of 50 or 60 regulations for which comment was circulated. Meetings were held on most of these. Toward the end of the process there were only half as many, maybe half a dozen per year. At that point the other agencies weren't as interested. In order for an issue to be elevated another political officer had to object or OMB would decide that the policy issue was significant in that somebody else's ox was being gored. He agrees with Fairbanks that the most uncertain issues, the fifty fifty issues, were also likely to be sent upstairs.

7. Question: What was the role of CEQ, OSTP and CEA?

Answer: CEQ was usually not involved. They were invited but they had a small staff and couldn't follow the regulations day in and day out, which was really necessary. They were not involved in the lead case. They were only involved if the staffers happened to be interested in following an issue. Similarly, OSTP was very selective but on a few issues was very vocal. Larry Goldmuntz, for example, was a vocal participant. They would assert additional scientific evidence. On the biggest cases they were usually against EPA. CEA was also very selective, again because of the staffing.

8. Question: If you were in a position to start up a quality of life review, how would you operate it?

Answer: I would abbreviate the process. Instead of having every regulation go through, I would just have the most important ones. OMB would determine which ones needed to be reviewed. If OMB called for a review, it would be done before the proposal was made. In addition, it would be done government-wide. In this case the environmentalists had a legitimate gripe that EPA was singled out, although they were issuing more regulations than the other agencies.

9. Question: Who were the other people involved in the EPA lead case?

Answer: Greenfield was the assistant administrator arguing at the political level. He is now in San Francisco. Ask for him at the R&DAA. Ken Bridboard is at NIOSH. Train was not involved. Jerry Hamm, Petroleum Engineer at Interior, ~~is~~ might now be at FEA.

10. Question: How did the final process on lead operate?

Answer: There was a final meeting with Quarles, Tozzi, Sawhill, and HEW staffers. Everyone said that it was a bad idea. Tozzi said that lead

levels would go down anyway after ten years because of the life cycle of cars and you would end up with an even lower lead level since the catalyst required lower lead levels than EPA was proposing for health reasons. To accelerate this process and to take the fuel penalties was not prudent, Tozzi argues. EPA then said, what happens if we get rid of the catalyst? Tozzi responded, if you lose the catalyst then you can reissue the health regulations. Tozzi never really got to Ethyl Corporation's scientific issues. Just last year the Enforcement Office at EPA delayed compliance and pushed back the deadlines another year because of the energy penalties. Quarles would not sign this. He made Train sign it. Talk to Dan LaGrosse who used to be AA and is now in California. This delay was not done at OMB's request but more than likely because of the petroleum refinery pressure.

11. Question: What was the White House involvement?

Answer: Whitaker and Fairbanks were involved with the White House level. It was really strong White House support that made the process work. The top side of OMB had second thoughts about it. Basically, because they felt they needed a different kind of guy, not a typical budget examiner, who could handle legislative and budget authority. The system has to be very fine tuned. You have to know when to stop and can't push too far. So OMB never actually used its authority, even though Congress said it did. Congress could never point to the specifics of what was so bad about it.

12. Question: Ruckelshaus and Train seem to be reasonably adjusted to the program. Why was Quarles so adamantly opposed?

Answer: Ruckelshaus knew he ran the agency and so did Train. Quarles felt more defensive about his power. Ruckelshaus told Tozzi that he welcomed peer review after the air standards were first issued.

13. Question: What about the notion that the best debater wins instead of the best issue?

Answer: Ruckelshaus was a very clever debater. For example, in the aircraft emission case OSTP had a good case against Ruckelshaus and brought in a cast of thousands of technicians to a meeting. They didn't know how to present that and Ruckelshaus knew how to bounce them on their heads. So he won. At the policy level the debate could win, but at the staff level it really wouldn't. The OMB broker would see through it. It really depends on who's running the meeting

14. Question: Could White House staff have run the Quality of Life Review?

Answer: They really lack resources and time. OMB was in a good situation. Looking at the budget forces you to look at the agency continually. CEQ could have if they were staffed up, but they lacked credibility. He would not go so far to say that they were "intellectually dishonest," but they did have an environmental tinge.