



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

January 25, 1977

OFFICE OF THE
ADMINISTRATOR

Dear Don:


After reflecting (and sleeping) on our conversation yesterday, I have decided to go forward with the "Quality of Life" memorandum. My feeling is that the established routines have become strongly re-enforced not only within your staff but perhaps more importantly among the subordinate staff in other Federal agencies, and I simply feel that leaving the matter to future discussions and review is what we did in 1973 without much success and should not do again.

I hope you will note carefully that the memorandum does not opt EPA out of interagency review altogether. It simply challenges the existing mechanisms. Also I will repeat my assurances to you that I have no intention of precipitously issuing a backlog of controversial regulations. This matter requires careful thought, and from EPA's viewpoint we want to go through it firmly and carefully with you.

You will note that I did change my memorandum to point out that OMB has recently made efforts to apply the same ground rules to other agencies, and I might add that if it had not been for the prompt and cooperative help from you and especially Jim Tozzi the system would have been an unbearable albatross much more so than it has been.

I look forward to hearing from you.

Sincerely yours,


John R. Quarles, Jr.
Acting Administrator

Mr. Don Crabill
Office of Management and Budget
726 Jackson Place, N.W.
Washington, D. C. 20503

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

January 25, 1977

OFFICE OF THE
ADMINISTRATOR

SUBJECT: Termination of the Quality of Life Review

FROM: John R. Quarles, Jr.
Acting Administrator

A handwritten signature in cursive script that reads "John Quarles".

TO: Assistant Administrators
Office Directors
Regional Administrators

Purpose. The purpose of this memorandum is to announce the termination of the "Quality of Life" review system for receiving interagency comments upon regulations to be issued by the Environmental Protection Agency, and also to announce interim procedures to be followed until permanent guidelines can be established to provide for interagency review of pending regulations.

Background. In 1971 President Nixon's Director of the Office of Management and Budget, Mr. Schultz, issued a memorandum establishing the "Quality of Life" review system. The purpose was to assure that Federal agencies with programs or concerns which might be adversely affected by regulation designed to enhance the quality of life would be given a full opportunity to comment upon such regulations before their promulgation. As this system evolved it has applied almost exclusively to EPA -- although OMB has recently tried to upgrade the participation of other agencies.

Under the system EPA has circulated drafts of proposed regulations to other Federal departments and agencies both before such regulations were published in the Federal Register as proposed regulations for general public comment and again after such publication before the regulations were promulgated. In each round of comment, any other department or agency which has disagreed with the design or content of the regulations has been given an opportunity to voice its criticisms. In many cases regulations have been modified to meet such criticisms. Much of the coordination of this system has been handled by OMB, and where disputes have arisen, staff from OMB have performed a function in resolving such disputes.

This system of interagency review has had a number of benefits and drawbacks, as follows:

benefits:

- in the early days, comments from other agencies stimulated EPA to strengthen its analysis of economic costs and other impacts of proposed regulations.
- the exchange of comments between Federal agencies reduces potential conflicts between EPA regulations and other federal programs.

drawbacks:

- the two rounds of review (each frequently consuming two to three months) have caused substantial delays in issuance of regulations, often causing EPA to fail to meet statutory deadlines set by Congress.
- the time and effort consumed in the interagency process diverts time and effort away from direct contact with persons actually affected by the regulations, such as industry, state and local officials, environmentalists, and citizen groups.
- the coordinating role performed by OMB has caused a diffusion of responsibility, transferring a significant degree of control over the regulations from EPA to OMB and subordinate officials in other agencies.

It should be emphasized that this system of interagency review, entailing a major participation by OMB, is unique in regard to EPA and that other Federal agencies issuing comparable regulations do not adhere to comparable procedures.

Issue Presented. The question presented at this time is whether the "Quality of Life" system for interagency review should be assumed to continue automatically from the previous Administration into the new Administration. My judgment is that it should be assumed that this system will not continue in operation but that new arrangements will have to be devised to provide the benefits of interagency review in a manner that does not present the drawbacks of the "Quality of Life" system. Certainly it is unimaginable that the new Administration will continue the arrangement of having one review system for EPA and different systems for other agencies.

Interim Arrangements. With respect to all regulations currently undergoing interagency review, that review will be completed promptly. Other agencies now preparing comments on EPA regulations will be given the opportunity to complete their comments. After receipt of those comments, however, EPA will not submit to OMB the summary of comments and proposed resolution of issues, as has been customary in the past. In cases where regulations developed for publication raise major policy issues, however, I normally will not sign such regulations for submission to the Federal Register without first thoroughly discussing the issues with appropriate representatives of the new Administration, and in appropriate cases I will defer actual signature and publication of the regulations until a permanent Administrator has been installed. I am asking the Assistant Administrator for Planning and Management to review all regulations now in development and to prepare recommendations for proper handling of them during this transition period. The principal objective of the interim arrangements indicated by this memorandum is simply to put EPA's procedures more nearly into line with those followed by other agencies and departments until new permanent guidelines can be adopted.

Establishment of Permanent Procedures. I recognize that the above arrangements will suffice to cover only a brief interim period. I intend to recommend to whomever becomes Administrator that an immediate priority must be discussions with top officials of other Federal agencies and especially the White House and OMB, to develop a new set of procedures covering the interagency review of regulations. I am asking the Assistant Administrator for Planning and Management to prepare a draft set of guidelines for use in such discussions. The draft guidelines should contain the following elements:

1. During the development of proposed regulations, program staff should routinely contact staff in other Federal agencies where it is obvious that EPA regulations will be of direct concern to those departments. This should be done as part of the normal outreach effort conducted in regard to all EPA regulations to obtain viewpoints from persons and groups outside the Agency. Apart from this responsibility to be placed in the program office developing the regulations, no separate review process should be carried out with other Federal agencies or departments prior to the publication of proposed regulations in the Federal Register.

2. The principal opportunity for other Federal agencies to express concerns over proposed regulations would occur during the public comment period following publication of proposed regulations.

3. The public comment period for regulations normally should be a minimum of 60 days rather than 30 days as called for by the Administrative Procedures Act, to allow a more meaningful evaluation of proposed regulations by outside groups. By eliminating the delays inherent in separate procedures for interagency review, a longer period for public comment can be provided while still expediting the development and promulgation of the regulations required by our statutes.

4. If any Federal agency wishes to submit comments upon EPA regulations, their basic comments should be submitted in writing and should be available for public inspection in the same manner as comments received from ordinary citizens.

5. During the public comment period EPA staff should be prepared to meet with staff from other Federal agencies to discuss in depth any questions or criticisms raised by them. Such meetings are to be scheduled by EPA and held at the offices of EPA. In the event that staff level conversations are not satisfactory to any agency, they can request a meeting at the Assistant Secretary/Assistant Administrator level to discuss major policy differences.

Such an approach would provide full opportunity for EPA to obtain the viewpoints of other Federal agencies, but with far less delay in the development of regulations, in a more open manner, and in a manner more consistent with the practices followed by other departments and agencies.

I will look to the Office of Planning and Management, and particularly the Director of the Standards and Regulations Evaluation Division, to implement this memorandum and to answer any questions that you or your staff might have about it.