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

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OFFICE OF
PLANNING AND MANAGEMENT

MEMORANDUM

SUBJECT: Interagency Review of EPA Regulations

FROM: Alvin L. Alm
Assistant Administrator
for Planning and Management AA

TO: Jim J. Tozzi
Office of Management and Budget

In October, 1971 the Office of Management and Budget established a requirement that all Federal regulations pertaining to environmental quality, consumer protection, occupational and public health and safety be subjected to a formal review by other Federal agencies. In practice this requirement has been routinely imposed only on the Environmental Protection Agency. This differential treatment has caused substantial public and Congressional concern and has created some employee morale problems within EPA.

While the formal interagency review has contributed to improved coordination and quality of Federal programs, it has also significantly delayed a number of EPA regulatory actions. Frequently these delays are caused by staff debates over relatively insignificant points which do little to improve regulations.

Over the past 5 years EPA has improved its internal procedures for developing regulations. More and better economic analyses are being prepared and opportunities for public and Federal agency participation in the regulatory process have been greatly increased. This has resulted in improved quality of regulations and a better understanding of our proposals by affected parties and interested Federal agencies. Federal agencies have been invited to participate in the development of regulations through review of early documents or through nomination of individuals to participate in working group activities.

I believe that EPA's interagency review procedures should be modified to reduce delays and to put the Agency on an equal footing with other Federal regulatory agencies. Accordingly, I propose the following two modifications to the current procedures:

1 - Limit routine OMB involvement to regulations of direct budgetary significance. Regulations which do not affect the Federal budget would be sent by EPA directly to interested agencies for review and comment. EPA would prepare responses to comments and send them directly to the agencies with copies to OMB. OMB would intercede to coordinate only when explicitly requested to do so by an agency which felt that an issue of policy significance had not been given appropriate consideration by EPA

2 - Limit the formal interagency review to draft regulations prior to proposal except where significant changes are made by EPA between proposed and final or where policy issues remained unresolved at the time of proposal. EPA would review draft final regulations with OMB to determine the need for formal review of final regulations. EPA would provide advance information copies of final regulations to agencies which commented on proposals.

I have attached a summary of the proposed revised procedure. I believe that it is consistent with the procedures recently approved by OMB for the Department of Transportation.

Attachment

Proposed Revised Procedures for Development and Intragency Review of EPA Regulations

PROPOSED RULEMAKING:

A. Approval of the Development Plan and public notice of intent to develop rulemaking - Direct mailing of notice to Federal agencies.

B. Formation of the working group.

C. Development of the regulation and supporting data and anslyses. Public and Federal agency participation.

D. Steering Committee review.

E. Draft documents to interested agencies for three week review and comment period.

F. Receive agency comments.

G. EPA formal response to agency comments - (cc to OMB).*

H. Assistant Administrator and Staff Office Director concurrence.

I. Administrator's signature.

J. Publication of proposed regulation in the Federal Register.

FINAL RULEMAKING:

K. Analysis of public comments.

L. Working group review, Public and Federal agency participation.

M. Steering Committee review.

N. Review regulation with OMB to determine whether formal interagency review is necessary. If not, send information copy to agencies which commented on proposal. If yes, send to interested agencies for three week review and comment period and subsequent formal EPA response.*

O. Assistant Administrator and Staff Office Director concurrence.

P. Administrator's signature.

Q. Publication of final regulation in Federal Register.

* Agencies would have one week from receipt of response to raise unresolved issues with OMB.