

The Agencies' Role in RCA

The original title of my remarks was "The SCS Role" in RCA, but this is a USDA-wide effort. I would therefore like to expand my comments to cover the agencies' role in RCA. While SCS has been assigned RCA leadership, it is not our exclusive show. When we do an RCA job, we are doing it as part of a USDA team effort.

Dave Unger's boss and ours--Assistant Secretary Rupe Cutler--said this at the recent National Conference on Soil Conservation Policies:

"Soil conservation is one of America's major environmental issues, and ...it must be addressed squarely if we are to have the kind of future that most Americans want...

"We will need scrapping, adventurous, hard-driving soil conservationists and conservation programs in the 1980's. The directions, the accomplishment levels, the marching orders are now being drafted. We must ask the tough strategy questions...we must act on the answers...and then we must make all the mid-course corrections required for truly effective programs.

"On the successful, multidisciplinary design and use of those programs depends the future of our Nation."

As Dave Unger said today, drafting and carrying out those challenges is a job that must involve our whole Department, and a lot of people outside USDA. It is a big job that already has involved a lot of SCS people and will cause your extra effort over the next few months.

Some of your other "trainers" today will be discussing with you the specific details of the Resources Conservation Act process and your part in it.

Material prepared for remarks by Norman A. Berg, Administrator, USDA Soil Conservation Service, at a training conference for the SCS-RCA Response Analysis Center, Athens, Georgia, November 27, 1979.

I would like to discuss briefly the major roles of the Soil Conservation Service in RCA.

The major role really covers all the rest, or is a part of each one--Public participation.

President Carter issued a mandate for all Federal agencies to improve their decisionmaking for "significant" program actions.

Secretary Bergland issued Secretary's Memorandum 1955 calling for greater involvement of the public in our "significant decisions." ~~and~~

~~SCS set up a new public participation task force chaired by Deputy Administrator Vic Barry to evaluate our public participation activities and recommend improvements.~~ The Congress, in putting together the RCA

legislation, gave a specific charge to involve the public closely all the way in RCA.

Why these actions?

The American public is increasingly interested in natural resource improvement. At the same time, the public is interested in obtaining the most benefit possible from the dollars it spends for public programs. We all are highly concerned about inflation and tax levels.

Thus we have to give the public more opportunities and more varied ways to express views, and we have to take those views into account.

Along the way, with your help in that kind of open government, the Service can achieve the same good reputation for responsive government that it already has for its technical skills.

We must be responsive . . . we must be credible . . . and we ~~must~~ expect ~~to build~~ to build a reviewable record in public participation.

It is the SCS role to help define the issues and alternatives.

This involves two-way communication with ~~many~~ ^{non-USDA} other agencies and organizations as well as individual citizens in looking at the legal, ecological, social, and economic considerations.

There are more ways of achieving conservation goals than any of us have yet recognized. We need to build awareness . . . basic understanding . . . support . . . and enthusiasm within and outside our agency for addressing the possibilities for future conservation programs.

The public and the ~~Soil Conservation Service~~ ^{USDA} need to be knowledgeable, equipped to participate effectively.

Another part of being knowledgeable comes from collecting more data than we ever have before about natural resources--we now have computer runs on the state of America's soil and water that include more than 47 million characters. Some of those characters were collected or forwarded by some of your characters.

It is the ~~SCS~~ ^{Agencies} role to help collect public comments.

We need to employ whatever techniques will encourage thoughtful, well-reasoned, written or oral comments from individual citizens or from organizations and agencies. We need to make sure all the interests ~~that may be~~ ^{directly or indirectly} affected by SCS or Departmental actions are represented.

Public meetings and advisory groups have always been good ways to involve the public and stimulate comment on proposals or alternatives.

They cannot by themselves assure that the people who have a stake also have a voice. There are a great many other methods available, which you will be discussing later this morning. ~~SCS is learning how to use and how to improve on many methods.~~

~~agencies!~~
It is the ~~SCS~~ role to help analyze and evaluate comments.

This is where you come in, in your special assignment.

We need to describe objectively what other agencies and the public said and how it varied from group to group . . . to systematically look at, summarize, and display all the options and supporting reasons offered. Whenever thousands--hundreds of thousands--of communications are received, the information can be overwhelming.

Your job will be to evaluate the comments, ~~to interpret the importance of the different views expressed~~ so that we can weigh this public input in RCA against other decision factors. With that ~~information, the national SCS and Departmental staffs and SCS state conservationists~~ ^{RCA Coordinating Committee} will be able to make better program decisions.

They also will feel more comfortable being accountable for them!

The evaluation of public comments is not a vote-counting process. We are more interested in well-reasoned, high-quality responses from the public than in large numbers of opinions submitted.

reflecting interest and concern about our natural resources.
The numbers are important, ~~but~~ new ideas are more important. . .

new arguments for or against alternative strategies . . . new impressions of the likely effects of proposed actions.

~~agencies!~~
It is the ~~SCS~~ role to help implement the decisions.

This includes compiling the "final" program suggestions for consideration by the Secretary, the President, and the Congress. It includes notifying the public about the decisions and about underlying factors . . . securing the public's acceptance of the decisions. . . and translating the decisions into programs of action.

It also includes helping Americans solve natural resource problems while we wait for the final answers and the complete packages. RCA consumes a big part of our time and energy. Yet if it becomes some kind of planning process that takes us away from helping people and communities, we will lose more reputations than we gain.

From the first public meetings, we had a list in almost every county of major public concerns. They have been excellent starting points for countywide or statewide information campaigns, interagency teamwork, and decisions about where to put scarce dollars and people in soil and water conservation. They have been excellent starting points for soil and water conservation districts in strengthening their long-range programs as well as annual plans.

The same is true of the millions of characters of natural resource data I mentioned earlier. With the facts and the concerns, SCS and other environmental and organizations & agencies USDA agencies working closely with conservation ~~districts~~ have moved ahead.

As we compile and review, we still can do. And we must.

Finally, it is the ~~the~~ role to continuously evaluate the results of program decisions.

When the President's recommendations go to the Congress ~~early~~ in 1980, ~~and~~ and when the Congress responds, we will have reached the close of the beginning of the RCA process, not the end of it.

We will have some formal program evaluations each year, along with the start of data collection and other material for the 1985 RCA reports. We can provide an even fuller, more up-to-date appraisal on which to base 1985 recommendations.

At the same time, in every district or every watershed or every multi-county area, ~~USDA~~ and its partners in resource conservation will need to keep a daily eye on the effects of the 1980-81 decisions. We will need to be on the constant lookout for little mid-course corrections we can make at the local level to do a better job, without elevating every concern to the national legislative and administrative arena.

~~USDA~~ and its partners have given the Nation a commendable record. Yet, as Dave Unger has said, the parts of the soil conservation program-- in one agency or in separate agencies--will need to relate better than they have in the past to each other and to the whole mission of the Department.

We can improve our teamwork, at the national level and in every corner of the United States.

You have contributed as team members to several parts of the ~~agency~~ role in RCA. We now ask for your intensive effort to weigh public responses to the draft documents. This step is an important key to the successful beginning of tomorrow's conservation programs.

You personally will help the American public guide and support our efforts.

It will be work but I hope you will find it a satisfying challenge.

Good luck!

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UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

August 25, 1978

SECRETARY'S MEMORANDUM NO. 1955

Improving USDA Decisions and Regulations

The growing size and complexity of government makes it imperative that we increase our efforts to ensure that the Department's actions are responsive to public needs. The President's Executive Order 12044 prescribes measures to improve the Federal Government's rules and regulations to minimize unnecessary burdens on the public while achieving maximum effectiveness. I believe the Department should apply these same principles to all decisions including regulations, agency directives, legislative proposals and reports and other program actions.

1. USDA DECISION CALENDAR

A decision calendar makes possible a more orderly decisionmaking process. It is an early warning system which permits the scheduling of the time, analysis, and public participation necessary for good decisions. It will also provide a schedule of significant regulations as directed by Executive Order 12044.

Responsibility. The General officers of the Department will determine whether actions are significant, requiring oversight or approval in the Office of the Secretary. The Director of Economics, Policy Analysis and Budget shall have overall responsibility for the decision calendar. Administrators and staff office heads are responsible for developing and maintaining a decision calendar for their agencies and offices on a current basis. The Director of Economics, Policy Analysis and Budget through the Public Participation Staff will maintain the USDA Decision Calendar and provide instructions to agencies and staff offices on the timing of reports, format and items for inclusion.

Scope and Coverage. All USDA decisions or actions which require a decision or concurrence in the Office of the Secretary are to be included on the USDA Decision Calendar. All rulemaking activities which may result in significant regulations will be so identified to meet the intent of a regulation agenda as directed in Executive Order 12044. All decisions or actions at a similar level for which other Departments or Agencies are responsible, but which require input or action by this Department, are also to be included.

Approval and Publication. The USDA Decision Calendar will be published twice each year in the Federal Register. Amendments will be published as necessary to correct or update the Calendar. The Calendar will be approved by the Secretary before publication.

2. SIGNIFICANT REGULATIONS AND ACTIONS

To insure adequate and effective oversight, the President has directed in Executive Order 12044 that the Secretary shall approve "significant" regulations -- those with major or extensive impact on the public. The "significant" classification in USDA will include all proposed actions that require a decision or concurrence by an assistant secretary or higher level official. This will include any regulation or action which:

- will cause a substantial increase or reduction in program coverage that will affect a significant number of people

- will cause a substantial change in total program outlays or in the level of direct, indirect or induced benefits or costs.

- will substantially alter enforcement or compliance requirements.

- will significantly expand or contract public services which might affect any stage of production, processing, distribution or consumption.

- is likely to raise significant controversy due to conflict over questions of fact or impact.

When an action or regulation is designated significant, it would require approval in the Office of the Secretary before implementation or publication in the Federal Register. The agency head responsible for its development would be responsible for certifying to the Office of the Secretary that:

- the proposed action or regulation is needed.

- alternative approaches have been analyzed, direct and indirect.

- impacts have been considered and the proposed action is the most acceptable.

- public comments have been solicited and considered.

- regulations are clearly written and understandable and compliance burdens have been minimized.

- a contact point is listed who can competently advise the public, and

- an adequate evaluation plan exists and will be implemented.

3. IMPACT ANALYSIS SYSTEM FOR RULEMAKING AND OTHER DECISIONS

All decisions should be made based on a careful, objective analysis of the consequences of the meaningful alternatives.

The Director of Economics, Policy Analysis and Budget will be responsible for the approval of impact analyses and shall develop guidelines and take action to ensure the effective operation of a comprehensive impact analysis procedure.

Agency heads, under the leadership of their Assistant Secretaries, shall develop and maintain competent analytical staff capability to perform impact analysis and institute procedures to establish the use of impact analysis as a basic decisionmaking procedure.

4. PUBLIC PARTICIPATION

Public participation is an important device for obtaining ideas and information to better serve the public. All agencies are directed to actively solicit public comment and are encouraged to use several means to obtain the greatest possible public input.

Each agency will be required to have a Public Participation Office reporting directly to the Administrator. A coordinating Public Participation Staff is being created at the Department level. At the initiation of each rulemaking procedure, agencies will be required to have a Public Participation plan for that action. The Department level staff will review and approve the methods and effectiveness of agency procedures before they are implemented. It will also monitor agency follow-up on public suggestions and complaints that have been submitted.

Public Participation Plans should be tailored to the agencies' constituencies and should stimulate the broadest possible range of public input at each significant stage -- pre-proposal analysis, comment on proposals, comment and complaints in post rulemaking evaluation and on the needs for review of regulations.

The Departmental Public Participation Staff, reporting to the Director of Economics, Policy Analysis and Budget will issue instructions and guidelines for agency public participation offices and advise the Secretary on the performance of Public Participation in USDA. Their functions will include:

- Concurrence in agency Public Participation plans.

- Maintenance of the USDA Decision Calendar (and review of the supporting agency Calendars).

- Regulatory complaint monitoring and follow-up.

- Assurance that proper procedures are followed in developing Significant regulations.

5. WRITING CLEARER REGULATIONS

Agency heads are primarily responsible for drafting regulations. Where appropriate, their public information officers should be involved in writing regulations to make certain the writing is clear.

Our rules and regulations are intended mainly for those who must understand them to abide by them, or to use USDA programs. We also must write for those who enforce or oversee regulations. The clearer and more straightforward our regulations are, the more likely both these groups will understand them. That, in turn, should make our programs more effective and help the public accept our mission.

The Office of Governmental and Public Affairs will be responsible for working with Department agencies to develop agency plans to write regulations clearly. GPA will report to the Secretary by Nov. 1 on the results of that effort.

6. DEVELOPING USDA RULES AND REGULATIONS

In Executive Order 12044, the President directed executive agencies to review and revise procedures for developing and reviewing regulations as necessary to carry out the intent of that Order.

Each agency shall review its rulemaking process and make such revisions as needed to assure the following steps are part of their procedure:

1. Advance entry on agency decision calendar.
2. Identification of significant regulations for the USDA Decision Calendar.
3. A public participation plan for developing regulations.
4. "Pre-notice" to invite public input wherever possible for developing the regulation.
5. The initiation of and plans for impact analysis.
6. A format for proposed and final decision statements to cover: the significance of the regulation, alternatives considered, response to public input and comment, 60 days for comment on proposed regulations or a statement of emergency or urgency where less time is provided and the availability of appropriate impact analysis documentation.
7. Procedures for assuring clear language in all regulations.

These procedures will be applied to all informal rulemaking in the Department except for those areas exempted in Executive Order No. 12044 which involve agency management, personnel selection and Federal Government procurement. Formal rulemaking procedures, which are covered under the Administrative Procedure Act, are also exempted because of the strict rules that already apply to the conduct of hearings and the handling of evidence and information.

The Director, Economics, Policy Analysis and Budget, in cooperation with the General Counsel, will have responsibility for reviewing the steps taken by each agency to comply with the spirit and intent of Executive Order 12044 and the report to the Secretary on their adequacy by November 1, 1978.

7. REVIEW OF EXISTING REGULATIONS

The Executive Order also directs that agencies periodically review their existing regulations using the procedural rules which apply to developing new regulations. Each USDA agency will develop plans for review to assure that no regulations have existed more than 5 years without review or repromulgation. Each should propose a portion of its regulations for review in the USDA report on Executive Order 12044 and in each subsequent Decision Calendar. After considering public comment and suggestions, a list of regulations scheduled for review would be published in the decision calendar and in notices inviting public involvement in the review.

The review process will involve two parts: (a) review for clear language, and (b) impact analysis to assess continued need and the continued appropriateness of the approach. Any revisions needed will be made following the procedures for new regulations. If no significant changes are required, a notice terminating the review and adding a "sunset" provision will be published.

8. EFFECTIVE DATE

The provisions of this Memorandum are effective immediately, and will remain in effect until repealed or superseded.

This Memorandum supersedes Secretary's Memoranda No. 1865, Revised, dated May 5, 1976, No. 1925 dated September 6, 1977, and No. 1931 dated January 20, 1978.



Secretary of Agriculture