

Excerpts from Retaking Rationality, How Cost-Benefit Analysis Can Better Protect the Environment and Our Health – Richard L. Revesz, Michael A. Livermore

Reagan's OIRA team also included James Tozzi. Tozzi joined OMB during the Nixon administration and was given the task of reviewing the environmental protection rules that were coming out of the newly formed Environmental Protection Agency (EPA). There, and in his previous post at the U.S. Army, he sought an expanded role for centralized review, using cost – benefit analysis, to advance his “ market – based conservative ” ideology. He stayed on through the Ford administration; President Carter also kept him, promoting Tozzi to assistant director of OMB, where he became the Carter administration's “ point man ” on the Paperwork Reduction Act, which first created OIRA within OMB.

With Reagan's election, Tozzi's dream of a centralized reviewer, deploying cost – benefit analysis, with broad authority over the federal regulation – making apparatus, became a reality. Under Reagan, Tozzi was appointed the deputy administrator of OIRA, which became known as a “ black hole ” for regulations. It was during this time that environmentalists and others formed their first, unfavorable impressions of centralized review and cost – benefit analysis. In Tozzi's words: “Under the Reagan administration, every environmental regulation had to come to me. I was heavily criticized by the environmental groups and we were frequently called up to [congressional] committee hearings. It was bloody. I loved it.”

Mr. DANIEL: Yes, sir, Mr. Gore. There were a number of instances when regulations that we sent to OMB were the subject of communications with OMB, in which it seemed that the feedback we were getting from them was more analysis from the intended regulatee than from OMB staff.

Mr. GORE: Could you give examples of that?

Mr. DANIEL: During the consideration of [Clean Water Act] regulations, we got a number of comments from OMB ... that were of such a particularized technical nature, and I am talking about in an engineering sense, that they would have had to have come from someone other than the staff of OMB itself.

Mr. GORE: In those cases in which EPA took some action contrary to the wishes of OMB, what were the consequences?

Mr. DANIEL: Well, usually there were veiled threats of what would happen next. On one occasion, Mr. Gore, I was a participant with the Administrator in issuing some regulations over OMB's objections. These were regulations that had been ordered by court. The Agency — the Administrator was under court order to issue by a certain deadline. When they had not received the requisite approval under the

Executive order, she nonetheless signed the regulations and issued them. Late that evening I received a call from an OMB official in which —

Mr. GORE: Who?

Mr. DANIEL: — Mr. Jim Tozzi, who worked with Mr. DeMuth at OMB at that time.

But he said to me words to this effect that there was a price to pay for doing what we had done, and that we hadn't begun to pay.

As discussed earlier, Jim Tozzi, a former OIRA staffer during the Reagan administration, was a major player in moving the IQA. The IQA has come under heavy scrutiny because of fears that it acts as a mechanism for industry groups unhappy with regulators to put another monkey wrench in the regulatory works.