



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

*Jim*

1AN 30 1976

OFFICE OF  
PLANNING AND MANAGEMENT

MEMORANDUM

SUBJECT: EPA Court Commitments

FROM: ALVIN L. ALM

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TO: JIM TOZZI

Attached is a memorandum from Bob Zener to Assistant Administrators and other top EPA staff setting forth a new policy for central clearance on major court commitments. This procedure should meet your concern that Agency commitments are not made at relatively low levels. I would be interested in your comments.

Attachment



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JAN 15 1976

OFFICE OF  
GENERAL COUNSEL

MEMORANDUM

FROM: General Counsel  
TO: Addressees  
SUBJECT: Agency Commitments in Litigation

In some of our lawsuits, generally those brought by environmentalists, the Agency has found it appropriate to enter into agreements which commit EPA to taking specific actions. These agreements may take the form of consent decrees, stipulations, or less formal reports to the court. Such commitments may have serious policy and resource implications, e.g., requiring the Agency to publish regulations by a date certain.

Decisions regarding whether and what type of commitments to make are generally made by the program office in consultation with the Office of General Counsel. The extent of involvement by other offices of the Agency is generally determined on a case-by-case basis by those two offices. I believe that this has been effective for the most part in insuring that the proposed course of action has been well thought out prior to making any formal commitments in court. However, there certainly is potential for overlooking the views of other offices, which might not be as directly impacted, because decisions in litigation do not normally fall within our general internal review procedures.

Accordingly, I am proposing that, with respect to all future significant litigation related commitments, the Office of General Counsel and the affected program office will determine whether the commitment is of such significance that it should be circulated to all of the Assistant Administrators and, if they deem it appropriate, to the Deputy Administrator or Administrator, before a final commitment is made. There will certainly be some commitments which will not require such review; where there is any doubt, the decision should be in favor of additional Agency review rather than less. Of course, there will also be situations where time will not permit such expanded review or where the review must be expedited.

To insure the effectiveness of this approach, I have asked all of the attorneys handling these matters to advise me of any such consent decrees, stipulations, or other formal court responses.

  
Robert V. Zener

Addressees:

Assistant Administrators  
Deputy Assistant Administrators  
All Attorneys, OGC  
Office Directors

cc: Mr. Train  
Mr. Quarles