

Early Stakeholder Involvement in Environmental Rulemaking for Uranium

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ABSTRACT

This paper will illustrate how the U.S. Environmental Protection Agency (EPA) Radiation Protection Division (RPD) draws upon the Agency's strong legacy in stakeholder outreach as well as incorporating new "social media" tools to enhance its efforts to involve the public in decision-making regarding environmental rules (regulations) pertaining to the uranium fuel cycle.

U.S. law prescribes a defined public participation process as part of the formal rulemaking process. To enhance the transparency of its rulemaking, RPD wanted to engage the stakeholders in a two-way dialogue that is less formal than the prescribed process. RPD therefore initiated an expanded, voluntary outreach campaign to engage the public in its internal review of existing regulations, before the start of an official rulemaking with its prescribed process. RPD also made plans to pursue an optional legal process, the *Advanced Notice of Public Rulemaking*, that allows the affected industries and members of the public to provide responses to a series of scope and technical questions before a new regulation is developed.

RPD's outreach strategy involved the integration of communication staff into the technical regulatory development teams. The teams collaborated in the development of a strategic communications plan to identify and reach stakeholders and affected parties. RPD employed an overarching tactic of taking its messages and presentations to stakeholders at their own venues, such as trade association meetings, environmental meetings and meetings of Native American tribes. Custom tactics were developed to engage certain technical communities and specific stakeholders. RPD also made use of social media tools to get a dialog going with industry and affected populations.

Outreach efforts are still ongoing. To date, the public has provided input on exposure pathways, risk assessment, and statistical approaches. This information will be evaluated and used in the development of any upcoming revisions to the existing regulations.

KEYWORDS: Outreach, public communications, uranium, regulations

I. PURPOSE

This paper will illustrate how EPA's Radiation Protection Division (RPD) developed outreach tactics, including the use of new "social media" tools, to enhance its efforts to involve the public in decision-making for environmental regulations pertaining to the uranium fuel cycle.

II. THE ROLE OF OUTREACH IN ENVIRONMENTAL REGULATION

EPA was established in 1970 to protect human health and the environment, and has maintained a strong connection to the public. A critical component of the EPA mission is outreach—the active process of informing citizens about issues affecting them and engaging them in a two-way dialogue. EPA provides local governments and citizens with information on risks from pollution in the environment and continuously strives to involve local communities in the planning, clean-up, and future use of contaminated sites.

U.S. law prescribes a defined public participation process as part of the formal rulemaking process of establishing federal government regulations. EPA and other U.S. regulatory agencies are obliged to give stakeholders the opportunity to provide input on proposed environmental regulations. Proposed regulations are announced and published in full in the official *U.S. Federal Register* so that regulated entities and members of the public can review them and formally submit technical critiques and statements of support or opposition. U.S. law also requires regulatory agencies to provide the public with the opportunity to testify about proposed regulations in a formal hearing. EPA is required to consider the comments received as it finalizes the regulation. The comments and EPA's response to them become part of the public record.

Recent U.S. Government policy directives have committed EPA to exceed these legal requirements and make the regulatory process even more transparent and open to the public. Historical patterns of economic development have led to disproportionate environmental impacts in minority and low-income areas, so the Agency has enhanced its outreach to these communities. EPA also places a special emphasis on working with Native American tribes to help protect human health and the environment in the more than 32 million hectares (79 million acres) of Native American territory.

In this spirit, RPD has implemented an outreach program to get stakeholders involved early in the development of regulations—well before the publication of a proposed rule triggers the formal public comment process. Information obtained from the public from this early outreach process will influence any decision to revise regulations. RPD actively engages stakeholders to—

- Ensure an open and transparent process for reviewing and revising the standards.
- Increase awareness of the environmental issues driving potential regulations among affected industries and populations.
- Obtain input from all interested parties on key questions about the scope and effects of the standards.
- Encourage participation in public meetings, both physical and “virtual.”
- Increase participation in the formal regulatory process upon publication of a proposed regulation.

III. OUTREACH PLANS AND GENERAL TACTICS

To foster effective communication of technical issues to the public, RPD's communication specialists are integrated into technical and regulatory teams. Regulatory experts meet with communication specialists to develop an outreach plan (also called a strategic communications plan) to identify stakeholders and tactics for reaching them. RPD writes outreach plans for every one of its regulatory actions. The plans contain—

- Objectives—the desired result from stakeholder input, for example, submission of technical comments and attendance at public meetings.
- Messages—consistent messages that explain the legal and technical drivers of the review and what input is desired from the public.
- Audiences—specific uranium industry sectors and affected populations
- Tactics/Tools—the ways to reach specific groups of stakeholders—meetings, materials, websites, etc.

A number of tactics apply to all of RPD's stakeholders—

- Conference calls to bring stakeholders up-to-date on reviews and revisions.
- Use of “social media” to engage in public dialogue and enable stakeholders to share their comments with other stakeholders and EPA. About 24, 000 people take advantage of a subscription feature on the websites to be notified of updates and RPD actions.
- Email messaging to disseminate announcements, documents and other information. RPD created master email lists of persons known to be interested in the rule reviews.

- Communication through organizations to reach members. EPA regulatory experts gave presentations and updates at key industry and interest group meetings, such as those of the—
 - Conference of Radiation Control Program Directors.
 - National Tribal Water Council.
 - National Tribal Air Council.
 - National Mining Association.

IV. TACTICS AND RESULTS FOR SPECIFIC REGULATORY ACTIONS

EPA issues a number of specialized regulations that apply to individual aspects of the uranium fuel cycle. Each regulation has its own technical scope, historical precedents, and stakeholders, so RPD developed custom outreach tactics for each of them. Outreach programs are ongoing for three regulations that are currently under review—

- *Environmental Radiation Protection Standards for Nuclear Power Operations* (40 CFR Part 190).
- *National Emission Standards for Hazardous Air Pollutants (NESHAPs)-Radon from Operating Uranium Mill Tailings (Subpart W)*
- *Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings* (40 CFR Part 192)

A. *Environmental Radiation Protection Standards for Nuclear Power Operations*

1. Background

Environmental Radiation Protection Standards for Nuclear Power limit the radiation releases and doses to the public from the normal operations of nuclear power plants and uranium fuel cycle facilities—the facilities involved in the milling, conversion, fabrication, use and processing of uranium fuel for generating electrical power. Since issuance of the standards in 1977, scientific understanding of radiation risks has advanced, and new nuclear technologies and operational practices have emerged. EPA is considering revising its regulations to address these developments and ensure that standards remain protective for the foreseeable future.

2. Tactics

EPA formally announced that it is considering revisions to the standards, and held a number of meetings with environmental and industry groups. Because of the breadth and technical complexity of the issues under consideration, EPA is taking the optional regulatory step of issuing a formal *Advance Notice of Proposed Rulemaking (ANPR)* in the *U.S. Federal Register*. An *ANPR* contains a statement describing the Agency’s plans for the regulations and the technical rationale for them, and solicits public input. In the *ANPR* for 40 CFR 192, EPA will invite the public to submit information on new nuclear technologies, spent fuel storage, groundwater protection, and determination of risk and dose. EPA is also planning a series of facilitated information meetings to start a public discussion about changes in the nuclear industry and radiation science that could shape any future regulations.

3. Results

The *ANPR* has not been published as of the date of this article; EPA will begin its series of public information meetings upon its publication.

B. NESHAP Subpart W

1. Background

National Emission Standards for Hazardous Air Pollutants (NESHAPs)-Radon from Operating Uranium Mill Tailings (Subpart W) limit allowable emissions of radon from tailings at operating uranium mills. The rule was originally promulgated in 1989. In 1990, the U.S. Congress passed amendments to the Clean Air Act that required EPA to revise or update the standard within a 10-year interval. EPA had not revised the standard by 2008, and a citizens' group submitted a notice of intent to sue EPA for its failure to meet the deadline. The plaintiffs agreed to a settlement in which EPA committed to review/revise the regulation in a timely manner and to conduct an expanded outreach program.

2. Tactics

To keep stakeholders informed about the review of *NESHAP Subpart W*, RPD developed an expanded outreach program consisting of three main activities—

- Presentations—RPD reached stakeholders affected by *NESHAP Subpart W* by holding public information meetings in areas with relatively large numbers of tailings sites: Cañon City, Colorado; Rapid City, South Dakota; and on the Ute White Mesa Tribal Lands in Utah. The last location was selected to facilitate participation of Native Americans affected by the tailings rule. In addition, EPA regulatory specialists engaged industry representatives at four meetings of the National Mining Association and at the “Uranium Stakeholders’ Workshop,” sponsored by the Navajo and Hopi nations. EPA also gave a presentation in a national webinar to accommodate those who could not travel.
- Conference calls—Since December 2009, RPD has been conducting quarterly conference calls to brief the public on the status of its review of *Subpart W* and to answer questions.
- Subpart W website—RPD created a *Subpart W* website containing all background information, non-privileged records, and technical documents pertaining to the rule revision (<http://www.epa.gov/radiation/neshaps/subpartw/rulemaking-activity.html>). Copies of presentations, minutes of the conference calls, and other outreach materials are also available for download. The website presents the schedule of activities for the review and gives a tentative schedule for its completion.
- Email account—A dedicated email account, *SubpartW@epa.gov* was set up for receipt of comments from the public.

3. Results

The meetings were well attended, with attendance ranging from 15 to 50 participants per meeting or conference call. Six sets of comments were received, all of which were helpful to the regulatory review. A lively but respectful dialogue took place between the citizens’ groups and industry.

However, the creation of a website with all technical and outreach documents did not satisfy all stakeholders. One citizens’ group filed a request under the American “Freedom of Information Act” or “FOIA” to obtain a complete list of documents pertaining to the review of Subpart W. The group had previously been involved in the 2008 notice of intent to sue. Email correspondence was the only type of non-privileged information to be obtained through the FOIA process that was not already publically available on the website.

C. Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings

1. Background

Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings (40 CFR Part 192) establish standards for protection of the public health, safety, and environment from radiological and nonradiological hazards associated with uranium and thorium ore processing, and their associated wastes. They were originally issued in 1983 and last revised in 1995. RPD is reviewing the standards to determine if they need to be updated because of changes in industry practices and advancements in the understanding of the effects of radiation on human health. The standards at 40 CFR Part 192 are undergoing a technical review with no legal deadline. They apply to particular areas of the country where there is a large presence of Native American tribes.

2. Tactics and Results

A. Public information meetings

RPD reached affected stakeholders—industry, concerned citizens, and non-governmental organizations (NGOs)—by holding a series of public information meetings in areas with uranium milling operations. The facilitated public information meetings began with a background presentation from RPD that gave the scope and history of the uranium milling rules, explained the responsibilities of various federal and state authorities, and discussed the possible effects of advances in risk assessment and mining technologies. Participants were invited to write their questions down on cards provided to them. The facilitator then read the questions aloud, and EPA subject matter experts provided answers. Issues and unresolved questions were captured in meeting reports for consideration in the review. After the Question-and-Answer session, EPA invited members of the public to provide five-minute presentations or statements.

Whenever possible, the meetings were scheduled in the evenings after prominent industry or NGO meetings. Stakeholders were able to participate in the EPA’s public information meetings while already in town for a related conference. Public information meetings were held in Casper, Wyoming; Denver, Colorado; Tuba City, Arizona; and Corpus Christi, Texas. The latter two locations had affected populations that required RPD to develop location-specific outreach tactics.

i. Tuba City, Arizona

Tactics

A number of prominent uranium mills are located near tribal territories, so EPA made special efforts to engage Tribal organizations and citizens living on Tribal lands. EPA held one of its public information meetings in conjunction with the “Uranium Stakeholders Workshop” held by the Navajo and Hopi environmental agencies. RPD enlisted the help of these agencies in publicizing the meeting. EPA also placed ads in two Native American newspapers: the *Navajo Times* and the *Navajo-Hopi Observer*. In addition, announcements about the meeting were

run in mass circulation dailies that served the vast uranium mining areas in northern Arizona and New Mexico.

Results

The outreach campaign to Native American tribes proved to be particularly successful. Half of the participants in the meeting, and a majority of the speakers, were either Native Americans or affiliated with Native American organizations. One speaker mentioned that she decided to attend the meeting at the last minute after noticing the announcement in her tribe's newspaper, and thanked EPA for running it.

ii. Corpus Christi, Texas

Tactics

Uranium mining, primarily through the in-situ leaching (ISL) method, has resumed in a number of locations in South Texas after a long period of dormancy. EPA chose to hold its public information meeting in Corpus Christi, the largest city near the ISL facilities, but still faced a challenge in reaching stakeholders in sparsely populated, economically distressed rural areas. Announcements about the meeting were placed in mass circulation dailies and one local business weekly that served the area of South Texas.

RPD outreach specialists networked with local and regional environmental officials to identify citizens and community activists known to be interested in uranium milling issues. The RPD specialists subsequently contacted them directly to invite them to the public information meeting. The outreach specialists also directly contacted uranium mining companies to encourage their participation.

Results

The local advertisements and canvassing efforts led to participation from local landowners and ranchers, industry representatives, county judges (commissioners), and environmental organizations. Parties expressed appreciation that they had been contacted directly. One such person submitted highly technical written analyses that EPA will consider in its review of the rule.

B. Email messaging

i. Tactics

A dedicated email account, *UraniumReview@epa.gov*, was created for stakeholder contact and transmittal of meeting announcements and documents. RPD created master email lists of persons known to be interested in the regulation. The master list was compiled from contact lists for state governments, prior inquiries submitted to the Agency, and from the registration lists from meetings held over the last few years. The email addresses of contacts made from past participation in trade association meetings were added as well. The initial contact list contained more than 300 addresses. The list grew as the names of participants in EPA public meetings were added. All email messages contained instructions on how to unsubscribe, but no one ever did. Stakeholders were also

able to submit questions and comments to these accounts.

ii. Results

The email messages succeeded in increasing participation in public meetings, particularly in South Texas. A number of speakers at the meetings expressed appreciation for the updates. A trade association reprinted EPA's email message about the review in its trade magazine publication. EPA also received repeated requests from people asking to be added to the distribution list after other stakeholders forwarded EPA's message to them.

The email contacts also resulted in an unusually high degree of participation in a scientific review of statistical techniques for groundwater sampling. A number of the participants testified in the review or submitted written comments as a direct result of the outreach program.

C. Social Media: On-line discussion forum (blog)

i. Tactics

EPA initiated an on-line discussion forum ("blog") to obtain stakeholder input on seven technical questions about EPA's internal review of 40 CFR Part 192. The discussion forum website provided users with a library of technical supporting documents and a complete regulatory history.

ii. Results

A total of nine comments were posted to the on-line discussion forum. In addition, three persons chose to submit comments privately via email. All but one of the contributors were technically proficient professionals in the fields of mining or radiation protection. The contributions received were technically oriented, detailed, and focused on the specifics of the regulation. EPA is considering these detailed comments in its review of the 40 CFR Part 192 regulations.

V. CONCLUSIONS

- The expanded early outreach program—which was initiated before legally required—successfully identified stakeholder concerns and yielded valuable technical submissions. The information obtained during the early outreach process promises to reduce the amount of time needed to develop revised regulations.
- Email messaging was the single most effective outreach tactic, and resulted in increased meeting participation and an unusually high degree of participation in the highly technical review of 40 CFR 192. The maintenance of an email contact list was well worth the time and resources involved.
- Targeted contacts and canvassing also proved to be highly effective ways to get stakeholders involved in the review process. Personal contacts through email messages and telephone calls were the most effective means of obtaining participation from private citizens in rural areas. Ads in tribal newspapers and consultation with tribal officials

proved to be effective in engaging members of Native American tribes. Contacts through trade associations and national meetings were effective in obtaining industry participation.

- The on-line discussion forum was useful in obtaining useful, highly technical comments from the professional community. It did not prove to be a useful outreach tactic for citizens' groups or members of the public.
- As seen in the Subpart W "FOIA" request, even the most robust outreach program cannot be expected to satisfy all stakeholders, particularly when there is a history of conflict and lawsuits. Even in such circumstances, an active outreach program will demonstrate transparency and good will to such stakeholders.