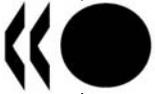


Unclassified

NEA/SEN/NRA/WGPC(2006)4



Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

06-Jul-2006

English - Or. English

**NUCLEAR ENERGY AGENCY
COMMITTEE ON NUCLEAR REGULATORY ACTIVITIES**

Working Group on Public Communication of Nuclear Regulatory Organisations

PUBLICITY OF REGULATOR'S DECISIONS

**NEA/SEN/NRA/WGPC(2006)4
Unclassified**

English - Or. English

JT03211840

Document complet disponible sur OLIS dans son format d'origine
Complete document available on OLIS in its original format

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Pursuant to Article 1 of the Convention signed in Paris on 14th December 1960, and which came into force on 30th September 1961, the Organisation for Economic Co-operation and Development (OECD) shall promote policies designed:

- to achieve the highest sustainable economic growth and employment and a rising standard of living in Member countries, while maintaining financial stability, and thus to contribute to the development of the world economy;
- to contribute to sound economic expansion in Member as well as non-member countries in the process of economic development; and
- to contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations.

The original Member countries of the OECD are Austria, Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The following countries became Members subsequently through accession at the dates indicated hereafter: Japan (28th April 1964), Finland (28th January 1969), Australia (7th June 1971), New Zealand (29th May 1973), Mexico (18th May 1994), the Czech Republic (21st December 1995), Hungary (7th May 1996), Poland (22nd November 1996), Korea (12th December 1996) and the Slovak Republic (14 December 2000). The Commission of the European Communities takes part in the work of the OECD (Article 13 of the OECD Convention).

NUCLEAR ENERGY AGENCY

The OECD Nuclear Energy Agency (NEA) was established on 1st February 1958 under the name of the OEEC European Nuclear Energy Agency. It received its present designation on 20th April 1972, when Japan became its first non-European full Member. NEA membership today consists of 28 OECD Member countries: Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, the Netherlands, Norway, Portugal, Republic of Korea, Slovak Republic, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The Commission of the European Communities also takes part in the work of the Agency.

The mission of the NEA is:

- to assist its Member countries in maintaining and further developing, through international co-operation, the scientific, technological and legal bases required for a safe, environmentally friendly and economical use of nuclear energy for peaceful purposes, as well as
- to provide authoritative assessments and to forge common understandings on key issues, as input to government decisions on nuclear energy policy and to broader OECD policy analyses in areas such as energy and sustainable development.

Specific areas of competence of the NEA include safety and regulation of nuclear activities, radioactive waste management, radiological protection, nuclear science, economic and technical analyses of the nuclear fuel cycle, nuclear law and liability, and public information. The NEA Data Bank provides nuclear data and computer program services for participating countries.

In these and related tasks, the NEA works in close collaboration with the International Atomic Energy Agency in Vienna, with which it has a Co-operation Agreement, as well as with other international organisations in the nuclear field.

© OECD 2006

Permission to reproduce a portion of this work for non-commercial purposes or classroom use should be obtained through the Centre français d'exploitation du droit de copie (CCF), 20, rue des Grands-Augustins, 75006 Paris, France, Tel. (33-1) 44 07 47 70, Fax (33-1) 46 34 67 19, for every country except the United States. In the United States permission should be obtained through the Copyright Clearance Center, Customer Service, (508)750-8400, 222 Rosewood Drive, Danvers, MA 01923, USA, or CCC Online: <http://www.copyright.com/>. All other applications for permission to reproduce or translate all or part of this book should be made to OECD Publications, 2, rue André-Pascal, 75775 Paris Cedex 16, France.

COMMITTEE ON NUCLEAR REGULATORY ACTIVITIES

The Committee on Nuclear Regulatory Activities (CNRA) of the OECD Nuclear Energy Agency (NEA) is an international committee made up primarily of senior nuclear regulators. It was set up in 1989 as a forum for the exchange of information and experience among regulatory organisations.

The committee is responsible for the programme of the NEA, concerning the regulation, licensing and inspection of nuclear installations with regard to safety. The committee's purpose is to promote cooperation among member countries to feedback the experience to safety improving measures, enhance efficiency and effectiveness in the regulatory process and to maintain adequate infrastructure and competence in the nuclear safety field. The CNRA's main tasks are to review developments which could affect regulatory requirements with the objective of providing members with an understanding of the motivation for new regulatory requirements under consideration and an opportunity to offer suggestions that might improve them or avoid disparities among member countries. In particular, the committee reviews current management strategies and safety management practices and operating experiences at nuclear facilities with a view to disseminating lessons learned.

The committee focuses primarily on existing power reactors and other nuclear installations; it may also consider the regulatory implications of new designs of power reactors and other types of nuclear installations.

In implementing its programme, the CNRA establishes cooperative mechanisms with the Committee on the Safety of Nuclear Installations (CSNI) responsible for the programme of the Agency concerning the technical aspects of the design, construction and operation of nuclear installations. The committee also co-operates with NEA's Committee on Radiation Protection and Public Health (CRPPH) and NEA's Radioactive Waste Management Committee (RWMC) on matters of common interest.

WORKING GROUP ON PUBLIC COMMUNICATION OF REGULATORY ORGANISATIONS

The Working Group on Public Communication of nuclear regulatory organisations (WGPC) was set up in 2001. The mandate is as follows:

- 1 The Working Group ***will share*** information, news, documents, data, views, ideas, and experiences in the field of public communication and stakeholder involvement. ***It will keep abreast*** of activities of a similar or related nature undertaken by other parts of the NEA.
2. The Working Group ***will review*** developments, progress, techniques, tools, procedures and achievements in the area of nuclear regulatory communication with the public and stakeholders. It ***will highlight*** lessons learned and good practices.
3. The Working Group ***will provide assistance*** to CNRA members, through technical notes and workshops, by addressing specific issues and practices.
4. The Working Group ***will co-operate***, internally and externally, with other organisations in regulatory public communication and stakeholder interaction matters, in line with the NEA policy.”

ABSTRACT

There is an increasing expectation by the public to be informed and understand the rationale behind decisions especially in areas where people's safety or health may be affected. This is particularly true for new industrial activities including those occurring in the nuclear industry, which in the past limited communications to highly technical experts. This is one of the reasons why Nuclear Regulatory Organisations are increasingly involved in transparency. Most regulators have developed public information and communication policies in order to establish public confidence in their information. This report, resulting from exchange of experience between the WGPC members, highlights the main challenges to be addressed for efficiently making regulatory decisions public and the various means implemented in member countries to reach this objective.

TABLE OF CONTENTS

ABSTRACT	5
1. INTRODUCTION	9
1.1 Background	9
1.2 Purpose and delivery of this document	9
1.3 Scope of the document	9
1.4 Structure of the document	9
2. CONTEXT OF REGULATORS' DECISIONS PUBLICITY	10
3. MAIN CHALLENGES FOR REGULATORS' DECISIONS PUBLICITY	11
4. MAIN APPROACHES TO ADDRESS THE ISSUE.....	11
4.1 Legal framework for making decision public.....	11
4.2 General strategy for regulatory organisations communication.....	12
4.3 Some specific area for publicising regulators' decisions.....	13
5. OUTLOOK	14
REFERENCES	15

1. INTRODUCTION

1.1 Background

The fundamental objective of all nuclear regulatory organisations (NRO) is to ensure that nuclear activities are conducted at all times in a safe manner. In meeting this objective, the regulatory organisation should strive to ensure that its regulatory decisions are technically sound, consistent from case to case, and timely. In addition, the NRO must be aware that its decisions and the circumstances surrounding those decisions can affect how the relevant stakeholders, such as government policy makers, the activities it regulates and the public, view it as an effective and credible NRO.

In order to maintain the confidence of those stakeholders, and generally speaking of the public, and to meet an increased public expectation on safety in the use of nuclear power, the NRO should make sure that its decisions are transparent, sound, credible, independent, and impartial. By using the word "decision," it is intended here to deal with the result of a regulatory activity such as rulemaking, assessment, supervision or enforcement. Because decision-making by governmental authorities is increasingly open and dependent upon public trust, public communication is an essential element in nuclear safety.

1.2 Purpose and delivery of this document

This document is intended to provide information to communicators of NROs on the aspects (both positive and negative) of communicating regulatory decisions publicly. It is not a handbook nor a guide on how to make public regulatory decisions. Each nation's laws, culture and administrative processes are specific and the range of situations potentially encountered by a regulatory organisation are so large that such a goal would simply be unachievable. However the exchange of experience among communicators of NROs has been beneficial to enhancing national programmes.

This document is also targeted at operational staff in the NROs who are required to engage with stakeholders on a regular basis and therefore it should be communicated to them and its principles should be incorporated in the Organisation's system and procedures.

1.3 Scope of the document

As a complement to this report the reader should also refer to the CNRA report on Nuclear Regulatory Decision Making [4] which describes how NROs can ensure that their regulatory decisions are technically sound, consistent from case to case, and timely. Chapter 7 of the report in particular complements the information provided in this report.

1.4 Structure of the document

The following chapter of this report summarises the main aspects of the context of public communication of NRO decisions. The third chapter presents the main challenges related to communicating these decisions and the final chapter presents the effective approaches in use in Member countries.

2. CONTEXT OF REGULATORS' DECISIONS PUBLICITY

It is widely acknowledged that the credibility of regulators is increasingly dependent upon mutual trust and confidence with the public. There is an increasing expectation by the public to be informed and understand the rationale behind decisions especially in areas where people's safety or health may be affected. This is particularly true for new industrial activities including those occurring in the nuclear industry, which in the past limited communications to highly technical experts.

This is one of the reasons why NROs are increasingly involved in transparency. Most regulators have developed public information and communication policies in order to establish public confidence in their information. All of the organisations consider transparency and credibility as being necessary to help make the public confident in their actions and decisions.

In some countries the legal framework provides for rather broad rights of public access to the NROs and operators documents, while in other countries access rights are more restricted but supplemented by communication policies specific to the government, including the regulatory organisations.

Regulatory documents that are generally available to the public are typically:

- nuclear regulations (laws, decrees, rules – final version and, in some cases, draft),
- plant or nuclear activities supervision,
- plant performance assessments (safety and environmental assessments related to siting of a new facility, operations, modification, and decommissioning), and
- regulatory oversight (inspection findings, event assessments, abnormal events, or non-compliance with regulations).

In order to provide better transparency and to increase public confidence in the regulator, communicators in the regulatory organisations need to develop communication policies that address such strategic questions as:

- To whom should communications be targeted? Should communications be made to the media, other targeted groups, or the general public?
- What kind of information should be made available to the public? Should it be selective information or fully exhaustive documentation? Summary/analysed information or raw material?
- When is it necessary to communicate? Should communications be proactive or reactive? Should there be daily communications or only for special events?
- What is it best way to effectively communicate with the public? Should classic media tools be used or more modern information technology? Should communications “push” or “pull” the message?

3. MAIN CHALLENGES FOR REGULATORS' DECISION'S PUBLICITY

As with any right, the right of access to information has its own limitations, which are generally defined within a legal framework, and deal with the preservation of citizen's privacy, the non disclosure of business, commercial or industrial proprietary information and any breach of national security. Respecting limitation to information disclosure has an impact on the way regulatory documents should be written, allowing them to be released to the public, and constitutes a first challenge.

A second challenge in communicating regulatory decisions to the public is to decide upon the nature and the content of the documents which are to be issued by the regulatory organisation. Usually the nature of the information upon which the regulatory decision is based is very technical and is not easily understandable by the general public. Moreover, decisions are seldom "black" or "white" oriented but often based on the evaluation or balance of several factors, safety positions or assessments. The communication of such nuances constitutes a permanent challenge for NROs. In addition, the audience of the regulatory organisation is likely to include various stakeholders, ranging from the very general public to highly specialized nuclear experts, with a number of intermediate categories including journalists and citizen's associations. On the one hand, "raw" documents used in the technical discussion between the NRO and the licensee may be understood by specialized experts while non-specialists may be lost in so much technical information which is difficult to understand and follow. On the other hand, providing only "digested" information, will facilitate the understanding by the general public but may raise concerns about the comprehensiveness and accuracy of this information which could foster suspicion.

Another challenge of making public regulatory decisions is the timing. The challenge is to find the right time for publicising. If it is done during the decision-making process it may provide more public confidence by providing opportunity for early involvement; however, it may give the impression that the decision is already made and jeopardise the process. If it is done late after the decision is made this may appear as an a posteriori justification.

Another challenge is related to the choice of communication tools, which may need to respond to the expectation of the various audiences to whom the regulatory organisation is likely to communicate. An increasing role is now given to more modern information technology, while classical approaches still have merit and could supplement newer techniques.

A final challenge relates to properly facing the present globalisation of information exchange. For a number of years any important news related to nuclear safety has proven to circulate rapidly beyond national borders. Sometimes there are higher concerns abroad than in the country where the event has occurred. This new challenge is therefore to be aware of the possible impact of information released on neighbouring countries. This has implications for communications between nuclear regulators.

4. MAIN APPROACHES TO ADDRESS THE ISSUE

4.1 Legal framework for making decision public

It is observed that there is a national and an international trend towards transparency in government. In several countries there is a general law about communication policy and publicity of data of public interest which shall govern the communication and the consultation of any governmental institutions. Such a general law provides for the citizen's right of access to government documents as well as for the consultation process, including public inquiries, to be implemented during the phase of elaborating certain regulations, decisions or licenses. Such law guarantees the public access to many

official documents; everybody can consult official documents and can get information on their contents. Therefore, most of these documents of the central administrations are public. In those countries the communication policy of the nuclear regulatory organisation usually derives from such a general law and is implemented in order to best meet the individual needs of all stakeholders.

In most of the other countries, communicating information is one of the regulatory organisation's statutory missions, fixed either in a nuclear law regarding the overall national/federal nuclear activities and safety or simply in a decree implementing or modifying the nuclear regulatory organisation. Generally the mission stipulates the duty to regularly inform the general public about the condition of nuclear activities and any matters pertaining to nuclear substances or radiating devices, including the obligation to notify the general public without delay about any events and findings in nuclear facilities. In this case, the NRO may have a communication policy very different from other national organisations and specifically tailored for nuclear safety issues.

4.2 General strategy for regulatory organisations communication

Publicising decisions is part of the nuclear regulators' more general communication activities. It is widely acknowledged among NROs that the first condition for good communication is to have a well-defined public communication strategy. Only by communicating with stakeholders in a timely, understandable, credible and accountable manner and providing accurate information will the NRO build and maintain trust of the public in the NRO. Depending on the country, such a strategy is developed with more or less specification and the practical implementation of common principles may result in many different approaches applied according to topics and national practices.

Several NROs have recognized communication and public consultation as being central to their work and their management to ensure that they operate with a high level of transparency. As a function of good management, open and proactive two-way communications ensure not only that external and internal stakeholders receive accurate information in a timely manner, but that their views and concerns may be taken into account in the formulation, implementation and evaluation of their policies, programs, services and initiatives.

To develop programmes and services that meet the needs of the society, the NRO should understand the internal and external environment within which they operate and respond to the concerns of stakeholders in meaningful ways. They should therefore maintain an open dialogue with a wide array of stakeholders. This may entail consulting with them in a regular fashion and through a variety of means, generally formal and sometimes informal. Additionally, communications entail more than simply providing and receiving information. The manner in which information is exchanged is also important. The accuracy and timeliness of the transaction has an impact on the value of the information and the credibility of its source.

Suggested elements for developing a communication policy together with a related action plan could include the following features:

- Communication with all stakeholders in an open and transparent manner. Provide timely, accurate, clear, objective and complete information about programmes, decisions and activities, including legal decisions, while respecting privacy, proprietary and national security requirements. May include opportunities for stakeholders to communicate with the NRO.

- Consultation with stakeholders in order to understand and if relevant take into account their interests and concerns when establishing priorities, developing policies, planning programs and services, and defining regulatory requirements.
- Promotion of ongoing, open and collaborative two-way communications with and among NRO's managers and staff.
- Communication with stakeholders using a variety of means and formats (annual reports, media-releases, media-conferences, information sheets, meetings for the public, public debate, stakeholders and parliamentarians etc, Website) in order to accommodate diverse needs.
- Co-ordination of communication activities with other communication initiatives throughout the government as appropriate.

A communication policy should include guidelines to decide for each subject or major regulatory activity what kind of information should be made public and when. Some countries use the Internet to make their documents available to the public. This gives access to information about the topic, the applicant or the requester and in some cases without giving access to the raw document. In other countries document management is only for internal use.

4.3 Some specific area for publicising regulators' decisions

Preparedness for decision's publicity

As mentioned before, the publicity of nuclear regulators' decision is only a part of the communication activity. In itself the more or less extensive consultation in the decision making process, which led to the regulatory decision, is not part of the decision but is likely to interact with the content of the final communication about the decision.

Such a consultation in the decision making process in itself is not part of the publicity of NROs' decision but it is clear that its results may help the preparation of the final communication. On one side it appears that there should not be any mix between that the consultation process and the decision announcement, since it could be interpreted either as if the decision has been already taken or that the decision is only the mechanical result of the consultation which would be used as a "poll" and therefore the decision could be viewed as more emotional than rational.

In that context it is worthwhile to mention for example the process by which some NROs now consult the industry and public in an attempt to take their comments on board at an earlier stage in their development than they would have normally done in the past. First, selected stakeholders are alerted about the draft documents, which are placed for example on the website for comment and therefore made open for all to comment. The comments received are then assimilated and may be taken into account by redrafting the document, which is then put out for full public consultation.

Timeliness of decision's publicity

On the other hand, and if the decision has to be made public, once the regulatory decision is made, it should be made public promptly so as to prevent any misinterpretation (such as the decision would have been taken as a result of a licensee request or under political pressure and not as a result of a comprehensive assessment).

Facilitation of public access to regulatory document

Public access to regulatory documents differs from one country to another. While in some countries one may have an electronic public document room that allows everyone to read online much of the regulatory document collection via the Internet, in another country one may obtain regulatory documents only upon request. A number of countries provide website links to the relevant Laws, Decrees and Orders related to nuclear safety and radiation protection, as well as to other relevant regulatory texts such as policies, rules and regulations, orders, and generic letters.

Some NROs have also implemented a public information centre where any member of the public can make an appointment to review any documents (regulatory or not). Such a centre facilitates public access (via off-line and on-line) to nuclear regulation by providing weekly nuclear safety information using e-mail and the dedicated phone to confirm and resolve the concerns about safety. One NRO installed information booths with touch screens at the offices of local governments to allow access to regulatory information in a more comfortable environment.

Facilitation of public access to regulatory decision

In several countries, when the NRO reaches a decision, a news release (generally relating to specific information) is issued, possibly supplemented with a Record of Proceedings - Reasons for Decision documents, which are sent to all participants of the public hearing. These documents, in addition to being publicly available on the NROs website, are also sent to media outlets. However, it is often not possible to make available the licensee's supporting documents, which may be proprietary or security sensitive.

In some countries, the follow-up letters resulting from regulatory inspections to nuclear installations are made available to the public on the NRO's website. This requires that these follow-up letters are written in a stand-alone form.

Communication of Event related decisions

This issue of event reporting to the public is addressed in a separate document on "communication in abnormal situations" [5]. However, a specific event may give rise to a more generic decision (e. g. a generic letter asking for a new specific safety assessment or a safety improvement). In such a case this would have to be publicised along the lines presented above.

5. OUTLOOK

Over the past few years there is an increasing trend by NROs to be more open in relating to information on their activities to the public as well as to involve the public in the regulatory decision-making process. However, it is important to note that the actions being undertaken are strongly influenced by the cultural and social aspects of each country and by public perception and interest on nuclear matters. This is why many different practices are followed by NROs to improve their transparency and credibility and garner public confidence.

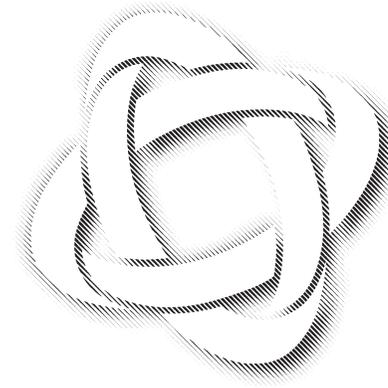
The various ways to address the public communication challenges of NROs in communicating their decisions appear complementary to one another. Each of them is more or less implemented in member countries, with specificities related to their cultural contexts. While each NRO has to build its own communication policy, it would be beneficial to benchmark it against practices of other countries which have proven to provide more open communications.

There are still some areas where progress is needed to achieve more comprehensive transparency of a NRO in communicating its decisions to the public. The way NRO's decisions are made public (timeliness, clarity, visibility, independence, accuracy, predictability) greatly conditions the public's perception and confidence in their activities. They should strive to continue their exchange of experience related to communication of regulatory decisions in order to continue to build the trust of public opinion in NROs and nuclear safety.

REFERENCES

- [1] Investing in Trust: Nuclear Regulators and the Public. Workshop Proceedings – Paris, France, 29 November – 1 December 2000, (NEA, 2001)
- [2] Building, Measuring and Improving Public Confidence in the Nuclear Regulator. Workshop Proceedings - Ottawa, Canada, 18 – 20 May 2004 (NEA, 2006)
- [3] Improving Nuclear Regulatory Effectiveness, (NEA no3148, 2001)
- [4] Nuclear Regulatory Decision Making, (NEA no 5356, 2005)
- [5] Public Communication During Abnormal Situations - NEA/SEN/NRA/WGPC(2006)5, June 2006.

Publicity of Regulator's Decisions



Working Group on Public
Communications of Nuclear
Regulatory Organisations