

**U.S.NRC**

UNITED STATES NUCLEAR REGULATORY COMMISSION

*Protecting People and the Environment*

# **Public Participation and Public Protection**

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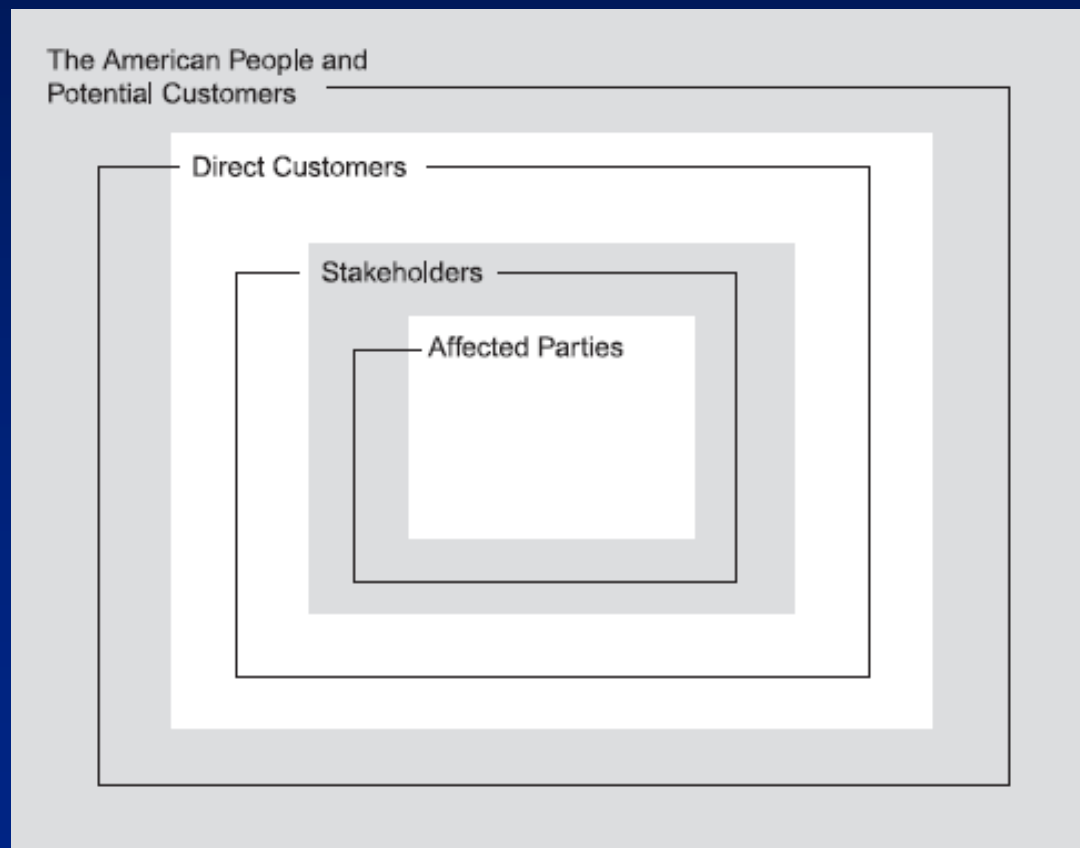
# The Imperative of Public Involvement

- **Informing and engaging stakeholders has emerged as a core principle in international instruments**
  - **Principle 10 of the Rio Declaration on Environment and Development (1992):** *“States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”*
  - **The “Åarhus” Convention (1998):** *“each party shall guarantee the rights of access to information, public participation in decisionmaking, and access to justice in environmental matters....”*
- **National Legislation increasingly addresses transparency and engagement in environmental and nuclear safety matters.**

## Who are “stakeholders”?

- The Legislature
- Other ministries and agencies of government
- State, local and tribal governments
- The international community
- The regulated community: e.g., licensees
- Industry groups and workers
- Non-governmental organizations and advocacy groups
- News media
- The “public” – including those with a direct or remote relationship to an issue or decision

## Organizations and people will view the impact of government decisions on their interests differently.



*The U.S. EPA used this diagram to illustrate the range of engagement in issues and desire to participate in agency decision-making.*

*As individuals and groups see themselves closer to the center of the spiral, they seek more information, access to decision-makers and influence on decisions.*

# The Dynamic of Participation



- ***Reactive transparency:*** information is available but must be sought out and may not be readily understood.
- ***Proactive Outreach:*** agency provides information or makes it available in form and content targeted to interested stakeholders.
- ***Information Exchange:*** build and share knowledge through workshops, round tables, public meetings, surveys, etc.
- ***Recommendation or Collaboration:*** Formal comment or hearing processes, advisory groups, etc. Collaborative efforts may be used but may not bind the parties or agency.
- ***Agreement or Consensus:*** agency and stakeholders reach agreement to which all agree to be bound: e.g., memoranda of understanding, settlement agreements, negotiated rulemaking.



## **Why do it?**

- **Public education and awareness**
- **Disseminate information under a variety of circumstances**
- **Identify and accommodate other recognized values in decision-making**
- **Facilitate the decision-making process**
- **Build credibility and trust**



## **NRC's Principles of Good Regulation**

***Openness:*** Nuclear regulation is the public's business, and it must be transacted publicly and candidly. The public must be informed about and have the opportunity to participate in the regulatory processes as required by law. Open channels of communication must be maintained with Congress, other government agencies, licensees, and the public, as well as with the international nuclear community.

# How We Regulate – an NRC View





## Transparency and participation required in U.S. legislation

- ***Atomic Energy Act*** (AEA) of 1954 provides for “a hearing” on licensing and rulemaking actions.
- ***Administrative Procedure Act*** (APA) of 1946 applies to agency action under AEA and specifies administrative procedures.
- ***National Environmental Policy Act*** of 1969 (NEPA) added the requirement for environmental assessment of agency action.
- ***Freedom of Information Act*** provides for citizen access to agency records.



## Procedure for decision-making

- **Licensing has followed an adjudicatory model: *i.e.*, hearings on individual applications**
  - Atomic Safety and Licensing Board Panel with technical judges created under 1962 amendments to the AEA.
  - Participants must meet threshold standards for admission of issues for hearing.
  - Hearings generally resemble a court-room trial.
- **Rulemaking has generally followed “notice and comment” model under the APA**
  - Text of proposed rule is published for comment
  - Final rule with rationale and resolution of comments is published in the Federal Register
- **Final agency decisions are subject to judicial review**
  - Deference to the scientific and technical judgment of the agency
  - Decision may be overturned if found “arbitrary and capricious.”



## **Enhancing Transparency at NRC**

- **NRC has long had an open meeting policy applied to meetings with license applicants and other business.**
- **NRC routinely makes available more information and documents than required by law.**
- **NRC has moved to an electronic document management system (“ADAMS”) through which publicly available information is accessible.**
- **Additional focus has been given to communications.**



## Enhancing Participation at NRC

- **Broadening public interactions beyond formal hearing process in licensing actions.**
  - Pre-application meetings with the public
  - Environmental scoping meetings
  - Poster sessions
- **Improving development of regulations and standards**
  - Identifying and reaching out to key stakeholders
  - Workshops and facilitated meetings
  - Surveys

## Challenges remain...

- **Anticipating communication needs**
  - Tritium release incidents
  - Informing the public on transportation risk
- **Balancing Security and Transparency**
  - Judicial challenge to NRC Design Basis Threat rule
  - Outreach effort initiated by NRC staff on transparency in security assessment program
- **Identifying Opportunities and Means for Involvement**

## References

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  - **Citizen's Guide to NRC Information (NUREG/BR-0010)**
  - **NRC Public Meetings (NUREG/BR-0297)**
  - **Public Involvement in the Regulatory Process (NUREG/BR-0215)**