



ADVICE TO COUNCIL: NO. 99-06

Re: Draft Framework for Public Participation in the Commission for Environmental Cooperation's Activities

The Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC);

IN ACCORDANCE with its mandate to provide advice to Council and

RECALLING that Council responded to JPAC's Advice to Council 98-06 on this matter by instructing the Secretariat, with the assistance of JPAC, to prepare a new text in accordance with a time frame and a process approved by Council which included a 30-day public review period;

HAS:

INCORPORATED comments received from the public and

CONDUCTED a final review of the *Draft Framework for Public Participation in the Commission for Environmental Cooperation Activities* at its Regular Session 99-02 and has subsequently transmitted a final text to the Secretariat;

AND:

RESPECTFULLY recommends to Council that the *Draft Framework for Public Participation in the Commission for Environmental Cooperation Activities* be adopted immediately, understanding that it is an evolving document that will be improved by the CEC's growing experience with public participation.

APPROVED BY THE JPAC MEMBERS

18 May 1999

Draft Framework for Public Participation in Commission for Environmental Cooperation Activities

CEC Mission

The Commission for Environmental Cooperation (CEC) facilitates cooperation and public participation to foster conservation, protection and enhancement of the North American environment for the benefit of present and future generations, in the context of increasing economic, trade and social links among Canada, Mexico and the United States.

1. Introduction

The Commission for Environmental Cooperation (CEC) was established by the North American Agreement on Environmental Cooperation (NAAEC), reconfirming the importance of the environmental goals and objectives of the North American Free Trade Agreement (NAFTA) while acknowledging the increased economic and social links engendered among the NAFTA Parties by that Agreement. The NAAEC Preamble emphasizes the importance of public participation in conserving, protecting, and enhancing the environment.

In order to meet this challenge, each of the CEC's bodies, the Council, the Secretariat and the Joint Public Advisory Committee (JPAC), must develop appropriate mechanisms for disseminating information, educating and consulting the North American public in their activities. This framework sets the guidelines for conducting and assisting in this process and is intended to apply to all of the CEC's public participation activities. It incorporates comments received from the public in response to a call for public comments.

1.1 Purpose

The decision by Council in 1998 to develop a more strategic and long-term approach to the work of the CEC endorses the need to maximize public involvement to ensure open and effective dialogue and engagement among all elements of the public. The intention to establish a trilateral network of diverse stakeholders that are interested in the CEC's mission is also an important element to develop.

This framework focuses on the goals, principles and basic mechanisms designed to optimize public involvement in the work of the CEC. It is not intended to establish rigid principles that inhibit, restrict or limit public participation, but aims rather to encourage and facilitate such participation as is appropriate to the different CEC bodies, advisory committees, working groups, and panels.

Further prescriptions for public participation can be found in other CEC documents, such as the “Guidelines for Citizen Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC,” the “JPAC Public Consultation Guidelines,” and the “North American Fund for Environmental Cooperation Administration and Funding Guidelines.”

For the purposes of this present framework, public participation should be approached in its broadest sense, including, for example, provision of information, public education, solicitation of input, the circulation of documents for comment, Internet exchanges, and formal participation through structured public meetings, such as the Annual Council Session and the JPAC Regular Session.

The basic mechanisms used to implement the framework must be flexible and promote inclusiveness in order to be responsive to the cultural differences among and within our three countries and to the nature of the different CEC activities.

This framework also incorporates advice received from a National Advisory Committee that “the CEC’s strategy for public participation should devote as much attention to what it communicates to the public as it does to devising procedures for how the public can bring information and viewpoints to the CEC.”

The term “public” is defined inclusively and is meant to accommodate all interested persons or groups of people in North America.

It is intended that this be an evolving framework that will grow and improve in parallel with the development of the CEC.

2. Goals

Building on the understanding that public participation is a two-way process, the goals of the CEC’s role in it should be to:

- a) Enhance and encourage public participation.
- b) Assure that reliable, timely and useful information on the work of the CEC is widely disseminated, using a variety of mechanisms.
- c) Contribute to public empowerment and education, recognizing that this is essential for resolving environmental problems.
- d) Obtain a solid sense of the concerns, priorities and aspirations of the public with respect to the work of the Commission for Environmental Cooperation.
- e) Gather information, points of view and perspectives to help shape the policies, programs and budget, as well as any strategic vision process of the CEC.
- f) Provide the public with a means to interact constructively with the CEC.
- g) Strive to promote opportunities for participation by the public of the three Parties.

3. Guiding Principles

The following are the principles upon which the framework is based. All are of equal importance.

3.1 Equity

To promote equity, the CEC's public participation strategies are directed toward diverse constituents, with particular emphasis on those who have enjoyed little or no participation and who are not given the weight they deserve. The needs and requirements of diverse groups and cultures should be recognized and actively supported. Achieving broad, equitable participation requires applying active, innovative methods in order to offer the same opportunities in the three countries for educating, informing and consulting varied stakeholders.

3.2 Efficiency and Timeliness

Public participation processes should be an integral part of decision-making at the CEC so that public views can be taken into account. These processes should be commenced at the planning stages. Public participation opportunities should be clearly identified and properly scheduled in the CEC's activities. For example, the public review of the Annual Program and Budget must be timed so as to allow the Secretariat to evaluate and incorporate public input.

Public participation processes should be handled in such a way that the circumstances and facts are presented and conveyed to the participants so the best decisions may be made. No one set of formats for public participation is likely to meet all needs, so tailoring to the needs of each situation is essential. For example, in certain circumstances it may be efficient and effective to consult with experts on a particular subject rather than with the public-at-large.

A clear context for any decision should be described. Participants should be informed what decisions the public participation process can affect and how that particular process will affect them. Any links to other related activities (i.e., government, nongovernmental organizations, or industry) should also be described.

The purposes and goals of the public participation process shall be clearly defined and communicated. Public notification and the documents to be discussed at public meetings should be sent to identified participants beforehand, for their review and comments or observations.

3.3 Transparency and Accessibility

CEC activities should be conducted in an open and transparent fashion, so as to promote spontaneous participation by the public, to create relationships of mutual trust.

The public should be provided with all CEC documents required for their effective involvement.

The NAAEC provides that the three official languages of the CEC are English, French and Spanish. All official documents of the CEC should be available in these languages at the time they are published. These documents and other information should be accessible electronically in the three languages through the CEC web site, as well as by hard copy upon request to the CEC Secretariat.

The draft program and budget should be distributed and posted on the CEC web site, as well as by hard copy upon request to the CEC Secretariat, prior to any annual program and budget meeting that is open to the public. The descriptions or details of programs should cover procedures for public participation in each project. The public should be provided the opportunity to comment on draft programs.

Efforts should be made to have key background documents translated so that they are available in the three official languages.

While there is a presumption of openness, it is understood that in particular circumstances, access to meetings may be limited or a meeting may be closed.

Four types of meetings should be considered by the appropriate CEC body:

- a) Meetings open to the public: These meetings would be open to all without restriction, subject to space availability and security considerations for the protection of participants. In the public notice of the meeting, this information must be indicated.
- b) Meetings open to the public as observers: The appropriate CEC body may decide when members of the public may attend as observers during part of or the entire meeting, subject to space availability and security considerations for the protection of participants. In the public notice of the meeting, this information must be indicated.
- c) Meetings open to a limited selection of the public: In specific circumstances, the appropriate CEC body may decide that a meeting or portion thereof, should be limited to specific groups or persons. If public participation is so limited, this information must be indicated.
- d) Meetings closed to the public: The appropriate CEC body may decide that a meeting should be closed to the public. If public participation is so limited, this information must be indicated.

Documents to be discussed at the meeting should be made available to all interested parties before public consultations, for a period of not less than 30 (thirty) calendar days, during which public comments may be received before decision-making.

Also, all meetings of CEC officials should provide a service of interpretation in the three languages of the Commission. However, under certain circumstances, the participants may decide that one or more of the official languages are not required 2 (two) weeks before the meeting.

Official activities of the CEC work program should be made widely available through all possible channels, including the CEC web site and direct contact with organizations in the three countries interested in CEC activities. In activities involving public participation, details of the registration process for the public should be included.

Updated records should be kept of public meetings, containing minutes. The summary report of a meeting should include the recommendation(s) made, and it should be circulated among the participants through whatever means the CEC deems appropriate.

3.4 Inclusiveness

As an institution representing three countries with a diversity of cultural, social and economic interests, the CEC should communicate fully with the entire North American public. All means of communication must be used to achieve public participation of each community, whether urban, rural, or in remote regions, affiliated or not with nongovernmental organizations, so citizens may express their opinion on CEC activities, especially if they affect them.

3.5 Financial Support

To encourage and achieve active involvement of the public, human and financial support must be considered as limiting factors to be dealt with efficiently in order to reach CEC objectives.

New outreach programs, designed both to communicate with and involve as broad a public as possible, are not without financial implications.

Each CEC activity and project should detail how it will communicate with and involve the public and what budget has been allocated for those purposes. Decisions to allocate funding for access of public participants shall be made by the appropriate CEC bodies or designated Committee.

CEC financial assistance will be limited to only one participant per organization for the same meeting.

The selection of eligible candidates for financial assistance will be based on the following criteria:

- a) Have experience on the topic(s) to be dealt with at the public meeting, present specific, concrete proposals and identify new issues;
- b) Be an individual or represent a group which, without CEC financial assistance, would have limited participation in CEC public meetings.

The request for funding should include a brief description (no more than one page) of his/her organization or expertise.

Funding for participants shall be in accordance with the CEC Business Travel Directive, and should be sufficient to at least cover travel and accommodation expenses. The participant should cover the rest of his/her expenses.

3.6 Accountability and Evaluation

Assigning tasks, responsibilities and evaluation processes are essential in public meetings, and follow-up with the public is indispensable. At the conclusion of consultations, participants should be informed of the decisions taken by the CEC. This should apply to all CEC activities, ranging from those of the Council to individual projects, to encourage feedback on the information provided by the CEC to the public.

Therefore, feedback mechanisms should be developed based on the following criteria:

- a) Determine in advance what needs to be evaluated and which techniques shall be applied,

- b) Review process development and identify stages that need improvement,
- c) Ensure process feedback from experience gained,
- d) Include decisions made and circulate these among participants, and
- e) Implement project decisions.

4. Public Participation Mechanisms

With respect to the goals and the principles described above, one or a combination of mechanisms could be used for involving the participation of the public. For example:

- a) Inform the public of ongoing activities through CEC publications, such as the Annual Program and Budget, CEC annual reports, the EcoRegion newsletter, press releases, conferences and the CEC web site.
- b) Obtain information from the public on a specific issue via polls, questionnaires, interviews, forums, meetings, seminars, community and site visits, focus groups, Internet exchanges.
- c) Consult on a specific issue through written comments, workshops, round tables, hearings, electronic discussion groups and outreach programs.
- d) Consult with JPAC as one vehicle for public participation, and involve JPAC in ongoing efforts to encourage public participation.
- e) Prepare and distribute reports for all CEC public participation activities, to assist the public in evaluating follow-up decisions by the appropriate CEC body.
- f) Seek the advice of the National and Governmental Advisory Committees in promoting public participation.

4.1 Directives

The CEC Secretariat shall coordinate logistics for the public participation processes of all CEC activities.

To implement these mechanisms, some basic directives should be used.

4.1.2 Public Meetings

- a) Except in extraordinary circumstances, notice of public meetings should be provided no less than 30 (thirty) calendar days before such meetings are to take place. The purpose, objectives, agenda, date and venue of public meetings should be posted on the CEC web site and other appropriate electronic venues such as CECNet. The Secretariat should issue a current calendar of key CEC meetings and update it weekly. The CEC Secretariat shall coordinate the administration and logistics for the public participation processes of all CEC activities. Other tools may be used to ensure as wide a distribution as possible; for example, mail, fax, and advertising in newspapers or other publications.

- b) A chairperson or facilitator should be considered for specific meetings.
- c) Any participant may make oral statements at the appropriate time on the agenda.
- d) Individuals or organizations may submit written comments to the appropriate CEC body even if they were unable to attend the meeting. Written comments received within 5 (five) calendar days after the meeting will have the same status as verbal comments made during a public meeting. A summary record of discussions at public meetings should be sent to the participants, made available to the public through the CEC web site, and sent to those participants who do not have access to Internet.
- e) Registration for public meetings will have to be limited to the legal capacity of the meeting room(s) on a first-come, first-serve basis.

4.1.3 Call for Public Comments

- a) Any call for public comments should provide a minimum of 30 (thirty) calendar days' notice for review of documents. The purpose and objectives of the call for public comments and any draft documents related to the issue should be posted on the CEC web site and other appropriate electronic venues such as CECNet or sent to potential individual and organizations who do not have access to the Internet.
- b) All comments from the public should be sent to the Secretariat with the understanding that they will be made available upon request, unless confidentiality is conferred by Article 11(8) of the NAAEC.

4.1.4 CEC Contact List

The CEC Secretariat develops and maintains a list of relevant contacts. This list is used by the CEC for distribution of information on specific issues and activities.

5. CEC Coordinates

The public can communicate with the CEC at:

Commission for Environmental Cooperation
393 St-Jacques West, Suite 200
Montreal, Quebec H2Y 1N9
Canada
Phone: (514) 350-4300
Fax: (514) 350-4314
e-mail: info@ccemtl.org
Internet: www.cec.org

6. Checklist for Designing a Public Participation Process

The following checklist, adapted from Standard Z764-96, “A Guide to Public Involvement,” of the Canadian Standards Association, is a guide to assist those responsible for CEC public participation in deciding whether or not public participation is appropriate for a given CEC activity, how such an activity should be structured, and what process elements should be included.

1. Do you need to involve the public? <ul style="list-style-type: none">• Describe the situation• Identify potential benefits• Assess the relevance of input• Analyze and evaluate the implications of not including public participation• Identify interests and positions• Study and assess the implications of not proceeding
2. Has the groundwork been laid for a well-constructed process? <ul style="list-style-type: none">• Determine the nature and scope of decisions• State the purpose• Estimate the time frame• Identify potential participants• Review and select viable mechanisms• Estimate human and financial resources required• Validate budget
3. Do you have the elements in place to make the process develop satisfactorily? <ul style="list-style-type: none">• Establish goals and limits• Define the work plan and program the activities• Confirm the availability at resources allocated• Send invitation to identified participants and confirm their attendance• Conduct follow-up to plan of actions• Mobilize resources• Establish the ground rules for the process
4. Did the process conclude satisfactorily? <ul style="list-style-type: none">• Identify what and how to evaluate• Review process development and identify stages that need improvement• Ensure process feedback from experience gained• Include decisions made and circulate these among participants• Implement project decisions