WORKSHOP PROCEEDINGS

FORGING ALLIANCES TO PREVENT INDUSTRIAL POLLUTION: NEW APPROACHES AND TOOLS FOR ENVIRONMENTAL MANAGEMENT

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by

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BACKGROUND

The coming into force of the North American Free Trade Agreement (NAFTA), in 1994, created the world's largest trading block. At the same time, the NAFTA partners sought to build environmental safeguards into the trade liberalization pact and agreed to sign an accord, the North American Agreement on Environmental Cooperation (NAAEC) to do so. The organization created by the Agreement to carry out its provisions is the North American Commission for Environmental Cooperation (NACEC), an international organization composed of the Council—cabinet-level environment officials from the three countries, the Joint Public Advisory Committee, a group of five citizens from each country and a Secretariat staffed with environmental experts.

The role of NACEC is to foster cooperation among the three NAFTA partners—Canada, Mexico and the United States—in responding to the challenges and seizing the opportunities that the continent-wide open market presents to the job of protecting the North American environment. In fulfilling this role, NACEC is at work on a variety of fronts developing tools that are up to that task.

NACEC'S North American Pollutant Release and Transfer Register (PRTR) project seeks to increase public access to and understanding of information on the sources and handling of toxic chemicals from industrial activities in North America. Each year NACEC issues the *Taking Stock* report, which provides a North American profile of pollutant releases and transfers based on data reported by facilities to the national PRTRs. Other main objectives of the project are to promote enhanced comparability among the national PRTR systems, support the further development of the Mexican PRTR, and explore ways to improve access to and use of PRTR data.

The Law and Policy program has been exploring the use of alternative approaches to promote compliance. In particular, program work has investigated environmental management systems as a tool to promote not only regulatory compliance but also environmental performance in both regulated and non-regulated areas. In 2000, the Council endorsed by resolution a guidance document for the public and private sectors on how to use these systems to improve compliance and environmental performance.

The North American Fund for Environmental Cooperation (NAFEC) funds community-based projects in Canada, Mexico and the United States that promote the goals and objectives of NACEC. Since 1996, NAFEC has made 142 grants totaling US$5.4 million (see http://www.cec.org for a list of grants). In addition to receiving funding for their community-based projects, grantees are invited to participate in collective efforts to identify common problems and solutions, best practices, and supportive policies; they are also encouraged to link their work to other NACEC initiatives.

The workshop on "Forging Alliances to Prevent Industrial Pollution: New Approaches and Tools for Environmental Management" was organized jointly by the Law and Policy program, the PRTR project and NAFEC, in collaboration with the Dirección General de Ecología of the State of Baja California, México, and the federal Instituto Nacional de Ecología (INE). The event was convened as an opportunity for representatives of government, industry, public interest groups, academia and others from the border region and throughout North America to discuss the complementary roles of PRTRs, EMSs and public access to information as tools for sound environmental management and effective industry-community dialogue.

This report is a summary of the workshop proceedings and is not intended to be a reflection of the views or positions of any particular government agency or of NACEC. Comments from participants have been synthesized and grouped according to theme or topic.

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Please consult their website for the full proceedings in both English and Spanish, as well as the text of some of the presentations.

EXECUTIVE OVERVIEW

Introduction

The "Forging Alliances" workshop focused on the role of Pollutant Release and Transfer Registers (PRTRs), public access to information, and Environmental Management Systems (EMS) as tools for sound environmental management and effective industry-community dialogue. The roughly 100 participants included industry representatives, public interest groups, government officials and other interested parties from the border region and throughout Mexico, as well as from the United States and Canada. The workshop was organized through collaboration among the Dirección General de Ecología of the State of Baja California, the North American Commission for Environmental Cooperation (NACEC), and the federal Instituto Nacional de Ecología (INE).

The following highlights the main themes of the panel presentations, discussion, and comments from the audience over the two-day workshop. Please refer to the proceedings themselves for more detailed descriptions of individual presentations. The full text of most presentations, as well as the full text of this document in English and in Spanish, is available at <http://www.pacinst.org>.

Main Themes

PRTR information is important for promoting environmental improvements and ensuring the public's right-to-know
PRTR has taken hold internationally and there is a growing emphasis on getting environmental information to the public. However, such information is not yet sufficiently accessible. Most people remain unaware of pollutant release and transfer registries and this needs to be addressed, perhaps through peer-to-peer teaching. While "right-to-know" is a basic principle, support is also needed to ensure that the public and communities are able to understand and make use of this information. Better and more training and environmental education programs for both industry and communities are necessary.

Community involvement in identifying and addressing environmental concerns is important
Mechanisms need to be implemented to make public participation in environmental decision-making feasible. PRTRs can serve as catalysts in this regard. Community-based organizations can help detect environmental problems, report them, and bring forward community concerns regarding environmental health. Such organizations can also serve as promoters of regulatory initiatives, and can work with industry at a consultative level. For example, in recognition of this beneficial synergy, EMS programs in Arizona and California require public participation.

Building trust among all sectors is important
A lack of mechanisms that make public participation feasible has led to distrust among sectors. Certain myths have been perpetuated, such as that industry is not interested in the environment. Industry is generally uncomfortable with allowing access to information that it fears could at some point be used against it. Industry in Mexico is also concerned that PRTR and public access to information could compromise competitiveness and affect trade, although there is evidence

that the Toxics Release Inventory has not affected trade in the US. There are very few confidentiality claims made by US facilities with respect to PRTR data.

Better tools and mechanisms are needed to improve the communication and trust between industry, government, NGOs, and the community. In a number of countries, publicly accessible PRTRs have a proven history of reducing distrust and empowering the community. An important step in building trust is to define mutual goals. From an NGO/public perspective, verification and validation of information are key elements for building trust not only for PRTRs but also for EMSs. For this reason cooperation between industry and the community should be promoted, to increase the number of partners and diversify the dialogue. Arizona, for example, requires a contractual undertaking by EMS users to ensure accountability.

Voluntary versus mandatory PRTRs

A number of participants expressed the view that PRTR reporting needs to be mandatory, because voluntary programs do not *guarantee* public participation or third party verification of environmental results. They felt that a stronger regulatory framework is needed, and expressed concern about voluntary commitments, which have not proven to be very successful. Mandatory reporting also ensures a "level playing field" by making available information on pollutant releases and transfers from all facilities subject to reporting, and not just those who voluntarily provide this information. Other workshop participants believed the creation of mandatory programs in Mexico is not feasible under the current regulatory or political climate. There are millions of pages of mandatory regulation, they suggested, which do not guarantee results, either.

In the Mexican context, participants suggested that since the number of industries voluntarily providing information is small, there need to be other incentives, such as tax incentives, to encourage participation initially. This approach would not negate the principle that those who pollute should pay for it. Other factors point to the need to build an adequate and consistent legal framework for the implementation and enforcement of PRTR. There exists a (partial) legal framework at the national level in Mexico and the federal government is providing support for the development of state level PRTRs. Participants stressed the need to ensure coordination and comparability between the federal and state-level registries in Mexico, and to have only one PRTR. The purposes of a more cohesive legal framework would be to create clear and consistent rules on information disclosure, and to improve transparency and consistency in enforcement of the law.

PRTRs are not sufficiently used, comprehensive enough, or harmonized

Participants noted some limitations of PRTRs, in that they are limited in scope and are often not integrated with similar reporting mechanisms. Relatively few compounds are monitored; many companies emit other compounds that are not disclosed. Nor does PRTR address cumulative impacts for a municipality or region. A further problem is that various models of PRTR are not consistent internationally.

Environmental Management Systems can further principles of sustainable development by reconciling economic with environmental and social goals

EMSs do this by incorporating environmental considerations into day-to-day business decisions. At an operational level, EMSs are a tool to aid an organization in: identifying and stating its environmental values; identifying all its environmental risks and impacts; and systematically

exerting better control over those risks and impacts by changing management responses and related activities. The overarching goals of an EMS are to improve environmental performance and thereby improve environmental protection and quality. An EMS that can be shown to do so will increase the trust and confidence of stakeholders. When companies implement an EMS, they are promoting environmental training of employees to a greater degree, and are typically focusing efforts toward cleaner production and pollution prevention. The ISO 14001 standard is the one of the most basic and widely used EMS frameworks internationally, although there have been reservations expressed about its scope. The design of an EMS will affect what it can deliver: the more comprehensive the design, the greater the possibility for delivering better environmental performance.

An EMS can be designed to support a PRTR
A PRTR is a subset of the environmental performance information that can be collected and used in an EMS. For example, most EMSs also address inputs, such as energy and raw materials usage. At its most basic level, an EMS can track regulated and unregulated toxics use, highlighting substances of particular concern for management priority within the EMS. For a performance-based EMS approach, the organization can track toxics and then relate their use to production efficiency, units of production, monetary units of value, etc. Both PRTRs and EMSs can lead to competitive advantages through efficiency gains and generate added value for businesses that provide environmental information publicly.

EMS can be used by companies to improve the environmental performance of their suppliers
Supply chain EMSs are based on market-driven improvements in product and service quality. The concept is to use an EMS to improve performance throughout the supply chain: they are designed around commercial relationships between large company customers and their small and medium-size suppliers which then work collectively to implement EMS. An example in Mexico is the Guadalajara Pilot Project, sponsored in part by the World Bank. The project brought in key stakeholders from the outset, including Semarnap, representatives from the State of Jalisco and several municipalities, two local universities, and several interested local NGOs. The project illustrated that it is possible to change the culture of suppliers by incorporating them into a larger, host company EMS program.

Need for support for small and medium-size enterprises (SMEs)
SMEs make up some 90 to 95 percent of all businesses and employ 80 percent of workers in Mexico. As a class, SMEs contribute a substantial amount to the country's total pollution load. However, there is a general lack of knowledge and resources, particularly in SMEs, to implement a PRTR and EMSs. Certification to Profepa's *Industria Limpia* (Clean Industry) and ISO 14001 can also be cost prohibitive for SMEs. However, the Guadalajara Pilot Project demonstrates that SMEs can effectively implement an EMS modeled on the ISO 14001 standard with some financial and technical assistance. Other approaches, such as company mentoring programs within and among industry sectors, can promote low-cost pollution prevention or cleaner production processes.

Interest by governments in using EMSs as a policy tool has grown in recent years
State and federal governments in the US and Mexico are using EMS to promote improved environmental performance by companies. Examples in the United States include the US EPA's

National Performance Track program, Arizona's Voluntary Environmental Performance program, and California's EMS Innovations Initiative. *Industria Limpia* is a national program in Mexico that began in 1992 with two related components: voluntary industry participation and environmental auditing. There are no sanctions in the program; instead, it focuses on incentives and recognition. Since its inception, the environmental audit protocols of the program have emphasized pollution prevention, and the EMS framework has been incorporated into the program in recent years. NACEC's guidance document on EMS, "Improving Environmental Performance and Compliance: 10 Elements of Effective Environmental Management Systems," grew out of a project that examined the link between voluntary initiatives (such as EMSs) and government programs to enforce, verify, and promote compliance.

In general, both EMSs and PRTRs strengthen government agencies' abilities to make policy decisions. EMS can enhance regulators' ability to determine whether organizations are meeting or exceeding legal requirements and provide better information to the public on the nature and extent of the public health and environmental effects of an organization's activities, as well as how organizations are managing for the environment. When governments create a recognition program that involves an EMS, a PRTR should be one of the sets of information reported. Governments should not promote EMSs without there being some degree of private sector accountability—such programs also need a component of public oversight.

EMS are emerging as the basis for government-industry collaborative partnerships
Participation in Profepa's *Industria Limpia* program has helped to break down barriers between business and government. In such emerging partnerships, it is important to allocate responsibility and promote incentives among the different stakeholders. The primary purpose of EMS-based voluntary programs is to minimize risk to the environment. Reporting on businesses' success in these efforts will enhance the company's reputation. In addition to improved public perception, an EMS and its related environmental performance improvements can also lead to direct economic benefits, such as decreased insurance premiums and access to preferential low-interest credit rates.

Other collaboration tools.
The "Seven Principles for Environmental Stewardship" (signed by the US/Mexican Chamber of Commerce, EPA and Profepa in 1999) was developed through the Border XXI program, and included industry participation in their development. The goals were to promote corporate responsibility and to be strategic by addressing complex challenges through the engagement of the private sector. A number of the principles are directly relevant to the workshop discussions: Principles One through Four promote development of a sound, performance-oriented EMS, supplemented with a full range of tools such as auditing, pollution prevention evaluation, employee training, and performance measurement, to ensure that core performance goals, such as compliance, pollution prevention, energy efficiency, and improved overall performance, are actually implemented. Principle Five addresses public accountability, including reporting on releases and overall environmental performance, and having a two-way dialogue with external stakeholders. In addition to EMS-based voluntary programs, other government-industry partnerships include the pollution prevention round tables in Mexico and pollution prevention pilot projects funded by NACEC.

Recommendations

On the second day of the workshop, participants formed working groups to discuss specific topics, such as strategies for building trust between industry and communities, and opportunities for integrating the use of PRTRs and EMS. Following are the main recommendations that emerged from these group discussions:

- Provide better access to and improve the quality of existing information.
- Build an adequate legal framework for the implementation and enforcement of a PRTR.
- Create clear and consistent rules of information disclosure.
- Strengthen community outreach and include NGOs at the outset.
- Provide training and environmental education programs for both industry and communities.
- Allocate responsibility and promote incentives among the different stakeholders.
- Find creative and proactive ways to disclose the information and build trust.

A more detailed summary of the working group outcomes is provided under Session 6 of the proceedings.