

POLICY ISSUE
(Notation Vote)

May 4, 2006

SECY-06-0101

FOR: The Commissioners

FROM: Luis A. Reyes
Executive Director for Operations /RA/

SUBJECT: EMERGENCY PREPAREDNESS FOR DAYCARE FACILITIES WITHIN
THE COMMONWEALTH OF PENNSYLVANIA; UPDATE ON STAFF
ACTIONS AND REQUEST FOR COMMISSION APPROVAL FOR
RELATED STAFF ACTIONS

PURPOSE:

- 1) To provide a response to the potential implementation questions raised in the Petition for Rulemaking (PRM) 50-79 as directed by the staff requirements memorandum (SRM) for SECY-05-0045, "Denial of Petition for Rulemaking to Revise 10 CFR Part 50 to Require Offsite Emergency Plans to Include Nursery Schools and Day Care Centers (PRM-50-79)."
- 2) To obtain Commission approval to re-issue the petition denial with proposed staff revisions to address stakeholder concerns regarding factual errors and potentially misleading language.
- 3) To update the Commission on staff initiatives described in the Executive Director for Operation's (EDO's) December 30, 2005, and February 9, 2006, memoranda.

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BACKGROUND:

On October 26, 2005, the Commission approved the staff's recommendation to deny Petition for Rulemaking (PRM) 50-79 regarding emergency preparedness for children in daycare facilities. Further, the Commission directed the staff to seek further information from the Department of Homeland Security (DHS) on the level of communication between State and local governments and daycare facilities in the Three Mile Island (TMI) emergency planning zone (EPZ) and to consult with DHS and other stakeholders on options, including public outreach, for further assessing the questions raised in the petition about local implementation of relevant requirements and guidance.

In a memorandum dated December 30, 2005, the staff provided an update on progress on certain staff actions requested in the subject staff requirements memorandum (SRM). In this memorandum, the staff notified the Commission that it was taking the following actions responsive to the SRM: 1) holding a meeting with the Pennsylvania Emergency Management Agency (PEMA), DHS, and the NRC scheduled for January 26, 2006; 2) creating a NRC/DHS Steering Committee standing subcommittee on revising the NRC/FEMA Memorandum of Understanding; and 3) holding a meeting between Mr. Roy Zimmerman, NSIR, and Mr. Robert Stephan, DHS Assistant Secretary for Infrastructure Protection. The staff had also described licensee-sponsored emergency planning workshops for daycare facilities within the TMI and Limerick EPZs.

In a memorandum from the EDO dated February 9, 2006, the Commission was informed of the results of a preliminary staff review of the petition denial approved by the Commission on October 26, 2005. The memorandum also committed to provide a proposed course of action on what steps, if any, needed to be taken to assure the public record is accurate.

DISCUSSION

Staff Response to Potential Implementation Issues

The October 26, 2005, SRM directed the staff to explore with FEMA and other stakeholders options to further assess the questions raised in the petition about local implementation of relevant requirements and guidance and provide appropriate recommendations for improvement, as necessary. The EDO's December 30, 2005, memorandum described discussions with DHS to resolve the stakeholder concerns. The memorandum also identified the staff's intent to meet with representatives of PEMA and DHS.

On January 26, 2006, representatives of NRC headquarters and Region 1, PEMA, the Pennsylvania Department of Welfare (DPW), the Pennsylvania Department of Environment Resources/Bureau of Radiation Protection, DHS headquarters, and the DHS Philadelphia Field Office met at the PEMA headquarters in Harrisburg, Pennsylvania. This government-to-government meeting was not open to the public. Significant information pertinent to the implementation concerns identified in the SRM was obtained. PEMA and the DPW described a comprehensive program, mandated by Pennsylvania law, for licensed daycare facilities that substantially enhances the existing emergency preparedness posture that was previously found by DHS to provide reasonable assurance that adequate protective measures can and will be

taken for the public, including children in daycare facilities. Enclosure 1 to this Commission paper contains the minutes of this meeting (and a follow-on teleconference).

Based on the information collected in this meeting and the follow-up teleconference, the staff has prepared a response to questions raised in the petition about local implementation of relevant requirements and guidance and has identified an improvement opportunity which the staff will pursue with DHS. Enclosure 2 to this Commission paper provides the staff's response and recommendation.

In consideration of the information presented in Enclosures 1 and 2, the staff has found no sufficient basis to question the adequacy of DHS findings regarding reasonable assurance. The staff believes the DHS findings to be consistent with the planning standards of 10 CFR § 50.47(b) and the existing memorandum of understanding between NRC and DHS. As such, the staff considers that the potential implementation questions discussed in the SRM have been adequately resolved for the present. Nonetheless, in the interest of maintaining the current level of preparedness, the staff plans to continue to work with DHS to consider program enhancements, as necessary, that will better evaluate the preparedness for this segment of the population on an appropriate periodic basis.

Staff Review of Stakeholder Concerns Regarding PRM-50-79 Petition Denial

On March 11, 2005, the staff forwarded a recommendation to the Commission to deny PRM-50-79. Included with that recommendation was a proposed *Federal Register* notice that described the petition, the staff's evaluation, and the basis for the denial. In an SRM dated October 26, 2005, the Commission accepted the staff's recommendation, with language changes to the petition denial. The denial was published in the *Federal Register* on December 19, 2005, [70 FR 75085]. In a memorandum dated February, 9, 2006, the EDO notified the Commission of the results of a preliminary staff review of the petition denial and committed to provide a proposed course of action on what steps, if any, needed to be taken to assure the deficiencies in the public record are corrected. After a thorough interoffice evaluation, the staff has concluded that the identified deficiencies do not affect the staff's recommendation to deny the petition. However, the staff has gained additional insights during the conduct of its review that support a recommendation to correct factual errors and clarify NRC's regulatory positions and bases in the petition denial.

The revised petition denial incorporates two general clarifications. The first, the basis for which is provided in Enclosure 5 of this Commission paper, is with regard to whether the Commission's regulations prohibit a State or local government from tasking other entities with planning functions and obligations. The second clarification addresses the role of GM-EV-2 for which alternative methods can be found acceptable by DHS for demonstrating compliance to the planning standards and the evaluation criteria. This clarification was based upon discussions with DHS and their counsel and was agreed to by DHS.

Enclosure 3 to this Commission paper is the revised *Federal Register* notice that the staff proposes to publish to correct the public record. Enclosure 4 to this Commission paper is a redline/strikeout version of the revised notice. The revised notice incorporates changes requested by DHS and PEMA in various correspondence [ML060680076, ML060730534, ML060730538].

Update on Staff Actions Identified in the December 30, 2005, Memorandum

In its December 30, 2005, memorandum, the EDO noted several actions that were being taken to address the implementation questions raised in the petition. One of these actions, the meeting with PEMA, was described above. The outcome and status of the remaining actions are discussed below:

Kickoff Meeting for Revision of NRC/FEMA Memorandum of Understanding: In the December 30, 2005, SRM response, the NRC staff stated that a subcommittee of the NRC/FEMA Steering Committee had been created to revise the existing NRC/FEMA Memorandum of Understanding (MOU). This subcommittee met on February 7, 2006, to discuss a framework for revising the existing NRC/FEMA MOU. Highlights of this meeting included the following agreements: 1) revising the MOU to incorporate elements of the DHS reorganization and address areas of mutual interest to enhance coordination and cooperation; 2) considering new items for inclusion in the MOU to address areas, such as new reactor combined license application review; and 3) scheduling followup meetings to reach alignment on milestones for revising the MOU. Further developments will be addressed in the semiannual emergency preparedness updates to the Commission.

Meeting With Mr. Robert Stephan, DHS Assistant Secretary for Infrastructure Protection: On January 23, 2006, Mr. Roy Zimmerman, Director, NSIR, and Mr. Robert Stephan, DHS Assistant Secretary of Infrastructure Protection, and selected individuals from the staff of each, met to discuss the effectiveness of coordination between the two agencies regarding the oversight of offsite preparedness issues around NRC-licensed power reactors. The meeting participants identified several follow-on actions to further clarify how the two agencies will work together to fulfill their respective legislative mandates and presidential directives and to strengthen cooperation.

Exelon-Sponsored Emergency Planning Seminar for Daycare facilities: In the December 30, 2005, SRM response, the staff stated that Exelon, licensee for the TMI and Limerick plants, had scheduled a routine semiannual emergency planning workshop for February 4, 2006, in the TMI environs and on February 25, 2006, in the environs of the Limerick plant. In addition to sessions designated for local emergency response workers and coordinators, Exelon conducted two sessions for the operators of daycare facilities. Participation in these sessions was restricted to invitees. The staff has learned that the two sessions were well attended and the outreach helped the daycare facility administrators to develop emergency plans and increased their awareness of emergency planning and preparedness.

FUTURE ACTIONS

The staff will continue to work on the following initiatives and will report on applicable developments regarding these initiatives, as appropriate, in the semiannual emergency preparedness updates to the Commission:

1. The staff will continue to coordinate with DHS and PEMA on possible additional outreach activities. The staff and DHS, working with PEMA as appropriate, will evaluate the feasibility and effectiveness of performing a survey of daycare facilities within the TMI EPZ. However, the staff believes that periodic review of daycare facility plans by DHS, as part of DHS's routine review of public school plans and/or evaluated exercises, would be a more effective approach to ensuring long-term maintenance of the planning effectiveness, and will be working with DHS to consider such reviews.
2. The staff plans to continue to work with DHS to consider program enhancements, as necessary, that will better evaluate the preparedness for this segment of the population on an appropriate periodic basis.
3. The staff, working through the DHS/NRC standing subcommittee, will continue to pursue updates and enhancements to the NRC/DHS MOU.

RESOURCES

The staff estimates that re-issuing the Federal Register Notice and conducting the above future activities will require nominal resources for HQ and the region which will be accommodated within the existing FY 2006 budget.

COORDINATION

The Office of General Counsel has no legal objection to the content of this paper and its attachments. DHS has reviewed this paper and its attachments and provided comments. With one exception, these comments were addressed by the staff. The staff did not agree with a DHS comment that would have weakened the staff's commitment No. 2 under Future Actions above. The E-mail thread in which this comment was discussed is provided in Enclosure 8.

RECOMMENDATION

That the Commission

1. Approve the issuance of the corrected petition denial (Enclosure 3), including the clarification language that states that the Commission's regulations allow a finding of reasonable assurance that adequate protective measures can and will be taken during a radiological emergency where a State or local government tasks a non-governmental entity with emergency planning, preparedness, or response activities responsive to the planning standards of 10 CFR 50.47(b), provided that the overall responsibility for demonstrating, with reasonable assurance, that adequate protective measures can and will be taken in the event of a radiological emergency continues to remain with the State and local governments.
2. Note that a letter is attached for the Secretary's signature (Enclosure 7), informing the petitioners of the Commission's decision to re-issue the petition denial.

3. Note that this paper and its attachments address matters that have also been raised by a Differing Professional Opinion (DPO-2005-008). This DPO was still under consideration as this paper was prepared.

/RA William F. Kane Acting for/

Luis A. Reyes
Executive Director
for Operations

Enclosures:

1. Minutes of NRC Staff Meeting with the PA
Emergency Management Agency
2. NRC Staff Response to Petition Questions Regarding
Daycare Preparedness in PA
3. Proposed Amended Version of the Petition Denial
Published in the *Federal Register* on December 19, 2005
4. Proposed Amended Version of the Petition Denial
Published in the *Federal Register* on December 19, 2005
(redline/strikeout version)
5. Basis For the Revised Petition Denial Language Related
to State and Local Government Delegation of Emergency
Planning Responsibilities
6. "Day Care Facilities Emergency Planning Guide,"
Pennsylvania Emergency Management Agency
7. Letter to Petitioner
8. DHS Comment Correspondence

Enclosure 1

Minutes of NRC Staff Meeting with the Pennsylvania Emergency Management Agency and Summary of Follow-on Activities

(ML060760629)

Enclosure 1

MINUTES OF NRC STAFF MEETING WITH THE PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY AND SUMMARY OF FOLLOW-ON ACTIVITIES

On January 26, 2006, representatives of the Pennsylvania Emergency Management Agency (PEMA), the Pennsylvania Department of Welfare (DPW), the Pennsylvania Department of Environment Resources/Bureau of Radiation Protection, DHS headquarters and the DHS Philadelphia Field Office, and NRC headquarters and Region 1 met at the PEMA headquarters in Harrisburg. The PEMA contingent was led by Mr. James Joseph, Director, PEMA. The NRC contingent was led by Mr. Nader Mamish, Director, Emergency Preparedness Directorate, NRC. The DHS contingent was led by Ms. Vanessa Quinn, Chief, Radiological Emergency Preparedness Section, DHS. Mr. Joshua Batkin, Executive Assistant to Commissioner Jaczko, observed the meeting. The meeting agenda is attached.

Mr. Joseph, speaking for PEMA, welcomed the opportunity for everyone to get together to discuss the issues. He identified that the Commonwealth, counties, and local municipalities have had workable plans in each of the EPZs within Pennsylvania for more than 20 years. He acknowledged the contributions of these parties and the cooperative efforts by the plant licensees. He noted that there had been steady improvement in preparedness over this period. Citing the successful outcome of the recent TMI and Limerick exercises as an example, he stated his belief that Pennsylvania has met its obligations under Federal and Commonwealth statutes, common sense, and moral imperative for protecting the health and safety of its citizens against all hazards across the Commonwealth.

Mr. Mamish accepted the welcome and expressed appreciation for the PEMA's assistance in arranging the meeting. He explained the staff's objective in requesting this meeting was to identify opportunities for improving the preparedness for the daycare facility segment of the population and to determine the facilities' actions in the event of a radiological emergency.

The NRC staff provided an overview of the staff requirements memorandum (SRM) issued by the Commission and previewed the list of questions that the NRC staff sought to address in resolving concerns regarding implementation. PEMA stated its intent to be fully responsive to the meeting agenda items. PEMA strongly expressed a concern regarding the inflexible implementation of regulations, noting that ". . . one size doesn't fit all; what works elsewhere doesn't always work in Pennsylvania." He explained that as a home rule state, the governing authority largely rests with the municipalities (counties, cities, townships, boroughs, etc.) unless otherwise provided for by Federal or Commonwealth statutes.¹

¹ The National League of Cities Web site defines "home rule" as follows: "Home rule is a delegation of power from the state to its sub-units of governments (including counties, municipalities, towns or townships, or villages) Home rule creates local autonomy and limits the degree of state interference in local affairs State provisions for home rule by its local government entities can be defined by the state's constitution and/or statutes enacted by its legislature." The staff notes that the Commonwealth's emergency preparedness programs and plans accordingly reflect this governance structure. As an example, until the passage of Senate Act 922 in 2004, State and local agencies apparently did not have clear authority to mandate that private daycare facilities develop and maintain facility-specific all-hazards emergency plans. As a consequence, the local municipalities have, until recently, provided for this segment of the population as they would for any mobility-challenged individual during an

Mr. Joseph expressed concern, on behalf of the Governor's staff, PEMA, and their respective counsel, that the language of the petition denial published in the *Federal Register* notice (FRN) appeared to impose new responsibilities on the Commonwealth. PEMA questioned DHS on the stature of DHS Guidance Memorandum (GM) EV2, "Protective Actions for School Children," as regulation. In response, DHS stated that GM-EV2 was guidance that supplements and explains regulation, concluding that it is not regulation per se. The FRN reference to exercise guidance in GM-EV2 was specifically questioned. DHS confirmed PEMA's understanding that the DHS Interim Exercise Evaluation Methodology superceded the information in GM-EV2 as it applies to exercises. PEMA also took strong exception to the statement in the FRN that a letter from the Governor "... support[ed] the granting of the petition"²

PEMA expressed frustration with some media reports that used inappropriate wording in describing the existing planning, and with individuals who redistribute e-mails containing mischaracterizations of meetings at which they were not present. PEMA encouraged all present to validate such information before further distribution in the interest of minimizing the spread of misinformation. PEMA noted that a lot of resources have been expended on this issue, resources that it believed could have been put to better use in protecting all citizens of the Commonwealth.

The NRC staff asked PEMA to describe the Commonwealth's position on emergency preparedness roles. PEMA noted that disasters and responses happen at the local level. Generally, the role of local governments is to direct the emergency response while the Commonwealth's role is to provide guidance and support for unmet needs. PEMA described the planning structure in which each level of government assesses its response needs against its available resources, and identifies unmet needs to the next level of government. That level responds to those unmet needs within its resources, with any remaining unmet needs forwarded to the next level, and so on.³ PEMA stated that every entity within the Commonwealth has an emergency preparedness role, including the Commonwealth, local governments, schools, businesses, daycare facilities and the parents of children in these facilities, and every household. PEMA's outreach efforts emphasize this personal responsibility for emergency preparedness.

Staff of the Pennsylvania DPW described the Commonwealth's program for emergency

emergency. As previously documented, DHS found these arrangements to provide reasonable assurance that adequate protective measures could and would be implemented for the public, including licensed daycare facilities.

² On January 10, 2003, PEMA submitted comments on PRM-50-79 and specifically stated its recommendation that the petitioner's request be denied [ML050130397]. By letter dated October 3, 2003, the Governor's office withdrew the earlier comments and described actions being taken in the Commonwealth to develop all-hazards emergency plans for child care facilities [ML032820391]. This second letter did not explicitly take a stand on PRM-50-79, but had apparently been erroneously interpreted by the NRC staff as doing so. On February 21, 2006, PEMA docketed a letter requesting the NRC correct the record [ML060650318].

³ The NRC staff notes that this protocol is a nearly universal approach to disaster planning. Few organizations have, under their own immediate control, all of the resources that might be needed in the event of an emergency.

preparedness for daycare facilities.⁴ Senate Act 922, enacted in 2004, directed that every school district and custodial child care facility, in cooperation with the local emergency management agency and PEMA, develop and implement a comprehensive disaster response and emergency plan consistent with guidelines developed by PEMA. The act required that plans be reviewed annually and updated as necessary and that a copy be provided to the local emergency management agency (EMA). DPW addressed these provisions in its regulations,⁵ including the following requirements: 1) capability of implementing a range of protective actions, 2) a method for contacting parents, 3) a documented annual review of the plan, 4) training for facility personnel on the plan, 5) parental letters explaining the plan and providing any update, and 6) a copy of the plan and any updates sent to the local EMA. Letters were sent to the administrators of each licensed daycare facility describing their new obligations under the act. Each of these letters contained a copy of a planning template created by PEMA (Enclosure 6 to this Commission paper).

These emergency planning requirements are integrated into DPW's overall program of regulating daycare facilities. The DPW staff identified several applicable provisions in response to questions. The department's regulations apply to facilities in which out-of-home care is provided to four or more children 15 years of age or younger. The emergency planning requirements within these regulations are specifically applicable to all licensed facilities be they, public or private, profit or nonprofit.⁶ A new facility is required to demonstrate that it has an emergency plan prior to licensure. Licensed daycare facilities are inspected annually. During the inspection DPW personnel confirm that the plan is in place and has been reviewed and updated annually and that all required elements are met. Sanctions are in place for noncompliance. The DPW regulations do not require participation in periodic drills or exercises. The DPW staff provided an estimate that 95% of the daycare facilities across the Commonwealth have developed the required plan. (See teleconference minutes below.)

Transportation arrangements for evacuating students in daycare facilities were discussed. The PEMA template tasks the daycare facility administrator to identify transportation assets in an attachment to the facility's plan. The vehicle owner, driver, normal location, and means of contacting the owner must be identified for each vehicle that the facility would use to evacuate its children. If the plan depends on resources obtained from a party outside of the facility, a written agreement with that party acknowledging the party's participation in the plan must be obtained and maintained as part of the plan. During the meeting, PEMA personnel provided an example of the transportation arrangements that have been negotiated by the local emergency management agency, the school districts, and the daycare facilities within Harrisburg (which is outside of the TMI Plume EPZ). In an emergency, the daycare facility staffs would bring their charges to a pre-identified nearby public school using the means the daycare administrators

⁴ Under Commonwealth law nursery schools and private kindergartens are classified as schools rather than custodial facilities and are therefore regulated by the Department of Education rather than the DPW. The Pennsylvania Emergency Services Code (35 Pa. Consol. Statutes §7102) required that schools have emergency plans prior to passage of the Senate Act 922. PEMA has published a school planning kit, including a plan template.

⁵ Pennsylvania Code Title 55 Section 3270, "Child Day Care Centers," www.pacode.com/secure/data/055/chapter3270/055_3270.pdf

⁶ See 55 Pa. Code §§ 3270, 3280, 3290 (each of which addresses a particular classification of child care facility). These regulations generally exempt from licensure facilities in which care is provided (1) by relatives, (2) with a parent present at all times, (3) in a place of worship during religious services, or (4) *during hours of instruction* in nonpublic schools and in private nursery schools and kindergartens. Pursuant to existing local EMA plans, the students and staff in exempt facilities would be provided for during radiological emergencies as would any member of the general public needing assistance.

documented in their individual plans. Transportation out of the area would then be via school buses provided by the school district. Bus runs would continue until the public school children and daycare facility population (children and staff) were evacuated. PEMA noted that this approach is likely feasible only in an urban area, that other approaches might be necessary in less built-up areas, and that this situation is an example of why the “one size does not fit all.”

The NRC staff, using the findings of the survey of daycare facilities performed by the EFMR⁷ stakeholder group in late 2004 as a contrary view, discussed the Commission’s concerns regarding public and daycare facility awareness of the emergency preparedness measures in place for daycare students and the Commission’s interest in an outreach to and a survey of these facilities. PEMA, noting the ongoing involvement of the daycare facility administrators in the DPW-mandated planning effort, the Exelon-sponsored daycare planning workshops, and an array of routine emergency planning information distribution, could not identify any further means of increasing awareness. PEMA indicated that it wished to further consider the concept of a survey of the daycare facilities and other options of gaining information.

NRC/DHS Follow-on Meeting

Immediately following the meeting, the NRC and DHS participants caucused to review the preceding discussions. The parties agreed that the objectives of the meeting had been met in that significant information pertinent to the implementation concerns identified in the SRM had been obtained. The parties also agreed that PEMA and the DPW had described a very comprehensive, legally mandated program for licensed daycare facilities that, moving forward, substantially enhances the emergency preparedness posture that 1) has been in place and 2) has previously been found by DHS to provide reasonable assurance that adequate protective measures can and will be taken for the public, including children in daycare facilities.

It was clear to NRC and DHS participants that PEMA feels strongly that the Commonwealth’s emergency preparedness posture, as it relates to licensed daycare facilities, has been unfairly characterized by the petitioners and others, and that the resources expended in addressing the claims of the petitioner have detracted from other activities that could improve all-hazards preparedness for all citizens in the Commonwealth.

The NRC and DHS participants reviewed the individual requests made by the petitioner, as tabulated in the FRN, and discussed 1) how each request had been addressed in the Commonwealth’s planning prior to the recent legislation, and 2) how each request is addressed in the current program. Enclosure 2 to this Commission paper tabulates this review.

The DHS staff expressed concern regarding a change in the FRN language.⁸ The language, as revised, states an expectation that DHS 1) did not express, 2) does not agree with, and 3) was not in the version of SECY-05-0045 that DHS had concurred on. The DHS staff expressed the view that DHS should have been given the opportunity to concur in the version as published.

⁷ “Emergency Preparedness Survey of Childcare Facilities Located Near the Three Mile Island Nuclear Facility,” EFMR Monitoring Group, February 15, 2005 [ML050660223]. The NRC staff notes that the Governor signed the Senate Act 922 into law in July 2004. Daycare facility operators were given until the next annual recertification to complete the required planning effort. Thus, most facilities would have been in the earlier stages of plan development when the survey was performed.

⁸ In the “NRC Review” for petition Request E, a statement “*NRC expects local governments to assume responsibility...*” was revised pursuant to Commission direction to read “*NRC and FEMA expect local governments to assume responsibility...*”

The NRC asked for DHS's positions on two issues related to the NRC's evaluation of the initial petition for rulemaking and subsequent related correspondence, allegations, 2.206 petitions, and a new petition for rulemaking.

- *Do current regulations and guidance⁹ preclude a State from tasking other entities for the performance of planning and preparedness actions, such as the Commonwealth did when it passed Senate Act 922?*

The DHS staff stated that the regulations and guidance do not preclude a State from tasking other entities for the performance of planning and preparedness actions. The DHS staff noted that the regulatory focus ought to be on establishing adequate plans and procedures and confirming that they are in place, rather than on who performs the required actions.

- *Is GM-EV2 regulation or guidance?*

The DHS staff explained that GM-EV2 has a regulatory status not unlike that of the NRC regulatory guides, that a guidance memorandum represents an approach for meeting a particular emergency planning standard that DHS deems to be acceptable, that alternative approaches could be acceptable, and that compliance with the memorandum is not mandatory for DHS to make a determination of reasonable assurance.¹⁰

Staff Teleconference With the Pennsylvania Emergency Management Agency

On February 2, 2006, the NRC HQ and Region 1 staff and the DHS HQ and Philadelphia Field Office staff conducted a teleconference with PEMA to obtain clarification on certain items discussed during the January 26, 2006 meeting.

- The NRC staff requested a better understanding of the percentage of daycare facility within the EPZs that have completed their facility-specific plans. PEMA stated that 89 out of 90 daycare facilities within the TMI EPZ have completed and submitted the requisite plans for their facilities. The remaining facility has completed all but the transportation element of their plan and the DPW is actively working with the facility to complete this element.¹¹
- The NRC asked about provisions for ensuring the long-term maintenance of the plans now that they were in place. The DPW performs an annual evaluation of each licensed daycare facility. During these evaluations, the DPW inspector confirms that each of the requisite planning element is met. If the plan does not meet one or more of the elements, the deficiencies are cited on the spot. The operator is given a period of time

⁹ For example: NUREG-0654/FEMA-REP-1, Section II.J.9 states: "Each State and local organization shall establish a capability for implementing protective measures based upon protective action guides and other criteria."

¹⁰ Some individuals have characterized the content of the FRN as Commission direction and stated that the Commission's expectation is that GM-EV2 will be considered as a minimum for demonstrating compliance with the Commission's regulations. The NRC staff notes that interpretation is flawed in that GM EV2 is guidance issued by FEMA and changing the status of this guidance can only be done by DHS.

¹¹ Mr. Jim Joseph, notified the staff via E-mail on May 4, 2006 that the remaining facility has completed all elements of their plan and that the plan is now in effect.

to correct and a followup inspection will be conducted. If the plan is still deficient at that time, the county and local emergency management agencies (EMAs) are notified, and the daycare facility's license could be withdrawn.

- The NRC asked about integration of the daycare facility planning with that of the local EMAs and the Commonwealth. PEMA explained that Commonwealth statute¹² and a PEMA directive regarding emergency preparedness require that each level of government, State, county, city, township, etc., develop and maintain all-hazard emergency plans. PEMA provided template plans, which are consistent with the guidance of the National Response Plan and the DHS Incident Command Structure, to each EMA. With regard to resources needs, such as transportation, each EMA plan includes a section known as the Notification and Resource Manual (NARM), which tabulates the vulnerable facilities and populations within its jurisdiction, their contact information, and resource needs. If a particular EMA has a resource need that cannot be met from local sources, its NARM would identify this as an unmet need. The resource need would then be coordinated with the EMA at the next higher government level (e.g., a county) and so forth up to the Commonwealth and the Federal government. If a local EMA had agreed to provide transportation to a given daycare facility, it would have issued a letter of agreement to the facility operator and the associated transportation resource needs would be included in the NARM. Since a daycare facility plan is required to have letters of agreement for any resources from external sources, there would be integration of the resource needs. PEMA further explained that if a daycare facility could not meet its needs (e.g., a disabled vehicle) during an event, the unmet needs would be raised to the local EMA, and then to each successive level of government until the need was met.

¹² See 35 Pa. Consol. Statutes §7102

Enclosure 1 Tab 1

Agenda for PEMA/DHS/NRC Information Sharing Meeting

Introductions (PEMA/DHS/NRC)

NRC Perspectives (NRC)

- 2002 petition for rulemaking
- 2004 & 2005 additional letters, congressional interest
- Commission denial of PRM; questions are implementation rather than regulation
- DPO, new petitions, new allegations, request for hearing
- Commission Direction to NRC Staff (NRC)
- Seek further information on the level of communication taking place between State and local governments and the licensed daycare centers
- Explore options to further assess the questions raised by stakeholders
- Options should include outreach and survey to determine whether licensed daycare facilities are aware of EP that would apply to them.

DHS Perspectives (DHS)

- Daycare Center Planning Requirements and Guidance (DHS)
- NUREG-0654/FEMA REP-1
- GM-EV-2

PEMA Perspectives (PEMA)

Path Forward & Next Steps (PEMA/DHS/NRC)

Enclosure 2

NRC Staff Response to Petition Questions

Regarding

Daycare Preparedness in Pennsylvania

and

Recommendations for Improvement

(ML060760644)

Enclosure 2

NRC STAFF RESPONSE TO PETITION QUESTIONS REGARDING
DAYCARE PREPAREDNESS IN PENNSYLVANIA
AND
RECOMMENDATIONS FOR IMPROVEMENT

PURPOSE

The September 4, 2002 petition for rulemaking by Mr. L.T. Christian and its supporting information (PRM-50-79) generally asserted that there was no planning within the Commonwealth of Pennsylvania for the daycare population and that there was no Federal requirements for emergency planning for this segment of the population. The petition requests were characterized as 14 individual requests and each was addressed in the petition denial. The effect of these assertions and requests was to raise questions regarding local implementation of relevant requirements and guidance. In its staff requirements memorandum (SRM) for SECY-05-0045, dated October 26, 2005, the Commission directed the staff to explore options to further assess these questions and provide any recommendations for improvement as necessary. This enclosure responds to the direction in the SRM.

As described elsewhere in this Commission paper and its enclosures, the staff has met with representatives of the Department of Homeland Security (DHS) and the Pennsylvania Emergency Management Agency (PEMA). Based upon this meeting and some follow-on teleconferences, the staff has obtained information, responsive to the SRM direction, regarding the status of emergency preparedness within the Pennsylvania with specific regard to the planning for daycare facilities. The staff learned that the Commonwealth has provided emergency preparedness for all segments of the population since the mid 1980's. In 2004, subsequent to the filing of the petition, the Commonwealth amended its emergency management statutes to task the administrators of daycare facilities to develop and maintain facility-specific all-hazards emergency plans as a condition of their licensure.¹ As such, the Commonwealth's approach to providing for the daycare population has changed. This enclosure will describe the emergency preparedness for daycare facilities both prior to and following the recent legislation. The staff has taken this approach for the following reasons:

- The staff believes that the petition's assertions that Pennsylvania has never had preparedness for this segment of the population warrants a response in order to correct the record and to demonstrate that the NRC's continued reliance in the FEMA reasonable assurance determinations during this period has not been misplaced.
- The staff has rejected several subsequent petitions², allegations, and requests for hearings, generally on the basis that the fundamental concern, inadequate emergency preparedness in Pennsylvania, was already known to the Commission and was being evaluated pursuant to the SRM and under other formal processes. Similar assertions were made in correspondence from the petitioners and their congressional

¹ These statutes had previously tasked only the public and private school systems for developing and maintaining emergency plans.

²...For example, in a §2.206 petition filed on November 18, 2005: "*Pennsylvania does not comply with [F]ederal regulations requiring emergency planning for preschool children, and the Federal Emergency Management Agency has been reaching a false finding for emergency planning compliance for the past 19 years. . .*"

representative. As such, discussion of the emergency preparedness before and after the 2004 legislation is needed to be fully responsive to the concerns identified in these requests.

- The current planning status described in Enclosure 2 is specific to Pennsylvania and would not apply to other states which may, in accordance with their approved plans, treat the daycare population as being part of their planning for special populations. The previous status described in Enclosure 2 shows that FEMA's reasonable assurance determinations for Pennsylvania were appropriately consistent with the planning standards of § 50.47(b) and the evaluation criteria in NUREG-0654/FEMA-REP-1, a conclusion that the staff believes is likely representative of FEMA findings in these other states, as well.

BACKGROUND

On September 4, 2002, Mr. L.T. Christian submitted a petition for rulemaking that generally requested that the NRC amend its regulations regarding offsite State and local government emergency plans to ensure that all daycare facilities and nursery schools (henceforth, "daycare facilities") within the plume exposure emergency planning zone (EPZ) of a nuclear power plant are properly protected in the event of a radiological emergency. SECY-05-0045, "Denial of a Petition for Rulemaking To Revise 10 CFR Part 50 To Require Offsite Emergency Plans To Include Nursery Schools and Daycare Centers (PRM-50-79)," recommended denial of the petition for the stated reason that current NRC and FEMA guidance provide reasonable assurance of adequate protection of all members of the public, including children attending daycare centers and nursery schools, in the event of a radiological emergency. SECY-05-0045 noted that the information obtained during the review of the petition raised questions about local implementation of relevant requirements and guidelines. The Commission accepted the staff's recommendation of denial, subject to comment, on October 26, 2005. The petition denial was published on December 19, 2005.

The SRM directed the staff to undertake several actions intended to resolve the implementation issues. Consistent with this direction, NRC headquarters and Region 1 staff met on January 26, 2006, with representatives of the Pennsylvania Emergency Management Agency (PEMA), the Pennsylvania Department of Welfare (DPW), the Pennsylvania Department of Environment Resources/Bureau of Radiation Protection (BRP), DHS headquarters, and the DHS Philadelphia Field Office. Immediately following the meeting, the NRC and DHS participants caucused to review the preceding discussions. The parties agreed that PEMA and the DPW had described a very comprehensive, legally mandated program for licensed daycare facilities that, moving forward, substantially enhances the emergency preparedness posture that was previously found by DHS to provide reasonable assurance that adequate protective measures can and will be taken for the public, including children in daycare facilities. On February 2, 2006, the NRC HQ and Region 1 staff and the DHS HQ and Philadelphia Field Office staff conducted a teleconference with PEMA to obtain clarification on certain items discussed during the January 26, 2006, meeting.

RESPONSE

After a general discussion provided to summarize information that is relevant to more than one of the petition requests, the remainder of this enclosure documents the individual petition

requests, a discussion on how the Commonwealth's planning prior to enactment of the daycare emergency preparedness legislation and regulation was responsive to that request, and a discussion on how the planning is being implemented pursuant to that legislation. This response is based on information obtained in the discussions identified above, other discussions and correspondence with DHS, and program office experience in implementing and evaluating emergency preparedness. In addition, the staff considered the Commonwealth's Senate Bill 922 and the DPW regulations that implement that legislation and otherwise establish requirements for daycare facilities.³

General Comment: *Previous Status.* Because of a lack of apparent statutory authority⁴ over private entities such as daycare facilities, the Commonwealth of Pennsylvania has historically treated the daycare center population as a member of the "special population," rather than as a "special facility," as provided for in GM-EV2. Local emergency management agencies (EMAs) plans identified arrangements that have been made to provide emergency resources for this population. Consistent with the guidance in NUREG-0654/FEMA-REP-1 and other FEMA documents, local EMAs designate transportation pickup points for transportation-dependent residents. Local EMAs make arrangements with transportation concerns to obtain these resources (vehicles, drivers) necessary to transport the expected number of evacuees with provision for obtaining additional vehicles from higher levels of government as unmet needs. Local EMAs designate relocation centers outside of the EPZ for residents in the EPZ. (Actual evacuation experience indicates that relatively few people will use the designated facilities, but will instead opt for staying with friends and family outside of the EPZ.)

Under the Commonwealth's approach, a daycare facility which had not made facility-specific arrangements would have utilized the general arrangements that the local EMA had made for other special needs individuals (e.g., transportation-dependent, mobility-challenged) if an emergency had occurred. Accordingly, all daycare facilities, licensed and nonlicensed, public or private, profit or nonprofit, would have been provided for as would have been any other member of the public that had needed assistance with evacuation or other emergency needs. Although a facility-specific plan, or alternative, as recommended by GM-EV2, would likely have resulted in a more effective response, the absence of a facility-specific plan is not evidence that, if an emergency had occurred,

³ Title 55, Pennsylvania Code Chapters 3270, 3280, 3290 address various classes of child custodial facilities and provide standards to aid in protecting the health, safety, and rights of children and to reduce risks to children in daycare centers. The legislation was implemented in § 3270.21a (and in the corresponding sections in the other two chapters). See also, "CRS Report to Congress: Pennsylvania Emergency Management and Homeland Security Statutory Authorities Summarized," March 23, 2004.

⁴ The Commonwealth of Pennsylvania is a "home rule" State in which governance is vested in local government entities (municipalities, boroughs, townships, counties, school districts, etc.) except where explicitly assigned to the State by statute. The Commonwealth has traditionally had statutory authority over public schools with regard to emergency preparedness.

there would have been an inability to provide adequate protective actions for the daycare center population, any more than it indicates an inability to provide adequate protective actions for other transportation-dependent or mobility-challenged individuals who reside within the EPZ.

The staff notes that, emergency preparedness, at its fundamental level, *is a risk-management tool* intended to reduce the consequences of a nuclear accident to the general public by reducing the radiation dose to the population. Emergency preparedness does not guarantee that every member of the public will be evacuated in the shortest possible time and receive the minimum possible dose in all circumstances.⁵ It should also be noted that studies of actual evacuation events have not uncovered evidence that affected daycare facility populations were not adequately provided for during actual events *even in the absence of such dedicated resources*. FEMA, using its core competency and experience in responding to numerous natural and technological emergencies, had been able to reach the conclusion that the Commonwealth had established an appropriate emergency preparedness stature.

Current Status. In 2004, the Commonwealth enacted Senate Bill 922 (henceforth, “the Act”), which directed every custodial child care facility, in cooperation with the local EMA and PEMA, to develop and implement a comprehensive disaster response and emergency plan consistent with guidelines developed by PEMA. The Act required that plans be reviewed annually and updated as necessary and that a copy be provided to the local EMA. The DPW, the agency tasked with oversight of child custodial facilities, addressed these provisions in its regulations, including the following requirements: 1) capability of implementing a range of protective actions, 2) a method for contacting parents, 3) a documented annual review of the plan, 4) training for facility personnel on the plan, 5) parental letters explaining the plan and providing any update, and 6) provision of a copy of the plan and any updates to the local EMA. Letters were sent to the administrators of each licensed daycare facility describing their new obligations under the Act. Each of these letters contained a copy of a planning template created by PEMA (Enclosure 6 to this Commission paper).

These emergency planning requirements are integrated into DPW’s overall program of regulating daycare facilities. The department’s regulations apply to facilities in which out-of-home care is provided to four

⁵ As an example, in the statements of consideration for the final emergency preparedness regulations (45 FR 55407) the Commission noted (with regard to sirens): “The Commission recognizes that not every individual would necessarily be reached by the actual operation of the system under all conditions of system use.” Also, the ASLB in *Shoreham* [21 NRC 644] noted: “It was never the intent of the regulation to require directly or indirectly that state and local governments adopt extraordinary measures . . . just to deal with nuclear power plant accidents. The emphasis is on *prudent* [sic] risk reduction measures. The regulation does not require dedication of resources to handle every possible accident that can be imagined. The concept of the regulation is that there should be a core planning with sufficient planning flexibility to develop reasonable *ad hoc* [sic] response to those very serious low probability accidents which could affect the general public.”

or more children 15 years of age or younger. The emergency planning requirements within these regulations are specifically applicable to all licensed facilities be they public or private, profit or nonprofit.⁶ A new facility is required to demonstrate that it has an emergency plan prior to licensure. Licensed daycare facilities are inspected annually. During the inspection DPW personnel confirm that the plan is in place and has been reviewed and updated annually and that all required elements are met. Sanctions are in place for noncompliance. The DPW regulations do not require participation in periodic drills or exercises. The DPW staff identified that 95% of the daycare facilities across the Commonwealth have developed the required plans and that all 90 licensed daycare facilities within the TMI EPZ have completed and submitted plans.

Although DHS has not assessed the adequacy of these facility-specific plans or the designated relocation centers, FEMA had previously found the previous planning structure provided reasonable assurance. The staff is of the opinion that the statutory and regulatory framework that has been established within the Commonwealth represents an enhancement over the previous planning approach discussed above and that these preparedness enhancements should similarly support a DHS continued finding of reasonable assurance

The Act and the DPW regulations do not address planning for nonlicensed daycare facilities. Because these nonlicensed facilities operate outside of Commonwealth purview and tend to be informal, temporary, and intermittent arrangements, the appropriate treatment of these facilities is as a segment of the general public that may need resources should a radiological emergency requiring public action occur. See the discussion above under "Previous Status" for a description of the planning for this population.

Petition Request A: All children attending daycare center and nursery schools within the EPZ are assigned to designated relocation centers established safely outside of the EPZ.

Previous Status. As noted in the General Comments above, the Commonwealth did not require that daycare facilities have facility-specific plans. Instead, the populations of daycare facilities were treated as members of the larger special needs population. Relocation centers were designated by State and local EMAs for use by all evacuees from the EPZ. The location of these facilities and the evacuation routes were distributed to the public in annual mailings to all residents and were made available through telephone directory inserts and transient area postings.

Current Status. DPW regulations require licensed daycare centers to have an emergency plan. In August 2003, PEMA prepared and issued a

⁶ 55 Pa. Code §3270.3(a) provides in part: "This chapter applies to facilities in which out-of-home care is provided . . . including . . . (2) Care provided in private or public, profit or nonprofit facilities. . ."

template plan entitled “Day Care Facilities Emergency Planning Guide (henceforth “DCFEPG”)(Enclosure 6 to this Commission paper). The DCFEPG requires the plan to identify relocation centers outside of the facility and requires the daycare center to ensure that the designated relocation center is expecting the children and staff and would be able to protect them until the emergency has past and the children’s parents can pick them up. The DCFEPG also requires that daycare facilities within the EPZ of a nuclear power plant coordinate with their local EMA to ensure that their facility plans fit into the larger plans that are maintained for the entire EPZ. Section 4 of the Basic Emergency Plan (within the DCFEPG) requires the daycare facility director to obtain letters of agreement with relocation facility providers and ensure that they are current. The regulations require the facility operator to forward a copy of the facility emergency plan and subsequent updates to the county EMA.

Thus, the intent of this petition request is satisfied in Pennsylvania by the Commonwealth’s statutory and regulatory daycare licensure and emergency planning requirements. The staff believes that daycare facility plans developed consistent with these requirements meet applicable Federal regulations and expects that DHS would evaluate this planning as part of normal periodic oversight of offsite planning.

Petition Request B: All children attending daycare center and nursery schools within the EPZ are provided with designated transportation to a relocation center in the event of an emergency evacuation.

Previous Status. As noted in the General Comments above, the Commonwealth did not require that daycare facilities have facility-specific plans. Instead, the populations of daycare facilities were treated as members of the larger special needs population. The local EMAs have designated transportation pickup points within their jurisdictions for persons who lack transportation. The location of these facilities and the evacuation routes were distributed to the public in annual mailings to all residents and were made available through telephone directory inserts and transient area posting. In addition, in the annual mailers, residents were requested to identify any special needs they would have in the event of an evacuation such as lack of transportation, need for ambulances, etc. Daycare facility operators had the option of identifying their needs as would any other segment of the special population. The local EMA tabulated these needs. From this tabulation, the local EMA identified its transportation needs, compared those needs against resources under its control, and identified any unmet needs to the next level of government. These needs and resources are documented in the Notification and Resource Manual (NARM) that each EMA (local, county, and State) maintains.

Current Status. The DCFEPG requires the plan to identify transportation resources that the center will rely upon to move children and staff to a relocation center and requires the facility operator to identify the vehicle

resources that the facility would use and identify the drivers that the facility would use and their contact information. Specialized needs (e.g., ramps, lifts) are to be identified. Attachment 2 to the basic plan is a tabulation of this transportation information. The DCFEPG recommends that the daycare facility make its own transportation arrangements, but does note that, as a last resort, the local EMA may be able to help. Section 4 of the Basic Emergency Plan (within the DCFEPG) requires the daycare facility director to obtain letters of agreement with transportation providers and ensure that they are current. If the local EMA issues such a letter of agreement to provide transportation, the local EMA will reflect that need in its NARM.

Thus, the intent of this petition request is satisfied by the Commonwealth's statutory and regulatory daycare licensure and emergency planning requirements. The staff believes that daycare facility plans developed consistent with these requirements meet applicable Federal regulations and expects that DHS would evaluate this planning as part of normal periodic oversight of offsite planning.

Petition Request C: All children attending daycare center and nursery schools within the EPZ are transported in approved child-safety seats that meet State and Federal laws as they pertain to the transportation of children and infants under 50 pounds in weight or 4 feet 9 inches in height.

As noted in the petition denial, requiring seat belts or child safety seats on school buses, which may be used for evacuating schools, is outside NRC statutory authority. The staff does note that the DPW does have requirements for safety restraints in vehicles used by the daycare facilities for transporting children.

Petition Request D: Regulations should require the creation and maintenance of working rosters of emergency bus drivers and backup drivers for daycare center and nursery school evacuation vehicles and the establishment of a system for notifying these individuals in the event of a radiological emergency. These rosters should be regularly checked and updated, with a designated backup driver listed for each vehicle and route.

Previous Status. As noted in the General Comments above, the Commonwealth did not require that daycare facilities have facility-specific plans. Instead, the populations of daycare facilities were treated as members of the larger special needs population. The local EMAs tabulated, in their NARMs, transportation needs and resources, and the local EMA plans have included letters of agreements with these providers. If the demand for transportation had exceeded the available resources during a radiological emergency, the local EMA would have expressed its unmet needs to the next level of government, and so forth, until the unmet need was met. (Note that Pennsylvania statutes require that schools and universities make school buses and other vehicles available for planning, exercises, and evacuations.)

Current Status: As noted in response to Petition Request B, the daycare facility operators are required to identify the resources, including the owner of the vehicle, the driver of the vehicle and contact information for both, that they would need to effect necessary evacuations of children and staff. Accordingly, a roster is available in the facility plan. The Commonwealth's regulations do not require that the daycare facility operator provide for backup drivers. If, during an emergency, one of the expected vehicles (or drivers) is unavailable, the daycare facility could request assistance from the local EMA. The local EMA would meet that request, as it would a similar request from any transportation-dependent resident, from the vehicle resources identified in its NARM or by elevating the vehicle need to the next level of government.

Thus, the intent of this petition request is satisfied by the Commonwealth's statutory and regulatory daycare licensure and emergency planning requirements. The staff believes that daycare facility plans developed consistent with these requirements meet applicable Federal regulations and expects that DHS would evaluate this planning as part of normal periodic oversight of offsite planning.

Petition Request E: Regulations should require notification of emergency management officials by individual preschools as to the details of each institution's radiological emergency plan.

Previous Status. As noted in the General Comments above, the Commonwealth did not require that daycare facilities have facility-specific plans. Instead, the populations of daycare facilities were treated as members of the larger special needs population. Accordingly, this petition request would have been moot.

Current Status: Pennsylvania statutes require a copy of all school and daycare facility plans to be provided to the county EMA. This is implemented in DPW regulation, which requires that the daycare facility operator send a copy of its facility-specific emergency plan and subsequent plan updates to the county EMA. Further, the DCFEPG requires daycare facilities within the EPZs to ensure that the facility's plans fit into the larger plans that are maintained for the entire EPZ. Section 6 of the basic plan template (part of DCFEPG) requires the facility operator to identify the local EMA to which it provided a copy of the plan. Section 7 of the basic plan is a concurrence page which requires the signature of the local EMA.

Thus, the intent of this petition request is satisfied by the Commonwealth's statutory and regulatory daycare licensure and emergency planning requirements. The staff believes that daycare facility plans developed consistent with these requirements meet applicable Federal regulations and regulatory guidance and expects that

DHS would evaluate this planning as part of normal periodic oversight of offsite planning.

Petition Request F: Regulations should require annual site inspections of daycare centers and nursery schools within the evacuation zone by emergency management officials.

As noted in the petition denial, inspection of daycare centers and nursery schools is the responsibility of the individual State and is outside NRC statutory authority. The staff does note that the DPW regulations provide that a daycare facility certificate of compliance is issued for a period of 12 months from the date of issue and that the facility will be inspected at least once every 12 months by an agent of the DPW. DPW personnel explained to the staff that facility emergency plan is part of the required inspection. During this inspection, the DPW agent confirms that the plan is current and that all required elements are addressed by the plan.

Petition Request G: Regulations should require participation of daycare centers and nursery schools within the EPZ in radiological emergency preparedness exercises designed to determine each institution's state of readiness.

Previous Status. As noted in the General Comments above, the Commonwealth did not require that daycare facilities have facility-specific plans. Instead, the populations of daycare facilities were treated as members of the larger special needs population. During exercises, the local EMA staffs were required to demonstrate (by interview or simulation), within the context of their approved plans, their capability to provide adequate protective measures for this population. This capability has been a required element of FEMA exercises and is currently addressed in the FEMA Exercise Evaluation Manual (EEM) in Sub-elements 2.c, 3.c, specific to special populations, and generally in Sub-elements 3.b, 3.d, 3.e, 3.f, 5.a, 5.b, 6.a, and 6.c. FEMA evaluated the local EMA capability to implement protective actions for all segments of the population during periodic graded exercises. More specifically, during the May 2005 exercise at TMI, FEMA did evaluate the local EMA and States against those subelements (as well as others), in the context of the existing plans and procedures.

Current Status: The DPW regulations do not require the daycare centers to participate in exercises of their emergency plans. The DCFEPG does state that exercises, drills, and tests are vital parts of the daycare facility staff training. Section 3 of the Basic Plan (part of the DCFEPG) also provides for regular drills and exercises. As noted in the DCFEPG, a radiological emergency would not cause a different response from a daycare facility than would any of the natural or technological hazards the daycare facility plans are required to address.

The extent of play for FEMA EEM Criterion 3.c.2, which addresses school participation in exercises, makes the criterion applicable to daycare

centers that participate in REP exercises pursuant to the local EMA's plans and procedures. In keeping with the Commission direction to provide recommendations for enhancement, the staff intends to work with DHS to consider program enhancements, as necessary, that will better evaluate the preparedness for this segment of the population on an appropriate periodic basis.

Petition Request H: Regulations should require creation of identification cards, school attendance lists, and fingerprint records for all children who are to be transported to a relocation center, to ensure no child is left behind or is unable, due to age, to communicate his or her contact information to emergency workers.

As noted in the petition denial, FEMA, as the authority on offsite planning, has determined that it is unnecessary to require such detailed mechanisms to be a component of emergency plans. The staff notes that the DPW regulations provide several provisions regarding supervision and accountability of children in daycare facilities and during off-premise excursions. The regulations also require that parental contact information be in the possession of facility staff accompanying the excursion.

Petition Request I: Regulations should require development by emergency management officials of educational materials for parents, informing them what will happen to their children in case of a radiological emergency and where their children can be picked up after an emergency evacuation.

Previous Status. As noted in the General Comments above, the Commonwealth did not require that daycare facilities have facility-specific plans. Instead, the populations of daycare facilities were treated as members of the larger special needs population. The local EMA plans provide for annual emergency planning information mailings to all residents and inclusion of similar information in telephone directory inserts and transient area posting. These information methods identify the relocation centers, evacuation routes, and the transportation pickup locations. The plans also provide the capability for Emergency Alert System (EAS) messages that provide necessary messages to the public within the EPZ, supplemented by a public information program via the news media. The staff does note that these information means would not have addressed the petition request, but the information would have been consistent with the plans and procedures as they existed at the time.

Current Status: DPW regulations require the daycare facility operator to provide 1) a method for notifying parents as soon as possible when an emergency arises, 2) a method for facility persons to inform parents that the emergency is over and instruction how they can be reunited with their children, 3) a letter to the parents explaining the emergency procedures in the plan and any subsequent update, and 4) a conspicuously posted copy of the plan. The DCFEPG expands on these regulations, requiring

for example, that emergency contact information for each child be taken to the relocation location to facilitate parental contact. The DCFEPG provides a template of a parental information letter.

Thus, the intent of this petition request is satisfied by the Commonwealth's statutory and regulatory daycare licensure and emergency planning requirements. The staff believes that daycare facility plans developed consistent with these requirements meet applicable Federal regulations and expects that DHS would evaluate this planning as part of normal periodic oversight of offsite planning.

Petition Request J: Regulations should require stocking of potassium iodide (KI) pills and appropriate educational materials at all daycare centers and nursery schools within the EPZ.

As noted in the petition denial, the NRC regulations only require the States to *consider* using KI. Once a State decides to stockpile KI, it is incumbent on that State to develop a program for distribution. Within the Commonwealth, the State Department of Health coordinates the distribution of KI to those residents or school systems that request the pills. Schools are not allowed to distribute the pills to children without parental consent. DHS evaluates the Commonwealth's plans for distribution of KI to the public. This capability was successfully demonstrated by simulation during the TMI exercise.

Petition Request K: Regulations should require radiological emergency preparedness training for all daycare center and nursery school employees within the EPZ.

As noted in the petition denial, the Commission believes that specialized training for daycare center and nursery school employees is unnecessary because they would be using already established and distributed procedures for evacuation. The staff notes that the DPW regulations require that the facility operator ensure that each facility person receives initial and periodic training regarding the facility's emergency plan. The DCFEPG requires that the plan describe the training program. This training is on the content of the facility plan and is not limited to discussion of evacuation.

Petition Request L: Regulations should require listing of designated relocation centers for daycare centers and nursery schools in area phone directories, so that parents can quickly and easily find where their children will be sent in case of a radiological emergency.

Previous Status. As noted in the General Comments above, the Commonwealth did not require that daycare facilities have facility-specific plans. Instead, the populations of daycare facilities were treated as members of the larger special needs population. The location of the relocation facilities and the evacuation routes are distributed to the public

in annual mailings to all residents and are made available through telephone directory inserts and transient area posting.

Current Status: The DPW regulations require the daycare facility operator to provide 1) a method for facility persons to inform parents that the emergency is over and how they can be reunited with their children, 2) a letter to the parents explaining the emergency procedures in the plan and any subsequent update, and 3) a conspicuously posted copy of the plan. The DCFEPG provides a template of a parental information letter.

Thus, the intent of this petition request is satisfied by the Commonwealth's statutory and regulatory daycare licensure and emergency planning requirements. The staff believes that daycare facility plans developed consistent with these requirements meet applicable Federal regulations and expects that DHS would evaluate this planning as part of normal periodic oversight of offsite planning.

Petition Request M: Regulations should require establishment of toll-free or 911-type telephone lines to provide information about radiological emergency plans and procedures for daycare centers and nursery schools within the EPZ.

Previous Status. As noted in the General Comments above, the Commonwealth did not require that daycare facilities have facility-specific plans. Instead, the populations of daycare facilities were treated as members of the larger special needs population. The State and local EMAs distributed emergency planning information to the public within the EPZ via annual mailings to residents, telephone directory inserts, and transient area posting. This information included relocation facility assignments, evacuation routes, instructions on what to do when sirens sound, etc. Included were telephone contact numbers.

Current Status: The DPW regulations require the daycare facility operator to provide 1) a method for facility persons to inform parents that the emergency is over and how they can be reunited with their children, 2) a letter to the parents explaining the emergency procedures in the plan and any subsequent update, and 3) a conspicuously posted copy of the plan. The DCFEPG provides a template of a parental information letter.

Thus, the intent of this petition request is satisfied by the Commonwealth's statutory and regulatory daycare licensure and emergency planning requirements. The staff believes that daycare facility plans developed consistent with these requirements meet applicable Federal regulations and expects that DHS would evaluate this planning as part of normal periodic oversight of offsite planning.

Petition Request N: Regulations should require creation of written scripts for use by the local Emergency Alert System (EAS) that include information about evacuation plans and designated relocation centers for daycare centers and nursery schools.

As noted in the petition denial, FEMA has decided that it is unnecessary to incorporate such a prescriptive requirement into its regulations and guidance. In the Commonwealth, the State emergency operations center (EOC) provides the EAS message that the local EMAs will release at the time that the alert and notification system is sounded.

The staff notes that, consistent with FEMA guidance, EAS messages are intentionally short, intended to only alert the public of the need to consult their emergency planning information packets (or the telephone book insert, and to stay tuned for further information. Keeping the messages brief facilitates public understanding and allows the messages to be repeated in their entirety several times in the short period that people are responding to the sirens and turning on their radios or TVs. Lengthy detailed messages are generally misunderstood. EAS messages do not take the place of emergency information in the annual mailers or the telephone directory inserts (or in the case of daycare facilities and schools, the required parental information packets), which are the best vehicles to disseminate detailed information.

RECOMMENDATIONS

Based upon the information collected regarding emergency preparedness for daycare centers within Pennsylvania as discussed above, the staff has found no sufficient basis to question the adequacy of the DHS findings regarding reasonable assurance. The staff believes that the DHS findings are consistent with the planning standards of 10 CFR § 50.47(b) and the existing memorandum of understanding between NRC and DHS.

As noted above in the staff's response to petition request Item #G, the current DHS exercise evaluation methodology extent of play does not require that licensed daycare facilities participate in periodic exercises. The staff will work with DHS to consider program enhancements, as necessary, that will better evaluate the preparedness for this segment of the population on an appropriate periodic basis.

Enclosure 3

Proposed Amended Version
of the
Petition Denial Published
in the
Federal Register
on
December 19, 2005

(ML060760650)

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-79]

Mr. Lawrence T. Christian, et al.; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is republishing its December 19, 2005 notice (70 FR 75085) denying a petition for rulemaking submitted by Mr. Lawrence T. Christian and 3,000 co-signers on September 4, 2002, to correct errors and clarify the NRC's regulatory position. These changes do not affect the Commission's denial of the petition. The petition was docketed by the NRC on September 23, 2002, and was assigned Docket No. PRM-50-79. The petition requests that the NRC amend its regulations regarding offsite state and local government emergency plans for nuclear power plants to ensure that all daycare centers and nursery schools in the Emergency Planning Zone (EPZ) of nuclear power facilities are properly protected in the event of a radiological emergency.

ADDRESSES: Publicly available documents related to this petition, including the petition for rulemaking, public comments received, and the NRC's letter of denial to the petitioner, may be viewed electronically on public computers in the NRC's Public Document Room (PDR), 01 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be

viewed and downloaded electronically via the NRC rulemaking web site at

<http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Electronic Reading Room at

<http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR reference staff at (800) 387-4209, (301) 415-4737 or by e-mail to pdf@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3224, e-mail MTJ1@nrc.gov.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In December 1979, the President directed the Federal Emergency Management Agency (FEMA), to lead state and local emergency planning and preparedness activities with respect to jurisdictions in proximity to nuclear reactors. FEMA has responsibilities under Executive Order 12148, issued on July 15, 1979, to establish federal regulations and policies and to coordinate civil emergency planning within emergency preparedness programs. Consequently, FEMA is the lead authority concerning the direction, recommendations, and determinations with regard to offsite state and local government radiological emergency planning efforts necessary for the public health and safety. FEMA sends its findings to the NRC for final determinations.

FEMA implemented Executive Order 12148 in its regulations outlined in 44 CFR Part 350. Within the framework of authority created by Executive Order 12148, FEMA also entered into a Memorandum of Understanding (MOU) (58 FR 47966, September 9, 1993) with the NRC to provide acceptance criteria for and determinations as to whether state and local government emergency plans are adequate and capable of being implemented to ensure public health and safety. FEMA's regulations are further amplified by FEMA Guidance Memorandum (GM) EV-2, "Protective Actions for School Children," and the "Radiological Emergency Preparedness Exercise Evaluation Methodology" (67 FR 20580 dtd April 25, 2002)

The Commission's emergency planning regulations for nuclear power reactors are contained in 10 CFR Part 50, specifically § 50.33(g), 50.47, 50.54 and Appendix E. As stated in 10 CFR 50.47(a)(1), in order to issue an initial operating license, the NRC must make a finding "that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency" to protect the public health and safety. An acceptable way of meeting the NRC's emergency planning requirements is contained in Regulatory Guide (RG) 1.101, Rev. 4, "Emergency Planning and Preparedness for Nuclear Power Reactors" (ADAMS Accession No. ML032020276). This guidance document endorses NUREG-0654/FEMA-REP-1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" (ML040420012; Addenda: ML021050240), an NRC and FEMA joint guidance document intended to provide nuclear facility operators and federal, state, and local government agencies with acceptance criteria and guidance on the creation and review of radiological emergency plans. Together, RG 1.101, Rev. 4, and NUREG-0654, Rev. 1, provide guidance to licensees and applicants on methods acceptable to the NRC staff for complying with the Commission's regulations for emergency response plans and preparedness at nuclear power reactors.

Emergency plans for all nuclear power reactors are required under Part 50, as amplified by NUREG-0654/FEMA-REP-1 and applicable FEMA guidance documents, to have specific provisions for all “special facility populations,” which refers not only to pre-schools, nursery schools, and daycare centers, but all kindergarten through twelfth grade (K-12) students, nursing homes, group homes for physically or mentally challenged individuals and those who are mobility challenged, as well as those in correctional facilities. FEMA GM 24, “Radiological Emergency Preparedness for Handicapped Persons,” dated April 5, 1984, and GM EV-2, “Protective Actions for School Children,” dated November 13, 1986, provide further guidance. These specific plans should, at a minimum:

- Identify the population of such facilities;
- Determine and provide protective actions for these populations;
- Establish and maintain notification methods for these facilities; and
- Determine and provide for transportation and relocation.

State and local Emergency Operations Plans and procedures are initially and periodically evaluated by FEMA. The plans are tested in a biennial emergency preparedness exercise conducted for each nuclear power station. If plans or procedures are found to be inadequate, they must be corrected.

The NRC emergency preparedness regulations are predicated on State and local governments that participate in emergency planning assuming overall responsibility for ensuring the performance of off-site planning and preparedness activities. This predicate is appropriate since State and local governments have responsibility for public health and safety, and the authority to take actions to protect the public during an emergency. A radiological emergency is but one of the hazards for which a State and its local government entities may prepare. All emergency response is local; the planning for that response must similarly reflect local capabilities, constraints, organizational relationships, statutes, regulations, and ordinances.

The Commission's emergency preparedness regulations allow a finding of reasonable assurance that adequate protective measures can and will be taken during a radiological emergency where a State or local government tasks a non-governmental entity with emergency planning, preparedness, or response activities responsive to the planning standards of 10 CFR 50.47(b), provided that the overall responsibility for demonstrating, with reasonable assurance, that adequate protective measures can and will be taken in the event of a radiological emergency continues to remain with the State and local governments.

Onsite and offsite emergency response plans for nuclear power plants are evaluated against the planning standards established in 10 CFR § 50.47(b) and 44 CFR Part 350, as informed by supporting regulatory guidance and case law. The NRC and FEMA jointly developed NUREG-0654 / FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," to provide guidance and acceptance criteria for the development of licensee and State and local government emergency plans. NUREG-0654 / FEMA-REP-1 is incorporated by reference in 44 CFR §350.5 and the planning standards and related criteria therein are used by DHS (previously FEMA) to review, evaluate, and approve State and local radiological emergency plans and preparedness. FEMA Guidance Memorandum (GM) EV-2, "Protective Actions for School Children," identifies methods acceptable to DHS for showing compliance with the planning standards and evaluation criteria, to the extent they apply to school children. Methods different from those identified in GM-EV-2 can be found acceptable if they provide an adequate basis for DHS to determine that the planning standards and evaluation criteria are met. The NRC will then base its licensing decisions, with regard to offsite emergency planning, on a review of the DHS findings.

The petition denial references GM-EV-2 in several locations as an example of existing regulatory guidance that satisfies the intent of the individual petition requests. However, the

Commission recognizes that DHS may find alternatives, other than those identified in GM-EV-2, to be acceptable means for meeting the planning standards and the evaluation criteria in NUREG-0654/FEMA-REP-1.

AVAILABILITY OF DOCUMENTS

The NRC is making the documents identified below available to interested persons through one or more of the following:

Public Document Room (PDR). The NRC Public Document Room is located at 11555 Rockville Pike, Public File Area O-1 F21, Rockville, Maryland. Copies of publicly available NRC documents related to this petition can be viewed electronically on public computers in the PDR. The PDR reproduction contractor will make copies of documents for a fee.

Rulemaking Website (Web). The NRC's interactive rulemaking Website is located at <http://ruleforum.llnl.gov>. Selected documents may be viewed and downloaded electronically via this Website.

The NRC's Public Electronic Reading Room (ADAMS). The NRC's public Electronic Reading Room is located at <http://www.nrc.gov/reading-rm/adams.html>. Through this site, the public can gain access to the NRC's Agencywide Document Access and Management System, which provides text and image files of NRC's public documents.

NRC Staff Contact (NRC Staff). For single copies of documents not available in an electronic file format, contact Michael T. Jamgochian, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3224, e-mail MTJ1@nrc.gov.

Document	PDR	Web	ADAMS	NRC Staff
Petition for Rulemaking (PRM-50-79)	X	X	ML023110466	
<i>Federal Register</i> Notice – Receipt of Petition for Rulemaking (67 FR 66588; Nov. 1, 2002)	X	X	ML023050008	
<i>Federal Register</i> Notice – Receipt of Petition for Rulemaking; Correction (67 FR 67800; Nov. 7, 2002)	X	X	ML040770516	
Public Comments, Part 1 of 2	X	X	ML040770480	
Public Comments, Part 2 of 2	X	X	ML040770544	
Additional Public comments		X	ML041910013	
Letter of Denial to the Petitioners	X	X	ML053260004	
Public Comment (PEMA) on Dec. 19, 2005 FRN	X	X	ML060680076	
Public Comment (DHS/FEMA) on Dec. 19, 2005 FRN	X	X	ML060860342 ML060730534	
RG 1.101, Rev. 4, Emergency Planning and Preparedness for Nuclear Power Reactors (July 2003)	X		ML032020276	
NUREG-0654/FEMA REP-1, Rev. 1 Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (November 1980)		X	ML040420012	
NUREG-0654/FEMA-REP-1, Rev. 1 Addenda (March 2002)	X		ML021050240	
Executive Order 12148, Federal Emergency Management (July 20, 1979)		X		
MOU Between FEMA and NRC Relating to Radiological Emergency Planning and Preparedness (June 17, 1993)				X
FEMA GM 24, Radiological Emergency Preparedness for Handicapped Persons (April 5, 1984)				X
Radiological Emergency Preparedness (REP) Exercise Methodology (66 FR 47526 -				

September 12, 2001 and 67 FR 20580 -
April 25, 2002)

X

Document

PDR Web ADAMS

NRC Staff

FEMA GM EV-2, Protective Actions
for School Children (November 13, 1986)

X

THE PETITIONERS' REQUEST

This petition for rulemaking (PRM-50-79) generally requests that the NRC establish new rules requiring that emergency planning for daycare centers and nursery schools located in the Emergency Planning Zone (EPZ) be included in the state and local government offsite emergency plans of all NRC nuclear power facility licensees. More specifically, the petition requests that the NRC amend its regulations to ensure that all children attending daycare centers and nursery schools within the EPZ are:

- A. Assigned to designated relocation centers established safely outside of the EPZ.
- B. Provided with designated transportation to a relocation center in the event of an emergency evacuation.
- C. Transported in approved child-safety seats that meet state and federal laws as they pertain to the transportation of children and infants under 50 pounds in weight or 4 feet 9 inches in height.

The petitioners also request that the following be mandated by NRC regulations:

- D. The creation and maintenance of working rosters of emergency bus drivers and back-up drivers for daycare center and nursery school evacuation vehicles, and the establishment of a system for notifying these individuals in the event of a radiological emergency. These rosters should be regularly checked and updated, with a designated back-up driver listed for each vehicle and route.
- E. Notification of emergency management officials by individual preschools as to

the details of each institution's radiological emergency plan.

- F. Annual site inspections of daycare centers and nursery schools within the evacuation zone by emergency management officials.
- G. Participation of daycare centers and nursery schools within the EPZ in radiological emergency preparedness exercises designed to determine each institution's state of readiness.
- H. Creation of identification cards, school attendance lists, and fingerprint records for all children who are to be transported to a relocation center, to ensure no child is left behind or is unable, due to age, to communicate his or her contact information to emergency workers.
- I. Development by emergency management officials of educational materials for parents, informing them what will happen to their children in case of a radiological emergency, and where their children can be picked up after an emergency evacuation.
- J. Stocking of potassium iodide (KI) pills and appropriate educational materials at all daycare centers and nursery schools within the EPZ.
- K. Radiological emergency preparedness training for all daycare center and nursery school employees within the EPZ.
- L. Listing of designated relocation centers for daycare centers and nursery schools in area phone directories, so that parents can quickly and easily find where their children will be sent in case of a radiological emergency.
- M. Establishment of toll-free or 911-type telephone lines to provide information about radiological emergency plans and procedures for daycare centers and nursery schools within the EPZ.
- N. Creation of written scripts for use by the local Emergency Alert System (EAS)

that include information about evacuation plans and designated relocation centers for daycare centers and nursery schools.

PUBLIC COMMENTS

The NRC received 55 public comment letters relating to this petition. Twenty-three letters supported granting the petition (mostly from citizens including three letters with 410 signatures), while 30 letters requested that the petition be denied. Those letters that supported denial of the petition were primarily from state and local governmental agencies, FEMA, and licensees. In addition, the NRC received a letter that discussed KI but did not take a position on the petition and a letter that strongly supports the development of all-hazards emergency plans for child day care facilities and nursery schools throughout the state but did not take a position on the petition. Subsequent to the December 19, 2005 notice of denial, the NRC received two letters and an E-mail commenting on errors and potential mis-characterizations in the published denial.

More specifically;

- 23 Letters supporting the granting of the petition:
- 13 Comment letters from citizens supporting the granting of the petition.
- 1 Comment letter from a citizens group supporting the granting of the petition.
- 4 Comment letters from local governmental agencies or officials supporting the petition.
- 3 Comment letters with 410 signatures supporting the petition.
- 1 Letter from the petitioner supporting the petition. The petitioner also “suggests a federal model that mirrors the Illinois, Massachusetts, Michigan, or Nebraska...” emergency plans for daycare centers and nursery schools, even though those state plans only meet about 30 percent of the elements requested by the

petitioner, while meeting FEMA guidance.

- 1 Letter from eight local governments that agreed with the concepts of the petition but had reservations about some of the specific requests of the petitioners.
- 30 Letters asking the Commission to deny the petition:
- 4 Letters from two local governments located near the petitioners, and from two citizens to deny the petition but suggested that the daycare centers and nursery schools should be responsible for developing their own emergency plans.
- 8 Letters from local governmental agencies to deny the petition for rulemaking because they felt that current regulations are adequate.
- 12 Letters from State governments including two letters from FEMA (Headquarters and Region 7) to deny the petition, based on the opinion that the petitioners' requests are adequately addressed in current regulations and guidance.
- 4 Letters from licensees or companies that own nuclear utilities, to deny the petition.
- 1 Nuclear Energy Institute (NEI) letter to deny the petition.
- 1 Letter representing six licensees to deny the petition.
- 1 Letter that discusses KI, but does not take a position on the petition.
- 1 Letter from the Special Assistant to the Governor of Pennsylvania withdrawing an earlier submitted letter and strongly supporting the development of all-hazards emergency plans for child day care facilities and nursery schools throughout the state. This letter did not express a position on the petition and was characterized by the NRC as supporting the petition. The Director of PEMA, on behalf of the Governor's office, subsequently challenged the NRC's characterization of the original letter as supporting the petition and requested the

characterization be formally corrected.

- 1 Letter and E-mail from DHS/FEMA commenting on errors and potential mis-characterizations within the December 19, 2005, *Federal Register* Notice denying the petition.

NRC EVALUATION

The Commission has reviewed each of the petitioners' requests and provides the following analysis:

1. The petitioners' first and more general request is that daycare centers and nursery schools, located within the 10-mile EPZ, be included in state and local government offsite emergency planning.

NRC Review:

The current regulatory structure already requires that daycare centers and nursery schools be included in the offsite emergency planning for nuclear power plants. Consequently, no revision to 10 CFR Part 50 is necessary. The Commission's emergency planning regulations, in 10 CFR 50.47, require the NRC to make a finding, before issuing an initial operating license, that there is "reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency." Implicit in this regulation is the requirement that offsite emergency plans be protective of all members of the public, including children attending daycare centers and nursery schools, within the 10-mile EPZ. Joint NRC and FEMA implementing guidance, NUREG-0654/FEMA-REP-1, Rev. 1, states that emergency plans must provide specific means for "protecting those persons whose mobility may be impaired due to such factors as institutional or other confinement." NUREG-0654, Section II.J. and Appendix 4, as well as, FEMA GM 24, "Radiological Emergency Preparedness for

Handicapped Persons,” dated April 5, 1984, also provide guidance. Children in daycare centers and nursery schools are included in the category of persons needing special protection. FEMA GM EV-2, “Protective Actions for School Children,” was issued to provide guidance to assist federal officials in evaluating adequacy of state and local government offsite emergency plans and preparedness for protecting school children during a radiological emergency. This guidance is also intended for state and local government officials and administrators of public and private schools, including licensed and government supported pre-schools and daycare centers, for developing emergency response plans and preparedness for protecting the health and safety of children in their charge.

FEMA is the federal agency responsible for making findings and determinations as to whether state and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented. FEMA uses the guidance documents discussed above to make such findings. The NRC makes its finding as to whether the emergency plans provide a reasonable assurance that adequate protective measures can and will be taken under 10 CFR 50.47(a)(2). The NRC’s findings are based upon FEMA findings and determinations in this area. The NRC would not grant an initial operating license if FEMA found that state and local government emergency plans did not adequately address daycare centers and nursery schools. In accordance with 10 CFR 50.54(s)(2)(ii), if significant deficiencies in a state or local governments’ off-site emergency plan were discovered after the operating license was issued, and those deficiencies were not corrected within four months of discovery (or a plan for correction was not in place), the Commission would determine whether the reactor should be shut down until the deficiencies are remedied or whether some other enforcement action would be appropriate. Based on this information and considering that the existing regulatory structure already has requirements addressing the facilities of concern to the petitioners, no revision to 10 CFR Part 50 is necessary in response to the petitioners’ general request.

The more specific elements of the petition follow:

- A. Require that children attending daycare centers and nursery schools be assigned to designated relocation centers established safely outside the EPZ.

NRC Review:

The petitioners' requested revision to 10 CFR Part 50 is not needed because the requested action is already covered by FEMA guidance documents. FEMA's GM EV-2 (p. 5) that specifies evacuation planning may be developed in three contexts: (1) part of the existing radiological emergency plans; (2) a separate annex of an existing integrated plan for many types of disasters and emergencies; or (3) a separate evacuation plan for all of the schools in each school system. GM EV-2 specifies that school officials, including daycare centers and nursery schools, should document in the plan the basis for determining the proper protective action (e.g., evacuation, early preparatory measures, early evacuation, sheltering, early dismissal or combination) including but not limited to, the name and location of relocation center(s), and transport route(s), if applicable and on an institution-specific basis. Furthermore, GM EV-2 specifies that local governments should ensure that appropriate organizational officials assume responsibility for the emergency planning and preparedness for all of the identified schools, including daycare centers and nursery schools. Local governments should also ensure that the emergency planning undertaken by these organizations is integrated within the larger offsite emergency management framework for the particular nuclear power plant site. FEMA assesses offsite emergency plans using this guidance when making a finding that a plan adequately protects the public. Under the MOU between FEMA and the NRC, the NRC defers to FEMA's expertise in offsite emergency plan requirements and assessments.

- B. Require that children attending daycare centers and nursery schools be provided with designated transportation to relocation centers in the event of an emergency evacuation.

NRC Review:

As previously discussed, FEMA is the federal agency responsible for making findings and determinations as to whether state and local emergency plans are adequate. FEMA's GM EV-2 (p. 5) specifies that school officials, including daycare centers and nursery schools, should document in their plans the basis for determining the proper protective action (e.g., evacuation, early preparatory measures, early evacuation, sheltering, early dismissal or combination) including but not limited to, the means for effecting protective actions and specific resources allocated for transportation and supporting letters of agreement if resources are provided from external sources, on an institution-specific basis. Furthermore, FEMA's GM EV-2 specifies that local governments should ensure that appropriate organizational officials assume responsibility for the emergency planning and preparedness for all of the identified schools, including daycare centers and nursery schools. Local governments should also ensure that the emergency planning undertaken by these organizations is integrated within the larger offsite emergency management framework for the particular nuclear power plant site. FEMA reviews emergency plans to ensure that this provision is addressed. Consequently, a revision to 10 CFR Part 50 is not needed.

- C. Require that children attending daycare centers and nursery schools be transported in approved child-safety seats that meet state and federal laws as they pertain to the transportation of children and infants under 50 pounds in weight or 4 feet 9 inches in height.

NRC Review:

Requiring seat belts or child safety seats on school buses that may be used for evacuating schools is outside NRC statutory authority. Such a requirement would instead need to be promulgated by the Department of Transportation or appropriate state authorities.

- D. Require the creation and maintenance of working rosters of emergency bus drivers and

back-up drivers for daycare center and nursery school evacuation vehicles, and the establishment of a system for notifying these individuals in the event of a radiological emergency. These rosters should be regularly checked and updated, with a designated back-up driver listed for each vehicle and route.

NRC Review:

The petitioners' requested revision to 10 CFR Part 50 is not needed because NRC considers the existing requirements and guidance adequate for the evaluation of planning with respect to transportation resources, including drivers. FEMA's GM EV-2 (pp. 5-6) specifies that school officials, including licensed and government supported pre-schools and daycare centers, should document in the plan the basis for determining the proper protective action including: means for effecting protective actions; specific resources allocated for transportation and supporting letters of agreement if resources are provided from external sources; and, means for alerting and notifying appropriate persons and groups associated with the schools and the students, including the method for contacting and activating designated dispatchers and school bus drivers. Under the MOU between FEMA and the NRC, the NRC defers to FEMA's expertise in state and local emergency plan requirements and assessments. FEMA recently completed an emergency preparedness exercise at TMI and issued a final report on August 4, 2005. FEMA identified no deficiencies in this particular area.

- E. Require notification of emergency management officials by individual preschools as to the details of each institution's radiological emergency plan.

NRC Review:

NRC considers that current NRC and FEMA requirements and guidance are adequate. FEMA's GM EV-2 (p. 5) identifies criteria by which an emergency plan will typically be acceptable if it fully addresses the emergency functions for the evacuation of, or other appropriate protective measures, for school children including licensed and government

supported pre-schools and daycare centers. Accordingly, local governments should take the initiative to identify and contact all public and private school systems within the designated plume exposure pathway EPZ to assure that both public and private school officials address appropriate planning for protecting the health and safety of their students from a commercial nuclear power plant accident.

The planning of both the public and private school officials should be closely coordinated with that of the local government. Local governments should ensure that appropriate organizational officials assume responsibility for the emergency planning and preparedness for all of the identified schools. Local governments should also ensure that the emergency planning undertaken by these organizations is integrated within the larger offsite emergency management framework for the particular nuclear power plant site.

As mentioned previously in response to issue "A", the evacuation planning may be developed in three contexts: (1) part of the existing radiological emergency plans; (2) a separate annex of an existing integrated plan for many types of disasters and emergencies; or (3) a separate evacuation plan for all of the schools in each school system. GM EV-2 specifies that school officials, including daycare centers and nursery schools, should document in the plan the basis for determining the proper protective action (e.g., evacuation, early preparatory measures, early evacuation, sheltering, early dismissal or combination) including:

- C Identification of the organization and officials responsible for both planning and effecting the protective action.
- C Institution-specific information:
 - Name and location of school;
 - Type of school and age grouping (e.g., public elementary school, grades kindergarten through sixth);
 - Total population (students, faculty, and other employees);

- Means for implementing protective actions;
- Specific resources allocated for transportation and supporting letters of agreement if resources are provided from external sources; and
- Name and location of relocation center(s) and transport route(s), if applicable.

C If parts of the institution-specific information apply to many or all schools, then the information may be presented generically.

C Time frames for effecting the protective actions.

C Means for alerting and notifying appropriate persons and groups associated with the schools and the students including:

- Identification of the organization responsible for providing emergency information to the schools;
 - The method (e.g., siren and telephone calls) for contacting and providing emergency information on recommended protective actions to school officials;
 - The method (e.g., siren, tone-alert radios, and telephone calls) for contacting and activating designated dispatchers and school bus drivers;
- and
- The method (e.g., Emergency Alert System (EAS) messages) for notifying parents and guardians of the status and location of their children.

Based on the above, the petitioners' requested revision to 10 CFR Part 50 is not required.

F. Require annual site inspections of daycare centers and nursery schools within the evacuation zone by emergency management officials.

NRC Review:

Inspections of daycare centers and nursery schools are the responsibility of the individual state and are outside NRC statutory authority. The Commission sees no safety reason within the scope of its statutory authority to require annual inspections of daycare centers and nursery schools.

- G. Require the participation of daycare centers and nursery schools within the EPZ in radiological emergency preparedness exercises designed to determine each institution's state of readiness.

NRC Review:

Current NRC regulations in 10 CFR Part 50, Appendix E, Section F.2, permit exercises without public (including daycare centers and nursery schools) participation. The Commission has determined that exercises can be adequately evaluated without the participation of schools or members of the public. This eliminates safety concerns for students, as well as, the disruption of daycare center and nursery school activities that might arise during exercise participation. In addition, as mentioned in the response to request "E," pursuant to FEMA guidance, governments should take the initiative to identify and contact all public and private school systems within the designated plume exposure pathway EPZ to assure that both public and private school officials (including licensed and government supported pre-schools and daycare centers) address appropriate planning for protecting the health and safety of their students from a commercial nuclear power plant accident. The petition has presented no evidence that would cause the NRC to reconsider this determination.

- H. Require creation of identification cards, school attendance lists, and fingerprint records for all children who are to be transported to a relocation center, to ensure no child is left behind or is unable, due to age, to communicate his or her contact information to emergency workers.

NRC Review:

State and local governments have the responsibility for ensuring that licensed daycare centers and nursery schools have mechanisms in place for maintaining child accountability. FEMA, as the authority on offsite emergency planning, has determined that it is unnecessary to require that such detailed mechanisms be a component of emergency plans. The Commission finds no safety reason to justify requiring such detailed mechanisms in its regulations.

- I. Require development by emergency management officials of educational materials for parents, informing them what will happen to their children in case of a radiological emergency, and where their children can be picked up after an emergency evacuation.

NRC Review:

Current NRC and FEMA requirements and guidance adequately address this specific request. FEMA's GM EV-2 (p. 2) specifies that the Emergency Alert System (EAS) notify parents of the status and location of their children in the event of an emergency. The Commission believes that parental notification via the EAS is adequate to assure that parents will be informed of their childrens' location following an emergency evacuation.

- J. Require stocking of KI pills and appropriate educational materials at all daycare centers and nursery schools within the 10-mile EPZ.

NRC Review:

The Commission's regulations, specifically 10 CFR 50.47b.(10), require individual states to consider using KI in the event of an emergency. The regulations require that a range of protective actions be developed for the plume exposure pathway EPZ for emergency workers and the public. In developing this range of actions, consideration was to be given to evacuation, sheltering, and, as a supplement to these, the prophylactic use of KI, as appropriate. Under this regulation, each individual state must decide whether the stockpiling of KI is appropriate for the citizens within its jurisdiction. Once a state decides to stockpile KI, it is incumbent on that state to develop a program for distribution. This program is reviewed by

FEMA under the 44 CFR 350 process. The petition did not provide information that would cause the NRC to reconsider this determination.

- K. Require radiological emergency preparedness training for all daycare center and nursery school employees within the 10-mile EPZ.

NRC Review:

The Commission believes that specialized training for daycare center and nursery school employees is unnecessary because they would be using already established and distributed procedures for evacuation. Absent compelling information that specialized training for daycare center and nursery school employees would result in significant safety benefits that justify the additional regulatory burden, the Commission finds no safety reason to justify the requested revision to 10 CFR Part 50.

- L. Require listing of designated relocation centers in area phone directories, so that parents can quickly and easily find where their children will be sent in case of a radiological emergency.

NRC Review:

FEMA's GM EV-2 (pp. 2 and 4) specifies that offsite emergency plans are to identify relocation centers outside of the 10-mile EPZ for all schools, including daycare centers and nursery schools. Some states list the relocation centers in telephone directories, some states identify the relocation centers in the yearly public information packages, and some states identify the relocation centers in their offsite emergency plans.¹ The Commission believes that the current publication practices are adequate.

¹ See March 23, 2005 letter from Roy Zimmerman to Eric J. Epstein and March 24, 2005 letter from Roy Zimmerman to Lawrence T. Christian (available on NRC's ADAMS document system under the accession numbers ML050590344 and ML050590357, respectively).

- M. Require establishment of toll-free or 911-type telephone lines, to provide information about radiological emergency plans and procedures for daycare centers and nursery schools within the 10-mile EPZ.

NRC Review:

Although not required by NRC regulations or provided in FEMA guidance, all states provide a toll-free phone number in the yearly public information package where members of the public can acquire emergency preparedness information. The Commission sees no added safety benefits in revising its regulations to require something that all states are already doing.

- N. Creation of written scripts for use by the local Emergency Alert System that include information about evacuation plans and designated relocation centers for daycare centers and nursery schools.

NRC Review:

FEMA's GM EV-2 (p. 6) specifies that a method is to exist (e.g., EAS) for notifying daycare center and nursery school parents of the status and location of their children, in the event of an emergency. FEMA has decided that it is unnecessary to incorporate such a prescriptive requirement into its regulations and guidance, which allows the off-site response organizations the flexibility to develop adequate plans and procedures that best fit their specific needs, and the needs of the affected public that they are charged with protecting. The petition provided no evidence that the current method of notification is inadequate. As a result, the Commission sees no added safety benefit in requiring a written script.

COMMISSION EVALUATION

The evaluation of the advantages and disadvantages of the rulemaking requested by the petition with respect to the four strategic goals of the Commission follows:

1. Ensure Protection of Public Health and Safety and the Environment: The NRC staff

believes that the requested rulemaking would not make a significant contribution to maintaining safety because current NRC and FEMA regulations and guidance already require inclusion of nursery schools and daycare centers in state and local government offsite emergency plans. This was verified by the state governments that submitted comment letters which stated that daycare centers and nursery schools are included in their offsite emergency planning and that this is not an issue requiring a change to the emergency planning regulations. As such, it is a potential compliance issue that can be resolved using the current regulatory structure.

2. Ensure the Secure Use and Management of Radioactive Materials: The requested regulatory amendments would have no impact on the security provisions necessary for the secure use and management of radioactive materials. The petition for rulemaking deals with the taking of protective actions for nursery schools and day care centers by offsite authorities, which is currently required by NRC and FEMA regulations and guidance.
3. Ensure Openness in Our Regulatory Process: The requested rulemaking would not enhance openness or public confidence in our regulatory process because the petitioners' requests raise potential issues of compliance with the existing requirements and guidance. The NRC staff does not believe that the contentions identify deficiencies in regulatory requirements. The Commission's regulations require that protective actions have been developed for the public, including daycare centers and nursery schools. Existing guidance in NUREG-0654 and in GM-EV2 address the planning for this segment of the population. Appendix 4 in NUREG-0654, discusses "special facility populations." Daycare centers and nursery schools fall under the definition of "special facility populations" and as such, these populations should be included in the offsite emergency response plans. It should be noted, however, that 3000 members of the

public co-signed the original petition for rulemaking. Additionally, 410 members of the public signed letters supporting the petition. This amount of public support reinforces the importance of NRC and FEMA's continued commitment to providing protection for the public in the event of an emergency which has always included daycare centers and nursery schools.

4. Ensure that NRC Actions Are Effective, Efficient, Realistic and Timely: The proposed revisions would decrease efficiency and effectiveness because current NRC and FEMA regulations and guidance already adequately address the petition requests. Amending the regulations would require licensees and state and local governments to generate additional and more prescriptive information in their emergency plans, and the NRC and FEMA staffs would need to evaluate the additional information. The additional NRC staff and licensee effort would not improve efficiency or effectiveness. In addition, the NRC resources expended to promulgate the rule and supporting regulatory guidance would be significant with little return value.
5. Ensure Excellence in Agency Management: The requested rule would have no effect on the excellence in NRC management, but would increase licensee and state and local government burden by requiring the generation of additional, unnecessary, and burdensome information with little expected benefit because current NRC and FEMA regulations and guidance already adequately address the petition requests. This rulemaking would add significant burden on a national scale in order to address a potential local compliance issue.

REASON FOR DENIAL

The Commission is denying the petition for rulemaking (PRM-50-79) submitted by Mr. Lawrence T. Christian, et al. Current NRC requirements and NRC and FEMA guidance,

provide reasonable assurance of adequate protection of all members of the public, including children attending daycare centers and nursery schools, in the event of a nuclear power plant incident. Many of the specific requests of the petitioner are either already covered by regulations and/or guidance documents or are inappropriate for inclusion in NRC regulations due to their very prescriptive nature. The Commission does believe, however, that information obtained during the review of the petition does raise questions about local implementation of relevant requirements and guidelines. Accordingly, the NRC staff met with FEMA officials to assure an understanding of this issue for consideration by FEMA as reflected in separate letters to the petitioner and TMI-Alert Chairman, Eric Epstein dated respectively, March 23, 2005 and March 24, 2005.² Copies of those letters are available through the NRC's ADAMS document system and can be located using accession numbers ML050590344 and ML050590357, respectively. The NRC staff will continue to work with FEMA to ensure emergency planning exercises are appropriately focused and provide adequate assurance regarding compliance with NRC and FEMA regulations and guidance.

For these reasons, the Commission denies PRM-50-79.

Dated at Rockville, Maryland, this 13th day of December, 2005.

For the Nuclear Regulatory Commission.

² FEMA did evaluate a May 3, 2005 Emergency Planning exercise at TMI. NRC understands that during this exercise FEMA reviewed aspects of emergency planning involving nurseries and daycare centers. No deficiencies were identified by FEMA during the exercise. FEMA's final report on the exercise was issued on August 4, 2005.

Annette L. Vietti-Cook,
Secretary of the Commission.

Enclosure 4

Proposed Amended Version
of the
Petition Denial Published
in the
Federal Register
on
December 19, 2005
(RedLine/Strikeout Version)

Deletions are shown in **Strikeout**.
Insertions are shown in **Double Underline**.

(ML060760655)

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-79]

Mr. Lawrence T. Christian, et al.; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is republishing its December 19, 2005 notice (70 FR 75085) denying a petition for rulemaking submitted by Mr. Lawrence T. Christian and 3,000 co-signers on September 4, 2002, to correct errors and clarify the NRC's regulatory position. These changes do not affect the Commission's denial of the petition. The petition was docketed by the NRC on September 23, 2002, and ~~has been~~was assigned Docket No. PRM-50-79. The petition requests that the NRC amend its regulations regarding offsite state and local government emergency plans for nuclear power plants to ensure that all daycare centers and nursery schools in the ~~vicinity~~Emergency Planning Zone (EPZ) of nuclear power facilities are properly protected in the event of a radiological emergency.

ADDRESSES: Publicly available documents related to this petition, including the petition for rulemaking, public comments received, and the NRC's letter of denial to the petitioner, may be viewed electronically on public computers in the NRC's Public Document Room (PDR), 01 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be

viewed and downloaded electronically via the NRC rulemaking web site at

<http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Electronic Reading Room at

<http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR reference staff at (800) 387-4209, (301) 415-4737 or by e-mail to pdf@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3224, e-mail MTJ1@nrc.gov.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In December 1979, the President directed the Federal Emergency Management Agency (FEMA), to lead state and local emergency planning and preparedness activities with respect to jurisdictions in proximity to nuclear reactors. FEMA has responsibilities under Executive Order 12148, issued on July 15, 1979, to establish federal regulations and policies and to coordinate civil emergency planning within emergency preparedness programs. Consequently, FEMA is the lead authority concerning the direction, recommendations, and determinations with regard to offsite state and local government radiological emergency planning efforts necessary for the public health and safety. FEMA sends its findings to the NRC for final determinations.

FEMA implemented Executive Order 12148 in its regulations outlined in 44 CFR Part 350. Within the framework of authority created by Executive Order 12148, FEMA also entered into a Memorandum of Understanding (MOU) (58 FR 47966, September 9, 1993) with the NRC to provide acceptance criteria for and determinations as to whether state and local government emergency plans are adequate and capable of being implemented to ensure public health and safety. FEMA's regulations were are further amplified by FEMA Guidance Memorandum (GM) EV-2, "Protective Actions for School ~~Children~~ Children." and FEMA-REP-14; the "Radiological Emergency Preparedness Exercise ~~Manual.~~ Evaluation Methodology" (67 FR 20580 dtd April 25, 2002).

The Commission's emergency planning regulations for nuclear power reactors are contained in 10 CFR Part 50, specifically § 50.33(g), 50.47, 50.54 and Appendix E. As stated in 10 CFR 50.47(a)(1), in order to issue an initial operating license, the NRC must make a finding "that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency" to protect the public health and safety. An acceptable way of meeting the NRC's emergency planning requirements is contained in Regulatory Guide (RG) 1.101, Rev. 4, "Emergency Planning and Preparedness for Nuclear Power Reactors" (ADAMS Accession No. ML032020276). This guidance document endorses NUREG-0654/FEMA-REP-1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" (ML040420012; Addenda: ML021050240), an NRC and FEMA joint guidance document intended to provide nuclear facility operators and federal, state, and local government agencies with acceptance criteria and guidance on the creation and review of radiological emergency plans. Together, RG 1.101, Rev. 4, and NUREG-0654, Rev. 1, provide guidance to licensees and applicants on methods acceptable to the NRC staff for complying with the Commission's regulations for emergency response plans and preparedness at nuclear power reactors.

Emergency plans for all nuclear power reactors are required under Part 50, as amplified by NUREG-0654/FEMA-REP-1 and applicable FEMA guidance documents, to have specific provisions for all “special facility populations,” which refers not only to pre-schools, nursery schools, and daycare centers, but all kindergarten through twelfth grade (K-12) students, nursing homes, group homes for physically or mentally challenged individuals and those who are mobility challenged, as well as those in correctional facilities. FEMA GM 24, “Radiological Emergency Preparedness for Handicapped Persons,” dated April 5, 1984, and GM EV-2, “Protective Actions for School Children,” ~~dated~~ November 13 ~~dated November 13~~, 1986, provide further guidance. These specific plans ~~shall~~ should, at a minimum:

- Identify the population of such facilities;
- Determine and provide protective actions for these populations;
- Establish and maintain notification methods for these facilities; and
- Determine and provide for transportation and relocation.

~~All plans are finalized and submitted to FEMA for review~~ State and local Emergency Operations Plans and procedures are initially and periodically evaluated by FEMA. The plans are tested in a biennial emergency preparedness exercise conducted for each nuclear power station. If plans or procedures are found to be inadequate, they must be corrected.

The NRC emergency preparedness regulations are predicated on State and local governments that participate in emergency planning assuming overall responsibility for ensuring the performance of off-site planning and preparedness activities. This predicate is appropriate since State and local governments have responsibility for public health and safety, and the authority to take actions to protect the public during an emergency. A radiological emergency is but one of the hazards for which a State and its local government entities may prepare. All

emergency response is local; the planning for that response must similarly reflect local capabilities, constraints, organizational relationships, statutes, regulations, and ordinances. The Commission's emergency preparedness regulations allow a finding of reasonable assurance that adequate protective measures can and will be taken during a radiological emergency where a State or local government tasks a non-governmental entity with emergency planning, preparedness, or response activities responsive to the planning standards of 10 CFR 50.47(b), provided that the overall responsibility for demonstrating, with reasonable assurance, that adequate protective measures can and will be taken in the event of a radiological emergency continues to remain with the State and local governments.

Onsite and offsite emergency response plans for nuclear power plants are evaluated against the planning standards established in 10 CFR § 50.47(b) and 44 CFR Part 350, as informed by supporting regulatory guidance and case law. The NRC and FEMA jointly developed NUREG-0654 / FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," to provide guidance and acceptance criteria for the development of licensee and State and local government emergency plans. NUREG-0654 / FEMA-REP-1 is incorporated by reference in 44 CFR §350.5 and the planning standards and related criteria therein are used by DHS (previously FEMA) to review, evaluate, and approve State and local radiological emergency plans and preparedness. FEMA Guidance Memorandum (GM) EV-2, "Protective Actions for School Children," identifies methods acceptable to DHS for showing compliance with the planning standards and evaluation criteria, to the extent they apply to school children. Methods different from those identified in GM-EV-2 can be found acceptable if they provide an adequate basis for DHS to determine that the planning standards and evaluation criteria are met. The NRC will then base its licensing decisions, with regard to offsite emergency planning, on a review of the DHS findings.

The petition denial references GM-EV-2 in several locations as an example of existing regulatory guidance that satisfies the intent of the individual petition requests. However, the Commission recognizes that DHS may find alternatives, other than those identified in GM-EV-2, to be acceptable means for meeting the planning standards and the evaluation criteria in NUREG-0654/FEMA-REP-1.

AVAILABILITY OF DOCUMENTS

The NRC is making the documents identified below available to interested persons through one or more of the following:

Public Document Room (PDR). The NRC Public Document Room is located at 11555 Rockville Pike, Public File Area O-1 F21, Rockville, Maryland. Copies of publicly available NRC documents related to this petition can be viewed electronically on public computers in the PDR. The PDR reproduction contractor will make copies of documents for a fee.

Rulemaking Website (Web). The NRC's interactive rulemaking Website is located at <http://ruleforum.llnl.gov>. Selected documents may be viewed and downloaded electronically via this Website.

The NRC's Public Electronic Reading Room (ADAMS). The NRC's public Electronic Reading Room is located at <http://www.nrc.gov/reading-rm/adams.html>. Through this site, the public can gain access to the NRC's Agencywide Document Access and Management System, which provides text and image files of NRC's public documents.

NRC Staff Contact (NRC Staff). For single copies of documents not available in an electronic file format, contact Michael T. Jamgochian, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3224, e-mail MTJ1@nrc.gov.

Document	PDR	Web	ADAMS	NRC Staff
Petition for Rulemaking (PRM-50-79)	X	X	ML023110466	
<i>Federal Register</i> Notice – Receipt of Petition for Rulemaking (67 FR 66588; Nov. 1, 2002)	X	X	ML023050008	
<i>Federal Register</i> Notice – Receipt of Petition for Rulemaking; Correction (67 FR 67800; Nov. 7, 2002)	X	X	ML040770516	
Public Comments, Part 1 of 2	X	X	ML040770480	
Public Comments, Part 2 of 2	X	X	ML040770544	
Additional Public comments		X	ML041910013	
Letter of Denial to the Petitioners	X	X	ML053260004	
<u>Public Comment (PEMA) on Dec. 19, 2005 FRN</u>	<u>X</u>	<u>X</u>	<u>ML060680076</u>	
<u>Public Comment (DHS/FEMA) on Dec. 19, 2005 FRN</u>	<u>X</u>	<u>X</u>	<u>ML060860342</u> <u>ML060730534</u>	
RG 1.101, Rev. 4, Emergency Planning and Preparedness for Nuclear Power Reactors (July 2003)	X		ML032020276	
NUREG-0654/FEMA REP-1, Rev. 1 Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (November 1980)		X	ML040420012	
NUREG-0654/FEMA-REP-1, Rev. 1 Addenda (March 2002)	X		ML021050240	
Executive Order 12148, Federal Emergency Management (July 20, 1979)				X
MOU Between FEMA and NRC Relating to Radiological Emergency Planning and Preparedness (June 17, 1993)				X
FEMA GM 24, Radiological Emergency Preparedness for Handicapped Persons (April 5, 1984)				X
FEMA-REP-14, Radiological Emergency Preparedness Exercise Manual (September 1991)				X

(REP)
Exercise Methodology (66 FR 47526 -
September 12, 2001 and 67 FR 20580 -
April 25, 2002)

X

Document

PDR

Web

ADAMS

NRC Staff

FEMA GM EV-2, Protective Actions
for School Children (November 13, 1986)

X

THE PETITIONERS' REQUEST

This petition for rulemaking (PRM-50-79) generally requests that the NRC establish new rules requiring that emergency planning for daycare centers and nursery schools located in the Emergency Planning Zone (EPZ) be included in the state and local government offsite emergency plans of all NRC nuclear power facility licensees. More specifically, the petition requests that the NRC amend its regulations to ensure that all children attending daycare centers and nursery schools within the EPZ are:

- A. Assigned to designated relocation centers established safely outside of the EPZ.
- B. Provided with designated transportation to a relocation center in the event of an emergency evacuation.
- C. Transported in approved child-safety seats that meet state and federal laws as they pertain to the transportation of children and infants under 50 pounds in weight or 4 feet 9 inches in height.

The petitioners also request that the following be mandated by NRC regulations:

- D. The creation and maintenance of working rosters of emergency bus drivers and back-up drivers for daycare center and nursery school evacuation vehicles, and the establishment of a system for notifying these individuals in the event of a radiological emergency. These rosters should be regularly checked and

- updated, with a designated back-up driver listed for each vehicle and route.
- E. Notification of emergency management officials by individual preschools as to the details of each institution's radiological emergency plan.
 - F. Annual site inspections of daycare centers and nursery schools within the evacuation zone by emergency management officials.
 - G. Participation of daycare centers and nursery schools within the EPZ in radiological emergency preparedness exercises designed to determine each institution's state of readiness.
 - H. Creation of identification cards, school attendance lists, and fingerprint records for all children who are to be transported to a relocation center, to ensure no child is left behind or is unable, due to age, to communicate his or her contact information to emergency workers.
 - I. Development by emergency management officials of educational materials for parents, informing them what will happen to their children in case of a radiological emergency, and where their children can be picked up after an emergency evacuation.
 - J. Stocking of potassium iodide (KI) pills and appropriate educational materials at all daycare centers and nursery schools within the EPZ.
 - K. Radiological emergency preparedness training for all daycare center and nursery school employees within the EPZ.
 - L. Listing of designated relocation centers for daycare centers and nursery schools in area phone directories, so that parents can quickly and easily find where their children will be sent in case of a radiological emergency.
 - M. Establishment of toll-free or 911-type telephone lines to provide information about radiological emergency plans and procedures for daycare centers and

nursery schools within the EPZ.

- N. Creation of written scripts for use by the local Emergency Alert System (EAS) that include information about evacuation plans and designated relocation centers for daycare centers and nursery schools.

PUBLIC COMMENTS

The NRC received 55 public comment letters relating to this petition. ~~Twenty-~~
~~four~~Twenty-three letters supported granting the petition (mostly from citizens including three letters with 410 signatures), while 30 letters requested that the petition be denied. Those letters that supported denial of the petition were primarily from state and local governmental agencies, FEMA, and licensees. In addition, the NRC received one letter that discussed KI but did not take a position on the petition and a letter that strongly supports the development of all-hazards emergency plans for child day care facilities and nursery schools throughout the state but did not take a position on the petition. Subsequent to the December 19, 2005 notice of denial, the NRC received two letters and an E-mail commenting on errors and potential mis-characterizations in the published denial.

More specifically;

- 243 Letters supporting the granting of the petition:
- 13 Comment letters from citizens supporting the granting of the petition.
 - 1 Comment letter from a citizens group supporting the granting of the petition.
 - 4 Comment letters from local governmental agencies or officials supporting the petition.
 - 3 Comment letters with 410 signatures supporting the petition.

1 Letter from the petitioner supporting the petition. The petitioner also “suggests a federal model that mirrors the Illinois, Massachusetts, Michigan, or Nebraska...” emergency plans for daycare centers and nursery schools, even though those state plans only meet about 30 percent of the elements requested by the petitioner, while meeting FEMA guidance.

1 Letter from eight local governments that agreed with the concepts of the petition but had reservations about some of the specific requests of the petitioners.

~~1 Letter from the Governor of Pennsylvania withdrawing an earlier submitted letter, and supporting the granting of the petition.~~

30 Letters asking the Commission to deny the petition:

4 Letters from two local governments located near the petitioners, and from two citizens to deny the petition but suggested that the daycare centers and nursery schools should be responsible for developing their own emergency plans.

8 Letters from local governmental agencies to deny the petition for rulemaking because they felt that current regulations are adequate.

12 Letters from State governments including two letters from FEMA (Headquarters and Region 7) to deny the petition, based on the opinion that the petitioners’ requests are adequately addressed in current regulations and guidance.

4 Letters from licensees or companies that own nuclear utilities, to deny the petition.

1 Nuclear Energy Institute (NEI) letter to deny the petition.

1 Letter representing six licensees to deny the petition.

1 Letter that discusses KI, but does not take a position on the petition.

1 Letter from the Special Assistant to the Governor of Pennsylvania withdrawing an earlier submitted letter and strongly supporting the development of all-hazards emergency plans for child day care facilities and nursery schools throughout the state. This letter did not express a position on the petition and was characterized by the NRC as supporting the petition. The Director of PEMA, on behalf of the Governor's office, subsequently challenged the NRC's characterization of the original letter as supporting the petition and requested the characterization be formally corrected.

1 Letter and E-mail from DHS/FEMA commenting on errors and potential mis-characterizations within the December 19, 2005, Federal Register Notice denying the petition.

NRC EVALUATION

The Commission has reviewed each of the petitioners' requests and provides the following analysis:

1. The petitioners' first and more general request is that daycare centers and nursery schools, located within the 10-mile EPZ, be included in state and local government offsite emergency planning.

NRC Review:

The current regulatory structure already requires that daycare centers and nursery schools be included in the offsite emergency planning for nuclear power plants. Consequently, no revision to 10 CFR Part 50 is necessary. The Commission's emergency planning regulations, in 10 CFR 50.47, require the NRC to make a finding, before issuing an initial operating license, that there is "reasonable assurance that adequate protective measures can

and will be taken in the event of a radiological emergency.” Implicit in this regulation is the requirement that offsite emergency plans be protective of all members of the public, including children attending daycare centers and nursery schools, within the 10-mile EPZ. Joint NRC and FEMA implementing guidance, NUREG-0654/FEMA-REP-1, Rev. 1, states that emergency plans must provide specific means for “protecting those persons whose mobility may be impaired due to such factors as institutional or other confinement.” NUREG-0654, Section II.J. and Appendix 4, as well as, FEMA GM 24, “Radiological Emergency Preparedness for Handicapped Persons,” dated April 5, 1984, also provide guidance. Children in daycare centers and nursery schools are included in the category of persons needing special protection. FEMA GM EV-2, “Protective Actions for School Children,” was issued to provide guidance to assist federal officials in evaluating adequacy of state and local government offsite emergency plans and preparedness for protecting school children during a radiological emergency. ~~It specifically addresses~~This guidance is also intended for state and local government officials and administrators of public and private schools, including licensed and government supported pre-schools and daycare centers, ~~but has been implemented to include all daycare centers and nursery schools with more than 10 children.~~for developing emergency response plans and preparedness for protecting the health and safety of children in their charge.

FEMA is the federal agency responsible for making findings and determinations as to whether state and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented. FEMA uses the guidance documents discussed above to make such findings. The NRC makes its finding as to whether the emergency plans provide a reasonable assurance that adequate protective measures can and will be taken under 10 CFR 50.47(a)(2). The NRC’s findings are based upon FEMA findings and determinations in this area. The NRC would not grant an initial operating license if FEMA found that state and

local government emergency plans did not adequately address daycare centers and nursery schools. In accordance with 10 CFR 50.54(s)(2)(ii), if significant deficiencies in a licensee's state or local governments' off-site emergency plan were discovered after its the operating license was issued, and those deficiencies were not corrected within four months of discovery (or a plan for correction was not in place), the Commission would determine whether the reactor should be shut down until the deficiencies are remedied or whether some other enforcement action would be appropriate. Based on this information and considering that the existing regulatory structure already has requirements addressing the facilities of concern to the petitioners, no revision to 10 CFR Part 50 is necessary in response to the petitioners' general request.

The more specific elements of the petition follow:

- A. Require that children attending daycare centers and nursery schools be assigned to designated relocation centers established safely outside the EPZ.

NRC Review:

The petitioners' requested revision to 10 CFR Part 50 is not needed because the requested action is already covered by FEMA guidance documents. FEMA's GM EV-2 (~~pp. 2 and 4~~) p. 5) that specifies evacuation planning may be developed in three contexts: (1) part of the existing radiological emergency plans; (2) a separate annex of an existing integrated plan for many types of disasters and emergencies; or (3) a separate evacuation plan for all of the schools in each school system. GM EV-2 specifies that ~~state and local government offsite emergency plans should designate~~ school officials, including daycare centers and nursery schools, should document in the plan the basis for determining the proper protective action (e.g., evacuation, early preparatory measures, early evacuation, sheltering, early dismissal or combination) including but not limited to, the name and location of relocation centers outside of the 10-mile EPZ for all center(s), and transport route(s), if applicable and on an institution-

specific basis. Furthermore, GM EV-2 specifies that local governments should ensure that appropriate organizational officials assume responsibility for the emergency planning and preparedness for all of the identified schools, including daycare centers and nursery schools. Local governments should also ensure that the emergency planning undertaken by these organizations is integrated within the larger offsite emergency management framework for the particular nuclear power plant site. FEMA assesses offsite emergency plans using this guidance when making a finding that a plan adequately protects the public. Under the MOU between FEMA and the NRC, the NRC defers to FEMA's expertise in offsite emergency plan requirements and assessments.

- B. Require that children attending daycare centers and nursery schools be provided with designated transportation to relocation centers in the event of an emergency evacuation.

NRC Review:

As previously discussed, FEMA is the federal agency responsible for making findings and determinations as to whether state and local emergency plans are adequate. FEMA's GM EV-2 (ppp. 2 and 45) specifies that ~~the state and local government offsite emergency plans should designate transportation to relocation centers outside of the 10-mile EPZ for all schools~~school officials, including daycare centers and nursery schools, should document in their plans the basis for determining the proper protective action (e.g., evacuation, early preparatory measures, early evacuation, sheltering, early dismissal or combination) including but not limited to, the means for effecting protective actions and specific resources allocated for transportation and supporting letters of agreement if resources are provided from external sources, on an institution-specific basis. Furthermore, FEMA's GM EV-2 specifies that local governments should ensure that appropriate organizational officials assume responsibility for the emergency planning and preparedness for all of the identified schools, including daycare

centers and nursery schools. Local governments should also ensure that the emergency planning undertaken by these organizations is integrated within the larger offsite emergency management framework for the particular nuclear power plant site. FEMA reviews emergency plans to ensure that this provision is addressed. Consequently, a revision to 10 CFR Part 50 is not needed.

- C. Require that children attending daycare centers and nursery schools be transported in approved child-safety seats that meet state and federal laws as they pertain to the transportation of children and infants under 50 pounds in weight or 4 feet 9 inches in height.

NRC Review:

Requiring seat belts or child safety seats on school buses that may be used for evacuating schools is outside NRC statutory authority. Such a requirement would instead need to be promulgated by the Department of Transportation or appropriate state authorities.

- D. Require the creation and maintenance of working rosters of emergency bus drivers and back-up drivers for daycare center and nursery school evacuation vehicles, and the establishment of a system for notifying these individuals in the event of a radiological emergency. These rosters should be regularly checked and updated, with a designated back-up driver listed for each vehicle and route.

NRC Review:

The petitioners' requested revision to 10 CFR Part 50 is not needed because NRC considers the existing requirements and guidance ~~for agreements between bus drivers and local authorities to be similar to the requested detailed driver lists and back-up driver requirements~~ adequate for the evaluation of planning with respect to transportation resources, including drivers. FEMA's GM EV-2 (ppp. 105-6) specifies that ~~bus drivers trained in basic radiological preparedness and dosimetry are to be provided for the evacuation of daycare~~

~~centers and nursery schools. FEMA's GM EV-2 (p. 10) also specifies that agreements between bus drivers and local authorities are to be established for the drivers to provide their services in an emergency. These agreements eliminate the need for a roster~~school officials, including licensed and government supported pre-schools and daycare centers, should document in the plan the basis for determining the proper protective action including: means for effecting protective actions; specific resources allocated for transportation and supporting letters of agreement if resources are provided from external sources; and, means for alerting and notifying appropriate persons and groups associated with the schools and the students, including the method for contacting and activating designated dispatchers and school bus drivers. Under the MOU between FEMA and the NRC, the NRC defers to FEMA's expertise in state and local emergency plan requirements and assessments. ~~NRC has made FEMA aware of the petitioners' concerns, and~~ FEMA recently completed an emergency preparedness exercise at TMI ~~that included issues related to transportation of students attending daycare centers and nursery schools. FEMA's final report on this exercise was issued~~and issued a final report on August 4, 2005. FEMA identified no deficiencies in this particular area.

E. Require notification of emergency management officials by individual preschools as to the details of each institution's radiological emergency plan.

NRC Review:

NRC considers that current NRC and FEMA requirements and guidance are adequate. ~~Although the petition requested that daycare centers and nursery schools have the responsibility for conveying their emergency planning information to government officials, under current requirements, this responsibility resides with state and local government officials.~~ FEMA's GM EV-2 (p. 5) ~~specifies that the state and~~identifies criteria by which an emergency plan will typically be acceptable if it fully addresses the emergency functions for the evacuation of, or other appropriate protective measures, for school children including licensed and

government supported pre-schools and daycare centers. Accordingly, local government officials governments should take the initiative to identify and contact all daycare centers public and nursery schools private school systems within the designated 10-mile plume exposure pathway EPZ to assure that there exists both public and private school officials address appropriate planning for protecting the health and safety of their students from a commercial nuclear power plant accident.

NRG and FEMA expect The planning of both the public and private school officials should be closely coordinated with that of the local governments to government. Local governments should ensure that appropriate organizational officials assume responsibility for the emergency planning and preparedness for all schools within their districted area, and to work closely with school officials to coordinate planning efforts. FEMA's GM EV-2 (pp. 5 and 6) specifies that local of the identified schools. Local governments should also ensure that the emergency planning undertaken by schools these organizations is integrated within the larger state and local government offsite emergency management framework for the particular nuclear power plant site. ==

FEMA's GM EV-2 (pp. 5 and 6) specifies As mentioned previously in response to issue "A", that evacuation planning is to include may be developed in three contexts: (1) part of the existing radiological emergency plans; (2) a separate annex of an existing integrated plan for many types of disasters and emergencies; or (3) a separate evacuation plan for all of the schools in each school system. SGM EV-2 specifies that school officials, with the assistance of state including daycare centers and local government offsite authorities nursery schools, should document in the plan the basis for determining the proper protective action (e.g., evacuation, early preparatory measures, early evacuation, sheltering, early dismissal or combination) including:

- C Identification of offsite the organization and state and local government officials

responsible for both planning and effecting the protective action.

C Institution-specific information:

- Name and location of school;
- Type of school and age grouping (e.g., public elementary school, grades kindergarten through sixth);
- Total population (students, faculty, and other employees);
- Means for implementing protective actions;
- Specific resources allocated for transportation, including and supporting letters of agreement if resources are provided from external sources; and
- Name and location of relocation center(s) and transport route(s), if applicable.

C If parts of the institution-specific information apply to many or all schools, then the information may be presented generically.

C Time frames for implementingeffecting the protective actions.

C Means for alerting and notifying appropriate persons and groups associated with the schools and the students including:

- Identification of the organization responsible for providing emergency information to the schools;
- The method (e.g., siren and telephone calls) for contacting and providing emergency information on recommended protective actions to school officials;
- The method (e.g., siren, tone-alert radios, and telephone calls) for contacting and activating designated dispatchers and school bus drivers; and
- The method (e.g., Emergency Alert System (EAS) messages) for

notifying parents and guardians of the status and location of their children.

Based on the above, the petitioners' requested revision to 10 CFR Part 50 is not required.

- F. Require annual site inspections of daycare centers and nursery schools within the evacuation zone by emergency management officials.

NRC Review:

Inspections of daycare centers and nursery schools are the responsibility of the individual state and are outside NRC statutory authority. The Commission sees no safety reason within the scope of its statutory authority to require annual inspections of daycare centers and nursery schools. =

- G. Require the participation of daycare centers and nursery schools within the EPZ in radiological emergency preparedness exercises designed to determine each institution's state of readiness.

NRC Review:

~~FEMA's GM-EV-2 (pp. 6 and 7) specifies that offsite organizations, with assigned responsibilities for protecting daycare centers and nursery schools, are to demonstrate their ability to protect the students in an exercise. This ensures that in a radiological emergency, plans for protecting daycare centers and nursery schools will be enacted successfully while preventing disruption to the children attending these schools.~~ Current NRC regulations in 10 CFR Part 50, Appendix E, ~~reflect this FEMA guidance.~~ Section F.2 ~~of Appendix E,~~ permits exercises without public (including daycare centers and nursery schools) participation. The Commission has determined that exercises can be adequately evaluated without the participation of schools or members of the public. This eliminates safety concerns for students, as well as, the disruption of daycare center and nursery school activities that might arise during exercise participation. In addition, as mentioned in the response to request "E," pursuant to

FEMA guidance, ~~state and local government officials should be contacting~~ governments should take the initiative to identify and contact all public and private school systems within the designated plume exposure pathway EPZ to assure that both public and private school officials (including licensed and government supported pre-schools and daycare centers) address appropriate planning for protecting the health and nursery schools regarding emergency safety of their students from a commercial nuclear power plants for the facilities accident. The petition has presented no evidence that would cause the NRC to reconsider this determination.

H. Require creation of identification cards, school attendance lists, and fingerprint records for all children who are to be transported to a relocation center, to ensure no child is left behind or is unable, due to age, to communicate his or her contact information to emergency workers.

NRC Review:

State and local governments have the responsibility for ensuring that licensed daycare centers and nursery schools have mechanisms in place for maintaining child accountability. FEMA, as the authority on offsite emergency planning, has determined that it is unnecessary to require that such detailed mechanisms be a component of emergency plans. The Commission finds no safety reason to justify requiring such detailed mechanisms in its regulations.

I. Require development by emergency management officials of educational materials for parents, informing them what will happen to their children in case of a radiological emergency, and where their children can be picked up after an emergency evacuation.

NRC Review:

Current NRC and FEMA requirements and guidance adequately address this specific request. FEMA's GM EV-2 (p. 2) specifies that the Emergency Alert System (EAS) notify parents of the status and location of their children in the event of an emergency. The Commission believes that parental notification via the EAS is adequate to assure that parents

will be informed of their childrens' location following an emergency evacuation.

- J. Require stocking of KI pills and appropriate educational materials at all daycare centers and nursery schools within the 10-mile EPZ.

NRC Review:

The Commission's regulations, specifically 10 CFR 50.47b.(10), require individual states to consider using KI in the event of an emergency. The regulations require that a range of protective actions be developed for the plume exposure pathway EPZ for emergency workers and the public. In developing this range of actions, consideration was to be given to evacuation, sheltering, and, as a supplement to these, the prophylactic use of KI, as appropriate. Under this regulation, each individual state must decide whether the stockpiling of KI is appropriate for the citizens within its jurisdiction. Once a state decides to stockpile KI, it is incumbent on that state to develop a program for distribution. This program is reviewed by FEMA under the 44 CFR 350 process. The petition did not provide information that would cause the NRC to reconsider this determination.

- K. Require radiological emergency preparedness training for all daycare center and nursery school employees within the 10-mile EPZ.

NRC Review:

The Commission believes that specialized training for daycare center and nursery school employees is unnecessary because they would be using already established and distributed procedures for evacuation. Absent compelling information that specialized training for daycare center and nursery school employees would result in significant safety benefits that justify the additional regulatory burden, the Commission finds no safety reason to justify the requested revision to 10 CFR Part 50.

- L. Require listing of designated relocation centers in area phone directories, so that

parents can quickly and easily find where their children will be sent in case of a radiological emergency.

NRC Review:

FEMA's GM EV-2 (ppp. 2 and 4) specifies that ~~state and local government~~ offsite emergency plans are to ~~designate~~identify relocation centers outside of the 10-mile EPZ for all schools, including daycare centers and nursery schools. Some states list the relocation centers in telephone directories, some states identify the relocation centers in the yearly public information packages, and some states identify the relocation centers in their offsite emergency plans.¹ The Commission believes that the current publication practices are adequate.

M. Require establishment of toll-free or 911-type telephone lines, to provide information about radiological emergency plans and procedures for daycare centers and nursery schools within the 10-mile EPZ.

NRC Review:

Although not required by NRC regulations or provided in FEMA guidance, all states provide a toll-free phone number in the yearly public information package where members of the public can acquire emergency preparedness information. The Commission sees no added safety benefits in revising its regulations to require something that all states are already doing.

N. Creation of written scripts for use by the local Emergency Alert System that include information about evacuation plans and designated relocation centers for daycare centers and nursery schools.

NRC Review:

FEMA's GM EV-2 (p. 6) specifies that a method is to exist (e.g., EAS) for notifying

¹ See March 23, 2005 letter from Roy Zimmerman to Eric J. Epstein and March 24, 2005 letter from Roy Zimmerman to Lawrence T. Christian (available on NRC's ADAMS document system under the accession numbers ML050590344 and ML050590357, respectively).

daycare center and nursery school parents of the status and location of their children, in the event of an emergency. FEMA has decided that it is unnecessary to incorporate such a prescriptive requirement into its regulations and guidance, which allows the off-site response organizations the flexibility to develop adequate plans and procedures that best fit their specific needs, and the needs of the affected public that they are charged with protecting. The petition provided no evidence that the current method of notification is inadequate. As a result, the Commission sees no added safety benefit in requiring a written script.

COMMISSION EVALUATION

The evaluation of the advantages and disadvantages of the rulemaking requested by the petition with respect to the four strategic goals of the Commission follows:

1. Ensure Protection of Public Health and Safety and the Environment: The NRC staff believes that the requested rulemaking would not make a significant contribution to maintaining safety because current NRC and FEMA regulations and guidance already require inclusion of nursery schools and daycare centers in state and local government offsite emergency plans. This was verified by the state governments that submitted comment letters which stated that daycare centers and nursery schools are included in their offsite emergency planning and that this is not an issue requiring a change to the emergency planning regulations. As such, it is a potential compliance issue that can be resolved using the current regulatory structure.
2. Ensure the Secure Use and Management of Radioactive Materials: The requested regulatory amendments would have no impact on the security provisions necessary for the secure use and management of radioactive materials. The petition for rulemaking deals with the taking of protective actions for nursery schools and day care centers by offsite authorities, which is currently required by NRC and FEMA regulations and

guidance.

3. Ensure Openness in Our Regulatory Process: The requested rulemaking would not enhance openness or public confidence in our regulatory process because the petitioners' requests raise potential issues of compliance with the existing requirements and guidance. The NRC staff does not believe that the contentions identify deficiencies in regulatory requirements. The Commission's regulations require that protective actions have been developed for the public, including daycare centers and nursery schools. Existing guidance in NUREG-0654 and in GM-EV2 address the planning for this segment of the population. Appendix 4 in NUREG-0654, discusses "special facility populations." Daycare centers and nursery schools fall under the definition of "special facility populations" and as such, ~~state and local governments are currently required to ensure that~~ these populations ~~are~~should be included in the offsite emergency response plans. It should be noted, however, that 3000 members of the public co-signed the original petition for rulemaking. Additionally, 410 members of the public signed letters supporting the petition. This amount of public support reinforces the importance of NRC and FEMA's continued commitment to providing protection for the public in the event of an emergency which has always included daycare centers and nursery schools.
4. Ensure that NRC Actions Are Effective, Efficient, Realistic and Timely: The proposed revisions would decrease efficiency and effectiveness because current NRC and FEMA regulations and guidance already adequately address the petition requests. Amending the regulations would require licensees and state and local governments to generate additional and more prescriptive information in their emergency plans, and the NRC and FEMA staffs would need to evaluate the additional information. The additional NRC staff and licensee effort would not improve efficiency or effectiveness. In addition, the NRC resources expended to promulgate the rule and supporting regulatory guidance

would be significant with little return value.

5. Ensure Excellence in Agency Management: The requested rule would have no effect on the excellence in NRC management, but would increase licensee and state and local government burden by requiring the generation of additional, unnecessary, and burdensome information with little expected benefit because current NRC and FEMA regulations and guidance already adequately address the petition requests. This rulemaking would add significant burden on a national scale in order to address a potential local compliance issue.

REASON FOR DENIAL

The Commission is denying the petition for rulemaking (PRM-50-79) submitted by Mr. Lawrence T. Christian, et al. Current NRC requirements and NRC and FEMA guidance, provide reasonable assurance of adequate protection of all members of the public, including children attending daycare centers and nursery schools, in the event of a nuclear power plant incident. Many of the specific requests of the petitioner are either already covered by regulations and/or guidance documents or are inappropriate for inclusion in NRC regulations due to their very prescriptive nature. The Commission does believe, however, that information obtained during the review of the petition does raise questions about local implementation of relevant requirements and guidelines. Accordingly, the NRC staff met with FEMA officials to assure an understanding of this issue for consideration by FEMA as reflected in separate letters to the petitioner and TMI-Alert Chairman, Eric Epstein dated respectively, March 23, 2005 and March 24, 2005.² Copies of those letters are available through the NRC's ADAMS document

² FEMA did evaluate a May 3, 2005 Emergency Planning exercise at TMI. NRC understands that during this exercise FEMA reviewed aspects of emergency planning involving nurseries and daycare centers. No deficiencies were identified by FEMA during the exercise. FEMA's final report on the exercise was issued on August 4, 2005.

system and can be located using accession numbers ML050590344 and ML050590357, respectively. The NRC staff will continue to work with FEMA to ensure emergency planning exercises are appropriately focused and provide adequate assurance regarding compliance with NRC and FEMA regulations and guidance.

For these reasons, the Commission denies PRM-50-79.

Dated at Rockville, Maryland, this 13th day of December, 2005.

For the Nuclear Regulatory Commission.

/RA/

Annette L. Vietti-Cook,
Secretary of the Commission.

Enclosure 5

Basis For The Revised Petition Denial
Language Related to
State and Local Government Tasking of
Other Legal Entities With Emergency
Planning and Preparedness Implementation
Actions

(ML060760661)

Enclosure 5

BASIS FOR THE REVISED PETITION DENIAL LANGUAGE RELATED TO STATE AND LOCAL GOVERNMENT TASKING OF OTHER LEGAL ENTITIES WITH EMERGENCY PLANNING AND PREPAREDNESS IMPLEMENTATION ACTIONS

1. PURPOSE

This paper provides the basis for the language added to the revised petition denial (Enclosure 3) that addresses whether the Commission's emergency preparedness regulations allow a finding that reasonable assurance that adequate protective measures can and will be taken during a radiological emergency where a State or local government tasks a non-governmental entity with emergency planning, preparedness, or response activities responsive to the planning standards of 10 CFR 50.47(b).

2. BACKGROUND

The need for this language arose from assertions made by internal and external stakeholders¹ regarding legislation enacted in the Commonwealth of Pennsylvania (Commonwealth) that, in conjunction with associated regulations, requires the administrators of licensed daycare facilities to develop facility-specific all-hazards emergency plans. These stakeholders generally assert that the Commonwealth's tasking of these entities with the development of plans and provision of transportation and relocation resources is inconsistent with the Commission's emergency preparedness regulations.

The Commonwealth encompasses part or all of the plume exposure emergency planning zones (EPZ) for five nuclear power plant sites: Beaver Valley, Limerick, Peach Bottom, Susquehanna, and Three Mile Island. The Commonwealth has established emergency plans that have been found to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at any one of these five sites. In 2004, the Pennsylvania legislature passed legislation that amended its statutes to require that all child custodial facilities within the Commonwealth develop and maintain facility-specific all-hazards emergency plans. Enclosure 2 to this Commission paper describes in more detail how the Commonwealth provided for children in daycare facilities prior to passage of this legislation and how they are provided for moving forward.

The legislation and the implementing regulations are applicable to licensed daycare facilities across the Commonwealth and are not limited to facilities located within the emergency planning zones of the nuclear power plants located within the Commonwealth.² Pursuant to the legislation, the Pennsylvania Emergency Management Agency (PEMA) developed planning guidance and template plans and distributed these materials to all licensed daycare facilities.

¹ For example: Correspondence associated with allegation NSIR-2005-A-0011; Harrisburg Patriot article by G. Lenton, dtd October 03, 2005; E-mail: DPO author to W. Kane, dtd January 6, 2006; Mssrs Christian and Epstein ltr dated October 3, 2005 [ML053550215]

² The Commonwealth's emergency management services code has required that every school district develop and implement emergency preparedness plans in cooperation with the local emergency management agency. The 2004 legislation extended this requirement to child custodial facilities.

These materials require each daycare facility to plan for the hazards that may affect that facility, to arrange transportation and relocation centers that would be used to effect an evacuation, and to obtain letters of agreements with the providers of these resources. The Commonwealth enacted this legislation and promulgated these regulations consistent with its statutory interest in facilitating the safe and healthful care of a child in a daycare facility. As discussed above, some stakeholders have asserted that the State and local governments, rather than the daycare facilities, should be held responsible for developing the plans and providing the needed resources. These stakeholders cite various sections of the Commission's regulations and the December 19, 2005 *Federal Register* notice in support of their positions.

3. CLARIFICATION LANGUAGE

The staff believes that the Commission's regulations do not preclude the Commonwealth's approach to providing adequate protective measures during a radiological emergency. The stakeholders' position could have the effect of injecting the NRC into matters unrelated to ensuring that adequate protective measures can and will be taken in the event of a radiological emergency, such as State financing of emergency resources or State licensure of child custodial facilities, matters that are clearly beyond the Commission's authority. Accordingly, the staff included the following language in the proposed revision to the petition denial:

The Commission's emergency preparedness regulations allow a finding of reasonable assurance that adequate protective measures can and will be taken during a radiological emergency where a State or local government tasks a non-governmental entity with emergency planning, preparedness, or response activities responsive to the planning standards of 10 CFR 50.47(b), provided that the overall responsibility for demonstrating, with reasonable assurance, that adequate protective measures can and will be taken in the event of a radiological emergency continues to remain with the State and local governments.

4. RATIONALE

The State and local governments are not regulated by the NRC³ nor are they regulated by the Department of Homeland Security (DHS). Therefore the NRC cannot mandate State or local government compliance with Commission's emergency preparedness regulations. A State's authority and responsibility for providing for the safety of its citizens derives from the Constitution. A radiological emergency is but one of the hazards that a State and its local government entities must prepare for. All emergency response is local; the planning for that response must similarly reflect local capabilities, constraints, organizational relationships, statutes, regulations, and ordinances.

4.1 Regulations

³ An exception is where the State or local government is a licensee, for example, a municipal utility that operates a nuclear power plant.

In 1980, the NRC published the final rule promulgating the emergency planning regulations in 10 CFR Part 50 at 45 FR 55402. In the Rationale for the Final Rule in the statements of consideration, the Commission stated the following:

. . . In order to discharge effectively its statutory responsibilities, the Commission must know that the proper means and procedures will be in place . . . that adequate protective measures can and will be taken. . . .

The staff believes that the Commission's regulatory interest expressed in this excerpt is clear—that adequate protective measures can and will be taken. The Commission's regulatory interest is realized, not from *who* performed the planning or *who* provided the necessary resources, but rather because *the efforts have resulted* in reasonable assurance that adequate protective measures can and will be taken in the event of a radiological incident. Obviously, the entity must have the authority and capability necessary to perform the actions assigned. Given that, it is the endpoint rather than the route taken that matters with regard to the Commission's regulatory interest. The operative question in the instant situation becomes, is public health or safety jeopardized by a State's requiring daycare facility operators to provide their own emergency plans and transportation resources? If the answer to this question is no, as the staff and DHS believe it is, then the NRC should not mandate requirements that may interfere with the prerogatives of the States.

The Commission's interest was expressed, as regulation, in 10 CFR 50.47(a)(1), which provides in part:

. . . no initial operating license for a nuclear power reactor will be issued unless a finding is made by the NRC that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. . . .

The staff notes that no particular assignment of planning responsibility is established by this regulation, just the requirement that there be a finding of reasonable assurance. The regulation goes on to state:

The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented. . . .

There are other similar references in regulation to "State and local emergency plans." These references are consistent with the police powers these entities have to implement the emergency plans during emergency conditions, and the state constitutional and statutory responsibilities these governments have to provide for the health and safety of their citizens. The staff believes that the phrases "State and local governments," or "State and local officials," are intentionally broad so as to encompass governance differences that exist from state to state. Tolerance of such differences is appropriate since the Commission's regulatory interest is served by a finding that there is reasonable assurance that adequate protective measures can and will be implemented—rather than on who performed the planning and preparedness. The staff believes that support for this view can be found in § 50.47(b)(1), which recognizes that offsite emergency preparedness involves organizations beyond the State and local governments and that these organizations can be assigned responsibilities:

Primary responsibilities for emergency response by the nuclear facility licensee and by State and local organizations within the Emergency Planning Zones have been assigned, the emergency *responsibilities* of the various *supporting organizations* have been specifically established . . .[emphasis added]

Nonetheless, the staff recognizes that the plans and preparedness that result from this tasking must continue to enable DHS to make its requisite determinations regarding reasonable assurance that adequate protective measures can and will be implemented. If DHS can make these findings, the Commission's regulatory interest is met.

The staff notes that this tasking does not relieve the State and local governments from continuing to demonstrate to DHS that there is reasonable assurance that adequate protective measures can and will be implemented. Accordingly, State and local governments would need to review the plans and procedures developed by these entities for adequacy and to ensure that the planned emergency response actions are integrated into those of the State and local governments

It is important to note that under DHS regulations, only the State can request approval of the State and local plans. DHS regulations at 44 CFR § 350.13(a) address withdrawal of reasonable assurance which states in part:

If, at any time after granting approval of a State plan, the Associate Director determines . . . that the State or local plan is no longer adequate to protect public health and safety by providing reasonable assurance that appropriate protective measures can be taken, or is no longer capable of being implemented, he or she shall immediately advise the Governor of the affected State, through the appropriate Regional Director and the NRC of that initial determination in writing. . . .

As stated, a State remains accountable for emergency preparedness even if it tasks another entity with planning, preparedness, or response activities.

4.2 Guidance Documents

The joint NRC/FEMA guidance document NUREG-0654/FEMA REP-1, provides guidance and evaluation criteria for NRC licensees, State, and local governments to develop radiological emergency plans and improve emergency preparedness. This document assigns functions to one of three organizations: "Licensee," "State," and "Local." Appendix 5 of NUREG-0654 expands on this protocol:

It is not possible to totally specify each class or type of organization that may be involved in the total emergency planning and preparedness scheme. Nor is it possible to define the particular roles, functions and responsibilities of "principal organizations" and "sub-organizations." This is a matter that is best defined by the various parties involved in developing plans and preparedness for each nuclear site. Where the guidance in this document indicates a function that must be performed, emergency planners at all levels must decide and agree among themselves which organization is to perform such function. As a minimum, one lead agency at the State level and one lead local government agency having 24-hour manning is required.

This statement is a clear indication that the intent of the authors of NUREG-0654 in assigning the various functions to the various response organizations was not as restrictive as the column headings and the language in the evaluation criteria would imply on first glance.

FEMA Guidance Memorandum (GM) EV2 provides guidance in implementing the guidance in NUREG-0654 as it applies to schools and licensed child care facilities. The document tabulates the pertinent evaluation criteria from NUREG-0654. The fundamental criterion is J.9, which states in part: “ Each State and local organization shall establish a capability for implementing protective actions based upon protective action guides and other criteria. . . .” There are several subtiered evaluation criteria addressing various aspects for achieving this capability. GM EV2 then provides guidance on how these evaluation criteria could be met for schools and licensed daycare facilities. This guidance assigns some oversight and coordination functions to the local governments *and* tasks the administrators of the public and private schools with various aspects for planning for protecting the health and safety of their students. Obviously this is appropriate—who is better prepared to provide for the students of these institutions than the staff and the administrators who provide for these students during normal conditions?

5. CONCLUSION

Based upon the preceding discussion, the staff believes that the Commissions’s regulations and regulatory guidance allow a finding that reasonable assurance that adequate protective measures can and will be taken in a radiological emergency, where State or local government tasks other non-governmental entities with emergency preparedness activities responsive to the applicable planning standards of 10 CFR 50.47(b). In doing so, the State and local governments retain the overall responsibility for demonstrating to DHS’s satisfaction that adequate protective measures can and will be taken to protect the public in the event of a radiological emergency.

DAY CARE FACILITIES EMERGENCY PLANNING GUIDE

Prepared by:
Bureau of Plans
Pennsylvania Emergency Management Agency
(August, 2003)

<u>Title</u>	<u>Page</u>
Table of Contents	i
Introduction	ii
I. Everybody has a role in Disaster Planning and Response	1
A. The Day Care Provider or Manager	1
B. Facility Staff	1
C. Facility Maintenance Personnel	1
D. Facility Food Service Personnel	2
E. Parents	2
F. Community	2
II. Preparing the Disaster Plan	3
A. Plan Content	3
B. Plan Specifics	4
C. Planning Recommendations	5
D. The Planning Team	5
E. Supporting Information	5
F. Hazard Assessment	6
G. Resource Identification	6
III. Parts of the Plan	7
A. Purpose Statement	7
B. Situation and Assumptions	7
C. Basic Concepts	7
D. Authority	7
E. Staff Training and Drills	7
F. Emergency Functions	8
1. Direction and Control	8
2. Warning and Communication	8
3. Evacuation & Transportation	8
4. Shelter in the Facility	9
5. Shelter outside the Facility	10
6. Transportation	11
7. Procedures to Safeguard Records	11
IV. Guidelines for Specific Hazards	12
A. Fires and Explosions	12
B. Severe Storms	13
C. Flooding	14
D. Winter Storms	15
E. Hazardous and Radioactive Materials	16
F. Earthquakes	16
G. Unexpected Utility Failures	17
H. Terrorism and other Potentially Violent Situations	18
I. Radiological Emergencies due to Nuclear Power Plant	19
<u>Incidents</u>	
J. Other Threats	19
V. Suggested Internet Links	20

INTRODUCTION

This preparedness planning guide is directed to day care providers and facility managers. It is intended to provide assistance in meeting the planning requirements necessary to protect employees and children within the facility. Because of the differences in size and complexity between different day care facilities, this guide is intentionally generic in nature. In smaller facilities, there may be only one person to perform all of the functions listed here, and in larger facilities a larger staff and child population may make a more complex plan appropriate. The procedures and principles discussed in this guide are no more than common sense. Use your own judgment as to how complex the plan needs to be. Remember, when it comes time to use the plan, there won't be a lot of time to read. On the other hand, a complete series of checklists might help you to remember some critical details during the excitement just after an alarm sounds.

No matter where the day care facility is or how large it is, children, staff and even parents may be at risk as a result of natural or human-caused disasters. Effective planning and response is achieved by coordination, cooperation and the participation of individuals and the community at large.

I. Everybody Has a Role in Disaster Planning and Response

A. The Day Care Provider or Manager

1. Develops (with help from a planning team) the facility disaster plan and coordinates it with municipal emergency management officials to make sure that it is compatible with the municipality's Emergency Operations Plan.
2. Trains staff and children in the provisions of the disaster plan.
3. Assigns emergency responsibilities to staff members as required, with regard to individual capabilities and normal responsibilities.
4. Secures necessary training for staff members. (as applicable)
5. Conducts drills and initiates needed plan revisions based on drill evaluations.
6. Keeps parents and staff members informed of emergency plan revisions.
7. Supervises periodic safety checks of the physical facility, equipment and vehicles.
8. Provides copies of the disaster plan to the county Emergency Management Agency (EMA).

B. The Facility Staff (as available)

1. Participates in developing the facility's disaster plan.
2. Participates in emergency preparedness training and drills.
3. Helps children develop confidence in their ability to care for themselves.
4. Provides leadership during a period of emergency.

C. Facility Maintenance Personnel (as applicable)

1. Conducts periodic safety inspections of the facility.
2. Identifies shut off valves and switches for gas, oil, water and electricity. Posts a chart showing shut off locations so that others can use them in an emergency.
3. Provides for emergency shut-off of the ventilating system.
4. Instructs all staff members on how to use fire extinguishers.

D. Facility Food Service Personnel (*as applicable*)

1. Maintains adequate supplies of non-perishable food and water for emergency use.
2. Rotates supplies to assure freshness.

E. Parents

1. Become familiar with the emergency plan and procedures they are to follow.
2. Assist the facility manager in writing the plan.

F. Community

1. The community, especially local government can be a source of:
 - a) Warning
 - b) Emergency Resources
 - c) Information
2. This assistance should come, primarily, from:
 - a) Municipal Governments
 - b) Emergency Medical Services
 - c) Law enforcement agencies
 - d) Fire departments
3. Other possible sources of assistance include:
 - a) Individuals
 - b) Churches
 - c) Civic clubs and organizations
 - d) Businesses and industries
 - e) Hospitals
 - f) Local Red Cross, Salvation Army or other voluntary service agencies

II. Preparing the Disaster Plan

Day care facility management personnel have a responsibility to staff members, occupants, parents and anyone who happens to be in their facility, to develop a disaster plan. Additionally, Pennsylvania day care regulations and licensing procedures require that a plan be maintained. Authority for the plan and its implementation should be established and the circumstances during which emergency procedures are to be followed must be identified. An awareness of the natural and human-caused hazards likely to occur in a particular area and a thoughtful assessment of the facility and available resources - both material and human - are required.

A. Plan Content:

It is important that facilities have a comprehensive written plan with procedures to be followed when an internal or external disaster occurs. The plan should be rehearsed periodically.

1. As a minimum, the following emergency situations should be addressed:
 - a) Fire and explosion;
 - b) Severe weather situations ;
 - c) Utility failure;
 - d) Hazardous materials and radiological emergency;
 - e) Acts of terrorism or civil unrest;
 - f) Any other emergency that may directly impact the facility.
2. For the above emergencies, there may be common functional responses (e.g., the same evacuation procedures will work for a fire or a gas leak). The plan should include emergency procedures or checklists that are easily understood. A standardized format should be used throughout the plan that clearly establishes how procedures will be carried out. The procedures should answer the questions "who, what, when, where and how" and allow the facility staff members to be ready to act effectively in an emergency situation.
3. The procedures should also address, as a minimum:
 - a) Special needs of clients or children.
 - b) Notification of municipal emergency services and parents.
 - c) Provisions to shelter people inside the facility if it's more dangerous outside.

- d) Alternate living arrangements if the sheltering is required for a period of a few days.
 - e) Evacuation plans if it's necessary to leave the facility, including means of transportation and evacuation routes.
 - f) Protection of valuable records.
4. Information in the Plan
- a) Information on charts and maps should be kept as simple as possible. Visual effectiveness can be increased by using color codes and large uncomplicated symbols.
 - b) A current list of names, addresses and phone numbers for staff members and emergency service agencies should be developed and maintained. A pocket card listing this key information may be given to staff members for quick reference.
 - c) Information on hazards in the area and plans that have been made for community response to emergencies (The local municipal and county emergency operations plan will provide this).
 - d) Information on each of the children should be available to accompany them should it be necessary to relocate in a hurry.
 - e) Emergency energy sources.
5. If portions of a facility's plan depend on the resources or services of somebody outside the facility, a written agreement should be executed with the other party or parties that acknowledges their participation in the plan. This mutual agreement then becomes part of the plan.

B. Plan Specifics:

1. A description of how the facility is to receive notification of an actual or impending disaster/emergency.
2. A description of how facility management will communicate the warning to occupants of the facility and parents.
3. A list of emergency telephone numbers, including the facility staff, parents and community emergency services.
4. An identification of designated shelter areas or best protective areas inside the facility.
5. An identification of evacuation assembly areas, alternate facilities (or relocation centers) outside of the facility.

6. A description of the organization and action of staff members and other occupants in moving to shelters or evacuating and moving to host facilities.
7. A list of responsibilities and assignments(s) of staff members for anticipated emergency situations.
8. A description of education, training and drills required to assure effective operation of the plan.
9. A provision for periodic review and revision.

C. Planning Recommendations:

The ideal plan is easy to find and easy to read during an emergency. You must keep in mind that the plan must be specific enough to give directions for immediate action, but flexible enough to allow for changes as unexpected situations develop. The planners should strive for simplicity and clarity. A few hints to consider are:

1. Provide space for the phone numbers of key responding personnel and alternates.
2. Step-by-step procedures should be as simple as possible so that they are clear to someone unfamiliar with the plan.
3. Whenever possible, save time and avoid confusion by developing standard procedures for various situations.
4. Staff responsibilities should be as close as possible to “normal” jobs so staff members are familiar with their emergency location and responsibilities.
5. Use checklists to ensure that infrequently-practiced emergency jobs are done correctly.

D. The Planning Team

The Facility Manager should solicit help from staff members and even interested parents in the development or revision of the disaster preparedness plan. A major part of this process will be to secure the counsel and assistance of the municipal Emergency Management Coordinator (EMC).

E. Supporting Information:

A planning team should rely on a variety of sources. Much of the information gathered to assist in the planning will also be useful in emergency response.

1. Planners should know the history of natural or man-made disasters which have affected the facility and community. Local historical clubs, emergency service agencies, libraries and newspaper files are all good sources of information.

2. Climatic data can be supplied by local weather stations. Planners should know the general weather and climatic patterns of their area. All parts of Pennsylvania are subject to severe weather, but vulnerability to different types of weather varies widely across the State.
3. Topographic and street maps can be used to assess vulnerability to hazards such as floods, landslides, forest fires and transportation accidents which may involve dangerous materials. They may also aid in planning traffic flow in case an evacuation is necessary.
4. Facility floor plans and blue prints offer planners a summary of building features so that internal shelter areas can be determined and facility evacuation routes planned to avoid hazardous areas (boiler rooms, etc.) and take advantage of safety construction (fire walls, etc.).
5. A local phonebook will have a wealth of information about other facilities and possible resources available.

F. Hazard Assessment:

The first step in writing the plan is assessment of the hazards in the facility and its county, region or metropolitan area. Use maps, local history and climatic data to identify the hazards and determine planning priorities. While all hazards should be addressed, the greater effort will be devoted to those emergencies most likely to occur. The hazard assessment should include:

1. Evaluation of the building and site, including inspection of the grounds.
2. Evaluation of the surrounding area in terms of vegetation, buildings or activities which may be potential hazards. Locate pipelines, rail lines and highways that are used for the transportation of hazardous materials. Note storage areas and industries that have hazardous or radioactive materials.
3. Evaluation of the community and region. Consider natural phenomena such as tornadoes, hurricanes and flash flooding.
4. Consider how vulnerable the facility is to terrorists or other potential acts of violence, and mitigate or plan as necessary. Check with your local law enforcement for assistance.

G. Resource Identification:

The next step is to examine resources that may be available to you during the emergency. Then apply those resources to satisfy the needs you identified, and take steps to make sure they will be available when needed.

III. Parts of the Plan

While the actual appearance of the plan may vary, you should consider each of the following for inclusion:

- A. Purpose Statement: a brief explanation of the reason for writing the plan, and the circumstances under which it should be used.
- B. Situation and Assumptions: briefly state information about the facility, its location, and size and the principal hazards facing it.
- C. Basic Concepts: a brief description of how the facility will respond.
 - 1. Who will be responsible for the response? Where will that person be positioned? Will there be some sort of command post?
 - 2. Describe the difference between sheltering and evacuation, and who will make that decision.
 - 3. Also describe any special teams (e.g.: fire brigade) which will play a part in the response.
- D. Organization and Responsibilities: a listing of major responsibilities, and who answers to whom. It need not be as detailed as the listings in Part II of this booklet.
- E. Plan Development, Maintenance and Distribution: should list how often the plan needs reviewed, who will review and update it, and list where all of the copies are, so that all copy-holders can get an update.
- F. Concurrence: those persons or organizations who are essential to the execution of the plan, or who will provide resources to accomplish the plan should sign here to acknowledge that they understand their responsibility.
- G. Record of Changes: as changes are made, this is a way of keeping track of them. Of course, if you replace the entire plan, it gets a new date and the old changes don't need to be tracked.
- H. Authority: a statement by executive management that this plan contains the procedures to be used during emergency.
- I. Staff Training and Drills: training and drills are essential to having an effective response in times of an emergency.
 - 1. Pre-emergency training for each staff member with an emergency duty should develop an awareness in all staff members of potential hazards and what measures to take to protect life and property. Training should also acquaint them with an understanding of warnings and public information announcements.

2. Exercises, drills and tests are vital parts of training and should be utilized once the staff has been trained as in the procedures to follow and their respective roles.
 - a) Testing and Evaluating Response Procedures
 - (1) Drills should be carried out frequently so that everyone is familiar with the procedures.
 - (2) Procedures should be just as important as time. It's important to make sure that everyone gets it right as well as done quickly.
 - (3) Conduct drills at various times during the year. Some hazards are seasonal, but disaster has no calendar
 - b) Drill evaluations
 - (1) Use staff members and administration as evaluators.
 - (2) Consider using municipal emergency service agencies as evaluators.
 - (3) Keep records share lessons learned with others. Use this opportunity to improve the plan.
- J. Emergency Functions: there are several functions that need to be accomplished during emergency response that are common to virtually all emergencies. Rather than repeat the instructions for each disaster, it is easier to organize the plan according to emergency functions. Different facilities may have different circumstances, so all of the following may not be needed, or others may need to be added.
 1. Direction and Control: emergency decisions will need to be made, and everyone in the facility must know what those decisions are and who makes them.
 - a) The plan should specify who will be in charge (with an alternate) and where that person will be positioned. Depending on the size of your facility, you may need to designate a "command post" where staff can find the "Facility Incident Commander" (person in charge.) An alternate command post should be designated in case an evacuation is needed.
 - b) Emergency service organizations use a control system called the "Incident Management System." This lets all of the responders know who is in charge. It breaks each unit into sections or divisions so each leader has a manageable span of control (not greater than seven.) You should become familiar with the incident management system, and be prepared to interface with it when emergency responders arrive at your facility. In some situations, the incident commander from the fire/police department may need a facility representative as part of a unified command.

2. Communications: this includes communications within the facility (announcing emergency measures) and outside the facility (notifying parents, answering machine, sign on door, etc.) If you plan to use cell phones or radios, mention it here. You should test this equipment regularly and consider obtaining additional communications equipment, if necessary. For example, having only telephones available for communications may be inadequate during an emergency because that is when the demand for phone lines and cell-phones is greatest. Each facility should have an alternate warning system or method which can alert the entire facility in the event of a power failure. (Cowbell, bullhorn, etc)
3. Evacuation: effective procedures for the orderly evacuation of a facility to a safe area are paramount. Evacuation plans should be designed to evacuate the facility as quickly and safely as possible. These should be coordinated with local government.
 - a) Evacuation instructions should:
 - (1) Be given to all new staff members when hired.
 - (2) Be displayed by fire exits.
 - (3) Be provided to parents on facility tours and explained in correspondence
 - b) Evacuation routes should:
 - (1) Take advantage of natural protective features (i.e., fire walls).
 - (2) Avoid hazardous areas, such as wooden stairs, open stairwells and boiler rooms.
 - c) Plans should include each staff member's role in evacuating the building, such as designating who should:
 - (1) Check rest rooms, vacant rooms, storage areas and other spaces
 - (2) Close windows and doors when leaving (time permitting).
 - (3) Lead evacuation lines.
 - (4) Guard or lock exits to prevent unauthorized persons from entry into building.
 - d) Evacuation should be conducted:
 - (1) In orderly lines; no running.
 - (2) Quietly with no talking to minimize confusion and allow for changes in orders to be heard.

4. Shelter in the Facility

- a) If it is unsafe for the occupants of the facility to go outside, provisions should be made to provide “protected spaces” inside.
- b) These spaces should:
 - (1) Be in the interior of the building, away from glass that may shatter.
 - (2) Not be in rooms with large ceiling spans (like gymnasiums or auditoriums) that may fall if subjected to shaking from an earthquake or tornado.
 - (3) Have furniture and wall-hangings secured so that they will not fall onto occupants.
- c) Suggestions on where to find these “protective spaces” are:
 - (1) In multi-story facilities.
 - (a) Use identified shelters or basements.
 - (b) Use first floor interior halls,
 - (c) Use rest rooms or other enclosed small areas away from large glassed-in areas or large open rooms.
 - (2) In one-story facilities.
 - (a) Use identified shelters.
 - (b) Use interior hallways.
 - (c) Use rest rooms or other areas away from large glassed-in areas or open rooms.
 - (d) If hallways are not suitable, use the inside wall of a room on the opposite side of the corridor from which the storm is approaching.
- d) Diagram the facility and indicate which areas are to be used as shelters and the quickest way to get there.
- e) Check the space available and number of persons who will use each area (match people with space).
- f) Accountability is essential. Procedures should assign everyone to shelter, and make provisions to report to the facility manager those persons who are in the protected area.
- g) If you are not being sent outside because of smoke or toxic chemicals, all air intakes and openings should be closed to protect the atmosphere inside.

- h) Display a copy of the shelter plan in the Manager's office.
 - i) Display in each room in the facility a copy of the floor plan indicating the location of the shelter to be used by the children in that room.
 - j) Provide a copy of this information to municipal Emergency Services.
5. Shelter outside the Facility
- a) If the hazard is more widespread, it may be necessary to relocate the children and the staff to a shelter in a safe area. This “relocation facility” should be expecting you, and should be able to protect you until the danger is past and the children’s parents can pick them up.
 - b) You’ll need to let all of the parents know that you’ve relocated.
 - c) Accountability procedures should be established to ensure that all children and staff are safe at the relocation facility. You will need to supervise them until their parents can come to the new location for them. A possible plan would be the use of public shelters, or of another day care center far enough away to be safe. The municipal Emergency Management agency can help with this decision.
 - d) The plan should contain an estimate of how many children will need to be sheltered in whatever relocation facility you choose.
6. Transportation will be needed if you go to a relocation facility. It will be best if you can provide transportation for all of your children and staff. Consider asking neighbors and parents if they may be available or willing to help. As a last resort, the municipal emergency management agency may be able to help, but it won't be able to guarantee that you will remain in one group, thus complicating your accountability problems.
- a) List of transportation assets: Because emergency procedures may necessitate immediate evacuation/relocation and require transportation at irregular hours, a list of the following information should be available:
 - (1) The number and capacity of facility owned and/or contracted transportation available for an emergency call. The names of operators and contact procedures should be included.
 - (2) The number and capacity of vehicles with specialized equipment, ramps or hydraulic equipment (if necessary.)
7. Procedures to safeguard records: In order to provide for the children, there are certain records (medical and special needs) that will be needed as long as they are in your care. Other business records will be needed if you are to continue to operate after the emergency has passed. You must identify these records, and

ensure that they aren't lost as a result of the emergency. If necessary, make duplicates of the records and keep them in a "go kit."

- K. Supplemental Documents: include charts, lists, and other items that will help in understanding the plan. Keep needed information easily accessible during an emergency.

IV. Guidelines for Specific Hazards

Even with plans based around emergency functions that are usable for a variety of emergencies, it's still helpful to understand a little about the types of emergencies that can impact the facility. Your hazard analysis may show that there are others, but these emergencies are among the most frequent in Pennsylvania.

A. Fires and Explosions

Fires and explosions are an ever present danger. They may originate within the building or threaten from without. A small fire in a rural wooded area or a built up urban area can quickly get out of control and threaten a nearby facility. Internal fires may result from anything from carelessness to arson. Explosions and resulting fires may be caused by leaking gas lines or faulty heating systems.

1. Warning and Communication

- a) Ensure that the alarm system is in good working order.
- b) In case of a malfunction, an alternate signal should be available (cowbell, whistle, bull horn, etc.).

2. Preparation

a) Equipment

- (1) Staff members and children should be familiar with the location and operation of alarms and extinguishers.
- (2) All equipment (including extinguishers, sprinkler systems, fire doors, etc.) should be regularly maintained in accordance with State and municipal ordinances.

- b) Training: All staff should be thoroughly trained in the differences in the types of fires (electrical, oil, chemical, etc.) and the various materials and equipment available to combat each type of fire, including commonly available substances and materials (baking soda, sand, water soaked blankets, etc.).

3. Response

- a) When a fire is discovered, an alarm should be sounded immediately
- b) Evacuate the building immediately, using the building evacuation plan.
- c) After occupants are safe, the fire department should be notified without delay.
- d) Time permitting, windows should be closed.

B. Severe Storms

Thunderstorms are a frequent occurrence in Pennsylvania. Tornadoes and tropical storms are less frequent, but, because of their potential to do damage, all are worthy of our attention. Thunderstorms bring with them intense rain, lightning, damaging wind in excess of 50 mph and hail. Winds in tropical storms can get up to 100 mph. Under certain climatic conditions, thunderstorms can be a prelude to a tornado, which can generate whirling winds in excess of 200mph. Tornado damage can be very localized, while a hurricane can devastate several states. Intense rain can cause rapid rise in streams and severe flooding. While tornadoes strike with very little warning, we normally get some warning for thunderstorms, and tropical storms are tracked for days before they get to Pennsylvania.

1. Warning:

You should monitor National Oceanographic and Atmospheric Administration (NOAA) weather radio or a local radio/TV station for public warnings when weather conditions indicate. Outside sirens ARE NOT sounded unless there is a danger of a tornado. The National Weather Service (NWS) issues the following advisories:

- a) Severe Thunderstorm Watch: Indicates that weather conditions are such that a thunderstorm may develop.
- b) Severe Thunderstorm Warning: Indicates that a severe thunderstorm has developed and will probably affect those areas stated in the bulletin.
- c) Tornado Watch: Means that weather conditions are such that a tornado may develop.
- d) Tornado warning: Means that a tornado has been sighted or indicated on RADAR and protective measures should be taken immediately.
- e) Tropical Storm Watch: Means that conditions indicate that a storm is possible, but has not yet occurred.
- f) Tropical Storm Warning: Means that a tropical storm is expected to strike the area within 24 hours. It contains an assessment of flooding dangers, high wind warnings for the storm's periphery, estimated storm effects and recommended emergency procedures.

2. Preparation

- a) Have the facility evaluated for its ability to withstand high winds.
- b) Identify and designate the best internal protective areas within the facility.

- c) If the facility is in a particularly hazardous area, keep materials on hand to tape and/or board up windows, and provide other protection to the facility and outdoor equipment, as necessary.
- d) All staff members and children should know the "symptoms" of severe thunderstorms and tornadoes.
- e) Selected staff members should be trained as "severe weather watchers" or "tornado spotters" and know how to use the facility's warning and communication system. Know the history of tropical storms in the area and elevation of the facility above streams and rivers that may flash flood.
- f) Know safe evacuation routes to official shelters.

3. Response

- a) When you receive a tornado warning or if a tornado sighting is reported, children and staff members should seek shelter WITHIN the building or in a designated tornado shelter.
- b) If your facility has a tornado alarm system, it is important that the sound of this alarm not be confused with that of a fire alarm or any other evacuation signal.
- c) During a severe thunderstorm warning, or during periods of particularly high winds, keep children away from glass.
- d) Every facility should also establish a manually operated backup warning system.
- e) During the watch, store portable equipment, outdoor furniture, etc., inside the facility away from shelter areas.
- f) During the warning, secure or store articles which may act as missiles.
- g) If there is insufficient time to take shelter,
 - (1) Go to the inside wall of a room away from windows.
 - (2) Sit or crouch on the floor next to an inside wall or get under tables or other furniture by sitting or lying prone on the floor, face down.

C. Flooding

Because of its vast network of rivers, creeks and streams, the State is considered to be flood prone. Flooding may be caused by heavy rains, fast snow melts or dam failures. When this occurs, the natural waterways can become raging torrents capable of great destruction.

1. Warning:

Except in the case of flash flooding, the onset of most floods is a relatively slow process with the buildup taking several days. Progressive situation reports are available from the NWS and the River Forecast Center district office of the NOAA.

- a) Flash flood watches are issued by the NWS to the public by radio/TV stations. A watch means that flooding MAY occur.
- b) Flash flood warnings are issued by the NWS to the public by radio/TV stations when flooding is actually occurring. Many municipalities have local flash flood warning systems to assist in the dissemination of this information.

2. Preparation

- a) Know what a forecast river height means as it relates to the facility. Helpful information includes:
 - (1) Knowledge of how elevations relate to river gauges from which a forecast is prepared.
 - (2) Know whether or not the facility is in a flood plain.

3. Response

- a) Evacuate children to shelters.
- b) Shut off water at mains so contaminated water will not back up into facility supplies.

D. Winter Storms

The dangers of winter storms are the intense cold, snow, ice, breakdown of transportation due to road conditions and disruption of electrical power. These conditions may incapacitate an area, making transportation difficult and disrupting utility service.

1. Warning

Snow and ice storm watches and warnings are issued by the NWS. When such weather threatens, monitor a local radio/TV station for bulletins.

2. Preparation

- a) Establish procedures for securing the facility against damage to utilities (frozen water pipes, etc.).

- b) Prepare the facility's vehicles for emergency travel on ice and snow (tire chains, etc.).
- c) Check emergency and alternate utility sources. Possibly the greatest hazard in severe weather is the loss of electrical power and thus heat and light. You may want to have a gas-powered generator or an alternate source of heat.
- d) Prepare to extend operations in case parents can't travel to pick up their children.

3. Response

- a) Conserve utilities by maintaining the lowest temperature consistent with health needs.
- b) Take pre-determined measures to secure the facility against storm damage, prevent bursting pipes, etc.

E. Hazardous and Radioactive Materials

Many types of hazardous substances including radioactive materials are shipped daily across the state. Municipal EMCs and fire departments maintain information concerning extremely hazardous and radioactive materials that are stored, used or manufactured in the area. Accordingly, facility emergency planners should coordinate with these municipal officials.

1. Warning

Warning of a hazardous or radioactive material incident is usually received from the fire or police department or the EMA when such an incident occurs close to or on facility property.

2. Response

- a) Determine whether it is safer to shelter occupants or to evacuate the facility.
- b) If it's necessary to evacuate the area, move crosswind; never directly into or against the wind which may be carrying fumes. Upon reaching a point of safety, take a roll call.
- c) Occupants must not return until the emergency services personnel have declared the area to be safe.

F. Earthquakes

Parts of the State have experienced minor earthquakes. Individuals who have experienced them can attest to the fact that even a mild one can be frightening. This is particularly so if one is not informed of the precautions to take.

1. Warning

Earthquakes generally occur without warning. Seismologists can identify areas where earthquakes are most likely to occur, but cannot yet predict the exact time and place.

2. Preparation

- a) Secure standing objects such as bookcases and water heaters, especially if there is potential for them to fall and hurt someone.
- b) Provide earthquake safety information to parents and staff members.

3. Response

a) During the shaking

(1) Keep calm - do not leave the location. Assess the situation, then act. Remember, falling debris is the direct cause of most injuries and deaths.

(2) If indoors - stay there.

(a) Take cover under desks, tables or other heavy furniture.

(b) Take cover in interior doorways or narrow hallways.

(c) Stay away from windows and beware of falling objects.

(3) If outdoors - stay in the open.

(a) Move away from the building, if possible.

(b) Avoid downed utility poles and overhead wires.

b) After the shaking stops

(1) Evacuate - Move to open areas away from the building.

(2) Do not re-enter the building until authorities have checked it for possible structural damage, leaking gas lines and other utility disruptions.

(3) Take a roll call to account for everyone.

(4) If a radio is available, listen for news bulletins.

G. Unexpected Utility Failures

Unexpected utility failures or incidents are common occurrences and may happen at any time. An undetected gas line leak may require only a spark to set off an explosion. Flooding from a broken water main may cause extensive damage to the

property and facility and cause power failures. An electrical failure may result in the loss of refrigerated food supplies and medicines or create a severe fire hazard.

1. Warning

In this context, the "unexpected" means that there will be no warning.

2. Preparation

- a) Identify the possible effects that the loss of each utility may have on the facility. As an example, loss of electricity might affect the heating and cooling system.
- b) Keep an accurate blueprint of all utility lines and pipes associated with the facility and grounds.
- c) Develop procedures for an emergency shutdown of utilities.
- d) Maintain a list of phone numbers, including night and day emergency reporting and repair services, of all serving utility companies.
- e) Minimize threats of failure through the use of good maintenance practices.

3. Response

a) Gas Line Break/Leak

- (1) Evacuate the facility immediately.
- (2) Notify maintenance staff, manager, local utility companies and police and fire departments.
- (3) Shut off the main valve.
- (4) Do not re-enter the facility until emergency officials say it is safe.

b) Electric Power Failure

- (1) Notify the electric company.
- (2) Notify the maintenance staff.
- (3) If there is a danger of fire, evacuate the facility.
- (4) If an electrical short is suspected, turn off power at the main control point.

c) Water Main Break

- (1) Call the facility maintenance personnel.

(2) Shut off the valve at the primary control point.

H. Terrorism and Other Potentially Violent Situations

It is an unfortunate sign of the world in which we live that there are persons who desire to cause damages similar to the damages caused by natural disasters. Sometimes, the reasons are personal, and directed against the family of one of the children in your center, or it could be simply faceless terrorism. Generally a terrorist will inflict damage in order to disrupt the way we do things or to gain attention for his/her cause. The results of these actions are hard to predict, but they are seldom all that different from the results of severe weather or of a hazardous materials release. An important thing to remember is that any terrorist action is illegal, and local police will need to be notified whenever any criminal, suspicious or potentially terrorist activities occur.

1. Warning

Most acts of violence happen without warning.

2. Preparation

- a) Consider the way that your facility is viewed in the community and the reaction in the media should a terrorist act occur.
- b) Active coordination with local law enforcement will give you a better idea of the vulnerability of your facility to terrorist attack and law enforcement's role in the response to suspicious activity.
- c) Be aware of what's going on in the world. The federal Department of Homeland Security tries to communicate the level of threat by using a color-coded system (called the Homeland Security Alert System (HSAS)). Governmental, public and private facilities should watch for changes in the color codes and adjust their activities accordingly. The American Red Cross has defined a series of checklists for schools. These have been adapted for day care centers (Attachment A). They are presented to you as an example. Review these to see how you can implement them at your facility.
- d) Be vigilant, constantly on the lookout for unusual persons or things such as;
 - (1) Unusual unsolicited deliveries
 - (2) Suspicious items left around the outside of the facility
 - (3) Individuals "hanging around" for no apparent reason
- e) Enforce facility security. Restrict visitors to only public areas. Ensure that all visitors are identified and appropriately cleared before they enter the facility.

3. Response: Response to the consequences of a terrorist or violent act will depend on the hazards presented.
- a) Armed Intruder - Call for help. Try to get the children to safety, either locked in a safe room inside, or quickly taken outside the building. DO NOT try to confront the intruder and make him/her even more violent. Try to remain calm and to calm down the intruder.
 - b) Hostage situation - Call for help. Don't endanger yourself or any of the other children by trying some sort of rescue. Pay attention to the captor(s), try to get details of what they want and accommodate them. Provide as much information as possible to the police when they arrive.
 - c) Bomb - any unknown package could be a bomb. If you have any reason to believe that it is, EVACUATE IMMEDIATELY and let the experts deal with it. There can be no possible value in unnecessarily endangering yourself or members of your staff.
 - d) Bomb threat - usually the threat comes via phone. Keep a checklist (Attachment B) near the phone to get the details from the caller that might help find the device, pin down when it's supposed to explode, and possibly figure out who the perpetrator is.
4. Bear in mind that the criminals/terrorists may have multiple attacks planned. They might use an explosion to get you to evacuate, and be waiting to take children hostage once you get them outside. This is the reason that we do not give the details of our emergency plans to anyone who doesn't need to know. It's also a good idea to check to see if the "coast s clear" before you try to move the children.

I. Radiological Emergencies due to Nuclear Power Plant Incidents

Pennsylvania is host to five nuclear power plants. Because of the political sensitivity and the attention given to safety surrounding them, the Nuclear Regulatory Commission requires that each plant have specially-developed offsite emergency response plans for everyone within ten miles of the plant. These plans are maintained by county and local emergency management agencies. The requirements of your facility should be no different than the requirements placed on it by the natural or technological hazards discussed above. If you are within ten miles of a nuclear power plant (or if you THINK you are) contact your EMA office to ensure that your plans fit into the larger plans that are maintained for the entire Emergency Planning Zone around the plant.

J. Other Threats

Consideration must also be given to the possibility of other potential disaster situations to which the facility may be vulnerable. As an example, it is likely that children will be affected by heat in the summer. Less likely is the threat of tidal

wave or volcano. Planners must consider all possible situations while concentrating on those which are most likely to occur.

V. Suggested Weblinks

There are an abundance of websites available to provide assistance. We recommend the following (note, content on some of these websites changes. Articles on emergency planning may no longer be available.):

- a) The Pennsylvania Emergency Management Agency – www.PEMA.state.pa.us
- b) The Pennsylvania Chapter of the American Academy of Pediatrics - www.paaap.org
- c) The American Red Cross – www.redcross.org
- d) The Federal Emergency Management Agency - www.fema.gov
- e) The National Association of School Psychologists - www.nasponline.org
- f) www.zerotothree.org
- g) www.knowledgelearning.com

Homeland Security Advisory System Recommendations for Day Care Centers



Risk Level	Recommended Actions
SEVERE <small>Severe Risk of Terrorist Attacks</small>	<ul style="list-style-type: none"> • <i>Complete recommended actions at lower levels</i> • Be alert to suspicious activity and report it to proper authorities immediately • Close center if recommended to do so by appropriate authorities • 100% identification check (i.e.-driver's license retained at front office) and escort of anyone entering the facility)
HIGH <small>High Risk of Terrorist Attacks</small>	<ul style="list-style-type: none"> • <i>Complete recommended actions at lower levels</i> • Be alert to suspicious activity and report it to proper authorities • Listen to radio/TV for current information/instructions • Prepare to handle inquiries from anxious parents • Discuss children's fears concerning possible terrorist attacks (Consider The Red Cross "Facing Fear: Helping Young People Deal with terrorism and Tragic Events" material)
ELEVATED <small>Significant Risk of Terrorist Attacks</small>	<ul style="list-style-type: none"> • <i>Complete recommended actions at lower levels</i> • Be alert to suspicious activity and report it to the proper authorities • Review emergency plans • Ensure all emergency supplies are stocked and ready • Send a reminder of emergency procedures home with children
GUARDED <small>General Risk of Terrorist Attacks</small>	<ul style="list-style-type: none"> • <i>Complete recommended actions at lower level</i> • Be alert to suspicious activity and report it to proper authorities • Conduct safety training/emergency drills following the written emergency plan • Review the communication plan to be sure that phone numbers are updated • Continue exercising and training for emergency response
LOW <small>Low Risk of Terrorist Attacks</small>	<ul style="list-style-type: none"> • Develop written emergency plans to address all hazards including plans to maintain the safety of children and staff as well as an emergency communication plan to notify parents in times of emergency. • Disseminate relevant information to families of children, staff and faculty. • Ensure selected staff members take CERT, CPR/AED or first aid courses

Your local American Red Cross chapter has materials available to assist you in developing preparedness capabilities. This material has been adapted from ARC 1465(Rev. 8-2002), a publication of the American National Red Cross.

ATTACHMENT B - BOMB THREAT CHECKLIST

Bomb Threat Checklist

Time of Call: _____ Date: _____

Person Receiving Call: _____ Phone # _____

Ask the caller:

1. When is bomb going to explode? _____
2. Where is it right now? _____
3. What does it look like? _____
4. What kind of bomb is it? _____
5. Did you place the bomb? _____
6. What will cause it to explode? _____
7. Why? _____
8. What is your address? _____
9. What is your name? _____

Write the Exact Wording of the Threat (*Information to be obtained as accurately as possible*)

About the Caller

Gender of Caller: _____ Race of Caller: _____

Approximate Age of Caller: _____

Caller's Voice (e.g., calm, angry, slow, crying, accent, etc.): _____

Was voice familiar? If so, who? _____

Background Sounds: (e.g., street noises, voices, motors, machinery etc.) _____

Other: _____

Threat Language (e.g., well-spoken, foul, irrational, incoherent, taped): _____

(Name of Facility)

Day Care Emergency Operations Plan

Part I Basic Emergency Plan

(Insert name, address and telephone number:)

Date: _____

*By numbering the copies of the plan,
we can keep track of where they all are,
and ensure that any changes are
distributed to all of the holders.*

Copy Number _____

Foreword

This Emergency Operations Plan describes the procedures that will be used by (name of day care facility) to provide for the care and the well-being of the children under our care and for our staff. This plan is meant to address extraordinary circumstances that threaten lives and property. The procedures outlined in this plan constitute those temporary measures that will be taken to provide the best available protection for persons under our care. The plan relies on the organization and procedures that are followed on a day-to-day basis. The intent is not to introduce new ways of doing things during high-stress situations.

Much of the information that is needed to implement a plan like this one should be treated as sensitive. The exact locations of shelters and assembly areas and the routes to be taken during an evacuation may be useful information to potential criminals. For this reason, parts of the plan will not be released to the general public. Important details from the plan are sent home with parents in orientation materials and periodic mailings. The entire plan is available for parents to review in the facility.

The plan itself is organized into three parts; the "Basic Emergency Plan", a series of checklists and a series of supporting documents. The basic emergency plan provides overall concepts and assignment of responsibility. It does not contain great amounts of detail. The detail in the attachments and checklists should be confidential. The information in the checklists is arranged by function, recognizing that the evacuation planned for a HAZMAT spill will work just as well for a winter storm (and probably gets practiced several times each year.)

Public safety officials should review this plan. The Department of Public Welfare licensing representative will also review the plan when inspecting the facility. It is the responsibility of the day care facility to maintain and implement the plan. A current copy of the plan is provided to county emergency management agencies.

TABLE OF CONTENTS

BASIC EMERGENCY PLAN (PART I)

1. PURPOSE
2. SITUATION AND ASSUMPTIONS
3. CONCEPT OF OPERATIONS
4. ORGANIZATION AND RESPONSIBILITIES
5. PLAN DEVELOPMENT, MAINTENANCE AND DISTRIBUTION
6. CONCURRENCE
7. RECORD OF CHANGES

EMERGENCY CHECKLISTS (PART II)

(Published Separately)

CHECKLIST A: DIRECTION AND CONTROL OPERATIONS

CHECKLIST B: PROTECTIVE ACTIONS

CHECKLIST C: EMERGENCY SUPPORT FUNCTIONS

SUPPORTING DOCUMENTS (PART III)

(Published Separately)

1. NOTIFICATION PHONE LIST
2. TRANSPORTATION ASSETS
3. FACILITY LAYOUT AND ASSEMBLY AREA
4. EVACUATION PLAN MAP TO RELOCATION CENTER
5. COMMUNICATION WITH PARENTS/GUARDIANS
6. PICK-UP AUTHORIZATION
7. SELECTION OF "CLOSEST SHELTER"
8. SELECTION OF INTERIOR SHELTER"
9. EMERGENCY RELOCATION POSTING
10. EMERGENCY KITS AND SUPPLIES.

Basic Emergency Plan

1. PURPOSE

- To provide for the protection of children and staff in the event of a natural, technological, or human imposed emergency or disaster.
- To assure coordination and cooperation with municipal and county government and emergency services.

2. SITUATION AND ASSUMPTIONS

- The (name of facility) is located at (address, town) and normally has (number) children and (number) staff. Normal operating hours for the facility are _____, and _____ on weekends. The facility assumes responsibility for the health and safety of the children attending the facility.
- The facility is located in (name of municipality) whose emergency management agency will be the primary source of governmental assistance during an emergency.
- Assistance during emergencies will be dispatched through the (county name) County 9-1-1 and be coordinated by the (county name) County Emergency Management Agency.
- The facility may be subject to the following natural disasters and emergencies:
 - Natural Disasters (e.g. flood, blizzard, etc.) *Insert the most common:*

 - Technological Disaster (e.g. HAZMAT spill, power outage):

 - Security Emergencies or Disasters: (e.g. domestic violence, intruder):

3. CONCEPT OF OPERATIONS

- General:
 - Direction and Control – The facility director will assume responsibility for emergency actions until the arrival of emergency service personnel.

- The facility director will gather and record information necessary to determine appropriate emergency actions.
- In an emergency, day care staff will focus only on emergency management functions. All personnel and resources will be focused on providing for the safety and well being of children and staff.
- In the absence of the facility director, the following facility person(s) will take charge:
Primary: _____
Secondary: _____
- Regular drills on emergency plans, procedures and duties will be conducted to:
 - Provide training for staff, including substitutes;
 - Orient children on emergency procedures and responsibilities; and
 - Develop skills needed for a real emergency.
- Accountability
 - Children will only be released to adult(s) designated by the parent;
 - In case of an evacuation, attendance will be taken at the assembly area, upon boarding and exiting the emergency transport vehicle(s) and upon the arrival at the relocation facility.

4. ORGANIZATION AND RESPONSIBILITIES

- Day-care facility director will:
 - Be familiar with emergency plans for the municipality (Borough, City, Township and County).
 - Ensure Agreements of Assistance are current with Relocation Facilities and transportation providers (if applicable).
 - Determine a course of action to be taken during an emergency.
 - Maintain this plan in a current and usable state.
 - Notify parents to tune to designated local media for information during the emergency.
 - Ensure that parents are contacted as soon as reasonably possible when an emergency situation arises, so that they are aware of what is happening to their children.
 - Keep the staff aware of the status of the emergency.
 - Determine the number and types of transportation needed if evacuation or relocation is required.
 - Take children's emergency records to the evacuation/relocation site.

- Staff will:
 - Review and assist in keeping plans and checklists current.
 - Maintain supervision of children until they are released to parents or guardians.
 - Perform special assignments as specified in the plan checklists (Part II).
- Parents are requested to:
 - Be familiar with plans and procedures for ensuring safety of the children.
 - Provide the daycare facility with means to contact them in an emergency.
 - Tune to designated local media for information and instructions during an emergency.

5. AUTHORITY AND REFERENCES

(Insert summary of text of DPW bulletin and regulation title/number here)

6. PLAN DEVELOPMENT, MAINTENANCE AND DISTRIBUTION

- The legal entity/ owner/operator of the day care facility is responsible for:
 - The development, execution and maintenance of the emergency plan.
 - Annual review and update of the plan.
- Copies of this plan have been given to the _____ (County) Emergency Management Agency in addition to other related organizations listed in section 7 (below) *(Be sure to include all involved emergency response organizations and any labor organizations representing staff):*

7. **CONCURRENCE WITH OUTSIDE RESOURCES**

We have examined this plan and are aware of requirements.

Date	Organization	Signature	Date Plan Received	Copy Number
	_____(County) Emergency Management Agency i			

NOTE: This table can have as many lines as needed to accommodate the agencies reviewing and concurring. The plan should be coordinated with all outside agencies that will play a role in its implementation (e.g. local government; local emergency services; and relocation facility). Ideally, they will be involved in the planning process. You need one (1) original of this page. Copies of the page can be placed in the distribution copies of the plans.

8. **RECORD OF CHANGES**

Date of Change	Summary of Change	Signature of Person Making Change	Date Change Distributed

This plan supersedes all previously developed emergency plans.

Signature of facility/owner/operator

Date

(Name of Facility)

**Day Care
Emergency
Operations
Plan**

**Part II
Checklists**

Date: _____

CHECKLIST A: DIRECTION AND CONTROL OPERATIONS

With the exception of the “Building Intruder” procedures, the direction and control activities outlined in this annex apply to all emergency situations

Completed or N/A	Item
	Building Intruder/Suspicious Activity
	<i>Time is essential here. All staff and children must immediately take the actions planned. Any staff member who is aware of a potentially dangerous intruder should sound the alarm.</i>
	Intruder Alarm (<i>describe the alarm</i>) given.
	All interior and exterior doors locked and windows closed
	Children moved to shelter in the facility in (<i>list the room where they will be sheltered.</i>).
	9-1-1 notified.
	Parents notified.
	Building searched by police to find intruder.
	Parents notified that the situation is back to normal.
	Considerations for Protective Action Decision
	<i>Evacuation may not be the best decision. Sudden occurrences (explosions, tornadoes, etc.), violent storms/weather conditions, hazardous materials events as well as an armed intruder or suspicious person outside may make sheltering the best choice.</i>
	Information gathered from sources in the facility about the emergency.
	Information gathered from County/Local EMA & Emergency Services about the emergency.
	Re-verify phone call with (<i>local EMA, County 911, etc.</i>)
	Consider: Is there time to evacuate?
	Consider: Is it safe outside?
	Consider: Is there time to send the children home?
	Consider: Are the children’s homes in a danger area?
	Consider: Can the children & staff be safe inside the building?
	Consider: How long will this event last?
	Children whose homes are not in safe areas identified.
	Parent notification.
	Modified Activities
	Cancel all out-of building activities.

	Determine the extent of cancellations and schedule modifications.
	Make provisions to keep those children whose homes are not in a safe area.
	Parental notification of changes made.

CHECKLIST B: PROTECTIVE ACTIONS

*Procedures to accomplish one of four pre-planned protective actions;
immediate shelter, immediate evacuation, shelter in place or evacuation to
relocation facility*

Completed or N/A	Item
	Immediate Shelter
	Alarm sounded.
	Doors to closets and utility spaces designated as shelters unlocked.
	Staff moved their children to the closest shelter areas.
	Outside air intakes for HVAC closed.
	Utilities turned off to avoid fire/explosion (if situation warrants).
	Closed windows, blinds, drapes & doors to block debris from becoming missiles.
	9-1-1 notified.
	Staff take attendance as soon as the immediate hazard passes.
	Parents notified.
	Staff maintains control of the children in his/her group until instructed to move to another location.
	Emergency services arrive on-site and briefed.
	Search of building revealed no hazards.
	"All-Safe" signal (<u> What will the signal be? </u>) sounded.
	Parents notified.that the situation is back to normal.
	Immediate Evacuation
	Alarm Sounded.
	Ensure that the pre-designated assembly area (<u> location </u>) is safe.
	Evacuation monitors posted in hallways and at doors. Name: <u> (list name of staff member) </u> Location: (<u> list location </u>) Name: <u> (list name of staff member) </u> Location: (<u> list location </u>)
	Staff lead children in an orderly fashion out of the building to the designated assembly area.
	Staff take attendance as soon as the children arrive in the assembly area.
	Staff maintain control of their group until instructed to return to classroom, or to another location..
	Building searched to ensure that everyone is out Search Team Members: <u> (list name of staff members) </u> _ _
	9-1-1 notified.
	Emergency services arrived on-site and were briefed.
	Search of building revealed no hazards.
	Parents notified.
	"All-Safe" signal (<u> What will the signal be? </u>) sounded.
	Emergency services briefed regarding final status.
	Parents notified.that the situation is back to normal.

Completed or N/A	Shelter in Place
	Ensure that designated shelter areas are ready to receive and shelter children and staff.
	Take attendance to establish accountability for all children and staff.
	Remain in place and await further instructions from designated staff person.
	Notify 9-1-1.
	Staff move their group to the pre-designated shelter areas.
	Staff maintain control of their group until instructed to move to another location.
	Close windows, blinds, drapes & doors to impede debris from becoming missiles.
	Close air intakes for HVAC.
	Reduce all other sources of external air.
	Staff take attendance as soon as they arrive in the shelter area.
	Parents notified.
	Time permitting, place food and beverages in closed containers.
	Emergency services arrive on-site and briefed.
	Provide meals to sheltered children and staff if the duration of the emergency warrants.
	Search of building revealed no hazards.
	"All-Safe" signal (<u> <i>What will the signal be?</i> </u>) sounded.
	Parents notified.that the situation is back to normal.
	Evacuation to a Relocation Facility
	Relocation Facility (<u> name </u> , <u> phone # </u>) notified.
	Take attendance for accountability and to determine exact number of transport seats needed.
	Transportation arrives at the facility .
	County EMA (ph # _____) notified of shortage in transportation resources.
	Each driver given a map to Relocation Facility in case vehicles get separated. <i>(Attach appropriate maps to this checklist.)</i>
	9-1-1 notified.
	Transportation departs for Relocation Facility.
	Post "Notice of Relocation".
	Parents notified of the relocation of children.
	Children arrive at Relocation Facility & move to areas designated for their use.
	Staff retain supervision and accountability for all children.
	Attendance taken and numbers reported to designated staff person.
	Parents notified.that they can come and pick up their children..

CHECKLIST C: EMERGENCY SUPPORT FUNCTIONS

Procedures to accomplish functions required to support emergency action

Completed or N/A	Item
	Building Security
	Facilities locked with only one entry/exit point.
	Checkpoints staffed to ensure there are no intruders (see diagram).
	Communications
	Use commercial telephone (primary means of communication)..
	Make backup communication system available (cell phones).
	Sound appropriate alarm for Protective Action decided (evacuate immediately, standby or shelter).
	Establish contact with shelter facility as soon as evacuation is considered.
	Medical Emergencies
	Render first aid as needed/feasible..
	Brief Ambulance/EMS personnel when they arrive.
	Medical Procedures
	Review list of special needs children.
	Ensure individual staff are with special needs children.
	Take all medication to be moved if children relocate.
	Take first aid supplies to accompany the children.
	Examine all children/staff for injuries after emergency has passed.
	Establish and maintain log of any medication administered.
	Public Utilities
	Shut off Electricity manually.
	Shut off Water manually.
	Shut off Gas manually.
	Important Records
	Take emergency contact information and parental permissions, etc to relocation site.
	Take business records (license, employee training, lease, etc.).
	Recovery
	Develop a plan based on damage survey to clean up the center and make it safe for reoccupation.

	Begin clean-up and repair; document costs.
--	--

(Name of Facility)

**Day Care
Emergency
Operations
Plan**

**Part III
Supporting Documents**

Date: _____

ATTACHMENT 1 – NOTIFICATION PHONE LIST

NAME/CENTER/OFFICE/AGENCY	TELEPHONE #
Facility Director	(O) (H)
Facility Staff Roster	(O) (H)
County Emergency Services	
Municipal Emergency Services	
Day Care Center Relocation Facility	
Facility Transportation Provider(s)	(O) (H)
Parent/Guardian Roster	

ATTACHMENT 2 – TRANSPORTATION ASSETS

If it becomes necessary to relocate the children to a safer location, the following transportation will be used.

Number of children/staff who will need to be moved _____

Amount of supplies/records that will need to be moved _____

Vehicles that will be used.

- Owner _____ Type of vehicle _____
Driver _____ # of passengers (including driver) _____
Normal location of vehicle _____
Means of contacting owner _____
- Owner _____ Type of vehicle _____
Driver _____ # of passengers (including driver) _____
Normal location of vehicle _____
Means of contacting owner _____
- Owner _____ Type of vehicle _____
Driver _____ # of passengers (including driver) _____
Normal location of vehicle _____
Means of contacting owner _____
- Owner _____ Type of vehicle _____
Driver _____ # of passengers (including driver) _____
Normal location of vehicle _____
Means of contacting owner _____

ATTACHMENT 3 – FACILITY LAYOUT AND ASSEMBLY AREA

(Provide sketch and identify shelter areas and staffed checkpoints.)

ATTACHMENT 4 – EVACUATION PLAN MAP TO RELOCATION CENTER

**DRAWING OF EVACUATION ROUTE FROM _____ DAY CARE FACILITY,
_____, _____ COUNTY TO _____,
_____, COUNTY**

(Provide sketch or map from day care to relocation center)

ATTACHMENT 5 – COMMUNICATIONS WITH PARENTS/GUARDIANS

Parents and guardians need to be informed of provisions in the Emergency Operations Plan. This letter will provide the information that they need. A copy of this letter should be given to parents of newly enrolled children, and at least once per year to all parents.

Insert your own wording here or use this suggested script.

To the Parent (s)/Guardian (s) of **(child's name)**:

This letter is to assure you of our concern for the safety and welfare of children attending **(insert name of day care facility)**. Our Emergency Operations Plan provides for response to all types of emergencies. Depending on the circumstance of the emergency, we will use one of the following protective actions:

- *Immediate evacuation* Students are evacuated to a safe area on the grounds of the facility in the event of a fire, etc.
- *In-place sheltering* Sudden occurrences, weather or hazardous materials related, may dictate that taking cover inside the building is the best immediate response.
- *Evacuation* Total evacuation of the facility may become necessary if there is a danger in the area. In this case, children will be taken to Relocation Facility at **(insert name of relocation facility)**.
- *Modified Operation*, May include cancellation/postponement or rescheduling of normal activities. These actions are normally taken in case of a winter storm or building problems that make it unsafe for students (such as utility disruptions,) but may be necessary in a variety of situations.

Please listen to **(list your local radio/television stations here)** for announcements relating any of the emergency actions listed above.

We ask that you not call during the emergency. This will keep the main line telephone free to make emergency calls and relay information. We will call you to let you know that we've taken one of these protective actions. We will also call you when we've resolved the situation and it's safe for you to pick up your child.

The facility director may provide an alternate phone number (i.e. cell phone number, etc.) to call in an emergency event.

The form designating persons to pick up your child is included with this letter for you to complete and have returned to the day care center no later than **(insert reasonable response time here)**. This form will be used every time your child is released. Please ensure that only those persons you list on the form attempt to pick up your child.

I specifically urge you **not** to attempt to make different arrangements during an emergency. This will only create additional confusion and divert staff from their assigned emergency duties.

In order to assure the safety of your children and our staff, I ask your understanding and cooperation. Should you have additional questions regarding our emergency operating procedures contact **(name of individual designated to handle inquiries and their telephone number/extension).**

Sincerely,

(Title)

ATTACHMENT 6 – CHILD PICK-UP AUTHORIZATION

I, _____, authorize **(facility name)** to release my child(ren) to the person(s) designated . This is in consonance with the **(facility name)** Emergency Operations Plan.

**Student's
Name**

**Designated Custodian (s)
Name & Relationship**

Your Signature

Relationship

Date

Print Name

Address

Address

(Home Phone)

(Work)

(Cell)

*NOTE: Parents and guardians should designate themselves as designated custodians. Friends, neighbors and other relatives may also be designated.
PLEASE PRINT CLEARLY.*

ATTACHMENT 7 – SELECTION OF “CLOSEST SHELTER”

If it is unsafe for the occupants of the facility to go outside, provisions should be made to provide “protected spaces” inside. Depending on time available, staff should move their groups of children to the "closest shelter" inside the facility.

These spaces should:

- Be in the interior of the building, away from glass that may shatter.
- Not be in rooms with large ceiling spans (like gymnasiums or auditoriums) that may fall if subjected to shaking from an earthquake or tornado.
- Have furniture and wall-hangings secured so that they will not fall onto occupants.

Suggestions are:

- Interior halls,
- Rest rooms, closets or other small areas
- If hallways are not suitable, use the inside wall of a room.

Have everyone sit facing the wall, protecting their head and face with their arms against the wall.

ATTACHMENT 8 – SELECTION OF INTERIOR SHELTER

If it is unsafe for the occupants of the facility to go outside, and there is time to move to the best available shelter, provisions should be made to provide “protected spaces” inside the facility.

These spaces should:

- Be in the interior of the building, away from glass that may shatter.
- Not be in rooms with large ceiling spans (like gymnasiums or auditoriums) that may fall if subjected to shaking from an earthquake or tornado.
- Have furniture and wall hangings secured so that they will not fall onto occupants.

Suggestions on where to find these “protected spaces” are:

- In multi-story facilities.
 - Use identified shelters or basements.
 - Use first floor interior halls.
 - Use rest rooms or other enclosed small areas away from large glassed-in areas or large open rooms.
- In one-story facilities.
 - Use identified shelters.
 - Use basements and interior hallways.
 - Use rest rooms or other areas away from large glassed-in areas or open rooms.

If hallways are not suitable, use the inside wall of a room on the opposite side of the corridor from which the storm is approaching.

In either one or multi-story facilities rest rooms are usually suitable, especially if the room is centrally located.

ATTACHMENT 9 - NOTICE OF RELOCATION POSTING

**DAY CARE CENTER
CHILDREN AND STAFF
HAVE
RELOCATED TO**

(Facility Name)

NOTE: The facility is located at _____

ATTACHMENT 10 – EMERGENCY KITS AND SUPPLIES

This list contains the **minimum** items you should have in your center in case of an emergency.

Center Emergency Kit

(Should be packed in a backpack or other container that is mobile in the event of an evacuation and be located in a central and easily accessible location.)

- Copies of all contact lists
 - *For families **and** staff, include the name, phone number, and e-mail as well as information for someone preferably out-of-state, at least out of the immediate area*
 - *Phones numbers and e-mails for your Sponsor Liaison and/or immediate Supervisor*
- Flashlights with extra batteries
 - *Long-life, emergency flashlights*
- Battery-operated radio and extra batteries
 - *AM/FM, weather band/TV band*
- Manual can-opener
- First Aid Kit
 - *Add gloves and Kleenex*
- Notepad and pens/pencils
- Scissors
- Hand-Sanitizer and cleansing agent/disinfectant
- Whistle
- Disposable Cups
- Wet Wipes

In the Center in General

- Charged cell phone
- One gallon of water for every four children and staff
- Disposable cups
- Non-perishable food items like soft granola bars, cereal, cheese and crackers, cans of fruit, and special infant items, etc. – should be nut-free in case of allergies
- Extra supplies of critical medication such as insulin, epi-pens, etc. for children and staff

Each Child Should Have:

- A change of seasonally appropriate clothing
- A blanket
- Extra diapers (one-day supply as space allows)
- Extra formula (one-day supply as space allows)

.....

Location of Emergency Kits: _____

Locations of Additional Emergency Supplies: _____

Location of Cell Phone: _____

Enclosure 7

Letter to Petitioners

(ML060930234)

XXX YY, 2006

Lawrence T. Christian
133 Pleasant View Terrace
New Cumberland, Pennsylvania 17070

Dear Mr. Christian:

The purpose of this letter is to inform you that the Nuclear Regulatory Commission (NRC) is re-publishing its December 19, 2005, notice denying your September 4, 2002, petition for rulemaking. We are re-publishing our notice to correct errors and clarify the NRC's regulatory position. The petition was docketed by the Nuclear Regulatory Commission (NRC) on September 23, 2002, and has been assigned Docket No. PRM-50-79. The petition requested that the NRC amend its regulations regarding offsite emergency plans for nuclear power plants to ensure that all daycare centers and nursery schools in the Emergency Planning Zone (EPZ) of nuclear power facilities are properly protected in the event of a radiological emergency.

The petition was published in the Federal Register on November 1, 2002, for a 75-day public comment period. The NRC received 56 public comment letters relating to this petition. Twenty-three letters supported granting the petition (mostly from citizens, including three letters with 410 signatures), while 30 letters requested that the petition be denied. Those letters that supported denial of the petition were mostly from state and local governmental agencies, the Federal Emergency Management Agency (FEMA), and NRC licensees.

The Commission denied your petition for rulemaking because current requirements and guidance, along with state and local government established emergency plans provide reasonable assurance of adequate protection of all members of the public, including daycare centers and nursery schools, in the event of a nuclear power plant incident.

However, your petition raised questions about implementation and compliance with relevant requirements and guidelines that were previously determined to be adequate. The Commission considered your petition as identifying potential implementation problems with the current requirements and guidelines in your state and local area. Accordingly, the NRC staff met with FEMA to discuss these issues and your petition was forwarded to FEMA for investigation.¹

¹ FEMA evaluated a May 3, 2005 Emergency Planning exercise at TMI. NRC understands that during this exercise FEMA reviewed aspects of emergency planning involving nurseries and daycare centers. No deficiencies were identified by FEMA during the exercise. FEMA's final report on the exercise was issued on August 4, 2005.

The Commission's emergency planning regulations for nuclear power reactors are contained in 10 CFR Part 50, specifically § 50.33(g), 50.47, 50.54 and Appendix E. As stated in 10 CFR 50.47(a)(1), in order to issue an initial operating license, the NRC must make a finding "that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency" to protect the public health and safety. An acceptable way of meeting the NRC's emergency planning requirements is contained in Regulatory Guide (RG) 1.101, Rev. 4, "Emergency Planning and Preparedness for Nuclear Power Reactors" (ADAMS Accession No. ML032020276). This guidance document endorses NUREG-0654/FEMA-REP-1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" (ML040420012; Addenda: ML021050240), an NRC and FEMA joint guidance document intended to provide nuclear facility operators and federal, state, and local government agencies with acceptance criteria and guidance on the creation and review of radiological emergency plans. Together, RG 1.101, Rev. 4, and NUREG-0654, Rev. 1, provide guidance to licensees and applicants on methods acceptable to the NRC staff for complying with the Commission's regulations for emergency response plans and preparedness at nuclear power reactors.

Emergency plans for all nuclear power reactors are required under Part 50, as amplified by NUREG-0654/FEMA-REP-1 and applicable FEMA guidance documents, to have specific provisions for all "special facility populations," which refers not only to pre-schools, nursery schools, and daycare centers, but all kindergarten through twelfth grade (K-12) students, nursing homes, group homes for physically or mentally challenged individuals and those who are mobility challenged, as well as those in correctional facilities. FEMA GM 24, "Radiological Emergency Preparedness for Handicapped Persons," dated April 5, 1984, and GM EV-2, "Protective Actions for School Children," dated November 13, 1986, provide further guidance. These specific plans should, at a minimum: (1) identify the population of such facilities; (2) determine and provide protective actions for these populations; (3) establish and maintain notification methods for these facilities; and (4) determine and provide for transportation and relocation.

State and local Emergency Operations Plans and procedures are initially and periodically evaluated by FEMA. The plans are tested in a biennial emergency preparedness exercise conducted for each nuclear power station. If plans or procedures are found to be inadequate, they must be corrected.

The NRC emergency preparedness regulations are predicated on State and local governments that participate in emergency planning assuming overall responsibility for ensuring the performance of off-site planning and preparedness activities. This assignment is appropriate since State and local governments have responsibility for public health and safety, and the authority to take actions to protect the public during an emergency. A radiological emergency is but one of the hazards for which a State and its local government entities may prepare. All emergency response is local; the planning for that response must similarly reflect local capabilities, constraints, organizational relationships, statutes, regulations, and ordinances. As such, the NRC's regulations allow the flexibility for State or local governments to task other entities, such as but not limited to, daycare facilities, with emergency preparedness activities and obligations responsive to the applicable planning standards of 10 CFR 50.47(b). The overall responsibility for demonstrating, with reasonable assurance, that adequate protective measures can and will be taken to protect the public in the event of a radiological emergency, remains with the participating State and local governments.

-3-

The Commission believes that current emergency planning requirements provide reasonable assurance of adequate protection of all members of the public, including children in nursery schools and daycare centers. Further details are discussed in the enclosed re-issued notice of Denial of Petition for Rulemaking, which will be published in the Federal Register.

Sincerely,

Annette L. Vietti-Cook

Enclosure:
Federal Register Notice of
Petition for Rulemaking

cc: Eric J. Epstein

From: "Fiore, Craig" <Craig.Fiore@dhs.gov>
To: "Tim McGinty" <TJM1@nrc.gov>
Date: 4/12/06 12:42PM
Subject: RE: Request: DHS/FEMA response on Daycare Commission Paper

Tim, it is the proposed re-write below that is still giving me some pause for concern:

"As such, the staff considers that the potential implementation questions discussed in the SRM have been adequately resolved for the present. Nonetheless, in the interest of maintaining the current level of preparedness, the staff plans to continue to work with DHS to consider necessary program changes that will ensure that the preparedness for this segment of the population is appropriately evaluated on a periodic basis."

I'd recommend something like:

"As such, the staff considers that the potential implementation questions discussed in the SRM have been adequately resolved. However, the staff will continue to coordinate with DHS to maintain the current level of preparedness, and we will jointly remain open to the possibilities of potential offsite EP revisions and enhancements to ensure that the continued preparedness for this segment of the population is maintained."

Please let me know your thoughts.

Craig

-----Original Message-----

From: Tim McGinty [mailto:TJM1@nrc.gov]
Sent: Wednesday, April 12, 2006 10:50 AM
To: Fiore, Craig; Prosanta Chowdhury
Cc: Quinn, Vanessa; Anthony McMurtry; Nader Mamish; Steve LaVie
Subject: Request: DHS/FEMA response on Daycare Commission Paper

Craig: I'm preparing to brief Roy Zimmerman on the daycare paper later today. It would be helpful if I can characterize for Roy that as a result of DHS/FEMA review and teleconference, that we have been responsive to your comments and concerns and that DHS/FEMA does not have any objections to the paper.

Note that rather than DHS/FEMA concurrence, we plan on noting in the paper that DHS/FEMA reviewed and commented on the paper and responded via e-mail that we would place in ADAMS. It is that e-mail from DHS/FEMA that we are looking for.

Our commitments are to provide the paper to Roy Zimmerman tomorrow (13th), and then on to our EDO on Monday. Thanks for your assistance in this regard.

Tim McGinty, (301) 415-1501

CC: "Quinn, Vanessa" <Vanessa.Quinn@dhs.gov>

Mail Envelope Properties (443D2DCA.B9C : 6 : 19356)

Subject: RE: Request: DHS/FEMA response on Daycare Commission Paper
Creation Date: 4/12/06 12:40PM
From: "Fiore, Craig" <Craig.Fiore@dhs.gov>

Created By: Craig.Fiore@dhs.gov

Recipients

nrc.gov

TWGWPO01.HQGWDO01

TJM1 (Tim McGinty)

dhs.gov

Vanessa.Quinn CC (Vanessa Quinn)

Post Office

TWGWPO01.HQGWDO01

Route

nrc.gov

dhs.gov

Files

MESSAGE

Mime.322

Size

2034

4008

Date & Time

04/12/06 12:40PM

Options

Expiration Date:

None

Priority:

Standard

Reply Requested:

No

Return Notification:

None

Concealed Subject:

No

Security:

Standard