

STATE OF NEBRASKA

17



Mike Johanns
Governor

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DOCKETED
USNRC

December 20, 2002

December 31, 2002 (12:15PM)

Secretary
Attention: Rulemakings and Adjudications Staff
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555-0001

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Subject: Comments on Petition for Rulemaking, Docket No. PRM-50-79

Dear Sir or Madam:

The State of Nebraska has reviewed the petition for NRC rulemaking – Emergency Planning for Daycare Centers and Nursery Schools and provides the following comments to address the petitioner's interest, request, and justification regarding the emergency planning and the stockpiling of potassium iodine for Daycare Centers and Nursery Schools. For purposes of this document, the State of Nebraska will also give support of their position with information taken from NUREG-O654, FEMA-REP-1.

1. As reflected in Federal Register Volume 67, No. 212, Friday, November 1, 2000 Proposed Rules on page 66589, Mr. Christian conducted an informal survey of local Daycare Centers and Nursery School directors and found they have no idea what to do in any emergency, let alone a radiological emergency. Mr. Christian also contacted the local county board and emergency management agency and was informed that State law did not require Daycare Centers or Nursery Schools to plan for radiological emergencies. Mr. Christian was informed by the municipal government to have his daughter's Daycare Center work with the local nuclear power station to develop emergency plans. However, the Daycare Center director said 30 days after contacting the power station, no response had been received. The information listed in the Federal Register does not indicate how many Daycare Centers are in the EPZ, not does it list where they are located. Each state, by law, has certain rules and requirements to regulate the safety of Daycare Centers and Nursery Schools. If the Daycare Center where Mr. Christian's daughter attends has not complied with the regulations of the state, it is not the responsibility of the Radiological Emergency Preparedness community to impose those regulations. Also, if the importance of the emergency planning were so great, why did the Daycare Center director not follow up with the nuclear power plant? Is it possible that the nuclear power station was in an outage or that the emergency planning department was not notified through proper channels? It would seem that the Daycare Center director had responsibility to follow up with her request.

2. Nowhere does the petition state that the local or county authorities have jurisdiction over Daycare Centers or Nursery Schools. In fact, the York County's Department of Emergency Services indicated that Pennsylvania State Law did not require licensed Daycare Centers and Nursery Schools to plan for radiological emergencies and did not have authority to mandate such planning. If Mr. Christian felt regulations should be imposed, it is his responsibility to contact his state Governor's Office or Legislature to introduce a bill and work through the system that way. The State of Nebraska has certain regulations governing their Daycare Centers and Nursery Schools, but any changes or additions to those regulations must go through the proper government process; not through the federal government to try to impose rules that the federal agency has no authority over.
3. Nowhere does the petition assert that Mr. Christian contacted or attempted to contact any state agency, specifically the state emergency management agency or the state agency with regulatory authority of licensing and inspecting Daycare Centers and Nursery Schools, to express the concerns delineated in the petition. According to requirements in NUREG-0654, pp. 19-20, "A variety of local government jurisdictions may be found within the 10-mile plume exposure pathway Emergency Planning Zone (EPZ). In some situations several county-level governments and municipal or township governments will have jurisdictional authority within the EPZ and these separate governmental entities will control their own emergency response organizations and resources." The reasoning behind this requirement would be that the "state government resources may be too far away from the involved local jurisdictions" to be of much immediate help for a plume exposure problems in the early hours of an accident. The local emergency management agency should be used not only for response, but also as a point of contact for training and planning assistance.
4. Before the Federal Government, i.e., the Nuclear Regulatory Commission (NRC) seriously considers changing current rules, it should reply to Mr. Christian that he has not exhausted all efforts to seek satisfaction from governmental agencies within his own state and must do so before Federal rules affecting all 50 states and U.S. territories are changed. Each state regulates the status of Daycare Centers and Nursery Schools and each state defines differently what constitutes Daycare Centers. With such variations in definitions as to what comprises a day care center, federal rules could create more problems than would be solved. It should be understood by Mr. Christian that he has a responsibility to check with his state regarding the regulations and work through that process to impose stricter rules.
5. Designated Relocation Centers. As already shown, many changes sought in Mr. Christian's petition are already covered by Federal rules or are the providence of the States, not the Federal Government. For instance, the establishment of designated relocation centers is already covered in Federal regulations. Although not specifically for Daycare Center and Nursery School children, they are established for the general public, including public and private schools affected by a nuclear power station emergency and are listed in the public information brochures.

6. Transportation and Child Safety Seats: Each state's regulations provide for the choice of transporting children or not. If Daycare Centers and Nursery Schools choose not to transport for any natural or technical disaster, it is important for the Daycare Center and Nursery School staffs to be trained and fully aware of what is expected to protect the children in the event an evacuation is needed. Why is it necessary to task the Radiological Emergency Preparedness community with a responsibility that should fall on the shoulders of the Daycare Centers and Nursery Schools that are private businesses? The staff may ask for technical assistance, but the ultimate accountability rests with the Daycare Centers and Nursery Schools which have assumed the responsibility for the children in their care. Further, if the Daycare Centers and Nursery Schools elected not to transport, the petitioner seems to imply that the nuclear power stations should foot the bill for vans and safety restraints for all children involved. This seems to reach above and beyond what is required by the nuclear power stations for off-site planning.
7. Creation and Maintenance of Working Rosters for emergency drivers: NUREG-0654 states that not only should plans identify the state, local, federal and private sector organizations that are part of the overall response, but also, specify functions, titles and responsibilities of those in the organization. The areas requiring this include Command and Control, Alerting and Notification, Communications, Public Information, Social Services, *Transportation*, and many others. The State of Nebraska maintains a list of drivers for the evacuation of the 10-mile EPZ through the schools transportation office. Perhaps Mr. Christian could do further investigation to see if such a list exists in his area and what organizations will provide emergency transportation, if needed.
8. Notification of Emergency Management Officials of Institution Radiological Plans. It appears Mr. Christian has exposed shortcomings in a couple of local Daycare Centers and Nursery Schools as they should have all-hazards emergency plans already in existence for their employees and patrons and not just for radiological emergencies. A more proactive role to facilitate educating the local Daycare Center and Nursery School directors as to the natural and technical hazards their facilities might be exposed to might have been taken by the county emergency management agency but jurisdictional conflicts may have prevented that. The State of Nebraska would pose the question to the Daycare Centers and Nursery Schools: Why do you not know how to evacuate? If you were face with the situation of a flood, tornado or hazardous materials situation, how would you protect the health and safety of the children put in your charge? The responsibility for emergency planning, as a whole, should not fall to the Radiological Emergency Preparedness community, but rather should be a cooperative effort between the local and state emergency management agencies to assist Daycare Centers and Nursery Schools to achieve the best emergency planning which meshes with local and state plans.
9. Annual inspections of Daycare Centers and Nursery Schools by EM Agencies: Emergency management agencies are engaged in the daily needs of their areas, but have no authority or the qualifications to inspect Daycare Centers or Nursery Schools. While states regulate Daycare Centers and Nursery Schools, it is the legislatively charged agency's responsibility to inspect and determine if Daycare Centers and Nursery Schools can adequately protect the children they have assumed responsibility for. The State of Nebraska would ask: If these inspections were to become a

requirement, who would determine the qualifications of the emergency management agency inspectors? How would the accredited emergency management agency inspectors receive training? How would their authority be reviewed? Who would pay for these inspectors and their training? In addition, there most likely would be a jurisdictional problem between emergency management agencies doing this and the agencies within the states legislatively charged with regulating Daycare Centers and Nursery Schools.

10. Exercising: The planning standard of NUREG-0654 states the following: "Periodic exercises are (will be) conducted to evaluate major portions of emergency response capabilities, periodic drills are (will be) conducted to develop and maintain key skills, and deficiencies identified as a result of exercises or drills are (will be) corrected." If Daycare Centers and Nursery Schools would like to participate in exercises or drills, they only have to contact the local or state emergency management agency. The Daycare Centers and Nursery Schools could practice evacuating at either the Alert or Site Area Emergency level, but would have to work out details with the necessary agencies. Since Daycare Centers and Nursery Schools are treated as the general public, they would hear the sirens and know, if they have reviewed the emergency planning brochure distributed annually by the nuclear power stations, that they should be tuning into the designated EAS station for further information and proceed as needed.
11. Creation of ID Cards: While this seems to make sense on paper, but the logistics of this pose many problems. The State of Nebraska agrees with the Petitioners that children under the age of three have no effective way of identifying their parents other than "Mommy or Daddy", but it is the parents of those children that are paying the Daycare Centers and Nursery Schools to keep track of their children. It is the responsibility of the Daycare Center and Nursery School staffs to know each child and their parents. If the Daycare Centers and Nursery Schools are following state rules for child/provider ratio, each provider should be well aware of what child is that provider's responsibility. The State of Nebraska would ask again: Why should this responsibility fall on the Radiological Emergency Preparedness community? If the Daycare Centers and Nursery Schools are not presently tracking the children in their care, they are failing in their overall responsibility.
12. Education material for parents: NUREG-0654 already require the licensee, state and local organizations establish a system for disseminating public information regarding "educational information on radiation, contact for additional information, protective measures, e.g. evacuation routes and relocation centers, sheltering, respiratory protection, radioprotective drugs, and special needs for the handicapped." All of this information is sent annually to Daycare Centers and Nursery Schools located within the 10-mile EPZ. This information is readily available for Mr. Christian, though we now understand that he does not reside within the 10-mile EPZ. If Mr. Christian would contact the state or local emergency management agencies, he would receive the information at no charge.
13. Stockpiling of KI: The NRC has already stated that it is a state decision whether to stockpile KI for the general public remains within the providence of the states. While some states have elected to stockpile potassium iodide (KI) for the general public, the State of Nebraska, after conducting a review of its plans and due consideration, has

decided that it will not stockpile KI for the general public. Mr. Christian seems to endorse the idea that he'd want his 4-year-old daughter and other children dosed at the day care center with a medicine that is stockpiled in pill form and which would require most likely someone other than a pharmacist to provide the correct dosage by breaking the pill down. The dosing of children is a problem until an oral solution is available and, even then, the probability of an allergic reaction is unknown. In addition, after review of policies regarding medicines, prescription or other, Daycare Centers and Nursery Schools may not choose to distribute medicines. The liability on this issue remains high for any organization that would choose to distribute KI. Ultimately, the State of Nebraska maintains the position of evacuation before a release to safeguard the health and safety of our public.

14. Radiological Training: Daycare Centers and Nursery Schools may request any training they feel is necessary for their staff from their state or local emergency management agencies already. However, if Daycare Centers and Nursery Schools are evacuated before a release, the State of Nebraska is confused as to what training they would need. This issue may be resolved simply by having the Daycare Centers and Nursery School staffs review the emergency public information brochure that is distributed annually by the nuclear power stations.
15. Listing of Reception Centers in Telephone Books: It is up to the individual nuclear power stations, state and local emergency management agencies to work out the details of how they distribute the planning information. This does not need to be reflected in an NRC rulemaking attempt. It is currently required in NUREG-0654, pp. 49-51.
16. Establish toll free numbers: NUREG-0654 requires that each principal organization should designate points of contact and physical locations for media, the licensee should provide space for use by the media, a spokesperson is designated to convey pertinent information, a timely exchange of information by the spokesperson, and coordinated arrangements for dealing with rumors. Most states have provisions for setting up a toll-free number for information for public use.
17. Creation of Written Scripts for Emergency Public Broadcast: Each state and local organization is responsible for broadcasting public information concerning any event at a nuclear power station. NUREG-0654 has a requirement that "state and local government organizations shall establish a system for disseminating to the public appropriate information contained in initial and follow up messages received from the licensee including the appropriate notification to appropriate broadcast media, e.g. the Emergency Broadcast System (EBS). The State of Nebraska is well aware of the changes in the Emergency Alert System and it's limitations. However, it is still the responsibility of the state and local agencies to notify and inform the general public via emergency public information messages. Additional specific messages for Daycare Centers and Nursery Schools would clog up the system and may confuse the general public.

If Mr. Christian's petition is meant specifically for daycare center and Nursery School children, it is totally out of the realm of realism to comply with all his requests and would tax every local emergency management jurisdiction at the sacrifice of all other concerns to find specific relocation facilities, train and man them with volunteers, ensure each and every daycare

center, large and small has the resources it needs to transport in the event of an evacuation, verify driver and back-up driver rosters, conducting annual site inspections, ensure each and every Daycare Center and Nursery School participates in nuclear power station exercises to determine these facilities state of readiness, stockpiling and issuing KI, etc. It should be remembered that many local and state emergency management agencies are small agencies with many local agencies being manned by one full-time director and in several cases, by part-time directors.

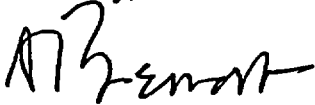
Most Daycare Centers and Nursery Schools are private businesses. As with any private business, it is the responsibility of each private business to provide for the health and safety of its employees and the general public whose patronage the business depends upon. It is not the responsibility of the government to conduct detailed planning and work out evacuation procedures for businesses, but rather, the Daycare Centers and Nursery Schools responsibility to work with any agency they feel can help them in their emergency planning.

Mr. Christian has not taken the time to think this through. Many Daycare Centers are one or two person businesses. Implementing the petitioner's request would force many out of these facilities out of business at a time when there is a shortage of daycare and Nursery Schools.

As with other states, Nebraska's position on the Petition for NRC Rulemaking-Emergency Planning for Daycare Centers and Nursery Schools is that this petition should be disregarded in its entirety. Nebraska believes that the petitioner's request exceeds what is reasonable and necessary emergency preparedness. Nebraska's Radiological Emergency Preparedness plans effectively protect the health and safety of all Nebraskans.

The State of Nebraska appreciates the Nuclear Regulatory Commission reviewing of our comments and would trust they will give each response to this petition careful consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Berndt", with a stylized flourish at the end.

Al Berndt
Assistant Director
Nebraska Emergency Management Agency