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STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING



COL. STEPHEN D. MADDEN
DIRECTOR

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Attention: Rulemakings and Adjudications Staff

On November 1, 2002 (67 FR 66588), the Nuclear Regulatory Commission (NRC) published for public comment a notice of receipt of a petition for rulemaking, dated September 4, 2002, which was filed by Lawrence T. Christian, et al. Following are comments from the State of Michigan:

The petition erroneously states that there is no Federal Emergency Management Agency (FEMA) guidance on day care centers.

FEMA's GM-2 states that "REP planning should be undertaken for all licensed and government supported day care centers located within the plume exposure pathway EPZ..." Further, on March 5, 1993, FEMA issued a correspondence from Craig Wingo titled "Response to Request for Policy Clarification on Radiological Emergency Planning for Day Care Centers" in which FEMA concludes "... day care centers which are either unlicensed or "exempt" from licensure by State law are not currently subject to planning requirements..." "However, we strongly recommend that planning be provided for any unlicensed or "exempt" day care center with 10 or more children..."

The data gathered to develop the petition is fatally flawed.

The petitioners "conducted an informal survey of local day care centers, and learned that most of them do not know what to do in case of a radiological emergency." The petition then identifies seven very specific "inadequacies." The difficulties associated with crafting a valid survey to obtain objective results are well-established. The petition does not provide any inkling as to how many or which facilities were contacted, how the questions were framed, or even if the facilities contacted were within the Three Mile Island 10-mile EPZ or the Commonwealth of Pennsylvania. Unscientific, anecdotal information cannot provide the basis for new regulation.

The State of Michigan has developed appropriate plans to deal with day care centers, as have most other states. There is no need for further regulation.

The regulation of day care operations in Michigan is divided into two distinct areas, licensed day care and registered day care. Each licensed facility is granted a two year license and is subject to annual inspection while each registered facility is granted a 3-year certificate and receives an initial on-site inspection; further inspections are random at a rate of 10% per year or may be initiated by complaint. Emergency plans are required for all licensed and registered facilities.

Two additional criteria are used to differentiate between licensed and registered facilities, the type of facility and the number of children it serves. The chart below illustrates these differences:

Facility	Location	How Regulated	Number of Children
Child Care Center	Facility Other than Private Residence	Licensed	1 or More
Group Day Care Home	Private Residence	Licensed	7 Minimum – 12 Maximum
Family Day Care Home	Private Residence	Registered	1 Minimum – 6 Maximum

As this chart indicates, any person in Michigan taking care of a child in their home who is not related should be registered. However, we realistically understand that in practice many people are ignorant of, or choose to circumvent the law. Therefore, any attempt to create and maintain a credible and usable listing of Family Day Care Homes is not possible. Because of this volatility and the inherent inaccuracies in any list of registered Family Day Care Homes, it has become clear that the only prudent and sensible approach is to treat Family Day Care Homes and the children therein as part of the general population during a nuclear power plant accident evacuation. Children in Group Day Care Homes and Child Care Centers have always been considered to be part of the same process as students attending public or private schools within the EPZ. Day care center evacuation in Michigan for power plant accidents is adequately addressed. There is no need for additional regulation by the federal government.

The petitioners should channel their efforts in a more appropriate direction.

The petition refers to a "regulatory deficiency" on the day care center issue. The deficiency is on the part of the petitioners who have failed to identify applicable federal regulatory documents. The FEMA documents cited previously direct state and local governments on addressing day care center evacuation while acknowledging the inherent problems associated with identifying and tracking every day care center, irrespective of size or composition. The petitioners should work with their state and local emergency managers to resolve their issues. If judged appropriate, Pennsylvania state and local jurisdictions can adopt the fourteen new requirements for addressing their day care centers. These new requirements are not needed to protect the health and safety of day care center population around Michigan nuclear power plants.

Emergency management in the State of Michigan is based on an all-hazards approach. It is difficult to understand why the petitioners choose to focus their concern on nuclear power plants while ignoring risks posed by other, more common hazards. Evacuation of day care centers has occurred in the past and will occur in the future. If the concern is genuinely related to the health and safety of the day care center population, perhaps the petitioners should focus their efforts on implementing these fourteen new requirements in Pennsylvania state law to address all evacuations, not just those resulting from a nuclear power plant accident.

The State of Michigan recommends that the petition for rulemaking be rejected.

The petition erroneously states that there is no FEMA guidance on day care centers. Further, the data gathered to develop the petition is fatally flawed. The State of Michigan has developed appropriate plans to deal with day care centers based on extant guidance, as have most other states. There is no need for further regulation.

Sincerely,



JOHN ORT, CAPTAIN

Deputy State Director of Emergency Management

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