

Date: 2/22/05

Director Roy P. Zimmerman

Chairman Nils J Diaz, Ph.D.
Commissioner Edward McGaffigan, Jr.
Commissioner Jeffrey S. Merrifield
U.S. Nuclear Regulatory Commission
Washington, D.C., 20555-0001

Dear Commission Members:

On December 29, 2004 I sent a formal request to the Commissioners asking for an immediate determination that the Commonwealth of Pennsylvania was in violation of its Nuclear Power Licenses because Pennsylvania has not been properly including preschool children in its' Radiological Emergency Response Plans. The Nuclear Regulatory Commission should immediately find that the state of emergency preparedness in Pennsylvania does not provide "reasonable assurance" and that adequate protective measures can not be taken in the event of a radiological emergency.

I also attached letters from several Pennsylvania Government Officials. These letters gave direct evidence to the violations outlined. These letters include statements by:

Pennsylvania Governor – Edward G. Rendell
Mayor of the Capital City of Harrisburg – Stephen R. Reed
Former Pennsylvania State Attorney General – Mike Fisher
Pennsylvania Emergency Management Agency Director – David M. Sanko

I am now submitting the results of a formal survey we just completed of childcare facilities located in the 10-mile Emergency Planning Zone (EPZ) located around the Three Mile Island Nuclear Power Plant.

The results of this survey show beyond any debatable measure that child care facilities located in Pennsylvania ARE NOT RECEIVING THE REQUIRED EMERGENCY SUPPORT SERVICES such as emergency transportation, notification as well as the other required Radiological Emergency Protective Measures that are required in 10 CFR 50.47 "Condition of licenses".

In my September 1, 2004 letter, I outlined and sited the requirements of your Nuclear Power licensing laws to provide "reasonable assurance" and made the Nuclear Regulatory Commission aware that Pennsylvania has been in violation of your Nuclear Power licensing laws at that time.

Given the credibility and credentials of the authors of the letters previously submitted, and the fact that this survey shows that Pennsylvania has not been properly including preschool children in its' Radiological Emergency Response Plans, the Nuclear Regulatory Commission should immediately find that the state of emergency preparedness in Pennsylvania does not provide "reasonable assurance" and that adequate protective measures can not be taken in the event of a radiological emergency.

Therefore, as previously stated on December 29, 2004, the Nuclear Regulatory Commission should immediately determine these outlined violations are "significant deficiencies" and therefore a major violation to 10 CFR 50.47 "Condition of licenses" which states:

(ii) If after April 1, 1981, the NRC finds that the state of emergency preparedness does not provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency (including findings based on requirements of appendix E, section IV.D.3) and if the deficiencies (including deficiencies based on requirements of appendix E, section IV.D.3) are not corrected within four months of that finding, the Commission will determine whether the reactor shall be shut down until such deficiencies are remedied or whether other enforcement action is appropriate.

My understanding of NRC laws and regulations is that once this determination is made, than corrective measures must be implemented with four (4) months.

We would like to see evidence that such corrective measures have been called for by the U.S. Nuclear Regulatory Commission and that the Commonwealth of Pennsylvania has followed them.

Respectfully submitted,



Eric J. Epstein
TMI-Alert Chairman
4100 Hillsdale Road
Harrisburg, PA 17112

Mr. Epstein is the Chairman of Three Mile Island Alert , Inc., a safe-energy organization based in Harrisburg, Pennsylvania and founded in 1977. TMIA monitors Peach Bottom, Susquehanna, and Three Mile Island nuclear generating stations.

**Emergency Preparedness
Survey Of
Childcare Facilities
Located Near
Three Mile Island Nuclear Facility**



**Prepared by
EMFR Monitoring
Group**

February 15, 2005



Section 1

Introduction



PURPOSE AND PROTOCOL OF SURVEY

The EFMR Monitoring Group, a nonpartisan community based organization established in 1992, conducted a Radiological Emergency Preparedness survey of child care facilities located in the 10-mile Emergency Planning Zone (EPZ) established around the Three Mile Island (TMI) Nuclear Power facility.

Federal law requires that state and local officials protect people in the custody of institutions such as schools, nursing homes and prisons. Child-care facilities were not included in the state's emergency plans.

In the event of nuclear evacuation, the Commonwealth of Pennsylvania passed legislation in July, 2004, that requires emergency preparedness plans at licensed, for-profit child care facilities. According to Governor Rendell, 183,000 children (2/3 under supervision) in licensed nonprofit or family-care entities are not covered under this new law. Further, this law requires the child care facilities to do their own emergency planning.

This survey was conducted to insure preschool children located inside the 10-mile EPZ were provided the required radiological emergency services by the appropriate state and local agencies as federal law requires.

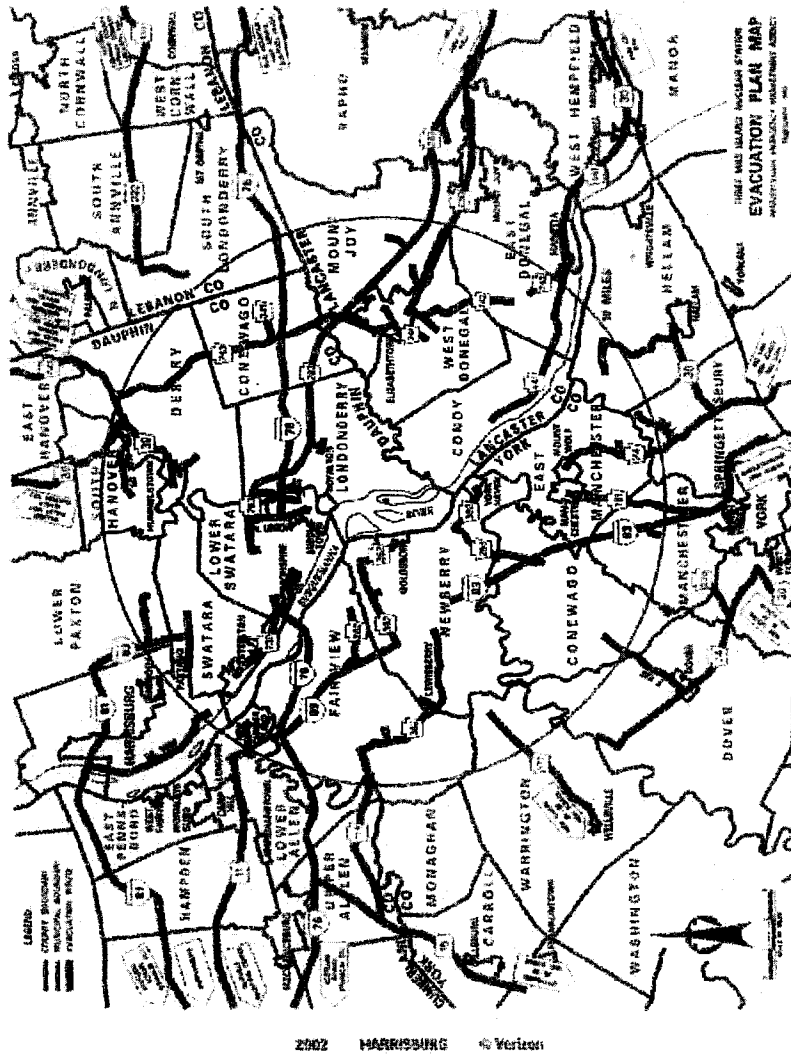
The EFMR Monitoring group is a nonpartisan community based organization established in 1992. EFMR monitors radiation levels at Peach Bottom and Three Mile Island nuclear generating stations, invests in community development, and sponsors remote robotics research. www/efmr.org

Getty Images™ & EyeWire © Images shown are models used for illustrative purposes only.



PURPOSE AND PROTOCOL OF SURVEY

Map shows the 10-mile Emergency Planning Zone located around the Three Mile Island Nuclear Power Plant.





PURPOSE AND PROTOCOL OF SURVEY

- The EFMR Monitoring Group surveyed for-profit and not-for-profit daycare sites located ten miles from Three Mile Island (TMI) based on the Pennsylvania Department of Public Welfare's (DPW) data base.
- All sites were licensed by the DPW and cared for at least 12 children;
- All sites were sent a survey during the week of December 20, 2004;
- January-February, 2005, all sites that did not respond received either a follow up site visit, telephone call(s) or a second survey;
- Out of 74 targeted sites, 38 responded (51.35%);
- The maximum capacity for children under care at these locations was 3,644, and responses covered 1,480 kids (40.61%);
- The cost of the study, including postage, copying, reimbursement, and potassium iodide tablet distribution, was approximately \$1,500;
- Over 2,000 KI tablets were dispensed to approximately 1,000 children and day care workers (Expiration date: February 2008)



PURPOSE AND PROTOCOL OF STUDY

Childcare response information by county.

Cumberland County: 100% responded to survey
4 facilities representing a total of 348 children were surveyed
All responded

Dauphin County: 40% responded to survey
45 facilities representing a total of 2,114 children were surveyed
18 facilities representing a total of 602 children responded

Lancaster County: 50% responded to survey
14 facilities representing a total of 675 children were surveyed
7 facilities representing a total of 241 children responded

Lebanon County: 0% responded to survey

York County: 82% responded to survey
11 facilities representing a total of 507 children were surveyed
9 facilities representing a total of 289 children responded

Total number of licensed sites Surveyed: 74
Children under care: 3,644

Total number of respondents: 38
Children under care: 1,480



SUMMARY OF CONCLUSIONS

We conclude from the results of this survey the following:

- The state does not review plans or coordinate transportation as the federal law requires;
- Few state and local entities provide for or coordinate transportation as the federal law requires;
- In some instances, transportation for day care children is only available after other populations have been moved;
- Many facilities assume they can evacuate to the same locations as public schools and presume those schools will provide transportation;
- Many facilities depend on the phone book for planning;
- Frequent expressions of exasperation and frustration included: "Who do we contact?", "Where do we go?", and "How do we get there?";
- Several facilities were unaware that they were within the ten mile zone;
- Numerous sites were confused by the separate regulations the Rendell administration promulgated in 2003 requiring all day-care facilities have an emergency plan in place by July 1, 2004. Senate Bill 922 passed in July 2004 exempting non-profits from compliance;
- Even though the Federal Law was established nearly 20 years ago, emergency planning for Pennsylvania child care facilities is a recent development.



Section 2
Background



BACKGROUND ON RADIOLOGICAL EMERGENCY PLANNING

December 1979, due to the accident at Three Mile Island nuclear power facility, President Carter directed FEMA and the NRC to implement Radiological Emergency Response Plans (RERPs) for all populations located near operating nuclear power stations under Presidential Executive order 12148.

Since then, each utility that owns a commercial nuclear power plant in the United States is required to have a Radiological Emergency Response Plan (RERP) as a condition of maintaining a license.



SPECIAL POPULATIONS

The Radiological Emergency Response Plan (RERP) is required to have in place "means for protecting those persons whose mobility may be impaired due to such factors as institutional or other confinement.

These special populations are defined in the following Federal Guidance documents: GM EV-2 "Protective Actions for School Children" and FEMA GM 24 "Radiological Emergency Preparedness for Handicapped Persons"

They include, preschool and nursery school children, populations in nursing homes, group homes for the mentally impaired, hospitals and prisons.



WHO'S RESPONSIBLE

The organizations responsible for supplying the required emergency services are outlined in 10 CFR Part 50 and are defined as: the appropriate State, local, and Federal agencies.

PENALTIES FOR VIOLATION

The penalties for violating these Federal Laws are loss of state nuclear power license within four (4) months of determination of noncompliance.



MINIMUM REQUIREMENTS

The following must be included in the off site Radiological Emergency Response Plan (RERP):

1. Identification of organization and officials responsible for both planning and effecting the protective action; and
2. Institution-specific information; and
3. Means of effecting protective action; and
4. Specific resources allocated for transportation and supporting letters of agreement if resources are provided from external sources; and
5. Name and location of relocation centers, and transport routes if applicable; and
6. Means for alerting and notifying appropriate persons and groups associated with the schools and students.

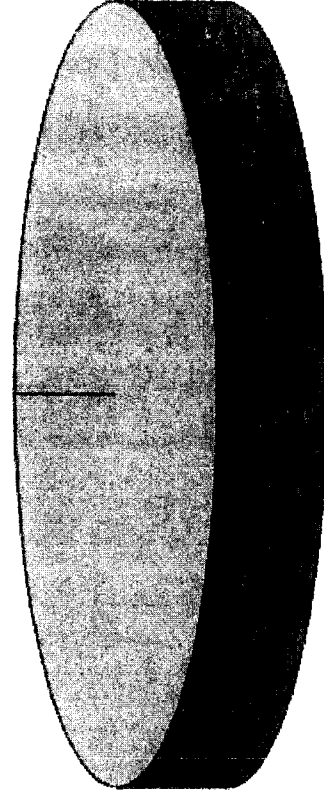
Section 3

Survey Results



1. Does your child care facility reside within ten miles of a nuclear power plant?

100% Said Yes



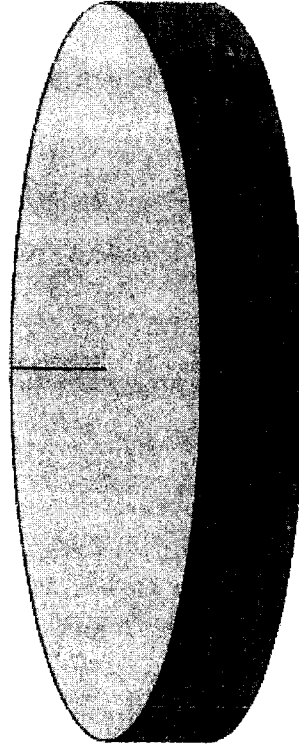
<input type="checkbox"/> 100% Yes
<input checked="" type="checkbox"/> 0% No
<input type="checkbox"/> 0% Not Sure Or No Answer

Comment about Question 1 from respondent: "No way you're going to evacuate the area...I told them I was not going to participate. Why bother doing an emergency evacuation plan you can't carry out" (Y; P)



2. If YES, please identify the nuclear power plant.

100% Said Three Mile Island



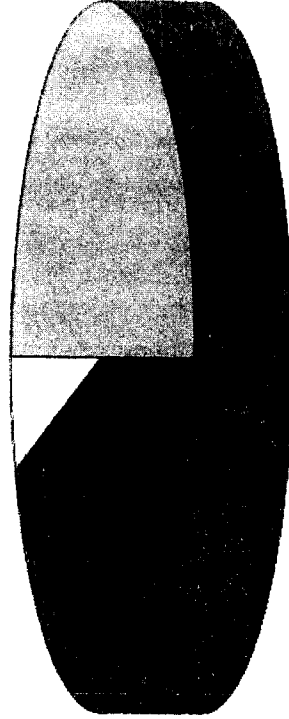
- | | |
|-------------------------------------|--------------------------|
| <input type="checkbox"/> | 100% Three Mile Island |
| <input checked="" type="checkbox"/> | 0% No |
| <input type="checkbox"/> | 0% Not Sure Or No Answer |

Comment about Question 2 from respondent: "We do have an evacuation plan. We however did not receive anything from other agencies". (D; P)



3. Have State or Local Agencies provided your facility with emergency planning in the event of radiological incident?

45% Said No



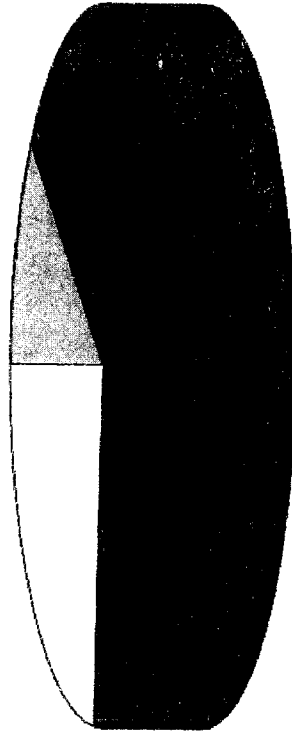
- 50% Yes
- 45% No
- 5% Not Sure Or No Answer

Comment about Question 3 from respondent: "Only to ask how many people they would have to provide transportation for." (D; P)



4. Have State or Local Agencies provided transportation vehicles for your facility for a radiological evacuation?

66% Said No



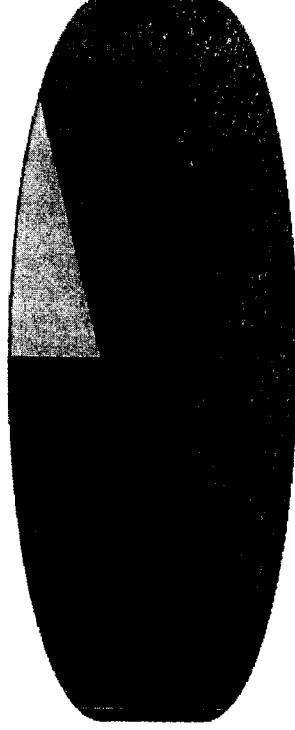
- 11% Yes
- 66% No
- 24% Not Sure Or No Answer

Comment about Question 4 from respondent: "Our local agency representative did meet with us and inform us we were on his list of vulnerable facilities." (L; NF)



5. If YES, who will be providing the vehicles and how many have been provided?

87% Could Not Answer



13% Able To Answer
 87% Not Sure Or No Answer

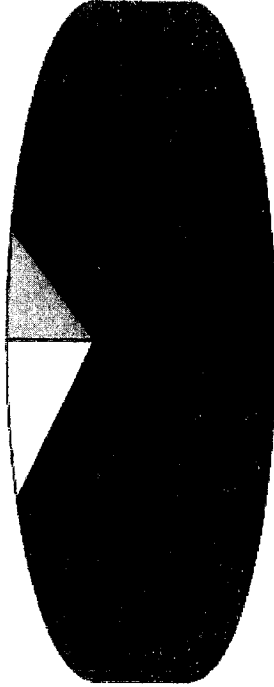
Comment about Question 5 from respondent: "Not sure how many."
(Y; NF)



6. Have State or Local transportation providers sent you supporting letters or agreements that they have planned for and will provide emergency transportation for a radiological evacuation?

87% Had No Supporting Letters From Transportation Providers

<input type="checkbox"/>	5% Yes Had Supporting Letters Of Agreement
<input checked="" type="checkbox"/>	87% Had No Supporting Letters Of Agreement
<input type="checkbox"/>	8% Not Sure Or No Answer

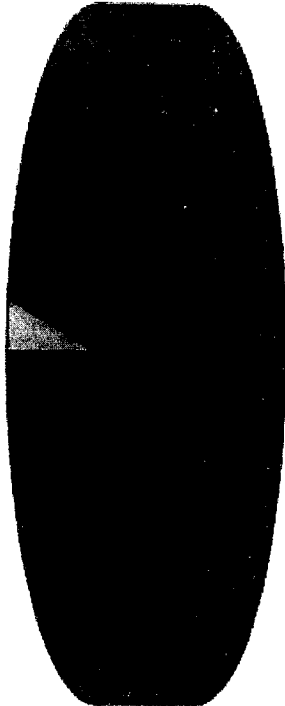


Comment about Question 6 from respondent: "We made our own plan." (L; P)



7. If YES, please identify the date of the letter.

97% Could Not Identify The Letter's Date or Were Not Sure



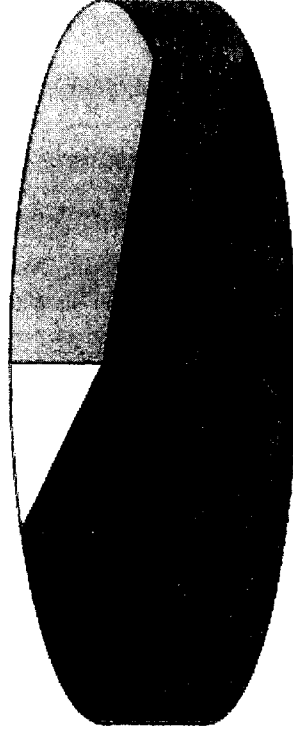
<input type="checkbox"/>	3% Able To Identify Date of Letter
<input checked="" type="checkbox"/>	97% Not Sure Or No Answer

Comment about Question 7 from respondent: "Can't locate @ this time but do send update letter annually for us to update." (D; NF)



8. Have State or Local Agencies provided directions and assignments to a prearranged relocation centers five to 10 miles outside of the 10-mile Emergency Planning Zone for a radiological evacuation?

58% Said No



34% Yes

58% No

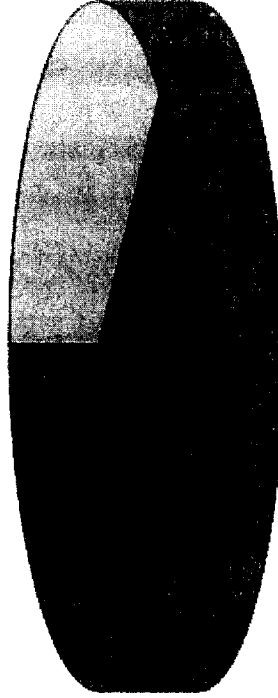
8% Not Sure Or No Answer

Comment about Question 8 from respondent: "State indicated we can call if we need help on the day of the emergency if our plan fail[s]...We hired & paid for a group to develop a plan for us before we were told nonprofits were exempt". (L; NF)



9. If yes, where is your relocation center.

63% Were Not Sure or Unable to Answer



37% Knew Where Their Relocation Center Was
 63% Not Sure Or No Answer

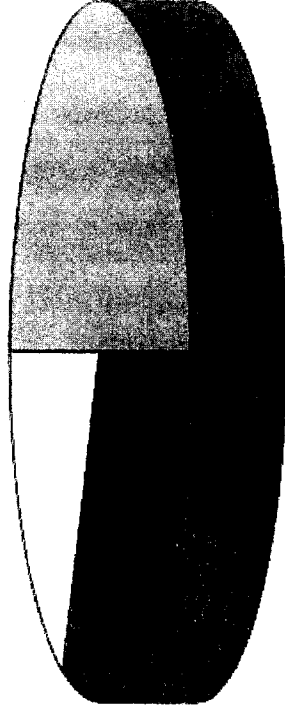
Comment about Question 9 from respondent: "Most facilities with a plan also identified a relocation site outside of the evacuation zone."

Some responses were more dramatic: "Bunch of crap too. If this thing melts down... Ten mile radius is not enough." (Y; P)



10. Have State or Local Agencies provided prearranged emergency notification for protective actions in the event of radiological emergency?

32% Said No



- 50% Yes
- 32% No
- 18% Not Sure Or No Answer

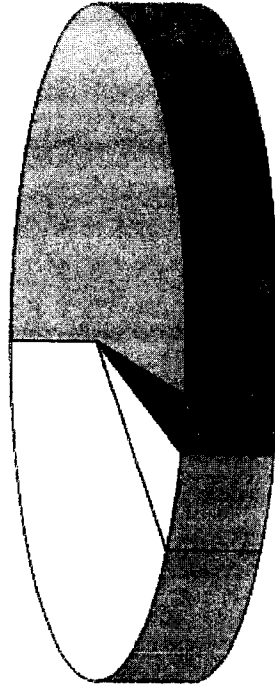
Comment about Question 10 from respondent: Responses were split evenly between for-profits and not-for-profits. One not-for-profit stated that one support agency, "Indicated they would not phone us." (L; NF)



11. How many years has your child care facility been provided planning for a radiological evacuation?

39% Were Not Sure

- 53% Less 5 Years
- 3% More Than 5 Years
- 5% Have No Plan
- 39% Not Sure Or No Answer

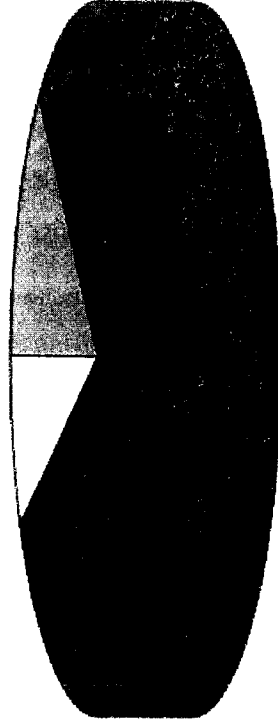


Comment about Question 11 from respondent: "Of those sites with plans in place, only 5 out of 34 (14%) facilities have had a plan in place for more than 24 months."



12. Have any State or Local Agencies refused to provide any of these protective actions in the event of a radiological emergency?

13% Said Yes



13% Yes
 79% No
 8% Not Sure Or No Answer

Comment about Question 12 from respondent: "We weren't sure who to ask". (C; NF)

"I have been having difficulty arranging appropriate transportation for the children in our care... No one seems to be willing to help. If you have any contact persons... please let me know. Thanks!" (D; P)

"[No]. Only if bus employees show up to work." (L; NF)

"What's the difference? [between a for-profit and a non-profit]... That's ridiculous!" (Response from a non-profit in York County who was told that they weren't required to have an evacuation plan.)