

December 13, 2005

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

Dear Mr. Christian:

I am responding to your letter dated September 4, 2002, in which you submitted a petition for rulemaking. 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 requests 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 vicinity 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 55 public comment letters relating to this petition. Twenty-four 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 is denying 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 raises questions about implementation and compliance with relevant requirements and guidelines that were previously determined to be adequate. The Commission considers 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

The Commission's emergency planning regulations, specifically 10 CFR 50.47(a)(1), require that nuclear power plant licensees develop and maintain emergency plans that provide reasonable assurance that adequate protective actions can and will be taken for the protection of the public in an emergency. Section 50.47(a)(2) states that the NRC will base its findings

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¹ FEMA did evaluate a May 3, 2005 Emergency Planning exercise at TMI. NRC understands that during this exercise FEMA did look at 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.

regarding adequacy of these plans on a review by FEMA, who will determine if the plans are adequate and whether there is reasonable assurance that they can be implemented. NRC and FEMA promulgated NUREG-0654/FEMA-REP-1 to provide detailed guidance on the development and implementation of these plans. Appendix 4 of NUREG-0654 details the requirements for the identification and planning for special facility populations and schools. FEMA Guidance Memorandum (GM) EV-2, "Protective Actions For School Children," provides 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. The term "school" refers to public and private schools, pre-schools, and daycare centers with 10 or more students. The state and local government offsite emergency plans shall include at a minimum:

- identifying the populations of all school facilities,
- determining and providing for protective actions for these populations,
- establishing and maintaining notification methods for these facilities, and
- determining and providing for transportation and relocation.

These requirements are assessed at the biennial exercise at each nuclear power plant site. 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 notice of Denial of Petition for Rulemaking, which will be published in the Federal Register.

Sincerely,

/RA/

Annette L. Vietti-Cook

Enclosure:
Federal Register Notice of
Petition for Rulemaking

cc: Eric J. Epstein