

February 9, 2006

MEMORANDUM TO: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons

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

SUBJECT: STATUS OF STAFF ASSESSMENT OF RECENT
CORRESPONDENCE REGARDING EMERGENCY
PREPAREDNESS FOR CHILDREN IN DAYCARE CENTERS

The purpose of this memorandum is to inform the Commission of the results of a staff review of a December 19, 2005, Federal Register Notice (FRN) that denied Petition for Rulemaking (PRM) 50-79 regarding emergency preparedness for children in daycare centers, and my December 30, 2005, memorandum to the Commission regarding progress on a staff assessment of the level of communication between State and local governments and daycare centers. This review was initiated as a result of apparent inconsistencies between statements in the FRN and the December 30, 2005, memorandum, that were noted by a member of the staff. The review included interactions with certain stakeholders such as the Department of Homeland Security (DHS) and the Pennsylvania Emergency Management Agency (PEMA).

On the basis of its review, the staff has determined that the December 19, 2005, FRN may need to be revised because it may contain some factual errors (e.g., characterization of the commonwealth of Pennsylvania's comments dated October 3, 2003, regarding the petition for rulemaking noticed in the Federal Register on November 1, 2002), although none that would affect the staff's recommendation to deny the petition. The staff expects to receive DHS and PEMA comments on the FRN by February 10, 2006.

My December 30, 2005, memorandum will be released to the public. However, I also wanted to assure the Commission was aware of the above information and make this memorandum part of the public record as well. Otherwise, earlier release of the December 30, 2005, memorandum could create confusion in the public as a result of the above noted inconsistencies with the FRN. I intend to make both memoranda public on February 10, 2006.

The staff will provide a proposed course of action on what, if any, steps need to be taken to assure the public record is accurate, to the Commission by March 17, 2006.

cc: SECY
OGC
OCA
OPA
CFO

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