

March 5, 2007

The Honorable Tim Holden
Member, United States
House of Representatives
1721 North Front Street, Suite 105
Harrisburg, PA 17102

Dear Congressman Holden:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated December 7, 2006, regarding a petition for rulemaking (PRM) filed by your constituent, Mr. Eric J. Epstein. The petition, docketed as PRM-50-81, requests that NRC amend its emergency planning regulations, Title 10 of the Code of Federal Regulations (CFR) Part 50 to codify criteria in the Federal Emergency Management Agency (FEMA) Guidance Memorandum (GM) EV-2, "Protective Actions for School Children," dated November 13, 1986. Mr. Epstein believes that without such codification, Pennsylvania children will not have preplanned emergency evacuation capabilities in the event of an emergency. In his letter, Mr. Epstein states that the Commission has had ample time to reflect, review and discuss any Petition for Rulemaking. He requests that his petition, docketed as PRM-50-81, be officially posted on the Federal Register for rulemaking commentary.

Be assured that the amount of time we have taken with this petition is not indicative of our usual petition process. A number of factors contributed to the delay in acting upon Mr. Epstein's petition, including Mr. Epstein citing excerpts from an unsigned, undated document that he represents as a differing professional opinion (DPO) submitted by a member of the NRC staff in his petition, and the similarity of Mr. Epstein's petition to an earlier petition, PRM-50-79, which also addressed emergency preparedness for children in daycare centers and nursery schools. Regardless of these complicating factors, we have apologized to Mr. Epstein for the unusual delay in docketing his petition (see enclosed March 29, 2006 letter from Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, NRC, to Mr. Epstein) and have had several discussions with him on this issue.

On January 19, 2007, the Commission formally agreed with the staff's recommendation that the Commission deny the petition because it does not provide significant new information that was not previously considered by the Commission in denying the earlier petition, PRM-50-79. The Commission noted that there is no reason for them to revisit the issue at this time (SECY-06-0228). Correspondence fully detailing this decision has been provided to Mr. Epstein, and we have enclosed a copy with this letter.

T. Holden

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If you wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

/RA/

Luis A. Reyes
Executive Director
of Operations

Enclosures:

1. Letter from Michael Lesar to Eric Epstein
dated March 29, 2006
2. Letter to Petitioner

T. Holden

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Sincerely,

/RA/

Luis A. Reyes
Executive Director
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Enclosures:

1. Letter from Michael Lesar to Eric Epstein
dated March 29, 2006
2. Letter to Petitioner

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