

May 22, 2007

The Honorable Rick Boucher
Chairman, Subcommittee on Energy
and Air Quality
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Enclosed for your information is a copy of the Commission's notice of denial of a petition for rulemaking filed by Mr. Eric J. Epstein. The petition (PRM-50-81) requested that the Nuclear Regulatory Commission (NRC) amend its regulations regarding offsite emergency plans for nuclear power plants.

The petitioner requested that the NRC amend its emergency planning regulations (10 CFR Part 50) to codify criteria in the Federal Emergency Management Agency (FEMA) 1986 guidance memorandum (GM) EV-2 entitled "Protective Actions for School Children." Mr. Epstein believes that without such codification, children in Pennsylvania will not have preplanned emergency evacuation capabilities in the event of an emergency. Included with the petition was a Differing Professional Opinion (DPO) by a member of the NRC staff that focused on the adequacy of preplanned evacuation resources and relocation centers for day care and nursery school facilities within Pennsylvania and whether or not the Commonwealth and the Department of Homeland Security (DHS)/FEMA have failed to comply with DHS/FEMA guidance.

The Commission denies this petition. It does not provide significant new information that was not previously considered by the Commission in denying an earlier, similar petition (PRM-50-79) that requested that the Commission amend emergency planning regulations to ensure that all day care centers and nursery schools in the vicinity of nuclear power facilities are properly protected during a radiological emergency. As a part of the denial of PRM-50-79, the Commission directed NRC staff to undertake several actions to assess implementation questions and to provide appropriate recommendations for improvement.

NRC staff met with DHS and the Pennsylvania Emergency Management Agency. Pennsylvania officials described a comprehensive program, mandated by Pennsylvania law, for licensed day care facilities that substantially enhances the existing emergency preparedness posture which was previously found by DHS to provide reasonable assurance that adequate protective measures can and will be taken for the public, including children. DHS/FEMA has primary responsibility for assessing the adequacy of offsite emergency preparedness related to nuclear facilities.

The DPO enclosed with this petition received careful consideration in accordance with NRC procedures. As a result of this evaluation, NRC concluded that DHS has arrived at a defensible finding of reasonable assurance that children at day care and nursery school facilities would be evacuated in the event of a radiological emergency at a nuclear power facility in Pennsylvania. The NRC also concluded that the DHS finding is consistent with the relevant regulations and guidance documents as well as legal implementation of Federal, State, and local requirements.

R. Boucher

-2-

The Federal Register notice denying the petition was transmitted to the Office of the Federal Register for publication in March 2007.

Sincerely,

/RA/

Rebecca L. Schmidt, Director
Office of Congressional Affairs

Enclosures:

1. PRM-50-81
2. Federal Register Notice

cc: Representative J. Dennis Hastert

R. Boucher

-2-

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cc: Representative J. Dennis Hastert

Identical letter sent to The Honorable Thomas Carper, cc: George V. Voinovich

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ADAMS Accession Number: ML061420139 (Package); ML061420446 (Memo) *See previous concurrences
Congressional letters: ML071020359

OFFICE	DPR/PRAB*	BC/DRP*	C/ADM/RDEB*	D/OCA
NAME	MBanic	JZimmerman	MLesar	RSchmidt
DATE	02/ 20 /07	02/ 20 /07	02/ 21 /07	05/ 22 /07

OFFICIAL RECORD COPY

May 22, 2007

The Honorable Thomas Carper
Chairman, Subcommittee on Clean Air
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

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Office of Congressional Affairs

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