

## Exhibit 4

she's not complaining  
about being left out of the  
evacuation plans...

but you should be

currently day care centers and nursery schools are not federally  
required to have **ANY** radiological emergency evacuation plans





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Centers for Disease Control and Prevention  
Epidemiology Program Office

## Evidence of Effectiveness of Child Safety Seat Laws

Motor vehicle-related injuries kill more children than any other single cause in the United States. When correctly installed and used, child safety seats reduce the risk of death by 70% for infants and 47%-54% for toddlers and reduce the need for hospitalization by 69% for children aged 4 years and younger.

CDC recently conducted a systematic review of studies of laws requiring use of child safety seats and found them to be effective in decreasing fatal and nonfatal injuries, and in increasing child safety seat use. This review appears in a November, 2001 supplement to the *American Journal of Preventive Medicine*:

Zaza S, Sleet DA, Thompson RS, Sosin DM, Bolen JC, Task Force on Community Preventive Services. Reviews of evidence regarding interventions to increase use of child safety seats. *Am J Prev Med.* 2001; 21(4S): 31-47.

Based on this review, the Task Force on Community Preventive Services **strongly recommended** implementation of such laws.

### Background on laws requiring use of child safety seats

- All 50 states currently have laws requiring children traveling in motor vehicles to be restrained in federally approved child restraint devices (e.g., infant or child safety seats) appropriate for the child's size and age.
- State laws vary widely in defining the age, weight, and/or height, of children affected by the law, as well as the enforcement provisions and penalties.
- Although enforcement provisions and penalties also vary widely from state to state, enforcement is primary. Drivers can be stopped solely for failing to restrain children as required under the law.

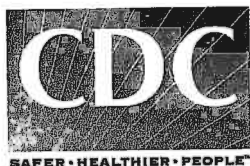
### Findings from the systematic review of child safety seat laws

Among the nine qualifying studies:

- Laws decreased fatal injuries by a median of 35%
- Laws decreased fatal and nonfatal injuries combined by a median of 17%
- Laws increased child safety seat use by a median of 13%
- Among the studies that evaluated the laws' effects on injury rates, researchers found no differences in the effect size based on the age of children who were required to be in safety seats.

### About the *Guide to Community Preventive Services* (the *Community Guide*)

The Task Force on Community Preventive Services is a 15-member, nonfederal group with expertise in public health policy, behavioral and social sciences, and epidemiology. The *Community Guide* assesses the effectiveness of a broad range of population-based interventions to improve the health and safety of communities. Staff at CDC support the work of the Task Force and coordinate the day-to-day development and dissemination of the *Community Guide*. More information can be found at <http://www.thecommunityguide.org>



**SUBJECT: SUBMITTAL OF PETITION FOR RULEMAKING - TO INCLUDE ALL NURSERY SCHOOLS AND DAYCARE CENTERS IN THE FEDERALLY REQUIRED RADIOLOGICAL EMERGENCY READINESS PLANS**

Date: 9/4/02  
Secretary  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C., 20555-0001

Dear Secretary:

This petition for rulemaking seeks new Nuclear Regulatory Commission requirements to insure all daycare centers and nursery schools are properly protected in the event of a radiological emergency.

According to my communications with state and county emergency management officials, there are currently no mandated emergency evacuation requirements for daycare centers and nursery schools.

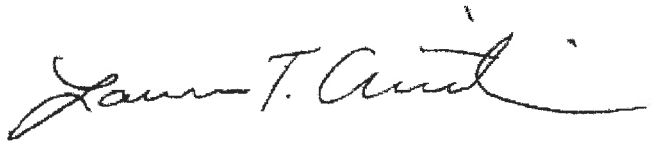
*"Our office has been in contact with the Department of Public Welfare. This agency either licenses or regulates daycare centers within the Commonwealth. In conversation with the DPW, the question was asked if daycare centers were required to have comprehensive plans for all emergencies along with evacuation procedures and the answer was no, they did not. The centers were to have a procedure in case of fire only. The only way that the DPW could mandate daycare centers to have plans would be through legislation, which is not in place at this time."*

*- Kay Carman, York County Director of Emergency Management*

Without new NRC requirements designed to insure all daycare centers and nursery schools are properly planned for, preschool children will continue to be left without any: designated relocation centers, designated transportation, approved-child-safety seats, rosters of emergency bus drivers, educational materials, state of readiness checks, inclusion in radiological emergency preparedness exercises, etc.

These deficiencies all serve to pose dangerous risks to all preschool children's safety.

Sincerely,



Lawrence T. Christian  
133 Pleasant View Terrace  
New Cumberland, PA 17070  
1-717-770-0852

## DIFFERING PROFESSIONAL OPINION (Continued)

CONTINUE ITEM 10, ITEM 11, AND/OR ITEM 12 FROM PAGE 1. (Indicate the block number to which this information applies.)

The protective actions that were described in the TMI exercise report for nursery schools and day care centers is that "Municipalities in the Commonwealth of Pennsylvania are the responsible offsite response organizations for notifying day care centers located in their geographical/political boundaries in the event of an incident occurring at TMI. The municipal plans and procedures require that day care centers be notified of an incident at TMI at the Alert, Site Area and General Emergency and/or when Protective Action Decisions are announced."

The TMI Exercise report further stated that "Each municipality has a Notification and Resources Manual that list the names, address, point of contact and phone number of the day care centers located in their portion of the EPZ. In every case, the municipalities simulated notification of the day care centers in a timely manner pursuant to their codified plans and procedures". The above TMI Exercise descriptions of how the state and local governments will protect the health and safety of nursery school children taken in conjunction with the following quote from a FEMA letter dated April 29, 2004 to NRC, illustrates a definite lack of compliance with the regulations and guidelines.

"Please keep in mind that day care centers and nursery schools are considered private business in the Commonwealth of Pennsylvania as opposed to elementary, middle and high schools that are considered public institutions. As was stated in a letter dated January 10, 2003, from the Acting Director of the Pennsylvania Emergency Management Agency to the NRC, "Parents are legally required to send their children to public schools unless they opt to enroll them in private institutions. The use of private day-care facilities is voluntary on the parents. There is no legal requirement to send children to them." Also from a FEMA letter dated July 29, 2004 to NRC "parents should review with day care centers and nursery schools procedures and plans for the safety and protection of their children, the Commonwealth of Pennsylvania Department of Public Welfare issued a bulletin on December 27, 2003, requiring day care centers to develop an EOP. The enclosed Draft EOP for Nursery Schools delineates a listing of transportation providers and contact lists for drivers." Also

In a letter from PEMA to the petitioners dated July 30, 2004, PEMA stated that "Child care facilities are, for the most part, private business entities who in conjunction with the parents, should assume responsibility for the safety of their charges. Local government will not treat these businesses any differently than it does any other citizen. Especially in rural areas, municipal government simply may not have the resources to provide shelter. In so far as municipal shelters are available, child care providers are encouraged to use them". Also

"Child care facilities are, for the most part, private entities who should assume responsibility for their charges. As mentioned in the Day Care planning guide that's on PEMA's website " ...the municipal emergency management agency may be able to help, but it won't be able to guarantee that you will remain in one group, thus complicating your accountability problems." Child day care providers should coordinate with municipal government and decided whether to use government-provided resources, or to make separate arrangements". Also "Care of their charges is ultimately the responsibility of the day care provider and the parents of the children".

"If time allows, municipal officials will issue a protective action decision. However, localized emergencies or severe time constraints may dictate that the day care facility operator must choose the most prudent course of action. The sample plan on PEMA's website lists considerations (Part II, Checklist A) that will help the day care provider to make that decision".

In a letter for the Mayor of Harrisburg to the NRC dated December 3, 2002, he stated "The exclusion of such facilities in present Radiological Emergency Plans is an omission that is certain to create confusion and chaos in the event that an evacuation would ever be ordered in one of the affected evacuation zones near a nuclear power station. Parents and others would be attempting to reach the nursery schools and day care centers, which would almost certainly delay any prospect of their orderly evacuation. Further, nursery schools and day care centers have thus far generally not put into place any evacuation plan, which means there would be an on-site confusion regarding the safety of the children entrusted to these facilities."

All of the above documentation, along with the TMI exercise results leads me to conclude that state and local emergency plans do not address preplanned transportation resources available for evacuating all public and private schools including day cares and nursery schools establishing preplanned reception and care centers for all public and private schools including day care and nursery school has not been addressed and alert and notification procedures for these schools and public information for parents and guardians of day care and nursery school children has not been preplanned

DIFFERING PROFESSIONAL OPINION  
(Continued)

CONTINUE ITEM 10, ITEM 11, AND/OR ITEM 12 FROM PAGE 1. (Indicate the block number to which this information applies.)

BLOCK 10 CONTINUED - shutdown of operating reactors. FEMA will approve State and local emergency plans and preparedness, where appropriate, based upon its findings and determinations with respect to the adequacy of State and local plans and the capabilities of State and local governments to effectively implement these plans and preparedness measures. These findings and determinations will be provided to the NRC for use in its licensing process." In 45 FR 55403 dated August 19, 1980, the Commission emphasized the importance of preplanning for emergencies by stating, "In order to discharge effectively its statutory responsibilities, the Commission must know that proper means and procedures will be in place to assess the course of an accident and its potential severity, that NRC and other appropriate authorities and the public will be notified promptly, and that adequate protective actions in response to actual or anticipated conditions can and will be taken." Since September 2002, I have been responsible for evaluating the merits of a Petition For Rulemaking (PRM 50-79) "Emergency Planning For Nursery Schools and Day Care Centers." After evaluating all public comments received, along with several discussions with the petitioners, FEMA, several state and local governments and NRC staff and management. I developed a Commission paper recommending that the petition be denied (SECY-05-0045, dated March 11, 2005). This SECY was concurred in by FEMA, NRC Office directors and the EDO. I based my recommendation to deny this petition on my fundamental belief that 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 all public and private schools, day care centers and nursery schools, in the event of a nuclear power plant incident, and that no new regulations were required. The petition did raise questions about implementation and compliance with relevant requirements and guidelines that were thought to be previously determined to be adequate in the petitioners state and local area. Accordingly, the petition was recommended to the Commission to be denied and forwarded to FEMA for investigation into implementation problems relating to the preplanning of protective actions for day care centers and nursery schools. Because the real problem is implementation and not regulations, FEMA committed to the NRC and the petitioners that the implementation concerns relating to the elements in GM-EV-2 would be fully demonstrated and evaluated during the May 05 TMI exercise. The demonstration of the elements in EV-2 for nursery schools and day care centers was not adequately demonstrated during the TMI exercise. Therefore, I can no longer support the staff position to deny PRM 50-79. I believe that my current position is confirmed by letters from Pennsylvania and supported by the following. The petitioner stated, and the comment letters from FEMA, PEMA, Penn. Governor and the Mayor of Harrisburg confirmed that the preplanned protective measures for public and private elementary, middle and high schools is very different then the preplanned protective measures for licenced day care and nursery schools. This is not consistent with NRC and FEMA's regulations and guidelines. FEMA's Guidance Memorandum EV-2 require that state and local emergency plans address, at a minimum, preplanned transportation resources that are to be available for evacuating all schools including day care and nursery schools. Preplanned evacuation reception and care centers will be established for all schools, preplanned alert and notification procedures are to be established for all schools and preplanned public information for parents and guardians of all schools including day care and nursery schools. The petitioner stated that all of the above does not exist for nursery schools and day care centers in Pennsylvania. FEMA, PEMA, the Pennsylvania Governor and the Mayor of Harrisburg have confirmed that all of the above exist only for public and private elementary, middle or high schools and does not exist for nursery schools and day care centers. FEMA and PEMA has documented that PEMA will notify day care and nursery schools of an existing emergency but that it is the responsibility of the day care and nursery schools and the parents to take the necessary protective actions instead of the state or local government. In a letter dated March 24, 2005, the NRC told the petitioner that protective actions for nursery schools in accordance with EV-2 would be evaluated in the May 05 TMI offsite exercise. The FEMA report on the TMI exercise did not show an evaluation of all the requirements in EV-2 for nursery schools or day care centers.

BLOCK 11 CONTINUED - The state and local government offsite emergency plans shall address, at a minimum, preplanned transportation resources available for evacuating all schools including the licensed day care and nursery schools; preplanned reception and care centers for all schools including day care and nursery schools, alert and notification procedures for all schools including day care and nursery schools and public information for parents and guardians of all schools including day care and nursery school children. No evidence has been presented to show that Pennsylvania complies with these emergency planning requirements. The consequences of not codifying state and local government specific responsibilities for day care and nursery school children is that these children in Pennsylvania will not have preplanned evacuation capabilities in the event of an emergency. Therefore, the NRC would not be able to find that "there is reasonable assurance that protective measures can and will be taken in the event of an emergency. Thus requiring NRC to implement the 120 day clock contained in 10 CFR 50.54(s)(2) and to grant the petition for rulemaking (50-79) to codify the criteria contained in GM-EV-2.



## **Office of the Mayor**

**The City of Harrisburg**

**City Government Center  
10 North Second St  
Harrisburg, PA 17101-1678**

**Stephen R. Reed  
Mayor**

**(717) 255-3040**

**August 7, 2003**

**Ms. Patricia Welty, Deputy Secretary  
Office of Legislative Affairs  
Office of the Governor  
225 Main Capitol Building  
Harrisburg, PA 17120**

**Dear Deputy Secretary Welty:**

**Recently, Mr. Lawrence T. Christian of 133 Pleasantview Terrace, New Cumberland, PA 17070, made contact with your office to request support for the inclusion of childcare facilities in Radiological Emergency Readiness Plans.**

**Mr. Christian has requested this office urge your endorsement and support of the same. To this end, attached is a copy of the earlier letter sent by the City of Harrisburg to the United States Nuclear Regulatory Commission (NRC) formally requesting that the NRC establish a rule, the effect of which would be to require that nursery schools and daycare centers be included in Radiological Emergency Readiness Plans that are federally mandated and required for municipalities and other governmental entities within the radius area of licensed nuclear power stations.**

**Surprisingly, nursery schools and daycare centers are not currently required to be part of any radiological incident or evacuation plan. Public schools are included but not these other facilities. There is absolutely no doubt, in the event of a radiological incident, there would be confusion and significant uncertainty regarding the handling of youngsters and staff assigned to these facilities. To put it mildly, their parents would be frantic.**

**This is a potentially major omission from the Radiological Emergency Readiness Plans now in existence. It should be remedied by requiring that these facilities be included so that there is a prescribed means of their being informed, protected, and, if necessary, relocated in the event of a major incident.**

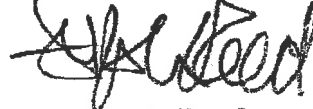
**Ms. Patricia Welty, Deputy Secretary**  
**August 7, 2003**  
**Page 2**

**It is respectfully recommended that your good office support such an additional planning requirement through correspondence to the United States Nuclear Regulatory Commission.**

**We very much appreciate your consideration of this matter.**

**With warmest personal regards, I am**

**Yours sincerely,**

A handwritten signature in black ink, appearing to read "S. Reed", written over a horizontal line.

**Stephen R. Reed**  
**Mayor**

**Attachment**

**SRR:lmh**

**cc: Governor Edward G. Rendell**





COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE GOVERNOR  
HARRISBURG

THE GOVERNOR

July 12, 2004

TO THE HONORABLE, THE SENATE  
OF THE COMMONWEALTH OF PENNSYLVANIA

I am allowing Senate Bill 922 entitled "An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, providing for custodial care facilities" to become law without my signature. I realize that the House and Senate passed this bill with the best intentions of protecting children in the event an emergency. But, I am allowing it to become law without my signature as a demonstration of my concern for the limited scope of the bill.

The passage of this bill occurred in a very busy week where many weighty bills competed for the attention of leadership and members. In that context, the full debate worthy of this bill could not occur. As a result, the legislature passed a bill that requires only for-profit childcare facilities to provide emergency evacuation plans for the children in their care.

Nine months after I took office, I learned the state did not require emergency planning as a routine aspect of childcare licensure. Given these troubling times, when the potential for such emergencies is greatly increased, I directed the Secretary of Public Welfare to utilize her authority under 55 Pa. Code, §3270.21, §3280.20, and §3290.18 to publish a statement of policy in the December, 2003 Pennsylvania Bulletin requiring *every* child care center, group day care home and family day care home operator to develop an emergency preparedness plan. In concert with the Department of Public Welfare, PEMA created a standard emergency planning tool to guide every childcare provider in creating such a plan. This plan ensured that the provider had all possible phone numbers of parents and relatives of each child. It also required the provider to address how they might transport each child to safety in the case of an emergency. Obviously, these are questions that any substantive health and safety licensure process would require of any childcare entity.

Given that the legislation that was passed speaks to the need for emergency preparedness plans for only a segment of providers, and that it does not exempt the balance of such providers from preparing such plans, I believe our legal authority to require these plans is

maintained through regulation. No one should view this bill as an excuse for not following the Department's policy as outlined in December, 2003 Pennsylvania Bulletin.

The President and former Governor Ridge have urged us all to be vigilant. They call on each of us to be prepared in the case of an emergency. Yet this bill is silent with respect to emergency planning for the evacuation of children for 183,000 children in licensed non-profit or family care entities. This bill provides for the statutory authority to require *a* class of childcare providers to prepare emergency plans. I believe the law of the Commonwealth should require such plans for *all* classes of licensed providers.

I would urge the legislature to pass new legislation that ensures total consistency with this policy by expanding the statutory requirement for emergency plans to all childcare, group day care and family day care homes. I believe the parents in the Commonwealth who rely on these entities expect nothing less.

I am hopeful that you will see the wisdom of including *all* appropriate childcare facilities within the purview of the mandates of this bill and send legislation to me to correct this oversight this fall.



Edward G. Rendell  
Governor