



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS  
WASHINGTON, D. C. 20555

May 6, 1980

Honorable John F. Ahearne  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

SUBJECT: REPORT ON PROPOSED EMERGENCY PLANNING RULE (10 CFR Part 50)

Dear Dr. Ahearne:

The purpose of this letter is to provide you with ACRS comments on the Proposed Rule on Emergency Planning (10 CFR Part 50) as published in the Federal Register (Vol. 44, No. 245) on December 19, 1979. In preparing these comments, the Committee had the benefit of discussions with the NRC Staff on May 1, 1980. The ACRS Subcommittee on Site Evaluation also met with the NRC Staff on April 22, 1980 to discuss this matter.

Subsequent to the meeting on April 22, 1980, the Subcommittee Chairman was informed that the Proposed Rule had been extensively revised by the NRC Staff. However, a copy of this newer version was not made available to either the Subcommittee or the full Committee in time for the preparation of these comments. If you desire, the Committee would be pleased to offer comments on the revised Rule at a later date. Because of scheduling difficulties, the earliest that this could be accomplished would be approximately the middle of July. Although this would probably necessitate a delay in the implementation of the Rule, we believe there are benefits to be gained through additional review.

The ACRS concurs with the NRC Staff view that there is a need to review and upgrade the status of emergency preparedness at commercial nuclear power plants. Those provisions in the proposed regulations that concern definition of roles, identification of proposed actions, and testing of the performance of equipment and personnel are clearly desirable. However, our review of the Proposed Rule has revealed a number of questions and problem areas. The more significant of these may be summarized as follows:

1. The Proposed Rule includes two alternative approaches for implementing the proposed changes. On the basis of clarifications provided by the NRC Staff, the ACRS would endorse Alternative A. In case of problems with State and local government emergency response plans, this Alternative would require action by the NRC to shut down a plant, instead of automatically requiring shutdown under the regulations.

2. The NRC Staff notes in the Proposed Rule that "while emergency planning is important for public health and safety, the increment of risk involve[d] in permitting operation [of existing reactors] for a limited time in the absence of concurred-in plans may not be undue in every case." The Committee agrees with this conclusion but questions whether it is compatible with the assertion that the Commission views "emergency planning as equivalent to, rather than as secondary to, siting and design in public protection ...." Safe day-to-day operation would be impossible without adequate siting and design and proper operation of a safely designed and sited reactor would probably not represent an unacceptable risk for several months and probably years.

A preferred statement would recognize that siting, design, and emergency planning, as well as responsible operation, are separate but interrelated considerations that constitute the overall safety package. It is not clear that the NRC policy of elevating emergency planning to the same level as engineered safety features is wise or necessary. The role of emergency planning should be defined as supplemental to the decisions to allow operation of a plant.

3. In the Foreword to NUREG-0654 (See Reference 2) emphasis is placed on there being minimum acceptance criteria for emergency preparedness and planning. There are also implications in this report and in the Proposed Rule that these criteria will be made mandatory for licensees and for the acceptability of emergency plans developed by State and local agencies. Insistence on strict compliance with detailed criteria could prevent proper coordination of nuclear power plant emergency planning with other emergency preparedness activities of State and local agencies, and could also delay the modification of specifications for key factors, such as evacuation times and distances, as better information is developed through ongoing emergency planning.

In addition, the Committee has noted an absence of technical justification for many of the requirements associated with the Proposed Rule and the criteria by which compliance will be judged. If, in the final analysis, a decision is made to retain these criteria in the Rule, then, as a minimum, efforts should be made to test them on a range of nuclear and major nonnuclear accidents that have occurred in the past. Such tests would be particularly useful in showing how successful the specified actions would have been in alleviating the effects of the given events.

4. The Proposed Rule specifies that "the capability will be provided to essentially complete alerting of the public within the plume exposure pathway EPZ within 15 minutes of the notification by the licensee of local and State officials." The ACRS agrees that providing such capability is desirable but believes that emergency plans should reflect the fact that there is less urgency for immediate notification of people living at greater distances from the site and that, in the majority of cases, the promptness of notification should have the important input of human evaluation and assessment. This might be accomplished through application of a graded scale of timing tied into distance, coupled with on-the-spot evaluations of local weather and other conditions. Supporting this approach are the results of recent research which indicate that prompt evacuation of people residing beyond five miles of a site may not be beneficial on a risk assessment basis except under the most unusual circumstances. Furthermore, there is need to consider the possible risks associated with notification of the public prior to the police and other officials being ready and available to direct and control the responses of people residing near a power plant.
5. The Proposed Rule and accompanying proposed criteria request that applicants provide detailed information on evacuation, including "an analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations." In no case, however, does the Proposed Rule provide information as to what times would be considered acceptable, even though, in the case of evacuation, the risks resulting from transportation accidents are often related to the hastiness of the action. As written, the Rule also appears to allow no alternative to evacuation. This implies that the applicant is not likely to be permitted to provide a better alternative, such as having the population remain indoors while the plume passes. This is a situation that reduces itself to the now familiar issue of specifying "how to" rather than providing the desired goal and allowing the licensee or State government to seek the best solution. In some locations, evacuation from the plume Emergency Planning Zone is obviously impractical. If evacuation is to be the favored emergency planning alternative, this choice and the requirements for it should be well-substantiated.
6. The Proposed Rule calls for "the yearly dissemination to the public within the plume exposure pathway EPZ of basic emergency planning information such as the possibility of nuclear accidents, the potential human health effects of such

accidents and their causes, methods of notification, and the protective actions planned if an accident occurs...." Although the last two of these items appear reasonable, the ACRS suggests that the dissemination of information of the types described in the first two items cannot be expected to provide any improvements in emergency preparedness. The Committee therefore recommends that these two items be deleted.

7. The Proposed Rule specifies that exercises to test the adequacy of an emergency plan should be conducted at a frequency of once every three or five years. Because of the rapid turnover in staff personnel at all levels in all the organizations involved, the ACRS recommends that such exercises be conducted at three-year intervals. The Committee also urges that the exercises be utilized for purposes of instruction as well as for evaluations of compliance.

Although the Proposed Rule calls for licensees to provide an independent review of their emergency preparedness program every twelve months, no mention is made of participation by State and local authorities. This omission should be corrected.

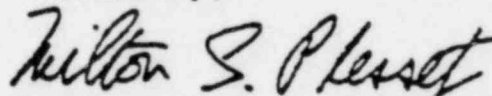
8. One alternative in the Proposed Rule requires that corrective measures to prevent damage to onsite and offsite property be identified. The ACRS believes that protection of property is less important and less feasible than protection of health and safety and, in fact, may divert effort from the latter aspect. The Committee recommends therefore that this requirement be omitted from the Rule.
9. As written, the Proposed Rule will require in-depth discussion and subsequent concurrence in the emergency preparedness program by the applicant and the NRC, as well as by State and local governmental authorities. The ACRS is concerned that this could constitute a third-party veto of the operation of a nuclear power plant based on considerations that may be unrelated to health and safety. The ACRS believes that such a requirement should not be included in the Rule without some safeguards against such action by a third party. Furthermore, a de facto veto power on operation appears to exist with each local government entity within ten miles of a nuclear power plant if it chooses not to permit establishment of the warning facilities required to meet the criteria. If the Proposed Rule poses such a possibility, it introduces complex societal issues. The ACRS recommends that the wording of the Rule be altered to permit the NRC sufficient flexibility to cope with this situation and not mandate such power to local governmental entities in the absence of a Federal law addressing the matter.

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10. The ACRS would also like to comment on the role of the Federal Emergency Management Agency (FEMA) as related to the Proposed Rule. Although the NRC Staff stated that FEMA would simply notify them of their decision relative to the adequacy of a State and local emergency plan, a nonconcurrence on the part of FEMA might also represent a "veto" action on a given application. There are also questions as to the adequacy of the resources or the staffing of FEMA to assume these new responsibilities. In addition, the ACRS sees a need for clarification of its future role relative to FEMA and to reviews of emergency preparedness planning for nuclear facilities.
11. In a sense, the NRC is serving as a pioneer in the area of emergency preparedness. It should be recognized that there are many other technological aspects of society which pose hazards comparable to, or larger than, those from nuclear power plants. FEMA is in the process of developing guidance with regard to emergency preparedness in a general way; however, the rate of implementation proposed for nuclear plants by this Rule appears to be much more rapid, and the requirements possibly more stringent than those required for other types of facilities. The Committee believes that the NRC-FEMA approach to emergency preparedness for nuclear reactor accidents should be developed and implemented within the framework of a broad societal approach to emergency situations in general.

The Committee will be pleased to discuss the above items with you at your convenience. In the meantime, we trust these comments will be helpful to you and the NRC Staff.

Sincerely,



Milton S. Plesset  
Chairman

References:

1. Proposed Emergency Planning Rule, Federal Register Vol. 44, No. 245, December 19, 1979.
2. NUREG-0654 (FEMA-REP-1), "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," January, 1980.
3. NUREG-0628, "NRC Staff Preliminary Analysis of Public Comments on Advance Notice of Proposed Rulemaking on Emergency Planning," January, 1980.
4. NUREG/CP-0011, "Proceedings of Workshops on Proposed Rulemaking on Emergency Planning for Nuclear Power Plants," January, 1980.

ENCLOSURE H

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 350

[Docket No. FEMA-PP-350]

Review and Approval of State Radiological Emergency Plans  
and Preparedness

AGENCY: Federal Emergency Management Agency (FEMA)

ACTION: Proposed Rule

SUMMARY: This rule proposes to establish policy and procedures for review and approval by FEMA of State emergency plans and preparedness for coping with the offsite effects of radiological emergencies which may occur at nuclear power facilities. The program the rule implements now focuses on operating and soon to be operating commercial nuclear power facilities. It does not cover other Nuclear Regulatory Commission (NRC) licensed facilities. The rule sets out criteria which will be used by FEMA in reviewing, assessing and evaluating these plans and preparedness; it specifies how and where a State may submit plans; it describes certain of the processes by which FEMA makes findings and determinations as to the adequacy of State plans and the capability of State and local government to implement these plans and preparedness measures. Such findings and determinations are to be submitted to the Governors of the <sup>a</sup>affected States and to the NRC for use in licensing proceedings of the NRC.

DATE: Comments are due [within 60 days from date of publication].

It is intended to make the regulation effective immediately upon its adoption after the notice and public comment period.

ADDRESS: Send comments to Rules Docket Clerk, Federal Emergency Management Agency, Room 801, 1725 I Street, NW, Washington, DC 20472

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FOR INFORMATION CONTACT: John McConnell, Assistant Associate Director, Population Preparedness, telephone 202/566-0550.

SUPPLEMENTARY INFORMATION:

Presidential assignments:

On December 7, 1979, the President, in response to the recommendations of the President's Commission on the Accident at Three Mile Island (known as the Kemeny Commission) announced, in part, a series of decisions and took a number of actions in the area of emergency planning and preparedness, particularly with respect to offsite emergency planning and preparedness.

The President directed FEMA to

- (1) take the lead in offsite emergency planning and response;
- (2) complete by June 1980, the review of State emergency plans in those States with operating nuclear power facilities;
- (3) complete as soon as possible the review of State emergency plans in those States with nuclear power facilities scheduled for operation in the near future;
- (4) develop and issue an updated series of interagency assignments which delineate respective agency capabilities and responsibilities and clearly define procedures for coordination and direction for both emergency planning and response.

FEMA is presently reviewing existing State plans in accordance with the Presidential directive.



FEMA is also in the process of developing interagency assignments which will replace a description of assignments set out in a Notice published in the FEDERAL REGISTER on December 24, 1975 (40 FR 59494). These new assignments will be published by FEMA in separate rulemaking.

The rule in this part largely involves the process FEMA will use in taking the lead in offsite emergency planning and response. It follows-up the review of plans by a formal process for evaluation and approval by FEMA of State plans (which include local plans as annexes to the State plan) and evaluation and assessment of the adequacy of capabilities of State and local governments to implement the plans.

Basis for FEMA Assignment:

The Director, FEMA, pursuant to Reorganization Plan No. 3 of 1978 and Executive Order 12148 of July 20, 1979 establishes policies for, and coordinates all civil emergency planning, management, mitigation and assistance functions of the Executive agencies of the United States. The Director FEMA, represents the President in working with State and local governments and the private sector to stimulate vigorous participation in civil emergency preparedness, mitigation, response and recovery programs.

The term "civil emergency" is defined in 2-203 of Executive Order 12148 to include any accidental, natural, man-caused, wartime emergency or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property. This definition clearly encompasses an accident at a nuclear power facility.

Under section 201 of the Disaster Relief Act of 1974, (42 U.S.C. 5131) the Director is to establish a program of disaster preparedness which includes, among other matters, preparation of disaster preparedness plans, ~~for~~ warning, emergency operations, training and exercises, and coordination of Federal State and local programs. Further, the Director is to provide technical assistance to States in developing comprehensive plans and practical programs for preparation against disasters.

The agencies which were combined to form the nucleus of FEMA, as well as NRC had been for some years involved in planning for radiological emergencies at nuclear power facilities. These activities were largely voluntary, as neither Federal law nor regulations required States or local governments to have peacetime nuclear emergency plans, nor required States with plans to test those plans.

Additional material relevant to this rule may be found in the NRC rule making proceedings on Emergency Planning and in this materials cited therein.

NRC retains overall responsibility for making ~~and~~ decisions under their enabling legislation in determining whether licenses should be issued or operations suspended. NRC expects to evaluate deficiencies, if any, identified by FEMA to ascertain whether those deficiencies are significant and if they are significant, determine whether compensatory measures have been or will be taken by the licensee.

FEMA's approval of State and local plans and preparedness should be considered independently of any rules of the NRC with respect to its licensing proceedings. The rule proposed in this part is in no way dependent upon any authority available to the NRC. However, recognition must be given to the fact that the NRC under its rule now will base its findings on a review of FEMA findings and determination as to whether State or local plans are adequate and capable of being implemented. The regulation described in this part is designed with that FEMA review function in mind. Proposed section 350.12(f) provides an appeal procedure to the Director from the decision of the Associate Director. Procedures for processing appeals are not established as yet but will be incorporated in the final rule or will be the subject of a separate rule dealing with appeals in Federal Emergency Management Agency programs generally.

This regulation describes a procedure by which FEMA evaluates and assesses State and local emergency plans and preparedness to deal with a radiological emergency, and "approve" such plans. Further, FEMA may use the data obtained in its approval process in connection with a consultation role in Nuclear Regulatory Commission licensing proceedings.

Insofar as FEMA is concerned, there is no requirement in law that a State or local government submit its plan to FEMA, and FEMA's failure to approve such plan is not accompanied by any sanction or refusal to accord a benefit. Insofar as the procedure may have economic, environmental or legal consequences or impact, these result from NRC action on its rule and from the role which FEMA plays because of the MOU in the NRC licensing process. NRC has in connection with its rule adopted a "Finding of No Significant Impact" and has made an environmental assessment which covers actions covered by this regulation. In the interest of reducing paperwork and pursuant to CEQ regulations 40 CFR 1506.3, FEMA herein adopts as part of its own decision making process that part of the NRC assessment applicable to this rule. For the final rule FEMA plans to develop its own assessment.

Further the NRC statement addresses the subject of cost, and it is clear from this that neither the NRC rule, nor this FEMA rule is a significant regulation which requires a regulatory analysis under Executive Order 12148.

*Pending adoption of the final rule, FEMA intends to use generally, the process described herein as "approval" of any plan which might be submitted to it.*

Accordingly, it is proposed to amend Subchapter E of Chapter I, Title 44 Code of Federal Regulations by adding a new Part 350 as follows:

PART 350: Review and Approval of State Radiological Emergency Plans and Preparedness.

Sec.

- 350.1 Purpose
- 350.2 Definitions
- 350.3 Background
- 350.4 Exclusions
- 350.5 Criteria for Review and Approval of State and local Radiological Emergency Plans and Preparedness
- 350.6 Assistance in the Development of State and Local Plans
- 350.7 Application by State for Review and Approval
- 350.8 Initial FEMA Action on State Plan
- 350.9 Exercises
- 350.10 Public Meeting in Advance of FEMA Approval
- 350.11 Action by FEMA Regional Director
- 350.12 FEMA Headquarters Review and Approval
- 350.13 Withdrawal of Approval
- 350.14 Amendment to State Plans

Authority: 42 U.S.C. 5131, 5201, 50 U.S.C. App. 2253(g) Reorganization Plan No. 3 of 1978 (3 CFR 1973 Comp. p. 329), Executive Order 12127 (44 F.R. 19367), Executive Order 12148 (44 F.R. 43239)

§ 350.1 Purpose.

The purpose of the regulation in this part is to establish policy and procedures for review and approval by the Federal Emergency Management Agency (FEMA) of State and local emergency plans and preparedness for the off site effects of a radiological emergency which may occur at a nuclear power facility. Review and approval of these plans and preparedness involves preparation of findings and determinations with respect to the adequacy of the plans and the capabilities of State and local governments effectively to implement the plans.

§ 350.2 Definitions.

As used in this part the following terms have the following meanings:

Director means, the Director, Federal Emergency Management Agency;

Regional Director means a Regional Director of the Federal Emergency Management Agency;

Associate Director means Associate Director, Plans and Preparedness (FEMA);

NRC means the Nuclear Regulatory Commission;

EPE means Emergency Planning Zone.

§ 350.3 Background.

(a) On December 7, 1979, the President directed the Director to head up all offsite emergency planning and preparedness activities with respect to nuclear power facilities. This included a review of the existing emergency plans both in States with operating reactors, and those with plants scheduled in operation in the near future.

(b) This assignment was given to FEMA in view of its responsibilities under Executive Order 12148 to establish Federal policies for, and coordinate all civil emergency planning, management and assistance functions, and to represent the President in working with State and local governments and the <sup>vate</sup> ~~private~~ <sup>or</sup> ~~section~~ to stimulate vigorous participation in civil emergency preparedness programs. Under Section 201 of the Disaster Relief Act of 1974 (42 U.S.C. 5131), and other statutory functions, the Director, FEMA, is charged with the responsibility to develop and implement plans and programs of disaster preparedness.

(c) To carry out these responsibilities, FEMA is engaging in a cooperative effort with State and local governments and other Federal agencies in the development of State and local plans and preparedness to cope with the offsite effects resulting from radiological emergencies at nuclear power facilities.

(d) FEMA has entered into an arrangement with the NRC to which it will furnish assessments, findings and determinations as to whether State and local emergency plans and preparedness are adequate and continue to be capable of implementation (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualification and equipment adequacy). These findings and determinations can be used by NRC under its own rules in connection with its licensing and regulatory requirements and FEMA will support NRC as requested.

§ 350.4 Exclusion.

The regulation in this part does not apply to, nor will FEMA apply any criteria with respect to, any evaluation, assessment or determination regarding the NRC licensee's emergency plans or preparedness, nor shall FEMA make any similar determination with respect to integration of offsite and NRC licensee emergency preparedness except as such affects the emergency <sup>preparedness</sup> ~~preparedness~~ of State and local governments. This regulation, in this part, applies only to State and local planning and preparedness with respect to emergencies at nuclear power facilities and does not apply to other facilities which may be licensed by NRC.

§ 350.5 Criteria for review and approval of State and local radiological emergency plans and preparedness.

(a) The following joint NRC-FEMA planning objectives, which apply insofar as NRC is concerned to licensees, and insofar as FEMA is concerned to State and local governments are to be used in evaluating, assessing, reviewing and approving State and local radiological emergency plans and preparedness and in making any findings and determinations with respect to the adequacy of the plans and the capabilities of State and local governments to implement the plans.

(1) Primary responsibilities for emergency response in nuclear facility operator, State and local organizations within the Emergency Planning Zones have been assigned, the emergency responsibilities of the various supporting organizations have been specifically established, and each principal response organization has staff to respond and to augment its initial response on a continuous basis.

(2) On-shift facility operator responsibilities for emergency response are unambiguously defined, adequate staffing to provide initial facility accident response in key functional areas is maintained at all times, and timely augmentation of response capabilities is available, and the interfaces among various onsite response activities and offsite support and response activities are specified.

(3) Arrangements for requesting and effectively using assistance resources have been made, arrangements to accommodate State and local staff at the operator's near-site Emergency Operations Facility have been made, and other organizations capable of augmenting the planned response have been identified.



(4) A standard emergency classification and action level scheme whose bases include facility system and effluent parameters is in use by the nuclear facility operator, and State and local response organizations have included appropriate actions in their emergency plan for each class of emergency.

(5) Procedures have been established for notification, by the facility, of State and local response organizations and for notification of emergency personnel by all response organizations; the content of initial and followup messages to response organizations and the public have been established; and means to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone have been established.

(6) Provisions exist for prompt communications among principal response organizations, to emergency personnel and to the public.

(7) Information is made available to the public on how they would be notified and what their initial actions should be in an emergency; the principal points of contact with the news media for dissemination of information during an emergency (including physical location or locations) are established in advance; and procedures for coordinated dissemination of information to the public are established.

(8) Adequate emergency facilities and equipment to support the emergency response are provided.

(9) Adequate methods, systems and equipment for assessing and monitoring actual or potential offsite consequences of a radiological emergency condition are in use.

(10) A range of protective actions has been developed for the plume exposure pathway for emergency workers and the public, guidelines for the choice of protective actions during an emergency, consistent with Federal guidance, are developed and in use, and protective actions for the ingestion exposure pathway appropriate to the locale have been developed.

(11) Means for controlling radiological exposures, in an emergency, are established for the affected population and emergency workers. The means for controlling radiological exposures shall include exposure guidelines consistent with EPA Protective Action Guides.

(12) Arrangements are made for medical services for contaminated injured individuals.

(13) General plans for recovery and reentry are developed.

(14) Periodic exercises are conducted to evaluate major portions of emergency response capabilities, periodic drills are conducted to develop and maintain key skills; deficiencies identified as a result of exercises or drills are corrected.

(15) Radiological emergency response training is provided to those who may be called upon to assist in an emergency.

(16) Responsibilities for plan development, review and distribution of emergency plans are planners who are properly trained.

(b) In order for State or local plans and preparedness to be approved, such plans and preparedness must be determined to adequately protect the public health and safety and to provide reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency. Plans and preparedness will be measured against the objectives set forth in subsection (a) and as detailed in FEMA REP 1 and other criteria as specified in this part.

§ 350.6 Assistance in development of State and local plans.

(a) An integrated approach to the development of offsite radiological emergency plans by States, localities and the licensees of NRC with the assistance of the Federal Government is the approach /most likely to provide the best protection to the public. Hence Federal agencies, including FEMA regional staff, will be made available upon request to assist State and localities in the development of plans.

(b) There now exists in each of the ten Standard Federal Regions, a Regional Assistance Committee (RAC) chaired by a FEMA regional official and having members from NRC, <sup>HHS</sup> ~~HEW~~, DOE, DOT, EPA, and Agriculture. <sup>spell out</sup> The basic functions of the RAC are to assist State and local government officials in preparing and revising radiological emergency plans, and improving the preparedness capabilities of State and local governments for dealing with accidents and emergencies at commercial nuclear power facilities.

(c) In accomplishing the foregoing, the RACs will use the criteria in FEMA-REP-1, and will render such technical assistance as may be required. The RACs will also observe and evaluate exercises and identify in a timely fashion deficiencies in the planning and preparedness effort including deficiencies in resources, training of staff, equipment, staffing levels, and deficiencies in the qualifications of personnel.

§ 350.7 Application by State for review and approval.

(a) A State which seeks review and approval by FEMA of the State's radiological emergency plan, with annexes (which for purposes of this

part includes the plans of all local governments for all jurisdictions wholly or partially with the plume exposure pathway EPZ for the applicable nuclear power facility <sup>and</sup> ~~or~~ for the evacuation host jurisdictions), shall submit an application for such review and approval to the FEMA Regional Director of the Region in which the State is located. The application, in the form of a letter from the Governor or from such other State official as the Governor may designate, shall contain one copy of the completed State plan, including the plan for the ingestion pathway.

(b) Generally, the plume exposure pathway EPZ for nuclear power facilities shall consist of an area about 10 miles (16 Km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 Km) in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power reactor shall be determined <sup>relation</sup> ~~in relation~~ to the emergency response needs and capabilities as they are affected by such local conditions as demography, topography, land characteristics, access routes, and local jurisdictional boundaries. The size of the EPZs may be determined jointly on a case-by-case basis by FEMA and NRC for gas cooled reactors and for reactors with an authorized power level less than 250 Mw thermal. The plans for the ingestion pathway shall focus on such actions as are appropriate to protect the food ingestion pathway.

(c) FEMA and the States will make suitable arrangements in the case of overlapping or adjacent jurisdictions to permit an orderly assessment and approval of interstate or interregional plans.

(d) Only a State may request review of a State or local radiological emergency plan. The States ~~will~~ designate the local government plans which will be submitted as annexes to the State plan.

(e) A State may submit separately its and the local government plans specific to the plume exposure pathway emergency planning zones for individual nuclear power facilities. If this is done appropriate adjustments in the State plan may be necessary.

(f) The application shall contain a statement that the State plan, together with its annexes, is, in the opinion of the State, adequate to protect public health and safety of its citizens living within the emergency planning zones for the ~~commercial~~ nuclear power facilities included in the submission and provides reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency.

(g) The purpose of separate submissions is to allow approval of a State plan, and of the plan<sup>s</sup> necessary for specific nuclear power facilities in a multi-facility State, while not approving or acting on the plans necessary for other nuclear power facilities within the State.

§ 350.8 Initial FEMA action on State plan.

(a) The Regional Director shall acknowledge in writing the receipt of such an application to the State within ten days of its receipt.

(b) FEMA shall cause to be published in the FEDERAL REGISTER within 30 days after receipt of the application, notice that an application from a State has been received and that copies are available at the Regional Office for review and copying in accordance with Section 5.26 and Appendix A to Part 5 of this chapter.

(c) The Regional Director shall furnish copies of the plan to members of the RAC for their analysis and evaluation.

(d) The Regional Director shall make a detailed review of the plan together with its annexes, and will assess the capability of the State or local governments to effectively implement the plan. Such review should, in addition to application of the criteria specified in Section 350.5, consider (1) the integration of planning by the NRC licensee, by the localities around the nuclear facility and by the State, and the linkage between plans, and (2) elements dealing with notification, communications, public information, equipment, accident assessment, drills and exercises and emergency planning zones recommended by FEMA, NRC and EPA for planning around nuclear power facilities.

(e) In connection with the review, the Regional Director may make suggestions to States concerning perceived gaps or deficiencies in the plans, and the State may amend the plan at any time.

(f) Two conditions for FEMA approval of State plans (including local government annexes) calls for activity prior to or during regional review. These are the requirement for a complete exercise, see § 350.9 of this part, and for public participation, see § 350.10 of this part.

§ 350.9     Exercises.

(a) FEMA approval of State plans (and appropriate local government annexes) shall in each case be site specific.

(b) Prior to the submission by a State of a request for review and approval of a State plan, and annexes, or, in any event, before a Regional Director can forward a State plan and annexes to the Associate Director for Plans and Preparedness for approval, the State together with all necessary local governments must conduct a complete exercise of that State

plan, involving participation of appropriate local government entities and the appropriate licensee of NRC. This exercise shall be observed and evaluated by FEMA and to the extent possible by representatives of other agencies with membership on the RACs. Following the debriefing of all involved parties, if the exercise discloses any deficiencies in the State plan, or the ability of the State to implement it, the FEMA representatives shall make them known promptly in writing to appropriate State officials and, to the extent necessary, the State shall amend the plan to incorporate recommended changes or improvements.

(c) The Regional Director of FEMA shall be the FEMA official responsible for certifying to the Associate Director that a complete exercise of the State plan has been conducted, and that any deficiencies noted in the exercise has been corrected and such corrections incorporated in the plan.

(d) On an annual basis, all commercial nuclear power facilities will be required by NRC to exercise their plans and the exercises should involve annual exercising of the appropriate local government plans in support of these facilities. The State may choose to limit its participation in exercises at facilities other than the facility (site) chosen for the annual exercise(s) of the State plan.

(e) For continued FEMA approval each State and appropriate local governments shall conduct an exercise jointly with a commercial nuclear power facility annually. However, States with more than one facility (site) shall schedule exercises such that each individual facility (site) is exercised in conjunction with the State and appropriate local government

plans not less than once every three years for sites with the plume exposure pathway EPZ partially or wholly within the State and not less than once every five years for sites with the ingestion exposure pathway EPZ partially or wholly within the State. The State shall choose, on a rotational basis, the site(s) at which the required annual exercise(s) is to be conducted, and priority shall be given to new facilities seeking an operating license from NRC, and which have not had an exercise involving the State plan at that facility site.

(f) After FEMA approval of a State plan has been granted, failure to exercise the State plan at least once each year shall be grounds for withdrawing FEMA approval (see Section 350.13).

§ 350.10 Public meeting in advance of FEMA approval.

During the FEMA Regional Office review of a State plan, and prior to the submission by the Regional Director of the plan to the Associate Director, the FEMA Regional Director shall assure the conduct of at least one public meeting in the vicinity of the nuclear power facility. The purpose of such a meeting, which may be conducted by the State or by the Regional Director, shall be to acquaint the members of the public in the vicinity of each facility with the content of the State and related local plans; to answer any questions about the FEMA review and to receive suggestions from the public concerning improvements or changes that may be necessary; and to describe to the public the way in which the plan is expected to function in the event of a real emergency. The Regional Director should assure that representatives from appropriate State government agencies, local and county agencies and the affected utility



appear at such meetings to make presentations and to answer questions from the public. These meetings shall be noticed in the local newspaper having the largest circulation in the area on at least two occasions at least two weeks before the meeting takes place. Local radio and television stations should be notified of the scheduled meeting at least one week in advance. Representatives from NRC and other appropriate Federal agencies should also be invited to participate in these meetings. If, in the judgment of the FEMA Regional Director, the public meeting or meetings reveal gaps or deficiencies in the State plan, the Regional Director shall inform the State of the fact together with recommendations for improvement.

No FEMA approval of a State plan shall be made until a meeting described in this paragraph shall have been held at or near each nuclear power facility identified in the plan for which the State is seeking approval.

§ 350.11 Action by FEMA Regional Director.

(a) Upon completion of his/her review including conduct of the exercise required by Section 350.9 and after the public meeting required by Section 350.10, the Regional Director shall prepare an evaluation of the State plan, including plans for local governments. Such evaluation shall be specific with respect to the plans applicable to each nuclear facility so that findings and determinations can be made by the Associate Director on a site specific basis.

(b) The Regional Director shall evaluate the adequacy of State and local plans and preparedness on the basis of the criteria set forth in Section 305.5, and shall report that evaluation with respect to each of the planning objectives mentioned therein as such apply to State and local plans and preparedness. The Regional Directors evaluation report may also address any of the other criteria contained in FEMA REP 1 (NUREG 654) "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," or in other guidance issued by FEMA or by NRC as such apply to State and local offsite radiological emergency plans and preparedness. This evaluation will not include a recommendation on approval.

(c) The Regional Director shall forward the State plan together with his or her <sup>evaluation</sup> ~~evaluation~~ and other relevant record material to the Associate Director for Plans and Preparedness.

§ 350.12 FEMA Headquarters review and approval.

(a) Upon receipt from a Regional Director of a State plan, the Associate Director for Plans and Preparedness shall cause copies of the plan together with the Regional Director's evaluation to be distributed to the members of the Federal Interagency Central Coordinating Committee (FICCC) and to other offices of FEMA with appropriate guidance relative to their assistance in the FEMA review process.

(b) The Associate Director shall conduct such review of the State plan as he or she shall deem necessary.

(c) Within 30 days after submission of the State plan by the Regional Director, the Associate Director, in writing, shall, if he or she finds and determines that the State plans and preparedness:

(1) are adequate to protect the health and safety of the public living in the vicinity of the nuclear power facility;

(2) are capable of being implemented (see Section 350.3(d));  
and

(3) provide reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency;

then the Associate Director shall approve the State plan. The Associate Director shall communicate this FEMA approval to the Governor of the State in question and the NRC and immediately shall cause to be published in the FEDERAL REGISTER a notice to this effect.

(d) If the Associate Director is not satisfied with the adequacy of the plan or preparedness, he or she shall communicate that decision to the Governor of the State, to any involved licensee, or other interested person, together with a statement in writing explaining the reasons for the decision and requesting appropriate plan or preparedness revisions. Such statement shall be transmitted to the Governor through the Regional Director.

(e) The approval shall be of the State plan together with the local plans (which are annexes to the State plan) for each nuclear power facility (including out of State facilities) for which plans are necessary in the State. FEMA may withhold approval of plans applicable to a specific nuclear power facility in a multi-facility State, but nevertheless approve the State plan and associated local plans applicable to other facilities in a State.

(f) Within 30 days after the date of notification of approval for a particular nuclear power facility or within 30 days of any statement of inadequacy or ~~with~~ withdrawal of approval of a State plan, any interested person may appeal the decision of the Associate Director to the Director; however, such appeal must be made solely upon the ground that the Associate Director's decision, based on the available record, was unsupported by substantial evidence.

§ 350.13 Withdrawal of approval.

If, at any time after granting approval of a State plan, the Associate Director determines, on his or her own motion or on the basis of information supplied by a third person, that the State plan is no longer adequate to protect public health and safety, is no longer capable of being implemented, or does not provide reasonable assurance that appropriate protection measures can be taken, he or she shall immediately advise the Governor of the affected State and NRC of that initial determination in writing. FEMA shall spell out in detail the reasons for its initial determination and shall describe the deficiencies in the plan or the preparedness of the State. If, after four months from the date of such an initial determination, the State in question has not (1) either corrected the deficiencies noted, or (2) submitted an acceptable plan for correcting those deficiencies, the Associate Director shall withdraw approval, and shall immediately inform NRC and the Governor of the affected State, of the determination to withdraw approval and shall cause to be published in the FEDERAL REGISTER and the newspaper having the largest daily circulation in the affected State, notice of its withdrawal of approval. Such action by the Associate Director is subject to the appeal procedure specified in Section 350.12(f).

In the event that the State in question shall submit a plan for correcting the deficiencies, the Associate Director shall negotiate a schedule and timetable under which the State shall cure the deficiencies. If, on the agreed upon date, the deficiencies have been cured, the Associate Director shall withdraw the initial determination and the approval previously granted shall remain ~~valid~~ <sup>valid</sup>. If, however, on the agreed upon date, the deficiencies are not cured, FEMA shall withdraw its approval and shall communicate its decision to the Governor in question, to the NRC, to the agencies making up the FICCC, and to the public.

§ 350.14 Amendments to State plans.

The State may amend a plan submitted to FEMA for review and approval under Section 350.11 at any time during the review process or at any time after FEMA approval shall have been granted. A State should amend its plan in order to extend the coverage of the plan to any new nuclear power facility which becomes operational after a FEMA approval. The approved State plan shall remain in effect while any amendment is under review.

ENCLOSURE I