ATTACHMENT 5

JANUARY 12, 2000 LETTER FROM FEMA

Federal Emergency Management Agency

Washington, D.C. 20472

JAN 12 2000

Annette Vietti-Cook, Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Ms. Vietti-Cook:

Enclosed is the Federal Emergency Management Agency's (FEMA) response to the Nuclear Regulatory Commission's (NRC) draft Final Rule, which proposes to include in 10 CFR 50.47(b)(10) "consideration of potassium iodide (KI)" as a supplemental protective measure in emergency planning and preparedness in support of commercial nuclear power plants.

I am taking this opportunity to reiterate Director Witt's concern expressed to former Chairman Jackson in an April 29, 1999, letter. The issue concerns NRC's reversal of its commitment to fund the purchase of potassium iodide (KI) for States that elect to stockpile it, locally or near the nuclear facility, for use by the general public in the event of a radiological release from a nuclear power plant. In light of the Federal policy developed and unanimously approved by the members of the Federal Radiological Preparedness Coordinating Committee (FRPCC), which includes the NRC, FEMA encourages the NRC to reconsider the Commission's reversal of its position on this matter. The policy would provide that if a State chooses to add KI as a supplement to its evacuation and sheltering protective actions, the State would inform FEMA and we would forward the request to the NRC to support the purchase. The NRC currently has the authority to efficiently carry out this policy and pass the cost on through its user fee.

In changing course on this matter, the Commission took the position that it would work with FEMA to establish and maintain Federal regional KI stockpiles. I would like to emphasize that, based on input from its State and local partners in emergency management, FEMA continues to maintain that Federal regional stockpiles of KI will not enhance local emergency preparedness for responding to commercial nuclear power plant accidents because of the complex logistics associated with its storage and distribution.

It appears that the NRC, the trade press and the public also have the mistaken impression that FEMA has a current role in establishing the regional pharmaceutical stockpiles for responding to acts of terrorism. I should clarify that the Department of Health and Human Services, the Centers for Disease Control and the Public Health Service are responsible for establishing these stockpiles and determining the location and composition of those resources.

I wish to thank the NRC staff for the opportunity to comment on the proposed final rule on KI. We look forward to continuing to work with the NRC to resolve this matter and in dealing with other issues affecting the health and safety of the public.

Sincerely,

Kay C. Goss, CEM®
Associate Director for Preparedness,
Training, and Exercises

Enclosure

FEMA RESPONSE AND COMMENT ON NRC DRAFT PREDECISIONAL FEDERAL REGISTER NOTICE ON KI RULEMAKING

This responds to the draft Federal Register Notice containing the final Rule that was sent to FEMA for review and comment.

The FEMA position remains that contained in Director Witt's April 29, 1999, letter to the Commissioners. In summary, the FEMA-stated position is:

(1) FEMA opposes Federal regional stockpiles as proposed by the NRC. In our judgment, they will not enhance local emergency preparedness because of the complex logistics of storage and timely distribution;

(2) the Federal Radiological Preparedness Coordinating Committee (FRPCC) unanimously approved an amended Federal policy reiterating the State's authority to decide whether to stockpile locally and distribute KI as a protective measure for the general public on a site-specific basis; and,

(3) the NRC should support the Federal KI policy and honor its commitment to provide funding for States that opt to establish local stockpiles of KI. FEMA lacks authority and appropriations for acquisition of potassium iodide and thus cannot and will not assume the NRC financial commitment to the States.

Although the NRC and FEMA staff have met for the purpose of reexamining earlier positions and policies, there have been no final agreements, and thus no decisions have been made. During our reexamination, the FEMA staff reiterated the agency position that the Commission reconsider its decision not to fund State stockpiles of KI.

Specific items are addressed below:

- The NRC states that agreements and procedures are in place through the establishment of Federal regional stockpiles, such as those under the scope of the HHS/CDC/PHS for establishing stockpiles, processes and procedures for responding to acts of terrorism. However, these regional stockpiles, and other means for acquiring pharmaceutical antidotes in response to possible terrorist activities, are only in the early stages of development by HHS. The NRC incorrectly expresses the FEMA position as supporting Federal regional stockpiles. This is reflected in the NRC's response to Issues 7 and 22.

  We suggest the following language, assuming the Commission decides to fund State stockpiles of KI: "FEMA and the NRC are working together to develop detailed guidance on how a State or local government could obtain KI in accordance with the FRPCC-revised Federal policy, which provides for the NRC funding of local stockpiles when requested by the State."

In Issue 22, we suggest: "You are essentially correct, HHS/CDC is supporting the establishment of a system that would provide pharmaceuticals to biological and chemical terrorist incidents. These pharmaceuticals, which may be available, are determined by each Metropolitan Medical Strike Team. These Strike Teams may choose not to include KI even if supplied by the NRC."

- In Issue 12, with respect to the FDA's development of possible new guidance on use of KI, i.e., dose per age group and intervention levels, it is clear that their draft guidance for publication in the Federal Register will not occur this calendar year. We must also assume that when FDA does publish its draft guidance, they will receive many comments. FEMA agrees that the revised NUREG-1633 should not be published in final until FDA has completed its work and provided its updated and completed guidance. However, we also believe that the draft NUREG-1633 could be published in the Federal Register for comment with the FDA updated guidance inserted before NUREG-1633 is issued in final. In addition, the NRC's language in the proposed Federal Register notice implies NUREG-1633 will be published in final in early 2000, when, in fact, it will first be noticed in the Federal Register as a draft for comment to anyone who is interested.

  We suggest the following language in the NRC's responses to Issues 2, 10, 16, 18, 19, and 21: "The Notice for comment should be published in early 2000, with the final version of NUREG-1633 published after the FDA final guidance is available."

- In Issue 14, we agree with the NRC's response to the commenter that the Rule only says a State must consider KI to be in compliance. However, it is clear that the effect of withdrawal of funding for local KI supplies could affect a State's decision on whether or not to provide a local supply or to add KI as a supplemental protective measure.

Thank you for the opportunity for FEMA to reiterate the agency's position and to comment on the draft Federal Register Notice.