

the plans applicable to each nuclear facility so that findings and determinations can be made by the Deputy Administrator for the National Preparedness Directorate on a site-specific basis.

(b) The Regional Administrator shall evaluate the adequacy of State and local plans and preparedness on the basis of the criteria set forth in §350.5, and shall report the evaluation with respect to each of the planning standards mentioned therein as such apply to State and local plans and preparedness.

(c) The Regional Administrator shall forward the State plan together with his or her evaluation and other relevant record material to the Deputy Administrator for the National Preparedness Directorate. Relevant record material will include the results of the exercise (i.e., deficiencies noted and corrections made), a summary of the deficiencies identified during the public meeting, recommendations made to the State and commitments made by the State for effecting improvements in its plans and preparedness and actions taken by the State.

§350.12 FEMA Headquarters review and approval.

(a) Upon receipt from a Regional Administrator of a State plan, the Deputy Administrator for the National Preparedness Directorate shall conduct such review of the State plan as he or she shall deem necessary. The Deputy Administrator for the National Preparedness Directorate shall arrange for copies of the plan, together with the Regional Administrator's evaluation, to be made available to the members of the Federal Radiological Preparedness Coordinating Committee (FRPCC) and to other offices of FEMA with appropriate guidance relative to any assistance that may be needed in the FEMA review and approval process.

(b) If, after formal submission of the State plan and the Regional Administrator's evaluation, the Deputy Administrator for the National Preparedness Directorate 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 by providing reasonable assurance

that appropriate protective measures can be taken offsite in the event of a radiological emergency; and

(2) Are capable of being implemented (e.g. adequacy and maintenance of procedures, training, resources, staffing levels and qualification and equipment adequacy); the Deputy Administrator for the National Preparedness Directorate shall approve in writing the State plan. The Deputy Administrator for the National Preparedness Directorate shall concurrently communicate this FEMA approval to the Governor of the State(s) in question, the NRC and the pertinent Regional Administrator(s) and immediately shall publish in the FEDERAL REGISTER a notice of this effect.

(c) If, after formal submission of the State plan, the Deputy Administrator for the National Preparedness Directorate is not satisfied with the adequacy of the plan or preparedness with respect to a particular site, he or she shall concurrently communicate that decision to the Governor(s) of the State(s), the NRC and the pertinent Regional Administrator(s), together with a statement in writing explaining the reasons for the decision and requesting appropriate plan or preparedness revision. Such statement shall be transmitted to the Governor(s) through the appropriate Regional Administrator(s). The Deputy Administrator for the National Preparedness Directorate shall immediately publish a notice to this effect in the FEDERAL REGISTER.

(d) The approval shall be of the State plan together with the local plans for each nuclear power facility (including out-of-State facilities) for which approval has been requested. 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. Approval may be withheld for a specific site until plans for all jurisdictions within the emergency planning zones of that site have been reviewed and found adequate.

(e) Within 30 days after the date of notification of approval for a particular nuclear power facility or within 30 days of any statement of disapproval

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of a State plan, any interested person may appeal the decision of the Deputy Administrator for the National Preparedness Directorate to the Administrator; however, such an appeal must be made solely upon the ground that the Deputy Administrator for the National Preparedness Directorate's decision, based on the available record, was unsupported by substantial evidence. (See § 350.15 for appeal procedures.)

§ 350.13 Withdrawal of approval.

(a) If, at any time after granting approval of a State plan, the Deputy Administrator for the National Preparedness Directorate determines, on his or her own initiative, motion or on the basis of information another person supplied, that the State or local plan is no longer adequate to protect public health and safety by providing reasonable assurance that appropriate protective measures can be taken, or is no longer capable of being implemented, he or she shall immediately advise the Governor of the affected State, through the appropriate Regional Administrator and the 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 either:

(1) Corrected the deficiencies noted, or (2) submitted an acceptable plan for correcting those deficiencies, the Deputy Administrator for the National Preparedness Directorate shall withdraw approval and shall immediately inform the NRC and the Governor of the affected State, of the determination to withdraw approval and shall publish in the FEDERAL REGISTER and the local newspaper having the largest daily circulation in the affected State notice of its withdrawal or approval. The basis upon which the Deputy Administrator for the National Preparedness Directorate makes the determination for withdrawal of approval is the same basis used for reviewing plans and exercises, i.e., the planning standards and related criteria in NUREGO654/FEMA/REP-1, Rev. 1.

(b) In the event that the State in question shall submit a plan for correcting the deficiencies, the Deputy Administrator for the National Preparedness Directorate shall negotiate a schedule and a timetable under which the State shall correct the deficiencies. If, on the agreed upon date, the deficiencies have been corrected, the Deputy Administrator for the National Preparedness Directorate shall withdraw the initial determination and the approval previously granted shall remain valid. He or she shall inform the Governor(s), the NRC, the pertinent Regional Administrator(s) and notify the public as stated in paragraph (a) of this section. If, however, on the agreed upon date, the deficiencies are not corrected, FEMA shall withdraw its approval and shall communicate its decision to the Governor of the State whose plan is in question, the NRC, the appropriate Federal agencies and notify the public as indicated above.

(c) Within 30 days after the date of notification of withdrawal of approval of a State or local plan, any interested person may appeal the decision of the Deputy Administrator for the National Preparedness Directorate to the Administrator; however, such an appeal must be made solely upon the ground that the Deputy Administrator for the National Preparedness Directorate's decision, based on the available record, was unsupported by substantial evidence. (See § 350.15 for appeal procedures.)

§ 350.14 Amendments to State plans.

(a) The State may amend a plan submitted to FEMA for review and approval under § 350.7 at any time during the review process or may amend a plan at any time after FEMA approval has been granted under § 350.12. A State must 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 or in case of any other significant change. The State plan shall remain in effect as approved while any significant change is under review.

(b) A significant change is one which involves the evaluation and assessment of a planning standard or which involves a matter which, if presented