

§ 350.12 FEMA Headquarters review and approval.

(a) Upon receipt from a Regional Director of a State plan, the Associate Director shall conduct such review of the State plan as he or she shall deem necessary. The Associate Director shall arrange for copies of the plan, together with the Regional Director'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 Director's evaluation, the Associate Director 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 Associate Director shall approve in writing the State plan. The Associate Director shall concurrently communicate this FEMA approval to the Governor of the State(s) in question, the NRC and the pertinent Regional Director(s) and immediately shall publish in the FEDERAL REGISTER a notice of this effect.

(c) If, after formal submission of the State plan, the Associate Director 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 Director(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 Director(s). The Associate Director 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 of a State plan, any interested person may appeal the decision of the Associate Director to the Director; however, such an appeal must be made solely upon the ground that the Associate Director'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 Associate Director 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 Director 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 Associate Director shall withdraw approval and shall immediately inform the NRC and the Governor of the affected State,