

**§ 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,

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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 Associate Director 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 Associate Director 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 Associate Director 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 Director(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 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.)

**§ 350.14 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 with the plan, would need to have been considered by the Associate Director in making a decision that State or local plans and preparedness are:

(1) 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) Capable of being implemented.

(c) A significant change will be processed in the same manner as if it were an initial plan submission. However, the Regional Director may determine that certain procedures, such as holding a public meeting or a complete exercise, would be unnecessary. The existing FEMA approval shall remain in effect while any significant changes are under review.

(d) Changes, such as a change in a telephone number, that are not significant as defined in paragraphs (b) and (c) of this section, but are necessary to maintain currency of the plan, should be forwarded to the Regional Director.

**§ 350.15 Appeal procedures.**

(a) Any interested person may appeal a decision made under §§350.12 and 350.13 of this part, by submitting to the Director, FEMA, a written notice of appeal, within 30 days after the appearance in the FEDERAL REGISTER, of the notice of decision relating to the matter being appealed. The appeal must be addressed to the Director, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC, 20472. The appeal letter shall state specific reasons for the appeal and include an offer to provide documentation supporting appellate arguments.

(b) Upon receipt of an appeal, the Director or the Director's designee shall review the file, as submitted to the Associate Director, State and Local Programs and Support, by the Regional Director of the FEMA Region concerned, based on the information contained in the file and the appeal letter,