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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

James L. Kelley, Chairman
Dr. James H. Carpenter
Glenn O. Bright

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In the Matter of CAROLINA POWER & LIGHT COMPANY and NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY (Shearon Harris Nuclear Plant, Units 1 & 2)	Docket Nos. 50-400 50-401 ASLBP No. 82-472-03 OL August 3, 1984

FINAL SET OF RULINGS ON ADMISSIBILITY
OF OFFSITE EMERGENCY PLANNING CONTENTIONS,
RULING ON PETITION FOR WAIVER OF NEED FOR POWER RULE,
AND NOTICE OF UPCOMING TELEPHONE CONFERENCE CALL

D502

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* admitted, or admitted in part.
** conditionally rejected.

Evacuation of Special Populations:
Eddleman Contentions 139, 140, 88,
235, 236(A), 236(B), 204, and 230

These contentions, for the most part, allege inadequate planning for the evacuation of certain populations: recreational, mobility-impaired, and school. We reject all of these contentions except 236(A) and 230, which we consider in connection with similar contentions filed by Dr. Wilson.

Contentions 139, 140, and 88, which all deal with the recreation population, were first submitted before the offsite plans were available, and are now resubmitted without change. They therefore sometimes allege inaccurately, or about the onsite plan, or even the FES. In discussing these three contentions individually, we focus on their principal thrusts.

Furthermore, we shall construe allegations apparently directed at the onsite plans to be directed now to the offsite plans.

Contentions 139 and 140 both allege that the ERPs do not provide for prompt enough evacuation of the recreation population. These two contentions do not claim that particular plan provisions cause unnecessary delays in evacuation. As its sole basis, Contention 139 asserts that given the average windspeed around Harris, 7 mph, only about one hour and 25 minutes would be available to evacuate everyone in

the plume EPZ. Contention 139 also asserts that since the effects of a severe accident at Harris could extend beyond the plume EPZ, the ERPs should "take into account" the recreation population within 20 miles of the plant. By "tak[ing] into account" we assume the Contention means "evacuate".

As we said in our June 14, 1984 Order, the NRC rules set no time limit on evacuation. Id. at 22-23. In particular, the NRC does not, and, in the nature of things, probably could not, require that if -- in the situation Mr. Eddleman treats as if it were the only one possible -- evacuation were to begin precisely when a plume was released, evacuation could always be a step ahead of the plume. What the NRC rules do call for is that evacuation time estimates be part of the plans, to add to the information which would enable emergency response officials to choose wisely between sheltering and evacuation, both when evacuation is feasible before plume passage, and when it is not.

As were six contentions we rejected in our June 14, 1984 Order at 6, Contention 139's implied call for evacuation of the recreation population within a 20-mile area is an impermissible attack on the Commission's regulation on the size of the plume EPZ, 10 C.F.R. § 50.47(c)(2), which sets the radius of the plume EPZ at "about 10 miles."

Contention 88, besides repeating Contentions 139 and 140, asserts that the FES should have considered the costs of transportation and other emergency response adequate to assure the health and safety of the recreation population in the plume EPZ. As an attack on the FES, this Contention comes too late. Even if Contention 88 is construed to be now directed at the ERPs, it is still to be rejected. Although funding "must be discussed between the individual nuclear utilities and the involved State and local governments ..." (NUREG-0654, I.G. at 25), neither NRC regulation nor guidance suggests that the ERPs -- which are supposed to make clear what is to be done in an emergency, how, and by whom (NUREG-0654 at 29) -- should also set out costs.

Contentions 235, 236(A), 236(B), and 204 all concern evacuation transportation for the mobility-impaired. Contention 236(A) and one aspect of Contention 235 overlap and are encompassed by Wilson 7 and so will be considered later with Wilson 7. Contention 235 is the most general of this group of four contentions. It alleges that the State and local ERPs "fail to assess the resources necessary or available" to protect the mobility-impaired. As its principal basis, the Contention cites the guidance in evaluation criterion J.10.d in NUREG-0654, which says that State and local ERPs for the plume EPZ "shall include: ... d. Means for protecting those persons whose mobility may be impaired due to such factors as institutional or other confinement."

Mr. Eddleman apparently interprets the word "means" in J.10.d to mean "assessment of necessary and available resources." Assuming he is right, it would appear to us that in relation to some protective actions planned for the mobility-impaired, no assessment is needed, and that in relation to the remaining protective actions, Contention 235's call for assessment repeats other contentions which we have either admitted or deferred. Contention 235 cites as lacking assessment Section IV.E.6 of each county plan and Section IV.E.4.b of the State plan. The cited county sections list four protective measures which are part of sheltering: closing windows and doors, turning off air conditioners, "relocat[ing] to the best protection factors (PF)" in buildings, and distribution of KI. We see no need for the plans to assess the resources necessary and available for closing windows and turning off air conditioners, and we have already admitted contentions which allege that the PFs should be determined in advance of the emergency preparedness exercises, and that the county ERPs should include the quantities of KI stored for emergency use. See our June 14, 1984 Order at 18, 21-22. The cited State section lists the organizations which are to provide evacuation transportation for non-ambulatory patients. Contention 235's concern with the adequacy of the resources of these organizations echoes the concerns behind Contention 236(A) and Wilson 7, and so we consider the three together later.

Contention 236(B) alleges that contrary to 10 C.F.R. § 50.47(b)(10) and evaluation criterion J.10.d in NUREG-0654, II, the State and local

ERPs do not show that "self-transport capability exists for all facilities for" the mobility-impaired and prisoners in the plume EPZ. We are not sure what Contention 236(B) intends. Certainly, the bases it cites do not support a claim that these facilities should have their own evacuation transportation resources. Perhaps Contention 236(B) intends to say that the lack of assessment alleged by Contention 236(A) might be justified if the plans were to show that these facilities could evacuate without any transportation resources the emergency response organizations named in the plans might have. If this is 236(B)'s intention, 236(B) is simply repeating the call for an assessment of resources for evacuation transportation. Thus, according to how Contention 236(B) is read, it is either redundant or lacking in basis.

Contention 204 alleges that the plans do not provide radiation-protected evacuation for people who require life-support while being evacuated. As basis, the Contention cites Section III.C.3.a(3) of the State ERP, at 13, and alleges that this Section points out the lack of radiation protection on National Guard helicopters. In fact, that Section says nothing about radiation-protected evacuation. Rather, it reports that National Guard helicopters carry no life support equipment. No NRC regulations or guidance call for radiation-protected evacuation.

Contention 230, the last of the group dealing with transportation for special populations, alleges principally that the ERPs fail to demonstrate adequacy of the resources available to evacuate the schools.

Contention 230 is very similar to parts of Contention 222 and Wilson 7. We consider later these three contentions together.

Monitoring and Decontamination of Evacuees: Eddleman Contentions 240 and 241

Contention 240, which we admit in part, alleges that procedures in the ERPs for monitoring evacuees for radioactive contamination are inadequate because, although the ERPs assign local governments the responsibility for monitoring at evacuation shelters, the ERPs do not show that the local governments have the "capabilties" for decontaminating evacuees, nor are the locations for evacuee decontamination and availability of materials for evacuee decontamination clear in the plans.

Since the Contention distinguishes between "capabilities" and "materials," we construe the allegation that the plans do not show that local governments have the capabilities for evacuee decontamination to mean that the plans do not show that the responsibility for this task has been assigned to organizations which will be adequately trained to carry out the task.

Each of the County ERPs is very clear about where monitoring and decontamination of evacuees would take place. See Figure 6 in the ERPs for Chatham and Lee Counties, Figure 5 in the Harnett ERP, and Figure 7

in the Wake ERP. The ERPs do not give, and are not called upon by regulation or guidance to give, an accounting of materials available for evacuee decontamination. Indeed, neither regulations nor guidance even mention evacuee decontamination. Rather, NUREG-0654 focuses on providing for decontamination of emergency workers, who would be likely to face greater contamination dangers than evacuees would. See the evaluation criteria under II.K in NUREG-0654.

However, the ERPs do not clearly show that local governments have the "capabilities" for evacuee decontamination. The Applicants cite sections which purport to assign responsibility for evacuee decontamination, others which the Applicants claim provide backup for the groups assigned the primary responsibility, and still other passages which provide for training the organizations assigned the primary responsibility. See Applicants Answer at 75. However, one county plan does not clearly assign the primary responsibility, and no county plan clearly assigns the backup responsibility. Item (2) in Figure 6 of the Chatham plan says that decontamination of evacuees will be done by "Radiological Response Teams." Chatham ERP at 32. But we are unable to determine from the plan what unit of Chatham County government is responsible for establishing, training, and directing these teams.[1]

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[1] Neither is it clear who is responsible for monitoring at the shelters in Chatham County. Item (2) in Figure 6 in the Chatham (Footnote Continued)

As for backup for evacuee decontamination, the Applicants, citing Sections IV.G.6 and 7 of the State ERP and Section IV.E.12 of the county ERPs, claim it will be provided by the North Carolina RPS. But the cited section in the county plans speaks explicitly only of management of the shelters, and registration, feeding, and monitoring of evacuees; and it is not clear that the first of the cited state sections, IV.G.6, is speaking about more than decontamination of emergency workers. Annex H, the Plan Cross-Reference, which relates plan sections to the evaluation criteria of NUREG-0654, relates that Section only to evaluation criterion K, which deals only with emergency workers.[2,3] The other of the cited state sections, IV.G.7, speaks of state assistance only for monitoring.

(Footnote Continued)
plan, at 32, assigns the monitoring to the County Department of Emergency Management, but Section IV.E.12 of the same plan, at 31, assigns the monitoring to the Siler City Fire Department.

2 But then, the page references in Annex H are not always complete, or accurate. See, e.g., the page references for evaluation criterion J.12, at H-5.

3 The Applicants also claim that a representative from the Shearon Harris Plant Environmental Radiation Control Unit, or from SERT, "will be dispatched to the scene to supervise the decontamination." Applicants' Answer at 75. The Applicants cite Sections IV.F.6 and 7 of the County plans. These Sections, however, are together nearly identical to Section IV.G.6 discussed above, and thus share its lack of clarity. Again, Annex H relates them only to evaluation criterion K, on control of doses to emergency workers.

Therefore Contention 240 is admitted, but only on the following questions: (1) What agency of Chatham County government is responsible for the decontamination of evacuees at the Catham County Shelters? and (2) Which emergency response organizations are assigned the responsibility of providing support for the decontamination of evacuees? Perhaps all that is needed to answer these questions is authoritative clarification of the relevant sections of the ERPs.

Contention 241 alleges that the plans' use of schools as shelters in which decontamination would be done is unwise, that the schools would be left contaminated after a radiological emergency and the children using them later thus endangered. The Contention offers monitoring as an alternative to decontamination in shelters, and by implication, decontamination of the evacuees "after they leave the EPZ before they continue to a host area," to prevent the spread of contamination and panic.

We reject 241. Part of it is without basis, and the rest does not address plan provisions which appear to satisfy these concerns as far as NRC rules require and good sense allows.

First, there is no asserted basis for the not very credible allegation that schools used as shelters would be left contaminated. Second and last, the ERPs do, in fact, provide for monitoring of evacuees and vehicles at traffic control points (see, Sections III.C.2.j

and III.D.1.c of the State ERP), and for some decontamination before evacuees proceed to shelters (see Sections IV.E.5.a-f of the State ERP), but they subordinate decontamination to the greater need to evacuate the plume EPZ quickly (see, id., Sections IV.E.5.a-c).

We are not aware of any NRC regulation or guidance which calls for monitoring and decontamination of all evacuees before they get beyond the plume EPZ. It would seem that any large-scale decontamination effort on the border of the plume EPZ would very likely impede prompt evacuation of the most threatened part of the population around the plant. The desire to avoid purported safety measures that would impede evacuation is reflected in evaluation criterion J.10.h, which calls for siting the host areas, and thus the principal decontamination centers, "at least 5 miles, and preferably 10 miles, beyond the boundaries of the plume [EPZ]." (Emphasis in original.)

Reentry and Recovery:
Eddleman Contentions
210, 100, and 100B

Contention 210 makes the general allegations that Section IV.H of the State ERP fails to contain the general plan for recovery and decontamination which is required by 10 C.F.R. § 50.47(b)(13), and fails

to comply with evaluation criteria M.1, M.3, and M.4 [4] in NUREG-0654, which deal with both recovery and reentry.

Contentions 100 and 100B are more specific. They allege that the ERPs do not provide means of decontaminating farmland and homes, nor adequate provisions for decontamination of food and homes. 100 makes this allegation with respect to contamination from "Class IX" accidents, 100B with respect to contamination from "Class X".

We reject all three of these contentions. They do not take account of all the provisions for reentry and recovery in the ERPs, nor do they show why the provisions they do take account of -- only those in Section IV.H of the State plan -- do not conform to the cited evaluation criteria.

The emphasis in the cited criteria is on planning for the decision to reenter, not on what the contentions appear to be most concerned about, namely measures to be executed during reentry and recovery. The only evaluation criterion which says anything about those measures says

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4 The contention cites M.1, M.2, and M.3, but we take it M.1, M.3, and M.4 are intended, for M.2 applies only to the licensee's ERP, while M.4 does apply to the State ERP.

only that "each organization, as appropriate, shall develop general plans and procedures for reentry and recovery ...". Evaluation criterion M.1 in NUREG-0654, II. Thus the criterion is no more specific about measures to be executed during reentry and recovery than the planning standard it quotes, 10 C.F.R. § 50.47(b)(13).

Presumably, the thought behind this emphasis is that this decision to reenter is equivalent to a decision to relax protective measures (evaluation criterion M.1 in NUREG-0654, II) and is therefore to be made with a degree of care which requires some advance thought. However, since reentry and recovery would not take place under the same time pressures protective actions would, planning for measures to be executed during reentry and recovery needn't be more than general.

The various plans appear to conform to the guidance of the evaulation criteria in NUREG-0654, II.M, particularly to the emphasis in those criteria on the decision to reenter. The second part of criterion M.1 calls on the plans to "describe the means by which decisions to relax protective measures ... are reached." Sections IV.H.1-5 of the State ERP, and IV.G.1-3 of the county ERPs, appear to do just that. Criterion M.3 calls on the State plan to "specify means for informing ... response organizations that a recovery ... is to be initiated, and of any changes in the organizational structure ...". Sections IV.G.3-5 and 6.d-e appear to do just that. Criterion M.4 says that the State plan should "establish a method for periodically estimating total

population exposure." This estimating, the crucial basis for the decision to reenter, appears to be provided for in Sections IV.H.1-3 of the State plan. Though the Contentions cite the quoted criteria against the plans, they do not argue why the plans do not meet the criteria.

The ERPs appear to show conformance with that part of the criteria which the Contentions are most concerned about, namely, the first part of M.1, that "each organization ... shall develop general plans and procedures for reentry and recovery ...". Section IV.H.6 of the State plan briefly discusses responsibilities for public information, traffic control, assistance for evacuees in preparing to return to evacuated areas, and the monitoring of reentry and recovery operations. Section IV.G.4 of the county plans, which the contentions do not mention, lists several recovery operations, including medical services, continuous and long-term monitoring of people and property, security of property, and, of particular concern to the contention, "decontamination of people, animals, property, food and water." Section IV.G.4.a in the county plans. Many parts of Section III in all the ERPs assign particular reentry and recovery responsibilities. In relation to decontamination, see, e.g., in the State ERP, Section III.C.3.f (operation of portable showers, decontamination of roads and structures), III.D.1.q (assessment of radiological damage to land and livestock), and III.D.3.c (management of waste from decontamination); in the county ERPs, Chatham Section III.E.3.b (earth moving and washdowns). The Contentions do not address these and similar passages.

Medical Care:
Eddleman Contentions
57-C-7, 56, 57-C-8, and 63

These four contentions overlap a great deal. To give a clearer sense of the whole of what they seek, we focus here on Contention 57-C-7, viewing the others as elaborations of it, and overlooking their redundancies.

Contention 57-C-7 has three main parts. The first alleges that there will not be enough hospitals to treat "radiation victims". Contention 56 [5] elaborates on this by alleging that there are no plans to use hospitals which are more than 30 miles from SHNPP.

The second part of 57-C-7 alleges, correctly, that the State ERP does not contain the plans the hospitals have for treating radiation victims. 57-C-8 elaborates by alleging that in order to judge whether the evaluation criteria in NUREG-0654, II.L have been satisfied, the State ERP should include all the procedures and reference materials mentioned in Section V.B.2 of the State ERP: maps locating hospitals, addresses and phone numbers of hospital administrators, reports

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5 When filed over two years ago, 56 was aimed at the onsite plan. It is now resubmitted, unaltered, but we construe its resubmission to mean that it is now intended as a contention about the offsite plans.

evaluating the capacities and needs of the hospitals, their plans for treating radiation victims, and the procedures for choosing hospitals and determining their needs.

The third and last part of 57-C-7 alleges that the State ERP does not provide "training or protection" for emergency workers transporting radiation victims to hospitals. The Contention cites the State ERP at 85, with the comment, "handwaving". Contention 63 and part of 56 allege that the ERPs fail "to establish care for radiation victims on a mobile basis". 63 alleges that to establish such care, the ERPs should provide for equipping mobile units, for staffing them and training the staff, and for assuring that adequate staff would be continuously available during a radiological emergency. 63 cites as legal basis the footnote to the evaluation criteria in NUREG-0654, II.L.

We reject all of these contentions except the first part of 57-C-7. The rejected contentions or parts of contentions either call for more than regulations and guidance call for or permit, or do not address the plans. We discuss the admitted portion of 57-C-7 after we discuss the other contentions and the rest of 57-C-7.

In relation to the second part of 57-C-7 neither NRC regulations nor guidance even suggest that any ERP should contain either the plans hospitals have for treating radiation victims or the procedures and reference materials -- maps, phone numbers, reports, plans -- mentioned

in Section V.B.2 of the State ERP: "Applicable supporting and reference documents and tables may be incorporated by reference, ... The plans should be kept concise as possible. The average plan should consist of perhaps hundreds of pages, not thousands." NUREG-0654 at 29. Neither do we see why the information referred to in V.B.2 must be in the plans before it can be determined whether the plans conform to the evaluation criteria in L in NUREG-0654, II. We would think that that determination could be made on the basis of information now in plans.

In relation to the third part of 57-C-7, the Contention's citation to the State ERP at 85 apparently refers to items e-g on that page, which discuss the training of personnel with medical duties. Citations to sections which provide for training are not much support for a contention which says the plans don't provide for training. The contention calls these passages "handwaving", but that word can hardly specify deficiencies in such a way as to make them the subject of admissible contentions. Further, 57-C-7's allegation that the State plan doesn't provide protection for personnel transporting radiation victims doesn't address the plans' many provisions for control of radiological exposure of emergency workers. See, e.g., Section G of the State ERP. Finally, no NRC regulation or guidance requires the ERPs to provide for the mobile equivalent of what hospitals can provide for radiation treatment. The footnote which Contention 63 cites is not to the contrary. It says only that plans and services developed under statutes and public health guidance which predate NUREG-0654 "should be

compatible" with the response plans for Harris. Contention 63 cites no passages from either the guidance or the statutes cited in the footnote which require the sort of mobile care Contentions 63 and 56 allege should be provided.

We admit the first part of Contention 57-C-7, though in altered form. As we noted in our discussion of CHANGE's Contention 33 (at Tr. 868-69), we are barred by the Commission's decision in Southern California Edison Co. (San Onofre, Units 2 & 3), CLI-83-10, 17 NRC 528 (1983) from considering in litigation, as 57-C-7 would have us do, whether medical services available in the region of Harris are in quantity adequate to deal with the number of people who, in a radiation accident at Harris, might be either contaminated and otherwise injured ("contaminated injured" in the language of NUREG-0654, II.L) or simply seriously injured by radiation alone. The Commission accepted the thesis in San Onofre that there are likely to be so few contaminated injured that no arrangements beyond those already made under NUREG-0654, II.L.1 and 3, and 10 C.F.R. Part 50, Appendix E, § IV.E.6, need be made, and that those seriously injured by radiation alone are so unlikely to need emergency treatment that treatment for them can be arranged ad hoc,

going beyond local services if necessary. San Onofre, 17 NRC at 535-36.[6]

Therefore, we cannot admit the first part of 57-C-7 in the form in which it is presented. However, there is within that part of 57-C-7 something like a "lesser-included" contention, namely, that the ERPs should at least show what medical services are available for those seriously injured by radiation alone.

We admit this lesser-included contention, and we do so on the basis of the same case the Applicants cite in opposing all the contentions on medical care. Although San Onofre bars us from deciding whether medical facilities are quantitatively adequate, it requires that "emergency plans should include a listing of those local and regional medical facilities which have the capabilities to provide appropriate diagnosis and treatment for radiation exposure." San Onofre, 17 NRC at 536. Here the Commission is speaking only of "individuals who have been subjected to dangerous levels of radiation and who need medical treatment for that reason." Id. at 535.

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6 Here, then, is another reason why the mobile version of such treatment, called for by Contentions 63 and 56, is not required.

The ERPs for Harris do have lists of hospitals which "will support the plant and the surrounding communities in the event of a radiological emergency." Section V.B.3 of the State ERP. However, neither the State ERP nor the county ones make clear whether these hospitals are prepared to treat severe radiation exposure per se. Section V.B.2 of the State ERP speaks only of "victims of radiological accidents," or "contaminated patients," or "radiation accident victims." The county ERPs are no less ambiguous. See, e.g., the Chatham ERP, V.B.3.

Other aspects of the plans may indicate that the listed hospitals are prepared only for "contaminated injured" patients. For example, Annex H, the Plan Cross Reference, refers to the pages among which these lists appear as intended to conform to the guidance of NUREG-0654, II.L, but the only talk about lists in that guidance deals only with "contaminated injured." Also, the "Radiation Accident Hospital Evaluation Check Sheet" which the State ERP sets out (at 67) does not appear capable of unambiguously spotting those hospitals which are capable of treating severe radiation exposure per se.

Perhaps the main thing required to resolve 57-C-7 as admitted is -- as with Contention 240 -- authoritative clarification of the ERPs. However, even if the lists in the ERPs are of institutions which can treat radiation exposure, the lists may be incomplete: Section V.B.3 says that the RPS maintains lists of hospitals at greater distances which will provide backup, but San Onofre says the plans should include

lists of local and regional hospitals with the necessary capabilities. Id., 17 NRC at 536.

We note last that we do not admit that part of Contention 56 which calls for plans to use medical facilities which are further than 30 miles from the Harris plant. Half of the hospitals listed in the State ERP are just that.

Experience and Training:
Eddleman Contentions 212, 124 and 243

Contention 212 alleges that the planners have not been properly trained and cites as factual bases the planning deficiencies alleged in Mr. Eddleman's other contentions. We reject this contention. The number of Mr. Eddleman's admitted contentions appear to be too small to provide an adequate basis for 212. More fundamentally, however, this contention is premature. Unless and until it has been shown that Mr. Eddleman's emergency planning contentions have merit, there would be no practical reason to consider this contetnion. This contention could be reasserted when and if the developed evidentiary record provides a basis for it.

Contention 124 alleges that the Applicants and the counties which overlap the plume EPZ lack the experience and technical ability necessary to plan for a radiological emergency and to implement

protective measures in the event of such an emergency. We reject the contention. It offers not the slightest indication of what levels of experience and technical ability are practically or legally necessary, or of how the Applicants and the counties fall short of these levels.

NRC regulations and guidelines set out standards and criteria for plans and preparedness, not for an applicant's or a county's experience. Of course, some regulations and guidelines do call for certain levels of technical ability, in communications, for example; but shortcomings in such abilities must be alleged with specificity.

Contention 243 alleges that since not all emergency response personnel have been trained yet, the ERPs do not meet the planning standard in 10 C.F.R. § 50.47(b)(15), which says that "training is provided to those who may be called on to assist in an emergency." We reject this contention also. The only deadline for completion of training is the natural one implied by whatever date is set for the emergency preparedness exercises. What the NRC looks for in relation to training is commitment, as evidenced by adequate planning, and results, as evidenced by preparedness exercises, but not the mere completion of training by some particular date before the exercises.

Emergency Preparedness Exercises:
Eddleman Contentions 81 and 208

Contention 81 alleges that the ERPs have not been tested -- "or otherwise formally evaluated" -- will not be tested "before the plant operates", and should be.

Contention 208 adds that the ERPs "have not been tested under adverse weather conditions, e.g., snow, ice, fog, tornadoes or severe winds, or evacuation at the times most people are asleep (e.g. 1 am to 6 am)."

We reject both of these contentions. They do not address relevant provisions in the ERPs, and they implicitly attack the regulations. For one thing, the ERPs are being "formally evaluated" by FEMA and the NRC Staff, and in this proceeding. But more, as the regulations make clear, a full-scale exercise of the ERPs will be conducted before the plant operates at more than 5% of rated power. See § IV.F.1.b of Appendix E in 10 C.F.R. Part 50. But neither regulation nor guidance set out any deadline for the tests other than operation above 5% of rated power. Thus, that the ERPs for the Harris plant have not been tested yet raises no litigable issue.

Moreover, as the ERPs make clear, some of the annual exercises will be conducted in adverse weather, though no explicit mention is made of

conducting them during tornadoes; some exercises will be conducted between midnight and 6 a.m.; and some will even be unannounced. See Sections VII.A.2-4 of the county ERPs. However, NRC regulations prudently rule out mandatory evacuation of the plume EPZ, an area of well over 300 square miles.

In our rulings on Contentions 81 and 208, we have taken the Contentions at face value, as being about the planning for the exercises, not their results. However, the Contentions, especially 208, may be attempting to reserve a right to file contentions on the results. Under the Commission's view of 10 C.F.R. § 50.47(a)(2), results of the exercises are not necessarily litigable in these hearings, but § 50.47(a)(2) was declared invalid by the D.C. Court of Appeals in UCS v. NRC, No. 82-2053 (D.C. Cir., May 25, 1984). The regulation is still in effect while the Commission's petition for rehearing is before the Court, but if the Court's May 25 ruling become law, the Intervenors will have a chance to file contentions on the results of the exercises.

Public Education and Information:
Eddleman Contentions 227-29

These three contentions have largely to do with the emergency preparedness brochures mentioned in Section IV.D.2.a of the State ERP. We defer ruling on 227 and reject the other two contentions.

Contention 227 alleges that the brochure is not available yet and that the brochure therefore does not contain the information called for in Section II.G.1.a-d of NUREG-0654. The brochure is now available. Its adequacy, the second issue 227 raises, is litigable, and has been litigated, most recently in Louisiana Power and Light Co. (Waterford, Unit 3), ALAB-753, 18 NRC 1321, 1331 (1983), aff'g the detailed findings of LBP-83-27, 17 NRC 949 (1983). Therefore, as we did with CHANGE 2 (at Tr. 967), we defer ruling on 227. In accordance with the 30-day rule in this proceeding, and the discussion in the telephone conference of July 12, 1984 (Tr. 2203), Mr. Eddleman and the other Intervenors have until August 10, 1984 to file revisions of their contentions on the brochure, specifying the respects in which the brochure is inadequate, and why.

Contention 228 alleges that the Applicant must demonstrate that the information called for by Section II.G.1.a-d of NUREG-0654, and slated for the brochure, will be made available periodically to the public. We reject this contention. It merely paraphrases planning standard (b)(7) of 10 C.F.R. § 50.47 and evaluation criterion II.G.1 of NUREG-0654. The Contention doesn't address any provision of the ERPs and thus could not, and does not, allege any deficiencies in the ERPs. In fact the State plan provides means for making the relevant information "available to the public on a continuous basis". Section IV.D.2 of the State ERP. Among the means is annual dissemination of emergency preparedness brochures. Id.

Neither the syntax nor the intent of Contention 229 is easy to construe, but the contention appears to allege that the planning standard on public education and information (Section (b)(7) of 10 C.F.R. § 50.47) and the evaluation criteria under that standard (Section II.G. of NUREG-0654) cannot be met unless the ERPs provide means to verify that the public has received and understood the education made available to it. We reject 229. The planning standard and evaluation criteria the Contention cites do not call for any program of verification. Rather, their emphasis is on the making information readily available. To this end, the cited standard and criteria call for a variety of means of disseminating information and a high degree of involvement in the disseminating by State and local response organizations. The Contention cites, but hardly addresses, the ERP provisions which are meant to conform to the cited standard and criteria. Thus the Contention provides no basis for thinking that the provisions might fall significantly short of assuring that the public will be adequately educated. Such variety and involvement as the ERPs provide for appear to have such a high probability of successfully informing the public that a program of verification would be only marginally useful at best.

Ingestion EPZ:
Eddleman Contention 206

This contention alleges that the ERPs do not provide for sheltering milk animals and placing them on stored feed during a site emergency or a general emergency, contrary to the guidelines in Appendix 1 of NUREG-0654 at 1-12, 1-16. We reject this contention for not addressing the relevant provisions of the plans. The ERPs provide both for placing cattle on stored feed (see Section IV.F.5.b of the State ERP) and for the timing of such action (see Sections IV.E.2.b, IV.E.4 and IV.F.4 of the State ERP). These provisions appear to conform to evaluation criterion II.J.9 of NUREG-0654 (except that they cite a revision of the FDA guidance cited by the criterion). Although the criterion and the plan provisions meant to conform to it are not presented in the graded emergency level format of the pages the contention cites from Appendix 1, and therefore do not say what to do during a site emergency or a general emergency, it would appear that the criterion and conforming provisions, by relying on FDA recommendations, implicitly provide for the actions the Appendix is explicit about. The Contention says nothing to the contrary. We note that NUREG-0654 nowhere speaks of sheltering animals.

Signatures and Memorandum
of Understanding:
Eddleman Contentions 57-C-18 and 200

These two contentions allege that the ERPs are incomplete because they do not contain the Memorandum of Understanding between the State and the Applicants (57-C-18) and because the signature pages (at iii-iv) are not filled out (200). The Contentions conclude that therefore there is no assurance the plans can be implemented.

We reject both of these contentions. They proffer no bases for thinking that the final form of the plans will not contain the Memorandum and signatures. To the contrary, the intent of the planners to include these items is clearly shown by the inclusion in the ERPs of pages marked as being reserved for these items. Moreover, the existence in the plans of letters of agreement between the county emergency management agencies and the Applicants (see Attachment 1, at 1-3, in each county ERP), and between Carolina Power and Light Company and the Radiation Protection Section of the State's Department of Human Resources (Attachment 1, at 1-29, of the State ERP), indicate that there are no significant obstacles in the way of drafting the Memorandum and acquiring the signatures.

Implementing Procedures:
Eddleman Contention 213-a

This contention alleges that since the ERPs do not contain implementing procedures, they do not contain sufficient information about how they will be implemented, and thus violate the requirement in 10 C.F.R. § 50.47(a)(2) that there be reasonable assurance they can be implemented.

We reject this contention as it stands, but there is within it, as there was within Contention 57-C-7, something like a lesser-included contention, which we admit. First, NRC regulations and guidance consider the implementing procedures to be separate from the plans. Section V of Appendix E to 10 C.F.R. Part 50 sets out requirements applicable to a separate submission of the implementing procedures for the onsite plans. Evaluation criterion II.P.7 of NUREG-0654 calls for the titles of the offsite implementing procedures, not the procedures themselves, to be listed in an appendix to each offsite plan. As we've noted before, NUREG-0654 says that the average plan "should consist of perhaps hundreds of pages, not thousands." At 1-29.

Second, a finding that there is reasonable assurance that the plans can be implemented is, under the regulation the contention cites, 10 C.F.R. § 50.47(a)(2), to be based largely on the plans, not the myriad details of the implementing procedures: § 50.47(a)(2) says that

the NRC will base its finding on FEMA findings, and that "a FEMA finding will primarily be based on a review of the plans." Implementability is a characteristic of good plans, for even the best implementing procedures cannot rescue an ill-conceived plan. Thus it is to the adequacy of planning that all of the Commission's planning standards and evaluation criteria are directed, and it is the adequacy of planning that we're after in this proceeding. The mechanical details implementing procedures largely consist of are almost never suitable for litigation. Contention 213-a points to no plan provision drafted in such a way that we would have to look at the implementing procedures under it to determine whether there was reasonable assurance it could be implemented.

Last, however, 213-a is admissible in one respect: stated so that it does not, in effect, attack the regulations, 213-a says that the plans should incorporate the implementing procedures to whatever extent called for by regulations or guidance. There are bases for admitting 213-a phrased this way: as we noted above, evaluation criterion II.P.7 calls for each plan to have an appendix which lists implementing procedures by title. None of the offsite plans for Harris have such an appendix. Annex H, the plan cross-reference, cites certain page numbers in each plan as containing material tailored to criterion P.7, but all the citations are to sections entitled "Concept" or "Concept of Operations."

Judging from the Foreword to the ERPs (at vii), we imagine that the Applicants' argument against admitting 213-a as we've just construed it would be that P.7, being guidance, does not set out a requirement, and that the goal of P.7 is met by the present form of the ERPs, namely, five parts consisting of -- in the words of the Foreword -- detailed "State procedures" and "county procedures," "additional detail" in several annexes, and "the existence of emergency procedures at the State and local levels." Foreword to the ERPs, at vii. Thus "separate implementing procedures are not deemed necessary" (id.), and, the argument might conclude, a fortiori, that an appendix listing unnecessary procedures by title is not necessary.

However, it does not appear that the ERPs are -- or, given their length, could be -- detailed enough to be implementing procedures, though they are, of course, in a more generic sense, "procedures". Moreover, though Annexes C-G are quite detailed, they deal only with notification. Last, if the emergency procedures the Foreword says already exist at the State and local levels have, in fact, the character of implementing procedures, then criterion P.7 calls for a list of them in appendices to the plans. Presumably the goal of P.7 is to assure not only that the implementing procedures are prepared in advance of plant operation above 5% of rated power, but also to assure coordination between the plans and the implementing procedures. Thus P.7 also calls for the appendices to list for each procedure the plan section it implements.

In sum, 213-a is admitted in the following form: either each offsite ERP should contain an appendix which conforms to evaluation criterion II.P.7 of NUREG-0654, or it should be demonstrated that such an appendix is unnecessary because its functions are performed in some other way by the present form of the plans.

Plan Maintenance; Identification of Locations of Certain Persons and Institutions: Eddleman Contentions 99 and 209

Contention 99, originally filed May 14, 1982, and now resubmitted unchanged, is confusingly drafted. Given its opening lines and the regulations it cites, one could reasonably conclude, as did the Applicants and the Staff, that 99 means to allege that the plans, both onsite and offsite, do not contain provisions for keeping the plans up to date, especially for keeping up to date information such as the locations of day care centers, schools, disabled persons, emergency personnel, and the like. But one could also reasonably conclude that 99 means to say primarily that the listed categories of information should be in the plans, and secondarily that the information be up to date. This latter reading of 99 is suggested by Contention 209, which alleges that, "with a handful of exceptions," none of which 209 states, the information asked for in 99 still isn't in the plans.

We reject both contentions. In relation to the onsite plan they are filed too late, and in relation to the offsite plans they are without bases: they do not address the plan provisions on updating, Section VII.F of the State ERP and Sections VII.D of the county ERPs; and the regulations 99 cites, 10 C.F.R. § 50.54(t) and Section IV.G of Appendix E to 10 C.F.R. Part 50, apply only to the onsite plan. We note that the plan provisions on updating appear to conform to the applicable planning standard, 10 C.F.R. § 50.47(b)(16). Moreover, though 209 says that some of the information requested in 99 is still not in the plans, it does not say what information is not. It is therefore lacking in specificity.

Site-Specific Planning:
Eddleman Contention 242

This contention alleges that occasional references in some of the ERPs to North Carolina nuclear power plants other than Harris, and North Carolina counties other than those which overlap the Harris plume EPZ, indicate that the site-specific planning required by various NRC regulations has been compromised -- that "the SHNPP plan is a copy of the McGuire plan", and that officials around SHNPP "have not seen the plan yet or they surely would have caught these errors". The contention cites two such references, one in Section IV.D.1 of the Chatham plan, at 26, and the other in VI.D.1 of the same plan, at 42.

We reject this contention. A serious contention alleging failure to tailor plans to the particularities of the Harris site would have to show, for example, that the ERPs for Harris did not adequately take into account particularities of the Harris site, such as the organization of county governments around the plant, or the capacity of the road system around the plant. We might be concerned if one of the county plans simply copied a list of shelters or county agencies from the McGuire plan. But, as it is, all the Contention suggests is that, in an attempt either to keep the plans for different North Carolina plants as parallel as possible, or simply to save time and effort, certain names have been repeated by mistake. Indeed, it would be surprising if the drafts-people of a new plan did not at least consult previously approved plans for other plants in the area.

Onsite Emergency Planning:
Eddleman Contentions
151, 157, 103, and 137

These four contentions cover various aspects of the Applicants' onsite ERP. 151 and 157 were submitted on May 2, 1983, in response to the filing of the onsite plan on March 29, 1983. On November 1, 1983, we deferred ruling on these two contentions until the parties had had the opportunity to comment on certain documents we asked the Applicants to file in connection with the deferred contentions. See our Memorandum and Order, November 1, 1983, slip op. at 4, 6; and Tr. 778. The Applicants filed the documents in February, 1984; and on April 3, 1984,

Mr. Eddleman filed amendments to the deferred contentions. We now rule on them.

In its original form 151 alleged that the onsite plan did not conform to 10 C.F.R. Part 50, Appendix E, § IV.E.4, which requires the onsite plans to make and describe "arrangements for the services of physicians and other medical personnel qualified to handle radiation emergencies onsite." On February 1, 1984, the Applicants served on the Board and the parties a letter of agreement between Carolina Power and Light and three physicians for services in a radiation emergency. Thus, the onsite plan now conforms to the regulation Contention 151 cites.

Nonetheless, Mr. Eddleman submitted an "amended" 151. It is, however, simply a new contention. It alleges that "it is not clear" either that the three physicians will be adequately trained, or that they are bound "to stay in the area near Harris" and, more generally, "bound by their agreements in the future." We reject amended 151. It offers no reason to think that the physicians' training might be inadequate, or that the agreement with them is not binding. We note that the agreement commits Carolina Power and Light to bear the costs of training the physicians. Last we cannot imagine that such a letter of agreement could bind the three signers to remain in the area of the Harris site for the life of the plant. In time, the duties of one or more of them will probably have to be assigned to others. These reassignments are provided for in Sections 5.1.1 and 5.1.2 of the onsite

plan, which name the officers responsible for negotiating and maintaining letters of agreement.[7]

Contention 157 alleges that the onsite plan does not comply with NUREG-0737, Supplement 1, § 8.2.1.k, which requires that the design of the Technical Support Center (TSC) take "into account good human factors engineering principles." The principal basis of the contention originally was simply that the onsite plan gave no analyses of any human factors engineering in the TSC.

On February 17, 1984, the Applicants filed with the Board and the parties an 8-page document entitled "Summary of Design Standards and Criteria for the TSC Encompassing Human Factors Engineering," to which is attached a "furnishings plan" precise to the level of waste bins and coat racks. Despite the discussions in this document of such human factors topics as layout, noise control, instrument displays, and protective systems, Mr. Eddleman chooses to ignore the document in his "amendments" to 157. In them he does little more than assert that a TSC must be able to function in a real emergency. A contention which pays

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7 The Applicants claim that the letter of agreement is signed by the physicians in their capacity as officers of the corporation named in the letterhead, and that therefore the agreement would survive even if one of the signers left the area permanently. Applicants' Answer at 98. However, the only support for the Applicants' claim is the letterhead.

no attention to the principal document on its subject, a document drawn up for the sake of this proceeding, must be rejected.

Contentions 103 and 137 were first submitted in 1982 on May 14 and June 6, respectively. We deferred ruling on them because the onsite plan had not yet been filed. See our Memorandum and Order, September 22, 1982, slip op. at 66, 72. Now, although we had ordered that new contentions on the onsite plan had to be filed, or old ones resubmitted or amended, within 30 days of receipt of the plan (see our September 22, 1982 Order at 8), 103 and 137 have been resubmitted, unchanged, a year after the onsite plan became available. Mr. Eddleman does not explain why contentions as tardy as these should be admitted. The lateness of 137 is accentuated by its allegation that the "Applicants' site emergency plan is inadequate because it does not exist." We reject 137.

Contention 103 alleges that the onsite counting laboratory is not shielded from radiation well enough to assure that analyses of primary coolant can be done quickly enough for a timely declaration of a level of emergency. Not only is this contention a year late, it proffers no factual basis for its claim. We therefore reject it.[8]

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8 The Staff argues that the contention "shows Mr. Eddleman's fundamental misunderstanding of the NRC's emergency planning structure. (Footnote Continued)

Maps:
Eddleman Contentions 211,
250, 251, 252, 253, and 254

Up to now, we have been considering contentions Mr. Eddleman filed or resubmitted in April of 1984. Five of the six contentions we're about to rule on, 250-54, were filed on May 10, shortly after the prehearing conference, with our leave.

Contention 211 was filed before the other five. It alleges that the offsite plans do not include the operations and ingestion pathway maps called for by evaluation criteria II.J.10.a and b of NUREG-0654. During the prehearing conference, the Applicants claimed that the operations map was already in Annex H of the onsite plan and merely had to be moved to the offsite plan (Tr. 1000-01), and that since the map had been available since the onsite plan had been filed, any contention on the map was late-filed. Tr. 904, 905, 1107. Nonetheless, without deciding the timeliness issue, we gave leave to certain intervenors, including Mr. Eddleman, to file contentions on the map as soon as possible. Tr. 906, 1106-07. Below we briefly consider the timeliness

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(Footnote Continued)
Emergency action levels are determined without taking a sample of reactor core water ...". Staff's Response at 66. However, it would appear that emergency action levels can be determined by such a sample, though not necessarily. See the onsite plan, Figure 4.1-1, Basic Module 2.

issue but move on to consider all six contentions on the merits, rejecting all of them, but two only conditionally.

The Applicants' argument that these contentions are inadmissibly late-filed is principally that the map or maps which will be included in the offsite ERPs are already in the onsite plan in a form in which State and local government agencies have concurred and thus have been available to the Intervenors since late March of last year.[9] However, even the Applicants were at one point mistaken about whether the maps were available yet. Before the prehearing conference last May, the Applicants argued in response to Contention 24 that the "Operations Map" was under development and was expected to be completed by September. Applicants' Response at 90. It wasn't until the prehearing conference that the Applicants began to argue that the same map was already available and could be found in Annex H of the onsite plan. Tr. 1000-01.

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9 Mr. Eddleman in one place speaks as if the Applicants made a mistake to put the maps in the onsite plan. See his May 10, 1984 Response at 1. However, the very evaluation criteria on which Mr. Eddleman relies in these contentions, namely II.J.10.a and b of NUREG-0654, call for these maps to be in the onsite plans as well as the offsite.

There is something to be said on both sides of the "lateness" question, which is a close one. In any event, we need not decide the lateness question, for all six of the "map" contentions are rejectable on the merits, and some are not vulnerable to attack on grounds of lateness. We discuss first those we reject unconditionally.

Contention 252 alleges that it is "just unfathomable" why the parts of plume EPZ sub-areas B and C which jut into sub-area A, which includes the Harris site, are not included in sub-area A, and that they should be, "to assure protection of any persons in those areas in an accident." The Contention is without bases. The Contention suggests that people in sub-area A would receive greater protective actions than those in other sub-areas, and that sub-areas should be arranged as concentric rings or parts of such rings. However, there is no less planning for sub-areas B and C than for sub-area A. For each sub-area, the aim of planning is the same: that adequate protective measures be taken in an emergency. Thus, although it is conceivable that sub-area A would be evacuated and sub-areas B and C would not, there is no indication that if the greatest dose-savings for people in sub-areas B and C could be achieved by a

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9 Mr. Eddleman in one place speaks as if the Applicants made a mistake to put the maps in the onsite plan. See his May 10, 1984 Response at 1. However, the very evaluation criteria on which Mr. Eddleman relies in these contentions, namely II.J.10.a and b of NUREG-0654, call for these maps to be in the onsite plans as well as the offsite.

given protective measure, that measure would not be taken, whether or not the same measure were taken in sub-area A.

Moreover, NRC guidance does not suggest that the sub-areas are to be concentric rings, or parts thereof, any more than that the EPZs themselves should be exactly 10 or 50 miles in radius. "The boundaries of the sub-areas shall be based upon the same factors as the EPZ, namely demography, topography, land characteristics, access routes, and local jurisdictions." NUREG-0654, Appendix 4 at 4-4. As we noted at Tr. 982, State and local planning officials are not obliged to supply a written justification of their boundary-making until they are faced with an admitted contention on the subject.

Contention 254 is analogous to 252. It alleges that the areas within 10 miles of the Harris site but not in the plume EPZ have been excluded from the plume EPZ without justification. The Contention points to two such areas but does not try to justify including them in the plume EPZ. The Contention is without bases. The regulation on the size of the plume EPZ says that it shall be "about" 10 miles in diameter, not "at least". Again, the burden rests initially on an intervenor to argue why a given area should be in the plume EPZ. Only then are planning officials required to justify the exclusion. Contention 254 does not meet this initial burden. We note, however, that the Applicants have nonetheless offered justifications for the two exclusions the Contention notes. See Applicants' May 29, 1984 Response

to Eddleman Map Contentions at 20 n. 8. Besides noting the political and geographical boundaries which delineate the plume EPZ in the two areas the Contention points to, the Applicants claim that the excluded areas are "essentially unpopulated". Id.

Contention 253 alleges that the plans are deficient in routing some of the evacuees in sub-areas E, F, and G toward Raleigh, because the prevailing winds at Harris are in that direction. The Contention also alleges that evacuees should not be routed along the stretch of NC-55 which is outside sub-area G but roughly parallel to G's eastern boundary, for evacuees on this route would be exposed for 3.1 miles to plumes in prevailing winds.

We reject this contention as being without basis, but not on grounds of the Applicants' argument, which, we think, is unsound. The Applicants have argued before, and now argue again, that people will not be directed to evacuate at the same time radioactivity is being released. Applciants' May 29, 1984 Response to Eddleman Map Contentions at 18. For support, the Applicants cite Section IV.A.4 of the State ERP: evacuation would be the chosen protective action only if evacuation could be "completed prior to significant release and arrival of radioactive material in the affected area." However, the word "significant" in this passage is important. The passage does not rule out evacuation during any release. The point of protective measures is dose-savings, and under some possible scenarios greater doses would be

saved by evacuating for one or two hours than by sheltering for several.[10]

We do agree with the opinion expressed in a case cited by the Applicants: "With significant shifts in wind direction always a possibility during the course of any evacuation, it would seem impractical and possibly imprudent to preselect evacuation routes based on potential wind direction." Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), LBP-81-59, 14 N.R.C. 1211, 1588 (1981).

However, our principal reason for rejecting 253 is that it fails to address the evacuation routes in their full context. They are not simply routes out of the plume EPZ, they are routes to public shelters. Many evacuees from sub-areas E, F, and G are routed to Raleigh because it contains the public shelter most accessible to them. Moreover, other sub-areas are assigned to shelters more accessible to them than Raleigh is. Thus, if no one from E, F, and G evacuates to Raleigh, probably no one will. Thus, to assert that no evacuees from sub-areas E, F, and G should be routed toward Raleigh is virtually to assert that no public shelter should be located in Raleigh, even though it is a major city,

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10 Hence the importance of advance calculation of sheltering factors, the subject of admitted Contention 57-C-10.

well outside the plume EPZ, and accessible from E, F, and G by highways which become four-lane not far from the boundary of the plume EPZ. Only if Mr. Eddleman had shown that such an argument was admissible could Contention 253, which implies it, have a basis.

Similarly, the Contention's complaint about traffic on NC-55 views that traffic out of context also. It is easy to find many more examples of the same sort of routing. To take the most striking example, traffic on NC-751 in the eastern part of sub-area N is routed from the boundary of the plume EPZ back in toward the plant, for what appears to be 2.4 miles. The apparent explanation is that in order to reach their shelters in Siler City and Raleigh, evacuees on NC-751 must head south to US-64. Similarly for evacuees on the stretch of NC-55 which parallels the eastern boundary of sub-area G: once the evacuees who head southeast out of G reach NC-55, they must turn north to reach US-401, the fastest route to their shelter in Raleigh. Besides, the stretch of NC-55 the Contention is concerned about is outside the plume EPZ.

The remaining map Contentions, 211, 250, and 251, at first appear to be about the map itself rather than the planning the map embodies. Contention 250 alleges that the map doesn't comply with evaluation criterion II.J.10.a of NUREG-0654 because it does not show the location of relocation centers and shelter areas, and is "virtually illegible." The Contention might have added that the map does not show the location

of preselected sampling and monitoring points either, though these too are called for by the same criterion. Contention 251 argues analogously about evaluation criterion II.J.10.b of NUREG-0654, that the map doesn't show population by evacuation areas, though the criterion calls for such a showing. The Contention might also have said that the map does not show population by 22½° sectors, though this too is called for by II.J.10.b. Contention 211 contains virtually the same allegations, but since it was filed before the prehearing conference, it bases the allegations not on the map but on the absence of any map in the plans. 211 is thus superseded by 250 and 251, and therefore requires no further consideration.

Though 250 and 251 are phrased as contentions about the map, they are actually about the offsite ERPs, as becomes clear when they are stated thus: If this map is the only one which will be in the map annex of the offsite ERPs, Annex I, then the plans will not conform to II.J.10.a-b. Thus, 250 and 251, being about the offsite ERPs, are not vulnerable to attack on lateness grounds. Even the allegation of illegibility, which, more than any other of the allegations in 250 and 251, appears to be about the map, is about the plans, for only at the prehearing conference did it become known that the opertions map in Annex I of the offsite plan was to be a copy of the arguably hard-to-read map in Annex H of the onsite plan. As we show below, the Applicants' response to these contentions is not altogether clear and in

its present form invites unnecessary litigation. We try to avoid this litigation by asking the Applicants for another filing.

Until the prehearing conference last May, it appeared that the Applicants were committed to putting into Annex I of the offsite plans maps which included all the information called for in the criteria which Contentions 250 and 251 cite -- § II.J.10.a and b of NUREG-0654. Annex I contains a page which says that operations and ingestion pathway maps will be available later, the implication being that they will appear in Annex I. The Applicants' April 28, 1984 Answer to Contention 211 appeared to affirm that such maps would be in the plans, for, among other things, the Answer said that "a commitment has been made that the provisions of NUREG-0654 [referring to II.J.10.a and b] will be met," and the Answer quoted those provisions. See Applicants' Answer at 89-90. Had the Applicants at that point simply said that all that remained to do was to make legible copies of certain maps in the onsite plan and place the copies in the offsite plan, there would have been no, or little, occasion for 250 and 251, for as the Applicants pointed out then (and again in their response to 250 and 251), all the information called for by II.J.10.a and b is in maps in the onsite plan. One could have wondered only whether they intended to include the ingestion pathway map promised by Annex I. They argued that II.J.10.a and b did not, on their faces, call for such a map, but they did not say they would not follow through on the promise in Annex I to include an ingestion pathway map.

Now, however, the Applicants could be read to be arguing that the map in Annex H of the onsite plan, which contains only some of the information called for by II.J.10.a and b, is all that must, or will, appear in Annex I: In their response to 251 and 252, they argue that all that remains to be done is to put a copy of the Annex H map into Annex I. They also argue that Contention 251, by not calling for population by 22½° sectors, "apparently concedes" that such information is not expected to be in the offsite plans. We suppose also that the Applicants would still argue that II.J.10.a and b do not call for any map of the ingestion pathway to be in the offsite plans.

We do not understand why the Applicants have apparently backed away from their earlier commitment to follow II.J.10.a and b. We do not find persuasive their arguments that certain map information needn't be in the offsite plans. Contention 251 does not concede that population by ector need not be in the offsite plans. Indeed, 251 quotes the criterion which says such information should be in the offsite plans. Also, we do not agree that II.J.10.a does not call for at least one ingestion pathway map. It calls for showing the locations of relocation centers and shelter areas, and, as the Applicants themselves point out, that information cannot be placed on a map of the plume EPZ. Applicants' Response to Eddleman Map Contentions at 12 n. 5. The Applicants, in their response to 250 and 251, resist Mr. Eddleman's insistence that the information be not merely available but <u>in</u> the plans. However, his insistence is arguably in accord with the

distinction in § II.J of NUREG-0654 between maps which are to be in the plans (see II.J.10.a and b), and those to which the plans need only refer (see II.J.11).

Litigation over what maps are and are not to be in the offsite plans -- a purely mechanical question -- can and should be avoided: We reject Contentions 250 and 251 on the condition that the Applicants reaffirm in writing their April 28 commitment (at 89-90 in their Answer) to include in Annex I of the offsite plan all the map information called for by II.J.10.a and b, in legible form prior to fuel loading of the facility.

CCNC's Remaining Contentions.

At the prehearing conference, we admitted parts of CCNC Contentions 2, 5 and 8. CCNC's remaining nine contentions are rejected for the reasons assigned below.

CCNC 1. The contention is drafted in a rather confusing manner, but its thrust appears to be that, under the ERPs, evacuation decisions will be too long delayed. The contention misconceives the plans and their relationship to the Applicants' Emergency Classification System. Under that system, an evacuation recommendation need not await a full-scale emergency. Furthermore, evacuation decisions are to be made by the local officials, based on EPA protective action guidelines.

Contention 3. Appendix G to the ERPs reflects considerable planning for an emergency at Jordan Lake. Little, if any, more advance planning could be done. It may well take more time to evacuate Jordan Lake on a summer weekend than other parts of the FPZ. NRC regulations impose no time limit on evacuation. Local officials would have discretion, in such circumstances, to order the lake evacuated first.

Contention 4. The ERPs in fact contain a much greater communications capability than is alleged in this contention, as described in the Applicants' response.

Contention 6. CCNC may participate as a Joint Intervenor under EPZ 3.

Contention 7. The contention ignores the primary means of notification, sirens, as described in the plan sections cited in the Applicants' response.

Contention 9. This contention challenges the adequacy of medical services. It is barred by the Commission's decision in Southern California Edison Co. (San Onofre Station), 17 NRC 528 (1983).

Contention 10. This contention, like Contention 7 above, ignores the siren notification system.

Contention 11. This very broadly drafted contention lacks the requisite specificity and does not give adequate notice to the opposing parties.

Contention 12. This contention contains two basic allegations -- that the EPZ is not sufficiently "rationalized" and that there should be evacuation planning for areas outside of the EPZ. Both impermissibly attack the EPZ rule, 10 C.F.R. 50.47(c)(2). Local officials must actually consider the factors listed in the rule in drawing the EPZ boundary. However, nothing requires them to "rationalize" their work in writing. Evacuation planning is not required outside the 10-mile EPZ.

Emergency Planning Joint (EPJ) Contentions

At the prehearing conference, we admitted EPJ Contentions 1 (snow and ice) and 2 (evacuating people without cars). We also indicated that we would draft and admit several additional EPJ contentions in certain areas. These additional EPJ Contentions are set forth below, coupled with a listing of the Intervenors who will be deemed co-sponsors of the contention and a tentative designation of a lead intervenor, at least for discovery purposes.[11] If the parties wish to designate another

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11 We have not designated Mr. Eddleman as a lead intervenor during discovery because of his commitments in the safety hearing. We do not mean to preclude some lead role for him at the hearing stage.

intervenor as the lead, they should notify the Board and parties to that effect by August 10, 1984. The contentions leading to an individual Intervenor's designation under the EPJ contention are now superseded.

EPJ 3. The number of volunteer workers -- such as members of volunteer police, rescue, and fire departments -- who would respond to an alert is extremely questionable; plans should be based on a response rate of no greater than 50% in organizations in which no attention has been given to composition which would avoid conflict between organizational and family responsibilities.

Similarly, present planning assumes that teachers will leave their cars and families in the area and supervise students on the bus and in the shelters. This is an unreasonable and unrealistic demand on teachers.

Co-sponsors: Dr. Wilson --7f, 8g, 12(8)
CHANGE -- 13
CCNC -- 6

Lead Intervenor: CCNC

EPJ 4 -- Evacuation of Schools. Section E4d of State Procedures (p. 47) is deficient because --

(a) Fifty percent of school bus drivers are high school juniors and seniors (as young as 16 ½ years). They should not be expected to perform as emergency personnel without explicit and specific authorization from their parents. Even with such authorization they should not be trusted to perform in emergency situations.

(b) Adult bus drivers have minimal education and are paid very low wages. They cannot be trusted to put their jobs above family obligations or to perform adequately in emergency situations.

(c) In normal operation, each bus makes two runs each day. Thus, two round trips to the shelter sites would be required. (This factor was not considered in traffic control plans or evacuation time estimates). Students who do not normally ride buses will be an extra burden, requiring even more round trips.

(d) Most parents would demand to pick up their children at school. The chaos at every school in the area would require all local law enforcement officers and several county officers to contain. This factor is not mentioned in the plan.

Co-sponsors: Dr. Wilson -- 8
Mr. Eddleman -- 219 (last ¶), 222 (last 2 sentences), 230
CHANGE -- 26, 29.

Lead Intervenor -- CHANGE

EPJ-5 -- Transportation for the Non-Ambulatory. Section E 4b of State Procedures (p. 47) is deficient because there is no listing or mechanism of identifying homebound non-ambulatory people. Most ambulances and rescue squad vehicles are not adequately equipped to meet State standards for transporting hospitalized patients. A sufficient number of vehicles equipped adequately to transport the non-ambulatory from hospitals and homes will not be available.

Co-sponsors: Dr. Wilson -- 7
Mr. Eddleman -- 262, 263(A)

Lead Intervenor: Dr. Wilson

For ease of reference, we include below the texts of the joint contentions admitted during the prehearing conference.

EPJ-1 -- Evacuation in Snow and Ice. Insufficient consideration has been given in the off-site emergency plans to the effects of severe snow and ice conditions on evacuation times and/or capabilities to clear evacuation routes.

Section IV.E.8 of the State plan (at 50) is deficient because the State does not have enough snowplows in this area to effectively clear the roads of snow or ice in a reasonable amount of time.

Co-sponsors: CHANGE - 3, 32(1)
Dr. Wilson - 14, 12(7)
CCNC - 5

Lead Intervenor: CCNC

EPJ-2 -- Transportation for People Without Cars. Section IV.E.4.e. of the State plan (at 47) is deficient because it provides no estimate of the number of people without transportation, (Applicants' estimate of 240 families in evacuation time study (p. 3-2) seems far too low), no suggestion as to how people without transportation would get to pickup points, and no criteria for determining when and where they would be "established as required".

Co-sponsors: Dr. Wilson - 9
CHANGE - 28

Lead Intervenor: CHANGE

Radiation Monitoring Contentions

Applicants' response to CHANGE 7 states that the contention "misreads the availability of state teams, ascribes a role to those teams which is not theirs alone, ignores the means available to relocate

the teams, mistakenly assumes that field monitoring teams should not be required to relocate and ignores CP&L's considerable assessment capability early in an accident." The Board agrees that there is no asserted basis for this contention and admission is denied.

CHANGE 11 is redundant to CHANGE 7 and this contention has the same deficiencies. Admission is denied since no basis in terms of roles of the RPS monitoring teams in the overall emergency response is asserted.

The lack of focus and clear bases for both parts of Wilson Contention 2 were brought out at and the prehearing conference (May 1, 1984), transcript pages 876-884. Admission is denied because of those deficiencies.

Wilson 6 and 12

These are the only individual contentions on emergency planning that are still pending. Contention 6 alleges that Section IV.E.4.a of the State ERP (at 47) is deficient because it calls for the use of commercial buses, and yet there are no commercial buses in the plume EPZ and no arrangements to use commercial buses from outside the EPZ. As came out at the prehearing conference, the word "commercial" has been removed from the cited section. Tr. 987. Thus, there is no need to consider this contention. Cf. our rejection of CHANGE 28. Id. Tr. 835-39.

Contention 12, which has many subparts, focuses on the evacuation time estimates. For the reasons given at Tr. 990-93, we are not treating contentions on the estimates as late-filed. As to the subparts of this contention, (b)(7) and (b)(8) have already in effect been admitted as parts of one or another of the joint contentions. Subpart (b)(4) is either a cross-reference to Wilson 8 (which is superceded by EPC-4, or, by speaking only of "school problems", too vague to be litigated.

We admit subparts (b)(2) and (b)(3). We ourselves do not see the grounds for assuming that families with more than one car would evacuate in only the best of their cars. We would also like to know how it was estimated that only 240 families in Wake County exclusive of Raleigh are without cars.

We reject the remaining subparts of Contention 12. Briefly, 12(a) gives us no basis for doubting the State's letter of review and concurrence, found at the end of the Evacuation Time Estimates. 12(b)(1) refers to the backup system of notification, but gives us no reason to think that the 15 minute notification assumption is unrealistic when made about the primary notification system, the siren system described in an annex of the plans. It's not clear what sort of validation of NETVAC Contention 12(b)(5) would call for other than full-scale evacuation of the plume EPZ. Moreover, though (b)(5) says there is no reason to accept the model's predictions, (b)(5) does not

address the many reasons proffered by Section 2 of the Estimates. Subpart (b)(6) does not address the plans. Sections V.5.b-e of the State ERP clearly subordinate decontamination to the need to evacuate quickly. As to 12(b)(9), we know of no requirement that the Estimates discuss alternatives to NETVAC, and (b)(9) doesn't point to any defect in NETVAC. Last, 12(b)(10) alleges that there is no justification given for the plotted points in Figures 7-1 to 7-3 of the Estimates, but we would assume that the points were determined by the NETVAC simulation.

Discovery on Contentions Admitted by this Memorandum and Order

Discovery on the contentions we now admit is open. In the telephone conference of July 2, 1984, we established an earlier tentative schedule for discovery and summary disposition motions, on the assumption that these rulings would issue about July 20. These rulings are issuing about two weeks late, and we are adjusting the schedule to compensate for that , as follows:

Discovery Opens . . .	August 2, 1984
Last day for filing discovery requests . . .	October 8, 1984
Last day to respond to requests	October 31, 1984
Last day to file summary disposition motions . . .	December 21, 1984

We are adopting the foregoing schedule on a tentative basis. Any party who wishes to request changes should file a proposed change and a brief statement of the reason for it by August 13, 1984. Bear in mind that, as the Board stated in the telephone conference (Tr. 2200-01), there will be no tolling of the times for discovery on emergency planning because of the safety hearings.

Petition for Waiver of Need for Power Rule

On June 30, 1983, Mr. Eddleman filed a "Petition Under 10 C.F.R. § 2.758 Re Alternatives and Need for Power Rule." Responses in opposition were subsequently received from the Staff (August 26, 1983) and Applicants (August 31, 1983). Certain additional documents were received thereafter. The Board has concluded that Mr. Eddleman's petition must be denied. The formal order of denial, accompanied by a statement of our reasons, will be included in our Partial Initial Decision on environmental issues. We are announcing our basic conclusion on the petition at this point in order to facilitate planning by the parties for the coming months.

Upcoming Telephone Conference Call

The Board is scheduling a telephone conference call for Friday morning, August 10, 1984 at 11:00 A.M. This may be the only notice you will receive of the call. (1) We expect to rule on the Applicants'

motion for reconsideration with respect to Joint Contention IV; the obligation to file testimony on that contention by August 9, 1984 is suspended pending that ruling. (2) We will discuss the Applicants' motion of July 27, 1984 concerning ex parte extension requests. The other parties need not respond in writing to that motion; they can be heard on the telephone. (3) We will also discuss the status of Mr. Eddleman's diesel generator contentions and possible next steps in that regard, in the context of the scheduling information provided to the Board and parties by Mr. O'Neill's letter of July 31, 1984. (4) We ask the parties to look ahead to August 20, 1984 for any other matters requiring telephone discussion because the Board will be unavailable during the week of August 13.[12]

THE ATOMIC SAFETY AND LICENSING BOARD

Glenn O. Bright (by JLK)
Glenn O. Bright
ADMINISTRATIVE JUDGE

James H. Carpenter
James H. Carpenter
ADMINISTRATIVE JUDGE

James L. Kelley
James L. Kelley, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland
August 3, 1984

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12 The Board expresses its appreciation to its Law Clerk, Steven Crockett, for his able assistance in the preparation of this Memorandum and Order.