

the admission and litigation of contentions relating to offsite emergency planning that we believe may be of assistance to the Board.

General Principles

The function of emergency planning is to effect, under the circumstances that may be presented, aggregate dose savings to the affected population. The emergency planning requirements are not intended to impose new performance or siting criteria on nuclear power plants, and they do not require, as a condition of licensure, a demonstration of absolute assurance of perfect safety. The purpose of emergency planning is to have in place means and methods of coping with emergencies in order to keep offsite effects to as low a level as is reasonably possible given the facilities at hand. Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-83-10, 17 NRC 528, 533 (1983).

The proposition that emergency plans will be judged for adequacy against a certain type of accident, and in particular one involving a prompt offsite release of radioactive effluent, is likewise contrary both to established law and to the fundamental precepts on

which emergency planning is based. The theory upon which the regulations were based is that the planners should consider a spectrum of accidents; the key requirement is that emergency plans be flexible and capable of accomplishing a reduction of adverse effects to the greatest extent reasonably practicable given existing resources. As the Commission has stated:

"Since a range of accidents with widely differing offsite consequences can be postulated, the regulation does not depend on the assumption that a particular type of accident may or will occur. In fact, no specific accident sequences should be specified because each accident could have different consequences both in nature and degree. Although the emergency planning basis is independent of specific accident sequences, a number of accident descriptions were considered in development of the Commission's regulations including the core melt accident release categories of the Ractor Safety Study (WASH-1400)."

San Onofre, supra, 17 NRC at 533.

A corollary is that there is no requirement that emergency plans either directly focus on anyone's notion of the "worst case" accident, or that they demonstrate that, in the event of the "worst case," no member of the public will be affected. "NUREG-0654 does not require an adequate response for the 'worst possible accident' at [a nuclear power plant.] It provides that the worst possible accident be taken into

consideration in the planning basis for the provisions of NUREG-0654." Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-85-12, 21 NRC 644, 888 (1985). See also Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1243-44, aff'd, ALAB-819, 22 NRC 681 (1985). Neither is it either required or appropriate for evacuation time estimates to be based upon the worst possible combination of events. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), CLI-85-15, 22 NRC 184, 188 (1985) (immediate effectiveness ruling); Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1244 (1985), aff'd, ALAB-819, 22 NRC 681 (1985). Worst case scenarios in evacuation time estimates are of no usefulness to decisionmakers, Limerick, LBP-85-14, supra, 21 NRC at 1244, and overly conservative estimates are counterproductive, id. at 1243.¹

¹NUREG-0654 calls for the calculation of evacuation time estimates for at least two scenarios: normal and adverse weather. It is neither required nor feasible

A concomitant principle is that evacuation time estimates are not required to be prepared with absolute precision or to demonstrate that evacuation can be completed within any given period of time. Cincinnati Gas & Electric Co. (Wm. H. Zimmer Nuclear Power Station, Unit No. 1), ALAB-727, 17 NRC 760, 770 (1983); Detroit Edison Co. (Enrico Fermi Atomic Power Plant, Unit No. 2), ALAB-730, 17 NRC 1057, 1069 n.13 (1983). NRC regulations do not require that "evacuation could always be one step ahead of the plume." Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant, Units 1 and 2), LBP-84-29B, 20 NRC 389, 394 (1984). Thus, any contention that NRC regulations require evacuation of the Seabrook plume EPZ or some portion thereof to be completed within some certain time is not a subject for litigation in ASLB proceedings.

to calculate estimates for every possible permutation of conditions. In selecting the adverse scenario for calculation, two criteria are intended: the scenario must be severe enough to give an indication of the sensitivity of the time estimate to adverse conditions, on the one hand, while still of a nature that occurs sufficiently frequently in the area in question to be of usefulness to decisionmakers, on the other. Carolina Power and Light Co. (Shearon Harris Nuclear Power Plant), LBP-85-27A, 22 NRC 207, 225-26 (1985).

The Commission's emergency planning regulations were not intended to require the adoption of extraordinary measures to deal with perceived inadequacies of local facilities. To quote the Commission again:

"It was never the intent of the regulation to require directly or indirectly that a state and local governments adopt extraordinary measures, such as the construction of additional hospitals or recruitment of substantial additional medical personnel, just to deal with nuclear plant accidents. The emphasis is on prudent risk reduction measures. The regulation does not require dedication of resources to handle every possible accident that can be imagined. The concept of the regulation is that there should be core planning with sufficient planning flexibility to develop a reasonable ad hoc response to those very serious low probability accidents which could affect the general public."

San Onofre, supra, 17 NRC at 533.

The regulatory standards that govern the acceptability of state and local emergency plans are contained in 10 C.F.R. § 50.47 and Part 50, Appendix E. Additional guidance is contained in the emergency planning guidance published by the Staff and FEMA, NUREG-0654. NUREG-0654, however, is not a regulation and does not impose regulatory standards; while the criteria contained therein, if adhered to, will demonstrate compliance with the regulations, emergency planners are free to comply with the regulations by

utilizing methods, means and approaches other than those found in NUREG-0654. Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), ALAB-698, 16 NRC 1290, 1298-99 (1982); Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), ALAB-819, 22 NRC 681, 709-10, aff'g LBP-85-14, 21 NRC 1219, 1228 (1985).

Findings in the emergency planning area are intended to be predictive in nature. The governing regulation, 10 CFR § 50.47(a)(1), does not require that emergency plans be "final" or have been formally "adopted" so long as the planning process is sufficiently advanced as to permit the Board to have reasonable assurance that there are no barriers to emergency planning implementation or to a satisfactory state of emergency preparedness that cannot feasibly be removed. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), CLI-85-13, 22 NRC 1 (1985) (immediate effectiveness ruling); Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-781, 20 NRC 819, 834-35 & n.58 (1984); Louisiana Power and Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-732, 17 NRC 1076, 1103-04

(1983); Cincinnati Gas & Electric Co. (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-717, 17 NRC 346, 380 (1983); Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), LBP-84-28, 20 NRC 129, 131-32 (1984); Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-84-18, 19 NRC 1020, 1028 (1984); s.c., LBP-85-14, 21 NRC 1219, 1230 (1985). Neither is there any requirement of awaiting FEMA findings before hearings are held or findings made. Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), ALAB-813, 22 NRC 59, 79 (1985); Limerick, LBP-85-14, supra, 21 NRC at 1232.

It is well established, both in the records of history and the decisions of this agency, that people tend to behave rationally and to follow instructions during a real emergency. "Documented history of disaster responses shows that evacuations are generally orderly. The historic record indicates that evacuating individuals ordinarily obey traffic officers at traffic control points and traffic access control points. It would be useless to make any other planning assumption." Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC

1219, 1254, aff'd, ALAB-819, 22 NRC 681 (1985).

Similar historic records show that in a real emergency, public officials and emergency workers tend to do their duties. E.g., Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1273-74, 1290, 1292-95, aff'd, ALAB-819, 22 NRC 681 (1985); Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant, Units 1 and 2), LBP-25-27A, 22 NRC 207, 230 (1985). In light of this record, any proffered contention to the effect that public officials or emergency workers will not perform their assigned duties must, in order to raise a litigable issue, be supported by a particularized basis for asserting that the normal experience doesn't apply in this particular case for some reason particular to Seabrook. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-84-18, 19 NRC 1020, 1048 (1984). See also Philadelphia Electric Co. (Limerick Generation Station, Units 1 and 2), CLI-85-15, 22 NRC 184, 187 (1985) (immediate effectiveness review).

In short, the standard by which any emergency plan is to be judged is whether or not it represents the

best efforts of knowledgeable people through the use of reasonably available facilities to reduce to the maximum extent reasonably possible the adverse effects on the public health and safety which will result from offsite releases resulting from a spectrum of accident scenarios. The guiding principles, as recently summarized by a Licensing Board, are thus:

"The purpose of emergency planning is to achieve dose savings to the general public in the event that radioactive material is accidentally released off site. There is no minimum standard of public radiation dose which must be met in emergency planning.

"Absolute protection of the public against all radiation doses cannot be guaranteed and is not required for all possible accident scenarios.

"The emergency response plan should not be developed for any specific preconceived accident sequence. It should instead be framed to cope with a spectrum of accident possibilities including the worst accidents.

"There is no standard time required to be met for evacuation in a radiological emergency. Estimates are necessary to determine accurately the actual time required for evacuation. These estimates are needed to aid in protective action decisionmaking.

"No massive investment of resources (stockpiling of supplies or construction of hospitals) are required for emergency planning. We will apply a practical standard of efficiency of utilization of existing resources (such as roadways

and manpower) in evaluating the acceptability of the evacuation plan."

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-85-12, 21 NRC 644, 782 (1985).

Response to Specific Contentions

NECNP has proposed 25 contentions, many of which contain discrete sub-contentions. We deal with each in sequence.

Contention RERP-1

The Contention reads:

"The New Hampshire Radiological Emergency Response Plan ("RERP") does not support the 'reasonable assurance' finding required by 10 C.F.R. § 50.47(a)(1) in that it relies for implementation of the plans on local governments that have not approved or adopted the plans and that have refused to participate in the testing of the plans."

Proposed contention RERP-1 is based upon the asserted failure of the local towns within the Seabrook plume exposure EPZ to have formally adopted the state-issued plans respecting those towns. As such, it raises no litigable issue.

As a matter of NRC regulation, there is no requirement of formal approval of plans, as is set forth in the authorities cited above. A fortiori there is no NRC requirement of formal approval in any particular manner or by any particular entity. What matters, rather, is whether or not the plans are consistent with local organic law, and in both New

Hampshire and Massachusetts state law reposes the civil defense and emergency planning authority in the Governor and the Civil Defense Agency. N.H.R.S.A. 107-B:1 and St. 1950, ch. 639, §§ 2, 2B (as amended by St. 1979, ch. 796, § 24) not only lodge the responsibility for the preparation and publication of emergency plans relating to local cities and towns in state officials in New Hampshire and Massachusetts, respectively, but those statutes also mandate that state officials prepare and publish plans in conformity with NRC requirements insofar as the plans deal with nuclear power plants. Both statutes go on to authorize the governors or the state civil defense officials to take control of such personnel and property as may be necessary to deal with actual emergency conditions. In each case, the statutes manifest a clear intention that, while local cities and towns are entitled to offer such input as they may desire, the ultimate responsibility for and authority to implement emergency planning in both states resides in the state and not the localities.

(In both Massachusetts and New Hampshire, the statutes reflect a legislative direction that the state

discharge its functions in a fashion so as to avoid costly delay in the availability of the power plant for commercial operation. See, e.g., St. 1979, ch. 796, § 1 (Massachusetts General Court's declaration of policy).) Not only is the question of how much local participation is to be permitted a matter of discretion conferred upon the state officials (which no doubt will be exercised depending upon their view of the contribution that the localities are willing to make and are making in fact), but also it was plainly not intended by either set of statutes to countenance a situation where a town could decide to derail the emergency planning and preparedness function altogether by "sitting out" the planning process. In any event, this Board is neither authorized nor equipped to sit as a Board of Review on the actions of the New Hampshire and Massachusetts state officials in carrying out their responsibilities under state law. See Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), LBP-84-37, 20 NRC 933, 967-68 (1984).

While in numerous places the Commission's emergency planning regulation and the Staff's guidance documents refer to "state and local" plans or efforts, it is

plain from the context that this phrase refers to the aggregate of state and local authority within the state. In a nation where the allocation of power and responsibility among the various levels of government are unique from state to state, certainly it was not the intent of the Commission to preempt and override state constitutions and statutes. (Compare, for instance, Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1370 (1985) (where under Pennsylvania law, local plans were required to be adopted by local entities; even so, however, failure of adoption not litigable in the face of state law requiring that plans be in place).) The Commission requires plans for the local areas; whether those are to be state-promulgated or town- (or county-) promulgated is not a matter of Commission concern.

Contention RERP-2

The Contention reads:

"The New Hampshire RERP violates 10 C.F.R. § 50.47(b)(3) as implemented by NUREG-0654 at § II.C.1.b in that the state has not specifically identified all areas in which it requires federal assistance or the extent of its needs; nor has it made arrangements to obtain that assistance; nor

has it stated the expected time of arrival of Federal assistance at the Seabrook site or EPZ."

Proposed contention RERP-2 is based on the asserted failure of the New Hampshire Civil Defense Agency to have identified "all areas in which it requires federal assistance" or to have made arrangements with federal authorities for the obtaining of assistance.

To begin with, NECNP is in error in its assertion that "NRC regulations . . . require that 'arrangements for requesting and effectively using assistance resources have been made' before offsite plans may be approved" (NECNP proposed contentions at 3-4), assuming that "approved" was used in the sense of the resolution of a contention by a Licensing Board. The NRC regulations require only that the Board assess the planning process. If that process appears well developed, and in the absence of found obstacles to completion, any contention must fail. It is in the light of this standard that we must look as how the New Hampshire state plan deals with the issue of requests for federal assistance.

The New Hampshire plan identifies three areas wherein federal assistance will, or might, be required. NHRERP, pp. 1.4-3 & -4. Two of these are assistance of the Coast Guard for notification and regulation of boating traffic in the sea adjacent to the EPZ and assistance of the Federal Aviation Administration to provide a like service with respect to aircraft. Neither of these services is unique to Seabrook, and neither requires any efforts by the agencies in question that is in any respect different from their normal everyday activities. A letter of agreement with the FAA already exists (NHRERP, p. 4.1-1) and one with the Coast Guard is being prepared (id.). (See Coast Guard procedures, NHRERP vol. 4, Part 19.) There is nothing in the New Hampshire state plan, and nothing in the NECNP proffered basis, that supplies any basis for litigating the question of an obstacle with regard to these two agencies.

The third area of federal assistance relates to possible radiological monitoring of shellfish areas, in which event New Hampshire may request assistance either through the New England Radiological Assistance Compact or through a federal agency via FEMA. What objection,

if any, NECNP might have to invocation to the Compact (which is reproduced at NHRERP, vol. 4, Part 3, Appendix M) is wholly unstated. If NECNP's objection to reliance upon a federal source via FEMA is that the specific source is not stated, NECNP's problem is not with the New Hampshire plan, but rather with the Federal Radiological Monitoring and Assessment Plan (FRMAP), described at NHRERP, p. 1.4-1. (FRMAP has been republished as a part of the Federal Radiological Emergency Response Plan (FRERP), 49 F.R. 35896, 359055 ff. (9/12/84).) FRMAP provides for requests to be made to NRC or FEMA and direction of support by one of those two federal agencies. Shellfish monitoring, of course, is a matter regarding the ingestion pathway EPZ, where time constraints similar to the plume exposure EPZ are not encountered. See NHRERP, p. 2.5-15.

NECNP's assertion that "the RERP does not specifically identify all of the state's needs for federal assistance" (NECNP proposed contentions, p. 3) is an unsupported assertion; NECNP leaves us with no inkling of what other assistance it thinks might be required, and there is therefore nothing to litigate. NECNP's MISreading of NHREP § 1.4.4 as a vague

reference to other types of support that might be required is just that: a misreading; section 1.4.4 is simply a restatement of the technical/non-technical distinction set forth in FRMAP and a statement of which of the New Hampshire agencies will be responsible for communicating the request for assistance.

NECNP's assertion that some defect inheres in the fact that "the [New Hampshire] plan speaks of requests for aid as a future task" (NECNP proposed contentions, p. 3) is based on a misreading of the plans. All requests for future aid are made in the future. Specific plans for notification are contained in the plans (see, e.g., Coast Guard procedures, NHRERP, vol. 4, Part 19; notification plan, NHRERP, p. 2.1-5). Prompt notification of FEMA for possible shellfish monitoring is not, by the nature of what might be requested, required.

Based on the materials referred to by NECNP, therefore, it is difficult to discern precisely what it is that concerns NECNP or what it is that NECNP proposes be litigated in the hearing room; this proposed contention is hopelessly vague and manifestly

without basis and should be excluded.

Contention RERP-3

The Contention states:

"The State of New Hampshire RERP does not satisfy the requirements of 10 C.F.R. § 50.47(b)(7), Appendix E, § IV.D.2, and NUREG-0654 in that it does not adequately provide that information will be made available to the adult transient population within the EPZ regarding how they will be notified and what their initial actions should be in an emergency."

Proposed contention RERP-3 is based upon asserted deficiencies in the public information process. (Note that this contention does not refer to the means of providing ad hoc information to the public during an actual emergency, but rather the information that is required to be distributed regarding notification prior to an accident.) Because the proposed contention misapprehends the nature of the information required in such notices, it should be excluded.

For the most part, the purpose of the type of information described in this proposed contention and the accompanying statement of basis is not to inform the public of the details of procedures that should be followed in different scenarios of a genuine accident. Such information is disseminated at the time of the

event, based on actual conditions then being encountered, and typically through radio and public address broadcast messages. The function of the type of communication in question, rather, is simply to educate the public as to what the sirens mean if they are activated, and to advise the public to listen to the radio in such an event. See NHREP § 2.3.2. The specific sort of requirements that NECNP would have the Board impose are not required by the Commission's regulations: there is no requirement that the Commission force local merchants to hang posters (and it is doubtful that the Commission has that authority, in any event); there is no requirement that the state, as opposed to local entities, be responsible for posting signs or for the creation of a "detailed map of all locations where they are to be hung," nor is such a level of detail appropriate for the plans; there is no Commission requirement about such details as the nature of the material out of which posters are made or their durability (nor do the Commission's regulations reflect any fundamental assumption that a single poster must be able to function for the full license duration;

replacements are permitted as necessary); and there is no requirement of bilingualism.

NECNP's assertion of the need for communications to be disseminated in French as well as English deserves special mention. What NECNP declines to acknowledge is that the overwhelming majority of the Canadian people from the province (Quebec) in which French is the official language are themselves bilingual. While there is always the possibility of a few transients being within the EPZ who speak only French (or Spanish or Polish or Russian or any other language). NRC regulations do not require 100% of anything, and they do not require that multiple languages be employed in public dissemination messages in the event of an emergency. See Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-84-18, 19 NRC 1020, 1034 (1984) ("The plans cannot be required to be specific to every individual, or there would be no acceptable plans at all"). This is not to say the State may not elect to put out bilingual materials, and we understand it intends to do so. (The brochures are, we understand, being distributed to the parties

presently.) But it is not required or a subject for litigation.

For lack of basis, including regulatory basis, proposed Contention RERP-3 should be excluded.

Contention RERP-4

The Contention reads:

"The New Hampshire RERP violates 10 C.F.R. § 50.47(b)(5) in that it fails to establish adequate means to provide early notification and clear instructions to the populace within the plume exposure EPZ. In this respect, the RERP also violates Part IV.D.2 and 3 of Appendix E to Part 50, and NUREG-0654 Sections 5, 6, and 7."

Proposed contention RERP-4 assails both the alert and notification system and the means of providing ad hoc information to the public during an actual emergency.

As NECNP surmises, there is a so-called "siren study" that was not distributed with the New Hampshire plans but that is, we understand, to be available shortly. The Board should, therefore, exclude this contention at this time, without prejudice to its reassertion within ten days after the "siren study" has been made available to the intervenors, and provided that NECNP proffers at that time an admissible contention.

In any event, we point out that the standards against which the alert and notification system is to be measured are those set forth in NUREG-0654, Appendix 3 and FEMA-43 ("Standard Guide for Evaluation of Alert and Notification Systems for Nuclear Power Plants"). Duke Power Co (Catawba Nuclear Station, Units 1 and 2), LBP-84-37, 20 NRC 933, 971-72 (1984), aff'd, ALAB-813, 22 NRC 59 (1985). In general, the objective standards of +10 dBC over average outdoor daytime ambient sound level or 60/70 dBC acoustic coverage is the criterion to be applied on a generic basis. Id. The FEMA standard uses average summertime outdoor ambient as the yardstick; there is no requirement of any further adjustment for weather effects. Id. The FEMA standards were not intended as a guarantee that 100% of the people would hear the sirens 100% of the time, but rather to establish objective criteria against which siren designs could be tested. Id. "The FEMA [siren acceptance] criteria do not require that the sirens reach every person in the plume EPZ -- a practical impossibility. (Similarly, and the for the same reason, there is no NRC requirement along that line.)" Catawba, ALAB-813, supra, 22 NRC at 77. Given this

authority, the objections described in the NECNP proposed contention are plainly not admissible regardless of the siren study. For this reason, admitting the contention pro tem. is neither permissible nor salutary.

Certain portions of this contention, however, can be disposed of in the absence of the siren study. NECNP complains that the NHRERP "makes no provision for coordination of public alerting between New Hampshire and Massachusetts." This is simply not so; provisions are made in the plans for communications between New Hampshire and Massachusetts. Neither the New Hampshire nor the Massachusetts plans, however, can dictate to the other state how that state will discharge its responsibilities for public alert and notification. While it is likely that the Massachusetts plans, once we have seen them, will contain comparable guidance regarding activation of the system, absence from the New Hampshire plans of means of controlling what Massachusetts might do is not, and could not be, a defect in the New Hampshire plans. Insofar as this is included in the proposed contention, therefore, the contention should be excluded.

NECNP's assertion that the planned for alert and notification system fails to make provision for people "who may be at the beaches, parks and campgrounds in the Seabrook EPZ without ready access to radios during a radiological emergency" is based on a misreading -- or more precisely, a nonreading -- of the plans. The siren system consists of 140 sirens, of which 133 "have a variety of operating modes. These modes include voice transmission, which can be used in beach and park locations, and four siren tone variations. The system provides for coordinated directional orientation (e.g., all sirens may be aimed north at the same time). The system provides for single-siren activation, for simultaneous activation of sirens throughout one or more towns at a time; or for activation of the entire system at once. Each siren may be remotely activated from either of two locations: Rockingham County Dispatch Center or from an activation point within the municipality in which the siren is located." NHRERP, p. 2.1-9. NECNP's assertion that the "RERP must provide for installation of loudspeakers at the beaches, parks and campgrounds in the EPZ to broadcast instructions in the event of a summer radiological

emergency," while not a correct statement of the law, is moot (and therefore non-litigable) on its face; such "loudspeakers" are provided for.

Contention RERP-5

The Contention reads:

The New Hampshire state and local emergency response plans do not comply with the requirements of 10 C.F.R. § 50.47(b)(5), § IV.D.3 of Appendix E to Part 50, or NUREG-0654 § II.E.6, in that the audible alert systems on which they rely cannot be depended upon to provide prompt notification to the public in an emergency."

Proposed contention RERP-5 continues the criticism of the alert and notification system and contends that a battery-operated backup system is required to be in place. Prescinding from the authority that backup alert and notification systems are not required by the Commission's regulations, Kansas Gas & Electric Co. (Wolf Creek Generating Station, Unit 1), LBP-84-26, 20 NRC 53, 67 (1984), the Applicants again suggest this proposed contention be excluded without prejudice to the submission of a proper contention within 10 days after the siren study had been distributed to the intervenors.

Contention RERP-6

The Contention reads:

"The siren system relied on by the New Hampshire RERP for early notification will not provide adequate night-time warning to many individuals who are asleep indoors and who will not be able to hear the sirens. Thus, the state cannot provide the reasonable assurance of prompt notification that is required by 10 C.F.R. § 50.47(b)(5) and § IV.D.3 of Appendix E to Part 50."

Proposed contention RERP-6 challenges the adequacy of the alert and notification system to deal with emergencies that might occur at night. This proposed contention is a plain challenge to the FEMA acceptance criteria for alert and notification systems. If the siren study shows that the system meets the FEMA acceptance criteria, the plan is acceptable regardless of whether NECNP thinks those criteria are insufficient. While we might urge similar treatment for this contention as we have urged for proposed Contentions RERP-4 and -5, unlike those this one is not capable of being rendered into an admissible form regardless of what the siren study might show and the Board should therefore exclude it.

Contention RERP-7

The Contention reads:

"The New Hampshire RERP violates 10 C.F.R. § 50.47(b)(1) in that it does not adequately demonstrate that 'each principal response organization has staff to respond and to augment its initial response on a continuous basis.'"

Proposed contention RERP-7 questions the sufficiency of staffing of the positions called for in the state plan.

There is no question that the adequacy of staffing is a proper subject for litigation. It is first required, however, that a contention be submitted with specificity and basis. NECNP has not done that. The global assertion that "The RERP gives many emergency response organizations major tasks without assuring that they have adequate staff to fulfill their responsibilities, or that they can be carried out on a 24-hour basis" is too vague to permit litigation. We have no way of knowing which agencies NECNP has in mind, or of what it considers "major tasks" or "adequate staffing," and we have no idea what NECNP contends is something requiring 24-hour capability. (The New Hampshire plans are quite specific in many cases that 24-hour capability or long-term endurance

capability is not required -- and the reasons why. E.g., Seabrook local plan, p. II-31: "Evacuation time estimates and evacuation route capacities for the Seabrook Station EPZ are reported in Appendix E. The reported 1985 evacuation time estimates that include Seabrook range from a minimum of 2 hours 10 minutes (northwest and southwest 5 mile quadrants - winter fair weather day) to a maximum of 7 hours 40 minutes for a summer weekend evacuation during adverse weather. These data indicate that an evacuation can be managed with one work shift and that 24-hour operation of traffic control points will not be necessary." On the other hand, those state agencies with primary response tasks are required to have both 24-hour standby and 24-hour endurance capabilities. NHRERP at p. 2.3-1. The rosters for Civil Defense and Public Health reflect such capability. NHRERP, vol. 4, Parts 2 and 3. Day and night notification points are set forth for all state agencies. NHRERP has made no attempt to explain with specificity where and how any of these provisions is inadequate.

For lack of the required specificity and basis, this proposed contention should be excluded.

Contention RERP-8

The Contention reads:

"The New Hampshire RERP does not provide a 'reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency,' as required by 10 C.F.R. § 50.47(a)(1), in that the plan does not provide reasonable assurance that sheltering is an 'adequate protective measure' for Seabrook. Nor does the plan provide adequate criteria for the choice between protective measures, as required by § 50.47(b)(10) and NUREG-0654, § II.J.10.m."

Proposed contention RERP-8 challenges the efficacy of buildings in the EPZ to afford shelter and the omission in the state plans of a shelter facilities survey.

Insofar as NECNP contends that the plan is devoid of an assessment of the decisionmaking criteria, NECNP errs. NHRERP § 2.6.5 and vol. 4, Part 2, App. F. & Fig. 1A. NECNP's generalized assertion of inadequacy fails to provide adequate notice of what is to be litigated.

This contention is also founded upon a misconception of the nature of sheltering in a nuclear power plant emergency (as opposed to some other sort of

nuclear civil defense emergency); use of thick-walled buildings and basements is not a requirement. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1303-05 (1985), aff'd, ALAB-819, 22 NRC 681 (1985). Moreover, there is no NRC requirement of a shelter survey, nor do such surveys serve any useful purpose to the decisionmaking officials in the event of an emergency. Id. The proposed contention therefore lacks any basis and should be excluded.

Contention RERP-9

The Contention reads:

"The New Hampshire RERP violates 10 C.F.R. § 50.47(a)(1), 50.47(b)(10) and NUREG-0654, § II.J.10 because it does not include evacuation time estimates."

Proposed contention RERP-9 condemns the New Hampshire state plans because they do not contain evacuation time estimates. It should be excluded, in the first instance, because all that the NRC regulations require is the preparation of ETEs by Applicants. "The nuclear power reactor operating license applicant shall also provide an analysis of the time required to evacuate and for taking other

protective actions for various sectors and distance within the plume exposure pathway EPZ for transient and permanent populations." 10 C.F.R Part 50, App. E, § IV (introductory paragraph). (ETEs are not mentioned in 10 C.F.R. § 50.47.) Such ETEs were prepared in connection with the Applicants radiological emergency response plans and determined by this Board to be an on-site emergency planning issue, and the Applicants' ETEs were litigated in the August, 1983 hearings. While New Hampshire may determine to employ its own ETEs, this Board is limited to litigation of matters required by the Commission's regulations; in any respect in which the state determines to go beyond the requirements of the Commission's regulations the plans present no litigable issue. See Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-781, 20 NRC 819, 829-33 (1984). A fortiori, non-inclusion by New Hampshire of its own ETEs is no basis for disapproving its plans.²

²The requirement that Applicants prepare and submit ETEs is mirrored in the Staff/FEMA guidance document, NUREG-0654, Rev. 1, Criterion J-8. While the apparent assumption was the state and local plans would employ the applicant's ETEs (or such portion of them that was relevant) in the plans for state and local action, see

Contention RERP-10

The Contention reads:

"The New Hampshire RERP violates 10 C.F.R. § 50.47(b)(9) in that it fails to demonstrate that 'adequate methods, systems, and equipment for assessing and monitoring actual or potential offsite consequences of a radiological emergency condition are in use.'"

Proposed contention RERP-10 challenges the adequacy of plans for monitoring and assessment, though

id., Criterion J-10(1) (see also the letter of Paul J. Cahill, then Director of the Massachusetts Civil Defense Agency, incorporated into the Applicants' ETEs, introduced into evidence in these proceedings as Ex. 2, following Tr. 1016 (8/17/83): "MCDA will incorporate the results [of these ETEs] in the Massachusetts radiological emergency response plan, after Federal officials have had an opportunity to review them. The results will be made available to local emergency response officials."), there is nothing that constrains New Hampshire to use one set of ETEs over another. Any contention that ETEs must be litigated twice must of necessity rely on NUREG-0654 as supplying such a requirement; it is well-established, however, that NUREG-0654, which has never been promulgated as regulation, imposes no regulatory requirements. Even more plainly, NUREG-0654 must yield to the duly promulgated regulation where the regulation expressly addresses a topic. Thus, prescinding entirely from whether the various ETEs differ, the only set is fair game for litigation in these proceedings is the set that has already been litigated.

it is difficult to determine from the contention whether reference is made to monitoring with respect to the plume exposure EPZ or the ingestion pathway EPZ. Sub-part a of the proffered basis claims that the resources identified by New Hampshire are "woefully inadequate," but there is no explanation of why. The cited portion of the NHRERP (p.2.5.6) refers to a minimum, not, as NECNP implicitly asserts, the maximum. A total of 23 monitor personnel are identified at id., vol. 4., Part 2, App. A. These are in addition to monitoring teams available from the Applicants. Insofar as the stated basis refers to monitoring for the ingestion pathway (as opposed to the plume exposure pathway) the same deployment expeditive is not required, and NECNP offers no assertion to the contrary. Bearing in mind the plan also calls for the use of aerial monitoring as well, using the facilities of the New Hampshire Civil Air Patrol, the woeful inadequacy seen by NECNP is not self-proclaiming, and the proposed contention is without basis insofar as it is premised on sub-part a.

Sub-part b of the proffered basis asserts that specific monitoring locations for Seabrook have not

been preselected. There is no such absolute requirement. NUREG-0654 II.5.10.a requires designations set forth at Table J-1 of NUREG-0654 or an "equivalent uniform system". Such a system (agreed system) appears at NHRERP p. 2.5-9 and its use is described at p.2.5-7. The contention therefore fails for want of basis. Even more fundamentally, had the New Hampshire authorities determined that pre-selected monitoring locations were appropriate for Seabrook, the precise locations would be a matter of procedural detail that is not appropriate for litigation before this Board.

Sub-part c of the proffered basis asserts that the New Hampshire plan "does not establish a location for the Incident Field Office (IFO)." This may or may not be true; and the location of the office might change over the years. However, given that field monitoring teams communicate with the IFO by radio and that the locations to which the teams are to report upon initial notification are specified (see NHRERP, pp. 2.5-6 & -7), this assertion does not supply a basis for the proffered contention sufficient to raise a litigable issue.

(In any event, the New Hampshire plans do reveal that the IFO is to be located at Public Service Company of New Hampshire's Newington Station, and the DPHS procedures include directions on how to get there, all of which NECNP must have overlooked. See NHRERP, vol. 4, Part 3, App. E.)

Sub-part d of the proffered basis demonstrates a misunderstanding by NECNP of the role of the field monitoring teams. Early decisions on whether to shelter or evacuate will not be made on the basis of field monitoring data. Those decisions as demonstrated in NHRERP § 2.6.7 are based upon projections obtained from the utility. As stated at p. 2.5-3 of NHRER the purpose of field monitoring is "to verify dispersion calculations, to support utility monitoring activities, and to determine the location and nature of actual plume impacts." The time lag NECNP cites simply is irrelevant to the decision as to protective action.

Sub-part e of the proffered basis is based on a misreading of the table contained at NHRERP, p. 2.5-20, which may have been prompted by a printing anomaly in that table. The numbers intended to be contained in each of the five right hand columns do not line up

properly with the column headings; nonetheless, the table does show the capacity of the laboratory for a 24-hour day for both the "State Involved in Emergency" and the "State Not Involved in Emergency" cases. The footnote regarding the presupposition is a truism; it does not support basis for NECNP's assertion that 24-hour capability, if needed, is not available. (See also NHRERP, vol. 4, Part 3, App. A, which identifies a lab supervisor for both of the 12-hour shifts. See also NHRERP at 1.2-1.)

Sub-part f of the proffered basis asserts that "[t]he state does not have the capacity to monitor the aerial plume." Given that the plans calls for the aerial monitoring of the plume, describe the aircraft to be used, and set forth the procedures to be used for notification and deployment of these aircraft, we suggest that NECNP has misread the plans. See NHRERP, p. 1.3-13; vol. 4, Part 5.

Contention RERP-11

The Contention reads:

"The New Hampshire RERP violates 10 C.F.R. 50.47(b)(12) in that it does not provide adequate arrangements for medical services for contaminated injured individuals."

Proposed contention RERP-11 challenges the adequacy of plans for dealing with "contaminated/injured" persons. It appears to be flatly contrary to the Commission's declaration that all that is required to satisfy the "contaminated/injured" requirement is a list of hospitals (which is contained in the state plan, NHRERP, App. H) and a commitment from the Applicants to the Commission's forthcoming response to the Guard decision. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), CLI-85-15, 22 NRC 184, 186 (1985). The proposed contention must be excluded.

Contention RERP-12

The Contention reads:

"The New Hampshire RERP does not provide for radioprotective drugs for institutionalized persons within the EPZ, as required by NUREG-0654, § II.J.10.e. Nor does it consider the circumstances under which radioprotective drugs should be administered to the general public, as required by § II.J.10.f."

Proposed contention RERP-12 calls for the condemnation of the plans because of their failure to address in what NECNP believes would be an adequate fashion the question of the issuance of radioprotective

drugs (typically potassium iodide or "KI"), both to the emergency workers and the general public.

This proposed contention should be excluded. The issue of what use to make of KI is a matter for the state of New Hampshire to decide, and NRC does not intend to review that decision. Union Electric Co. (Callaway Plant, Unit 3), ALAB-754, 18 NRC 1333 (1983); Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-84-18, 19 NRC 1020, 1032 (1984); Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), LBP-82-100, 16 NRC 1550, 1567-68 (1982). Section 2.7.3 of NHRERP contains all the detail required on storage and distribution. See also NHRERP at p.4.1-1, item 8.

Contention NHLP-1

The Contention reads:

"There is no reasonable assurance that the New Hampshire local emergency plans can and will be implemented during a radiological emergency because the plans have not been formally adopted by the local governments and because a number of communities have objected to the contents of the plans and have refused to participate in an exercise of the plans."

Proposed contention NHLP-1 restates, as applicable to the New Hampshire plans for the local towns, the

grievance advanced in its proposed contention RERP-1. It is defective for the same reasons that Contention RERP-1 cannot be admitted (see discussion, supra) and therefore should be excluded.

Contention NHLP-2

The Contention reads:

"The local emergency response plans for New Hampshire communities within the plume exposure emergency planning zone do not assure that 'each principal response organization has staff to respond and to augment its initial response on a continuous basis,' 10 C.F.R. § 50.47(b)(1), in the following respects:

"a: The police forces for the towns surrounding Seabrook do not have sufficient personnel or resources to carry out their responsibilities under the plan.

"b. There is no assurance that necessary police and fire department personnel will be reachable or capable of responding promptly in the event of a radiological emergency.

"c. There is no assurance that emergency response personnel can be relied on to fulfill their responsibilities under the emergency plans.

"d. The plans contain no demonstration that private companies or individuals who will be depended on to assist in an emergency will actually be able, committed and willing to perform those functions.

"e. All members of each emergency response organization should be surveyed to determine whether they intend to stay in the EPZ to implement the plan during an emergency.

"f. Under the local plans, the highway departments are responsible for assuring a successful, smooth evacuation by clearing roads of snow, stalled cars, and accidents and otherwise assuring that the roadways remain open for evacuation. The local highway departments do not have sufficient personnel or resources to fulfill these responsibilities, and the common arrangements for ad hoc assistance by private contractors are insufficient to assure that these responsibilities will be met.

"g. Under the plans, the local fire departments are responsible for such tasks as assisting in monitoring the evacuation, for decontamination of affected individuals, operating and maintaining the EOC or the public alert system (PAS), and assessing emergency transportation needs. The local fire departments do not have sufficient personnel or resources to fulfill these responsibilities.

"h. There is no assurance that local emergency response personnel will be reachable or that they will be able to respond soon enough to assure protection of the public health and safety.

"i. The local plans do not provide for adequate backups or alternates for important positions in the event that assigned personnel are not available.

"j. Many of the posts crucial to an effective emergency response have not yet been filled."

Proposed contention NHLP-2 raises 10 specific asserted deficiencies in connection with local staffing for emergency functions.

Sup-part a relates to the supposed inadequacy of the local police forces in the EPZ towns. Applicants have no objection to the admission of this contention.

Sup-part b deals with communications of local police officers and fire personnel and the ability of those people to respond. Basically the complaint is that staff is part time. That is the town's election. Extraordinary measures are not required because a nuclear power plant is in the area, San Onofre supra, 17 NRC at 533.

Sup-part c questions whether local emergency response personnel will do their public duties in an emergency. This should be excluded for the same reason as sub-part e below.

Sup-part d relates to the asserted omission of letters of agreement with bus and towing facilities upon whom the plans place reliance.

The New Hampshire state plan contains a survey of the transportation needs and the extent to which outside suppliers will be relied upon to provide those needs. NHRERP App. I. It indicates that letters of agreement have been obtained from some of these suppliers and that the process of obtaining letters

from the balance is under way. In addition, the state plan reveals a wealth of state-owned vehicles that can be used if necessary. NHRERP, App. C. The plans therefore reveal that the planning process is proceeding without apparent obstacles, and the absence of letters of agreement does not, by itself, raise a litigable issue.

With respect to towing facilities, various towing companies are listed in the several local plans, and the state plan again reveals adequate state-owned towing vehicles that can be used if necessary. In addition, the state plan provides that "The New Hampshire Department of Public Works and Highways is prepared to use its maintenance equipment, including plows and trucks, and towing equipment to maintain these routes [evacuation] routes during adverse weather and as unforeseen impediments to evacuation occur." NHRERP, p. 2.6-10. Finally, the experience of this agency in emergency plan litigation is that towing capability is not a major contributor to the ability to evacuate. E.g., Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1361-62 (1985). Under these circumstances, the

fact that the process of obtaining letters of agreement from towing companies is not yet complete raises no litigable issue.

Sup-part e contends that an attitude and intentions survey is required to be conducted with respect to the present intentions of local emergency response personnel to do their public duties in the event of a real emergency. It should be excluded.

The record of history, both in connection with emergencies in general and nuclear emergencies in particular, is that designated emergency workers with established duties tend to discharge their obligations. For this reason, "attitude surveys" have been explicitly held not to be either useful or required.

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1294 (1985).

For the reasons set forth in the discussion in Part One of this response, moreover, a generalized assertion that emergency response personnel will abandon their stations and ignore their duties offers nothing litigable. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), CLI-85-15, 22 NRC 184, 187 (1985) (immediate effectiveness review).

(We think it important to underscore that nothing contained in the NECNP statement of purported basis is a direct statement by a public official that, in the event of a nuclear or other emergency, he or she will not perform his or her public responsibilities. In the unlikely event of a specific assertion of such an intention to dereliction, we assume that the appropriate New Hampshire officials will see to it that any public officer harboring such an intention is removed from any position of responsibility in the event of a nuclear accident. In any event, in the absence of any specific assertion, there would be nothing for this Board to litigate. There is no reason for the members of the Board to have to listen to the same historical record that they and their colleagues have heard and assessed previously in other cases.)

Sub-part f challenges the capability of local highway agents to perform the tasks assigned to them under the plans. Applicants have no objection to the admission of this contention

Sub-part g challenges the capability of local fire personnel to perform the tasks assigned to them under

the plans. Applicants have no objection to the admission of this contention

Sub-part h is a general challenge to the ability of other local emergency response personnel to be reached or to respond in timely fashion in the event of a real emergency. Applicants have no objection to the admission of this contention

Sub-part i contends that the local plans are deficient because they fail to designate backup personnel for local emergency response personnel. Applicants have no objection to the admission of this contention

Sub-part j contends that the plans should be rejected because designated emergency response positions have not yet been filled. Applicants have no objection to the admission of this contention.

Contention NHLP-3

The Contention reads.

"The local emergency response plans for the New Hampshire towns surrounding Seabrook do not adequately provide for 'notification, by the licensee, of State and local response organizations and for notification of emergency response personnel by all organizations,' as required by 10 C.F.R. § 50.47(b)(5), in the following respects:

a. Provision for notification and communication by Public Service Co. with the town emergency response organizations is inadequate in that it depends upon notification through the county dispatch and does not assure that the contact person will be available or can be reached in the event of a nuclear emergency. In each instance, there must be a dedicated telephone line to a location where an individual will always be on duty to receive the communication and take further actions.

b. The means for notification of local governments that an emergency has occurred is unreliable because it calls for action by plant operators. Notification of any plant malfunction should be mechanically communicated to an offsite entity."

Proposed contention NHLP-3 raises 2 specific asserted deficiencies in connection with notification by Applicants of emergency response personnel.

Sub-part a contends that "there must be a dedicated telephone line to a location where an individual will always be on duty to receive the communication and take further action." This contention, which seeks to create a requirement not contained in the NRC regulations, should be excluded.

Parsing the proffered basis for the contention reveals that it asserts no deficiency in the means available to the Applicants to notify the NHSP,

which in turn notifies the county dispatch center;³ it refers, rather, to the downstream notification by the dispatch centers of emergency personnel. As NECNP appears to be aware, a number of means of effecting these communications are available, including portable VHF radios and pocket pagers that the person can carry with him wherever he goes.⁴ NECNP's unsupported assertion that "non-dedicated

³The Rockingham County Dispatch Center is a police and public emergency facility operating 24 hours per day, 365 days per year. It is capable of communicating with every police station and every cruiser (state and local) within Rockingham County on at least one (and in some cases more than one) radio frequency, as well as with NHSP stations and cruisers virtually anywhere in the state.

(A review of the state and local plans, for instance, shows that all police stations and cruisers have two-way communications capability on the main Rockingham repeater channel (155.460 MHz in/154.815 MHz out), that local fire departments all have two-way capability this repeater or on 154.190 MHz (simplex), and that the Dispatch Center has two-way capability with NHSP on the VHF high band frequencies of 155.475 MHz (simplex) and 156.09 (simplex). See generally local plans, Pt. II, Figure 8, and Appendix C.)

⁴Indeed, the Rockingham County Dispatch Radio is so powerful that it easily reaches as far as Boston.

telephone lines are likely to be overloaded during an emergency," besides running contrary to common sense, is insufficient to raise a litigable issue. Likewise unhelpful is its assertion that pocket "[p]agers have limited range;" the assertion is true but it does not demonstrate any deficiency in the notification procedures -- and most assuredly it does not demonstrate any deficiency that would be cured by dedicated telephone lines. The assertion that pagers are not presently in hand raises no litigable issue; equipment need not be in place for the plans to be adequate. It is sufficient if there are plans for adequate equipment.

The core deficiency of this proposed contention, however, is its implicit assertion of a regulatory requirement that, when implementing a scheme for notification of a group of people, perfection must be assured. Perfection is not required. In order to raise a litigable contention NECNP was required to point to some systematic deficiency that is capable of being cured by a revision to the plans; this it has not done.

Sub-part b contends that reliance upon the Applicants to provide initial notification to officials is impermissible and that [n]otification of any plant malfunction should be mechanically communicated to an offsite entity." Since the Commission's regulations explicitly state that reliance is to be placed upon the facility operator to make the initial notification to government officials, 10 C.F.R. § 50.47(b)(5) this contention is a challenge to the regulations and may not be admitted. Only the Commission by amendment to the regulations could provide the relief the NECNP here seeks.

Contention NHLP-4

The Contention reads:

"Procedures to provide early notification and clear instructions to the populace within the plume exposure pathway EPZ, 10 C.F.R. 50.47(b)(5), are inadequate."

Proposed contention NHLP-4 raises five specific challenges to the plans for notification and instruction to the general public in the event of a real emergency.

Sub-part a claims an omission from the plans because the "siren study" is not included. This adds

nothing to proposed Contention RERP-4, -5 and -6 and should be excluded.

Sub-part b is missing (apparently because of a typographical error).

Sub-part c contends that verification of notification times is required and has not been performed. NECNP has pointed to no authority for such a requirement and we are aware of none. Compare Carolina Power & Light Co (Shearon Harris Nuclear Power Plant, Units 1 and 2), LBP-84-29B, 20 NRC 389, 406 (1994).

Sub-part d repeats NECNP's assertion of a requirement of bilingualism in all information disseminations. For the reasons set forth in response to NECNP proposed Contention RERP-3, it should be excluded.

Sub-part e is a generalized challenge to the adequacy of provisions for notice to those with "special notification needs." There is no requirement that the list NECNP argues for in its statement of basis even exist. In addition the 5 mile requirement is not as stated by NECNP. The requirement is that there be "direct coverage of essentially 100%" by

initial alert system. That does not mean a guarantee that 100% of the people hear the siren.

Contention NHLP-5

The Contention reads:

"The local plans do not adequately assure protection of the public health and safety in that they make no provision for dealing with the serious language barrier faced by the large numbers of non-English speaking people often in the area and the difficulties that arise from that language barrier. The language barrier creates behavior problems that would seriously hamper the emergency response, rendering an orderly and safe evacuation impossible.

At a minimum, all relevant communications and informational material must be in both English and French. Emergency response personnel who may have to deal with non-English speaking people must be fluent in French, and all such personnel must be trained in handling the behavioral difficulties that may arise as a result of the language barrier."

Proposed contention NHLP-5 is a generalized assertion of a requirement that all communications with the public be conducted bilingually, in English and French. For the reasons set forth above in response to proposed Contention RERP-3, this contention lacks

sufficient basis and should be excluded.⁵

Contention NHLP-6

The Contention reads:

"The local emergency plans do not provide for an adequate range of protective actions, 10 C.F.R. § 50.47(b)(10), because they contain inadequate means of relocation or other protection for those with special needs, those without private transportation, school children, or persons confined to institutions or elsewhere for health or other reasons. Moreover, the resources available to the towns for these purposes are inadequate to provide a reasonable assurance that the public will be protected in the event of an accident."

⁵A pervasive problem with the NECNP proposed contentions regarding the New Hampshire plans for the local towns is NECNP's treatment of the local plans as a group. Here, as in many places, NECNP proposes an EPZ-wide contention where, even granting an adequate statement of basis, the contention would apply to only a few of the local towns. Most of the New Hampshire local towns have no beach area and some a quite distant from the beaches; it is the beaches, however, that are the supposed attraction to the tourists who, it is claimed without basis, do not speak English. Putting aside its other deficiencies, the proffered basis in support of this contention refers to only one of the 17 New Hampshire towns within the EPZ and therefore offers nothing that would support admission of the contention as to the other 16 local plans.

Applicants have no objection to the admission of this contention.

Contention NHLP-7

The Contention reads:

"The state and local plans do not contain adequate guidelines for the choice of protective actions or information on which the choice of protective actions could be based in the event of an emergency. 10 C.F.R. § 50.47(b)(10)."

Proposed contention NHLP-7 launches two specific attacks. It contends, first, that the "discussion" of the bases for making protective action recommendations must be contained in the local plans, i.e., that it is insufficient that such "discussion" be contained only in the state plan. Second, this proposed contention asserts that the "discussion" contained in the state plan is "inadequate." The only basis of inadequacy is the incorporate^d by-reference basis advanced for proposed Contention RERP-8. What NECNP loses sight of is that the local plans are part of the State plan. Things do not have to be said twice. To say something is "inadequate" without further specifics adds nothing more to a statement of basis.

Contention NHLP-8

The Contention reads:

"The local plans fail to meet the requirements of 10 C.F.R. § 50.47(b)(10) in that:

"a. The local plans do not adequately provide for the use of radioprotective drugs for emergency workers or institutionalized persons whose immediate evacuation may not be feasible.

"b. The plans do not include a description of the methods by which decisions for administering radioprotective drugs to the general population are made during an emergency and the predetermined conditions under which such drugs may be used.

"c. They do not contain adequate provisions for notifying and providing follow-up information to those segments of the population that are in recreation areas or otherwise without easy access to television or radio."

Proposed contention NHLP-8 offers three specific challenges to the adequacy of New Hampshire local plans.

Sup-part a contends that provisions for the distribution of KI to emergency personnel and institutionalized personnel are inadequate.

Sup-part b contends that provisions for the distribution of KI to the general public are inadequate.

Sup-part c, which appears to be misplaced, refers to provisions for notification and instruction to "those segments of the population that are in recreation areas or otherwise without easy access to television or radio."

Insofar as the proposed contention refers to the distribution of KI, for the reasons set forth in response to proposed Contention RERP-12, it is not litigable. In addition such distribution is not a local responsibility. NHRERP § 2.7.3. Insofar as it refers to the dissemination of information to people in recreation areas, it is impossible to deal with because it is directed to no specific local plan or recreation area, and it fails to identify the supposed deficiency. (The proffered basis for the contention deals only with the supposed KI deficiency and does not address information dissemination in recreation areas.) As the various local plans reveal, virtually all of the local police cruisers are equipped with public address capability. See generally Appendix C to the local plans. Likewise, the Special Facilities Response plans provide that the operator of the facility is responsible for communicating information to the

persons in his facility, most of whom, it may be expected, will have congregated either in their automobiles or at the operators' facilities in response to the initial notification sirens. What more is expected -- and, indeed, whether more is available -- cannot be answered without more specification from NECNP. The proposed contention should, therefore, be excluded for vagueness and lack of basis.

Contention NHLP-9

The Contention reads:

"The current state of emergency planning and preparedness does not permit a finding of reasonable assurance that if an evacuation is necessary, it can be carried out in a manner that will assure protection of the public health and safety in that:

"a. The consequences of an accident at Seabrook are such that evacuation must be completed promptly in order to avoid unacceptable damage to the public health and safety."

"b. Both local conditions and aspects of the emergency plans will result in families being scattered in various areas. The families will clog the evacuation routes and disrupt the evacuation by attempting to reunite before proceeding to evacuate.

"c. There is no assurance that those responsible for driving the various busses and other forms of mass transportation will actually do so, rather than first assuring the

safety of their own families or leaving the area altogether.

"d. Many of the primary potential evacuation routes are prone to serious flooding, which has not been taken into account in the local plans or in the evacuation time estimates contained within those plans.

"e. The local plans do not adequately account for the crowds at the Seabrook dog track.

"f. Many of the evacuation routes are narrow and would be blocked by an accident or a stalled car, and those roads and the available traffic control personnel cannot handle both the traffic that will come from surrounding towns as well as the traffic generated by the town itself.

"g. Gasoline supplies and availability are limited such that many of the vehicles that run low can be expected to run out, thereby clogging the narrow evacuation routes and hindering the evacuation.

"h. In order to assure a safe, prompt, and orderly evacuation in case one is ultimately called for, the emergency plans must provide for notification of all emergency response personnel and implementation of traffic control measures before or coincident with any public announcement of an event at the reactor that falls into any of the emergency action levels."

Proposed contention NHLP-9 launches 9 specific challenges to the adequacy of the local plans.

Sub-part a contends that some unspecified performance criterion is required of evacuation. For

the reasons set forth in response to MassAG's single proposed contention, however, there is no "performance requirement" for emergency planning contained in the Commission's regulations, there is no "unacceptable radiation exposure," and a contention that asserts that a demonstration is required that "if an evacuation is necessary, it can be carried out in a manner that will assure" some minimum level of exposure is inadmissible.

Sub-part b asserts that families trying to reaggregate will clog roadways; it isn't clear, however, what the scope of this challenge is, and we therefore assume that it is an out-of-place addition to the bill of particulars submitted by NECNP in respect of evacuation time estimates. In the prior hearings this Board heard that the ETEs included modelling of traffic of families reassembling at home before evacuation, and included the effects, if any, of such traffic on the overall evacuation times. The barren assertion that the phenomenon will occur raises no litigable issue, even if ETEs were themselves open to relitigation. For the reasons set forth in response to proposed contentions RERP-9, however, ETEs have already

been litigated in this proceeding and there is no requirement that they be litigated again.

Sub-part c contends that school bus drivers will not perform their assigned emergency response duties. For the reasons and upon the authorities set forth in Part One of this response, the contention should not be admitted.

Sub-part d contends that routes upon which reliance might be placed for the purpose of evacuation are "prone to serious flooding;" this, too, is a challenge to the evacuation time estimates. Beyond the problem that ETEs should not be relitigated, an assertion that some roadways might be impassable, for any reason, is not relevant to the purpose for which ETEs are performed. If particular roadways are impassable, the state officials will take that fact into account when making their assessment of what protective actions to order. An ETE based on impassable roadways, or any other "worst case" is neither appropriate or required. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1244 (1985). The proposed contention should be excluded.

Sub-part e contends that inadequate consideration has been taken of the transient population that might be found at the Seabrook Dog track; it, too, is another challenge to the evacuation time estimates. In addition, the contention is hopelessly vague, for it offers not a clue as to what NECNP contends is required in order adequately to "account for the crowds at the Seabrook Dog Track." Compare Seabrook local plan at p. II-31. The assertion by NECNP at p.40 of its contentions that the Seabrook Dog Track has a capacity of 100,000 (approximating Michigan Stadium, the largest college owned stadium in the country) is absurd on its face.

Sub-parts f and g contend that routes upon which reliance might be placed for the purpose might be the subject of stalled cars or cars out of gas; these, too, are challenges to evacuation time estimates. For that reason, and for the reasons set forth in the response to proposed Contention NHLP-2, sub-part d, the contention should be excluded.

Moreover, the apparent thrust of this proposed contention, in addition to challenging the ETEs, is a repetition of the argument that evacuation cannot,

because of the physical constraints of the roadway network, be completed in a timely fashion, where timely means equal to or less than some unstated time. For the reasons set forth in response to proposed Contention NHLF-9, subpart a, and also MassAG's single proposed contention, this raises no litigable issue. The Commission's regulations contain no performance criteria in Part 50, Appendix E. The only basis for concluding that, because of siting considerations, a given plant in a given location may not be allowed to operate, is the explicit siting criteria of 10 C.F.R. Part 100. Those criteria are not open for relitigation in this proceeding. If the roadways cannot handle the traffic, as NECNP contends, then the state officials will take that into account in determining the protective action to recommend. No more is required and no more can be imposed on Seabrook Station.

Sub-part h contends that the plans must provide for pre-notification of emergency workers; i.e., that emergency workers must be notified of an emergency prior to notification of the general public. No such requirement can be found in the regulations.

Sub-part i is not stated as a contention, only a basis. It appears to contend that driver anarchy will result in the event of a genuine emergency in which evacuation is selected as a protective action. It is not at all clear what NECNP proposes to litigate on account of this supposed basis. Presumably, the effect of driver anarchy would be an impact on the ETEs; for the reasons set forth earlier in this response, ETEs are not a litigable subject at this time. Moreover, on the authorities cited above regarding the historical record of human response during a real emergency, a barren assertion of irrational behavior by the general public is insufficient to raise a litigable issue. As a consequence, whatever contention NECNP might have had in mind should be excluded.

Contention NHLP-10

The Contention reads:

"The local plans do not contain adequate arrangement for medical services for contaminated injured individuals. 10 C.F.R. § 50.47(b)(12) and NUREG-0654, § II.L.

"a. The towns within the EPZ do not have sufficient ambulances or emergency medical equipment to care for contaminated injured individuals.

"b. In addition to contaminated injured individuals, the towns must evacuate hospitals, convalescent homes and the nonambulatory residential population, many of which must be transported by emergency medical vehicles. The plans do not demonstrate that there are sufficient numbers of emergency vehicles to meet the needs of the communities."

Proposed contention NHLP-10 consists of a number of specific objections to the provisions contained in the plans with respect to "contaminated/injured" individuals. As noted earlier all that is required is a listing of facilities and a commitment to the NRC response to the Guard decision.

Contention NHLP-11

The Contention reads:

The New Hampshire local plans fail to take into consideration the effects of loss of offsite power on the ability of local governments to take adequate protective measures in the event of an emergency."

Proposed contention NHLP-11 contends that the local plans must recognize loss of offsite AC power as one particular accident scenario, and that backup power supplies must be provided for emergency equipment. To begin with the assertion that there exists a high correlation of loss of offsite power with core melt accidents avails NECHP nothing in the context at bar.

The loss of offsite power referred to in connection with core melt accidents refers to the concept that the nuclear plant loses its offsite sources of power. It does not equate to the concept that the surrounding area is without power. If all lines into Seabrook Station were to fail this does not necessarily mean the surrounding area would be without power. In any event, NECNP provides no basis or allegation that such devices as are necessary (sirens) do not have backup power in the event of a general power failure. Mere assertion does not do it.

Contention NHLP-12

The Contention reads:

"The host plans are insufficient to provide for the registering and monitoring of evacuees at relocation centers."

Proposed contention NHLP-12 asserts that the staffing and facilities provided for the host community reception center at Nashua, New Hampshire is inadequate to deal with the number of people who might be expected to avail themselves of the center. (While the proposed contention asserts greater generality, the basis is limited to Nashua.) The only specific allegation of basis is that the capacity of the Nashua Shelter is

less than the total population of the Towns which use Nashua as a host. The ability to shelter is not the limit on monitoring and registering. Monitoring takes seconds; registering long enough to fill out a card. There is given in the host plans a description of the equipment which will be used to monitor and the method of registration. Eighty-one monitors at least are available in a total of five host communities (Nashua simply describes equipment types), see local plans at p. II-11 and there is a State commitment to supplement as required. No more is required.

Contention NHLP-13

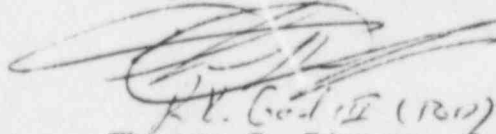
The Contention reads:

"The host plans do not provide assurance that evacuees from the Seabrook EPZ will be monitored and will be decontaminated if necessary. The plans thus pose a threat that evacuees will carry radiological contamination into other areas of the state and even into other states and Canada."

Proposed contention NHLP-13 asserts a deficiency in the plans in that they do not assure that all persons leaving the EPZ during any evacuation will be monitored. No such requirement can be found in the regulations. Duke Power Co. (Catawba Nuclear Power Station, Units 1 and 2), LBP-84-37, 20 NRC 933, 960

(1984); Caroline Power & Light Co. (Shearon Harris
Nuclear Power Plant, Units 1 and 2), LBP-84-29B, 20 NRC
389, 398 (1984).

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Dated: March 5, 1986

CERTIFICATE OF SERVICE

DOCKETED
USNRC

I, Thomas G. Dignan, Jr., one of the attorneys for ^{FILE} MAR -6 P3:36
the Applicants herein, hereby certify that on March 5,
1986, I made service of the within "Applicants'
Response to Off-Site EP Contentions Submitted by New ^{OFFICE OF SECRETARY}
England Coalition on Nuclear Pollution (New Hampshire ^{DOCKETING & SERVICE}
State and Local Plans)" by depositing copies thereof ^{BRANCH}
with Federal Express, prepaid, for delivery to (or,
where indicated, by depositing in the United States
mail, first class postage paid, addressed to):

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