

QUESTION 5. Does the Commission agree that it is not sufficient to meet the "reasonable assurance" standard for an applicant to show that it has done its best to plan for as efficient an evacuation as possible?

ANSWER.

The Commission in 1987 considered and rejected the option of making its findings on emergency planning turn on whether the applicant for a license had exercised its "best efforts." Specifically, in the 1987 proposed rule on emergency planning, the Commission asked for comment on this question: Should the focus of the emergency planning inquiry continue to be whether there is reasonable assurance that adequate protective measures can and will be taken in an emergency, or should it ask instead whether the utility had done all within its power to make emergency planning satisfactory? 52 Fed. Reg. 6980 (March 6, 1987). The Commission's final rule resolved the question in favor of the existing approach, declaring that "a utility plan, to pass muster, is required to provide reasonable assurance that adequate protective measures can and will be taken in [an] emergency." 52 Fed. Reg. 42078, 42084. As the Commission told the First Circuit Court of Appeals in its appellate brief, "in its final rule the Commission rejected the proposed alternative which would have shifted the NRC's focus from evaluating the adequacy of the utility's emergency plan to evaluating whether the utility had done all it could to provide effective emergency planning." Brief at 19.