

May 10, 2001

Mr. Jonathan M. Block
94 Main Street
P.O. Box 566
Putney, VT 05346-0566

Dear Mr. Block:

I am responding to your April 26, 2001, letter to the Secretary and the Commission requesting a 90-day extension of time for public comment on the proposed rulemaking on "Changes to Adjudicatory Process," published in the *Federal Register* on April 16, 2001 (66 FR 19610). The basis for your request is the unavailability in the NRC's Public Document Room (PDR) of transcripts of an October 26-27, 1999, public meeting on NRC Hearing Processes (in your words, "essential background documents"). After due consideration, I have decided to extend the public comment period by 60 days.

The Office of the General Counsel (OGC) informed me that on April 24, 2001, Mr. Mizuno, the OGC attorney listed as the contact in the Federal Register (FR) notice, received an e-mail from you requesting a "site address to download" the transcripts in question. On the morning of April 25, 2001, Mr. Mizuno responded that the transcripts were available for inspection in the PDR. Later that day, you communicated to Mr. Charles Mullins, another OGC attorney, that the transcripts were not in the PDR. On April 26, 2001, Mr. Mizuno sent you an e-mail informing you that the transcripts would be placed in the PDR immediately, and attached electronic files of the transcripts. The meeting transcripts were placed on the NRC Web Page on April 30, 2001. OGC has also informed us that the electronic files have been entered into ADAMS and are now available for downloading through ADAMS (Accession Nos. ML011160507, ML011160525).

Inasmuch as: (1) you received the transcript files by e-mail on April 26, 2001, and physical copies of the transcript were placed in the PDR on the same day, and (2) the transcript files were made available for downloading from the NRC Web site on April 30, 2001, and are now available for downloading through ADAMS, I find the 10-day period of unavailability of the transcripts in the PDR to be a *de minimus* delay that does not warrant a 90-day extension of the public comment period for the proposed rulemaking. Nonetheless, recognizing that the transcripts were not available for a limited initial period after the notice of proposed rulemaking was published and the Commission's interest in obtaining public comments from a wide range of stakeholders, I am extending the public comment period by 60 days, or until September 14, 2001.

Finally, your letter questions how the "NRC staff could make comments and participate in the informed drafting of the proposed rule" when the transcripts were not in the PDR, and were not available to Mr. Mizuno. OGC has informed me that Mr. Mizuno did not participate in the preparation of the draft proposed rule provided to the Commission in SECY 00-0017 (January 21, 2000), and was assigned in late 2000 the responsibility for preparing the rule for publication in the FR. In any event, the matter of the internal coordination within the NRC with

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respect to this rulemaking which you raise in your letter in no way relates to or provides additional basis for your request to extend the public comment period on the proposed rule.

Sincerely,

/RA/

Annette L. Vietti-Cook