

October 31, 2005

The Honorable Harry Reid  
United States Senate  
Washington, D.C. 20510

Dear Senator Reid:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of October 12, 2005, requesting an extension of the public comment period for the proposed rule (September 8, 2005; 70 FR 53313) that would amend NRC's regulations governing the disposal of high-level radioactive wastes in a proposed geologic repository at Yucca Mountain, Nevada. The proposed rule would implement the U.S. Environmental Protection Agency's (EPA's) proposed standards for doses that could occur after 10,000 years, but within the period of geologic stability. The comment period for EPA's proposed standards currently expires on November 21, 2005 (extended 30 days from October 21, 2005). The comment period for NRC's proposed rule currently expires on November 7, 2005.

You requested that the comment period for NRC's proposed rule be extended to a total of 180 days, or at least past the date of EPA's 30-day extension. The NRC has also received a letter, representing several citizen and environmental groups, requesting that the deadline for comments be extended to 180 days. In addition, we have received a letter from the Agency for Nuclear Projects, on behalf of the State of Nevada, requesting that NRC extend its comment period for an additional 30 days, consistent with EPA's 30-day extension of its comment period.

Given the interrelationship between these two proposed rules, and for consistency with the ongoing EPA rulemaking process, NRC has decided to extend the comment period for its rulemaking for an additional 30 days, to December 7, 2005, for a total comment period of 90 days.

In vacating the compliance period in NRC's rule at 10 CFR Part 63, the United States Court of Appeals for the District of Columbia Circuit made clear that it is "NRC's obligation under the [Energy Policy Act of 1992] to maintain licensing criteria that are consistent with the public health and safety standards promulgated by EPA." See *Nuclear Energy Institute, Inc. v. EPA*, 373 F.3d 1251, 1299 (D.C. Cir. 2004). Thus, NRC's proposed rule, for the most part, simply implements EPA's proposed standards for doses that could occur after 10,000 years but within the period of geologic stability, and its final rule will need to implement any changes EPA may make regarding its standards. The NRC's proposed rule provides further detail for implementing the EPA standard in only two specific areas: a value to represent climate change after 10,000 years; and a requirement that calculations of radiation doses for workers use the same weighting factors that EPA is proposing for calculating individual doses to members of the public. We believe that potential commenters should not need a lengthy period of time to address these issues, and that NRC's 30-day extension is therefore appropriate.

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I trust that this extension of the comment period on our proposed rule responds to your concerns. Please contact me if you have further questions regarding this issue.

Sincerely,

**/RA/**

Nils J. Diaz

Identical letter sent to:

The Honorable Harry Reid  
United States Senate  
Washington, D.C. 20510

The Honorable John Ensign  
United States Senate  
Washington, D.C. 20510