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# PUBLIC SUBMISSION

**Docket:** NRC-2018-0109

Draft Letter to the Nuclear Energy Institute Regarding the Clarification of Regulatory Paths for Lead Test Assemblies

**Comment On:** NRC-2018-0109-0001

Draft Letter to the Nuclear Energy Institute Regarding the Clarification of Regulatory Paths for Lead Test Assemblies

**Document:** NRC-2018-0109-DRAFT-0001

Comment on FR Doc # 2018-12276

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## Submitter Information

**Name:** Rick Ennis

**Address:**

19144 Hempstone Ave  
Poolesville, MD, 20837

**Email:** ennis.rick@verizon.net

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## General Comment

See attached file(s)

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## Attachments

Request to extend LTA letter comment period

SUNSI Review Complete  
Template = ADM-013  
E-RIDS=ADM-03  
ADD= Sihan Ding, Kimberly  
Green & Jan Burkhardt

COMMENT (1)  
PUBLICATION DATE:  
6/7/2018  
CITATION # 83 FR 26503

Request to Extend LTA Letter Comment Period  
Submitted by Rick Ennis  
June 20, 2018

It is requested that the NRC extend the comment period associated with *Federal Register* Notice dated June 7, 2018 (83 FR 26503), "Draft Letter to the Nuclear Energy Institute Regarding the Clarification of Regulatory Paths for Lead Test Assemblies" (NRC Docket ID NRC-2018-0109). The notice currently provides a 20-day comment period, which is shorter than the comment period for every other NRC document out for public comment, as currently listed on the NRC's web page at: <https://www.nrc.gov/public-involve/doc-comment.html>

As discussed in the May 31, 2018, NRC response to an NRC staff non-concurrence on the draft letter to the Nuclear Energy Institute, "on February 8, 2018, an NRC staff member submitted a differing professional opinion (DPO) regarding the NRC's initial clarification letter of June 29, 2017." The response to the non-concurrence indicates that the NRC is responding to the DPO and expects the DPO to be made public within a month (i.e., by June 30, 2018). **Since this DPO may provide relevant information to make fully-informed comments on the draft letter to NEI, it is requested that the comment period be extended to 30 days after the DPO is made public.**

It is noted that the response to the non-concurrence also states that the final letter to NEI "will be considered a rule for CRA [Congressional Rule Act] purposes and will be submitted to the Office of Management and Budget (OMB) to determine whether it constitutes a major rule." Although the Administrative Procedure Act does not specify a minimum public comment period for a proposed rule, Executive Order 12866, "Regulatory Planning and Review" (58 FR 190, October 4, 1993), states, in part, that:

Each agency shall (consistent with its own rules, regulations, or procedures) provide the public with meaningful participation in the regulatory process. In particular, before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days.

Assuming the DPO is made public by June 30, 2018, extending the comment period by 30 days after the date the DPO is made public, would result in a comment period less than 60 days from the June 7, 2018, *Federal Register* notice. Given the large amount of information on this subject, this extension is reasonable and necessary to provide the public with meaningful participation in the regulatory process.

It is also noted that there are two outstanding FOIA requests regarding LTAs (NRC-2018-000515 and NRC-2018-000567). Expedient release of this information is requested to assist in review of the draft letter to NEI.

Thank you in advance for consideration of this request.