

**ATTORNEY GENERAL  
NEVADA DEPARTMENT OF JUSTICE**

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August 31, 2005

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Re: EPA's Proposed Radiation Rule

Dear Attorney General:

I am writing to alert you to a disturbing proposed rule that, if promulgated, has the clear potential to destabilize the cleanup standards for all Department of Energy facilities, including the DOE facility in your state. I am referring to the U.S. Environmental Protection Agency's draft radiation standard for the proposed high-level nuclear waste repository at Yucca Mountain. EPA's proposed standard threatens to undermine the negotiations and tri-party cleanup agreements that have taken years for states to develop for the protection of their citizens from DOE's nuclear contamination.

On August 22, 2005, EPA proposed a new radiation protection standard for the planned Yucca Mountain nuclear waste repository in Nevada. See 70 Fed. Reg. 49014. For long-term protection of the human population, the rule *relaxed* the former radiation standard (vacated by the D.C. Circuit in 2004 as contrary to the recommendations of the National Academy of Sciences) by a factor of between 23 and 70. Despite the fact that EPA previously determined that citizens should be exposed to no more than 15 millirems per year, the new standard would permit exposures of between 350 and 1050 millirems per year, depending on whether median or mean exposures are considered. This amounts to the least stringent radiation protection standard in the world by far.

As you know, in the past few years, DOE has provoked great controversy among host states for seeking to loosen its nuclear cleanup standards for DOE sites from exposure levels of 25 millirems per year, which had long been customary, to 100 millirems per year using its dubious "risk-based end state" model of long-term hazards. Some states are considering litigation over that maneuver.

But the new EPA standard, if promulgated, would drastically relax even that 100-millirem standard for the Yucca Mountain site, setting a dangerous precedent for the relaxation of all radiation protection standards for DOE's sites everywhere.

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The new standard is based on EPA's unstudied view that it is appropriate to expose un-consenting local populations to high levels of radiation so long as they do not exceed the highest levels of natural background radiation tolerated in the most radiation-prone states, such as Colorado. This basis for protection has for decades been rejected by the world's standard setting bodies, including those in all 50 states. It was sharply rejected by the National Academy of Sciences.

I urge you to oppose EPA's proposed standard during the 60-day comment period, which expires on October 21, 2005. A bullet sheet describing additional troubling aspects of EPA's proposal is enclosed.

Thank you for your consideration of this issue.

Sincere regards,

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BRIAN SANDOVAL  
Attorney General

Enclosure

## A Primer on EPA's Proposed Radiation Standard

- The least protective radiation standard in the world.
- Exceeds the National Academy of Sciences' recommended acceptable range of radiation exposure (2 to 20 millirems/yr) by a factor of between 17 and 52.
- Exceeds the maximum acceptable radiation exposure from man-made sources in all industrialized countries by a factor of 3.5 to 10.5.
- Exceeds the maximum proposed cleanup standard for DOE sites by a factor of 3.5 to 10.5.
- Improperly allows determination of exposures to be based on the projected median exposure instead of the projected mean exposure, an approach rejected for decades by scientists worldwide.
- Altogether abandons *any* long-term groundwater protection standard.
- Permits as acceptable up to 10 excess cancer deaths per year.
- Includes home radon exposure in calculations of natural background levels used to set thresholds, a practice never done in such calculations because home radon exposure is routinely mitigated.
- Legislates a long-term climate and water propagation model for evaluating site leakage that is identical to conditions today, an assumption that climatologists say is 99.9% certain to be wrong.
- Assumes it is ethically permissible to expose future generations to radiation levels far higher than we would tolerate today.

In short, the rule abandons any real radiation protection for citizens to make it expedient for DOE to overcome years of failed practices.

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