

**Comments of the Attorneys General of Illinois, California, New Mexico, Washington,
Colorado, Oregon, Delaware, Maryland, Minnesota, Vermont, and Massachusetts**

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August 31, 2026

The Honorable Ho Nieh, Chairman
Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: Reforming and Modernizing the NRC’s Radiation Protection Framework proposed rule, 91 Fed. Reg. 43,456 (July 15, 2026), Docket ID No. NRC-2025-1140

Dear Chairman Nieh:

The Attorneys General of the States of Illinois, California, New Mexico, Washington, and Colorado, Delaware, Maryland, Minnesota, Oregon, Vermont and Massachusetts (“States”) respectfully submit the following comments on the Reforming and Modernizing the NRC’s Radiation Protection Framework proposed rule, 91 Fed. Reg. 43,456 (July 15, 2026) (“Proposed Rule”).

The Proposed Rule is part of the Nuclear Regulatory Commission’s (“NRC”) wholesale revision of its long-standing regulations. These revisions are an undertaking of unprecedented scope for the agency, with the Proposed Rule being just one regulatory proposal among more than two dozen others in 2026 alone,¹ including four interrelated proposed rules issued within a two-week span this July.² The scale and speed of these changes is deeply concerning. Understandably, several States and members of the public have submitted numerous requests to extend the comment period for the Proposed Rule.³ Similar to the other three July rules, the NRC has denied each request.⁴

¹ See NRC, Wholesale Revision of Regulations Under Executive Order 14300, (last visited Aug. 31, 2026), <https://www.nrc.gov/about-nrc/governing-laws/advance-act/wholesale-revision-regs>.

² In addition to the Proposed Rule, the three interrelated rules issued within a two-week span are: the Integrated Low-Level Radioactive Waste Disposal proposed rule, 91 Fed. Reg. 40,290 (July 1, 2026), the Implementation of the National Environmental Policy Act (“NEPA”) proposed rule, 91 Fed. Reg. 42,086 (July 7, 2026), and the Modernizing Reactor licensing, Safety Oversight, and Siting Practices, 91 Fed. Reg. 44,560 (July 16, 2026).

³ See, e.g., NRC-2025-1140-0277 (Offices of the Illinois and Massachusetts Attorneys General Request for Extension of Comment Period (Aug. 11, 2026)), <https://www.regulations.gov/comment/NRC-2025-1140-0277>.

⁴ See, e.g., NRC-2025-1140-0671 (Response to the Offices of the Illinois and Massachusetts Attorneys General Request for Extension of Comment Period (Aug. 26, 2026)), <https://www.regulations.gov/document/NRC-2025-1140-0671>. The NRC has claimed in responses that it is “unable” to grant the request. There is no legal barrier to the NRC extending a comment period and the NRC did not explain the alleged inability to do so. The NRC should reopen the Proposed Rule’s comment period to provide the extended review period so widely requested by the public and arbitrarily denied by the NRC.

Standing on its own, the Proposed Rule is a sweeping reform of radiation safety standards and oversight procedures with serious impacts on state programs and worker and public safety. These revisions will overhaul how States implement their radiation protection programs and will directly impact over 11,600 small entities in Illinois alone.⁵ These monumental changes proposed in such a short period of time present significant concerns for the States and their citizens.

As described below, the States oppose the NRC's Proposed Rule and urge the Commission to withdraw the Rule.

Background

In 1954, when Congress enacted the Atomic Energy Act ("AEA"), it established the policy that "[s]ource and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and *regulation by the United States* of the production and utilization of atomic energy and the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and *to protect the health and safety of the public*."⁶ Congress also found that "[t]he processing and utilization of source, byproduct, and special nuclear material *must be regulated* in the national interest and in order to provide for the common defense and security and *to protect the health and safety of the public*."⁷

Congress has delegated this authority and responsibility to implement the AEA to the NRC.⁸ The NRC has exercised this authority through promulgation of implementing regulations, codified in more than fifty Parts in Title 10 of the Code of Federal Regulations. The Proposed Rule would revise ten of these Parts. The impacted parts cover the following broad topics: **Part 19**, notices, instructions, and reports to workers, inspection and investigation; **Part 20**, standards for protection against radiation; **Part 34**, licenses for radiation safety requirements for industrial radiographic operations; **Part 35**, medical use of byproduct material; **Parts 40 and 50**, domestic licensing of source material and production and utilization facilities; **Part 53**, regulatory framework for nuclear plants; **Part 61**, licensing requirements for land disposal of radioactive waste; **Part 71**, packaging and transportation of radioactive material, and **Part 72**, licensing requirements for the independent storage of spent nuclear fuel and high-level radioactive waste.

⁵ Illinois supports modernization of the NRC regulatory Framework and continued nuclear development and can disagree with specific proposals without opposition to regulatory modernization or advanced nuclear development generally. However, modernization should not weaken independent oversight or protections for workers, the public, and the environment. Illinois urges the NRC to maintain its independent oversight, inspection, and verification authority and procedures.

⁶ 42 U.S.C. § 2012(e) (emphasis added).

⁷ *Id.* at § 2012(d). (emphasis added).

⁸ See AEA Sec.11(f) n.6 (as amended); see also 10 C.F.R. § 1.1(a) ("The Nuclear Regulatory Commission was established by the Energy Reorganization Act of 1974, as amended, Pub. L. 93-438, 88 Stat. 1233 (42 U.S.C. §§ 5801 *et seq.*). This Act abolished the Atomic Energy Commission and, by section 201, transferred to the Nuclear Regulatory Commission all the licensing and related regulatory functions assigned to the Atomic Energy Commission by the Atomic Energy Act of 1954, as amended, Pub. L. 83-703, 68 Stat. 919 (42 U.S.C. §§ 2011 *et seq.*)).

Revisions to these regulations will impact worker and public safety in many ways. Among the numerous revisions are increased allowable radiation dose exposures, reduced monitoring and reporting requirements, subjective alternative compliance and deviation standards, and revised air emission standards to allow higher levels of radioactive pollution. Critically, the Proposed Rule would eliminate the internationally recognized and longstanding As Low As Reasonably Achievable (ALARA) standard and replace it with a nebulous “graded approach” that the NRC fails to describe with particularity.

Through the AEA, Congress also created a special relationship between the NRC and the States for the purpose of, among others, “promot[ing] an orderly regulatory pattern between the Commission and State governments with respect to nuclear development and use and regulation of byproduct, source, and special nuclear materials” and of “provid[ing] for coordination of the development of radiation standards for the guidance of Federal agencies and cooperations with the States.”⁹ The NRC and States have coordinated the implementation of these Congressional purposes through agreements that provide for the States to assume control and establish programs for radiation hazard licensing, regulation, and inspection.¹⁰ Many of the undersigned States have entered these agreements to assume full authority for a radiation hazard program. The States are deeply concerned about the Proposed Rule’s direct impacts on these State programs.

Many of the undersigned states also have operating nuclear facilities and/or storage sites and tens of thousands of small entities providing radiation services, all of which would be affected by the Proposed Rule. We have an interest in ensuring the safe operation of such facilities and maintaining public confidence in strong and independent oversight for the safety of nuclear power and protective standards for radiation safety. The States have heightened concerns about this rulemaking for these additional reasons.

In consideration of these interests, the States oppose significant aspects of the Proposed Rule, including the many proposals that lower standards necessary to protect worker and public health and the environment. The NRC has failed to support its proposals with evidence, failed to propose or consider alternative approaches to achieve its stated goals, and failed to allow the public or the States adequate time to comprehend and meaningfully review the deluge of regulatory changes.

Comments

1. The NRC arbitrarily and capriciously refused to provide a legally adequate comment period.

The NRC has arbitrarily failed to provide an adequate public comment period in violation of the Administrative Procedure Act.¹¹ Notice and sufficient time for public comment are critically important “(1) to ensure that agency regulations are tested via exposure to diverse public comment, (2) to ensure fairness to affected parties, and (3) to give affected parties an opportunity to develop evidence in the record to support their objections to the rule and thereby

⁹ 42 U.S.C. § 2021(a)(2), (5).

¹⁰ *Id.* at § 2021(i).

¹¹ 5 U.S.C. § 553(c).

enhance the quality of judicial review.”¹² Crucially, “[t]he opportunity for comment must be a meaningful opportunity,” which means “enough time with enough information to comment.”¹³

That is not the case here. The Proposed Rule has an expansive and complex scope, significant implications for public health and safety, has been issued alongside over two dozen rulemakings since January of 2026, and has a comment period that overlapped with three other significant proposed rules, all issued within a two-week span. To further complicate matters, several of the provisions in the Proposed Rule relate directly to proposals in other recent rulemakings. For example, the Proposed Rule includes self-implemented performance-based standards and removal of the ALARA standard, similar to proposed changes in the Low-Level Radioactive Waste Disposal Rule.¹⁴ Commenters needed to review both rules simultaneously to identify inconsistencies or potential concerns with the proposed procedures. The same considerations applied to the other two rules issued in the same two-week span, where both rules addressed National Environmental Policy Act (“NEPA”) compliance.¹⁵ This task has been nearly impossible in the arbitrarily constrained time allowed. These rules all involve matters of significant state and public interest and raise important safety concerns. In these circumstances, the 45-day comment period was woefully insufficient and unfair to the affected parties, particularly those who requested extensions.

The 45-day comment period is also inconsistent with general executive branch practice and the NRC’s historical practice.¹⁶ In 2024, when the NRC proposed its Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors, it initially provided for a 60-day public comment period.¹⁷ The NRC, however, determined that even a 60-day comment period was insufficient for the 211-page proposed rule, and later extended it to 120 days “to allow more time for members of the public to submit their comments.”¹⁸ The NRC ultimately received 173 comments on the proposed rule. In contrast, the Proposed Rule, as of August 31, has received over 1,750 comments.¹⁹ The comment period also contravenes the NRC’s

¹² *Prometheus Radio Project v. FCC*, 652 F.3d 431, 449 (3d. Cir. 2011) (citing *Int’l Union, United Mine Workers of Am. v. Mine Safety & Health Admin.*, 407 F.3d 1250, 1259 (D.C. Cir. 2005)).

¹³ *Id.* at 450 (quoting *Rural Cellular Ass’n v. F.C.C.*, 588 F.3d 1095, 1101 (D.C. Cir. 2009)); see also *Connecticut Light & Power Co. v. Nuclear Regul. Comm’n*, 673 F.2d 525, 530 (D.C. Cir. 1982) (“The purpose of the comment period is to allow interested members of the public to communicate information, concerns, and criticisms to the agency during the rule-making process.”).

¹⁴ See 91 Fed. Reg. 40,290, 312; 91 Fed. Reg. 43,456.

¹⁵ See 91 Fed. Reg. 44,560, 566; 91 Fed. Reg. 42,086, 103.

¹⁶ See *California by & through Becerra v. U.S. Dep’t of the Interior*, 381 F. Supp. 3d 1153, 1177 (N.D. Cal. 2019) (noting that “courts have considered the length of the comment period utilized in the prior rulemaking process” to assess the adequacy of a comment period); Executive Order No. 12866, 58 Fed. Reg. 51,735, 51,740 (Oct. 4, 1993) (comment period should be “not less than 60 days”).

¹⁷ See 89 Fed. Reg. 86,918 (Oct. 31, 2024).

¹⁸ 89 Fed. Reg. 92,609 (Nov. 22, 2024).

¹⁹ NRC-2025-1140, <https://www.regulations.gov/docket/NRC-2025-1140/comments>. Despite the inadequate comment period, several excellent comments have already been submitted and the States urge the NRC to fully consider their arguments. See, e.g., NRC-2025-1140-0472 (comment of Fred Schofer); NRC-2025-1140-0001 (comment from Organization of Agreement States). The States further note that many comments have raised valid issues beyond the scope of this comment. The States could not identify all our concerns in this comment in the limited time allowed. The States consider all meaningfully presented comments, issues, and objections on the docket for this rulemaking to be preserved for judicial review. See *Ne. Md. Waste Disposal Auth. v. EPA*, 358 F.3d 936 (D.C. Cir. 2004).

rulemaking policies. Management Directive 6.3, which governs the Commission’s rulemaking procedures, states that “[i]n all aspects of its rulemaking, the NRC is committed to making public participation as meaningful as possible.” The NRC received approximately a dozen individual requests to extend the comment period for the Proposed Rule. The NRC denied every request. The NRC’s uniform and unexplained denials of all extension requests is contrary to this policy and the law.²⁰

The NRC Office of the Secretary has delegated authority to process requests for comment period extensions for federal register notices signed by the Secretary of the Commission.²¹ The Federal Register notice for the Proposed Rule was signed by the Secretary of the Commission, meaning the decision to deny every extension request was made by the Office of the Secretary. The communications conveying those decisions stated that the NRC was “unable” to grant the extensions.²² However, the communications did not explain what legal or procedural barrier rendered the Office unable to extend the comment period. The arbitrary and capricious decision(s) to deny every comment period extension request were final agency actions that deprived the public of a fair opportunity to comment on the Proposed Rule and that failed to “mak[e] public participation as meaningful as possible.”²³

2. The proposed changes to compatibility categories, particularly for air emissions, are vague, inadequately explained, and impossible to assess in the time allowed.

The NRC’s proposed changes to its compatibility categories—including measures to allow potentially major increases in radionuclide pollution—are not clearly explained by the NRC and therefore challenging to assess.²⁴ Despite the serious harm radionuclides can cause, these changes have been tucked into the rulemaking proposal after general procedural requirements for rulemaking, such as the NEPA, regulatory flexibility certification, cumulative effects, plain writing, and paperwork reduction act sections.²⁵ But while the NRC offers only vague explanations supporting its proposal, what is discernable is concerning. For example, the Proposed Rule appears to allow a 150% increase on limits for radionuclide air emissions—increasing the limit from 10 mrem per year to 25 mrem per year.²⁶ This change would apply to

²⁰ See *Petry v. Block*, 737 F.2d 1193, 1201 (D.C. Cir. 1984) (finding a short comment period inadequate when the proposed rule is “complex [and] based on scientific or technical data” and noting that the Administrative Conference of the United States has recommended 60 days for significant regulatory actions); see also *Prometheus Radio Project v. F.C.C.*, 652 F.3d at 453 (stating that “90 days” is the “usual” comment period).

²¹ NRC Management Directive 6.3, <https://www.nrc.gov/docs/ML1320/ML13205A400.pdf>.

²² See generally NRC, Response to Connecticut DEEP Request for Extension of Comment Period, NRC-2025-1140-0102 (July 26, 2026), <https://www.regulations.gov/document/NRC-2025-1140-0102>; NRC, Response to Kwame Raoul et al., *supra* note 4.

²³ NRC Management Directive 6.3, *supra* note 20.

²⁴ 91 Fed. Reg. at 43,480. The NRC has requested comment on the Proposed Rule’s compliance with plain language rulemaking requirements. *Id.* at 43,497. The proposed revisions to the compatibility categories do not comply.

²⁵ The NRC has solicited comments on the proposed category changes and refers the public to an NRC handbook “management directive 5.9” that is not in the record. 91 Fed. Reg. at 43,486. The NRC notes that category designations can change between proposed and final rules based on comments and encourages anyone interested in commenting on the compatibility category designations do so during the comment period. The vagueness and confusion of the proposed categories makes it difficult to discern potential logical outgrowths that the NRC could legally include in a final rule.

²⁶ 91 Fed. Reg. at 43,478.

current 10 C.F.R. § 20.1101(d) and 10 C.F.R. part 50 Appendix I to replace the ALARA standard. And by changing compatibility categories, the Proposal could restrict States' ability to regulate radionuclide emissions in their own jurisdictions.

The NRC has also failed to clearly delineate the roles between it and the U.S. Environmental Protection Agency ("EPA") for Clean Air Act compliance which directs EPA to regulate air emissions of radionuclides as hazardous air pollutants.²⁷ However, EPA is not required to regulate radionuclide emissions if it determines that the NRC's regulations provide "an ample margin of safety to protect the public health."²⁸

In 1996, EPA determined that the NRC's program provided an adequate margin of safety to protect the public health from air emissions of radionuclides.²⁹ This determination was based in part on the understanding that the standard provided sufficient assurance because "future emissions" from licensees "would not exceed dose levels" of 10 mrem per year.³⁰ However, the Proposed Rule would now allow emissions to exceed the 1996 dose levels by 150%, eviscerating the basis for EPA's determination.

The NRC nonetheless asserts that, despite more than doubling the allowable radionuclide emissions level, the new proposed standard continues to "provide an adequate basis" for EPA to determine that the new limit would provide an "ample margin of safety to protect the public health."³¹ However, the Proposal simultaneously recognizes that this determination is only EPA's to make.

The NRC is silent on two important procedural questions. First, the NRC has not described the steps necessary to secure EPA's determination that the new standard will provide for an ample margin of safety. Under the Clean Air Act, the EPA must make this determination "by rule" to change the emissions standard, but thus far EPA has played no role in the Proposed Rule. This threshold determination is necessary before any revised standards can be established in compliance with the Clean Air Act. The NRC's current proposal will require a new EPA determination before it can be implemented.³² Second, the NRC has not explained the timing for when EPA must make this determination before a new standard could be finalized. When EPA made its determination in 1996, it stayed the effective date of the NRC's regulatory standard until it assessed supporting studies and reached a determination.³³ The same process should apply here. If the NRC decides a new EPA determination is not required, then the NRC must explain how it may exercise EPA's authority or otherwise possess the legal authority to determine that a new standard provides the necessary ample margin of safety.³⁴

²⁷ See 42 U.S.C. § 7412(b)(1).

²⁸ *Id.* at § 7412(d)(9).

²⁹ 91 Fed. Reg. at 43,481.

³⁰ See 61 Fed. Reg. 65,120.

³¹ 91 Fed. Reg. at 43,471.

³² In reaching any determination about ample margin of safety, the agency cannot rely on self-regulating and self-enforcing standards to provide a reasonable basis for that determination.

³³ 61 Fed. Reg. 65,120 (Dec. 10, 1996) (EPA stayed effect of NRC proposed standard until after reviewing scientific support and NRC finalized standard after receiving EPA determination of ample margin of safety).

³⁴ If no EPA determination is necessary, then it begs the question of why the NRC aped an EPA-style environmental analysis in its Proposal.

The NRC's attempts to justify the proposed 25 mrem standard fare no better. The NRC purports to implement an interpretive framework from a nearly forty-year-old EPA determination to justify its proposed standards.³⁵ Relying on that 1989 EPA process, the NRC compares the excess fatal cancer risk from current air emissions limits, the proposed air emissions limits, background radiation levels, and baseline lifetime risk of cancer.³⁶ Asserting that the increased risk from its proposed relaxed standard is "a small fraction" of risk from background radiation, the NRC concludes that there is a basis for EPA to determine there is still an ample margin of safety.³⁷ This analysis fails to explain how much has changed since 1989. If a 10 mrem per year standard was set in 1989, it is unclear how, based on that same information, a 25 mrem per year standard now provides an ample margin of safety. The NRC appears to assert that any increase that does not exceed a 1-in-100 risk (the risk from natural background radiation) provides an ample margin of safety.³⁸ The NRC also appears to equate this numeric risk level with EPA's independent legal duty to promulgate standards that provide "an ample margin of safety."³⁹ A more fulsome explanation for the proposed change is necessary, and to the extent this equivocation is intended, then the NRC's justification for the change is not well reasoned.

Even more concerning, the NRC contemplates allowing licensees to set their own air emissions limits at levels even higher than 25 mrem. The NRC would effectively shift its oversight role to licensees, who would be allowed to self-regulate by proposing their own emissions limits at levels "higher than the regulatory constraint [i.e., above 25 mrem], but lower than the public dose limit."⁴⁰ The NRC would also allow licensees to consider whether corrective measures for their own non-compliance with effluent limits are "cost-justified."⁴¹ The NRC provides no reasoned explanation for how these proposals would maintain its fundamental function that it "shall insure" that byproduct material is managed to protect the public health and safety and the environment.⁴² The proposed changes are an abdication of the NRC's public health and safety mandate and responsibilities under the AEA.⁴³

The need for the NRC to provide a reasoned explanation is made even more essential because the NRC proposes to move air emissions regulations from Category C to Category A. This change could threaten state authority to regulate more strictly than provided by the NRC's regulations, given that for Category A, Agreement States generally must adopt regulations that conform with federal regulations.⁴⁴ This provision is in tension with the Clean Air Act's explicit provision for state authority "to adopt or enforce any standard or limitation respecting emissions

³⁵ 54 Fed. Reg. 51,654 (Dec. 15, 1989).

³⁶ 91 Fed. Reg. at 43,471.

³⁷ *Id.*

³⁸ *Id.*

³⁹ 42 U.S.C. § 7412(f)(2)(A).

⁴⁰ 91 Fed. Reg. at 43,471.

⁴¹ *Id.*

⁴² 42 U.S.C. § 2114(a)(1); *see also* 42 U.S.C. § 2012(d).

⁴³ The Proposed Rule is expressly intended to lessen and remove public health protections, by eliminating allegedly "unnecessary conservatism," 91 Fed. Reg. at 43,456, in service of the need for action due to "global competition," "artificial intelligence" and an alleged "national emergency in energy production." *Id.* at 43,458.

⁴⁴ *Id.* at 43,481.

of radionuclides which is more stringent,”⁴⁵ even when the NRC adopts radionuclide emissions standards. The NRC must explain how its relaxation of air emissions regulations relate to the CAA’s explicit reservation of rights with states. As proposed, the NRC’s changes in these radioactive materials emission standards could create conflicts with Agreement States’ own enforceable standards, resulting in the very type of dual regulation that the agreement process is designed to prevent. These changes could lead to increased worker and public health harms, more radioactive contamination in the environment, confusion for the regulated industry, and inefficient governance. The NRC should therefore decline to move its air emissions regulations from Category C to Category A.

Other sources of confusion pertain to several proposed compatibility category changes for licensing termination criteria. These include proposed changes related to “licensees recovering source materials from any mineral resources (includes rare earths and other critical minerals as defined in 90 FR 41591) that are processed primarily for purposes other than obtaining the source material content” and for the domestic milling of uranium.⁴⁶ The proposal indicates that the NRC is declaring license termination standards for uranium milling to be a cross jurisdictional issue that requires identical program elements “between all Agreement States and NRC jurisdictions.” But the Proposed Rule does not explain why uniform changes to license termination criteria are necessary for uranium milling specifically.

The rule then discusses the usual series of Executive Orders leading to the NRC’s conclusion that “critical mineral extraction,” “in part to protect national security, may involve recovery of source material and require licensing by the NRC or an Agreement State.”⁴⁷ Based on that conclusion, the NRC then states that “this activity necessitates identical requirements to ensure an orderly regulatory pattern for the use and regulation of material between all Agreement States and NRC jurisdictions.”⁴⁸ The Proposed Rule does not identify what state program requirements are being discussed and how they would apply to critical minerals extraction in general. It is unclear what role the NRC is asserting.⁴⁹ The NRC does not have authority over state land management and resource extraction permitting or approval.⁵⁰ The NRC must withdraw this proposal or, at a minimum, explain its intentions in clear terms and describe its statutory authority for the proposed action.

There are yet other problems with the compatibility categories. The volume of proposed compatibility changes contradicts the NRC’s own Policy Statement that “[t]he NRC will minimize the number of NRC regulatory requirements that agreement States will be requested to adopt in an identical manner to maintain compatibility.”⁵¹ The NRC has also failed to explain how it expects states to implement these changes. It is unclear whether state licensing requirements will apply and how to apply the “graded approach” to dose management. The uncertainty about exactly what changes are required, how they will be implemented, and on what

⁴⁵ 42 U.S.C. § 7412(d)(9)

⁴⁶ 91 Fed. Reg. 43,482.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Virginia Uranium, Inc. v. Warren*, 587 U.S. 761 (2019) (holding that state law banning uranium mining was not preempted by the AEA).

⁵¹ 82 Fed. Reg. at 48,538.

timeline will cause delay that could actually hinder emerging technology. The NRC should meaningfully engage Agreement States *before* making changes that have significant impacts on state programs. The States request the NRC to explain these expectations to the States through direct conversation with the appropriate state agencies before promulgating any final rule.

3. The NRC must prepare a regulatory flexibility analysis.

As discussed above, the Proposed Rule fails to grapple with the range of impacts the rule will have on differently situated entities. In the regulatory flexibility certification, the NRC's flawed logic leads to it concluding—and certifying—that the proposed rule “will not have a significant economic impact on a substantial number of small entities.”⁵² Based on that certification, the NRC dispenses its obligation to prepare a regulatory flexibility analysis. However, the Proposed Rule then immediately admits its impact on a considerable number of small entities, stating “[t]he rule will in fact apply to the many small entities that are among the NRC licensees, applicants, and petitioners for rulemaking, and for whom the NRC states “that the rule will reduce burden.” This conclusory statement is not supported by any analysis, quantitative or qualitative, that demonstrates burden reduction.⁵³ The conclusion appears to be based on the reduced burden on large entities that own and operate nuclear reactors as licensees and applicants, who have fought for de-regulation of the licensing and oversight processes, while ignoring substantial numbers of small entities.

The unidentified small entities include veterinarians, small medical facilities, engineering firms, roadwork companies, academic research labs, and others. And since the standards for radiation protection in 10 C.F.R. Part 20 area also commonly applied to limit exposures in radiation-producing machines, this list of small entities impacted will further include x-ray facilities, dentists, chiropractors, and still others. The Proposed Rule changes the foundational radiation protection framework that will impact all these entities, including tens of thousands across the country and at least 11,600 regulated small entities in Illinois alone. By replacing well-established and clear federal standards with amorphous concepts of “graded dose management” those small entities will bear the burden of securing advice or consultants. They lack corporate level financial and consultant resources. The Proposed Rule does not identify or assess the economic burdens on small entities. These changes do not give regulatory flexibility for small entities in the same manner as large corporations. For small entities it creates uncertainty and burden.

One example of the burdens small entities can expect to bear is described in the NRC's 29-page draft guidance document for radiation dose management at

⁵² 91 Fed. Reg. at 43,478.

⁵³ The recent Low-Level Radioactive Waste Disposal Rule suffered from the same failure, simply concluding that “[t]he NRC believes that the de-regulatory impacts of this rulemaking activity are unlikely to cause implementation challenges for stakeholders.” 91 Fed. Reg. at 40,315. This statement was limited to assessing the de-regulatory impacts for those stakeholders who are implementing the regulated action and did not assess the impacts to stakeholders no longer protected by regulation. Neither that rule nor the Proposed Rule has considered the cumulative effects of these related regulatory actions, some provisions of which will cause dual impacts on regulated entities.

medical institutions.⁵⁴ All entities, large or small, must appoint a radiation safety officer (“RSO”) and establish a radiation protection program for dose management. The guidance therefore applies to large, small, and veterinary medical institutions and outlines the NRC’s regulatory position that it may assess dose management compliance based on licensees’ adoption of the practices identified in the guidance. Those practices include management, staffing, organizational, logistical, and equipment requirements. Those practices may be easily adopted by larger institutions but prove nearly impossible for small entities.

For large institutions or multi-state corporations, the RSO may be supported by a radiation safety committee or be one of many regional RSO’s – overseen by a corporate RSO. They have the resources to access the technical expertise necessary to navigate an otherwise undefined “graded approach” and craft a radiation protection program. Smaller entities – in which the RSO is often the sole manager of the radiation safety program, along with having a routine ‘day job,’ are more likely to struggle with crafting and verifying adequate implementation of this conceptual ‘dose management plan.’ These smaller entities will face greater regulatory uncertainty, prolonged licensing lead times, and risk noncompliance with radiation protection program requirements. This is just one example of burdens to be borne by small entities relative to larger institutions and the NRC has not sufficiently assessed those impacts.

For these reasons, and because the Proposed Rule admits that “many small entities” will be impacted, the NRC must conduct a regulatory flexibility analysis that focuses on the economic impact of the Proposed Rule on small entities, including the cumulative impacts of the various related rulemakings, separate from the benefits to be enjoyed by large entities.

4. The NRC should extend the effective date.

The NRC has specifically solicited comments on whether the proposed effective date of 30 days after final rule publication will be sufficient to implement the proposed requirements. Assuming the Proposed Rule is finalized, which it should not be for the reasons discussed in this letter, the response is no. The proposed effective date will not allow sufficient time for States to digest the impacts of the final rule and adapt their communications, guidance, and procedures to minimize the risk of significant confusion in the regulated community.

The 30-day effective date is inconsistent with the NRC’s procedures for reviewing revisions to state program regulations. The NRC requires at least 60–120 days to review state regulations and at a minimum should reciprocate here.⁵⁵ This also presumes that the States will have a significant period of time beyond the effective date to adapt, if needed, their state programs for compatibility with the new regulations. Typically, States would have at least three

⁵⁴ NRC, Draft Regulatory Guide 8.18, Proposed Revision 3, “Information Relevant to Radiation Dose Management at Medical Institutions” (July 2026), Docket No. NRC-2025-1140-0116, <https://www.regulations.gov/document/NRC-2025-1140-0116>.

⁵⁵ See NRC Office of Nuclear Material Safety and Safeguards Procedure Approval, Review of State Regulatory Requirements, State Agreements (SA) Procedure SA-201 (reviewed Aug. 17, 2025), <https://www.nrc.gov/docs/ML2018/ML20183A323.pdf>.

years to come into compliance.⁵⁶ This time is especially necessary to allow States time to work with their general assemblies on revisions that require legislative action.

An extended effective date is also appropriate because the States did not have sufficient prior engagement or awareness of the Proposed Rule's contents.⁵⁷ The NRC represents that it met with the Agreement States on February 11, 2026, and that on February 12, 2026, the rule was shared with the Standing Committee for Compatibility.⁵⁸ This statement requires clarification. While the NRC may have shared a copy of the rule with the Standing Committee on February 12, a draft of the rule was not shared with the Agreement States until April 30, 2026. At that time, the States received a non-final, marked-up draft that contained myriad comments and edits from various individuals, including attorneys. They did not receive a final draft of the proposed rule. The Agreement States did not receive a copy of the final Proposed Rule until the general public did upon publication in the Federal Register. In addition, the draft rule was provided subject to strict limits on discussion. This process was atypical and did not afford sufficient advance notice for the States to begin processing the potential impact of the proposals. Typically, the NRC would have included an Organization of Agreement States representative in the rulemaking team itself. This did not happen and instead the NRC excluded their participation.

The lack of engagement is even more problematic due to the barrage of rules the NRC has issued in this calendar year. The NRC has issued over two dozen rulemaking actions, with the majority several hundred pages in length with overlapping and interrelated provisions, all applicable to complicated matters of national significance. The States were expected to review and comprehend these rules in impossible circumstances and timeframes while continuing their everyday work to oversee ongoing operations. These conditions have made it practically impossible for the States to meaningfully review and provide feedback to the NRC.

If the NRC finalizes the Proposed Rule, which it should not, then the NRC should provide an effective date that has been agreed upon by the impacted States and should clarify that it does not expect State programs to come into compliance with the final revisions until at least four years after the effective date.

5. The States object to removing the ALARA standard.

As the NRC recognizes in the Proposed Rule, the ALARA standard, based on the LNT model, is rooted in sound science for radiation protection.⁵⁹ It has been a guiding principle in the United States for decades and the NRC expressly retained this principle in 2021.⁶⁰ The NRC

⁵⁶ *Id.*

⁵⁷ See 82 Fed. Reg. 48,535, 48,537 (Oct. 18, 2017) (Agreement States will have early and substantive involvement in the development of regulations affecting protection of public health and safety and of policies and guidance documents affecting administration of the Agreement State program).

⁵⁸ 91 Fed. Reg. at 43,480.

⁵⁹ *Id.* at 43,461 ("the methods used to establish the basis for the NRC's radiation protection standards are sound").

⁶⁰ See NRC-2025-1140-0472 (comment of Fred Schofer) at p.4 ("This 2021 denial is the most legally significant document in this administrative lineage. It represents the Commission's most recent, fully reasoned, notice-and-comment-tested determination that the scientific record does not support the very changes the current NPRM now proposes, based on what is, for all material purposes, the same underlying scientific record").

concedes that “there is insufficient evidence to refuse the use of the LNT model when considering the stochastic health effects of radiation exposure,” and that “no consensus-supported, regulation-ready alternative model to the LNT model exists at this time.”⁶¹ Moreover, the NRC does not offer any new scientific information; the Proposed Rule discusses “developments in radiation protection,” but does not cite any publication that has been released since it reviewed the science in 2021.⁶²

Despite acknowledging that the science has not changed, the NRC proposes to eliminate the bedrock ALARA standard as too subjective.⁶³ Being unable to make new factual findings on the science, the NRC simply asserts that subjectivity and inconsistent enforcement represent major “challenges in the implementation of the ALARA requirement[.]”⁶⁴ To substantiate these claims, the NRC points to “wide variance within the U.S. nuclear industry in how much a given licensee is willing to spend to reduce radiation exposure.”⁶⁵ However, even assuming this is true, such variance in private business priorities alone cannot support the NRC’s proposed regulatory sea change, upending the existing approach at the expense of increased radiation exposure for many of our residents and their increased cost burdens from the related health and environmental harms.

In place of the straightforward and universal ALARA standard, the NRC proposes a “graded approach” that is not clearly explained in the Proposed Rule. The “graded approach” would be defined as “progressively increasing radiation protection measures are required as prospective, or actual, radiation doses exceed determinate dose thresholds[.]”⁶⁶ This would entail, under one example provided by the NRC, radiation worker training at an expected dose of 100 mrem/year, monitoring of doses to individual workers at 500 mrem per year, and other requirements as doses increase further.⁶⁷ These dose estimates, however, are subjectively calculated by the individual licensee, reintroducing the very subjectivity that the NRC claims to excise by this rule change. Removing the ALARA standard will also increase inconsistency between similarly situated facilities by removing the common objective of reducing exposure as much as reasonably possible.

In the Proposed Rule, the NRC also claims that the ALARA standard has caused overly conservative enforcement, but this claim is not supported by evidence. The NRC has not provided data on ALARA violations and associated costs for any nuclear sites to demonstrate that it is the source of burdensome enforcement actions. Reflecting this lack of actual

⁶¹ 91 Fed. Reg. at 43,462.

⁶² See *id.* at 43,461. But see *Cf.* Philip V. Egidi, Governance of Radiation Protection under Uncertainty: LNT, ALARA, and Narrative-Driven Reform, *Journal of Radiological Protection* (July 22, 2026), <https://iopscience.iop.org/article/10.1088/1361-6498/ae7b46> (“Maintaining the integrity of radiation protection policy necessitates that institutions retain the capacity to acknowledge and manage uncertainty transparently”).

⁶³ *Id.* at 43,462 (“the NRC finds that no consensus-supported, regulation-ready alternative model to the LNT model exists at this time”).

⁶⁴ *Id.* at 43,461; see also *id.* (noting that the NRC’s 2021 description of the ALARA requirement “remains true today”: “based on whether the licensee has incorporated reasonable measures to track, and, if necessary, to reduce exposures—not whether exposures and doses represent an absolute minimum or whether the licensee has used all possible methods to reduce exposures”).

⁶⁵ *Id.*

⁶⁶ 91 Fed. Reg. at 43,465.

⁶⁷ *Id.* at 43,469.

information, the Proposed Rule states that ALARA is “susceptible to” selective enforcement, rather than directly citing any actual evidence.⁶⁸ Nor does the NRC explain how enforcement would be more consistently applied when the graded approach is often based on the licensee’s own estimates of radiation exposures to workers and other members of the public. The NRC should conduct an analysis of how many states enforce ALARA and justify the conclusion that the standard results overly conservative outcomes.

The proposed elimination of the ALARA standard is not appropriately tailored to fix a specific problem. Instead, removal of the ALARA standard—a cornerstone in radiation safety for more than 50 years—will likely lead to increases in worker and possibly public exposures as licensees relax engineering controls, reduce overall investments in radiation protection measures, and erode the long-standing safety culture tied to ALARA practices through the modification of worker training and procedures. The NRC should consider alternative approaches that could achieve the goal of less subjective regulation for the nuclear industry without removing the standard for all uses of radioactive material.⁶⁹ The proposed removal of the ALARA standard is an inadequately supported proposal that should be withdrawn for further consideration of available evidence and alternative options.

6. The environmental review and regulatory analysis are inadequate

The NRC has prepared an environmental assessment that divides the review between regulatory revisions that it believes qualify for a categorical exclusion and those that do not qualify but nonetheless the NRC believes will not have significant impacts on the environment. The assessment only lists the regulatory revisions by citation and does not describe the change being proposed that is supposedly subject to the categorical exclusion and similarly does not describe any change reviewed under the environmental assessment. Instead, the public must carefully cross-reference the regulatory citations in the EA with the language of the proposed rule in order to understand what specific agency proposal is subject to a categorical exclusion or will not have a significant impact. The NRC should have provided a narrative explanation of the proposed actions and why they qualified for the CE or resulted in a FONSI. The failure to do so violates NEPA’s requirements and does not comply with the plain language requirements under the Plain Writing Act of 2010. The NRC should prepare an environmental analysis that identifies the substantive change for each regulatory provision and a narrative explanation—not just a citation—of the regulatory change in relation to its potential environmental impact. This analysis must be an Environmental Impact Statement because it is reasonably foreseeable that the Proposed Rule could have a significant effect on the quality of the human environment.⁷⁰ As just one example, the proposal to increase the dose limits for public exposure in 10 C.F.R. 20.1301(b)

⁶⁸ *Id.* at 43,458. *See also id.* at 43,461 (“susceptibility for selective or inconsistent enforcement”), 43,464 (“potential for disproportionate enforcement”).

⁶⁹ *See* NRC-2025-1140-0001 (Comment of Organization of Agreement States) (“[I]t is unclear why a fundamental change to the regulatory structure is necessary to address what appears to be an issue primarily related to interpretation and implementation. The proposed change would require more than 16,000 radioactive materials licensees to adjust their radiation protection programs and practices, despite the stated concern appearing to focus on how the principle has been applied rather than the principle itself. It may be more appropriate to consider whether clearer regulatory guidance or changes to implementation practices could address these concerns without requiring such a broad change to the existing regulatory framework.”).

⁷⁰ 42 U.S.C. § 4336(b)(1).

will have a direct impact on the quality of the human environment.⁷¹ The environmental assessment also summarily concludes that the Proposed Rule would not impact aquatic or terrestrial species.⁷² This statement is also unsupported and incorrect and the NRC must initiate consultation under Section 7 of the Endangered Species Act.

In addition, many of the proposed provisions do not qualify for categorical exclusions in 10 C.F.R. § 51.22. The regulatory changes have substantive human health and environmental impacts and are not administrative or procedural changes. The environmental assessment also considers only the proposed action and no-action alternatives, meaning only the “all changes in the proposed rule” or “none of the changes.” This is not a reasonable range of alternatives but a binary assessment. While the NRC need not analyze every conceivable alternative it must do something more. NEPA requires the NRC to identify a range of alternatives compared against the baseline of no action.

Similar to the non-existent alternatives analysis in the Environmental Assessment, the NRC has failed to examine alternative approaches to the rule as necessary to conduct a sound regulatory analysis pursuant to OMB Circular A-4.

7. The Proposed Rule will have unintended consequences and the NRC failed to consider alternatives

The Proposed Rule appears to be directed at providing regulatory flexibility for the fuel cycle industry, where the licensees are large entities with significant resources to capitalize on that flexibility. But these regulatory decisions will cascade down from large scale application to small entities and materials with daily applications, such as for routine medical care, resulting in unintended consequences for those entities.⁷³ One alternative the NRC should consider to address his unintended consequence would be to develop industry-specific guidance, or even targeted rulemaking, to limit the impacts on Agreement States and small entities.

The Proposed Rule states that “the ALARA principle as used in the NRC's regulations has lost its intended focus on reasonableness.”⁷⁴ If so, then the NRC could have addressed administrative implementation, rather than upheaving the entirety of radiation protection strategy that has been in place for nearly 70 years.⁷⁵ Examples of administrative implementation strategy were published and discussed as early as the 1980s.⁷⁶ Prior Federal Register notices argued that the types of work and activities which involve worker exposure to radiation vary greatly and are administered by many different Federal and State agencies. The argument then proposed that this level of complexity warranted that the federal radiation protection guidance should only address the broad prerequisites of an effective ALARA program, and [distinct] regulatory authorities

⁷¹ See *supra*, Comment 2. The environmental assessment also fails to consider any aspect of environmental impacts beyond human health. See NRC-2025-1140-0117.

⁷² NRC-2025-1140-0117 at 8.

⁷³ See also *supra*, Comment 3.

⁷⁴ 91 Fed. Reg. 43,462.

⁷⁵ See NRC-2025-1140-1207 (Comment of the Organization of Agreement States Executive Board).

⁷⁶ Recommendations Approved by the President, *Radiation Protection Guidance to Federal Agencies for Occupational Exposure*, 52 Fed. Reg. 2801, 2826 (Jan. 27, 1987) (summarizing federal basis for implementation of ALARA).

must ensure that more detailed requirements are identified and carried out. It then offered specific recommendations for administrative control levels, reference levels warranting investigation and local goals for limiting exposures.⁷⁷ The NRC could have considered those recommendations, and, at a minimum, considered whether interpretive guidance or requests for legislative clarification could have achieved its goals of clarity and certainty rather than the unsupported elimination of such a well-established standard.

Regarding the changes to compatibility categories, the NRC could have considered alternative categorizations, or, considering the complexity of the task, first issued a Request for Information (“RFI”) or an Advanced Notice of Proposed Rulemaking (“ANOPR”) to allow the Agreement States to submit initial information or proposals for alternative considerations. The NRC should withdraw these proposed changes and instead engage directly with the Agreement States, then solicit information through an appropriate regulatory mechanism, such as an ANOPR or RFI.

8. Case-by-case review does not adequately protect public health

The Proposed Rule would revise 10 C.F.R. § 20.1301(b) to allow licensees and applicants to request higher dose limits for the public when entering controlled areas. In this circumstance, the NRC would review those requests on case-by-case basis for assurance of adequate protection of public health and safety. A case-by-case analysis for adequate protection is a subjective process that would replace the clarity and consistency of the current 2 mrem in any one hour standard. This is the inverse of the reasoning the NRC uses to eliminate the longstanding ALARA standard, exposing the pretext of that rationalization.

States rely heavily on the 2 mrem in any one hour standard to protect public health.⁷⁸ The hard limit exists to protect members of the public who are unaware of the myriad ad hoc sources of radiation they encounter throughout daily life. People do not walk around wearing dosimeters to measure their aggregate radiation exposure and thus are unable to knowingly consent to radiation exposures and risks. This is an acute concern for medical waiting rooms, where family members, friends, and workers are passively exposed to radiation. The hard limit applied equally to all sources helps control the number of people at risk to unknown overexposure. Removing that standard directly degrades public safety. The NRC should reject the proposed case-by-case process and retain the 2 mrem in any one hour limit.

Conclusion

For these reasons, the States urge the NRC to consider the above comments and withdraw the Proposed Rule accordingly.

⁷⁷ See generally, 52 Fed. Reg. at 2822–2834.

⁷⁸ The 2 mrem in any one hour limit is used across the materials world – not only in medicine (e.g., waiting rooms) but for more esoteric uses such as veterinary release of cats treated with radioiodine. This limit serves as one of the only stopgap measures to ensure every individual licensee doesn’t inadvertently contribute to dose overexposure for a member of the public. While an individual dose may be beneath 100 mrem, in aggregate an individual could unknowingly exceed the annual limit through the cumulative effective of myriad individual doses.

Respectfully submitted,

**FOR THE STATE OF ILLINOIS
KWAME RAOUL
ATTORNEY GENERAL**

/s/ Joanna K. Brinkman

Joanna K. Brinkman
Complex Litigation Counsel
Jason E. James
Assistant Attorney General
Illinois Attorney General's Office
115 S. LaSalle St., Chicago, IL 60603
312-814-3033
joanna.brinkman@ilag.gov

**FOR THE STATE OF CALIFORNIA
ROB BONTA
ATTORNEY GENERAL**

/s/ Megan K. Hey

Vanessa Morrison
Supervising Deputy Attorney General
Keith Bauerle
Megan K. Hey
Deputy Attorneys General
Environmental Justice & Protection Section
California Department of Justice
300 S. Spring Street, Ste. 1702
Los Angeles, CA 90013
(213) 269-6000
Vanessa.Morrison@doj.ca.gov
Keith.Bauerle@doj.ca.gov
Megan.Hey@doj.ca.gov

**FOR THE STATE OF NEW MEXICO
RAÚL TORREZ
ATTORNEY GENERAL**

/s/ Thomas Silva

Thomas Silva
Esther Jamison
Assistant Attorneys General
201 Third St. NW, Suite 300
Albuquerque, New Mexico 87102
Tel. (505) 681-4894
TSilva@nmdoj.gov

**FOR THE STATE OF WASHINGTON
NICHOLAS W. BROWN
ATTORNEY GENERAL**

/s/ Elizabeth Harris

ELIZABETH M. HARRIS
Assistant Attorney General
Environmental Protection Division
800 5th Ave Suite 2000, TB-14
Seattle, WA 98104-3188
(206) 521-3213
elizabeth.harris@atg.wa.gov

**FOR THE STATE OF COLORADO
PHILIP J. WEISER
ATTORNEY GENERAL**

/s/ Carrie Noteboom

CARRIE NOTEBOOM
Assistant Deputy Attorney General
Natural Resources and Environment Section
1300 Broadway, 10th Floor
Denver, CO 80203
720-508-6285
carrie.noteboom@coag.gov

**FOR THE STATE OF OREGON
DAN RAYFIELD
ATTORNEY GENERAL**

/s/ Paul Garrahan

Paul Garrahan
Attorney-in-Charge, Natural Resources Section
General Counsel Division
Oregon Department of Justice
100 SW Market Street, Portland, OR 97201
503-378-4400
paul.garrahan@doj.oregon.gov

**FOR THE STATE OF DELAWARE
KATHLEEN JENNINGS
ATTORNEY GENERAL**

/s/ Vanessa L. Kassab

IAN R. LISTON
Director of Impact Litigation
RALPH K. DURSTEIN III
VANESSA L. KASSAB
Deputy Attorneys General
ROBIN L. JACOBS
Assistant Attorney General
Delaware Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 683-8899
vanessa.kassab@delaware.gov

FOR THE STATE OF MARYLAND
ANTHONY G. BROWN
ATTORNEY GENERAL

/s/ Robert N. Brewer

Robert N. Brewer
Assistant Attorney General
Maryland Office of the Attorney General
200 Saint Paul Place
20th Floor
Baltimore, MD 21202
rbrewer@oag.maryland.gov
[\(410\) 576-6924](tel:(410)576-6924)

FOR THE STATE OF MINNESOTA
KEITH ELLISON
ATTORNEY GENERAL

/s/ Cat Rios-Keating

Cat Rios-Keating
Special Assistant Attorney General
Office of the Minnesota Attorney General
445 Minnesota St., Suite 600
St. Paul, MN 55101
651-300-7302
Catherine.Rios-Keating@ag.state.mn.us

FOR THE STATE OF VERMONT
CHARITY R. CLARK
ATTORNEY GENERAL

/s/ Laura B. Murphy

Laura B. Murphy
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609
802-828-3186
laura.murphy@vermont.gov

**FOR THE COMMONWEALTH OF MASSACHUSETTS
ANDREA JOY CAMPBELL
ATTORNEY GENERAL**

/s/ Amy Laura Cahn

AMY LAURA CAHN

Special Assistant Attorney General

EDWIN J. WARD IV

Assistant Attorney General

Massachusetts Office of the Attorney General

Energy and Environment Bureau

One Ashburton Place, 18th Floor

Boston, MA 02108

(617) 727-2200

edwin.ward@mass.gov

amy.laura.cahn@mass.gov