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

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November 9, 2026

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

Re: Regulatory Enhancements for Reactor Licensing, Decommissioning, and Operational Oversight, 91 Fed. Reg. 60,702 (Sep. 24, 2026), Docket ID NRC-2025-1138

Dear Chairman Nieh:

The Attorneys General of the States of Illinois, California, Massachusetts, New Mexico, Colorado, Minnesota, Oregon, Maryland, and Vermont ("States") respectfully submit the following comments on the Regulatory Enhancements for Reactor Licensing, Decommissioning, and Operational Oversight, 91 Fed. Reg. 60,702 (Sep. 24, 2026) ("Proposed Rule" or "Proposal").

I. Background

In 1954, Congress enacted the Atomic Energy Act ("AEA"), establishing 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*."[1]

Congress has delegated the authority and responsibility to implement the AEA to the Nuclear Regulatory Commission ("NRC" or the "Commission").[2] 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 nine of those Parts: 20, 21, 50, 52, 53, 55, 70, 72, and 75. The affected Parts govern everything from radiation

[1] 42 U.S.C. § 2012(e) (emphasis added).
[2] *See* 42 U.S.C. § 2201; *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.*).

protection standards, to the reporting of defects and noncompliance, to the licensing of facilities handling various kinds of nuclear material.[3]

Many of the States recognize the important role that nuclear power plays in meeting the nation's growing demand for electricity and therefore have strong interests in maintaining the public's confidence in the safety and independent oversight of the nuclear energy sector. But, throughout 2026, the NRC has been altering its foundational rules and procedures at an alarming pace in contravention of the NRC's mission to protect public health and safety in the use and deployment of civilian nuclear energy technologies and radioactive materials through efficient and reliable licensing, oversight, and regulation.[4] For example, Part 53 was codified in its entirety barely six months ago, on April 15, 2026, yet the NRC continues to propose significant additional revisions to those new regulations, as well as other overlapping proposed revisions to other 10 C.F.R. Parts.[5] The pace and character of these wholesale revisions have led to the nonpartisan global security organization Nuclear Threat Initiative ("NTI") reporting an "alarming decline in [the] nuclear security conditions" of the United States, with NTI specifically noting the danger posed by the NRC's "compromised[] political independence and oversight authority."[6] Such actions do not align with the Atomic Energy Act's call for the federal government to ensure that the development of atomic energy remains "consistent with the common defense and security and with the health and safety of the public."[7] The NRC's mandatory duties under the AEA supersede any secondary policies set via executive order and require the Commission to engage in thoughtful rulemaking based on expert knowledge and experience rather than convenience.[8]

[3] *See generally* 10 C.F.R. Chapter I.
[4] *See* NRC, *Wholesale Revision of Regulations Under Executive Order 14300* (Last Updated Nov. 3, 2026), https://www.nrc.gov/about-nrc/governing-laws/advance-act/wholesale-revision-regs.
[5] *See, e.g., Modernizing Reactor Licensing, safety Oversight, and Siting Practices*, 91 Fed. Reg. 44,560 (July 16, 2026) (proposing revisions to 10 CFR Parts 2, 50, 51, 52. 53, 54, 71, and 100); *Reforming and Modernizing the NRC's Radiation Protection Framework*, 91 Fed. Reg. 43,456 (July 15, 2026) (proposing revisions to 10 CFR Parts 19, 20, 34, 35, 40, 50, 53); *In Situ Recovery Monitoring and Decommissioning Timeliness*, 91 Fed. Reg. 57,728 (Sept. 10, 2026) (proposing revisions to 10 CFR Parts 30, 40, 50, 52, 53, 70, and 72); *Integrated Low-Level Radioactive Waste Disposal*, 91 Fed. Reg. 40,290 (July 1, 2026) (proposing revisions to 10 CFR Parts 20, 61, 73, and 150); *Implementation of the National Environmental Policy Act*, 91 Fed. Reg. 42,086 (July 7, 2026) (proposing revisions to 10 CFR Parts 2, 30, 40, 50, 51, 52, 53, 54, 61, 70, 72, 76, and 110); and *Exemptions from Materials Licensing*, 91 Fed. Reg. 63,133 (Oct. 5, 2026) (proposing revisions to 10 CFR Parts 20, 30, 40, and 70).
[6] Nuclear Threat Initiative, AGENDA FOR A NEW ERA OF LEADERSHIP, 21 (2026).
[7] 42 U.S.C. § 2012(d).
[8] Exec. Order No. 14300, Ordering the Reform of the Nuclear Regulatory Commission, 90 FR 22,587 (May 23, 2025). ("This order shall be implemented consistent with applicable law[.]")

II. States' Interests

The AEA permits the NRC to enter into agreements whereby it surrenders some of its regulatory authority to states.[9] As of 2026, 41 states have entered into such agreements with the NRC (the "Agreement States"), including Illinois, California, Massachusetts, New Mexico, Colorado, Minnesota, Oregon, Maryland, and Vermont.[10] The exact responsibilities taken on by Agreement States vary, though all remain in close coordination with the NRC and rely on the Commission's long-established system of regular inspection and reporting. Changes to NRC regulations will directly affect the regulatory and enforcement programs of Agreement States. Further, the AEA clearly contemplates that the NRC will regularly consult with Agreement States.[11] Consequently, the States urge the NRC to meaningfully engage with the Agreement States before making changes that impact state programs, as envisioned by the AEA.

Illinois, an Agreement State, leads the nation in nuclear power generation, with six nuclear power plants and 11 operating reactors that produce over half of the electricity generated in the state. The Office of Nuclear Safety within the Illinois Emergency Management Agency and Office of Homeland Security is internationally recognized as a leader in nuclear and radiation safety, responsible for monitoring the state's 11 reactors, while also regulating over 470 radioactive materials licenses and 35,000 x-ray machines. Illinois has a strong interest in ensuring it remains a leader in safe nuclear energy generation, with effective regulations and oversight procedures that maintain the public's confidence in the safety of nuclear power through strong protection of public health, worker safety, and the environment. Through its agreement with the NRC, Illinois regulates most types of radioactive material in a manner compatible with federal regulations.[12] As such, changes to federal regulations require compatible changes to Illinois's program, meaning these changes have an immediate, tangible impact on Illinois's ability to oversee its own monitoring and regulatory activities.

California, an Agreement State, currently has one operating nuclear power plant: Diablo Canyon Nuclear Power Plant, unit of which is set to begin decommissioning in 2029; unit two in 2030. Other nuclear plants and facilities are in or have completed decommissioning, including San Onofre Nuclear Generating Station; Humboldt Bay Nuclear Power Plant; and Rancho Seco Nuclear Generating Station, all of which have Independent Spent Fuel Storage Installations (ISFSI) on site. Two non-power reactors and thousands of x-ray and other machine-produced radiation facilities and radioactive materials facilities also operate in California. In 1976, California placed a moratorium on the construction and licensing of new nuclear fission thermal

[9] *See* 42 U.S.C. § 2021.
[10] NRC, *Agreement States* (Last Updated Oct. 29, 2026), https://www.nrc.gov/agreement-states.
[11] "It is the purpose of this section… to promote an orderly regulatory pattern between the Commission and State governments…[and] to provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States." 42 U.S.C. § 2021.
[12] *See* NRC, *Illinois: Agreement State Information* (Last Updated Sept. 14, 2026), https://www.nrc.gov/agreement-states/illinois#regulations.

reactors until the commission finds that there has been developed and that the United States through its authorized agency has approved and there exists a method for the permanent and terminal disposition of high-level nuclear waste and the commission has reported its findings and the reasons therefore to the Legislature.[13]

In Massachusetts, another Agreement State, the nuclear power plant at the Yankee Rowe Nuclear Power Station was shut down prematurely and decommissioned due to reactor pressure vessel embrittlement concerns. Spent fuel waste remains stored on site in an 80-acre cask storage facility. Massachusetts is also home to Pilgrim Nuclear Power Station, which closed in 2019. The decommissioning process for Pilgrim is ongoing. Both Yankee and Pilgrim have ISFSIs on site. Massachusetts has a strong interest in continued effective oversight of these facilities and this industry.

The States support modernization of the NRC regulatory framework. However, modernization should not weaken independent safety oversight or protection for workers, the public, and the environment. The States can strongly disagree with specific proposals without opposition to regulatory modernization generally. The States urge the NRC to maintain independent oversight with robust inspection and verification requirements.

III. Comments

A. The comment period provided by the NRC is insufficient given the sheer number of proposed changes, especially when compounded with other pending proposals.

The Proposed Rule comes as part of a wave of new regulations the NRC has proposed as part of its "wholesale revision" of nuclear safety practices.[14] While the current Proposal spans hundreds of pages, it is only one of more than two-dozen rules proposed by the NRC in 2026. Many proposed rules intersect with one another, revising and re-revising the same parts of the Code of Federal Regulations.

With the current, punishing pace of rulemaking, neither members of the public nor the states have time to understand and adequately comment on these highly technical proposals. And while states and other interested parties have repeatedly asked the NRC to expand comment periods on its proposals in light of the vast quantity of information commenters must sift through, the Commission has thus far summarily denied such requests.[15]

[13] Cal. Pub. Res. Code § 25524.1 and § 25524.2.
[14] *See* EO 14300, *supra* n. 8.
[15] *See e.g.*, NRC-2025-0975-0087, Response to the Offices of the Illinois and Massachusetts Attorneys General Request for Extension of Comment Period ML26237A192 (Aug. 26, 2026), https://www.regulations.gov/document/NRC-2025-0975-0087. The NRC claimed in its response that it is "unable"

Executive Order 14300 directs the Commission to consult with other federal agencies, such as the Environmental Protection Agency, the Department of Defense, the Department of Transportation, and the Council on Environmental Quality, as it goes about making its revisions.[16] However, it is not clear that the NRC is doing so, or indeed, that meaningful consultation would even be possible given the rate at which the NRC is attempting to change its bedrock regulations. Even the NRC itself has at times become confused due to its hastiness, with some proposals purporting to rely on standards that other pending proposals seek to revoke or revise, while other suggested changes leave rules incomplete, with vague provisions or undefined terms. Some proposals also incorporate and rely on other, still pending revisions, depriving the public of the ability to comment on the simultaneous changes or to see and understand the full scope and impact of the various proposed changes. For instance, in the Proposal, the Commission states that its proposed amendments to Appendix S of 10 C.F.R. Part 50 will align that Appendix with the "risk-informed and performance based regulatory framework" the NRC purports to use for licenses under Part 57.[17] However, Part 57 itself is merely a proposal by the Commission for the regulation of microreactors and is subject to further change since it has not yet been finalized.[18]

All these actions directly contravene the NRC's 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*."[19] In the proposal itself, the NRC states that it "considers public involvement in, and information about, NRC activities to be a cornerstone of strong regulation of the nuclear industry."[20] This makes the Commission's decision to provide inadequate comment periods, and indeed to entirely remove some existing opportunities for public comment (to be discussed in further detail below), all the more perplexing and concerning.

Due to the lack of adequate notice and comment and the confusion inflicted by these overlapping and at times contradictory deregulatory actions, the States incorporate by reference all State comments filed in the "wholesale revisions" rulemakings and note that many other comments filed in this and the related rulemakings raise valid issues beyond the scope of the State comments. The States consider all meaningfully presented comments, objections, and legal issues, raised either by the States or other parties, to be preserved for judicial review.[21]

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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.

[16] *See* EO 14300, *supra* n. 8.

[17] Proposal at 60,712.

[18] *See Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles*, 91 Fed. Reg. 27,870.

[19] NRC, Management Directive 6.3, 2 (July 3, 2019), https://www.nrc.gov/docs/ML1921/ML19211D136.pdf.

[20] Proposal at 60,728.

[21] Similarly, the States consider the dockets for all "wholesale revisions" rulemakings to contain relevant information considered by the NRC for each of those proposed rules, and therefore part of the administrative record

B. The NRC's proposal to remove many reporting requirements will damage the public and States' ability to stay informed, while providing only meager, largely hypothetical benefits.

Under 10 C.F.R. § 50.72, the NRC requires operators of nuclear power reactors to send reports when certain incidents occur at their facilities, including both emergency reports and nonemergency reports, the latter of which are sorted into 1-hour, 4-hour, and 8-hour response time categories.[22] The NRC proposes to eliminate several of these nonemergency reporting requirements, which would lead to a lack of publicly available information about incidents at nuclear facilities near places where citizens work and live.

The NRC proposes to no longer require operators of nuclear power reactors to report "event[s] or situation[s] related to the health and safety of the public, or onsite personnel, or protection of the environment" when the operator has plans to issue a news release or notify other government agencies.[23] On its face, the notion that a regulating entity would not want to learn about incidents under its jurisdiction prior to such information becoming public knowledge is bizarre. Such a system will inevitably lead to the NRC receiving questions from concerned citizens that it will be unable to answer, since it will be learning about an incident simultaneously with the public. The NRC will be unable to vet information necessary to provide reliable responses to public inquiries, which will erode the public's confidence that it is informed and able to take timely action when needed. The NRC does not consider or address any of these obvious considerations in its proposal. Instead, the NRC attempts to justify this decision by saying that it "has never initiated an inspection or investigation" in response to such reports, which is cold comfort.[24] If the NRC believes it is sufficient for it to learn about events "related to the health and safety of the public" at the same time as a news release, then it should provide online functionality for the operator to publicly report the incident on the NRC website, with automatic notification to pre-registered individuals or entities, so that the NRC and the public are officially notified simultaneously, with less effort by the operator than that required to issue a news release. The notification system should include pre-determined fields for required factual information, such as time, location, impacted components, and response actions, that ensures the public is not left to rely solely on a self-serving release from an operator undoubtedly imbued

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for each rule comprising the wholesale revisions. These include Docket IDs: NRC-2025-1336; NRC-2025-0479; NRC-2024-0044; NRC-2026-0166; NRC-2025-1502; NRC-2024-0218; NRC-2023-0212; NRC-2025-1139; NRC-2025-1503; NRC-2025-1501; NRC-2025-1204; NRC-2025-1138; NRC-2025-1568; NRC-2025-0974; NRC-2025-1468; NRC-2025-1303; NRC-2025-0379; NRC-2025-1370; NRC-2025-0478; NRC-2025-0021; NRC-2025-1140; NRC-2025-0975; NRC-2025-1205; NRC-2025-1238; NRC-2011-0012; NRC-2025-1667; NRC-2025-1237; NRC-2025-1270. *See also* Wholesale Revision of Regulations Under Executive Order 14300 (Last Updated Nov. 3, 2026), https://www.nrc.gov/about-nrc/governing-laws/advance-act/wholesale-revision-regs.

[22] *See* 10 C.F.R. § 50.72.

[23] Proposal at 60,723.

[24] *Id*. at 60,724.

with public relations concerns that may not align with regulators' and the public's interest in factual transparency.

The NRC also proposes to no longer require reports concerning "event[s] or condition[s] that could have prevented fulfillment of the safety function of structures or systems" necessary to control or mitigate the impacts of accidents.[25] The reasoning provided is that such reports "have been infrequent," "rarely require prompt agency oversight or enforcement action," and can be addressed by routine follow-up inspections.[26] Similarly, the NRC proposes to eliminate reporting requirements concerning "event[s] requiring the transport of a radioactively contaminated person to an offsite medical facility for treatment."[27] Again, the NRC seeks to support this choice by stating that it "has never initiated an inspection or investigation in response to [such] events."[28] This does not justify the removal of longstanding reporting requirements intended to ensure regulators are able to respond to dangerous incidents *if and when necessary*. Indeed, it is alarming that the NRC would in one sentence note that a reportable incident under 50.72(b)(2)(xi) could include an "onsite fatality or inadvertent release of radioactively contaminated materials" but in the next conclude that "these events are generally not related to nuclear plant safety."[29] It defies comprehension that onsite fatalities and radioactive exposures are not related to safety and that they would not warrant response.[30]

The Commission's reliance on the lack of past investigations or enforcement actions is fundamentally flawed for at least four reasons. The first is that this reasoning directly undermines the supposed need for the Proposal. The NRC states that the purpose and need for the Proposal is that it would "yield significant efficiencies and reduce regulatory burden."[31] But if reports rarely require an NRC response, then the reports are in fact *not* burdensome, retaining them poses no real hardship, and there would not be any significant efficiency gains if they were eliminated. The proposed elimination of reporting requirements does not align with the Proposal's stated purpose, rendering it arbitrary and capricious in contravention of the Administrative Procedure Act.

The second issue with the NRC's justification is that the fact that the NRC itself has chosen not to act in the past on the information it received does not, by itself, justify a departure from existing reporting requirements. If anything, it suggests that the Commission should consider whether it can improve how it responds to reports to maximize public safety. The

[25] *Id*.
[26] *Id*.
[27] *Id*.
[28] *Id*.
[29] *Id.*
[30] Onsite injuries and fatalities result in lawsuits and worker compensation claims. The removal of reporting requirements also removes sources of evidence necessary to evaluate those claims and ensure fair treatment of the injured parties. The NRC should evaluate this impact.
[31] Proposal at 60,702.

conclusory statements also leave out details on how the NRC interacts with state inspectors and operator inspectors at a facility and how investigations and enforcement actions are triggered and who takes those actions. Vague, overbroad, and unsupported conclusions about a lack of previous enforcement action do not show reasoned decision making. Indeed, the NRC's dearth of analysis fails to inspire much confidence in the NRC's oversight at all. In the final rule, the NRC should explain its historical investigation and enforcement procedures and provide statistics based on current reporting requirements, including the "agency records" referenced in the proposed rule.[32]

The third problem is that nonemergency reports are not necessarily designed to flag incidents that require immediate responses. Instead, a large part of their value is in providing warnings *before* problems rise to the level that the Commission needs to take urgent action. The NRC's mission requires it to oversee and regulate the safe use and deployment of nuclear energy technologies and radioactive materials and to do so the NRC must have the necessary information to assess and *prevent* emergencies, rather than only learning about the issues that led to a major incident after it has already occurred.

The fourth flaw in the NRC's logic is that the Commission is currently preparing for an anticipated expansion of the nuclear energy industry, a factual circumstance the NRC's proposal fails to consider or address.[33] Even if operators have not historically issued reports that required immediate NRC response, that does not mean that such reports from new operators or existing operators with significantly expanded operations will not warrant swift action moving forward. This issue is particularly relevant given the NRC's other proposed changes to operator reporting requirements. In addition to removing many nonemergency reporting requirements, the Proposal would also allow operators to make changes to their quality assurance program descriptions, their emergency plans, financial reports on their current levels and sources of insurance or financial security, and analytical evaluations of tests performed by the American Society of Mechanical Engineers, all without first notifying the Commission.[34] This is tantamount to self-regulation, and, even if the NRC attempts to justify these proposed changes by pointing to the past reliability of established operators, such an explanation is fundamentally inadequate in a regulatory field anticipating the entrance of many new actors in the coming years. The NRC would deprive itself of crucial information and pass off its regulatory oversight responsibilities at exactly the time when it should be preparing to gather as much information as possible to best oversee the safe expansion of the nuclear power sector, including the commissioning and operation of novel technologies such as advanced nuclear and microreactor facilities about which there exists no real-world operation information currently.

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[32] *Id*. at 60,724. To explain its investigation and enforcement procedures, the NRC should not avoid a narrative explanation by simply providing a list of guidance documents with terse characterization and without any elaboration of how they are applied in relation to the proposed revisions.
[33] *See* EO 14300.
[34] Proposal at 60,741-42.

The NRC's suggestion that the functions of nonemergency reporting are fulfilled by baseline monitoring efforts is also problematic. For one, this would directly shift the burden of data collection and reporting from facility owners to the NRC's own resident inspectors, as well as state inspectors from those Agreement States, like Illinois, who have their own inspection staff. If resident inspectors fail to notice or report a problem at a facility, the problem will likely go totally unreported or, at best, only be addressed following discovery during a later NRC regional inspection. But the NRC only undertakes these regional inspections, and publishes the reports that accompany them, on a quarterly basis, meaning that it could be months before the public was notified of an incident at a local facility. States that do not have their own inspectors similarly risk being left in the dark as to events at facilities within their borders until months after they take place–as would states located in close proximity to a facility within a neighboring state. This would lead to both the NRC and state and local officials having inaccurate views of a given facility's operations or safety performance, with new information only passing on to regulators in a delayed, piecemeal fashion, if at all.

In addition, the pending microreactor proposed rule eliminates the requirement for a resident inspector,[35] relies on autonomous or remote operation,[36] and provides for "targeted inspections and performance oversight" rather than continuous on-site NRC presence.[37] It is unclear how the Proposed Rule's change in reporting requirements would affect anticipated microreactor facilities that will not be required to have on-site inspectors. The NRC should clarify how the Proposed Rule relates to microreactor facilities. Further, as microreactor technology comes online and begins to see significant, real-world use, the NRC should revisit the issue of reporting at microreactor facilities in particular in order to ensure that activities at such facilities are adequately monitored and reported on.

The Proposal would allow facilities to make numerous, varied changes to their day-to-day operations without oversight and leave significant events unreported. Yet many of the reporting requirements slated to be removed appear to pose minimal burdens to operators, particularly since some of them apparently require reports to other government entities. The NRC does not identify which events would be covered under existing reporting requirements to other federal or state agencies, and which would go totally unreported in the face of the proposed revisions. Operators have conducted their business while making these required reports for decades, and the NRC has made no showing that reporting requirements have impeded the stability or growth of safe nuclear power production.

The NRC states that "[p]ublic awareness of nonemergency events by itself is not a significant factor for this proposed rule."[38] The Commission makes no effort to explain why

[35] S*ee* 91 Fed. Reg. 23,628, 23,636 (May 1, 2026).
[36] S*ee id.* at 23,635–23,636.
[37] S*ee id.* at 23,636.
[38] Proposal at 60,722.

public awareness was not considered a significant factor in eliminating reporting requirements, nor does it address the reliance interests of States or the public in retaining existing, effective modes of information sharing. This absence of explanation is particularly striking given the Commission's claim in the Proposal that it considers public participation to be a "cornerstone" of its work.[39] Similarly, the NRC did not analyze the benefits of reporting requirements to facility workers, who undoubtedly benefit from knowing whether their place of employment has a safe operating and workplace history.

The NRC should not deprive itself, the States, facility employees, and the public of crucial information about the operations and safety of nuclear power reactors. If it does, the NRC should, at the very least, consider the impacts to public awareness of nonemergency events, and should analyze the burden it proposes to place on its state and local partners in the form of reduced availability of reliable information. In the absence of same-day nonemergency reports, the Commission should consider increasing the frequency of its regional reports, so that citizens can be informed of incidents at local reactors on a more than quarterly basis.

C. The NRC's proposed "decommissioning licensing enhancements" impede participation in matters of great importance to the public.

At the end of its commercial life cycle, nuclear reactors must undergo a process called decommissioning, which requires the owner of the reactor to take steps to "reduce residual radioactivity" to levels that allow the site to be released for other uses.[40] One of the primary issues to be resolved during decommissioning is what will be done with any nuclear waste the facility produced during its active operations. This is a critical consideration, since nuclear waste can continue to emit high amounts of radioactivity for decades, centuries, or longer after it is no longer being actively used to produce power.

Since 1996, the NRC has required power reactors licensed under 10 C.F.R. part 50 to submit Post-Shutdown Decommissioning Activities Reports ("PSDARs") before or within two years of permanent cessation of operations.[41] PSDARs must include, among other things, "a description of the planned decommissioning activities along with a schedule for their accomplishment."[42] Currently, when the NRC receives a PSDAR, it is required to give notice of its receipt, to make the PSDAR available for public comment, and to schedule a public meeting in the vicinity of the licensee's facility.[43] This makes sense considering that decommissioning will often include making plans for the on-site storage of spent nuclear fuel, a matter of direct and immediate concern to the communities surrounding nuclear power plants. In the Proposal,

[39] *Id*. at 60,728.
[40] 10 C.F.R. 50.2.
[41] 10 C.F.R. § 50.82(a)(4).
[42] *Id*.
[43] *Id*.

the NRC plans to cease giving public notice when it receives PSDARs, while also removing the PSDAR public comment period.[44]

The NRC justifies its decision to no longer provide a notice and comment period by saying that "public comments have rarely resulted in changes to a licensee's PSDAR."[45] But this is not a justification for eliminating public participation. The Commission's past decisions declining to make changes in response to public comments do not indicate that the comment period lacked value. If that were the case, then any agency could simply refuse to make changes in response to comments, regardless of their significance, and then use that decision to justify elimination of public comment periods. On the contrary, a lack of helpful public comments may demonstrate a failure by the Commission to facilitate robust discussion, rather than a lack of need for commenting periods. It is the responsibility of the Commission to ensure that the public is given enough information about these highly technical proposals that citizens can bring informed, on-topic viewpoints to Commission meetings in order to provide comments that are of substantive value.[46] Further, even if comments have been sparse or at times lacking in substance historically, this is likely, in part, a function of the fact that the nuclear energy industry has been stable over the past several decades. In the coming years, as the NRC proposes to massively expand the industry to meet the nation's growing energy demands, and the time approaches for the existing fleet of aging nuclear facilities to begin decommissioning,[47] a far greater number of issues on which the public may wish to comment can be expected to arise, and the public should accordingly be given at least the same opportunities to voice their opinions that have been available historically.[48]

The NRC claims that its proposed changes are intended to conserve resources, and yet it states that it will continue to host public meetings regarding PSDARs, even though it will not give public notice or receive public comment.[49] This begs the question of whether the Commission truly seeks to conserve resources, since public meetings also require resources, or whether the Commission simply seeks to establish a one-way flow of information, where the Commission alone chooses what information to share with the public. Further, this system opens the door for the NRC to hold meetings where only representatives of the facilities themselves are

[44] Proposal at 60,710.
[45] *Id*.
[46] The decommissioning of a nuclear power plant is a highly complex undertaking, often involving vast quantities of information presented in the language of a very specialized field. Members of the public may care deeply about the impacts of a plant undergoing decommissioning in their area, but lack the expertise needed to voice their concerns directly and succinctly. This does not lessen the validity of these concerns, nor does it alleviate the NRC of its obligation to consider and respond to such input.
[47] *See* EO 14300.
[48] The need for public commenting is particularly salient given recent efforts by the Commission to fast-track approvals for new licenses and renewals of existing licenses. *See* Aaron Larson, *How Trump's EO 14300 Is Reshaping NRC Nuclear Licensing and Regulation*, Powermag (May 20, 2026), https://www.powermag.com/how-trumps-eo-14300-is-reshaping-nrc-nuclear-licensing-and-regulation/.
[49] Proposal at 60,710.

able to attend, since facility owners, unlike members of the public, have direct, personal knowledge of their own decommissioning processes and are in communication with the NRC as these meetings are set. Additionally, while the NRC notes that it "does not approve" PSDARs but instead "reviews [them] for accuracy and completeness," this does not mean that a public comment period has no value.[50] As the NRC acknowledges, PSDARs help the Commission "to plan its decommissioning oversight activities" and "understand the environmental impacts of planned decommissioning activities."[51] This information gathering value of PSDARs will necessarily be negatively impacted if the Commission stops gathering public feedback on submitted reports, as NRC review will no longer be able to rely on the knowledge of citizens local to the impacted area.

The problematic effects of the limits this proposal would place on public participation are compounded by the fact that the NRC seeks to give itself the flexibility to hold its PSDAR public meetings in a hybrid or fully remote format, rather than in-person near the affected facility, as it has done historically. The NRC recognizes that some communities "may lack communication infrastructure that permits meaningful virtual participation," yet does not identify any proposed solutions to overcome these difficulties and protect the reliance interests of these communities. Members of the public who do not have adequate internet access must still be able to attend meetings and have their voices heard by the Commission.[52] The Proposal does not explain how the NRC will decide when "an in-person component to [a] public meeting would be necessary."[53] Further, since the NRC is no longer accepting public comments in relation to PSDARs, it is not clear how, even if they happened to learn about a decommissioning meeting despite the absence of public notice, affected members of the public would submit a request that the meeting be hosted with an in-person component.

Similarly, in the absence of traditional public notices, the NRC states that members of the public should stay informed on decommissioning activities primarily through NRC social media pages, the NRC's official website, and other online modes of communication.[54] However, for individuals who do not have reliable internet access, the NRC's suggested means of obtaining news will be largely inaccessible, short of following the Commission's recommendation that such citizens go through the onerous procedural and financial hurdles necessary to submit Freedom of Information Act ("FOIA") requests, something which is itself extremely difficult without internet access.[55] The NRC does not explain how devoting staff to responding to FOIA requests would be a more efficient use of resources than maintaining the current system of print notices.

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[50] *Id*. at 60,728.
[51] *Id*.
[52] *Id*. at 60,729.
[53] *Id*.
[54] *Id*. at 60,728.
[55] *See id*.

The Commission should not remove opportunities for public notice and comment on decommissioning activities. Both the public and host States have a vested interest in the safety and viability of the decommissioning process, including its relation to public health and safety, environmental monitoring, land use planning, and productive site re-use. And if the NRC plans to begin holding some of its meetings in a hybrid or remote format, it must explain how it intends to ensure that members of the public without reliable internet access will still be able to meaningfully participate in meetings and stay informed on the Commission's activities, particularly as they relate to local facilities. Absent such measures, the NRC cannot continue to credibly claim that it considers public involvement "a cornerstone of strong regulation of the nuclear industry."[56]

D. The Proposed Rule continues a troubling trend of offering licensees risk-based customization over a proven deterministic approach.

The Proposed Rule would, in concert with other recently proposed regulatory changes and guidance,[57] establish a "graded approach" to seismic design standards that would allow applicants to tailor seismic requirements to what they deem important safety structures, systems and components based on "risk informed" triggers like probabilistic risk assessment ("PRA") models instead of seeking an exemption from general requirements, as they must currently.[58]

This is a troubling continuation of NRC's recent shift from the prescriptive mandates of existing regulations to bespoke "risk based" "graded approaches" that rely on complex predictive modeling and the subjective engineering judgment of the licensees. It defers too much regulatory discretion to licensees and introduces mechanisms through which safety issues could be missed or overlooked. PRA models have known blind spots, including multi-hazard events. They also are only as good as the data they are fed, which is particularly concerning in context of new technology (like advanced nuclear technology) given the paucity of real-world operational data. Instead of real-world operational data, PRA models for novel reactors depend on hypothetical modeling and lab testing (most of which is claimed to be confidential business information and thus is unavailable for peer/public review).

The NRC must rigorously enforce regulatory guardrails including defense-in-depth philosophies where safety decisions are based on modeling, and it should limit the level of customization available to satisfy seismic standards; especially in context of new and developing technologies.

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[56] *Id*.
[57] Draft Regulatory Guide DG-1471 (Draft RG 1.208, Revision 2), September 2026, "A Performance-Based Approach to Define the Site-Specific Earthquake Ground Motion."
[58] 91 Fed Reg. 60,711-712; 60,770-771.

E. The NRC fails to adequately account for the costs the Proposed Rule will place on States and on the public.

The NRC's Regulatory Analysis Guidelines require the Commission to engage in a "transparent" cost-benefit analysis when proposing rule changes.[59] The Guidelines note that "significant differences may exist between the recipients of benefits and those who incur costs" and therefore conclude that "[t]he distribution of costs and benefits for various groups should be presented and discussed."[60]

However, throughout the Proposal, the NRC inadequately considers, or entirely disregards, the numerous burdens that its changes, if adopted, would place on the States as well as members of the public. The regulatory analysis document the Commission provides is often conclusory and largely lacking in actual analysis. For instance, the Commission briefly acknowledges the costs that are likely to arise from states taking on the burden of establishing their own reporting requirements in the absence of a robust federal reporting system, but then simply moves on without providing any discussion of what it expects those costs to be, or how they factored into the NRC's decision making process.[61] The cost of establishing a state reporting system may be somewhat lighter for those Agreement States, like Illinois, that already have their own inspectors that work alongside NRC resident inspectors, since state inspectors can help fill some of the information gaps and ensure that state agencies stay updated on some ongoing issues at nuclear facilities. But for those states without inspectors, a lack of more frequent reports from operators may leave them to rely only on the NRC's quarterly regional reports, until new reporting laws can be passed through state legislatures. Members of the public are similarly at the mercy of what the NRC decides to publish in its regional inspection reports, issued only four times a year. And less formal reporting to the NRC almost certainly means that less information will be available even to those citizens who do go through the burdensome process of submitting FOIA requests. The NRC does not consider or address the foreseeable costs of decreased information to states and the public.

Relatedly, the NRC declines to consider the substantial reliance interests of the States and members of the public on the current regulatory framework, including opportunities for meaningful public participation. Now, the NRC plans to remove some opportunities for public comment related to decommissioning efforts, to cease giving public notice for such efforts, and potentially to host public meetings in a format that not all interested parties will be able to

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[59] NRC, Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission (Sept. 2004) NUREG/BR-0058, (Rev. 4), Adams Accession No. ML042820192. The Commission withdrew the latest proposed revision, Rev. 5 (ML17221A005). *See* Staff Requirements Memorandum (May 3, 2024), Adams Accession No. ML24124A088.
[60] *Id*.
[61] *See* NRC-2025-1138-0002, Regulatory Analysis for the Proposed Rule: Regulatory Enhancements for Reactor Licensing, Decommissioning, and Operational Oversight, 2-2.

access. In making these suggested changes, the NRC devotes no time to discussing the impact this will have on those States and citizens that have come to rely on the public commenting procedures that are currently in place. Indeed, the NRC claims that it expects the proposal to *increase* public confidence by "demonstrating the agency's ability to adapt to regulatory needs identified by stakeholders, provide opportunities for stakeholders to submit input... and maintain the NRC's role as an effective regulator."[62] The supposed connection between responsiveness to industry stakeholders and increased public confidence is not explained, nor is the corresponding lack of opportunities for the public to submit input mentioned.

The NRC has also failed to seriously consider the potential adverse environmental and other impacts from its proposal to further narrow the scope of environmental reviews conducted by the Commission. Among other changes, the Proposed Rule would amend 10 C.F.R. §§ 52.18 and 53.1149(a) to "eliminate a requirement for the NRC to prepare an environmental impact statement as part of its review of an application for an early site permit."[63] Early site permits allow applicants to obtain approval for a reactor site without specifying the design of the reactor itself.[64] As outlined by the NRC, an early site permit covers a range of site safety, emergency preparedness, and environmental protection issues, with environmental protection concerns documented in draft and final environmental impact statements, in accordance with the NRC's NEPA regulations, 10 C.F.R. § 51.[65]

Elimination of a mandatory EIS would undermine the goals of NEPA, which has long been central to informed and transparent agency decision making and allowed for meaningful public participation in developing and reviewing proposed federal actions.[66] The analysis of direct, indirect and cumulative effects required under NEPA is particularly salient at the early site permitting stage, which provides the NRC, along with state, Tribal and municipal government and neighboring communities, the opportunity to fully examine a site's appropriateness before any significant investment or other approvals begins to lock in a specific development path. Many present and historic facilities under the NRC's oversight are located in or near to Tribal land or Indigenous communities, communities of color, and low-income communities.[67] These communities bear cumulative burdens affecting their health, environmental quality, and cultural and historic resources. Thus, the proposed change would increase risks that fall most heavily on

[62] *Id*.
[63] Proposal at 60,715.
[64] NRC, *Backgrounder on Nuclear Power Plant Licensing Process* (Aug. 25, 2026) https://www.nrc.gov/regulations-legislation/fact-sheets-brochures/backgrounder-on-nuclear-power-plant-licensing-process#process.
[65] *Id*.
[66] *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989) ("Simply by focusing the agency's attention on the environmental consequences of a proposed project, NEPA ensures that important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast.").
[67] Mary Alldred & Kristin Shrader-Frechette, *Environmental Injustice in Siting Nuclear Plants*, 2 ENV'T JUST. 85, 91–96 (2009), https://journals.sagepub.com/doi/10.1089/env.2008.0544.

already vulnerable populations and overburdened communities while undermining the public awareness and early engagement that serve specifically to mitigate those risks. The NRC has historically explicitly limited consideration of distributional impacts and other environmental justice concerns to the NEPA process, rendering the elimination of the mandatory EIS at the early site permitting stage of even more concern.[68]

While noting the advantage of added flexibility, efficiency, and reduction in resource burdens as benefits for the Commission and applicants,[69] NRC fails to account for the costs of eliminating the mandatory requirement for an EIS at the early site permitting stage. All that the NRC's regulatory analysis provides on the environmental impacts of the Proposal is a single sentence, stating that the Proposal "would narrow the scope of environmental requirements and reviews, providing clarity and flexibility to licensees and applicants."[70] The NRC does not discuss any potential environmental harms the Proposal could cause, provide an analysis of the informational impact caused by the narrowed scope of environmental review that it identifies, or address the cumulative impacts of this and other regulatory changes on public process related to environmental and public health. As part of its wholesale revision, the NRC has significantly curtailed environmental review, including by expanding use of general licenses and generic environmental impact statements,[71] narrowing the regulatory definition of "construction" under 10 C.F.R. § 51 to allow a greater proportion of a nuclear power plant to be built without prior NRC review or permitting,[72] and proposing substantial changes to NEPA review.[73] The Proposed Rule, alongside these other amendments, further eliminates oversight and circumvents public involvement without any consideration of the costs.

If the NRC plans to go through with these changes to reporting and public participation (and it should not), the Commission should, at the very least, analyze the costs that such measures would inflict on both state and local governments, and the citizens that rely on the NRC to keep them safe.

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[68] Eric Jantz, *Environmental Racism with a Faint Green Glow*, 58 NAT. RES J. 247, 259 (2017) (citing Louisiana Energy Servs., L.P., 47 N.R.C. 77, 106 (1998)).
[69] *See* Proposal at 60,715.
[70] NRC-2025-1138-0002 at 2-2.
[71] *Generic Environmental Impact Statement for Licensing of New Nuclear Reactors*, 91 Fed. Reg. 22,394 (Apr. 24, 2026).
[72] *Modernizing Reactor Licensing, Safety Oversight, and Siting Practices*, 91 Fed. Reg. 44,560, 44,565 (July 16, 2026).
[73] *Implementation of the National Environmental Policy Act*, 91 Fed. Reg. 42,086 (July 7, 2026).

F. The Proposal continues a de-regulatory trend that stands to undermine public perception of the NRC and the nuclear industry as a whole.

Overall, the NRC's de-regulatory agenda stands to exacerbate growing concerns about the Commission's shrinking independence, and to undermine public trust in nuclear power at exactly the time when the promotion of safe nuclear energy would most benefit the American energy sector.

The NRC's perception as a reliable regulator is threatened by its attempts to decrease its own role in oversight. In addition to allowing plant operators to decide what operational changes do and don't require reporting to the Commission, as discussed above, the Proposal would also allow licensees to administer, proctor, and even grade critical operating tests for their own staff, with the NRC only providing "oversight."[74] Independent and objective evaluators such as NRC examiners are needed to provide assurance that candidates can perform correctly during nuclear accident scenarios. Allowing an operator to proctor and grade their own operating tests may save money but directly reduces the effectiveness of these tests, since the absence of NRC inspectors means less scrutiny for test-takers, leaving them less prepared for high-intensity emergency situations. Even though nuclear accidents are rare, the potential consequences are so severe that lowering any standard should be unacceptable. Further, it opens the door for operators to cut corners, taking advantage of the lack of direct supervision to obtain licenses as quickly as possible. Even if owners and operators act properly and in good faith, such a system will erode public trust in the industry due to the appearance of impropriety.

Many other problematic changes are contained in the Proposal and beyond. For instance, the NRC seeks to amend the financial qualification standard for Part 50 and 52 applicants from "possesses or has reasonable assurance of obtaining the funds necessary" to the less burdensome "appears to be financially qualified."[75] This could expose the public and States to financial liability resulting from the failure of insufficiently capitalized entities. The Proposal would also change the definition of "dedicating entity," purportedly to reduce anti-competitive barriers, pursuant to Executive Order 14267.[76] Through this change, the NRC reframes protections meant to screen out unqualified entities as unnecessary barriers to entry in the industry that can be removed without consequences. Elsewhere, the Commission proposes "to reduce the functions of the Advisory Committee on Reactor Safeguards… to the minimum necessary to fulfill ACRS's minimum statutory obligations."[77] This repeated loosening of requirements reflects poorly on the NRC's commitment to safety and reliability, especially given that, as previously referenced, many new applicants are expected to begin entering the industry in the near future. Expanding

[74] Proposal at 60,718.
[75] *Id*. at 60,711.
[76] *Id*. at 60,721.
[77] NRC, *Planned Rulemaking Activities – Rule* (Last Updated Nov. 5, 2026), https://www.nrc.gov/regulations-legislation/rulemaking-documents/rules-and-petitions/rules/rule?id=2235.

the number of licensed facilities while relaxing the standards applicable to those facilities is a combination that will further harm the public's view of nuclear energy and the NRC's role in its regulation.

Experts are already predicting that any cost-savings and minor efficiency gains from the NRC's proposed changes are likely to be overshadowed by public backlash to the perceived or actual degrading of safety standards.[78] As the NRC should appreciate, while revenue expended on complying with allegedly burdensome regulations can quickly be made back, lost trust and damaged reputation are very slow to recover. The NRC should take great care to show the public that it can be trusted by slowing the rate at which it is issuing proposed rules, taking the time to make sure that the changes it does propose are published in a logical fashion and on a reasonable timeframe that allows the proposals to be understood within the context of the NRC regulatory program as a whole, rather than issuing overlapping and conflicting simultaneous revisions. The proposals must be clearly explained and well-reasoned, adequately considering all potential costs and benefits, and allowing enough time for members of the public to comment on proposed changes. Without major adjustments to the way it approaches rulemaking, the NRC will continue to threaten both its own reputation and that of the nuclear energy industry it oversees, ultimately defeating the very objectives the NRC purports to be working towards.

IV. Conclusion

The States urge the Commission to withdraw the problematic portions of the Proposed Rule and more broadly to consider changing its approach to rulemaking to better serve the shared goal of advancing a safe, reliable system of nuclear energy generation in the United States.

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[78] *See* Brian Martucci, *A 'Wholesale Revision' of US Nuclear Rules is on the Table*, Canary Media (Sept. 30, 2026), https://www.canarymedia.com/articles/nuclear/wholesale-revision-us-nuclear-rules.

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