

Public comment closing [August 10, 2026](#)

Submitted via <https://www.regulations.gov/docket/NRC-2025-1370/document?withinCommentPeriod=true>

Chairman

U.S. Nuclear Regulatory Commission
[Washington, DC 20555-0001](#)

Re: Comment in Opposition to Proposed Rule,
"Modernizing Materials Licensing," Docket ID
NRC-[2025-1370](#); RIN 3150-AL56; 91 Fed. Reg.
(June 24, 2026 Federal Register, [FR-2026](#)-06-24,
Document [2026-12702](#))

Dear Chairman:

I am writing to object, in the strongest terms, to
the U.S. Nuclear Regulatory Commission's
("NRC" or "Commission") proposed rule that
would substantially weaken the licensing,

environmental review, security, and safety-reporting requirements governing byproduct, source, and special nuclear material facilities. The Commission itself describes this rulemaking as "deregulatory in nature" and as its "most comprehensive modernization" of materials licensing in decades. I respectfully urge the Commission to withdraw the proposed rule, or at minimum to substantially narrow it and re-propose it with a comment period adequate to its scope, for the reasons set forth below.

The Rule NRC Is Proposing

The proposed rule, "Modernizing Materials Licensing" (Docket ID NRC-[2025-1370](#), RIN 3150-AL56), would amend 10 C.F.R. Parts 30, 37, 40, 51, 70, 72, and 140 — the core regulations governing byproduct material, source material, special nuclear material, spent fuel storage, and third-party liability. Among its

most consequential changes, the rule would eliminate the existing nine-month advance-notice requirement for construction of materials facilities at 10 C.F.R. §§ 30.32(f), 40.31(f), and 70.21(f), replacing a fixed, predictable notice period with an undefined process of "pre-application engagement" that carries no minimum timeframe and no enforceable content. The rule would also allow applicants to begin construction of most materials facilities "at the applicant's own risk" before NRC completes its environmental review under the National Environmental Policy Act ("NEPA"), amending 10 C.F.R. §§ 30.33(a)(5), 40.32(e), and 70.23(a)(7). The Commission carves out only uranium-enrichment and spent-fuel reprocessing facilities from this change, meaning the vast majority of materials licensees — including facilities handling plutonium and other special

nuclear material — could pour concrete and erect structures before the agency's own environmental and safety review has concluded. In addition, the rule would eliminate the two-step licensing process for plutonium-processing and fuel-fabrication facilities by removing 10 C.F.R. §§ 70.23(a)(8) and 70.23(b), stripping out the separate Commission approval step that currently applies to principal structures, systems, and components before a full operating license issues. It would create a new physical-security exemption at 10 C.F.R. § 37.11(d) relieving licensees of existing Subpart B, C, and D protection requirements for category 1 and 2 quantities of radioactive material when that material is contained in newly defined "large components" (2,000 kilograms or more) or "robust structures." It would replace the individual rulemaking currently required to approve each spent-fuel storage cask

certificate of compliance under 10 C.F.R. § 72.214 with a simple NRC website listing, while applying a NEPA categorical exclusion to those approvals under 10 C.F.R. § 51.22(a)(12). It would allow licensees to dispense with a criticality accident alarm system altogether based on their own self-certification that a criticality accident is "not credible" under 10 C.F.R. § 70.24(a). And it would extend numerous safety-plan and security-plan change-reporting deadlines under 10 C.F.R. § 70.32(d) and (e) from two months to twelve months, extend Material Control and Accounting change-reporting under 10 C.F.R. § 70.32(c)(2) from a two-to-six-month window to four-to-twelve months, eliminate several incident-reporting obligations outright, and extend follow-up incident report deadlines from thirty to sixty days.

Real-World Consequences for Communities

Near Materials Facilities

These are not abstract administrative simplifications. Communities located near uranium conversion plants, fuel-fabrication facilities, plutonium-processing sites, and spent-fuel storage installations rely on the current regulatory sequence — advance notice, completed environmental review, staged licensing, and prompt incident reporting — as the primary mechanism through which they learn of, and can meaningfully weigh in on, facilities that will operate in their midst for decades.

Eliminating the nine-month notice period and permitting construction before NEPA review concludes means that by the time the public sees a completed environmental impact statement or environmental assessment, a facility handling special nuclear material may already be substantially built. That sequencing does not merely inconvenience objectors; it

forecloses the practical possibility that environmental review will meaningfully alter the outcome, because canceling or relocating a partially constructed facility handling plutonium or highly enriched uranium becomes economically and politically untenable regardless of what the review finds.

The security and safety rollbacks compound this concern. Relaxing physical-protection requirements for category 1 and 2 quantities of radioactive material — material that, in the wrong hands, could be used in a radiological dispersal device — based on a newly invented "large component" or "robust structure" exemption removes a layer of protection that Subparts B, C, and D were designed to provide independent of a container's size or robustness. Allowing licensees to self-certify away the need for a criticality accident alarm system removes an engineered safety backstop precisely where

an unplanned nuclear chain reaction poses the gravest and most immediate danger to onsite workers and, potentially, surrounding communities. And extending change-reporting deadlines for special nuclear material control and accounting from as little as two months to as long as twelve months delays the Commission's ability to detect diversion, loss, or security degradation involving plutonium and highly enriched uranium — the very materials whose control the Atomic Energy Act treats as a matter of national security, not routine bookkeeping.

Scientific and Safety Implications

The proposed changes raise substantial safety and technical concerns, including:

Removing the fixed nine-month advance-notice period eliminates the predictable lead time NRC staff, state regulators, and local emergency planners currently use to prepare technical

reviews, inspection schedules, and emergency-response coordination before construction begins.

Permitting construction before NEPA review concludes creates irreversible sunk-cost pressure on the agency's own environmental analysis, undermining NEPA's core purpose of informing decisions before, not after, resources are committed and environmental harm becomes a fait accompli.

Eliminating the two-step licensing process for plutonium-processing and fuel-fabrication facilities removes an independent Commission checkpoint on principal structures, systems, and components — precisely the safety-significant design elements most likely to reveal deficiencies before a facility is fully built and licensed.

Exempting "large components" and "robust structures" from Subparts B, C, and D physical-

protection requirements substitutes an unproven size- or robustness-based assumption for the layered, defense-in-depth security architecture NRC has long required for category 1 and 2 radioactive material.

Replacing individual cask certificate-of-compliance rulemakings with a website listing, combined with a new NEPA categorical exclusion, removes independent technical vetting and public/expert scrutiny of spent-fuel storage cask designs that must perform safely for decades.

Self-certification of criticality safety, replacing a hard equipment requirement (a criticality accident alarm system) with a licensee's own "not credible" determination, eliminates an objective, verifiable engineering control in favor of an interested party's self-assessment.

Lengthening safety-plan, security-plan, and material-control-and-accounting change-

reporting deadlines from months to as long as a year delays NRC's visibility into changes affecting the security and accounting of plutonium and highly enriched uranium.

Eliminating certain unplanned-contamination and concurrent-notification reporting requirements, and doubling follow-up report deadlines from thirty to sixty days, slows the flow of safety-relevant information to the Commission and the public precisely when prompt reporting matters most.

Legal Deficiencies

1. The proposal conflicts with the Atomic Energy Act's core mandate that NRC ensure "adequate protection" of public health and safety. The Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2201 et seq., charges the Commission with ensuring "adequate protection" of the public health and safety in

connection with the possession and use of source, byproduct, and special nuclear material. That mandate is not discretionary window dressing; it is the statutory floor beneath every licensing, security, and safety-reporting requirement the Commission administers. Eliminating a hard criticality-alarm requirement in favor of licensee self-certification, relaxing physical-protection requirements for category 1 and 2 quantities of radioactive material, and extending safety-plan and security-plan reporting deadlines from months to a year each independently narrow the margin of protection the Atomic Energy Act requires the Commission to maintain. Nothing in the rulemaking record establishes that these changes preserve, rather than erode, the "adequate protection" standard; the Commission's own characterization of the rule as "deregulatory

in nature" concedes the opposite.

2. The proposal is arbitrary and capricious under the Administrative Procedure Act. Under 5 U.S.C. § 706(2)(A), a reviewing court must set aside agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." The Supreme Court's decision in *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29 (1983), requires the agency to articulate a rational connection between the facts found and the choice made, and forbids an agency from simply disregarding facts or interests that its prior rules were designed to protect. Here, NRC proposes to eliminate a two-step licensing process for plutonium-processing and fuel-fabrication facilities, permit construction before environmental review concludes, and relax physical-security

requirements for category 1 and 2 material — all without adequately grappling with the specific safety and security rationales that led the Commission to adopt those very safeguards in the first place. An agency changing course must at minimum display awareness that it is changing position and provide a reasoned explanation supporting the new policy that is more than a bare assertion of administrative convenience; a "modernization" label is not a substitute for reasoned decisionmaking.

3. Permitting construction before NEPA review concludes undermines the statutory purpose of environmental review and cannot be reconciled with a "hard look" obligation. NEPA requires federal agencies to take a "hard look" at the environmental consequences of their actions before those actions are taken, so that environmental

considerations are factored into the decision rather than retrofitted after the fact. Allowing applicants to build most materials facilities "at the applicant's own risk" before NRC/NEPA review is complete inverts this sequence: by the time review concludes, a facility may already be operational or substantially complete, and the agency's "review" becomes an after-the-fact ratification exercise rather than a genuine input into whether, or how, the facility should proceed. Carving out only uranium-enrichment and spent-fuel reprocessing facilities from this change does not cure the defect for the many other special-nuclear-material and byproduct-material facilities left exposed to pre-review construction, nor does the rule explain why those other facility types present categorically lower environmental risk.

4. The 45-day comment period is legally inadequate for a rule of this scope and complexity. Executive Order 12866 § 6(a)(1) directs agencies to provide a comment period of not less than 60 days for regulations that are significant, and this rule — touching seven parts of Title 10, six separate deregulatory provisions, and, by the Commission's own description, its "most comprehensive modernization" of materials licensing in decades — plainly qualifies. The Administrative Procedure Act, 5 U.S.C. § 553(c), does not merely require that an agency accept comments; it requires that interested persons receive a meaningful, not merely nominal, opportunity to participate in the rulemaking. A 45-day window to analyze amendments to 10 C.F.R. Parts 30, 37, 40, 51, 70, 72, and 140 spanning licensing timelines, environmental review sequencing,

security, criticality safety, and incident reporting does not afford the public, technical experts, state regulators, or affected communities a realistic opportunity to evaluate interconnected changes of this magnitude, let alone to develop the record-based comments the APA contemplates.

5. The rule fails to adequately account for the reliance interests of communities living near materials-licensed facilities. Communities near uranium conversion, fuel-fabrication, plutonium-processing, and spent-fuel storage facilities have organized their expectations — emergency planning, local investment decisions, and basic assurances of safety — around the existing licensing and security framework, including advance notice of construction, completed environmental review before ground is broken, an independent Commission

most sensitive facility types, and defense-in-depth physical security for category 1 and 2 material. An agency changing a longstanding policy that has engendered such serious reliance must provide a more detailed justification than would suffice for a new policy created on a blank slate. The proposed rule does not meaningfully address how communities, state and local emergency planners, or NRC's own inspection and enforcement staff are expected to adapt to compressed notice periods, deferred environmental review, relaxed security requirements, and slower incident reporting, nor does it explain why the safety margins those reliance interests were built upon are no longer necessary.

Returning to First Principles

The Commission was created, and the Atomic Energy Act was written, on the premise that

the extraordinary hazards of nuclear materials justify an extraordinarily careful regulatory process — one in which the public receives advance notice before construction, environmental review concludes before facilities are built, sensitive facility designs receive independent Commission scrutiny before they are finalized, and safety and security changes are reported promptly rather than on a licensee's own extended timetable. The proposed rule does not merely streamline paperwork; it dismantles or delays each of those sequential safeguards at once, across seven parts of Title 10, while affording the public only 45 days to understand and respond to the cumulative effect.

Modernization is a legitimate regulatory goal, but modernization that trades away adequate protection, meaningful environmental review, and public participation in the name of

efficiency is not modernization — it is deregulation dressed in administrative language, and the Commission's own characterization of the rule as "deregulatory in nature" confirms as much.

For the foregoing reasons, I respectfully request that the Commission: (1) withdraw the proposed rule, or at minimum extend the comment period by no fewer than 60 additional days consistent with Executive Order 12866 § 6(a)(1) to allow for meaningful public and technical review; (2) retain the existing nine-month advance-notice requirement at 10 C.F.R. §§ 30.32(f), 40.31(f), and 70.21(f), and require that NEPA environmental review conclude before construction begins at all materials facilities, not merely uranium-enrichment and spent-fuel reprocessing facilities; and (3) preserve the two-step licensing process for plutonium-

processing and fuel-fabrication facilities, the existing physical-protection requirements of 10 C.F.R. Part 37 Subparts B, C, and D, the criticality accident alarm system requirement of 10 C.F.R. § 70.24(a), and the current safety-plan, security-plan, and Material Control and Accounting reporting deadlines, absent a reasoned, record-supported explanation for why each specific safeguard no longer serves the Atomic Energy Act's adequate-protection mandate.

Thank you for considering these comments.
Respectfully submitted,
Concerned Citizen

Sources Consulted

NRC Federal Register Notice, "Modernizing Materials Licensing," 91 Fed. Reg. (June 24, 2026), [FR-2026](#)-06-24, Document

2026-12702: <https://www.govinfo.gov/content/pkg/FR-2026-06-24/pdf/2026-12702.pdf>

NRC Docket NRC-2025-1370, Regulations.gov:
<https://www.regulations.gov/docket/NRC-2025-1370>

NRC Pre-Publication Proposed Rule Text: <https://www.nrc.gov/docs/ML2616/ML26168A522.pdf>

NRC News Release 26-071, "NRC Proposes Most Comprehensive Modernization": <https://www.nrc.gov/sites/default/files/cdn/doc-collection-news/2026/26-071.pdf>