U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF ADVOCACY
REGULATION • RESEARCH • OUTREACH

January 12, 2026

VIA ELECTRONIC TRANSMISSION
The Honorable David A. Wright, Chairman
Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: Comments on The Sunset Rule [Docket No. NRC-2025-21784]

Dear Chairman Wright:

On December 3, 2025, the U.S. Nuclear Regulatory Commission (NRC) issued a direct final rule[1] (the Sunset Rule) amending its regulations to insert a conditional sunset date into certain regulations in response to President Trump's Executive Order (E.O.) 14270, *Zero-Based Regulatory Budgeting to Unleash American Energy*.[2] This letter constitutes the Office of Advocacy's (Advocacy) public comments on this direct final rule.

Advocacy appreciates the opportunity to comment on behalf of small entities and supports NRC's efforts to insert conditional sunset dates into selected regulations that are outdated, duplicative, or no longer necessary, in line with Executive Order 14270 and the Regulatory Flexibility Act. Many small advanced nuclear businesses are affected by older rules that were written for large, traditional reactors and can create unnecessary costs or barriers for newer technologies. Advocacy urges NRC to prioritize reviewing these types of rules under the Sunset process and offers to help the agency hear directly from affected small businesses.

I. The Office of Advocacy

Congress established the Office of Advocacy in 1976 under Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent voice within the Executive Branch that seeks to ensure small business concerns are heard in the federal regulatory process. Advocacy also works to ensure that regulations do not unduly inhibit the ability of small entities to compete, innovate, or comply with federal laws. The views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration.

[1] 90 Fed. Reg. 55621 (Dec. 3, 2025).
[2] 90 Fed. Reg. 15643 (Apr. 15, 2025).

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),[3] gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, the RFA requires federal agencies to assess the impact of the proposed rule on small entities and to consider less burdensome alternatives.[4] If a rule is not expected to have a significant economic impact on a substantial number of small entities, agencies may certify it as such and submit a statement of the factual basis for such a determination that adequately supports its certification.[5]

Advocacy's comments are consistent with Congressional intent underlying the RFA, that "[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public."[6]

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.[7] The agency must include a response to these written comments in any explanation or discussion accompanying the final rule's publication in the *Federal Register*, unless the agency certifies that the public interest is not served by doing so.[8]

II. The Sunset Rule

Advocacy supports sunset provisions as a tool to promote more efficient, risk-informed regulation. When implemented thoughtfully, sunset mechanisms can: (1) focus agency attention on rules that may be obsolete or duplicative; (2) encourage agencies to consider new scientific and technological developments; and (3) create predictable opportunities for small entities to provide input on whether existing regulations remain appropriate. For the NRC, which regulates a rapidly evolving sector such as advanced nuclear energy and materials used in medicine, these periodic reviews can help ensure that legacy regulations developed for large light-water reactors do not impede innovation by small, advanced -reactor developers.

The agency should incorporate small entity participation into the sunsetting process and use their feedback on the impacts of existing outdated regulations to inform future sunset rulemakings.

III. Small Nuclear Entities and the Importance of Tailored Outreach

There is an increasingly diverse group of early-stage small entities involved in advanced nuclear energy, including developers of advanced reactors, small modular reactors (SMRs),

[3] Pub. L. No. 104-121, tit. II, 110 Stat. 857 (1996) (codified in scattered sections of 5 U.S.C. §§601-612).
[4] 5 U.S.C. § 603.
[5] *Id*. § 605(b).
[6] Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified at 5 U.S.C. §§ 601-612).
[7] Small Business Jobs Act of 2010, Pub. L. No. 111-240, §1601, 214 Stat. 2551 (codified at 5 U.S.C. § 604).
[8] *Id.*

microreactors, fuel cycle technologies, software and digital twin tools, safety and instrumentation systems, and other enabling technologies. As a result, they may be significantly affected by how the NRC applies sunset provisions and by which legacy requirements the NRC chooses to revisit.

Given the specialized nature of advanced nuclear technologies and the relatively small size of many firms in this space, meaningful consultation will be essential to understanding how legacy NRC rules affect innovation, capital formation, and deployment timelines. In implementing the Sunset Rule and in selecting additional regulations for future sunset cycles, Advocacy therefore encourages the NRC to:

- explicitly consider whether the regulation may disproportionately impact small entities in the advanced nuclear sector,
- provide clear, accessible descriptions of candidate regulations, including practical examples of how they apply to small reactor designs and related technologies, and
- use multiple outreach channels (e.g., virtual listening sessions, targeted industry notices, and collaboration with Advocacy) to ensure that affected small entities are aware of opportunities to comment.

Advocacy believes the Sunset Rule framework, when combined with targeted small business outreach, can help the NRC identify those specific provisions that impose unnecessary burdens on small entities while preserving core safety and security elements. Advocacy stands ready to assist the NRC in engaging directly with these small entities, including helping to convene roundtables, facilitating small entity outreach under the RFA, and encouraging written input on particular regulations under consideration for sunset.

IV. The NRC Should Illustrate the Benefits of the Sunset Rule.

The NRC's RFA analysis for the Sunset Rule concludes that the rule does not have a significant economic impact on a substantial number of small entities because the substantive portions affect only the licensing and operation of nuclear power plants, which are owned by firms that do not qualify as small entities under NRC's size standards. However, removing outdated regulations that have stifled innovation and disincentivized new entrants for years would open opportunities for small entities, which would be expected to substantially benefit from the changes.

Small entities are affected by the broader body of NRC regulations and would benefit from the careful application of sunset principles to certain legacy requirements, especially those that otherwise block innovation and market entry. Producing an initial regulatory flexibility analysis (IRFA) would help the NRC quantify the benefits these small entities would experience from the sunset rule.

Additionally, in support of the principles of EO 14270, the Sunset Rule likely provides significant economic benefits in lower costs and increased innovation in energy production. Energy is a multi-trillion-dollar segment of the U.S. economy, supporting millions of jobs and

hundreds of billions of dollars in annual investment. The utilities sector alone brings in over $733 billion in revenue. Yet nuclear power has historically represented only 22% of electric power generation, the majority of which came from large firms. Improving market access by eliminating outdated rules via sunsetting will revitalize the entire sector, driving down energy costs and increasing innovation across the economy. Small entities are expected to benefit from increased market access to start new firms as well as reduced energy prices due to innovation and competition. Beneficial impacts are expected to be in the billions of dollars.

Determining that the benefits of the Sunset Rule justify its costs by properly conducing a thorough regulatory analysis would strengthen the effectiveness and durability of the rule. A cost-benefit assessment adds to the administrative record and provides a clear rationale for the action in support of the rule. NRC should provide an overall estimate of the benefits of sunsetting outdated requirements, including the selected rules here and for future selected rules, so the public has an understanding of the total economic potential to innovation and efficiency that can come from removing regulations that have outlived their purpose and reducing unnecessary burdens that pose barriers to growth and entry in the nuclear energy sector.[9]

The Department of Health and Human Services' (HHS) SUNSET rule, finalized on January 19, 2021, is a case in point. [10] The rule would have required HHS to review its regulations every ten years using Regulatory Flexibility Act criteria, with any regulation not reviewed in that period set to automatically expire. The rule's potential benefits may well have significantly exceeded the cost of the staff time required to conduct the reviews. However, because those benefits were not quantified, the Biden administration's withdrawal of the rule could more easily emphasize HHS personnel time and resource costs.[11]

V. Small Entities Have Provided Suggestions for Future NRC Sunset Reviews.

Small business owners have provided Advocacy with a list of specific NRC regulations that, in their view, are outdated, inconsistent with the risk profile of advanced non-light-water reactor (non-LWR) designs, or disproportionately burdensome for small entities. While each of these regulations are within the statutory scope of EO 14270 because they were issued under the Atomic Energy Act, the Energy Reorganization Act, or the Nuclear Waste Policy Act, the NRC may classify many of them as core safety, security, or permitting provisions, and therefore exempt them from the Sunset Rule. However, Advocacy asserts the suggestions below are strong candidates for future review under the Sunset Rule framework or RFA section 610, as appropriate. Advocacy encourages the NRC to consider them in subsequent sunset or 610 review cycles, accompanied by robust small entity outreach.

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[9] *See* Office of Mgmt. & Budget, Exec. Office of the President, Circular A-4, Regulatory Analysis, p. 1, (Oct. 9, 2003), available at https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf.
[10] Securing Updated and Necessary Statutory Evaluations Timely, 86 Fed. Reg. 5694 (Jan. 19, 2021).
[11] Withdrawing Rule on Securing Updated and Necessary Statutory Evaluations Timely, 87 Fed. Reg. 32,249 (May 27, 2022).

A. General Design Criteria for Nuclear Power Plants[12]

The General Design Criteria (GDC) establish minimum design requirements for nuclear power plants, including criteria for structures, systems, and components important to safety. These criteria were developed for large light-water reactors (LWRs), which are no longer being built, and are based on assumptions such as high-pressure coolant loops and large-break loss-of-coolant accident scenarios. For advanced non-LWR designs, such as molten salt reactors and other innovative concepts, many of the underlying assumptions do not reflect the reality of the current technology and can force design choices that add cost without a corresponding safety benefit. These costs may be particularly onerous for small reactor startups.

B. Physical Protection Categorization of Special Nuclear Material[13]

The categories of special nuclear material (SNM) are defined for physical protection purposes and set out how different forms and quantities of SNM are grouped based on their perceived attractiveness for theft or diversion and the corresponding level of security that licensees must provide. These categorizations drive physical protection requirements including access controls, monitoring, and response capabilities for facilities that possess categorized material. Under the current framework, certain advanced-reactor fuel forms such as uranium-233 used in some molten salt reactor fuel cycles are placed in the same protection categories as weapons-grade plutonium, even when those fuels contain uranium-232 and other contaminants that produce strong radiation fields which significantly deter handling and diversion. As a result, the existing categories reflect older proliferation assumptions and impose physical security measures that are not well aligned with the actual diversion risk of these inherently less attractive fuel forms, creating unnecessary burdens for innovative small reactor developers.

C. Generic Emergency Planning Zone Requirements[14]

The NRC's generic emergency planning zone (EPZ) requirements for nuclear power reactors include the size and configuration of the plume-exposure and ingestion-pathway zones that licensees must address in their emergency plans. However, these EPZs were developed with large, high-power LWRs in mind and are based on conservative assumptions about potential accident source terms and offsite radiological consequences. For small, modular reactors with lower source terms, robust passive safety features, and much smaller physical footprints, these generic EPZ assumptions do not accurately reflect the actual level of risk. In practice, applying the same default EPZ sizes limit modular siting flexibility and impose disproportionate emergency planning burdens on small businesses developing inherently safe advanced reactors.

D. Public Dose Limits Based on Linear No-Threshold (LNT Assumption)[15]

[12] 10 CFR § 50, Appendix A.
[13] 10 CFR § 73.1.
[14] 10 CFR § 50.47 (c).
[15] 10 CFR § 20, Subpart C.

Limits on the amount of radiation dose that members of the public may receive from licensed nuclear activities are established by using the linear no-threshold (LNT) model of radiation risk. Under the LNT framework, any incremental dose of ionizing radiation is assumed to increase health risk in direct proportion to dose, with no dose so low that it can be considered risk-free. For advanced reactor designs, especially those pursued by small businesses, strict application of LNT-based limits can drive very conservative design and siting assumptions that may not reflect modern scientific understanding of low-dose radiation effects. In practice, this can lead to over-engineered shielding and zoning, reduced siting flexibility, higher compliance costs, and heightened public concern, even when projected doses are well below natural background levels.

E. Financial Protection Requirements (Price-Anderson)[16]

The Price-Anderson Nuclear Industries Indemnity Act[17] requires a financial protection and indemnity framework for nuclear facilities, including minimum levels of primary insurance and, for certain facilities, participation in a secondary retrospective premium layer. These requirements are designed to ensure that adequate funds are available to compensate the public in the event of a nuclear incident and apply to licensed reactors and other covered nuclear installations. Under the current structure, financial protection expectations can be broadly similar across reactor types, with limited differentiation based on plant size, technology, or overall risk profile. For small, inherently safe advanced reactors, this results in insurance and financial protection requirements that are disproportionately burdensome relative to their potential offsite consequences and the scale of their operations, particularly for early-stage small business developers.

F. Independent Spent Fuel Storage Installations[18]

The NRC's regulations for Independent Spent Fuel Storage Installations (ISFSIs) establish licensing, design, and operational requirements for facilities that store spent nuclear fuel and certain other radioactive materials, typically in dry casks located away from operating reactors. These rules are built around the premise that all spent fuel is long-lived solid waste that must be permanently stored in secure, standalone containers for decades under conservative safety and security provisions. However, advanced reactor designs can transmute or consume existing spent fuel as part of an integrated fuel-cycle concept. Treating all spent fuel as material destined solely for long-term storage discourages integrated designs that combine waste reduction with power production and imposes costly storage obligations that are not tailored to waste-reducing technologies, which is challenging for small, innovative developers.

[16] 10 CFR § 140.
[17] *Id*.
[18] 10 CFR § 72.

G. Low-Level Waste Classification Systems[19]

The NRC's low-level radioactive waste classification framework was developed for traditional LWR waste streams and uses generic thresholds and decay assumptions to determine how different wastes must be handled and disposed of. For advanced technologies such as thorium-based molten salt reactors and some fast reactors with a higher proportion of shorter-lived fission products, this framework can overstate long-term disposal needs and thereby create unnecessary financial and siting hurdles for small businesses.

VI. Section 610 Review of Regulatory Flexibility Act

The RFA offers an additional regulatory review tool the NRC could also use to complement the Sunset Rule. Section 610 of the RFA allows agencies to determine whether existing rules are still working as intended or if revisions (or recissions) are needed.[20] The reviews must take place at least every 10 years after a rule's enactment.[21] When reviewing a rule, an agency must consider:

1) The continued need for the rule.
2) The nature of public complaints or comments received on the rule.
3) The complexity of the rule.
4) The extent to which the rule overlaps, duplicates, or conflicts with other federal rules (and state and local governmental rules).
5) The length of time since the rule was last evaluated and the degree to which technology, economic conditions, or other factors may have impacted the area regulated by the rule.[22]

After considering these factors and taking public comments, the agency can decide to continue implementing the rule without change, amend the rule to address issues brought up during the review process, or rescind the rule if there is no longer a need to regulate. Coupled with the Sunset Rule, RFA Section 610 offers the NRC an additional method of reviewing rules that may no longer be necessary.

VII. Conclusion

Advocacy supports the NRC's effort to integrate sunset provisions into its regulatory framework as a mechanism to periodically reassess rules and focus resources on regulations that remain necessary, effective, and appropriately tailored. The economic opportunity for nuclear energy is massive, and many small entities are endeavoring to create value through innovation. Ensuring a competitive market with low barriers to innovation and entry is key to unlocking potential and powering the U.S. economy into the future.

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[19] 10 CFR § 61.
[20] *See* U.S. SMALL BUS. ADMIN., OFF. OF ADVOCACY, A GUIDE FOR GOVERNMENT AGENCIES: HOW TO COMPLY WITH THE REGULATORY FLEXIBILITY ACT 80 (Nov. 2018).
[21] 5. U.S.C. § 610(a).
[22] *Id.* § 610(b).

Advocacy urges the NRC, as it continues to implement the Sunset Rule, to prioritize future review of the specific regulations identified above and to work closely with small nuclear entities to understand the real-world effects of legacy requirements on advanced technologies and small business innovation. Advocacy additionally urges the NRC to utilize RFA section 610 reviews to complement the Sunset Rule and further reduce barriers to small entities seeking to enter the nuclear energy space.

If you have any questions or require additional information, please contact me or Assistant Chief Counsel Shanerika Flemings at (202) 205-3651 or shanerika.flemings@sba.gov.

Sincerely,

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