



June 29th, 2026

U.S. Department of Energy
1000 Independence Avenue SW
Washington, DC 20585

Subject: Public Comment on DOE's Notice of Proposed Rulemaking Regarding Zero-Based Regulating (DOE-HQ-2025-0603)

To Whom It May Concern,

The Nuclear Innovation Alliance (NIA) is an independent, non-profit, non-partisan “think-and-do” tank whose mission is to help create the conditions for success for advanced nuclear energy so it can play a major role as an energy security and climate solution. Through policy analysis, research, outreach, and education, NIA is catalyzing the next era of nuclear energy. We focus on regulatory modernization, federal and state policy, and enabling private investment to support advanced reactor commercialization while meeting national environmental and energy security goals.

NIA appreciates the opportunity to comment on this Department of Energy (DOE) notice of proposed rulemaking (NPR). While we appreciate DOE's efforts to streamline and simplify its regulations in this NPR, we have concerns regarding: (1) the proposed sunset of 10 CFR Part 840, and (2) the limited explanation provided for the regulations proposed for sunset. As a result, we offer the following comments, including two recommendations.

10 CFR Part 840:

This NPR proposes to sunset 10 CFR Part 840 (Part 840), which establishes the criteria DOE uses to determine whether a nuclear incident constitutes an Extraordinary Nuclear Occurrence (ENO). These criteria are relevant to the Price-Anderson Act at 42 U.S.C. § 2210(n)(1), which requires that when an ENO occurs, contractors and licensees waive several legal defenses they would otherwise be entitled to assert. This, in effect, makes it easier and faster for the public to receive compensation after a major nuclear accident.

If DOE sunsets Part 840 and the ENO criteria disappear, the statutory requirements in § 2210(n)(1) do not disappear with it. The statute still requires determining whether an accident is an ENO, but without regulatory criteria, that determination could become uncertain, complicated, and subject to litigation. For example, in a major accident scenario, victims would likely argue the incident is an ENO, because an ENO determination removes key defenses

otherwise available to defendants. Conversely, defendants (e.g., DOE contractors, indemnified entities, or licensees) would assert that the incident is not an ENO, because that preserves additional defenses.

Without Part 840's criteria, the criteria to determine if an incident constitutes an ENO status would be without any regulatory guidance or clear criteria. That means:

- Longer litigation.
- Higher legal costs for all parties.
- Delayed compensation for the public.

While major nuclear accidents are rare, they are not impossible, and Price-Anderson exists precisely for low-probability, high-consequence events. Removing the ENO criteria undermines the statutory design at the moment it would matter most.

Recommendation 1: Reconsider sunseting 10 CFR Part 840. We recommend DOE reconsider sunseting 10 CFR Part 840. Part 840 provides the regulatory criteria needed to implement the ENO provisions of 42 U.S.C. § 2210(n)(1). Removing that criteria would introduce uncertainty into the Price-Anderson framework, increase litigation risk, and undermine Congress's intent to ensure timely compensation after a major nuclear incident. At a minimum, DOE should explain the rationale for sunseting Part 840, how ENO determinations would be made without clear ENO criteria, and how DOE evaluated the litigation implications.

Explanations for Sunset Determinations:

Along with Part 840, this NOPR proposes to sunset many regulations across multiple subject areas. Those directly relevant to nuclear energy and security include:

- The Uranium Enrichment Decontamination and Decommissioning Fund (10 CFR Part 766)
- Permits for access to restricted data (10 CFR Part 725)
- The classification and declassification of nuclear information (10 CFR Part 1045)
- Guidelines for nuclear waste repository siting (10 CFR Parts 960 and 963)

While DOE extended the sunset dates for certain regulations with national security implications by five years, the NOPR does not provide explanations for why any of the regulations subject to this NOPR are appropriate for sunset. Since DOE has not provided specific rationales in this NOPR for each Part that is proposed to be sunset, stakeholders lack the information needed to properly evaluate DOE's basis for sunseting each proposed part.

Recommendation 2: Provide explanations for each proposed sunset. We recommend that DOE provide a clear explanations for each regulation it proposes to sunset. Stakeholders cannot meaningfully evaluate the implications of this rule without understanding why each affected part is considered appropriate for sunset and how DOE determined that sunseting those provisions will not conflict with statutory requirements or negatively affect existing DOE programs.

NIA would like to thank DOE for the opportunity to comment on this NOPR. If you have any questions, please contact us at ecothon@nuclearinnovationalliance.org.

Sincerely,

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