

# Congress of the United States

Washington, DC 20510

July 14, 2023

The Honorable Bradley Crowell  
Commissioner  
US Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

Dear Commissioner Crowell,

We write to urge you to carefully review and modify, as necessary, the proposed rule titled “Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors” to enable the successful use of the rule for licensing of advanced nuclear reactors.

In 2018, Congress passed the Nuclear Energy Innovation and Modernization Act (NEIMA) with broad bipartisan support.<sup>1</sup> This law reformed the Nuclear Regulatory Commission’s (NRC) fee structure and required regulatory reforms to help enable efficient licensing of advanced nuclear reactor technologies.

NEIMA included specific direction for the Commission to “complete a rulemaking to establish a technology-inclusive, regulatory framework for optional use by commercial advanced nuclear reactor applicants for new reactor license applications” by December 31, 2027.<sup>2</sup>

To implement this direction, the Commission, with congressional support, directed the NRC staff to develop the rulemaking on an accelerated schedule.<sup>3</sup> This schedule has provided the Commission with sufficient time to address issues identified during the rulemaking drafting process, while still complying with the statutory deadline.

Following the Commission’s direction, the NRC staff took an iterative approach that resulted in extensive public interaction as the proposed rule was developed.<sup>4</sup> By September 2022, some 130 public comments were submitted in response to the proposal.<sup>5</sup>

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<sup>1</sup> P.L. 115-439.

<sup>2</sup> NEIMA defines the term “technology-inclusive regulatory framework” as a “regulatory framework developed using methods of evaluation that are flexible and practicable for application to a variety of reactor technologies, including, where appropriate, the use of risk-informed and performance-based techniques and other tools and methods.”

<sup>3</sup> <https://www.nrc.gov/reactors/new-reactors/advanced/rulemaking-and-guidance/part-53.html>

<sup>4</sup> <https://www.nrc.gov/docs/ML2116/ML21162A095.pdf> (“Since September 2020, the NRC staff has held 24 public meetings with external stakeholders and 16 public meetings with the [Advisory Committee on Reactor Safeguards] to discuss the Part 53 rulemaking.”).

<sup>5</sup> <https://www.regulations.gov/document/NRC-2019-0062-0012/comment>

On March 1, 2023, the NRC staff provided the Commission with the proposed rule, known as the “Part 53” rule.<sup>6</sup> The proposed rule includes 1,173 pages and is supported by a draft environmental assessment, a draft regulatory analysis, and a staff analysis of alternative approaches to selected topics.<sup>7</sup>

We recognize the NRC staff’s efforts to draft a proposal that balances flexibility for different technologies while providing sufficient predictability for applicants. Throughout the NRC’s staff work on the rulemaking, a few key issues were consistently identified that are left for the Commission to resolve.<sup>8</sup> There is general agreement among stakeholders that some of the most important issues that a final Part 53 rule must address include:

- a two-framework structure that limits the proposed rule’s overall benefit;
- the use of Quantitative Health Objectives (QHOs) as performance criteria;
- the inclusion of the principle of “As Low As Reasonably Achievable” (ALARA) as a design requirement;
- the requirement to protect against “beyond-design-basis-events” (BDBEs) in the design basis;
- the inclusion of a facility safety program; and
- inconsistent application of new programs and terminology.

Any newly established Part 53 regulations must enable the NRC to fulfill its mission to “provide reasonable assurance of adequate protection of public health and safety and to promote the common defense and security and to protect the environment.”<sup>9</sup> We appreciate the NRC staff’s hard work, but it is incumbent on the Commission to ensure that the final rule meets the intent of the law.

We all agree that a successful Part 53 regulatory framework should reflect congressional intent and be used to license the next generation of nuclear reactors. In order to be effective, we urge the Commission to work to address any outstanding issues prior to issuance of a final rule. Your review and modifications of the proposed rule will determine if that success is achieved. We appreciate that all five Commissioners recently agreed that the framework must be usable, and you committed to provide specific direction to resolve outstanding issues.<sup>10</sup>

While the initial advanced reactor applications are expected to use existing licensing frameworks, it is critical and urgent that the new framework is established with the capacity to

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<sup>6</sup> The proposed rule is referenced as the “Part 53” rule for its expected location in the Code of Federal Regulations.

<sup>7</sup> <https://www.nrc.gov/docs/ML2116/ML21162A102.pdf>

<sup>8</sup> See, for example, Patrick White on behalf of Nuclear Innovation Alliance “[NIA Public Comment on Part 53, Rulemaking Process](#),” August 31, 2022; Adam Stein on behalf of Breakthrough Institute, “[Comment on Part 53\[Regulation Identified Number RIN-3150-AK31; Docket ID NRC-2019-0062\]](#),” August 31, 2022; Brett Rampal on behalf of Clean Air Task Force, “[Comments on Clean Air Task Force in Response to the U.S. Nuclear Regulatory Commission’s Proposed Rule on ‘Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors,’ 85 Fed Reg. 71,002 \(Nov. 6, 2020\), Docket ID No. NRC-2019-0062.](#)”

<sup>9</sup> <https://www.nrc.gov/about-nrc.html>

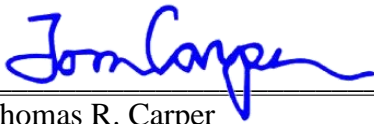
<sup>10</sup>US Senate Committee on Environment and Public Works, “The Nuclear Regulatory Commission’s Proposed Fiscal Year 2024 Budget,” April 19, 2023.

license the large volume of applications necessary to meet our energy and national security priorities, provide grid reliability, and achieve our environmental goals.

As you provide your specific revisions to the proposed rule, we urge you to consider previous and ongoing efforts by public stakeholders, and to utilize the public comment portion of the rulemaking process to seek specific information that may be incorporated into the final rule.

We thank you for your thoughtful consideration of our request.

Sincerely,



Thomas R. Carper  
Chair  
Committee on Environment & Public Works



Cathy McMorris Rogers  
Chair  
Committee on Energy & Commerce



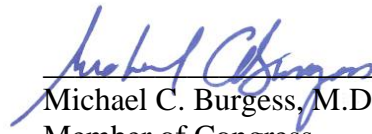
Shelley Moore Capito  
Ranking Member  
Committee on Environment & Public Works



Frank Pallone, Jr.  
Ranking Member  
Committee on Energy & Commerce



Tammy Duckworth  
United States Senator



Michael C. Burgess, M.D.  
Member of Congress



Chris Coons  
United States Senator



Diana DeGette  
Member of Congress



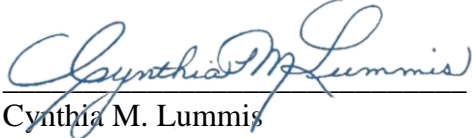
Pete Ricketts  
United States Senator



Robert E. Latta  
Member of Congress



Deb Fischer  
United States Senator



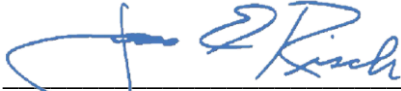
Cynthia M. Lummis  
United States Senator



Martin Heinrich  
United States Senator



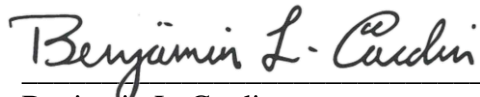
Ted Budd  
United States Senator



James E. Risch  
United States Senator



Kevin Cramer  
United States Senator



Benjamin L. Cardin  
United States Senator



Roger F. Wicker  
United States Senator



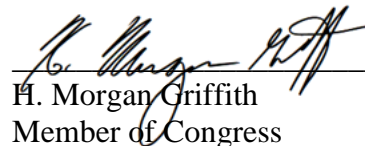
Doris Matsui  
Member of Congress



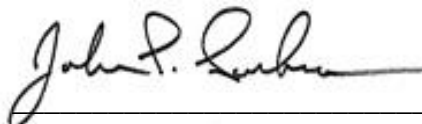
Brett Guthrie  
Member of Congress



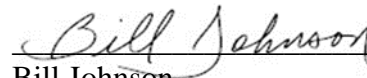
Kathy Castor  
Member of Congress




H. Morgan Griffith  
Member of Congress



John P. Sarbanes  
Member of Congress



Bill Johnson  
Member of Congress



Paul D. Tonko  
Member of Congress



Gus M. Bilirakis  
Member of Congress



Sheldon Whitehouse  
United States Senator



Tony Cardenas  
Member of Congress



Lindsey O. Graham  
United States Senator



Larry Bucshon, M.D.  
Member of Congress



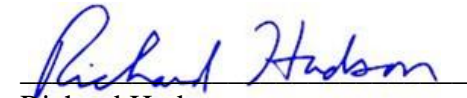
Mark Kelly  
United States Senator



Scott H. Peters  
Member of Congress



Mike Crapo  
United States Senator



Richard Hudson  
Member of Congress



John Barrasso, M.D.  
United States Senator



Marc A. Veasey  
Member of Congress



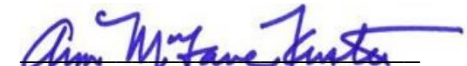
Kyrsten Sinema  
United States Senator



Tim Walberg  
Member of Congress



Joe Manchin III  
United States Senator




Ann McLane Kuster  
Member of Congress



Earl L. "Buddy" Carter  
Member of Congress




Lisa Blunt Rochester  
Member of Congress



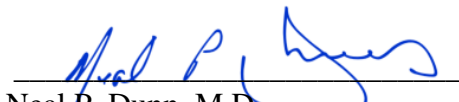
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Jeff Duncan  
Member of Congress



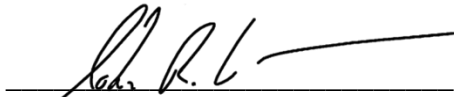
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Gary Palmer  
Member of Congress



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Neal P. Dunn, M.D.  
Member of Congress



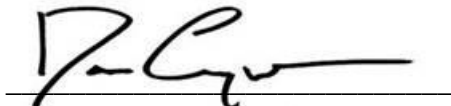
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John Curtis  
Member of Congress



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Debbie Lesko  
Member of Congress




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Dan Crenshaw  
Member of Congress



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Kelly Armstrong  
Member of Congress



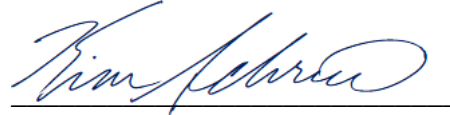
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Rick W. Allen  
Member of Congress




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Darren Soto  
Member of Congress




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Kim Schrier  
Member of Congress



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Lori Trahan  
Member of Congress



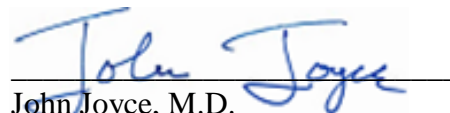
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Lizzie Fletcher  
Member of Congress




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Greg Pence  
Member of Congress




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John Joyce, M.D.  
Member of Congress



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Randy K. Weber  
Member of Congress



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Troy Balderson  
Member of Congress



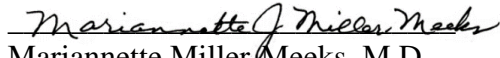
Russ Fulcher  
Member of Congress



August Pfluger  
Member of Congress



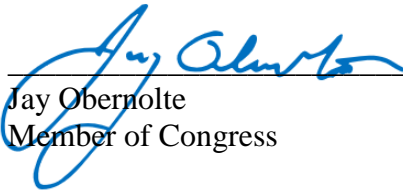
Diana Harshbarger  
Member of Congress



Mariannette Miller-Meeks, M.D.  
Member of Congress



Kat Cammack  
Member of Congress



Jay Obernolte  
Member of Congress

Identical letter sent to:

The Honorable Christopher T. Hanson  
Chairman  
US Nuclear Regulatory Commission

The Honorable David A. Wright  
Commissioner  
US Nuclear Regulatory Commission

The Honorable Annie Caputo  
Commissioner  
US Nuclear Regulatory Commission

The Honorable Bradley Crowell  
Commissioner  
US Nuclear Regulatory Commission