

# INTERNAL METHOD

## FY23/24 Guidance on Common Prioritization of Rulemaking Factor Selection Criteria

This document provides guidance to the U.S. Nuclear Regulatory Commission (NRC) staff in determining the appropriate factors to be used for each rulemaking activity in the Common Prioritization of Rulemaking (CPR) process. The CPR process requires selecting values for the following four factors for each rulemaking:

- Factor A: NRC Strategic Plan strategic goals
- Factor B: NRC Principles of Good Regulation
- Factor C: Governmental priority
- Factor D: Stakeholder confidence

The following discussion provides guidance on how to select the appropriate factors and associated values so that each rulemaking activity, regardless of which office(s) the rulemaking would affect, is scored consistently. Table 1 provides the values assigned to each factor.

This guidance document uses goals, objectives and strategies from the NRC's [Strategic Plan for Fiscal Years \(FY\) 2022-2026 \(hereafter referred to as Strategic Plan\)](#), dated April 2022, as criteria for determining rulemaking priorities. Please note that while the Strategic Plan for FY 2022-2026 did include a goal and associated objectives and strategies related to the NRC's organizational health, those were not included in this guidance document because they apply internally to the NRC rather than the regulated entities that the majority of the NRC's rules apply to. Additionally, please note that while Factor D (Stakeholder Confidence) is now a strategic plan goal, it remains its own Factor rather than being nested into Factor A. As the Strategic Plan is updated or revised, the NRC's Rulemaking Coordinating Committee (RCC) is responsible for evaluating the potential effect of that update or revision on this guidance document. The RCC will decide, on a case-by-case basis, whether to incorporate the update or revision into the guidance document and whether to re-prioritize rulemakings.

### **Factor A – NRC Strategic Plan strategic goals**

The NRC's [Strategic Plan for FY 2022-2026](#) addresses the NRC's goal to ensure the safe and secure use of radioactive materials. This goal reflects the NRC's mission—to license and regulate the Nation's civilian use of radioactive materials to provide reasonable assurance of adequate protection of public health and safety, to promote the common defense and security, and to protect the environment. The [Strategic Plan](#) contains three objectives and several strategies for each objective under this goal:

Safety and Security Objective 1: Provide quality licensing and oversight of nuclear facilities and radioactive materials.

Objective 1 Strategies:

1. Promote risk-informed decisionmaking to result in effective and efficient oversight, rulemaking, and licensing and certification activities.
2. Maintain material safety and security through the National Materials Program in partnership with Agreement States.

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3. Uphold high quality standards and technical proficiency.
4. Ensure that programs for the handling and control of classified and sensitive unclassified information are effectively implemented at the NRC and at licensed facilities.
5. Ensure that licensees have measures to address the potential for increased risk due to climate change.

Safety and Security Objective 2: Ensure that regulatory requirements adequately support the safe and secure use of radioactive materials.

Objective 2 Strategies:

1. Maintain and further risk-inform the current regulatory framework using information gained from operating experience, lessons learned, external and internal assessments, technology advances, research activities, and changes in the threat environment.
2. Proactively identify, assess, and address safety issues, threats, vulnerabilities, and security risks.
3. Leverage institutional knowledge, including that of Agreement States, to identify key areas of regulatory improvement.

Safety and Security Objective 3: Maintain emergency preparedness and response capabilities for NRC and NRC-licensed facilities.

Objective 3 Strategies:

1. Ensure that the NRC maintains its readiness to respond to incidents and emergencies involving NRC-licensed facilities and radioactive materials, other events of domestic and international interest, and public health emergencies or other emergencies involving NRC's facilities and workforce.
2. Ensure that licensees have programs and plans in place to enable an NRC finding of reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

When determining which if any of the objectives applies, consider how the scope of the rulemaking would support the goal and the associated strategies. The value selected must remain within the range shown in Table 1. Further, when determining the contribution (high, medium, low, or none) of the rulemaking toward accomplishing the objectives, consider the following guidelines:

1. High (select a value between 14-20)
  - a. Significant contributor toward one or more objectives; OR
  - b. Moderate contributor toward one or more objectives AND implements multiple strategies in one or more objectives
2. Medium (select a value between 7-13)
  - a. Moderate contributor toward one objective AND implements one objective strategy
3. Low (select a value between 1-6)
  - a. Less substantial or indirect contributor toward one objective
4. None (select a value of 0)
  - a. Does not contribute toward any objective

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## Factor B – NRC Principles of Good Regulation

The NRC's [Strategic Plan for FY 2022-2026](#) states that it is the vision of the agency to demonstrate the principles of good regulation in implementing the NRC's safety and security mission. The principles also help the agency appropriately consider the interests of NRC stakeholders, including the public and licensees.

All rulemakings are developed and issued using the rulemaking process, which supports the principles of good regulation. When determining the priority of a rulemaking, consider only how the changes that the rulemaking would accomplish relate to the NRC's principles of good regulation, rather than the rulemaking process used to develop or issue the rule.

Compare the current regulations and applicable guidance to the proposed change. How does that proposed change to the regulation support Factor B and the NRC's principles of good regulation? For example, a rule that would modify how the public participates in the petition for rulemaking process could enhance openness. Other rulemakings may focus on safety and security issues (addressed in Factor A) but not be focused on changes that directly support Factor B.

There are five principles of good regulation referenced by the strategic plan.

1. Independence: Nothing but the highest possible standards of ethical performance and professionalism should influence regulation. However, independence does not imply isolation. All available facts and opinions must be sought openly from licensees and other interested members of the public. The many and possibly conflicting public interests involved must be considered. Final decisions must be based on objective, unbiased assessments of all information and must be documented with reasons explicitly stated.
  - a. Maintain or enhance the agency's independence as a regulator.
  - b. Example: Congress passes a new statute that would change how the NRC conducts hearings or interacts with other governmental organizations. The rulemaking the NRC would conduct in response might relate to NRC independence as a regulator.
2. Openness: Nuclear regulation is the public's business, and it must be transacted publicly and candidly. The public must be informed about and have the opportunity to participate in the regulatory processes as required by law. Open channels of communication must be maintained with Congress, other government agencies, licensees, and the public, as well as with the international nuclear community.
  - a. Enhance the agency's ability to uphold its mission in an open and transparent way.
  - b. Example: The NRC conducts a rulemaking that would change what information the NRC is required to publish in response to a petition.

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3. Efficiency: The American taxpayer, the rate-paying consumer, and licensees are all entitled to the best possible management and administration of regulatory activities. The highest technical and managerial competence is required and must be a constant agency goal. The NRC must establish means to evaluate and continually upgrade its regulatory capabilities. Regulatory activities should be consistent with the degree of risk reduction they achieve. Where several effective alternatives are available, the option that minimizes the use of resources should be adopted. Regulatory decisions should be made without undue delay.
  - a. Provide the most cost efficient methods for implementing the requirements.
  - b. Example: The NRC conducts a rulemaking that would result in selection of an effective regulatory alternative that minimizes the use of resources when compared to a(n) equally effective alternative(s).
4. Clarity: Regulations should be coherent, logical, and practical. There should be a clear nexus between regulations and agency goals and objectives, whether explicitly or implicitly stated. Agency positions should be readily understood and easily applied.
  - a. Improve the clarity of agency requirements to ensure full compliance when promulgated.
  - b. Example: The NRC promulgates a rule that would clarify the agency's safety or security mission or requirements.
5. Reliability: Regulations should be based on the best available knowledge from research and operational experience. Systems interactions, technological uncertainties, and the diversity of licensees and regulatory activities must all be taken into account so that risks are maintained at an acceptably low level. Once established, regulation should be perceived to be reliable and not unjustifiably in a state of transition. Regulatory actions should always be fully consistent with written regulations and should be promptly, fairly, and decisively administered so as to lend stability to the nuclear operational and planning processes.
  - a. Ensure the reliability of the requirements with which licensees and applicants, etc. must be in compliance.
  - b. Example: The NRC promulgates a rule that would change backfitting or issue finality regulations.

When determining whether one or more of the principles applies, consider how the scope of the rulemaking would support the principle. The value selected must remain within the range shown in Table 1. Further, when determining the contribution (high, medium, low, or none) of the rulemaking toward supporting the principles, consider the following guidelines:

1. High (select a value between 4-5)
  - a. Significant contributor toward one or more principles; OR
  - b. Moderate contributor toward multiple principles
2. Medium (select a value between 2-3)
  - a. Moderate contributor toward one principle

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3. Low (select a value between 1)
  - a. Less substantial or indirect contributor toward one principle
4. None (select a value of 0)
  - a. Does not contribute toward any principle

## **Factor C – Governmental Priority**

Factor C is a weighting factor for a rule considered a priority for the agency to accomplish. The value assigned to the factor is based on two considerations. First, it can be used to account for a rulemaking initiated by a congressional mandate or other Federal requirements and thus requiring a greater agency focus (priority). Second, it can be used to adjust the relative priorities of rulemakings across the agency so that the integrated list of rulemakings appropriately reflects the agency's strategic priorities. For example, if "Rulemaking B" scored a higher prioritization value (from factors A and B) than "Rulemaking A" and senior management believes that "Rulemaking A" is a higher priority for the agency, senior management could adjust this factor to correctly reflect the relative priorities of these rulemakings. The value of this factor is variable, which provides flexibility versus the fixed values assigned to Factors A and B in support of goals and objectives. However, the maximum value for this factor should not exceed Factor A (representing the rulemaking's support for the agency's strategic goals) and is thus scaled appropriately because the agency's safety and security mission should always be prioritized higher than any policy, political, or other consideration.

While there may be other considerations that could contribute toward Factor C, several suggested considerations are:

- Congressional mandate/priority/schedule
- Commission direction/priority (in an SRM or other)
- Conformance with other Federal or International regulations
- Closure or reduction of a significant regulatory gap
- NRC licensing initiative/future regulatory benefit
- Agreement State and/or Tribal interest and concerns
- State and local government interest and concerns

Use the following guidance in selecting the appropriate value for Factor C when determining the relative governmental priority (high, medium, low, or none) of the rulemaking. The value could be adjusted by senior management (higher or lower) as appropriate based on agency strategic priorities, but must remain within the range shown in Table 1.

1. High (select a value between 7-10)
  - a. Significant contributor toward one or more considerations OR Congress or the Commission has provided specific direction and a high priority/schedule on the rulemaking
2. Medium (select a value between 3-6)
  - a. Moderate contributor toward one or more considerations OR Congress or the Commission has provided specific direction with a medium or no priority/schedule on the rulemaking
3. Low (select a value between 1-2)

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- a. Less substantial or indirect contributor toward one or more considerations AND Congress or the Commission has provided no specific direction or priority/schedule on the rulemaking
4. None (select a value of 0)
  - a. No contribution toward any consideration

## **Factor D – Stakeholder Confidence**

The NRC's [Strategic Plan for FY 2022-2026](#) includes numerous strategies under the two Stakeholder Confidence Objectives:

- Stakeholder Confidence Objective 1: Engage stakeholders in NRC activities in an effective and transparent manner.
- Stakeholder Confidence Objective 2: Uphold an NRC decisionmaking process that is data driven and evidence based while ensuring information is available and accessible to interested stakeholders.

These objectives reflect the NRC's goal of promoting stakeholder confidence — The NRC strives to promote transparency in its regulatory activities; provide opportunities for candid and meaningful public participation; and demonstrate that the agency is a capable, independent, trustworthy, and objective regulator. Confidence in the NRC and engagement with stakeholders are enhanced when the agency consistently carries out its mission in an effective, timely, disciplined, and open manner. The NRC's strategies to implement this goal are presented below.

Stakeholder Confidence Objective 1 Strategies:

1. Foster proactive and meaningful interactions with States, Tribes, other governmental and nongovernmental organizations, the regulatory industry, the international regulatory community, and other members of the public.
2. Provide a fair and timely process to allow public involvement in NRC decisionmaking.

Stakeholder Confidence Objective 2 Strategies:

1. Engage stakeholders to ensure awareness and understanding of the NRC's regulatory requirements and decisions.
2. Develop effective communication strategies to explain how risk and uncertainty are addressed and considered in the decisionmaking process.
3. Make information about the NRC's regulatory activities available and accessible to interested stakeholders.
4. Ensure that stakeholders, particularly member of the public who may be disproportionately impacted by the agency's decision, are aware of opportunities for public engagement in the NRC's decisionmaking processes.
5. Ensure that the NRC maintains and publishes accessible and comprehensive information by transforming agency information and siloed databases.

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6. Leverage feedback received from a broad range of stakeholders in the agency's decisionmaking processes.
7. Maintain a high standard of quality and clarity in NRC documents to promote confidence in the agency's work.

Factor D is a weighting factor for a rule considered to be of significant interest to industry, non-governmental organizations, or other members of the public. This factor could consider regulatory incentives such as eliminating the need for license amendments or reducing regulatory burden. This factor could also reflect significant interest (positive or negative) in the rulemaking by members of the public, such as a rulemaking resulting from a petition for rulemaking that attracted heavy media coverage or a rulemaking that received significant participation by members of the public (e.g., public meetings to discuss the regulatory basis, public comments on the proposed rule). The value of this factor is variable, similar to that of Factor C, but must remain within the range shown in Table 1.

While there may be other considerations that could contribute toward Factor D, several suggested considerations are:

- Support for one or more of the Strategic Plan Stakeholder Confidence Objective Strategies (based on the scope of the rulemaking rather than the rulemaking process)
- Regulatory burden reduction
- Resolution of a petition for rulemaking
- Significant public participation/interest/media coverage (e.g., public meeting attendance/feedback, comments on draft documents)
  - Interest from regulated entities (i.e. licensees)
  - Interest from NGOs (Non Governmental Organizations)
  - Interest from international or domestic standards committees (e.g., ASME, IAEA)
- Agreement State interest and concerns

Furthermore, rulemakings that originate from areas of public interest (e.g., those that resolve petitions for rulemaking) may be contributors to considerations already addressed under other factors and may already score high or medium based on those considerations. Conversely, the NRC would be unlikely to undertake rulemaking based primarily on public interest on a subject that does not contribute to the considerations under the other factors.

Use the following guidance in selecting the appropriate value for Factor D when determining the relative stakeholder confidence priority (high, medium, low, or none) of the rulemaking. Keep in mind that the value must remain within the range shown in Table 1.

1. High (select a value between 7-10)
  - a. Significant contributor toward one or more considerations
2. Medium (select a value between 3-6)
  - a. Moderate contributor toward one or more considerations
3. Low (select a value between 1-2)
  - a. Less substantial or indirect contributor toward one or more considerations
4. None (select a value of 0)
  - a. No contribution toward any consideration

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## Prioritization Scoring and Grouping

The total prioritization score is calculated by summing the values for Factors A through D for each rulemaking. Rulemakings will then be grouped into categories of high, medium, and low based on their total scores as follows:

High: Score 31-45  
Medium: Score 16-30  
Low: Score 0-15

**Table 1**  
**Values for Factors A through D**

Goal/Objective	Range
<b>Factor A – Strategic Goals</b>	
Safety, Security	0-20
<b>Factor B – Principles of Good Regulation</b>	
Independence, Openness, Efficiency, Clarity, Reliability, Excellence	0-5
<b>Factor C – Internal</b>	
Governmental (NRC, Congress, etc.) Priority	0-10
<b>Factor D – External</b>	
Public (Industry, non-governmental organization, etc.) Priority	0-10

Total Prioritization Score = Factor A + Factor B + Factor C + Factor D