



July 27, 2026

U.S. Nuclear Regulatory Commission
Office of the Secretary
ATTN: Rulemakings and Adjudications Staff
Washington, DC 20555

Subject: “Modernizing Security Requirements” [NRC-2025-1303]

To all concerned:

The State of New York appreciates the opportunity to comment on the U.S. Nuclear Regulatory Commission’s (NRC’s) proposed rule “Modernizing Security Requirements” (NRC-2025-1303) published in the Federal Register on June 26, 2026. The proposed rule includes several proposed changes to physical security, cybersecurity event notification, and fitness for duty requirements for operating nuclear reactors, as well as changes to security requirements for independent spent fuel storage installations (ISFSIs).

New York’s Interest in the Proposed Rule

New York State has a direct and substantial interest in this action. The State is home to four operating civilian commercial nuclear power reactors at three sites which provide approximately 20 percent of the State’s electricity. The potential for additional well-designed and professionally operated advanced nuclear reactors to serve as a dispatchable, emissions-free resource is currently under strong consideration in New York. The State is pursuing economic growth through increased in-state activities as well as attracting new commercial and industrial activity to New York, while advancing legislated policies for a zero-emission electric grid. In June of 2025, New York Governor Hochul directed the New York State Power Authority to develop and construct new

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advanced nuclear energy capacity of no less than one gigawatt of electricity. Then, in January 2026, the Governor called for a nuclear reliability “backbone” program to be developed through the deployment of an additional four gigawatts of new nuclear energy. In parallel, New York is currently developing a New York Master Plan for Responsible Advanced Nuclear Development and is co-chairing the Advanced Nuclear First Mover Initiative, a multi-state initiative on nuclear energy focused on risk-sharing and driving down costs. New York’s commitment to advanced nuclear deployment is both ambitious and concrete. It is in this context, as a state actively pursuing advanced nuclear energy development to simultaneously support economic expansion and build public confidence in new technologies, that we submit these comments. New York believes that maintaining rigorous environmental and public safety standards is critical to achieving the nation’s goal of accelerated deployment of these emerging technologies. We appreciate all opportunities to provide input to NRC on the licensing, regulation, and oversight of nuclear power and offer the following feedback.

Comments on the Proposed Rule

New York supports NRC’s goal of efficient and effective regulation of operating nuclear power plants. New York agrees that several of the provisions of the proposed rule would be worthwhile updates. Other provisions raise concerns for the State. In those cases, we offer constructive, concrete suggestions for improving the rule.

Fitness for Duty

NRC’s fitness-for-duty program, which includes drug and alcohol testing, is intended to ensure that nuclear workers are trustworthy, reliable, and not impaired in their work. NRC proposes a significant number of revisions to the fitness-for-duty requirements of Part 26. New York supports many of these proposed changes. Expanding the option to test oral fluid rather than urine would allow for direct observation of sample collection and reduce opportunities for subversion attempts. Broadening the pool of professionals qualified to serve as medical review officers by including those with international medical degrees is also a beneficial change. Similarly, allowing marriage and family therapists to serve as substance abuse experts under Part 26 facilitates efficient compliance with the regulation. New York agrees with NRC that, for newly constructed reactors, initial fuel load rather than receipt of fuel assemblies on site is an appropriate trigger for the implementation of fitness-for-duty requirements. In addition, the State is in favor of eliminating the provisions for licensee testing facilities, as these facilities are no longer used by any reactor licensees. The proposed rule’s removal of the current prohibition on using video teleconference technology to perform face-to-face for-cause determinations of fitness is also a valuable adjustment. New York concurs with the accompanying

proposed requirement for a supporting person to be in the room with the employee to obtain “sensory information such as the smell of alcohol on an individual’s breath or an aspect of the individual’s physical condition that is not ascertainable by video teleconference.”¹

New York has concerns about a couple of other proposed changes. In New York’s view, NRC has not provided a substantive analysis to support its proposal to reduce the annual testing rate of most licensee employees from 50% to 25%. Random testing is an important tool for deterring and detecting substance abuse. Before cutting the amount of random testing in half, NRC should conduct a comprehensive analysis of the potential impacts of such a change. Separately, the proposed rule would allow construction workers focused on safety-related components at a reactor construction site to be escorted and observed rather than subject to fitness-for-duty requirements. NRC bases this approach on an exemption granted to Southern Nuclear for the Vogtle construction site. However, that exemption was limited to construction workers who would be on site “for a limited period of time (30 days or fewer in a 60-day period).”² Under the prior exemption, if this limit was exceeded, Southern Nuclear “would remove the construction worker from the escort program and place him/her in the FFD program.”³ If NRC is going to allow this approach for all new reactor sites, New York recommends including the sensible limits contained in the Vogtle exemption.

In the area of fatigue management, the proposed rule “would address sequestration events during which licensee personnel remain on-site at the facility due to unavoidable external conditions (e.g., a severe weather event, public health emergency, or failure of local infrastructure) that could affect safe and secure plant operation.”⁴ New York agrees that it is prudent to establish defined alternative fatigue management controls for these unusual situations rather than relying on ad hoc waivers. However, allowing sequestered employees to work up to 16 hours per day and 86 hours per week during a period that could last two months may raise significant fatigue concerns. New York recommends that NRC thoroughly examine and document the effects of working such extensive hours before including these particular numeric limits in the rule. In New York’s view, NRC should also maintain the requirement for licensees to provide annual reports of fatigue management waivers. Regular reporting and NRC attention to the number of

¹ U.S. Nuclear Regulatory Commission, Proposed Rule: Modernizing Security Requirements, 91 Fed. Reg. 38928 (June 26, 2026) at 38937.

² U.S. Nuclear Regulatory Commission, Southern Nuclear Operating Company, Inc. Vogtle Electric Generating Plant Units 3 and 4 Exemption, 84 Fed. Reg. 27364 (June 12, 2019) at 27365-27366.

³ *Id.* at 27366.

⁴ U.S. Nuclear Regulatory Commission, Proposed Rule: Modernizing Security Requirements, 91 Fed. Reg. 38928 (June 26, 2026) at 38937..

waivers likely contributed to the downward trend in waiver issuances cited by NRC as a reason to eliminate the reporting requirement.

Physical Security

New York appreciates NRC's focus on risk-informed, performance-based security regulations. The State supports NRC's decision to keep the core physical security performance criteria unchanged. We agree that reactor licensees should continue to be required to detect, assess, interdict, and neutralize threats. In addition, efforts to provide technology-inclusive security options for advanced reactors are valuable, as are provisions to incorporate security-by-design approaches into the regulation.

In New York's view, some of the proposed physical security provisions raise concerns that should be addressed before the rule is finalized. First, as proposed, the achievable target sets provisions would allow a licensee to self-initiate an analysis that could exempt the reactor from the requirements of § 73.55. Because the target set analysis would contain Safeguards Information, New York and other states, along with local communities and stakeholders, would not have any visibility into the analysis. This could reduce public confidence in the safety and security of commercial nuclear reactors. Moreover, for a licensee that credits no active protective measures, the provisions could eliminate all requirements for a reactor to have a security plan, armed responders, physical barriers, access controls, detection systems, alarm stations, and security communications. We do not believe that NRC has adequately justified such a significant rollback of physical security requirements for a class of reactors.

Second, moving to a heavily performance-based approach and eliminating many prescriptive security requirements, including the requirement for a commercial reactor to have a minimum of ten armed responders to implement a protective strategy, depends on rigorous oversight. NRC's recent 48% reduction in security inspection hours calls into question the ability of the agency to ensure adequate protection of public health and safety without some reasonable prescriptive security requirements. In New York's view, the cumulative effect of the inspection reductions and proposed regulatory changes could be less effective security programs at commercial nuclear power plants. New York recommends that NRC retain a general minimum armed-responder requirement or provide for an NRC-approved, site-specific minimum number of armed responders. And before NRC considers removing prescriptive security requirements, the agency should conduct a comprehensive analysis of the cumulative impacts of the reduced security inspection hours and proposed regulatory changes.

Third, the “proposed rule would reduce the required frequency of tactical response drills from four per year to two per year” and require each member of each shift to participate in one force-on-force exercise once every three years rather than annually.⁵ New York believes that NRC has not adequately justified this substantial reduction. NRC notes that “licensees have mature, established training programs that have consistently demonstrated that licensee security forces maintain the knowledge, skills, and abilities for effective contingency response” but does not acknowledge the role the current schedule of drills plays in attaining and sustaining a high level of proficiency.⁶ Staff turnover among licensee security forces and local law enforcement also increases the value of frequent drills and exercises. Similarly, responder forces can refine techniques to counter evolving adversary tactics through these drills. Therefore, we recommend that NRC retain the current exercise frequency.

Fourth, the proposed rule would allow a licensee to obtain approval to “entirely rely on law enforcement or other offsite armed responders” to meet its obligation to interdict and neutralize threats to its nuclear power plant.⁷ New York has significant concerns with shifting licensee security responsibilities to local governments. While it is realistic to expect support from tactical law enforcement personnel at some point during an attack from an adversary force within the scope of the Design Basis Threat, a well-trained licensee security staff is needed to provide deterrence and perform detection, delay, interdiction, and threat neutralization functions. On-site or nearby armed security officers strengthen response by quickly initiating response actions. Reliance on law enforcement to interdict and neutralize a threat to nuclear assets will not afford a consistent and repeatable protective strategy. Relying on a law enforcement response is particularly challenging given that the licensee and NRC have no control over the responders or their training. Notwithstanding law enforcement’s best intentions and generally excellent capabilities, it is unclear how NRC can completely rely on local law enforcement for the defense of our critical nuclear infrastructure absent contingency provisions and minimum training and resource requirements.

New York recommends that NRC add a requirement that all licensees seeking to rely on law enforcement services at a minimum: (1) enter into and maintain written agreements with law enforcement agencies willing and capable of providing armed response; (2) submit those agreements to NRC for review and approval; and (3) identify real-time contingencies for handling changes in the agreements and the law enforcement agencies involved. The Memoranda of Understanding with law enforcement agencies

⁵ *Id.* at 38942.

⁶ *Id.*

⁷ *Id.* at 38973.

should include at a minimum, agreed requirements for: (1) training (radiological & non-radiological), planning, preparedness, and response activities; and (2) resource (staffing and equipment) availability. The Memoranda of Understanding should be reviewed for any necessary updates, for example to points of contact, on a set basis and frequency.

In addition, state engagement is crucial in this area. Site security plans submitted to NRC by an applicant or a licensee are considered Safeguards Information, and New York is not afforded the opportunity to review that information, despite the State Liaison Officer and State Security Contact being authorized by NRC to receive Safeguards Information. Thus, it is unclear how the State will have meaningful, site-specific engagement on a licensee's proposed incorporation of law enforcement response into its site physical protection program. NRC should require applicants to provide host states with access to all Safeguards Information pertinent to development and implementation of site security plans. We recognize that this may need to be subject to lawful nondisclosure agreements by the states.

Cybersecurity Event Notifications

The proposed rule would also eliminate specific cybersecurity event notifications, relying on general reporting mechanisms. Other than noting that “[t]o date, no licensee has made a notification under these provisions,” NRC does not offer a rationale for the change. In New York's view, the modification could diminish NRC and state situational awareness of cyberattacks. As the Commission explained in the 2015 rulemaking establishing the cybersecurity event notification requirements, “timeliness requirements (one-hour, four-hour, eight-hour) ... can be instrumental in the NRC's ability to respond to cyber security-related events, to evaluate cyber security-related activities for threat implications, and to accomplish the agency's strategic communications mission.”⁸ At that time, NRC also noted:

Prompt notification of a cyber-attack could be vital to the NRC's ability to take immediate action in response to a cyber-attack and, if necessary, to notify other NRC licensees, Government agencies, and critical infrastructure facilities, to defend against a multiple sector (e.g., energy, financial, etc.) cyber-attack. Like the attacks of September 2001, a cyber-attack has the capability to be launched against multiple targets simultaneously or spread quickly throughout multiple sectors of critical infrastructure.⁹

⁸ U.S. Nuclear Regulatory Commission, Final Rule: Cyber Security Event Notifications, 80 Fed. Reg. 67264 (Nov. 2, 2015) at 67266.

⁹ *Id.* at 67267.

As reactor systems at operating plants are increasingly digitized and new advanced reactors with digital systems are brought online, notifications of cyber-attacks will become even more important. Given the value of a timely cybersecurity notification in the event of a dangerous cyberattack and the minimal burden for licensees, New York recommends maintaining the current cybersecurity event notification requirements.

ISFSI Security

The proposed rule would also allow general license ISFSIs located outside an operating reactor's protected area, including those at a decommissioning reactor once all spent fuel has been placed in dry storage, to implement the physical protection requirements of §73.51 in lieu of § 73.55. Under this option, the licensee would no longer be required to protect the stored spent fuel against the design basis threat of radiological sabotage. New York recognizes that security requirements should be commensurate with the risk profile of a given facility. At the same time, the Indian Point site now in decommissioning has transferred all of its spent fuel into dry cask storage on the site's ISFSI, where a large quantity of spent fuel will remain in a fixed and publicly known configuration. Before authorizing any transition from §73.55 to §73.51 at an ISFSI, NRC should require a documented, site-specific security analysis that accounts for the aggregate quantity of spent fuel stored and the proximity of the site to population centers.

The proposed rule would allow ISFSI licensees to report on a security plan revision within twelve months of the change rather than the current requirement of two months. Other than stating that this extension would "reduce the licensee burden that is associated with security plan revisions," NRC has not provided a rationale for this provision.¹⁰ New York recommends that NRC remain cognizant of ISFSI security plan changes through timely reporting. This ensures that NRC can promptly evaluate a licensee's determination that a security plan change will not decrease the effectiveness of the plan.

Conclusion

New York shares NRC's goal of efficient, risk-informed regulation of nuclear power plants. To achieve this shared objective, we urge NRC to incorporate New York's recommended improvements to the proposed rule. New York particularly urges NRC to

¹⁰ U.S. Nuclear Regulatory Commission, Proposed Rule: Modernizing Security Requirements, 91 Fed. Reg. 38928 (June 26, 2026) at 38939.

evaluate the combined effect of the proposed security changes and the recent reductions in security inspection resources before finalizing the rule.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Alyse Peterson". The signature is written in a cursive style with a large, stylized 'A' and 'P'.

Alyse Peterson, P.E.
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