



May 4, 2026

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

Subject: “NRC Reviews of Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War” [NRC-2025-1503]

To all concerned:

The State of New York appreciates the opportunity to comment on the U.S. Nuclear Regulatory Commission’s (NRC) proposed rule “NRC Reviews of Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War” (NRC-2025-1503) published in the Federal Register on April 2, 2026. The proposed rule aims “to facilitate direct leveraging of prior U.S. Department of Energy or Department of War authorizations of demonstration reactors into the NRC’s licensing reviews of commercial reactor facility applications that reference those designs.”¹ This rulemaking would amend Part 50 and Part 53 to explicitly establish “an additional means for reactor applicants to demonstrate the safety functions of their reactor designs.”²

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 (NYPA) to develop and construct new

¹ U.S. Nuclear Regulatory Commission, *Proposed Rule: NRC Reviews of Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War*, Fed. Reg. 16584 (Apr. 2, 2026).

² *Id.*

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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, timely licensing processes for advanced nuclear reactors. The State also supports efforts by the Department of Energy (DOE) and Department of Defense (DOD) to demonstrate new advanced reactor technologies. New York agrees with NRC that it is valuable and efficient for NRC to leverage the testing data and operating experience generated from DOE and DOD reactor demonstration projects in its licensing reviews for reactors of the same designs. This is analogous to the NRC staff’s laudable practice of observing particular advanced reactor licensing activities conducted by the agency’s counterpart nuclear safety regulators in Canada and the United Kingdom.

However, New York asserts that NRC must conduct an independent licensing review for commercial applications based on DOE and DOD reactor demonstration projects, be clearly required to do so in the final rule, and be clearly seen to do so in practice. We are concerned that the proposed rule language is ambiguous on this key point.

For example, in establishing a third method for demonstrating a reactor’s safety functions, the proposed rule states:

(3) The application includes consideration of relevant information gathered from a design that has been previously authorized by the Department of Energy or the Department of Defense as a utilization facility and that has been tested and has demonstrated the ability to function safely. Any reference to such a design must identify how attributes of the authorization satisfy NRC regulations.³

This proposed new provision of § 50.43 could be read as stating that NRC will consider a DOE or DOD authorization and the information from the reactor’s demonstration in its

³ *Id.* at 16588.

independent review. That would be appropriate and sensible. As currently written, the proposed new provision could also be read as crediting a DOE or DOD authorization in such a way as to effectively approve an application submitted to NRC without sufficient and necessary review. Under this interpretation, if DOE or DOD authorized a reactor, NRC will credit that, not do an independent review, and simply require an applicant to provide a crosswalk to NRC's regulatory requirements. That would be an inappropriate abdication of NRC's responsibility to conduct all aspects of the licensing reviews for commercial nuclear reactors.

NRC recently issued draft Interim Staff Guidance on the NRC application pathway for reactor designs previously authorized by DOE or DOD.⁴ The draft guidance includes several troubling statements that support the interpretation that NRC will substantially credit a DOE or DOD authorization with a corresponding reduced level of review by the NRC staff. For example, in each of its safety topic appendices, the draft guidance directs that the "NRC staff should leverage prior DOE or DOW authorizations in its review of this portion of the application by considering prior DOE or DOW authorization content to the maximum extent practical."⁵ According to the draft guidance, this means "avoiding the need for both DOE/DOW and NRC technical staff to review the same industry-developed content when assessing the risks associated with newly proposed commercial reactor facilities."⁶ Put another way, the approach outlined in the draft guidance "would facilitate the NRC's ability to minimize or eliminate the repetition of directly applicable DOE or DOW reviews in areas where the scope and outcome of those reviews align with associated NRC requirements."⁷ However, if NRC were to "adjust the focus and depth of its technical review for attributes of the design reviewed in DOE or DOW authorizations," this would effectively shift responsibility for the core safety review from NRC to another agency without statutory authority.⁸

New York encourages NRC to further refine the rule language to make clear that the first reading is the intent of the rule: NRC will conduct an independent safety review that properly considers the testing data and operating experience produced by DOE and DOD reactor demonstration projects. The rule should also make clear that the NRC staff's risk-informed review of an application cannot avoid independently assessing the testing data and operating experience or reduce the level of effort associated with such an examination in a way that amounts to simply crediting the authorization findings from DOE or DOD. While NRC aims to streamline its regulations, NRC should avoid overreliance on interim staff guidance as the primary mechanism for implementing this proposed framework (See:

⁴ U.S. Nuclear Regulatory Commission, *Draft Interim Staff Guidance: NRC Application Pathway for Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War* (Apr. 2026).

⁵ See e.g., *id.* at Appendix B at 4.

⁶ *Id.* at 3.

⁷ *Id.* at 4.

⁸ *Id.* at 2.

91 FR 20717 "Draft Interim Staff Guidance: NRC Application Pathway for Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War"). Procedural transparency is better served when regulations provide a comprehensive review framework, including both applicant duties as well as agency procedures and standards.

An independent, substantive safety review by NRC is crucial for several reasons. First, under the Atomic Energy Act and Energy Reorganization Act of 1970, it is NRC's statutory duty to ensure the safety of commercial nuclear reactors. Through the Energy Reorganization Act, Congress explicitly charged the newly established NRC with this role rather than DOE or another organization with promotional responsibilities. Deferring to DOE's authorization findings would shirk NRC's statutory duty and undermine the division of functions laid out by Congress. Second, NRC is much more experienced and expert in licensing new commercial reactors than DOE or DOD. Because NRC has been doing this work for half a century, it has the right people and processes to conduct thorough, independent licensing reviews. In fact, DOE needed to borrow ten NRC experts through interagency details to pursue its recent authorization efforts. Third, any diminishment of NRC independent safety review activities in deference to DOE or DOD authorization findings would not reassure the public. To speed the deployment of new commercial reactor technologies, it is vital that host communities and other stakeholders are confident that NRC has thoroughly evaluated the safety aspects of new designs. NRC should clarify how public transparency and participation associated with prior DOE/DOD authorization processes will be incorporated into NRC review to support public trust before issuing the final rule. NRC should ensure that relevant background information, analyses, and decision basis, including previously classified information, from prior federal approvals are made accessible and subject to appropriate public comment opportunities within the NRC process. Finally, if NRC were to merely credit DOE or DOD safety findings rather than performing its own meaningful independent review and allowing public comment, that reduced level of effort would undermine the ability of American vendors to export reactor technology abroad. Anything perceived as NRC approval of a design application based on another agency's promotional activities without sufficient and necessary independent review would not be seen as consistent with NRC's international reputation as the gold standard in nuclear safety regulation.

Conclusion

New York shares NRC's goal of efficient, timely advanced reactor licensing. To responsibly leverage the testing data and operating experience generated from DOE and DOD reactor demonstration projects in NRC's licensing reviews, we recommend that NRC further refine the rule language to explicitly clarify that the NRC staff must conduct an independent safety review for reactors of the same designs. We urge NRC to make clear that a risk-informed review of an application by the NRC staff cannot avoid independently evaluating the testing data and operating experience or reduce the level of effort

associated with such an examination in a way that amounts to simply crediting the authorization from DOE or DOD.

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, flowing style.

Alyse Peterson, P.E.
NRC State Liaison Officer – Designee

Senior Advisor for Nuclear Coordination &
Radioactive Waste Policy