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New York State Energy Research and Development Authority

KATHY HOCHUL
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CHARLES BELL
Acting Chair
DOREEN M. HARRIS
President and CEO

April 2, 2026

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

Subject: "Streamlining Contested Adjudications in Licensing Proceedings" [NRC-2025-1501]

To all concerned:

The State of New York appreciates the opportunity to comment on the U.S. Nuclear Regulatory Commission's (NRC) proposed rule "Streamlining Contested Adjudications in Licensing Proceedings" (NRC-2025-1501) published in the Federal Register on March 3, 2026. The proposed rule would make substantial changes to NRC's adjudicatory process for a wide range of licensing actions, including combined licenses, construction permits, operating licenses, early site permits, and license amendments. The provisions of the proposed rule focus on shortening the adjudicatory process to meet the licensing timeframes dictated by Executive Order 14300, "Ordering the Reform of the Nuclear Regulatory Commission."[1]

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

[1] Executive Order No. 14300, "Ordering the Reform of the Nuclear Regulatory Commission," 90 FR 22587 (May 23, 2025).

grid. In June of 2025, New York Governor Hochul directed the New York State Power Authority (NYPA) to develop and construct new 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. We believe 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.

Concerns with the Proposed Rule

While we support NRC's goal of efficient, timely licensing processes and adjudicatory proceedings for advanced nuclear reactors, the State has significant concerns regarding the scope, practical implications, and unintended consequences of provisions of the proposed rule. These comments are based in part on New York's experience participating in multiple NRC adjudicatory proceedings over a period of decades, at times in collaboration with other New York stakeholders who will be similarly affected by this rule.

Frontloading Litigation

We are concerned that the proposed rule shifts more litigation activities to earlier in the adjudicatory process. This frontloading would result from (1) a new requirement for evidentiary hearings to begin as soon as practicable upon admission of contentions and (2) a new requirement that parties provide more information on the merits of proposed contentions in their initial filings, including the submission of affidavits and evidence in the applicant's answer and the petitioner's reply.[2]

As NRC acknowledges, "this proposal comes at a cost."[3] Applicants, petitioners, and the NRC staff would "expend more resources" and "incur additional burden" upfront in the adjudicatory process with no clear benefit.[4] In our view, this frontloading approach would exacerbate some of the most problematic aspects of the existing process. Currently, intensive

[2] U.S. Nuclear Regulatory Commission, Proposed Rule on Streamlining Contested Adjudications in Licensing Proceedings (Mar. 3, 2026), 91 FR 10450 at 10456.
[3] *Id.* at 10470.
[4] *Id.*

litigation on a petitioner's claims arguably starts too early. A petitioner is required to submit detailed contentions supported by evidence at the time of the application, before the NRC staff has completed its National Environmental Policy Act (NEPA) review or finalized its Safety Evaluation Report. Typically, the NRC staff has not developed even draft environmental and safety reviews at that time. This requires the parties to monitor the contentions for months as the NRC staff's review proceeds, and most often requires parties that are affected by a potential licensing decision – host communities (state or local), nonprofit advocacy groups – to obtain the assistance of subject matter experts and/or experienced counsel, a time consuming and resource-intensive endeavor, to meet already-stringent contention admission requirements. A petitioner is then expected to adjust its contentions during this time as contentions migrate to challenge the NRC staff documents, as they are released. This is a labor- and resource-intensive process for all parties and the agency. The proposed rule's frontloading of litigation activities would make this process even more inefficient and unnecessarily complex. It would accelerate the consideration of the merits of contentions long before the NRC staff has completed its review in order to leave enough time for "two nonoverlapping hearings" to be held while meeting the Executive Order 14300 licensing deadlines.[5]

Recommendation For Alternative Approach: We recommend an alternative approach to achieving our shared goal of an efficient, streamlined adjudicatory process. Instead of frontloading resource-intensive litigation activities, NRC should shift them to the time when they can be completed most efficiently – once the NRC staff has finalized its safety and environmental reviews. Under this alternate approach, a petitioner would demonstrate standing at the beginning of the process as it does now. However, rather than submitting formal contentions at this stage, a petitioner would be required to submit substantive comments identifying its concerns with the application with reasonable particularity. The submission of formal contentions would occur later, when the NRC staff finalizes its safety and environmental review documents.

This modified process would yield significant benefits to all parties and NRC. Early stakeholder comments flagging concerns with the application would achieve the agency's longstanding objective of early identification of issues. Such comments would be helpful to the applicant and NRC without the burden of premature litigation, and may avoid the undue allocation of resources by governmental and nonprofit stakeholders if none may be needed; if the concerns raised in the comments are addressed by the applicant or NRC, the petitioner may be satisfied and there ultimately may be no need for contentions or a hearing. Even if contentions are submitted and a hearing is held, there would be only one hearing, rather than the two non-overlapping hearings envisioned by the proposed rule. The same accelerated schedule could be met with far less litigation expense and effort. The filing of formal contentions later in the process would also be more efficient and less resource intensive for all parties because they would not need to track and migrate contentions over time or provide

[5] *Id.* at 10465.

merits evidence upfront. Paired with the proposed rule's deadlines for Licensing Board decisions and milestones for Commission decisions, this approach would most efficiently achieve the agency's timeliness objectives while ensuring that petitioner claims are adjudicated in a reasonable process.

Strict, Truncated Deadlines

As a threshold matter, we believe that active public education and participation and community understanding of benefits and risks is critical to developing support for new energy projects. Here, we are also concerned that the proposed rule would truncate key adjudicatory deadlines and make it more challenging for petitioners to prepare high-quality submissions. The current 60-day deadline for filing contentions is already challenging to meet. It is a short time to review lengthy, complex applications, consult with technical experts, and formulate thoughtful, well-supported contentions. Host communities, particularly at the local level and in communities where nuclear has not historically been sited, often lack full-time nuclear staff and structural budget flexibility to identify and expend funds within this short turnaround time to obtain the services of needed experts. In fact, this process of obtaining services may involve competitive procurement or local legislation. The proposed rule would further compress this tough schedule for many types of applications. Under the proposed rule, a 45-day deadline for filing contentions would apply to applications for license renewals, combined licenses referencing a design certification, early site permits, license amendments, non-power reactors, and limited work authorizations.[6] This schedule tightening would save only 15 days but would significantly impair a petitioner's ability to craft high-quality contentions. Providing inadequate time to formulate contentions is a false economy that will reduce the efficiency of the subsequent adjudicatory proceedings and decrease the benefits to the applicant, agency, and public of identifying and grappling with well-formulated and well-supported contentions.

The proposed rule would layer very strict standards for extension requests on top of these truncated deadlines. Under the proposed rule, an ordinary extension request would require "extraordinary events that are not within the parties' control."[7] If the requested extension could result in the accelerated schedule not being met, an even higher standard would have to be met; the proposed rule would require a party to demonstrate "unavoidable and extreme circumstances," which the proposed rule indicates would only be present for "rare, unforeseeable, and serious events."[8] Taken together, the proposed rule's unreasonably short deadline for submitting contentions and tight standards for extensions would erode the ability of petitioners to effectively present their claims. Moreover, these proposed changes are unnecessary. The agency's desired schedules can be met through the proposed rule's Standard Record Closure Date provisions and overall deadlines for Licensing Board decisions.

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[6] *Id.* at 10457.
[7] *Id.* at 10455.
[8] *Id.*

Highly Expedited Proceedings

The proposed rule's provisions related to "highly expedited proceedings" are problematic for two reasons. First, these proceedings would have an even more truncated, 30-day deadline for filing contentions.[9] For the reasons discussed above, this type of unreasonably short deadline will save a little time at the expense of eroding the ability of petitioners to thoughtfully evaluate the application and formulate and support high-quality contentions that effectively present their claims. This may, inadvertently, lead to a rise in the submission of contentions as placeholders pending a more comprehensive review. Second, under the proposed rule, the Commission can designate the adjudication of any application a "highly expedited proceeding" at any time without going through the rulemaking process.[10] The proposed rule provides no constraints on the Commission's designations. This creates the dual risks of arbitrary decision-making and insufficient notice to parties of applicable schedules and procedures. Moreover, it would allow the extremely short deadlines governing "highly expedited proceedings" to swallow up any other individual application or category of applications without further notice or opportunity for public comment. In our view, the unconstrained "highly expedited proceedings" process is ill-advised and unnecessary. The proposed rule's Standard Record Closure Date provisions and overall deadlines for Licensing Board decisions are sufficient to meet the NRC's goals for timeliness.

Prohibition of Non-Attorney Representation

In addition, we are concerned that the proposed rule would eliminate the ability of state, local, and tribal governments to be represented by individuals who are not attorneys in NRC adjudicatory proceedings. As the Federal Register notice explains, "[w]ith the proposed changes, only an individual would be allowed to appear on his or her own behalf."[11] In most cases, states will be represented by attorneys. But this prohibition may adversely affect the ability of tribes, local governments, and other stakeholders to participate in NRC adjudications. Retention of counsel skilled in nuclear adjudicatory proceedings can be time-intensive and costly as this pool of practitioners is relatively limited. Many law firms with nuclear expertise represent industry players and are conflicted out of representing intervenors. The Federal Register notice provides no evidence that non-attorney representation has been a problem. In fact, the agency did not point to a single, specific instance of non-attorney representation hindering the timeliness and efficiency of proceedings. In the absence of a demonstrated need to impose this restriction on representation, we recommend that NRC continue to allow interested governments and other stakeholders to choose their own representatives. Without regulatory change, NRC can continue to hold non-attorney representatives to the high standards it has established over the years.

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[9] *Id.* at 10457.
[10] *Id.* at 10453.
[11] *Id.* at 10454.

Location of Hearings

Finally, the proposed rule undermines the Commission's longstanding policy that oral arguments and evidentiary hearings should be held in the vicinity of the proposed project. Under the proposed rule, hearing notices would "reflect the Commission's expectation that considerations informing the selection of a time and place for a hearing should not override the overall timeframes established for timely adjudications by this rule or by any proceeding-specific Commission order."[12] This change would prioritize schedule adherence over public participation in NRC adjudications. Holding proceedings in Rockville, Maryland rather than in the vicinity of a proposed project would impair the ability of the host community to participate in person. New York's experience shows robust community participation when meetings are held near the facility, achieving the goal set out by the original NRC practice. In our view, the proposed approach would weaken rather than strengthen public support for nuclear power facilities, many of which may present unique and new designs and waste profiles warranting education for even more experienced stakeholders. We recommend dropping this proposed change from the rule.

Conclusion

New York shares NRC's goal of efficient, timely adjudications. This comment includes specific, concrete suggestions for improving the proposed rule. To ensure that NRC adjudications are fair and provide a meaningful opportunity for petitioners to present their claims, we urge the agency to adopt these recommended improvements.

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

Sincerely,

Alyse Peterson

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

Senior Advisor for Nuclear Coordination &
Radioactive Waste Policy

[12] *Id.* at 10462.