



June 15, 2026

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

Subject: “Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles”  
[NRC-2025-0379]

To all concerned:

The State of New York appreciates the opportunity to comment on the U.S. Nuclear Regulatory Commission’s (NRC) proposed rule “Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles” (NRC-2025-0379) published in the Federal Register on May 1, 2026. The proposed rule aims “to establish a risk-informed and performance-based regulatory framework for rapid licensing of new microreactors and other reactors with comparable risk profiles and for high-volume deployment of these reactors.”<sup>1</sup> This rulemaking would establish a new Part 57 with “streamlined safety requirements to focus on simpler license applications and rapid licensing reviews of new reactors with less complex designs and operational characteristics and low potential radiological consequences.”<sup>2</sup>

### **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 Kathy 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

<sup>1</sup> U.S. Nuclear Regulatory Commission, *Proposed Rule: Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles*, Fed. Reg. 23628 (May 1, 2026).

<sup>2</sup> *Id.* at 23632.

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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, including microreactors. The State agrees that microreactors have the potential to possess "inherent and passive safety design features that distinguish them from the large light water reactors in the current operating fleet."<sup>3</sup> We support the rapid deployment of these advanced reactors with strong safety standards and environmental protections, as well as rigorous independent oversight.

In New York's view, several of the provisions of the proposed rule would be beneficial. We agree with NRC that a standalone regulation for microreactor licensing is appropriate for small reactors that may have different use cases than conventional, large light-water reactors or even small modular reactors. New York appreciates the value of a risk-informed, performance-based set of regulatory requirements that facilitate licensing timeframes of six to twelve months for microreactors. The proposed Part 57 also usefully provides multiple licensing pathways for microreactors, including a joint construction permit/operating license pathway, as well as manufacturing license and standard design approval options. The proposed rule's efforts to refine and add detail to the manufacturing license regulations to better accommodate factory production of microreactors are worthwhile. New York also supports the proposed rule's approach of giving applicants the ability "to propose, with adequate justification, the use of codes and standards appropriate for their reactor design and not incorporate by reference the specific codes and standards in 10 CFR 50.55a, "Codes and standards."<sup>4</sup> In addition, we commend NRC for the inclusion of well-crafted requirements for reporting defects and non-compliances. Where New York has concerns with provisions of the proposed rule, we offer concrete suggestions for how the proposed rule can be improved.

### Entry Criteria

NRC wisely proposes to establish entry criteria for an applicant to use Part 57. The proposed rule states, "The first eligibility criterion would be a dose-based acceptance value. The second eligibility criterion would be an upper limit on the amount of fuel."<sup>5</sup> The Advisory Committee on Reactor Safeguards (ACRS) further explains:

To determine eligibility under this framework, two fundamental entry criteria are established. First, the radiological accident dose at the site boundary must remain below 1 rem Total Effective Dose Equivalent. This may be demonstrated by assessment of a maximum hypothetical accident

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<sup>3</sup> *Id.* at 23630-23631.

<sup>4</sup> *Id.* at 23632-23633.

<sup>5</sup> *Id.* at 23638.

(MHA) or a maximum credible accident (MCA). Second, the reactor must contain no more than 10 metric tons (MT) of heavy metal, which includes thorium, uranium, and plutonium.<sup>6</sup>

According to NRC, “[t]he TEDE dose-based entry criterion provides reasonable assurance that actual accidents would not result in acute offsite doses and flexibility on how this entry criterion would be met” while “[t]he fuel mass limit would be established to provide additional defense in depth.”<sup>7</sup>

New York supports the use of entry criteria, including an accident dose criterion. However, we agree with ACRS that “[t]he current heavy-metal-loading entry criterion may not adequately characterize reactor hazard potential.”<sup>8</sup> We share ACRS’s “two concerns with the 10 MT heavy metal loading criterion: (1) it is too high and has the potential to broaden Part 57 applicability to reactors with a higher risk profile than microreactors; and (2) MT heavy metal is not the proper sole metric because it does not account for differences in enrichment in the various applications and therefore does not directly represent fissile material inventory.”<sup>9</sup> Like ACRS, New York favors a reactor thermal power criterion to establish appropriate boundaries for Part 57. A thermal power limit would result in a more efficient licensing process by clarifying which applications are eligible for the Part 57 pathway. Moreover, as ACRS notes, “Because the isotopic inventories that dominate the radiological source term (e.g. I-131) scale directly with reactor thermal power, a reactor thermal power criterion that represents a practical upper limit of a microreactor reasonably consistent with the Part 57 intent would be a better metric than heavy metal loading.”<sup>10</sup> Replacing the fuel mass limit with a reasonably low thermal power limit would ensure that small modular reactors and larger reactors with greater risk profiles could not use Part 57.

#### License Scope

The proposed rule would facilitate “fleet deployment within a large area.”<sup>11</sup> Specifically, “[p]roposed § 57.60(d) would provide the option for an applicant to designate in its joint application for a CP and associated OL(s) a large geographical area or areas, as opposed to a specific site or sites, within which it proposes to construct and operate one or more nuclear reactors.”<sup>12</sup> The proposed rule would merely “require the application to include a procedure that describes how the applicant would determine that a specific location within a designated area is suitable for construction and operation ... before beginning construction.”<sup>13</sup>

This approach is problematic and potentially unworkable. Because the proposed rule does not include a definition of “large geographical area or areas,” the scope of a Part 57 license could be essentially unlimited. For example, this provision could result in one application spanning the whole country or large swaths of it for thousands of reactors with a single environmental review, single notice, and a single hearing opportunity. Communities would have no idea at the time of the license application whether one or more microreactors might be sited in their town or state. Stakeholders would not know whether they should have an interest in a particular application because they would not know whether

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<sup>6</sup> Advisory Committee on Reactor Safeguards, “Letter on Proposed Rulemaking on Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles (Part 57)” (May 19, 2026) at 3.

<sup>7</sup> U.S. Nuclear Regulatory Commission, *Proposed Rule: Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles*, Fed. Reg. 23628 (May 1, 2026) at 23686.

<sup>8</sup> Advisory Committee on Reactor Safeguards, “Letter on Proposed Rulemaking on Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles (Part 57)” (May 19, 2026) at 1.

<sup>9</sup> *Id.* at 6.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 23646.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

the microreactors referenced in an application would eventually be sited at a nearby location. Likewise, a singular environmental review would not adequately assess the site-specific environmental resources that could be of interest to relevant stakeholders. This raises significant concerns that host communities would not have meaningful input into the regulatory process which could undermine public support for advanced reactor deployment. As the hearing opportunity would be for a broad, nonspecific application without sites designated, this approach also raises questions of fundamental fairness and standing. Without knowing specific sites, how could a stakeholder effectively formulate a contention? Would every person in the potentially vast siting zone have standing in NRC adjudicatory proceedings? NRC's question in the *Federal Register* notice about whether a single notice would be "sufficient and appropriate for notice for large geographic areas" highlights the problem of a broad, non-specific license scope.<sup>14</sup>

New York recommends that NRC narrow the geographic scope of a potential Part 57 license to a reasonably discrete area that would provide potential host communities and affected stakeholders with a clear understanding that one or more microreactors may be sited near them. The scope limitations should then be defined in the rule. This would allow for multiple microreactors under one license for a distinct multi-unit project or set of projects within a specific, reasonably-bounded geographic area. Unlike the current proposed rule language, New York's suggested approach would avoid blindsiding communities all over the country with microreactor projects they had no reason to believe would be sited near them. To achieve our shared goal of widespread deployment, interested stakeholders need real notice of a planned microreactor project and a meaningful opportunity to weigh in with their views.

#### Categorical Exclusions

NRC is proposing "a categorical exclusion from the requirement to prepare an environmental assessment or environmental impact statement if an application for an NRC action under proposed Part 57 demonstrates that the licensed action meets" specified site-specific criteria and the site parameter envelope values of the Generic Environmental Impact Statement (GEIS) for Licensing of New Nuclear Reactors.<sup>15</sup> According to NRC, "[t]he licensed action could include the siting of multiple reactors across a region or at one site, and not just a single microreactor or other reactor with comparable risk profile."<sup>16</sup>

Although it makes sense to use the New Reactor GEIS as part of NRC's environmental review for microreactors, New York believes that the proposed rule's categorical exclusion provisions suffer from a similar overbreadth as the license scope. For example, the proposed rule does not define the term "region," and as such a categorical exclusion could apply to an unlimited geographic area and unlimited number of reactors of a particular design. Site specific analysis is critical for environmental review. Moreover, while each individual reactor may meet the GEIS entry criteria, the proposed rule does not provide for a cumulative analysis of the environmental impacts of potentially thousands of reactors spread over a vast and geographically diverse area.

Broadly applying a categorical exclusion to the construction and operation of microreactors would severely curtail public participation in NRC's licensing process. Unlike Environmental Impact Statements and Environmental Assessments, a categorical exclusion does not involve a scoping process that includes stakeholders and does not provide an opportunity for public comment. The categorical exclusion additionally prevents state agencies from serving as cooperating agencies in the NEPA process and eliminates their ability to offer comments and expertise on specific environmental resources. Leaving interested stakeholders and communities out of the process deprives NRC decisionmakers of

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<sup>14</sup> *Id.* at 23680.

<sup>15</sup> *Id.* at 23654.

<sup>16</sup> *Id.*

valuable feedback and increases the possibility that host community concerns about a project will go unaddressed.

A National Environmental Policy Act<sup>17</sup> (“NEPA”) review covers an array of environmental aspects of a project that are not sufficiently analyzed simply by meeting the specified criteria proposed. Microreactor design and deployment is an emerging technology with unknown impacts and safety concerns and, as such, warrants the breadth and depth of an environmental analysis under NEPA. New York recommends that NRC require Environmental Assessments or Environmental Impact Statements in conjunction with the New Reactor GEIS for the initial deployments of a particular design. This would provide a track record of construction and operation before the potential widespread use of categorical exclusions. If NRC does provide for categorical exclusions of nth-of-a-kind reactors of a particular design, the rule should limit the geographic scope of a categorical exclusion to a specific, reasonably bounded geographic area and clearly define terms related to this scope limitation. Moreover, the rule should limit the number of microreactors that can be covered by a single categorical exclusion and require the NRC staff to conduct a cumulative impact assessment of the environmental effects of multiple reactors covered by a single categorical exclusion. This approach would allow NRC to efficiently license new microreactors while realizing NEPA’s benefits of informed decision-making and increased public confidence in agency determinations.

#### Remote Operations, Autonomous Operations, and Cyber Security

The proposed rule would allow “applicants to specify design features for monitoring and operating a nuclear reactor from outside the site boundary and for autonomous performance of operations and safety functions.”<sup>18</sup> NRC acknowledges that this would “be a paradigm shift for the nuclear industry and the NRC.”<sup>19</sup>

New York agrees with ACRS that “[t]he proposed flexibility for remote and autonomous operation represents a significant policy and operational evolution that warrants further careful evaluation.”<sup>20</sup> Remote operation necessarily involves communication links between the reactor and a centralized control location, creating cyberattack surfaces that do not exist for locally staffed facilities. We share the concerns that ACRS expresses in its letter report on Part 57. ACRS explains that cybersecurity will be a major challenge because “reactor safety for remote operation would rely on maintaining the confidentiality, integrity, and availability of the bidirectional communication link so that the reactor can be placed in a safe state when warranted.”<sup>21</sup> According to ACRS, “how to adequately meet this cybersecurity challenge is unclear.”<sup>22</sup> ACRS also notes that “[t]he unpredictable nature of an artificial intelligence (AI)- based autonomous control system is a related concern. Guidance provided with the draft rule addresses these topics only at a high level.”<sup>23</sup> This leads ACRS to question the NRC “staff’s basis for confidence that, from both a cybersecurity and software assurance perspective, a microreactor with remote and/or autonomous controls will be acceptably safe.”<sup>24</sup> Moreover, as ACRS points out, even for a remotely or autonomously operated reactor, “it must be ensured that a sufficient

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<sup>17</sup> 42 U.S.C. 4321 *et. Seq.*

<sup>18</sup> U.S. Nuclear Regulatory Commission, *Proposed Rule: Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles*, Fed. Reg. 23628 (May 1, 2026) at 23633.

<sup>19</sup> *Id.* at 23682.

<sup>20</sup> Advisory Committee on Reactor Safeguards, “Letter on Proposed Rulemaking on Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles (Part 57)” (May 19, 2026) at 2.

<sup>21</sup> *Id.* at 7.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

number of appropriately trained personnel are available to respond to emergency conditions, including those associated with natural hazard phenomena and other external events.”<sup>25</sup> Yet, the proposed rule does not establish specific requirements for such reactor staffing.

New York recommends that NRC fully resolve these concerns before allowing an applicant to operate a reactor remotely or autonomously. Rather than including provisions for remote and autonomous operation in Part 57 at this time, NRC should explore a pilot program for licensing and overseeing the construction and operation of one or two remotely or autonomously operated reactors. This would provide NRC and stakeholders the opportunity to clearly define, examine, and resolve the unique challenges associated with these technologies. Before the option for remote and autonomous operation is built into Part 57, it is crucial that NRC ensure the safety and security of associated designs and operational programs.

#### General License

For an application for a construction permit and associated operating licenses, the proposed rule would issue a general license for construction activities at a specified site. For the first time, this would allow an applicant to begin construction activities before NRC issues a construction permit and before a manufactured reactor is brought on site.

New York recommends that NRC remove this unprecedented general license provision. With the streamlined licensing timelines contemplated by the proposed rule, a general license to begin construction prior to the issuance of a construction permit is unnecessary. In New York’s view, NRC should complete its safety and environmental reviews before construction proceeds. This ensures the safety of the design prior to safety-related construction and avoids the potential for wasted resources if a design is ultimately not approved or requires significant changes. In addition, even though NRC states that any construction conducted under a general license would be “entirely at the risk of the general licensee and have no bearing on the issuance of a construction permit,” the reality is that pre-permit construction spending would put enormous pressure on NRC to then grant the construction permit.<sup>26</sup>

#### Applicant-Provided Definitions

Under the proposed rule, an applicant is allowed to provide its own definitions of key regulatory terms in its application as long as they are not defined in the Atomic Energy Act. Because few regulatory terms are statutorily defined, this would provide applicants with a significant amount of flexibility to define terms according to their own needs rather than those of NRC reviewers or the public.

New York recommends deleting this provision and including standardized definitions for major regulatory terms in the rule. We believe it is a mistake to have inconsistent definitions of terms like “safety-related” and “construction.” Consistent definitions of key terms will facilitate efficient, less resource-intensive licensing reviews by the NRC staff, who will not be required to learn, approve, and navigate definitions that vary by licensee or application. Consistency in regulatory terminology will also avoid public confusion and make it easier for interested stakeholders to engage in the regulatory process.

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<sup>25</sup> *Id.*

<sup>26</sup> U.S. Nuclear Regulatory Commission, *Proposed Rule: Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles*, Fed. Reg. 23628 (May 1, 2026) at 23731.

## Adjudications

NRC seeks comment on whether the regulations should include “Part 57 applications within the definition of ‘highly expedited proceeding’ if the NRC issues a final rule modifying the NRC’s contested hearing process with special requirements for highly expedited proceedings?”<sup>27</sup>

New York contends that Part 57 microreactor applications should not be treated as “highly expedited proceedings” within the adjudicatory process. 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. We are concerned that truncated adjudicatory deadlines would make it more challenging for petitioners to prepare high-quality submissions. The current 60-day deadline for filing contentions is already challenging for petitioners to meet. It is a short time to review lengthy, complex applications, consult with technical experts, and formulate thoughtful, well-supported contentions. Most 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, rendering rapid engagement of needed experts even more difficult.

Treating Part 57 applications as “highly expedited proceedings” would further compress this tough schedule to just 30 days for filing contentions. This schedule tightening would save only 30 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. Unreasonably short deadlines for submitting contentions would erode the ability of petitioners to effectively present their claims. Moreover, categorizing Part 57 applications as “highly expedited proceedings” is unnecessary. The agency’s desired schedules can be met through the separate adjudicatory proposed rule’s Standard Record Closure Date provisions and overall deadlines for Licensing Board decisions.

## Physical Security

The proposed rule would require a licensee to establish a physical security program to protect the reactor against the Design Basis Threat to ensure that a security event would not result in an offsite radiation dose in excess of 25 rem total effective dose equivalent to an individual located at any point on the boundary of the exclusion area for any 2-hour period following the release. The elements of a security program “would include required intrusion detection and assessment, security communications, and security response capabilities but would not establish prescriptive requirements designed to demonstrate that these elements are met.”<sup>28</sup> Under the proposed rule, a licensee would be required to coordinate with local law enforcement and provide sufficient information and training to personnel who would be relied upon to interdict and neutralize threats up to and including the design basis threat of radiological sabotage.<sup>29</sup> If a licensee could show that the 25 rem limit would be met “even if mitigation and recovery actions, including any operator action, were unavailable or ineffective,” then the licensee would not be required to protect against the Design Basis Threat.<sup>30</sup>

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<sup>27</sup> *Id.* at 23682.

<sup>28</sup> *Id.* at 23654.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

Though New York supports a graded approach to physical security, the State has substantial concerns with the physical security provisions. In particular, the State has considerable concerns with off-loading licensee security responsibilities onto 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 Part 57 applicants 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 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.

In addition, state engagement is crucial in this area. Site security plans submitted to NRC by an applicant or licensee are considered Safeguards Information and New York State 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 be afforded meaningful, site-specific engagement on a licensee's proposed incorporation of law enforcement response into its site physical protection program. The Commission 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.

Beyond the issue of local law enforcement, New York recommends that the rule include requirements with sufficient specificity to ensure that each element of a security program is met and effective. Given the significant flexibilities provided to licensees in the physical security provisions, every Part 57 licensee also should be required to protect the reactor against the Design Basis Threat.

#### Quality Assurance

The proposed rule would not apply Appendix B quality assurance requirements to reactors licensed under Part 57. Instead, an applicant would be allowed "to choose an industry-approved quality assurance program, similar to the approach taken in American National Standards Institute/ American National Standard ANSI/ ANS-15.8-1995 (R2018), "Quality Assurance Program Requirements for Research Reactors."<sup>31</sup> NRC's rationale for departing from Appendix B standards is that:

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<sup>31</sup> *Id.* at 23633.

Qualified suppliers of nuclear-grade SSCs have decreased over the last several decades. This shrinking base of suppliers, increasing demand for advanced reactors, existing SSC upgrades and maintenance needs for the operating fleet, restart of shutdown plants, and policies to buy U.S. products, are creating a need for new suppliers to enter the market.<sup>32</sup>

According to NRC:

The NRC's proposal to enable applicants to select QA programs could broaden the supplier base and increase flexibility in procurement. This approach may encourage participation from qualified commercial suppliers, thereby expanding the pool of vendors available to support nuclear projects. This could mitigate risks of shortages, backlogs, and higher costs of deployment of microreactors and reactors with comparable risk profiles.<sup>33</sup>

The proposed rule does not address any reduction in safety that could result from departing from the quality assurance standards that have protected the existing nuclear fleet for decades.

Although New York appreciates the value of expanding the pool of nuclear vendors, it does not support the proposal to weaken quality assurance requirements for microreactors. NRC has not justified this change from a safety perspective, and the anticipated safety benefits of microreactors will not be realized without high-quality safety-related components. The existing Appendix B approach is risk-informed and graded and effectively provides defense-in-depth to protect public health and the environment. New York therefore recommends that NRC apply Appendix B standards to reactors licensed under Part 57.

### Transportation

In a significant change to the manufacturing license regulations, the proposed rule allows for the transport of a fueled microreactor from the manufacturing facility to the operating site. As ACRS explains:

The fueled reactor can be treated as the transportation package and must meet Part 71 requirements. Alternatively, the fueled reactor can be treated as approved contents in a new or existing transportation package. The rule would allow safety evaluations to use risk-informed assessments instead of specific testing (e.g., drop testing) currently required in Part 71. Features to prevent criticality must be part of the package.<sup>34</sup>

According to ACRS:

Factory-fabricated and fueled microreactors present special challenges in preventing criticality and performing tests/inspections during deployment. ...  
Refueling, recovery, and/or decommissioning present specific challenges in the field. The fission product inventory and radiation fields of a microreactor core after operation will approach those of one to several spent LWR fuel elements (depending on power level and burnup). These high hazards will require protective measures and shipping containers that meet 10 CFR 71 performance requirements for packaging and transport of spent cores and activated materials.<sup>35</sup>

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<sup>32</sup> *Id.* at 23644.

<sup>33</sup> *Id.*

<sup>34</sup> Advisory Committee on Reactor Safeguards, "Letter on Proposed Rulemaking on Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles (Part 57)" (May 19, 2026) at 4-5.

<sup>35</sup> *Id.* at Enclosure 1, 3-4.

New York agrees with ACRS that the transportation of fuel-loaded microreactors requires thoughtful and protective standards and procedures. Existing dose rate limits for the transportation of radioactive material under Part 71 should not be weakened. Part 71's performance and testing requirements should apply fully to fuel-loaded microreactors. In addition, to promote safety, security, and public confidence, the rule should require advance notification to appropriate state agencies of all fueled microreactor shipments through the state. The rule should also require licensees to consult with appropriate state agencies on fueled microreactor transportation routes through the state before they are finalized.

### Emergency Planning

Under the proposed rule, microreactors licensed through Part 57 would not have emergency planning zones (EPZs) or dedicated offsite radiological emergency planning. NRC's rationale for not establishing EPZs around microreactors is that

[a]n EPZ is most useful as a planning tool for implementing precautionary actions through predetermined, prompt protective measures to respond to events that involve a wide-scale area involving multiple jurisdictions and rapidly progressing incidents that could result in acute doses or early health effects. The characteristics of facilities that would be licensed under proposed part 57 provide assurance that planning for such precautionary actions is unnecessary.<sup>36</sup>

This assumption highlights the importance of rigorous entry criteria for using Part 57.

Although all-hazards emergency planning would continue for microreactor sites, state and local jurisdictions may face challenges adequately responding to radiological emergencies under their all-hazards plan. To help maintain state and local emergency planning capabilities and to preserve emergency coordination, New York recommends that the rule require licensees enter into memoranda of understanding (MOUs) with the state and local emergency management agencies responsible for implementing an all-hazards emergency plan at a licensee's microreactor site. The MOUs should provide for emergency responder familiarity with the site and reactor technology and risks, the sharing of licensee and emergency responder contact information and procedures, and the establishment and maintenance of event response and coordination protocols. The MOUs could also provide for joint training exercises and drills.

### Decommissioning

The proposed rule allows Part 57 applicants to request NRC approval of a decommissioning plan as part of a joint application for a construction permit and operating licenses. NRC explains that "[e]arly approval of the decommissioning plan would provide flexibility to support a range of decommissioning strategies, including decommissioning individual reactors, transporting reactors to a designated facility, or full-site decommissioning."<sup>37</sup> Part 57 licensees "would not be subject to the 60-year decommissioning requirement ... but would be required to complete decommissioning without significant delay. The decommissioning schedules would be approved by the NRC."<sup>38</sup>

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<sup>36</sup> U.S. Nuclear Regulatory Commission, *Proposed Rule: Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles*, Fed. Reg. 23628 (May 1, 2026) at 23644-23645.

<sup>37</sup> *Id.* at 23652.

<sup>38</sup> *Id.* at 23653.

New York supports the approach of NRC approving a licensee’s decommissioning plan. Unlike merely receiving a licensee’s Post Shutdown Decommissioning Activities Report, agency approval of a detailed decommissioning plan recognizes NRC’s important responsibility to protect public health and safety and the environment during decommissioning. We agree that NRC should ensure decommissioning is completed “without significant delay” through review and approval of a decommissioning schedule. However, New York recommends setting a maximum 20-year decommissioning deadline as a backstop. NRC has not provided a basis for removing the 60-year deadline, which provides host communities with vital assurance that the remnants of shutdown reactors will not remain on site indefinitely and that reactor sites will be fully remediated to established cleanup standards. Setting a 20-year backstop would provide that assurance while being reflective of the transportation options available for a decommissioning microreactor. New York also recommends that NRC approval of a decommissioning plan submitted at the time of initial reactor licensing be conditioned on the completion of an NRC-approved site investigation and characterization at the time of shutdown. This will ensure that any contamination not anticipated at the time of initial licensing is fully addressed during decommissioning.

The proposed rule notes that “NRC’s current regulations generally restrict the use of decommissioning trust funds to activities conducted after permanent cessation of operations, unless an exemption is granted.”<sup>39</sup> NRC requests comment “on whether, and under what conditions” licensees should be allowed to use decommissioning trust fund assets to dispose of major radioactive reactor components during the period of operation.<sup>40</sup> In New York’s view, NRC should maintain its long-established position that the decommissioning trust fund cannot be used for such operating costs. As the Commission explained in its 2022 denial of a petition for rulemaking seeking such a change, “whether there is an excess [in decommissioning trust fund assets] would be based on economic projections. Economic projections are less accurate the further out in time they attempt to project, and, therefore, changes in economic conditions combined with withdrawals from the decommissioning trust fund could potentially result in future shortfalls in the fund.”<sup>41</sup> NRC should continue to prioritize the need for adequate funding to cover the full cost of radiological decommissioning at the time of reactor shutdown.

#### Fitness for Duty

The Part 57 proposed rule includes a new Subpart P with more flexible fitness for duty requirements than Part 26. This new subpart accounts for the potential for smaller reactor staff sizes and more remote locations. The proposed rule would allow a licensee to implement a fitness for duty program of its own specification (rather than Subpart P or Part 26) “if operator action would not be required to maintain the reactor within the [1 rem TEDE dose] criterion of proposed § 57.25(a) or a credible operator or maintenance error could not result in exceeding that criterion.”<sup>42</sup>

New York supports a more flexible fitness for duty regime for microreactors that takes into account their potentially lower risk profile and more varied locations and staff sizes. However, we believe that microreactor licensees should take advantage of the new Subpart P rather than being allowed to design a program of their own specification. A series of one-of-a-kind fitness for duty programs would reduce consistency, increase confusion, and make NRC licensing reviews more resource-intensive and

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<sup>39</sup> *Id.* at 23680-23681.

<sup>40</sup> *Id.* at 23681.

<sup>41</sup> U.S. Nuclear Regulatory Commission, *Denial of Petition for Rulemaking: Access to the Decommissioning Trust Fund for the Disposal of Large Components*, Fed. Reg. 6434 (Feb. 4, 2022) at 6435-6436.

<sup>42</sup> U.S. Nuclear Regulatory Commission, *Proposed Rule: Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles*, Fed. Reg. 23628 (May 1, 2026) at 23752.

less predictable. In New York's view, the flexibilities incorporated into Subpart P are more likely to strike the right balance than numerous unique, licensee-developed alternate programs.

#### Licensee Changes to Manufacturing Licenses

The proposed rule would allow the holder of a manufacturing license to make changes to the facility or procedures as described in the Final Safety Analysis Report without obtaining a license amendment if the change meets the criteria in § 50.59. As NRC acknowledges, "[t]his would be different than the provisions in [Part 52] that do not allow any changes to the design of a manufactured reactor without requesting a license amendment."<sup>43</sup>

New York recommends the removal of this provision from the proposed regulations. While we are generally supportive of increased licensing flexibilities for microreactors that meet rigorous safety criteria, NRC has not provided a persuasive justification for this unprecedented use of § 50.59. In addition, the elimination of the requirement to obtain a license amendment would further erode stakeholder hearing rights.

#### Finality and Departures

New York is concerned about the interaction between the proposed rule's finality and departure provisions. Under the proposed rule, issues resolved during the review of an application for a manufacturing license or a joint application for a construction permit and operating license are accorded finality and treated as resolved for future joint applications for reactors of the same design. Issues granted finality from a manufacturing license review include "the adequacy of design of the manufactured reactor, the adequacy of the design of the remaining portions of a nuclear plant described in the manufacturing license application, and any essentially complete operational programs or requirements."<sup>44</sup> Separately, the proposed rule provides that "analysis would not be required for departures from any operational programs or requirements approved with the referenced CP, OL, or ML that are not material to the adequacy of the design, if the joint application includes proposed alternative operational programs or requirements."<sup>45</sup>

Together, these provisions would accord finality to important operational programs but then allow applicants to depart from those programs without an analysis as long as the "not material to the adequacy of the design" standard is met. New York is concerned that this standard is vague and could cause confusion or result in litigation. Moreover, because vital operational programs like security plans and emergency preparedness may not impact the adequacy of the underlying design but are crucial to providing defense in depth, the departure provision is likely to result in an unjustified level of flexibility to applicants, which could adversely impact safety and security.

#### Crediting DOE and DOD Authorizations

The proposed rule allows an applicant to reference a relevant Department of Energy (DOE) or Department of Defense (DOD) authorization. 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

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<sup>43</sup> *Id.* at 23649.

<sup>44</sup> *Id.* at 23737.

<sup>45</sup> *Id.* at 23637.

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.

The proposed § 57.18 could be read as stating that NRC will consider a DOE or DOD authorization and the information from the reactor's demonstration in its 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.

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.

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. 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.

## Siting

The current nuclear fleet was licensed in compliance with the reactor site criteria in Part 100. One provision of Part 100 states, “Siting away from densely populated centers has been and will continue to be an important factor in evaluating applications for site approval.”<sup>46</sup> The Part 57 proposed rule appears to allow microreactors to avoid compliance with Part 100. It refers to an “Alternative to 10 CFR Part 100 Siting Requirements” and includes “requirements for an FSAR to describe and assess safety features and barriers designed into the facility to prevent or mitigate the consequences of an accident similar to §50.34(a)(ii)(D) without the requirement to comply with part 100 or the radiation dose criterion for an individual in §50.34(a)(1)(ii)(D).”<sup>47</sup>

New York recommends that NRC require Part 57 microreactors to meet the siting criteria established in Part 100. Siting limitations have long been an important element of defense-in-depth for nuclear reactors. Under Part 100 and NRC’s siting guidance, microreactor developers already have access to considerable siting flexibilities.

## Financial Protection

NRC has not justified departing from its established formula for determining required amounts of financial protection. NRC concedes and acknowledges that it is obligated under the Price-Anderson Act<sup>47</sup> to establish required amounts of financial protection for licenses issued under proposed Part 57.<sup>48</sup> Although NRC is not proposing substantive changes to its financial protection regulations in Part 140, it nevertheless suggests that, when reviewing an application under proposed Part 57, it may consider whether a lesser amount of financial protection is “commensurate with the reduced risk profile of the reactor.”<sup>49</sup> NRC justifies this potential departure from its established regulations only by observing that “[f]acilities that would be licensed under proposed Part 57 could pose reduced risks in comparison to existing facilities, for which the current financial protection requirements were established, thereby warranting a reduced amount of required financial protection.”<sup>50</sup>

This justification is inadequate. With this proposed rule, NRC is contemplating the approval of novel designs and signaling an increased openness to siting them nearer to population centers. These circumstances are not addressed in NRC’s justification and do not weigh in favor of reducing the required financial protections. Moreover, if NRC has concluded that its financial protection regulations have become outdated, it may amend them only via an APA-sanctioned notice-and-comment rulemaking process that articulates a reasoned basis for doing so and duly considers public comment. NRC should not, as it suggests here, depart from its established regulations on a case-by-case basis. We urge NRC to apply its established financial protection regulations to Part 57 licensees.

## **Conclusion**

New York shares NRC’s goal of efficient, timely microreactor licensing. To achieve this shared objective, we urge NRC to incorporate New York’s recommended improvements to the Part 57 rule discussed in this comment.

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<sup>46</sup> 10 CFR § 100.1.

<sup>47</sup> U.S. Nuclear Regulatory Commission, *Proposed Rule: Licensing Requirements for Microreactors and Other Reactors with Comparable Risk Profiles*, Fed. Reg. 23628 (May 1, 2026) at 23643.

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 light grey background behind it.

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

Senior Advisor for Nuclear Coordination & Radioactive  
Waste Policy