



NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440; NRC-2025-0511]

Vistra Operations Company, LLC; Perry Nuclear Power Plant, Unit No. 1;

Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff has issued an exemption from the requirement in NRC regulations that would otherwise require the application for renewal of Facility Operating License No. NFP-58 for Perry Nuclear Power Plant, Unit No. 1, to be referred to the Advisory Committee on Reactor Safeguards for a review and report, with any report being made part of the record of the application and made available to the public, except to the extent that security classification prevents disclosure.

DATE: The exemption was issued on July 7, 2025.

ADDRESSES: Please refer to Docket ID **NRC-2025-0511** when contacting the NRC staff about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2025-0511**. Address questions about Docket IDs in Regulations.gov to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual listed in the “For Further Information Contact” section of this document.

- **NRC’s Agencywide Documents Access and Management System**

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FOR FURTHER INFORMATION CONTACT: Vaughn Thomas, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-5897; email: Vaughn.Thomas@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: July 16, 2025.

For the Nuclear Regulatory Commission.

Vaughn Thomas,
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License Renewal Projects Branch,
Division of New and Renewed Licenses,
Office of Nuclear Reactor Regulation.*

NUCLEAR REGULATORY COMMISSION

Docket No. 50-440

Vistra Operations Company, LLC

Perry Nuclear Power Plant, Unit No. 1

Exemption

I. Background.

Vistra is the holder of Facility Operating License No. NFP-58 for Perry. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect. The NRC issued the initial operating license for Perry, Unit 1 on November 13, 1986. Unit 1 is a General Electric boiling water reactor designated BWR/6 with a Mark III containment and a licensed thermal power of 3,756 megawatts thermal (MWt). Perry is located along the southern shoreline of Lake Erie on an ancient lake plain approximately 50 feet above low lake level in a rural area of Lake County, Ohio.

Prior to a license transfer to Vistra, on July 3, 2023, Energy Harbor Nuclear Corporation submitted to the U.S. Nuclear Regulatory Commission (NRC) an application for renewal of the Perry Facility Operating License, pursuant to Title 10 of the Code of Federal Regulations Part 54, “Requirements for Renewal of Operating Licenses for Nuclear Power Plants” requesting renewal for a period of 20 years beyond the current facility operating license expiration on November 7, 2026. A final decision on the application is expected on or about July 7, 2025.

Under 10 CFR 54.25, “[e]ach renewal application will be referred to the Advisory Committee on Reactor Safeguards for a review and report. Any report will be made part of the record of the application and made available to the public, except to the extent that security classification prevents disclosure.” The December 31, 1991, rulemaking

that promulgated 10 CFR 54.25 (Nuclear Power Plant License Renewal, (56 FR 64,943, 64,966)) noted that review by the ACRS review was desirable but such review was not required by statute.

On May 23, 2025, the President issued Executive Order (EO) 14300 (90 FR 22587), "Ordering the Reform of the Nuclear Regulatory Commission," and section 4(b) of EO 14300 says: "Review by ACRS of permitting and licensing issues shall focus on issues that are truly novel or noteworthy."

On May 29, 2025, the NRC Staff issued a Safety Evaluation Report (SER) (ML25148A362) documenting the staff's review of the application. Section 5 of the SER described the plan to meet 10 CFR 54.25 by referring the application to the ACRS, and the plan for the staff and the applicant to attend a meeting of the full committee of the ACRS to discuss the renewal application. Because the NRC Staff identified no issues in this license renewal application review that are novel or noteworthy, and the NRC is now granting an exemption to the requirement in section 54.25 to send the application to the ACRS for review, the planned actions in Section 5 of the SER will not occur.

II. Action.

In light of EO 14300, the status of the review of the license renewal application for Perry, and the fact that the NRC Staff found no novel or noteworthy issues in the application that would benefit from ACRS review, the Staff of the Nuclear Regulatory Commission determined that a staff-initiated exemption to 10 CFR 54.25 was warranted and should be granted. Pursuant to 10 CFR 54.15 "Specific exemptions," exemptions from the requirements of 10 CFR Part 54 may be granted by the Commission in accordance with 10 CFR 50.12. Per 10 CFR 50.12(a), "The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part," when certain conditions are met. Further, per 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless

special circumstances are present. Under 10 CFR 50.12(b)(vi), special circumstances are present whenever there is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption, but if such condition is relied on exclusively for satisfying paragraph (a)(2), then the exemption may not be granted until the Executive Director for Operations has consulted with the Commission. The staff has determined that those criteria are met and an exemption from 10 CFR 54.25 may be granted for the reasons explained below.

III. Discussion.

As described in 10 CFR 1.13, the ACRS was established by the Atomic Energy Act of 1954, as amended. Among other things, the ACRS reviews and reports on safety studies and applications for construction permits and facility operating licenses and reviews any generic issues or other matters referred to it by the Commission for advice.

Paragraph 10 CFR 54.25, as originally promulgated in 1991, requires that “[e]ach renewal application will be referred to the Advisory Committee on Reactor Safeguards for a review and report. Any report will be made part of the record of the application and made available to the public, except to the extent that security classification prevents disclosure.” The 1991 rulemaking notice explained (56 Fed. Reg. at 64,966) the background of the requirement thusly:

Section 182.b of the AEA states:

The ACRS shall review each application under section 103 or section 104b. for a construction permit or an operating license for a facility, any application under section 104c. for a construction permit or an operating license for a testing facility, any application under section 104a. or c. specifically referred to it by the Commission, and any application for an amendment to a construction permit or an amendment to an operating license under section 103 or 104a., b., or c. specifically referred to it by the Commission * * *

Section 182.b does not explicitly refer to applications for renewal of an operating license as requiring ACRS review. However, The Commission believes that review by the ACRS is desirable. Accordingly, § 54.25 of the

final rule requires ACRS review of a license renewal application.

The Commission has not changed 10 CFR 54.25 since its initial issuance in 1991. Further, no subsequent amendments of the AEA have set forth a requirement for the ACRS to review an application for a renewed license.

10 CFR Section 54.15, "Specific exemptions," states, "[e]xemptions from the requirements of this part may be granted by the Commission in accordance with 10 CFR 50.12." Pursuant to 10 CFR Section 50.12(a)(1), "Specific exemptions," the Commission may, "upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security."

Exemptions Are Authorized by Law

For an exemption to be authorized by law the item to be exempted cannot be required by statute. The requirement in 10 CFR 54.25 is not required by the Atomic Energy Act, nor required by any other law. As noted by Commission in 1991 (56 Fed. Reg. at 64,966), the AEA does not explicitly refer to applications for renewal of an operating license as requiring ACRS review. This remains true today. Accordingly, the NRC finds that the exemption is authorized by law.

Exemption Will Not Present an Undue Risk to the Public Health and Safety

The standards and criteria that must be met before the Commission issues a renewed license are not affected by an exemption to 10 CFR 54.25. After an exemption to 54.25, the regulation at 10 CFR 54.29 will continue to set forth the safety criteria that must be met before a renewed license may be issued by the Commission. The staff, which has a robust process for reviewing applications for renewed licenses, has completed its detailed review of how Perry's application addressed the standards of 10 CFR 54.29 (and other relevant regulations). The result of the safety review is documented in a safety evaluation report. The already-completed reviews by the NRC staff that confirmed that the application did not contain anything truly novel or noteworthy

thereby assuring that an exemption from 54.25's requirement to refer the application to ACRS will not present an undue risk to public health and safety.

Exemption is Consistent with the Common Defense and Security

The NRC staff has determined that the exemption from ACRS review of the license renewal application does not impact common defense and security in large part because the common defense and security are not within the scope of license renewal review that is concerned with aging effects. When promulgating revisions to the license renewal rules (60 Fed. Reg. 22461, 22,463-64) in 1995, the Commission re-affirmed its philosophy that the existing regulatory process is adequate to ensure that the licensing bases of all currently operating plants provides and maintains an acceptable level of safety so that operation will not be inimical to public health and safety or common defense and security. The exemption from ACRS review otherwise required by 10 CFR 54.25 does not alter any common defense or security matter or regulation. Thus, the exemption is consistent with common defense and security.

Special Circumstances are present

Pursuant to 10 CFR Section 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. 10 CFR 50.12(a)(2)(vi) states that special circumstances are present when, "[t]here is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption. If such condition is relied on exclusively for satisfying paragraph (a)(2) of this section, the exemption may not be granted until the Executive Director for Operations has consulted with the Commission."

The 2025 Executive Order 14300 did not, of course, exist when 10 CFR 54.25 was promulgated in 1991. Thus EO 14300 was not, and could not, be considered when 10 CFR 54.25 was issued with a blanket requirement that renewal applications be referred to ACRS. Section 4(b) of EO 14300 says: "Review by ACRS of permitting and licensing issues shall focus on issues that are truly novel or noteworthy." The NRC Staff determined that there were no novel or noteworthy issues in the Perry license renewal

application. To make a determination that the Perry application contained no novel or noteworthy issues, the Staff drew upon its experience with 89 approved license renewal applications and 12 approved subsequent license renewal applications. When those past reviews identified a novel or noteworthy issues (e.g., issues related to buried gray cast iron piping), the Staff took appropriate action. However, no such issues are present in the Perry application. Accordingly, because the Commission did not specifically refer this application for ACRS review, there are no truly novel or noteworthy issues in the Perry application, and EO 14300 was recently issued, the NRC Staff finds that special circumstances are present. Thus, given that following the EO is in the public interest, the EO represents the special circumstance under 10 CFR 50.12(a)(2)(vi) and an exemption from 54.25 is warranted. In fulfillment of 10 CFR 50.12(a)(2)(vi), the EDO consulted with the Commission.

Environmental Consideration

This exemption removes the requirement in 10 CFR 54.25 to refer the renewal application to the Advisory Committee on Reactor Safeguards for a review and report, with any report being made part of the record of the application and made available to the public, except to the extent that security classification prevents disclosure. The NRC Staff has determined that this exemption does not have an effect on the human environment and therefore, a categorical exclusion under 10 CFR 51.22 is appropriate.

Under 10 CFR 51.22(c) licensing, regulatory, and administrative actions eligible for categorical exclusion shall meet the following criterion: The action belongs to a category of actions which the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Under 10 CFR 51.22(c)(25) categories of actions that are categorical exclusions include granting of an exemption from the requirements of any regulation of this 10 CFR Chapter I, provided that (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released

offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involving an item listed in 10 CFR 51.22(c)(25)(vi)(A)-(I); 10 CFR 51.22(c)(25)(vi)(A), (B), and (I) are “recordkeeping requirements,” “reporting requirements,” and “other requirements of an administrative, managerial, or organizational nature,” respectively. As explained below, these criteria are satisfied.

An exemption involves no significant hazards consideration, if as provided in 10 CFR 50.92(c), operation of the facility in accordance with the proposed exemption would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. This exemption has no bearing on operation of the facility and the Staff identified no novel or noteworthy issues for ACRS review. Referring (or declining to refer) the application to the ACRS does not change any manner in which the facility would operate, and accordingly the factors above are met. The requirement in 10 CFR 54.25 for the application to be referred to the ACRS for review and report, with any report being made part of the record of the application fit within 10 CFR 51.22(c)(25)(vi)(A), (B), and (I) in that they involve “recordkeeping requirements,” “reporting requirements,” and “other requirements of an administrative, managerial, or organizational nature.” Accordingly, an exemption from 10 CFR 54.25 meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the exemption.

IV. Conclusions.

Accordingly, the Commission has determined that, pursuant to 10 CFR 54.15 “Specific exemptions,” (stating that exemptions from the requirements of 10 CFR Part 54 may be granted by the Commission in accordance with 10 CFR 50.12), an exemption from 10 CFR 54.25 requirement to send the Perry license renewal application to the ACRS for review is granted. The standards of 10 CFR 50.12(a) are met in that the exemption from 10 CFR 54.25 is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security, and special circumstances are present, and the EDO has consulted with the Commission. Therefore, the renewal application is no longer required to be referred to the Advisory Committee on Reactor Safeguards for a review and report. The planned steps to meet 10 CFR 54.25 described in Section 5 of the May 29, 2025 SER (ML25148A362) are no longer needed and will not be taken.

The exemption is effective upon issuance.

Dated at Rockville, Maryland, this 7th day of July 2025

For the Nuclear Regulatory Commission.

/RA/

Michele Sampson, Director,
Division of New and Renewed Licenses,
Office of Nuclear Reactor Regulation.