July 2, 2026

The Honorable Ho K. Nieh, Chairman
and Fellow Commissioners
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Submitted electronically to: https://www.regulations.gov/

RE: Comments of the New Mexico Environment Department on the U.S. Nuclear Regulatory Commission's (NRC) Proposed Rule for Modernizing NRC Regulations for Byproduct Material Use

Dear Chairman Nieh and Fellow Commissioners,

The New Mexico Environment Department (NMED) appreciates the opportunity to review and submit formal comments on the U.S. Nuclear Regulatory Commission's (NRC) Proposed Rule for Modernizing NRC Regulations for Byproduct Material Use (Docket ID NRC-2025-1205). The Proposed Rule was published in the Federal Register on May 18, 2026 (Vol. 91, No. 95).

NMED supports the NRC's efforts to modernize its regulations, reduce unnecessary regulatory burden, improve regulatory efficiency, and provide greater flexibility for the safe use of radioactive materials. Many of the proposed changes have the potential to improve program effectiveness while maintaining protection of public health and safety.

At the same time, several proposed changes may have significant implementation implications for Agreement States. The proposed Standard General License framework could shift substantial regulatory effort from licensing activities to registration management, inspection, compliance monitoring, enforcement, and information management functions. Agreement States may be required to undertake extensive rulemaking activities, modify licensing and inspection programs, update information technology systems, and revise fee structures to accommodate new licensing categories and oversight approaches. The NRC must support Agreement States through federal funding efforts or state efforts to increase fees to cover the costs of implementation – staffing costs, inspection expectations, information management needs, and the potential effects on state cost-recovery mechanisms.

We respectfully request that the Commission consider the enclosed comments and recommendations as it develops the final rule. Thank you for your continued commitment to protecting public health and safety through an effective and compatible national radiation control program.

Sincerely,

DocuSigned by:
James C. Kenney
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James C. Kenney
Cabinet Secretary

Cc: Courtney Kerster, Senior Advisor, Office of Governor Michelle Lujan Grisham

New Mexico Environment Department Comments on the U.S. Nuclear Regulatory Commission's (NRC) Proposed Rule for Modernizing NRC Regulations for Byproduct Material Use

Background: The U.S. Nuclear Regulatory Commission (NRC) has issued a proposed rule aimed at modernizing and streamlining the regulatory framework for licensing byproduct, source, and special nuclear materials. Developed in response to Executive Order 14300 and the ADVANCE Act of 2024, the initiative is designed to reduce administrative burdens, decrease the necessity for case-by-case regulatory exemptions, and modify regulatory structures across 10 CFR Parts 30, 31, 32, 34, 39, 40, 70, and 150. Key provisions of the proposed rulemaking include revising decommissioning financial assurance radionuclide values, establishing a "standard general license" pathway for specific low-risk industrial technologies, expanding commercial distribution pathways for medical microsources, and removing certain reporting, leak testing, and physical security mandates deemed redundant. As an Agreement State that co-manages materials licensees, the New Mexico Environment Department (NMED) notes that while these administrative and procedural updates are projected to lower costs for both industry and regulators, the revised framework is intended to maintain existing public health and environmental safety standards.

Comment 1: Alignment of Regulatory Frameworks and Safeguards for Drinking Water Sources

NMED supports the promotion of nuclear-based energy solutions as outlined in Executive Order 14300, provided that the rule changes maintain a strict commitment to protecting public health and ensuring the safety of dwindling drinking water supplies under the Safe Drinking Water Act (SDWA). However, NMED is deeply concerned that the proposed reductions in oversight, reporting, and monitoring requirements across 10 CFR Parts 19, 20, 30, 31, 32, 40, 39, 70.25, and 150 may compromise drinking water quality and create long-term fiscal burdens for states.

Specifically, the proposed changes to Part 39 regarding well leak testing frequencies present significant operational risks. In challenging field environments like oil and gas operations, reducing the rigor of tracer isotope leak testing increases the probability of undetected failures that could permanently ruin vital surface and groundwater sources.

To prevent accidental spills, exposure events, and undue administrative burdens on Agreement States, NMED recommends that NRC: defer final changes to the Atomic Energy Act (AEA) 1954 codes until the NRC fulfills the directive in EO 14300 to onboard "at least 20" subject matter experts (SMEs) to thoroughly review these public health implications; maintain strict, conservative leak-testing frequencies for industry tracer isotopes to safeguard vital groundwater infrastructure from catastrophic degradation; evaluate the operational burden placed on Agreement States, which may be forced to enact resource-intensive state-level rules to counteract reduced federal monitoring, particularly where major nuclear producers are federally owned and operated; and demonstrate how reduced routine reporting offsets the potentially massive, long-term remediation costs of accidental subsurface contamination events.

Comment 2: Revision to the Definition of "Consortium" for PET Radionuclide Production Facilities

NMED supports revising the definition of "consortium" to remove the geographic restriction between PET radionuclide production facilities and medical use licensees. This change reflects advances in radiopharmaceutical production, transportation, and dose management and may improve access to PET imaging services, particularly in rural and underserved areas. However, expanded interstate distribution

of PET radionuclides may increase regulatory complexity and require enhanced coordination among NRC and Agreement State programs.

NMED recommends that NRC: clarify lead regulatory authority and communication pathways for incidents involving multiple jurisdictions; provide inspection guidance regarding supplier authorization and licensee responsibilities; and reinforce expectations related to decay correction, dose calibration, and verification at the point of administration.

Comment 3: Modernization of Decommissioning Financial Assurance Requirements

NMED supports updating Appendix B to 10 CFR Part 30 and aligning 10 CFR 70.25 with Appendix C to Part 20. These revisions improve consistency, better reflect current radionuclide inventories and uses, and reduce unnecessary burden by removing short-lived radionuclides that do not contribute significantly to long-term decommissioning risk.

NMED recommends that NRC: maintain conservative decommissioning funding assurance thresholds that adequately protect public health and safety; clarify transition requirements and reevaluation timelines for existing licensees; and update associated guidance documents to ensure consistent implementation across NRC and Agreement State programs.

Comment 4: Creation of Standard General Licenses and Modernization of General License Requirements

NMED supports creation of Standard General Licenses (SGLs) for routine, low-risk activities and agrees that expanded use of general licensing may reduce administrative burden for both licensees and regulators. However, the proposed framework represents a significant shift in regulatory oversight.

Many current specific licensees may transition to SGL status, resulting in reduced licensing workload but increased reliance on registration systems, inspections, compliance activities, enforcement actions, and data management. NMED recommends that NRC: define inspection frequencies, prioritization methods, and compliance verification expectations for SGL holders; clearly distinguish activities eligible for SGLs from those requiring specific licenses; provide guidance and tools for registration, tracking, and information sharing; evaluate impacts on Agreement State staffing, inspection programs, and compliance activities; assess the fiscal impacts on Agreement State programs that rely on licensing and registration fees to support operations; and clarify whether transitions from specific licenses to SGLs will be voluntary or mandatory.

NMED further notes that implementation of SGL provisions may require Agreement States to amend licensing regulations, registration requirements, inspection programs, and fee schedules. In New Mexico, these changes could require amendments to multiple provisions within Title 20 NMAC, including radioactive materials licensing regulations and fee schedules. Such rulemaking activities require substantial staff resources, stakeholder engagement, legal review, public notice, and commission approval. NRC should recognize these implementation costs and provide sufficient flexibility and transition periods for Agreement States.

Comment 5: Reducing Reporting Requirements for Consumer Products Containing Small Quantities of Radioactive Material

NMED supports eliminating annual reporting requirements where reporting no longer provides significant regulatory value. However, annual reports have historically provided useful information regarding product distribution trends that support inspections, event investigations, and regulatory response activities. NMED recommends that NRC establish alternative, enforceable mechanisms that allow regulators continued access to equivalent information when necessary to assure compliance.

Comment 6: Expanding Distribution Pathways for Microsources

NMED supports expanding distribution pathways for microsources such as Yttrium-90 microspheres to improve patient access and align regulatory requirements with current medical practices.

To ensure continued safety and product quality, NRC should: clarify radionuclidic purity and quality assurance expectations; require documentation of impurities and radiological characteristics; and provide guidance regarding waste handling, contamination surveys, and disposal considerations.

Comment 7: Modernization of Industrial Radiography Requirements

NMED supports modernization of industrial radiography requirements where changes maintain or improve safety. Industrial radiography involves high-activity radioactive sources used in dynamic work environments and has historically experienced higher rates of noncompliance and significant radiation safety events.

NMED is concerned that some proposed changes may reduce important safety controls and recommends that NRC: clearly demonstrate how performance-based approaches will provide equivalent or greater protection; develop or endorse updated consensus standards to replace existing design criteria; and evaluate the cumulative safety impacts associated with reducing administrative and operational controls.

Comment 8: Modernization of Well Logging Regulations

As a state with extensive well logging activities, NMED supports modernizing well logging requirements while maintaining appropriate safety and oversight. Because well logging operations often involve high-activity sources used in challenging field environments, NMED recommends that NRC: evaluate whether revised leak-testing frequencies remain protective and assess instrument calibration extensions for reliability under field conditions; ensure elimination of notifications does not reduce regulatory visibility; and establish clear performance expectations that support effective compliance oversight.

Comment 9: Modernization of Part 150 Requirements for Agreement State Licensees

NMED supports modernizing reciprocity requirements and reducing unnecessary administrative burden on Agreement State licensees. To ensure continued effective oversight, NRC should: maintain adequate notice requirements for higher-risk activities; clarify how Standard General License status and compliance will be verified across jurisdictions; establish alternative mechanisms to maintain regulatory visibility where notifications are reduced; and strengthen expectations for interstate regulatory coordination.

Comment 10: NRC Must Avoid Creating Unfunded Mandates for Agreement States

Several proposed changes may have significant implementation implications for Agreement States. The proposed Standard General License framework could shift substantial regulatory effort from licensing activities to registration management, inspection, compliance monitoring, enforcement, and information management functions. Agreement States may be required to undertake extensive rulemaking activities, modify licensing and inspection programs, update information technology systems, and revise fee structures to accommodate new licensing categories and oversight approaches.

The NRC must support Agreement States through federal funding efforts or state efforts to increase fees to cover the costs of implementation – staffing costs, inspection expectations, information management needs, and the potential effects on state cost-recovery mechanisms.