

RECEIVED

Pamela Jones
By Environmental Improvement Board at 4:46 pm, Dec 21, 2023

**STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED
AMENDMENTS TO 20.3.16 NMAC**

No. EIB 23-75

**New Mexico Environment Department,
Environmental Protection Division,
Radiation Control Bureau,**

Petitioner.

**FIRST AMENDED PETITION
TO REPEAL AND REPLACE 20.3.16 NMAC
OF THE RADIATION PROTECTION REGULATIONS AND
REQUEST FOR HEARING**

COMES now the Environmental Protection Division (“Division”), Radiation Control Bureau (“Bureau”) of the New Mexico Environment Department (“Department”), by and through the undersigned counsel, and submits this First Amended Petition to Repeal and Replace 20.3.16 NMAC of the Radiation Protection Regulations and Request for Hearing (“First Amended Petition”). The reasons for this First Amended Petition are as follows:

1. On November 9, 2023, the Bureau filed a Petition to Repeal and Replace 20.3.16 NMAC of the Radiation Protection Regulations and Request for Hearing (“November 9, 2023 Petition”).
2. In the November 9, 2023 Petition, the Bureau stated that it “reserves the right to supplement this Petition and attach additional or amended exhibits”.
3. At the December 15, 2023 meeting of the Environmental Improvement Board (“EIB” or “Board”), counsel for the Bureau stated the intention:
 - a. to file an additional exhibit: a crosswalk that the Bureau calls a “matrix”. The matrix compares the proposed rule changes with the current rules; lists the

comparable U.S. Nuclear Regulatory Commission’s fiscal year 2021 fees; and briefly describes the explanation for the proposed rule changes; and

- b. to file an amended version of the proposed rules that corrects typographical errors. The Bureau filed the original version of the proposed rules as Exhibit 2 to the November 9, 2023 Petition.

4. After correcting typographical errors in the proposed rules, similar typographical corrections also were made to the Statement of Reasons, originally filed as Exhibit 1 to the November 9, 2023 Petition.

Therefore, the Bureau is filing the attached updated exhibits with this First Amended Petition, labeled as follows:

- a. Exhibit A: Statement of Reasons;
- b. Exhibit B: Proposed Rule Changes (20.3.16 NMAC); and
- c. Exhibit C: Matrix.

For clarity, the Bureau hereby restates the following substantive provisions from the November 9, 2023 Petition, with updates *italicized*:

1. *In* 1974, the State of New Mexico entered into an agreement with the U.S. Nuclear Regulatory Commission (“NRC”). Under the agreement with NRC, the State agreed to effectively operate a Radioactive Materials Program (“Program”).
2. The collection of fees is necessary to operate the Program, and the Department collects fees under the License Fee regulations published on or about May 19, 2002.

3. The 2002 fees have not kept pace with NRC's fee rules. According to the NRC webpage at <https://www.nrc.gov/about-nrc/regulatory/licensing/general-fee-questions.pdf>, NRC fees are adjusted annually. The NRC currently charges fees under a federal Fiscal Year (FY) 2023 fee rule. In contrast, the State's twenty-one-year-old fees have never been adjusted. The State's fees have not kept pace with the annual increases in Program costs and inflation and do not adequately support the Program.
4. To operate an effective Program, the Bureau proposes regulatory fee changes based on the NRC's federal FY 2021 fee rules.
5. Under the proposed regulations, the new fee structure would start on July 1, 2024.
6. Proposed changes to the State fee structure include: increasing license application and annual fees; providing for license amendment application fees and administrative compliance costs; collecting annual fees prospectively, instead of retrospectively under the 2002 rules; standardizing the annual fee due date to July 1; phasing in annual fees over 2 years (FY 25 and FY 26); and adjusting fees with Consumer Price Index increases starting in FY 2027 and continuing each year thereafter.
7. Qualified small entities would continue to receive a discount on annual fees.
8. The proposed changes to the State fee structure would help provide the budget needed for effective operation of the Program, without which the Program could revert to the NRC. Then the NRC would impose license fee increases in amounts far greater than the fees charged currently under the 2002 License Fee regulations.
9. Under the proposed changes to the State fee structure, all fees would continue to be deposited in the Radiation Protection Fund. *See* NMSA 1978, § 74-3-5 (2000) and NMSA 1978, § 74-3-5.1 (2000).

10. There are approximately 196 Radioactive Materials (“RAM”) licensees who would be affected by the proposed changes to the State fee structure.
11. Under 1.24.11.9(C) NMAC, Part 16 must be repealed and replaced instead of amended because the 2002 fee regulations do not meet current style and formatting requirements established by the State Records Center and Archives.
12. The Radiation Protection Act, NMSA 1978, § 74-3-5(A) (2000), provides that, with the advice and consent of the Radiation Technical Advisory Council (“RTAC”), the EIB shall “have the authority, after considering the facts and circumstances ... to promulgate rules ... prescribing license, registration and other related fees, all of which shall be deposited in the radiation protection fund.” *See generally, Radiation Protection Act, Sections 74-3-1 to -16 (1953, as amended).*
13. Pursuant to NMSA 1978, Section 74-3-5(A) (2000), the proposed regulations *were provided* to the Radiation Technical Advisory Council (“RTAC”) for its advice and consent on this rulemaking *at its December 19, 2023 meeting. During the December 19, 2023 meeting, the members of the RTAC who were present voted to approve the proposed rules attached hereto as Exhibit B.*
14. The EIB’s authority to promulgate rules includes repealing and replacing (or amending) the License Fee regulations. *See NMSA 1978, §§ 74-1-5 (1997), 74-1-8(A)(5) (2020), 74-1-9 (1985), and 74-3-5(A)(2) (2000).*
15. Under the Environmental Improvement Act, NMSA 1978, Sections 74-1-1 to -17, the proposed regulations are in the public interest, technically practicable, necessary, and economically reasonable. *See NMSA 1978, § 74-1-9 (1985).*

16. For the reasons stated above, it is necessary and appropriate to repeal and replace the 2002 License Fee regulations to align with NRC fees and Program operation requirements.
17. Pursuant to NMSA 1978, Section 74-1-9(A) (1985) and 20.1.1.300(A) NMAC, any person may petition the EIB for an amendment of regulations within the jurisdiction of the EIB. The EIB shall determine whether to hold a hearing for the proposed regulations. *See* NMSA 1978, Section 74-1-9(A) (1985); *see also*, 20.1.1.300(C) NMAC.
18. For the Program to cover costs starting in FY 2025, the Bureau intends to begin implementing the new fee structure beginning May 1, 2024, with fee changes starting on July 1, 2024.

In the November 9, 2023 Petition, the Bureau requested that the EIB order a hearing, appoint a hearing officer, and schedule a two-day public hearing to occur prior to March 12, 2024. During the December 15, 2023 EIB meeting, the EIB voted to conduct the hearing on February 29, 2024, to be continued, if necessary, at the direction of the chair. The EIB also selected EIB member William Honker as the hearing officer.

Respectfully submitted,

NEW MEXICO ENVIRONMENT
DEPARTMENT

/s/ Lisa Chai

Lisa Chai

Assistant General Counsel

Office of General Counsel

121 Tijeras Ave. NE, Ste. 1000

Albuquerque, NM 87102-3400

Phone: (505) 500-7628

Email: lisa.chai1@env.nm.gov

CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2023, a copy of the foregoing was sent via electronic mail to the persons listed below. A hard copy will be mailed upon request.

Emily Bowen
Office of the Attorney General
Counsel for EIB
ebowen@nmag.gov

Nicholas R. Maxwell
inspector@sunshineaudit.com

/s/ Lisa Chai _____

STATEMENT OF REASONS

1. Pursuant to Section 74-3-15 NMSA 1978, the State of New Mexico (“State”) administers the Radiation Protection Program (“Program”) through an agreement between the United States Nuclear Regulatory Commission (“NRC”) and the State titled “Agreement Between the United States Atomic Energy Commission and the State of New Mexico for Discontinuance of Certain Commission Regulatory Authority and Responsibility within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, As Amended,” signed on April 3, 1974 and effective on May 1, 1974 (“Agreement”).

2. The Agreement provides for discontinuance of the regulatory authority of the NRC and acceptance of that authority by the Environmental Improvement Board (“EIB”) and Environmental Protection Division of the New Mexico Environment Department (“Department”). *See* NMSA 1978, § 74-3-15 (1977).

3. For the duration of the Agreement, the EIB shall have the authority to regulate the radioactive materials covered by the Agreement for the protection of the public health and safety and the environment from radiation hazards. *See Id.*

4. As an agreement state under 42 U.S.C. § 2021 and NMSA 1978, Section 74-3-15, the State must maintain a satisfactory and adequately staffed Program to keep its agreement status. To achieve this, the State is proposing Licensee Fee changes that would provide the much needed funding to adequately staff and equip the Program to protect public health and safety and the environment from radiation hazards. The proposed fees are necessary to retain the authority granted to the State by the NRC to maintain a satisfactory and adequate program.

5. The proposed annual fees are based on NRC’s Fiscal Year (FY) 2021 fees. *See*

114 Fed. Reg. 32146, 32183 “Revision of Fee Schedules, Fee Recovery for Fiscal Year 2021” (June 26, 2021).

6. Further, failure to maintain a satisfactory and adequately staffed Program jeopardizes the Agreement between the State and the NRC and potentially endangers the authority of the State to regulate certain uses of radioactive materials within the State and to collect radioactive materials license fees.

7. The EIB has the authority to adopt the proposed regulations pursuant to Section 74-1-8(A)(5) NMSA 1978 (2020), Section 74-1-9 NMSA 1978 (1985), and Section 74-3-5(A) NMSA 1978 (2000).

8. Since the 2002 fee regulations do not meet current style and formatting requirements established by the State Records Center and Archives, they must be repealed and replaced with the proposed Fee License regulations (rather than amended) for adoption by the EIB. *See* 1.24.11.9(C) NMAC. The numbering of the replacement sections is sequential. Due to two repealed sections that were not replaced, the numbering of the old and new sections does not always track.

9. The proposed License Fee regulations would repeal and replace Title 20, Chapter 3, Part 16 of the New Mexico Administrative Code (“NMAC”):

- 20.3.16.1 NMAC (“Issuing Agency”);
- 20.3.16.2 NMAC (“Scope”);
- 20.3.16.3 NMAC (“Statutory Authority”);
- 20.3.16.4 NMAC (“Duration”);
- 20.3.16.5 NMAC (“Effective Date”);
- 20.3.16.6 NMAC (“Objective”);
- 20.3.16.7 NMAC (“Definitions”);
- 20.3.16.8 NMAC (“Interpretations”);
- 20.3.16.9 NMAC (“Exemptions”);
- 20.3.16.10 NMAC (“Licensing Fee Requirements and Indications”);
- 20.3.16.11 NMAC (“Annual Fee Requirements and Indications”);
- 20.3.16.12 NMAC (“Schedule of Fees”);

- 20.3.16.13 NMAC (“Small Entities”);
- 20.3.16.14 NMAC (“Proration”);
- 20.3.16.15 NMAC (“Payment”);
- 20.3.16.16 NMAC (“Enforcement”);
- 20.3.16.17 NMAC (“Collection and Administrative Costs”); and,
- 20.3.16.18 NMAC (“Periodic Review”).

10. The proposed 20.3.16.1 NMAC (“Issuing Agency”) identifies the EIB as the issuing agency. This section is unchanged. *See* Exhibit B at p. 1.

11. The proposed 20.3.16.2 NMAC (“Scope”) identifies the scope of Part 16. The proposed License Fee regulations include minor wording changes to the 2002 fee regulations. *See* Exhibit B at p. 1.

12. The proposed 20.3.16.3 NMAC (“Statutory Authority”) cites the statutes that provide authority for the regulations. This section is unchanged. *See* Exhibit B at p. 1.

13. The proposed 20.3.16.4 NMAC (“Duration”) indicates the regulations would be permanent (until the next EIB-approved amendments to these regulations). This section is unchanged. *See* Exhibit B at p. 1.

14. The proposed 20.3.16.5 NMAC (“Effective Date”) states that the effective date of the rule amendments would be May 1, 2024. (The prior effective date was May 19, 2002.) *See* Exhibit B at p. 1.

15. The proposed 20.3.16.6 NMAC (“Objective”) clarifies that the regulations are for establishment of fees and costs associated with applying for maintaining radioactive material licenses. *See* Exhibit B at p. 1.

16. The proposed 20.3.16.7 NMAC (“Definitions”) replaces all previous definitions in Part 16 to provide clarity to new and existing terms. *See* Exhibit B at pp. 1-2.

17. The proposed 20.3.16.8 NMAC (“Interpretations”) states that only a written interpretation of the regulations by the Department’s General Counsel will be recognized as binding. This section is unchanged. *See* Exhibit B at p. 2.

18. The proposed 20.3.16.9 NMAC (“Consumer Price Index Adjustment”) adds a new section to the regulations and provides for an adjustment of fees beginning in FY 2027, based on the Consumer Price Index. The addition of this section will allow for fee increases to be tied to inflation. *See* Exhibit B at p. 2.

19. The proposed 20.3.16.10 NMAC (“Annual Fee Schedule, License Application Fees, Amendment Application Fees, and Annual Fees”) replaces “Licensing Fee Requirements and Indications,” and describes the types of fees to be charged, including fees for: new licenses; renewals of licenses; applications to reinstate expired, terminated, or inactive licenses; license amendment applications; and annual fees. *See* Exhibit B at pp. 2-3.

20. The proposed 20.3.16.11 NMAC (“Categories of Materials Licenses, Application Fees and Annual Fees”) replaces 20.3.16.12, “Schedule of Fees,” to provide clarity regarding particular categories of radioactive materials and types of licensees, and to establish the application and annual fees that will be charged in FY 25 and FY 26 and subject to an annual adjustment based on CPI increases starting in FY 27. *See* Exhibit B at pp. 3-6.

21. The proposed 20.3.16.12 NMAC (“Small Entities and Annual Fees”) updates the parameters for qualification as a “small entity” to receive discounted annual fees. *See* Exhibit B at pp. 6-7.

22. The proposed amendments to 20.3.16.13 NMAC (“Proration”) provide for the July 1, 2024, payment of prorated annual fees owed retrospectively under the 2002 regulations and to

bring all licenses to an annual fee due date of July 1 of each year for annual fees to be collected prospectively. *See* Exhibit B at pp. 7-8.

23. The proposed 20.3.16.14 NMAC (“Payment, Collection and Costs”) adds clarity to the prior section 20.3.16.17 NMAC, “Collection and Administrative Costs,” that identified payment methods. The new section more fully identifies costs of non-compliance. *See* Exhibit B at p. 8.

24. The proposed 20.3.16.15 NMAC (“License Terminations”) describes the fees, costs and procedures for terminating a license. This section is new. *See* Exhibit B at p.8.

25. The proposed 20.3.16.16 NMAC (“Annual Review”) replaces the section 20.3.16.18 NMAC, “Periodic Review,” and clarifies that an annual report shall be provided to the Radiation Technical Advisory Council (“RTAC”) chair by October 1 of each year. *See* Exhibit B at p. 8.

26. 20.3.16.17 NMAC and 20.3.16.18 NMAC are repealed without replacement since their content is absorbed into other sections, as described above. *See* Exhibit B at p. 8, “[Reserved].”

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 3 RADIATION PROTECTION
PART 16 FEES FOR LICENSURE OF RADIOACTIVE MATERIALS

20.3.16.1 ISSUING AGENCY: Environmental Improvement Board.
[20.3.16.1 NMAC - Rp, 20.3.16.1 NMAC XX/XX/2024]

20.3.16.2 SCOPE:

A. This Part applies to those entities or activities which require licensure in accordance with Chapter 3, Title 20 NMAC.

B. The requirements of this Part are in addition to, and not in substitution for, other applicable requirements of the regulations in Chapter 3, Title 20 NMAC.

C. This Part does not apply to those activities that the U.S. Nuclear Regulatory Commission (NRC) reserved exclusively for federal regulation.

[20.3.16.2 NMAC - Rp, 20.3.16.2 NMAC XX/XX/2024]

20.3.16.3 STATUTORY AUTHORITY: Section 74-1-8.A(5) and Section 74-3-5.A(2) NMSA 1978.

[20.3.16.3 NMAC - Rp, 20.3.16.3 NMAC XX/XX/2024]

20.3.16.4 DURATION: Permanent

[20.3.16.4 NMAC - Rp, 20.3.16.4 NMAC XX/XX/2024]

20.3.16.5 EFFECTIVE DATE: May 1, 2024.

[20.3.16.5 NMAC - Rp, 20.3.16.5 NMAC XX/XX/2024]

20.3.16.6 OBJECTIVE: To establish fees and costs associated with applying for and maintaining radioactive material licenses.

[20.3.16.6 NMAC - Rp, 20.3.16.6 NMAC XX/XX/2024]

20.3.16.7 DEFINITIONS:

A. “Amendment” means a request made by a licensee to the department to approve a change to its license. Examples of amendments include, but are not limited to, changes to users, changes in materials, and transfers of licenses.

B. “Application” means an application for a new license, a renewal of a license or an amendment.

C. “Byproduct material” means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

D. “Department” means the New Mexico environment department and its duly authorized representatives.

E. “Fee” means an amount to be charged by the department in accordance with the provisions in this Part.

F. “Fiscal year” or “FY” means a year that begins on July 1 of each calendar year and ends on June 30 of the following calendar year. Fiscal years are identified by the year in which they end (e.g., fiscal year 2025 begins on July 1, 2024 and ends on June 30, 2025).

G. “Generator” means a person who produces, uses, stores, transfers, or disposes of radioactive materials in any licensable quantity.

H. “Government agency” means any state or federal executive department, commission, independent establishment, corporation, wholly or partly owned by any state or the United States of America which is an instrumentality of the state or United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in executive branches of government.

I. “License” or “Materials license” means a license, certificate, approval, registration, or other form of permission issued by the department under the various parts of these regulations.

J. “Nonprofit educational institution” means a public or nonprofit educational institution whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an

educational program for which it awards academic degrees, and whose educational programs are available to the public.

K. “NORM” means any naturally occurring radioactive material subject to the licensing requirements of these regulations.

L. “NRC” means the U.S. Nuclear Regulatory Commission; an officer, employee, or authorized representative of the commission.

M. “Operating license” means having a license issued pursuant to Part 3, Title 20 NMAC.

N. “Person means”:

(1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, or Government agency other than the department; any state or any political subdivision of, or any political entity within, a state; any foreign government or nation or any political subdivision of any such foreign government or nation; or other entity; and

(2) any legal successor, representative, agent, or agency of the foregoing.

O. “Registration holder” as used in this part means any manufacturer or initial distributor of a sealed source or device containing a sealed source that holds a certificate of registration issued by the NRC, or a holder of a registration for a sealed source or device manufactured in accordance with the unique specifications of, and for use by, a single applicant.

P. “Source material” means:

(1) uranium or thorium, or any combination thereof, in any physical or chemical form; or

(2) ores which contain by weight one-twentieth of one percent or more of

(a) uranium,

(b) thorium, or

(c) any combination thereof.

(3) Source material does not include special nuclear material.

Q. “Special nuclear material” means:

(1) plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the NRC, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(2) any material artificially enriched by any of the special nuclear materials and excluding source material.

[20.3.16.7 NMAC - Rp, 20.3.16.7 NMAC XX/XX/2024]

20.3.16.8 INTERPRETATIONS: Except as specifically authorized by the department in writing, no interpretation of the regulations in this part by an officer or employee of the department, other than a written interpretation by the general counsel, will be recognized as binding on the department.

[20.3.16.8 NMAC - Rp, 20.3.16.8 NMAC XX/XX/2024]

20.3.16.9 CONSUMER PRICE INDEX ADJUSTMENT: Starting in fiscal year 2027, then in each subsequent calendar year, all fees in this Part shall be increased pursuant to the provisions in this Part if there is an increase in the unadjusted consumer price index (CPI) for all urban consumers, United States city average for all items, or its successor index, as published by the U.S. Bureau of Labor Statistics or its successor agency. The increase shall be measured by the percentage increase of the consumer price index as of October of the immediately preceding year over the level of the consumer price index as of October of the next previous year and shall be rounded up to the nearest dollar. A fee increase shall take effect on July 1 of the year in which the fee schedule is adjusted. In the event there is a decrease or absence of change in the CPI, fees shall remain the same until the next increase in CPI as described in this paragraph.

[20.3.16.9 NMAC – Rp, 20.3.16.9 NMAC N, XX/XX/2024;]

20.3.16.10 ANNUAL FEE SCHEDULE, LICENSE APPLICATION FEES, AMENDMENT APPLICATION FEES, AND ANNUAL FEES:

A. The department shall develop and publish a current fee schedule each year by May 1 to take effect by July 1 of the same year. The fee schedule will list current license application fees, amendment application fees, annual fees, and termination request fees.

B. Each Location of Use. All fees in this Part apply to each location of use listed on the license. The licensee shall pay the cumulative amount owed for each location of use for each license held by the licensee.

C. License Applications.

(1) An application fee shall be charged for new licenses, renewals of licenses, and applications to reinstate expired, terminated, or inactive licenses. Each application for which a fee is prescribed must be accompanied by a remittance of the full amount of the fee prior to department review.

(2) Fees are charged regardless of whether the application is approved, denied, or withdrawn.

(3) Applications for licenses covering more than one fee category of special nuclear material or source material or byproduct material must be accompanied by the prescribed application fee for each applicable fee category.

(4) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for the fee category specified in paragraph (1) of Subsection B of 20.3.16.12 and in Subsection D of 20.3.16.12 NMAC.

(5) After the department approves an application for a new license, the applicant shall pay the full amount of annual fees due, regardless of the month of issuance of license, prior to commencing operations under the new license.

D. Amendment Applications. A licensee seeking an amendment to a license shall submit an amendment application for an amendment to an existing license submitted to the department. Each amendment application will be charged a fee of 25% of the amount of the license application fee that would be charged for the license in the fiscal year of the amendment submission.

E. Annual Fees.

(1) Beginning July 1, 2024, annual fees will be charged prospectively. For existing licensees, annual fees will be due on July 1 of each year for use of the license for the next twelve (12) months. For new licensees, the full amount of the annual fees will be due within 30 days of issuance of the license, regardless of the month of issuance, then the next due date for the annual fees will be July 1.

(2) If a single license authorizes more than one activity (e.g., human use and irradiator activities), then annual fees will be assessed for each fee category applicable to the license.

(3) If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person.

(4) Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses.

(5) Payment of the prescribed annual fee does not automatically renew the license for which the fee is paid. Renewal applications must be filed in accordance with the requirements of Part 3, Title 20 NMAC as applicable and must be approved by the department.

[20.3.16.10 NMAC - Rp, 20.3.16.10 NMAC XX/XX/2024]

20.3.16.11 CATEGORIES OF MATERIALS LICENSES, APPLICATION FEES AND ANNUAL FEES:

A. The categories of materials licenses for which fees are due for each location of use are listed below in this section. For each category of materials license, the FY 25 and FY 26 application fee and FY 25 and FY 26 annual fee amounts are listed. Starting in FY 27, all license application fees and annual fees charged in FY 26 will be subject to the CPI adjustment described in this Part. Since the amendment application fees are calculated based on the license application fees, no additional CPI adjustment applies to amendment application fees.

B. Special nuclear material:

(1) Licenses for possession and use of special nuclear material of less than a critical mass, as defined in Code of Federal Regulations 10 CFR 70.4, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers:

(a) License application fee: \$1,300 for FY 25 and \$1,300 for FY 26; and

(b) Annual fee: \$1,200 for FY 25 and \$2,400 for FY 26.

(2) All other special nuclear material licenses, except licenses authorizing special nuclear material in the sealed or unsealed form in combination that would constitute a critical mass as defined in Code of Federal Regulations 10 CFR 70.4.

(a) License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and

(b) Annual fee: \$2,850 for FY 25 and \$5,700 for FY 26.

C. Source material:

(1) Licenses for possession and use of source material in recovery operations such as ion exchange facilities.

(a) License application fee: \$87,000 for FY 25 and \$87,000 for FY 26; and

(b) Annual fee: \$87,000 for FY 25 and \$87,000 for FY 26.

- shielding.
- (2) Licenses that authorize only the possession, use and/or installation of source material for shielding.
 - (a) License application fee: \$1,300 for FY 25 and \$1,300 for FY 26; and
 - (b) Annual fee: \$1,350 for FY 25 and \$2,700 for FY 26.
 - (3) Licenses to distribute items containing source material to persons exempt from the licensing requirements of 20.3.3 NMAC.
 - (a) License application fee: \$6,200 for FY 25 and \$6,200 for FY 26; and
 - (b) Annual fee: \$4,450 for FY 25 and \$8,900 for FY 26.
 - (4) Licenses to possess, distribute, transfer, store, and dispose of source material to persons specifically licensed under 20.3.3 NMAC.
 - (a) License application fee: \$2,000 for FY 25 and \$2,000 for FY 26; and
 - (b) Annual fee: \$2,550 for FY25 and \$5,100 for FY26.
 - (5) Licenses for possession and use of source material for processing or manufacturing products or materials containing source material for commercial distribution.
 - (a) License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and
 - (b) Annual fee: \$3,150 for FY 25 and \$6,300 for FY 26.
 - (6) All other source material licenses
 - (a) License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and
 - (b) Annual fee: \$4,250 for FY 25 and \$8,500 for FY 26.
- D. Byproduct Material:
- (1) Licenses of broad scope for possession and use of byproduct material issued for processing or manufacturing of items containing byproduct material for commercial distribution.
 - (a) License application fee: \$13,500 for FY 25 and \$13,500 for FY 26; and
 - (b) Annual fee: \$13,700 for FY 25 and \$27,400 for FY 26.
 - (2) Other licenses for possession and use of byproduct material issued for processing or manufacturing of items containing byproduct material for commercial distribution.
 - (a) License application fee: \$3,700 for FY 25 and \$3,700 for FY 26; and
 - (b) Annual fee: \$4,800 for FY 25 and \$9,600 for FY 26.
 - (3) Licenses authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material.
 - (a) License application fee: \$5,400 for FY 25 and \$5,400 for FY 26; and
 - (b) Annual fee: \$4,500 for FY 25 and \$9,000 for FY 26.
 - (4) Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).
 - (a) Licensing application fee: \$3,300 for FY 25 and \$3,300 for FY 26; and
 - (b) Annual fee: \$4,950 for FY 25 and \$9,900 for FY 26.
 - (5) Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.
 - (a) License application fee: \$6,700 for FY 25 and \$6,700 for FY 26; and
 - (b) Annual fee: \$4,450 for FY 25 and \$8,900 for FY 26.
 - (6) Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.
 - (a) License application fee: \$64,300 for FY 25 and \$64,300 for FY 26; and
 - (b) Annual fee: \$36,050 for FY 25 and \$72,100 for FY 26.
 - (7) Licenses to distribute items containing byproduct material that require device review or quantities of byproduct material to persons exempt from the licensing requirements of these regulations, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements.
 - (a) License application fee: \$6,900 for FY 25 and \$6,900 for FY 26; and
 - (b) Annual fee: \$4,350 for FY 25 and \$8,700 for FY 26.

- (8) Licenses to distribute items containing byproduct material or quantities of byproduct material that require sealed source and/or device review to specifically licensed persons, except specific licenses authorizing redistribution of items that have been authorized for distribution to generally licensed persons.
- (a) License application fee: \$2,100 for FY 25 and \$2,100 for FY 26; and
 - (b) Annual fee: \$1,800 for FY 25 and \$3,600 for FY 26.
- (9) License issued to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements.
- (a) License application fee: \$15,300 for FY 25 and \$15,300 for FY 26; and
 - (b) Annual fee: \$8,700 for FY 25 and \$17,400 for FY 26.
- (10) Licenses issued to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons specifically licensed, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed.
- (a) License application fee: \$1,200 for FY 25 and \$1,200 for FY 26; and
 - (b) Annual fee: \$1,350 for FY 25 and \$2,700 for FY 26.
- (11) Licenses of broad scope for possession and use of byproduct material for research and development that do not authorize commercial distribution.
- (a) License application fee: \$5,700 for FY 25 and \$5,700 for FY 26; and
 - (b) Annual fee: \$6,250 for FY 25 and \$12,500 for FY 26.
- (12) Other licenses for possession and use of byproduct material for research and development that do not authorize commercial distribution.
- (a) License application fee: \$8,600 for FY 25 and \$8,600 for FY 26; and
 - (b) Annual fee: \$6,700 for FY 25 and \$13,400 for FY 26.
- (13) Licenses that authorize services for other licensees:
- (a) License application fee: \$9,200 for FY 25 and \$9,200 for FY 26; and
 - (b) Annual fee: \$7,600 for FY 25 and \$15,200 for FY 26.
- (14) Licenses for the possession and use of byproduct material for industrial radiography operations; this category also includes the possession and use of source material for shielding when authorized on the same license:
- (a) License application fee: \$9,200 for FY 25 and \$9,200 for FY 26; and
 - (b) Annual fee: \$14,550 for FY 25 and \$29,100 for FY 26.
- (15) All other specific byproduct material licenses, including calibration and leak testing:
- (a) License application fee: \$6,600 for FY 25 and \$6,600 for FY 26; and
 - (b) Annual fee: \$4,950 for FY 25 and \$9,900 for FY 26.
- (16) Licenses for production of accelerator-produced radionuclides:
- (a) License application fee: \$14,700 for FY 25 and \$14,700 for FY 26; and
 - (b) Annual fee: \$11,900 for FY 25 and \$23,800 for FY 26.
- E. Waste disposal and processing:**
- (1) Class 1 Waste Licenses - Licenses specifically authorizing the receipt of waste byproduct material, source material, NORM, or special nuclear material from other persons specifically licensed for the purpose of contingency storage or commercial land disposal by the licensee; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material:
- (a) License application fee: \$5,000 for FY 25 and \$10,000 for FY 26; and
 - (b) Annual fee: \$10,000 for FY 25 and \$20,000 for FY 26.
- (2) Class 2 Waste Licenses - Licenses specifically authorizing the receipt of waste byproduct material, source material, NORM, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:
- (a) License application fee: \$0 for FY 25 and \$0 for FY 26; and
 - (b) Annual fee: \$7,480 for FY 25 and \$7,480 for FY 26.
- (3) Class 3 Waste Licenses - Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, NORM, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:

- (a) License application fee: \$0 for FY 25 and \$0 for FY 26; and
 - (b) Annual fee: \$5,530 for FY 25 and \$5,530 for FY 26.
- F. Well logging:
 - (1) Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies:
 - (a) License application fee: \$4,800 for FY 25 and \$4,800 for FY 26; and
 - (b) Annual fee: \$6,250 for FY 25 and \$12,500 for FY 26.
 - (2) Licenses for possession and use of byproduct material for field flooding tracer studies:
 - (a) License application fee: \$6,530 for FY 25 and \$6,530 for FY 26; and
 - (b) Annual fee: \$3,265 for FY 25 and \$6,530 for FY 26.
- G. Nuclear laundries - Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material and storage and transfer of laundry from the license location:
 - (1) License application fee: \$22,900 for FY 25 and \$22,900 for FY 26; and
 - (2) Annual fee: \$14,050 for FY 25 and \$28,100 for FY 26.
- H. Medical licenses:
 - (1) Licenses for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units teletherapy devices; this category also includes the possession and use of source material for shielding when authorized on the same license:
 - (a) License application fee: \$11,500 for FY 25 and \$11,500 for FY 26; and
 - (b) Annual fee: \$13,550 for FY 25 and \$27,100 for FY 26.
 - (2) Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:
 - (a) License application fee: \$9,000 for FY 25 and \$9,000 for FY 26; and
 - (b) Annual fee: \$18,500 for FY 25 and \$37,000 for FY 26.
 - (3) Other licenses for human use of byproduct material, source material, and/or special nuclear material except licenses for in-vitro analysis, and except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices; this category also includes the possession and use of source material for shielding when authorized on the same license:
 - (a) License application fee: \$10,900 for FY 25 and \$10,900 for FY 26; and
 - (b) Annual fee: \$8,400 for FY 25 and \$16,800 for FY 26.
- I. Civil defense - Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities:
 - (1) License application fee: \$2,600 for FY 25 and \$2,600 for FY 26; and
 - (2) Annual fee: \$3,000 for FY 25 and \$6,000 for FY 26.
- J. Reciprocal Recognition of Licenses under 20.3.3.24 NMAC:
 - (1) License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and
 - (2) Annual fee: \$0 for FY25 and \$0 for FY26.
- K. New categories. For generators of any category and any licensable quantity of radioactive material not listed above:
 - (1) License application fee: \$10,000 for FY 25 and \$10,000 for FY 26; and
 - (2) Annual Fee: \$10,000 for FY 25 and \$10,000 for FY 26.

[20.3.16.11 NMAC - Rp, 20.3.16.11 NMAC XX/XX/2024]

20.3.16.12 SMALL ENTITIES AND ANNUAL FEES:

A. A licensee may qualify as a small entity pursuant to the provisions of this section and receive a refund of a portion of annual fees paid following the submission of certification and documentation with the annual fee payment. The submission of certification and documentation of being a small entity after the due date of the annual fee payment will not allow the licensee to qualify as a small entity until the following year in which the next annual fee payment is due. To qualify as a small entity, an entity must provide appropriate documentation that it meets the size standards and gross income standards described in 20.3.16.13.

B. Small entity criteria.

(1) A small business that is a for-profit entity providing services or products and:

(a) earned average gross receipts of \$8 million or less over its last 3 completed fiscal years and is not engaged in manufacturing; or

(b) is a manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months; or

(2) A small governmental jurisdiction that is a government of a city, county, town, township, or village with a population (including educational institution populations) of 49,999 or fewer individuals; or

(3) A small educational institution that:

(a) has more than seventy percent (70%) of its operating budget funded by state or local governments; or

(b) has zero percent to fifty percent of its operating budget funded by state or local governmental funds and has 500 or fewer employees.

C. For a small entity that meets the small entity criteria listed above in Paragraph A of this section the following are the maximum annual fees, for each location of use and for each licensed category:

(1) Small businesses not engaged in manufacturing and small not-for-profit organizations (Average gross receipts for the last three completed years for all business locations):

(a) Gross annual receipts of \$485,000 to \$7 million, the annual fee is \$ 4,900 for each location.

(b) Gross annual receipts of less than less than \$485,000, the annual fee is \$1,000 for each location.

(2) Manufacturing entities that have an average of 500 or fewer employees working in all of licensee's locations:

(a) 35 to 500 employees, the annual fee is \$4,900 for each location.

(b) Less than 35 employees, the annual fee is \$1000 for each location.

(3) Small governmental jurisdictions.

(a) Population of 20,000 to 49,999, the annual fee is \$ 4,900 for each location.

(b) Population of less than 20,000, the annual fee is \$1000 for each location.

(4) Educational institutions that are not state or publicly supported with 500 employees or less.

(a) With 35 to 500 employees, the annual fee is \$4,900 for each location.

(b) With less than 35 employees, the annual fee is \$1000 for each location.

D. For the purposes of this section, the department shall use the small business administration definition of receipts in the Code of Federal Regulations, 13 CFR 121.104(a)(1)(2), or its successor regulation. A licensee who is a subsidiary of a large entity does not qualify as a small entity for the purposes of this section.

E. Whenever appropriate in the interest of administering statutes and regulations within its jurisdiction, it is the practice of the department to answer inquiries from small entities concerning information on and advice about compliance with the statutes and regulations that affect them.

F. A licensee who seeks to establish status as a small entity for the purpose of paying the annual fees required under this section must file a certification statement with the department. The licensee must file the required certification on department Form RPP526 for each license under which it is billed. The department will include a copy of Form RPP526 with each annual fee invoice sent to a licensee. A licensee who seeks to qualify as a small entity must submit the completed Form RPP526 with the reduced annual fee payment.

G. For purposes of this section, the licensee must submit a new certification with its annual fee payment each year.

H. Small entities are required to pay the appropriate small entity fee for each fee category applicable to their license(s).

I. If a person files a false certification with respect to qualifying as a small entity, the department may refuse to process any application submitted by or on behalf of the person with respect to any license issued to the person and may suspend or revoke any licenses held by the person. The filing of a false certification to qualifying as a small entity under this section may also result in punitive action pursuant to applicable New Mexico state statutes.

[20.3.16.12 NMAC - Rp, 20.3.16.12 NMAC XX/XX/2024;]

20.3.16.13 PRORATION:

A. The purpose of proration is to bring all licensees to an annual fee due date of July 1 of each year, beginning July 1, 2024. For licenses issued prior to July 1, 2024, the annual fees shall be prorated by multiplying the number of complete and partial months between the anniversary date of the license issuance and July 1, 2024 by the calculated monthly amount of the annual fees due. The resulting calculation of prorated annual fees will be rounded up to the nearest dollar and be due, along with the FY 25 annual fee, on July 1, 2024.

- B.** After July 1, 2024, there will be no proration, and:
- (1)** new licensees must pay the full amount of annual fees, regardless of the month of license issuance;
 - (2)** existing licensees must pay the full amount of annual fees on July 1 of each year, regardless of the anniversary date of license issuance; and
 - (3)** licensees who terminate their licenses will not receive a refund of annual fees paid.
- [[20.3.16.13 NMAC - Rp, 20.3.16.13 NMAC XX/XX/2024]

20.3.16.14 PAYMENT, COLLECTION AND COSTS:

A. Payments of fees and costs shall be in the form of an online payment or a check or money order made payable to the Radiation Protection Fund at the address shown on the application, license, registration, or the invoice issued by the department or online payments service providers authorized by the department to collect payments.

B. In the event that fees and costs are not paid within thirty (30) days of the applicable due date, all outstanding fee balances become due and payable, along with a ten percent (10%) penalty cost and the costs of collection, to be charged each month until all fees and costs are paid. The penalty and collection costs shall be calculated from the original due date of the outstanding fee balances.

C. Non-compliance with Chapter 3, Title 20 NMAC, the Radiation Protection Act or license requirements, regardless of whether the generator has a current license or generator activities have ceased, requires a generator to cease and desist generator activities and subjects the generator to administrative compliance costs for enforcement of Chapter 3, Title 20 NMAC, civil penalties of up to \$15,000 per day and other remedies available under law and Chapter 3, Title 20 NMAC.

[20.3.16.14 NMAC - Rp, 20.3.16.14 NMAC XX/XX/2024]

20.3.16.15 LICENSE TERMINATIONS:

A. For each license termination, the licensee shall inform the department of the intention to terminate the license and shall follow the termination procedures in Chapter 3, Title 20 NMAC and any other requirements set by the department.

B. Upon the department's determination that all conditions for termination have been met, the department shall issue an invoice for a termination fee in an amount equal to the application fee that would be charged for the license in the fiscal year of the termination request. The department shall issue a license termination within 30 days of receipt of total payment of owed fees and costs.

C. Until the department issues the license termination, annual fees and all other outstanding fees and costs under this Part are the continued obligation of the licensee, regardless of whether the license has expired or the licensed activities have ceased.

[20.3.16.15 NMAC - Rp, 20.3.16.15 NMAC XX/XX/2024]

20.3.16.16 ANNUAL REVIEW: By October 1 of each year, the department shall perform a review of the fees and costs required by this part and shall provide a report of the review to the chair of the New Mexico radiation technical advisory council (RTAC).

[20.3.16.16 NMAC - Rp, 20.3.16.16 NMAC XX/XX/2024]

20.3.16.17 [Reserved]

[20.3.16.17 NMAC - Repealed, XX/XX/2024]

20.3.16.18 [Reserved]

[20.3.16.18 NMAC - Repealed, XX/XX/2024]

Matrix of Proposed Changes to Radiation Permitting Fees and Rules in 20.3.16 NMSA

New Mexico Environment Department -- Radiation Control Bureau

To Be Considered by the Environmental Improvement Board

February 2024

Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	FY21 NRC Annual Fees (\$)	FY21 NRC Application Fees (\$)	Current Title 20, Chapter 3, Part 16	Total Licensees Per New Category	Justification/ Explanation
TITLE 20 ENVIRONMENTAL PROTECTION CHAPTER 3 RADIATION PROTECTION PART 16 FEES FOR LICENSURE OF RADIOACTIVE MATERIALS	N/A	N/A	CHAPTER 20 TITLE 3 PART 16: FEES FOR LICENSURE OF RADIOACTIVE MATERIALS	N/A	Repeal/Replace No substantive changes.
20.3.16.1 ISSUING AGENCY: Environmental Improvement Board.	N/A	N/A	20.3.16.1 ISSUING AGENCY: Environmental Improvement Board.	N/A	Repeal/Replace No substantive changes.
20.3.16.2 SCOPE: A. This Part applies to those entities or activities which require licensure in accordance with <u>Chapter 3, of the regulations in Title 20 NMAC.</u> B. The requirements of this Part are in addition to, and not in substitution for, other applicable requirements of these regulations. C. This Part does not apply to those activities <u>that the U.S. Nuclear Regulatory Commission (NRC) reserved exclusively for federal regulation.</u>	N/A	N/A	20.3.16.2 SCOPE: A. This Part applies to those entities or activities which require licensure in accordance with Parts 3, 13, and 14 of these regulations. B. The requirements of this Part are in addition to, and not in substitution for, other applicable requirements of these regulations. C. This Part does not apply to those activities subject to regulation by the U.S. Nuclear Regulatory Commission (NRC).	N/A	Referencing Chapter 3 is comprehensive such that specific parts do not need to be reference.
20.3.16.3 STATUTORY AUTHORITY: Section 74-1-8.A(5) and Section 74-3-5.A(2) NMSA 1978.	N/A	N/A	20.3.16.3 STATUTORY AUTHORITY: Section 74-1-8.A(5) and Section 74-3-5.A(2) NMSA 1978.	N/A	Repeal/Replace No substantive changes.
20.3.16.4 DURATION: Permanent	N/A	N/A	20.3.16.4 DURATION: Permanent	N/A	Repeal/Replace No substantive changes.
20.3.16.5 EFFECTIVE DATE: May 1, 2024	N/A	N/A	20.3.16.5 EFFECTIVE DATE: May 19, 2002	N/A	
20.3.16.6 OBJECTIVE: To establish fees <u>and costs associated with applying for and maintaining radioactive material licenses.</u>	N/A	N/A	20.3.16.6 OBJECTIVE: To establish fees for licensure of radioactive material licenses, and to provide for methods of payment for such fees.	N/A	Updates reflect proposed fee structure.

	A	B	C	D	E	F
	Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	FY21 NRC Annual Fees (\$)	FY21 NRC Application Fees (\$)	Current Title 20, Chapter 3, Part 16	Total Licensees Per New Category	Justification / Explanation
6	<p>20.3.16.7 DEFINITIONS:</p> <p>A. <u>"Amendment" means a request made by a licensee to the department to approve a change to its license. Examples of amendments include, but are not limited to, changes to users, changes in materials, and transfers of licenses.</u></p> <p>B. <u>"Application" means an application for a new license, a renewal of a license or an amendment or an amendment.</u></p> <p>C. <u>"Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.</u></p> <p>D. <u>"Department" means the New Mexico environment department and its duly authorized representatives.</u></p> <p>E. <u>"Fee" means an amount to be charged by the department in accordance with the provisions in this Part.</u></p>	N/A	N/A	<p>20.3.16.7 — DEFINITIONS:</p> <p>A. "Byproduct Material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.</p> <p>B. "Department" means the New Mexico Environment Department and its duly authorized representatives.</p> <p>C. "Fiscal year" means a year that begins on July 1 of each calendar year and ends on June 30 of the following calendar year. Fiscal years are identified by the year in which they end (e.g., fiscal year 2002 begins in 2001 and ends in 2002).</p> <p>D. "Government Agency" means any State or Federal executive department, commission, independent establishment, corporation, wholly or partly owned by any State or the United States of America which is an instrumentality of the State or United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in executive branches of government.</p> <p>E. "Materials License" means a license, certificate, approval, registration or other form of permission issued by the Department under the various parts of these regulations.</p>	N/A	Added definitions for Amendment, Application, and Fee.
14	<p>20.3.16.7 DEFINITIONS: F. <u>"Fiscal year" or "FY" means a year that begins on July 1 of each calendar year and ends on June 30 of the following calendar year. Fiscal years are identified by the year in which they end (e.g., fiscal year <u>fiscal year 2025 begins on July 1, 2024, and ends on June 30, 2025</u>).</u></p> <p>G. <u>"Generator" means a person who produces, uses, stores, transfers or disposes of radioactive materials in any licensable quantity.</u></p> <p>H. <u>"Government agency" means any state or federal executive department, commission, independent establishment, corporation, wholly or partly owned by any state or the United States of America which is an instrumentality of the state or United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in executive branches of government.</u></p> <p>I. <u>"License" or "Materials license" means a license, certificate, approval, registration or other form of permission issued by the Department under the various parts of these regulations.</u></p>	N/A	N/A	<p>F. "Nonprofit educational institution" means a public or nonprofit educational institution whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.</p> <p>G. "NORM" means any naturally occurring radioactive material subject to the licensing requirements of these regulations.</p> <p>H. "NRC" means the United States Nuclear Regulatory Commission; an officer, employee, or authorized representative of the Commission.</p> <p>I. "Operating license" means having a license issued pursuant to Parts 3, 13, or 14 of these regulations.</p>	N/A	Added definitions for Fiscal Year, Generator and License or Material's license. Removed definitions that are no longer pertinent.
15						

	A	B	C	D	E	F
6	<p>Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees</p>	<p>FY21 NRC Annual Fees (\$)</p>	<p>FY21 NRC Application Fees (\$)</p>	<p>Current Title 20, Chapter 3, Part 16</p>	<p>Total Licensees Per New Category</p>	<p>Justification / Explanation</p>
16	<p>20.3.16.7 DEFINITIONS: J. <u>“Nonprofit educational institution” means a public or nonprofit educational institution whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.</u></p>	<p>N/A</p>	<p>N/A</p>	<p>J. “Overhead and General and Administrative costs” means:</p> <p>(1) — The State benefits for each employee such as leave and holidays, retirement and disability benefits, health and life insurance costs, and social security costs;</p> <p>(2) — Travel costs;</p> <p>(3) — Direct overhead, e.g., supervision and support staff that directly support the Department safety mission areas (administrative support costs, e.g., rental of space, equipment, telecommunications and supplies); and</p> <p>(4) — Indirect costs that would include, but not be limited to, Department central policy direction, legal and executive management services for the Department and special and independent reviews, investigations, and enforcement and appraisal of Department programs and operations.</p> <p>K. “Person means”:</p>	<p>N/A</p>	<p>Added definitions for nonprofit educational institution. Removed definitions that are no longer pertinent.</p>
17	<p>20.3.16.7 DEFINITIONS: K. <u>“NORM” means any naturally occurring radioactive material subject to the licensing requirements of these regulations.</u></p> <p>L. <u>“NRC” means the United States Nuclear Regulatory Commission; an officer, employee, or authorized representative of the commission.</u></p> <p>M. <u>“Operating license” means having a license issued pursuant to Parts 3, of the regulations Title 20 NMAC.</u></p>	<p>N/A</p>	<p>N/A</p>	<p>K. “Person means”:</p> <p>(1) — Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Department, any state or any political subdivision of, or any political entity within, a state; any foreign Government or nation or any political subdivision of any such government or nation; or other entity; and</p> <p>(2) — any legal successor, representative, agent, or agency of the foregoing.</p> <p>L. “Registration Holder” as used in this Part means any manufacturer or initial distributor of a sealed source or device containing a sealed source that holds a certificate of registration issued by the NRC or a holder of a registration for a sealed source or device manufactured in accordance with the unique specifications of, and for use by, a single applicant.</p> <p>M. “Source Material” means:</p> <p>(1) — Uranium or thorium, or any combination thereof, in any physical or chemical form; or</p> <p>(2) — Ores which contain by weight one twentieth of one percent (0.05%) or more of</p> <p>(a) Uranium,</p> <p>(b) Thorium, or</p> <p>(c) Any combination thereof.</p> <p>(3) — Source material does not include special nuclear material.</p>	<p>N/A</p>	<p>Added definitions for Nonprofit educational institution. Removed definitions that are no longer pertinent.</p>

A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
<p>6</p> <p>20.3.16.7 DEFINITIONS: N. <u>“Person means”:</u> (1) <u>any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the department; any state or any political subdivision of, or any political entity within, a state; any foreign government or nation or any political subdivision of any such government or nation; or other entity; and</u> (2) <u>any legal successor, representative, agent, or agency of the foregoing.</u> O. <u>“Registration holder” as used in this part means any manufacturer or initial distributor of a sealed source or device containing a sealed source that holds a certificate of registration issued by the NRC or a holder of a registration for a sealed source or device manufactured in accordance with the unique specifications of, and for use by, a single applicant.</u> P. <u>“Source material” means:</u> (1) <u>uranium or thorium, or any combination thereof, in any physical or chemical form; or</u> (2) <u>ores which contain by weight one-twentieth of one percent or more of</u> (a) <u>uranium,</u> (b) <u>thorium, or</u> (c) <u>any combination thereof.</u> (3) <u>Source material does not include special nuclear material.</u></p> <p>18</p>	N/A	N/A	<p>N. <u>“Special nuclear material” means:</u> (1)plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the NRC, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or (2)any material artificially enriched by any of the foregoing, but does not include source material. [20.3.16.7 NMAC N, 5/19/2002]</p>	N/A	Added definitions for Person, Registration holder, and Source Material.
<p>19</p> <p>20.3.16.7 DEFINITIONS: Q. <u>“Special nuclear material” means:</u> (1) <u>plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the NRC, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or</u> (2) <u>any material artificially enriched by any of the special nuclear material and excluding source material.</u></p>	N/A	N/A	N/A	N/A	Added definition for Special nuclear material.
<p>20</p> <p>20.3.16.8 INTERPRETATIONS: <u>Except as specifically authorized by the department in writing, no interpretation of the regulations in this part by an officer or employee of the department, other than a written interpretation by the general counsel, will be recognized as binding on the department.</u></p>	N/A	N/A	<p>20.3.16.8 — INTERPRETATIONS: Except as specifically authorized by the Department in writing, no interpretation of the regulations in this Part by an officer or employee of the Department, other than a written interpretation by the General Counsel, will be recognized as binding on the Department.</p>	N/A	Repeal/Replace No substantive changes.

	A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
6	<p><u>20.3.16.9 CONSUMER PRICE INDEX FEE ADJUSTMENT: CONSUMER PRICE INDEX ADJUSTMENT: Starting in Fiscal year 2027, then in each subsequent calendar year, all fees in this Part shall be increased pursuant to the provisions in this Part if there is an increase in the unadjusted consumer price index (CPI) for all urban consumers, United States city average for all items, or its successor index, as published by the U. S. Bureau of Labor Statistics or its successor agency. The increase shall be measured by the percentage increase of the consumer price index as of October of the immediately preceding year over the level of the consumer price index as of October of the next previous year and shall be rounded up to the nearest dollar. A fee increase shall take effect on July 1 of the year in which the fee schedule is adjusted. In the event there is a decrease or absence of change in the CPI, fees shall remain the same until the next increase in CPI as described in this paragraph.</u></p>	N/A	N/A	<p>20.3.16.9 EXEMPTIONS: (A) Licensing fees and annual fees are not required for a license applied for by, or issued to, a nonprofit educational institution for the possession and use of byproduct material, source material, or special nuclear material. This exemption does not apply to those byproduct, source, or special nuclear material licenses which authorize: (1) human use; (2) remunerated services to other persons; (3) distribution of byproduct material, source material, or special nuclear material or products containing byproduct material, source material, or special nuclear material; or (4) activities performed under a government contract. (B) The department may, upon application by an interested person or on its own initiative, grant an exemption from the requirements of this part that it determines is authorized by law or otherwise in the public interest. Requests for exemption must be filed with the department within 90 days from the effective date of the final rule establishing the annual fees for which the exemption is sought in order to be considered. Absent extraordinary circumstances, any exemption requests filed beyond that date will not be considered. The filing of an exemption request does not extend the date on which the bill is payable. If a partial or full exemption is granted, any overpayment will be refunded. Requests for clarification of or questions relating to an annual fee bill must also be filed within 90 days from the date of the initial invoice to be considered.</p>	N/A	Exemptions no longer apply under the new fee structure. The new fee structure relies on the Consumer Price Index after FY26 for such that fees keep up with the market prices.
21	N/A	N/A	N/A	<p>C. The department may grant a materials licensee an exemption from the annual fee if it determines that the annual fee is not based on a fair and equitable allocation of department costs. The following factors must be fulfilled as determined by the department for an exemption to be granted: (1) There are data specifically indicating that the assessment of the annual fee will result in a significantly disproportionate allocation of costs to the licensee, or class of licensees; or (2) There is clear and convincing evidence that the budgeted generic costs attributable to the class of licensees are neither directly or indirectly related to the specific class of licensee nor explicitly allocated to the licensee by department policy decisions; or (3) Any other relevant matter that the licensee believes shows that the annual fee was not based on a fair and equitable allocation of department costs. {20.3.16.9 NMAC - N, 5/19/2002}</p>	N/A	Exemptions no longer apply under the new fee structure.
22						

A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
<p>6</p> <p><u>20.3.16.10 ANNUAL FEE SCHEDULE, LICENSE APPLICATION FEES, AMENDMENT APPLICATION FEES AND ANNUAL FEES:</u> A. <u>The department shall develop and publish a current fee schedule each year by May 1 to take effect by July 1 of the same year. The fee schedule will list current license application fees, amendment application fees, annual fees and termination request fees.</u> B. <u>Each Location of Use. All fees in this Part apply to each location of use listed on the license. The licensee shall pay the cumulative amount owed for each location of use for each license held by the licensee.</u> C. <u>License Applications.</u> (1) <u>An application fee shall be charged for new licenses, renewals of licenses, and applications to reinstate expired, terminated, or inactive licenses. Each application for which a fee is prescribed must be accompanied by a remittance of the full amount of the fee prior to department review.</u> (2) <u>Fees are charged regardless of whether the application is approved, denied, or withdrawn.</u> (3) <u>Applications for licenses covering more than one fee category of special nuclear material or source material or byproduct material must be accompanied by the prescribed application fee for each applicable fee category.</u> (4) <u>Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for the fee category specified in paragraph (1) of Subsection B of 20.3.16.12 and in Subsection D of 20.3.16.12 NMAC.</u> (5) <u>After the department approves an application for a new license, the applicant shall pay the full amount of annual fees due, regardless of the month of issuance of license, prior to commencing operations under the new license.</u> D. <u>Amendment Applications. A licensee seeking an amendment to a license shall submit an amendment application for an amendment to an existing license submitted to the department. Each amendment application will be charged a fee of 25% of the amount of the license application fee that would be charged for the license in the fiscal year of the amendment submission.</u></p> <p>23</p>	N/A	N/A	<p>20.3.16.10 LICENSING FEE REQUIREMENTS AND INDICATIONS: A. Fees for department review for the following licensing applications are subject to the licensing application fees indicated in the fee schedule: (1) applications for new materials licenses; (2) applications to reinstate expired, terminated, or inactive licenses except those subject to fees assessed at full costs; and (3) applications for amendments to materials licenses. B. Each application for which a fee is prescribed must be accompanied by a remittance for the full amount of the fee. C. The department will not issue a new license or an amendment increasing the scope of an existing license to a higher fee category or adding a new fee category prior to receiving the prescribed application fee. D. The application fee(s) is charged whether the department approves the application or not. The application fee(s) is also charged if the applicant withdraws the application. E. Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. The full cost fees for professional staff time will be determined at the professional hourly rates in effect the time the service was provided. The full cost fees are payable upon notification by the department.</p>	N/A	This section requires the Bureau to annually publish a fee schedule for each of the established fees in the new fee structure as prescribed.
<p>E. <u>Annual Fees.</u> (1) <u>Beginning July 1, 2024, annual fees will be charged prospectively. For existing licensees, annual fees will be due on July 1 of each year for use of the license for the next twelve (12) months. For new licensees, the full amount of the annual fees will be due within 30 days of issuance of the license, regardless of the month of issuance, then the next due date for the annual fees will be July 1.</u> (2) <u>If a single license authorizes more than one activity (e.g., human use and irradiator activities), then annual fees will be assessed for each fee category applicable to the license.</u> (3) <u>If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person.</u> (4) <u>Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses.</u> (5) <u>Payment of the prescribed annual fee does not automatically renew the license for which the fee is paid. Renewal applications must be filed in accordance with the requirements of Part 3, Title 20 NMAC as applicable and must be approved by the department.</u></p> <p>24</p>	N/A	N/A	<p>F. The department intends to bill each applicant or licensee at quarterly intervals for all accumulated costs for each application the applicant or licensee has on file for department review, until the review is completed. Each bill will identify the applications submitted for review and the costs related to each. G. The department intends to bill each applicant or licensee for costs related to project staff time on a quarterly basis. Each bill will identify the costs related to project staff time. H. Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category. I. Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for the fee category specified in paragraph (1) of Subsection A of 20.3.16.12 NMAC.</p>	N/A	This section prescribes how annual fees will be assessed under the new fee structure.

	A	B	C	D	E	F
	Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	FY21 NRC Annual Fees (\$)	FY21 NRC Application Fees (\$)	Current Title 20, Chapter 3, Part 16	Total Licensees Per New Category	Justification / Explanation
6	N/A	N/A	N/A	<p>20.3.16.11 ANNUAL FEE REQUIREMENTS AND INDICATIONS: A. Each person subject to the requirements of this part shall pay an annual fee for each license the person holds at any time during the first six months of the state fiscal year (July 1 through January 1). Annual fees will be prorated for new licenses issued and for licenses for which termination is requested and activities permanently ceased during the period July 1 through January 1 of the fiscal year as provided in 20.3.16.14 NMAC. If a single license authorizes more than one activity (e.g., human use and irradiator activities), annual fees will be assessed for each fee category applicable to the license. If the person holds more than one license, the total annual fee assessed will be the cumulative total of the annual fees applicable to the licenses held. B. The annual fee is comprised of a base annual fee and an additional charge (surcharge). The activities comprising the surcharge are shown below in Subsection C of 20.3.16.11 NMAC. The activities comprising the base annual fee is the sum of the department budgeted costs for: (1) generic and other research activities directly related to the regulation of materials licenses as defined in this part; and (2) other safety, environmental, and safeguards activities for materials licenses, except costs for licensing and inspection activities. C. The activities comprising the surcharge are: (1) LLW disposal generic activities; (2) activities not directly attributable to an existing department licensee or classes of licensees; e.g., support for the agreement state program; site decommissioning management plan (SDMP) activities; and (3) activities not currently assessed licensing and inspection fees based on department policy, e.g., reviews and inspections conducted of nonprofit educational institutions and reviews for state or federal agencies and activities related to decommissioning and reclamation. [20.3.16.11 NMAC - N, 5/19/2002]</p>	N/A	Repeal/Replace reserve 20.3.16.11 NMAC as recommended by Deputy Director Dana Bahar. Lisa Chai will determine if this is allowed.
25	<p><u>20.3.16.11 CATEGORIES OF MATERIALS LICENSES, APPLICATION FEES AND ANNUAL FEES:</u> <u>A. The categories of materials licenses for which fees are due for each location of use are listed below in this section. For each category of materials license, the FY 25 and FY 26 application fee and FY 25 and FY 26 annual fee amounts are listed. Starting in FY 27, all license application fees and annual fees charged in FY 26 will be subject to the CPI adjustment described in this Part. Since the amendment application fees are calculated based on the license application fees, no additional CPI adjustment applies to amendment application fees.</u></p>	N/A	N/A	<p>20.3.16.12 SCHEDULE OF FEES: The following indicates the categories of materials licenses and associated fees. Reference paragraphs (1) and (2) of Subsection L of 20.3.16.12 NMAC.</p>	N/A	Reflects the rollout of the new fees structure over the 2 years to align with NRC's 2021 fees after which the CPI shall be applied.
26						

	A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
6	<p><u>20.3.16.11 B. Special nuclear material:</u> <u>(1) Licenses for possession and use of special nuclear material of less than a critical mass, as defined in Code of Federal Regulations 10CFR70.4, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers:</u> <u>(a) License application fee: \$1,300 for FY 25 and \$1,300 for FY 26; and</u> <u>(b) Annual fee: \$1200 for FY 25 and \$2,400 for FY 26.</u></p>	B(1) \$1200 for FY 25 and \$2,400 for FY 26	B(1)\$1,300 for FY 25 and \$1,300 for FY 26	<p>A. Special nuclear material: (1)Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. (a)licensing applications — \$0; (b)annual fee — \$1,200.</p>	B(1) = 1	Updates reflect new fee structure.
27	<p><u>20.3.16.11 B. Special nuclear material:</u> <u>(2) All other special nuclear material licenses, except licenses authorizing special nuclear material in the sealed or unsealed form in combination that would constitute a critical mass as defined in Code of Federal Regulations 10 CFR70.4.</u> <u>(a) License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and</u> <u>(b) Annual fee: \$2,850 for FY 25 and \$5,700 for FY 26.</u></p>	B(2) \$2850 for FY25 and \$5,700 for FY26.	B(2)\$2,700 for FY26 and FY27	<p>A. Special Nuclear Materials (2)All other special nuclear material licenses. (a)licensing applications — \$0; (b)annual fee — \$2,240.</p>	B(2) = 8	Updates reflect new fee structure.
28	<p><u>20.3.16.11 C. Source material:</u> <u>(1) Licenses for possession and use of source material in recovery operations such as ion exchange facilities.</u> <u>(a) License application fee: \$87,000 for FY 25 and \$87,000 for FY 26; and</u> <u>(b) Annual fee: \$87,000 for FY 25 and FY 26 \$87,000.</u> <u>(2) Licenses that authorize only the possession, use and/or installation of source material for shielding.</u> <u>(a) License application fee: \$1,300 for FY 25 and \$1,300 for FY 26; and</u> <u>(b) Annual fee: \$1,350 for FY 25 and \$2,700 for FY 26.</u> <u>(3) Licenses to distribute items containing source material to persons exempt from the licensing requirements of 20.3.3 NMAC.</u> <u>(a) License application fee: \$6,200 for FY 25 and \$6,200 for FY 26; and</u> <u>(b) Annual fee: -\$4,450 for FY 25 and \$8,900 for FY 26.</u></p>	C(1) \$87,000 for FY 25 and FY 26 C(2) \$87,000 C(2) \$1,350 for FY 25 and \$2,700 for FY 26 C(3) \$6,200 for FY 25 and \$6,200 for FY 26	C(1) \$87,000 for FY 25 and FY 26 \$87,000 C(2) \$1,350 for FY 25 and \$2,700 for FY 26 C(3) \$4,450 for FY 25 and \$8,900 for FY 26	<p>C. Byproduct Material: (1) Licenses of broad scope for possession and use of byproduct material issued for processing or manufacturing of items containing byproduct material for commercial distribution. Licensing applications — \$0 Annual fee — \$17,300 (2) Other licenses for possession and use of byproduct material issued for processing or manufacturing of items containing byproduct material for commercial distribution. Licensing applications — \$0 Annual fee — \$4,140 (3) Licenses authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under Subsection A of 20.3.16.9 NMAC of this part, which instead are covered by the fee required for paragraph (4) of Subsection C of 20.3.16.12 NMAC. Licensing applications — \$0 Annual fee — \$10,270</p>	C(1) = 0 C(2) = 2 C(3) = 2	Updates reflect new fee structure.
29						

A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
<p>6</p> <p><u>20.3.16.11 C. Source material:</u> <u>(4) Licenses to possess, distribute, transfer, store, and dispose of source material to persons specifically licensed under 20.3.3 NMAC.</u> <u>(a) License application fee: \$2,000 for FY 25 and \$2,000 for FY 26; and</u> <u>(b) Annual fee: \$2,550 for FY25 and \$5,100 for FY26.</u> <u>(5) Licenses for possession and use of source material for processing or manufacturing products or materials containing source material for commercial distribution.</u> <u>(a) License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and</u> <u>(b) Annual fee: \$3,150 for FY 25 and \$6,300 for FY 26.</u> <u>(6) All other source material licenses</u> <u>(a) License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and</u> <u>(b) Annual fee: \$4,250 for FY 25 and \$8,500 for FY 26.</u></p>	<p>C(4) \$2,550 for FY25 and \$5,100 for FY26 C(5) \$3,150 for FY 25 and \$6,300 for FY 26 C(6) \$4,250 for FY 25 and \$8,500 for FY 26</p>	<p>C(4) \$2,000 for FY 25 and \$2,000 for FY 26 C(5) \$2,700 for FY 25 and \$2,700 for FY 26 C(6) \$2,700 for FY 25 and \$2,700 for FY 26</p>	<p>C. [Byproduct Material](4) Licenses authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category includes licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under Subsection A of 20.3.16.9 NMAC. This category also includes the possession and use of source material for shielding when included on the same license. Licensing applications – \$0 Annual fee – \$2,455 (5) Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). Licensing applications – \$0 Annual fee – \$2,260 (6) Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes. Licensing applications – \$0 Annual fee – \$3,820</p>	<p>C(4) = 2 C(5) = 9 C(6)</p>	<p>Updates reflect new fee structure.</p>
<p>30</p> <p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>(7) Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes. Licensing applications – \$0 Annual fee – \$9,695 (8) Licenses to distribute items containing byproduct material or quantities of byproduct material to persons exempt from the licensing requirements of these regulations, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements. Licensing applications – \$0 Annual fee – \$3,055 (9) Licenses to distribute items containing byproduct material or quantities of byproduct material to generally licensed persons, except specific licenses authorizing redistribution of items that have been authorized for distribution to generally licensed persons. Licensing applications – \$0 Annual fee – \$1,200 (10) Licenses of broad scope for possession and use of byproduct material for research and development that do not authorize commercial distribution. Licensing applications – \$0 Annual fee – \$7,350 (11) Other licenses for possession and use of byproduct material for research and development that do not authorize commercial distribution. Licensing applications – \$0 Annual fee – \$3,230</p>	<p>N/A</p>	<p>N/A</p>
<p>31</p>					

A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
6 N/A	N/A	N/A	(12) Licenses that authorize services for other licensees; except licenses that authorize only calibration and/or leak testing services which are subject to the fees specified in paragraph (14) of Subsection C of 20.3.16.12 NMAC, and licenses that authorize waste disposal services are subject to the fees specified in paragraphs (1), (2), and (3) of Subsection D of 20.3.16.12 NMAC. Licensing applications – \$0 Annual fee – \$3,420 (13) Licenses for possession and use of byproduct material for industrial radiography operations. This category also includes the possession and use of source material for shielding when authorized on the same license. Licensing applications – \$0 Annual fee – \$9,630 (14) All other specific byproduct material licenses, except those in Subsections D through J of 20.3.16.12 NMAC. Licensing applications – \$0 Annual fee – \$1,700	N/A	N/A
32 20.3.16.11 D-Byproduct Material: (1) <u>Licenses of broad scope for possession and use of byproduct material issued for processing or manufacturing of items containing byproduct material for commercial distribution.</u> (a) <u>License application fee: \$13,500 for FY 25 and \$13,500 for FY 26; and</u> (b) <u>Annual fee: \$13,700 for FY 25 and \$27,400 for FY 26.</u>	D(1) \$13,700 for FY 25 and \$27,400 for FY 26	D(1) \$13,500 for FY 25 and \$13,500 for FY 26	C. Byproduct Material (1) Licenses of broad scope for possession and use of byproduct material issued for processing or manufacturing of items containing byproduct material for commercial distribution. (a) Licensing applications – \$0 (b) Annual fee – \$17,300	D(1) = 1	Updates reflect new fee structure.
33 20.3.16.11 D.Byproduct Material: (2) <u>Other licenses for possession and use of byproduct material issued for processing or manufacturing of items containing byproduct material for commercial distribution.</u> (a) <u>License application fee: \$3,700 for FY 25 and \$3,700 for FY 26; and</u> (b) <u>Annual fee: \$4,800 for FY 25 and \$9,600 for FY 26.</u>	D(2) \$4,800 for FY 25 and \$9,600 for FY 26	D(2) \$3,700 for FY 25 and \$3,700 for FY 26	C. Byproduct Material (2) Other licenses for possession and use of byproduct material issued for processing or manufacturing of items containing byproduct material for commercial distribution. (a) Licensing applications – \$0 (b) Annual fee – \$4,140	D(2) = 2	Updates reflect new fee structure.

6	A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
35	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(3) Licenses authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material.</u> <u>(a) License application fee: \$5,400 for FY 25 and \$5,400 for FY 26; and</u> <u>(b) Annual fee: \$,4,500 for FY 25 and \$9,000 for FY 26.</u></p>	<p>D(3) \$4,500 for FY 25 and \$9,000 for FY 26</p>	<p>D(3) \$5,400 for FY 25 and \$5,400 for FY 26</p>	<p>C. Byproduct Material (3) Licenses authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under Subsection A of 20.3.16.9 NMAC of this part, which instead are covered by the fee required for Paragraph (4) of Subsection C of 20.3.16.12 NMAC. (a) Licensing applications — \$0 (b) Annual fee — \$10,270</p>	<p>D(3) = 53</p>	<p>Updates reflect new fee structure.</p>
36	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(4) Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).</u> <u>(a) Licensing application fee: \$3,300 for FY 25 and \$3,300 for FY 26; and</u> <u>(b) Annual fee: \$4,950 for FY 25 and \$9,900 for FY 26.</u></p>	<p>D(4) \$4,950 for FY25 and \$9,900 for FY26</p>	<p>D(4) \$3,300 for FY 25 and \$3,300 for FY 26</p>	<p>C. Byproduct Material (4) Licenses authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category includes licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under Subsection A of 20.3.16.9 NMAC. This category also includes the possession and use of source material for shielding when included on the same license. (a) Licensing applications — \$0 (b) Annual fee — \$2,455</p>	<p>D(4) = 2</p>	<p>Updates reflect new fee structure.</p>
37	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(5) Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.</u> <u>(a) License application fee: \$6,700 for FY 25 and \$6,700 for FY 26; and</u> <u>(b) Annual fee: \$4,450 for FY 25 and \$8,900 for FY 26.</u></p>	<p>D(5) \$4,450 for FY 25 and \$8,900 for FY 26</p>	<p>D(5) \$6,700 for FY 25 and \$6,700 for FY 26</p>	<p>C. Byproduct Material (5) Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). (a) Licensing applications — \$0 (b) Annual fee — \$2,260</p>	<p>D(5) = 2</p>	<p>Updates reflect new fee structure.</p>

	A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
6	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(6) Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.</u> <u>(a) License application fee: \$64,300 for FY 25 and \$64,300 for FY 26; and</u> <u>(b) Annual fee: \$36,050 for FY 25 and \$72,100 for FY 26.</u></p>	D(6) \$36,050 for FY 25 and \$72,100 for FY 26	D(6) \$64,300 for FY 25 and \$64,300 for FY 26	<p>C. Byproduct Material (6) Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes. (a) Licensing applications — \$0 (b) Annual fee — \$3,820</p>	D(6) = 2	Updates reflect new fee structure.
38	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(7) Licenses to distribute items containing byproduct material that require device review or quantities of byproduct material to persons exempt from the licensing requirements of these regulations, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements.</u> <u>(a) License application fee: \$6,900 for FY 25 and \$6,900 for FY 26; and</u> <u>(b) Annual fee: \$4,350 for FY 25 and \$8,700 for FY 26.</u></p>	D(7) \$4,350 for FY 25 and \$8,700 for FY 26	D(7) \$6,900 for FY 25 and \$6,900 for FY 26	<p>C. Byproduct Material (7) Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes. (a) Licensing applications — \$0 (b) Annual fee — \$9,695</p>	D(7) = 1	Updates reflect new fee structure.
39	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(8) Licenses to distribute items containing byproduct material or quantities of byproduct material that require sealed source and/or device review to specifically licensed persons, except specific licenses authorizing redistribution of items that have been authorized for distribution to generally licensed persons.</u> <u>(a) License application fee: \$2,100 for FY 25 and \$2,100 for FY 26; and</u> <u>(b) Annual fee: \$1,800 for FY 25 and \$3,600 for FY 26.</u></p>	D(8) \$1,800 for FY 25 and \$3,600 for FY 26	D(8) \$2,100 for FY 25 and \$2,100 for FY 26	<p>C. Byproduct Material (8) Licenses to distribute items containing byproduct material or quantities of byproduct material to persons exempt from the licensing requirements of these regulations, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements. (a) Licensing applications — \$0 (b) Annual fee — \$3,055</p>	D(8) = 0	Updates reflect new fee structure.

6	A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
41	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(9) License issued to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements.</u> <u>(a) License application fee: \$15,300 for FY 25 and \$15,300 for FY 26; and</u> <u>(b) Annual fee: \$8,700 for FY 25 and \$17,400 for FY 26.</u></p>	D(9) \$8,700 for FY 25 and \$17,400 for FY 26	D(9) \$15,300 for FY 25 and \$15,300 for FY 26	<p>C. Byproduct Material (9) Licenses to distribute items containing byproduct material or quantities of byproduct material to generally licensed persons, except specific licenses authorizing redistribution of items that have been authorized for distribution to generally licensed persons. (a) Licensing applications — \$0 (b) Annual fee — \$1,200</p>	D(9) = 0	Updates reflect new fee structure.
42	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(10) Licenses issued to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons specifically licensed, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed.</u> <u>(a) License application fee: \$1,200 for FY 25 and \$1,200 for FY 26; and</u> <u>(b) Annual fee: \$1,350 for FY 25 and \$2,700 for FY 26.</u></p>	D(10) \$1,350 for FY 25 and \$2,700 for FY 26	D(10) \$1,200 for FY 25 and \$1,200 for FY 26	<p>C. Byproduct Material (10) Licenses of broad scope for possession and use of byproduct material for research and development that do not authorize commercial distribution. (a) Licensing applications — \$0 (b) Annual fee — \$7,350</p>	D(10) = 4	Updates reflect new fee structure.
43	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(11) Licenses of broad scope for possession and use of byproduct material for research and development that do not authorize commercial distribution.</u> <u>(a) License application fee: \$5,700 for FY 25 and \$5,700 for FY 26; and</u> <u>(b) Annual fee: \$6,250 for FY 25 and \$12,500 for FY 26.</u></p>	D(11) \$6,250 for FY 25 and \$12,500 for FY 26	D(11) \$5,700 for FY 25 and \$5,700 for FY 26	<p>C. Byproduct Material (11) Other licenses for possession and use of byproduct material for research and development that do not authorize commercial distribution. (a) Licensing applications — \$0 (b) Annual fee — \$3,230</p>	D(11) = 6	Updates reflect new fee structure.

6	A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
44	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(12) Other licenses for possession and use of byproduct material for research and development that do not authorize commercial distribution.</u> <u>(a) License application fee: \$8,600 for FY 25 and \$8,600 for FY 26; and</u> <u>(b) Annual fee: \$6,700 for FY 25 and \$13,400 for FY 26</u></p>	D(12) \$6,700 for FY 25 and \$13,400 for FY 26	D(12) \$8,600 for FY 25 and \$8,600 for FY 26	<p>C. Byproduct Material (12) Licenses that authorize services for other licensees, except licenses that authorize only calibration and/or leak testing services which are subject to the fees specified in paragraph (14) of Subsection C of 20.3.16.12 NMAC, and licenses that authorize waste disposal services are subject to the fees specified in paragraphs (1), (2), and (3) of Subsection D of 20.3.16.12 NMAC. (a) Licensing applications — \$0 (b) Annual fee — \$3,420</p>	D(12) = 5	Updates reflect new fee structure.
45	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(13) Licenses that authorize services for other licensees:</u> <u>(a) License application fee: \$9,200 for FY 25 and \$9,200 for FY 26; and</u> <u>(b) Annual fee: \$7,600 for FY 25 and \$15,200 for FY 26.</u></p>	D(13) \$7,600 for FY 25 and \$15,200 for FY 26	D(13) \$9,200 for FY 25 and \$9,200 for FY 26	<p>C. Byproduct Material (13) Licenses for possession and use of byproduct material for industrial radiography operations. This category also includes the possession and use of source material for shielding when authorized on the same license. (a) Licensing applications — \$0 (b) Annual fee — \$9,630</p>	D(13) = 24	Updates reflect new fee structure.
46	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(14) Licenses for the possession and use of byproduct material for industrial radiography operations; this category also includes the possession and use of source material for shielding when authorized on the same license:</u> <u>(a) License application fee: \$9,200 for FY 25 and \$9,200 for FY 26; and</u> <u>(b) Annual fee: \$14,550 for FY 25 and \$29,100 for FY 26.</u></p>	D(14) \$14,550 for FY 25 and \$29,100 for FY 26	D(14) \$9,200 for FY 25 and \$9,200 for FY 26	<p>C. Byproduct Material (14) All other specific byproduct material licenses, except those in Subsections D through J of 20.3.16.12 NMAC. (a) Licensing applications — \$0 (b) Annual fee — \$1,700</p>	D(14) = 21	Updates reflect new fee structure.
47	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(15) All other specific byproduct material licenses, including calibration and leak testing:</u> <u>(a) License application fee: \$6,600 for FY 25 and \$6,600 for FY 26; and</u> <u>(b) Annual fee: \$4,950 for FY 25 and \$9,900 for FY 26.</u></p>	D(15) \$4,950 for FY 25 and \$9,900	D(15) \$6,600 for FY 25 and \$6,600 for FY 26	N/A	D(15) = 101	Updates reflect new fee structure.

	A	B	C	D	E	F
6	Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	FY21 NRC Annual Fees (\$)	FY21 NRC Application Fees (\$)	Current Title 20, Chapter 3, Part 16	Total Licensees Per New Category	Justification / Explanation
48	<p><u>20.3.16.11 D. Byproduct Material</u> <u>(16) Licenses for production of accelerator-produced radionuclides:</u> <u>(a) License application fee: \$14,700 for FY 25 and \$14,700 for FY 26; and</u> <u>(b) Annual fee: \$11,900 for FY 25 and \$23,800 for FY 26.</u></p>	<p>D(16) \$11,900 for FY 25 and \$23,800 for FY 26</p>	<p>D(16) \$14,700 for FY 25 and \$14,700 for FY 26</p>	<p>N/A</p>	<p>D(16) = 7</p>	<p>Updates reflect new fee structure.</p>
49	<p><u>20.3.16.11 E. Waste disposal and processing:</u> <u>(1) Class 1 [w] Waste [I] Licenses - Licenses specifically authorizing the receipt of waste byproduct material, source material, NORM, or special nuclear material from other persons specifically licensed for the purpose of contingency storage or commercial land disposal by the licensee; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material:</u> <u>(a) License application fee: \$5,000 for FY 25 and \$10,000 for FY 26; and</u> <u>(b) Annual fee: \$10,000 for FY 25 and \$20,000 for FY 26.</u> <u>(2) Class 2 Waste Licenses - Licenses specifically authorizing the receipt of waste byproduct material, source material, NORM, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:</u> <u>(a) License application fee: \$0 for FY 25 and \$0 for FY 26; and</u> <u>(b) Annual fee: \$7,480 for FY 25 and \$7,480 for FY 26.</u> <u>(3) Class 3 Waste Licenses - Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, NORM, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:</u> <u>(a) License application fee: \$0 for FY 25 and \$0 for FY 26; and</u> <u>(b) Annual fee: \$5,530 for FY 25 and \$5,530 for FY 26.</u></p>	<p>E(1) \$10,000 for FY 25 and \$20,000 for FY 26 E(2) \$7,480 for FY 25 and \$7,480 for FY 26 E(3) \$5,530 for FY 25 and \$5,530 for FY 26</p>	<p>E(1) \$5,000 for FY 25 and \$10,000 for FY 26 E(2) \$0 for FY 25 and \$0 for FY 26 E(3) \$0 for FY 25 and \$0 for FY 26</p>	<p>D. Waste disposal and processing (1) Class 1 waste licenses - Licenses specifically authorizing the receipt of waste byproduct material, source material, NORM, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. (a) Licensing applications - Full Cost. Reference paragraph (4) of Subsection L of 20.3.16.12 NMAC. (b) Annual fee - N/A. Reference paragraph (5) of Subsection L of 20.3.16.12 NMAC. (2) Class 2 Waste Licenses - Licenses specifically authorizing the receipt of waste byproduct material, source material, NORM, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. (a) Licensing applications - \$0 (b) Annual fee - \$7,480 (3) Class 3 Waste Licenses - Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, NORM, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. (a) Licensing applications - \$0 (b) Annual fee - \$5,530</p>	<p>E(1) = 0; E(2) = 2; E(3) = 3</p>	<p>Updates reflect new fee structure.</p>
50	<p><u>20.3.16.11 F. Well logging:</u> <u>(1) Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies:</u> <u>(a) License application fee: \$4,800 for FY 25 and \$4,800 for FY 26; and</u> <u>(b) Annual fee: \$6,250 for FY 25 and \$12,500 for FY 26.</u> <u>(2) Licenses for possession and use of byproduct material for field flooding tracer studies:</u> <u>(a) License application fee: \$6,530 for FY 25 and \$6,530 for FY 26; and</u> <u>(b) Annual fee: \$3,265 FY 25 and \$6,530 for FY 26.</u></p>	<p>F(1) \$6,250 for FY 25 and \$12,500 for FY 26 F(2) \$3,265 for FY 25 and \$6,530 for FY 26</p>	<p>F(1) \$4,800 for FY 25 and \$4,800 for FY 26 F(2) \$6,530 for FY 25 and \$6,530 for FY 26</p>	<p>E. Well logging (1) Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. (a) Licensing applications - \$0 (b) Annual fee - \$6,530 (2) Licenses for possession and use of byproduct material for field flooding tracer studies. (a) Licensing applications - \$0 (b) Annual fee - \$6,530</p>	<p>F(1) = 6 ; F(2) = 0</p>	<p>Updates reflect new fee structure.</p>

A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
<p>6</p> <p><u>20.3.16.11 G. Nuclear laundries - Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material and storage and transfer of laundry from the license location:</u> <u>(1) License application fee: \$22,900 for FY 25 and \$22,900 for FY 26; and</u> <u>(2) Annual fee: \$14,050 for FY 25 and \$28,100 for FY 26.</u></p>	<p>G(1) \$14,050 for FY 25 and \$28,100 for FY 26</p>	<p>G(1) \$22,900 for FY 25 and \$22,900 for FY 26</p>	<p>F. Nuclear laundries. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. (a) Licensing applications — \$0 (b) Annual fee — \$12,410</p>	<p>G(1) = 1</p>	<p>Updates reflect new fee structure.</p>
<p>51</p> <p><u>20.3.16.11 H. Medical licenses:</u> <u>(1) Licenses for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units teletherapy devices; this category also includes the possession and use of source material for shielding when authorized on the same license:</u> <u>(a) License application fee: \$11,500 for FY 25 and \$11,500 for FY 26; and</u> <u>(b) Annual fee: \$13,550 for FY 25 and \$27,100 for FY 26.</u></p>	<p>H(1) \$13,550 for FY 25 and \$27,100 for FY 26</p>	<p>H(1) \$11,500 for FY 25 and \$11,500 for FY 26</p>	<p>G. Medical licenses (1) Licenses for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. (a) Licensing applications — \$0 (b) Annual fee — \$10,075 -</p>	<p>H(1) = 1</p>	<p>Updates reflect new fee structure.</p>
<p>52</p> <p><u>20.3.16.11 H. Medical license :</u> <u>(2) Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:</u> <u>(a) License application fee: \$9,000 for FY 25 and \$9,000 for FY 26; and</u> <u>(b) Annual fee: \$18,500 for FY 25 and \$37,000 for FY 26.</u></p>	<p>H(2) \$18,500 for FY 25 and \$37,000 for FY 26</p>	<p>H(2) \$9,000 for FY 25 and \$9,000 for FY 26</p>	<p>G. Medical Licenses: (2) Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Reference Paragraph (9) of Subsection L of 20.3.16.12 NMAC. (a) Licensing applications — \$0 (b) Annual fee — \$13,560</p>	<p>H(2) = 2</p>	<p>Updates reflect new fee structure.</p>
<p>53</p>					

6	A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
54	<p><u>20.3.16.11 H. Medical License:</u> (3) Other licenses for human use of byproduct material, source material, and/or special nuclear material except licenses for in-vitro analysis, and except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices; this category also includes the possession and use of source material for shielding when authorized on the same license: (a) License application fee: \$10,900 for FY 25 and \$10,900 for FY 26; and (b) Annual fee: \$8,400 for FY 25 and \$16,800 for FY 26.</p>	<p>H(3) : \$8,400 for FY 25 and \$16,800 for FY 26</p>	<p>H(3) \$10,900 for FY 25 and \$10,900 for FY 26</p>	<p>H. Medical licenses: (3) Other licenses for human use of byproduct material, source material, and/or special nuclear material except licenses for in-vitro analysis, and except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Reference paragraph (9) of Subsection L of 20.3.16.12 NMAC. (a) Licensing applications — \$0 (b) Annual fee — \$3,815</p>	<p>H(3)= 55</p>	<p>Updates reflect new fee structure.</p>
55	<p><u>20.3.16.11 I Civil defense - Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities:</u> (1) License application fee: \$2,600 for FY 25 and \$2,600 for FY 26; and (2) Annual fee: \$3,000 for FY 25 and \$6,000 for FY 26.</p>	<p>I(1) \$3,000 for FY 25 and \$6,000 for FY 26</p>	<p>I(1) \$2,600 for FY 25 and \$2,600 for FY 26</p>	<p>H. Civil defense. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. (1) Licensing applications — \$0 (2) Annual fee — \$1,000</p>	<p>I(1) = 0</p>	<p>Updates reflect new fee structure.</p>
56	<p><u>20.3.16.11 J. Reciprocal Recognition of Licenses under 20.3.3.24 NMAC:</u> (1) License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and (2) Annual fee: \$0 for FY25 and \$0 for FY26.</p>	<p>J(1) \$0 for FY25 and \$0 for FY26</p>	<p>J(1) \$2,700 for FY 25 and \$2,700 for FY 26</p>	<p>I. Reciprocity. (1) Applications for Recognition — \$1,200 (2) Annual fee — N/A. Reference paragraph (8) of Subsection L of 20.3.16.12 NMAC. J. Special Projects. (1) Special Reviews — N/A. Reference paragraph (6) of Subsection L of 20.3.16.12 NMAC. (2) Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities. (a) Department support and activities — Full Cost. Reference paragraph (4) of Subsection L of 20.3.16.12 NMAC. (b) Annual fee — \$0. Reference paragraph (7) of Subsection L of 20.3.16.12 NMAC.</p>	<p>J(1) = 100</p>	<p>Updates reflect new fee structure.</p>

	A	B	C	D	E	F
6	<p>Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees</p>	<p>FY21 NRC Annual Fees (\$)</p>	<p>FY21 NRC Application Fees (\$)</p>	<p>Current Title 20, Chapter 3, Part 16</p>	<p>Total Licensees Per New Category</p>	<p>Justification / Explanation</p>
57	<p><u>20.3.16.11 K. New categories. For generators of any category and any licensable quantity of radioactive material not listed above:</u> <u>(1) License application fee: \$10,000 for FY 25 and \$10,000 for FY 26; and</u> <u>(2) Annual Fee: \$10,000 for FY 25 and \$10,000 for FY 26.</u></p>	<p>K(1) \$10,000 for FY 25 and \$10,000 for FY 26</p>	<p>K(1) \$10,000 for FY 25 and \$10,000 for FY 26</p>	<p>K. Professional staff-hour rate. Fees for licenses, amendments, renewals, special projects, other required reviews, approvals, and inspections will be calculated using the following applicable professional staff-hour rate. Professional staff-hour rate — \$125 per hour L. Fee schedule references. The following indications pertain specifically to references contained in the fee schedule, and are to be taken only in context with said references.</p>	<p>K(2) = 0</p>	<p>Allows the Bureau to charge fees should a new category is established that is not already defined.</p>
58	<p><u>20.3.16.12 SMALL ENTITIES AND ANNUAL FEES:</u> <u>A. A licensee may qualify as a small entity pursuant to the provisions of this section and receive a refund of a portion of annual fees paid following the submission of certification and documentation with the annual fee payment. The submission of certification and documentation of being a small entity after the due date of the annual fee payment will not allow the licensee to qualify as a small entity until the following year in which the next annual fee payment is due. To qualify as a small entity, an entity must provide appropriate documentation that it meets the size standards and gross income standards described in 20.3.16.13.</u></p>	<p>N/A</p>	<p>N/A</p>	<p>20.3.16.13 SMALL ENTITIES: A licensee who is required to pay an annual fee under this part may qualify as a small entity. If a licensee qualifies as a small entity and provides the department with the proper certification with the annual fee payment, the licensee may pay reduced annual fees as shown below. Failure to file a small entity certification in a timely manner could result in the denial of any refund that might otherwise be due. A. The following are the maximum annual fees per licensed category for qualifying small entities: (1) Small businesses not engaged in manufacturing and small not for profit organizations: (a) gross annual receipts of \$250,000 to \$5 million, the fee is \$1,500; (b) gross annual receipts of less than \$250,000, the fee is \$500. (2) Manufacturing entities that have an average of 500 employees or less: (a) 35 to 500 employees, the fee is \$1,500; (b) less than 35 employees, the fee is \$500. (3) Small governmental jurisdictions: (a) population of 20,000 to 50,000, the fee is \$1,500. (b) population of less than 20,000, the fee is \$500. (4) Educational institutions that are not state or publicly supported with 500 employees or less: (a) with 35 to 500 employees, the fee is \$1,500. (b) with less than 35 employees, the fee is \$500.</p>	<p>N/A</p>	<p>Updates small entities criteria and annual fees.</p>

A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
<p>6</p> <p><u>20.3.16.12 B.Small entity criteria.</u> (1) <u>A small business that is a for-profit entity that provides services or products and is:</u> (a) <u>not engaged in manufacturing and earned average gross receipts of \$8 million or less over its last 3 completed fiscal years; or</u> (b) <u>a manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months; or</u> (2) <u>A small governmental jurisdiction that is a government of a city, county, town, township, or village with a population (including educational institutional populations) of fewer than 49,999 individuals; or</u> (3) <u>A small educational institution that:</u> (a) <u>has more than 70% of its operating budget funded by state or local governments; or</u> (b) <u>has zero percent to fifty percent of its operating budget funded by state or local governmental funds and has 500 or fewer employees.</u></p>	N/A	N/A	<p>B.Small entity size standards. A licensee qualifies as a small entity if it meets the following size standards: (1)A small business is a for-profit concern and is a (a)concern that provides a service or a concern not engaged in manufacturing with average gross receipts of \$5 million or less over its last 3 completed fiscal years; or (b)manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months. (2)A small governmental jurisdiction is a government of a city, county, town, township, or village with a population (including educational institutions) of less than 50,000. (3)A small educational institution is an educational institution or school district that is: (a)supported by a qualifying small governmental jurisdiction; or (b)not supported by state or public funds and has 500 or fewer employees.</p>	N/A	Updates small entities criteria and anual fees.
<p>59</p> <p><u>20.3.16.12 C. SMALL ENTITIES AND ANNUAL FEES</u> For a small entity that meets the small entity criteria listed above in Paragraph A of this section the following are the maximum annual fees, for each location of use and for each licensed category: (1)Small businesses not engaged in manufacturing and small not-for-profit organizations (Average gross receipts for the last three completed years for all business locations): (a)Gross annual receipts of \$485,000 to \$7 million, the annual fee is \$ 4,900 for each location. (b)Gross annual receipts of less than less than \$485,000, the annual fee is \$1,000 for each location. (2)Manufacturing entities that have an average of 500 or fewer employees working in all of licensee’s locations: (a)35 to 500 employees, the annual fee is \$4,900 for each location. (b)Less than 35 employees, the annual fee is \$1000 for each location. (3)Small governmental jurisdictions. (a)Population of 20,000 to 49,999, the annual fee is \$ 4,900 for each location. (b)Population of less than 20,000, the annual fee is \$1000 for each location. (4)Educational institutions that are not state or publicly supported with 500 employees or less. (a)With 35 to 500 employees, the annual fee is \$4,900 for each location. (b)With less than 35 employees, the annual fee is \$1000 for each location</p>	C(1)(a) \$ 4,900 for each location C(1)(b) \$1,000 for each location C(2)(a) \$ 4,900 for each location C(2)(b) \$1,000 for each location C(3)(a) \$ 4,900 for each location C(3)(b) \$1,000 for each location C(4)(a) \$ 4,900 for each location C(4)(b) \$1,000 for each location	N/A	<p>C. Small Entity C.For the purposes of this section, the department shall use the small business administration definition of receipts (13 CFR 121.402(b)(2)). A licensee who is a subsidiary of a large entity does not qualify as a small entity for purposes of this section. D.Whenever appropriate in the interest of administering statutes and regulations within its jurisdiction, it is the practice of the department to answer inquiries from small entities concerning information on and advice about compliance with the statutes and regulations that affect them. E.A licensee who seeks to establish status as a small entity for the purpose of paying the annual fees required under this section must file a certification statement with the department. The licensee must file the required certification on department Form RPP526 for each license under which it is billed. The department will include a copy of Form RPP526 with each annual fee invoice sent to a licensee. A licensee who seeks to qualify as a small entity must submit the completed Form RPP526 with the reduced annual fee payment.</p>	C(1)a=9, C(1)b=6, C(2)b=1, C(4)a=1, C(4)b=2	Updates small entities criteria and annual fees.
60					

A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
<p>6</p> <p><u>20.3.16.12 SMALL ENTITIES AND ANNUAL FEES</u> <u>D. For the purposes of this section, the department shall use the small business administration definition of receipts in the Code of Federal Regulations, 13 CFR 121.402(a)(1)(2). A licensee who is a subsidiary of a large entity does not qualify as a small entity for purposes of this section.</u> <u>E. Whenever appropriate in the interest of administering statutes and regulations within its jurisdiction, it is the practice of the department to answer inquiries from small entities concerning information on and advice about compliance with the statutes and regulations that affect them.</u> <u>F. A licensee who seeks to establish status as a small entity for the purpose of paying the annual fees required under this section must file a certification statement with the department. The licensee must file the required certification on department Form RPP526 for each license under which it is billed. The department will include a copy of Form RPP526 with each annual fee invoice sent to a licensee. A licensee who seeks to qualify as a small entity must submit the completed Form RPP526 with the reduced annual fee payment.</u></p>	N/A	N/A	<p>F. For purposes of this section, the licensee must submit a new certification with its annual fee payment each year.</p>	N/A	Updates small entities criteria and anual fees.
<p>61</p> <p><u>20.3.16.12 SMALL ENTITIES AND ANNUAL FEES</u> <u>G. For purposes of this section, the licensee must submit a new certification with its annual fee payment each year.</u> <u>H.Small entities are required to pay the appropriate small entity fee for each fee category applicable to their license(s).</u> <u>I.If a person files a false certification with respect to qualifying as a small entity, the department may refuse to process any application submitted by or on behalf of the person with respect to any license issued to the person and may suspend or revoke any licenses held by the person. The filing of a false certification to qualifying as a small entity under [section 20.3.16.13 of] this [Part] section may also result in punitive action pursuant to applicable New Mexico state statutes.</u></p>	N/A	N/A	<p>G. Small entities are required to pay the appropriate small entity fee for each fee category applicable to their license(s).</p>	N/A	Updates small entities criteria and anual fees.
<p>62</p>					

A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
<p>20.3.16.13 PRORATION: <u>A. The purpose of proration under 20.3.16.14 NMAC is to bring all licensees to an annual fee due date of July 1 of each year, beginning July 1, 2024. For licenses issued prior to July 1, 2024, the annual fees shall be prorated by multiplying the number of complete and partial months between the anniversary date of the license issuance and July 1, 2024 by the calculated monthly amount of the annual fees due. The resulting calculation of prorated annual fees will be rounded up to the nearest dollar and be due, along with the FY 25 annual fee, on July 1, 2024.</u> <u>B. After July 1, 2024, there will be no proration, and:</u> <u>(1) new licensees must pay the full amount of annual fees, regardless of the month of license issuance;</u> <u>(2) existing licensees must pay the full amount of annual fees on July 1 of each year, regardless of the anniversary date of license issuance; and</u> <u>(3) licensees who terminate their licenses will not receive a refund of annual fees paid.</u></p>	N/A	N/A	<p>20.3.16.14 PRORATION. Annual fees will be prorated for Department licensees as follows: A. New licenses and terminations. The annual fee for a materials license that is subject to fees under this Part and issued on or after July 1 of the FY is prorated on the basis of when the Department issues the new license. New licenses issued during the period July 1 through December 31 of the FY will be assessed one-half the annual fee for that FY. New licenses issued on or after January 1 of the FY will not be assessed an annual fee for that FY. Thereafter, the full fee is due and payable each subsequent FY. The annual fee will be prorated for licenses for which a termination request has been received on or after July 1 of a FY on the basis of when the application for termination is received by the Department provided the licensee permanently ceased licensed activities during the specified period. Licenses for which applications for termination are filed during the period July 1 through December 31 of the FY are assessed one-half the annual fee for the applicable category(ies) for that FY. Licenses for which applications for termination are filed on or after January 1 of the FY are assessed the full annual fee for that FY. Materials licenses transferred to a new Agreement State during the FY are considered terminated by the Department, for annual fee purposes, on the date that the Agreement with the State becomes effective; therefore, the same proration provisions will apply as if the licenses were terminated. B. Downgraded licenses. (1) The annual fee for a materials license that is subject to fees under this Part and downgraded on or after July 1 of a FY is prorated upon request by the licensee on the basis of when the application for downgrade is received by the Department provided the licensee permanently ceased the stated activities during the specified period. Requests for proration must be filed with the Department within 90 days from the effective date of the final rule establishing the annual fees for which a proration is sought. Absent extraordinary circumstances, any request for proration of the annual fee for a downgraded license filed beyond that date will not be considered. (2) Annual fees for licenses for which applications to downgrade are filed during the period July 1 through December 31 of the FY will be prorated as follows: (a) Licenses for which applications have been filed to reduce the scope of the license from a higher fee category(ies) to a lower fee category(ies) will be assessed one-half the annual fee for the higher fee category and one-half the annual fee for the lower fee category(ies); and, if applicable, the full annual fee for fee categories not affected by the downgrade; and (b) Licenses with multiple fee categories for which applications have been filed to downgrade by deleting a fee category will be assessed one-half the annual fee for the fee category being deleted and the full annual fee for the remaining categories. (3) Licenses for which applications to downgrade are filed on or after January 1 of the FY are assessed the full fee for that FY. {20.3.16.14 NMAC – N, 5/19/2002}</p>	N/A	One time proration fee to bring all licensees to an annual fee due date of July 1 of each year, beginning July 1, 2024, for licenses that were issued prior to July 1, 2024.
<p>20.3.16.14 PAYMENT, COLLECTION AND COSTS: <u>A. Payments of fees and costs shall be in the form of an online payment or a check or money order made payable to the Radiation Protection Fund at the address shown on the application, license, registration, or the invoice issued by the department or online payments service providers authorized by the department to collect payments.</u> <u>B. In the event that fees and costs are not paid within thirty (30) days of the applicable due date, all outstanding fee balances become due and payable, along with a ten percent (10%) penalty cost and the costs of collection, to be charged each month until all fees and costs are paid. The penalty and collection costs shall be calculated from the original due date of the outstanding fee balances.</u> <u>C. Non-compliance with Chapter 3, Title 20 NMAC, the Radiation Protection Act or license requirements, regardless of whether the generator has a current license or generator activities have ceased, requires a generator to cease and desist generator activities and subjects the generator to administrative compliance costs for enforcement of Chapter 3, Title 20 NMAC, civil penalties of up to \$15,000 per day and other remedies available under law and Chapter 3, Title 20 NMAC.</u></p>	N/A	N/A	<p>20.3.16.15 PAYMENT A. Fee payments shall be in the form of check or money order made payable to the Radiation Protection Fund at the address shown on the application, license, registration, or fee due notice. B. Annual fees in the amount of \$100,000 or more must be paid in quarterly installments of 25 percent as billed by the Department. The quarters begin on July 1, October 1, January 1, and April 1 of each fiscal year. The Department will adjust the fourth quarterly invoice to recover the full amount of the revised annual fee. If the amounts collected in the first three quarters exceed the amount of the revised annual fee, the overpayment will be refunded. Licensees whose annual fee in the immediately previous fiscal year was less than \$100,000 (billed on the anniversary date of the license), and whose revised annual fee for the current fiscal year would be \$100,000 (subject to quarterly billing), would be issued a bill less any payments received for the current fiscal year based on the anniversary date billing process. C. Annual fees that are less than \$100,000 are billed on the anniversary date of the license. For annual fee purposes, the anniversary date of the license is considered to be the first day of the month in which the original license was issued by the Department. Licensees that are billed on the license anniversary date will be assessed the annual fee in effect on the anniversary date of the license. Materials licenses subject to the annual fee that are terminated during the fiscal year but before the anniversary month of the license will be billed upon termination for the fee in effect at the time of the billing. New materials licenses subject to the annual fee will be billed in the month the license is issued or in the next available monthly billing for the fee in effect on the anniversary date of the license. Thereafter, annual fees for new licenses will be assessed in the anniversary month of the license. D. Annual fees of less than \$100,000 must be paid as billed by the Department. Materials license annual fees that are less than \$100,000 are billed on the anniversary date of the license. The materials licensees that are billed on the anniversary date of the license are those covered by paragraphs (1) and (2) of Subsection A of 20.3.16.12 NMAC, paragraphs (1) through (5) of Subsection B of 20.3.16.12 NMAC, and paragraphs (1) through (14) of Subsection C of 20.3.16.12 NMAC, paragraphs (1) through (5) of Subsection B of 20.3.16.12 NMAC, and paragraphs (1) through (14) of Subsection C of 20.3.16.12 NMAC. E. Payment is due on the invoice date.</p>	N/A	Updates payment schedules and collections.

A Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	B FY21 NRC Annual Fees (\$)	C FY21 NRC Application Fees (\$)	D Current Title 20, Chapter 3, Part 16	E Total Licensees Per New Category	F Justification / Explanation
<p>6</p> <p><u>20.3.16.15 LICENSE TERMINATIONS:</u> <u>A. For each license termination, the licensee shall inform the department of the intention to terminate the license and shall follow the termination procedures in Chapter 3, Title 20 NMAC and any other requirements set by the department.</u> <u>B. Upon the department's determination that all conditions for termination have been met, the department shall issue an invoice for a termination fee in an amount equal to the application fee that would be charged for the license in the fiscal year of the termination request. The department shall issue a license termination within 30 days of receipt of total payment of owed fees and costs.</u> <u>C. Until the department issues the license termination, annual fees and all other outstanding fees and costs under this Part are the continued obligation of the licensee, regardless of whether the license has expired or the licensed activities have ceased.</u></p>	N/A	N/A	N/A	N/A	Establishes and streamlines license termination fees.
<p>65</p> <p><u>20.3.16.16 ANNUAL REVIEW: By October 1 of each year, the department shall perform a review of the fees and costs required by this part and shall provide a report of the review to the chair of the New Mexico radiation technical advisory council (RTAC).</u></p>	N/A	N/A	<p>20.3.16.16 ENFORCEMENT. If any person required to pay the annual fee fails to pay when the fee is due, or files a false certification with respect to qualifying as a small entity, the Department may refuse to process any application submitted by or on behalf of the person with respect to any license issued to the person and may suspend or revoke any licenses held by the person. The filing of a false certification to qualify as a small entity under section 20.3.16.13 of this Part may also result in punitive action pursuant to applicable New Mexico state statutes. [20.3.16.16 NMAC — N, 5/19/2002]</p>	N/A	Amended to develop a schedule and process to review and present fees and costs established in this Part.
<p>66</p> <p><u>20.3.16.17 [Reserved]</u></p>	N/A	N/A	<p>20.3.16.17 COLLECTION AND ADMINISTRATIVE COSTS. In the event a fees are not made by the appropriate due date, all the full fee becomes due and payable, with penalties and administrative costs of collection calculated from the date the payment was due. [20.3.16.17 NMAC — N, 5/19/2002]</p>	N/A	Addressed under a section 14.
<p>67</p>					

	A	B	C	D	E	F
6	Proposed Revisions to 20.3.16 NMAC Fees to Align with NRC FY21 Fees	FY21 NRC Annual Fees (\$)	FY21 NRC Application Fees (\$)	Current Title 20, Chapter 3, Part 16	Total Licensees Per New Category	Justification / Explanation
68	20.3.16.18 [Reserved]	N/A	N/A	20.3.16.18 PERIODIC REVIEW: Beginning in calendar year 2004, the department shall perform annual reviews of the fees required by this part, and shall provide a report of each review to the New Mexico radiation technical advisory council (RTAC).	N/A	Updated and addressed in section 16.