



July 2, 2026

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

Subject: "Modernizing NRC Regulations for Byproduct Material Use" [NRC-2025-1205]

To all concerned:

The State of New York appreciates the opportunity to comment on the U.S. Nuclear Regulatory Commission's (NRC) proposed rule "Modernizing NRC Regulations for Byproduct Material Use" (NRC-2025-1205) published in the Federal Register on May 18, 2026.

The proposed rule was developed in response to Executive Order 14300, which directs the NRC to undertake a "review and wholesale revision" of its regulations and guidance and to issue final rules no later than November 23, 2026.¹ The NRC projects that the rule and associated guidance would yield aggregate net savings of approximately \$2.99 million (at a 7-percent discount rate) across industry, the Agreement States, and the NRC.² The rule amends 10 C.F.R. parts 30, 31, 32, 34, 39, 40, 70, and 150 and contains eight principal components:

- **Decommissioning financial assurance (Part 30 Appendix B; Part 70).** Revising and expanding the radionuclide table used to determine decommissioning financial assurance ("DFA"), generally by aligning it with Appendix C to Part 20, adding NARM and emerging medical radionuclides, and removing radionuclides with half-lives of 120 days or less. The change responds to the Organization of Agreement States' petition PRM-30-66 and to ACMUI recommendations on Ge-68/Ga-68 generators.³

¹Exec. Order No. 14300, "Ordering the Reform of the Nuclear Regulatory Commission" (May 23, 2025). The Order directs the NRC to issue notices of proposed rulemaking by February 23, 2026, and to issue final rules and guidance no later than November 23, 2026. 91 Fed. Reg. at 28916.

²91 Fed. Reg. at 28916 (draft regulatory analysis projecting aggregate net savings to industry, Agreement States, and the NRC of \$2,987,000 at a 7-percent discount rate).

³Petition for Rulemaking PRM-30-66 (Organization of Agreement States), discussed at 91 Fed. Reg. at 28920.

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- **Standard general licenses (Part 31, new Subpart C).** Creating a new class of “standard general licenses” (“SGLs”) in proposed §§ 31.13–31.18 for five categories of, “low-priority” standardized activities currently authorized by specific license (certain fixed gauging, portable gauging, certain diagnostic medical uses, certain analytical equipment, and certain in vitro testing) granted by regulation upon registration, payment of a fee, and a certification of understanding.⁴
- **Updating requirements for existing general licenses (Part 31).** Permitting electronic registration for § 31.5 devices, extending the device holding period from two years to 36 months, changing the standby-device inventory frequency from quarterly to semi-annual, and raising the § 31.11 in vitro per-vial activity limits.⁵
- **Reduced reporting for exempt consumer products (Parts 32 and 40).** Eliminating annual transfer reports while requiring that the underlying records be retained and made available to the NRC on request.⁶
- **Microsource distribution pathways (Part 32).** Adding microsources, including radioactive microspheres, to §§ 32.72 and 32.74 to support patient access and compliance with USP General Chapter <825>.⁷
- **Industrial radiography (Part 34).** Replacing the incorporation by reference of ANSI N432-1980 with Sealed Source and Device Registry (“SSDR”) evaluation, and consolidating §§ 34.41 and 34.51 to codify the NRC’s 2021 reinterpretation of the two-person rule.⁸

⁴Proposed 10 C.F.R. §§ 31.13–31.18 (standard general licenses for certain fixed gauging, portable gauging, certain medical uses, certain analytical equipment, and certain in vitro testing). 91 Fed. Reg. at 28921–22.

⁵91 Fed. Reg. at 28922 (proposed amendments to 10 C.F.R. § 31.5(c)(14)–(15): authorizing electronic transmission of registrations; extending the device holding period from 2 years to 36 months; and changing the standby-device physical inventory frequency from quarterly to semi-annually).

⁶91 Fed. Reg. at 28923 (proposed amendments to 10 C.F.R. §§ 32.12, 32.16, 32.20, 32.25(c), 32.29(c), 32.32(c), and 40.53(c) eliminating annual transfer reports; records retained under §§ 30.51 and 40.61 and made available on request).

⁷91 Fed. Reg. at 28924 (proposed amendments to 10 C.F.R. §§ 32.72 and 32.74 to add microsources, including radioactive microspheres, supporting compliance with United States Pharmacopeia General Chapter <825>).

⁸91 Fed. Reg. at 28924–25 (proposed amendments to 10 C.F.R. pt. 34 removing the incorporation by reference of ANSI N432-1980 in favor of Sealed Source and Device Registry evaluation, and consolidating §§ 34.41 and 34.51 to codify the NRC’s 2021 reinterpretation of the two-person rule, see 86 Fed. Reg. 29173 (June 1, 2021)).

- **Well logging (Part 39).** Extending survey-instrument calibration from six to twelve months and aligning sealed-source leak-test frequency with the SSDR.⁹
- **Agreement State provisions (Part 150).** Removing the Part 73 physical-protection requirement for Agreement State licensees possessing special nuclear material of low strategic significance and amending § 150.20 reciprocity provisions (same-day initial filing, elimination of offshore location-change notices, and recognition of SGLs for reciprocity).¹⁰

The rule is accompanied by two draft interim staff guidance (“ISG”) documents on which the NRC also seeks comment: NMSS-ISG-04 on implementation of the Part 31 Subpart C SGLs,¹¹ and an ISG on reciprocity.¹²

New York’s Interest in the Proposed Rule

New York, as an Agreement State under Section 274b of the Atomic Energy Act of 1954, as amended, appreciates the opportunity to comment on the NRC’s proposed rule to amend its regulations for byproduct material use and the two associated draft interim staff guidance documents. We share the NRC’s objective of a safe, effective, and efficient national materials program, and we support many elements of this rulemaking several of which respond directly to long-standing requests from the Agreement States. Our comments below are offered in the cooperative spirit of the National Materials Program and identify provisions we support, concerns we ask the NRC to address, and recommendations intended to strengthen the final rule and its implementation in the 40 Agreement States.

⁹91 Fed. Reg. at 28919, 28925 (proposed amendments to 10 C.F.R. § 39.33(c)(1) extending survey-instrument calibration from 6 to 12 months, and § 39.35(c)(1) aligning sealed-source leak-test frequency with the SSDR).

¹⁰91 Fed. Reg. at 28919 (proposed amendments to 10 C.F.R. pt. 150 removing the 10 C.F.R. pt. 73 physical-protection requirement for Agreement State licensees possessing special nuclear material of low strategic significance, and amending § 150.20).

¹¹Office of Nuclear Material Safety and Safeguards, Interim Staff Guidance NMSS-ISG-04, “Guidance for the Implementation of 10 CFR Part 31 Subpart C Standard General Licenses” (ADAMS Accession No. ML25316A026) (hereinafter “SGL ISG”).

¹²Interim Staff Guidance, “Reciprocity” (ADAMS Accession No. ML25316A025) (hereinafter “Reciprocity ISG”), FAQ 1 (10 C.F.R. § 150.20(b)(1) revised to permit an initial NRC Form 241 to be filed no later than the day of engaging in work activities; § 150.20(b)(2) revised to eliminate amended Form 241 filings for offshore location changes; and § 150.20 revised to allow standard general licenses to be recognized for reciprocity).

Provisions the State Supports

New York commends the NRC for advancing several changes that reflect sound, risk-informed regulation and that respond to issues the Agreement States and the medical community have raised for years:

- **Resolution of PRM-30-66 and the Ge-68 DFA problem.** Codifying isotope-specific DFA values, rather than continuing to grant exemptions on a case-by-case basis, provides a stable, predictable framework, reduces unwarranted decommissioning costs that are disproportionate to risk, and removes a documented barrier to promising diagnostic and therapeutic agents. New York strongly supports this change and appreciates the NRC's direct response to the Agreement States' petition.¹³
- **Preservation of the specific-license pathway.** The SGL framework is offered as an option, not a mandate, for affected licensees, and the existing specific-license process is retained for non-standard operations. This preserves regulatory flexibility and avoids forcing higher-risk or atypical operations into a one-size-fits-all general license.
- **Microsource distribution pathways.** Allowing microspheres to be prepared and distributed under either § 32.72 or § 32.74 supports timely patient care, aligns NRC requirements with USP <825>, and reflects the comparable radiation-safety profile of microsources and radioactive drugs.
- **Consortium definition.** Removing the ambiguous "same geographical area" limitation from the § 30.4 consortium definition reflects current PET radionuclide logistics and supports cost-effective, collaborative noncommercial production for medical use.
- **Sensible harmonization of frequencies and thresholds.** Aligning generally licensed device inventory frequencies, well-logging calibration and leak-test intervals, and § 31.11 vial limits with comparable requirements elsewhere in 10 C.F.R. reduces needless inconsistency. Codifying the 2021 two-person-rule reinterpretation similarly improves clarity for licensees and inspectors.¹⁴
- **Modernized administrative practice.** Authorizing electronic registration submissions for § 31.5 devices is a welcome, overdue modernization that the State endorses.
- **Coordination with stakeholders.** New York appreciates the NRC's coordination with the Organization of Agreement States and the Advisory Committee on the Medical Uses of Isotopes in developing the rule.

¹³Advisory Comm. on the Med. Uses of Isotopes, "Germanium-68 (Ge-68) Decommissioning Funding Plan (DFP) Final Report" (Aug. 12, 2015), discussed at 91 Fed. Reg. at 28920; see also draft regulatory basis, 87 Fed. Reg. 25157.

¹⁴91 Fed. Reg. at 28922–23 (proposed amendments to 10 C.F.R. § 31.11(a) raising per-vial limits to 100 µCi for C-14, 1,000 µCi for H-3, 100 µCi for Se-75, and 100 µCi for Co-57, harmonizing with 10 C.F.R. pt. 20 app. C and § 30.71 Schedule B).

Principal Concerns and Recommendations

While the State supports the rule's direction, several provisions warrant clarification or modification before the rule is finalized. Our concerns center on (A) the compressed implementation timeline; (B) the novel SGL framework; (C) reciprocity and same-day filing; (D) elimination of distribution reporting; and (E) cross-jurisdictional material accountability.

A. The implementation timeline is compressed and should account for Agreement State adoption needs.

Executive Order 14300 requires the NRC to issue this and numerous other final rules by November 23, 2026. Once the rule is final, Agreement States must adopt compatible provisions, typically within three years, and the SGL framework will require many States to secure new regulatory (and in some states, statutory) authority, develop registration and validation processes, modify licensing and fee rules, build or reconfigure licensing databases, and train licensing and inspection staff.¹⁵

Recommendation 1. New York requests that the NRC commit in the final rule to a realistic Agreement State adoption schedule with implementation support, recognizing that the SGL framework is a substantially new program element rather than a conforming amendment.

B. The standard general license framework raises program-design questions that should be resolved in the rule, not deferred to interim guidance.

The SGL concept is reasonable for genuinely standardized, low-risk activities, and the State appreciates that the SGLs are designed to impose the same basic technical requirements as the corresponding specific licenses. Several features, however, require clarification:

- **Mandatory versus optional adoption.** It is not clear from the proposed rule whether an Agreement State must offer the SGL pathway to be compatible, or whether a State may continue to license these activities specifically. This single question drives the entire burden analysis for States and should be answered unambiguously in the final rule and in the Section XIV compatibility discussion.¹⁶
- **Front-end verification.** Because an SGL is granted by registration and certification rather than by license review, qualifications such as Radiation Safety Officer and authorized-user training and experience, especially for the medical-use SGL under proposed § 31.16, would not be verified

¹⁵NRC Management Directive 5.9, "Adequacy and Compatibility of Agreement State Programs," and the associated Handbook establish the compatibility categories (A, B, C, D, NRC, and Health & Safety) and provide that Agreement States generally must adopt program elements assigned Category A, B, or C—and Category NRC and certain Health & Safety items—within three years of the rule's effective date.

¹⁶See 91 Fed. Reg. at 28916 ("XIV. Compatibility of Agreement State Regulations"). The State should confirm the proposed compatibility category assigned to each amended provision against Section XIV of the published notice before finalizing these comments.

before licensed material is acquired, but only later at inspection. The NRC requires validation of NRC Form 1003 before material may be received,¹⁷ but the rule should make clear what that validation entails and whether it includes any review of certified qualifications, so that the safety equivalence the NRC asserts is realized in practice.

- **Reliance on interim, not final, guidance.** The NRC states that NMSS-ISG-04 is interim and that it intends to develop a new NUREG-1556 volume “in the future” to address SGLs.¹⁸ Asking States and licensees to stand up a new program on guidance the agency expects to supersede invites instability and inconsistent implementation across jurisdictions.

Recommendation 2. The State requests that the NRC (a) state expressly that offering the SGL pathway is at each Agreement State’s option and is not required for compatibility; (b) clarify the scope of NRC Form 1003 validation, including any verification of certified RSO/authorized-user qualifications for the medical-use SGL; and (c) finalize the SGL implementation guidance (preferably as a NUREG-1556 volume) concurrently with, or in advance of, the final rule.

C. Same-day reciprocity filing reduces a host regulator’s ability to verify licensees before work begins.

Proposed §150.20(b)(1) would allow an Agreement State licensee to file the initial NRC Form 241 “no later than the day of engaging in work activities,” replacing the current three-day advance requirement, and the reciprocity ISG confirms the NRC will not require an acknowledged Form 241 before work begins. For higher-hazard reciprocity activities, industrial radiography and portable-gauge or well-logging work at temporary job sites, same-day filing can leave the host regulator with no practical opportunity to verify the validity of the home-jurisdiction license, confirm fee payment, or identify the responsible individuals before radioactive material is in use within its borders. Although §150.20 governs work in NRC jurisdiction and is generally a matter of NRC compatibility category, many Agreement States mirror these provisions, and reciprocal treatment of one another’s licensees depends on a workable verification window.

Recommendation 3. New York requests that the NRC retain a short advance-filing window (for example, three business days) for the initial Form 241, or at a minimum for radiography and other higher-risk reciprocity activities, so that host regulators retain a meaningful pre-work verification opportunity. NRC should retain its Agreement State notification in offshore waters. This is critical to understanding where well locations are changing to allow States an opportunity to address potential conflicting uses, including attendant implications on infrastructure and offshore uses and resources

¹⁷SGL ISG § 4.1.1 (NRC Form 1003 to be submitted at least 30 days before acquiring or commencing activities; NRC must validate the form and assign a registration number before the licensee may receive byproduct material).

¹⁸SGL ISG § 2.0 (“This ISG is not a substitute for NRC or Agreement State regulations”; the NRC “intends to develop a new Volume of NUREG-1556 ... in the future to address SGLs”).

critical to States' ocean economies. States are well equipped to make these assessments and identify potential solutions in coordination with federal agencies.¹⁹

D. Eliminating annual distribution reports removes data the National Materials Program uses to assess aggregate public dose.

The proposal would eliminate annual transfer reports for distributors of exempt consumer products under Parts 32 and 40, retaining only records available "on request." The NRC explains that the reported data have been inconsistent and "seldomly used," and that it can request information when needed. The State is concerned that eliminating the only periodic, centralized dataset on the volume and types of exempt products entering commerce, data that historically informed systematic public-dose assessments such as NUREG-1717, will impair the ability of both the NRC and the Agreement States to evaluate cumulative public exposure from exempt products over time. The deficiency the NRC identifies is one of data quality and consistency, which is better addressed by improving the reporting requirement than by eliminating it.

Recommendation 4. Rather than full elimination, the State recommends that the NRC consider a reduced-frequency report (for example, the five-year cycle that applied before 2007) with standardized content, preserving a periodic aggregate dataset while still substantially reducing licensee and NRC burden.

E. Cross-jurisdictional aggregation and accountability deserve attention.

The SGL framework caps each registrant at a single SGL per regulatory authority, no more than five locations, and quantities below the Part 37 Category 2, DFA, and emergency-plan thresholds.²⁰ These limits are sensible, but they are enforced per regulatory authority. An entity could, in principle, hold an SGL in more than one jurisdiction, and no single regulator would necessarily have visibility into the entity's aggregate holdings across states and NRC jurisdiction. Because the aggregation limits are tied to security (Part 37) and emergency-planning thresholds, New York State believes cross-jurisdictional visibility merits express consideration. Relatedly, extending the § 31.5 device holding period to 36 months and reducing standby inventories to semi-annual, while individually reasonable, modestly lengthens the interval before an unused or missing device is detected.

Recommendation 5. The State requests that the NRC describe how aggregate possession across jurisdictions will be monitored under the SGL framework (for example, through the certification of understanding, a question on NRC Form 1003 regarding holdings in other jurisdictions, or data-

¹⁹ [OMB 3150-0013, Final Supporting Statement, NRC Form 241, Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters.](#)

²⁰ SGL ISG §§ 4.1.1, 4.2.2 (an entity may hold only a single SGL per regulatory authority and no more than five locations of use or storage; SGLs may not aggregate 10 C.F.R. pt. 37 Category 2 quantities, quantities requiring decommissioning financial assurance, or quantities requiring an emergency plan).

sharing among regulators), and confirm that lost/stolen-device reporting and material-control expectations remain unchanged by the § 31.5 amendments.

F. The Rule’s NEPA Analysis lacks a cumulative effects assessment and sufficient alternatives.

The Rule’s NEPA analysis does not consider cumulative effects from this in conjunction with other new rules. This rule does not consider the effects of loosening federal oversight over certain isotopes and another proposed rule, relating to Part 37 (91 FR 17893 [Apr. 9, 2026]), which lowers or eliminates certain federal safety protocols. NRC’s own NEPA regs at 10 CFR 51.14(b) require NRC to evaluate cumulative impacts. In addition, the Rule only considers the proposed rule and an “No Action” alternative. The alternatives analysis should include more than just the ‘no action’ alternative and the proposed rule; it should also consider a middle ground of eliminating just some of the minor inspections.

Impact on Agreement State Programs

Because Agreement States regulate roughly 20,000 of the materials licensees affected by this rule, representing the large majority of the licensee population, the practical burden of implementation will fall substantially on the states.²¹ New York asks the NRC to weigh the following program impacts as it finalizes the rule and assigns compatibility categories. Transferring oversight of certain federal safeguards would result in a patchwork of state-level standards for protection against radiation (10 CFR Part 20-style provisions) that would, among other things, produce exploitable security vulnerabilities for radioactive materials.

A. Compatibility designations will determine the scope of required state action.

Under the NRC’s compatibility policy, the category assigned to each amended provision (A, B, C, D, NRC, or Health & Safety) dictates whether and how each Agreement State must adopt corresponding requirements. The compatibility designations in Section XIV of the notice are therefore the most consequential part of this rule for the states, and we ask that they be clearly identified and explained. Of particular importance: whether the new SGL provisions (§ 31.13–31.18) carry an adoption obligation or are left to state decision making; and confirmation that the Part 150 reciprocity and physical-protection changes, provisions that concern the NRC’s reserved authority, are treated as Category ‘NRC’ and thus are not separately adopted by the states, even though they affect how state-licensed entities are recognized.

B. Resource, fiscal, and system impacts.

- **Program build-out.** Standing up the SGL pathway will require new or amended state regulations, registration and validation procedures, revised inspection procedures (consistent with the NRC’s

²¹91 Fed. Reg. at 28916–17 (approximately 2,700 active NRC specific licenses; 40 Agreement States regulating approximately 20,000 materials licensees, with adequacy and compatibility maintained through the Integrated Materials Performance Evaluation Program (IMPEP)).

reassessment of inspection frequency under IMC 2800),²² staff training, and licensing-database changes, upfront costs that the aggregate “net savings” figure may not fully capture for the states in the early years.

- **Fee-funded program sustainability.** Where a state program is substantially fee-funded—as many are, though the state should confirm that this applies to its own program before relying on this point -- migration of licensees from specific licenses to lower-fee SGLs may reduce State fee revenue at the same time the state must invest in a new program. To the extent this dynamic applies, New York asks the NRC to acknowledge it and, in the regulatory analysis, to disaggregate Agreement State costs and benefits from those of industry and the NRC.
- **Reciprocity recognition gaps.** The reciprocity ISG contemplates that an Agreement State licensee seeking reciprocity will hold either a specific license or a “validated Agreement State standard general license.” If some states adopt the SGL pathway and others do not, recognition gaps and inconsistent treatment of SGL holders moving between jurisdictions are likely. Clear NRC guidance on mutual recognition of SGLs (in both directions) will be essential.
- **Implementation guidance stability.** As noted in Part III.B, building state programs on interim guidance the NRC expects to replace creates a risk of rework and divergence among Agreement States.

Recommendation 6. New York requests that the NRC (a) clearly state and explain all compatibility category designations in the final rule; (b) present an Agreement State–specific cost/benefit breakdown in the regulatory analysis, including program-development and potential fee-revenue effects; and (c) issue clear guidance on cross-jurisdictional recognition of SGLs for reciprocity.

C. Positive program effects for the States.

New York acknowledges that the rule also offers genuine benefits to Agreement State programs: the Appendix B/DFA changes resolve a state-initiated petition and eliminate recurring exemption workload; harmonized frequencies and thresholds reduce inconsistency across the regulatory framework; and, for activities that fit the SGL model, the registration-based approach, if adequately resourced, can reduce routine licensing-action workload over time. New York State’s recommendations are intended to ensure these benefits are realized without unintended safety, security, or fiscal gaps.

Conclusion

New York supports the NRC’s effort to update and risk-inform its byproduct material regulations and particularly welcomes the resolution of PRM-30-66, the microsource and consortium changes, and the sensible harmonization measures. We ask the NRC to address the timeline, SGL program-design, reciprocity-verification, distribution-reporting, and cross-jurisdictional accountability issues identified

²²91 Fed. Reg. at 28922 (noting the NRC’s review of inspection frequency under Inspection Manual Chapter 2800, “Materials Inspection Program,” as part of the agency’s response to the ADVANCE Act of 2024).

above, and—above all—to make the compatibility designations clear so that the 40 Agreement States can implement the final rule consistently and without compromising public health and safety. New York appreciates the NRC’s continued partnership in the National Materials Program and welcomes the opportunity to discuss these comments further.

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

Sincerely,

A handwritten signature in black ink that reads "Alyse Peterson". The signature is written in a cursive, flowing style.

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