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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	State Board of Health
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12 VAC5-481
<b>VAC Chapter title(s)</b>	Virginia Radiation Protection Regulations
<b>Action title</b>	Exempt Action: Update to the Radioactive Materials Regulations to Conform to 10 CFR Chapter 1
<b>Final agency action date</b>	02/01/2023
<b>Date this document prepared</b>	10/25/2022

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The purpose of this action is to amend 12VAC5-481 to ensure its compatibility with Title 10 of the Code of Federal Regulations (10 CFR). The United States Nuclear Regulatory Commission (NRC) revised 10 CFR in 2020 and again in 2021. As an Agreement State under the NRC, Virginia is required to maintain radioactive materials regulations that are compatible with 10 CFR. In order to comply with this requirement, this regulatory action will amend the following sections of 12VAC5-481: 451, 1700, 1750, 1770, 1780, 2018, 2040, 3120, and 3770. Virginia routinely amends 12VAC5-481 following revisions to 10 CFR, with the last amendment becoming effective on January 14, 2022.

Summary of amendments

1. 12VAC5-481-451

- a. In subsection B.4.c.(1)., strike “T-8B20” and replace with “T-07D04M”.
2. 12VAC5-481-1700
    - a. In subsection A., strike “the licensee’s management or designee” and replace with “a licensee’s management”.
    - b. In subsection A.3., strike “subsection F” and replace with “subsection I”.
    - c. In subsection B., strike “radiation safety officers” and replace with “RSO”.
    - d. In subsection C., strike “an authorized user”.
    - e. In subsection C., strike “radiation safety officer” and replace with “RSO and to perform the functions of a RSO”.
    - f. In subsection D., strike “temporary RSO” and replace with “licensee has a temporary RSO that”.
    - g. In subsection D., strike “radioactive material permitted by the licensee” and replace with “radioactive material permitted by the license”.
    - h. Add subsection E. that states “A licensee shall establish the authority, duties, and responsibilities of the RSO in writing.”
    - i. In subsection F., strike “shall include an authorized user for” and replace with “must include an authorized user of”.
    - j. Add new subsection G. to state  
“A licensee shall provide the RSO sufficient authority, organizational freedom, time, resources, and management prerogative to
      1. Identify radiation safety problems;
      2. Initiate, recommend, or provide corrective actions;
      3. Stop unsafe operations; and,
      4. Verify implementation of corrective actions.”
    - k. Add new subsection H. to state “A licensee shall retain a record of actions taken under subsections A, B, and E of this section in accordance with 12VAC5-481-2070.”
  3. 12VAC5-481-1750
    - a. In subdivision 4.c., “master material license”, strike “license” and replace with “licensee”.
  4. 12VAC5-481-1770
    - a. In subdivision 1.a., strike “American Council on Pharmaceutical Education” and replace with “Accreditation Council for Pharmacy Education (ACPE) (previously named the American Council on Pharmaceutical Education)”.
  5. 12VAC5-481-1780
    - a. In subsection B.2., strike “or a permit issued by an NRC master material license broad scope permittee on or before October 24, 2005” and replace with “or a permit issued in accordance with an NRC master material broad scope license on or before October 24, 2005”.
  6. 12VAC5-481-2018
    - a. In subdivision 1.a., strike “Committee on Post Graduate Training” and replace with “Council on Postdoctoral Training”.
    - b. In subdivision 2.b., strike “Committee” and replace with “Council”.
  7. 12VAC5-481-2040
    - a. In subsection A.1.a., strike “Committee on Post Graduate Training” and replace with “Council on Postdoctoral Training”.
    - b. In subsection A.2.b., strike “Committee” and replace with “Council”.
  8. 12VAC5-481-3120
    - a. Strike subsection D.1., Replace with “Reserved.”

- 9. 12VAC5-481-3770
  - a. In Table A-1, radionuclide Sm-147, strike “8.5 x 10<sup>-11</sup>” and replace with “8.5 x 10<sup>-10</sup>”

**Mandate and Impetus**

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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NRC Agreement States are required to have regulations that are compatible with 10 CFR. The NRC revised 10 CFR in 2020 and again in 2021. Agreement States are granted three years to enact or revise regulations to align with 10 CFR. Virginia must amend 12VAC5-481 and have compatible final regulations enacted by November 16, 2023. Failure to amend 12VAC5-481 to comply with 10 CFR by the established deadline may jeopardize Virginia’s status as an NRC Agreement State.

**Statement of Final Agency Action**

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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The State Health Commissioner, pursuant to his authority in § 32.1-20, approved these Exempt Final amendments to the *Virginia Radiation Protection Regulations* (12VAC5-481) on behalf of the State Board of Health while the Board was not in session on February 1, 2023.