

October 19, 2006

Leslie Foldesi, Director
Division of Radiological Health
Department of Health
P.O. Box 2448
Richmond, VA 23218

Dear Mr. Foldesi:

We have reviewed the final revision to the Commonwealth of Virginia regulations for Radiation Protection, received by our office on June 21, 2006. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 19, 20, 30, 31, 32, 34, 35, 36, 39, 40, 61, 70, 71, and 150. We discussed our review of the regulations with you on October 18, 2006.

As a result of our review, we have 96 comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that if these regulations are revised, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure SA-200.

We request that when you revise your regulations to address our comments, a copy of the revised regulations, as proposed, be provided to us for review. As requested in STP Procedure SA-201, "Review of State Regulatory Requirements," please highlight the location of any changes made by Virginia, in response to our comments and provide a copy to STP.

Please let us know if you note any inaccuracies, or have any comments on the information contained in the Enclosure. This letter, including the SRS Data Sheet, is posted on the STP website: <http://www.hrsd.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me, or Shawn Rochelle Smith at 301-415-2620 or by e-mail at srs3@nrc.gov.

Sincerely,

IRA By S.W. Moore

Scott W. Moore, Deputy Director
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:
As stated

October 19, 2006

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Division of Radiological Health
Department of Health
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Richmond, VA 23218

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As a result of our review, we have 96 comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that if these regulations are revised, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure SA-200.

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Office of Federal and State Materials
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Enclosures: As stated

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COMPATIBILITY COMMENTS ON VIRGINIA PROPOSED REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	12 VAC 5-481-10	20.1003		A	<p>Definitions</p> <p><i>Declared Pregnant Woman</i></p> <p>Virginia’s definition of “declared pregnant woman” is different from that listed in 10 CFR 20.1003. However Virginia also adopts this definition by reference in its regulations.</p> <p>Virginia needs to eliminate this definition in 12VAC 5-481-10 and leave in the adoption by reference to meet the Compatibility Category A designation assigned to Declared pregnant woman in 10 CFR 20.1003.</p>
				A	<p><i>Lens dose equivalent</i></p> <p>Virginia’s uses the term “eye dose equivalent” for lens dose equivalent, which is similar but not identical to the definition listed in 10 CFR 20.1003. However Virginia also adopts this definition by reference, which creates a duplication and conflict.</p> <p>Virginia needs to eliminate this definition in 12VAC 5-481-10 and leave in the adoption by reference to meet the Compatibility Category A designation assigned to Lens dose equivalent in 10 CFR 20.1003.</p>
				A	<p><i>Survey</i></p> <p>Virginia’s definition of “survey” is different from the definition of survey in 10 CFR 20.1003. However Virginia also adopts this definition by reference in its regulations.</p> <p>Virginia needs to eliminate this definition in 12VAC 5-481-10 and leave in the adoption by reference to meet the Compatibility Category A designation assigned to Survey in 10 CFR 20.1003.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
2		20.1401		C	<p>General provisions and scope</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 20.1401.</p>
3		20.1402		C	<p>Radiological Criteria for Restricted Use</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 20.1402.</p>
4		20.1403		C	<p>Criteria for license termination under restricted use</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 20.1403.</p>
5		20.1404		C	<p>Alternate Criteria for license termination</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 20.1404.</p>

6		20.1405		C	<p>Public Notification and public participation</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 20.1405.</p>
7		20.1406		C	<p>Minimization of contamination</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 20.1406.</p>
8	12 VAC 5-481-860	20.1902		A	<p>Posting Requirements</p> <p>Virginia cites the wrong Federal Register when adopting by reference.</p> <p>Virginia needs to change the Federal Register references for 10 CFR 20.1902 from 63 FR 39482 July 23, 1998 to 56 FR 23402, May 21, 1991, and 60 FR 20185 April 25, 1995 to meet the Compatibility Category A designation assigned to 10 CFR 20.1902.</p>
9	12 VAC 5-481-1040	20.2106 (a) & (e)		C	<p>Records of individual monitoring results</p> <p>Virginia adopts the wrong regulation by reference and cites the wrong FR notices.</p> <p>Virginia needs to adopt 10 CFR 20.2106 by reference instead of 10 CFR 20.2107 and reference 56 FR 23405, May 21, 1991, 60 FR 20186, April 25, 1995 and 63 FR 39483, July 23, 1998, to meet the Compatibility Category C designation assigned to 10 CFR 20.2106.</p>

10	12 VAC 5-481-1100	20.2202 (a)(b)(c)(d)		C	<p>Notification of incidents</p> <p>Virginia adopts the wrong regulation by reference.</p> <p>Virginia needs to adopt 10 CFR 20.2202 by reference instead of 10 CFR 20.2107 and reference 56 FR 23406, May 21, 1991, 56 FR 40766, August 16, 1991, 57 FR 57879, December 8, 1992, 59 FR 14086, March 25, 1994, and 63 FR 39483, July 23, 1998, to meet the Compatibility Category C designation assigned to 10 CFR 20.2202.</p>
11	12 VAC 5-481-1110	20.2203 (a)(b)		C	<p>Reports of exposures, etc, exceeding the limits</p> <p>Virginia adopts the wrong amended regulation by reference.</p> <p>Virginia needs to adopt 10 CFR 20.2203 and reference 56 FR 23406, May 21, 1991, 60 FR 20186, April 25, 1995, 68 FR 14308a, March 25, 2003, and 68 FR 58801, October 10, 2003, in addition to 61 FR 65127 December 10, 1996, to meet the Compatibility Category C designation assigned to 10 CFR 20.2203.</p>
12	12 VAC 5-481-1110	20.2203(c)		NRC	<p>Reports of exposures, etc, exceeding the limits</p> <p>Virginia has included all the provisions of 20.2203 in its adoption by reference, including 20.2203(c), which is reserved to the NRC.</p> <p>Virginia needs to delete 10 CFR 20.2203(c) from its regulations to meet the Compatibility Category NRC assigned to 10 CFR 20.2203(c).</p>

13		10 CFR Part 20 Appendix A		B	<p>Protection Factors for Respirators</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical rule to meet the Compatibility Category B designation assigned to 10 CFR Part 20 Appendix A.</p>
14		10 CFR Part 20 Appendix B (Tables 1,2, &3)		A	<p>Annual Limits on Intakes (ALIs), Derived Air Concentrations (DACs), of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage</p> <p>Virginia makes reference to the values in the Tables in 10 CFR Part 20 Appendix B [see 12 VAC 5-481-2240 (A)]. However, the State rules do not include an equivalent to these tables nor they are adopted by reference.</p> <p>Virginia needs to adopt an identical rule to meet the Compatibility Category A designation assigned to 10 CFR Part 20 Appendix B (Tables 1, 2, and 3).</p>
15		10 CFR Part 20 Appendix C		A	<p>Quantities of licensed materials requiring labeling</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an identical rule to meet the Compatibility Category A designation assigned to 10 CFR Part 20 Appendix C.</p>

16		10 CFR Part 20 Appendix G		B	<p>Requirements for Transfers of Low-Level Radioactive waste intended for disposal at licensed land disposal facilities and Manifests</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to include an essentially identical rule to meet the Compatibility Category B designation assigned to 10 CFR Part 20 Appendix G.</p>
17	12 VAC 5-481-10	20.1003, 30.4, 40.4, 70.4 30.4		C B	<p>Definitions</p> <p><i>Decommission</i></p> <p>Virginia has omitted the definition of “decommission” from its regulations.</p> <p>Virginia needs to adopt the essential elements of this definition to meet the Compatibility Category C designation assigned to this definition in 10 CFR Parts 20.1003, 30.4, 40.4, and 70.4.</p> <p><i>Sealed Source</i></p> <p>Virginia’s definition of “sealed source” is different from the definition of sealed source in 10 CFR 30.4.</p> <p>Virginia needs to adopt the NRC definition for sealed source to meet the Compatibility Category B designation assigned to this definition in 10 CFR Part 30.4.</p>
18		30.10, 40.10, 70.10 and 71.8		C	<p>Deliberate Misconduct</p> <p>Virginia has omitted the Deliberate Misconduct rule from its regulations.</p> <p>Virginia needs to adopt the essential elements of this rule to meet the Compatibility Category C designation assigned to 10 CFR Parts 30.10, 40.10, 70.10 and 71.8.</p>

19		30.21		B	<p>Radioactive drug: Capsules containing carbon-14 urea for “in vivo” diagnostic use for humans</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 30.21.</p>
20		30.32(g)		C	<p>Application for specific licenses</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 30.32(g).</p>
21		30.32 (l)		H&S	<p>Application for specific licenses</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category H&S designation assigned to 10 CFR 30.32(l).</p>
22		30.34 (l)		C	<p>Terms and conditions of licenses</p> <p>Virginia has omitted the security requirements for portable gauges section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 30.34(l)</p>

23	12 VAC 5-481-450 (F)	30.35 (a) (b) (d) & (g)		H&S	<p>Financial Assurance and recordkeeping for decommissioning</p> <p>Virginia has omitted most of the required rule text in this section of its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category H&S designation assigned to 10 CFR 30.35(a)(b)(d)&(g).</p>
24	12 VAC 5-481-510	30.36 (c)(d)(e)(g)(h)(j)(k)		H&S	<p>Expiration and termination of licenses and decommissioning of sites and separate buildings outdoor areas</p> <p>Virginia has omitted equivalent rules for 10 CFR Parts 30.36(e) and (g) from its regulations.</p> <p>Virginia has omitted the 24-month limit for decommissioning as required in 10 CFR Part 30.36 (h)(1).</p> <p>Virginia also omitted provisions requiring that surveys and information on decommissioning demonstrate that premises are suitable for release in accordance with criteria in 10 CFR Part 20, Subpart E, as requested in 10 CFR Part 30.36(k)(3)(I) and (ii).</p> <p>Virginia needs to adopt the essential elements of these requirements to meet the Compatibility Category H&S designation assigned to 10 CFR 30.36.</p>
25		30.51 (a)(b)		C	<p>Records</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 30.51.</p>

26		30.51 (d)(e)(f)		H&S	<p>Records</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category H&S designation assigned to 10 CFR 30.51.</p>
27		30.70		B	<p>Schedule A-exempt concentrations table</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 30.70.</p>
28		30.71		B	<p>Schedule B-exempt quantity table</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 30.71.</p>
29		30.72		H&S	<p>Schedule C-Quantities of radioactive materials requiring consideration of the need for an emergency plan for responding to a release</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category H&S designation assigned to 10 CFR 30.72.</p>

30		10 CFR Part 30 Appendix B		B	<p>Quantities of licensed material requiring labeling</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR Part 30, Appendix B.</p>
31	12 VAC 5-481-10	32.2		<p>[A]</p> <p>B</p>	<p>Definitions</p> <p><i>Dose Commitment</i></p> <p>Virginia has omitted the definition of “dose commitment” from its regulations.</p> <p>Virginia needs to adopt an identical definition to meet the Compatibility Category A designation assigned to 10 CFR 32.2.</p> <p><i>Lot Tolerance Percent Defective</i></p> <p>Virginia has omitted the definition of “lot tolerance percent defective” from its regulations.</p> <p>Virginia needs to adopt an essentially identical definition to meet the Compatibility Category B designation assigned to 10 CFR 32.2.</p>

32	12 VAC 5-480-A (1)(a)	32.11(c)		B	<p>Introduction of byproduct material in exempt concentrations into products or materials and transfer of ownership or possession: Requirements for license</p> <p>Virginia has wrongly referenced Appendix C in this section of its regulations instead of the Exempt Concentrations table found in 10 CFR Part 30.70.</p> <p>Virginia needs to reference the Exempt Concentrations table in its equivalent to 10 CFR 30.70, Schedule A, instead of Appendix C, to meet the Compatibility Category B designation assigned to 10 CFR 32.11.</p>
33		32.13		C	<p>Introduction of byproduct material in exempt concentrations into products or materials and transfer of ownership or possession: Prohibition of introduction</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 32.13.</p>
34		32.17		B	<p>Resins containing scandium-46 and designed for and consolidations in oil wells: Requirements for license to manufacture, or initially transfer for sale or distribution</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the compatibility Category B designation assigned to 10 CFR 32.17</p>

35	12 VAC 5-481-3580	32.24		B	<p>Same: Table of organ doses</p> <p>Virginia's values in this table are different from the values listed in the table under 10 CFR Part 32.24.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 32.24.</p>
36	12 VAC 5-481-480 (D)	32.51		B	<p>Byproduct material contained in devices for use under §31.5: Requirements for license to manufacture or initially transfer</p> <p>Virginia did not include the phrase "or initially transfer" after "manufacture."</p> <p>Virginia needs to include this phrase into 12 VAC 5-481-480(D) to meet the Compatibility Category B designation assigned to 10 CFR 32.51.</p>
37	12 VAC 5-480 (D) (4) (a) & (b)	32.51 a		B	<p>Same: Conditions of licenses</p> <p>Virginia has omitted the bankruptcy requirement in 10 CFR Part 32.51 a(e) in this section of its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 32.51a(e).</p>
38	12 VAC 5-480(D)(c)	32.52		B	<p>Same: Material transfer reports and records</p> <p>Virginia has omitted the 3-year recordkeeping requirement in this section of its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 30.52.</p>

39	12 VAC 5-481-480 (E)	32.53		B	<p>Luminous safety devices for use in aircraft: Requirements for license to manufacture, assemble, repair or initially transfer</p> <p>Virginia omitted the phrase “initially transfer” after the word “repair” in the initial sentence of this section.</p> <p>Virginia needs to include this phrase to meet the Compatibility Category B designation assigned to 10 CFR 30.53.</p>
40	12 VAC 5- 481-480(F)	32.57		B	<p>Calibration or reference sources Am-241: Requirements for license to manufacture or initially transfer</p> <p>Virginia omitted the phrase “or initially transfer” after “manufacture”.</p> <p>Virginia needs to include this phrase into this section to meet the Compatibility Category B designation assigned to 10 CFR 32.57.</p>
41	12 VAC 5- 480 (J)	32.72		B	<p>Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under Part 35</p> <p>Virginia has omitted the “Radiopharmacy Rule” in this section of its regulations. There are also outdated references (i.e., group medical licenses).</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 32.72.</p>
42		32.110		B	<p>Acceptance sampling procedures under specific licenses</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 32.110.</p>

43	12 VAC 5-481-10	34.3		B	<p>Definitions</p> <p>Temporary Jobsite</p> <p>Virginia did not include a provision for storing radioactive materials in jobsites other than those authorized in the license.</p> <p>Virginia needs to include this provision in this definition and adopt an essentially identical definition to meet the Compatibility Category B designation assigned to this definition in 10 CFR 34.3.</p>
44	12 VAC 5-481-1290	34.35		B	<p>Labeling, Storage, and Transportation</p> <p>Virginia adds a requirement to this section making their regulation more restrictive than 10 CFR Part 34.35.</p> <p>Virginia needs to delete 12VAC 5-481-1290(E) to meet the Compatibility Category B designation assigned to 10 CFR Part 34.35.</p>
45	12 VAC 5-481-1440	34.71		B	<p>Utilization Logs</p> <p>Virginia states in section 12VAC 5-481-1440(A)(2) "The identity or signature...". 10 CFR 34.71 states "The identity and signature...".</p> <p>Virginia needs to change "or" to "and" to meet the Compatibility Category B designation assigned to 10 CFR 34.71.</p>
46	12 VAC 5-481-2040	35.615		H&S	<p>Safety Precautions for remote afterloader units, teletherapy units, and gamma sterotactic radiosurgery units</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category H&S designation assigned to 10 CFR 35.615.</p>

47	12 VAC 5-481-2660	36.1 (b) & (c)		C	<p>Purpose and Scope</p> <p>Virginia adopts this regulation by reference and included the phrase "as amended January 1, 2003." This is inconsistent with previous adoptions by reference within Virginia's regulations, which include the FR citation. The correct FR citation should be 58 FR 7728, February 9, 1993.</p> <p>Virginia needs to delete the phrase January 1, 2003, date, and reference 58 FR 7728, February 9, 1993, to meet the Compatibility Category C designation assigned to 10 CFR 36.1.(b) and (c).</p>
48	12 VAC 5-481-2660	36.2		Various	<p>Definitions</p> <p>Virginia adopts these definitions by reference and included the phrase "as amended January 1, 2003." This is inconsistent with previous adoptions by reference within Virginia's regulations, which include the FR citation. The correct FR citation should be 58 FR 7728, February 9, 1993.</p> <p>Virginia needs to delete the January 1, 2003, date, and reference 58 FR 7728, February 9, 1993, to meet the Compatibility Category designations assigned to 10 CFR 36.2.</p>
49	12 VAC 5-481-2730	36.23		H&S	<p>Access Control</p> <p>Virginia did not include 63 FR 39483, July 23, 1998, in the adoption of this regulation by reference.</p> <p>Virginia needs to include 63 FR 39483, July 23, 1998, in this section to meet the Compatibility Category H&S designation assigned to 10 CFR 36.23.</p>

53		39.13		H&S	<p>Specific Licenses for well logging</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category H&S designation assigned to 10 CFR 39.13.</p>
54	12 VAC 5-481-3240	39.41		B	<p>Design and performance criteria for sealed sources</p> <p>Virginia uses language from the Suggested State Regulations which does not include all the provisions of 10 CFR Part 39.41.</p> <p>Virginia needs to revise 12 VAC 5-481-3240 to adopt an essentially identical provision to meet the Compatibility Category B designation assigned to 10 CFR 39.41.</p>
55		39.49		C	<p>Uranium sinker bars</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this regulation to meet the Compatibility Category C designation assigned to 10 CFR 39.49.</p>
56		39.53		C	<p>Energy Compensation Source</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this regulation to meet the Compatibility Category C designation assigned to 10 CFR 39.53.</p>

57	12 VAC 5-481-740(B)(6)	39.55		C	Tritium Neutron Generator target source Virginia has wrongly referenced 10 CFR Part 359.35 in its adoption by reference, instead of 10 CFR Part 39.55. Virginia needs to adopt 10 CFR Part 39.55 by reference to meet the Compatibility Category C designation assigned to 10 CFR 39.55.
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58	12 VAC 5-481-3270	39.61		B	<p>Training</p> <p>Virginia has omitted the following requirements in 10 CFR Part 39.61:</p> <ul style="list-style-type: none"> - requirement that the logging assistant receive instruction on applicable sections of 10 CFR parts 19 and 20 [see 39.61(b)(1)] - requirement that the licensee provide safety reviews for logging supervisors and logging assistants at least once during the calendar year [see 39.61(c)] <p>Virginia needs to include these requirements to meet the Compatibility Category B assigned to 10 CFR Part 39.61.</p> <ul style="list-style-type: none"> - Virginia also requires that licensees retain training records on logging supervisors and logging assistants for two years. <p>Virginia needs to require that training records on well logging supervisors and logging assistants be maintained for three years to meet the Compatibility Category B assigned to 10 CFR Part 39.61.</p> <ul style="list-style-type: none"> - Virginia excluded the subjects listed in 39.61(e) for the well logging supervisors' and logging assistants' training. <p>Virginia needs to include the subjects listed in 10 CFR Part 39.61(e) for well logging supervisors' and logging assistants' training to meet the Compatibility Category B assigned to 10 CFR Part 39.61.</p>
59		39.69		C	<p>Radioactive contamination control</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 39.69.</p>

60	12 VAC 5-481-410	40.20 (a)		C	<p>Types of licenses</p> <p>In 12 VAC 5-481-410 Virginia has addressed types of licensees by reference to 10 CFR Part 30.31.</p> <p>Virginia needs to include the reference to 10 CFR Part 40.20(a) on source material in 12 AC 5-481-410 to meet the Compatibility Category C designation assigned to 10 CFR 40.20 (a).</p>
61	12 VAC 5-481-480 (M)(4)(b)(1)	40.35 (b) and (c)		B	<p>Conditions of specific licenses issued pursuant to §40.34</p> <p>Virginia omitted the phrase “initial transferor” after the phrase “identify the manufacturer” in 12 VAC 5-481-480(M)(b)(1).</p> <p>Virginia omitted the phrase “or initially transferred” after the phrase “device was manufactured”.</p> <p>Virginia needs to include this information in this section to meet the Compatibility Category B designation to 10 CFR Part 40.35(b) and (c).</p>
62		30.50 (a)(b)(c), 40.60, and 70.50 (a)(b)(c)		C	<p>Reporting Requirements</p> <p>Virginia has omitted the Reporting Requirements rule from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 40.60, 30.50(a)(b)(c), and 70.50(a)(b)(c).</p>
63		40.61(a)(b)		C	<p>Records</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 40.61.</p>

64		40.61 (d)(e)		H&S	<p>Records</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category H&S designation assigned to 10 CFR 40.61.</p>
65	12 VAC 5-481-10	61.2		B	<p>Definitions</p> <p><i>Land Disposal Facility</i></p> <p>Virginia's definition of "land disposal facility" omits reference to "structures" and the 10 CFR Part 61.2 that relates to a geologic repository.</p> <p>Virginia needs to add these requirements to meet the Compatibility Category B designation assigned to Section 10 CFR 61.2.</p>
66		61.55		B	<p>Waste Classification</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 61.55.</p>
67		61.56		H&S	<p>Waste Characteristics</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category H&S designation assigned to 10 CFR 61.56.</p>

68		61.57		H&S	<p>Labeling</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category H&S designation assigned to 10 CFR 61.57.</p>
69	12 VAC 5-481-10	70.4		A	<p>Definitions</p> <p>Acute</p> <p>Virginia has omitted the definition of “acute” from its regulations.</p> <p>Virginia needs to add the definition of “acute” to meet the Compatibility Category A designation assigned to 10 CFR 70.4.</p>
70	12 VAC 5-481-500 (E)(3)	70.32 (a), (g)		H&S	<p>Conditions of licenses</p> <p>Virginia’s reference to 11 U.S.C. 101(2) is incorrect. The correct reference should be to 11 U.S.C. 101(a).</p> <p>Virginia needs to correct this information to meet the Compatibility Category H&S designation assigned to 10 CFR Part 70.32.</p>

71	12 VAC 5-481-510	70.38		H&S	<p>Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas</p> <p>Virginia omitted the financial surety license termination requirements as stated in 10 CFR Part 70.38(e).</p> <p>Virginia has omitted the requirements concerning the delay of license termination as stated in 10 CFR Part 70.38(f).</p> <p>Virginia needs to tie the financial surety to license termination and adopt the essential elements on delaying license termination of this section to meet the Compatibility Category H&S designation assigned to 10 CFR 70.38(e) and (f).</p>
72		70.51 (a)(b)		C	<p>Records requirements</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 70.51.</p>
73	12 VAC 5-481-2950	71.0 (c)		[B]	<p>Purpose and Scope</p> <p>Virginia has omitted the authority to receive, possess, use or transfer licensed material. The sentence “No provision of this part authorizes possession of licensed material” was also omitted.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 71.0(c).</p>

74	12 VAC 5-481-10	71.4		<p>[B]</p> <p>[B]</p> <p>[B]</p> <p>[B]</p>	<p>Definitions</p> <p><i>Certificate Holder</i></p> <p>Virginia has omitted the definition of “certificate holder” from its regulations.</p> <p>Virginia needs to adopt an essentially identical definition to meet the Compatibility Category B designation assigned to this definition in 10 CFR 71.4.</p> <p><i>Certificate of Compliance</i></p> <p>Virginia has omitted the definition of “certificate of compliance” from its regulations.</p> <p>Virginia needs to adopt an essentially identical definition to meet the Compatibility Category B designation assigned to this definition in 10 CFR 71.4.</p> <p><i>Consignment</i></p> <p>Virginia has omitted the definition of “consignment” from its regulations.</p> <p>Virginia needs to adopt an essentially identical definition to meet the Compatibility Category B designation assigned to this definition in 10 CFR 71.4.</p> <p><i>Conveyance</i></p> <p>Virginia has omitted the definition of “conveyance” from its regulations.</p> <p>Virginia needs to adopt an essentially identical definition to meet the Compatibility Category B designation assigned to this definition in 10 CFR 71.4.</p>
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				<p>[B]</p> <p>[B]</p> <p>[B]</p>	<p>Criticality Safety Index</p> <p>Virginia has omitted the definition of “criticality safety index” from its regulations.</p> <p>Virginia needs to adopt an essentially identical definition to meet the Compatibility Category B designation assigned to this definition in 10 CFR 71.4.</p> <p>Deuterium</p> <p>Virginia has omitted the definition of “deuterium” from its regulations.</p> <p>Virginia needs to adopt an essentially identical definition to meet the Compatibility Category B designation assigned to this definition in 10 CFR 71.4.</p> <p>Fissile Material</p> <p>Virginia’s definition of “fissile material” omits certain exclusions for “natural or depleted uranium irradiated in thermal reactors only” and “fissile material controls”, and includes Pu-238 as fissile.</p> <p>Virginia needs to adopt the NRC definition of fissile material to meet the Compatibility Category B designation assigned to this definition in 10 CFR 71.4.</p> <p>Unirradiated uranium</p> <p>Virginia has omitted the definition of “unirradiated uranium” from its regulations.</p> <p>Virginia needs to adopt an essentially identical definition to meet the Compatibility Category B designation assigned to this definition in 10 CFR 71.4.</p>
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75		71.13		B	<p><i>Exemption of physicians</i></p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 71.13.</p>
76		71.14(a)		[B]	<p><i>Exemption for low-level materials</i></p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 71.14 (a).</p>
77		71.15		[B]	<p><i>Exemption from classification on as fissile material</i></p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 71.15.</p>
78	12 VAC 5-481-3010	71.19		NRC	<p><i>Previously approved package</i></p> <p>Virginia includes this section in their regulations, which is solely reserved for NRC.</p> <p>Virginia needs to remove this section from their regulations to meet the Compatibility Category NRC designation assigned to 10 CFR 71.19.</p>

79	12 VAC 5-481-3040 and 3050	71.22		[B]	<p>General license: fissile material</p> <p>- Virginia has omitted the requirement that the type A package be approved by DOT, the cases in which the general license can be used, and the calculation and use of the criticality safety index.</p> <p>Virginia needs to adopt these requirements to meet the Compatibility Category B designation assigned to 10 CFR 71.22.</p> <p>- Virginia's regulations omitted Table 71-1 and included incorrect permissible maximum grams of Uranium-235 per package in their equivalent of NRC Table 71-2.</p> <p>Virginia needs to include an equivalent to Table 71-1 and adopt the correct values of permissible maximum grams of Uranium-235 per package in 12 VAC 5-481-3050, Table 1, to meet the Compatibility Category B assigned to 10 CFR Part 71.22.</p>
80		71.23		B	<p>General license: Plutonium-beryllium special form material</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 71.23.</p>
81	12 VAC 5-481-3080	71.47		[B]	<p>External radiation standards for all packages</p> <p>Virginia omitted requirements concerning the written instructions for exclusive use shipments in 10 CFR Part 71.47.</p> <p>Virginia needs to adopt these requirements to meet the Compatibility Category B designation assigned to 10 CFR 71.47.</p>

82	12 VAC 5-481-3080	71.87		[B]	<p>Routine Determinations</p> <p>Virginia omitted the requirements for fissile material contained in 10 CFR Part 71.87(g).</p> <p>Virginia needs to add 71.87(g) to meet the Compatibility Category B designation assigned to 10 CFR 71.87</p>
83	12 VAC 5-481-3090	71.88		B	<p>Air Transport of Plutonium</p> <p>Virginia omitted 10 CFR Part 71.88(b) from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 71.88.</p>
84		71.89		B	<p>Opening Instructions</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category B designation assigned to 10 CFR 71.89.</p>
85	12 VAC 5-481-3130	71.101 (a)(b) & (c)(1)		C	<p>Quality Assurance requirements</p> <p>Virginia has omitted the following requirements under 10 CFR Part 71.101:</p> <ul style="list-style-type: none"> - activities to which quality assurance requirements apply - persons responsible for the quality assurance program - criteria that such a program needs to meet <p>Virginia needs to include these requirements under 12 VAC 5-481-3130 to meet the Compatibility Category C designation assigned to 10 CFR 71.101(a), (b) & (c)(1).</p>

86		71.101(g)		C	<p>Quality Assurance Requirements</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 71.101 (g).</p>
87		71.103 (a) & (b)		C	<p>Quality Assurance Organization</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 71.103 (a)&(b).</p>
88		71.105		C	<p>Quality Assurance Program</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 71.105.</p>
89		71.127		[C]	<p>Handling, Storage, and Shipping Control</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 71.127.</p>
90		71.129		[C]	<p>Inspection, Test, and Operating Status</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 71.129.</p>

91		71.131		[C]	<p>Nonconforming material, parts, or components</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 71.131.</p>
92		71.133		C	<p>Corrective Actions</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 71.133.</p>
93		71.135		C	<p>Quality Assurance Records</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 71.135.</p>
94		71.137		C	<p>Audits</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt the essential elements of this section to meet the Compatibility Category C designation assigned to 10 CFR 71.137.</p>
95		10 CFR Part 71 Appendix A		[B]	<p>Determination of A₁ and A₂</p> <p>Virginia has omitted this section from its regulations.</p> <p>Virginia needs to adopt an essentially identical section to meet the Compatibility Category A designation assigned to 10 CFR Part 71 Appendix A.</p>

96	12 VAC 5-481-10	150.3(b)		B	<p>Definitions</p> <p><i>Offshore Waters</i></p> <p>Virginia has omitted the definition of “offshore waters” from its regulations.</p> <p>Virginia needs to adopt an essentially identical definition to meet the Compatibility Category B designation assigned to this definition in 10 CFR 150.3.</p>
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STATE REGULATION STATUS

VIRGINIA

(The entire Virginia Radiation Regulations were submitted in preparation to a draft application for an Agreement.

All Amendments in the chart below were reviewed)

Tracking Ticket Number: 6-187 thru 6-190

Date: 10/19/2006

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	6	6	6
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Superceded by 1997-5
Standards for Protection Against Radiation-Part 20	56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877; 58 FR 67657; 59 FR 41641; 60 FR 20183; (1/1/94)	1991-3			
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4			
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			Superceded by 2002-2
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30, 35	57 FR 45566; (none)	1992-2			Not required ³
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1			
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Review sheet not available ⁴
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Review sheet not available ⁴
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1			Not required ³
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3			
Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use-Parts 30, 32, 35	59 FR 61767; 59 FR 65243 60 FR 322; (1/1/98)	1995-1			
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2			
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3			
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4			Superceded by 1997-5
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5			
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6			
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7			Superceded by 2002-2 and 2005-2

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28724 (4/1/99)	1996-1			Superceded by 2004-1
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required ³
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3			
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1			
Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2			
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3			
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Superceded by 2004-1
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28947; (6/27/00)	1997-5			
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39057; (8/20/00)	1997-6			
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7			
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1			
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required ³
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Superceded by 2002-2
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4			
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5			
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6			
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			
Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			Not required ³
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55524 (2/2/03)	1999-3			
Energy Compensation Sources for Well Logging and Other Regulatory	65 FR 20337; (5/17/03)	2000-1			

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Clarifications-Part 39					
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63750; (1/8/04)	2000-2			
Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material - Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1			
Revision of the Skin Dose Limit -Part 20	67 FR 16298; (4/5/05)	2002-1			
Medical Use of Byproduct Material-Parts 20, 32, and 35	67 FR 20249; (10/24/05)	2002-2			
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327; (12/3/06)	2003-1			
Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments - Part 71	69 FR 3697; (10/01/07)	2004-1			
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1			
Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35	70 FR 16336; (4/29/08)	2005-2			
Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) ⁶	70 FR 72128;(12/1/05)	2005-3			
Minor Amendments-Parts 20, 30, 32, 35, 40 and 70	71 FR 15005 (3/27/09)	2006-1			

1. Or other generic Legally Binding Requirements.
2. (Y/N) Y means “Yes,” there are comments in the review letter that the State needs to address.
N means “No,” there are no comments in the review letter.
3. Not Required means these regulations are not required for purposes of compatibility.
4. A State need not adopt a specific regulation if the State has no licensees that would be subject to the regulation. See: “Final Policy Statement on Adequacy and Compatibility of Agreement State Programs,” III.1.Time From For Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number.
6. Due to the number of comments the entries for the State Regulation Status sheets will remain blank until an Agreement is signed with Virginia. Incoming package ML#061740291.