

March 25, 2005

ALL AGREEMENT STATES, MINNESOTA, PENNSYLVANIA

RESULTS OF THE MANAGEMENT REVIEW BOARD'S CONSIDERATION OF THE WORKING GROUP'S REPORT ON THE RE-EVALUATION OF 10 CFR 34.41(a) COMMONLY KNOWN AS THE "TWO-PERSON RULE" (STP-05-025)

Enclosed for your information is the NRC/OAS Working Group's (WG) June 18, 2004 Report on the Re-evaluation of 10 CFR 34.41(a) Commonly Known as the "Two-Person Rule" (ADAMS: ML041700343) and the Minutes of the August 17, 2004, Management Review Board (MRB) Meeting on the WG's Report.

The MRB did not approve the WG's consensus recommendation or the differing view contained in the WG Report. The MRB recommended that the State of Texas, or the Organization of Agreement States (OAS), file a petition for rulemaking in accordance with 10 CFR 2.802 to revise Section 10 CFR 34.41(a). The MRB agreed that until the final decision is made on the petition for rulemaking, the staff would defer compatibility findings on the implementation of the surveillance component of the Two-Person Rule in Texas and any other State that is implementing 10 CFR 34.41(a) in a similar way. The following language will be included in future Integrated Materials Performance Evaluation Program reports for States that have implemented 10 CFR 34.41(a) as described below:

[**STATE**] has adopted and is implementing a version of the 10 CFR 34.41(a) regulation commonly know as the "Two-Person Rule" in a manner where [**STATE**] licensees are allowed the flexibility to determine when radiographic operations can be conducted safely where the first radiographer could observe operations and prevent intrusion into the restricted area while the second radiographer is nearby engaged in other job-related activities. The review team [***did not attribute any events or incidents/did attribute {x} events or incidents***] in [**STATE**] as a result of implementing 10 CFR 34.41(a) in this manner.

A petition for rulemaking [***will be/has been***] submitted to NRC to revise 10 CFR 34.41(a) to be consistent with the Texas regulation. NRC is continuing to hold in abeyance compatibility findings for those Agreement States that have adopted and are implementing the 10 CFR 34.41(a) rule in this manner, until NRC issues a determination on a petition for rulemaking.

With the issuance of the WG's Report, the Working Group has completed all their assigned activities and is sunsetted.

STP-05- 025

- 2 -

If you have any questions regarding this correspondence, please contact me on 301-415-3340 or the individual named below.

POINT OF CONTACT: Kathleen Schneider INTERNET: KXS@NRC.GOV
TELEPHONE: (301) 415-2320 FAX: (301) 415-3502

/RA/

Paul H. Lohaus, Director
Office of State and Tribal Programs

Enclosures:
As stated

Distribution:

DIR RF

DCD (SP03)

SISP Review Complete

- : Publicly Available Non-Publicly Available
- : Non-Sensitive Sensitive

DOCUMENT NAME: E:\Filenet\ML050870344.wpd

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	STP	STP	STP:D		
NAME	KNSchneider:gd	MRShaffer (PHLohaus for)	PHLohaus		
DATE	03/25/05	03/25/05	03/25/05		

OFFICIAL RECORD COPY