



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, DC 20555 - 0001

July 20, 2007

MEMORANDUM TO: Kevin Hsueh, Chief  
Rulemaking Branch A  
Division of Intergovernmental Liaison  
and Rulemaking, FSME

FROM: Thomas Young, Senior Project Manager /*RA*  
Rulemaking Branch A

SUBJECT: CATEGORY 2 PUBLIC MEETING VIA A TELECONFERENCE FOR THE  
PETITION REVIEW BOARD AND THE ORGANIZATION OF AGREEMENT  
STATES, INC., TO DISCUSS THE PETITION FOR RULEMAKING [DOCKET  
NO. PRM-34-06]

Date & Time: August 15, 2007, 1:00 - 3:00 PM, Eastern Time

Location: U.S. Nuclear Regulatory Commission (NRC)  
Room T8C5  
11545 Rockville Pike  
Rockville, MD 20852-2738

Purpose: To ensure full understanding of two specific issues, training and economic  
impact, which the NRC identified during evaluation of the petitioner's request.  
The petitioner is the Organization of Agreement States (OAS).

Category: This is a Category 2 meeting. The public is invited to participate in this meeting  
by discussing regulatory issues with the NRC, Office of Federal and State  
Materials and Environmental Management Programs (FSME), Petition Review  
Board at the designated point identified on the enclosed agenda. Interested  
members of the public can request the toll-free telephone number and pass code  
from the point of contact, below.

Participants: NRC: George Pangburn, FSME  
Dennis Rathbun, FSME  
Janet Schlueter, FSME  
Michael Lesar, ADM  
Francis Cameron, OGC  
Designated NRC Staff

OAS: Paul Schmidt, OAS Chairman  
Cindy Cardwell, State of Texas

Members of the Public:  
Registered Participants

Contact: Thomas Young, FSME/DILR  
(301) 415-5705; [tfy@nrc.gov](mailto:tfy@nrc.gov)

Enclosures:

1. Agenda and Reference Materials
2. Specific Issues and Questions

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Distribution:

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DATE:	07/20/2007	07/20/2007		

Official Agency Record

AGENDA AND REFERENCE MATERIALS  
PUBLIC MEETING VIA AN AUDIO TELECONFERENCE

Date and Time: August 15, 2007, 1:00 - 3:00 PM (Eastern Time)

Participants: The NRC, Office of Federal and State Materials and Environmental Programs, Petition Review Board (PRB) and the Organization of Agreement States (OAS)

Purpose: To ensure full understanding of two specific issues, training and economic impact, which the NRC identified during evaluation of the petitioner's request (Docket No. PRM 34-06).

Agenda: The NRC public meeting web page is located at the following link:  
<http://www.nrc.gov/public-involve/public-meetings/index.cfm>

<u>Time</u>	<u>Topic</u>	<u>Participants</u>
1:00	Welcome and Purpose of the Meeting	NRC
1:10	PRM-34-06 Evaluation Process and Milestones	NRC
1:20	Training Issue	NRC and OAS
2:00	Economic Impact Issue	NRC and OAS
2:40	Comment on the Issues	Public
2:55	Closing Remarks and Further Instructions	NRC
3:00	Meeting Adjourned	

References: The documents related to this action are available electronically at the NRC's Electronic Reading Room at [nrc.gov/reading-rm/adams.html](http://nrc.gov/reading-rm/adams.html). This site will access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the documents related to this notice are provided in the following table. For assistance contact the NRC Public Document Room (PDR) Reference staff at (800)397-4209, (301)415-4737, or [pdr@nrc.gov](mailto:pdr@nrc.gov).

Accession No.	Title
ML053190112	2005/11/03-Petition for Rulemaking on behalf of the OAS
ML060450321	2006/02/03-Comment submitted by Debra McBaugh, Chair, Conference of Radiation Control Program Directors, Inc.
ML060690346	2006/03/10-Comment submitted by Ruth E. McBurney, Texas Department of State Health Services
ML072010207	Notice of meeting (72 FR 35203, June 27, 2007)

The references are also posted on the NRC Rulemaking Forum at the following link:  
[http://ruleforum.llnl.gov/cgi-bin/rulemake?source=hamrick\\_prm&st=petitions-a](http://ruleforum.llnl.gov/cgi-bin/rulemake?source=hamrick_prm&st=petitions-a)

## Specific Issues and Questions

### Training Issue:

The Petition Review Board is seeking an explanation to resolve an apparent inconsistency in the petitioner's request. The petitioner requested that NRC amend the regulations to relax an existing requirement to allow industrial radiographic personnel to be occupied with tasks (e.g., dark room duties) that are unrelated to safety during industrial radiographic operations and also requested that the regulations be amended to include additional radiation safety training requirements for the personnel. These requests seem to conflict.

The petitioner requested that 10 CFR 34.41, "Conducting industrial radiographic operations," paragraph (a) be amended to remove the requirement that the additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. The petitioner requested that 10 CFR 34.43, "Training," be amended to limit a licensee from permitting an individual to act as a radiographer or a radiographer's assistant until the individual has successfully completed an accepted course of at least 40 hours on the applicable subjects in paragraph (g).

### Questions about Training:

1. What is the rationale for requiring more radiation safety training for a radiographer's assistant who would not be required to observe the operations and provide immediate assistance to prevent unauthorized entry?
2. Does an individual completing the course to become a radiographer's assistant need to take another course before a licensee can permit the individual to act as a radiographer, if the petitioner intends for the radiographer and radiographer's assistant to complete the same course of applicable subjects on radiological safety, detection, and use of equipment as listed in paragraph (g)?

### Economic Impact Issue:

The Petition Review Board is seeking new, relevant information about the economic impact of implementing the rule. In response to the notice of receipt of the petition for rulemaking (70 FR 76724, December 28, 2005), the NRC received two comment letters; one from the Conference of Radiation Control Program Directors, Inc. and the other from the Texas Department of State Health Services. These organizations supported the petitioner's request. The industrial radiography community did not comment on the petitioner's request and the lack of comment from the industry was somewhat unexpected because the industry's interest had been relatively high in previous rulemaking activities for 10 CFR Part 34. In the past, the industry supported 10 CFR 34.41(a) and indicated that the additional cost of safety would be borne by the customers, not necessarily by the licensees.

The petitioner contacted certain industrial radiography licensees that operate both in the State of Texas and in NRC's jurisdiction to assess the cost of implementing 10 CFR 34.41(a) and obtained general information, e.g., an additional person would cost \$200 per day (including travel and per diem) and the cost of additional time would be \$10 - \$12 per hour (not including overtime pay).

### Questions about Economic Impact:

1. What is the actual economic impact on a licensee in the current regulatory environment where NRC and Agreement States do not implement the rule in an essentially identical manner?
2. Have changes in industry practice occurred since 1997 that have minimized the effectiveness of 10 CFR 34.41(a)?