

June 16, 2008

ALL AGREEMENT STATES, MICHIGAN, NEW JERSEY, VIRGINIA

RESULTS OF THE ORGANIZATION OF AGREEMENT STATES, INC. (OAS) PETITION FOR RULEMAKING (PRM 34-06) 10 CFR 34 AND CONTINUED REVIEW OF IMPLEMENTATION UNDER THE INTEGRATED MATERIALS PERFORMANCE EVALUATION PROGRAM (IMPEP) (FSME-08- 047)

Purpose: To provide the Agreement States with the May 14, 2008 *Federal Register Notice* on the results of the United States Nuclear Regulatory Commission's (NRC) evaluation of the Petition for Rulemaking PRM 34-06 from the Organization of Agreement States, Inc., (OAS) and the continued review of implementation under the Integrated Materials Performance Evaluation Program (IMPEP).

Contents: May 14, 2008 *Federal Register Notice*, 73 FR 27771

Background: As noted in the Office of State and Tribal Programs (STP) Letter 05-025, dated March 25, 2005, the NRC agreed that, until OAS filed a petition for rulemaking in accordance with 10 CFR 2.802 to revise Section 10 CFR 34.41(a) and 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.

On December 28, 2005 (70 FR 76724), the NRC published a notice of receipt of a petition for rulemaking filed by the OAS. The petitioner requested that the NRC amend its regulations to require that an individual receive at least 40 hours of radiation safety training before using sources of radiation for industrial radiography, by clarifying the requirements for at least two individuals to be present at a temporary job site, and by clarifying how many individuals are required to meet surveillance requirements. The petitioner also requested that NUREG-1556, Volume 2, be revised to reflect the performance-based changes in the proposed amendments.

The NRC has completed the evaluation of PRM-34-06 and has decided to close the petition, in so far as the issues and concerns raised in the petition merit further NRC consideration and inclusion in a future rulemaking.

Discussion: The NRC will continue to hold compatibility determinations in this area in abeyance until the final rule is published and the Agreement State implementation date becomes effective. As noted in STP Letter 05-025, NRC staff will continue to 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.

FSME-08-047

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Enclosure:
May 14, 2008 *Federal Register Notice*, 73 FR 27771

FSME-08-047

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