



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

June 1, 2021

ALL AGREEMENT STATES, CONNECTICUT

NOTICE OF INTERPRETATION ON INDUSTRIAL RADIOGRAPHIC OPERATIONS AT  
TEMPORARY RADIOGRAPHY JOBSITES AND AN AGREEMENT STATE COMPATIBILITY  
CATEGORY CHANGE; REQUEST FOR COMMENTS (STC-21-032)

**Purpose:** To inform the Agreement States that the U.S. Nuclear Regulatory Commission (NRC) issued notice of interpretation on industrial radiographic operations at temporary radiography jobsites and an Agreement State Compatibility Category change. The interpretation and Compatibility Category change are effective immediately with a 30-day post-promulgation comment period. The NRC is taking this action to respond to a petition for rulemaking from the Organization of Agreement States (OAS).

**Background:** On May 28, 1997, the NRC issued § 34.41(a) of Title 10 of the *Code of Federal Regulations* (10 CFR), "Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations," commonly called "the two-person rule," which requires a second qualified individual (radiographer or radiographer's assistant) to be present during industrial radiography operations at temporary jobsites. (62 FR 28948). The NRC has consistently interpreted 10 CFR 34.41(a) to require the second qualified individual to directly observe radiographic operations.

On November 3, 2005, the OAS submitted a petition for rulemaking requesting the NRC to amend its regulations in 10 CFR 34.41(a), 34.43(a), and 34.51 related to industrial radiographic operations to: (1) require that an individual receive a specific amount of radiation safety training before using sources of radiation for industrial radiography; (2) clarify the requirements related to the responsibilities of the second individual that is required to be present during radiographic operations; and (3) clarify how many individuals are required to meet visual surveillance requirements during radiographic operations. The petitioner also requested that NUREG-1556, Volume 2, "Program-Specific Guidance about Industrial Radiography Licenses," be revised to reflect the proposed amendments. The NRC reviewed the petition and determined in 2008 that the issues and concerns raised in the petition merited further NRC consideration and inclusion in a future rulemaking (73 FR 27771). Because the rulemaking activity did not raise an immediate safety, environmental, or security concern, it was rated a medium priority. Resources were applied to this rulemaking in fiscal year 2018.

**Discussion:** The NRC has previously interpreted § 34.41(a) to require both the radiographer and the second qualified individual to maintain direct observation when radiographic operations are being conducted at a temporary jobsite. The NRC now interprets § 34.41 such that the requirements contained in the sentence, "[t]he additional qualified individual shall observe the operation and be capable of providing immediate assistance to prevent unauthorized entry" are met if the second qualified individual is in sufficiently close proximity to the operation and sufficiently aware of the ongoing activities to be able to provide assistance or take charge when necessary and to prevent unauthorized entry. The second individual may perform other tasks nearby so long as they are cognizant of the site-specific circumstances when radiographic operations are in progress. The NRC is now reinterpreting that requirement.

The NRC is not requiring Agreement States to revise their interpretations of § 34.41. The NRC is changing the Compatibility Category designation for § 34.41(a) from B to C. Instead of requiring Agreement States to adopt this regulation in an essentially identical manner, they would now be able to implement regulations that are more restrictive than the NRC requirements, provided that the essential objective is met, and the State requirements do not jeopardize an orderly pattern of regulation of agreement material on a nationwide basis.

The NRC is requesting comments on this interpretation and the change from Compatibility Category B to C for the surveillance requirements in § 34.41(a). A *Federal Register* notice (FRN) for this reinterpretation was published on June 1, 2021 (<https://www.federalregister.gov/documents/2021/06/01/2021-11436/industrial-radiographic-operations-and-training>). Information on methods for submitting your comments is available in the FRN. Please provide your comments **by July 1, 2021**. Comments received after this date will be considered if it is practical to do so, but the NRC is only able to assure consideration for comments received on or before July 1, 2021.

If you have any questions with respect to this correspondence, please contact me at (301) 415-3340, or the individuals named below:

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Sincerely,



Signed by Anderson, Brian  
on 06/01/21

Brian C. Anderson, Chief  
State Agreement and Liaison Programs Branch  
Division of Materials Safety, Security, State  
and Tribal Programs  
Office of Nuclear Material Safety  
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STC-21-032- Notice of Interpretation on Industrial Radiography Jobsites Agreement State Compatibility Change, Request for Comments DATE June 1, 2021

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