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NUCLEAR REGULATORY COMMISSION

Title: Notice of Interpretation on Industrial
Radiographic Operations at Temporary
Radiography Jobsites and an Agreement State
Compatibility Category Change
Public Meeting

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Pages 1-42

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING ON THE NOTICE OF INTERPRETATION ON
INDUSTRIAL RADIOGRAPHIC OPERATIONS AT TEMPORARY
RADIOGRAPHY JOBSITES AND AN AGREEMENT STATE
COMPATIBILITY CATEGORY CHANGE

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THURSDAY,

AUGUST 26, 2021

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The meeting convened via Video
Teleconference, at 1:00 p.m. EDT, Gregory Trussell,
presiding.

NRC STAFF PRESENT:

GREGORY TRUSSELL, NMSS/REFS/MRPB

KEVIN A. COYNE, NMSS/REFS

BRETT M. KLUKAN, R-I

LYNN M. RONEWICZ, NMSS/REFS/MRPB

DUNCAN D. WHITE, NMSS/MSST/SLPB

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Introduction/Logistics

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Questions and Comments

By NRC / Public 13

Meeting Closed

By NRC 42

P-R-O-C-E-E-D-I-N-G-S

1:01 p.m.

MR. KLUKAN: Hi, I'd like to welcome -- well first off, can everyone hear me okay?

MR. TRUSSELL: Yes, we can, yes.

MR. KLUKAN: I just want to make sure before we start the meeting, before I start rambling on, make sure everyone can hear me okay. Welcome everyone, thank you for participating in this afternoon's public meeting to discuss the NRC's June 1st, 2021 notice of interpretation on the industrial radiography operations at temporary radiography job sites, and in agreement's sake, compatibility category change as captured in 86 Federal Register 29173.

My name is Brett Klukan, I am normally the regional counsel for region one of the U.S. Nuclear Regulatory Commission, however today I will be serving as your meeting facilitator. Next slide please. This is principally an information meeting with a question session. The purpose of this meeting is for the NRC staff to meet directly with individuals to discuss regulatory, and technical issues. Attendants will have an opportunity to ask questions of the NRC staff about the issues discussed during the meeting.

However to be clear, the NRC is not

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1 actively soliciting comments at this time towards the
2 development of any further regulatory decisions. For
3 your awareness, as indicated on the slide, this
4 meeting is being transcribed. The meeting slides are
5 also available in the ADAMS document access, and
6 management system otherwise known as ADAMS, at ML
7 number, and I will read it out loud for those of you
8 on the phone, ML21237A451. Again that's session
9 number ML21237A451.

10 I will provide instructions for how
11 members of the public can enter the speaker queue
12 after the NRC's opening presentation. In addition,
13 you can ask technical questions using the chat feature
14 in Microsoft Teams. For the benefit of those
15 participating solely via the telebridge, I will read
16 those questions out loud, received via chat as time
17 permits. With that said, next slide please. And I'd
18 like to turn it over to Greg, thank you very much.

19 MR. TRUSSELL: Thanks Brett. Good
20 afternoon, and welcome to our public meeting on the
21 two person rule. My name is Greg Trussell, I'm the
22 rule making project manager for the two person rule,
23 and I'll get us started today. Next slide please.
24 So, as Brett said, the purpose of our meeting today is
25 to provide an overview of the two person rule about

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1 stakeholders, and the public provide us feedback on
2 its implementation, and also to solicit feedback on
3 the additional guidance as needed. Next slide please.

4 There is our agenda for today, we'll start
5 off with some opening remarks from Kevin, I'll go into
6 the background of the rule, and then I'll turn it over
7 to technical staff that will go more in depth on the
8 two person rule, and that will end the formal
9 presentation, and we'll go into Q&A, and then we'll
10 close out the meeting. Next slide please. So, at
11 this time I'll turn it over to Deputy Director Kevin
12 Coyne for some opening remarks.

13 MR. COYNE: Hey, thanks Greg, and can you
14 hear me okay?

15 MR. TRUSSELL: Yes.

16 MR. COYNE: Yes, okay. Hey, good
17 afternoon, as Greg said, my name is Kevin Coyne, I'm
18 the deputy director for the Division of Rule Making
19 Environmental and Financial Support here at the NRC.
20 The objective of today's meeting, as Brett noted, is
21 to provide an overview of the two person rule,
22 including the NRC's recent interpretive guidance, and
23 to solicit public input on this guidance. As you may
24 know, the NRC issued a notification of interpretation
25 on the two person rule on June 1st of this year.

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1 The NRC received comments on the
2 interpretation, several of which are significant, and
3 will require response from the NRC in accordance with
4 10 CFR 28.04(f). Today we hope to get additional
5 clarification on some of the comments received,
6 address safety concerns raised in the comments, and
7 gain additional insights to help us address these
8 comments.

9 I very much appreciate everyone joining us
10 this afternoon, and participating in today's
11 discussion. We look forward to hearing your thoughts
12 during today's meeting. And with that, I'll turn it
13 back over to Greg.

14 MR. TRUSSELL: All right, next slide
15 please. All right, so I'm going to do some background.
16 Back in 2001, during an integrated materials
17 performance evaluation program review, and impact, the
18 NRC identified the implementation of the two person
19 rule was not compatible with revisions in 10 CFR
20 34.41(a). Specifically the NRC concluded that Texas
21 regulations are not compatible with 10 CFR 34.41(a),
22 because Texas did not require the second individual to
23 observe the operations.

24 For example, the second qualified
25 individual is permitted to be developing film in a

1 nearby dark room during radiographic operations, in
2 such a case, the second person was deemed not
3 available to observe, and provide immediate assistance
4 in the case of an accident, or injury. However the
5 final impact report indicated that Texas performance
6 was found satisfactory based on additional performance
7 information provided by Texas to the IMPEP team at
8 that time.

9 The final report recommended that the NRC,
10 in coordination with the agreement states, reconsider
11 how the rule could be implemented. On November 3rd,
12 2005, the organization agreement states submitted
13 petition for rule making requesting that the NRC amend
14 its regulations in 10 CFR 34.41(a), 34.43(a), and
15 34.51 related to industrial radiographic operations.
16 Specifically the petition requested that there be at
17 least 40 hours of radiation safety training, changes
18 to the responsibilities of the second individual, and
19 changes to visual surveillance requirements.

20 Petitioner asserted that the NRC's
21 interpretation of the two person rule added
22 unnecessary cost to the industry because a second
23 qualified individual is unavailable to perform other
24 job related duties, such as developing radiographic
25 film in a dark room. The petitioner requested that

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1 the NRC delete from the two person rule, the sentence
2 the additional qualified individual shall observe the
3 operations, and be capable of providing immediate
4 assistance to prevent unauthorized entry.

5 The petitioner stated that in a temporary
6 job site situation in which the crew consists of two
7 qualified radio operators, the surveillance
8 requirements in 10 CFR 34.51 can be met, that the
9 second individual should be considered available to
10 provide immediate assistance even if the second
11 qualified individual is engaged in job related duties
12 other than the observation of the operations. Next
13 slide please.

14 So, the NRC reviewed this petition, and
15 determined that the issues, and concerns raised in the
16 petition merited further NRC consideration, and
17 inclusion in future rule making. This was published
18 in May of 2008. Because rule making activity did not
19 raise an immediate safety, environmental, or security
20 concern, they rated it medium priority. Resources
21 were applied to this rule making in 2018, the NRC
22 formed a working group who submitted notification of
23 interpretation to the commission to approve the
24 publication which was published in June. Next slide
25 please.

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1 The interpretation of the regulation was
2 immediately effective upon issuance, which was again,
3 June 1st of this year. I do want to point out that
4 the regulatory requirements did not change, and 10 CFR
5 34.41(a) still requires two qualified individuals to
6 be present to prevent unauthorized entry into the
7 restricted area. Also I want to point out that the
8 NRC will publish a notice in the Federal Register
9 containing an evaluation of the significant comments
10 received during the post comment period, and any
11 revisions to interpretation.

12 Next slide please. So, that completes the
13 background portion of our presentation, at this time
14 I'm going to turn it over to Duncan White, who is our
15 senior technical lead for this rule making. Duncan?

16 MR. WHITE: Thank you Craig. Along with
17 the new interpretations of the two person rule, the
18 commission approved the change of the compatibility
19 designation for the two person rule from category B to
20 category C. This change in compatibility designation
21 gives the agreement states the flexibility in
22 implementing this regulatory requirement, including to
23 be more restrictive than the new NRC interpretation.
24 Consequently agreement states do not have to change
25 their current practice of requiring both qualified

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1 individuals to continuously observe the radiographic
2 operations.

3 Next slide please. The commission's
4 approval of the interpretation does not change the
5 language in the regulation as noted in the first
6 sentence of this slide. Nor does it change the
7 regulatory requirement that Greg just noted earlier.
8 The new interpretation allows the second qualified
9 individual not to observe the radiographic operations
10 at a temporary job site provided that the following
11 conditions are met.

12 One, the second qualified individual must
13 be cognizant of the ongoing operations. Two, the
14 second qualified individual must be able to provide
15 immediate assistance, including taking control of the
16 operations from the radiographer. And three, site
17 specific circumstances allow for the control of the
18 restricted area to prevent unauthorized entry by a two
19 person crew. Site specific circumstances are
20 important for controlling the restricted area at a
21 temporary job site.

22 Given the wide range of conditions during
23 radiographic operations, NRC staff concluded that in
24 a majority of the circumstances, and cases, there will
25 be at least two persons needed to be directly

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1 observing the restricted area to provide adequate
2 control. Next slide please. NRC received four
3 responses to the publication of the interpretation in
4 the Federal Register, the comments can be summarized
5 as follows.

6 First, some commenters indicated that the
7 new interpretation did not provide sufficient clarity,
8 or improve radiation safety. Commenters felt that the
9 direct observation by both qualified individuals
10 wasn't needed. The example provided in the Federal
11 Register was a rare occurrence, and that the
12 radiocommunication was more likely. Three, the use of
13 the word sufficient, or sufficiently in the
14 interpretations did not provide clarity, and were
15 ambiguous.

16 And four, commenters noted that the
17 compatibility change may cause consistency problems
18 for the agreement states during implementation. Next
19 slide please. So, what are the NRC takeaways from the
20 comments we received? First we need to address the
21 safety issue, and demonstrate that the second
22 qualified individual when not observing the restricted
23 area at all times is providing equal protection in
24 terms of public health, and safety.

25 Second, we need to provide better

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1 clarification of the interpretation. And third, we
2 need to provide guidance to the regulated community,
3 NRC, and agreement state staff that are implementing
4 this interpretation. Next slide please. I'd like to
5 turn it back over to Brett for instructions.

6 MR. KLUKAN: Okay, so there are two ways
7 of raising your hands to ask questions at this time.
8 If you're in the Teams application, you can go up to
9 the top of your screen, there will be, it looks like
10 two little people together, a little chat bubble, and
11 then there will be, it looks like a high five, and a
12 smiley face behind it. Beneath that there is a
13 function called raise your hand. If you would like to
14 ask a question during the meeting today, raise your
15 hand.

16 Once you've raised your hand, I will then
17 go through those who have queued up, and unmute you
18 one by one to ask your questions. Now, if you are on
19 the phone, and not in the Teams chat, in order to
20 quote unquote raise your hand, press star five.
21 Again, that is star five. And then a speaker will
22 unmute you. When you hear your name called, press
23 star six to unmute your phone, again that is star six
24 to unmute your phone, again when notified.

25 You may also ask technical questions in

1 the chat. Again, as time permits, I will try to read
2 those out loud for the benefit of those participating
3 solely via the phone line today. With that said,
4 let's open it up to questions at this time. So again,
5 if you'd like to ask a question, please go to the top
6 of the Teams box, and raise your hand. Or if you're
7 simply on the phone, press star five.

8 Okay, we will go to our first speaker, Jim
9 Grice.

10 MR. GRICE: Hi.

11 MR. KLUKAN: Go ahead.

12 MR. GRICE: Thanks. Yeah, as you said
13 this is Jim Grice for the state of Colorado. I did
14 have one question about the revision of the
15 interpretation, and I was wondering if, because it
16 appears that at least one state, that being Texas, has
17 interpreted it in alignment with this new
18 interpretation, and I was wondering if the NRC took a
19 look at any historical situations, or even events
20 where a restricted area was entered by a member of the
21 public, or someone who is not part of the radiography
22 team, or if there have been any substantial events
23 involving radiographer exposures as a result of this,
24 what I'll kind of term nondirect observation.

25 MR. WHITE: I'll take that question, this

1 is Duncan White. Jim, yes we did. We did look at
2 historical event data from NMED going back
3 approximately for 20 years when we were working on
4 this rule, and we found very few instances where there
5 was a member of the public that entered the restricted
6 area. And we really couldn't, based on the
7 information provided, we really didn't see any cases
8 where this was caused by the second qualified
9 individual not being attentive, or not observing the
10 area. There were other circumstances involved where
11 that occurred.

12 MR. GRICE: Thank you Duncan.

13 MR. KLUKAN: Okay, again, a couple people
14 joined us since I made the announcement about how to
15 ask a question. Again, if you'd like to ask a
16 question, please raise your hand using the raise hand
17 function, which you can find at the top of the Teams
18 screen under the hand, and smiley face icon that's off
19 to the right. Again, if you're just on the phone,
20 press star five. Again, that is star five to let us
21 know that you'd like to speak, and we'll unmute you at
22 that time.

23 So again, we're open for questions, so
24 please feel free to raise your hand, or to enter your
25 technical question into the chat box. And we do have

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1 a question in the chat box, which I will read out
2 loud, and this is from Randy Ragland. If the second
3 person is developing film in the dark room, how can
4 they prevent unauthorized entry? And again, I'll read
5 this out loud again for the benefit of those who are
6 participating on the phone to make sure you heard the
7 question.

8 If the second person is developing film in
9 the dark room, how can they prevent unauthorized
10 entry?

11 MR. WHITE: I'll take a crack at this one
12 too. As we noted in our presentation, the second
13 person, if he's not directly observing operations, he
14 has to meet certain criteria to not be doing that.
15 First one being he has to be cognizant of operations,
16 and secondly, he has to be able to provide immediate
17 assistance. If he doesn't meet those criteria,
18 certainly, I absolutely agree Randy, that he cannot
19 prevent unauthorized entry, and that would be,
20 obviously a violation of safety concerns, doing that.

21 Or there may be circumstances where that
22 person can be able to do that, but if a person is just
23 sitting in the dark room, and has no contact with the
24 radiographer, I would agree that that doesn't meet the
25 criteria in the new interpretation.

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1 MR. KLUKAN: Thank you for the question.
2 Again, it's star -- excuse me, thinking of Webex. Use
3 the raise hand function to let us know that you'd like
4 to speak, or again, if you're just on the phone, press
5 star five at this time, again that is star five, and
6 we are again open for any questions that you might
7 have. All right, we're going to go to a caller on the
8 phone.

9 I don't see -- all right, you don't have
10 a name, but your number starts with 17, and ends with
11 54. So, whoever is calling in with 17, and last
12 number 54, go ahead, and unmute yourself pressing star
13 six, and you should be good to go.

14 MR. BLACK: Yeah, this is Chris Black with
15 Energy Industry Academy. Wondering if there were
16 three -- I thought you laid out three prongs for the
17 meeting of nondirect observation. I think I missed
18 the third one, I had cognizant of the radiograph --
19 they're able to immediately provide assistance, was
20 there a third one in there?

21 MR. WHITE: Yes there was, the third one
22 was the circumstances particular to that temporary job
23 site. Obviously some temporary job sites, you're
24 going to need two people, you may need more than two
25 people to adequately control the restricted area. If

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1 you're at a temporary job site where this can be done
2 with two people, then the interpretation would apply.
3 But again, it would be specific to the type of
4 temporary job site they're working at.

5 And as you know, temporary job site could
6 be middle of a field, it could be inside of a
7 building, it could be middle of a city, so it's really
8 going to depend on where you are in terms of how you
9 apply this new interpretation.

10 MR. KLUKAN: Thank you for the question.
11 So, I'm going to go to now, a comment, and a question
12 we received in the chat. So, the first one is by Ron
13 Parsons. Ron states that this is just a comment, this
14 may cause some confusion with reciprocity licensees,
15 as one state may adopt this requirement, while another
16 may not. Again, I'll read it out loud for those just
17 on the phone, this is from Ron Parsons, just a
18 comment. He notes this may cause some confusion with
19 reciprocity licensees, as one state may adopt this
20 requirement, while another may not. I'll give the NRC
21 a moment to respond to that if they'd like.

22 MR. WHITE: Again, I mean I'll give you an
23 example of what happens in the NRC jurisdiction. If
24 someone comes into NRC jurisdiction, they have to
25 follow the conditions on their agreement state

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1 license, but also they have to follow NRC
2 requirements. So, if they come into our jurisdiction,
3 that's the expectation. So, if someone is going from
4 -- if the agreement state follows similar protocol, if
5 an NRC licensee goes into their jurisdiction, they
6 would certainly have to follow the conditions on their
7 license, and they would have to follow the
8 requirements for the agreement state.

9 So, if the agreement state did not adopt
10 this new interpretation, then they would have to
11 follow the agreement state interpretation, and that's
12 the expectation.

13 MR. KLUKAN: Ron Parsons, thanks for the
14 comment.

15 MR. WHITE: Good question.

16 MR. KLUKAN: We'll now go to a question by
17 Phillip Scott, again that is Phillip Scott at CDPH.
18 Phillip writes if NRC informed the agreement state of
19 the NRC's determination that a state's regulation
20 meets the designated compatibility, that its
21 determination is held in abeyance, must the agreement
22 state its equivalent regulation for final
23 determination? And again, I'll read that out loud.
24 If the NRC informed the agreement state of the NRC's
25 determination -- a state's regulation meets the

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1 designated compatibility that its determination is
2 held in abeyance, must the agreement state submit its
3 equivalent regulation for final determination?

4 MR. WHITE: I think I know the answer to
5 this, but if Phillip could unmute himself, and provide
6 a little additional information, what he means by
7 determines held in abeyance, that's the part that's
8 throwing me for this particular question. So,
9 Phillip, if you're on the phone, could you please just
10 provide a little more clarity on that?

11 MR. SCOTT: Yeah, this is Phillip. The
12 question is okay, so California adopted the two person
13 rule back in 2008. At the 2008 letter under our
14 review by Michelle, the determination that we met the
15 compatibility requirement was held in abeyance because
16 of the OAS petition. So, is NRC expecting that if
17 that's the case, then the agreement state needs to
18 submit so that NRC can make the final determination
19 that we are either -- we meet compatibility? So,
20 that's the question. Do we have to resubmit our
21 regulation for your final determination?

22 MR. WHITE: At this time we haven't worked
23 this out completely how states are going to notify us,
24 but it would be reasonable that to close this matter
25 in the letter, that some sort of communication would

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1 have to occur between California, and the NRC about
2 this.

3 MR. SCOTT: Okay.

4 MR. WHITE: Yeah.

5 MR. KLUKAN: All right, thank you for
6 that. Next we're going to go to Mike Broderick on the
7 phone. Again that's Mike Broderick.

8 MR. BRODERICK: Hello, this is Mike
9 Broderick, I'm from the Oklahoma agreement state
10 program. Duncan said something kind of in passing a
11 couple of questions back that was important, so I want
12 to clarify. For us, the most common situation, this
13 is two workers out in the field in a radiography
14 truck, and the issue of concern is one of them is out
15 doing the work, and the other one's in the back of the
16 truck in the dark room with the air conditioner on.
17 Leaving out the video surveillance thing that you
18 mentioned in the reinterpretation, which is from my
19 perspective, frankly a science fiction.

20 Assuming he doesn't have video
21 surveillance, or something like that, what I
22 understood Duncan to say, and I want to make sure I
23 understood you right, is the NRC would agree that if
24 he didn't have some method of surveillance, that
25 somebody in the back, in the dark room would not be

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1 considered having a second person as surveillance
2 basically, a second set of eyes.

3 MR. WHITE: I think it would be reasonable
4 to conclude that he can't be cognizant of ongoing
5 operations if he's sitting in a closed room with an
6 air conditioner running, and not have any contact with
7 the radiographer, that he would know what's going on
8 outside that room. I think --

9 (Simultaneous speaking.)

10 MR. BRODERICK: We heartily --

11 MR. WHITE: I'm sorry, what Mike?

12 MR. BRODERICK: We heartily agree.

13 MR. WHITE: Okay. So, he would have to
14 have some -- so maybe he has a radio on, maybe he
15 called him on his cell phone, and has his cell phone
16 open. Again, those particular examples would be
17 developing as we develop guidance on what the NRC
18 would deem acceptable, and at the end of the day it's
19 Oklahoma's call if they come across that situation.
20 It's Oklahoma's call what they want to do. If they
21 don't think it's adequate, then you make that call.

22 MR. BRODERICK: One other question, have
23 you considered -- security has become a big deal for
24 those of you who have been asleep for the last 20
25 years, and again, our typical situation for this is

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1 two people with a powerful source off in the
2 boondocks, and if you don't have two people outside,
3 that reduces their situational awareness of what's
4 going on out there. Have you considered the effect of
5 that in terms of the security?

6 MR. WHITE: Again, with regard to part 37,
7 this interpretation doesn't preempt any of those
8 requirements. You would still have to meet part 37
9 requirements.

10 MR. BRODERICK: Yeah, my intention wasn't
11 to -- I feel like I shouldn't have mentioned part 37,
12 but we're concerned about security, and it's
13 definitely a reduction of their situational awareness,
14 and I'd encourage you to think about the effects of
15 that.

16 MR. WHITE: Thank you for the comment.

17 MR. KLUKAN: Yeah, thank you. So, we're
18 going to go now to two questions we've received in the
19 chat. First, from Michael Reichard. So, had this
20 interpretation been in place before the Texas IMPEP,
21 would they have been deemed compatible? My
22 understanding was that they were allowing the second
23 individual to be in the dark room? And again, the
24 question is from Michael Reichard, had this
25 interpretation been in place before the Texas IMPEP,

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1 would they have been deemed compatible? My
2 understanding was that they were allowing the second
3 individual to be in the dark room.

4 MR. WHITE: I think the answer to that
5 question is probably, but again, this was back in
6 2001. I know Greg did a good job summarizing how we
7 got here, but like everything else, there's a lot of
8 nuance on what happened there. And again, the
9 particular case of the Texas IMPEP really started
10 because someone was working NRC jurisdiction, not
11 because Texas was doing this, it was because NRC. So
12 this is, again we would have to be sure that, again,
13 look at what Texas required back in 2001, which is
14 acceptable.

15 Again, the requirement to provide media
16 assistance existed back in 2001, so I don't know if
17 Texas, again that's a question for Texas to answer,
18 not me, about would that be allowable or not, back in
19 2001? I don't know. But again, everything being
20 equal, it might have made something easier back then,
21 yes.

22 MR. KLUKAN: Okay, thank you again for the
23 question. Again, a couple people have joined since I
24 last gave the instructions. So, if you're in the
25 Teams application, you go up to the more actions

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1 button at the top of your screen, it should be at the
2 top of your screen, and then you hit the raise your
3 hand function in order to let us know that you'd like
4 to ask a question. If you're just on the phone, press
5 star five, again that is star five to quote unquote
6 raise your hand, to show us that you'd like to ask a
7 question within Teams, and then we will call on you as
8 we go through the queue.

9 Right now, I'm going to turn again, as I
10 said, to another question we have in chat, and this
11 one again is from Randy Ragland. As an inspector, it
12 seems like this would be a performance based
13 regulatory issue. If the second person is developing
14 film in the dark room, and there is no unauthorized
15 entry, then there is no violation. If the second
16 person is developing film in the dark room, and there
17 is an unauthorized entry, then there's a violation.

18 Again, from Randy Ragland, as an
19 inspector, it seems like this would be a performance
20 based regulatory issue. If the second person is
21 developing film in the dark room, and there is no
22 unauthorized entry, then there is no violation. If
23 the second person is developing film in the dark room,
24 and there is unauthorized entry, then there is a
25 violation. And I'll turn it to the staff for any

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1 comment, or response.

2 MR. WHITE: My reaction to that Randy
3 would be, is the person, regardless of if there was
4 unauthorized entry into the restricted area, or not,
5 was the person cognizant of what was going on, or not?
6 To me that's the other part of the question here. And
7 it'd be hard to ascertain in a simple example such as
8 that. So, I mean that's the other part that needs to
9 be answered.

10 The person has to be cognizant, and able
11 to provide immediate assistance, and if the person was
12 able to do all of those things, and was developing in
13 the dark room, then that would meet the requirements
14 of the new interpretation. If they were not, then I
15 would say that's a potential violation. And then
16 Randy added something, unless there is video
17 monitoring, I don't know how they would be fully
18 cognizant.

19 So, I give the example, again, video is
20 obviously a possibility, more likely something like an
21 open phone line, open radio line where the
22 radiographer, and the other person are directly in
23 communication with each other continuously.

24 MS. RONEWICZ: Brett, I think you are on
25 mute.

1 MR. KLUKAN: I'm on mute, I'm on mute.
2 Well, that's the first time, so I'll take the award
3 for that one, first person to start talking on mute.
4 Anyway, sorry about that. So our next -- we did have
5 a hand raised by Frank Peffer, it looks like you may
6 have lowered your hand, if you'd still like to ask a
7 question, please go ahead.

8 MR. PEFFER: No, I was just having a
9 comment on what Mr. Ragland said about it being a
10 performance issue as an inspector. I'm not sure I'd
11 agree with that, because it's almost like he's saying
12 they're required to have an alarming rate meter, well
13 if they didn't have an alarming rate meter, but they
14 never walked into a high radiation area, then it
15 wouldn't matter that they didn't have it. So, I don't
16 think, unless I misunderstood him, I don't think that
17 point he had was valid.

18 Because he's acting like as long as
19 nothing happened, then it's okay that they didn't take
20 that precaution. I'm not sure if I understood him
21 correctly though, that's all.

22 MR. KLUKAN: All right, thank you for
23 that, and maybe Randy can respond via chat to that.
24 We're now going to go to, we've got a couple more
25 questions in the chat. So, from Michael Snee, and

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1 again, I apologize if I'm mispronouncing anyone's
2 name, but again this is from Michael Snee. Are
3 licensees expected to ask every state that they work
4 in on how they interpret this particular, or any other
5 rule before getting reciprocity? This seems to be a
6 burden for licensee in the states.

7 The rules are compatibility B, the NRC's
8 interpretation, also compatibility B for states.
9 Again, I'll read that out loud again. Michael Snee,
10 are licensees expected to ask every state they work on
11 how they interpret this particular, or any other rule
12 before getting reciprocity? This seems to be a burden
13 on both the licensees, and states. The rules on
14 compatibility B is the NRC's interpretation, also
15 compatibility B for the states. And I'll turn that
16 over to the staff for a response.

17 MR. WHITE: With the new interpretation,
18 compatibility was changed to compatibility C. So,
19 from NRC's standpoint, this allows, as I said in my
20 remarks during the formal presentation portion, the
21 agreement states can have the opportunity now, the
22 flexibility to either adopt the NRC interpretation, or
23 if they wish they can continue with their existing
24 interpretation. Again, that's up to the individual
25 states.

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1 So, again, with regard to your first
2 question, first half of your question Mike, that
3 really hasn't changed. Licensees, if they go work in
4 different states, they are expected to follow rules,
5 whether NRC jurisdiction, or the individual agreement
6 state jurisdictions, whatever they do. That has not
7 changed, so they will have to continue to do that.
8 And we do know there's, because the way we do
9 regulations under the National Materials Program,
10 there is some differences from state to state because
11 of compatibility.

12 So, Licensees have to follow the rules
13 whatever jurisdiction they're in, and this is, they
14 would have to follow this one too.

15 MR. KLUKAN: Okay, again, thank you for
16 the question. We're going to go to another question
17 in chat, and then I think potentially back to the
18 audio bridge. It looked like we had someone raising
19 their hand, but they may have lowered it, maybe their
20 question was answered. But we do have a question from
21 Janine Katanic, again that is Janine Katanic. Is
22 there an indication of how many agreement states will
23 adopt this new interpretation?

24 Is Texas still following their 2001
25 interpretation, now the NRC's interpretation? Again,

1 this is from Janine Katanic, is there an indication of
2 how many agreement states will adopt this new
3 interpretation, is Texas still following their 2001
4 interpretation, now the NRC's interpretation?

5 MR. WHITE: We were asked the question
6 about how many states we think will adopt it, we don't
7 think a lot will, but again, that's ultimately a
8 decision for each agreement state to decide. Texas,
9 in 2020, issued basically a new interpretation, or I
10 guess it was a letter to their licensees indicating
11 that they are changing the way that they are viewing
12 the two person rule, and they adopted that back in
13 2020.

14 MR. KLUKAN: Okay --

15 MR. WHITE: Again, so what Texas was doing
16 in 2001, which was the basis for the 2005 petition,
17 Texas years later decided to change the way they view
18 this regulation, and they adopted, and shifted on
19 that. So again, they had a reason for doing that, and
20 they're certainly allowed to do so.

21 MR. KLUKAN: Sorry, I was waiting for the
22 train to pass by -- no, deciding to blow the whistle
23 again. Sorry about that. So again, we do have a hand
24 up, it is from Jim Grice, so go ahead, and unmute
25 yourself, and ask a question.

1 MR. GRICE: Hey Duncan. So, I just want
2 to clarify something, so my understanding is this
3 interpretation was a revision of the interpretation of
4 34.41, correct?

5 MR. WHITE: 34.41(a), yes.

6 MR. GRICE: Okay, so I guess one of my
7 questions is that 34.51, the section specifically on
8 surveillance reads during each radiographic operation,
9 the radiographer, or other individual present as
10 required by 34.41 shall maintain continuous direct
11 visual surveillance of the operation to protect
12 against unauthorized entry. So, I'm just not sure how
13 -- I understand there's a reinterpretation of
14 34.41(a), but doesn't 34.51 still require a continuous
15 direct visual surveillance?

16 So, I guess I can see saying that if they
17 have a camera, and they have a video surveillance,
18 that would meet 34.51, but I'm not understanding how
19 we get away with things like radio, or phone kind of
20 communication in terms of 34.51. I hate to, I'm sorry
21 if I'm complicating it, but I just see those as being
22 kind of tandem requirements, and the 34.51 is the one
23 that's kind of throwing me off, because it
24 specifically says visual.

25 MR. WHITE: I believe it uses the term,

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1 there's an or in there, and I think that provides the
2 flexibility, but I also believe the compatibility for
3 34.51 is C. Pull up, yeah, this is a good question
4 Jim. Again, in the original petition that we got in
5 2005, they did ask for some changes to 34.51, and we
6 chose not to change that. Yeah, it says during each
7 radiograph operation, the radiographer, or the other
8 individual present as required by 34.41 shall maintain
9 contain continuous direct visual -- so one of the two
10 has to have direct observation.

11 MR. GRICE: Okay.

12 MR. WHITE: It does say or there.

13 MR. GRICE: I got you, thank you, that
14 helps. So, the idea is that 34.51 is in some ways
15 almost automatically satisfied by having a man on the
16 crank.

17 MR. WHITE: Right, that was -- we did look
18 at that carefully, and that did have the -- it was one
19 of the others, at least one of the two people had to
20 be observing.

21 MR. GRICE: Okay, thank you.

22 MR. KLUKAN: Okay, thank you, again. So,
23 we are going to go back to the chat. Again, we have
24 another question from Janine Katanic, again from
25 Janine Katanic. If Texas was the driver of the

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1 revised NRC interpretation, and now Texas no longer
2 interprets it that way, why did the NRC continue with
3 this new interpretation? Again this is from Janine
4 Katanic. If Texas was the driver for the revised NRC
5 interpretation, and now Texas no longer interprets it
6 that way, why did the NRC continue with this new
7 interpretation?

8 MR. WHITE: Well, I'll answer the first
9 part. Again, the petition was from OAS for starters,
10 so although it was based on the Texas rule, it was an
11 OAS petition. When they concluded the first view of
12 the petition, they finished with the petition in 2008,
13 and published it in the federal register, what they
14 said is that this was consideration for a further look
15 at a later time, and that's kind of why we are where
16 we are today.

17 And I'll leave it to Greg, or to Sheldon
18 to provide some more clarity on the petition process,
19 they may provide some more light on how that works,
20 and why we need to conclude the petition process.

21 MR. KLUKAN: Okay, we are going to --
22 again, if you'd like to ask a question, please press
23 star five on your phone if you're joining us via the
24 phone, again that's star five. And for those of you
25 in the Teams chat, use the raise hand function, which

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1 you can find under more actions at the top of your
2 screen. Click that, and there will be a little -- or
3 next to the more actions button, it's a little, it
4 looks like a high five, and a little smiley face,
5 click on that, and there will be a little raise your
6 hand function.

7 Or it's control shift K, control shift K
8 if you prefer that. Or enter your question in the
9 chat. It looks like we have another question in chat,
10 so I'm going to read that out loud. And this is from
11 Jim Draper -- excuse me, Jason Draper, Jason Draper.
12 34.51 specifically specifies unauthorized entry into
13 a high rad area, but 34.41 simply states unauthorized
14 entry. What area does 34.41 require the individual,
15 or individuals to prevent unauthorized entry into?
16 HRA, or restricted area?

17 Again, I will read Jason's question out
18 loud. 34.51 specifically specifies unauthorized entry
19 into a high rad area, but 34.41 simply states
20 unauthorized entry, what area does 34.41 require the
21 individual, or individuals to prevent unauthorized
22 entry into? Is it the HRA, or the restricted area?
23 And thank you for the question.

24 MR. WHITE: Good question. 34.41,
25 unauthorized entry to restricted area, again, there's

1 also a radiation area too, before you get to the high
2 radiation, there's a radiation area, so that's how we
3 interpret, that's how we looked at 34.41.

4 MR. KLUKAN: Okay, thank you again for the
5 question. So, we have, I will do my best to read this
6 out loud. So, this is from David Crowley, again, this
7 is from David Crowley in the chat, and I will read it
8 out loud for the benefit of those of you on the phone,
9 and I'll do this twice. My concern with the camera
10 hypothetical is that it does not provide a 360 degree
11 level of awareness.

12 They would also not be able to act on
13 seeing it immediately if needed. To Michael Snee's
14 point, I don't know how this is going to cause a
15 transboundary issue for reciprocity issues, or the
16 states when they come in from a state with varied
17 interpretations. Additionally, to the OAS part, I've
18 been on the board for almost six years in the last
19 eight. This petition was never discussed by more
20 current members than I'm aware of.

21 Definitely we'd like to see NRC, OAS step
22 back, and reassess if this is truly needed, or causing
23 unnecessary issues from a legacy IMPEP to Janine's
24 point. Again, I'll read this out loud, and again this
25 is from David Crowley. My concern with the camera

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1 hypothetical is it does not provide a 360 degree level
2 of awareness. They would also not be able to act on
3 scene immediately if needed. To Michael Snee's point,
4 I don't know how this is not going to cause a
5 transboundary issue for reciprocity licensees, or the
6 states when they come in from a state with various
7 interpretations.

8 Additionally to the OAS part, I've been on
9 the board for almost six in the last eight. This
10 petition was never discussed by more current members
11 than I'm aware of. Definitely would like to see the
12 NRC, OAS step back, and reassess if this is truly
13 needed, or causing unnecessary issues from a legacy
14 IMPEP, to Janine's point. Again, thank you very much
15 David for the question, and comments, and I'll turn it
16 over to the staff for a response.

17 MR. WHITE: Well -- go ahead.

18 MR. TRUSSELL: Well this may be something
19 we'll have to sit down -- if we haven't got a response
20 from Duncan, or Sheldon, they haven't responded by
21 now, maybe this is something we can follow up on
22 later.

23 MR. WHITE: And certainly David, certainly
24 the lines of communication are open, I'm happy to talk
25 to OAS about this, absolutely. Again, in terms of how

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1 this was handled, again it's a petition, we follow
2 certain requirements for petitions, so that played a
3 part of it. But again, David, you know we'll be happy
4 to talk about this another time.

5 MR. KLUKAN: And thank you again David,
6 for your question, and comments. We'll now turn to
7 Mike Broderick in the Teams app. So, go ahead, and
8 unmute yourself Mike.

9 MR. BRODERICK: I almost -- well in fact
10 I did briefly lower my hand. David Crowley said
11 precisely what I was going to say. It seems to me
12 here with this reinterpretation, we're creating a
13 potential transboundary issue to solve a problem that
14 nobody currently is agitating to solve, and in that I
15 support what David said.

16 MR. KLUKAN: Okay, thank you for that.
17 Mike, we appreciate it. Next up, again, it looks like
18 we don't have actually anyone next up. So, feel free
19 to enter your questions into the chat, and I'll read
20 them out loud. Or if you're on the phone, press star
21 five, again that's star five to raise your hand. Or
22 if you're in the Teams application, feel free to raise
23 your hand using the function at the top of your
24 screen, and we'll give people a couple minutes to
25 either enter their questions in the chat, or to raise

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1 their hands.

2 All right, I'm not seeing anyone. Again,
3 I'll read through the instructions again. Feel free
4 to raise your hand to let us know that you'd like to
5 ask a question if you're in the Teams application. If
6 you're on the phone, press star five to raise your
7 hand, and then we will let you know when it's your
8 turn to speak. Or, just feel free to type your
9 question into the chat, and I will read it out loud.

10 A lot of you have been availing yourselves
11 of that, and if it's easier, feel free to go ahead,
12 and we will receive your questions that way. So,
13 whatever works best for you, and I'll give people here
14 some time to figure out if they have any additional
15 questions. I've got a question in the chat, and this
16 is from Geoffrey Warren, again that's Geoffrey Warren.
17 Do we have any examples of situations with a second
18 individual that are clearly acceptable under the new
19 interpretation?

20 Again this is from Geoffrey Warren for
21 those of you on the phone. Do we have any examples of
22 situations with the second individual that are clearly
23 acceptable under the new interpretation? Thank you
24 for the question, and I'll turn it over to the staff
25 for response.

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1 MR. WHITE: I think a very simple one, and
2 again this is where we'll have to develop guidance
3 with the states on what would be -- overall guidance
4 on terms of what would be acceptable situations, and
5 examples, but I'll give you one type of simple
6 scenario. Someone stepped away, the second qualified
7 person stepped away, was within speaking distance of
8 the radiographer, or was on the phone with the
9 radiographer, stepped away for a few minutes, was out
10 of sight of the area.

11 That may be an acceptable situation, but
12 again, I want to point out that we have to talk these
13 things through, and get people around the table to
14 come up with examples of what would be acceptable.
15 Again, as I pointed out early on, the complexity, the
16 wide variety of temporary job sites that radiography
17 is done makes it very challenging to say yeah, this is
18 an absolute one, or this is an absolute no, this is an
19 absolute yes. So it's challenging.

20 MR. KLUKAN: Okay, thank you again for the
21 questions. I'll repeat the instructions again. If
22 you'd like to ask a question, feel free to enter it
23 into the Teams chat box, what we call the meeting
24 chat. You can open that up by clicking on the little
25 dialogue, or it looks like a chat bubble at the top of

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1 your screen in the Teams application. Or you can
2 raise your hand if you'd like to ask a question
3 verbally within the Teams application. Or if you're
4 on the phone, press star five.

5 Again, that is star five to raise your
6 hand to let us know that you'd like to ask a question.
7 And we'll give people here some time, to think if they
8 have any other questions they'd like to ask. So,
9 thank you again. All right, we'll do this one more
10 round again. If you'd like to ask a question, press
11 star five on your phone, if you're participating
12 solely via phone.

13 If you're in Teams, feels free to enter
14 your question into the chat box, or the meeting chat,
15 or raise your hand at the top of the screen to let us
16 know that you'd like to speak. If not, I will turn it
17 back over to the staff. We'll give people here a
18 little bit of time to think about if they have
19 anything else they'd like to ask today.

20 MR. TRUSSELL: Thanks Brett, this is Greg.
21 Next slide please. So, again, as explained earlier by
22 Kevin, as required by 10 CFR 2.804, for any post
23 promulgation comments received, the commission shall
24 publish the statement in the Federal Register
25 containing the evaluation of the significant comments,

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1 and any revisions of the rule, or policy statement
2 made as a result of the comments, and their evaluation.
3 So, thus the NRC, we will address the significant
4 comments we receive in those, and we will also take
5 the input from today's meeting to formulate our next
6 steps.

7 So, I would like to thank everybody for
8 their attendance today, and their participation. Next
9 slide please. All right, open up this, does Kevin,
10 anybody else on the staff have any closing comments?
11 Kevin?

12 MR. COYNE: (Inaudible.)

13 (Simultaneous speaking.)

14 MR. KLUKAN: Before we go to closing
15 comments -- I'm sorry Kevin, we did have one question
16 pop up, I just want to make sure we captured it.
17 Right as you started to speak Greg, so if we could go
18 through that, and then we'll turn back. I'm sorry for
19 interrupting. So, this is from Deborah Piskura. In
20 cases where the second individual is the assistant
21 radiographer, how would this new interpretation apply
22 to the two man rule?

23 Would it be acceptable for the assistant
24 to take shots while the supervisor radiographer is in
25 the rig? Again, in cases where the second individual

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1 is an assistant radiographer, how would this new
2 interpretation apply to the second man rule? Would it
3 be acceptable for the assistant to take shots while
4 the supervisor radiographer is in the rig?

5 MR. WHITE: I think this new
6 interpretation would not apply. This was never
7 considered as under the -- when we were discussing
8 this at any point, this particular scenario. There's
9 good reasons for the radiographer to be physically
10 present watching an assistant radiographer during
11 shots, when he's doing the radiography work, and this
12 interpretation was never, I don't think ever intended
13 to apply in this particular case.

14 MR. KLUKAN: Okay, thank you for that, and
15 we just have one comment, I'll just read it out loud.
16 This is from Gwyn Galloway, one of the most common
17 situations that occurs is where the one individual is
18 operating the camera, and the other is in the dark
19 room processing. Again, this is from Gwyn Galloway,
20 just a comment, that one of the most common situations
21 that occurs is where the one individual is operating
22 the camera, while the other is in the dark room
23 processing.

24 Thank you again for all of your questions,
25 and comments today, and with that, sorry for

1 interrupting again. I'll turn it back over to Kevin.

2 MR. COYNE: No, that's perfect Brett, and
3 I was actually trying to flag to you that there were
4 two comments in the chat, so that's great. Thanks
5 Greg, and Brett. And I want to thank everyone for
6 their participation, discussion, and insights this
7 afternoon. As Greg noted, the NRC will publish a
8 notice in the Federal Register in the future to
9 provide an evaluation of the comments received, and
10 any revision to the interpretive guidance that we need
11 to make.

12 Also we very much value your feedback in
13 how we conduct our meetings, so I encourage you to let
14 us know about your experience today, and Gregg will
15 provide a little more information on that. And with
16 that, I thank you, and I'll turn it back over to Greg.

17 MR. TRUSSELL: Yeah, thanks Kevin. So,
18 there's the last slide there. You can email me at
19 this address, any feedback at all on this meeting
20 would be appreciated. So, again, I'd like to thank
21 everybody for their attendance today, and if there's
22 nothing else, I'll go ahead, and close out the
23 meeting. Thanks again.

24 (Whereupon, the above-entitled matter went
25 off the record at 1:58 p.m.)