



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

Augustinus Ong, Chair
Organization of Agreement States
New Hampshire Radiological Health Section
Department of Health and Human Services
29 Hazen Drive
Concord, NH 03301-6504

Dear Mr. Ong:

I am responding to the petition for rulemaking (PRM-34-6) that the Organization of Agreement States submitted to the U.S. Nuclear Regulatory Commission (NRC) on November 3, 2005 (Agencywide Documents Access and Management System Accession No. ML053190112). The petition requested that the NRC amend its regulations at Part 34 to Title 10 of the *Code of Federal Regulations* (10 CFR) to require specific amounts of radiation safety training for radiography workers, and to clarify requirements related to the responsibilities of the second individual who is required to be present during radiographic operations at temporary jobsites.

The petition was docketed as PRM-34-6, and the NRC published a notice of docketing and request for public comment in the *Federal Register* on December 28, 2005 (70 FR 76724). The NRC reviewed your petition and the comments received and determined that the issues raised in the petition merited consideration in the NRC's rulemaking process (73 FR 27771; May 14, 2008).

After review, the NRC concluded that an amendment to the regulations would not be necessary to resolve the issues raised in the petition with respect to the responsibilities of the second individual. The NRC published this assessment with a new interpretation to address these issues on June 1, 2021, (86 FR 29173) and requested public comment. The NRC did not receive any comments that would cause the NRC to change the new interpretation. The NRC has concluded that the new interpretation resolves the issues raised in PRM-34-6 related to the responsibilities of the second individual. The NRC changed the Agreement State Compatibility Category for 10 CFR 34.41(a) from B to C specifically to ensure Agreement States have the flexibility to adopt more stringent requirements.

The NRC staff appreciated the opportunity to meet with the Agreement States on a number of occasions to understand the States' comments and to explain the basis for the staff's continued support of the published interpretation. This interpretation is only applicable in very limited circumstances and will allow some flexibility for future technology. Under the National Materials Program, the NRC intends to continue partnership and communications on future changes to the rulemaking process.

In addition, the NRC reviewed the petition issue regarding training requirements and concluded, based on associated operational experience since 1997, that the current requirements in 10 CFR 34.43(c) are sufficient to ensure safe radiographic operations. Based on the NRC's review, the NRC has concluded that conducting rulemaking to amend its requirements for

industrial radiographic operations and training is no longer necessary and, therefore, is discontinuing the rulemaking activity. The NRC is denying PRM-34-6 pursuant to 10 CFR 2.803(i)(2).

You may direct any questions regarding this matter to Gregory Trussell by calling 301-415-6244 or emailing Gregory.Trussell@nrc.gov.

Sincerely,

Brooke P. Clark
Secretary of the Commission

Enclosure:
Federal Register notice