

TEXAS RADIATION ADVISORY BOARD MINUTES

Second Quarter Meeting

June 5, 2004

Austin, Texas

The meeting was called to order at 9:00 a.m. by Michael S. Ford, C.H.P., Chair, with the following members present: Susan E. Best, M.D., Ph.D.; Thomas M. Burnette; Earl P. Erdmann; Ian Hamilton, Ph.D.; W. Kim Howard, M.D.; Justin P. LeVasseur, M.D.; Odis R. Mack; Troy Marceleno; Kevin L. Raabe

The following members were absent: Eugene A. Coleman, Ph.D.; Bruce A. Matson; Judith A. Pester, M.D.; Elaine L. Wells

Guests present: Lana Benat; Doris Bryan; Marshall Cohen, LES; Annette Glass with Representative Warren Chisum's office; Rod Krich; Dean Kunihiro, Waste Control Specialist, Inc.; Eddie Selig, Advocates for Responsible Disposal; Arthur Tate; Joe Thiel; April Wade; Bob Wilson, Jackson, Sjobert, McCarthy & Wilson, LLP

Texas Department of Health (TDH) central office staff present: Mike Greenberg

Bureau of Radiation Control (BRC) staff present: Richard A. Ratliff, P.E.; Cindy Cardwell; Tommy Cardwell; Ruben Cortez; Bob Free; Margaret Henderson; Ruth E. McBurney, C.H.P.; Pete Myers, Elva Ramirez; Alice Rogers, P.E.; Bill Silva; Gary Smith, Ph.D.; and Susie Spears

Texas Commission of Environmental Quality (TCEQ) staff present: Susan Jablonski; Tony Bennett; George Fitzgerald and Don Redmond

Texas Railroad Commission (TRC) staff present: Jill Hybner

Minutes of the November 15, 2003 and January 31, 2004 meetings were approved as submitted.

Margaret Henderson provided the board members an update on approval of board member absences. Dr. Coleman was absent for more than 50% of the meetings in calendar year 2003. His wife has been ill with cancer. Margaret gave a synopsis of his attendance. He was appointed in the year 2000, attended July 2000 up to October 2002 which was the last meeting he attended, missed all of 2003 and has missed both of the meetings in 2004. Margaret stated that this information was just a reference of Dr. Coleman's attendance over time and the vote was to concern only 2002. Michael Ford informed members that on a couple of occasions he attempted to talk to Dr. Coleman and he had been unavailable. It was recommended that a letter requesting his resignation be sent. On motion and second the full board approved sending a letter requesting that Dr. Coleman voluntarily resign. Motion passed unanimously.

Michael Ford reported that some guests were present from Louisiana Energy Services and recognized Mr. Cohen for a presentation. Mr. Marshall Cohen is Vice President of Louisiana Energy Services and is in

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charge of Communication, Government Relations and Public Affairs. He introduced Rod Krich, Vice President, Licensing, Nuclear Engineering, and Safety.

Mr. Cohen gave a summary of what LES is in the process of developing. LES submitted a license application to the Nuclear Regulatory Commission in December to construct and operate a Uranium Enrichment Facility on a parcel of land about 4.2 miles East of Eunice, New Mexico. Land is located about ¼ to 2 mile from the Texas border and from Waste Control Specialist, Inc. Mr. Cohen talked briefly about nuclear power, site project, by-product-disposal, type of support and direction the project would be taking. Mr. Cohen stated that the facility will produce low enriched uranium solely for commercial use in nuclear power plants. It will be licensed to operate for 30 years. The complete facility will be built on 550 acres. The actual facility will be about 800 thousand square feet inside a 100-acre plot within those 550 acres. Mr. Cohen gave a presentation on short and long term goals of project.

Michael Ford thanked LES people for presentation. He introduced three new board members. New members were trained on Friday. They are Mr. Bradley Bunn, Public representative; Mr. Mitchell Lucas, Nuclear Utility representative; and Mr. Rick Jacobi, Industry Representative.

I. Executive Committee (Michael Ford, Chair) met and a quorum was present.

Cindy Cardwell gave a short update on rules. Twelve different rule sections were recommended for final adoption. The committee recommended:

- (1.) Adoption of 25 TAC 289.301 Registration Safety Requirements for Lasers and Intense-Pulsed Light Devices.
- (2.) Adoption of 25 TAC 289.251 Exemptions, General Licenses, and General Licence Acknowledgments.
The TRAB Chair asked about provision within rule if authorization is revoked and suggested rewording. Cindy indicated that the wording changes could be made.
- (3.) Adoption of 25 TAC 289.231 General Provisions and Standards for Protection Against Machine-Produced Radiation
- (4.) Adoption of 25 TAC 289.252 Licensing of Radioactive Material
- (5.) Adoption of 25 TAC 289.226 Registration of Radiation Machine Use & Services

On motion and second the full board approved the committee's recommendations. Motion passed unanimously.

Richard Ratliff of the Bureau of Radiation Control talked about Health Physicist salaries. A proposed new Health Physicist classification has been prepared and accepted by Health and Human Services Commission and is now at State Classification office. If they approve it then it will go to the Texas legislature for consideration in the next session. Richard said the Health Physics staff received a 6.8% raise.

Richard Ratliff talked about the reorganization structure. Michael Ford talked about meeting with Representative Chisum and Mr. Albert Hawkins regarding concerns of reorganization. Michael Ford suggested that a letter be sent to Commissioner Albert Hawkins and to state legislators regarding support for a new classification for health physicists. Richard thanked Dr. Hamilton for teaching basic health physicist course at Texas A & M University. The committee recommended writing a letter of support for the Health Physicist Classification.

On motion and second the full board approved the committee's recommendations. Motion passed unanimously.

II Medical Committee (Kim Howard, M.D., Chair) met and a quorum was present.

Cindy Cardwell gave a summary on digital imaging. Tommy Cardwell noted they are in the process of getting a working group to increase and fine tune regulations and address details.

The committee recommended:

- (1.) Adoption of 25 TAC 289.227 Use of Radiation Machines in the Healing Arts
- (2.) Adoption of 25 TAC 289.232 Radiation Control Regulations for Dental Radiation Machines
- (3.) Adoption of 25 TAC 289.233 Radiation Control Regulations for Radiation Machines Used in Veterinary Medicine

On motion and second the full board approved the committee's recommendations. Motion passed unanimously.

III Waste and Industrial Committee (Earl Erdmann, Chair) met and a quorum was present.

The committee recommended:

- (1.) Adoption of amendment to 25 TAC 289.254 Concerning Licensing of Radioactive Waste Processing and Storage Facilities
- (2.) Adoption of amendment to 25 TAC 289.260 Concerning Licensing of

Uranium Recovery and Byproduct Material Disposal Facilities

On motion and second the full board approved the committee's recommendations.
Motion passed unanimously.

Status of possible changes to 25 TAC 289.202 was given by the staff. Draft changes have been sent to stakeholders, and NRC, EPA and TCEQ for a 30-day comment period. Agencies have requested more time. Because Texas would be ahead of the federal government in making changes to these rules, the revision will be coordinated with the other agencies.

Dean Kunihiro, Vice President, Licensing Regulatory Affairs, WCS, congratulated new board members. He asked board members to support BRC's effort in rulemaking because this rule will allow Texas generators of Low Level Radioactive Waste some safe and less costly alternatives to what they have today.

IV Fee Committee (Odis Mack, Chair) met and a quorum was present.

The committee recommended:

- (1.) Adoption of 25 TAC 289.204 Fees for Certificates of Registration, Radioactive Material(s) Licenses, Emergency Planning and Implementation, and Other Regulatory Services.

On motion and second the full board approved the committee's recommendation.
Motion passed unanimously.

Cindy Cardwell commented Texas On-line is charged to everyone whether or not they use it.

VI Program Reports:

- (A.) TDH, BRC, Richard Ratliff, P.E., Chief

(1.) NRC comes to do a 1 year follow-up review. One issue of importance is that BRC is 1000 inspections behind. NRC will also be interested in reorganization. NRC refused to send letter to the state saying that we really need to increase the salary and to do certain things because they are all performance based now and they will send a letter if our performance declines. Richard gave a summary of

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CRCPD's 36th Annual Conference meeting in Bloomington, Minnesota. BRC submitted 2 exceptional items with its legislative appropriation request. One was to fund the Health Physicist class and the other is to get a new suburban type vehicle to do uranium inspections that are off road and to use for emergency response.

The 5th Army conducted the unified defense exercise recently. A final report has not been received.

(2) Licensing, Registration, & Standards, Ruth E. McBurney, C.H.P.

(a) Gary Smith, Ph.D., will be rehired after retirement due to an exemption being approved. Food and Drug Administration did an on site visit of the Texas mammography accreditation program in February and had no issues and no recommendation for improvement. Ruth recapped her participation of the conference at the International Radiation Protection Association meeting in Madrid, Spain. September 16 & 17, 2004, Health Physics Society and BRC are hosting a seminar. Michael Ford has agreed to come and speak on behalf of TRAB. Ruth McBurney has been selected as the chair elect of the National Health Physics Society. She is the first state person to have that role.

(3) Compliance and Inspection, Alice Rogers, P.E.

(a) Out of 77 positions 11 are still vacant (9 technical and 2 administrative). An emergency response drill was conducted in late April at Pantex to activate the joint information center. The goal is to present informative, consistent and professional information to media and public.

The BRC will be doing an Ingestion Pathway Drill on June 21, 2004, that will involve approximate 50 Bureau employees. DOE will be participating. They will bring radiological assessment program staff and BRC will try out using new plume model software.

(B.) Texas Commission on Environmental Quality (TCEQ) Susan Jablonski

Susan Jablonski stated that they also would be doing a small section on Waste as part of regulatory conference and the commission will be involved in that as well. Dr. Dale Klein will be the keynote speaker. Compatibility issues with NRC in proposed rules particularly with

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ownership of a site issues have been resolved with NRC. Next TRAB meeting TCEQ will supply everyone with limited rule making for NORM disposal by injection.

Tony Bennett gave update on progress of adoption of radionuclide drinking water rules.

(C.) Texas Railroad Commission (TRC) Jill Hybner

Staff of TRC & TDH plan on doing NORM workshops in several cities across the state at the end of July and August. Richard stated that Cindy Cardwell would be available to assist them.

VII Public Comment

George Fitzgerald made a quick statement regarding Susan Jablonski, Don Redmon and Devane Clarke. They are being honored by Texas Commission on Environmental Quality for team of the year for having developed low-level radioactive waste disposal facility rules. They finished the rules in 7 months instead of 18 months and rules were written well. Susan gave credit to board for time and efforts in support of this rule.

VIII The next quarterly meeting is tentatively scheduled for September 18, 2004, in Austin, Texas.

IX The meeting adjourned at 1:05 p.m.

Respectfully submitted,

Texas Radiation Advisory Board