

TEXAS RADIATION ADVISORY BOARD MINUTES
Third Quarter Meeting
September 10, 2005
Austin, Texas

Michael S. Ford, C.H.P, called the meeting to order at 9:00 a.m., with the following members present: Susan E. Best, M.D.; Ph.D.; Bradley Bunn; Ian Hamilton, Ph.D.; W. Kim Howard, M.D.; Mitchell Lucas; Odis R. Mack; Kevin L. Raabe; Elaine L. Wells

The following members were absent: Thomas M. Burnette; Earl P. Erdmann; Rick Jacobi; Troy Marceleno; Bruce A. Matson, D.D.S

Guest present: Dennis Sollenberger, Ph.D., Nuclear Regulatory Commission (NRC); Vivian Campbell, Nuclear Regulatory Commission (NRC); Geri Cooley, Lotus; Roger Mulder, State Energy Conservation Office, Comptroller of Public Accounts; Craig Holmes, Mestena Uranium; John Leftwich, Mestena Uranium; William Paul Goranson II, Mestena Uranium; Amy Thurlkill, High Plains Uranium; Doris Bryan; Jeff Skov, WCS; Mark Pelizza, Texas Mining & Reclamation Association (TMRA); Stephen F. Smith, Texas Mining & Reclamation Association (TMRA); Mark Beaman; Dan Gorski

Texas Department of State Health Services (DSHS) central office staff present: Tom Godard

Department of State Health Services (DSHS) staff present: Richard A. Ratliff, P.E.; Ruth McBurney, C.H.P.; Cindy Cardwell; Tommy Cardwell; Ruben Cortez; Bob Free; Margaret Henderson; Gary Smith, Ph.D.; Jo Turkette; Jerry Cogburn; Sheri Schoppe; Susan Tennyson

Texas Commission of Environmental Quality (TCEQ) staff present: George Fitzgerald; Don Redmond

Texas Railroad Commission (TRC) staff present: David Cooney

Michael S. Ford, Chair, began by stating that election of officers and approval of minutes for April 30, 2005, would have to be postponed until such time that a quorum of TRAB members were available.

The chair then moved to the topic of the U.S. Nuclear Regulatory Commission's Integrated Materials Performance Evaluation Program (IMPEP).

I. U.S. Nuclear Regulatory Commission's Integrated Materials Performance Evaluation Program (IMPEP) Review Process for Texas Agencies

Dennis Sollenberger of NRC gave a presentation in regards to the IMPEP program review for Texas agencies. He elaborated on what types of programs that NRC and Texas as an Agreement State had the right to regulate saying that all information on this topic could be found in the section 150 "Code of Federal

Regulations." Dr. Sollenberger spoke on the IMPEP process and the time intervals for a state evaluation. He said the state individual performance helps determine the length time until the next review. He stated the five common indicators for the IMPEP process: technical staff and training; status of material inspections program; technical quality of inspection; technical quality of licensing; technical quality of incident investigations. Non-common indicators are as followed: compatibility issues; sealed source and device; low-level waste commercial disposal facilities. He concluded by talking about the uranium recovery program.

Ian Hamilton, Ph.D., responded to Dr. Sollenberger asking him what concerns did the NRC have in the review process within Texas. Dr. Sollenberger stated that primary concerns within the current review were related to staffing and the backlog of inspections. In particular, staffing for the uranium program is of concern.

II. DSHS Health Physicist Classification and Compensation

Richard Ratliff from DSHS began by speaking on the subject of health physicist classification. He stated that in the last session, the legislature created a new classification for health physicists. This provides a new career path. DSHS staff has been working on an implementation plan using education, current job and years of experience as criteria for reclassification. In regard to the fees associated with getting this implementation plan running, Mr. Ratliff stated that the Comptroller must first certify the budget. Fees will not be adopted until January 2006 or after.

III. Medical Committee (Howard, Best, Matson)

- (A) Proposed exemption to 25 TAC §289.256 (ff)(1)(B) regarding a physician's training and education

Ruth McBurney from DSHS talked about requests by licensees to add new physicians to licenses primarily in the area of diagnostic nuclear medicine. Some of the topics that she elaborated on were: new NRC rules on medical uses of radioisotopes; NRC rulemaking; and what levels of health and safety were deemed acceptable in regards to diagnostic nuclear medicine. DSHS rules are not consistent with current NRC requirements.

Because it will take some time for DSHS to adopt rules consistent with NRC's, on motion and second, the Medical Committee vote to treat 25 TAC §289.256 (ff)(1)(B) as an exemption using the new NRC standards.

IV. Fee Committee (Mack, Burnette, Erdmann, Howard, Marceleno, Matson)

- (A) Proposed amendments to 25 TAC §289.204 - Fees for Certificates of Registration, Radioactive Materials Licenses, Emergency Planning and Implementation, and Other Regulatory Services

Cindy Cardwell from DSHS began speaking about changes within the fee rule and fee increases saying that the changes are a result of legislative action. She elaborated on the following topics as well: DSHS budget changes, fee increase in order to upgrade health physicist positions in Texas, cost of living increase for state employees, state employee longevity pay, increases in travel reimbursement and the timeline for 25 TAC §289.204 to be approved by Albert Hawkins, Executive Commissioner for Health and Human Services Commission.

The chair advised that, lacking a quorum, no official action be taken until the next TRAB meeting and that all public comment be held until item thirteen is addressed on the TRAB agenda.

V. Waste and Industrial Committee (Erdmann, Ford, Hamilton, Rabbe, Wells)

- (A) 25 TAC§289.253 Radiation Safety Requirements for Well Logging Services Operations and Tracer Studies

The chair stated that due to the fact that 25 TAC§289.253 has not been proposed by the agency, no comment would be made at this time.

- (B) Waste Control Specialists, Inc., petition for rulemaking regarding exemption of very low level radioactive material

Jeff Skov of WCS began speaking about TCEQ and DSHS working together to interpret Texas regulations to accept by reciprocity federal exemptions for low-level waste material. He also elaborated on the petition presented by WCS to DSHS. In regards to this topic he went over the following points: denial letter in response to the petition from Albert Hawkins, Executive Commissioner for Health and Human Services; background and clarification of the petition; associated is sue in regards to regulation of radioactive materials; and the current status of petition which had been denied.

- (C) State of the Uranium Industry in Texas

Mark Pelizza from Texas Mining & Reclamation Association (TMRA) began giving his presentation on the uranium industry in Texas. He spoke on where the uranium business has been and where TRMA foresees the uranium business heading in the future, and resources and production. He concluded on the topics of modern technology and uranium extracted technology. The presentation indicated that market forces and demands would likely cause the uranium production to increase in Texas.

Amy Thurlkill from High Plains Uranium gave a brief presentation on her company. She elaborated on the following: background on the company; office locations; goals of High Plains Uranium for Texas; and permitting in Texas. She said the company would likely be filing a license application soon.

Paul Goranson from Mestena Uranium talked briefly about his company. He elaborated on the following: where the company is located; number of employees working for Mestena Uranium; ongoing project within the company; and the communication between staff in regards to licensing actions. He concluded by speaking about timing within the business and moving forward.

Each speaker indicated concern over timely regulatory actions as it relates to their business success. They cited staffing level issues.

- (D) Proposed advisory regarding over exposures in industrial radiography industry as related to well logging

The chair stated that the topic of over exposures in industrial radiography industry as related to well logging would have to be postponed until the November 5, 2005, TRAB meeting.

VI. Committee of the Whole Board

- (A) Adoption of amendments to 25 TAC§289.202 - Standards for Protection Against Radiation from Radioactive Materials

The chair stated that no action would be taken at this time on 25 TAC§289.202 because the rules were not ready due to delay in the process.

- (B) Action By the full board on recommendations of all committees

The chair stated that no action would be taken at this time at the present meeting in regards to the election of officers and the approval of minutes due to the lack of a quorum.

(C) Public comment

No public comments were suggested to the board.

VII. Program Reports

(A) Department of State Health Services

Richard Ratliff went over the following topics in regards to program reports: Energy bill and the NRC; funding for the training of health physicists; and NRC nuclear power program being revitalized. He concluded on the topic of benchmark studies for fees for nuclear utilities saying that one would be done.

Ruth McBurney from DSHS spoke on the following: Increased controls on licensees through new conditions; the different groups of licensees and their responsibilities in regards to who has access to radioactive sources; and physical controls of the transportation of radioactive devices. She concluded on the topic of filling the open DSHS group manager position in machine sources saying an individual would soon be hired.

Cindy Cardwell from DSHS spoke on the topic of proposed rules and when they should be published in the register; and timeline and working on resolving problems in regards to the proposed rule. She moved on to the subject of working with the Railroad Commission on a MOU in regards to DSHS's jurisdictional status. She concluded on the topic of the Bi-Annually Field Staff Meeting.

Tommy Cardwell from DSHS spoke on the following topics: DSHS employees that were volunteering with the relief effort of Hurricane Katrina; FEMA possibility opening a joint field office in the Austin area; and an incident of radioactive active source found in Laredo, TX. He concluded on the topic of the bioterrorism exercises and open positions within the inspection area of DSHS. Currently, there are four radioactive material inspector vacancies and three x-ray inspector vacancies.

(B) Texas Commission on Environmental Quality

George Fitzgerald began by thanking Dennis Sollenberger and Vivian Campbell from NRC for working with TCEQ this past week. He concluded on the topic of low-level waste radioactive disposal facility in

Andrews, Texas, saying a technical notice of deficiencies would be sent to the applicant next week.

(C) Railroad Commission of Texas

David Cooney reported to the TRAB board that the Railroad Commission did meet with DSHS and TCEQ in regards to the naturally occurring radioactive material (NORM) related MOU with DSHS and to update changes with TCEQ as well.

VIII. Board Member Request for Agenda Items for Next Meeting

The chair reiterated the topic of staffing within the uranium program. One member requested further information about the fee increase impact on business.

VIII. Public Comment

Geri Cooley the Lotus RSO from Andrews, Texas, made public comment on the topic of NORM decontamination work. She concluded concerns that Lotus had with the fee increase for licensing fees. They believe the increases might make for a disincentive for customers to achieve proper decontamination because fees would be passed along to customers.

The next quarter meeting is tentatively scheduled for November 5, 2005 in Austin, Texas.

The meeting adjourned at 1:15 p.m.

Respectfully submitted,

Ian Hamilton, Ph.D., C.H.P., Secretary
Texas Radiation Advisory Board