

**Department of State Health Services (DSHS) Program Report to the Texas
Radiation Advisory Board**

April 14, 2007

The U.S. Nuclear Regulatory Commission (NRC) Management Review Board (MRB) met on February 2, 2007 to make a final determination on the Texas Agreement after the Integrated Materials Performance Evaluation Program (IMPEP) review in November 2006.

The MRB determined that: “Due to the program improvement shown since the 2005 IMPEP review, the period of Heightened Oversight of the Texas program will be discontinued and a period of Monitoring will be implemented. Monitoring is an informal process that allows the NRC to maintain an increased level of communication with an Agreement State program. As part of the Monitoring process, NRC will conduct quarterly calls with the appropriate representatives from the Texas Department of State Health Services.”

Legislation that could impact the radiation control program:

HB 174 - Relating to the regulation of laser hair removal facilities; providing penalties.

HB 2285 - Relating to the renewal period for a license or registration related to radioactive materials and other sources of radiation issued by the Department of State Health Services.

HB 3368 - Relating to requiring physician delegation of laser hair removal.

SB 762 - Relating to the certification and regulation of mammography systems.

SB 1604 - Relating to the transfer of uranium recovery and low-level radioactive waste processing regulatory authority from DSHS to TCEQ.

SB 1716 - Relating to a fee exemption for local law enforcement agencies in the licensing and registering of X-ray devices used for screening suspicious packages and other objects.

SB 1837 - Relating to the regulation of uranium mining and disposal of certain radioactive materials and low-level radioactive waste.

Radiation Safety Licensing Branch

- Personnel changes:
 - On January 31, 2007, Ruth McBurney, Manager of the Radiation Safety Licensing Branch, retired after over 25 years service at DSHS and its predecessor agency, the Texas Department of Health. Ruth has taken the job as Executive Director of the Conference of Radiation Control Program Directors.
 - Edgar D. Bailey has been selected as the Manager of the Radiation Safety Licensing Branch. Ed is a Registered Professional Engineer and a Certified Health Physicist with over 35 years experience in the radiation control programs of California and Texas.
 - Jan Endahl, the health physicist who managed the industrial radiography certification program, retired at the end of February 2007 after over 25 years state service. Bridget Stephens, Health Physicist in the Radioactive Materials Licensing Group has been selected for this position.
 - One vacant civil engineer position in the Technical Assessments Group remains inactivated, due to budget constraints.
 - One vacant environmental specialist position in the Machine Source Group also remains inactivated, due to budget constraints.
 - The waste licensing reviewer position in Technical Assessments Group became vacant, February 1, 2007 and is still vacant.
 - Ernest Kasiske, Clerk, in the Operations and Records Group retired at the end of February with over 17 years of state service. This position has been posted.
 - A new license reviewer, Tony Gonzalez, was hired. He is a recent graduate of the Texas A&M University's health physics program into the Industrial Licensing Program.
 - Patricia Chawla was hired, as a license reviewer into the Industrial Licensing Program. She came from the Texas Commission on Environmental Quality.
 - One Licensing Assistant, Joe Contreras, transferred to the DSHS Chemical and Product Safety Group.

- The Technical Assessments Group received a completely rewritten byproduct waste disposal application from WCS (Revision 13), January 12, 2007. Staff reviewers have been devoting 100% of their effort on this review and have noted the need for extra resources to complete the review. An interim review letter went out to WCS, April 3, 2007. RSLB and Division staff met with the Commissioner on April 2, 2007 to discuss resource needs.

- The Technical Assessments Group received a new in situ uranium application from South Texas Mining Venture, February 28, 2007. URI and Everest Exploration are in line for technical license renewal. URI has an ongoing amendment request for expansion of the Rosita sub-site. One reviewer

continues to work with Everest Resources on their license application for the IEC reclamation. Outside sources have indicated that more uranium license applications are coming and older uranium companies may expand further. Until WCS is completed, uranium licensing actions are receiving lower priority.

- Radioactive Materials Licensing Staff Activities:
 - Preparing to send an advisory to all increased controls licensees to inform them of the information/resources available to answer questions/clarify issues regarding requirements of Increased Controls (ICs); and share some common issues that have been identified during IC inspections.
 - Policy on Mobile Nuclear Medicine is in final draft.
 - Regulatory Guide on Diagnostic Nuclear Medicine Model Procedures is in final draft. The guide will allow diagnostic nuclear medicine applicants to commit to using the model procedures, eliminating the need to review submitted procedures and reducing the time required to process applications.
 - PowerPoint briefing on “Regulatory Updates” will be presented to the Texas Radiological Society in The Woodlands, April 14, 2007.
 - PowerPoint briefing on “Food Irradiation” will be presented to the North Texas Chapter of the Texas Environmental Health Association in Dallas, May 4, 2007.

- Planning for the 2007 Texas Radiation Regulatory Conference is underway.
 - Preliminary Program

September 5 (Wednesday all day)	Mammography CEU Session
September 6 (Thursday morning)	X-ray Service Provider Session
September 6 (Thursday afternoon)	Plenary Session (Dr. Dale Klein, NRC, invited to speak)
September 6 (Thursday evening)	Reception
September 6 (Thursday evening)	Dinner (Dr. Guilmette, LANL, invited to speak on ²¹⁰ Po Poisoning of Alexander Litvinenko)
September 7 (Friday)	Main Session (Updates on New Rules, Policies, Procedures)
 - Preliminary advertisements are being sent with each issued permit (new, renewal, amendment).
 - Preliminary information is available at www.dshs.state.tx.us/radiation and www.stc-hps.org
 - Letters to licensees/registrants will go out July 1, 2007.

- The U. S. Food and Drug Administration (FDA) has completed and submitted its preliminary review of the Texas application to become a certification agency under the States as Certifiers program. FDA has sent a letter with questions and

comments on the application. DSHS staff is in the process of responding to the FDA's comments and anticipates a response to be submitted to the FDA by mid May 2007.

Radiation Policy, Standards, and Quality Assurance Unit

- Increased Controls (IC) - PSQA staff is maintaining a spreadsheet of IC inspection results, including the inspection date, inspector, reviewer, number and type of violations, whether the case was sent to Enforcement and why, and any proposed penalty. Most of these inspections have been of industrial radiographic operations because of the increased controls prioritization schedule. After this first year, inspection of the increased control requirements will be performed in conjunction with the routine annual inspection of industrial radiography facilities. PSQA staff members have prepared an informational flyer for industrial radiography licensees that outlines the trends in violations found to date. The information is intended to inform industrial radiography licensees and aid them in achieving compliance on the increased control requirements before their next IC inspection. We anticipate sending the flyer in May.
- 25 TAC §289.202 is going forward to be published as a proposed rule. This amendment concerns the compatibility requirements for the National Source Tracking System. Both NRC rules and the proposed Texas rules have November 2007 implementation dates. NRC has informed the states that implementation will not occur in November due to issues with the database and they do not have a date certain when the database will be active. We will proceed forward with the rule, but will not enforce the rule until we've received notice from NRC that the database is functional. All licensees impacted will be notified of the delay.
- PSQA staff have developed bill analyses and cost estimates for 11 different radiation-related bills assigned to the program by the department. Staff members are attending hearings as resource witnesses when assigned by the department.
- Two PSQA staff members (Barbara Taylor and Darice Bailey) attended IMPEP training at NRC headquarters in January. Barbara Taylor is scheduled to review the North Dakota radiation control program in April.
- Cindy Cardwell is Chair-Elect of the Organization of Agreement States (OAS) and the spring OAS Board meeting was held in Austin April 3-5. OAS is closely monitoring and coordinating agreement state efforts with regard to fingerprinting requirements of NRC. Section 652 of the Energy Policy Act of 2005 states that the Commission (NRC) shall require each licensee to fingerprint any individual who has applied for a license or is licensed to engage in an activity subject to

regulation by the Commission and is permitted unescorted access to material the Commission (NRC) determines is significant enough to warrant fingerprinting. It also states that the fingerprints shall be submitted by the licensee, through the Commission, to the U.S. Attorney General.

The NRC Commissioners have determined that NRC staff should work with the Agreement States to develop a plan to require fingerprinting for licensees required to implement increased controls within six months. A working group has been established to develop this plan. The group has three Agreement State representatives, including Alice Rogers as Co-Chair of the working group.

- An OAS/NRC working group has been established to consider the AAPM petition for rulemaking submitted to NRC. PSQA staff member Darice Bailey is representing the Agreement States on that working group.
- The x-ray field inspectors will be in Austin for training the week of April 23-27. PSQA staff member Vicky Cardenas is coordinating that meeting. The radioactive materials field inspectors will be in Austin for training the week of April 30-May 4. PSQA staff member Barbara Taylor is coordinating that meeting.

Radiation Inspection Branch

Mammography/Remote Inspections

There are 42 mammography inspections past due, with one inspector out until May. The program is currently holding the line on the past due inspections due to extra effort from our inspection staff, especially the backup inspectors.

The program is supporting the work going into the application to become an authorized Certifying Agency for mammography. The application has been submitted and we have received the first 42 page request from FDA for additional information and modifications regarding our policies.

FDA has posted the request for proposals to perform MQSA Inspections in Texas. All proposals are due by July 1st. I plan to submit a proposal for insurance, in case the Agency is not an authorized Certifying Agency by August 31st, when the current contract expires.

There are no vacant positions in the Mammography Group. No remote inspections are past due. The program now routinely processes approximately 100 inspections per month.

Emergency Response:

Radiation Control Program participated in a reception center drill at Amarillo, Tri-State Fairgrounds to test plans for response to a possible event at Pantex. The drill involved the registration and radiation survey of evacuees. RCP employees participated to provide assistance to the local fire department personnel responsible for processing the evacuees.

The emergency planning program continues to work toward the evaluated exercise with Comanche Peak and other state agencies. The first draft of the "extent of play" document has been submitted for review. A dress rehearsal drill is scheduled for July 25, 2007 to help prepare for the evaluated exercise.

Environmental Monitoring Program:

No change in status since last report.

Incident Investigation Program:

Winnie —

To facilitate clean-up of americium contamination at an oil well site where a logging source was ruptured near Winnie, Texas, the Radiation Branch is working with Railroad Commission (RRC) to provide resources for the remediation of a well site outside Winnie. When RRC awards the contract for remediation, Radiation Control Program will provide health physics support in the form of radiation surveys and personnel monitoring for the work as well as provide verification surveys for areas and equipment to be released for unrestricted use. The contract award will be approximately \$4,000,000. In addition to health physics support, DSHS provided an additional \$400,000 from the Radiation Perpetual Care Account toward the remediation activities.

LeTourneau —

Regarding the cleanup of electric arc furnace (EAF) dust contaminated as the result of an inadvertent melting of a cesium-137 source, remediation activities are continuing on site. A few components remain to be removed and released. Six roll-off boxes of EAF dust are being shipped to US Ecology in Idaho Falls for disposal. Radiation Control Program received approval from Nuclear Regulatory Commission to allow the disposal of this material and authorized the shipment in a letter to LeTourneau, Inc. In addition, shipments of EAF dust less than 2 picocuries/ gram have been resumed to Horsehead Corp., a zinc recycling facility in Rockwood, TN.

Radioactive Materials Program

One radioactive materials inspector has completed all requirements to perform independent inspections. Another radioactive materials inspector submitted a resignation effective March 31, 2007. This position will be posted. Two other radioactive materials inspectors are presently in training. They should complete all requirements to perform some independent inspections within the next few months.

Currently there are no overdue inspections on the Nuclear Regulatory Commission (NRC) criteria. The manager of the Radioactive Materials Group is providing a list of inspections coming due four months in advance of the due date and assigning the inspections to the specific inspectors with an inspection completion due date. The inspection due date is at least one month before the inspection becomes overdue based on NRC criteria. The manager is also reviewing the inspection list on a weekly basis.

X-Ray Inspection Group:

The X-Ray Group remains fully staffed with a total of 17 inspectors located throughout the state. The program has one inspector still in training, all others are fully certified. The x-ray training is based on regulatory requirements and takes 6 months to one year for full certification. After full certification an inspector is allowed to independently perform inspections of all radiation machine modalities.

We believe our training program is premiere. The training was designed by agency staff and uses combined teaching expertise from the X-Ray Group, Policy Standards & Quality Assurance, and other radiation control program staff.

Our semi-annual staff meeting is coming up. The x-ray inspectors will be coming from around the state to Austin for the week of April 23-27. The spring staffing will provide Hazwoper Emergency Response training. There will be updates on program matters and a site visit to a coned beam CT facility. Inspectors obtain required continuing education credits during the staffing.

Another project involves an x-ray inspector's participation with CRCPD to write a technical white paper on managing CT dose. The goal is to provide assistance to inspectors, technologists, and medical facilities across the nation in how to manage CT dose in their facilities. CT provides the highest radiation dose to patients in the medical imaging field.