

TEXAS RADIATION ADVISORY BOARD MINUTES
4th Quarter Meeting
November 5, 2005
Austin, Texas

Ian Hamilton, Ph.D., C.H.P., called the meeting to order at 9:20 a.m. Members present for the meeting were: Bradley Bunn; W. Kim Howard, M.D.; Rick Jacobi; Mitchell Lucas; Odis R. Mack; Troy Marceleno; Bruce A. Matson; Kevin L. Raabe; Earl Erdmann was present through teleconferencing only and Michael S. Ford, C.H.P., joined the meeting in progress.

The following members were absent: Susan E. Best, M.D., Ph.D.; Thomas M. Burnette; Elaine Wells

Guests present: Roger Mulder, State Energy Conservation Office, Comptroller of Public Accounts; Jeff Skov, WCS; Mike Woodward; Eddie Selig, ARDT; Annette Glass

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

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

Texas Commission of Environmental Quality (TCEQ) staff present: George FitzGerald; Susan Jablonski

Texas Railroad Commission (TRC) staff present: Steve Seni, Ph.D.

Ian Hamilton, Ph.D., Vice Chair, asked for nominations for election of officers. A motion was made to nominate the current officers for reelection. Margaret Henderson spoke on behalf of Elaine Wells in regards to the position of secretary, requesting a new member be nominated for that position. A motion was made by Rick Jacobi nominating Mitchell Lucas for the secretarial position.

On motion and second the full board approved the election of officers, Michael S. Ford, C.H.P., as Chair; Ian Hamilton, Ph.D., C.H.P., Vice Chair; and Mitchell Lucas, P.E., Secretary.

Motion passed unanimously.

Minutes of the April 30, 2005 and September 10, 2005 meetings were submitted for approval. No corrections or comments were made in regards to the TRAB minutes.

On motion and second the full board approved the minutes.

Motion passed unanimously.

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

(A) Impact of DSHS radiation program fee increases on business

Cindy Cardwell began speaking about the impact on businesses due to the proposed fee increase rule 25 TAC §289.204, stating businesses were not in favor of increasing fees. She elaborated on the following: Public comment and concerns in regards to the proposed increased fee rule, DSHS outlook on the proposed fee rule and what DSHS is required to recover when looking at rules.

(B) Adoption of amendments to 25 TAC §289.204 - DSHS fees for Certificates of Registration, Radioactive Material Licenses, Emergency Planning and Implementation and Other Regulatory Services

On motion and second by the committee and the whole board, motion passed for the adoption of amendments to 25 TAC §289.204.

Motion passed unanimously.

II. Waste and Industrial Committee (Erdmann, Ford, Hamilton, Raabe, Wells)

(A) Adoption of amendments to 25 TAC §289.253 - DSHS Radiation Safety Requirements for Well Logging Services Operations and Tracer Studies

On motion and second by the committee and the whole board, motion passed for adoption of amendments to 25 TAC §289.253.

Motion passed unanimously.

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

Earl Erdmann began by saying that he did not have any true comments or concerns at the present time in regards to the advisory concerning over exposures in industrial radiography industry as related to well logging, but he felt that the issue need to be revisited within a twelve month period.

Comments were made in regards to the radiography advisory between board members Ford, Erdmann and Hamilton. The chair elaborated on the radiography advisory draft. He touched on the following topics with the draft: oil and gas industry, research study identifies historical link between oil and gas exploration and production activities and recommended action. It was also suggest by the chair that further

discussion on this topic should be tabled until the 1st quarter TRAB meeting in 2006.

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

Jeff Skov from WCS began speaking about the petition that WCS has sent to Albert Hawkins, Health and Human Services Commissioner. The petition requests rulemaking for Texas to recognize NRC exemptions. He elaborated on the language, questions and concerns within the petition.

On motion and second by the committee and the whole board, motion passed to recommend that HHSC allow the petition process to go forward for review by DSHS and comment by stakeholders and the public.

Motion passed unanimously, with board member Rick Jacobi abstaining from voting.

III. Committee of the Whole Board

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

Cindy Cardwell elaborated on the proposed rule 25 TAC§289.202 by saying that only one comment has been received in regards to language about Occupational Safety and Health Administration (OSHA) rules. Ms. Cardwell stated because of compatibility issues, NRC's wording must be used.

On motion and second by the committee and the whole board, motion passed for the adoption of amendments to 25 TAC §289.202.

Motion passed unanimously.

- (B) Action by the full board on recommendations of all committees is noted in each committee section of these minutes.
- (C) Public comment

No public comments were received.

IV. Review of DSHS radiation program - staff update

Rick Bays, Assistant Commissioner from DSHS spoke on the following: the organizational review in regards to the radiation program, timeline to have survey

document ready and beta testing within staff, outcome/goals of organizational review, outsourcing in order to do an internal review, activities within the technical assessment area and goals within that area, and health physicist classification and salary increases.

V. DSHS Industrial Radiography Certification - staff presentation

Jan Endahl gave a staff presentation of radiography certification. She elaborated on the following during her presentation: What is industrial radiography, material used in the field, how many radiography licensees are in Texas, the need to have all radiographers certified, radiographers work environment in the field, and testing and certification.

VI. DSHS Health Physicist and Engineer classification and compensation - staff update

Richard Ratliff stated the reclassification of the Health Physicist position was approved and that the implementation plan was being developed. He elaborated on the following: matrix of different criteria such as the individual's job descriptions, education and experience in the field.

VII. Texas Audit Privilege Act as applicable to Texas Commission on Environmental Quality, Railroad Commission and Department of State Health Services

Richard Ratliff and other agency representatives spoke in regards to the Texas Audit Privilege Act and how the act could benefit the licensees and uses of the act within different state agencies.

DSHS agreed it is good for licensees to review their own programs to find problems. However, DSHS noted that in order to invoke the statute there is a specific procedure. First, the company must give the regulatory agency notice that the audit is being done, timeframes, etc. DSHS can acknowledge that the statute is available and that may be useful, but people need to consult with their attorneys to properly implement it. DSHS noted that the agency may still cite a violation if it can be established independently of the audit, despite that fact that the problem was noted in the company's privileged audit. The Railroad Commission uses the act occasionally. TCEQ has a regulatory guide that answers some common questions about it; DSHS may review that guide to see if it would be helpful. Ms. Annette Glass of Representative Chisum's office noted that TCEQ experience found that the audits sometimes find problems that might not otherwise have been found by state inspector. Board members note that the act gives an incentive to licensee to correct serious mistakes before finding themselves with violations, fines or hearings.

VIII. Program Reports

(A) Department of State Health Services

Richard Ratliff elaborated on the following topics: rules and compatibility items, overdue inspections, the Health Physicist classification, staffing issues, the NRC management review board, New York's heightened oversight, perpetual care accounts and a update on Winnie, TX, well logging contamination incident.

Ruth McBurney elaborated on the following topics: The National Radiation Protection Professionals Week, human capital issues in regards to health physics, NRC Stakeholders Meeting in regards to NORM, and staffing issues. She concluded on the subject of increased control for radioactive material licensees.

Cindy Cardwell elaborated on the following topics: increased controls and timeline from NRC and job vacancies within the Policy Standards Quality Assurance section.

Tommy Cardwell elaborated on the following topics: increase in fees, state employee cost of living increases, NORM rule making, regulation of radium, Comanche Peak emergency response exercise and the timeline for the South Texas exercise. He concluded on the topic of staffing issues and projects within the Inspections Unit.

(B) Texas Commission on Environmental Quality

Susan Jablonski elaborated on the following topics: IMPEP review and findings for the commission heightened oversight, and staffing issues and low-level waste disposal license review. She concluded on the topic of finalized rule for NORM disposal.

(C) Railroad Commission of Texas

Steve Seni, Ph.D., elaborated on the beginning work on MOUs between TRC and DSHS.

VIII. Board Member Request for Agenda Items for Next Meeting

Rick Jacobi requested the board revisit the issue of financial assurance at the next meeting.

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X. Public Comment

No public comment was made.

The next quarter meeting is tentatively scheduled for February 4, 2006 in Austin, Texas.

The meeting adjourned at 12:45 p.m.

Respectfully submitted,

Mitchell Lucas, Secretary
Texas Radiation Advisory Board