

## **Radiation Advisory Board - Meeting Minutes**

### **April 27, 2017**

**Perimeter Center, Conference Center  
Conference Room #1-B  
9960 Mayland Drive  
Henrico, VA 23233**

**Members Present:** M. Rehan Khan, MD; Roy Heltzel, Jr.; James Nunn; Les Foldesi; Drexel N. Harris; Karen Cole Dameron, DDS; Laura Strawn, Ph.D.; Allen Goode.

**Members Absent:** Stanley H. Benedict, Ph.D.; Sebastiana Gagliano Springmann, DDS.

**Ex Officio Members Present:** Steve Harrison, MA, MEP, Director – Office of Radiological Health and S. Hughes Melton, MD, MSA, FAAFP, FABAM, Chief Deputy Commissioner, Public Health and Preparedness representing Marissa J. Levine, MD, MPH, FAAFP, State Health Commissioner; Ron Graham, Director of Occupational Health Compliance, representing C. Ray Davenport, Commissioner, Department of Labor and Industry; Carolynn Bissett and Kathryn Macdonald, representing Sandra Adams, Commissioner, Department of Agriculture and Consumer Services; Tom Grose, Director of Safety and Environmental Programs, Virginia Institute of Marine Science; Tom Jordan and Brett Burdick, Chief Deputy State Coordinator, Department of Emergency Management, representing Jeffrey D. Stern, Ph.D., State Coordinator, Department of Emergency Management.

**Ex Officio Members Absent:** Department of Environmental Quality (Leslie Romanchik).

**Staff Present:** Stan Orchel, Beth Schilke and Sherri Chedester of the Office of Radiological Health (ORH).

#### **Call to Order:**

Dr. Melton, serving on behalf of Dr. Levine, called the meeting to order at 10:02 a.m. A quorum was declared given that thirteen (13) members were present. Attendees then introduced themselves.

#### **Agenda:**

Mr. Harrison presented the draft agenda and asked if there were any additional items to be added. Being none, a motion to approve was made by Mr. Nunn and seconded by Dr. Kahn. The motion passed and the agenda was approved.

#### **New Members:**

Allen R. Goode, MS, DABR; Chief Diagnostic Medical Physicist, University of Virginia Health System; Laura K. Strawn, PhD., Assistant Professor, Extension Specialist, Department of Food Science & Technology, Virginia Tech – Painter.

**Minutes:**

Mr. Harrison asked that everyone take a moment to review the meeting minutes from November 10, 2016. No corrections were noted and Les Foldesi moved for approval of the minutes. The motion was seconded by Drexel Harris. The motion passed and the minutes were approved as amended.

**Office of Radiological Health Discussion:**

Mr. Harrison presented a review of ORH's funding status, revenues and expenditures.

Mr. Harrison included comments on the Radon Program's grant cycle which is coming to an end in September 2017 but may be renewed. This grant of \$80,000 requires a state match of \$40,000 and X-ray and Radioactive Materials funds are allocated to this end. The funds pay for staff's salaries, equipment, training and travel expenses.

Mr. Harrison stated that there are currently two vacancies within ORH: Radioactive Materials Program Supervisor; and, Business Manager. The Radioactive Materials Program Supervisor position is in recruitment. The Business Manager position is being evaluated for consolidation with other offices in VDH in order to maximize efficiencies.

Beth Schilke has been doing a Yeoman's job since Mike Welling; Director of Radioactive Materials Program left the program. She has been instrumental in keeping the Radioactive Materials information current on the website, revising regulations and participating on workgroups among professional organizations.

Mr. Harrison stated that the Radioactive Materials Program underwent an IMPEP Periodic Review in April 2017 and preliminary indications by the Nuclear regulatory Commission reviewers were that there were no issues and the program was "adequate and compatible" with NRC guidance. Mr. Harrison then spoke about the elimination of General Funds (2015) and the proposed Fee Action – currently a Notice of Intended Regulatory Action posted on Regulatory Town Hall.

**Rulemaking:**

Mr. Harrison provided updates on several rulemaking items regarding the X-ray and Radioactive Materials Programs.

**Private Inspector Registration Fees:**

- 1) Proposes to amend the Virginia Radiation Protection Regulations Fee Schedule (12VAC5-490) in order to establish fees for the initial registration and subsequent annual renewal of individuals that inspect X-ray devices in the Commonwealth. Private Inspector registration fee (per HB1273, Regulation of X-ray machines. Private Inspector fees will help offset administrative costs associated with document collection, review, approval, the issuance of certificates and the maintenance of an up-to-date Private Inspector Directory.
  - Proposal approved by the Governor's Office 4/14/17; will be published in Virginia Register on 5/5/17, Vol. 33, Issue 19, followed by 60 day public comment period.
- 2) Proposal to update the X-ray Program's non-medical X-ray device registration and inspection fees as well as the fee for X-ray devices used in the healing arts. Unchanged from initial proposal.
  - Amends registration fees for equipment inspected every three years.

- Adds three categories and associated fees for the registration and inspection of non-medical X-ray equipment (Baggage, Cabinet, and Analytical, and Industrial X-ray equipment).
- Governor's Office review of final version is pending.

#### 12VAC5-481 (RMP):

- 1) Amended 12VAC5-481 to address 13 comments received from the NRC that were identified in their review of Virginia's Radioactive Materials amendments made in 2016.
  - Effective date: 2/22/17
- 2) Incorporated miscellaneous updates to references, NRC titles and address, etc. that were not made in 2016 revision but deemed necessary by the NRC in their post-implementation review.
  - Exemption initiated 4/11/17.
  - Accommodates NRC regulatory changes related to reportable safety events involving special nuclear material; make updates for the packing and transportation of radioactive material based on the International Atomic Energy standards and to maintain consistency with the DOT's regulations, and make miscellaneous corrections that include correcting references, typographical errors and misspellings.

#### 12VAC5-490: Proposal to raise X-ray and RMP fees:

- 1) Amend the fee schedule used by the X-ray Program (XRP) for device registrations and inspections.
- 2) Amend the fee schedule used by the Radioactive Materials Program (RMP) for charging initial license application and annual licensing fees.
- 3) The XRP and RMP are fully supported by these fees, which have not increased since 2009.

#### **Program Finances and Fee Restructuring Discussion:**

Mr. Harrison discussed the need to amend 12VAC5-490 to raise X-ray and RMP Fees:

- Necessary to maintain program solvency given the elimination of general fund support for the programs and the subsequent spend down of surplus fee revenue since 2015.
- A 20% (approximate) decrease in RMP fees went into effect in 2012, in part due to the overage combined with the anticipated continuation of general funds.
- General funds that were used to support ORH (also about 20% of budget) were abolished in 2015.

#### X-ray Program (XRP):

- There are currently 7,000 registrants, @ 22,300 x ray tubes
- FDA Mammography Quality Standards Act Inspections
- Inspection reviews, correspondence, enforcement, billing and deposits
- Private Inspector credentialing
- Emergency response
- 1 Program Director and 6 Compliance Safety Officers – (8 recommended), 2 Program Support Technicians and 1 Contract Office Services Specialist.
  - 1) The program does not conduct non-medical X-ray equipment inspections due to resource constraints.
  - 2) Proposed regulatory action will address two sets of fees levied by the XRP:
    - X-ray machine registration fees

- X-ray machine inspection fees

Mr. Harrison reviewed XRP current and projected revenues and expenditures:

- Current \$713,000 revenues \$999,000 expenditures
- Projected revenues by 2021, assuming increases in diagnostic fees (\$40,000) non – medical registrations (\$48,000) and Private Inspector fees (\$30,000) underway: \$703,000 + \$118,000 = \$ 821,000.
- Projected expenditures annually by 2021: \$1,065,000.
- This does not accommodate the hiring of an FTE for non-medicals.

**Radioactive Materials Program (RMP):**

- Performs license application and amendment reviews.
- Responsible for 400 specific licensees and 2,900 general licensees processing over 34,000 devices.
- Inspections, reports, correspondence, enforcement, billing and deposits
- Emergency response.
- 1 Program Director and 5 Compliance/Safety Offices (8 to 12 recommended), and 2 Program Support Technicians.

Mr. Harrison stated the proposed regulatory action will address RMP licensee initial application and fees. Current revenues are about \$750,000 and the current expenditures \$1,360,000.

- Expected to decrease by \$216,000 in 2018 due to Dominion fee increase.
- Projected revenues by 2021 (without any action): \$750,000
- Projected expenditures annually by 2021 (without any action): \$1,232,000

Mr. Harrison stated other conditions necessitating a raise in X-ray and RMP fees:

- Health Insurance is likely to increase by 8% increase in FY18.
- Health Insurance: Additional conservative individual FY19 – FY-21 increases of 5%.
- VITA Annual conservative 1% increase in each FY.
- State Compensation: Conservative 3% annual salary cost impact factored in FY18 and beyond.

A motion was made by Les Foldesi recommending that the Radiation Advisory Board (RAB) support the agency's proposal to increase X-ray and Radioactive Materials fees as needed to sustain program viability. The motion was seconded by James Nunn. The RAB unanimously approved the motion 13 (yes) – 0 (no).

**Other:** None.

**Old Business:** None

**New Business:** Public Comments: No members of the public attended the meeting. ORH staff mentioned that a link to 12VAC5-481 “exempt” regulations, once finalized, would be placed on the RMP web page.

**Public Comments:** Dr. Melton offered an opportunity for any public attendees present to address the Board. Since none were present, no comments were made.

**Next Meeting:** Tentatively, May 2018 (preferred), but no later than November 2018.

**Adjournment:** Dr. Melton declared the meeting adjourned at 11:20 a.m.