

Radiation Advisory Board - Meeting Minutes May 11, 2018

**Perimeter Center, Conference Center
Training Room 2
9960 Mayland Drive
Henrico, VA 23233**

Members Present: Les Foldesi; Allen Goode; Drexel N. Harris; M. Rehan Khan, MD and James Nunn.

Members Absent: Stanley H. Benedict, Ph.D.; Karen Cole Dameron, DDS; Roy Heltzel, Jr.; Laura Strawn, Ph.D and Sebastiana Gagliano Springmann, DDS.

Ex Officio Members Present: Steve Harrison, Director – VDH Office of Radiological Health representing M. Norman Oliver, Acting State Health Commissioner; Ron Graham, Director of Occupational Health Compliance, representing the Department of Labor and Industry; Kathryn MacDonald, representing the Department of Agriculture and Consumer Services; Leslie Romanchik representing the Department of Environmental Quality; Ed Porner representing the Department of Emergency Management.

Ex Officio Members Absent: Tom Grose, Director of Safety and Environmental Programs, Virginia Institute of Marine Science.

Staff Present: Stan Orchel, Matt Ettinger, Mike Fuller, Sherri Chedester, Beth Schilke, Kim Gilliam, Asfaw Fenta, Charles Coleman, Anthony Sands and Patsy Hayden of the Office of Radiological Health (ORH).

Call to Order:

Mr. Harrison, serving on behalf of Dr. Oliver, called the meeting to order at 10:12 a.m. A quorum was declared given that nine members were present.

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 James Nunn and seconded by M. Rehan Khan. The motion passed and the agenda was approved.

Introduction of Members and Staff :

Attendees then introduced themselves. A certificate was then handed out for the 2017 gubernatorial appointee that was present: Allen Goode, Chief Diagnostics Medical Physicist, University of Virginia Health System, Department of Radiology & Medical Imaging.

Mr. Harrison went on to recognize staff members new to ORH: Michael Fuller and Susan Binkley. Mr. Fuller holds a Bachelor's degree from Virginia Tech and brings to VDH extensive experience in radioactive materials program management gained through service in private industry, state government, and the Nuclear Regulatory Commission (NRC), where he retired as

a Team Leader in May 2017. ORH welcomed Susan Binkley as a new Radiation Safety Technician Senior in the Environmental Monitoring and Emergency Preparedness Program in February. Mrs. Binkley previously worked as a Radiological Planner and Exercise Project Coordinator for the Virginia Department of Emergency Management.

Minutes:

Mr. Harrison asked that everyone take a moment to review the meeting minutes from April 27, 2017. No corrections were noted and Les Foldesi moved for approval of the minutes. The motion was seconded by Allen Goode. The motion passed and the minutes were approved as amended.

Old Business:

Mr. Harrison presented a discussion on Ongoing Regulatory Activities:

- 12VAC5-490, Private Inspector registration fee: Amended 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 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.
- 12VAC5-490, Registration and inspection fees for non-medical X-Ray devices, and to update the fee for X-ray devices used in the healing arts:
 - Amended registration fees for equipment inspected every three years;
 - Adds three (3) categories and associated fees for the registration and inspection of non-medical X-ray equipment (Baggage, Cabinet and Analytical, and Industrial X-ray equipment).
- 12VAC5-481: Updated to address comments received from the NRC that were identified in their review of Virginia's Radioactive Materials amendments in 2017. Minor corrections deemed non-substantive (definition correction, NRC address update) were made and then reviewed and approved by the NRC in April, without comment.
- Amend 12VAC5-490 to raise X-ray and RMP fees (in progress). ORH will be presenting this to the Board of Health in June 2018. Next, it will go to the Regulatory Town Hall posting for public comment (pending the Board of Health's approval). Finally, it will be submitted to the Governor's Office for approval.

New Business:

- Mr. Harrison reviewed VDH Leadership Changes:
 - Dr. Levine retired as VDH's Commissioner on April 13. Subsequently, Dr. Norm Oliver was named as Acting Commissioner shortly thereafter. Dr. Oliver was the Deputy Commissioner for Population since July. Prior to that, Dr. Oliver served as the Chair of the Department of Family Medicine at the University of Virginia School of Medicine.
 - Dr. Melton announced on April 26th that he was appointed by Gov. Northam as the Commissioner of the Department of Behavioral Health and Developmental Services – a position he assumed effective April 30. Kim Allan, the Operations Director for Public Health and Preparedness, in the Acting Deputy Commissioner.
 - Recruitment for both positions is under consideration.

- Mike Fuller discussed the use of Electronic Signatures on RMP documents submitted by licensees. Steve Harrison stated that James Nunn had emailed him months ago regarding the regulations associated with the directives for patients receiving radioactive materials. Mr. Fuller stated that inspectors and others are encouraged to use electronic signatures. NRC and other agreement states have already been doing this.

Other considerations for electronic signatures:

- Data integrity assurance;
- Individual signing must know he/she is signing;
- Concise process: same individual that initiates concludes the inspection.

Les Foldesi stated that he was under the impression that electronic signatures were permitted by Virginia Statues.

- Mike Fuller discussed the RMP’s Web-based Licensing (WBL) Initiative: Mr. Fuller stated that our current Microsoft Access based programs have inherent costs and upgrade needs. The NRC Web-based License Program is completely free. The NRC has used the Web Based License program since 2012 and other states have adopted it. They use this for database licensing and to manage inspection programs.

Advantages:

- NRC funded help desk
- Full Time Project Manager
- Experienced staff
- Internet Access anywhere

Disadvantages:

- Transition Period for data mapping and learning

Questions Raised:

Drexel Nelson Harris asked if it has any impact on any licensing fee to anyone. Mr. Harrison stated that it does not affect any of the licensing fees.

Les Foldesi asked if we still have hard copies of the licenses. Mr. Fuller stated, “yes we do right now but we hope to eventually go to electronic copies of everything.” Mr. Harrison stated that there will be long-term savings. It was also stated that since this is not a Commonwealth of Virginia application, VITA would not control the program. Mr. Foldesi asked who would be taking over Northrup Grumman’s contact. Mr. Harrison stated that it was his understanding SAIC would be the new vendor.

Dr. Khan shared a concern that there could be a future cost to Virginia; that is, that the NRC could charge the states at a future time. Mr. Fuller stated that this would not likely happen, that North Carolina was a pilot program for the WBL, and that they have not had any problems.

James Nunn asked if licensees would have access to the system. Mr. Fuller said that it was his understanding the NRC would make that possible as the WBL system matures.

- Mr. Harrison discussed House Bill 1534: Radon Study:
 - VDH was directed by the 2018 General Assembly to conduct a study for the purpose of “determining the most effective means of protecting the public from cancer caused by radon.” This directive was promulgated by House Bill 1534 and was signed by Governor Northam on March 30, 2018.
 - In conducting this study, we will document information on radon and its health effects; analyze consumer complaints regarding radon testing and mitigation that were received by the Office since 2013; examine Virginia’s existing certification requirements for individuals performing radon testing and mitigation; conduct a literature review to identify best practices for radon reduction; and examine radon statutes from other states to determine the benefits of additional oversight for individuals performing radon testing and mitigation.

Mr. Foldesi stated there needs to be some verbiage on contractors. Mr. Nunn wanted to know if the state could encourage radon resistant construction in local building codes. Mr. Harrison responded by stating that ORH is encouraging localities to do this, but that the state cannot compel them to do so. Mr. Harrison also stated that radon testing is now being driven by the lending community and in real estate transactions.

Mr. Harrison intends to have a draft of the radon study ready to submit to VDH leadership in August 2018. Dr. Khan stated that he believes the study should include information on radiation biology to help legislators better understand radon. Mr. Harrison indicated that information characterizing radon’s health effects and how it enters the home would be included.

- Mr. Harrison went on to discuss:
 - Recent and emerging nuclear protective action changes:
 - Adult dose conversion factor changed to Child Thyroid (1 y/o) – a factor of 2 increase for protective action decision-making per EPA’s PAG Manual.
 - Emergency Worker KI Administration – Administration of KI for emergency workers at a “General Emergency with Projected or Actual Radiological Release” instead of waiting for actual sample results is in deliberation among ORH, VDEM and Dominion.
 - Dominion Combined EOF: Dominion Energy, by letter dated October 3, 2017 formally requested VDH’s concurrence to consolidate the North Anna and Surry Power Station Local EOFs with their existing Corporate Emergency Response Center (CERC) at Dominion’s Innsbrook Technical Center in Glen Allen. The proposed Combined EOF will eliminate the need for a back-up EOF - responders will no longer be required to travel to and staff an onsite EOF in an emergency. Concurrence by VDH and VDEM is required for Dominion to advance their proposal to the NRC for approval. Dominion Energy has been working for years to transition emergency response functions from the station LEOFs. As part of that transition the utility must demonstrate to the NRC that the new facility has the ability to handle two simultaneous events occurring at two different facilities. Accordingly, the staff has participated in multiple practice and evaluated drills and exercises in the new facility as Dominion moves forward to secure the NRC’s approval for this important change.

- Supreme Court Filing - Virginia Uranium
 - The Justice Department filed a brief on April 9th (by Solicitor General Noel Francisco) claiming that Virginia's uranium mining ban runs counter to a law calling for federal regulation of radiological hazards. The DOJ brief supports Virginia Uranium Inc., which is appealing a decision by the 4th U.S. Circuit Court of Appeals upholding the state's moratorium on uranium extraction. The central legal question is whether the federal Atomic Energy Act (AEA) pre-empts Virginia's law. Virginia Uranium argues that the state has taken on the regulation of radiological safety hazards resulting from the milling of uranium and management of tailings — activities that are overseen by the Nuclear Regulatory Commission.
 - The 4th Circuit issued a split decision, finding that state leaders cited as defendants were immune from litigation and that Virginia was the "paramount proprietor" of minerals within its jurisdiction. Virginia Uranium asked the Supreme Court to take up the issue and in a sign of their interest, the justices this past October asked the Solicitor General to file briefs responding to the company's petition.
 - Attorneys representing the Commonwealth made their case for keeping the ban on uranium mining in a supplemental brief filed in the United States Supreme Court on Monday. The brief responded to recent arguments from the Department of Justice asking the court to take up the matter. In the brief, lawyers argue that the Atomic Energy Act — a 1954 law outlining uses of nuclear material — does not preempt Virginia's decision to ban uranium mining.
- Radon Digital Advertising Campaign
 - Radon Program staff worked with Ross Publishing and VDH Communications to create a radon digital advertising campaign. The campaign, paid for using EPA State Indoor Radon Grant funds, will target high radon risk areas of Commonwealth to provide increased radon awareness and a limited time promotional offer where citizens may obtain radon test kits directly from an approved vendor for only a \$3 shipping fee.
 - The Behavioral Targeting to identify audience: Real Estate Professionals, New Moms and First Time Home Buyers.
- Matt Ettinger gave a presentation on Preventive Radiological Nuclear Detection (PRND)
 - Detect, Identify, And Adjudicate. Mr. Ettinger stated that pagers are given to Fire and Hazardous Technicians, Police, Boat Cruise, Land Cruise and Support Teams.
 - Primary Screening vs. Secondary Screening: There are four outcomes: Compliance, Non-Threat, Non-Compliant, Non-Threat, Uncertain, Unable to Identify and then the Threat.
- **PRND Training:**
 - PRND training involves radiation detection, identification, and mitigation using scenarios with actual sources, simulated injuries, actors, etc.
 - Over 35 training sessions since 2016: UCI Bike Race, Search and Rescue Forum, Tunnel Exercise, Vigilant Guard.

Mr. Foldesi stated that Homeland Security may have grant money for this type of training. Mr. Ettinger stated that was typically coordinated through VDEM. Mr. Nunn asked if Virginia Department of Health could coordinate with Department of Motor Vehicles regarding getting pharmacy vehicles certified or providing them some type of clearance so

that if they were stopped by law enforcement, the situation could be quickly adjudicated. Mr. Ettinger stated that law enforcement was being trained to expect to see shipping and delivery papers so they would know whether or not a source or pharmaceutical delivery was valid.

- An opportunity was presented to discuss “Other Program Updates/Initiatives.”
 - Mr. Harrison stated that he is working with VDH Human Resources on organizational realignment and compensation reviews. Mr. Harrison stated that we are interested in closing the gap between experienced workers and new workers commanding higher wages. Mr. Nunn stated that he has some students nearing graduation that may have the type of experience ORH needs. Mr. Foldesi asked about upkeep on our mobile labs. Mr. Harrison stated that VDH has taken advantage of end of year CDC grant money to purchase equipment through the Office of emergency Preparedness, and that Fleet Management is now maintaining the mobile lab, which is providing a cost savings.

Public Comments: No members of the public were in attendance.

Next Meeting: Tentatively, May 2019 (preferred), but no later than November 2019.

Adjournment: Mr. Harrison declared the meeting adjourned at 11:45 a.m. A motion was made by Mr. Nunn, seconded by Mr. Harris, and unanimously approved by the Board.