

**Radiation Advisory Board - Meeting Minutes**  
**May 16, 2019**

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

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

**Members Absent:** Tom Grose, VIMS; Sebastiana Gagliano Springmann, DDS.

**Ex Officio Members Present:** Steve Harrison, Director, VDH Office of Radiological Health representing Parham Jaber, MD, MPH, VDH Chief Deputy Commissioner Public Health and Preparedness; Ron Graham, Director of Occupational Health Compliance, representing the Department of Labor and Industry; Kathryn MacDonald, representing the Department of Agriculture and Consumer Services; Ed Porner representing the Department of Emergency Management; Leslie Romanchik representing the Department of Environmental Quality;

**Ex Officio Members Absent:** Parham Jaber, MD, MPH, VDH Chief Deputy Commissioner Public Health and Preparedness.

**Staff Present:** Al Perlas, Mike Fuller, and Sherri Chedester of the Office of Radiological Health (ORH).

**Staff Absent:** Lea Perlas and Matt Ettinger of the Office of Radiological Health

**Public Present:** Wally Dorsey, Jr. – Radon-Ease, Inc.; James Pidorel – Commonwealth Strategy; Tyler Cox – Hanover County; Barbara Allison-Bryan – DHP.

**Call to Order:**

Mr. Harrison, serving on behalf of Dr. Jaber, called the meeting to order at 10:00 a.m. A quorum was declared given that fourteen 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 Stanley H. Benedict and seconded by James Nunn. The motion passed and the agenda was approved.

**Introduction of Members and Staff:**

Attendees then introduced themselves.

### **Minutes:**

Mr. Harrison asked that everyone take a moment to review the meeting minutes from May 11, 2018. No corrections were noted and Les Foldesi moved for approval of the minutes. The motion was seconded by Dr. Rehan Khan. The motion passed and the minutes were approved as amended.

### **Activities:**

#### ➤ **Program Updates/Initiatives: X-ray Program**

Mr. Harrison went on to recognize staff members new to ORH and to provide program updates:

- September 2018 – Northern Region Compliance Officer was hired (Maxine McCarthy). Maxine joins the program after 12 years with Connecticut’s Department of Energy and Environmental Protection. Prior to her position with the state of Connecticut, Maxine worked as a Radiologic Technologist. She complements her background in X-ray compliance with extensive experience in radioactive material inspections, radiological monitoring, dose emergency preparedness and response. In fact, she developed numerous radiological/nuclear exercises and participated in field monitoring. dose assessment and duty officer roles.
- December 2018 – Director, Division of X-Ray Programs was hired (Lea Perlas). Ms. Perlas extensive background in X-ray compliance gained through her work as a private sector Lead X- ray Technologist (1994 – 1996), a Health Physicist with the Arkansas Department of Health (1996 – 1997), and her tenure in VDH’s X-ray program (1997 – present). She complements her background in X-ray compliance with emergency response, having participated in radiological/nuclear training, drills, exercise and real events, and serving as a Duty Officer.
- February – April 2019: Expedited implementation of the x-ray program’s (approved Feb. 7<sup>th</sup>) of medical device x-ray registration and inspection fees: increased revenue seen in March.
- Implemented billing for non-medical x-ray registration and inspection fees.
- March 2019 – Directive for study based upon SB1760, X-ray Device Operator Licensure.
- April 2019 – Interviews were conducted for the vacant Central Region Compliance Officer; negotiation pending. This staff person will also work on the non-medical piece of the program.
- Coordinated provisions for all X-ray program, regional staff to have a VPN, state-issued laptop computer and access to the x-ray database. VPN has increased productivity and staff morale.

- Notable improvement was the update of the non-medical x-ray database, which has been pending for several years.
- A more efficient distribution of X-ray and MQSA work has been implemented which has resulted in an equitable workload among Compliance Officers (e.g., team inspections, regional allocation).
- FY19 Misadministration Events: 2 image field misadministrations.
- FY19: Inspections (through April):
  - Medicals – 1,414 (increase of 52 YOY)
  - Non-medicals – 5 (new initiative)
  - MQSA – 191 (scheduled for Federal FY), on track.
- On July 9, 2018, the licensee reported to the Virginia Radioactive Materials Program that a construction trailer, containing a Troxler Model 3440 moisture density gauge (portable gauge) was stolen over the weekend from a road construction site in Thornburg, VA. According to the licensee’s Radiation Safety Officer (RSO), the gauge was secured inside its case, which was secured to the floor of the trailer by lock and chain. The theft of the trailer was discovered when workers reported to the construction site to begin work. The gauge was last seen when secured inside the trailer on July 6, 2018. The gauge contains (nominally) 9 millicuries of Cs-137 and 44 millicuries of Am-241. The construction site was located on State Route 606. The Virginia State police were notified by the licensee. RSO informed the Virginia Radioactive Materials program that the stolen portable gauge had been recovered by the Virginia State Police. The police detective informed the licensee that the trailer was broken into but the gauge appeared to be intact. There was a second event were there was a Troxler Gauge that was stolen from a new VDOT Trailer. The State Police were called and found within two hours in Suffolk/Franklin area in an open field.

Dr. Khan was concerned about the security and compliance of such things happening. Mr. Fuller said that rules were strengthened for transportation of these gauges with regards to how they should be secured and blocked (chained and pad locked and have the trailer locked as well. If they are going to be left at a job site then the trailer should be jacked up.

➤ **Program Updates/Initiatives: Radioactive Materials Program, Calendar Year 2018:**

The Radioactive Materials Program became Fully Staffed in January 2018, when Mike Fuller joined the program as the Director. Mr. Fuller provided the following overview:

- Statistics:
 

Inspections	Licensing Actions	Events
129	252	8

- Began the process for transitioning to the U.S. NRC Web-Based Licensing System. We have transferred all data over. IT staff is working on the gaps and addressing those.
- On April 1st we celebrated the 10 Year Anniversary of becoming the 36th Agreement State
- January 14, 2019 was the Implementation Date for the Revised 10 CFR Part 35
- Virginia has until January 2022 to make the necessary revisions
- NRC Integrated Materials Performance Evaluation Program: Tentatively November 2019

Mr. Fuller stated that there have been a few new rules to follow regarding Medical Use of radioactive materials and that there will be announcements posted on VDH's Radioactive Materials Program website soon.

➤ **Program Updates/Initiatives: Environmental Monitoring and Emergency Preparedness Program**

Mr. Harrison returned to the podium and provided an update with regard to the Environmental Monitoring and Emergency Preparedness Program:

- As a cost saving measure, ORH began analyzing selected samples that had previously been submitted to the Division of Consolidated Laboratory Services. We are now doing the analyzing of samples in house now.
- Purchased a tube based distillation system to improve the accuracy and reliability of tritium analyses.
- Pursing purchase of a liquid nitrogen-free cooling system for HPGE detector. We hope to have this purchased by June 2019. This will improve efficiency and staff safety
- ORH continues to address failure and degradation of multiple, essential pieces of equipment including the Mobile Incident Command Laboratory due to age. Repairs are often cost prohibitive.
- The Emergency Preparedness Program continues to receive training and outreach requests from a variety of groups throughout the Commonwealth (including Fire Programs, Law Enforcement, 34<sup>th</sup> CST, Maritime Incident Response Team, Securing the Cities Initiative, Universities). Staff have worked diligently to honor all requests without impacting existing Program cost saving measures.
- In 2019, ORH staff is scheduled to participate in 35 training events associated with Surry and North Anna Power Stations including the graded exercise, dress rehearsal, and out of sequence demonstrations. This includes 18 training events associated with certification of Dominion's new CERC, which is located out in Innsbrook.

Stan Benedict felt that this was very impressive to have so many of these trainings. Dr. Khan asked if VDH charges VDOT for these trainings. Steve Harrison said no, and that this was viewed as a reasonable off set for interagency preparedness.

➤ **Program Updates/Initiatives: Radon Program Metrics**

Mr. Harrison went on to provide Radon Program metrics and measures:

- 1,847 number of public inquiry responses
- 31,789 number of VDH-ORH Radon webpage visits
- 4,193,298 approximate number of citizens educated through public outreach and advertising campaigns
- 443 realtors who attended VDH-ORH's radon classes
- 1,291 free radon test kits directly distributed by VDH to Virginia citizens at public events
- 1,522 pre-purchased test kits ordered by Virginia citizens directly from a vendor for only a \$3 shipping fee
- 26,400 total reported number of radon tests performed in Virginia
- 3,362 total reported number of radon mitigation jobs performed in the Commonwealth

**Old Business:**

Mr. Harrison presented a discussion on Ongoing Regulatory Activities:

➤ **2018 House Bill 1534: Radon Study**

- The 2018 General Assembly directed ORH to determine the most effective means for protecting the public from cancer caused by radon by “determining any benefits of additional oversight for individuals performing radon testing and mitigation.”
- Conducted study involving consumer complaints, certification requirements for radon professionals, peer state statutes, and stakeholder input.
- Found that the most effective means to protect the public would likely be achieved through increased public education coupled with enforcement authority “to help prevent radon testing and mitigation by uncertified individuals, improper testing, and sub-standard mitigation system installations.”
- Reported findings to the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by December 1, 2018 due date.

ORH collected background information on radon and its health effects; analyzed consumer complaints regarding radon testing and mitigation; examined certification requirements for individuals performing radon testing and mitigation in the Commonwealth; conducted a literature review to identify best practices for radon reduction; examined radon statutes from

other states; and solicited stakeholder input. IT costs proved to be increased – looked at other avenues and still make progress.

➤ **Radon Advertising Campaign**

- ORH’s Radon Coordinator, Ryan Paris performed an analysis of radon test kit ordering and use rates since the onset of our advertising campaign (using EPA Radon Grant funds) in early 2018.
- The laboratory return rate for orders of test kits made by the public using our webpage, which offers the kits at a discount rate, increased significantly. Historical rates of return when distributing free test kits at public events is 10-15% while the return rate of test kits ordered through our webpage increased about 5-fold. Further, Radon Webpage hits essentially doubled.
- ORH continued advertising efforts using this strategy January (National Radon Action Month) through March of this year: <https://vimeo.com/318427469>
- This benefits the public by offering discounted cost test kits and helps identify areas of elevated radon concentrations across the Commonwealth.

➤ **Regulation Update: Fee Action Status**

- ORH’s “Final Stage” X-ray and Radioactive Materials fee schedule revisions were published in the Virginia Register of Regulations on January 7, 2019 for a 30-day final adoption period.
- The comment period closed on February 6, 2019 with no comments received, rendering the changes effective as of February 7.
- Updates to billing and collections applications were made so as to coincide with the fee update.
- Now collecting for Private Inspectors, medical and non-medical X-ray devices, inspections, and Radioactive Materials annual fees using the revised rate schedule (12VAC5-490).

➤ **Dominion Combined EOF – Corporate Emergency Response Center**

- Dominion received Nuclear Regulatory Commission (NRC) approval to relocate and integrate the North Anna and Surry Power Station Local Emergency Operations Facilities into one central response facility at the Innsbrook Technical Center in Glen Allen, Virginia.
- This transition to the new Corporate Emergency Response Center (CERC)

was expected to occur as of August 2019, but was advanced to May 1<sup>st</sup> per agreement with the Commission.

- ORH participated in 18 CERC training drills between February and May. The drill series was designed to acclimate Dominion, VDH and VDEM responders to the new facility by its May 1<sup>st</sup> certification date, at which time the North Anna and Surry Power Station Local Emergency Response Facilities were abandoned in place and will be repurposed.

➤ **Supreme Court Filing - Virginia Uranium**

- On May 21, 2018, the Supreme Court agreed to weigh in on whether or not the Atomic Energy Act pre-empts a state law that regulates an activity within its jurisdiction (uranium mining), but has the purpose and effect of regulating radiological safety hazards activities entrusted to the Nuclear Regulatory Commission (the milling of uranium and the management of the resulting tailings).
- Petitioners' and respondents' briefs filed by August 27, 2018.
- Argued November 5, 2018.
- Decision pending.

**Public Comments:**

None

**New Business:**

Mr. Harrison reviewed VDH Leadership Changes:

- Dr. Oliver was announced the Commissioner for VDH on June 1, 2018.
- Dr. Parham Jaber, MD, MPH, Chief Deputy Commissioner for Public Health and Preparedness on October 10, 2018.

➤ **2019 General Assembly: House Bill 1885, Mitigating the Risks of Radon**

- As introduced, would have required VDH to develop programs to educate the public about radon sources, adverse health effects, options for testing and mitigation, and guidance on selecting qualified testing and mitigation professionals.
- The bill would also have directed the Board of Health to establish a formal program for the regulation of radon testing and mitigation professionals to include certification requirements and establishing testing and mitigation protocols.
- Formal program was determined to be cost prohibitive.
- A substitute bill required that a list of persons who are nationally certified to offer screening, testing, or mitigation for radon shall be made available to the public.

- Substitute bill is duplicative to existing law as it appears in COV § 32.1-228.1 B 6, and will not result in any changes to the radon program.
- Passed by the House and Senate unanimously.

➤ **Presentation: Radon Regulatory Reform, Wally Dorsey, Radon- Ease, Inc.**

Mr. Dorsey stated that only 40% of homes in Virginia are tested, and went on to discuss issues with Virginia’s radon Code; specifically, § 32.1-229.01, Companies listed as proficient to perform radon screening, testing or mitigation, compliance.

Mr. Dorsey stated that a radon notification program is needed wherein all Virginia home buyers are notified in writing at the beginning of the home buying process by their Realtor about Radon, its effects, and how simple it is to test for as well as mitigate. A simple one-page document would suffice.

Mr. Dorsey also recommended an oversight program for radon testers and mitigators, similar to what Illinois and many other states are currently doing. Currently, the Commonwealth has laws stating who can test and mitigate and what the requirements are to do so, but these laws are not enforced. This leaves the public health at risk due to people doing testing and mitigation that have no credentials, and who are aware that the Commonwealth has no enforcement authority to take action against them.

Stan Benedict asked Mr. Dorsey if North Carolina has a good program. Mr. Dorsey said no; it is like the Wild Wild West. Dr. Khan asked if Illinois had a decrease in lung cancers from this program. He also asked if Radon has increased throughout the U.S. Dr. Khan expressed that certifications need to be required. Steve Harrison said that the presentation was for information sharing and that at this time, ORH does not have the funds or personnel resources. Steve Harrison stated that ORH performed a Radon study at the direction of the 2018 General Assembly in this regard, but encouraged the RAB to support Mr. Dorsey’s vision.

➤ **2019 General Assembly: Senate Bill 1760, Diagnostic X-ray Machine Operation**

- Provides that no person who has been trained and certified in the operation of a diagnostic X-ray machine by the manufacturer of such machine is required to obtain any other training, certification, or licensure as long as the diagnostic X-ray machine is registered...is being operated to conduct a body composition scan, and is not operated to determine bone density or in the diagnosis or treatment of a patient.
- Senate Education and Health Committee voted to “Pass By Indefinitely” and sent a letter to VDH and the Department of Health Professions (DHP) requesting further evaluation of the proposal.
- VDH Position:
  - Should be clinically justified and maintained As Low As Reasonably Achievable.

- Should be used by a competent operator and regulated as such. The content and quality of training offered by a manufacturer is undefined; may not be possible to verify the training credentials of the operator.
- The American College of Radiology (ARC) and Conference of Radiation Control Program Directors, Inc. (CRCPD), takes the position that the use of body composition scanning should be prescribed by a licensed clinician and administered by a qualified operator (licensed by the state, if required).
- Scan should not be administered if the individual is or may be pregnant, and should not have had a recent imaging exam using oral contrast or a radioactive isotope.
- International Atomic Energy Agency (IAEA) recognizes that this training might not be available or affordable at a later date, and that this training is most often cursory.
- Numerous alternatives are available in the measurement of body fat, which do not require exposing the individual to radiation.

Mr. Harrison said that there are numerous alternatives available in the measurement of BFP, which do not require exposing the individual to radiation. These include but are not limited to: skin calipers, bioelectrical impedance, hydrostatic weighing, are displacement plethysmography, as well as various height and circumference methods.

- The Department of Health Professions requires anyone practicing radiologic technology to have a license, except an employee of a licensed hospital, provided that person is acting within the scope of his employment or engagement as a radiologic technologist.
- It is VDH's position that X-ray devices used for body composition scanning be used as a diagnostic tool and only under the direction of a trained and licensed operator as currently required under Virginia law.
- Virginia Chapter – ACR submitted a letter to VDH indicating that they believe the following protections should be in place:
  - Certification that the operator has received appropriate training on the device and appropriate training on the risks of radiation exposure. [Who would do this? DHP?]
  - Registration of the machine with the Office of Radiological Health. [Already required by ORH.]
  - Periodic inspections of the machine. [Already required by ORH.]

- A limit of four scans per individual per calendar year. [How is this enforceable; and, who would interpret the scans?]

At the conclusion of the discussion of Senate Bill 1760, Virginia's Radiation Advisory Board members took the position that "X-ray devices used for body composition scanning should be used as a diagnostic tool and only under the direction of a trained and licensed operator as currently required under Virginia law," which was recorded by a unanimous (14-0) vote.

Mr. Les Foldesi made the motion that the Radiation Advisory Board support all statements made in the slides and approve the slides. Dr. Khan second the motion. Mr. James Nunn stated that he would send an email or letter on behalf of the Radiation Advisory Board expressing their position on the matter.

**Next Meeting:** Required annually; schedule at will of Board. The next meeting is required by November 2020.

**Adjournment:** Mr. Harrison declared the meeting adjourned at 11:50 a.m. A motion was made by Les Foldesi, seconded by Mr. Harris, and unanimously approved by the Board.