UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES
AND WORKER HEALTH

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MEETING

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THURSDAY
FEBRUARY 28, 2019

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The Advisory Board met telephonically, Steven Markowitz, Chair, presiding.

MEMBERS

SCIENTIFIC COMMUNITY

JOHN DEMENT
GEORGE FRIEDMAN-JIMENEZ
MAREK MIKULSKI
KENNETH SILVER

MEDICAL COMMUNITY

MANIJEH BERENJI
STEVEN MARKOWITZ, Chair
CARRIE A. REDLICH

CLAIMANT COMMUNITY

KIRK DOMINA
RON MAHS
DURONDA POPE
CALIN TEBAY

DESIGNATED FEDERAL OFFICIAL

DOUGLAS FITZGERALD

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P-R-O-C-E-E-D-I-N-G-S

2:07 p.m.

MR. FITZGERALD: Good afternoon, everyone. My name is Douglas Fitzgerald and I'd like to welcome you to today's meeting of the Department of Labor's Advisory Board on Toxic Substances and Worker Health.

I'm the Board's Designated Federal Office, or DFO.

On behalf of the Department of Labor, I'd like to express my appreciation for the diligent work of our Board members since our last meeting in November preparing for this public meeting.

As the DFO, I serve as the liaison between the Department and the Board. The DFO is responsible for approving meeting agendas and for opening and adjourning meetings while ensuring all provisions of the Federal Advisory Committee Act, or the FACA, are met regarding the operations of the Board.

I am also responsible for making sure

that the Board's deliberations fall within the parameters outlined in its enabling statute and charter.

Within that context, I work closely with the Board's Chair, Dr. Steven Markowitz, and the Office of Workers' Compensation Programs to ensure that the Board as an advisory body to the Secretary is fulfilling its mandate to advise and is addressing those issues of highest priority and of greatest interest and of benefit to the Secretary of Labor who is ultimately responsible for the administration of the Energy Employees Occupational Illness Compensation Program.

And, finally, I also work with the appropriate Agency officials to ensure that all relevant ethics regulations are satisfied.

We have a full agenda for the next three hours this afternoon. Copies of all meeting material are available at the Board's website under the heading meetings.

The Board's website can be found at dol.gov/owcp/energy/regs/compliance/advisory

board.htm. Or you can simply Google Advisory Board on Toxic Substances and Worker Health.

The Board's website has a page dedicated entirely to this meeting. That page contains all materials submitted to us in advance of the meeting, but I would also note that some of the academic materials the Board may reference in its deliberations today are copyright protected, so they are not posted for public use -- but they cannot be posted for public use, although they may be publically cited.

Those papers are noted on the website as well.

There, you will also find today's meeting agenda as well as instructions for participating remotely in the meeting.

If you are joining by WebEx, please note that this session is for viewing only and will not be interactive.

During Board deliberations, I would like to remind the members to mute their telephones when they're not engaged in the

discussion.

Also, please do not use the hold function as it could result in turning the rest of us to some unintended New Age musical interlude.

The FACA requires that the minutes of this meeting be prepared to include description of the matters discussed here today and conclusions reached by the Board.

As DFO, I prepare the minutes and make sure they are certified by the Board's Chair. The minutes of today's meeting will be available on the Board's website no later than 90 calendar days from today per FACA regulations.

And, if available sooner, they'd be published before the 90th day.

Also, although the informal minutes will be prepared as required by the FACA regulations, we'll also be publishing verbatim transcripts which are, obviously, more detailed in nature.

Those transcripts will be available on

the Board's website as soon as possible.

I'm looking forward to working with all of you and hearing your discussion this afternoon.

And, with that, Mr. Chairman, I convene this meeting of the Advisory Board on Toxic Substances and Worker Health.

CHAIR MARKOWITZ: Thank you.

This is Steven Markowitz. I want to welcome Board members back to another Board meeting. I also want to welcome any members of the public who are participating.

If you have a problem seeing the materials or finding our website, all you need to do is put in our initials, ABTSWH and you will find our website.

We are, as you'll see some tabs in the middle of the page, we are under the meetings, go to the most recent meeting and you'll see the materials listed for today.

I want to thank Doug Fitzgerald, Carrie Rhoads, Kevin Bird for all the

arrangements, all the work that's done in preparation for today and also for the work that's done, some of which is invisible to us in between meetings. So, thank you very much.

Dr. Cassano is not participating today. She emailed yesterday and had a personal emergency so she's not able to participate today and Dr. Berenji will be a few minutes late.

So, the Board has 12 members, and to the extent we vote today, we will -- we may affirmative vote represents a simple majority. So, if there are 12 members of the Board in any given vote to pass a recommendation or whatnot, we would need 7 votes.

Usually, we come to consensus and reach a higher threshold than that, but I'm just letting you know that we would require seven votes either way on any given recommendation.

So, the -- almost all the materials that we are going to discuss today are on the website. There were a couple that I sent to Carrie late. I notice that one of them which I

sent yesterday did arrive or Tuesday did make it on the website just recently.

We're going to show most of these things on the WebEx. And so, both the members and members of the public, we'll be looking at much of what we're able to access on the web.

There will be a few detailed documents that we're not going to put up because it would probably be more confusing than not. But they are certainly available.

Let me see, if there's anything -- any other comments on our web materials.

So, the agenda, I'm going to go briefly through the agenda. We will make it through the agenda today, I'm confident.

We're going to -- you see the agenda on the WebEx screen, we're going to discuss the revision asbestos presumption recommendation.

I think, actually, we should take number nine which is the EEOICP Bulletin 19-03, a recent bulletin which describes changes in the procedure manual. I think we'll review that

briefly first because it pertains to the items one through three, the proposed revisions and recommendations.

So, we will show, Kevin just by way of notice, you don't have to show it right at the moment, but the next thing we'll go to is the Bulletin 19-03.

So, we're going to go through revisions and the three prior recommendations of the Board. All those recommendations stem from the previous Board.

To orient you on the materials, what we've done is compiled the original recommendation on that given topic with the original Department of Labor response together with any revised recommendation we made.

And, if there was a further response from DOL in that.

So, on the links on our meeting website, we have -- you don't have to go between different dates if you look at these -- the asbestos recommendation, you will see in sequence

the interchange between the Board and the Department. And, that will serve as background for the new text we're going to look at which is considerably shorter on asbestos on the occupation health questionnaire and on asthma.

I remind you that there are a couple of other outstanding recommendations that still require some work, specifically, COPD and occupational hearing loss. And, those will be covered at the next meeting in late April.

We're going to discuss initial work on Parkinson's related issues, a brief report -- actually, Marek is going to lead that and Duronda and I are going to add some things as well as maybe some other people.

We'll refer to the public comments tracking system we had.

We're going to review briefly the new issued rule from the Department on EEOICP, but stay focused really on the outcome of the recommendations that the previous Board made in April 2016.

We're going to spend some time on our action list we developed in our November meeting, where we are in that action list. We also submitted a data request December 10, 2018, I want to go over that.

And, then, there's an additional item, actually Ken Silver has nicely drafted kind of a reformulation of -- or proposed reformulation of DOL's request to the Board to look at the non-cancer outcomes of radioactive materials.

And so, that's something that we will add to the agenda.

Are there other items that people want to talk about?

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: Okay.

Kevin, can you bring up Bulletin 19-03?

So, this bulletin refers to the Procedure Manual Version 2.3.

Actually, if there's anybody from the Department of Labor on the phone who can chime in

as to when the Version 2.3 was issued, I'd appreciate it.

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: And, actually, while that question is hanging out there, let me ask Doug or Carrie, if we, you know, in our in person meetings, usually there's a member of the leadership of the program present who can answer some factual questions or sort of brief kind of non-policy issues, clarification questions.

Rachel, John or the like. Are any of them available to answer such a question on this call?

MR. FITZGERALD: I think we'd always had somebody on request after a question the Board had someone on the call. It's not a standing request, I guess.

CHAIR MARKOWITZ: Okay, okay. So, I take that as --

MR. FITZGERALD: If we requested them, we could have arranged for that. But --

CHAIR MARKOWITZ: That's fine. But,

the point is, there's no one available, right? Okay. That's fine.

So, this is a recently effective job bulletin. And, you can see some of the lists of changes that were made in the Procedure Manual as a result of, in part, of input from the Advisory Board.

And, with regard to bladder cancer, hearing loss, lung cancer, mesothelioma, ovarian cancer, and pleural plaques.

And, you can see, for instance, that they changed the amount of exposure for asbestos exposure for mesothelioma, they changed the latency for ovarian cancer, and pleural plaques.

And, they added benzidine. Actually, that wasn't something the Board weighed in on, but they added two new solvents to the list of solvents that could be related to toxic substance induced hearing loss.

And then, they, importantly, added a presumption on lung cancer and asbestos.

So, if you scroll down a little bit

more, Kevin, the bulletin then talks about actions to be taken in the program to look back at cases that are relevant to these changes and that need re-examination in terms of compensability.

And so, attached to this bulletin is some screening worksheets. We don't need to actually look at them, but it shows how the program, national office, and then the district offices lay out or screen and then analyze prior claims given these new presumptions and new attributes of compensation.

So, I just wanted to point out that this is happening.

And, any comments or question on this?

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: Okay.

So, if you haven't seen this, it's case law and it's worth taking a look at so you can understand better how DOL undertakes to look back at prior claims that, it can't be easy, but it's necessary when the criteria for compensation

change and evolve over time.

Okay, let's -- if there are any other comments on this bulletin, now is the time, otherwise, we can move on.

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: So, let's move to the proposed asbestos presumption recommendation.

Just by way of background, there's been -- the Board and Department have had back and forth on asbestos issues for some time.

And, there are a couple of outstanding issues that aren't fully resolved.

The Department has accepted much of the advice, I would say, on asbestos from the Board.

Okay, so this is -- what Kevin's showing now is not what we're going to go through, but just to point it out, don't move it yet, Kevin, but it's an 18-page back and forth from April '17 until late 2018 or early in 2018 in terms of asbestos. So, we're not going to go through this, but there is background and we have

it on the website.

It's our original recommendation then their response, our revise, their response. And now, we're going to talk about our revised recommendation.

So, Kevin, if you can bring up something called proposed revised asbestos presumption?

So, just scroll down a little bit. Hold on, this is the Occupational Health Questionnaire. No, we want to go with the asbestos proposed revised.

MR. BIRD: Yes, pulling it up right now.

CHAIR MARKOWITZ: Yes, yes, fine.

Okay, great. And then, if you could just scroll down a little bit.

Okay, so, briefly, just scroll down a little bit more. Okay.

So, we picked the provisions directly from the Procedure Manual, but the latest version that the program lists 19 labor categories from

an exhibit, but we've seen these before. They're mostly the mainstream construction and maintenance trades that are presumed to have been exposed to asbestos before 1996.

Those are the only labor categories and for which there is a presumption of significant exposure.

They -- item number two -- and, by the way, chime in if you have any questions or comments -- item number two is that the program and the Procedure Manual then proceed to assign different levels of exposure within the significant rubric, low, medium, and high.

And so, the list is presumed to have high significant exposure through '86 and low significant exposure from '87 to 1995. So, both periods of time of significance, the presumption is that it's high earlier and lower later on.

Item number three is that the program presumes that any job categories that are not on the list had exposure prior to '95, but it doesn't remark on the significance of their

exposure.

And then, finally, it -- the program and the Procedure Manual presumes that all these job titles other than the list do not have significant exposure after 1986.

So, if you scroll down to Table 1 for a moment, I don't know if this will help people or not. But, there we go.

Different time periods on the left and then the job categories, either the list or other jobs, and then, the overall exposure in the case of the people -- the job titles on the list it's presumed to be significant prior to 1995, although, one period high, another period low.

And then, in -- if you look at the last row and the other jobs are presumed to be not significant from the later time period.

So, Kevin, if you'd go back up now.

So, there -- and, I'm sorry, scroll down so we can just look at Section B here. Okay, okay.

So, in the Procedure Manual, when you

actually look at the presumption causation language, it only refers to the fact that the claimant has to have a significant level of exposure.

It doesn't -- whether that significant exposure is high, medium, or low doesn't enter into consideration in the causation presumption.

So, I think that's captured in Table 2 below. So, let's look -- if you could scroll down to 2?

Okay, so this now, this summarizes the causation presumption within the Procedure Manual for the seven different asbestos related conditions.

And so, on the left, you see the conditions and then, the level of exposure in the causation for a claimant to meet the presumption of causation, there has to be significant exposure.

And then, there's some language about day by day in some of those, but the focus, really, is that it has to be significant and

then, the duration of latency, basically, it's 250 days except for COPD and mesothelioma and latency is somewhere between 10 and 20 years.

So, and we're in accordance pretty much with the time factor, the duration, and the latency, that's -- those aren't really live issues.

The issue with COPD, frankly, there's a larger issue relating to COPD presumption. So, we didn't -- we're not really focusing on that here in asbestos.

Okay, so, you can go back up now to where we were before, okay.

So, these are the residual concerns.

So, the first thing is that the causation presumption only designates that the level be significant and it doesn't specify whether it's low, medium, or high.

So, it would appear there's no need for the language and it's actually potentially confusing as a -- with reference to the causation presumption, there's no need for this designation

of low, medium, and high because the list, where it applies which is the list --- because, the list of job categories, that group is presumed to have significant exposure during the relevant time period.

So, our recommendation is that that designation of low, medium, and high for the purposes of a causation presumption be deleted because it's not used and at the minimum potentially confusing.

And, item number two is, this is not a change, this is just to recognize that for the labor category other than those on the list, it's reasonable to retain a presumption as the Procedure Manual does, that they had some level of exposure to asbestos prior to '87 because there was asbestos in many of the locations.

So, but item three, though, the Procedure Manual, as it stands now, has this negative presumption about asbestos exposure for jobs other than those on the list.

That is to say, it -- the existing

policy presumes that that -- the asbestos exposure in those jobs occurred, but that it wasn't significant and, therefore, cannot be used in the causation presumption.

So, they don't -- that group doesn't enter causation presumption because they are presumed not to have significant exposure.

And, the rationale for that is that it was -- and this is between '87 and '96 -- the rationale that the Department offers is that the exposures were unlikely to exceed established occupational health standards.

So, here, this proposed revision points out we believe that the negative presumption is not justified because it's based on the rationale that the occupational health standards were fully protective, which they weren't.

And then, secondly, that all the work sites were in compliance or full compliance, which it, frankly, just unknown. The hopes were, but unknown.

And so, our recommendation is that the Procedure Manual have more neutral language about this exposure. And, leave it up to when there's uncertainly, leave it up to an industrial hygienist who is looking at the facts of the case but not with the guidance that, of a negative presumption that the exposure was not significant.

And, thereby, more likely to be an unbiased assessment of the significance of that exposure.

So, our recommendation is that that language presuming that the exposure was non-significant be deleted which really leaves the field open that when the claims examiner requires it that the industrial hygienist make an open, unbiased assessment of the significance of exposure to asbestos.

Number four is, you note before, I mentioned that there is in the causation presumption this language of day by day. That is to say that, to me, a given -- on most of the

asbestos diseases, our worker had to have 250 days of day by day exposure meeting certain latency period if they were in a certain job title.

The -- this day by day reference is unnecessary for the group of job titles on the list because that group is generally known to have reasonably frequent exposure to asbestos in that time period.

And so, there's no reason to apply that day by day standard to the list which is what it looks like the language does.

The day by day analysis is reasonable for the industrial hygiene assessment because it communicates frequent exposure in a 250 day period, totaling 250 days. That's fine.

But it -- the way it stands now, it also seems to apply to the people -- the job categories on the list and it's not really necessary.

The most important, I think, part of -- if you could scroll down just a little bit

more, Kevin -- of the revised recommendation is that the list of job titles that can be presumed to have asbestos exposure prior to 1997 is incomplete.

It does have many of the important maintenance and construction jobs, electrician, carpenter, sheet metal worker, mason, pipe fitter and the like. But that there are other jobs which are missing.

Now, this has been a matter of discussion with the Board for some time. And so, what Kirk Domina and John Dement and I did is the DOL gave us the existing job categories from the SEM and at five different DOE sites. So, it included Hanford and Y-12 and one of the gaseous diffusion plants, Idaho and, again, what's called construction job titles.

And, what we looked at, we looked at the complete list of job categories in the SEM. So, for instance, in Paducah, there have been 85 job categories in the SEM, not the aliases, but just the main job categories and then, at

Hanford, there were I think about 400.

And so, we looked at those and we said, okay, fine. Which of those do you believe mostly because of maintenance and job -- and construction job relationship, which of those should be added?

And so, we -- if you scroll down, Kevin, to actually Table 3 for a moment.

Just a reminder of what Table 3 is what the list looks like currently. These are the job titles presumed to be exposed to asbestos prior to '93.

Okay, now, let's go to Table 4. Table 4 -- if you can scroll down further. Now that you've got it.

Okay, so, Table 4, what it does is on the left, you see that list, that same list and on the right are additional job categories that John, Kirk, and I found at one or more of those five old sites that we believe can reasonably be presumed to have significant asbestos exposure prior to 1997.

And, you'll recognize, maybe some of them presume to have -- probably have a relationship to the list on the left. It's unclear and we've made a request to the Department to provide us with a map, how they get from list 3(a)(1) on the left to the SEM and the various job categories on the SEM.

And, beyond that, how do they match it to the job titles that claimants actually write on their, you know, on their forms when they submit their claims.

But, and there may be some disagreement on the list on the right. But, most of us familiar with asbestos related issues would probably come to agreement on most of the job titles on the right.

So, but that represents five DOE sites. DOL gave us 15 sites in terms of the lists of job categories from the SEM. But there are, in the SEM, there are probably 60 or more different DOE sites listed.

And so, the next task would be to take

all of the DOE sites, take all of the job titles, the job categories and probably the aliases, too, and do what we did, which is identify job titles that are -- have a high likelihood of meeting a presumption.

And so, that would facilitate the claims examiner. One of it was enlarge list 3(a)(1) to make it sort of more on target with reality.

But, also, it would help the claims examiner in decision making which is they could move quite quickly from the claimant submitted job title to the SEM to the presumption.

So, if you could just scroll back up to the text, the end of the text? Okay, there we go.

So, our thinking was how to do this. And, if you look at the last paragraph, so the recommendation is that a Board Committee work with the program and their industrial hygiene contractor to examine all SEM job titles and aliases and identify job titles that should be

added to list 3(a)(1) for the purposes of the presumption of that exposure.

An alternative would be for the Board to do this independently from the program. But we would require resources to do that because going through those lists is going to take some time.

And, John and Kirk and I discussed it and we thought, well, the Department has a contractor and many of those industrial hygienists are familiar with DOE sites, probably familiar with asbestos and that we could work directly with them and likely come to an agreement on the expanded list 3(a)(1) that is more realistic.

So, let me -- I'm going to stop here. John, Kirk, do you have any additions or comments?

MEMBER DEMENT: This is John.

I think you summarized our discussion and deliberations very well, Steven.

I think it's fair to say that what

we're presenting is these additional ones are examples of jobs that we think are perfect to list and not all inclusive, and we recognize that.

The other thing is, there were a lot of jobs as we went through these categories which had high -- I would say had high suspicion of being capable of satisfying this presumption, but would require just a few questions with regard to the actual work that they did.

So, I think the process of going through and identifying a list of -- and I call it jobs that we can come to a consensus on that would expand this list would greatly simplify the process for the things the examiner, at least in terms of applying this presumption.

CHAIR MARKOWITZ: Kirk, you have anything you want to say?

MEMBER DOMINA: Well, yes, going through this, because of, you know, you've heard me many times talk about jurisdiction and stuff -- and, like we had it like I was a technician,

the RCT radioactive or the radiation monitors because they were never included on anybody's list.

And, like I said, they're always the first one in on the job and the last one out because radiation was always the thing until you get into the 2000s where chemicals and toxic substances were never, ever considered.

And so, and like, my main thing is, too, that all these DOE sites all had steam heat, so there's asbestos everywhere.

And so, you know, and so, certain job titles, you have to know on that site what also is under their jurisdiction. And, it's really important on that because not all of them are the same.

You know, it's just like our painters out here tear up floor tile, that's under their jurisdiction and, in these old buildings, it's all asbestos tile.

And so, understanding and not trying to just say, well, this job title only does this,

that's not true. You know, they do a lot of things and different things.

And, then, too, when -- during the Cold War effort, when you have an event happen, you're on a back shift or whatever, it's all hands on deck on getting things straightened out --- and, what people could have been exposed to.

Not -- we were never monitored for any asbestos exposure because it would have shut everything down. You know, they were never -- and then, you know, if something got knocked loose, they just made somebody had -- sure had an asbestos call and they went and picked it up and you just carry on.

You didn't take samples or anything to verify that the area was clear. You just moved on.

And, I just -- I think it's important that we look at it and work with them so they have an understanding, you know, from a worker perspective on how that goes.

I mean, to me, it's just like when the

Part B Board comes out and there are people NIOSH that come and talk to us because we're the ones that are in the trenches and can explain it and not say, this is what's supposed to have happened, but that's not what really did happen.

CHAIR MARKOWITZ: And, you know, we need to -- we need that kind of information in a process going forward to look at job titles across the sites. So, we would recreate the list if the Department accepts our recommendation about working with the contractor to identify job titles, we would definitely make sure that that perspective is present.

Are there other comments? Questions?

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: So, I want to mention, if we can vote on this. And so, Kevin, if you could go up, I want to point out what we're voting on because I've blended -- if you go to -- up a little bit more up to Item 1. There it is, right there is good.

Because I did a blended comments with

the recommendations. So, let me just be clear and I guess this is a proposal to accept this recommendation.

But, let me describe what the recommendation is.

So, Item 1 would be -- it has to do with this low, medium, high significance, rubric for significance and the recommendation is that it be deleted with reference to list 3(a)(1) for the purposes of causation presumption.

Number two, it's not -- this is actually -- is not really part of the recommendation because it's not -- we're not recommending a change. Were just saying that it's reasonable, the current language is reasonable.

Number three is about the negative presumption on the non-list 3(a)(1) jobs. And, there the recommendation is not explicit, so let me make it explicit.

Which is that, the presumption that these jobs do not have significant exposure prior

to '96 should be deleted.

Number four is that the issue of day by day exposure not be applied to any of the job categories that are presumed to have significant asbestos exposure.

And then, number five is the last paragraph which is that the Board and Board Committee work with the program and their industrial hygiene contractor to examine and identify relevant SEM job titles and aliases that should be added to the list of 3(a)(1) for the purposes of asbestos exposure.

Is there a second?

MEMBER FRIEDMAN-JIMENEZ: This is George, I second.

CHAIR MARKOWITZ: Thank you, George.

So, it's open for discussion or clarification if anyone needs it.

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: So, we're going to take a vote then.

Doug, Carrie, how do we do -- do you

want to roll call?

MR. FITZGERALD: I could do that. I've got a tally sheet in front of me. I can call everyone's name and ask for their yea or nay or abstention.

CHAIR MARKOWITZ: Okay, you can go ahead.

MR. FITZGERALD: So, is the motion moved or --

CHAIR MARKOWITZ: Yes.

MR. FITZGERALD: Okay, if we're taking a vote then, Dr. Dement?

MEMBER DEMENT: Yea.

MR. FITZGERALD: Mr. Domina?

MEMBER DOMINA: Yes.

MR. FITZGERALD: Dr. Friedman-Jimenez?

MEMBER FRIEDMAN-JIMENEZ: Yes.

MR. FITZGERALD: Mr. Mahs?

MEMBER MAHS: Yes.

MR. FITZGERALD: Dr. Mikulski?

MEMBER MIKULSKI: Yes.

MR. FITZGERALD: Ms. Pope?

MEMBER POPE: Yes.

MR. FITZGERALD: Dr. Redlich?

MEMBER REDLICH: Yes.

MR. FITZGERALD: Dr. Silver?

MEMBER SILVER: Yes.

MR. FITZGERALD: Mr. Tebay?

MEMBER TEBAY: Yes.

MR. FITZGERALD: And, Chairman Markowitz? I assume yes.

CHAIR MARKOWITZ: Yes.

MR. FITZGERALD: Okay.

CHAIR MARKOWITZ: Okay, thank you.

Let's move ahead with --

MR. FITZGERALD: Is Doctor -- has Dr. Berenji joined us, by the way?

MEMBER BERENJI: I am here, yes, sir.

MR. FITZGERALD: Oh, okay. I did not want to forget you, either. Are you voting?

MEMBER BERENJI: I was a little late with patients, but I am here and I did hear the tail end, and I do approve, so yea.

MR. FITZGERALD: Okay, thank you very

much.

CHAIR MARKOWITZ: Okay, next is the Occupational Health Questionnaire revised recommendation. John, do you want to take over here?

MEMBER DEMENT: Sure, Steven.

I -- first of all, we've gone several rounds, I guess, the prior Board did, on the occupational history questionnaire.

We made some recommendations originally with regard to, I guess we called it the current occupational history questionnaire, and I tried to summarize it, if you could bring that up on the screen. I guess it's the Word file. Yes, okay, that's it.

And, so I've tried to -- what we tried to do in this draft recommendation is to summarize where we've been and where we think we need to go.

We originally looked at the history and we've, you know, we wanted more information that would drive exposure levels. And so, we

asked for more tasks to be included in it.

We asked for a response to a question with regard to gases, dusts, and fumes for COPD.

We recommended pulling in some of the tasks that we found to be useful from that construction trade former worker program, BTMed.

And, the DOL has responded back and basically didn't consider our recommendations, I guess, appropriate or useful. They responded back that they have another proposed draft questionnaire. So, we looked at that questionnaire as well in this round specifically. We've looked at it before.

Sorry, guys, I've got some things going on.

The new questionnaire basically is a lot of area to write responses to questions on and it's larger free text. And, we thought that that still didn't give enough triggers, memory recall triggers for the claimants to recall specific exposures.

And, therefore, we've gone back and

we've looked at the proposed new questionnaire. We've made some recommendations specific to the new questionnaire.

And so, if we can sort of scroll down to -- and we've taken it by sections.

MR. BIRD: Are you looking for the bottom of page one or are you looking for --

MEMBER DEMENT: So, it's the Section 4d, the labor category.

CHAIR MARKOWITZ: It's the middle of page two.

MEMBER DEMENT: Yes, thanks, Steven.

MR. BIRD: And, you should be able to scroll on your screen.

MEMBER DEMENT: Okay, I have control, all right. Thank you.

So, we basically, and this -- these labor categories, we thought that the labor categories were sort of appropriate for broad classification and we wanted specifically, if possible, that these tie-ins to the questionnaire tied back to the major categories on the DOE

side.

It looks like it does, but it's sort of hard for us not having that -- the broader number of labor categories to really determine that.

If we scroll down, wait a minute, I got it. There's new Section 4(e) that requires the claimant for each job to classify what areas and activities.

And, largely, it's -- the new questionnaire just gives you a statement of categories of information that you're looking for. And, it really requires the claimant to really almost write out a written summary without much of a trigger with regard to what should be included in the summary.

So, it requires basically sort of an essay.

The example they gave was a very good one, but it's pretty unrealistic with regard to what you might expect to get from a claimant.

So, we suggested more structure in

that section. And, basically, in that section, we would like to have a bit more structure that, I guess, similar to what might have been in the earlier questionnaire but with a little more detail, if you will.

So, in each area, we wanted to retain a structure that had some, basically, some column headings and we give them some examples with regard to what we think those column headings might be. And, this is on page two.

So, these are the types of categories that we'd like to see. And, we've suggested that the old occupation history has -- I'm having a hard time scrolling for some reason.

Kevin, can you scroll that down? Mine's not working.

MR. BIRD: Yes, you're looking for the bottom of page two still?

MEMBER DEMENT: Yes, I'm coming up to the next page three.

MR. BIRD: Okay.

MEMBER DEMENT: We found, in terms of

exposure, frequency -- the current questionnaire has a much, I think, seven categories and pretty hard for -- to operationalize.

And so, we -- for our case control study, we simplified that and we used some key trigger words that we think might be helpful.

This is our recommendation here and it's one that we found to be useful and study just has been published.

I think this will, you know, these trigger words are easy for individuals to really understand.

Okay, if we move down to Section 5. In Section 5, the proposed new questionnaire really has just some very broad categories of exposure. It didn't ask the claimant to describe their exposures in those categories.

Again, we just didn't -- and, I guess, based on my experience of working with these building trades, particularly for years, we didn't feel that that would really glean the information that we were interested in getting.

So, in each one of these broad categories, we're asking, again, to list a -- some -- a list of specific toxic substances that are typically seen on the DOE side. A lot of them are construction and maintenance trades, but there are lots of production exposures as well.

Realizing that, the sites are somewhat different with regards to exposures, but there's a lot of commonality. And also, where there's not a specific list of exposures to allow space for the claimant to put that in.

So, don't put the burden on the claimant to write out every exposure in a paragraph.

And so, in that section, we're asking to list toxic substances that were really somewhat for the other questionnaire, specifically those that might have a direct disease link as we discussed at the Board before.

We've also recommended that this list, because COPD is such an important outcome for the program that the materials and substances that

are known and the literature to be linked to COPD specifically be put on that list.

Let's see what else was here.

We also noted some of the areas where it seems like a lot of details requested on the old questionnaire, specifically the high explosives, I mean, has a lot of information there, a lot of different materials listed.

We think that ought to be probably pared down and not so extensive on the new occupations questionnaire.

Again, for each one of the exposures, we're asking for some measure of frequency and duration. So, we feel like the combination of knowing what the material is, the frequency and duration and allowing the claimants to describe how they used the material in a short sentence or so would give information useful in doing the qualitative exposure assessment, see how long the basic variables.

We also -- okay, can you give me control again, Kevin?

MR. BIRD: So, you should be able to scroll on your screen. Do you me want to try to give you like total control so you control what everyone else sees?

MEMBER DEMENT: I can't get past this page.

MR. BIRD: You're on page 4 now?

MEMBER DEMENT: Yes, I am now.

MR. BIRD: Okay.

MEMBER DEMENT: Okay, and remember, in our last recommendation, we specifically asked to include some questions about vapor, gas, dust, and fume exposures. Those we tied back into our recommended COPD presumption.

The DOL say that they can't use this vapor, gas, dust, and fumes because they have to have a specific toxic substance.

You know, scientifically, we disagree with that, that the VGDF paradigm really drives COPD.

However, given the circumstances we're operating in, we are asking specifically that,

for the listed toxic substances in the list, to be a checkbox added to ask the question, are they exposed to VGDF?

That should satisfy the issue of whether or not it's a toxic substance or not, at least in our opinion.

Section 6 is the personal protective equipment. The old questionnaire and somewhat in the proposed new questionnaire, there's an extensive discussion about PPE use. That may be somewhat helpful.

We really think that that should be reduced. PPE is a secondary line of defense so the industrial hygienist is normally not very effective. The fuel protection factors for most types of PPE, particularly respiratory protection, are quite variable and often quite poor.

So, our view is this should be reduced back because we don't need extensive questions on PPE use. It's useful as a hygienist to know if PPE was required maybe in a job, but we don't

need an extensive list of PPE.

And, we really believe that positive answers to having worn PPE really should not be a factor in accepting or denying claims.

We've added a couple of different additional references that we specifically reference that we have a list of references on our prior recommendation that are still applicable.

The sort of -- the approach to this new set of recommendations is quite similar to our approach in the other. We've tried to modify it to be responsive, I guess, to some of the DOL concerns about how to implement it.

I'm open for questions at this point, if there are any.

CHAIR MARKOWITZ: I'd just like to make a comment, this is Steven.

So, this is not, you know, the aim is not a research quality questionnaire, lest anybody misunderstand. This is about getting sufficient information to allow a claims examiner

and an industrial hygienist to make informed decisions.

So, and, secondly, we have not redesigned the questionnaire. This -- these recommendations are elements or consideration for suggestions about the structure of the questionnaire. But they actually work with redesigning the questionnaire, formatting, et cetera, we let the department.

In terms of the vapors, gas, dust, and fumes, that question would be asked about any toxic substance exposure that workers report. So, it wouldn't be limited to the relatively small number of agents that are -- have been specifically related to COPD in the manner that the Department of Labor recognizes now.

This is just to be clear about that.

MEMBER DEMENT: And, I think that's good point because in many of the published studies, specific agents are not identified. It's simply vapor, gas, dust, and fumes as a general category.

Being workplace generated vapor, gas, dust, and fumes, not genuine environment.

CHAIR MARKOWITZ: Right, right. And, this is -- so, and, we're clearly recognizing that this extra requirement that exposure to a toxic substance must occur for a person to be eligible for compensation.

So, this is a mechanism to kind of link that extra requirement with, you know, appropriate medical science at this point.

MEMBER DEMENT: Yes, I think it's fairly -- we try and approach the COPD presumption by -- in two phases.

One, it's specifically those agents that are known based upon the literature to be individually related to COPD. And, by expanding the check marks to include other substances as well.

CHAIR MARKOWITZ: I would -- this is Steven -- I would just also add one last comment which is that we've been talking about revising the occupational health questionnaire for quite

some time now.

And, it's not the entire policy decision that most of our recommendations -- many of our recommendations, particularly those we have presumption involved, it doesn't -- it's not the question of look back at prior claims, it's a question of appropriate and useful tool.

And so, it would be nice to move -- to make progress on this and get to a version that can be piloted and then implemented.

MEMBER DEMENT: This is John, again.

I think one of the other issues that we addressed in the prior recommendation and probably ought to be considered here, and I guess it's considered anyway, that whatever questionnaire they develop as a draft, it really needs to go into the field and be pilot tested under some surface -- sort of real world circumstances and get some feedback on both the individuals trying to administer the questionnaires as well as the claimants and how it actually works.

So, pilot testing I think is needed.

CHAIR MARKOWITZ: Other comments or concerns? We would like to vote on this recommendation. So, if -- the floor is -- there's no motion yet, but the floor is open.

MEMBER POPE: I just want to -- this is Duronda Pope -- I just wanted to agree with John about the pilot testing. Most times, in order to find out how a system is working or how things are working out in the field is to ask the people that are actually doing work and to better -- get a better understanding of how that is really working out, that pilot program or suggestions sounds great to me.

CHAIR MARKOWITZ: And, the Department has previously communicated that they, you know, they completely agree with the idea of pilot testing. So, that's -- that would happen.

Other comments?

MEMBER SILVER: This is Ken Silver, two points.

Can we assume that the Labor

Department management is familiar with the great work that BTMed has done with these questionnaires and we transmit this recommendation, I think, we should draw their attention to either published literature or great literature, your own progress report, internal documents.

Because your questionnaires are really the best that I've seen on DOE sites. And, we'll probably come around to really appreciating all this work that's been done by BTMed on the other formal worker program division.

And, my other is, John, you sort of hinted at this, but going back to our first discussion, I think as Dr. Mikulski has repeatedly made the point that the mere presence of PPE is an indicator of hazardous exposures and we should kind of leave it at that and not try to parse whether it was worn.

The mere fact that it's there tells us a lot.

MEMBER DEMENT: I agree. And, that's

the reason I think it ought to be in the questionnaire but just scaled back. We don't need to come to define -- get down to the type of respirator they used.

We need to only know that respiratory protection was required, which, as a hygienist, it's just applied that there's potential for exposure recognized.

I guess the, you know, there's -- if you're going to, just from my perspective, if you're going to spend a lot of time trying to get information on an occupational history, spend more of it looking at the exposures and less of it on the PPE.

Because, as a hygienist, we know that PPE is really not the way to protect individuals.

CHAIR MARKOWITZ: And, not to mention, it's hard to get a handle on the actual use, actual protection, whether the full program was implemented.

So, just an interpretation of that whatever comes out in the questionnaire but is

just very difficult.

Other comments?

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: So, we need to vote. Do I hear a motion? I need a motion to accept the recommendation.

MEMBER DEMENT: This is John, I'll move that we accept the recommendations.

CHAIR MARKOWITZ: Okay, is there a second?

MEMBER DOMINA: This is Kirk, I second.

CHAIR MARKOWITZ: Okay.

So, just to be clear, we're talking about it starts on the middle of page two where it says Board recommendations and it goes through to page four.

And, it's not even the short, succinct language, it -- there's some discussion rationale built in to it, but it's very clear.

And, so, it's open -- the floor is open for comments, discussion, questions.

MEMBER DEMENT: This is John, again.

Kevin mentioned the prior publication. I think in the original recommendation, we have a list of the publications. And, if needed, we can provide a list of additional ones as well.

CHAIR MARKOWITZ: So, this is Steven.

If I could offer an amendment to the recommendation that the Board recommends -- would recommend that expedited review of this revised recommendation occur so that timely progress can be made on creation of a revised occupational health questionnaire and its pilot testing and implementation.

Is that friendly amendment accepted by the motion proposer?

MEMBER DEMENT: Yes, and we've thought through this, we're dealing with this from day one, yes.

CHAIR MARKOWITZ: Okay. So, what's on the floor then is the slightly revised recommendation.

Any other discussion?

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: If not, then we should take a vote.

MR. FITZGERALD: Okay.

Dr. Berenji?

MEMBER BERENJI: Yea, I approve.

MR. FITZGERALD: Okay, Dr. Dement?

MEMBER DEMENT: Yes.

MR. FITZGERALD: Mr. Domina?

MEMBER DOMINA: Yes.

MR. FITZGERALD: Dr. Friedman-Jimenez?

MEMBER FRIEDMAN-JIMENEZ: Yes.

MR. FITZGERALD: Mr. Mahs?

MEMBER MAHS: Yes.

MR. FITZGERALD: Dr. Mikulski?

MEMBER MIKULSKI: Yes.

MR. FITZGERALD: Ms. Pope?

MEMBER POPE: Yes.

MR. FITZGERALD: Dr. Redlich?

MEMBER REDLICH: Yes.

MR. FITZGERALD: Dr. Silver?

MEMBER SILVER: Yes.

MR. FITZGERALD: Mr. Tebay?

MEMBER TEBAY: Yes.

MR. FITZGERALD: All right, and Chairman Markowitz?

CHAIR MARKOWITZ: Yes.

MR. FITZGERALD: Okay.

CHAIR MARKOWITZ: Thank you.

So, the next is work related asthma. Carrie, you want to lead this or --

MEMBER REDLICH: You know, I don't -- I'm just getting on the -- I've been --

CHAIR MARKOWITZ: No, I'm much more happy to -- I'm happy to start with it, if you'd like. It's up to you.

MEMBER REDLICH: Sure, do you want to start? That's fine.

CHAIR MARKOWITZ: Sure, sure.

Okay, so, okay, but if you could bring a proposed revised recommendation, let me give the background because Carrie really led this effort.

There was language in the Procedure

Manual regarding asthma that didn't really accurately reflect what we know about work related asthma.

And, I should add that George Friedman-Jimenez also played an important role in developing this over in the last year and a half or whatever.

And so, the back and forth on work related asthma, again, that's available in a compiled format on our meeting website, a considerable part of the recommendation has been accepted by the Department and they revised the language of the Procedure Manual.

In particular, with regard to the criteria for medical diagnosis of asthma. That was an important area to come to agreement on.

So, we've moved beyond, for the most part, the issue of how the diagnosis is made.

What's still active is the issue of exposure and what kind of exposure can be presumed to be related to work related asthma.

And, in particular -- and Carrie, any

time you want to -- Kevin, can you bring up the work related asthma proposed revised recommendation?

MR. BIRD: Do you see it? I think I'm on it. Is that the wrong recommendation?

CHAIR MARKOWITZ: Okay, so this was just added to the -- to our webpage in the meeting items in the last 24, 36 hours.

What I'm still looking at is personal protective equipment.

Okay, so, Kevin, while you're doing that, so, there is language that is in the Procedure Manual that we want to look at on the screen because that's the focus of some of the recommendation.

MEMBER REDLICH: And, just for background, the original asthma recommendation had sort of four parts. And, three of the four parts are generally, you know, the Department of Labor incorporated.

But, there was one important one with the criteria for work related asthma and they

were related to that end result in the Procedure Manual. And, that's what we're trying to get to.

CHAIR MARKOWITZ: Right. So, actually, we'll read this language, okay, just while we're getting this together here.

This is from the Procedure Manual, the Section 5c(2) from Appendix 1.

And, it says that the qualified physician conducts an examination and has to, and let me quote here, quote, must provide a well-rationalized explanation with specific information on the mechanism for causing, contributing to or aggravating the conditions.

The strongest justification for acceptance in this type of claim is when the physician can identify the asthmatic incident or incidents that occurred while the employee worked at the covered work site and the most likely toxic substance trigger, end of quote.

So, let me ask Kevin, have you identified the document we're interested in?

MR. BIRD: No, I'm sorry. Which

document exactly are you interested in? Sorry.

CHAIR MARKOWITZ: It's called proposed revised recommendation for work related asthma.

MR. BIRD: Okay, so, we should be pulling it up now. It will just take a quick second. Can you see that?

MEMBER REDLICH: That's it.

MR. BIRD: Okay, great.

CHAIR MARKOWITZ: I see, okay.

Yes, my WebEx isn't working, but if you guys are looking at it, that's fine.

Carrie, does it show the --

MEMBER REDLICH: Yes.

CHAIR MARKOWITZ: -- we're talking about? Okay.

MEMBER REDLICH: Yes, it's up.

CHAIR MARKOWITZ: Okay, so, Carrie, you want to continue or you want me to address it?

MEMBER REDLICH: So, this part, we addressed the four and the concern was about the wording of -- if you turn so the first part --

it's the physician is asked to give a specific, well, information on a mechanism that starts out, diagnostic tests do not help define the mechanism.

And so, a physician really would not be able to respond to that and would be quite confused.

So, we suggested removing that wording. We give -- the second page of this gives some alternate wording because I -- and if none of the evidence states guidelines for diagnosing work related asthma in the suggested the physician should identify specific mechanisms.

And then, the other wording as far as the specific event, again, most cases of work related asthma are recurrent repeated events and not one single specific event.

So, again, that wording, I think, it really confused the physician who was trying to follow the manual and the instructions. And so, we suggested removing that.

Part of it, I think, historically, with that, the active airway confused it years ago originally defined as a single exposure event. But, it's now well recognized that work related asthma, whether it's irritants or allergens, most typically occurs in settings of repeated exposures to either irritants or allergens.

So, we recommended removing these and then suggested that they needed to identify a specific event.

And then, similar to the -- the final point was similar to the COPD discussion about they have discussions. This is recognized that a toxic substance can cause work related asthma. The issue is whether the physician is -- if it's not realistic for that physician to be able to identify the single toxic substance when it's most typically, there's a mixture of substances.

So, we felt that that wording just wasn't really necessary and was really just too confusing to the physician.

So, we have proposed alternate working to this paragraph and that's what's on the second page of the document and on to -- here's the alternate wording.

Is it -- should I go ahead and read it or --

CHAIR MARKOWITZ: Yes, I'm -- it's only the middle section, actually, which --

MEMBER REDLICH: That's right, it's just part of it.

CHAIR MARKOWITZ: Right.

MEMBER REDLICH: And, the relevant part was really just removing the part that we mentioned in terms of the mechanisms, so the revised wording looks at how the physician must provide a well rationalized explanation with specific supporting information, including the basis for diagnosing asthma or working asthma at the time of covered employment, and that the basis for the relationship between asthma and the covered work place.

And, we haven't asked for a specific

mechanism or supporting information for these five that's either in the manual or in printed materials.

And then, the other revised wording is, if the CE is unable able to obtain the necessary medical evidence from the treating physician to substantiate the claim for work related asthma, then the CE will need to seek an opinion from a CSC.

So, we felt that that really provided clear guidance to the physicians. So, I think at this point, we can open it if there are questions or comments.

MEMBER FRIEDMAN-JIMENEZ: This is George.

Carrie, I think this is really well put together. I agree with everything. My question is whether, in your view, something that's an allergen would be considered a toxic substance?

Latex, for example, is not generally considered toxic. There are many asthma causing

or aggravating agents that are allergens. Some of them are not widely considered to be toxicant.

So, what's your opinion on how this will be interpreted and are likely?

And, also, given the exposures, do you think we're likely to miss many cases if we do not explicitly include allergens as toxic substances?

MEMBER REDLICH: Well, I think what makes something toxic is the dose throughout the frequency. So, the thing, you know, substance can be either not toxic or toxic.

The act mentions a toxic substance, so that's the wording. I mean, we could mention that it also includes allergens.

MEMBER FRIEDMAN-JIMENEZ: That's really my question, if you think it's worth --

MEMBER REDLICH: Yes, I don't have --

MEMBER FRIEDMAN-JIMENEZ: -- mentioning that?

MEMBER REDLICH: I don't -- we could just mention that it could be either an irritant

or an allergen and I think that would be fine to include.

I have to check if that wording was in some of the locations in the Procedure Manual because there's also a description. Because there -- I believe that there were earlier description in the manual and I think it was in the prior recommendation that it stops --

So, there is other wording sort of describing what work related asthma is in other parts of the Procedure Manual. I'm looking to see if I had it here.

CHAIR MARKOWITZ: Yes, I mean, we could -- this is Steven -- the Department does seem to take a broad approach to what is a toxic substance, to pinpoint it includes chemical, biological, and some other category.

I can't remember whether that's from the -- one the rules or what exactly, but it does tend to take the broad approach.

One way for us to take a look at whether it -- whether some of the allergens of

concern are included and just look at the SEM and see whether they're included here in the SEM.

The SEM doesn't include everything, we know that, but it's certainly a good starting point.

MEMBER FRIEDMAN-JIMENEZ: This is George, again.

Another approach would be to look at the denied claims and see if anyone is being denied because their exposure is considered not a toxic substance, but would fall in the category of known or accepted asthma causing agents.

CHAIR MARKOWITZ: Well, we, in fact, have requested some claims to review and including looking up a number of claims of -- on asthma. So, we would have, you know, 20, I think we've requested 20 asthma cases to review. So, we would have a chance to look at that.

MEMBER FRIEDMAN-JIMENEZ: I think that would be interesting, thanks.

MEMBER REDLICH: Yes, I agree.

CHAIR MARKOWITZ: So, this is Steven.

So, you know, this recommendation, we have made a, I think, a softer recommendation on this specific point in the past mixed in with other elements on recommendations on asthma. This one has not necessarily received the attention that it needs.

And so, this is about drawing attention to, frankly, an issue in which the Department policy is really out of sync with prevailing medical opinion.

And, it's hard for us to accept the Department's changes so far or readily accept their changes, but there still is this extra piece to address in order to make sure that, you know, that their -- the policies reflect, obviously, this extra requirement, but also what current medical science also shows.

So, that's why I think we've come back to this point in a more focused way.

MEMBER REDLICH: Right, I agree totally. And, also, just wording that would make sense to a practicing clinician.

CHAIR MARKOWITZ: Right. I think in the instance of the word mechanism, I think that's right. I think it's just not understood what mechanism means to doctors who have to write well rationalized reports.

Other comments?

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: So, we need a motion, actually, on this.

MEMBER REDLICH: Well, I can move --

CHAIR MARKOWITZ: Or more --

MEMBER REDLICH: -- that we recommend the revised wording to the language.

CHAIR MARKOWITZ: All right, I'm sorry, the proposal is to adopt the recommendation as set out on --

MEMBER REDLICH: That's correct. And, I guess the specific recommendation is to review the record -- the recommendation that used the revised wording for the Procedure Manual on page two.

CHAIR MARKOWITZ: Okay, but just for

the sake of clarity, we can set specific language even better than some broader comments and that also say recommendation, too.

Is the proposal to accept the overall recommendation, including the specific revised language?

MEMBER REDLICH: Yes.

CHAIR MARKOWITZ: Thank you.

Hear a second?

MEMBER DEMENT: I will second.

CHAIR MARKOWITZ: Okay. So, the floor is open for discussion.

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: Okay, so, if there's no further discussion, then we need to take a vote.

MEMBER FRIEDMAN-JIMENEZ: This is George.

Are we going to add any reference to an allergen in the language that we're recommending?

CHAIR MARKOWITZ: Well --

MEMBER FRIEDMAN-JIMENEZ: Or should we wait on it?

CHAIR MARKOWITZ: My feeling is that we should take a look at how -- on that issue, how the SEM addresses some of the allergens of concern to see whether, you know, if they're already using it and accept it, then we don't need a recommendation.

Or, secondly, to look at, I mean, look at 20 claims to see how this issue is handled and then to make a specific recommendation at that time.

MEMBER REDLICH: Yes, and I think if you look at any surveillance data that's been collected, the majority of cases, the overwhelming majority of specific allergen has not been identified.

MEMBER FRIEDMAN-JIMENEZ: Yes, I think that's true.

MEMBER REDLICH: Yes, I think it's -- yes, we could see what the cases show, but I think it's the understanding of toxic substance

is quite a broad word.

MEMBER FRIEDMAN-JIMENEZ: Okay. So, then, we can table that concern, see if it's a problem, and if it is a problem, then we may be able to raise it in the future. But, for now, I would agree with going ahead with the current language.

CHAIR MARKOWITZ: Okay.

Other comments?

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: Okay, so let's take a vote.

MR. FITZGERALD: Okay.

Dr. Berenji?

MEMBER BERENJI: Yes.

MR. FITZGERALD: Dr. Dement?

MEMBER DEMENT: Yes.

MR. FITZGERALD: Mr. Domina?

MEMBER DOMINA: Yes.

MR. FITZGERALD: Dr. Friedman-Jimenez?

MEMBER FRIEDMAN-JIMENEZ: Yes.

MR. FITZGERALD: Mr. Mahs?

MEMBER MAHS: Yes.

MR. FITZGERALD: Dr. Mikulski?

MEMBER MIKULSKI: Yes.

MR. FITZGERALD: Ms. Pope?

MEMBER POPE: Yes.

MR. FITZGERALD: Dr. Redlich?

MEMBER REDLICH: Yes.

MR. FITZGERALD: Dr. Silver?

MEMBER SILVER: Yes.

MR. FITZGERALD: Mr. Tebay?

MEMBER TEBAY: Yes.

MR. FITZGERALD: And, Chairman Markowitz?

CHAIR MARKOWITZ: Yes.

Okay, thanks.

So, let's do one more topic for ten minutes and then we'll take just a short break, if that's all right. Is that all right with people? Or does anybody want to take the break now, let me know.

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: Okay, so, let's deal

with Parkinson's disorders. Marek, you want to start this off?

MEMBER MIKULSKI: Sure, thank you, Steven.

So, our group has been tasked with looking at the most recent evidence of Parkinson's disease relatedness to occupational exposures as well as helping DOL with some issues regarding the naming of the general group of the Parkinsonism disorders.

Just a brief introduction, the Parkinson's disease belongs to a group of neurodegenerative disorders that affect the dopamine system.

The dopamine system, amongst other functions, is involved in the control of body movement.

It is believed, based on the autopsy studies that the main cause of the Parkinson's disease is the reduction in the production of dopamine in the part of the mid-brain called substantia nigra that is responsible for control

of emotions and movement.

Parkinson's belongs or rather is included in -- under a -- in a group of diseases known as Parkinsonism.

Now, interestingly, Parkinson's is one of the most common causes of Parkinsonism. However, only 10 to 15 percent of Parkinson's disease are believed to be caused hereditary. And, there is a lot of research work being concentrated on the research of the remaining 80 to 85 percent of cases which are idiopathic otherwise with no known causing factors.

There has been some work done and published on differentiation between Parkinson's disease and the other diseases under the general umbrella of the Parkinsonism set of symptoms.

Clinically, it has been believed that Parkinson's or the main -- or differentiation between the Parkinson's and Parkinsonism is possible due to or based on the positive response to the dopamine substitutes such as Levodopa.

The American Medical Association

published a set of a criteria -- diagnostic criteria for Parkinson's disease.

However, these criteria are not uniformly applied across the epidemiological studies. There is epidemiological work, as I said, being done looking at the causes or possible causes of Parkinson's disease.

And, there has been several research studies looking at occupational factors. But this is still an issue being looked at.

We have not had really that much chance to give an in depth look into the literature on the subject. We are just starting right now. And, there is a -- and the research actually is going in varying directions.

There have been studies showing an increased risk of Parkinson's disease following exposures to solvents, triflora ethylene as well as polychlorinated biphenyls.

And, these would be of the major interest of our group as these exposures were fairly common in the nuclear weapons context.

Now, I did not talk much about Parkinsonism and I'm sure that you may have heard about the all different diseases that are being associated -- not associated -- they are being included under the general umbrella of Parkinsonism.

Those, in general, are the diseases that are believed to have or are known to be -- not associated, I'm sorry -- with known causes.

We are not looking at those, our interest, our focus is Parkinson's disease at this point.

There has been some updates in the ICD coding, the new coding ICD-10 is much more specific in terms of the Parkinsonism diseases. However, Parkinson's disease is still grouped under the same code as in the ICD-9 codes.

Steve, if you want to take it from here?

CHAIR MARKOWITZ: Sure.

Duronda, do you want to talk about the looking at the SEM?

MEMBER POPE: Sure.

So, when I took a look at the SEM, and I think we were tasked to see if there was a link to Parkinson's disease, we did see a direct link with Parkinson's disease in looking at the SEM.

So, and, the connection with the work processes. So, I actually clicked on the health effects and looked at Parkinson's and then we looked -- they gave us a list of all the health effects list and then, when you click on the work processes, it gave you another drop down list.

So, there is definitely a connection in correlation depending on which site you're looking at.

CHAIR MARKOWITZ: Right. And, so, and we looked at, I think, two different sites, right? And, we --

MEMBER POPE: Right.

CHAIR MARKOWITZ: And, there was about somewhere between on each of the two of those two DOE sites, somewhere between 10 and 15 toxic substances that were linked to Parkinson's,

although a lot of them are, if I'm recalling correctly, a lot of those 10 to 15 different agents were variations of -- well, they contained manganese or they related to carbon monoxide for the most part.

MEMBER POPE: Yes.

CHAIR MARKOWITZ: Yes.

MEMBER POPE: I think the two major work processes or work categories were machinists and welders.

CHAIR MARKOWITZ: Right, and in fact, they had in the list of toxic substances, their mixtures, they included welding there.

Okay, so, anything else, Duronda, on that?

MEMBER POPE: I don't think so. I just looked up after we spoke, I just looked up another couple of sites and found the same things. So, there is definitely, you know, evidence of connection there.

CHAIR MARKOWITZ: Right, right.

We tried to look across the complex

actually by disease health effects. And, the SEM isn't organized that way.

Actually, so, this is -- I think would be useful, this would be an action item for Carrie if the DOL could provide a listing of all the agents, toxic substances in the SEM that they relate to one of the family of Parkinson's codes that they use in the health effects.

And, I can fill that out later, Carrie, if you want. But --

So, Kevin, there's a file called EEOICPV or Parkinson's disease claims data that I sent to Carrie earlier, if you could bring that up.

So, Duronda, I'm sorry, did I -- I didn't mean to cut you off. Was there anything else?

MEMBER POPE: No, no. I just wanted to also mention that Ron helped me out, too. He was also simultaneously looking at the same thing. So, I think we arrived at the same conclusion. Do you agree with that, Ron?

MEMBER MAHS: And, actually, the same thing just about at each site, painters, welders, and the solvents the painters used, in general.

CHAIR MARKOWITZ: Yes.

Okay, so, what we're seeing on the screen here is -- so, the Department provided us with a spreadsheet with some Parkinson's data. And, I -- you can leave the screen where it is.

And, I organized some of it, this will only take a couple minutes to go through.

And, I didn't ask for a full explanation of some of the variables. So, I don't fully understand them, but I think it still gives us some information.

Table 1 is who submitted the claim. And, you can see the survivors were involved in a fair proportion.

Table 2 is half the claimants were alive and half not.

Table 3 is interesting, I -- most of the claims have come in in the past 20 years. Now, admittedly, Part B -- Part E, excuse me,

that covers Parkinson's disease was part of the amended EEOICPA Act in 2005. So, the door wasn't open for compensation until then for Parkinson's disease.

Or, it was, rather, the opening was very narrow between 2000 and 2005.

But, in any event, most of the cases are relatively recent.

Next, if you could scroll down, I can't seem to do that, Kevin, from my computer here.

And then, the first -- and this is approved versus denial. First approval, first denial, just the numbers by year.

I'm not sure exactly what first approval and first denial is, and I don't believe that they -- this means that the claim was initially filed in the same year. So, there may be a little bit of mismatch between the numbers in the approvals versus denial years.

Nonetheless, I think it's interesting, you can see that a certain point soon after Part

E was put into effect, 50 percent of the -- in any given year, 50 percent of the claims were approved.

And then, there was a period of time that relatively a few of the claims were approved, 2013, 2014, 2015. But, in the last couple of years, it's going back up.

Again, the columns representing approval, denial are not necessarily the same years, so I wouldn't look at the numbers too precisely. We're looking sort of broadly at a trend.

And, not sure, necessarily what it means, but it also gives us a sense of how many of -- of what the proportion that are approved are which is we think about 50 percent.

I think there's another table -- here's another -- so, this is -- I forgot to mention that 1,154 total Parkinson's claims since 2006, so a lot of claims, that's a lot of claims, I think, for this illness or family of illnesses.

And, here's the site that's listed.

Now, about a third of all people listed worked at more than one site. So, all we did was kind of the simplest thing which is to take -- disaggregate them, take them apart and then assign them to multiple sites.

So, that means that the total number we're looking at here is going to be greater than the 1, 150 claims. So, if you can go back up?

Okay, so, this is -- and this is just -- this is not percentage of claims or incidents, it's just counts, it's just numbers of claims at a given site.

And, again, I wouldn't read too much into this in the sense of thinking that there's necessarily anything going on at those particular sites.

There are some of the larger sites, Y-12, Savannah River, Oak Ridge, X-10, Hanford, that appear there and they obviously have more employees than most of the other -- many of the other sites.

And then, the thing, the caveat at Oak

Ridge is that the workers at Y-12, K-25, and X-10 often worked at each other's facilities over time. So, to assign them to a single site is, for many people, isn't going to be necessarily true.

But, I thought, nonetheless, it was worth doing this as an initial run and taking a look, Idaho, which is about number 10 is a very large site. And, but the number of cases is considerably less than Paducah, which is, I think historically a much smaller site than Idaho.

So, in any case, this is, for what it's worth, this is -- and, if you can scroll down, you can see that there are a lot of DOE sites and many of them have, you know, a handful of cases.

Okay, so that's all I have to say there on that -- on those data.

So, Marek, anything else or should we open it up for comments?

MEMBER MIKULSKI: I think opening it up for comments at this point.

CHAIR MARKOWITZ: Marek, Dr. Cassano, yourself, Duronda, Ms. Pope, who else is on this working group?

MEMBER POPE: And Ron.

CHAIR MARKOWITZ: And, Mr. Mahs, okay, thanks.

Okay, okay, so, this is the sort of the initial look and we've got a considerable more work to do.

The next meeting, April 23rd or 24th, that's in seven weeks, how far do you think we might get beyond where we are now by the time we meet next? Marek, any just ballpark sense of that?

MEMBER MIKULSKI: I think we'll be able to look at the -- and review the literature -- I mean, we've been covering the dose studies over the last couple of weeks and hopefully are going to be able to look at least most of them and have some more insights into this.

CHAIR MARKOWITZ: Okay. And, just something that Mr. Fitzgerald mentioned at the

beginning, so the medical articles from the published literature, unless they're open access, we can't put them on our website.

So, we can circulate them among ourselves, which we will do. But, it's unfortunate, because it means we can't necessarily provide all the literature we're going to look at in an easily available way to the public.

But, we could provide it by request or whatever.

So, we'll have it by April 24th, we'll have a reasonable look at the literature in terms of causatives or aggravational agents. And, we'll -- hopefully, DOL will give us some data on sort of what the SEM says about the various job titles, work sites, et cetera, toxic substances that relate to Parkinson's.

Any other comments on -- anybody else want to work on this working group, by the way?

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: If you change your

mind and you want to volunteer, it's great, just let us know.

Any other comments? And then, we're going to take just a break for a moment, but any other?

MEMBER SILVER: Yes, this is Ken Silver, if I could just plant the seed of a question about what might be a large category of people who might be seen as having a very low dose.

Let's say that someone who welded their career and they have material safety data sheets for a typical welding rod that contained manganese, but they don't know anything about the base metals that they welded on.

I wonder how the CMCs and IHs are handling those claims? Would manganese in welding rods be sufficient to clinch a claim for Parkinsonism?

I know you probably can't answer that right now, but as we get into these and look at the SEM, it seems that there might be

demographics and tests of a pretty large group of people in that category.

CHAIR MARKOWITZ: So, it's a question about extensive exposure?

MEMBER SILVER: Right. So, would documented exposure to welding rods containing manganese with the worker having no knowledge about the base metal manganese content be considered a sufficient exposure?

CHAIR MARKOWITZ: Well, we have requested 20 claims, 10 accepted and 10 denied on Parkinson's disease. So, we will be able to get a direct look at that, I think.

MEMBER SILVER: Great.

CHAIR MARKOWITZ: But if it -- maybe we can also ask -- we don't have to arrive at a final formulation of the question, but if there's a question we want to direct to DOL, how do you handle, you know, the whatever?

We can also ask them and ask for a response. So, if you want to come up with a particular question, again, we don't have to do

it on the phone, the particular question, then we can add it to the action. How about that?

MEMBER SILVER: Or maybe after the next round of analysis of the claims, we question them.

CHAIR MARKOWITZ: Yes.

MEMBER SILVER: We might have a little more data.

CHAIR MARKOWITZ: Yes.

Any other comments? Questions on the Parkinson's issue?

(NO AUDIBLE RESPONSE)

CHAIR MARKOWITZ: Okay, so I have just short of 3:55, we're going to take a five minute break. We have a fair amount to do, but we will finish by 5:00. So, but I would like to start back up promptly in five minutes, if that's all right.

MR. BIRD: This is Kevin Bird.

And so, probably, on that note, it's best if you can to just stay on the line so you don't have to call back in just so we can begin

promptly in five minutes.

CHAIR MARKOWITZ: And, Kevin, if you can bring up the public comment tracking spreadsheet, we'll look at that next.

MR. BIRD: Sounds good.

CHAIR MARKOWITZ: Okay, thanks.

(Whereupon, the above-entitled matter went off the record at 3:53 p.m. and resumed at 4:02 p.m.)

MR. FITZGERALD: All right. Let's do a quick roll call to see who's back with us.

MR. FITZGERALD: Is Dr. Berenji here?

MEMBER BERENJI: Yes, I'm here.

MR. FITZGERALD: Okay. And Dr. Dement?

MEMBER DEMENT: Yes.

MR. FITZGERALD: Mr. Domina?

MEMBER DOMINA: Here.

MR. FITZGERALD: All right. Dr. Friedman-Jimenez?

MEMBER FRIEDMAN-JIMENEZ: I'm here.

MR. FITZGERALD: Mr. Mahs?

MEMBER MAHS: I'm here.

MR. FITZGERALD: I heard Chairman Markowitz.

CHAIR MARKOWITZ: Here.

MR. FITZGERALD: Dr. Mikulski?

MEMBER MIKULSKI: I'm here.

MR. FITZGERALD: All right. Ms. Pope?

MEMBER POPE: Here.

MR. FITZGERALD: All right. Dr. Redlich?

MEMBER REDLICH: I'm here.

MR. FITZGERALD: All right. Dr. Silver?

MEMBER SILVER: Here.

MR. FITZGERALD: And Mr. Tebay?

MEMBER TEBAY: Here.

MR. FITZGERALD: We are all here.

CHAIR MARKOWITZ: Okay. Good. So we're looking at the screen. We're discussing public comment tracking. So what Carrie Rhoads has very nicely done is come up with a spreadsheet that summarizes the public comments -- these are comments we hear at the meetings,

but also emails that come in, comments that are officially submitted.

And you can see the source, the transcript page, that's from our meetings, if you want to look at the detailed comments. Of course the transcripts are on our website. And then comments -- now under comments. The third, Column C, this is something that Carrie has done --- it is trying to summarize the main points of the comment or at least some of the main points.

And they're not represented to be 100 percent accurate. They're certainly not complete. They're intended to just be able to trigger if a person's looking quickly at this spreadsheet, to trigger thoughts about, if you want to look at the commenter's ideas in more detail that you can go to the transcript of our meeting or go to the full comments which are posted on our website.

So you may see some, I don't know, errors or whatever in that column, but sure, you can send those corrections to Carrie. But she

made a very nice attempt to summarize what people have said, or the major key words. And then finally in the, in the Column E is some responses, some comments, some of the department in relation to some of these comments. So that, you may find that illuminating also.

The intent of all this is to try to keep some of the concerns that the public has in mind, on the Board's agenda in an easily accessible way so that we can in the items that we talk about, take into account some of the comments and also it affects some of the, some of our agenda as we move forward. Unless there's a comment or question about that, I think we can move on.

Okay. Let's move on. You can take this down. I'm not sure, Kevin, that we need to be looking at anything or if you want, you can bring up the final, the final rules published February 8th by the department. So I wanted to spend a couple minutes really just to complete the loop here. So the Department put out a new

rule on assets of the program, February 8th, earlier this month.

By way of history, this rule has been in formulation for several years when the Board, the previous Board first met, April 2016, the Department nicely reopened the comment period to allow us to look at the proposed rule changes and then to comment on them. And we did that. It was the first, I think it was the first thing the Board did actually, even before we knew a whole lot about the program.

We made some comments and added them -- -- now in this rule here, and I, for those of us, which is most of us, I think, I'm used to looking at rules and final rules and what they consist of. Much of it is about the comments that were made on the proposed rules by the public, by us, by others. And the DOL's response to those comments.

By then, towards the end, it's actually the changes in the rules. It's not necessarily the easiest readings for those of us

who don't do this in life. But I suppose some people would say that about anatomy and philology textbooks also. If you go to Page 3043, Kevin, there's a specific section in which the Department -- yeah, on the right there, just a little bit, yeah, on the right column.

There's a subheading, Comments from the Advisory Board on Toxic Substance and Worker's Health. They referred to the comments that we made. We made about 12 comments or so. Half of them were considered within our, the scope of what the Board is about. Half of them were considered outside of our scope.

They stated of those that were considered outside of our scope, they nonetheless addressed the issues that we rose, that we raised because those issues were raised by other public commenters. So our comments were not ignored. They were -- we had a couple of comments and recommendations about the issues that -- they're not even the subject of the notice of proposed rulemaking. So that was interesting.

I don't really want to go through -- most of our recommendations were not accepted, I should say. The details are in this rule and they cite our recommendation and then they respond to them. To go over a couple just to give you a flavor. On the section 303, 3049 actually. If you go to Page 3049? This is where the proof of exposure to a toxic substance and this is section 30.231. Okay. And we see it on the right-hand column here. Okay. So the issue was what -- let me just look for the -- okay.

So if you look in the right-hand column under Section B, this is, this is the rule, the advised rule, that it says that, I'm quoting, quote, information from the following sources may be considered at probative factual evidence for purposes of establishing an employee's exposure to a toxic substance at a DOE facility or a leak out, a Section 5 facility. One, to the extent practical, our purpose in DOE sponsored formal worker program or an entity that acted as a contractor or a subcontractor of the

DOE. Two, OWCT site exposure matrices, or three, any other entity deemed by OWCT to be a reliable source of information.

So we had suggested in addition to that list that it add among those itemized issues the occupational history or affidavit obtained from the claimant or from coworkers or the occupational history obtained by a health care provider outside of the formal worker program and those suggestions really weren't accepted. I think they were seen to be covered in Item Number 3, of any other entity. So, so be it.

We commented on -- this is Page 3035 but I think I can just summarize this. We commented on the ability of a claimant who has an effective claim for change positions and the Department was altering its language on the grounds by which or through which a claimant could request a change in a treating physician.

So the claimant gets to pick whatever initial physician they want to choose. But once they're in the program and have a treating

physician, if they want to change treating physicians, they have to provide a rationale for that. And we thought that was pretty restrictive. And we suggested that the claimant not have to actually cite any particular reason if they wanted to switch because people want to change doctors for all kinds of reasons.

It turns out that, that really, what we proposed wasn't really in play, if I understand this, the comments on the, on the final rule. The Department was mostly just interested in knowing what language or revision in the language as to what kind of evidence the claimant had to provide to the Department in order to be able to change physicians.

So in any case, there are a few other suggestions we made that were not accepted and if you want to go further into this then it's all on our website. You can look at the final rule. You can look back at our April meeting of 2016. That's where we made our proposed recommendations. Also April 2016, is a redlined

version of the proposed rules, so you can see the changes that were recommended. And that's, that's pretty much all I have to say about that. Any questions or comments? Okay.

So we're going to move on to the Board action list. Kevin, if you could bring that up Kevin?

MR. BIRD: Yeah. I'm going, I'm pulling it up right now for that. Let me just confirm that for everyone one minute.

CHAIR MARKOWITZ: That's fine. When -- I don't hear anything unless you're over there. My phone has stopped working.

MR. BIRD: No, I think, I think I had you on mute. Is this, is this the correct one?

CHAIR MARKOWITZ: Yeah. Yes, it is. Yeah. Okay. So we're, we're going to go through this. There's a second part to this, which is Item number 8 on the agenda, which is our data request. So first we'll just talk about the action list that we produced from December and what's happened so far or not happened. And then

we'll talk about our data request.

So the first issue, and the link here is going to pull up Bulletin 19-03 that we started off, with leading with, which were the changes in the procedure manual relating to certain disease exposures. And it says here that those changes outlined in bulletin 1903 are prompting a review of about 2,000 pension affected cases. They're around causation. And how those cases will be identified and screened is what's in 1903, the bulletin, if you want to look at that more closely.

But that's the answer to our question -- it's a lot, it's a lot of cases actually. And so this is, for Carrie Rhoads an action item from this meeting, which is that we, I think we've made this request before, but I just want to make sure it's out there. We would, understanding that it takes quite a while to re-review these cases, we would like some information when it's available about the outcome of these reopened cases.

And it's possible by, I believe in why they were reopened. Meaning that there were a couple of solvents added to noise and for the hearing loss that would be separate from the asbestos lung cancer is separate from the benzene bladder cancer and the like. Okay. So someone had asked to look at the training page I think for the claim's examiners, but it may be broader than that. I haven't looked at it recently, but there it is.

We had requested meeting the Medical Director, Dr. Armstrong and Dr. Stokes, the toxicologist. This is considered inappropriate as line staff do not interact with the board in a public forum. So if we have any questions about various topics in their domain in relation to the program, we should submit those in writing.

The board -- the Department did provide us with the CDs. Dr. Armstrong has -- those are not available on our website yet. They are available to the Board through email, but I think we should post them on the website, too.

As we post this, any attachment in what we're reviewing now should also be on the website. Dr. Armstrong has many years of experience in the administration and military medicine. And Dr. Stokes has many years of experience in epidemiology, in addition to toxicology.

The annual statistics on claims and the cases for 2015 to the present, we were sent a series of tables with this. I don't know if anybody got a chance to take a look at them. What I saw was cumulative data for each of those years. So in 2015 it was cumulative cases and claims from the beginning of the program. And in 2016, it was the same thing. So it wasn't each of those years from 2015 to 2018 captured. It was a cumulative data over many years.

I don't know if anybody took a look at this and saw -- maybe I just missed it -- saw anything else. But anybody ever recall or have a chance to look at this and see whether there actually were one year, a succession of one-year statistics?

MEMBER REDLICH: No, I think -- this is Carrie. I think this is the way it's been done each year. You sort of have to subtract the prior if you actually want to see the most recent year.

CHAIR MARKOWITZ: Yeah. Well, yeah, so we can do that. Matter of fact let me do that then ask the Department whether it's, we can interpret it as one-year numbers or whether, you know, things get rearranged, re-categorized cumulatively so that it's, it's just to get a sense of the volume flowing through the system and the Part B, Part E and also the relative rates of approval of denial. So I will do that and circulate that.

Next is percentage of cases that go to an industrial hygienist and what are the category of reasons why cases are sent. And so nicely made out in their response is the procedure whereby a claim is evaluated and under what circumstances it's sent to an industrial hygienist. So if people read that and have any

additional questions about that then we can look at that further.

They did send a table of industrial hygiene and I'm not sure exactly where this table is, whether it's on our website or not. It's --

MS. RHOADS: It's not posted on the website yet. You just sent it to the Board in an email.

CHAIR MARKOWITZ: Okay. Okay. So if you could, you know, put a link to this question so people can, the public can see it and we can track it. And it's got some categories that I don't really fully understand but it looks like where 2018 -- well that, that'd, well -- I'm about to say about 15 percent or so of both accepted and denied claims had been through an industrial hygienist evaluation.

I'm not -- that number may be as high as say, 25 percent, 26 percent. I just have to get clarification about this, which I will do and write up some comments so we can understand it better. With that, on first blush it looks like

somewhere between 15 and 27 percent of claims have an industrial hygiene evaluation as of 2018 --- but I think we need to get a better understanding of that, unless somebody else took a look at this and has a better sense of this.

Okay. Let's continue. Let's go down. Accountability review findings, we, so the Department does accountability reviews on all the district offices on the claims. And if you haven't taken a look, you can look at a link. So my web's actually isn't working so I'm not sure what people are looking at. So Kevin, are we down on the accountability review section?

MR. BIRD: Yes. So it's on the page -- you should be able to scroll down on your own screen.

CHAIR MARKOWITZ: Yeah, yeah, well mine seems to be frozen. So but I'm looking at a paper copy so I'm fine as long we stay up with it.

So if you look at the accountability review findings, it refers to, there's metrics

and indices used that aren't really apparent. So I think we need to ask for some better understanding of what those metrics are. And ultimately, I think a lot of it is not necessarily relevant to the board, but when we look through, we will, when we look through claims we're going to have some questions. And I think this accountability review process will help answer some of those questions.

The next topic is, we requested drafts of documents that also has auditing of the industrial hygiene work and reports. And the Department's response is that, individualized reports are evaluated by lead industrial hygienists and that as part of the accountability review process, they look at the quality of the IH report and that there's no further audits.

I think we need more detail about that. We want to look, we are charged to evaluate the objectivity, quality consistency of the industrial hygiene evaluation process and so we need to request, I think, additional details

beyond this response. And if there's any metrics that are used as part of the accountability review that are informative then we should receive them, so I'll follow up on that and ask formally some follow up questions.

The next issue is the medical audits -- they provided online previous medical audits and the more recent ones are now available. These are performed by Dr. Armstrong, the medical director. I looked at them all, the recent ones, the end of 2017 and the first quarter of 2018, and they're similar to the ones previously -- most of the weaknesses of the contract medical physician reports center on impairment for most of the detected weaknesses, center on impairment, problems with their impairment analysis. Almost nothing addresses causation. So that'll be of interest, I think when we get to look at claims and see what we think.

Again, interrupt me if there's questions or comments. The next issue was that we requested the scientific articles or sources

of support for whatever medicine or science there is in Exhibit 154 and 181. And we were asked to provide specific requests. But they did provide this report by Econometrica, 2005, which was completed mostly by some physicians I think at National Jewish Medical Center and a related contractor.

And if you want to understand why the procedure manual looks the way it does, I think it's worth looking at that 2005 document since that was kind of the foundational framework that they used to get where they are today with some evolution.

Did anybody get a chance to take a look at that or remember what it looked like? Do you have some --

MEMBER DEMENT: Yeah, I went through it in reasonable detail. And my take on it is exactly yours. I think it is the foundational piece for a lot of the, at least the initial parts of the program as it was developed. Now you could argue with lots of pieces of it if you

want just, so we go through it line by line but--

CHAIR MARKOWITZ: But we're, but we're, we're not going to do that.

MEMBER DEMENT: Oh.

CHAIR MARKOWITZ: There is however one very specific piece that is retained in the procedure manual in the, I think it's in the exhibits. And if I can, I think it's in Exhibit 18. Yeah, it's 18-1, which is called, quote, measures for confirming sufficient evidence for non-cancerous covered illness, end of quote. And it needs to be reexamined because much of it is in conflict with what the procedure manual now says for asbestos, for COPD and a number of different entities. So that just deserves a look by the Department of Labor and some editing to make it more consistent.

Okay. Moving on to the action list. We asked how many claims there were for Parkinson's Disease and we just discussed. There're 1,154 claims submitted to 2006. And then DOL provided us with question and answers

the working group had, which was what got international classification of disease, ICD codes where, that they use in the claims administration system. So that's a good thing.

We asked about claims filings for individual DOE sites and just to the aggregate data, it's a Part of B versus E by year, and apparently the program doesn't keep data on claims by site. So I think if we wanted to pursue that we would have to cite some specifics --- in fact in their response they say that they don't understand the nature of our request and want to know how it relates to our, one of our assigned responsibilities. No comment. Any comment?

MEMBER SILVER: This is Ken Silver. You can certainly go to the DOL website and look at claims paid by site and I don't remember hearing if they found a double biller when they pay a claim and reported that all of the sites where the employee worked. I'm kind of confused by their response.

CHAIR MARKOWITZ: Yeah, well I know we don't have really much time to spend on this, but I didn't even realize that you could, you could look at what you're saying, claim paid by site. So I'm going to look further. If anybody wants to pursue this conflict, we can come back to it.

Then we raised the issue of the public submissions to the site exposure matrix. And they provide some -- and then how long it took. And they provide some data that the turnaround time was roughly two months from submission. I'm sorry. There were approximately 60 submissions in each of the most recent fiscal or program years and the average response time was about six days, six or seven days.

I interpret this to mean the six- or seven-day response time to mean that, that's the date in which they were verified or not, you made a decision or not. Unless someone reads that differently. That strikes me as pretty quick actually.

It does -- there is a related question

that I wondered about, which is whether, how the Department catalogs the changes it makes in the SEM. I know it changes the SEM and then announces that a revised SEM is available. But does it have an inventory of -- and this is an action item or question, sorry. Does the Department maintain an inventory on the changes, additions and deletions that it has for each version of the SEM as it revises it?

I think they probably do, and the question is, but the question is do they? And if they do, could we see a recent example of that from one revision to the next? And if that's not clear, Carrie, I can clarify it later.

MR. FITZGERALD: Okay. We've got, we've noted that.

CHAIR MARKOWITZ: Okay. So the next item is -- again I'm not, I'm not looking at the WebEx. I'm kind of assuming these are appearing --- and I'm cognizant that we have 25 more minutes so we will get through this.

The question is, how does a contractor

for DOL analyze information on the SEM changes or recommended changes to the SEM for particular locations. So if there are any -- and so they give an explanation. So anybody has any further questions from that, we can discuss it now or people can send in some additional questions if they want some further clarification.

The next item was, could the solicitor's office and the program explain how they interpret the statue regarding toxic substance. And so they do that. And they basically say they derived it from how the Department of Energy defined it when they administered Part D. Part D is an obsolete part of the original Act, that existed between 2000 - 2005, to deal with occupational diseases, other than those covered by Part B. So Part D was superseded by Part E. And probably don't need to know more about that then just that.

There's also the deal for Act itself, which mentions toxic substance and then they give a quote, they give an excerpt from that.

Although it doesn't, it doesn't define it. It just, it shows where it references toxic substance. And finally part of their response is that vapors, gas, dust, and fumes are not synonymous with toxic substances, but they represent, quote, states of matter, end of quote. So we learned that. Any comments or questions?

So this is useful. This is a useful summary in case we get back to any questions or wonderings about how they regard their issue of toxic substance.

Moving on, is there process for the industrial hygienist to ask questions or ask for additional information without interviewing a claimant? And the response to that is, yes, the IH can talk to the claim's examiner. And then there's a quoted section from the procedure manual about how the IH interacts with the claim's examiner.

It raises the, we had recommended that the IH be permitted to interview the claimant directly, and DOL accepted that. They wanted the

claims examiner involved, which seems right. And we need to hear back from the Department. What's pending is that the progress on that activity is what we're supposed to hear about.

Two last issues on the SEM, one, do they include bystander exposure and the answer is, no. And then, how many conditions are there in the SEM, how many aliases? So 124 diseases, around 37 diseases aliases. And I think this question related to DOL's request to us to help them with looking at the aliases. So we can use that information to consider that, consider whether we the resources to help them.

Okay. If there are no comments, we'll move on. Are there comments?

MEMBER SILVER: I've -- this is Ken Silver. When do you want to get that training page link to work? Would you send it to me? We don't need to glum on it now, but anyone gets there, think of me and send me the working link would you please?

CHAIR MARKOWITZ: Well I couldn't get

it to work either. So maybe Carrie Rhoads, if you could follow up on that.

The Board, some board members, a subset of the Board formulated a data request at the direction of the Board, which was submitted December 10, 2018. And Kevin, do you have this -- it's called -- or are you showing it? ABC --

MR. BIRD: I'm pulling up. Yeah, I'm pulling it up now. It should just be one second.

CHAIR MARKOWITZ: Okay. Okay, that's fine. So this is a two-part request. One, had to do with data and the other had to do with claims. We requested data organized in a way that had been done for the prior board. Only the prior board it was restricted to Part -- pretty much, Part B positions or respiratory conditions.

And so we've asked for updated information by year for selected conditions and you can just -- I'm not going to go through all of this. But they included some lung disorders. They included the most common Part E conditions --- they included neurologic outcomes, cancer and

kidney disease. A similar kind of data for each of these areas. And then we provided a table to describe what, kind of what the output could like that would be useful.

This hasn't been produced and I don't know, Secretary, whether there's any update on when we're going to see some of these data? It's been, we point out, we submitted this request December 10 so we're now two-and-a-half months past that.

MR. FITZGERALD: Yes, we've made inquiries about the data and the status of that, and I think it would be helpful because it is a big request and considering the workload involved, if we try to work with the program to prioritize the request and maybe narrow the scope a little bit because I think they're dealing with some resource issues in terms of the staff time required to pull this together.

CHAIR MARKOWITZ: Well does it start with, they just go in order? We don't need the whole set at the same time. In fact it'd be more

useful to get parts of it. It's the same kind of analysis for each subset of conditions. So once it's done for one, you know, the challenges, obstacles, whatever for one, the rest should be, should flow pretty easily. But, yeah, let's start with lung diseases and go from there.

MEMBER REDLICH: I think -- this Carrie Redlich. So lung disease was part, just really just to update of what they have given us previously. So we didn't think that would be that much work.

CHAIR MARKOWITZ: Right. That's, yeah, that's the lung, for the lung conditions. Right --- the others we hadn't previously asked for it, but regardless. Anyway, so, yeah, we hear it. So other request was for claims, to look at claims. And we -- to the part, for the members of the board who weren't on the prior board, we did look at a sizeable number of claims. I can't really remember. Does anybody remember the number? It was I think several dozen, mostly in lung disease.

And so the request here was for more claims and 20 claims for each of five pulmonary conditions. That's 100 claims and additional 20 for Parkinson's disease. And again, we don't need all the claims at the same time. A subset because we can't handle all, you know, all the claims at the same time. A subset would be most helpful.

If there needs to be priorities, then, sure, Parkinson's disease, a field could be in asthma would probably be the most useful. Unless other people have other ideas about that. Sure we could start with those, but we would like to start. We need to understand the claims. Actually for all four assigned tasks to the Board, so that is, that request stands.

Any other comments on this?

MEMBER DEMENT: This is John. I think it's important for our upcoming in face meeting to have some of those and for us to get a start. Yeah, we don't need them all. We can't review them all probably in that timeframe. But I think

we'll be more productive in April if we've all had a chance to get into these and develop some comments and questions for discussion.

So yeah --

MEMBER REDLICH: Yeah, you know --

MEMBER DEMENT: -- so give us what you have and let us get started.

MEMBER REDLICH: We had gotten about -- I don't have the number exactly in front of me, but it was around 70 or so of the Part B claims, the respiratory ones. That was very helpful, so for them --

CHAIR MARKOWITZ: I would echo what John says. We have about seven weeks until the next meeting and it would be extremely helpful to be able to look at some claims before then. And we need, we need a couple of weeks to look at them.

MEMBER DEMENT: And just for more clarification, we don't have those claims anymore. You know, we, as the Board closed out its last, this last proceedings, we were required

as part of closing out the other board, to submit all of those data back to the DOL. So we don't have those in our hands right now.

CHAIR MARKOWITZ: Okay. So any other comments on that? Otherwise we're going to move on to the issue of non-cancer outcomes. If you could bring up that piece, Kevin? And Ken, if you want to -- I'm not, my WebEx isn't working at the moment so I can't see whether it's up or not --- but Ken, if you, and it is, well, if you want to lead this discussion?

MEMBER REDLICH: Just before we go on -- it's Carrie Redlich. I'm just a little concerned because I think last time, we did get both the data and the claims in a relatively timely fashion. So I think it would be, but where we're leaving this issue is just with the Department of Labor like us to prioritize?

Because we don't need everything all at once. I just, it seems like we don't really know where things stand, whether part of the information is just collected but not all of it,

and that's why we haven't gotten it. Or whether none of it has. So maybe we could just ask for clarification of the status because I think it would be fine for us to get the information at least.

CHAIR MARKOWITZ: Yeah. And so if you could also get the Department to produce sort of a time table over the next few weeks for this information.

MR. BIRD: Yeah, noted.

CHAIR MARKOWITZ: Okay. Ken?

MEMBER SILVER: Sure. So you all remember on the second day of our November meeting in D.C., John Vance distributed a two-page list of topics on which program leaders might want our help. And one of them has to do with the non-cancer effects of exposure to certain radioactive materials.

And my first thought was that the leaders of radiogenic substances are radioactive. And then another thought is that the long-term study of the atomic bomb survivors are finding

some interesting things about circulator diseases, a broad category that includes heart disease and stroke. So the Board agreed that a couple of us might rewrite John Vance's paragraph and layout a scope of work, and if it's agreeable to the program leaders, perhaps embark on it.

I had access to a radiation biologist, you may know, Dr. Isaf Al-Nabulsi at the Department of Energy and she very helpfully sent some links to the reports of the United Nation's scientific committee on the effects of atomic radiation, their reports as well as -- they're organized in a weird way, when you try to access, but she had everything I needed at her fingertips.

So the first part simply makes the point that all of the isotopes mentioned in Mr. Vance's paragraph are heavy metals, but three of them have no stable isotopes. So if they're having non-cancer effects, it maybe the high linear energy transfer, alpha radiation that's responsible. Maybe chemical process, maybe as

ATSDR states in their plutonium tox profile a combination thereof.

One of the most interesting papers in the literature about the non-cancer effects of plutonium was published by Lee Newman in 2005, and that's among the references, finding interstitial lung disease even after controlling for asbestos exposure. And then when it comes to the atomic bomb studies, one of the UNSCR reports that U.N. committee has a table that summarizes the evidence of increased incidents of circulatory disease or mortality in nuclear worker populations.

So this is perhaps a roadmap to what a working group could look at if in fact this is what John Vance and colleagues want from us.

CHAIR MARKOWITZ: Kevin, could you scroll down to show some of the references, please?

MEMBER SILVER: I guess we can scroll down. There we go.

MR. BIRD: Do you see it now? Is that

what you need?

MEMBER SILVER: Yeah. Thank you very much.

MR. BIRD: Okay.

MEMBER SILVER: So I guess it's open for discussion. If anyone sees any flaws or revisions before we ask for John Vance and his colleagues to have a look at it?

CHAIR MARKOWITZ: So while people are thinking -- this is Steven. So what the process would be that we would submit this version of basically -- you don't need to vote on it -- but and ask them whether this represents what, actually what there, is this a faithful representation of their request. And then we can figure out to the extent that which we can address it. Does that sound right, Ken?

MEMBER SILVER: Yes.

CHAIR MARKOWITZ: Any suggestions or amendments to this, what Ken's written up? Okay, so fine, we'll pass it along and I asked whether it's, this is what they have in mind. And then

at next, at the Board meeting, we can -- unless someone wants to take this on before then -- we can discuss what to do about the request.

If there is a subset of board members who want to, assuming that the Department, this is acceptable to them or they, or some version of it, if there's a subset of board members who want to take this on, begin to take this on between now and April 23rd, 24th, then that's fine. Speak up. Otherwise we can just discuss it at the meeting.

MEMBER SILVER: One word of caution is that once you get into this literature, there's a lot of health physics involved, internal dose versus whole body dose. And this dovetails with someone's day job, that's great. But it could be a heavy lift.

CHAIR MARKOWITZ: Well thank you for the warning. It's good to know. Okay. So we'll do that. We need to close. Any other -- I want to talk briefly about the next meeting, but are there any other comments or questions at the

moment?

Okay. So we are meeting in Augusta, Georgia at the end of April. We're going to take up, continue some of the topics we've already discussed. I suspect we'll get to lingering recommendations on, that'll still continue, and on more, such as hearing loss. And I don't recall offhand whether there's some other recommendations that require further revision or response, but I'll check on that.

We'll make progress on the Parkinson's disease. We will hopefully have some claims and some data that we will have had the opportunity to analyze and discuss, and we'll pick up on whatever action items we've developed from today or ones that need some continued attention from the previous meeting.

All right. Any other issues that the people have in mind at this point that they want to raise at the next meeting? Okay. Well, so think about it and, you know, you can send me your ideas and we can circulate them within the

Board. And we'll take it from there. Any closing comments, questions? Doug, anything you need to tell us about the close of the meeting?

MR. FITZGERALD: No. I think everything's on track for our next meeting and we've been taking diligent notes of the discussion. That's all we have. So unless there's anything else, I will adjourn the meeting.

CHAIR MARKOWITZ: No, I just want to thank people for their participation and getting some work done. Telephone meetings are not the easiest. It's much more fun in person. But it was important to keep up some momentum and also get some recommendations reviewed and approved. So that's a good thing. Thank you.

MR. FITZGERALD: Great. Thank you all for your time and energy with regards to this effort. Appreciate it. And with that, we adjourn the meeting. Thank you.

(Whereupon, the above-entitled matter went off the record at 4:56 p.m.)