UNITED STATES DEPARTMENT OF LABOR

+ + + + +

ADVISORY BOARD ON TOXIC SUBSTANCES
AND WORKER HEALTH

+ + + + +

SUBCOMMITTEE ON SITE EXPOSURE MATRICES (AREA #1)

+ + + + +

MEETING

+ + + + +

TUESDAY,
SEPTEMBER 20, 2016

+ + + + +

The Subcommittee met telephonically at 1:00 p.m. Eastern Time, Laura Welch, Chair, presiding.

MEMBERS

SCIENTIFIC COMMUNITY:

JOHN M. DEMENT

MEDICAL COMMUNITY:

STEVEN MARKOWITZ
LAURA S. WELCH, Chair

CLAIMANT COMMUNITY:

KIRK D. DOMINA
GARRY M. WHITLEY

OTHER ADVISORY BOARD MEMBERS PRESENT

FAYE VLIEGER

DESIGNATED FEDERAL OFFICIAL:

CARRIE RHOADS

C-O-N-T-E-N-T-S

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

1:01 p.m.

MS. RHOADS: Good morning, everyone, or good afternoon, depending on where you are.

My name is Carrie Rhoads, and I'd like to welcome you to today's teleconference meeting of the Department of Labor's Advisory Board on Toxic Substances and Worker Health, the Subcommittee on Site Exposure Matrices or SEM, S-E-M.

I'm the Board's Designated Federal Officer, or DFO, for today's meeting.

First, we appreciate the time and the work of our Board members in preparing for this meeting, and for all their forthcoming work.

I'll introduce the Board members on the subcommittee, and we'll do a quick roll call. If you could just respond quickly to when I say your name.

Dr. Laura Welch is the Chair of the subcommittee.

CHAIR WELCH: I'm here.

MS. RHOADS: And the members are Dr. John Dement.

MEMBER DEMENT: Here.

MS. RHOADS: Mr. Garry Whitley.

MEMBER WHITLEY: Here.

MS. RHOADS: Mr. Kirk Domina. Oh, I'm sorry. We'll have to move on. Mr. Mark Griffon will not be joining the call today. Dr. Steven Markowitz.

MEMBER MARKOWITZ: Here.

MS. RHOADS: And he is also the Chair of the Board. And Ms. Faye Vlieger, another member of the Board who is also on the line.

We are scheduled to meet from 1:00 to 3:00 p.m. Eastern Time. In the room with me is Melissa Schroeder from SIDEM, our contractor.

Regarding the meeting today, it's a two-hour meeting, so we're not planning on taking any breaks unless someone needs to. Copies of all meeting materials and any written public comments are or will be available on the Board's website under the heading "Meetings" and the

listing there for this subcommittee meeting.

The documents will also be up on the WebEx screen, so everyone can follow along with the discussion.

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

If you haven't already visited the Board's website, I encourage you to do so. Clicking on today's meeting date, you'll see a page dedicated entirely to today's meeting. The web page contains publicly-available materials submitted to us in advance of the meeting. And we will publish any materials that are provided to the subcommittee. There, you should also find today's agenda as well as instructions for participating remotely.

If you are participating remotely and you're having a problem, please email us at EnergyAdvisoryBoard@dol.gov.

If you're joining by WebEx, please note that the session is for viewing only and will not

be interactive. The phones will also be muted for non-Advisory Board members.

Please note that we do not have a scheduled public comment session today. The call-in information has been posted on the Advisory Board website, so the public may listen in but not participate in the subcommittee's discussion.

The Advisory Board voted at its April meeting that subcommittee meetings should be open to the public, so a transcript and minutes will be prepared from today's meeting.

During our Board discussion today, as we're on a teleconference line, please speak clearly enough for the transcriber to understand. When you begin speaking, especially at the start of the meeting, please state your name so we can get an accurate record of the discussion.

Also, I'd like to ask our transcriber to please let us know if you're having an issue with hearing anyone or with the recording.

As DFO, I see that the minutes are prepared and ensure they're certified by the Chair.

The minutes of today's meeting will be available on the Board's website no later than 90 calendar days from today, per the FACA regulations. If they're available sooner, they'll be published before the 90th day.

Also, although formal minutes will be prepared, we'll also be publishing verbatim transcripts which are, obviously, more detailed in nature. Those transcripts should be available on the Board's website within 30 days.

I'd like to remind the Advisory Board members that there are some materials that have been provided to you in your capacity as special government employees and members of the Board, which are not for public disclosure and cannot be shared or discussed publicly, including in this meeting. Please be aware of this as we continue with the meeting today.

The materials can be discussed in a general way, which does not include using any personally identifiable information, such as names, addresses, specific facilities, if a case

is being discussed, or a doctor's name.

And with that, I convene this meeting of the Advisory Board on Toxic Substances and Worker Health, Subcommittee on Site Exposure Matrices. I'll turn it over Dr. Welch, who is the Chair of the subcommittee.

CHAIR WELCH: Thank you, Carrie.

I had an agenda, and I kept cutting things out, so we can work through the couple of things that I had written down. And then we've added some more information about -- we're going to call on the 1995 circular.

So what I thought we would do first is, I've asked you to look at some case files. And I wanted to make sure that everybody had kind of an understanding of the process. Or if you had questions or other information you wanted. The idea was to look at some of the beryllium cases, even though that's not in our technical subject area, to understand what comes with that and how they're handled.

And I've seen many before. I wasn't

sure that John or Mark had seen these kind of issues. Kirk probably has as well. So we'll be discussing those. Were there other things that people wanted to know about the flow or any discussion points that you wanted? Anything that you wanted to talk about, looking at those cases? Okay.

(Laughter.)

MEMBER MARKOWITZ: Laurie. This is Steve Markowitz. It'd be a lot easier for all those separate files with each individual record were merged so you didn't have to keep opening and closing files.

CHAIR WELCH: That, too. Or even if they had a date on them, you know.

MEMBER MARKOWITZ: Right. Yes, something about the title of them. But anyway, that's just a minor issue.

CHAIR WELCH: That's true. It did make it harder to peruse. And I guess if we ask for other case files, then we can definitely make that request, that those files be merged in some

way, or put them all in one PDF.

MEMBER MARKOWITZ: Right. Put all the medical records together, all the certain types of records together, so it's easier to just flip through them.

CHAIR WELCH: Yes. That's a very good idea. That's true.

Okay. Now, the other thing I wanted to talk about, which will take us a little more time, is we had requested data. And Carrie put out the memo I sent you. It's what I'm going to run through now.

We had more information on claims by specific ICD codes so that we can get an idea of what people are filing for and what's happened to those cases. We've asked for the site and whether the claims were accepted or denied, and a reason for denial.

What Steven and I found out through some interim informational calls with DOL staff is that they don't really code incoming claims in a systematic way. I think they do designate them as

a category, like pulmonary disease. But sometimes the claim is just given a name, COPD, but not a code.

So in order to find all of the COPD cases, which Doug Pennington did provide for us, he had to do the logic that's attached to the document I send you. But it would be almost impossible for him to do that for all records.

We can go back and ask for this kind of detailed data on another diagnosis or diagnosis category, but probably, we couldn't really get what we had wanted, which would be a list of the kind of things -- the medical information on claims and then what are people filing for.

I do think we can get it in the, you know, ten major categories: pulmonary disease, heart disease, COPD. Because I've seen that in the annual reports from DOL. They use these, I think it's ten categories and then "Other". But until we go back and ask about those, I'm not sure we could get the breakdown and then know how many are denied or accepted. We just have to go back and ask and see what we can get.

It's a very different response to know that we really can't get a data dump of claim files by a data classification. Giving it by one specific disease, I don't find that very helpful. So I would like to, you know, spend a few minutes discussing where we go from here.

MEMBER MARKOWITZ: Laurie, can I just interrupt for one second?

CHAIR WELCH: Absolutely.

MEMBER MARKOWITZ: Yes, Steven Markowitz. I have a question about the explanation of this table of data they gave us. And my apologies for the people on the call who aren't looking at it or don't have access to this table. But I will just describe what it is.

There are certain individual cases in which one column indicates that the claim was denied. Yet they still seem to contain ICD codes and ICD code description. And so --

CHAIR WELCH: You're looking at the spreadsheet that we got on the CD?

MEMBER MARKOWITZ: Yes, yes, yes. And

there are any number claims like this, you'll readily seen them, in which it indicates the date that the case was created, the medical condition type, which is pulmonary disease. And then it gives the ICD code, 496, which is COPD. And then it gives the - a descriptor, chronic airway obstruction.

And then at a later point, in Column K, it indicates that the determination was that, I think, the case was denied. And what I don't quite understand is, I thought if it was denied, they didn't identify the ICD code or the code descriptor.

CHAIR WELCH: Well, it's not systematic. But, you know, so sometimes people put in the code as they enter it in. Which is why when you look down there, you'll see a number of claims that don't have an ICD code.

MEMBER MARKOWITZ: Right.

CHAIR WELCH: So many of them do have it. Yes, I could get an answer from Doug of what those definitions were. And I think FDD is final

decision denial, and FDA is final decision accepted here.

MS. RHOADS: Hi. I'm sorry. This is Carrie. Can I interrupt for one second and just to make sure that Mr. Domina is now on the line?

MEMBER DOMINA: Yes, I'm here.

MS. RHOADS: Great. Thank you.

Okay. I'm sorry for interrupting. Go ahead.

CHAIR WELCH: That's okay, because I'm not going to really pull up the spreadsheet. But there's pretty much that, yes, the code is in there. Every one of them is categorized as medical condition type: pulmonary disease. So every claim is categorized with a medical condition type. But then, you know, of these, probably it looks like maybe 80 percent have an ICD code, but then the others don't.

MEMBER MARKOWITZ: Right, right, yes. I'm just assuming that they can clarify for us. Because the importance of it is that if we're interested in looking at the universe of denied

claims to see what's happened with them, we don't quite know how complete the universe is from looking at this table, but it may be more complete than we think. Either that, or if we're interested in looking at denied cases, it may, nonetheless, allow us to identify a large number of cases that were denied in which we know that the claimant was discussing -- you know, COPD was one of the issues that the claim was for.

So it might be, even though we can't identify the total universe, we can still use the data on this table to identify cases that we'd want to look at and learn from.

CHAIR WELCH: Yes. And that thought was good, yes.

MEMBER DEMENT: Related to this issues is the data that we received. Actually, I think Part B Committee requested it. We received a data file before the last conference call.

I summarized the medical conditions that were listed in there. And I'm curious because, in there, only COPD was classified under

496 or 492. Anyway, but the question is, how complete is that data set then? Yes, many of the filed claims have no ICD code or are not classified as COPD. Seems like that data set is also rather incomplete.

CHAIR WELCH: Well, actually when we were on this call with Doug Pennington talking about the data, I asked him that. I said our Beryllium Subcommittee has looked at most of the claims. And he said, oh, but we sent that out with the a disclaimer saying it wasn't a complete list of claims for the same reason.

But then on the latest spreadsheet that you got this week, I think he extended the logic to try to physically do the same as they did with this. They're trying to find all the claims by using text descriptors and the ICD codes. And it's the best they can do. It's probably pretty complete.

But if somebody -- you know, later on the spreadsheet, there are a couple of lines where it just says pulmonary disease. And it was denied,

but there's not descriptor at all. So they're giving us -- we can get all the pulmonary diseases, and it turns out the majority of them are COPD. But then the denial ones, the ones that have no ICD code or text descriptor for the medical diagnosis are much more likely to have been denied.

But Steven, what you said is good. If we give up on the idea we know what the universe of claims are, you know, what proportion of them are COPD versus heart disease versus diabetes, we can definitely use these to get cases, to look at individual cases. So if we were interested in presumptions, and they have presumptions for cases for COPD, and we want to see how the presumptions we used can handle the claim, this is a good way to do that.

And then we could get -- John had created a data request for the Beryllium Subcommittee or the Part B Lung Disease Subcommittee. And they were able to respond to that, giving quite a bit of information in fields where they had individual claims. And so, you

know, if they said it's denied, then, you know, back and forth, too. They can't give us everything, but what the final determination date was and stuff.

I think that we can learn a lot by looking at individual cases, but there's still many individual cases. And it doesn't seem like there's some way to characterize them any further than what we have here. Like, were they denied because employment wasn't verified? Or were they denied because they had a medical opinion that turned it down? And they're not collecting that information in a way that we could get it. We'd have to go through individual claims to find those. But we can still find claims that are listed here.

I think what I want to do is go back. Now that I understand the conditions, that they have these broad categories and conditions, pulmonary disease, other lung disease. That we could at least get a description of the number of those that are accepted and denied.

Because when I look at their annual report, it's not there. The most recent annual

report on the DOL website, it's from 2012, and it has reasons for denial of claims but not the spectrum of accepted claims. But I think that that would be the concern on the data. But the denial ones, probably 30 percent are lung disease, which is an aspect of COPD and other lung disease. But that's probably not representative of the claims they're covering; it's a different universe.

But I'm confident we can get that. I think that'd help us a little bit knowing where to focus there. Because the one reason I thought it's important to know the universe is that 30 percent of all of their claims are COPD. This one doesn't really have the COPD claims.

And we want to make sure that our committee is helping with the exposure assessment side of the current activities they're doing. And if it's a lot of them in SEM, then we'll be missing, we won't be able to help them as well as we could if we understand the kind of claims that are coming in.

Well, we can get, I think -- and maybe

even possibly before the October meeting, we'll get an idea. I mean, I haven't seen it. Maybe other people have seen it. Just something that says, you know, in the last ten years, we've had these many claims, and they were in these categories. And this proportion was accepted, and this proportion was denied by each category.

I've been wanting to look into that and looking on the website to them; it's not easy to find. So I will take on getting that, and then we can decide where to go.

MEMBER MARKOWITZ: Laurie, it's Steven Markowitz. Repeat what the thing you said you're going to try to obtain.

CHAIR WELCH: We had wanted claims data by ICD code. I think we can get it by medical condition type because each type of claim coming in is categorized into a medical condition. And the medical conditions are COPD, other lung disease, acidosis, heart disease, and then I think smaller.

The very top, big ones I just mentioned,

they got almost 50 percent of the denials. And then what I was looking at didn't have accepted claims. Just to get a sense of just the big categories, what are the claims that they're handling? I think that would be useful, and it shouldn't be hard.

I can't really get my head around the idea that we can't either understand the universe of these claims. We can understand more about accepted claims, if that's helpful. We could probably get a lot more information on accepted claims.

MEMBER VLIEGER: This is Faye. I'm sorry to interrupt. But did Doug Pennington provide you a copy of the data dictionary for their codes and stuff that they use on these entries?

CHAIR WELCH: He didn't, but I asked him what they meant, what the codes meant. And he sent it as an email.

MEMBER VLIEGER: Okay. We actually have a copy of that. I believe Deb Jerison has it. I can get the link and send it to you.

CHAIR WELCH: Okay. That'd be great.

MEMBER VLIEGER: All right.

CHAIR WELCH: So then are there other cases, are there individual cases or individual diagnoses that we'd like to know more about before our next meeting? And Steve, let me ask you, when we meet as the Board in October --

MEMBER MARKOWITZ: Right.

CHAIR WELCH: -- are we going to have any breakouts by subcommittee? Or are we going to be all -- you know, there'll be plenary with subcommittees reporting back and discussing our work?

MEMBER MARKOWITZ: I think we were going to meet as a whole. And we're going to be reporting back and then allowing other board members to discuss what each of the subcommittees is, you know, discussing.

I haven't thought through whether we logistically could even do subcommittee meetings, in part because of public access and other things. So, I mean, Carrie and I can discuss that offline.

But I think, for the next meeting, we're not going to achieve it. Everything will be done as a full committee.

CHAIR WELCH: Well, and probably the amount of time we have, that would take, the full committee would take all that time. And so, that means we don't need to request data in advance of the October meeting.

And so, after the October meeting, we'll probably have a better idea of what -- because I know some of the other subcommittees also were requesting these overall statistics on claims. And then the two, the medical process committee and the claimant, and then that's derived for the committee. So it may have been that they have gotten a different view of how the data works and what we can get out of it. So I think other than me trying to get this broad view, I don't see a need for us to request additional data now. Unless you all think we should look at some of these COPD claims and see how some -- instead of going to the trouble to give us their case files.

MEMBER DEMENT: Hey, Laurie. This is John. I still wonder, the issue that's missing for me right now is to what extent in these claims, COPD whatever. To what extent is the SEM, use of the SEM, in conjunction with the occupational history that we're collecting. To what extent are those claims being denied based on ways to instrument and whether or not those two instruments are providing the --

CHAIR WELCH: Yes, that's a good point.

MEMBER DEMENT: -- information to make an informed decision. So far, you know, just looking at a few claims, I don't have a sense of that. And to me, that's the objective of what we're aiming to get at.

CHAIR WELCH: That's a good point. In the beryllium claims, the SEM is not really relevant, so we have --

MEMBER DEMENT: No. It's not an element in the beryllium, but it is on Part E for most --

CHAIR WELCH: Absolutely, absolutely.

MEMBER DEMENT: So my question goes at, for our subcommittees, how do we dive into what information we have to determine if the SEM is entering into -- in a big way -- negative claims decisions that might be contrary, for example, what we might call a no exposure association for a particular job and job category?

CHAIR WELCH: Yes. That is a good point.

MEMBER DEMENT: And frankly, I don't know how to get at that. The data that we have in the spreadsheets is not going to get it. They don't have in there -- and I'm talking back to, on the phone, the other committee, the Part B committee.

We have a new data field that was provided. The reasons for denial, and I'll just read aloud, employee not covered, minimal payable benefit met, medical condition not covered, medical information insufficient, and then lastly a negative causation result.

So along that spectrum of reasons for

denial, the only one, to me, that would possibly be a reason to take a look at it, to see if the SEM or the occupational history play a role, would be the negative causation result.

CHAIR WELCH: Yes. Well, it's great to be able to sort it down to that level.

MEMBER DEMENT: So, you know, for me, if we could have a subset of claims where a negative causation result for some of these conditions. Say, COPD was present, can we look at those in greater detail?

CHAIR WELCH: That's really helpful. I agree. Do you determine the claims that you had that information on, did you get a sense of what proportion of them were the negative causation result?

MEMBER DEMENT: Well, I can give you a quick sense of that in just a moment. The negative causation result, and I'll discuss one of the problems with the data is, for example, in Part E, a negative causation result, it looks like it's sort of a big issue, 46 percent, looks like, is a

result, a negative causation result.

CHAIR WELCH: And those were the viewed claims that had a Part E?

MEMBER DEMENT: No, these are the overall, but it has to do with -- you know, and these are lung disease claims that we're looking at. I mean, it's beryllium sensitivity, CBD, silicosis, interstitial lung disease, COPD, asthma and sarcoidosis.

CHAIR WELCH: Well, you know, it makes sense to me that a high proportion with a negative causation. Because insufficient medical evidence, generally, the worker can circle back and get that, and the employee not being covered --

MEMBER DEMENT: There's no technical reason in the maximum benefit. That all goes back to the statutes of what it does and doesn't do.

CHAIR WELCH: Right.

MEMBER DEMENT: And I wonder, I don't know this category, employee not covered. I don't know exactly what that means, you know, from an interpretation point of view.

(Simultaneous speaking.)

MEMBER VLIEGER: If I could interject a moment. Employee not covered usually means that they don't find adequate site presence for employment. So they can't actually place someone where they applied for the benefit from.

And then there is a group of claims that get sent to contract medical consultants after review by the IH and toxicologist that are denied. Sometimes they don't even get sent to the IH or the toxicologist. So I don't know how to even code those.

The toxicologist would say -- as they did at our meeting in April -- well, there's these three chemicals that I'm allowed to look at. And, of course, the answer is no because those chemicals are not exposed in a pure state.

So when the CMC would get the IH and tox report in, they never go against the IH or the tox. So I don't know if those are even coded. But many times they don't go to the IH or toxicologist because these workers were not monitored for

chemical exposures.

But the site presence of the chemical exists on the SEM. So the worker is not given the benefit of the doubt of exposure because they don't have exposure records or that the chemical is on the SEM. I know it's a little convoluted, but I don't even know that they code those separately about what goes to a CMC and what the result is.

CHAIR WELCH: I think not for that. But I think if they decided that there wasn't sufficient exposure to cause the disease for which its claimed, or no exposure that the caused the disease, they call it a negative causation as well.

So I think any time where it's not they administer the thing, like, they've reached their maximum benefit, they didn't have covered employment. You know, the survivor can't demonstrate that it was abated. It's probably all going to end up in the, you know, causation not established.

MEMBER VLIEGER: Yes. And I think the Board was sent a copy of the Department of Energy

letter to the DIAB meeting, DIAB and ANWAG meeting, from March of this year. The Department of Energy said they don't have records for the employees of their chemical exposures. So the employee can't come up with something that doesn't exist.

CHAIR WELCH: Yes. It's kind of a smaller point. And it's an important point but it's more granular than what we're talking about now about trying to find ones there. It don't know if we could see that process. And I think we're going to have to -- if we can, you know, take the universe of denied claims and get it down to only half of them, the negative causation results.

I mean, I don't remember. John, were they able to tell you whether there was a CMC or industrial hygiene review in those cases?

MEMBER DEMENT: There is a data field. I didn't find it informative. So there's a field called last CMC that's an IH referral. And there is a -- you know, so we could pick some that had more of both. But it's not clear that we could do one or the other.

CHAIR WELCH: Right. And actually, if they're being denied without going to the CMC or IH, that would be useful to look at those claims, too.

The reason we got this spreadsheet that was for six months in 2014 was because the thought was we had gone through the adjudication process. So 2014 is probably the most recent year we can look at claims.

In the spreadsheet they sent us, there are about no more than 350 claims. So now if I go back and ask Doug to give us that information on, you know, the reason for denial and we can randomly pick 50 claims that had a negative causation result. Maybe 50 is too many.

MEMBER DEMENT: I actually been advised between subcommittee members to take a look at it, I guess. I mean, we haven't even saw that.

CHAIR WELCH: Yes. I think we could divide it up and review and then find ones that may or may not be very demonstrative.

MEMBER DEMENT: Right.

CHAIR WELCH: And if the file were all in one PDF -- as Steven suggested -- it would be a lot easier to maybe just kind of, I mean, you would have to go to the final determination decision to see what the outlook was. And you can tell whether it was denied because of either the rationale in there is pretty clear. And then go to the back of the report, at the end of the report. So as long as we can find it, then it wouldn't terribly hard, but we can start with a few of them and start with 25.

MEMBER VLIEGER: I just wanted to let you know that I did send a copy of the DOL data dictionary.

CHAIR WELCH: Okay.

MEMBER MARKOWITZ: Well, I have a question. It's Steven Markowitz. At some point, DOL starting applying presumptions to COPD. Isn't that right?

CHAIR WELCH: If it had a presumption. Whether they apply it and when they apply it, I don't really know, the presumption. MEMBER

MARKOWITZ: So my full question is, if they did, if they change their policy at some point, we should just understand the timing. If we're --

CHAIR WELCH: Yes.

MEMBER MARKOWITZ: -- going to, you know, sink our teeth into 2014 claims. Just so we don't want to have looked at those and then discovered, oh, yes, they changed some policy in 2015 relevant to their decision making. That's all.

CHAIR WELCH: Right. And I just actually had that -- I had that page. I don't know if I saved it, but -- my WebEx page just went, "Thank you for using WebEx." Oh, well. I'll have to find that some other time. But that's a good point.

I think the COPD one was in 2016 or late 2015. So the cases we're looking at would be prior to the new presumption, but --

MEMBER VLIEGER: This is Faye. And the bulletin you're talking about for presumption of COPD is 16-02, and it was issued December 28th of 2015. And it expires December of this year,

meaning it may be incorporated in a new procedure manual.

MEMBER MARKOWITZ: This is Steven. So we just need to factor that into what we're looking at. That's all.

CHAIR WELCH: Yes, yes.

MEMBER MARKOWITZ: Probably not on this call, but --

CHAIR WELCH: Yes. No, no. But I think it would be something that I can explore with Carrie and Doug, if there's a way to -- if in 2016 there are current claims. I mean, where there's only been a denial of COPD, we can look at those. Even if they're going to be remanded back again and then being reviewed again. But if it was because of the causation would be -- I mean, we would have to see what's happening with that presumption. Okay.

MEMBER MARKOWITZ: Right. And then according to the performance report - this is Steve Markowitz - the performance report that was sent to us, they appear to be making decisions on a fair

number of claims within what appears to be approximately five months. If I have the right one. I'm not quite sure.

My point being that it's possible that even if we begin to look at claims from January 2016 and the few months after that, we may be able to soon gauge how that presumption is working. Maybe a little helpful, but anyway, just a thought.

CHAIR WELCH: No, I think that's a very good idea. And also, you know, if the process now is to be sending people to a meeting and have most the cases getting industrial hygiene reviews, looking at ones that are older than that also wouldn't really help us understand the current process.

I know that, you know, we just heard that the contract was put out which has been out for - but maybe for the past - for 2016, they've been getting industrial hygiene reviews. I think it does make sense to look at more current cases, even though they're not going to be representative of all the cases because some take longer. If we

look at ones that were denied, we'll get a sense of that part. We'll start seeing what's there. And it's never been systematic, I don't think, unfortunately.

Okay. So then I will try to get a couple of different reports. And John, that's really helpful that you want to see that other data set to understand more of what we could get. I think that'll be good.

The other thing I sent you was what they called a straw-man. I don't know what else to call it. Some ideas about how we could -- you know, DOL wanted us to help. Then we come to the Institute of Medicine report.

And we got a memo from DOL, from OWCP, basically saying, well, you know, we looked at the report and see those really amazing recommendations and this is what we've done. And then I had it in mine that I added some other recommendations.

Because you could go through both documents, because that makes sense to go through

what I proposed. And then there are other things that they mentioned in their response memo that we could also check on, if that's in there.

And then, you know, we talked about this IOM report last time. It's clear that OWCP hasn't fully implemented because the recommendations are quite big. And, you know, so our Advisory Board doesn't want to take on necessarily everything we're thinking IOM recommended to do, because it's a very big project.

So my first suggestion was that instead of having some process to peer review literature, that we ask OWCP to use reliable sources, major sources like IARC, EPA and then Washington Toxicology Program, which would leave it out of only being relied on and then with Haz-Map. But it does, there's a certain line before something is reviewed at IARC and found to be an acceptable example. But I think it'd be an improvement --

MR. SALANDRO: This is the transcriber.

CHAIR WELCH: -- and if it's something

that --

MR. SALANDRO: I'm having a hard time catching that last sentence.

CHAIR WELCH: Which one?

MR. SALANDRO: Are you on speakerphone?

CHAIR WELCH: I am, yes.

MR. SALANDRO: Is there a way you could switch to your handset? It's getting a little muffled.

CHAIR WELCH: I'll try. Hang on one second. I'll just hold the phone to my ear. Is that better?

MEMBER MARKOWITZ: Yes. That's much better.

MR. SALANDRO: That's much better.

CHAIR WELCH: Okay. Okay. Just makes it harder for me to take notes, but that's okay.

So I guess I was saying that I think, you know, it's a compromise to say that OWCP would use expert sources rather than doing peer review

of ongoing literature. But I think it would an improvement over what they have. So what do you all think of that idea?

MEMBER MARKOWITZ: Steven Markowitz. I think it's an excellent idea. I think that enormous effort is put in by these other sources, the IARC, EPA and TC, etcetera. Multi-year efforts looking at individual agents, referral peer review. They're comprehensive and they come to conclusions. And I think Haz-Map probably takes advantage of a fair amount of that. But probably not, on a timely basis at least, according IOM.

So it's, you know, in a way, kind of a no-brainer to do that. And it's certainly the simplest approach. It's not simple because there's still a whole bunch of decisions that have to be made. But I think it's a really feasible starting point.

CHAIR WELCH: John, what do you think?

MEMBER DEMENT: I agree. I think these are low hanging fruit, what Steve says are.

There's a tremendous amount of effort put into the peer review. These are accessible. It covers cancer in particular. But some of the EPA ATSDR cover other substances well. So I think those low hanging fruit will all be pulled in.

CHAIR WELCH: And Kirk and Faye?

MEMBER VLIEGER: This is Faye. This would be wonderful because it follows current science. And it takes away the issue with Haz-Map and the lack of peer review in the previous reports about its inability to move quickly enough with what's going on.

There is something that's kind of on the edges of this that the Department says when you use any of this data currently. And that is, well, we don't take web searches. Well, most of us don't have access to journals and be able to hand them the whole journals. And so, when you say to use this data, you know, you should make it clear that the easiest way to get that now is through online journals and not hard, you know, textbooks.

So I would just like to add that little

caveat that all of these I have used, or attempted to use for claimants in the past, that I get the place to comment, well, just because you say it says that doesn't mean we have to accept it. And besides, it's from the Web. So just a little side note.

CHAIR WELCH: Okay. Yes. Thank you. Well, good. And then Kirk, do you have any thoughts about it?

MEMBER DOMINA: No. I think anything that we can do to help the claimant, making it easier. Because, you know, when we get into the second questions, I still have issues with the SEM, being we have eight sites that have Special Exposure Cohorts that have no SEMs. And there's a total of 34 sites that have no SEMs. And so, that's an issue when you've got somebody trying to get a Part E claim, because they're just going to say no.

CHAIR WELCH: Yes. That's right, yes. And it's if you're having a SEM, it has to be almost like a Special Exposure Cohort where you don't use

a SEM. You have to use other things. And that's --

MEMBER DOMINA: Right, and --

CHAIR WELCH: -- kind of a no-brainer, isn't it? Yes.

MEMBER DOMINA: Then, I mean, it's, like, come on. We got to do something.

CHAIR WELCH: Yes.

MEMBER DOMINA: Especially when there's that many sites that don't have them. Then that needs to be -- because to me, that almost -- I wonder about what John brought up earlier about employees not covered. Is that some of it that's brought into it because there isn't a SEM on whatever given site?

CHAIR WELCH: That would probably be that, you know, they couldn't substantiate the exposure. And when employers -- employees worked there, but then they say, well, you say you were exposed, but we have no evidence to substantiate it.

MEMBER DOMINA: Right.

CHAIR WELCH: Yes. And so, using the absence of a SEM --

MEMBER DOMINA: That's right.

CHAIR WELCH: -- in some ways, yes. You know, I guess maybe we could ask for different claims, but I don't know how we'd find claims that look like that.

MEMBER MARKOWITZ: This is Steven. We should look at claims from a place that has no SEMs and see actually how they make decisions.

CHAIR WELCH: Yes. Good point.

MEMBER MARKOWITZ: I mean, you know, presumably the rely more on the Occupational History Questionnaire and, you know, the native intelligence of somebody or other. But we should just look at them and see what's happening.

MEMBER WHITLEY: Garry here. I think Steven knows that it would be very smart. But here's part of why you get that nothing claim. I'll give you a real quick example.

Monday, I met with a guy that was a physicist and he had bladder cancer, a young man,

about 45 years old. Never smoked. Well, when you go into the SEM and look up physicist, there's no chemicals listed. And when you look up and go to the building he worked in, there's some chemicals. But he'd get the letter back from them that the SEM does not show that he ever worked with those. Well, his treating physician is telling him exactly what chemical he thinks because the physician had written a letter telling exactly what chemical he thinks he worked with out there.

If the SEM database does not say anything about a physicist working with, I'll use trichloroethylene or whatever. And even if you find it, that's what causes bladder cancer, you get a letter back from the CE that says the SEM database don't show that you worked with that.

CHAIR WELCH: But that's at a site where you know that their SEM database is not complete. Or it probably wouldn't have anything for those kind of occupations, definitely. I mean, it gets in --

MEMBER DEMENT: Another question that

I have and it's, okay, let's say that, you know, the person has died of cancer. And if you look at their occupation history, I'm hoping that, you know, some of these chemicals that are related to bladder cancer might actually be in there, if the history was collected in a consistent and detailed way.

Let's say, for example, and I don't know this case, but that the occupation history actually mentions work with a known bladder carcinogen. How does that factor in if the SEM is negative?

MEMBER VLIEGER: I can answer that question. This is Faye. If there's no exposure data from either an incident or an accident where they would've done air sampling, I have a number of experimental chemists and metallurgists who were turned down for their diseases because it wasn't in the SEM and there was no monitoring data.

MEMBER MARKOWITZ: So this is Steven. You know, we have to figure this out. Because, you know, what I think it's been presented to us that the claims examiners looking at all possible

sources for exposure information and doesn't have a set priority order in mind.

And yet we repeatedly hear that the SEM rules and over other sources like the Occupational History Questionnaire and the like. So we just need to figure out what's actually going on here. Because, clearly, they're different views on this.

MEMBER DEMENT: The other thing that -- and I've reviewed a fair amount of these case files that we've been sent. Most of them in Part B Committee. And the occupational history that's in the file is so variable in terms of quality and completeness.

It gets to a point where you wonder there should be a lot more attention given to trying to make that more complete by more assistance to the claimant. Because way through their history and actually get specific information like chemicals in the past they may have done. As opposed to a general thing, okay, you're a laborer and you're at Oak Ridge. I'm going to the SEM and it doesn't list a bladder carcinogen, then you

weren't exposed.

MEMBER VLIEGER: Right. This is Faye again. This goes back to the incomplete or rather most of the Occupational History Questionnaires that they do for the program. The Building Trades Medical Screening Program actually has built a database of exposure materials for the workers by labor category and it's quite extensive.

But yet when we provide that to the Department of Labor because it's not in the SEM - and it's not on the OHQ because of the way the OHQ, the Occupational History Questionnaire, is written- it's normally not accepted as fact.

So there is another source for some of this we could look at in the Building Trades data that they've assembled. In the past, when the advocates have asked for a copy of that, they're calling it proprietary. But they might let us have it. I don't know.

CHAIR WELCH: That's proprietary? You mean Department of Labor is saying that the Building Trades --

MEMBER VLIEGER: The Building Trades is saying, well, that's our database and we're not going to share it. But, you know --

CHAIR WELCH: Well, that's me and John.

(Laughter.)

MEMBER VLIEGER: When I've asked the regional people for access to it, you know, to help the claimant, that's the answer I've gotten. So, you know, if you guys can change that, because that's very --

CHAIR WELCH: Well, the database? It's not really. Well, let's do something. The Occupational History Questionnaire is my next agenda item. And there's two things: there's that and that 1995 memo. And we'll see what we can get to.

But if we could go through the rest of my proposal and the IOM, then we can then move onto the Occupational History Questionnaires. Is that okay?

MEMBER VLIEGER: Yes. Sounds great.

CHAIR WELCH: Okay. So if we did --

MEMBER MARKOWITZ: Laurie, this is Steven. I'm sorry to interrupt. I just want to --

CHAIR WELCH: That's okay.

MEMBER MARKOWITZ: -- take the next step on this idea of encouraging the Department or the program to use these other expert data.

CHAIR WELCH: Yes.

MEMBER MARKOWITZ: I think the DOL report recommended this, yes, when the report recommended this, the DOL's response is, you know, they don't have the resources at the moment. I'm sure they don't, you know, but they're interested. So the question is, not on this call, but do we need to provide a more specific proposal on how to make this happen in order to move the process along?

CHAIR WELCH: I think so. I mean, I was thinking that we need some new committee of some sort that would develop criteria of how to use these websites. I mean, IARC it's pretty straightforward. But EPA, you know, it has an exposure level of concern and it's not really set

to be used for a compensation system. They identify toxicity of chemicals. But how to make it work for OWCP, I don't really know. Same with the National Toxicology Program.

So I think that it would take a committee of some kind to develop the criteria and then some kind of ongoing, you know, annual peer review of what's come out from those different sources. But if we proposed that they have another committee, I think we hear they don't have the resources. So I don't know where to quite go with that.

It's not as big a committee as during the ongoing peer review of the entire literature, which is the way I seem to do it and, you know, DOL said that we just can't do that. This would be something much more circumscribed.

I think it would be good to have a proposal. You know, and as far as saying we need a committee to develop a process for using those extra resources.

MEMBER MARKOWITZ: Well, you know,

maybe that's something we can just give more thought about before the October meeting and then try to --

CHAIR WELCH: Okay.

MEMBER MARKOWITZ: -- fix out there and develop a --

CHAIR WELCH: Okay.

MEMBER MARKOWITZ: -- real plan.

CHAIR WELCH: Yes.

MEMBER MARKOWITZ: And we may get some feedback from DOL as to what, you know, further specifics we can provide on that, you know, would help them. You know, say, for instance, we could get more funding, etcetera. You know, what would be helpful?

CHAIR WELCH: Okay.

MEMBER MARKOWITZ: You know, or can we pilot this from our Board? Can we pilot this effort to demonstrate what it can do, as a way of, you know, convincing the parties that be that it can be done and should be done? That kind of question.

CHAIR WELCH: You know, I think we could do that. You know, pick one or two of these sources and develop a protocol. That couldn't too hard.

But I think the important thing is that it be done in a transparent and in a way with a lot of different kind of input. As opposed to just getting one person whose hired for DOL to develop a system. So it being under the auspices of our committee would keep it in that category of, you know, technically the access and a lot of input from different sources.

MEMBER MARKOWITZ: This is Steve. I would add, though, that the sources we're talking about, so far, like, the World Health Organization, like, the National Toxicology Program, all their reviews are done transparently with public input. So that, at least the decisions they come to, it had gone through, generally speaking, a very good process.

That's not against transparency by us. I'm just saying that, at least, as opposed to the

systematic review published in some journal by a set of authors who, you know, have done their own work. But it hasn't been subject either to a scrupulous peer review or public transparency.

CHAIR WELCH: Yes. I agree with you. And I think the next step is saying if we think something causes, you know, toxicity, how do you get from that determination into something that DOL can use?

And I don't understand the EPA determinations well enough. I don't know how to make a recommendation about that. But it's a one-time thing, you know. It could be that if EPA says it covers this toxicity, then that is added to this causation and that's how it gets done and that's sufficient. And, you know, it would be easiest if some subset of the Board did this work and they brought it back to the Board. That would the easiest process in understanding this --

MEMBER VLIEGER: I wanted to share sources up for the SEM. Previously, I had asked that the TRI reports that the DOE sites have to do

to EPA, the chemicals they're storing. And that's part of the community disclosure program they have for the toxins that are near the cities and centers of the population.

And I asked the Department of Labor to use that for the SEM when I contacted the SEM contractor directly. They said that they wouldn't be able to use it. So we may have to look at what the Department of Energy allows in their negotiations the DOL to actually be on the SEM.

CHAIR WELCH: It's just, you know, if it's an exposure that the workers have.

MEMBER VLIEGER: Right. Well, they were chemicals listed on the TRI report that are held in storage and they're used. And then they have certain quantities on site. They have to report to the state through the EPA every year. Those chemicals don't necessarily match what's on the SEM. So I had requested that the TRI report be used in the SEM source, and --

CHAIR WELCH: Yes. But I guess they would be -- you know, we'd have to identify where

they came from, if they're waste from the plant. And, you know, somebody needs to go back and understand the process to develop them. Unless you only want to add them for people who are doing their storage work, which is another option.

MEMBER VLIEGER: Yes, yes. It's just that, you know, we need to look at what DOE allows, too. Because they're in the process on the SEM inclusion.

CHAIR WELCH: Yes. Okay. I guess the other thing I put in this, my little proposal, on IOM was IOM said that SEM doesn't adequately address mixtures or synergistic processes. And that if we were to establish a committee that's going to help inform the SEM on adding other data sources, I guess that's whether these resources are going to be sufficient to look at mixtures.

I think that they would be. I mean, definitely IARC looks at mixtures. That whether EPA and ATSDR do, I'm not sure. Mixtures such as logging, I guess, which are ones that we deal with all the time.

And I actually didn't have anything to think about synergy, but I feel like that could be, you know, down the road. Because there's so much missing now for some basic exposures, that synergy doesn't seem quite as essential, in my humble opinion.

And one other recommendation I had in there, that I think I'll swing back to it when we talk about the Occupational History Questionnaire. And this issue of --

MEMBER MARKOWITZ: The industrial hygiene interview?

CHAIR WELCH: Yes.

MEMBER MARKOWITZ: Okay.

CHAIR WELCH: I mean, that relates to what we were talking about before, about how the claim is developed and this Occupational History and the SEM and who uses what and who gets work information. Okay. So Steven, maybe I'll just brainstorm with you a little bit, on another call, how we can flush out my idea. I'm glad you all liked it.

And let me just take a quick look at their response. I was curious, and we can ask for this. In their response to the IOM, when they said actions taken in response to IOM recommendations, one of them was that it added links to work processes.

So they've added a link to a process that it causes a certain disease. And I have no idea how they did that. I mean, where is that coming from? So they're adding causation information to the SEM. Maybe it's coming out of Haz-Map. I don't know. But I was curious because it's important that they add processes and mixtures, but I'm not sure where they get their data from. Think I should, you know, to ask them to explain that?

MEMBER DEMENT: Sure.

CHAIR WELCH: Okay. Okay. So then let's switch over to talk about either the Occupational History Questionnaire, I guess, or its process of how it’s used.

You guys have all looked at the

Occupational History Questionnaire, correct? I think, if you want to bring it up, it's actually on our meeting page under the --

Carrie, I've been dropped off the WebEx and I can't choose to log back in because it says I'm logged in.

MS. RHOADS: I have the Occupational History Questionnaire up on the WebEx.

CHAIR WELCH: Okay. But I have it up on my computer anyway, so --

MS. RHOADS: Yes. It's up.

CHAIR WELCH: Or I will in a second.

MS. RHOADS: A copy of that was distributed at the DC meeting as well.

CHAIR WELCH: Yes. So, you know, it's not terrible, but, John, it doesn't do what we were saying it should do. I mean, it asks about specific metals and dust. You know, it's got a few substances that are there on the last couple of pages.

It asks people about their work processes, but doesn't ask for any detail about

really what they did in that work process. And then it asks about specific exposures to finish that list.

In addition to which, it's my understanding that its staff in the outreach offices that fill out the questionnaire, and they don't have any specific training or expertise. So that the Occupational History Questionnaire, it's a beginning, but it's not enough. It's not enough.

You know, someone who knows about exposure assessment, and knows about the work they did, would have to do it to get more information. Which is why I suggested that they change the process and have the industrial hygienist call the claimant.

You know, I know we're going to hear that we can't possibly do that. It's way too much work. But to turn people down because they didn't collect the information that would support the claim just doesn't seem right.

And I'm not sure I see any other -- you know, so these two pages of work categories. What

class they were in or, you know, what job title they were in and then there's these work areas. You can ask them about work activities, but --

MEMBER DEMENT: You know, Laura, some of the questionnaires that I've reviewed, they do get into some of the claimant's work activity. So there's a piece on it, I think, a little further.

CHAIR WELCH: Yes.

MEMBER DEMENT: They do talk a little bit about, you know, how they work with some of these materials. But, in general, that I find that these are relatively incomplete.

CHAIR WELCH: Yes.

MEMBER DEMENT: And the industrial hygienist reviewing a case file, it'd almost be required that I go back and talk to this person to get more information. For example, if they listed a chemical that had no information about how they came in contact with it. I mean, was it --

CHAIR WELCH: Right.

MEMBER DEMENT: -- just because they were in the building or did they actually do

something with it? Or is somebody allowing them to do something with it and they were secondarily exposed? I mean, these are important issues. But I didn't know how many IH reviews they do for some cases that are fairly relatively small.

CHAIR WELCH: And also so they're saying they're sending all the cases to an IH. So they say at the last meeting.

MEMBER DEMENT: All cases?

CHAIR WELCH: Yes. I mean, that's what Rachel said. You can clarify that, though. That's for this big contract, so that they can --

MEMBER MARKOWITZ: Yes. This is Steven actually. On the response to the IOM report, they use some data about this. I don't know when exactly it was written but it says, I'm quoting, "To date, the OIC has submitted over 400 employee referrals for BGI," that's the contractor, "Exposure assessment with the possibility of 110 incompletions," end of quote. So I think since signing on this contractor in the summer of 2016, they've been informed, and I don't

know if that's all of them or have a number exactly, but it's a lot.

CHAIR WELCH: Yes.

MEMBER MARKOWITZ: This is Steven. You know, the thing is, is that we know the SEM really -- we know it by design and by just the feasibility, it doesn't have a nature of exposure duration intensity. And so, the IH can't get that from the SEM.

The Occupational History Questionnaire is very limited on that issue. And so, if they really want to get at causation, then they can't rely on the --

I think what the IH has been doing, without speaking directly with individuals, is they've been relying on their general knowledge of industrial hygiene. And what can be expected to happen in an industrial facility, in a construction site, etcetera, general knowledge. And the opportunity to get actually specific knowledge from the individual should be exploited.

CHAIR WELCH: And if some things, you

can't -- you know, with the physicist with bladder cancer, you're not going to be able to generalize your knowledge. You need to know his specific exposures. And as a panel, as an Advisory Board, we're telling them that the information they have, we know for sure it's not sufficient, to just kind of go through it and review to some groups of their claims.

I mean, if somebody is, you know, a laborer who worked at any one of these sites in 1968 to 1978, yes, sure, asbestos-related disease. That's not a problem. An industrial hygienist could assume that that occurred. But otherwise, you're looking at some very specific exposures that could be causing it. So I think we all agree.

MEMBER DEMENT: And one of the cases that was sent to us, it happened to be a laundry worker. And this was a case that claimed CBD. And one of the things that was denied based on the lack of specific exposure information. But, you know, we all know industrial clothes, there are laundry workers historically the likelihood they had been

exposed. But this is a case where I think the hygienist should've gone back and talked with the individual.

MEMBER WHITLEY: Garry here.

MEMBER MARKOWITZ: There -- oh, I'm sorry. Garry?

MEMBER WHITLEY: Part of that problem is, you know, if we're going to work to help fix the program, we got a big list of chemicals. We do your first physical, we give them to people and ask them to do the best they can, if they think the chemicals they think they might've worked with.

Over 90 percent of them can't tell us any because they say, you know, I've been retired, you know, 15 years. I have no idea what I worked with. So I think that's part of the problem. The people don't have a clue what they worked with.

CHAIR WELCH: And sometimes, you know, if you're going from the disease backwards. It's like, you know, if you had somebody with bladder cancer, you don't need to know everything they worked with. You need to know, did they work with

these specific things? And so, if you go back and ask them that, and if you understand the process in which it was used, they may be able to say, oh, yes, I did use that.

So it takes a very knowledgeable person to do that and which is why, according to what's going in, is good. But afterwards, many times you have to go back.

I was thinking, Steven, do you remember that Brian Schwartz used to do detailed reports for a lot of his or some of his individuals. And I think he called people up. You know, and even though he had a questionnaire and a physical and everything to put together their case. I don't know if wouldn't help to get that from him at all, but I'm sure he would tell us. Go ahead, sorry.

MEMBER MARKOWITZ: Yes, yes. It's Steven. Going with what Garry has to say. So the interview shouldn't be used against a claimant. I mean, there is the risk that if they don't remember a whole lot. And the IH thinks, well, I've gone straight to the source and I can't confirm

exposure.

But the reality is, is that people didn't know when they were working, what they were working with, much less 20 or 30 years later. So we need to couch our recommendation and sort of express some of the limitations of the approach.

The other thing is that, you know, whether this interview should be -- the claimant should be open to or allowed to have a second party with them when they're doing this interview, to help sometimes explain the questions or what have you.

But I'd like to hear from people on the phone about whether this is a good idea. People from the facilities and from the advocate community whether this is a good idea.

MEMBER VLIEGER: This is Faye. I help claimants fill out the Occupational History Questionnaire. And it is so limited in what you can provide with it. And the questions don't help the claimant at all.

So if there was someone actually

looking at the work processes that the claimant might have been affiliated with, that would be great. But to make it -- so something has always been a problem, even with the work processes has been added. Because many of the workers could be associated with the work process but they wouldn't necessarily be the primary user of the work process and they're exposed as well.

So the exclusions that Department of Labor assigns to things now really needs to be broadened. And if the Occupational History Questionnaire was changed in such a way that it actually was relevant to each worker, that would, you know, help things quite a bit.

I know it's more of a work burden, but it needs to be done. You know, they could actually assign someone to each resource center to do this instead of, you know, making it an end product thing by the time the IH sees it.

CHAIR WELCH: Well, I think you probably need both. I think we probably need to improve the completeness and the accuracy. But

most of all, the completeness of the occupational history coming in. But a lot of times, they're very detailed questions the IH should be asking.

But, like, to know -- because you have an hour long narrative from somebody about what they did and it wouldn't even capture any of them. The people didn't know what they're working with, but, you know, John Dement would know. Because we've looked at some of the site reports that if a person did this kind of work, they had that kind of exposure. So that industrial hygienist can know things that the worker didn't know, if they're using all of the resources.

But I think, you know, we should try to improve it coming in. But I don't think that's going to be enough. I don't think the occupational questionnaire can ever be sufficient to say, you know, if that doesn't have some information assembled and the fact that it's absent doesn't mean that the case is not related to the exposures that maybe the worker doesn't remember it and SEM doesn't have it.

So the only way to figure that out is to go back again to the worker. In some cases there, you can't figure it out at all. But at least everyone has done their due diligence, whatever you want to call it.

MEMBER WHITLEY: Garry here. If a claimant comes and hasn't filed a claim yet and has a specific cancer that should be covered, before he files a claim, I give him things from SEM database. I'll print him off the chemicals that the SEM says cause that disease, the labor category that he worked at, and then the chemicals in the building that he worked with.

You better be sure that the SEM says they're our there worked at a certain building, or they'll come back and say we don't show that a pipefitter worked in that building. Well, we all know that a pipefitter works every building until they've got water.

But anyway, if they take all that with them, they won. It seems like they do pretty good with all these chemicals they worked out there.

But the Department is not going to allow or don't have the person filling out this stuff to even look on the database to help them with that.

MEMBER DOMINA: Hey, this is Kirk. And, you know, I agree with Garry because it's in the details in a lot of this. Just like earlier when you were talking about a laundry worker. When I was at a reactor at 100-N, you had the laundry workers. It went to a different facility, but the reactor operators on our side of the building handled the laundry. And there could be the laborers when construction was in there during maintenance outages.

And then the same thing with a lot of the different chemicals and certain things. If you were using them in an ARA or something, you were wearing a particulate cartridge. But if it's only made for rad, it wasn't for chemicals.

And so, unless you have somebody that has knowledge on facilities and the different things that went on, because it's in the details. And that's where I think a lot of it gets lost. And

I understand it's a huge undertaking, but we owe it to these people. Do a better job for them.

Because they are getting a lot of help. And, you know, especially, like, you know, where I'm at. I mean, when you look at the list of facilities when a bunch of them are torn down, I mean, I've been in a lot of places. There's no record of it because I went over there and worked for a day or two or whatever. And, you know, I don't remember the name of all these buildings or the bunkers or whatever.

And the people that do this maybe now for Department of Labor, you got to go back in time and see how things were done at that point in a time. And we were in a Cold War and certain things happened, like, when during a reactor operations. It's like, you get it done, you know.

I mean, and there's no record of you did some certain event during some certain time because you had an emergency and you happened to be on gray guard and it's on a weekend. They don't call nobody. You get it done.

And it's all in the details. And for people that have never worked here and think that they can know exactly what we're exposed to and it's frustrating from the claimant community, for the workers. Because we know this stuff existed because we lived it. And then for somebody else who lives 3,000 miles away to tell us that it doesn't, that's an issue.

CHAIR WELCH: Yes. I think that DOL probably has a -- I mean, they're trying to manage it by they want some other validation, other than the worker's description of what he or she did, if it's not in the SEM. But maybe we can establish something else, like, a coworker. In the same way you can do employment where, in the beginning, they rely on people to verify employment through affidavits if the data wasn't there.

MEMBER DOMINA: There is no IH data for a lot of this stuff at that point of time. It's usually against you. Just, like, in the 100 areas, it wasn't until, like, '99 or 2000, they said we had alpha contamination but they never looked for

it until then. And so, it's the same thing. They'll go after stuff but they don't want to know.

CHAIR WELCH: Well, I think that one is definitely true, yes, but -- no, go ahead Steven.

MEMBER MARKOWITZ: Well, so we can recommend the resource center hire X former workers to be trained up and administer the Occupational History Questionnaire.

CHAIR WELCH: Yes. I think that's a very good recommendation since --

MEMBER DOMINA: This is just another problem after what Steven said with that. I understand that in the general sense. But with that being said, it may also be somebody who has that particular skill set just so you do get the particulars better.

Just how, you know, when I've had DOL tell me that Hanford doesn't have boilermaker welders when it's a job classification for us. And, you know, there's pipefitter welders and millwright welders and electrician welders.

And, you know, so there's these other

different things that come into play. Where a particular craft knows their skill set better than somebody else. Where it may be you had a general big person, but then on the interview process. But somebody also who has that skill set for that particular craft.

I mean, it's just like with our janitors at 100-N, they were in the radiation buffer areas. Because if there's tile back there, you know, there's concrete in between, the tile belongs to the janitors. So they're back in the work areas, in the change room, because there happens to be tile on the floor. You know, the same thing intermingling, co-mingling with all the other craft workers and everybody.

And so, if you don't understand that, you know, and have them move our lunchrooms because the background radiation is too high, that it's a lunchroom for how many years. Or there's so much asbestos in our main lunchroom, you know. But there's no record of that.

MEMBER WHITLEY: I think what you

suggested would be a big help here. It would be a big help because right now the people at the resource center do it. That person, they've never been inside of the plant, never worked at the plant, have really no idea.

They're really doing the best that they can. They're asking the question, but the people are asking, seeing the claimant doesn't have an idea of what he's trying to do. He don't know.

And so, something like that. I don't know how or where you find those people. But I do think anything like that would be a big plus. Because if you get this thing off the wrong foot, they won. Like Kirk said a while ago, it's all in the details. If he gets off on the wrong foot, you can almost kiss it.

CHAIR WELCH: I mean, for the Building Trades, John developed a questionnaire that goes through -- it's a little bit -- in some ways it's easier. Because it's much more likely that approximately each one of these facilities does similar work, you know, an operator.

And I think that, in terms of the questionnaire, we also require certain area process of trying to understand at each site, are there things that you can assume about certain job title building combinations or something? Because you can't assume exposures based on job title from any of the production workers.

So in addition to having former workers hired and trained to answer the questionnaire, probably needs to be some continuous improvement there to always be better at understanding the data collecting. And so, that when people for next year asking questionnaires of workers at that same site, they know to add questions about something that's come up.

And I don't know how the OWCP could handle that at the resource centers. I guess just you just need a separate entity. And, you know, to have a quality assurance committee or some process that continues to update the Occupational History Questionnaire.

MEMBER WHITLEY: And also we've had

claims examiners tell people that coworker affidavits really don't carry much weight anymore.

CHAIR WELCH: Right.

MEMBER MARKOWITZ: This is Steven. So improving the OHQ should be on the April Board agenda from this Subcommittee.

CHAIR WELCH: Yes.

MEMBER MARKOWITZ: Okay. Okay. We are developing a plan to do that.

CHAIR WELCH: But I think we also, at the same time, want to make it clear that how good the OHQ is, as good as we can make it, there still needs to be the opportunity for the industrial hygienist to call the worker.

If there's some information that he or she thinks they need that's missing. And you've got a work-related disease but they can't identify that exposure. Well, they should talk to those people. And maybe it's not and maybe it didn't happen. And I --

MEMBER MARKOWITZ: Those are entirely compatible recommendations.

CHAIR WELCH: Absolutely.

MEMBER DEMENT: This is John Dement. To what extent do the resource centers currently employ workers that were former workers from the sites at all?

MEMBER WHITLEY: Garry here. I don't think ours have any.

MEMBER DEMENT: So construction workers, we found that particularly a couple in trying to help us focus on things that are important. Some of those issues that you just talked about, some of the exposures that you never get in just a job classification, we could come up to and to review that as well as some focus groups that we have as we started the program. We've held them periodically along the way as well. And there are just some exposures in job classifications in construction but they could never find.

MEMBER MARKOWITZ: This is Steven. Our former worker program employs all the former workers. So the resource centers really don't have the opportunity to hire any of them.

(Laughter.)

MEMBER DEMENT: I wonder who we have there.

CHAIR WELCH: There's a lot of them. There's a lot. There's a lot of them here.

MEMBER MARKOWITZ: Right, right.

CHAIR WELCH: You could get them. They have a lot, but you could give them 30,000 people where there's a bunch of them out there still.

MEMBER MARKOWITZ: Two hundred thousand.

CHAIR WELCH: Yes, exactly. Okay. I think what I'll do for this particular topic is I'll try to add some specifics, and send it to you all to look at before we have an opportunity to present it to the full board. You know, kind of outline what we've talked about and so we can all agree on what we'll be presenting as a proposal. Good. Thanks for this.

Just I wanted to tell you all that after our last big board meeting, John Vance got in touch

with Trish Quinn, who's the administrator of the Building Trades Program to say, well, we hear you have a really good Occupational History Questionnaire. Can we use yours to improve ours?

And that was sort of funny because, you know, we didn't recommend that, you know. It's like why don't you wait until the Board comes back with some recommendations about a process to do that? It's a great idea, though. So I think they're interested. They want to do it.

MEMBER MARKOWITZ: Yes. And you've been keeping it secret all these years.

CHAIR WELCH: Yes. No, not exactly. Okay. So those are my recommendations and we've talked about the OHQ.

So the last thing, because we still have 28 minutes that we can talk about, unless everybody is exhausted. This, what we call the 1995 circular. Which when you read the circular, it says that after 1995, exposures on the sites were all controlled.

And so, one would have to demonstrate

exposure, being that is a big presumption that exposure has occurred. But the explanation that we got back from DOL in the email that Carrie forwarded to us, they had seemed much less rigid than the answer they replied.

Should we walk through the whole 1995 decision process, or does everybody still feel on top of that?

MEMBER MARKOWITZ: I think if you walked through just briefly, it would probably help.

CHAIR WELCH: Okay. So one of the documents that we got is this memo from January 20th, 2015 to all staff in the policy branch. Basically saying they've looked at the available information and that, you know, DEEOIC's information to provide sources to make finding of exposure such as site exposure matrices, other sources.

And then they kind of walk through what the history of occupational health and safety is on the sites. And they say that in 1995, DOE issued

Order 440 Part 1, which established a standardized occupational health and safety protocol for all federal and contractor employees.

Which included a written work of production program and guidelines to enhance work safety process including "more or less monitoring of potential workplace chemicals, physical, biological, ergonomic hazards, guidelines and ways to stop work."

And so, DOL has picked that date, when DOE issued this order in 1995, to say that there's a finding of the program that DOE implemented the significant and rigorous employee occupational safety and health code and the publication of that order. And since they published the order, DOL finds that, after 1995, any exposure to a toxic substance by an employee working at that kind of facility occurred within existing regulatory standards or guidelines.

Because DOE implemented so you have to have it off the safety program, DOL is assuming that, as of that date, all exposures were

controlled to regulatory standards. And so then, based on that, it's just kind of a line in the sand about if we can prevent exposures before that, but you shouldn't have exposures after that.

And in the email, which I think, Carrie, did that come from Rachel, the one that you sent out?

MS. RHOADS: Yes.

CHAIR WELCH: It didn't say we were using it to make the determinations. We're using it just to decide who would go to industrial hygiene. And it doesn't make any sense to me because the circular says you can contain exposures.

Let's see. I'm trying to find that email.

MEMBER DEMENT: Laura, if you actually look at the last two paragraphs of the circular, it gets them out, a little outage in terms of meaning the exposures, in terms of causation.

CHAIR WELCH: The --

MEMBER DEMENT: The last two paragraphs

of the memo?

CHAIR WELCH: That memo, I can't --

MEMBER DEMENT: It's on the last page of the memo.

CHAIR WELCH: Where it says -- can you tell me what you're looking at?

MEMBER DEMENT: Yes. If there's compelling, probative evidence that documents exposures at any level above this threshold or measurable exposures in an unprotective environment is kind of the division. But the last paragraph says any findings of exposure, including infrequent, incidental exposure, require review of a physician to opine on the possibility of causation.

But, you know, I think it's something that's in your station. And it doesn't seem inappropriate to say that after 1995, things improved. It does seem inappropriate for me to entirely eliminate the possibility that a worker can provide evidence, supporting statements about their exposures that an industrial hygienist would

likely opine to be above some established threshold.

The other issue for me is that even exposures above some established threshold, on some of these does not exclude the possibility of causation.

CHAIR WELCH: That should, too. Absolutely.

MEMBER MARKOWITZ: This is Steven. John, I just want to make sure I understand your point. The logic of this policy is that exposures below regulatory thresholds wouldn't be harmful. And are you're saying the opposite, which is that --

MEMBER DEMENT: I think that's the intent here in some ways. But I think the memo does leave some out with regard to some interpretation that would say exposures were likely below some occupational exposure limits, okay? But we know the exposures of below established occupational exposure limits are not without risk. And it's entirely appropriate in those cases to have some

informed review of the case. And I think that does it in a sort of roundabout way.

CHAIR WELCH: I guess it'd be hard for us to know how this was being used to adjudicate claims.

MEMBER DEMENT: Yes. I think it's been used as yes, no. And I don't think it should be.

MEMBER DOMINA: Hey, this Kirk. You know, back in that time frame, you know, they still were monitoring for stuff. I mean, no matter how you look at it.

And the other thing is it was going on at that time. We're in the middle of the contract with our current employer. And so, when you're going to come in and say that they're going to just blanket across the board implement this new safety program, the employer is going to ask for a request for equitable adjustment. And if DOE does not provide money for that, they're going to push back.

Because I remember that time frame. We didn't hire anybody for a couple of years because

we didn't have a lot of money, you know. And you still went about your work. But, you know, they still did not measure for anything except for rad. That's what was supposedly supposed to be the big hazard.

And so, it still comes down that there is still no documents for any type of IH monitoring because they just didn't do it. And so --

MEMBER DEMENT: I think the other --

MEMBER DOMINA: -- the lines they drew.

MEMBER DEMENT: -- issue with regard to even improving conditions, it doesn't happen overnight either.

MEMBER DOMINA: No.

MEMBER DEMENT: As you say, you know, how are people putting programs in place, implementation, also takes a good job to get in place. Even --

MEMBER DOMINA: Years.

MEMBER DEMENT: -- if it's successful in the end. So it wouldn't be a magic date at all.

MEMBER DOMINA: No.

CHAIR WELCH: Yes. I don't see how this approach adds anything to their adjudication because unless you need an interval, like a line in the sand. Because they picked their certain -- they're saying there's a change at this date which we know is not true, that that date was a magic date. And that exposures after that date would've been maintained within existing regulatory standards which is unlikely.

But then they did say, well, you know, if there's -- the problem is the line that says if there's compelling, probative evidence that documents exposures at any level above the threshold or measurable exposures in an unprotective environment. But that is interpreted as being some kind of industrial hygiene monitoring, not book report.

So I think if you add all the nuances that we're saying need to be here, maybe you should pull this out. Because it's a judgment of whether exposures, at some point in time, were low enough. You know, people may have had some exposure to this

certain compound, but it was well controlled and always done with respirators. But that's a judgment based on each individual case. I don't think you make this assumption.

You want to try to figure out how this has been used? I don't know how to do that, but we could try.

MEMBER MARKOWITZ: Laura, this is Steven. You know what? I think my hunch is what they were trying to do is since the SEM doesn't include frequency, intensity, or duration of exposure, they were trying to assimilate the idea that exposure conditions in many places were probably getting better over time. And the SEM doesn't recognize that because it doesn't address the extent of exposure.

So they were kind of, and I'm guessing here, trying to come up with something, albeit, this is a blunt instrument, a blunt way to do it. But come up with something that acknowledges that exposure conditions have probably improved. Even if as Kirk says, you know, monitoring wasn't done

all that frequently.

So we can try to look at how they use this. And I agree, the headline is of this policy which is what I'm sure the claims examiner understands, the difference of the fine print which is totally qualifying.

But I think the underlying problem is that, is there some way of accommodating the idea that conditions in many places probably did improve over time? Not a given date, you know, not January 1st, 1995, but in general. And how did the claims have you processed accommodate that that happened? But, you know, that's my hunch. I don't know if that's, in fact, true.

CHAIR WELCH: In a way, it's a similar question. You know, if a worker reported that they worked in a particular building and then the SEM has a toxic substance in that building. That would substantiate our workers, the fact that they were exposed. Even though you or I may say, we're not going to know what it's doing. And I could make a better assessment.

So it's a similar situation. Well, you know, things changed over time and also, you know, you have to assess by their exposure. So it's only one way of trying to provide some nuance to the SEM.

But, you know, I think that the medical profession or the medical -- in terms of medical consultants, or one of the CMCs contract medical consultants, they often say that they didn't have enough exposure to cause this disease, you know, based on what he did.

MEMBER DEMENT: Now, that it's put forth in the memo that was sent to you after. The rationale for eliminating IH review is backwards, that if you tell me that you were a pipefitter pre-1995 at one of these facilities and you have a related lung disease, it's pretty clear, right?

CHAIR WELCH: Right.

MEMBER DEMENT: If you tell me you were a pipefitter when you first started after 1995. Let's say you have a condition. When in this presumption of low exposure may or may not be true. Which means I need to go back to the hygienist to

ask questions.

Okay, tell me what you did as a pipefitter. Tell me where you worked for, where you worked with and what kind of protection you used. And so it becomes more important down at the low exposure side, to me, to have the IH review.

CHAIR WELCH: That's a good point, yes, yes.

MEMBER MARKOWITZ: Yes. This is Steven. You know, I think if the OHQ and the IH interview work properly, you could do away with this memo.

MEMBER DEMENT: I think so, too.

MEMBER MARKOWITZ: So, you know, if we can get moving there, then because if I'm an occupational medicine doctor interviewing a patient and trying to decide whether there's causation. What I'm going to do is a good OHQ and whatever I can do by way of an industrial hygiene, you know, interview and make that decision. And we're just trying to replicate that in the claims process. So, yes, if you improve the OHQ and the

IH, there wouldn't be a need for this all or none kind of memo.

CHAIR WELCH: That, you said well. And my brain was trying to work out that. That's good.

MEMBER DOMINA: Yes, it is.

MEMBER DEMENT: Yes. Some of these industrial hygiene reviews, you know, I don't know well enough if they're getting referred out or not. But some of them just may not need to be done.

I mean, you can have some presumptions of some of these exposure disease relationships that you can be pretty definite or true pre-1995, you know. And so, you could concentrate on some of those a little more and do a far more in-depth investigation. And put your resources where the questions are as opposed to, you know, not acknowledging a known occupation disease association.

CHAIR WELCH: Yes. So you could take this whole memo and turn it around. And so, before 1995, where we didn't require comprehensive health

and safety programs. So, therefore, it's likely you could presume exposures were not well controlled.

MEMBER DEMENT: Yes. If you were exposed to asbestos after 1995 and you can say that you were exposed to asbestos. Then you have a 1/0, 1/1 assessment consistent with asbestosis, job done. You don't need a review.

CHAIR WELCH: Right, before '95, yes. I mean, I think it makes, in a way, asbestos isn't such a good example. Because you can really know in the history of the weapons context, when they stopped using certain tasks and operations, then you could totally tell time then for it. But some of the other compounds, you don't know. And still so much -- you know, there's so much secrecy.

MEMBER DEMENT: That's certainly one of the cases and I find it sort of strange. There was actually a case of silicosis in which the B-reader said it was a 1/1. And yet the medical record said because it didn't say silicosis, it wasn't supported which is contrary what even

they're own guy had said.

CHAIR WELCH: Yes, right. Well, you know, I bet a lot of these. It's like I feel where do you find these people? In a garbage can? That is just so grumpy because --

MEMBER DEMENT: Most of it, they have mixed presentation anyway. So, you know, it's 1/1.

CHAIR WELCH: Right.

MEMBER DEMENT: It should say silicosis.

CHAIR WELCH: Yes.

MEMBER DEMENT: And a document exposure of a minor.

CHAIR WELCH: Right. I mean, and to say what it has to be, you know, rounded up below capacities has been demonstrated not to be true. Because that's, like, if it's that, it's easy. But if it's not, it still has a very high likelihood of being silicosis.

But sometimes there's more sophisticated knowledge than what the consultant

physicians have. I mean, I see a lot of things that don't make sense coming back. Which is why some quality review would've been interesting. But I think what we've learned is that the DOL hands that all over to the contractor. They don't really hire workers. They don't have doctors or training, but that's a different committee where we have that in our meeting next month.

MEMBER MARKOWITZ: So this is Steven. I just want to add one point. Maybe not everybody is aware. The readings on regulatory standards haven't been changed in decades. I should know but I don't quite know whether DOE follows OSHA standards for, you know, the ones that don't make the headlines like beryllium and silica and the like.

But virtually all of the OSHA standards date from the 70s, except the handful that have been specifically updated since that time. So the idea that regulatory standards are entirely protective is not true.

CHAIR WELCH: That's the negative

things that were used in these facilities. There is no regulatory standard.

MEMBER MARKOWITZ: Right.

CHAIR WELCH: None. Because they're using very specialized compounds and mixtures and things like that. For which, you know, the workers didn't know what it was. I don't even know -- well, they didn't have industrial hygienists before these started coming in and saying, you know what? You have more than radiation in these claims.

I should figure out from you guys, if you're interested. I have some, the report on Portsmouth. It's probably in the -- was it in the files that you reviewed, John, when we did the site assessments?

MEMBER DEMENT: It is, yes.

CHAIR WELCH: It's kind of amazing what a mess that was, in terms of health and safety, in terms of exposures, you know. Because they had physicists but not industrial hygienists, health physicists. And, I mean, it was just -- it's for someone who hasn't worked there. People who have

worked there, obviously, know what it's like. But if you haven't worked there, it's amazing.

So if I can, I have her file upstairs because I was involved in some big cases at Portsmouth. I'll see if I can find them and I'll bring them along and circulate them around.

That's what makes me think you can't say, oh, well, in '92, it was a disaster but in '95 was fine. But, you know, the standards are old. They're not protective. The exposures probably continued after '95 and they're not standards.

So your report was the best one, Steven, that if we change the process, they can drop the circular altogether. Because the process would allow more nuance to every case. A better assessment for every case.

MEMBER DEMENT: You know, and this process will never be perfect. But I think, you know, having more informed decisions by the IH going to the contract medical consultant, it's going to have a better outcome.

CHAIR WELCH: Yes, yes. Well, guys we

are finished with our agenda and my agenda. Steven, what's your vision for how our subcommittee is going to report back to the big committee next month?

MEMBER MARKOWITZ: You know, I can figure that out. I can think we're going to have to prioritize certain topics by each subcommittee because each subcommittee is dealing a bunch of important topics. I'll figure out where the overlap is so we can, you know, coordinate the discussion there. But I don't know. I have to figure that out. We have to talk about it.

CHAIR WELCH: I mean, well, so I'll write a summary of our call and that'll help. You may not have a ton of points to cover, but I'm sure many of them which were in our discussion.

MEMBER MARKOWITZ: Right. Well, I mean, our priorities should be either recommendations that the Subcommittee is coming up with. Also, important issues for which the full board, you want to get additional opinions, you know, immediate recommendations.

CHAIR WELCH: Okay. All right. Well, I will, by the end of next week, probably because I'm going to be away, to get you a summary of what we've talked about and the recommendations I think we're wanting to make back to the full committee.

MEMBER MARKOWITZ: And it's Steven. I have notes I'm going to scan and send you in a couple of minutes.

CHAIR WELCH: Fantastic because I was taking notes, too. But yours will definitely help. Great. Okay. Thank you all very much and see you in Oak Ridge.

MEMBER WHITLEY: This is Garry. Do we have any of the agenda yet on the times of the meetings? I'm having people ask what are the times of our meetings for the next at Oak Ridge.

MEMBER MARKOWITZ: Yes. We have the time, the general times, and I'm not sure --

MS. RHOADS: This is Carrie. The federal registered notice will be published tomorrow. And the meeting times in there are

listed as 3 to 5 o'clock on Monday. And it's all-day meeting on Tuesday with a public comment session at the end. And then Wednesday until 2 o'clock with the last hour being public comments.

MEMBER WHITLEY: Are you there, would you say, probably 8:30 then?

MS. RHOADS: Yes.

MEMBER WHITLEY: Okay, and thanks.

MEMBER MARKOWITZ: But Garry, you got to get on the tour with us on Monday morning, you know.

MEMBER WHITLEY: Yes. Someone has got to tell you the truth.

(Laughter.)

MEMBER DOMINA: Amen, brother.

CHAIR WELCH: It's going to be great. And then --

MEMBER WHITLEY: It will be good.

CHAIR WELCH: Good.

MEMBER MARKOWITZ: Okay. Thank you.

CHAIR WELCH: See you all then. Bye-bye.

(Whereupon, the above-entitled matter went off the record at 2:57 p.m.)