

U.S. DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES
AND WORKER HEALTH

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THURSDAY
DECEMBER 1, 2022

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The Advisory Board met at the JW Marriott Las Vegas Resort & Spa, Cataluna Room, 221 N Rampart Blvd, Las Vegas, NV, at 8:30 a.m. PST, Steven Markowitz, Chair, presiding.

SCIENTIFIC COMMUNITY

AARON BOWMAN
MARK CATLIN*
GEORGE FRIEDMAN-JIMENEZ*
MIKE VAN DYKE

MEDICAL COMMUNITY

MARIANNE CLOEREN
STEVEN MARKOWITZ, Chair
MAREK MIKULSKI
KEVIN VLAHOVICH

CLAIMANT COMMUNITY

JIM H. KEY
GAIL SPLETT
DIANNE WHITTEN
LORNA ZABACK

DESIGNATED FEDERAL OFFICIAL

RYAN JANSEN

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ALSO PRESENT

KEVIN BIRD, SIDEM
CARRIE RHOADS, DOL
GREG LEWIS, DOE
JOHN VANCE, DOL

*Present via video teleconference

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

8:28 a.m.

MR. JANSEN: Good morning, everyone. My name is Ryan Jansen and I'm the Designated Federal Officer for the Department of Labor's Advisory Board on Toxic Substances and Worker Health.

I would like to welcome you to day two of this meeting of the advisory board here in Las Vegas, Nevada.

Today is Thursday, December 1, 2022 and we are scheduled to meet from 8:30 a.m. to 11:00 a.m. Pacific Time.

I am, again, joined by Carrie Rhoads from the Department of Labor and Kevin Bird, our Logistics Contractor.

There will be no public comment period today.

The Board's website which can be found at dol.gov/owcp/energy/regs/compliance/advisoryboard.htm and it has a page dedicated to this meeting.

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The page contains all materials submitted to us in advance of the meeting and will include any materials that are provided by our presenters throughout the next day.

There you will also find today's agenda as well as instructions for participating remotely. If any of the virtual participants have technical difficulties during the meeting, please email us at energyadvisoryboard@dol.gov.

If you are joining by WebEx, this session is for viewing only and microphones will be muted for non-advisory board members.

So, the public may listen in, but not participate in the Board's discussion during the meeting.

A transcript and minutes will be prepared from today's meeting. As DFO, I see that the minutes are prepared and ensure that they are 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. But if they're

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available sooner, they'll be posted sooner.

Although formal minutes will be prepared according to FACA regulations, we also prepare verbatim transcripts and they should be available on the Board's website within 30 days.

During the discussions today, please speak clearly enough for the transcriber to understand. When you begin speaking, especially at the start of the meeting, make sure you state your name so that it's clear who is saying what.

Also, I would like to ask our transcriber, please let us know if you are having trouble hearing anyone or any of the information that is being provided.

As always, I would like to remind Advisory Board members that are some materials that have been provided to you in your capacity as special government employees and members of the Board which are not suitable for public disclosure and cannot be shared or discussed publicly, including during this meeting.

Please be aware of this throughout the

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discussions today.

The materials can be discussed in a general way which does not include any personally identifiable information or PII, such as names, addresses, specific facilities if we are discussing a case, or a doctor's name.

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

I will now turn it over to Dr. Markowitz.

CHAIR MARKOWITZ: Good morning, everyone. Let's do quick introductions before we have our guest speaker.

I'm Steven Markowitz, occupational medicine, physician, epidemiologist, professor at City University of New York and Director of the former worker program of 14 DOE sites over the last 25 years.

Ms. Zaback?

MEMBER ZABACK: Good morning, my name is Lorna Zaback. And I'm a new Board member from

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the Hanford site.

I have worked on the EEOICP program for about 28 years now.

Thank you.

CHAIR MARKOWITZ: Dr. Vlahovich?

MEMBER VLAHOVICH: My name's Kevin Vlahovich. I am Medical Director of Employee Occupational Health at the University of New Mexico and my specialties are preventive medicine and occupational medicine.

CHAIR MARKOWITZ: Ms. Splett?

MEMBER SPLETT: I'm Gail Splett. I'm retired from the Hanford site from 45 years. My last job on the site was the EEOICP program manager for Hanford.

CHAIR MARKOWITZ: And Dr. Mikulski?

MEMBER MIKULSKI: Good morning, Marek Mikulski, Occupational Epidemiologist, University of Iowa, Occupational and Environmental Health.

CHAIR MARKOWITZ: Mr. Key?

MEMBER KEY: Good morning, Jim Key, 48-year employee, worker at Paducah Gaseous

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Diffusion Plant and depleted uranium facility, president of United Steel Workers Atomic Energy Workers Counsel which covers seven or sites across the nation representing approximately 7,000 workers.

CHAIR MARKOWITZ: Dr. Bowman?

MEMBER BOWMAN: Good morning, I am Aaron Bowman. I am a professor and head School of Health Sciences at Purdue University. I am a toxicologist.

CHAIR MARKOWITZ: And Dr. Cloeren?

MEMBER CLOEREN: Hi, Marianne Cloeren, Occupational Medicine and Internal Medicine. I'm an associate professor at the University of Maryland School of Medicine.

CHAIR MARKOWITZ: Dr. Van Dyke?

MEMBER VAN DYKE: Good morning, Mike Van Dyke, Industrial Hygienist and associate professor at the University of Colorado.

CHAIR MARKOWITZ: And Ms. Whitten?

MEMBER WHITTEN: Diane Whitten, I'm a Radiological Control Technician at Hanford for

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over 34 years. I'm currently the Hanford Atomic Metal Trades Counsel Health Advocate.

CHAIR MARKOWITZ: And do we have any Board Members on the line?

(Simultaneous speaking.)

CHAIR MARKOWITZ: Okay, fine.

Mr. Vance?

MR. VANCE: Good morning, everyone, John Vance. I'm with the Department of Labor and I'm the Policy Branch Chief for the program.

CHAIR MARKOWITZ: And Mr. Lewis?

MR. LEWIS: Hi, I'm Greg Lewis with the Department of Energy. I'm the Director of the Office of Worker Screening and Compensation Support.

CHAIR MARKOWITZ: Ms. Jerison?

MS. JERISON: Deb Jerison, Energy Employees Claims Assistant Project.

CHAIR MARKOWITZ: And Ms. Blaze?

MR. BLAZE: I'm D'Lanie Blaze of Core Advocacy for Nuclear and Aerospace Workers.

CHAIR MARKOWITZ: Okay, thank you.

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Is Dr. Friedman-Jimenez on?

(Off microphone comment.)

CHAIR MARKOWITZ: Okay, fine. Well, he's Board Member. He's an Occupational Medicine physician, head of Occupational Medicine at Bellevue Health Center Hospital in New York City and a long-term Board Member.

And Mr. Catlin who's an Industrial Hygienist consultant will be joining us in about an hour or so.

So, let's begin with Mr. Greg Lewis who is Director of the Office -- I think he just said who he was, but let me -- while he's sitting down -- Director of the Office of Worker Screening Compensation Support at Department of Energy.

And we, once again, thank Greg for that great tour that he arranged for us a couple days ago.

So, welcome.

MR. LEWIS: Hi, everyone, good morning. I'm glad you enjoyed the tour. That was the first time I've toured the test site as well.

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So, I was excited to finally get to tour that facility.

So, I'm here, again, I'm Greg Lewis. I'm the Director of the Office of Worker Screening and Compensation Support at the Department of Energy. And my office does two things, it funds and supports Department of Energy's role in the EEOICP, the compensation program, and then we also fund and support the former worker medical screening program, which I know many of you are familiar with.

I'm going to talk to you mostly about our role in the EEOICP and how we conduct record searches. And then, at the end, I'll give you a little bit of information about our former worker program.

Next slide?

So, under EEOICP, we do three things, but basically, all three are providing records and doing research into DOE facilities, operations, and history.

Primarily, the biggest thing that we do

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is respond to Department of Labor and to NIOSH for individual claims. So, when someone applies to the program and says they worked at Los Alamos or Hanford or wherever, we, you know, my office funds and supports the effort to respond to that request to make sure DOL and NIOSH get all the information that they need to adjudicate that claim or reconstruct dose.

But we also provide support and assistance to both DOL and NIOSH on large-scale site characterization projects or research projects. So, things like the site exposure matrix or special exposure cohort, research projects, we assist both departments with that research.

And then, the third thing that we do, which is a little bit smaller but equally important, is conduct research into facility coverage. For the most part, facility coverage is established, particularly for the bigger DOE sites, but there are over 350 facilities covered under this program, many of those are -- most of

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those, actually, I should say, are much smaller atomic weapons employers who did, you know, very targeted work for DOE for a year or two, sometimes for a month or two or even a week or two.

So, the amount of information available on those facilities is not as comprehensive. So, every once in a while, we have to change or update that facility coverage, either add a facility, take away a facility, or adjust the years. So, we research and work with Department of Labor and NIOSH to do that.

Next slide?

So, for the individual claims, which is, again, you know, the bulk of what we do is manage the response to individual claims requests. And really, the linchpin of that, the people that really do that are our site POCs, or points of contact, one of which is on the Board and one of which is formerly our POC on the Board for Hanford.

So, they are really the most important -- they are the person that really coordinates this. They manage the process. They manage the

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QA/QC on these claims. They also help facilitate the research projects. They help set up site tours, as you know.

And they also provide on site information to the workers. You know, they let them know about these programs that they're eligible for, also brief management about these programs and, you know, what they're workers are eligible for.

So, our -- the POCs are really the most important people in this process around the complex.

Next slide?

So, with the individual claims, they're broken up into three, you know, it's all individual worker records, but we kind of count them in three different ways.

The first is the employment verification which is kind of the first step in the process and the most basic step. Department of Labor's going to send us a request, asking, you know, so and so's applied to the program. They

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said they worked at this facility or these three facilities. Did they work there? And in what years and, you know, what was their job title? Just a basic, you know, did they work at the DOE facility and for how long?

Then, we'll also -- I'll go out of order here -- then the next step is Department of Labor is going to send a second request for that same individual, we call it DAR, Document Acquisition Request, just kind of an acronym we came up with at the beginning of the program.

But what that's going to ask for is basically everything else on that individual, any kind of exposure information, anything about what that worker did, where they were, any kind of detailed information about their employment.

And then, the third type of request is what we get for NIOSH and that's generally asking for radiological monitoring and dosimetry data. Where we find that is, you know, sometimes it's in some different places but they're basically asking for the radiological monitoring data.

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Next slide?

And actually, before I continue, I should say, I'll certainly take questions at the end, but if people have questions while I'm talking about something, feel free to ask. It's probably easier to cover while I'm on the slide. So, if you have a question, just let me know.

So, a little bit of history about our search process. You know, again, we've been doing this for about 20 years now. So, when we started, pretty much everything was in paper. You know, we were printing things out, photocopying paper records, boxing them up, and, you know, mailing them to the Department of Labor, NIOSH.

As time went on, it started to become a mix of paper records and then also electronic records on CD, particularly as the workers, you know, were applying that were a little bit more current, we might have information electronically. So, we were putting it on a CD.

Then, we finally went to all records on CDs. So, instead of photocopying, we were

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scanning and putting things on CD or thumb drive.

Then, we got a little bit smarter about the protection of PII, because, as you can imagine, you know, there's health information in here. There's HR information. There's all sorts of sensitive information about these workers. So, instead of sending it just in digital format, we started encrypting those CDs or thumb drives.

And then, finally, about ten years ago, we went to what we call our SERT system, which is -- the acronym stands for Secure Electronic Records Transfer system. And it's a web-based encrypted system that Department of Labor, NIOSH, and all of the DOE sites have access to.

And in that way, the DOL and NIOSH initiate the request through SERT. And as soon as they click, you know, they put in the information and they click send, it pops up on the DOE side.

So, we've eliminated all of the, you know, two or three days or more back and forth with shipping things. And so, it's instantaneous. They upload and click send, the site gets it, and

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is starting on it that very day. And when the site, you know, gets everything together, they upload it back to DOL or NIOSH and it's instantaneous, it's real time.

It helps with tracking and helps with management. And it also makes sure things aren't lost in the mail. So, you know, and it protects the PII, most importantly, it's, you know, getting it to an encrypted system that protects that personal information.

Next slide?

So, we've also, throughout the history of the process, done quite a few scanning and indexing projects. You know, I would have loved to say that all of the records for all time, in DOE are scanned and digitized, but that's not even close to being the case, unfortunately. Again, we have thousands and hundreds of thousands of boxes of records. So, that's not all digitized.

However, there have been some large-scale digitization efforts, probably most notably at Hanford, has been doing a huge

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digitization project for, I don't know, five, six, seven, you know, quite a while now.

So, they actually have scanned and digitized a huge percentage of their collection, or at least a collection that they use for EEOICP, but I'm sure there's plenty of site records that are still in paper format.

There's been a few others, Idaho, Nevada, most notably. But most of our scanning and indexing or digitization projects are smaller and targeted. You know, we try pick the collections, again, we don't have the money to scan thousands of boxes.

But, you know, in many cases, there would be a set of binders or, you know, a few boxes that, you know, those high-touch collections that we're going to repeatedly, over and over, but were difficult to get at the information. Either they weren't organized very well, they weren't indexed. Sometimes, you know, there were collections organized by year, not by name or by facility, not by name.

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So, we've tried to go through those and organize them in a fashion that we can get to quickly. And where possible, we've scanned them so we can type it in and then just drag and drop the result into the -- into our response.

So, we have done quite a few efforts to modernize and make our process more efficient. We certainly have more work to do, though, in that regard.

Next slide?

So, at most -- every site is different in terms of how they respond to EEOICP records request. But generally, they follow kind of a typical pattern.

So, what happens is our EEOICP POC receives the claim through our SERT system. And typically, will do some type of triage on that claim. You know, one, they're going to check to make sure, you know, is the name, Social Security, date of birth, you know, the information in there, does that match what we have? Does that look correct?

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Oftentimes, they're going to cross reference that to find a site ID number, you know, or some type of site badge number because there may be unique identifiers used by that site. So, they're going to cross reference it for that.

And then, also, sometimes, they'll check to make sure, you know, at many of these sites, there's multiple generations, there are multiple family members. So, they'll make sure that, you know, they're -- it's the senior, not junior, or junior, not senior. You know, or making sure that they're looking for the right person and all of that information matches.

Next slide?

And then, that EEOICP POC is going to send that records request out to various responsive records areas. You know, typically, they'll go to the human resources Department, medical, IH, RADCON or dosimetry. Sometimes, there's a different group for incident or accident reports.

And then, sometimes the records are archived. So, they're going to farm it out to

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three, four, five, six different locations and those groups are going to pull everything they have on that particular individual and send it back to the POC.

Next slide?

So, you know, with each of these groups, and I'll make this point a few different times, and there's actually a chart a little bit later on that I think illustrates it pretty well, but the process, you know, particularly for a long-term site employee, a 10, 20, 30, 40 year employee, these different groups oftentimes have to go to a number of different locations to find records on one individual.

You know, and it really depends, they might find it all in one place. If they were a part-time worker, everything might be, you know, fairly easy. But again, if they were a long-term worker, if they worked for multiple different contractors or subcontractors, if they were a construction worker or an on site, off site, on site, off site, you know, it might be -- there might

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be a number of different locations where we have to search for these records and find records on the individuals.

Next slide?

So, you know, and again, as I was saying, the type of worker is going to be, you know, is really going to determine where those records might be, how long the worker is going to help determine where those records might be.

And also, when they were there. You know, a worker in the '40s, '50s, and '60s, we're going to have to go to a completely different location than someone that was '80s, '90s, 2000s, usually, not always.

And then, also not all records have the -- or not all sites have the same models. Like legacy management has the closure sites. Because it's not an active site, there's not all of these different departments. Everything is one records archive area.

Or in some places, I mean, actually Hanford does this, they've pulled some of those

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different groups all into one central group where, instead of going to IH or medical or RAD, they have one central group that can just check those different, you know, that has access to those different search tools and databases so they can do it all from a central location.

And then, also, for federal employees, we typically have to go to the records archive in St. Louis.

Next slide?

So, I know none of you can read this slide really, and that's not the point. I've got two slides up here, but this is just an example of a records source table from one of our sites. And I think it's Idaho, but don't quote me on that. And it's actually, it's out of date, so I'm sure it's been updated since, you know, since I've put this slide in years ago.

But this is -- and actually, if you can go to the next slide because this is the second?

Yes, so, you can't read it, but on the left column, it's talking about the type of record.

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So, it's like radiological records, medical records, things like that.

And then, in there, I think the middle column which you can't see really, but you'll see there's probably ten different entries and one, you know, five, six, seven, there's a number of different entries. Those are the type of collections and the years that are covered.

So, if you worked from, you know, '65 to '70, you'd have to go to one of those lines. If you worked from '75 to '77, you have to go somewhere else.

And then, in the second to the last column up there, again, which you can't read, but it has the format of the records. So, you've got some records that are electronic. You've got some that are paper. You've got some that are microfilm. You've got some that are microfiche.

So, every single one of these lines on here is a records source. It's a place that we might have to go to check for one individual.

Now, you'd never have to go to every

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single one of these for an individual, but at many sites, you might typically have to go to 20 different places for one individual or more if they were a 20 or 30 year employee at a site that, you know, went through different contractors.

And a lot of this, that's why, as a new contractor came on site, they had their own way of doing things. They had their database. They liked to use microfilm. They liked to use paper, whatever it is. But a lot of these contractors would change things or managers, you know, would also like the newest and different things. So, there was a lot of change with records management and that's really reflected in how we have to search for records.

Next slide?

So, I'll give you some metrics about, you know, what we do and how many we handle.

We do about 14,000 records request a year. That's for all three types. So, it's not 14,000 unique individuals, it's somewhat less than that. But we do 14,000 records responses per year

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from over 25 different DOE locations.

Next slide?

And I have -- and these actually -- this is somewhat dated. I haven't rerun these numbers in a little while, but I think it's probably pretty similar to what we're doing today.

These are some average numbers as far as the size of records packages. But it's really only useful as an average. I mean, the, you know, for long-term M&O employees that were there for 30 years, we might have literally thousands and thousands of pages for some construction workers or subcontractors, particularly those that weren't there for very long.

We might, unfortunately, not be able to find a single record on the individual.

But for averages, for an EV, we average about 15 pages per response. For a NIOSH request, about 50. And for a DAR, about 150.

Question?

MEMBER BOWMAN: Yes, Aaron Bowman.

You had -- you're emphasizing looking

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up records relating to an individual and gave an example of maybe someone that might be there a short period of time and there may not be an individual record.

Are there records, if you know where they worked, do you send information relevant to all workers in this area would have had potentially these exposures? Or is it only if you have an individual?

MR. LEWIS: So, typically, not. And part of that is -- actually, most of that is because of the site exposure matrix.

I mean, there are some cases where, if we're unable to find anything and, you know, the claim says that they worked in this area, we might send some generic information back about those areas.

But typically, in these requests, we are looking for information just something with that person's name on it or tagged specifically to that person.

And I should say, you know, for subs,

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that's probably -- for construction subs, in particular, are probably our most challenging type of requests. And for those, you know, we know most of the time we're not going to have kind of a formal HR record or a formal record.

But we have to kind of look for those secondary records on those subs. That's where we're able to find something.

So, what we're looking for is dosimetry. You know, if they worked in a RAD area, they should have been badged. So, we're going to look, you know, are there any dosimetry information on the person.

Accident or incident, you know, they might -- they probably wouldn't have gone to the medical clinic for routine physicals, not to say they didn't, but a lot of times, subs wouldn't have done that.

But if they were involved in an accident, even if it's not related to a chemical or radiological exposure, even if it's a slip, trip, or fall, it's still going to put them on site

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and it's going to put them in a certain facility and might have some information about what they were doing when they fell off that ladder or whatever the case may be.

So, we kind of look for those. Sometimes security, you know, clearance, if they had a clearance or a badge that wasn't always kept for a long period of time, but if we have those, we'll find it.

And sometimes, we have gate logs or sign in sheets where people went in and out of the facility. Again, those typically weren't retained for a long period of time, but sometimes they were, you know, through inertia or whatever else. So, we'll try to check those secondary sources for information on construction subs.

Next slide?

So, we also -- timeliness. We have had, since the start of the program, we've had a 60-day goal to get these records back to Department of Labor and NIOSH.

In FY22, we had about an 85 percent on

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time response rate. Prior to the pandemic, we were at a 98 percent response rate. So, the pandemic caused us some significant problems, mostly with paper records, things held off site or access to the facility, you know, for a time.

Since the pandemic has waning, we were catching up as far as our timeliness, but then, we also had an issue where we changed our PII -- PII's personal identifiable information -- we changed our requirements for protection of PII and redaction of PII so that caused us some significant delays in 2022. So, we just hit our 85 percent goal.

Our goal is to be back over 90 for next fiscal year and we'd like to get back up into the high 90s within a year.

So, next slide?

So, I'll talk a little bit about the SEM, but I know you heard from John yesterday, so I know you're pretty well versed in the SEM.

But, you know, as far as site characterization projects or site research, that's

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probably the biggest thing we do for the Department of Labor is support the Paragon team and SEM research.

For the initial SEM back in the, you know, late 2000 time frame, teams from DOL went to every DOE site, myself or some of my office accompanied them on most of those visits.

The site worked with the Paragon team and provided, you know, thousands and thousands of records. I know there was some talk, I believe Ms. Blaze was talking about a specific reference yesterday, and I think everything in that SEM refers back to a specific document and has a document number. And I think almost all of those documents came from DOE and the DOE sites and may have gotten some things from the public or elsewhere.

But pretty much most of those records were from DOE and part of that initial research effort.

I think John mentioned the SEM's reviewed for classification every six months. So,

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the -- what the DOE, or sorry, what the DOL claims examiners are using at any given point is slightly different than what the public has access to but only in a matter of a six-month update.

So, every six months, we review that and it gets populated live on the public facing SEM.

Question?

MEMBER BOWMAN: Yes, just a quick -- sorry, this is Aaron Bowman again. A quick question on that review.

Are there ever items that are released from the private to the public that then on a subsequent review go back to just being private?

MR. LEWIS: That's a good question.

So, let me see if I -- so, there has -- in my recollection, I don't believe that there's been anything removed from the SEM. There may have been, in some cases, a request to change a word to a different word or make it slightly less descriptive.

But when I say every six months it's reviewed and updated, there's not a different SEM

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that Department of Labor uses. It's only that six months. So, there's not a SEM that has, you know, everything that gets denied from the classification review stays in the DOL SEM, but is not in the public SEM. They are one in the same.

The only difference is, it's up to a six-month lag. So, there's not a SEM with classified information in it. It is made sure it's not classified.

And, again, I think there's been little to nothing removed and the only thing I can remember is things were maybe changed slightly to, again, make them less descriptive, you know, be less descriptive about the, you know, where that, you know, don't state the sub-facility, just say a chemical was at, you know, a bigger building or something. They didn't want to be as specific with the description. That's it.

MEMBER BOWMAN: And if, in cases where there are, say, classified hazardous materials that can be in the SEM because they're classified, are there efforts made to indicate a, you know,

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there was a substance that might be a oxidative stressor or that might be -- is there anything to sort of make them declassified, but in some way they could be accessed?

MR. LEWIS: So, how it's been explained to me is the presence of any chemical at a site level is not classified.

So, there always is going -- they can have any substance listed at the site. It's when you get into how a substance was used or specifically where it was used that you can get into problems.

So, at worst, instead of saying that such and such was used in this particular place by these particular people, they might just have it a site level. That's how it's been explained to me by the ombudsman.

MEMBER BOWMAN: So then, potentially a search that someone narrowed down, I went at this building, might be incomplete and they would get a more complete list if it was the entire site?

MR. LEWIS: possibly, but I'd have to,

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you know, I'm not super well versed on exactly what has been adjusted. I think there hasn't been very much is my understanding.

MEMBER BOWMAN: Okay, thank you.

MR. LEWIS: So, let's see, next slide, please?

And we continue to support DOL and Paragon team with SEM updates.

Next slide?

We also support outreach efforts. We partner with Department of Labor, NIOSH, the DOL and NIOSH ombudsman as well as our former worker medical screening programs to conduct outreach. We call it the Joint Outreach Task Group because, again, while all of those groups have a little bit different of a mission, they're generally trying to reach out to the same people.

So, we found it more efficient on our end to partner for outreach and we also think it's more efficient for the workers because, instead of going to a meeting and having to question and saying, oh no, you've got to ask NIOSH or you've

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got to ask the former worker. We are hoping to bring all of these groups together so no matter what the concern, question, issue that a person has, there's someone there that can help them or help point them in the right direction.

So, we partner with these groups for outreach. We're getting back to in person outreach. And we've, of course, ramped up our virtual outreach which has been very successful under the pandemic and we're going to continue it, you know, just because it's an efficient and easy way to do things.

Next slide?

And then, I'm just going to talk to you briefly about the former worker medical screening program. That's the other program that my office funds and supports.

It was established back in 1993, although it really didn't get going, I think, until about 1996.

Next slide?

And so, the program serves all former

workers from all DOE sites. We're able to provide screenings close to where people live. We have six different groups that implement the screenings, or six different partners, I should say. And many of them are represented here at this table.

We identify and notify former workers that they're eligible for these screenings. We offer them the screening. We have occupational medical physicians that are able to review the results, provide them a letter that, if they, you know, have a finding, potentially these occ docs, you know, understand the DOE sites and are able to tie that finding to the work that the person did which then helps them, you know, follow up with the Department of Labor for compensation, you know, if relevant, or you know, if they have a finding that could qualify.

And of course, the former worker program isn't directly -- you do not have to go through the former worker program to go through the compensation program but certainly it provides a leg up and provides some assistance in getting the

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right language, the right letter that ties that disease to the exposure.

So, you know, I think -- next slide?

I think that's -- I have the maybe the website for the former worker program, yes. So, for more information on the former worker program, you can go to that website. It's a great resource.

Again, it's free. It's convenient. They understand the exposures and they understand the right tests to do to, you know, to hopefully find things early and lead to a better medical outcome.

So, I think that's it. Are there questions?

CHAIR MARKOWITZ: Dr. Cloeren?

MEMBER CLOEREN: Hi, Marianne Cloeren.

I have a question about -- a couple questions really, about the DARs.

How often and kind of like what is the trigger, I guess, for a claims examiner to do a DAR? It's not done in all cases, is it? Just cancer or is it in all cases?

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MR. LEWIS: It's pretty much done in all cases.

MEMBER CLOEREN: That's interesting.

MR. LEWIS: I mean, the question for DOL, I don't know why we wouldn't. I mean, I guess, if a person qualifies for a special exposure cohort, I think theoretically, you might only need to do the employment verification because they have the cancer and you just need to show the 250 days.

In practice, however, when an SEC goes through, we still typically see DARs. I think that's maybe because, you know, there may be multiple conditions. They might also be looking to establish wage loss or even with the cancer, they can file under B and under E for that same cancer.

So, in practice, my understanding is most claims, almost all claims, get an EV and a DAR.

MEMBER CLOEREN: Follow up question, thank you.

Can claimants get copies of the information that is produced in a DAR?

MR. LEWIS: They can and there's a

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couple different ways they can do that.

They can file a FOIA or a Privacy Act request directly with the Department.

They can also get a copy of that information as part of their claim through DOL.

So, I think either way, they can get access. They certainly don't have to request their records. In some cases, it can be a little frustrating when we get multiple, you know, we get a lot of FOIAs and PAs and also a lot of EEOICP. We're doing kind of the same thing but for different ways.

But it is certainly a claimants right. They can always request their information directly from us or get it from DOL on the back end.

CHAIR MARKOWITZ: Other questions or comments?

I have a quick question. Is DOE constantly finding additional records that are given to DOL to add to the SEM?

MR. LEWIS: Yes. I mean, so, yes, as far as the SEM, I mean, Department of Labor is

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always working with probably at least a couple of our sites with, hey, we, you know, are looking to update from 2010 to present. You know, if the site's doing current activities.

Or we have a request from -- because, you know, I think on the SEM website, you can submit information. So, if someone submits, you know, some documents, they might send us a request. Hey, do you have anything else that would also, you know, that would help verify whatever this person is requesting?

Sometimes the person doesn't have documents but they say, hey, I worked in so and so and I was exposed to whatever. So, they're -- DOL is constantly working with our sites to update the SEM.

CHAIR MARKOWITZ: Other questions or comments?

Ms. Whitten?

MEMBER WHITTEN: Diane Whitten.

I'm not sure you were in here yesterday when we were discussing the SEM and how it's somehow

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been rearranged such that all of the reactors in the 100 areas, if you look them up in the SEM, they don't even have as much as asbestos listed as one of the chemicals. And now, they're listed as a museum.

So, I mean, who makes the decision ultimately to rearrange the SEM in such a way that it's more what it is currently today and not what it was 30 years ago when I was working there?

MR. LEWIS: Yes, so, I did hear that discussion and that's really a question for John or for DOL.

I mean, we provide the information but how that's used and how it goes into the SEM, I think there's -- they've come back to us with questions on occasion, you know, about, you know, would DOE verify this.

But, again, even when they have questions, it's not a DOE says yea or nay, we usually provide some document that would show -- that would establish a connection between a facility and exposure or a worker and a facility

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or whatever the case may be.

So, no, we don't make the determinations of how things -- how and why things are included or not included in SEM or how they're tied together.

CHAIR MARKOWITZ: Any other comments?

Okay, then, thank you very much.

MR. LEWIS: Thank you.

CHAIR MARKOWITZ: So, before we go on to our agenda, I just I want to take a moment to talk about someone who's missing here today actually. And some of the newer Board members may or may not have known here.

Terrie Barrie as an advocate, a very strong advocate for this program, attended most of our meetings.

She was the leader of ANWAG, A-N-W-A-G, the Alliance of Nuclear Worker Advocacy Groups. I think I got that right.

And she was a -- just a very knowledgeable, strong voice on behalf of workers at the various DOE facilities.

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Her husband was a worker at Rocky Flats, made ill as a result of his work at Rocky Flats. And she'd been involved with helping the program, helping keep the program accountable for many, many years. I don't really know how long it was.

And, you know, she had a -- kind of a growly voice, like a low voice. And but, so I'm sure she could growl when she needed to. But what she actually said made so much sense.

Her critique of the program, her assistance in pointing out deficiencies, areas that needed to be improved.

And so, we miss her. We miss her voice here today.

I also want to say that, you know, the advocates, in general, have been instrumental and I think creation of this program, creation of the former worker program by advocates, I mean, the workers themselves, the labor unions, allied advocacy groups.

From the very beginning, from the '90s in terms of essentially working on behalf of DOE

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workers to achieve a level of justice, whether it's former worker program identifying occupational disease in a timely way, whether it's creating compensation programs or getting compensation, the advocates really have been key.

And Terrie was really at the center of that. And so, I just want to say that we miss her and we know there are other leaders and we look forward to that leadership continuing to play a role in this program.

Because we need it, so that's all I wanted to say.

Okay, well, so now, on to today's agenda. What I did was collect some of the things that we discussed yesterday and listed them here.

And we're going to touch on all these things today. We have an hour and 45 minutes roughly. I'm not -- I don't know that we're going to be able to finish everything, but we need to at least to plan on how to deal with some of these topics that have been raised that are on our agenda.

And so, as we work our way through these

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things, think about working groups, think about maybe, you know, normally we meet twice a year in person, in person the pandemic, but twice a year for a day and a half to two days.

We might give consideration to a telephonic meeting in three months from now to resolve some issues that we can't resolve today but we don't want to wait for six months. So, just keep that in the back of your mind.

We talked yesterday about asbestos presumption in relation to engineers. And I kind of think we're at a stalemate on this issue.

That the belief of some members of the Board was that certain types of engineers should be presumptively regarded as having significant exposure to asbestos prior to 1995 and that Paragon doesn't agree with that position or believe that the DOE experience -- engineers in the -- across the complex doesn't necessarily represent the overall experience that -- from the National Occupational Mortality Survey.

So, I don't really see any -- the only

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thing I can think of is, if we were to look at denied mesothelioma claims, right? So, these are, you know, malignant mesothelioma maybe 90 percent of the time is caused by occupation.

So, there are very probably very few denied mesothelioma claims.

And if we were to look at -- go back two, three years, a limited number of claims, and find engineers in that list, I'm doubtful we would for a number of reasons, mostly in part small numbers.

But if there were sizeable numbers and we did not find engineers, then the engineers that we've been discussing, then we would understand that they've been treated appropriately by the program, even without a presumption. Right?

In other words, the program recognized that they had asbestos exposure and it was due to their work as engineers and there would be no need for a presumption. Right?

So, I don't -- we can ask how many denied mesothelioma claims there are over a reasonable period of time, you know, say the last three years.

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And if it's a handful, I don't think we'd learn all that much because the numbers would be too small.

And if we're several handfuls, maybe it'd be worth looking at. Just really for the occupational history, job titles, for those denied claims.

So, what are your thoughts about this?

I don't -- just one additional thing, we learned yesterday, we can't search for engineer claims. We can't search the database by job title. So, that's out. And we can't search for combination of disease and job title as well.

Dr. Cloeren?

MEMBER CLOEREN: Hi, Marianne Cloeren.

I think we are missing some important information we don't look at the approved claims, too. Because what if, like 50 percent of the accepted claims happen to be engineers? I mean, it's unlikely.

But by not looking at the accepted ones, we may miss like a trend there. That might speak

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CHAIR MARKOWITZ: Yes.

MEMBER CLOEREN: -- you know, toward a need for a presumption.

CHAIR MARKOWITZ: Yes, I mean, the part of -- my hesitancy about that is that it's a lot of work to look at accepted claims.

And we're -- our interest is really are they being missed? Not are they being accepted?

I mean, I realize they're related, but if they were being missed, that would be a problem. If they're being accepted, then we know we have no problems. So, they're complimentary approaches, yes.

MEMBER CLOEREN: Could we start with asking just like numbers of claims for mesothelioma and the approved and denied?

CHAIR MARKOWITZ: Sure.

MEMBER CLOEREN: Numbers? I mean, that might be a starting point.

CHAIR MARKOWITZ: Yes, that'd be easy. That'd be easy.

Dr. Bowman?

MEMBER BOWMAN: This is Aaron.

Just on -- I presume the ones that we would be interested in looking for are those specifically denied for A negative causation results, maybe just that category?

CHAIR MARKOWITZ: Yes, negative causation, yes.

MEMBER BOWMAN: Right. And ignore all other categories of denial.

CHAIR MARKOWITZ: Yes, a good point.

So, other comments? Questions?

Dr. Friedman-Jimenez, if you're on the phone?

So, we could submit a request, it's not a recommendation but a request for information. And that is the number of denied malignant mesothelioma claims over the past -- we could -- I don't think there are large numbers, five years, you know, by year so we know how many each year, for which the reason for the denial was that there was negative causation.

So, actually that's -- we need to vote

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on that because that's an information request. We need to vote on information requests, Ryan?

MR. JANSEN: No, I don't believe so.

CHAIR MARKOWITZ: No? Okay, okay, okay, fine. We don't need to vote on that. Thank you.

But we -- hearing nobody in opposition, then we'll do that and then we'll take it from there.

Okay, next is we discussed site wide job titles and the SEM. So, we discussed this yesterday that there are a limited number of job titles that vary somewhat across the complex. It might be a little bit different, a security guard might have a different title at Paducah than it has at Rocky Flats, et cetera.

But they're easy enough to identify in the SEM actually in which we believe that the SEM may be under counting their potential for toxic -- exposures to toxic substances.

And so, the question is, and whether we want to develop a new recommendation and I mean,

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this -- we've gone back and forth with the Department about this in the past. They've rejected our recommendation on this.

But the new approach would be not that the SEM would be altered, but that the procedure and handling these claims from this limited number of job titles would be that they would go to the industrial hygienist with consideration of a broader set of exposures at the particular site where that claimant worked.

There is the issue of who's in and who's out, which job titles are included. And which is a real issue, but I don't think an issue that would sort of kill this approach.

Anyway, let's discuss this further and see if we want to make a recommendation about this or whether we want to collect additional information and consider it in the future.

Dr. Cloeren?

MEMBER CLOEREN: Marianne Cloeren.

Would we need to or would it help if we were the ones that drafted kind of the language for

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the claims examiners to use, you know, for the -- which job titles it is?

I mean, it sounds like what we need is sort of a narrative description like for jobs like this, this is kind of what the job entailed, you know, so kind of keep that in mind.

I don't know where they would get the information to share with the industrial Hygienist.

CHAIR MARKOWITZ: Yes, in general, you know, we don't get into that level of detail in the language of our recommendation. We provide some rationale with our recommendation.

So, but there's only so much detail we would be -- it would be appropriate for us to address. But I do think that we could either not specify job titles and just say site, you know, job titles that are -- had site wide work and exposures should be considered in this respect.

Or we could say site job titles such as and specify firefighter, janitor, security guard, maybe health physics techs, industrial hygienists,

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not sure there are any others offhand unless you get into the maintenance job titles.

Thoughts on this?

Yes, Dr. Van Dyke?

MEMBER VAN DYKE: So, I think it's a good idea. And I think we can all agree on, you know, janitors, firefighters, security guards at this point.

So, I don't think it's worth holding up trying to, you know, figure out the exact right list because we could change that going forward.

But I agree that those should go into somewhat more detail in terms of looking at the exposures and whether that's a -- I mean, I guess it would have to be a policy recommendation, right, that we would recommend that those mobile job titles go to the industrial Hygienist along with the occupational history questionnaire in order to be evaluated. Right?

CHAIR MARKOWITZ: Right, right, yes.

Other comments?

Yes, Ms. Whitten?

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MEMBER WHITTEN: Diane Whitten.

The only thing that kind of concerns me is that different sites had different job titles for different job functions.

Say at Hanford, we have Teamsters, but they don't just drive trucks. They dig ditches. They do -- they stock, they use the dirty contaminated laundry. I mean, there's other functions they do. So, we'd have to be careful on just using job titles.

CHAIR MARKOWITZ: Well, the, you know, the -- Dr. Bowman?

MEMBER CLOEREN: Marianne Cloeren.

So, it sounds like what the -- I'm trying to figure out how a claims examiner would kind of put this into action and so it might be that for jobs that appear to be ones that where the person would be kind of broadly all over the place, that that would be one where they would want to make sure that the industrial Hygienist does an occupational health questionnaire.

I know that's an option and it's not

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used all the time.

CHAIR MARKOWITZ: Well, just a point of correction, the occupational health questionnaire is --

MEMBER CLOEREN: The interview.

CHAIR MARKOWITZ: Yes, the --

MEMBER CLOEREN: I meant an interview.

CHAIR MARKOWITZ: You mean the interview, yes.

MEMBER CLOEREN: I mean a live interview, yes, thank you.

CHAIR MARKOWITZ: Yes.

MEMBER FRIEDMAN-JIMENEZ: Hi, this is George Friedman-Jimenez.

Steve, I want to respond to your question earlier.

Going back to the engineers, however, this is more general, I looked at the numbers of the top ten answers and mesothelioma, which is ICD-10 code 45.9, doesn't appear on that list.

The total claims for the smallest number on that list is 139. So, it's presumable

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that there are less than 139 cases of mesothelioma.

So, I think we wouldn't have enough numbers to use mesothelioma as sort of indicator of asbestos exposure for engineers. I don't think that would likely answer the question.

Likewise, for respiratory conditions, you know, the -- you could look for engineers under the pneumoconiosis, but again, that's a lot of work, as you said.

So, the answer to the question, I think, is how we use presumptions. And presumptions are really intended not to be the final answer for everyone, but to sort of skim off the top the most slam-dunk cases where it's very clear and there's really no question that the exposure caused the disease.

But the engineers who don't make the presumption for asbestos are still, I think, able to be evaluated case by case by the industrial Hygienist and the CMCs. And I think that's the way that we're going to need to go since there are small numbers of mesotheliomas and small numbers of

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engineers.

So, I don't see a problem here really because presumptions are just a part of this and I think it's going to be hard to have -- to set up a presumption for engineers asbestos exposure but that doesn't mean that engineers who have lung cancer or interstitial fibrosis or mesothelioma can't file for asbestos exposure, it'll just have to be determined case by case.

So, I think we need to be clear on how we're using presumptions, most importantly, that not making a presumption does not rule out that you have that disease exposure association.

So, that's my response to your question.

CHAIR MARKOWITZ: Okay, thank you.

Other comments or questions?

Yes, go ahead, Ms. Zaback.

MEMBER ZABACK: Okay, going back to the traveling people who go to different places on the sites, I know that Hanford has come up with one and sent it to the Department of Labor and it kind of

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goes back to like D'Lanie was saying about how it's more difficult now that the claims examiners spread out the claims because they don't have -- if Jacksonville doesn't know about that situation that, oh, well, let's send this to the IH person because it's probably one of these people.

So, I think if we could request maybe from -- for the Department of Labor to request from the sites if they don't already have those types of employees and what they're called or us, you know, at least the big dogs, like you say.

And then, we could review those different titles and maybe come up with a list as a grand master list for everything so that they're called one thing on one -- or where one person calls it a Teamster and one person calls them a delivery driver or whatever.

But I just think that if Department of Labor would reach out to the sites and say, hey, you know, who are your employees who travel who don't have a home base at the V reactor or whatever.

I don't know, I just think that would

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be really good so that they're not just not sending them to the IH because they're based out of the downtown building and not based out of on the site.

CHAIR MARKOWITZ: Thank you.

Other comments or questions?

So, I guess the issue now is whether there's enough agreement on a recommendation that we could make that we want to not -- we want to draft something today and talk about it and vote on it or whether we want to postpone that while we resolve some other questions?

I think going to the sites and asking them to identify the site wide jobs is, in theory, a nice idea but I think an enormous task with tremendous variation in response which will take a long time.

I think if we were to ask the contractor, Paragon, that question, I think we'd get an answer sooner, although it'd still be a lot of terms that would need to be defined.

So, the question is whether we want to convert this to a research project or whether we

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want to make a general recommendation and then let the details be handled by the Department?

So, yes, Dr. Van Dyke?

MEMBER VAN DYKE: So, Mike Van Dyke here.

I mean, I'm kind of thinking about something you said yesterday that these industrial hygienists that really do these exposures have a lot of that site wide knowledge and are able to kind of guide the person down the pathway to talking about their exposure.

Which a lot of people aren't capable of doing that.

And I keep hearing over and over, I hear, you know, institutional knowledge. I hear that, you know, site point of contacts are kind of no longer around.

So, we're getting to a point where that institutional knowledge is not there.

So, I do think that, you know, even if it's a general statement of, you know, for those claimants whose job description sounds like they

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have site wide exposure that they need to go through, I mean, for which you can't show an exposure, that they need to go through an IH interview to give everybody the same opportunity to get to that level.

CHAIR MARKOWITZ: Yes. So, why don't we do this -- Mr. Key?

MEMBER KEY: Yes, just for a point of clarification, Jim Key.

These contract IH people are not from the site and no historical knowledge of any of the sites, that bears also a problem.

CHAIR MARKOWITZ: Okay.

So, what we could do, if someone wanted to -- while we're conducting our business this morning, draft a short recommendation on this and then we can see whether there's enough consensus on it that we want to look at it and vote on it today. That's one way to proceed.

Or we can simply say, keep this on the agenda and at our next meeting come up with language of a recommendation that we might want to issue.

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So, if there's any volunteers that want to try that language this morning as we meet, that would be -- I think we'll have time to address it. But I think we should move on to additional issues.

So, the next is Board comments on draft changes. So, this is the issue we discussed yesterday that where a policy statement, some change in the program is under review and it's sent to us.

And one of our tasks is to review such documents and provide some feedback.

And the question is, and we heard that it's a complicated process whereby they draft with a lot of stops along the way, where they draft new policy issues, changes. And the question is, do we want to request that we receive those drafts earlier in the process with sufficient time that we can provide some feedback prior to issuance of that -- of the bulletin or whatever policy change is being described.

Or whether we want to just let it be as it is whereby we get those draft changes, you know,

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a few weeks before they happen and then have -- then, we would have the opportunity afterwards to discuss them and provide feedback.

So, we can leave things as they are, which is that we get them within a few weeks before they're issued or we could recommend that they be given to us earlier in the process so that we have the opportunity to provide some input.

Dr. Cloeren?

MEMBER CLOEREN: Marianne Cloeren.

I thought there was another alternative which is to review the bulletin before the bulletin becomes policy. Because there's like more of a grace time, if you will, between the bulletin being issued and it going into the policy manual then.

CHAIR MARKOWITZ: So, yes, and so, a point of -- there's a question here, Mr. Vance. Do all changes -- are they subject to bulletins?

MR. VANCE: This is John Vance.

So, the procedure manual is our primary procedural document and that is -- that can be updated in a transmittal. And that communicates

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edits and changes to the procedure manual in its entirety.

So, you remember when we had Version 6.0 and 7.0 that we were talking about yesterday.

You know, in the interim between those formal publications of updates to the procedure manual, we will issue bulletins that describe changes to program procedure that are not incorporated at that point into the procedure manual.

So, the bulletin will be published at a later date when we get ready to do a full publication of the procedure manual. We will take that bulletin and incorporate that procedural guidance into the procedure manual as needed.

So, right now, we have two outstanding bulletins that are scheduled to be incorporated in the next edition of the procedural manual. We have the IH language that the Board has discussed and we also have the chronic silicosis presumption.

So, what you're suggesting is that for bulletins, you would have this interim period

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between the publication of the bulletin and the update that goes into the procedure manual, that's certainly a viable option.

But just remember, that bulletin is putting in place a formal policy that's being, you know, implemented by the program. It's just not incorporated in the procedure manual at that time.

CHAIR MARKOWITZ: But are all policy changes put into bulletins before they go into the procedure manual?

MR. VANCE: No. So, we have -- bulletins are basically just interim things that we want to make sure get out to the staff and it's not a part of a formal publication in the procedure manual.

So, the procedure manual transmittal is communicating all of the updates that are occurring and they might not all be discussed or addressed in a prior bulletin. But certain, you know, usually it's a big topic kind of thing.

So, in other words, we just published 7.0 and then three weeks later, we had the IH

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language that we had agreed to change come out. And so, that didn't get -- it went through a different kind of clearance process because we didn't want to hold up 7.0 while we were deliberating on the IH language.

But once we had an agreement on the IH language, we issued the bulletin. So, there's a little bit of a differential there.

CHAIR MARKOWITZ: Okay, thank you.

So, what's the sense of this? Should we just let things be as they are? We get the draft changes soon before they're issued or do we want to request that we get them earlier in the process? Which is a little complicated because we have to get them, review them, we have to have a meeting scheduled. We have to vote on our comments.

Dr. Bowman?

MEMBER BOWMAN: So, I would actually -- I would lean towards keeping them as they are until we have potentially, if in the future, we have reason -- something occurs with like, we really needed to see this ahead of time.

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You know, but without such impetus, I think it might be better to allow DOL the ability to move as quickly as possible on changes that are important for the benefit of claimants.

And if we identify specific changes that we think may not have been the best choice, we can certainly advise them after the fact for a change. So, I would lean that way.

CHAIR MARKOWITZ: Okay.

Other thoughts on this? Any strong feelings that we should ask them to change the way they do it now?

Okay, fine. So, we'll let it be.

Next item, the SEM, the basis for omitting or reversing data in the SEM. So, this came up in the public comments yesterday.

It came up among Board members and I wanted to make some progress on this question whether there's additional information that we want to request.

It's clearly within the realm of the Board since we're required to pay attention to the

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SEM.

Can someone articulate what the concern is?

MEMBER ZABACK: Lorna Zaback.

My concern is that, if they take something out, who's making that decision? If Department of Energy gave them documents that said A, B, C is in this thing, it seems like there just doesn't -- it seems not to be very transparent of justifying why you would take something out of the SEM.

And, you know, maybe that any time something's going to be taken out of the SEM, there could be some sort of information and justification.

I just -- it, you know, not just the fact that somebody did that, they did it and they -- it's going to impact multiple claimants. It just is.

So, it just doesn't make sense to me that it's just arbitrarily taken out and really not vetted through the sites who provided the information in the first place.

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CHAIR MARKOWITZ: Ms. Splett?

MEMBER SPLETT: Gail Splett.

As the person responsible at Hanford to provide the data on reactors to the -- to Paragon on all of that information to see that it is now been deleted without any verification from the agency that that information is correct is very disturbing.

So, for claimants who worked on site long-term, again, just showing one of our reactors that is currently cocooned, that none of the exposures for the past 450 years are reflected in the SEM is very disturbing.

If there's no -- even if they apply some dates to the data that there may not be any contamination currently or any exposures, but to show what happened historically.

So, there's got to be some, like Ms. Zaback indicated, there's got to be some accountability for where and why that information was deleted. Even if it's left in historically to show current -- there are no current exposures, but

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historically, we know that they were there. It's very disturbing to see that data.

CHAIR MARKOWITZ: Mr. Key?

MEMBER KEY: Yes, Jim Key.

As Mr. Vance told us, the SEM is a living document and changes can be made.

As to my colleague questioning why changes were made with no notification or no justification printed, I, too, have, as I've spoken of yesterday, concerns about the enormous variations between three sites of one labor category and the chemical exposures involved there and the exclusion of the classification of labor, even on the 15.4 hearing loss revision that recently came out, the laborer is not even listed within that category.

And I don't know how we are going to submit sufficient evidence to the Department of Labor and, conversely, to Paragon to implement the changes and corrections that need to be made.

CHAIR MARKOWITZ: Ms. Whitten?

MEMBER WHITTEN: Diane Whitten.

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Well, as you know, we're aware now of the changes that they've made at Hanford as far as omitting or rearranging or deleting exposure information for the reactors.

And I mean, I haven't had time to go through the other facilities. And what about the other sites? I mean, if it's happening at Hanford, it's probably happening complex wide.

So, we really need to get down to who made these decisions and why?

CHAIR MARKOWITZ: So, I guess I have a question for Mr. Vance or maybe it's a couple of questions. You wouldn't mind sitting in the non-hot seat?

MR. VANCE: The non-hot seat?

CHAIR MARKOWITZ: Yes.

Does the contractor keep a log of the changes they make in the SEM?

MR. VANCE: Yes, I'm fairly certain that Paragon would be able to answer questions. And what I wanted to clarify is that, the decisions to change something in the site exposure matrixes

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are not being done in an arbitrary and capricious way.

There would be some sort of justification or rationale for what changes occurred.

So, at the Hanford reactors, we would have to ask Paragon what is the data that they were looking at that warranted a change to how they were presenting that data?

And that would be something that the Board should consider. If there are certain things that you're looking at and don't understand and I can't tell you what that might be, but what I can tell you is that they have researchers. They have professionals that know how to look at data and to extract and interpret that information.

And like I said yesterday, Paragon will modify data based on changing evidence. So, if they have something that is of more broad, you know, a more broad classification or characterization of exposure and then they get improved documentation that might warrant changing -- removing these

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exposures and putting them somewhere else or eliminating them because some other document of more value or more weight contradicts what they were -- what they had before.

It's a matter of maybe asking the question, well, what are the criteria that Paragon utilizes to make these kinds of modifications and then maybe asking specifically, okay, for the reactors at Hanford, can you explain this?

And so, then you would see their process for evaluation or the procedure that they applied to do that and then what was their analysis that lead to this change that you're concerned about with regard to the reactors at Hanford.

I can tell you that we would just go to Paragon and ask them to provide the analysis for these kinds of questions. And I think that they'd be more than happy to explain themselves.

Then you could have the debate as to whether or not you agree with the assessment and the outcome of their determination to modify data in the site exposure matrixes.

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CHAIR MARKOWITZ: Well, thanks.

But as things stand now, are you aware of whether they document in writing the changes that they make? In particular, the omissions, the reversals in terms of exposures?

Are they required to describe what they're doing in writing that it would be accessible for review?

MR. VANCE: We would have to ask Paragon exactly what material that they have. I know that they maintain a pretty robust change control process.

So, I'm not certain about exactly what they, you know, maintain as far as version controls but I do know that they do that. I don't know the scope of the information that's available. We would have to ask and get that information.

But I, again, I do want to reiterate, this is not being done in an arbitrary and capricious manner. There are reasons why things happen. I would have -- we would have to ask like, well, what is this because that's their

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responsibility under the contract is to maintain this data and make sure it presents an accurate reflection of the documentation that they've obtained through the research.

CHAIR MARKOWITZ: Dr. Van Dyke?

MEMBER VAN DYKE: Mike Van Dyke.

So, I feel like there's a been a huge number of questions about the SEM and how this gets done.

And, you know, I don't think there's anybody present in the room that can answer those questions.

Is there a possibility that we could get Paragon -- a representative from Paragon here to tell us these things?

Because I think there's a lot of issues here.

MR. VANCE: If the Board would make that request, we could certainly consider that. We've made experts and, you know, subject matter experts available to the Board in the past.

I think we've also had interactions

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with subcommittees on different things. So, if there would be a request, then that would be something the Department of Labor would consider.

CHAIR MARKOWITZ: Okay, thank you.

Ms. Zaback?

MEMBER ZABACK: Lorna Zaback.

My observation of how NIOSH does its work compared to the SEM, NIOSH is the contract -- they have a contractor who comes to the Board meetings when they're -- and tells when they're, you know, doing their reviews.

I know it's a different animal, but it's the same program. The emphasis on, you know, kind of being accountable, I feel like there's a missing piece of accountability for the contractor.

Thank you.

CHAIR MARKOWITZ: Ms. Whitten?

MEMBER WHITTEN: So, my concern is, when did this start? What -- with the Hanford reactors? And other facilities that we don't know about yet?

And how many claims have been denied

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based on the fact that the claims examiners say, in Jacksonville or Cleveland, they just go off what the SEM says? So, they're going to deny, deny, which, you know, it costs the claimant time, costs the Department money, and how do we find out if, in fact, any of those claims have been denied because of this?

CHAIR MARKOWITZ: There must be some directions that Paragon's operating under. And they may be internal to the contractor, it may not be part of the contract language. And if it's internal to the contractor, who knows -- I don't know whether it's shared with DOL or how all that works.

But if there is, but we will make a request and if there is currently any instructions or language that directs how they operate, and I imagine there probably is, then the Board would profit by, I think, seeing that -- those instructions.

Let me ask the Board members, and Dr. Bowman, we'll get to you in one second, but I don't

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want to forget this question.

If we request that we have the opportunity to interview and not necessarily in person, but, you know, remotely even, contractor personnel, is that something that all Board members would be interested in such that we would wait until the next Board meeting or is that something --

I'm seeing -- Dr. Friedman-Jimenez, I'm seeing people nod their heads here. Everybody's interested, so we're not going to do that as a subcommittee or working group, we would wait for --

MEMBER FRIEDMAN-JIMENEZ: I'm nodding my head.

CHAIR MARKOWITZ: Yes, I knew you were. I knew you were. I could see that.

Dr. Bowman, you had a comment?

MEMBER BOWMAN: Sorry, just a few things. This is Aaron Bowman.

One, I think getting Paragon here routinely at our meetings would be helpful as questions come up. Just to increase our

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interaction.

But I was also going to comment that the other living document that the Department has, of course, is the procedural manual. And every time there's a change, there's a transmittal documenting those changes.

And if a similar transmittals could be made every time there's an SEM update, I think that would go a long way in terms of transparency for that process.

And, thirdly, I wonder if part of the challenge is, in fact, we are asking Paragon to do an almost impossible task for this SEM because as sites change and as there's, over time, where actual exposures to actual workers are different now than they were in the past, in the absence of any temporal information in the SEM makes it very difficult to how you make sure that the SEM is correct across this time frame.

And maybe as time is going on, there needs to be some consideration of a temporal indications in the SEM.

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CHAIR MARKOWITZ: Yes, Steve Markowitz.

From my understanding of the process and the available information that the risk of error and absence of data on -- including temporal information about potential exposures would be overwhelming.

And so, I -- and so, I don't think that's realistic. But personally, I mean, you know, we could ask DOL and the contractor if their view was different.

MEMBER BOWMAN: So, I guess where I was going to start, and I agree that the task of what I'm saying is I don't know what the nature of that would be.

But with this specific instance that has been brought up of the reactors that are no longer active that are now museums, just this very basic question of how has the SEM been handled when such a change occurs? And what are the choices that they're making?

Just to get guidance on how they make

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decisions when the use of a site has such a dramatic change?

And just to see in that instance, give them -- this seems to be an instance that several members of the Board have recognized, that just giving -- asking a request of, can you please tell us your procedure for what you do when a site function changes so dramatically? How is that reflected in the SEM?

Maybe the answer to that question would help us.

CHAIR MARKOWITZ: Yes.

Dr. Vlahovich?

MEMBER VLAHOVICH: Kevin Vlahovich.

Maybe you can answer this question, maybe not.

But when a change is made, people who might have been approved in the past that doesn't get re-evaluated? I assume it doesn't.

MR. VANCE: No, we would not -- we would base our judgment on the evidence that was available at the time of the case was adjudicated.

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So, if we have approved the case based on data that has then changed or removed from site exposure matrixes, that is not going to force the program to go back and revisit that case.

We're always going to be working proactively based on the information that is available at the time of the case review.

MEMBER VLAHOVICH: If someone was denied because of information that was lacking but is now there and they would be approved if that had been, is that --

MR. VANCE: Not necessarily.

MEMBER VLAHOVICH: -- were re-evaluated?

MR. VANCE: No, that would be -- we're not going to automatically go back and determine what cases are impacted by the numerous changes that could be occurring on the site exposure matrixes. That would really fall to the individual responsibility of the claimant or their representative.

If they feel that there's new data or

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information's available that warrant a change to their case.

What's nice about the program is that no case is final. You know, we can always go back and revisit a case based on our own prerogative or at a request of the claimant to revisit a previously denied case if they have sufficient new evidence that would warrant a new review in their case.

And that does happen quite frequently.

MEMBER VLAHOVICH: Thank you.

CHAIR MARKOWITZ: Ms. Splett?

MEMBER SPLETT: Gail Splett.

I agree with what Dr. Bowman's comments very much so. But I would like if Paragon does come before the Board to bring some very specific examples and not just talk about the process, but show what the data for one of the reactors and one of the gaseous diffusion plants, maybe four or five facilities so we can see what -- how the data changed on a facility over time and how that might have impacted claims that are being evaluated during that period of time.

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CHAIR MARKOWITZ: Oh, Mr. Key?

MEMBER KEY: Yes, Jim Key.

You know, this whole discussion and revelation of Paragon operating out here on their own with no notifications to anyone, I don't know who they work for directly. It may be the Department of Labor.

But as Diane mentioned, the CEs are taking this SEM on a claim and using that as the holy grail. We have worker health protection program members at each site who assist claimants in getting their process started. And they use the SEM.

So, if there's going to be changes to this SEM, there should be changes, one, notifications sent out including to this Board of proposed changes.

Two, we've all sat here and recited the diminishing historical knowledge at these facilities. If that information is in the SEM since the creation of it, leave it there. If you want to make a change in the SEM, then we need to

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direct Paragon to put a date line and whatever changes below that date line, but do not take that historical information out of the SEM.

CHAIR MARKOWITZ: Okay, we need a volunteer Board member to draft the information request regarding these issues in SEM. That draft would be circulated among Board members and so there'd be opportunity to change the draft to make sure it reflects everybody's concerns in the room.

So, if there are any volunteers at this moment, we have -- yes, we have a group, fantastic. And that group consists of Ms. Splett, Ms. Zaback, Ms. Whitten, okay. Terrific.

Okay, so, you'll put together a written information request and we'll figure out a time line. And then, we'll send it around the group and settle on it.

Dr. Bowman?

MEMBER BOWMAN: Just to clarify, are you saying that we would -- this would go to vote today or are you saying this is the work that we'll do over some time?

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CHAIR MARKOWITZ: Oh no, it won't happen today.

MEMBER BOWMAN: Okay.

CHAIR MARKOWITZ: Remind me how quickly we get a transcript of this meeting? Because they may want to look at the various comments that have come up.

(Simultaneous speaking.)

CHAIR MARKOWITZ: Okay, okay. So, just so you know, if you want to look at what people said, but there's, you know, you could certainly draft it before then.

MR. VANCE: And just an additional question.

So, this will be an information request?

CHAIR MARKOWITZ: Correct.

MR. VANCE: Therefore will not require a full vote. So, we can do this ahead of the next full meeting?

CHAIR MARKOWITZ: Correct, correct.

But we do want to make sure that it

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reflects everybody's concerns. Okay, great.

Okay, thank you, Mr. Vance.

But well, we have had additional questions on other things.

MR. VANCE: Yes, I'll stay here for a moment.

CHAIR MARKOWITZ: Okay.

MEMBER FRIEDMAN-JIMENEZ: George Friedman-Jimenez.

I'd like to ask a question.

CHAIR MARKOWITZ: Sure.

MEMBER FRIEDMAN-JIMENEZ: I agree completely with Dr. Bowman's concern about the need for a time dimension in the SEM. But I also can understand the concern about a large amount of error that would be unavoidable in adding that information to the SEM.

But the reality is that there needs to be some kind of time consideration. How is the time dimension currently being addressed? Is it done by the IH on a case by case basis? Or is it done by presumption using the same SEM information

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for all claimants without regard for what years they worked in that facility?

How is it currently being addressed?

CHAIR MARKOWITZ: I think that's a question for Mr. Vance.

MR. VANCE: That's heading my way. This is John Vance.

So, as we discussed the site exposure matrixes is a static reflection of all the information and there is no temporal data.

And as you can imagine trying to do that is a major undertaking for the hundreds of facilities and the history of the nuclear weapons program starting in the '40s all the way up to the present.

So, you're talking about a very laborious undertaking.

So, the way that the program addresses that is that we identify the targeted toxins that we think are of a concern. There is no temporal information that's provided to the industrial hygienist when they do their characterization.

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So then, it is left to the industrial Hygienist to evaluate the temporal data available with regard to when the employee worked. They will consider the circumstances of the work processes involved. They will, you know, apply their judgment based on their understanding of the facility, the different toxins that may have been worked with, the proximity that this individual may have been working around something. And they're going to use their best judgment.

For my work with the industrial hygiene team, they're going to look at this like they reasonably should which is that, as you go back in time, the threat to human health is much greater. There were not as significant occupational safety and health parameters in place.

There's always going to be arguments about whether that has ever been the case.

But as you get into more recent times, they're going to say, hey, we really want to see something more definitive about monitoring that took somebody over a particular threshold that we

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feel is a health hazard.

And so, that's how the judgment is made. It's their judgment looking at their holistic understanding of the entire process.

I know that's kind of a very broad answer, but the industrial hygienists have to make that judgment based on what they understand from their general knowledge of the chronology of atomic weapons production at whatever site this individual worked at or multiple sites.

So, it is a highly -- it's highly dependent on the judgment of the industrial hygienists looking at it and their understanding of all these different variables. That's how it is handled by the program.

MEMBER FRIEDMAN-JIMENEZ: Okay, thank you. That clarifies a lot.

So, essentially, it's based on a judgment that's done case by case. And so, that precludes the possibility of automating this process in a way that can be done by CE or computer.

So, that raises the question that I was

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getting at. Is there a way to compile these repeated determinations by the IHS which essentially involve the judgment as to how high or low the exposure levels were, whether the substance was present or not in a given facility at a given year for a given job title.

Can that -- can there be a library compiled of all of these IH determinations that then could be used for future determinations so there wouldn't have to redo the assessment every time and re-judge the judgment for every individual case?

MR. VANCE: Well, this is John Vance again.

You know, the answer to that question is that, you know, the Department of Labor is always recognized that the complexity and the unique features of every single one of these cases makes it very difficult to generalize from one situation to the next.

While anything is possible with regard to the collection and inventorying of information

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that our industrial hygienists do, the question is, it's value when you're trying to generalize from one scenario to something that is totally unique based on the work history of an individual.

Two individuals working at the same facility in the same location doing different jobs could have a different profile. So, it's very difficult for, I think, our industrial hygienists to basically say, here's how it would work for anybody working these conditions. You know, it's just very difficult.

So, the Department of Labor is always just basically approached it on a case by case basis looking at the individual variables and making the best judgment it can based on the features of that individual's work history and the data that is available.

So, it's not always the site exposure matrixes that is the relying, you know, is what is being relied on to make these judgments.

The example that I can give you where we don't really utilize the site exposure matrixes

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is where we have individual claimant physicians that are identifying toxins of a concern from a causation standpoint that really don't have any connection to the site exposure matrixes or they're not validated in the site exposure matrixes yet because the doctor is talking about this toxin of concern or toxic substance of concern, we would send that directly to an industrial Hygienist and say, well, can you help us understand the characterization of this employee's exposure. And then, assess that based on how the doctor's characterizing their understanding and interpretation of the causality however the doctor's, you know, describing it to make sure that the doctor has an accurate understanding of that exposure.

So, bottom line is, it's very difficult to create a generalization on exposures like that.

CHAIR MARKOWITZ: Okay.

MEMBER FRIEDMAN-JIMENEZ: Great, thank you.

So, that reinforces our view that this

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really depends critically on industrial hygiene evaluation case by case on the occupational history and on the role of judgment in the causation -- in the exposure assessment and the causation decisions.

So, you know, I think we've all sort of felt that, but I think this clarifies that more. Thanks.

CHAIR MARKOWITZ: Okay. Any final comments on this issue since we have a plan and additional agenda items?

Okay, then let's move on.

Next is the industrial hygiene exposure characterization.

And if you go to slide 25, so this was subject of the bulletin 23-02 I think it is that was issued October 24, 2022, about five weeks ago.

And so, I've prepared, just to facilitate the conversation, I've prepared some slides.

And first, just to look at that what change is being made. If you go to the next slide?

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So, this is the procedure manual 7.0 as it exists now. And we're not talking about comparison of exposures to regulatory levels. That's not the topic, that's been settled.

We're talking now about the procedure manual instructions really to the industrial hygienist as to how they characterize exposure.

And so, up until five weeks ago, it was that the exposure -- the IH would determine the exposure level and the choices were significant, high, and it gives some examples, significant moderate.

And if you go to the next slide, there's the significant low, just to -- all right, significant low and incidental exposure.

And incidental exposure is exposure in passing. So, it's really just an obvious inconsequential exposure. It should be pretty easy to identify the incidental exposure.

So, a couple comments. So, you have basically you have significant exposures and you have incidental exposures. And the significance

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divided low, moderate, high.

The -- I just want to point out something that Donna Hand, one of the public commenters has repeatedly said which that in the statutory language, at least as likely as not the exposure at DOE was a significant factor to aggravate cause or contribute.

The significant in that language, the word significant applies to factor it doesn't apply to exposure. So, just sort of keep that in your mind that that is not rooted, at least to my knowledge, in the statute. There aren't specific instructions in the statute about significance other than it's a significant factor which, frankly, is a little hard to pin down, I would say.

But regardless, so that's in the -- this is what's in the procedure manual.

If you go to the next slide, this is in the bulletin that's been issued.

And the new framework is -- would continue the significant high, moderate, low, continue the incidental and then, create a new tier

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of exposure that's more than incidental but not significant.

And so, you say, well, what does that mean?

If we go to the next slide?

And here, I've just summarized from the bulletin with key words basically how that's defined which is that the worker may have had exposure.

There's no indication of violation of exposure levels or an incident. There's no substantive evidence of significant exposure in the record and/or there's use of PPE.

Now, not all four of these elements are required. These are elements to be considered in the judgment about this category of more than incidental but not significant.

And so, I thought this was -- this is important, possibly important change and I thought that the Board should probably take a look at this and discuss it some.

I have to say, just to -- while you're

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thinking about things is that, two things. One is I always -- what happens to this IH report? Well, it goes to the CMC. It goes to the claims examiner and it may not end up at the CMC and the claims examiner then uses it to make a determination.

Or it goes to the CMC. And then, the question is, how's the doctor looking at this determination and making a decision?

So, I'm not sure whose card came up first, but we'll just go alphabetically.

Dr. Van Dyke? Reverse alphabetically, excuse me.

MEMBER VAN DYKE: Yes, I was going to say, I've never been first in alphabetical order.

CHAIR MARKOWITZ: Well, we're so glad that you're now first.

MEMBER VAN DYKE: Mike Van Dyke here.

So, thinking back to our recommendation, our recommendation was really to get rid of the language around, you know, no evidence that exposures exceed regulatory thresholds which was, you know, imprecise. We

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weren't sure what it meant. And we felt like it influenced the CMCs.

I feel like, really, what happened here was, you know, we added this new category to replace that no evidence that exposures exceed regulatory levels.

It's really hard for me to imagine what this new category means in terms of why can't you just call that low?

Because that's really what it means to me. So, I think this just adds more confusion and it gives more -- less information to the CMC than is necessary.

So, I don't like this new category. But I did hear Mr. Vance talked about there were lots of discussions about this, long discussions about this. I mean, you know, if he wants to fill us in on that, that would be great, too.

CHAIR MARKOWITZ: Sure, let's just take another comment from Dr. Cloeren before we move to Mr. Vance.

MEMBER CLOEREN: Marianne Cloeren.

I'm concerned that this category will be used for all the cases for which there's no records. Because like number three, no substantive evidence of significant exposure. If you don't have any monitoring records, that would apply.

And if there's no indication of violation or incident, that would apply.

If you make an assumption that people were wearing PPE because whatever year, I just -- I worry that this category will be used for like a majority of cases for which there's just not any industrial hygiene kind of records.

CHAIR MARKOWITZ: So, Mr. Vance, if you want to just fill us in a little bit on the thinking behind this -- the creation of this new category?

MR. VANCE: All right. Certainly, this is John Vance.

So, I'm going to tell you my fun, honest story about this.

So, you know, I work with our industrial hygienists. You know, I certainly get lots of

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viewpoints and I have to sort of figure out and weigh and balance how all of that input comes together.

And this is always going to be a question of interpretation by different experts.

So, this question really revolves around the question of how do you characterize individuals that were operating sort of in the later years of this -- of the DOE complex?

Our industrial hygiene team has always tried to provide as claimant oriented an assessment of exposure as possible. But they also have to operate within the reality of their view of industrial hygiene generally. Okay?

And so, when they're looking at how DOE has performed from an enforcement kind of perspective with regard to how well they are tracking and identifying threats that existed within the complex.

Our industrial hygienists are going to look at it and say, you know, it's very hard for them to say, in the absence of data, it's very hard

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for them to say as an industrial hygienist, it's reasonable for me to just assume that there was some sort of dangerous level of exposure when there's no indication of that where their knowledge of how the DOE was managing occupational safety and health in these later years would have been, if there was a problem, we would probably see it in the evidence.

Now, that's not saying that the industrial hygienists can look at something and say the way that this individual's describing that in the absence of any monitoring data still leads me to conclude there was a significant exposure. That can still occur.

But what the industrial hygienists are -- we were trying to figure out here is how do you describe somebody that may have been working in a situation where they were exposed to, let's say, let's say I'm an asbestos worker in 2010, you know, I'm going to be contacting asbestos. But it's going to be done under really strict conditions.

And so, the industrial hygienists are going to say, show me the evidence that there was

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an actual threat here. This person, you know, when they're doing abatement of asbestos, there's generally going to be really stringent controls, especially in the later years.

So, how do you describe that? Well, the industrial hygienists had to -- we had to come up with some sort of way to describe that. The industrial hygienist can't say it's incidental because incidental means that you're not really working with something routinely.

It's basically, hey, I'm walking through a casino and I'm leaving the casino and I'm walking through a smoky environment. I'm here, this week, that's one level of exposure. I'm not sitting at a table dealing cards. That's a little bit different. I'm in that environment all day long.

Now, whether you want to characterize that as low, high, or medium, that's a significant exposure.

The industrial hygienists, when we had this conversation, it came down to, I can't say it's

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really incidental but I can't really say it's significant either because there would be evidence that this person was in a situation where there's a threat to their health from an exposure.

So, what you end up with is this dynamic where they're saying, it's not really incidental, but it's not really significant because I don't see evidence where there would have been a threat for inhalation, skin contact, or ingestion of a material in a way that would threaten that person's health.

Now, if there's something in the case file that would suggest that it did happen, and we do see that, that's how the industrial hygienists would characterize that.

The other big thing is, we struggled for quite a bit trying to figure out, well, how do you characterize this level of exposure?

We floated lots of different ideas. The one thing that you need to remember is that with our bifurcation of incidental and significant, you can't just create a fourth categorization of

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significant because that then triggers your inclusion of all of these presumptive standards regardless of what that level of exposure was.

So, in other words, if you say significant really, really, really, really low, all of our presumptive standards say that you had to have a significant exposure in order to trigger that presumption. Does that mean that everybody that was in this category that you then now say significant exposure to really, really, really, really low should qualify for that presumption? Okay? So, that's one thing that you have to keep in mind.

So, we went back and forth about how to do this. And so, the solution, whether you agree or not, is this characterization where we're not going to say it's incidental and we're not going to say it's significant. So, it's sort of in between those two.

It is then left up to the doctor to decide how they want to interpret that. Our role from an industrial hygiene standpoint as far as our

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responsibility is to give the doctor that's going to evaluate causation the most accurate data that we have.

In the absence of any monitoring data, the only information that we have is going to be the professional judgment of an industrial hygienist looking at this.

I would be more than welcome to consider any input from the Board on how to make this work better. I think everybody could recognize, and I think that we do, that this is a challenge.

And saying it's not good or that it's a problem, I think is very easy. Offer me something that explains how would you like to do this? You cannot look at everybody that was working -- and our general viewpoint is after the 1990s is, okay, show me the evidence that there's something there either in monitoring records, health violations, or some information that the claimant has provided that allows me to say, you were significantly exposed and it's a health hazard that encountered that.

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We can't just assume in the absence of data that, oh, you were blindly exposed to significant amounts of whatever the toxic substance is.

So, it's a very -- it's a balancing act to try to deal with that reality of what we know. And I do want to make it very clear, the industrial hygienists are not suggesting that everything was awesome at these sites after the mid-1990s, that everybody was perfectly safe doing whatever it was that they were doing at these sites with these toxins.

There are recognized hazards that existed where there were violations that occurred. And our industrial hygienists, when they see that, when they're seeing interventions that are occurring with self-reported exposures, because that triggered a lot of these investigations by industrial hygienists at the sites.

They're going to see that and they're going to say, well, this seems like there is something that's going on here that the site was

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concerned about. So, they would then assign some significant level of exposure.

It's just that after this period of time, they really want to see the proof in the pudding that there's something there that they have to characterize as being significant.

So, that's the challenge we're faced with and I think the Board has had many discussions about this in the past. And this, you know, within the regulatory limits, I think the Department of Labor agreed that that was very nefarious.

Now, whether this is an improvement, I hope that it is. But at the same time, I think there are some weaknesses that still exist.

So, I think the Department of Labor would appreciate any input on this one that can be provided.

CHAIR MARKOWITZ: Thanks.

I have a particular question about the use of the word significant attached to high, low, moderate, and low because I'd always wondered why it's there, the word significant.

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And you're saying it needs to be there because it triggers presumptions elsewhere in the procedure manual.

MR. VANCE: Well, I think that that's how, you know, in the legacy of how our procedures developed over time, the judgment was, there had to be some sort of categorization of exposure and our industrial hygienists devised this.

I mean, thinking if you look at different kinds of industrial hygiene processes, they do use these similar kinds of language in characterizing exposure.

So, this was the application of certified industrial hygienists working for the Department and saying, how do we characterize this exposure?

Once we had that in place, we began building out on these presumptions. And the presumptions merely state, there has to be some significant exposure. It doesn't say significant low, moderate, or high, it just that you fall in that significant category.

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Once you have that triggered, then this presumption would allow us to accept the case. By accepting the case, you're allowing for a presumption that whatever the exposure was, is a significant factor and contributing causing or aggravating a disease.

Is it fair to say that for somebody that was working in a relatively later period of time where we have no real evidence of a significant exposure? But then, you're going to assume that they should qualify for that presumption.

So, that's the dynamic that must be considered by the Board. How do you do that? So, you can't necessarily say, significant but safe or, you know, we struggled with the wording for this. So, it's a challenge.

CHAIR MARKOWITZ: But, yes, I mean the presumptions are good. So, if significant gets you into presumptions, then that's fine to keep the word significant.

I have a kind of a simple approach to this. Sometimes in instances like this I think

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about, actually, how do we do it in occupational medicine when we're faced -- we're interviewing somebody. We're trying to make a decision on an individual person.

And, you know, if they don't -- if they're unlikely to have exposure or they had no exposure, then there's not a problem. Their disease wasn't caused by it. If it's unlikely or it didn't occur.

Actually, those are two -- those are the two categories combined. Because see, the problem is the incidental is too narrow because it conveys that it's only in passing, it's super transient.

No, there are people who do work which is not transient, but which an exposure is unlikely. And to me, I don't think you need to make a distinction between those two groups.

So, I personally think high, moderate, low, and unlikely or none is a more simple way to approach it and I think reflects actually the way we think about it.

But Ms. Whitten?

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MEMBER WHITTEN: Sorry, Diane Whitten.

I was just reading about the program, the energy program. Part E of the program was enacted for any occupational illness that are causally linked to toxic exposures.

I think this is just getting too deep.

CHAIR MARKOWITZ: Other comments?

Yes, Dr. Bowman?

MEMBER BOWMAN: Yes, this is Aaron Bowman.

Steven, I liked what you were saying and you referred to the word unlikely. And then, and I look at this phrasing and I worry it may come across to a medical -- at the CMC as a definitive statement of not significant.

And I'm just wondering if a slight change to more than incidental unlikely significant might be a more accurate reflection of what you were describing the IH is concerned with, that they cannot call it incidental but they also cannot call it significant low.

And it seems to me that they are -- they

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do not have certainty that it's not significant, they don't know.

So, why not unlikely significant? And I think that might not -- that might avoid this issue of portraying a definitive not significant.

MR. VANCE: This is John Vance.

I would agree that there's lots of different ways to approach it. Keeping in mind that it's up to a physician ultimately to determine how to interpret that data.

And I can tell you right now, we do have physicians that would look at an individual as been characterized using this new language for later years. And I've seen physicians interpret that to say, well, you're not saying they were not exposed to any level of exposure to this particular toxin could certainly be a significant contributing factor in that physician's mind to a particular claimed illness.

So, I mean, you're still going to have that reality. But other doctors could look at it and say, it's very unlikely in my mind that that

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was a significant -- it could have been an issue, but it's not going to be a significant factor.

So, it's a matter of how do you accurately characterize it to give that doctor a really accurate understanding of the exposure in the absence of any definitive monitoring data?

The other big feature that we're trying to promote in these new industrial hygienists reports is more customized consideration of input that the claimant provides in the occupational history questionnaire simply because you don't have the data in the monitoring records or in the document acquisition request you get from the Department of Energy.

It could very well be that the IH sees something in the testimony of the employee that aligns with other information. It could be like, yes, this person is describing something that was occurring and they were not properly certified to be wearing this kind of PPE or what have you. And the certifications show that there was problems with that.

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Well then, that could be an indication to the industrial hygienist to characterize it at a higher level.

So, it's very -- it's a very hard, hard challenge and I think that there's lots of different ways to approach it. And we struggled with lots of different approaches and this is what we gelled around.

But it -- keep in mind, it's always going to be up to the physician to determine that. So, you've got to make sure that you're communicating in a way that the doctor can sort of interpret. And I think that was the concern within regulatory limits. Because that was hard to define even though we did make an attempt at that.

MEMBER FRIEDMAN-JIMENEZ: Hi, this is George Friedman-Jimenez.

I think this word significant is one of the most misunderstood and abused words in the scientific lexicon.

Over 40 years of arguments, fights in the epidemiology and statistics literature, it

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still hasn't settled exactly how we should or shouldn't use the word significant.

A lot of journals have banned the use of the word significant in the statistical sense for scientific publications.

But I think what we need is a formal definition of the word significant. If we're going to need to use that word, we need to define it formally.

It clearly carries a lot of baggage but it implies some degree of judgment on causation. It implies some degree of magnitude, measurement of magnitude. And I think we need to formally define it.

And I would think this would be a good thing for the Board to work on. And, Steve, wondering if you would like to set up a small working group on this.

I think defining the word significant is actually a pretty important and difficult task that the Board could help out with.

CHAIR MARKOWITZ: Yes, Dr. Bowman?

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MEMBER BOWMAN: Just to comment, John, is there already a definition?

MR. VANCE: I think that if you look at the bulletin, we made a passing attempt at trying to explain how we were defining it for the application in this program.

So, I agree with George that that would probably be something to take a look at to determine whether or not that language is appropriate for the procedure manual and appropriate for the program.

So, yes, significant has a lot of different meanings to a lot of different people. But we need to come up with a standard that explains the characterization of exposure.

This is the viewpoint of our industrial hygienists that this is as appropriate as we can apply with regard to the application in this program.

Now, are there other ways to interpret that or characterize exposure in industrial hygiene? I'm certainly sure there are. I've seen lots of different ways to do that. It's just a

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matter of how do you do that in the context of this program with the legacy that exists with regard to our significant exposure presumptions.

That caused us to have a lot of problems with how we would do this. Because as soon as we -- we didn't want to loop everybody into these presumptions just because they had -- you've got that bifurcation exists.

And so, yes, I think that would be well within the Board's purview to take a look at how to best define that and apply it for the program.

CHAIR MARKOWITZ: Dr. Van Dyke?

MEMBER VAN DYKE: Mike Van Dyke.

You know, I understand you have legal terms and scientific terms and we're trying to mash it all together and use that word significant which is it's tough to do.

And really, this word really incorporates, you know, frequency, intensity, all sorts of concepts into one word. And I think that's the difficulty.

I mean, I would be happy to be on a work

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group to talk more about that. I think we do need to continue that.

CHAIR MARKOWITZ: Personally, I think when this gets to the CMC, they're going to take the first three categories and say that it may have been some exposure and the second that the final fourth and fifth categories as there was no exposure of concern.

And I suppose there may be the occasional physician that Mr. Vance mentioned that is going to view any exposure or potential for exposure as having meaning.

So, the question is, is there any harm in this new categorization? Is there any harm, potential harm for the claimant?

Dr. Cloeren?

MEMBER CLOEREN: This is Marianne Cloeren.

I think the way the descriptors are, it could be used for a lot of claims where there's not any kind of records. Like we might see this category instead of some of the significant ones

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where there's not records. That would be my concern.

CHAIR MARKOWITZ: Yes, and that's an important concern, actually -- Steve Markowitz -- because I would say for many jobs, there are probably aren't records, meaning industrial hygiene data or some incident or what have you.

MEMBER FRIEDMAN-JIMENEZ: This is George Friedman-Jimenez.

I think the danger in this new category is that it still plays into the possibility of having this effortless term to dismiss substantial risk or, you know, causation at the level of the presumptions.

And I think it's too loosely defined and too vague. I think we need to have a more clear definition so that we can rationally and convincingly dismiss causation in the cases where it's really not appropriate and confirm causation in the cases where it is and be more clear about it.

But I don't think it solves the problem

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of vagueness or looseness that the previous terminology of no evidence that there was a significant exposure.

I don't think it really moves the ball forward on that. So, I think we're still left with the same problem that it's too easy to dismiss causation in a setting where there's not a lot of information available about exposure and that's a fundamental problem.

And I think we need to be more explicit and more clear about that, which is why I think we should have a more formal definition of the word significant.

CHAIR MARKOWITZ: Yes, Steve Markowitz.

I don't disagree, but what we're looking at was DOL's diligent attempt to define what they mean for this category with some degree of specificity.

So, if we think it's not right, then we're going to have to come up -- it would be helpful if were to come up, not necessarily this morning,

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with improved language.

Dr. Van Dyke?

MEMBER VAN DYKE: Mike Van Dyke.

I think it's improved. I think it's less biased terminology. So, I think it's a move in a very small distance in the right direction.

CHAIR MARKOWITZ: No, why do you think it's an improvement?

MEMBER VAN DYKE: I think it because the terminology does not exceed regulatory standards that I think is biased.

CHAIR MARKOWITZ: But that's gone.

MEMBER VAN DYKE: No, no, that's gone.

CHAIR MARKOWITZ: Right, that's gone.

MEMBER VAN DYKE: So, I think that removing that terminology moves this in the right direction just a little bit. We're still not free of problems, but I think it moves -- it's not harmful at this point. Or I would say less harmful than the previous language. How about that?

CHAIR MARKOWITZ: But the question is whether the new change creates any harm? That's

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--

MEMBER VAN DYKE: No.

CHAIR MARKOWITZ: Okay.

MEMBER VAN DYKE: I don't think so. Or I would say, actually, let me rephrase.

CHAIR MARKOWITZ: Insignificant.

MEMBER VAN DYKE: No, it doesn't create significant harm. No, no, I would say that, you know, it creates less harm than previous language.

CHAIR MARKOWITZ: That's one thing --

MR. VANCE: Dr. Van Dyke, you can join me in all of our policy discussions. That's going to be great.

CHAIR MARKOWITZ: Dr. Cloeren?

MEMBER CLOEREN: Marianne Cloeren here.

I guess what would be the instructions to the industrial hygienists to choose one, two, or three over this choice in the setting where there are no records?

CHAIR MARKOWITZ: So, I think -- this is Steve Markowitz.

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I think we should, given the time, move this into a working group. Because it's possible we could fashion some language that might represent an improvement over this latest change in the industrial hygiene instructions.

I don't know if we can, but it's possible. There appears to be interest in the Board to attempt to do that. We're not going to do that today. But it strikes me as something -

Who would like to work on that actually?
Dr. Cloeren?

MEMBER FRIEDMAN-JIMENEZ: This is George.

CHAIR MARKOWITZ: Dr. Friedman-Jimenez, I know he's raised his hand. I can see it, I can see it. It's his right hand, too. And Dr. Van Dyke, okay. And Dr. Mikulski, okay, good, these will be long discussions, that's great.

Any -- so having --

(Simultaneous speaking.)

CHAIR MARKOWITZ: Having that as a plan, we can move on or any final comments? Or Dr.

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Bowman, you look like you want to say something.

MEMBER BOWMAN: Sorry, I was going to volunteer but I don't want there to be too many hands in the soup making. So, I can maybe put me on as a back up.

CHAIR MARKOWITZ: I don't think you have to worry about too many hands. I think it's a very important issue actually and the more -- you've got a number of medical perspectives, but the OSHA perspective is also relevant here.

MEMBER BOWMAN: I'm happy to do it.

CHAIR MARKOWITZ: Okay, great.

If you can go back to the slide we were working from which was our agenda. I think the next thing was -- yes.

MEMBER BOWMAN: Before it gets too late, you had asked for on the site, not this one, on the second objective that site wide job titles, you had asked if someone might pen something for it. I have penned something, if we want to have time to discuss it or not.

CHAIR MARKOWITZ: Okay.

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MEMBER BOWMAN: But I'll let you decide whether we do that or not.

CHAIR MARKOWITZ: Okay, let's -- well, let's cover the other things and then we'll come back to that.

MR. VANCE: And this is John Vance.

I think I'm going to have to bow out, but I just wanted to say thank you again for all the work you guys are doing.

Any IH input would be very welcome, just based on my deliberations so, good luck. And I hope that you can find a solution to that one.

But again, I do want to say thank you. I know that this work is very important and I just want to reiterate what we said yesterday. You know, we have a lot of accomplishments that have occurred between the Department of Labor and the Board. We'll continue to do that.

Carrie will, because we're leaving, but if anything comes up where we can provide any information, Carrie's going to write that down and we will be very happy to supply that information.

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So, thank you and continue doing the good work of the Board.

Thank you.

CHAIR MARKOWITZ: Yes, well, thank you for being here because getting information, immediate feedback, it is extremely useful.

And after Mr. Vance leaves the room, that's when we're going to request a thousand cases to review. Because we don't want him to have a heart attack, so we're going to wait for that.

And thank -- Ms. Pond, thank you also very much for coming.

Okay, so, there is a public comment I want to discuss. But I'm also cognizant of time. If we were to go a few minutes past 11:00, is that a problem for anybody in the room?

(Simultaneous speaking.)

CHAIR MARKOWITZ: Okay, okay, okay, fine. So, we will just work quickly which is fine.

So, let's discuss limited case review near-term. So, you know, the previous Board was given 20 or 24 cases to look at at our request.

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And we discussed a certain number of them, but we did not discuss all of them. Each Board member I think had something like three or four to look at.

And we -- there were a mix of different kinds of cases, mostly denied. There were a few impairment mixed in.

And I thought it would be useful, and there -- it's a lot of work for the Department to prepare new cases because it is.

And so, I thought it would be useful for this Board to use those same cases to look at, in part for the -- for new Board members to familiarize yourselves with claims. Because we're preparing, when we get contract support, to look at a larger number of claims with very specific questions that we want to -- that we're going to have to develop.

And so, it's easy enough. I actually, for prior Board members, you should still have the CD with the cases on them. You may not have the password but you should still have the CD. I don't think that we ever -- were asked to turn them back.

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So, all the better, good thinking, Carrie.

But the four Board members would need a copy.

And so, the question whether we do this at an interim Board meeting by telephone in three months or whether we wait for six months, I personally would favor the three month time frame. Because, by the six months, we want to be further along in planning for the larger case review.

But that depends on peoples' time and availability.

But is anybody opposed or in favor of this limited case review?

Dr. Cloeren?

MEMBER CLOEREN: Marianne Cloeren.

I have a question. Is the DAR part of it? We'd be able to get to see the DAR in the case file?

CHAIR MARKOWITZ: Well, the case file has the occupational health questionnaire, the employment verification information, whatever. You know, there's not a lot of DAR in there, most

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of them that I saw. But, you know, if it's there, it would -- it should be in the file.

MEMBER CLOEREN: It's a part of the file?

CHAIR MARKOWITZ: Yes.

MEMBER CLOEREN: Okay, thank you.

CHAIR MARKOWITZ: And, you know, some of the claims files are quite long, hundreds of pages, maybe even a thousand. But actually some of them probably have been kind of indexed by other Board members in their review.

So, we might share -- for instance on the ones I looked at, I indicated what pages have the most important documents that you can get to and figure this thing out. So, we could certainly share that.

Ms. Zaback?

MEMBER ZABACK: Lorna Zaback.

I think it would really be extremely helpful if a share area could be created by the Department of Labor that these cases can be on. Everybody could look at it at the same time. We

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can put documents for review in instead of like emailing things around.

It just would be a secure, also especially, you're talking about peoples' PII. I think that should be really focused on. I know it's easy to do like we probably all have them with different agencies and different things.

So, I would assume it would be the Department of Labor that would provide that for us. But I think, you know, it seems like going back in time when you even say a CD, I don't know if how many people even have a CD player on their computers anymore.

CHAIR MARKOWITZ: But you still know what a CD is.

MEMBER ZABACK: Yes, that's good.

CHAIR MARKOWITZ: That's good.

I think then we would ask the Department to look into that possibility. There is personally identified information on these claims files. But there must be some secure way in which that can be done.

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If it takes a long time, then we might have to resort to default. It's more available. But Carrie and Ryan, if you could let us know about that, that'd be great.

Yes, Dr. Cloeren?

MEMBER CLOEREN: Marianne Cloeren here.

If a secured shared area is not possible, is flash drive a possibility instead of CDs?

CHAIR MARKOWITZ: Okay, okay.

And I'll assign cases so that you know which ones. And actually, Diane -- Ms. Whitten put together with some help from me a survey, an instrument to collect the information about the cases. So, we will find that again and use that or consider whether it needs any improvements.

So, the larger cases review plan, you know, that's the -- we're not going to do that until we have contract support.

But we do need to begin the planning for that to identify what our goals are, for example,

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to understand the environment, for example, that the claims examiner operates in in terms of what kind of information they have, what kind of information they use, whether their statement of accepted facts is always correct.

The performance quality, objectivity, and consistency of the CMCs and the industrial hygiene reports as examples of goals.

I think what we need to do in a working group is actually begin the discussion of what the goals would be, what our methods would be, you know, what our analysis might look like and what we hope in terms of outcomes.

And so, are there volunteers actually who would be part of a working group to help begin that process?

I should have started with this working group first because then I could have gotten all the volunteers besides myself and, okay, Ms. Zaback. Okay, Ms. Splett, Dr. Vlahovich.

So, okay, you know, we're going to, by the way, send an email around with the list of the

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working groups and you can volunteer later on. So, in case you have second thoughts on these things.

I want to go back to a public comment Because it involves the Nevada test site, the National Nuclear Security site that we saw two days ago.

And this was a public comment that came in -- if you could go to slide 32?

And actually, it probably would have been best to raise this when Mr. Vance and Ms. Pon were there, but regardless.

So, there was Elizabeth Brooks who's an authorized representative who wrote in on a public comment. I can't remember whether she presented or not, but she wrote in a public comment.

And you're still on my slides, right? Okay, so, this was the issue. Part B, chronic silicosis, the statute says in Nevada and Alaska, in Amchitka, that if a worker worked in mining for 250 days and they were diagnosed with chronic silicosis, they would be compensated.

It's a very simple set of criteria.

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Nevada -- so, we're going to talk about Nevada because that's what she raised, but it applies to Alaska, worked in Nevada 250 days and in mining and was diagnosed with chronic silicosis.

So, her observation was that, and she's handled these cases as an authorized rep for a long time, that sometime in 2019 the procedure manual changed. And it required not just 250 days Nevada mining, but it required that that mining work occur before 1992.

And so, that is to say, the claims in which the mining worked after '92 are not succeeded -- succeeding, they were not accepted.

And if you go to the next slide?

So, this is the language of the act statutory language. It just says what I said it just said which is that unless there's substantial evidence to the contrary, if they were determined to be exposed to silica, and they worked 250 days, aggregating 250 days, it doesn't have to be consecutive, during mining of tunnels in Nevada, and they had silicosis, then they would be

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compensated.

And if you go to the next slide?

It defines -- so, here's the procedure manual now. And there are a few slides on this. The language -- the key is the language. So, take a look here.

Chronic silicosis resulting from exposure to silica from covered employment in Nevada, aggregating at least 250 days during mining of tunnels for tests or experiments related to atomic weapons. That's the current language and that is more or less straight from the statute that faithfully reflects the statute.

And if you go to the next slide?

I've just summarized the elements, what you need for a successful claim. Right?

What's interesting is it -- there's no mention of 1992. There's no time limit as to when that mining exposure occurred.

Now, by the way, this is in distinction for the gaseous diffusion plants in the original act from cancer where '92 was a magic date. So,

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Congress was aware of putting in dates, significant dates. There's no date here in the statute on chronic silicosis in Nevada at the test site.

And so, this is a different part of the -- next slide, I'm sorry -- of the procedure manual at present. And let me read it because it's a little hard to read.

So, this is the same procedure manual we just looked at and it's page 180. And number two says, present for an aggregate of at least 250 work days during the mining of tunnels at DOE facility in Nevada or Alaska for tests or experiments related to atomic weapons.

These are Part B claims. This tunnel work occurred through 1992 -- October 1992 at which time the unilateral moratorium on nuclear weapons testing went into effect.

So now, the procedure manual is putting a date, a calendar year. The mining work had to occur prior to October 1992. That doesn't appear in the act. That's the authorized representative's observation.

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And so, that's a different question.

So, I should have raised this, I think, when Mr. Vance was here Because he governs the procedure manual, actually.

But this language seems to be inconsistent with what the statute said. And I suppose what we could do is submit an information request as to what the background to this language is. When did it come in? Why did it come in? What's the rationale? What's the variance with the statute language? How is that justified? Et cetera.

Any comments or questions?

Yes, Dr. Cloeren, your card is up.

MEMBER CLOEREN: Yes, Marianne Cloeren.

If there's no -- the statute does say related to atomic tests, you know, weapons tests or experiments.

And so, I guess I'd be curious what people that are claiming silicosis did after 1992 in the tunnels. Were they still doing atomic

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weapons tests or experiments, you know, things related to that? And if so, then I would agree with you.

But if not, then maybe they would have to be Part E.

CHAIR MARKOWITZ: Yes, well, you know, actually, when we visited, you went, A, we went by it, we didn't get to go inside. Mr. Vance got a tour in which he got to go in the tunnels.

There's apparently 1.4 miles of tunnel. And I asked the tour guide, they're continuing to tunnel. They're continuing to create new space underground.

The statute doesn't say prove there was silica exposure. You need chronic -- you need silicosis as a diagnosis. Nevada, 250 days where mining work occurred.

MEMBER CLOEREN: Related to atomic tests --

CHAIR MARKOWITZ: Tests or experiments. And we learned there were experiments. There are experiments.

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MEMBER CLOEREN: Still.

CHAIR MARKOWITZ: Some critical experiments that occur underground.

MEMBER CLOEREN: Okay.

CHAIR MARKOWITZ: So, this is -- on the face of it, this appears to be a variance with what the statute says and I think we should request clarification about this. Because it, you know, maybe they're wrong. You know?

Other comments or questions?

Okay, let's go back to some draft language that, I don't know whether that you've worked up. Can you send it to Kevin?

MEMBER BOWMAN: I just sent it to you.

CHAIR MARKOWITZ: Oh, sent it to me? Okay, if you can send it to Kevin.

MEMBER BOWMAN: I can send it to Kevin.

CHAIR MARKOWITZ: Do you have Kevin's email address?

MEMBER BOWMAN: I can find it. Wait, wait, yes, Kevin just emailed all of us.

CHAIR MARKOWITZ: Dr.

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Friedman-Jimenez, you're able to see our screen okay?

MEMBER FRIEDMAN-JIMENEZ: Yes.

CHAIR MARKOWITZ: Okay, great, thanks.

MEMBER BOWMAN: Kevin, I just sent it to you. I just wrote this up quickly. I think I tried to reflect what I heard, but if it's off base and we don't have time, that's understandable. I just thought I'd work on it.

CHAIR MARKOWITZ: Thank you.

MEMBER BOWMAN: Given time, I could start to read it while it's being --

CHAIR MARKOWITZ: Sure, that'd be great.

MEMBER BOWMAN: -- put up.

So, this is what I penned. The Board recommends the Department provide instruction to CE and IH reviewers that if there is evidence that a claimant's employment lead to their routine duties being located widely across the site that this be specifically noted in the claim file and that consideration be given in establishing toxic

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substance exposure and causation for the potential for exposures that are site wide and not just to their base of operation.

CHAIR MARKOWITZ: Okay, comments?

Dr. Cloeren?

MEMBER CLOEREN: Marianne Cloeren.

Do we want -- I don't know if it's our place, do we want to specify via interview or not?

CHAIR MARKOWITZ: No.

MEMBER CLOEREN: No.

CHAIR MARKOWITZ: No, it's too specific. I wonder whether there should be mention of the SEM in there that, you know, that the CE and IH reviewers should, in addition to using the SEM?

But at this point, philosophical suggestions aren't very helpful. Language suggestions are helpful.

MEMBER CLOEREN: Marianne Cloeren.

A friendly amendment, claimant needs an apostrophe before the S.

MEMBER BOWMAN: Kevin, I have the Word

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document up. Should I make edits as we go or do you want to do them so everyone can see them?

(Simultaneous speaking.)

MEMBER BOWMAN: Oh, pardon.

MEMBER FRIEDMAN-JIMENEZ: This is George Friedman-Jimenez.

Do we want to include CMC physicians in the case that there may be a case that they get that doesn't have an IH evaluation?

CHAIR MARKOWITZ: Yes, I think that's a good idea. But not just for those that lack IH evaluation, I mean, the CMC should be taking their own look at exposure, frankly, not just relying on the IH.

So, what about adding CE, IH, and CMC reviewers?

MEMBER FRIEDMAN-JIMENEZ: Yes, that would be great.

CHAIR MARKOWITZ: And I withdraw the comment about adding SEM to this because I think this conveys the meaning regardless.

(Simultaneous speaking.)

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CHAIR MARKOWITZ: CE, IH, and CMC.
And then, get rid of and IH. No, keep reviewers.

Base of operation, does that convey properly our thinking about sort of the core functions of those job titles?

MEMBER CLOEREN: Maybe usual work area? Or site work area, assigned work area. Assigned work location?

MEMBER FRIEDMAN-JIMENEZ: Work area of record?

(Simultaneous speaking.)

CHAIR MARKOWITZ: So, to their work area of record? Is that the suggestion?

MEMBER FRIEDMAN-JIMENEZ: Yes.

MEMBER CLOEREN: Kevin, this is the last couple words there, instead of base of operation.

CHAIR MARKOWITZ: Okay, further suggestions? Actually, Dr. Bowman, would you mind reading it again so the people can absorb it?

MEMBER BOWMAN: Sure. This is Aaron Bowman reading the revised version.

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CHAIR MARKOWITZ: I'm sorry, this is -- going to read it and then actually we're going to take a -- this will be a motion and we're going to take a second, have further discussion and then vote if we can.

MEMBER BOWMAN: So, this is Aaron Bowman, I make a motion that the Board accept this recommendation as I will read it now.

The Board recommends the Department provide instruction to CE, IH, and CMC reviewers that if there is evidence that a claimant's employment lead to their routine duties being located widely across a site, that this be specifically noted in the claim file and that consideration be given in establishing toxic substance exposure and causation for the potential of exposures that are site wide and not just to their work area or record.

CHAIR MARKOWITZ: And a second for that motion?

MEMBER KEY: Second.

CHAIR MARKOWITZ: Mr. Key, okay.

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Open for discussion.

Yes, Ms. Splett?

MEMBER SPLETT: Gail Splett.

The word located where the routine duties being located, I think if we could find a different work being conducted or not just being located. I mean, they actually doing those duties somewhere else.

CHAIR MARKOWITZ: I'm sorry, what -- I'm sorry, specific language change that you're recommending?

MEMBER SPLETT: Yes, sorry.

CHAIR MARKOWITZ: And where is that? What line and what --

MEMBER SPLETT: Where are located.

CHAIR MARKOWITZ: Right.

(Simultaneous speaking.)

CHAIR MARKOWITZ: Friendly amendment, is that accepted to the proposer?

MEMBER BOWMAN: Yes, that's accepted.

CHAIR MARKOWITZ: Okay.

Other discussion?

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Okay, so --

MEMBER FRIEDMAN-JIMENEZ: I find --

CHAIR MARKOWITZ: Dr.

Friedman-Jimenez? Yes?

MEMBER FRIEDMAN-JIMENEZ: I find the wording that the potential of exposures that are site wide is a little bit unclear and I'm wondering if maybe you want to make it simpler for the possibility that they're exposures were site wide and not just limited to their work area or record?

CHAIR MARKOWITZ: I don't understand the distinction. It reads now, for the potential --

MEMBER FRIEDMAN-JIMENEZ: -- a little trouble understanding clearly for the potential of exposures that are site wide. And I'm wondering if there's a more simple way to say it?

(Simultaneous speaking.)

MEMBER FRIEDMAN-JIMENEZ: Maybe the word potential is what's giving me a hard time.

CHAIR MARKOWITZ: How about for potential exposures that are site wide?

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(Simultaneous speaking.)

MEMBER FRIEDMAN-JIMENEZ: The sentence is that consideration be given and then it should be to potential exposures that are site wide maybe. So, change the to too. It's a very long sentence and so you have to really concentrate.

CHAIR MARKOWITZ: Yes, yes. Yes, yes, yes, there's a lot of brain power going on here.

Okay, so, we need to vote on this. I don't -- I'm sorry for the time pressure, but is there language that in this particular line that we're looking at that represents an improvement over what there is there?

Dr. Bowman?

MEMBER BOWMAN: Yes, Jim Key had noted if we just delete the words, going back to that consideration be given in establishing toxic substance exposure and causation for, and then, delete the potential, just for exposures that are site wide. I think that portrays it.

CHAIR MARKOWITZ: Okay, that's good.

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Okay, yes, that's good. I think that addresses Dr. Friedman-Jimenez's.

Yes, Dr. Cloeren?

MEMBER CLOEREN: Marianne Cloeren.

I think still we've got some unnecessary redundancy. So how about just consideration be given to the potential for site wide exposures and causation?

I don't -- it feels like we have exposures and exposures like in that line.

MEMBER BOWMAN: So, I pulled in the language establishing toxic substance exposure and causation because it comes straight from the procedure manual under that category.

CHAIR MARKOWITZ: And also, it ropes in the CMC who is focused on causation.

MEMBER CLOEREN: Get rid of the second exposure then. So, toxic substance, exposure, and causation that are site wide and not just related to their work area of record.

MEMBER VAN DYKE: Or for substances that occur site wide.

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CHAIR MARKOWITZ: Yes, Dr. Van Dyke, what are you suggesting? For exposures that are site wide?

Okay, so, enough wordsmithing I think. I think we have --

MEMBER FRIEDMAN-JIMENEZ: The last part of that sentence doesn't really make grammatical sense Because we changed it. So, I think the word to has to come out or not just limited to their work area of record. So, add limited right there.

CHAIR MARKOWITZ: Between just and to, not just limited to. Dr. Bowman, is that okay?

MEMBER BOWMAN: Yes.

CHAIR MARKOWITZ: Okay, okay, so we're going to close the discussion now and we're going to take a vote. And all those -- we go one by one, right? Yes, okay, you want to call out the names or do you want me to?

(Simultaneous speaking.)

MS. RHOADS: Is that good? Okay.

CHAIR MARKOWITZ: Perfect.

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MS. RHOADS: All right, so, we're voting the language that is on the screen about site wide job titles.

Mr. Key?

MEMBER KEY: Aye.

MS. RHOADS: Dr. Bowman?

MEMBER BOWMAN: Yes.

MS. RHOADS: Dr. Cloeren?

MEMBER CLOEREN: Yes.

MS. RHOADS: Dr. Van Dyke?

MEMBER VAN DYKE: Yes.

MS. RHOADS: Ms. Whitten?

MEMBER WHITTEN: Yes.

MS. RHOADS: Dr. Markowitz?

CHAIR MARKOWITZ: Yes.

MS. RHOADS: Ms. Zaback?

MEMBER ZABACK: Yes.

MS. RHOADS: Dr. Vlahovich?

MEMBER VLAHOVICH: Yes.

MS. RHOADS: Ms. Splett?

MEMBER SPLETT: Yes.

MS. RHOADS: Dr. Mikulski?

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MEMBER MIKULSKI: Yes.

MS. RHOADS: Dr. Friedman-Jimenez?

MEMBER FRIEDMAN-JIMENEZ: Yes.

MS. RHOADS: Mr. Catlin?

MEMBER CATLIN: Yes.

MS. RHOADS: Okay, it's unanimous.

CHAIR MARKOWITZ: Okay, okay.

So, just before we adjourn, I just want to make sure that there is some items that we've discussed that will live on, either in working groups or at our next meeting.

The issue of limiting the exposure assessment to seven toxic substances not moving beyond that, that will be discussed in the future.

The issue of how the SEM keeps exposure disease links up to date is something that we need to look at in the future.

And then, the Board term length which I had raised early yesterday whether it could be moved -- should be moved to two to three years or longer is something that we will discuss in the future.

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Some of this we will carry on by working groups and so, I'll send an email around with the working groups and with the topics for the working groups that people can volunteer -- they can't subtract themselves, but they can volunteer to add themselves to the working groups.

And with that, that's all we have. Ryan, do you have something you need to say?

MR. JANSEN: I believe that is it. This meeting is adjourned.

(Whereupon, the above-entitled matter went off the record at 11:02 a.m.)

