

UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES
AND WORKER HEALTH

+ + + + +

SUBCOMMITTEE ON THE SITE EXPOSURE
MATRICES (AREA #1)

+ + + + +

MEETING

+ + + + +

FRIDAY,
JANUARY 6, 2017

+ + + + +

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

MEMBERS

SCIENTIFIC COMMUNITY:

JOHN M. DEMENT

MEDICAL COMMUNITY:

LAURA S. WELCH, Chair

CLAIMANT COMMUNITY:

KIRK D. DOMINA
GARRY M. WHITLEY

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OTHER ADVISORY BOARD MEMBERS PRESENT

FAYE VLIEGER

DESIGNATED FEDERAL OFFICIAL:

CARRIE RHOADS

A G E N D A

Improvement of the OHQ in collaboration with DEEOIC	10
Review of COPD cases from DEEOIC, and the COPD presumption	38
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Discussion of hearing loss presumption	55
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P-R-O-C-E-E-D-I-N-G-S

1:05 p.m.

OPERATOR: Thank you all for standing by. Welcome to today's conference call. At this time the lines have been placed on listen-only for today's conference. Your lines will be on listen-only for the duration of today's conference. The conference is being recorded. If you have any objection, please disconnect at this time.

I will now turn the conference over to our host, Ms. Carrie Rhoads. Ma'am, you may proceed.

MS. RHOADS: Thank you. Good morning or afternoon, everybody. My name is Carrie Rhoads, and I'd like to welcome you to today's conference meeting of the Department of Labor's Advisory Board on Toxic Substances and Worker Health, the Subcommittee on the Site Exposure Matrices, or SEM.

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

We do appreciate the time and the work

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1 of our Board Members in preparing for the meeting
2 and for the work they'll do afterwards. I'll do a
3 quick roll call of the Subcommittee Members,
4 please. Dr. Laura Welch is the Chair of the
5 Subcommittee.

6 (Roll Call)

7 MS. RHOADS: Regarding meeting
8 operations today, I don't think we'll need to take
9 a break, although Dr. Welch can chime in on that
10 if she'd like to take one. Copies of all meeting
11 materials and any written public comments are or
12 will be available on the Board's website under the
13 heading "Meetings," and the listing for this
14 Subcommittee meeting. The documents will also be
15 up on the WebEx stream so everyone can follow along
16 with the discussion.

17 The Board's website can be found at
18 [DOL.gov/OWCP/energy/regs/compliance/advisoryboa](http://DOL.gov/OWCP/energy/regs/compliance/advisoryboard.htm)
19 rd.htm. I encourage you to visit the website if you
20 have not done so. After you click on today's meeting
21 you'll see a page dedicated entirely to today's
22 meeting. These contain publicly available material

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1 submitted to us in advance of the meeting and we'll
2 publish anything that is provided to the
3 Subcommittee. You should also find today's agenda,
4 as well as instructions for participating
5 remotely.

6 If you are participating remotely and
7 you're having a problem, please email us at
8 EnergyAdvisoryBoard@DOL.gov. If you are joining by
9 WebEx please note the discussion is for viewing
10 only and will not be interactive. The phones will
11 also be muted for non-Advisory Board Members.

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

17 The Advisory Board voted at its April
18 2016 meeting that subcommittee meetings should be
19 open to the public. A transcript and Minutes will
20 be prepared from today's meeting.

21 During the Board discussion as we're on
22 a teleconference line, please speak clearly enough

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1 for the transcriber to understand. When you begin
2 speaking especially at the start of the meeting
3 please state your name so we can get an accurate
4 record of the discussion. Also, please ask our
5 transcriber to please let us know if you are having
6 an issue with hearing or with the recording. As DFO,
7 I see that the meeting -- the minutes of the meeting
8 are prepared and insure that they're certified by
9 the Chair. The minutes of today's meeting will be
10 available on the Board's website no later than 90
11 calendar days from today per FACA regulations. If
12 they are available sooner, they will be published
13 sooner.

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

19 I would like to remind the Advisory
20 Board Members that there are some materials that
21 have been provided to you in your capacity as
22 special government employees and members of the

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1 Board which are not for public disclosure and
2 cannot be shared or discussed publicly, including
3 in this meeting. Please be aware of this as we
4 continue with the meeting today. These materials
5 can be discussed in a general way which does not
6 include using any personally identifiable
7 information, such as names, addresses, specific
8 facilities if a case is being discussed, or
9 doctor's names.

10 And with that, I convene this meeting
11 of the Advisory Board on Toxic Substances and
12 Worker Health, Subcommittee on the SEM. I'll now
13 turn it over to Dr. Welch, who is the Chair.

14 CHAIR WELCH: Thank you, Carrie, and
15 thanks, everybody, for being on the call.

16 I have two questions before we get to
17 the agenda. We had received a copy of the Draft
18 Occupational Health Questionnaire which doesn't
19 have any personal identifiers in it, but it is also
20 not because it's a draft made publicly available,
21 so how can -- what level discussion can we have
22 about that document on this call in the context the

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1 fact that it's not publicly available?

2 MS. RHOADS: I think most of the
3 discussion should be okay about that.

4 CHAIR WELCH: Okay.

5 MS. RHOADS: I'll jump in if I think that
6 anything is -- shouldn't be discussed further.

7 CHAIR WELCH: Okay. And then, John, the
8 reason I had wanted you on the call is to talk about
9 the sites that are not in SEM. And that was like
10 I think -- that's down the agenda but we can address
11 that first if you want to deal with the question
12 we had for you and then go to something else. If
13 you want to stay on the call the whole time and
14 listen to that discussion about the OHQ, that would
15 be fine, too, so just let me know what you prefer,
16 what you want us to do.

17 MR. VANCE: I'm pretty much at your
18 disposal. I am slated for the entire meeting to be
19 here.

20 CHAIR WELCH: Okay. Okay, that's great.
21 Okay, so why don't we just look through the agenda.
22 I put five things and then we'll option for new

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1 business on the agenda. The five items are -- we're
2 probably not going to get through them all in any
3 case, but does anyone have something that's new
4 business they want to make sure we get around to
5 talking to today before we work through what I have
6 already written down? Okay, good.

7 So the first item was for us to develop
8 a process for the collaboration that we've agreed
9 to with the Department on improving the
10 Occupational Health Questionnaire. And I hadn't
11 realized because I hadn't opened that the disk that
12 the draft was on there, but I was able to do that
13 yesterday and got a look at that. And I had
14 circulated to everyone the questionnaire that we
15 used in the BTMed program. So we have some time both
16 to discuss the questionnaire, get the -- and we want
17 to make sure we have some time left over to talk
18 to -- scan the comments with the rest of the Board
19 and get the comments back to the Department. Does
20 everybody have a clear look at the draft
21 questionnaire that we got from the Department?

22 MEMBER DEMENT: Yes.

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1 CHAIR WELCH: So any comments on that in
2 particular?

3 MEMBER DEMENT: John Dement. I -- my
4 major comment is that unless there's something that
5 I didn't see in the draft, it looks like it's
6 largely just a place to enter free text rather than
7 having places where you specifically ask about
8 exposures, such as on the current questionnaire.
9 So it's -- I'm not so sure -- this is just my first
10 take on it. I'm not so sure that the new
11 questionnaire is going to stimulate a lot of
12 specific recall on the part of workers, nor
13 necessarily the individuals who are doing the
14 administration of the interview. And it's really
15 just some categories of exposure and they ask for
16 a lot of free text. I'm not opposed to free text
17 because I think it adds a lot, but my major concern
18 is it doesn't ask about specific exposures that are
19 known to occur among at least certain trades and
20 some they're maybe even pretty much DOE specific.

21 CHAIR WELCH: Yes, I agree with that,
22 too. Comparing with the old one there were specific

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1 exposures that were on the current draft, and now
2 it looks like it's -- instead of asking about
3 specific ones it's actually a little bit
4 open-ended, so I agree with you on that.

5 MEMBER DEMENT: So I guess I'm not sure
6 that it's actually going to improve things. That's
7 my major concern. You know, I'd like to hear from
8 others for what their thought on this is.

9 CHAIR WELCH: I know that -- this is
10 Laura Welch, again. One of the things that we had
11 talked about in our March/April meeting was the
12 value of asking about tasks, as well, which would
13 be a challenge to develop a list of tasks for all
14 the different tasks, but I think that would be a
15 good addition, in addition to specific agents,
16 exposure situations, to ask about tasks because
17 that's where industrial hygienists think that you
18 can always get a sense of the intensity overall dose
19 that one would -- how the material -- how exposure
20 to material occurs. And as it is now, that
21 information about how the individual is exposed to
22 materials is asked in the free text. That gives you

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1 a window to tell us how you were exposed to them,
2 so I think we can also add some information on
3 tasks.

4 MEMBER DEMENT: Yes. Well, you know, I
5 think the collection of free text information which
6 often includes a description of how the work is done
7 and the associated tasks. I think it's helpful but,
8 you know, one of the problems we've had all along
9 in the Former Worker Program is how you stimulate
10 recall of workers who are trying to recall
11 exposures that happened 20, 30, even 40 years
12 earlier. And sometimes, you know, just a list of
13 task -- certainly a list of materials helps, as
14 well. You know, it has the potential for a worker
15 checking everything which is not useful, but it
16 also I think -- on counterbalancing I think it
17 stimulates some degree of recall.

18 You know, I would continue to ask the
19 questions about materials that are -- I believe
20 it's on the other questionnaire. I don't think it's
21 that bad, maybe add here and there, and modify that
22 a bit more by asking more about the task, as Laura

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1 said, but preserving the possibility of workers
2 entering just their own descriptions in free text.

3 The other sort of -- and to me in
4 reviewing the questionnaire and the cases that we
5 have, the COPD cases, there's a -- you know,
6 there's the issue of what the questionnaire is, but
7 also how the questionnaire is administered and
8 subsequently used. And I think we ought to talk
9 about that, as well. No matter how good we make this
10 questionnaire, it's never going to be perfect.
11 There's going to be recall issues. They'll always
12 be there so we have to just do as good a job as we
13 can, but I think we need to think about the process
14 of how this is integrated in there, and the whole
15 process for kinds of adjudication because I don't
16 -- I can't see this actually used very much
17 currently except for getting the information about
18 occupations and time frames and sites.

19 MEMBER DOMINA: Hey, this is Kirk. I've
20 got a -- just a comment. Like when this starts out
21 about, you know, where you worked, or assessed
22 production, or construction, it needs to be and/or

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1 or put both in there because I'll tell you straight
2 up, half of our workforce used to be construction,
3 now they're on the production side, or it can be
4 vice versa, or they go back and forth two, or three,
5 or four different times. And I think it's important
6 to capture that so that people understand what
7 people do because some of the jurisdiction is
8 different based on what side of the fence you're
9 on, and your exposures can be also. Sometimes,
10 sometimes not, but I don't want somebody who is
11 looking at this that does not understand the work
12 that goes on at these different sites, look at it
13 and say well, you can be both and try and put them
14 into just one category, because you can't. And I
15 believe it's important.

16 MEMBER DEMENT: So I don't know how to
17 proceed with this. Do others find this
18 questionnaire to have improved on what we've done
19 before? My view is it doesn't.

20 MEMBER WHITLEY: This is Garry here. I
21 don't think it has, and I'm -- a lot of our -- the
22 majority of our people worked construction, then

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1 switched over to maintenance for years. Another
2 thing is, keep in mind that a lot of times a family
3 member, a spouse, or family member is the one who's
4 trying to do these and they really don't have a
5 clue. Now it's pretty clear on the questions that
6 -- even the ones that are filled out by workers,
7 they don't recall a whole bunch.

8 MEMBER DEMENT: Correct.

9 CHAIR WELCH: Yes, I agree with you,
10 John. I don't think it's an improvement, and I
11 think, you know, there's lots of stuff that you have
12 to get by picking up the different agents. I guess
13 one question that John has is if our Subcommittee
14 will make a list of recommendations, but how
15 specific would you want the recommendations to be
16 to go back to the Department and you can share them.
17 Do we have to develop a pretty specific draft or
18 -

19 MR. VANCE: I mean I -- this is John, and
20 my take on this is that, you know, what we're trying
21 to do is collect information; however that
22 information can be input into the case file that

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1 allows us to evaluate that in conjunction with
2 other pieces of information. So in response to
3 John, you know, how we use this. This is another
4 data point where we are trying to collect
5 information and then trying to correlate that
6 information to other sources of information, such
7 as information that we're gleaning out of the Site
8 Exposure Matrices or correlating the direct
9 information that we're receiving from the site
10 itself, so this is seen as sort of a complementary
11 piece of information in case analysis. It also
12 leads us down paths of development that may not be
13 easily identified in employment records we get from
14 the Department of Energy, so just to clarify that
15 point.

16 But as far as I'm concerned, you know,
17 the team that's working on this is open to getting
18 very specific recommendations as to what can be
19 done to improve the quality of the information that
20 we're receiving. And I think Garry it was, was
21 making a good point. You have to also keep in mind
22 that the folks that are completing this form are

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1 oftentimes survivors of deceased employees.
2 They're not going to have a lot of information about
3 specific toxins. And, you know, the defaults we
4 find a lot of times is that people say they don't
5 know or may have been exposed to specific things
6 when we identify them. And often times, and this
7 is just my personal view, a lot of times people are
8 unfamiliar with a lot of the very highly technical
9 toxins that are identified in some of our forms and
10 such, so that's also an experience I think that
11 we've encountered.

12 But, Dr. Welch, I think that my view
13 going forward would be, you know, if you have
14 specific recommendations about how we can go about
15 how we can go about improving on the current version
16 of the Occupational History Questionnaire in
17 conjunction with the drafts that we're messing
18 around with right now, I would definitely ask that
19 that happen with as much specificity as possible,
20 really.

21 CHAIR WELCH: Okay. And then I asked, on
22 Monday, I was interested in input from Mark

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1 Griffon, and I can go to him after our call, was
2 if we wanted to develop a list of tasks and if they
3 have that on the production side. And I think that's
4 a big project, from my point of view, it's a big
5 project.

6 COURT REPORTER: Sorry, this is the
7 transcriber. Could you repeat that?

8 CHAIR WELCH: Sorry, I put my hand by my
9 microphone. I think developing a list of tasks for
10 the production side is a big job, but it may be that
11 the people who understand that production side may
12 know that, but I don't. Have an idea in their head
13 of what some of the overarching tasks are so nothing
14 achievable.

15 Okay, the language I would propose is
16 that I'll send the committee a list of what we've
17 discussed and what I remember we discussed when the
18 full Board was together with specific suggestions,
19 and you can all add to those suggestions, and you
20 can -- it may turn out that that will come out to
21 a specific list of recommendations which would be
22 great, or we may have to triage out a little bit

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1 more work to get a final list of suggestions for
2 the proposed draft.

3 But, John Dement, I want to circle back
4 to something you said about how not just what's on
5 the questionnaire but how it's used. Do you think
6 --

7 MEMBER DEMENT: Yes. Let me elaborate on
8 that a bit, if I can because --

9 CHAIR WELCH: Yes.

10 MEMBER DEMENT: -- I think what
11 -- certainly the case I reviewed -- I didn't review
12 all of these cases for COPD, but I reviewed a fair
13 number of them; I think enough to get a pretty good
14 sense of what's happening.

15 To me what's happening is this OHQ is
16 prepared. They get it to the claims examiner. They
17 took off information with regard -- certainly with
18 regard to sites and covered employment and label
19 category, immediately go into the Site Exposure
20 Matrix based on the labor category and site and
21 determine -- to come up with a statement of
22 accepted facts on exposures two things are

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1 required. What is the labor category and site has
2 to specifically list an exposure and, two, those
3 exposures have to be linked in the SEM to the
4 condition being claimed, e.g., COPD. If either one
5 of those conditions aren't met then it doesn't top
6 out as an exposure to be considered by either the
7 industrial hygienist or the CMC. And so I don't see
8 that the Occupational History Questionnaire is
9 being given much weight at all. Even if they have
10 a lot of detailed descriptions in it, I don't think
11 it would get much weight. So it seems to me the
12 process is not in the right order.

13 It seems to me the industrial hygienist
14 and a knowledgeable individual with regard to
15 exposure needs to be early on in that process for
16 determining, first of all, which exposures are
17 going to be considered. The SEM is a tool, of
18 course, but I don't think it should be the only tool
19 that's used. In our review of what's going on, the
20 SEM is driving pretty much everything with COPD.

21 That's my biggest concern with the
22 process as it exists. The hygienist and the CMC,

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1 I think their hands are tied based on what the
2 claims examiner picks out of the SEM.

3 MEMBER WHITLEY: Garry here. I think
4 you're exactly right; it's not just for COPD.
5 Pretty much the way I see it is exactly what you're
6 saying, and they use the -- they get the DOE
7 records, and they use those DOE records which gives
8 them the job categories he worked, and the years
9 and all of that, of course, employment records from
10 DOE. And they take that straight to the SEM and use
11 the SEM to decide whether you were exposed to those
12 chemicals or not. That's -- I think the
13 questionnaire is, of course, used, but the SEM is
14 driving everything.

15 MEMBER DEMENT: Well, the workers, you
16 know -- this information, the decision,
17 recommended decisions are given back to the worker
18 and they're provided the opportunity to dig back
19 in and provide more information, but unfortunately
20 they are at a great loss.

21 And I think if everybody would take a
22 look to find a case number, I think it's Case Number

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1 Five on the list in the COPD cases, to me that
2 particular one exemplifies the whole process
3 problem with COPD in particular, and I assume they
4 extend to the others. This is a case of an
5 individual who had long periods of work at the site,
6 ended up having only a couple of exposures that are
7 considered by the Site Exposure Matrix. Those
8 exposures were independently assessed with regard
9 to COPD and then the decision was made, so a
10 hygienist and the CMC only had the opportunity to
11 look at two exposures. To me this case, after
12 reviewing -- I think I reviewed about a dozen of
13 these cases. This case just exemplifies to me,
14 first of all, the difficulty of the task but also
15 the problems I see in the process.

16 CHAIR WELCH: Yes, and I think I've
17 looked at a number of COPD cases over the years,
18 and I would agree with you on that, and we saw that
19 in some of the other cases as well. Specific
20 exposures that come out of the trends are not
21 necessarily representative of the totality of
22 exposures, and there are some kinds of exposures

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1 that particularly, for COPD, that aren't captured.
2 In fact, that specific metric can't be captured in
3 this one.

4 MEMBER DEMENT: Yes, I think the -- you
5 know, I'm not saying the SEM is not a useful tool,
6 just in many cases there's not much information to
7 go on at all. But where there is and the worker has
8 had an opportunity to develop this questionnaire,
9 seems to me it ought to be given a little more
10 weight. And, you know, we talked about the IH having
11 access to the worker along the process assessing
12 exposures. Why are they only accepting exposures
13 that are given to them by the SEM and not exposures
14 -- totality of exposures that are given on the OHQ
15 and the SEM? Yes, discussions with the worker, but
16 the worker at that point would probably clarify a
17 lot of issues.

18 CHAIR WELCH: Right. So here's the
19 question back to John Vance. I know that the overall
20 stated approach is to use exposures that come from
21 -- use information that comes from other sources,
22 but when they see that the case at hand, it's really

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1 focusing on SEM, and maybe unintentionally
2 limiting what gets through to them. Is there a
3 procedure that --- I think I want to say, to insure
4 that the industrial hygienist and the CMC see all
5 the exposure information that was collected, not
6 just what is accepted. And I guess some of the
7 recommendations the Board made about having the
8 whole case file could fix that, but there may be
9 some other way in which we could make a
10 recommendation in the structure or approach to
11 claims adjudication. So we kind of need to say our
12 recommendation is to have an industrial hygienist,
13 the other materials and also recommend that they
14 talk to the worker. But is there anything more
15 specific we could recommend that would get the
16 claims information to the SEM?

17 MR. VANCE: You know, I'm certain
18 -- this is John. I certainly would welcome any kind
19 of feedback that the Board has or the subcommittee
20 has on how we evaluate information. I think John
21 does have a very good point in that, you know, it's
22 a question of how do you value, or how do you assess

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1 the accuracy of the information that's been
2 reported on the Occupational History
3 Questionnaire? You know, the current methodology
4 is that the information and forms are evaluation
5 of a claim and it is looked at in conjunction with
6 the Site Exposure Matrices. You know, but how do
7 you weigh that information? How can you validate
8 that the information being reported by an employee
9 or survivor is an accurate representation of what
10 occurred? What we do is then look at, you know,
11 -- collaborate -- you know, basically correlating
12 information that we're getting from that employee
13 like I said before and looking at, okay, if the
14 employee is saying X, and this is complemented by
15 information we have in the Site Exposure Matrices,
16 and is also supported by information that we have
17 in the DAR, we're in a much better position to
18 rationally and reasonably say that's a factual
19 finding that the Department can make with regard
20 to this case. Okay?

21 If you're saying that we should be
22 valuing the Occupational History Questionnaire

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1 more so than we are, then the criterion that the
2 Board would need to focus on is identifying for
3 claims examiners, you know, how do you weigh this
4 information if the employee checks off every single
5 exposure on the Occupational Questionnaire that
6 they think they came in contact with, do we accept
7 that as factually accurate? Do we ever question
8 that? You know, how reliable is that information,
9 and how does the CE make a judgment as to what is
10 a reliable piece of information reported on the
11 Occupational Questionnaire versus something that
12 may be dubious for whatever reason? And that's
13 going to be challenge.

14 And the other thing, of course, is
15 -- John's got a very good point, as well, is the
16 sequence about development. Is there some change
17 in our process that could occur that would allow
18 us to get a better feel for the information or a
19 more reliable outcome? And the -- you know, having
20 a total evaluation of a case with a complete and
21 comprehensive understanding of every single toxic
22 substance exposure that an employee may have

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1 encountered, that is a very good and noble goal,
2 but you also have to keep in mind that this is a
3 case adjudication process. And the longer that we
4 take in developing a case means that the longer the
5 employee is going to be waiting for us to actually
6 reach a decision.

7 So while we do implement these
8 prioritizations and we do focus on certain things
9 in these case files, we're trying to focus on the
10 things that are going to try to produce the best
11 possible outcome for the claimant. So could there
12 be suggestions and recommendations made about, you
13 know, how we could change that process to produce
14 better outcomes within a certain set of prioritized
15 considerations in these cases, because I think the
16 concept of doing a comprehensive evaluation of
17 everything to produce the most complete exposure
18 profile is a very big challenge for a program that
19 deals with lots and lots of claims.

20 CHAIR WELCH: Okay. That's actually very
21 useful because I think that -- I mean, I can decide
22 which exposures are relevant. And then the other

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1 thing I wanted to mention, too, is that
2 presumptions factor, and when the exposures are
3 going to be captured in the SEM.

4 MR. VANCE: This is John real quick. I
5 do want to chime in on that. That would probably
6 be the best recommendation I can make for making
7 this process more smoother and more
8 claimant-oriented, is if looking at how we are
9 evaluating COPD from these claims, and if you're
10 seeing a trend then that -- you know, a lot of the
11 cases have certain criteria that you're looking at
12 and saying geez, these cases should have probably
13 just been approved or what have you based on
14 whatever scientific or medical merits that you guys
15 can arrive at. That would be something that would
16 be really critical because that would be the
17 quickest path to getting cases to a positive
18 outcome. Changes to process, changes to, you know,
19 procedure and all that sort of stuff has a much
20 longer path to getting those kinds of outcomes;
21 whereas, a presumptive change is a quick thing that
22 the program can do to immediately say this cohort

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1 of cases, if we meet those criteria and move that
2 to an accepted, you're going to have a very quicker
3 -- you're going to have a much quicker pathway to
4 approvals.

5 MEMBER DEMENT: John -- this is John
6 Dement, again. I agree with you, and also agree with
7 you on the difficulty of coming up with criteria
8 to look at to evaluate this Occupational History
9 Questionnaire.

10 I just -- you know, we've already, I
11 think, made a recommendation that the industrial
12 hygienist at least have access to the worker in the
13 process of reviewing exposure, evaluating the
14 degree and severity of exposure.

15 I guess, you know, the other part of
16 that recommendation I would recommend is that the
17 hygienist have at his access the OHQ at the time
18 they make contact with the worker to clarify some
19 issues with regard to exposure. And we can't
20 eliminate professional judgment here at all.
21 There's going to have to be a judgment on the part
22 of the hygienist on which exposures are more

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1 likelier than not going to have some relationship
2 to the outcome, and at least give the hygienist the
3 ability to query more about some of those that the
4 worker has listed as opposed to just those that pop
5 out of the SEM.

6 There's no way we're going to ever
7 eliminate -- first of all, there's no way we ever
8 can be perfect. There's also not going to be a way
9 we'll ever eliminate some workers and some people
10 who have been workers dismissing everything, every
11 disease known to man, and etching out every
12 exposure which doesn't help. It stifles the
13 process, and it really doesn't -- in my view
14 somebody who is helping a worker and checks off
15 every known disease does not help that particular
16 worker either. So, you know, I guess I would get
17 -- I just want the knowledgeable individual to have
18 access to the OHQ to at least consider that as part
19 of the exposure assessment and not be constrained
20 to what the claims examiner has given them to
21 review.

22 MEMBER DOMINA: This is Kirk. What John

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1 Dement was saying about the OHQ that you're filling
2 out which could be 10 years after you retire, or
3 whatever the case might be, some of the sites have
4 work history questionnaires that are filled out
5 annually to go with your annual physicals, and
6 maybe some of those need to be tapped out of these
7 because, you know, as time goes by people forget,
8 and site-specific ones could be of more help than
9 lack of a better term, a generic one that's given
10 later on. And if those are being passed on for an
11 IH to review, because some of them -- and then some
12 of the other things that your physical is based on
13 are specific on some of the hazards and the amount
14 of time that you're exposed to those hazards, it
15 could be more helpful to help frame what the
16 individual's job exposures were, if that makes
17 sense.

18 MEMBER DEMENT: It does make sense, and
19 some of the -- you know, again I review a fair
20 number of the COPD cases. Some of the cases that
21 we have in this file have that in there. They have
22 the annual physical and the questionnaire that was

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1 filled out with the annual physical, and some
2 actually have some determinations by the site in
3 terms of which categories, like if you have
4 certifications they need. I think those are
5 actually pretty helpful and most cases really
6 supported the exposures that I saw occurring by the
7 worker. And, frankly, in those cases they also
8 supported the exposures that popped out of the SEM,
9 as well. But I think they are useful, and I think
10 as a hygienist you -- whatever you can get your
11 hands on with regard to the history of that person's
12 exposure. And if it already exists it ought to be
13 part of what the IH sees.

14 MEMBER DOMINA: This is Kirk, again. And
15 I agree and, you know, some of these different forms
16 and stuff that came on line for like when you're
17 talking about a hazardous waste worker, some
18 -- that training didn't start until the late '80s,
19 you know.

20 MEMBER DEMENT: That's right.

21 MEMBER DOMINA: And so anything past
22 that, you know, we've got to look at that, because

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1 I can even look at like my private medical stuff
2 and what your physical was based on is pretty
3 limited, you know. And it varied out here at Hanford
4 at that point in time because we, basically, had
5 three different things going on at one time based
6 on what area you worked for, or which contractor.
7 And so when an individual says that they do -- did
8 these certain tasks or whatever, you can't rule
9 that out just because you may or may not have some
10 document for that, you know, because there was
11 limited information. You know, and I know it's a
12 balance but, you know, like I have no problem
13 sharing my file with people on the Board to look
14 at so you can understand what I'm explaining,
15 because my physical and stuff back in the '80s was
16 based on this little one-page thing which was very
17 generic that the supervisor basically filled in
18 some blanks, you know, and that was it.

19 CHAIR WELCH: And another thing is what
20 we would like to have happen. That doesn't include
21 the industrial hygienist information.

22 COURT REPORTER: This is the

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1 transcriber. You're a bit muffled.

2 CHAIR WELCH: Oh, okay, let me just
3 -- I'm afraid if I unplug my -- I'll just try it
4 again. Does that sound better now? Hello? Can you
5 hear me?

6 MEMBER DEMENT: Yes, I think that's
7 better for me. It's not as muffled.

8 CHAIR WELCH: Okay.

9 COURT REPORTER: Yes, that's a little
10 better.

11 CHAIR WELCH: Okay. So what I was saying
12 is we want to find a way to recommend to the
13 Department that these other information sources
14 not in summary be precluded from the Statement of
15 Accepted Facts, that they're acceptable and
16 available to the industrial hygienist and the CMC
17 to look at when they're looking at the claims. And
18 that would -- even if we have a presumption that
19 the many other cases for which that recommendation
20 would apply. I think we'll make that recommendation
21 and then if there are specific things to have
22 implemented, I don't think that that takes longer

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1 than those other sources of exposure information
2 in the file and they should carry forward from the
3 claims examiner to the CMC and the industrial
4 hygienist. And then there's some caveats with all
5 of them as we get exposure information.

6 MEMBER DEMENT: Yes, to me it does. I
7 think the assumptions are a way to help out the
8 process. But I expressed a concern about
9 presumptions based, again, on reviewing these
10 files. And I'm afraid the presumptions for COPD,
11 and particularly with regard to the asbestos issue
12 has become a de facto threshold for -- you know,
13 if you don't, for example, have asbestos-related
14 chest x-ray changes of some form, then they do not
15 attribute COPD to asbestos, even in the presence
16 of a fairly prolonged exposure.

17 CHAIR WELCH: Yes, it's a difficult
18 problem when the -- I mean, I think we can, for COPD
19 doesn't focus that much on asbestos. And there's
20 a bigger problem among the cases that I review, the
21 CMC is not real knowledgeable.

22 Let's turn to the files and the COPD

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1 presumptions. And, again, fix everything that we
2 want to fix, but we can come up with a couple of
3 ideas of how to do that.

4 John, you already mentioned some of the
5 things that you found in the case files. Does
6 anybody else have any comments on the COPD case
7 files?

8 MEMBER DEMENT: I think, you know, I've
9 sort of summarized and I guess I could go through
10 them all and probably see the same patterns, but
11 I think there is a couple of issues where the
12 presumption might help. One is, you know, we think
13 COPD is not related to just asbestos related to the
14 cumulative exposures to these vapors, gas, dust,
15 and fumes, and so, you know, we need to act in a
16 way that's meaningful.

17 The other issue, and I think you've
18 touched on it, was the CMC. Some of them have some
19 strange ways of making these determinations. Some
20 determinations are very difficult because of short
21 exposure. You know, some exposures were a year or
22 two, or even less, and so those become problematic

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1 for anybody to review and to make an attribution
2 to, but there's some strange things that seem to
3 be just so inconsistent across the CMCs.

4 One of the cases I reviewed, the CMC
5 looked at an exposure of about a year, and I think
6 it was to diesel and said well, you know, that may
7 -- you know, if that could be long compared to
8 normal aging, so he calculated that this person
9 would have about a 13ml total based on the one-year
10 exposure, and then a finding that it wasn't
11 related. To me, just that process of doing that was
12 so counter-scientific. First of all, this is for
13 exposure but to say that the person immediately,
14 or it's going to cease having an impact after
15 exposure ceases is just foreign to me.

16 I mean, somewhere along the way these
17 -- there has to be some process for the CMC applying
18 some criteria that are consistent across
19 themselves.

20 CHAIR WELCH: Yes, you know, there was
21 another committee.

22 MEMBER DEMENT: I know there is history

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1 with the SEM that looks -- that for some reason the
2 CMC - now COPD is obviously diagnosed late in life
3 and it occurs to everybody late in life no matter
4 what you do. If you're a smoker, you don't usually
5 have COPD, and some of these -- not necessarily in
6 your 50s, you have it later. So we focus on
7 exposures that occurred early on in their work
8 life. Then there were many years that passed and
9 they're diagnosed with the COPD later, and the CMC
10 says well, he should have seen it, you know, soon
11 after the exposure if it was related to exposure,
12 which is just total nonsense. A smoker, and all you
13 have to -- just think rationally, a smoker is not
14 going to have COPD early on right after they're
15 first starting to smoke, even 20 years of smoking.
16 It's going to occur late in life. So I don't know,
17 you know -- and I was just frustrated trying to get
18 to the rationale behind some of these CMC
19 decisions.

20 CHAIR WELCH: Yes, I'm with you on that.
21 It's a very big burden on the worker to have to go
22 back and get another expert opinion, and CMC was

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1 incorrect for that and it's not always even
2 accepted.

3 So, you know, I think we can send
4 comments on -- if you make notes on the and make
5 it -

6 MEMBER DEMENT: I've got my own short
7 form and made notes on some of these cases I've been
8 going through. I can send it to -

9 CHAIR WELCH: That would be great,
10 because then I think we can send them -

11 (Simultaneous speaking)

12 CHAIR WELCH: All those cases were
13 available to the other committee so we could point
14 out ones for them to look at that would be
15 informative in terms of the committee that's
16 looking at the CMC questions, so that would be
17 great.

18 MS. RHOADS: Hi, this is Carrie. Just as
19 a reminder, if you're going to be preparing
20 documents for emailing around be very careful about
21 how you identify the cases, that there's no PII in
22 your documents. Thanks.

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1 CHAIR WELCH: Thanks you for the
2 reminder. So, I mean, I'm a big fan of the new
3 presumption for COPD. What I have sent around was
4 the current presumption and then some comments on
5 that. And within the comments we did make
6 recommendations of how to improve the -- how to
7 adjust some of the criteria within the current
8 presumption. So if others had a chance to look at
9 that and want to comment on it? I guess what I would
10 like to see is either now in the call or after the
11 call but everyone on the Subcommittee would review
12 that document that was submitted. Does anybody now
13 have any comments on the -- on both the
14 presumptions? Are you guys all still there? Am I
15 still here?

16 MEMBER DEMENT: Yes, I'm still here,
17 Laura.

18 CHAIR WELCH: Okay. I think about it, and
19 I guess it's Garry or Kirk wanted to speak on the
20 medical causation part.

21 MEMBER WHITLEY: Garry here. I agree
22 with you 100 percent. I think this is a good

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1 starting point, and we can use that.

2 CHAIR WELCH: Okay, great.

3 MEMBER VLIEGER: This is Faye. And just
4 you know, Dr. Redlich has sent in an email to
5 everyone that she wanted included in the
6 discussion.

7 CHAIR WELCH: Yes, I took a quick look
8 at it, but I sometimes find it hard to understand
9 specifically what she wants us to discuss, so I
10 think what I'll do is I'll call her afterwards. I
11 think she would be aligned with what we were talking
12 about earlier exposure information. So I'll touch
13 base with her.

14 Okay, so in terms of the presumptions,
15 what I think I'll do is see how specific she would
16 like it at Hanford.

17 So number two was how the Department
18 currently does exposure assessments and some
19 comments on that. And I don't know if everyone got
20 a chance to see it, but John was saying that on other
21 information like the employment records and
22 claimant testimonies.

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1 So, Kirk, I think this is something that
2 you thought was important, that we have a
3 discussion. Can you tell us?

4 MEMBER DOMINA: Yes, I was going through
5 some of it just this morning because I have had
6 computer problems the last couple of weeks, and
7 some of them I'm going to have to look at, you know,
8 more specifically because just like the one I
9 glanced at this morning when you were talking about
10 Grand Junction. It said to refer to the mills, you
11 know, around there. And one of them has 34
12 chemicals, one has 80 some, the other has 90 some
13 but, you know, they're talking specifically about
14 the Grand Junction facility, and that obviously
15 they made yellow cake there. And I need to do a
16 comparison to see all the chemicals, and I don't
17 fully understand -- I understand it's a smaller
18 operation there, but yet they have an SEC that runs
19 from 1943 to 1985 currently, to make sure that all
20 the chemicals are covered.

21 CHAIR WELCH: And that's having a SEM.

22 MEMBER DOMINA: No, it does not have a

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1 SEM, but they -- John sent out a thing and said it's
2 listed under the mills and the mines for around
3 there, and so I was just trying to wrap my head
4 around how they came up with that, or how somebody
5 is supposed to know that. Because if you just go
6 to the SEM site and you don't know that, you're not
7 going to get there. And then which one of the three
8 do they pick for Grand Junction operations, you
9 know? And so it's not real clear, or are they just
10 using all three of them? And, you know, if I'm
11 wrong, you know, John, I know, you're probably
12 there, you can say something because, you know, I'm
13 just trying to figure it out this morning for the
14 first time. And I think I just -- it just seems odd
15 to me when we have SECs at places because they can't
16 reconstruct dose but yet, you know, it's -- you
17 know, there's no SEM that it could -- or could be
18 used against somebody. And I just think like
19 Hanford when they put PNNL separate in '05 and
20 there's no SEM for PNNL right now, and so like you
21 could have an individual who did construction, who
22 did production on the non-PNNL side, could be at

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1 the PNNL side, or gone back and forth, and if you
2 need to get into that, what are you going to do is
3 it's post-2005, what are you going to use for a SEM?
4 I mean, it's just trying to understand the logic
5 of some of it because especially the way that some
6 of them read when they say there's nothing in the
7 Site Exposure Matrix.

8 MR. VANCE: Kirk, this is John. Yes, it
9 is undoubtedly a challenge, especially if you have
10 trade workers that are jumping between sites. We
11 try to engineer as much information as we can about
12 the different sites so you'll see the Grand
13 Junction facilities, but if you look up you'll see
14 we have something on the Climax uranium mill in
15 Grand Junction. So, you know, yes, it's very
16 complicated I would say with regard to the mines
17 and the mill and a level of complexity that doesn't
18 exist for some of the big sites. We have set up in
19 the Site Exposure Matrices that you can go in and
20 do your searches depending on whether you're
21 looking for a DOE facility and the exposure
22 information that we maintain on that, or you're

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1 going to look at a separate link to the uranium
2 mines or mill. So this is a complete comprehensive
3 listing of all of our registered DOE facility data.
4 This doesn't necessarily break it down into the
5 mines and mills. I don't think it does to the level
6 of specificity that we have a mapped site, but it
7 does have a lot of information in here about
8 virtually all the DOE sites.

9 And I would just clarify that, you know,
10 the reason you would -- and just a level of context.
11 The reason you would see that we don't have
12 information on a site is because Paragon, the
13 contractor doing the facility research, you know,
14 they populate data in the Site Exposure Matrices
15 based upon chemical and biological toxins that are
16 recorded on primary source documentation from the
17 site or the Department of Energy. If we have no
18 employment records about what was going on at the
19 site, if we have no exposure data about what was
20 going on on the site, then Paragon is in no position
21 to actually provide a profile for that facility.
22 So that's why vast majority of these that are listed

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1 as not in SEM are like that, is because when we've
2 gone and done our research and our data collection
3 efforts we've come back empty-handed with regard
4 to some of these sites. Most of these sites that
5 are listed here as not having information are very
6 small sites that had very limited engagement with
7 the Department of Energy and the Atomic Weapons
8 program, or they were facilities that were run by
9 like the federal government, like the Albuquerque
10 Operations Office. We find that most of the
11 employees there were federal so they're not going
12 to have a lot of coverage under Part E because that
13 classification of employee is uncovered. So it
14 really is at the end of the day mostly about not
15 having access to records.

16 We have functionality that allows
17 people to submit information that they have on
18 these sites. If there's no information that we have
19 on a particular site and someone has that kind of
20 data, we do have the mechanism for them to submit
21 that information.

22 But yes, again, Kirk, you're right,

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1 though. It's a challenge. You have to look at the
2 history of the worker, and then you have to try to
3 correspond what they're telling you with regard to
4 their employment history when you're doing your
5 analysis of the exposure utilizing the Site
6 Exposure Matrices. So, this is as comprehensive a
7 list that we've been able to put together, but we're
8 always willing to take more information on any of
9 these sites and to improve our data collection
10 efforts for exposure analysis.

11 MEMBER DOMINA: I just want to make sure,
12 because -- and I understand some of these sites are
13 old, and they were small but, you know, when a same
14 individual is from one of those sites and does have
15 issues caused by working there, I guess I just look
16 at it as I don't want to make it -- the little guy
17 still needs to have the same chance as somebody
18 that's a big guy, you know, and still operating,
19 has a bunch of people there with knowledge and
20 there's more information. I just want to make sure
21 that it still gets the same amount of scrutiny, if
22 not more, because of maybe some of the evidence,

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1 and so somebody does due diligence to look at it
2 and try and understand some of the history. Because
3 when you get into some of those it is in the details,
4 and I just -- you know, I don't want them to feel
5 like they got left out.

6 MR. VANCE: Yes, this is John, again.
7 Just to make sure that you understand that even if
8 they -- you know, the Site Exposure Matrices, while
9 it's a very important and vital tool to our process,
10 in the absence of information in the Site Exposure
11 Matrices, claims examiners are still going to
12 evaluate all the other information that we get in
13 the case. So, you know, we would look, we would go
14 through the normal process of asking the claimant
15 in the Occupational History Questionnaire to give
16 us data about what they encountered or what they
17 were doing at the site.

18 We would ask DOE to supply any
19 information they have in their records. We would
20 still try to do the research to make sure that there
21 aren't other sites that the employee may have
22 worked in that we do have information in the Site

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1 Exposure Matrices, and we do consult with our
2 industrial hygienist, where necessary, to say
3 okay, if we have somebody that was working at a site
4 who's identifying the type of work activity, we
5 have no information in our Site Exposure Matrices,
6 you know, can we formulate some sort of exposure
7 finding to apply in their analysis of the claim?
8 So we do go through a process of evaluating those
9 cases, it's just that it's being done in the absence
10 of any data from the Site Exposure Matrices.

11

12 CHAIR WELCH: This is Laura Welch. In
13 that case the work of an industrial hygienist is
14 particularly important because, you know, if you
15 have an Occupational Questionnaire that talks
16 about some exposures or some tasks, like we said
17 earlier, we'd like to have that to be able to
18 corroborate, or some DNA records, you're not going
19 to have it. So maybe there's some way to get -- in
20 a small number of cases, to get a hygienist review
21 sooner rather than later, because the kind of work
22 the individual did could be associated with SEM.

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1 But if trying to create a SEM doesn't make any
2 sense, you guys have tried. And we've already
3 talked about having information outside of the SEM
4 is much more technical or complicated and it's
5 subject to recall, would be subject to
6 over-reporting so you really need expert input
7 there. So I don't know the -- I mean nothing the
8 group could think about recommending that for a
9 site without a SEM that the industrial hygienist
10 be asked to look at all the exposure information
11 early on in the process. I don't know how you guys
12 would do that. But that could go to personnel. That
13 somehow gives the worker instructions about what
14 they need, you know, like their history, and then
15 they're going to need an affidavit or something so
16 that the whole exposure effect doesn't get lost in
17 a couple of years in trying to develop evidence.
18 So two ideas have a hygienist, you know, give the
19 worker some kind of template how to develop their
20 own exposure profile.

21 Does that sound like something that
22 could happen, John, or are they too out of the

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1 ordinary?

2 MR. VANCE: I think those all are very
3 good ideas. You know, I'm going to always default
4 to Dr. Welch; do whatever you think is appropriate
5 to recommend. My only thing is specificity is
6 always very important for us. You know, identifying
7 a problem is one thing, but offering a very good
8 specific solution and a recommendation as to how
9 to make that process work better is always very
10 welcome.

11 CHAIR WELCH: Okay. Okay.

12 MEMBER WHITLEY: Garry here. I think the
13 recommendation of this is not a SEM that the
14 let's-work-on-it kind of claims examiner -- don't
15 have a SEM. This information is really hard to
16 get. They ask a lot of times for worker affidavits
17 or affidavits from coworkers. A lot of these sites
18 are closed and small, and a long time ago, so there
19 probably is not very many coworkers. And then from
20 what experience I've had, an affidavit don't carry
21 a lot of weight. I've even had some claims examiners
22 tell me that it's getting very little weight,

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1 because I've had people fill out their forms and
2 send them in and didn't have complaints. I think
3 you're having it involve -- it is not a SEM, and
4 would be helpful to the claimant.

5 MR. VANCE: This is John, again. You
6 know, Garry, in regard to -- in response to your
7 point, you know, one of the things that you can
8 certainly consider as part of your discussion with
9 the subcommittee is, you know, if there is a problem
10 with weighing or evaluating affidavits, that
11 speaks to exactly what we were talking about with
12 the Occupational History Questionnaire. Are there
13 recommendations that you can make with regard to
14 how can the program feasibly look at valuing an
15 affidavit and providing a basis for a factual
16 finding in a claim? In other words, is there a
17 methodology that you could recommend saying if this
18 affidavit meets these criteria, it can be
19 considered to a very probative piece of information
20 versus something that is not?

21 CHAIR WELCH: Do -- so I think -- now
22 Garry likes the idea of having the cases that don't

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1 have a SEM go to the industrial hygienist to develop
2 the exposure assessment.

3 The next item is discussion of the
4 hearing loss presumption. And after I talked to
5 Steven Markowitz earlier in the week, we figured
6 you could leave the presumption today. And I
7 thought it -- we thought it was a good idea to have
8 more than one committee; some would work on COPD,
9 but since the whole Board has looked at the hearing
10 presumption we think we can let presumption
11 committee go with that.

12 Then the next item, the questions that
13 -- I think some people had talked about that asked
14 about one of the subcommittees that had asked about
15 the specific issues, and had Carrie send that list
16 to me. And I had attached it to the agenda,
17 priority questions. And I think that some of the
18 questions that were asked were questions of
19 causation. Are these causally related prostate
20 cancer? But as with any question that has to do with
21 causation, it has to do with exposure assessment.
22 I have really got through these things well enough

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1 to figure out how the exposure assessment fits in.
2 I think that one of the recommendations, you know,
3 one of the recommendations that were identified.
4 That would help with this question because there
5 is an established link between prostate cancer and
6 what causes it, the SEM. The question then would
7 come up whether the exposure was sufficient to be
8 considered positive or contributory. And I don't
9 know that there's anything, a particular attribute
10 needs to be added to this list. I don't know if
11 you've had a chance to look through it, but any
12 comments or any thoughts about the role the
13 Committee could play in moving it all forward to
14 address these questions that the Department has
15 asked before.

16 MEMBER DEMENT: Laura, this is John. It
17 seems to me for most of these 14 items, a major issue
18 in some cases is the link with occupational
19 exposures. And I think using the links that are
20 established in the literature from these sources
21 within the SEM itself would help clarify some of
22 this. But short of -- I mean, these are reviews,

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1 authoritative reviews that have been done for the
2 most part, and in my view, an authoritative review
3 that's pretty much accepted in the literature. If
4 that has not made that link, then I think the
5 Committee is not going to do much else.

6 Short of that, it would require, in my
7 view, a detailed assessment for some of these
8 conditions and the possibility of a link with
9 occupational exposure. That seems like it's passed
10 for some of it. For example, lupus and other kinds
11 of autoimmune disorders in occupational exposures.
12 You know, that literature is pretty current in
13 those cases. There's some suggestions for things
14 but it's relatively thin for the most part. It's
15 been looked at pretty closely by authoritative
16 sources. So I don't -- you know, what else do we
17 add to that process?

18 MR. VANCE: Dr. Welch, this is John.

19 CHAIR WELCH: Yes.

20 MR. VANCE: I actually have a suggestion
21 that came up from our analysis of some of these
22 websites, and I thought I'd throw it out there just

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1 for folks to think about, if you don't mind.

2 So the question of health effects data,
3 one of the things that we utilize are the IARC
4 Monographs. We use the Group One that is reporting
5 the Site Exposure Matrices, but the folks that
6 we're looking at at the websites pointed out that,
7 you know, the IARC groups actually have other
8 groups that are not part of the health effect data
9 reported in the Site Exposure Matrices. And the
10 ones that they identified were Group 2A. These are
11 toxins that are probably carcinogenic to human
12 populations, and then Group 2B, possibly
13 carcinogenic to humans. And the thought that we had
14 was that, you know, if folks could look at that and
15 advise or make a recommendation as to, you know,
16 this is -- if the Board would look at that and say
17 is it sufficient enough or close enough that we can
18 add that in as viable health effects links based
19 on those reported probable or possible
20 carcinogens, that would be something that would
21 greatly expand the information in the Site Exposure
22 Matrices based more so on what we already have,

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1 which is just that Group 1, which is the
2 carcinogenic to human finding from the IOM. Just
3 to throw it out there as a thought.

4 CHAIR WELCH: And that's an easy task and
5 --

6 (Simultaneous speaking)

7 MR. VANCE: I'm going to say that would
8 be something that we -- when we were looking at that
9 right now does not presently exist in the Site
10 Exposure Matrices. We focus on Group 1 Monographs,
11 that's what's pulled in from Haz-Map but looking
12 -- you know, if the Committee or the Subcommittee
13 could look at, you know, Group 2A and Group 2B and
14 make a recommendation as to whether or not there
15 is sufficient scientific basis to say for the
16 application in our program recommending the use of
17 those monographs would be something that would be
18 helpful. But, you know, that's a simple request
19 that may have a much more involved analysis, but
20 that was just something that we thought might be
21 something to sort of focus on. If you were looking
22 for something that's sort of a -- what we would

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1 think to be a big effect. I think some of the things
2 in Group 2A are probably touched on in this big
3 group of 14.

4 MEMBER DEMENT: Yes, they are.

5 MR. VANCE: Yes.

6 MEMBER DEMENT: Yes. I think the other
7 issue is somewhat of this, you know, what's the
8 reason for classification 2A, and whether or not
9 it's actually very site-specific? May be
10 carcinogenic but, you know, all the specific sites
11 where it results in 2A classification for
12 carcinogenicity. And that's another issue that
13 you've probably looked at.

14 CHAIR WELCH: I think that that was
15 -- the Board had only proposed trying to take notes
16 down into a monograph for the SEM. I mean, we had
17 recommended that the Department get expert advice
18 that's not necessarily a board, but I understand
19 that that's a process could take a long time. So
20 I think that that system has to kind of guide us
21 further. We want to take on a certain part of it,
22 and how to turn those into SEM. And there's been

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1 no valuable one with the biggest value to the
2 Department with the guidelines for how to address
3 the IARC Monographs, but some of you folks can
4 probably do it.

5 MEMBER DEMENT: Laura, this is John,
6 again. Some of these issues are quite similar to
7 the issues that have been faced by the World Trade
8 Center compensation programs, as well. Like
9 prostate cancer has been one that we worked for for
10 a few years, so I think it's the one that's being
11 wrestled with a lot with that process. So we might
12 take a look at some of the issues in terms of
13 presumptions that are used there.

14 CHAIR WELCH: Do you know -- do they show
15 analysis of the progress of presumptions?

16 MEMBER DEMENT: Some of them do. I know
17 we went through a process of at least looking at
18 some of that literature with regard -- I
19 specifically remember prostate cancer. And, also,
20 I think the issue of Non-Hodgkin's lymphoma and
21 solvent exposures, particularly trichloroethylene
22 and benzene.

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1 CHAIR WELCH: Yes, okay. I think -

2 MEMBER DEMENT: It's a very similar
3 process where, you know, exposures are pretty
4 -- they're just based on surrogates rather than
5 actual exposures, and so there has to be a process
6 for coming up with awards, new awards.

7 CHAIR WELCH: Okay. Was George
8 Friedman-Jimenez on that committee, too; on the WTC
9 Board, because I know he --

10 MEMBER DEMENT: I'm sorry?

11 CHAIR WELCH: I was wondering if George
12 Friedman-Jimenez had been on the World Trade Center
13 Board? I can ask him.

14 MEMBER DEMENT: He has been. I'm not sure
15 if he's currently on. I've been off of it about two
16 years.

17 CHAIR WELCH: Okay. But that's a good
18 idea. This raises that same question of how to
19 expand what's in the SEM, so I think we have to
20 attack that problem, but also recommendations, so
21 that I can learn and share it with you all.

22 MEMBER DEMENT: Is Dr. Markowitz still

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1 on that panel, as well?

2 CHAIR WELCH: You know what, I don't
3 know. I don't know if he's on it.

4 MEMBER WHITLEY: Garry here. I don't
5 know if he's on it or not, but I know at one time
6 the Queens College was the one that was doing some
7 of the physicals and research and the health
8 programs.

9 MEMBER DEMENT: You know, I'm not
10 saying, Laura, a tremendous amount but there's some
11 similarities that we probably ought to take a look
12 at and see if we can make some similar types of
13 presumptions for this process, or non-links. You
14 know, some of the diseases that were claimed were
15 not linked to long-term exposures.

16 CHAIR WELCH: My thought was we
17 recommended that the Department incorporate
18 complements from the list, indicating that those
19 would be sufficient, that we weren't recommending
20 that someone acquire compensation for what hasn't
21 been accepted by the Agency. I -- the assessments
22 because then there are 13 or 14 different

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1 resources, kind of the ball park and it would be
2 sufficient. But there are options in that Group 2
3 as to how they would be used. And as you're pointing
4 out --

5 COURT REPORTER: This is the
6 transcriber. I didn't catch any of that.

7 CHAIR WELCH: Oh, I'm so sorry. I don't
8 know what I'm doing, except I have a bad cold so
9 I'm probably kind of breathing heavily. I will
10 summarize what I said. Are you getting it now?

11 The issue of how to incorporate the data
12 and whether the Department has an obligation to go
13 beyond that with the claims they've submitted so
14 far that's not in the sources. And that looking at
15 how the World Trade Center developed their
16 presumptions would help us approach that task of
17 getting more in this one.

18 MR. VANCE: And, Dr. Welch, just to also
19 suggest that, you know, the focus needs to be on
20 the occupational component of this because I think
21 some of the World Trade Center issues did not
22 necessarily link back to occupational exposures.

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1 CHAIR WELCH: Yes.

2 MEMBER WHITLEY: Garry here. The
3 Veterans Administration have several
4 presumptions. I don't have a clue how they came up
5 with them, but they have several presumptions if
6 you worked at certain places with certain stuff.

7 CHAIR WELCH: Sometimes those were
8 because they developed them. I know they did that
9 with the Gulf War exposures so the exposures could
10 be considered causal. And it's a great process that
11 this Department can do. If there have been more
12 exposures we can look.

13 So if we turn to our agenda.

14 What I -- I'll summarize it, and I know the
15 transcriber has been doing stuff to capture what
16 I'm saying and we're going to have some shorter
17 notes. So I'll summarize those and get them out to
18 you all. And I thought we would schedule one more
19 call before the big meeting in April because we have
20 enough time to do a federal. So for that we could
21 work on -- let's see what I have. I think I've
22 summarized something that they're going to

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1 recommend about how to work on improvements to the
2 Occupational Health Questionnaire and how to do
3 more effectively -- it sounds quite necessary. And
4 so it is unlikely to include information that may
5 be positive, and we talked a little bit about that.

6 MEMBER WHITLEY: Garry here. We need to
7 look at -- if you put in a request for change to
8 the SEM. For instance, that a certain job category
9 uses certain chemicals, and the claimant. What
10 happens, it goes to the SEM, and one of the things
11 happening, they're going back to the contractor and
12 asking questions, is this true, and is that, and
13 whatever. Well, sometimes the contractor now is not
14 current enough -- they not getting the right
15 answers from the contractor. I mean, I met with a
16 claimant the other day to do that, and the
17 contractor told him no, that wasn't true. And I had
18 the contracts in my hand that say it was true, so
19 I -- if a person could tend to have a SEM database
20 modified change as far as job categories and/or
21 chemicals, was the process that you go to the
22 contractor and they make the final decision? My

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1 question.

2

3 MR. VANCE: Yes, this is John Vance. What
4 happens is, when that information is submitted it's
5 going to always depend on the nature of the data
6 and the supporting exhibits that are submitted
7 along with that. What's going to happen is it's
8 going to be in the purview of our SEM contractor
9 to evaluate the value of what the information is,
10 and they will work with their records archives to
11 go back and check to see how that information
12 correlates to what they already have. They will
13 engage in cases with a site to ask for their input
14 on these things. And, of course, you know, I
15 -- we're going to have situations where the site
16 is going to agree this is correct, or this is
17 incorrect, and then you're going to be left with
18 well, how do you make that judgment? So we try to
19 make the best possible information available in the
20 Site Exposure Matrices, and for the most part we
21 will default to primary source information. So if
22 you're submitting data about exposures at these

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1 sites, the best source is always going to be primary
2 sourced information. So if you have data such as
3 a contract or other types of good sourced material,
4 that should be submitted with your request because
5 that's what is going to be the real basis for us
6 to warrant a change of the Site Exposure Matrices.
7 But it is a very challenging situation if we're
8 getting reports of exposures that can't be
9 confirmed by documentation or site affirmation.

10 MEMBER DEMENT: Thanks, John.

11 MEMBER DOMINA: This is Kirk Domina.
12 Hey, I agree with Garry on that, because I've had
13 the same situation that had to do with a job
14 category, and they asked for data, and we sent them
15 the current collective bargaining agreement that
16 showed this job title exists, and it comes back and
17 says that job title doesn't exist at Hanford.

18 CHAIR WELCH: I know in the individual
19 claims that you can ask for a hearing or is the
20 contractor coming back and can we appeal that?

21 MR. VANCE: Not for that individual fact
22 finding by Paragon, but it can certainly be an issue

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1 to start up adjudication of the case. The other
2 component of this is that if it is raised in an
3 adjudication, the claims examiner also has the
4 ability to go directly to Paragon and ask specific
5 questions through a mail box functionality and ask
6 the Site Exposure Matrices folks, you know, what
7 is their take on specific questions like that. And,
8 Kirk, I don't know the circumstances of your
9 situation but, you know, you also have to remember
10 the temporal issues that are involved with regard
11 to information collection. And so it really does
12 depend on what information it is that they're
13 looking at, and are there contradictions that
14 Paragon is having to wrestle with because that
15 makes it a challenge when you have one record that
16 says X, and then they're getting something else
17 that says the exact opposite, and how do you make
18 those kinds of judgments? So that's a consideration
19 to keep in mind.

20 CHAIR WELCH: So you're saying it's a way
21 for the claimant to get somebody else to take
22 another look at it.

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1 MR. VANCE: Exactly.

2 MEMBER VLIEGER: John, this is Faye. I'd
3 like to interject that if the claimant can't come
4 up with any records to say that this is wrong, there
5 is no adjudication. They simply say no evidence was
6 provided. So then with no personnel records they
7 strictly say what their job category was, where
8 they were assigned to work, what they were
9 precisely doing, and what processes they were
10 assigned to, we go back to the situation where there
11 is no evidence to provide; therefore, it didn't
12 exist, and that's the way it's adjudicated. No one
13 ever believes the claimant on face value. It's
14 always go back to provide evidence. Well, you go
15 back to the same situation where there are no
16 exposure records to put in the personnel records,
17 so they can't tell you what they were exposed to,
18 and they can't tell you at what level they were
19 exposed; therefore, it doesn't exist. And we have
20 to get around this problem somehow.

21 MR. VANCE: Well, yes. I mean, I -- we're
22 going to look at all the information, Faye. And I

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1 know that when claimants submit information, I do
2 know that their input on these cases is very
3 critical, and actually is a very important
4 component of how we adjudicate the cases. Simply
5 because a claimant says something doesn't
6 necessarily mean it's habitually ignored. That is
7 not the case. We actually will look at what is that
8 information, and how is it correlating to other
9 pieces of information, and how does it inform our
10 analysis in getting to that outcome? So if a
11 claimant is providing information that is
12 supported by other pieces of information in the
13 case file, or they're offering information that can
14 be utilized to help reach a good informed decision,
15 that will be used.

16 Same as we were talking about before,
17 you know, when somebody submits an affidavit or
18 some sort of personal attestation of exposure, that
19 is going to be something that's considered. That
20 is going to be something that's looked at, and is
21 not going to be discarded out of hand.

22 MEMBER VLIEGER: John, I beg to differ.

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1 This is Faye, again. If they cannot provide
2 evidence and, just like Jerry said, if there's
3 nobody can sign an affidavit, if people are gone,
4 if memories are not good, the information provided
5 by the workers without evidence from the DOE site,
6 from their personnel records, from exposure, it is
7 discarded out of hand because they consider it
8 self-serving.

9
10 CHAIR WELCH: You know, in some ways
11 that's not completely unreasonable. It depends on
12 what information it is. I know in some cases that
13 some say that the SEM is not going to adequately
14 assess exposures. And that's what we're talking
15 about here by including all the other different
16 exposure information, and relying on the index and
17 the degree of their expert assessment of that. What
18 you're talking about here, to me, it seems like the
19 devil is in the details, and you have a lot of
20 construction workers in particular who report they
21 worked at a site and we can't verify it. And there's
22 just nothing we can do about that. You know it's

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1 got another category, there should be some way to
2 fix that, and as you get further into each case then
3 every -- depending on what information is listed,
4 there's probably a different approach to it. But
5 I think that what's missing is this exposure
6 information, where someone says, you know, I
7 started five things, and there's no industrial
8 hygienist, nothing in the SEM that says the worker
9 was exposed to those five things. So the Department
10 of Labor is saying well, we can't just take the
11 worker's report that they were exposed, and that's
12 a policy but, you know, I mean, I think I would
13 probably agree with that because if someone ---
14 usually when you hear something about it that the
15 worker said they were exposed to and look
16 differently to get that. So, what we're talking
17 about really very kind of nitty gritty complicated
18 questions about when do you give the worker the
19 benefit of the doubt in the absence of other
20 information. I think we have to kind of look at
21 individual cases, you do want to look at some cases,
22 too, and it's outrageous, and that would be

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1 interesting for us to look at because they may
2 identify a process problem they can fix.

3 MEMBER VLIEGER: This is Faye, again.
4 This goes back to what Kirk was trying to explain
5 to you, is that worker categories don't exist on
6 the SEM. The exposures for the worker's categories
7 are somehow limited to the process of Paragon and
8 the Site Exposure Matrix. We don't understand how
9 things get removed from the SEM, labor categories
10 come and go, mostly they disappear, and so the
11 worker is backed up against the SEM. And we saw that
12 in a number of the cases, the COPD cases, and the
13 cases we saw on Disk 2, should be Disk 3 and Disk
14 4. So I'm -- I don't know how to fix this entirely,
15 but it really comes down to somebody admitting they
16 do not have exposure records for the workers, and
17 to date they are not doing that.

18 CHAIR WELCH: So when you say a worker
19 category doesn't exist in the SEM, is that because
20 there's no identified exposures for that worker
21 category?

22 MEMBER VLIEGER: I would like to say

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1 that; however, my labor category at the Hanford
2 site still doesn't exist. The planner scheduler's
3 job is to go into the field to get that to assess
4 the job that needs to be planned and scheduled.
5 We're out there many times with field work
6 supervisors right next to them doing similar work
7 to figure out how to safely plan the job. And my
8 labor category doesn't exist, so ask any planner
9 scheduler for any site, you don't sit in your ivory
10 tower and come up with these plans on how to do work.
11 Some of the times we have the same issues with
12 engineers. We have the same issues with laboratory
13 chemists, particularly experimental chemists that
14 are working. And they say well, they couldn't
15 possibly have any exposure, but they've written
16 peer reviewed papers that said this is what I did
17 to come up with this result. And to do that they
18 discussed their chemical process, but that
19 evidence isn't accepted by the Department of Labor
20 because it's bounced off of the SEM.

21 CHAIR WELCH: But is it right to assume
22 it's not in the SEM because there wasn't -- because

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1 Paragon couldn't necessarily link that job to that
2 exposure in the SEM? And what we would get would
3 be, if the SEM says that -- the industrial
4 hygienist on site might see exposures in the
5 planner is nothing like that. Something I want to
6 clarify for myself, the reason it doesn't appear
7 in the SEM, I understand it's because there's no
8 specific exposure information about that job
9 category.

10 MEMBER VLIEGER: You can say that, but
11 then when you go back to more current workers
12 there's a document called the EJTA, the Employee
13 Job Task Analysis, and they make groups to tie
14 associates that they expect you to be exposed to,
15 and then the training they would have you do to have
16 you be aware of that hazards. Even those more
17 current records are not accepted by the Department
18 of Labor. What I was told at a recent hearing was
19 oh, that's just that they maybe could possibly be
20 exposed to, that's not an expected hazard, but
21 that's not the basis for what that document is. So,
22 when we look at the historical evidence, it's not

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1 there, and there was no exposure monitoring for the
2 employee records. Then you look at things that
3 happened after the '80s when we started
4 implementing some of the paperwork to make it look
5 like they were actually willing to prevent these
6 type of incidents and accidents for the workers.
7 And then those documents are not in the records.
8 Then we come a more current status, and Kirk will
9 have to tell me exactly what year the EJTA started.

10 I started work at the Hanford site when
11 it was formed in 2001, but the EJTA says
12 specifically what types of hazards the worker is
13 going to have: physical, mechanical, electrical,
14 and chemical. But then when you take that into the
15 Department of Labor -- and I'm sorry, John, this
16 is what has happened. They say well, that's just
17 a possibility list; that's not a probability list.
18 And that's just not what it is, because you're
19 trained against what your hazards are going to be.

20 CHAIR WELCH: I mean, this is another
21 place where I think that it would be hard to fix
22 the SEM, but if we can effectively guard this and

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1 have the exposure assessed by looking at the
2 Occupational Health Questionnaire, have an
3 industrial hygienist evaluate that, we might be
4 able to capture some of these other exposures. So
5 just because you say if you look at the current
6 -- in the current Occupational Health
7 Questionnaire or the draft new ones and see if you
8 think that a good way to try to capture what we think
9 needs to be there. By asking about other job tasks
10 you worked around, would it be captured in the free
11 text, like if you were describing work you did on
12 the site many years ago, do you think important
13 exposures could be captured in that free text
14 process that they're using? I think that's the
15 opportunity to capture more detail about jobs where
16 the exposure is often not able to be captured. Do
17 you think that would help? Do you think that would
18 help, to implement a questionnaire that would help
19 fix this problem?

20 MEMBER VLIEGER: I think insuring that
21 a question on it says what type of hazards were you
22 trained for, because people remember that

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1 training, they remember if they had HAZ worker
2 training, they remember if they had RAD worker 1,
3 2, or 3 training, and that training is only given
4 to those workers who are expected to be in those
5 situations. It's not given to everybody just
6 because they can. It's not like CPR training,
7 because those trainings are expensive. So I think
8 the training aspect has not looked at it, and it's
9 not -- I don't see it happening in a DAR. I sent
10 an email to Gail Stutz, the local representative
11 from the Department of Energy, to ask why I'm not
12 seeing those records in the document acquisition
13 request, so that's part of it.

14 And I'm sorry, I'm going to beat this
15 drum one more time. The Department of Energy has
16 said there are no exposure records to go in the
17 personnel records. And the Department of Labor
18 knows about this. I've been in discussions with
19 them about this, and they are refusing to address
20 the Department of Energy's statement that they do
21 not have individual monitoring records or even
22 monitoring records from jobs that go in individual

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1 worker's records. Here again, Kirk can correct me
2 if I'm wrong, but it's still not happening even
3 though those regulations are more than 12 years
4 old.

5 CHAIR WELCH: I think I missed what you
6 said, that the information that would document an
7 individual's exposure is not included?

8 MEMBER VLIEGER: That they are not being
9 put in the personnel records. Records exist when
10 we do a job. When you go out, there's pre-job
11 monitoring and there's job monitoring depending on
12 the hazard. They're not monitoring for most of the
13 chemical exposures, what they're more concerned
14 with is radiation. But even the records that they
15 have for a particular job are not ending up in the
16 personnel records of the workers who are in on that
17 job, the people that were physically doing the
18 work. And Department of Energy has said this, and
19 we need it addressed because they constantly bump
20 us against the worker and say well, provide us your
21 exposure records. We don't have any; therefore, it
22 didn't exist. And the records don't exist, so it's

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1 a catch-22. You're never going to get them because
2 they don't exist.

3 On the rare occasions where there's an
4 incident or an accident where it has been obvious
5 that something happened, or more than three people
6 were involved, then there may be some paper trail
7 that after a while ends up in the personnel records,
8 but when it's one or two people that get hurt, the
9 DOE regulations say they don't even have to do an
10 accident investigation unless they want to. So it
11 has to be more than three people and then they have
12 to do an accident investigation.

13 So to go back constantly and say well,
14 they need to provide the evidence, the evidence
15 doesn't exist. DOE does not have the evidence to
16 put in the files, and so something has to be done
17 to address that. Instead of saying need probative
18 evidence to prove this or something to link it, when
19 all of these links are being held by the people
20 running the SEM, it's not -- it's a vicious circle
21 and we're just chasing our tail.

22 CHAIR WELCH: But are there -- is there

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1 exposure information like, within the last ten
2 years, exposure to chemicals for jobs at the sites
3 that are not going into SEM, or is more that they're
4 not examples for it?

5 MEMBER VLIEGER: The SEM for the overall
6 site is pretty complete.

7 CHAIR WELCH: Okay.

8 MEMBER VLIEGER: But when they break it
9 down by labor categories they lose the nuances of
10 what's going on. And we're not talking laboratory
11 situations, we're talking open areas. When you have
12 the site tour you'll see more of what goes on at
13 a real processing facility versus a laboratory. So
14 when monitoring is done, it could be area
15 monitoring, it could be routine monitoring, it
16 could be monitoring for pre-job, it could be
17 monitoring during a job. None of that is tied to
18 the worker. It's all tied to facilities, and those
19 facility files -- while they exist and are
20 permanent records --- are never attached to the
21 worker unless there's been an accident which
22 warranted an investigation.

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1 CHAIR WELCH: But that would end up in
2 the SEM so that the location would work. Right?

3 MEMBER VLIEGER: Yes, yes. But even some
4 of -- when you look at buildings and what they say
5 is in the buildings, it's not accurate. You can go
6 to the OSTI site and you can look at chemical
7 characterization and process reports for all of the
8 different sites. And when you're putting input into
9 the SEM 2004-2005, the Hanford site originally had
10 168 chemicals which everybody laughed at, and I got
11 pretty upset about it and sent a number of the CDs
12 to Paragon with 24 of the papers from the OSTI site,
13 and then we jumped about 1,000 chemicals and it's
14 increased since then. But to try and link them to
15 individual people or processes when once you have
16 a security badge and you're authorized to be out
17 there doing what you're doing in the area for that
18 security badge, you're dispatched all over the
19 place. And then to say well, because of your labor
20 category you're not exposed even though you're
21 standing next to a guy who would be able to be
22 exposed by his labor category. It makes no sense.

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1 CHAIR WELCH: Well, it's a question of
2 how -- what's the best way to have that appear in
3 the file. And ---

4 MEMBER VLIEGER: I think if we're
5 looking at presumptive diseases, we need to look
6 at presumptive exposures. And they need to be
7 broader, the labor categories.

8 MEMBER DOMINA: One of the other issues
9 that you have with that currently, because I know
10 everybody's heard about the tank farm vapor issues
11 and what's going on, because -- and that's why,
12 you know, HAMTC had issued a stop work because you
13 have these cyclone fences that separate these
14 areas, and so what's happened is we've had people
15 exposed outside what's supposed to be a safe
16 boundary, but they also worked for a different
17 contractor. They don't work for the contractor who
18 manages the tank farms. So you have this other issue
19 of how, you know, that would even play into it
20 because they're not an employee of the said
21 contractor who runs the tank farm. So you've got
22 to know what's going on at each site, and different

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1 things are going on at different times, and to be
2 able to I guess truly understand, it is complex but
3 you've got to drill down into the weeds to get there
4 and look at some of these, like I had mentioned
5 earlier, because they're not all the same.

6 CHAIR WELCH: And could the -- you think
7 that the worker could adequately report it, and
8 then the issue is that if DOL looks for some other
9 verification of what the worker is reporting, and
10 they can't find that, in the event they go forward,
11 is that a problem? Because how are you going to
12 identify those exposures occurred?

13 MEMBER DOMINA: Right.

14 CHAIR WELCH: It has to come from the
15 worker.

16 MEMBER DOMINA: Right, but part of that
17 is, too, just like Faye said, that there has to be
18 some presumption on the chemical because at this
19 point in time, you know, they're just starting to
20 put real-time monitoring in. And it didn't exist,
21 you know, and so you're looking at well, you know,
22 they're going to say they went out, and the times

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1 may have been 45 minutes to an hour later, and so
2 we didn't find nothing. So then the worker is left,
3 you know, basically floundering because they're
4 saying it didn't happen.

5 CHAIR WELCH: Right.

6 (Simultaneous speaking)

7 MEMBER DOMINA: When you come out here
8 in April and you see some of these workers and
9 you're going to notice this like Frank, I've said
10 it before. They all have this weird cough, they've
11 had an exposure out there that you don't hear or
12 see anywhere else.

13 CHAIR WELCH: I think the tank farm would
14 be one of the hardest --- I mean, I couldn't say
15 it's the hardest problem. There's certainly been
16 a lot of excellent advice about it, but I got
17 -- what I'm -- I'm not quite sure how to address
18 the questions you guys are talking about, but
19 obviously it would have to start with the worker
20 saying I was exposed to this, and I think that
21 exposure caused my disease. And if we have a process
22 for the SEM to talk about that occupational history

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1 is available to the industrial hygienist and the
2 CMC, and not just about a Statement of Accepted
3 Facts, that could help. I guess the question is
4 whether even an industrial hygienist would be able
5 to look at the work history and know enough about
6 the exposure that occurred to provide some exposure
7 assessment. But I don't know any other way to do
8 it. And if the worker says, for example, I think
9 that the exposure is --- you know, talking about
10 what the exposure is -- but there's a planner who's
11 working walking around outside, managing the lift,
12 and the worker gets exposed but the planner does,
13 too. And that may or may not be exposed to specific
14 incidents in the record, but may or may not be
15 corroborated by the other worker.

16 You see what I'm trying to get at? I'm
17 trying to figure out where to file it. The worker
18 files a claim; the company no exposure in SEM, but
19 would including the work history in a more up-front
20 fashion fix the problem in some sense, or do you
21 think that would leave something out in addition?
22 I feel like I'm --

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1 MEMBER VLIEGER: Sorry, I had to get away
2 from some notes. This is Faye. The OHQ on its own
3 because it's self-reported falls into the same
4 situation as self-reporting anything during an
5 objection, is it's considered self-serving. So my
6 opinion is that you're going to have to come up with
7 presumptive exposures. For DOE to constantly say
8 that we have to have this data to corroborate what
9 the worker is saying, puts it back on the worker
10 in a catch-22 when no records exist, so in order
11 to avoid that some consensus for presumptive
12 exposures.

13 Now, I know it's going to be easy to
14 start with welders and sheet metal workers, and
15 plumbers and pipefitters, and maybe that's what we
16 need to do. We need to start with the obvious ones
17 and move forward, but I think that's the only way
18 we're going to address this problem where a lack
19 of records is what's denying the claim. And the lack
20 of records is not on the employee's part, it's that
21 the functionary government department does not
22 have the records, did not have the records, will

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1 never have the records, and so the claim is denied
2 because there's no corroborated evidence. That's
3 my opinion, but I see a lot of these claims go
4 through the same thing.

5
6 CHAIR WELCH: I get what you are saying
7 with respect to the exposures. I mean, I tend to
8 think of them similar to tasks, so if you talk to
9 -- you know, if somebody is an asbestos insulator
10 and they work in a certain period of time, you can
11 presume their exposure to asbestos, but there
12 aren't too many that you can do just looking at any
13 broad job title, but if you ask them what
14 construction, what task they do, they don't need
15 to tell me how many times that the exposure was
16 because we know that exposure is inherent in that
17 task. And that kind of gets dealt into this
18 presumption for the disease because it would say
19 if someone describes this exposure, this task, this
20 kind of work for a certain period of time and they
21 have the right diagnosis and what could be made into
22 a right aid. So that is the presumption or disease

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1 could be under a exposure presumption. It's not
2 like presuming that they have the disease; it's
3 presuming that there was additional exposure and
4 it was relative to that causation. So you can do
5 that for jobs and tasks for which there is available
6 research where papers have been published, people
7 in other settings have gone and done industrial
8 hygiene monitors, so it may not be in the SEM but
9 it's been established that that job or that task
10 is exposed to that exposure. And I'm sure we can
11 kind of push that forward. When you get to jobs
12 where there's no information in the SEM or in the
13 medical literature about the kind of exposures they
14 have, you can look harder. And then what I was
15 asking was, well basically on the Occupational
16 Health Questionnaire, getting that Occupational
17 Health Questionnaire to the industrial hygienist,
18 the industrial hygienist may be able to say yes,
19 that's reasonable, because this may have occurred
20 based on the tasking. And you get an individual
21 assessment by the hygienist which would then
22 essentially presume exposures. And I think we don't

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1 have that approach now, but I recommend it, and from
2 this call today, we're adding some details to what
3 we had already.

4 Yes, I think that our marketing
5 department would have to push that approach of
6 trying to have the workers for whom there is no SEM
7 who have been to that site. There's a SEM for that
8 site but it doesn't address the job titles, who can
9 go to occupational history, but it gets an
10 industrial hygiene evaluation up front rather than
11 going through the fact that it comes through and
12 says there's no exposures in the SEM. I think that
13 what we were talking about now, the case that you're
14 talking about, ties into what we saw for that site
15 overall. Does that seem like a reasonable approach
16 to you?

17 MEMBER VLIEGER: I think so. I think so.
18 If we can just get out of this circular dance that
19 we're doing about, you know, provide the records
20 if there's no records. So, you know, your
21 statements are self-serving, so yes.

22 CHAIR WELCH: Okay, I got it. But I want

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1 to add that current scenario to what we talked about
2 when we saying the SEM -- we talked about SEM needed
3 expert input early on, and for the job titles where
4 there's no information of record.

5 MEMBER DEMENT: Just to round out that
6 discussion, all the cases where I reviewed the SEM
7 and the worker's reported exposures really weren't
8 that far off. I mean, they were pretty close. In
9 those cases, you know, I think having the
10 industrial hygienist dive into it at that point is
11 probably okay and they go to the claims examiner.
12 So, you know, there's some -- I guess that what I'm
13 saying is there's some decision to be made based
14 on the occupational history early on in the SEM.

15 CHAIR WELCH: Yes, I see what you mean.
16 Okay. That's good. Okay. I think we're done.
17 Thanks, guys, for just bringing up that last
18 discussion. I think that was very helpful, about
19 looking at the individuals for whom the SEM is not
20 helpful for a range of things, I think that's really
21 important when we talk about this in a broader
22 context. So I will get back to you with all the

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1 things we talked about and things we worked on for
2 how we're going to propose this, and finish the OHQ
3 comments before next meeting. And, Carrie, could
4 you work on scheduling another call before the --

5 MS. RHOADS: Yes. I'll send out an email
6 about availability for another call.

7 CHAIR WELCH: Fantastic. Thank you.
8 Anybody last comments before we end here? Great.
9 All right. Thank you very much.

10 MS. RHOADS: Thanks, everybody.

11 (Whereupon, the proceedings went off
12 the record at 3:05 p.m.)

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