UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH

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MEETING

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MONDAY
OCTOBER 17, 2016

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The Advisory Board met in the Comfort Inn Oak Ridge-Knoxville, 433 S. Rutgers Avenue, Oak Ridge, Tennessee, at 3:12 p.m., Steven Markowitz, Chair, presiding.

MEMBERS

SCIENTIFIC COMMUNITY:

JOHN M. DEMENT
MARK GRIFFON*
KENNETH Z. SILVER
GEORGE FRIEDMAN-JIMENEZ
LESLIE I. BODEN

MEDICAL COMMUNITY:

STEVEN MARKOWITZ, Chair
LAURA S. WELCH
ROSEMARY K SOKAS
CARRIE A. REDLICH
VICTORIA A. CASSANO
CLAIMANT COMMUNITY:

DURONDA M. POPE
KIRK D. DOMINA
GARRY M. WHITLEY
JAMES H. TURNER
FAYE VLIEGER

DESIGNATED FEDERAL OFFICIAL:

ANTONIO RIOS

ALSO PRESENT:

RACHEL LEITON, Director, DEEOIC*
JOHN VANCE, Branch Chief, DEEOIC Policy,
  Regulations and Procedures

*Participating by phone
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(3:12 p.m.)

WELCOME/INTRODUCTIONS/LOGISTICS

MR. RIOS: I guess we're about to begin. Good afternoon, everyone. My name is Tony Rios. I apologize that we're starting a few minutes late. The Board went on a facility tour, and they took a little longer to get back than we anticipated, so we're just running about 15 minutes late.

I am the Designated Federal Official for the Advisory Board. Again, my name is Tony Rios. And my role as the Designated Federal Official is that I am the liaison between the Advisory Board and the Department.

Before we begin, I'm going to go over some very quick housekeeping items. So the bathrooms are located right by the reception area. All you do is walk out the doors out there, make a left, and then right as you approach the reception desk, make another left.
We have a full agenda for the next couple of days. And you should note that agenda -- obviously, the beginning of this is proof that agenda times are just approximate. Copies of all the meeting materials and public comments are available on the Board's website under the heading "Meetings."

The Board's website can be found at the following address: that's dol.gov/owcp/energy/regs/compliance/advisoryboard.htm. I tell everybody that an easier way to get there is just to Google the Advisory Board on Toxic Substances and Worker Health, and it will probably be the first link that comes up.

If you haven't done so already, I encourage you to visit the Board's website. After clicking on today's meeting date, you'll see a page dedicated entirely to this week's meetings. Like I said, we're going to publish any materials that are provided by our presenters, anything that's been sent to us already, and anything that's provided to us
that we haven't previously received.

   There, you will also find today's agenda, as well as instructions for participating remotely in both the meeting and the public comment sessions for Tuesday and Wednesday. If you're joining us by WebEx, please note that the web session is for viewing only and will not be interactive.

   Also, please note that if you're calling into the WebEx, the phones will be muted until the public comment periods open on Tuesday and Wednesday. If you're having trouble hearing us or if you're having any technical issues, I ask that you please contact us by email at energyadvisoryboard@dol.gov, and we'll try to resolve any issues as they come up.

   During the Board discussions and prior to the public comment periods, I request that people in the room remain as quiet as possible since we're recording the proceedings today to produce transcripts. I also want to
remind everybody that while we do have a scheduled hour tomorrow and on Wednesday for public comments, this is not a question and answer session, but, rather, it's an opportunity for you to provide comments about the topics that are being considered to the Board -- by the Board, excuse me.

If for any reason the Board members require clarification on an issue that requires participation from the public, then the Board may request such information through the Chair or myself, and we will then ask the members of the public to come up and speak.

Minutes of today's meeting will be available on the Board's website no later than 90 calendar days from today. And although formal minutes will be prepared because they're required by the regulations, we will be publishing verbatim transcripts as soon as they're available for publishing.

A special note to all the Board members and also to anyone who is coming up to
the podium to speak, please press the button with the man's face in order to turn your microphone on. We only have a maximum of three microphones that can be on at the same time, so if you're not speaking, please turn it off, otherwise you are precluding others from speaking.

And before I turn it over to Dr. Markowitz, I want to address the members of the public that are here today. A couple of you asked me before the meeting whether we would be asking you for case file numbers or whether we would be asking you for your personal information, such as the Social Security numbers, and if we would be adjudicating or investigating your claims. So I'm going to explain to you a little about what today's meeting is about.

First, there will not be any claims that will be adjudicated here. The process to adjudicate claims, however, will be discussed.

A little bit of background on
advisory committees. Every administration since the inception of the United States has utilized advisory groups. The government turns to advisory groups such as this one for aid and recommendations on how to go about achieving its governmental affairs. Committees provide a means by which the best brains and experience available in all fields of business, society, government and the professions can be made available to the government at little cost.

So what you will be witnessing today is, excluding the public comment period, is the deliberative process in which the Board members engage as they are preparing to provide the Department of Labor recommendations regarding the administration of the Energy Employees Occupational Illness Compensation Act, as it relates to four discrete subject matter areas. And the reason that we invite the public to participate and to monitor the Board's deliberations is to ensure transparency.

So I hope that you find today's and
tomorrow's and Wednesday's meetings informative.

So with that, I convene this meeting of the Advisory Board on Toxic Substances and Worker Health, and Mr. Chairman, I turn it over to you.

CHAIR MARKOWITZ: Thank you.

My name is Steven Markowitz, and I'm Chair of this Advisory Board. And I'd like to welcome my sister and fellow Board members. And on the behalf of the Board, welcome to the public as well, those of you who are present today and also those who are on the phone. By the way, do we know how many people are calling in to this meeting? Five people, okay.

So we met last time, our first board meeting in Washington, D.C., and we intentionally requested to meet here in Oak Ridge because it's the largest DOE community; it's the most number of claims that have come from DOE. And so we wanted both to be available for the public to hear our
discussions here in person in Oak Ridge, but also we wanted to be able to hear from you during the public comment period. So I welcome you.

I'd like to spend a -- let's do actually introductions. By the way, can you hear me in the back over there? Can you hear me okay? Not well?

I have a cold, so you may also be hearing me cough. But can you hear me any better now?

Okay, we'll try -- how about now? Okay, that's better. We'll get rid of this annoying thing.

Okay, so let's do introductions. As I said, my name is Steven Markowitz. I am an occupational medicine physician and epidemiologist from the City University of New York and have been involved with the Former Worker Screening Program for 20 years. Laurie.

MEMBER WELCH: Thank you. I'm Laurie Welch. I'm also an occupational
physician. And for the past, oh, I guess 15
years I've worked for the Center for
Construction Research and Training in
Washington, D.C., and through that, for the
Building Trades Medical Screening Program.

MEMBER POPE: I'm Duronda Pope with
the United Steelworkers. I am a former worker
of Rocky Flats. I worked there 25 years, and
presently am working with United Steelworkers.

MEMBER SOKAS: My name is Rosemary
Sokas. I'm an occupational physician at
Georgetown University and have worked in the
past at OSHA and NIOSH.

MEMBER BODEN: Hi. My name is Les
Boden. I'm a professor in the Environmental
Health Department at Boston University School
of Public Health. Was involved for several
years at the Nevada Test Site Former Worker
Screening Program. And also, I'm an expert in
injury compensation and illness compensation.

MEMBER TURNER: My name is James
Turner. I worked at Rocky Flats Nuclear
Weapons Plant for about 26 years. I was diagnosed in 1990 with chronic beryllium disease.

MEMBER REDLICH: I'm Carrie Redlich. I'm also an occupational physician and a pulmonologist and Director of the Yale Occupational and Environmental Medicine Program.

MEMBER SILVER: I'm Ken Silver, Associate Professor of Environmental Health in the College of Public Health at East Tennessee State University. Before coming to Tennessee 13 years ago, I worked very closely with Los Alamos families and workers to help get the compensation law passed and implemented, just like many people around here have done.

MEMBER VLIEGER: Good afternoon. Faye Vlieger. My background prior to working at the Hanford site was in the U.S. Department of Defense for the Air National Guard. And then I worked at Hanford and was involved in a chemical exposure in 2002. And my background
at Hanford was as a planner/scheduler where I worked all over the site, planning work packages and working with the engineers and the different shops submitting the work packages schedules. And I've been doing advocacy under this program since 2004.

MEMBER CASSANO: Hi. I'm Tori Cassano. I'm also an occupational physician. My background is military in the Navy as an Undersea Medical Officer, Radiation Health Officer, then at VA in both the Environmental Health Program and then the Medical Disability Program.

MEMBER WHITLEY: I'm Gary Whitley. I worked at the Y-12 National Security Complex for 42 years and retired. Was the President of the Atomic Trade and Labor Council and now work for the Worker Health Protection Program for retired workers here in Oak Ridge.

MEMBER DEMENT: I'm John Dement. I'm with the Duke University Medical Center, industrial hygienist and epidemiologist. And
I've been with the building trades Former Worker Program since its inception about 15 years ago.

MEMBER FRIEDMAN-JIMENEZ: Hi. I'm George Friedman-Jimenez. I'm an occupational environmental medicine physician and an epidemiologist at Bellevue Hospital in New York City and NYU School of Medicine.

MEMBER DOMINA: My name's Kirk Domina. I'm the employee health advocate for the Hanford Atomic Metal Trades Council in Richland, Washington. HAMTC represents about 2,800 workers through 14 affiliated unions. I've been out there 33 years. I'm still a current worker. And I'm glad everybody's here, and hopefully we can help you guys out.

CHAIR MARKOWITZ: Okay, thank you.

Let me just mention that Mark Griffon, who is an Advisory Board member, health physicist, and industrial hygienist wasn't able to make it in person today. His wife is having emergency surgery. But he
expects to participate over the phone at least for part of the meeting.

Lokie, could you grab that microphone right there. What I'd like to do is just have the members of the public just announce who you are. And if you're from an agency, announce the agency. Or if you work here at in Oak Ridge at DOE, just mention that as well. Let's do this quickly though, so that we can -- but we'd like to know who's in the room with us.

MR. LEWIS: Sure, I'm Greg Lewis. And I'm with the Office of Environment, Health, Safety and Security for the Department of Energy.

MS. HARMOND: Hi. I'm Lokie Harmond. I work with EEOICPA as well.

MR. LEREW: I'm Tim Lerew. I'm the Chairperson with the Cold War Patriots Advisory Committee.

MS. ADKISSON: I'm Susan Adkisson. I used to work at the Resource Center here in
Oak Ridge. Now I'm the Regional Director of Cold War Patriots.

MR. NELSON: Hello. I'm Malcolm Nelson. I'm the Department of Labor's Ombudsman for the Energy Program.

MS. QUINN: Trish Quinn with Building Trades Medical Screening Program.

DR. RINGEN: Knut Ringen. I work with Trish.

MR. BEATTY: Ray Beatty, Fernald Medical Screening Program Coordinator.

MR. BRUMMETT: Larry Brummett. I worked at the K-25 site in Oak Ridge.

MR. VANCE: Good afternoon, everyone. My name is John Vance. I am the Policy Branch Chief for the Energy Employees Compensation Program.

MS. PEARSON: Yes. I'm Tiffiney Pearson. I'm the Clinical Director for Critical Nurse Staffing, and I'm also the daughter of a former worker.

MS. HEIDEL: Karen Heidel, former
worker at K-25.

MR. DENSON: John Denson, K-25, retired.

MS. GIBSON: Paige Gibson, Former Worker Program at Mound since 2005. And I also worked at the Mound Plant for 15 years.

MR. EASTER: Gus Easter. I worked at K-25 for 35 years as an operator.

MR. HYDEN: Dean Hyden. I was a machinist at Y-12 for nine years and K-25 for 13 years.

MR. ONG: Tee Lea Ong, Professional Case Management.

MR. HILL: J.B. Hill, Jr. I worked at K-25 for 33 years.

MR. PRESLEY: Louise Presley, 36-and-a-half years at Y-12, and widow of Bob Presley, who worked 44 years at Y-12.

MR. SHAFTO: Doug Shafto, working at K-25.

MR. BELL: Glenn Bell. I worked a little short of 40 years at Y-12. I'm a CBD
victim and former Chairman of the Y-12 Beryllium Support Group.

MR. MOORE: My name is Hershell Moore. I'm a carcinoma cancer survivor, here with my wife and the Cold War Patriots.

MS. LOVELACE: I'm Jan Lovelace. I'm a widow of a fireman from the X-10, and claimant. I'm also a claimant myself, denied, and I worked at X-10 and Y-12.

MS. PEGUES: My name is Etter Pegues, and I am the widow of Eldred Arnold Pegues that worked at Y-12 for 32 years. And he was a machinist there. And he passed away with cancer.

MS. ALLEN: My name is Sandy Allen. I'm a nationally-certified patient advocate and social worker. And I work for Quality Private Duty.

MS. MARTIN: I'm Betty Martin. I worked at K-25, X-10 and Y-12. I retired from Y-12 with 31 years of service. My husband retired from X-10. And he is deceased. And I
am the widow of Bill Martin.

   MS. J. BARRIE: And I'm Jill Barrie. And both of my parents are cancer -- were cancer survivors. My dad is now deceased. And my mother has been denied any benefits.

   MR. BURNETT: Mitchell Burnett. I retired from Y-12.

   MS. HAND: Donna Hand, worker advocate and also a survivor claimant.

   MR. MARTIN: Claude Martin, K-25 and Y-12.

   MS. T. BARRIE: Terry Barrie, the Alliance of Nuclear Worker Advocacy Groups, and wife of a sick worker from Rocky Flats.

   MS. JERISON: Deb Jerison. I'm the daughter of a Mound worker, and Director of the Energy Employees Claimant Assistance Project.

   MS. LEITON: This is Rachel Leiton. I'm with the Department of Labor. I'm the Director of the Energy Compensation Program.

   REVIEW OF AGENDA

   CHAIR MARKOWITZ: Okay, thank you
very much.

I'm going to spend a couple minutes just reviewing the agenda. Which, for those of you, if you don't have a paper copy, is available online. But I can give you the broad outlines right now.

I'm going to spend -- after the review of the agenda, I'm going to spend a few minutes just talking about our progress to date and some other administrative issues.

And then at 4:00, we'll talk -- the Subcommittee, one of four subcommittees, will begin, deliver their report and raise issues that we will discuss.

I should remind people that this Board was formed, chartered to really address four issues. One is to take a look at the site exposure matrices that are used in the claims process, to see how/if they might be improved. Secondly, to look at medical issues, in particular around Part B, lung disease issues. Third is to look at how well and the
consistency and quality of the industrial hygiene and physician input into the claims process. And then finally to look -- the fourth task is to take a look at how the claims examiners use medical information/medical evidence to make their decisions and how that might be improved.

So those four committees will report out beginning in a few minutes. The SiteExposure Matrices Subcommittee today at 4:00 -- or as soon as I get done. And then, assuming that won't be completed, we'll resume that tomorrow morning at 8:30.

At 9:00 or so, we will start with the Part B Lung Disease Subcommittee. We'll take a break, and then spend a few minutes talking about a particular circular and memo that DOE -- that DOL has put out regarding how claims examiners will look at exposures before and after 1995 and the significance in terms of DOE's workers for being at risk for disease. We will also discuss another memo or policy put
out by the program regarding solvents and hearing loss.

Part of the function of the Board as we conceive it is to provide scientific and medical input into certain issues. So we are looking at particular circulars, bulletins, policies that DOL has to see if we can be helpful in discussing and perhaps improving them.

After lunch tomorrow, the subcommittee is dealing with the work of the industrial hygienists and the physicians -- physician consultants in the claims process, we’ll be discussing that.

And then Greg Lewis from the Department of Energy will be talking about the records that DOE provides to DOL in helping out with the claims process. And forgive the typo in the written agenda; it's Department of Energy, DOE records.

And then we will, towards the end of the afternoon, be talking about, through the
fourth subcommittee, how claims examiners look at medical evidence and how they make their decisions and the quality, perhaps, of those decisions.

On Wednesday we -- And then there's a public comment period from 5:00 to 6:00 tomorrow.

Wednesday, we will meet from 8:30 to 2:00 p.m. At the end, from 1:00 to 2:00 p.m., will be a second public comment period. Most of that day, however, will be spent discussing selected issues that we thought would be useful to discuss. Some of them actually we were asked -- at least one of them, we were asked by DOL to help them figure out, which is the issue of: people should receive compensation for conditions which were aggravated, contributed or caused by toxic exposures at DOE, what that particular phrase means.

And then we will be discussing the use of presumptions, which DOL has already begun over the last several years, but how
further use of the presumptions might be useful in settling claims or coming to decisions about claims in a perhaps more expeditious or consistent manner.

And then we will have some time to discuss any new issues raised by the Board during the next two days, then deal with issues like next meeting and other administrative issues. So then and finally, to finish off with a second public comment period on Wednesday, 1:00 to 2:00 p.m.

So that's the agenda. Is there any, at this point do the Board members have anything else they wanted to add to the agenda?

(No response.)

CHAIR MARKOWITZ: Nothing.

So let me spend -- we're pretty much on time now actually -- I want to talk about in part what we've done to date.

ADVISORY BOARD ISSUES

CHAIR MARKOWITZ: We met the end of April, six months ago, the full Board, and we
spent much of that time learning about the program. The Compensation Program is a complicated program. Part B over the last ten years, it has provided multiple billions of dollars in compensation for DOE workers. And it is an elaborate program.

Some of us on the Board have some familiarity with that program in various ways. But we're all, I would say, still coming up to speed understanding that program. And I think we've come a far way, actually, in understanding. But there's still gaps, and we will need to fill those gaps. And so if there are things we don't get quite right, we're hoping that we get some feedback in terms of factual issues with regard to running of the program that DOL can provide for us.

We met for two-and-a-half days at the end of April. We formed four subcommittees around the four tasks. And those four subcommittees have collectively met seven times since that time. Three of the subcommittees
met twice. This is by telephone. And one subcommittee met one time. So that's during July and September we've had meetings.

Now those have all been public access. They've been announced in the Federal Register. And I think in all of the meetings we've had some public listening on to those phone calls. Each of those meetings results in minutes, which will be -- which are available to the public. The ones from September aren't yet available because there's some time delays in composing them, reviewing them, approving them and the like. But the point is we're trying to make all of our work as transparent as possible and as accessible as possible through the web and the like.

We have made multiple requests to DOL. But, actually, let me hold off on that. Discuss that in a minute.

Now at the April meeting we were given the opportunity to comment on proposed rule changes by DOL in the program. And we
provided a number of recommendations to the Department of Labor regarding the proposed rule changes. I met several weeks, about three weeks ago at the request of Secretary Perez. I met with him briefly in Washington and listened to him. He is very supportive of this advisory board. He is interested. He is serious.

For those of you who haven't had any contact with Secretary Perez, I suggest visiting the DOL website, reading his, some of his speeches and the like. You will see a very dedicated, experienced person who is absolutely committed to improving the welfare of workers, and including, I think, his support for this committee.

Interestingly, he's an attorney. His background is more in civil rights. But he says he has four siblings who are physicians, and one of whom is a lung doctor. And then he asked me what occupational medicine was. So I figured that meant that his four siblings couldn't answer that question.
(Laughter.)

CHAIR MARKOWITZ: But I would say at least he was interested, so -- okay, so let me move on to the status of the proposed rule changes. So DOL proposed, I don't recall the exact time line but sometime in the last year or so, some changes in the operation of the program and the rules that govern the program. And they reopened the period for us to be able to make comments, which we did. We submitted our recommendations. They are being considered, like other comments and recommendations by the public, as part of their rulemaking process.

That rulemaking process is governed by the Administrative Procedures Act. Okay, I'm getting this language down here. And so that, we enter now a silent period in which DOL is doing its work, looking at our recommendations and other comments, and ultimately deciding what the final rule will look like. So we don't get feedback for our
recommendations. Those are the rules.

And we will ultimately find out, hopefully, that our recommendations had some impact on what the rules look like. But that's the way it works. And so for those of you looking for what did DOL say in response to our recommendations, the answer is that they're including them in what they consider in terms of elaborating their final rule. So and that's governed by an act larger than they are. So that's fine.

Now we have made multiple, many requests to DOL for information, for copies of reports, manuals, procedures, things that are not available on the web and the like. And the Associate Designated Federal Official, Carrie Rhoads, has prepared, and this is just really at the end of last week, a 23- or 24-page list of our requests and the program's response to our request and their current status. Many of, I would say the majority of our requests have been complied with. They have provided that
information. Or if they couldn't provide the information, they told us what the status is, or if it was outside DOL, how they would go and seek that information.

So I advised the Board members to take a look at that list. It's just been available -- it's on the web for the public, but it's just become available or becoming available. But take a look during your spare time in the next couple days. And so we can discuss, probably on Wednesday morning, if there are issues that we -- questions we have regarding the current status of these things. But, understandably, we haven't really had a chance to go through them individually yet. But do take a look at that.

I would like to raise an issue to the Board for discussion. So this Board has been asked to provide recommendations to the Secretary of Labor regarding aspects of the program, areas that might be enhanced within the program. And we did provide a set of
recommendations at the first meeting, but that was around the specific rule changes.

Over the next period of time, we will be making recommendations. And we could make those recommendations as we develop them, meaning at each Board meeting, in which we would vote on and present them. Or we could bunch them up in a certain, at a certain meeting, wait a meeting until we have several recommendations and then present them as a group.

The Department of Labor has requested when we make a recommendation that we provide some succinct written rationale for the recommendation that reflects our thinking about why we would make such a recommendation, which seems to me to be an entirely reasonable request. We need to vote on those recommendations as an entire Board.

This is a question actually for Mr. Rios. Are we only permitted to vote in person at full Board meetings, or is there a way
electronically of voting for recommendations between meetings?

MR. RIOS: The purpose and the spirit behind the FACA is to have all deliberations be accessible to the public. So voting procedures in all meetings, FACA meetings, not just for this Board but others that I'm a member of, have been done in front of the public.

CHAIR MARKOWITZ: Okay. So the second question is, we've only envisioned full Board meetings to occur in person twice per year at six months apart. Is it possible to have a telephone meeting of the full Board that would be accessible to the public?

And what I'm driving at really is that sometimes six months may be a very long interval for something that we think should be moved on more quickly. So is it possible to have a full Board meeting by telephone, accessible to the public, in which we discuss and make recommendations?
MR. RIOS: Absolutely.

CHAIR MARKOWITZ: Okay. That's good.

The second question I have is that we can vote on a recommendation, say at this meeting, but we may not be able to come up with a succinct rationale for that recommendation at this meeting. We could identify the elements of that rationale, bullet points, which then a couple people would go back and write up into reasonable language. If we agree as a board on those bullet points, is there any need for the entire Board to have to approve the written rationale, or is it only the text of the recommendation that really needs to be approved by the Board?

MR. RIOS: If the basis of the recommendation that you vote on is sufficiently described in whatever bullet points you're going to vote on, then that's sufficient. If you want to then provide a document with the rationale or the bases for your
recommendations, that's fine.

CHAIR MARKOWITZ: Okay, great. Excellent. So other Board comments on this issue? Les.

MEMBER BODEN: So I just actually had a question. If, going back to Tony's response to your first question, if -- I don't see how it would be other than transparent if the individual members of the Board voted electronically on something and their individual votes were made public. So I'm not quite sure that it's, that your response was, necessarily ruled out that possibility. I'd just like you to comment on that.

MR. RIOS: As I prefaced in my response, that was based on every committee vote that I've been participating in and that I've witnessed. Generally, when there's a vote, there is some discussion before the vote is cast. So I don't know whether that would stifle that conversation, that dialogue between the Board members if you simply sent something
out and electronically recorded everybody's vote.

That's not to say that you can't. I just haven't seen it personally. I can certainly get back to the Board on that particular issue. I would just reiterate that the spirit of the FACA is to make all deliberations accessible to the public.

CHAIR MARKOWITZ: Other comments or questions? Dr. Sokas.

MEMBER SOKAS: So this seems like a good meeting to have several recommendations developed. And I guess my question is: do you want the people with -- because in some of the subcommittee deliberations there's already been, you know, the groundwork laid for some of that. Is there -- would it be useful to have particular recommendations made in writing that could be put up on the screen ahead of time? And when would you like those by?

CHAIR MARKOWITZ: I think draft recommendations would be appropriate, sure.
The issue of when available by, you could send them to the Department of Labor Energy Advisory Board. It really gets into issues that are overseen by the rules regarding the extent to which there can be Board communication without regarding the public.

MEMBER SOKAS: I meant today.

CHAIR MARKOWITZ: Oh.

MEMBER SOKAS: Sorry. I mean, for example, we could plan at the end of each of the subcommittees to have a couple of recommendations ready in other words and just have them as part of the subcommittee presentations.

CHAIR MARKOWITZ: Sure. That's a good idea.

MEMBER SOKAS: Okay.

CHAIR MARKOWITZ: Other comments, questions?

(No response.)

CHAIR MARKOWITZ: Okay. Then, lastly, one of the board members asked that we
just remind or point out to the Board and the public any new changes in either the Procedures Manual, the circulars, the memos, the bulletins from DOL that have occurred since our last board meeting in April of this year.

And, actually, I looked online. The only thing that I could identify was a bulletin, which is very interesting and you should look at, we're going to discuss it on day three, which is relating to direct disease-linked work processes, whereby part of the decision making of the claims would be -- the claims examiners would be to look at the kind of work processes that claimant workers were involved with and the extent to which that can be readily linked to certain diseases or health outcomes in a way that might expedite the claims decision-making process.

So if you haven't -- it's online, so if you haven't seen it, take a look. And it's also in our, in the package that the Board got.

Were there other, did anybody notice
any other written bulletins, memos or the like since April 2011? And John Vance, I don't want to by any means put you on the spot, but is there anything else that has occurred since the board meeting that's published in DOL in the realm of policy changes that we should be aware of? Oh great, could you --

MR. VANCE: Okay. Good afternoon, everyone. So, again, my name is John Vance. I'm the Policy Branch Chief at Energy Employees Program.

Yes, we did issue -- and I'm just going to go down the list that I had someone put together for me. So we did have our direct disease-linked bulletin that was issued. We did issue several circulars involving newly-established special exposure cohort classes. So those would start with 1604, 1605 and 1606. That's the classification number for each circular.

We also made multiple updates to our Procedure Manual. And for anyone who's
interested in knowing what has actually specifically changed in the Procedure Manual, when we publish our Procedure Manual changes, we issue a transmittal, which is basically a notification that we are updating our procedural manual. That transmittal will identify the subject matter within that Procedure Manual that is changing. Okay.

We had an update to several of our file maintenance chapters. In Chapter 1, which was just an introductory section: processing mail, case creation. We issued in June of 2016 an update to our Procedure Manual Chapter 2-1200, establishing survivorship.

Transmittal 1608 was issued in July of 2016. That was an update to Chapter 2-0500 which is establishing covered employment.

We had a update in Transmittal 1609, which was issued in September of 2016, regarding Procedure Manual 2-0600, establishing SEC status.

In August of 2016, we issued
Transmittal 1610 for Chapter 2-0400, which was relating to representative services.

Transmittal 1611, issued in September of 2016, was for a Chapter 3-0800 for overpayment processing.

And then Transmittal 1612, issued September of 2016, for Chapter 3-0700, which related to post-award administration procedures.

So that's the complete list of our procedures since April.

CHAIR MARKOWITZ: Okay. Thank you, John. Question, Ms. Vlieger?

MEMBER VLIEGER: My question was you read those in rapid fire for all of us. Is that list available for us somewhere?

MR. VANCE: Yes. All of our Procedure Manual updates for Fiscal Year 2016 are listed on our website, as are our circulars and our bulletins. So you can just go to our website, and all of those are publicly available.
MEMBER VLIEGER: I'm asking --

MR. VANCE: And they're listed by fiscal year.

MEMBER VLIEGER: I'm asking if the Board could have a handout, please.

CHAIR MARKOWITZ: Well, is it -- so, yes, I'm sorry.

MEMBER VLIEGER: No, go ahead. Go ahead.

CHAIR MARKOWITZ: Well, the question is whether, when something new is issued, can we just automatically be notified that there is something new available? Or is there a system already in place so --

MR. VANCE: Yes, the system is in place that once we issue a transmittal it will immediately go up on our website, or certainly after its publication. And there's a publication process that we go through in order to, you know, get those bulletin, circulars and Procedural Manual updates cleared through the Department of Labor. And once they're
published, that means they become publicly available. They'll be on our website. But we can certainly provide a list of those that we've issued since April.

CHAIR MARKOWITZ: Okay, fine.

MR. VANCE: That shouldn't be a problem.

CHAIR MARKOWITZ: So we'll work out a mechanism where that can be done on a regular basis, so that we're up to date with what's happening, which is the goal.

MEMBER VLIEGER: Okay.

CHAIR MARKOWITZ: Thank you.

Any other comments, questions? Dr. Cassano.

MEMBER CASSANO: And the context changes, the textual changes are actually in the bulletin so you know what was the prior language?

MR. VANCE: Only in the -- when we issue an update to our Procedural Manual --

MEMBER CASSANO: Right.
MR. VANCE: -- content changes are described in the transmittal sheet that accompanies that release. So when you go to the website, there will be the new edition of the Procedural Manual chapter, and then there will be a transmittal that will notify the public, and anybody who's interested in what has changed in that Procedural Manual chapter.

MEMBER CASSANO: Okay.

CHAIR MARKOWITZ: Any other comments or questions? Thank you, Mr. Vance.

MR. VANCE: Thank you.

CHAIR MARKOWITZ: Okay, so let's move on here. We're going to move to the first subcommittee report discussion.

This is the Site Exposure Matrices Subcommittee, read by Dr. Laurie Welch.

SEM SUBCOMMITTEE

MEMBER WELCH: I can get started in the absence of slides. I'm capable of doing that. And PowerPoint is usually designed, you know, at 4:00 in the afternoon to put people to
sleep anyway. And then if it turns out Kevin didn't get my email, then I'll run up and get them off of with a flash drive.

So our task was to help the Department of Labor improve the Site Exposure Matrix. And we had as a guide to start with a, I don't know, hundred-and-something page Institute of Medicine report because the Institute of Medicine had reviewed the Site Exposure Matrix and published a pretty extensive report with specific recommendations.

We had asked Department of Labor to let us know how they'd responded to those recommendations. And we did get a memo.

I'm not sure, did that go out? Did everyone know? I mean our committee read it, but I don't know -- and it's available on the website, but I'm not sure if everyone else saw it? No? You don't have them? Okay.

Well, so the response, which I have up on my computer, and I can describe it to you, but it think it maybe makes more sense to
go through -- yes, that's the one.

   It's in the briefing book. Great.
It's in the briefing book as the OWCP response

to the National Institute of Medicine, if you
want to take a look at that.

   CHAIR MARKOWITZ: I think it's the
last item.

   MEMBER WELCH: Yes.

   So I think I -- can we take a little
break while I run up and get my slides, the
PowerPoint slides. Because Steve didn't get an
email from me. Okay. That's the document but
I -- well I, you know, I can --

   Oh yes, I can email them to you
right now. But I did that yesterday, and it
didn't seem to have worked.

   (Pause.)

   Okay, so while Kevin's seeing if my
email worked this time. As a group, when we
had a conference -- we had two conference
calls. The first call, we really tried to
establish what we saw as our mission. And the
Site Exposure Matrix has two big roles, one of which is to establish exposure. So it, you know, it includes lots of information from the sites about where chemicals were used and what processes occurred, what agents were used. And then they're linked to specific locations at the different sites.

The other is to establish exposure/disease relationships. And OWCP has used a database called Haz-Map, that's maintained in the website of the National Library of Medicine, as the basis for those exposure/disease relationships.

So we, as a group, discussed if we thought that, on the exposure assessment side, should we limit our discussion to SEM. And we quickly came to the conclusion that, no, there's other sources for determining if a worker has had exposure, and that includes the Occupational Health Questionnaire, and other potential sources of exposure information that might not be in the SEM. There are sites for
which a SEM doesn't exist, so you have to turn
to other sources.

And other sources could be detailed
information from the worker, affidavits from
co-workers. So there's a whole lot of other
sources of information. And since we felt that
our responsibility was really to look at making
sure that OWCP has the best information on the
workers' exposure, we should also address the
Occupational History Questionnaire and how we
could generally improve other exposure
assessments for claimants. So that was one
thing we decided that was in our
responsibility.

And then also to really go through
the OWCP response to the National Institute of
Medicine report, we decided to kind of start
with the things that they thought were most
important and see if we could help them with
implementation. And we are not finished with
this discussion, and we're certainly not
finished with all the details that the IOM has.
But we've come up with some specific recommendations.

And at our first meeting, we also talked about what kind of data we would like to see in terms -- because it's really hard to understand this program without knowing what kind of claims are coming in and what kind of claims -- where is exposure assessment a problem? Is it a particular kind of diagnosis? Is it a particular site? Is it of anything that we need to hone in on?

So to do that, we really needed to look at claims. So based on our first meeting we made some requests to the Department of Labor. And then between the first meeting and the second meeting Dr. Markowitz and I had some conversations with the people at Labor to better understand what they could -- how they could respond to our requests.

And we kind of had to go back to ground zero with our requests. I think understanding the way in which the database for
Department of Labor, for OWCP, for EEOICPA is constructed. And then I guess we ended up -- I ended up understanding that it's a claims management database, but it's not really a research database. So it's, things that we would have assumed were present --

It doesn't look very promising, Kevin, does it? Ah, great. Yeah, is it -- Great. Okay. This is maybe a little bit hard to read. But so I've kind of, I covered part of this already. There, that's great.

Okay. So although our specific task was to improve the SEM, we thought we needed to look at all the potential inputs, which is pretty much what I said. And that we specifically thought that we should try to improve the Occupational History Questionnaire.

I noticed in the response to our requests from OWCP, it seems as if there is a process already for improving the questionnaire. So we'll have to kind of intersect with that if that's being done
internally while we're also considering it. But that one of the comments that was made at the last big Board meeting, and also in our Committee meeting, was that the current version of the OHQ doesn't have a description of tasks. And tasks are often how occupational physicians identify exposures.

The workers may not know what they were exposed to in general. And in this particular situation in particular, because so many things were classified, and people forget, but that there's a lot of tasks that have things in common. The task of welding includes certain, we can assume certain exposures, for example. That's an obvious one.

So that the expert industrial hygienists who will be helping the claims examiners adjudicate these claims, information about tasks, even without more detailed discussion from the individual, would be helpful. So that's one of the things we noticed. We thought it was a pretty
significant limitation.

We had also asked the Department of Labor to explain to us how the OHQ was administered. And it's administered at the resource centers. The staff there do their best to help someone complete it. But no one has any more additional expertise. The people administering the questionnaire don't have additional expertise on what the tasks or materials would have been. So we had decided we were going to come up with some recommendations on how to improve that at our first meeting.

Can I have the next slide? So we wanted to follow up on our IOM report and that we'd come up with specific recommendations. DOL had said in its response that, you know, the IOM made a lot of recommendations, and some of them weren't specific enough for them to act on. So we thought we would go through that response and the IOM report and see if we could provide something more helpful. And we talked
a little bit about our data needs.

Can I do the next one? We made a list of other things that we wanted information on, wanted to discuss. And I haven't looked through all the responses. But I'm going to come back to this again.

I would say, you know, I feel like our task in a way is pretty straightforward. But then in order to really understand what we need to do, we need to know a lot more. So I think we're really just getting started.

Some of the other items that we identified in our first meeting we wanted to address were some of the presumptions that are used for adjudicating claims to see if we thought that -- it's a relatively small number, but we wanted to see how they were working, which would require looking at some claims. And there were some specific memorandum, I don't know whether they call it a transmittal or a circular or some kind of document, that had to deal with specific exposures. We call
it the 1995 Memo. And our committee wanted to know more about that so we could discuss that in more detail.

Next slide.

Progress? I guess that was my question mark, you know. Did we make any? I think we did.

And so on our second, second meeting we agreed on what we think are recommendations for the way forward with some of the big IOM recommendations: a process for enhancing the OHQ and for expanding exposure assessments. So I feel like we made some, as a committee, we made some really good progress.

This can all be modified as we get to looking at individual claims. But I don't think any of this would change. I think we could probably make it more specific as we look for individual claims.

So what I thought might make sense is stop here and take -- see if people have questions about where we were, and then go
through these recommendations one at a time and have the Board discuss them. And we can, you know, the members of our subcommittee can explain how we got here. And so with the idea that I could take back comments from people and try to make these into recommendations that the Board could accept before the end of the meeting on Wednesday.

So do people have, before delving into those specific recommendations, do people have questions?

MEMBER VLIEGER: Could you identify for the public which people are on which subcommittee?

MEMBER WELCH: Oh yeah, okay. Well, that would -- Do we have it listed in our agenda?

Okay. So our subcommittee is John Dement and Gary Whitley. Kirk, you've been on the call. Faye, you've been on the call. I don't think you're really a member of the subcommittee, but she's been a really active
participant. Myself. And is that it? Oh, Steve's on all the subcommittees. Steve, Dr. Markowitz is on all the subcommittees.

CHAIR MARKOWITZ: Not all the subcommittees.

MEMBER WELCH: Well you've certainly been on our calls. So thanks, Faye.

MEMBER VLIEGER: I just have one other question of clarification. I know we haven't reviewed this response packet yet, but I started to skim it. And under DOL's response to the Occupational History Questionnaire, you had mentioned that they are working on adding tasks to that. Was that something that was assigned --

MEMBER WELCH: No.

MEMBER VLIEGER: -- to you or?

MEMBER WELCH: I don't know that they're working on adding tasks. It's my understanding they're working on improving it.

MEMBER VLIEGER: Okay.

MEMBER WELCH: But other, nothing, I
don't know what specifically the plan is there.

MEMBER VLIEGER: The answer that they gave us was -- that we -- from our previous question, which may not have been exactly the same, is that they completed that task. We might want to take a backstep on that.

MEMBER WELCH: Okay. I'll take a look at that. Completed the task of improving the OHQ?

MEMBER VLIEGER: Of whatever question we had asked them about the OHQ, which in this case it said, how was it developed and by whom? And they said, well, they have their response in the packet of their responses to us.

MEMBER WELCH: Okay. Yeah.

MEMBER VLIEGER: And that task is completed, so --

MEMBER WELCH: The task of telling us how they developed what they currently use.

MEMBER VLIEGER: Right.
MEMBER WELCH: Right. I think we sort of jumped past that anyway because we started thinking already about ways to make it better.

Les?

MEMBER BODEN: Laura, is there a process in place for conversations with DOL so that our advisory board, your subcommittee, is working with them in some way and not parallel?

MEMBER WELCH: John, do you want to? We don't, we haven't talked about it. I know it's Mr. Vance's, your group is working on the OHQ.

CHAIR MARKOWITZ: Let me just comment before John.

When we've requested to speak to DOL personnel on the phone, that request has always been complied with. So we don't have a -- we haven't figured out an ongoing way to go back and forth on particular issues, but they've always been receptive when we've requested a phone call to help clarify.
MEMBER WELCH: That's, that's probably a good enough response.

I mean I think it's something that we have to work on. And maybe after we've worked through the recommendations, that will inform some of the back and forth, where we go with that. Okay.

MEMBER VLIEGER: One other thing, Dr. Welch.

I noted also in DOL's response that they have discontinued their relationship with Haz-Map in their responses. There's a recent discontinuation.

MEMBER WELCH: No.

MEMBER VLIEGER: Yeah. In their responses it says that they -- for the SEM, the Haz-Map links that Dr. Brown does not currently work directly for DOL or as a SEM contractor.

DOL also recently ended their memorandum of understanding with Health and Human Services and the National Library of Medicine.
So just so you know, if we were going to be using those links, so that MOU has expired.

CHAIR MARKOWITZ: So actually, Mr. Vance, could we just ask for clarification of that, what that exactly means, that the DOL either no longer has the contract or no longer has an active relationship with NLM, National Library of Medicine, around the Haz-Map?

MR. VANCE: Yeah. Let me -- this is, this is John Vance. I'm not sure exactly what all you guys are looking at with regard to that. But I do know that we still maintain the linkages for the use of the site exposure matrices derived from the data maintained in Haz-Map. So I'm not sure. I know that we have lots of different arranges with regard to Haz-Map, but with regard to MOUs and that sort of thing, I'm not really familiar with that.

I, I think Rachel might be on the line as well. She might be able to provide a little, a little bit more context for that, for
that question, if she's able to hear.

MS. LEITON: This is Rachel.

We, we don't really have an MOU any longer. I'll need to check on these. I know that we don't work specifically on a contract with the same version that we used to. But I really need to, to double check. I can give you an answer probably tomorrow as to exactly what our relationship with NLM at this point.

MR. VANCE: But just to clarify, we still utilize Haz-Map as the base, as the basis for our health effect data in the Site Exposure Matrices. That has not changed.

MS. LEITON: Yes, we do.

CHAIR MARKOWITZ: Thank you.

Dr. Silver?

MEMBER SILVER: Perhaps in your investigation you could take a close look at how claimant responses to the questions about personal protective equipment are used in the claims process. There are a couple of questions on the OHQ: Were respirators
available? Did you use them?

Most families don't go through this process ever, and those who do, do it once. Because OHQ is early in the process, I could see a lot of people coming out of these national security facilities giving what they think is the right answer to that question: yes, I wore my respirator.

I teach, you know, 120 miles from here and there's a widespread misconception that workers' comp programs have an element of negligence. They don't. It's a no fault system.

So I can think of a couple of reasons why early in the process people might say, sir, yes sir, I always wore my respirator. And would that be counted against them in evaluating their exposures as their claim is evaluated?

CHAIR MARKOWITZ: Mr. Domina?

MEMBER DOMINA: I think it also needs to be clarified what type of respirator
you wore for what type of environment. Because early in my career we wore HEPA for rad, but it didn't cover any chemical because there wasn't anything available. So it's the person that's asking the question has to have knowledge of what processes and stuff they're talking about because it's in the details.

And that's where a lot of it falls through because certain types of equipment, or whatever, and the type of work we were doing at the time, you had to get it done, you know. And so I think it's important to know that it was their proper equipment available. Because like when I started with my career you wore a respirator, but there was no program to verify. The guy next to you told you this one looks like it will fit. They told you how to get dressed when you started, on and on and on. There was no formal training for this.

And so I think it's important for the people to know that just because you pick people from now that may have certain
backgrounds that don't know the background of this program and how far back it goes, you got to have the right people to get it done correctly.

CHAIR MARKOWITZ: Dr. Sokas?

MEMBER SOKAS: Two comments or questions. One is, in occupational medicine, typically when we ask a question of someone for a 30-year history and we're asking them whether protective equipment was provided, we typically do that not to say, oh, the equipment was so effective that there was no potential for adverse health outcomes, we typically use it as a marker that in fact there was something bad enough that the equipment was made available but nobody really expects that people were using it adequately or every single time they needed to.

So rather than be a marker that there was an exposure, to mark it that there probably was. And I don't know if what you're doing in, you know, if the interpretation of
the OHQ is part of the mandate, but I would suggest that that might be helpful.

The other comment I just had is I think in most occupational medicine practices the family history is no longer obtained. And if it is, it's certainly not the first thing that's obtained. And so I would just suggest considering deleting that from the beginning of the, the form.

CHAIR MARKOWITZ: Yes, Dr. Cassano?

MEMBER CASSANO: I would agree with Rosie and basically go almost farther and say that whether or not somebody says they used personal protective equipment is irrelevant in determining whether or not an exposure occurred.

CHAIR MARKOWITZ: Dr. Dement?

MEMBER DEMENT: Just as a point on protective equipment. As an industrial hygienist, for the most part the equipment itself has to be selected appropriately. But without a complete program that includes making
sure that it's fit appropriately and that it's 

worn, historically these programs in terms of 

protection actually afforded have been pretty 

marginal.

So to the extent they're considered 

in these programs, based on the cases I've 

reviewed and based on what we've seen, I 

haven't seen it used that much. But I haven't 

reviewed that many cases either.

MEMBER WELCH: You know, I think one 

of the things our committee is going to do is 

request -- we want to try to find cases that 

were denied because the exposure was 

inadequate. And then is it inadequate because 

the SEM's inadequate or the OHQ is inadequate 

or just there's information missing?

It could be information the worker 

knows but that it didn't get recorded in this 

process. And there needs to be a look back 

again potentially. And the way we've figured 

out to do that is to take maybe a couple of 

specific diseases because OWCP can put together
a set of -- they can't give us diagnosis and denial for a whole range of things because it's fairly complicated to construct a complete set of a specific diagnosis. But we're going to pick some big ones and then look at the ones that were denied because of causation.

They can deny because employment wasn't verified, because the survivor isn't eligible, because it's the wrong medical diagnosis, a bunch of things. But one specific category for classifying denial is causation. And that's where we think that's where we'll find the ones where the exposure was insufficient to cause the disease, either because the link doesn't exist with that exposure or group of exposures, or because someone assessed the exposure as insufficient.

But, you know, it may take us -- there's no way to, there's no way to get any closer to say, all right, well denied because the OHQ was used, or something. I mean it's just we just have to go through some and get a
better sense of it.

But I, I think that's why we thought it was important to have multiple sources of input on the exposure history for the individual so that if one of them is less than adequate some -- another one may, you know, make up for it. As we all do in practice. It's, you know, if the worker doesn't remember, you have a lot of other sources for what the person may have been exposed to.

MEMBER DOMINA: We're also going to have to address the sites that don't have a SEM. Like Grand Junction Operations is one. There's -- because we have sites that have an SEC with no SEMs. And so that's going to be an issue. And I believe there's like 34 sites that don't have a SEM, and so we're going to have to address that.

MEMBER WELCH: That's what I'm saying, our three recommendations we'll make today are, you know, who knows, are they the tip of the iceberg? They're some of the ones
that were most important in the IOM report, which is kind of why we focused on those because somebody's already pointed them out as being big issues.

But I think that's a very important issue and that you probably have a better understanding than anybody else on the committee, you and Gary, about how those cases if there is no SEM, how are they adjudicated? Because it seems to be important. But I think that's, that's on our next list once we've finished with these big pictures.

CHAIR MARKOWITZ: Just to interrupt, Ms. Leiton wants to make a comment.

MS. LEITON: Yes. I just want to respond to your question about MLN. I had to check on it.

We actually don't have any formal relationship with them anymore. We get the information as they publish it. The Haz-Map is published by them, so we get it just like anybody else would publicly.
So we used to have a contract with Dr. Jay Brown. We don't anymore. We don't have an MOU with MLN either.

So that's, so that's the issue.

OPERATOR: Mark Griffon has left the conference.

MEMBER WELCH: Rachel, this is Laurie Welch. It was hard to understand you. But I think I understood what you're saying is that you, you'll continue to use Haz-Map as it is updated to the public but you don't -- no longer have a specific contract with Dr. Brown to get anything faster or different?

MS. LEITON: Yes, that's correct.

MEMBER WELCH: Okay.

MS. LEITON: Thank you. Just wanted to make sure I could clarify that for you.

CHAIR MARKOWITZ: Dr. Boden?

MEMBER BODEN: Just, just listening to the comments about the question about personal protective equipment raises the question about whether this advisory committee
might suggest that that question be deleted because it would provide no useful information and might be misleading if the answer is in the affirmative.

CHAIR MARKOWITZ: So let me ask the Board members, those who want to make comments, just to indicate you want to make a comment by turning your name card into the vertical position. Otherwise I'm trying to read your face and decide whether you want to speak or not.

Dr. Dement.

MEMBER DEMENT: I think the question is not a bad question, Les. I think when it's used for the purpose of saying that the employee did work in areas in which their employer determined that personal protective equipment would be required, it does, as we discussed before, indicate acknowledgment of a potential exposure.

I think clarification is needed in terms of how it's actually used. And to
dismiss an exposure that a worker lists on the OHQ because they used PPE, would not be appropriate.

CHAIR MARKOWITZ: But, you know, I would question the ability to get the level of detail about use of PPE on the OHQ, on the Occupational Health Questionnaire, whether sufficient detail can really be obtained to really make it useful in terms of judging exposure.

Dr. Cassano?

MEMBER CASSANO: Yeah. I think I'm sort of in the middle of, my feelings are in the middle of that. I agree that I think it should stay on there, for all of the reasons that Rosie and Dr. Dement mentioned, but I think it could very easily be said that in no case shall it be used to deny a claim assuming that no exposure occurred.

That, that would be my feeling. Because it does give you some useful information, especially if somebody is in a
working work category where the exposure matrix says they weren't exposed, and they write on their occupational health history that, yeah, somebody told me I needed to be in a respirator when I was in this building. And so that gives you some information.

But the fact that they used it or may have used it should not preclude granting the claim because by assuming that no exposure occurred.

Does that make any sense?

CHAIR MARKOWITZ: Ms. Vlieger, did you have a comment in direct response to this?

MEMBER VLIEGER: I do. I would rather have something to go off of than nothing. I would like to leave it in.

And the problem between sites is all of the jargon, so that when people went home at night and things sounded innocuous, makes it difficult to determine what happened if there's nothing there. So all this common language jargon that was used specifically for secrecy,
when they talk about their exposures and what they were doing, even process names have jargon names. So I would rather have something that talks about what they did, how they did it, than to not have anything.

And even if they had the option of not wearing, it should be asked, was it operating? Could you opt out? And that question's not on there. Because many times the workers are told, Here's the option. But for whatever reason, whatever mindset, they opt out. And that question is not there.

CHAIR MARKOWITZ: Dr. Welch?

MEMBER WELCH: You know, I think our little committee can, can work with these comments. I know that on the building trades screening program medical history we ask questions that try to get at the question, were you working in a hazardous area? So we might suggest changing, were you working in an area where PPE was required or PPE was, you know, suggested? Because we do ask if people worked
in an area where they had -- were they ever stopped from work? Worked in an area that had to be decontaminated?

And asked about hazardous buildings as well, which is really hard to do. I mean besides having had a tour at Oak Ridge I could see that the building part could be an hour in itself.

But so I think it's useful comments and we can certainly take those into consideration. I think certainly, I mean everybody is saying the same thing, that where the worker used personal protective equipment should not be used to assume that the exposure was prevented, that there was no exposure because they used PPE. But the opposite is probably true, it's identifying hazardous work.

And but I don't think we have any way to instruct the Department of Labor of how to use that information. We just need to collect it in a way that reflects that view of the -- asks those questions in a way that it's
clear they're being asked as part of an assessment of the hazards rather than a reduction of the hazards. That's what I'd say.

So I think we can, that's very helpful, I think we can work with that.

CHAIR MARKOWITZ: But I would add that I think there is a lot of room for misinterpretation either by claims examiners or industrial hygienists who don't speak with the claimants, or by physicians who are reviewing paper and not speaking with the claimants. A lot of room for -- whatever caveat or working we put in there, there's still a lot of room for misinterpretation that if the person says they used PPE, personal protective equipment, the respirator and the like, that the person reviewing that information could easily interpret that as meaning the person did not have significant exposure.

So I don't know whether that misinterpretation can really be guarded against.
Mr. Whitley?

MR. WHITLEY: Keep in mind also that you may have worked there 30 years. And for 15 years you didn't wear any PPE. But you left work on Friday and you went in Monday morning and the sign on the door says you need PPE to go back in the area you worked on Friday.

So to answer that question if you were an employee, would be tough if you were doing the questionnaire because half of my career I didn't need it, now half of my career I do need it. It's not a cut and dry question.

MEMBER WELCH: Well, I hope that some of our recommendations that we're going to make, you know, that they will address this question by enhancing the information from the OHQ and not making it be the only way a worker reports his history, so.

Should I -- I think we best move to the next slide.

So that the Institute of Medicine recommended that OWCP not rely solely on Haz-
Map to identify exposure/disease relationships. And they recommended that other data sources be used. And they used the terms to assure those links are current, comprehensive and transparent.

And we definitely would agree with that. I mean people should be able to look at the disease relationships, exposure-disease relationships that are in some -- and under -- and believe that these are up to date.

So our committee came up with recommendations. When I went back and compare them to the IOM report, they're really not that different. And because we agreed with the IOM that there are other data sources that are not primary literature, they're not suggesting that OWCP have a committee to review primary literature and decide new causation.

But there are agencies like the EPA and the International Agency for Research on Cancer and the National Toxicology Program that put together major efforts, millions of dollars
to assess the health effects of one particular chemical or groups of chemicals, and that OWCP should have a way to incorporate those.

Haz-Map may incorporate those and it may not. And if it does, it may not incorporate it until it appears in a textbook, which could be a delay of a number of years. But when EPA puts something in its IRIS database to say that this exposure causes this disease, we don't have to review that again. We can rely on EPA.

So our recommendation was to have a committee, which DOL has told us they can't do because they can't afford it. But we don't think this is a major expenditure of time on the committee's behalf to come up with a list of other sources, to take Haz-Map and expand it. And because of the nature of who's on our committee, I don't want to be the one to make the list. I mean we need some people, definitely EPA and National Toxicology Program are probably the leading ones, and IARC, are
probably the leading ones.

And IOM had listed some options in Table 78. And they've listed probably most of the ones that, that we would come up with actually. I don't know we'd want to do another list.

And then OWCP would need some guidance on how to use that information to put it into SEM as a disease cause link.

In some ways, the way the SEM is constructed now, it makes it fairly easy because there's no assessment in SEM of the duration and extent of exposure. And that's, it's, that's a problem that IOM identified. I don't think it's -- it's not possible to add that to SEM on a, on a site-specific basis. It's not possible to say that TCE in this particular location was used to this, that a pipefitter doing this kind of welding would have this level of exposure to cadmium, for example. That, that's just not available. So we couldn't do that.
But this advisory committee could help the OWCP folks understand how to use that causation data. I mean Haz-Map doesn't do it either. Haz-Map does limit it I think to some degree to occupational exposures because it's really designed for primary care providers. And if we're including EPA, you know, they're looking at much lower exposures.

So, you know, there may be a causal link but it may not be sufficient to say that there could be an occupational cause. So there's some expert assessment to get from what's in the EPA IRIS database as causal into something that should be considered causal or contributory or aggregating in this program.

But, again, we didn't think that's that complicated. And Tori's agreeing with me.

But then I went back and read the IOM report and I said, oh, we just said what the IOM said. It said they should use these other data sources and get an expert committee to help them figure out how to do it.
So we can't make it any easier, and it has to be done. At least that's our committee's recommendation. But it doesn't seem like a burdensome task.

So let's discuss that one.

CHAIR MARKOWITZ: So let me -- Oh, Rosie, Dr. Sokas?

MEMBER SOKAS: I mean I think I would just comment that if this committee has access to subcontractors or if the program itself has access itself to subcontractors, I do think -- so, so I interpreted this response to the IOM committee as saying we wanted you to do it for us. And, you know, and we said, no, we didn't really have the time or the, you know, personnel to do that for you.

And I don't know that this group does either. I think that pulling together the information on the specific questions to populate better what the -- I mean I think all those, those websites are useful but it takes somebody to do that. And I think maybe a
recommendation could be that it's worth it if you're going to be assessing, you know, the claims based on this information to, to let a small subcontract for people to pull that information in. And then I think it's reasonable for the Board, for subcommittees on the Board to address that.

And I think Tori's subcommittee probably, you know, has a lot of overlap on that question. But, but that there -- that the response has to be "life is hard." You have to put in the resources if you're going to actually go after this. It's not just, oh, we want. You know, we don't have those, that information.

CHAIR MARKOWITZ: My reading of the IOM report was that they were deeply critical of the Haz-Map database and procedure, and also of SEM and the way it used Haz-Map. And then set out a bunch of tests that should be done that would take a lot of resources.

I mean if you think about it, DOL's
told us they've identified now 17,000 agents or agent mixtures or brand names of agents used in the complex. And unlike certain programs, like Black Lung, which target a single disease, in EEOICPA Part E every disease in the book is a target; right? So you're matching up 17,000 agents with every disease in the book.

So I think IOM set out a very large task, set of tasks for DOL. And I think that the recommendation Dr. Welch is discussing is identifying a specific, finite task that's a good starting point -- or not necessarily starting point, because DOL's already made some changes, but a good point in which to advance this, in which this -- and mind you, it's a no-brainer, we've got organizations which have spent a lot of resources, engaged a lot of experts in reviewing agents and looking at causation for diseases, including those that Laurie mentioned, and some others.

The list of things they looked at is not endless. It's finite. And without a ton
of -- And I think, by the way, that many of them probably are, are in Haz-Map already. But there should be reassurance that, at a minimum, what a consensus organizations through careful peer review, high quality process, have already concluded should be in the Haz-Map, should be in SEM. And there shouldn't be any question about that.

And then getting on to the next task, which is surveying the literature for other associations and deciding about those, that's a, that's a whole other thing, which IOM also begins to address. But the first step is to simply take what's already recognized as being authoritative reports on causality and making sure that the Haz-Map and the SEM reflects those.

Dr. Welch.

MEMBER WELCH: So our committee was recommending that Department of Labor use those sources. And if EPA, IARC, and NTP, and whatever source you choose have not determined
a causal link, that OWCP does not have to go and do a detailed review on that chemical independent. Because there will be agents for which there's a new association, for which there may be strong literature. But at some point in the very near future EPA or IARC or NTP will convene a committee and make a decision on that.

And I think that asking OWCP, or we agreed that asking OWCP to do that before EPA gets to it is not necessary. But improving the causal links in SEM -- and I do think probably most of the ones that would be found in the other sources are there, but it will, it will make it possible to continuously add new materials that have been reviewed through a rigorous process without having Department of Labor to have to create essentially an EPA-style or an IARC-style committee to review chemicals.

So I think it's, even though it may not be 100 percent up to date, I, I think
keeping it there keeps it doable within the
context of this program.

The question of whether an
individual worker could then come in to make a
causation argument, that's something else.
That's an individual case that someone could
have. They could make a really good claim and
it could go to CMC and industrial hygienists
and they could say, yeah, we actually think
even though that causal link is not in SEM we
could award it. That would be a different way
to sort of allow people to stay current, to
have that option, and that a really expert
report could create a causal link.

But so I think I was just saying
that, Steven, or Dr. Markowitz, because you had
suggested and you pointed out that the way IOM
wrote it could imply that Department of Labor
should do those detailed reviews themselves.
But I think, given the nature of the program
and the resources, that it makes more sense to
rely on other really high quality federal and
international agencies to do those reviews.

MEMBER VLIEGER: I just had a question. In the whole process of the IOM report did DOL have any objections to using those databases? Or is it they didn't have access to them routinely? Or that claims examiners didn't understand them?

As I'm looking on page 78 of the IOM report and they all seem pretty clear cut. It doesn't seem like there's a no-brainer in there at all.

MEMBER WELCH: Well, I think that the -- it's not that the -- IOM was suggesting that those links be added to the SEM, not that claims examiners should review those links. So --

MEMBER VLIEGER: But ultimately they do if it's in the SEM.

MEMBER WELCH: But if it's in the SEM, then the organization then says you can use this link.

If you're leaving it up to the
claims examiner, then they have this what could be seen as a really big responsibility to make up a new disease-exposure link. So I think getting it into the SEM, which then stands as OWCP's textbook on disease-exposure relationships is the important part of it.

And I think that's, I think that's what you were saying.

MEMBER VLIEGER: We were looking at -- I've got the report right here and I was trying to figure out how many pages of references there were. It looks like it's a page-and-a-third of references.

MEMBER WELCH: Yeah, the resources. Right.

And I think if you, if you read the response that we got from OWCP on, you know, what out of the IOM report they implemented and what they did not, it's my understanding from the written report was that this recommendation to use those other data sources seemed difficult and they just couldn't figure out how
to do it, and didn't have the resources for
another expert committee.

So we were hoping to make it seem
more reasonable. And this Board could advise
on how to get that done, and something that's
not a major, it's not like creating this board
and having all those meetings, it would be
something a lot simpler.

CHAIR MARKOWITZ: Dr. Cassano?

MEMBER CASSANO: Yeah. One thing I
thought maybe we could do to help DOL a little
bit is whittle that page-and-a-half of
references down to maybe the three or four
where they would get the most bang for their
buck first, such as IARC and National
Toxicology Program, and then IRIS after that.

But also give them some information
on some monographs that are written
specifically for a specific agent. There's a
wonderful National Research Council monograph
on TCE that I use in my work all the time
because it actually contradicts the IOM report
on the TCEs when they were talking about the
Camp Lejeune. And they were written three,
three years apart.

So you have to in some ways keep up
with the literature. But it would drive
somebody crazy to try to do that in the context
of what they're trying to do at DOL. So I
think if we, if we whittle it down to three or
four where they're going to get the best
information, the most comprehensive
information, that would work.

CHAIR MARKOWITZ: No, I, I don't
agree with that. This list that IOM gave us on
page 78, 79, in the table, just to be clear,
it's Table 3.1. Not in the text. Because in
the text they mention other databases but just
in the table, these are, this is a very finite
task. These agencies don't review that many
chemicals all that often. They don't,
unfortunately, right? Because it's a very
protracted process, resource-intensive process.

And they only review two, three per year at
most.

So it's not all that expensive to incorporate these tasks. To go beyond that would be more expensive. And I, we're trying to separate out what's feasible from what might be done more down the road.

So I wouldn't agree with whittling this. In fact, I would disagree a little bit with Dr. Welch. I think, to me this is the first step. And then the question, not to be necessarily discussed today, but the first question is how can DOL monitor the literature for other consensus statements beyond these organizations?

So what you mentioned, one, there are other professional organizations put out consensus statements about diseases. Monitor other consensus statements or reviews that are very, literature reviews that are very definitive, and use that to improve the disease/exposure link.

Because it would be a shame to miss
out on those consensus documents beyond this list. And I'm not talking about DOL sitting there monitoring ToxLine and PubMed database and looking at, you know, for all the latest about this or that individual study because I think that would be very challenging for DOL to do.

But I am talking about beyond this finite list of using -- of making sure that there are consensuses that are in the medical, published medical literature that this compensation program should be taking advantage of.

MEMBER VLIEGER: I would just like to add one comment to that. Because of the restriction that has been placed using the SEM in claim adjudication, what I have seen a number of times is when we stray from anything that is specifically referenced in Haz-Map, the claims examiner won't accept it without an outside toxicologist agreeing with it.

So when we've gone to these other
sources, which are well respected in advocating for the workers, DOL won't accept that. I had -- at a hearing I was told that anything I printed from PubMed and National Library of Medicine wouldn't be accepted unless it was linked in Haz-Map. So at least if we could just say you have to consider these sources as a start, instead of saying we aren't going to accept them because it's not linked in SEM.

So as a start we need to at least open that door.

CHAIR MARKOWITZ: Dr. Sokas.

MEMBER SOKAS: Two comments. One is, even for IARC, I mean one of the conversations was that at first only the IARC 1 agents were included. And so there are actually some OSHA standards that don't, you know, where it's an IARC -- you know what I'm saying.

So there, some of that needs a little bit of, you know, kind of attention and guidance.
I had a question that really came up in our subcommittee when we reviewed the phone calls but I think it might apply here, which was that the -- there was an example where there was some guidance that had been provided by NCI, which I think all of us would consider a reliable source, and the Solicitor of Labor refused to allow the NCI information to be taken into account.

And I was wondering if we could get some clarification of that? Because it does raise the issue of what are the -- what, I would really like to know what happened between NCI and the Solicitor of Labor, to find out where the determinations that NCI made were determined to be not applicable. And I don't know if we have that information available to us or not.

CHAIR MARKOWITZ: Well that is a question we should put to DOL. I don't know whether Mr. Vance or Ms. Leiton can speak to that, have enough information or are prepared
to speak to that. If so, fine. Otherwise we'll just pose that question and ask for a
response.

So we will pose the question and we'll get a written response from DOL there.

Other comments, questions? Yes, Dr. Redlich?

MEMBER REDLICH: I may have, I may have missed this, but has there been sort of just sort of general principle of causation in terms of where the bar would be? You know, if something is a possible human carcinogen, is that sufficient, you know, versus probable? Because it's very reasonable in situations like this to, you know, pick a lower bar than let's say IARC uses.

And, you know, even if you have this perfect list of A can cause B, you then have the individual and how much exposure would that individual need, which is a very hard decision. And I don't know how, you know, people could make that. You know, that's, you know, so the
VA with Agent Orange, World Trade Center, you know, presumptions have helped really facilitate the process.

CHAIR MARKOWITZ: I'm sorry, I wasn't keeping track of who's first. Dr. Boden?

MEMBER BODEN: Just I think that's very important. I think it's actually on our agenda for tomorrow, the cause contributed or aggravated discussion. So I think we need to spend time on this.

CHAIR MARKOWITZ: That's for Wednesday. But, that's for Wednesday, but I wouldn't expect any miracle answers in that discussion. But, but yes.

I think the IOM report though did specify that causal -- the criteria for causation should be spec -- should be described in the program. And that's one of the, that's one of the tasks they wanted some outside future expert advisory committee to address.

Dr. Cassano?
MEMBER CASSANO: Yeah. I, in response to the first part of what you said, I think, you know, if it's just -- if that, if the consensus document just looked -- this is one of my pet peeves -- if they just look at epidemiology and the epidemiology isn't there yet because of latency issues, or whatever, then you're sort of out of luck.

But if you, you have to look at both the toxicology and the epidemiology. And if there is a reasonable pathophysiologic pathway to getting from this exposure to this disease that's been proven, then I think that needs to be used, rather than just looking at, you know, statistically significant epidemiology.

CHAIR MARKOWITZ: I see a number of vertical name cards. But I -- right, right. Dr. Welch?

MEMBER WELCH: So in response, Dr. Redlich, in response to what you said, currently now the causation is determined by Haz-Map. So if Haz-Map said that, you know,
something that was an IARC probable as opposed to known, known human carcinogen, then DOL would look at it. And if it hasn't, it hasn't.

So which -- I don't actually know the answer to that. I'd have to, to look that up. But it is part of then the question of also, like, which agents do you include? And in an individual case how do you say that cause contributed? Those are two different decisions that have to happen before you determine a claim.

CHAIR MARKOWITZ: Dr. Sokas?

MEMBER SOKAS: That just kind of points out, again, the difference between what Haz-Map was created for, which was for primary care clinicians interacting with people coming to their offices where you can do real harm if you assume an association that, that, you know, may not be the major thing for that individual.

And certainly the family practitioners would go nuts if they had to, you know, kind of take into consideration some of
the items that are perfectly appropriate to take into consideration for determining contribution or causality for a compensation program.

So it just it was a program that was reasonably designed for a specific purpose, that was used for a different purpose for which it really isn't appropriate.

CHAIR MARKOWITZ: Dr. Silver?

MEMBER SILVER: I think Faye Vlieger hinted at this. One benefit of giving those consensus bodies a seat at the table, if you will, a place on the computer screen when the claims examiner opens Haz-Map is that the advocates, the authorized representatives can get some traction. They can cite those sources and point to the, point the claims examiner to those sources and say look at the evidence we're providing. It may not be in Haz-Map but these are reputable sources and it's part of the opinion of sufficient probative value, da-da-da-da-da-da-da-da-da-da, that we're submitting now for the
third time.

CHAIR MARKOWITZ: But I think the point is that if DOL embarked on an expeditious process to take all these experts -- expert consensus statements and folded them into the SEM, that the claims examiner could find it in the SEM, reliably find it in the SEM and not rely on looking at additional authoritative sources.

MEMBER SILVER: It may take them a while to incorporate the latest evidence. And once the claims examiners get familiar with the alphabet soup of NTP, IARC, et cetera, newly emerging evidence would have validity in the process of adjudicating claims I think.

CHAIR MARKOWITZ: Dr. Cassano?

MEMBER CASSANO: I think the way you may be able to handle that is if when the CE sees something like that, even if it's not an expert medical opinion that has it written out that whenever they see these documents, because they can't parse it, that at that point it goes
to an -- immediately goes to an industrial hygienist and/or the CMC to evaluate.

Because what we saw, I think, a lot -- and I don't want to get too much into my subcommittee -- but was that a lot of information was discounted by the CE and never got to somebody with the expertise to actually parse it.

CHAIR MARKOWITZ: Ms. Vlieger?

MEMBER VLIEGER: I would concur with that in that I've actually been told because it is not a SEM link it will not be forwarded because it's not considered valid medical evidence.

So just getting them to accept the lexicon, even if it's not attached, the lexicon that's listed in the IOM report of other agencies, just to have that as accepted evidence, right now the claimants don't get to use that unless they pull in very expensive experts that then are vetted, and a lot of them are actually able to provide evidence in court.
So, and that's not something that's available to the majority of the claimants. So when valid medical studies that support an illness are provided, that they don't discount it and parse from the file because they aren't accepted under the rules right now.

MEMBER WELCH: Well I guess the hope was that, I mean this process of going through what's in, let's say we use all the sources in the IOM table, it's a little bit of work to go through and make sure that everything that's identified there as having a causal link with exposures is included in SEM. The great majority of them will be because they're longstanding links. And then a process to update it annually.

So look at, you know, once a year look what comes out from NTP and EPA. NIOSH doesn't ever publish a criteria document anymore. And ATSDR is not doing anything. So it's not, there's not a lot new coming out.

I think it's going to be a lot
easier to implement what you guys are suggesting if it's right in the SEM, you know. So, right, you could have a case where there's something new that's just come out of NTP, a new causal link that's not in SEM, and you, as an advocate might be arguing that the claims examiner should look at that. That should be the exception rather than the rule. Let's just get it in there. And let's not, let's not sit here and think, oh, that's going to take two years to get it done.

MEMBER VLIEGER: We see a lot of unusual non-Hodgkin lymphomas. And the other agencies are finding the links. But when we apply for them they get, the CMC doesn't use current, and so then these unusual non-Hodgkin's lymphomas that have medical evidence from the general public behind them are ignored.

And offline we could discuss that. But so when we see these cancers that we know that as a group they're caused by a certain
group of chemicals, these people are high
priority workers with more than 20 years with
those chemicals. But then their specific odd
little non-Hodgkin's lymphoma is discounted
because it doesn't have the full
epidemiological study behind it, and it's not
an IARC 1 listing, so it doesn't ever get on
anybody's radar.

So but I -- we can talk about that.

CHAIR MARKOWITZ: Sure.

Dr. Friedman-Jimenez?

DR. FRIEDMAN-JIMENEZ: Yeah. I
think this is a very difficult area. When you
get to a possible association where you're at,
say, the IARC 2.A probable carcinogen versus
IARC 2.B possible carcinogen level, now you're
really out of the realm of a claims examiner
making that decision.

And, in fact, any of us in this room
would not have the skill set to do that. Most
doctors don't. Most epidemiologists don't.
Most toxicologists don't. You have to really
have a broad skill set. And then you have to be uninterested, I mean you have to be -- not have a conflict of interest. And many of the real top experts often work for industry or they work for the government or they have some other conflict of interest that -- so it's a real difficult area.

And I think that it really has -- there needs to be a mechanism by which these difficult cases get considered at that level by someone that, or people that have that skill set. And, for example, in New York State there's an impartial specialist unit, part of the Workers' Comp Board, where they send difficult cases to experts to make a final adjudication. And that works to some degree. But it's not easy at all.

And I think to expect a claims examiner to decide these cases based on, on sort of a cookbook formulation is not going to work once you get to those, that level of uncertainty in whether the exposure is
carcinogenic.

MEMBER WELCH: But I would just say to that, that unusual cases are unusual. And at this point we need to fix, no, we need to fix the problems for the run of the mill cases. George, no, it's like I mean -- anyway we don't have -- we get to stop.

DR. FRIEDMAN-JIMENEZ: Just one quick. Unusual cases are very common because there are many different types of unusual cases. There are thousands of chemicals out there for which there is not enough known. And it could be an unusual case.

So even though it's unusual in the sense that it may be less probable, there are many different -- the universe is very large, so unusual cases are not necessarily rare.

CHAIR MARKOWITZ: Okay, so it's 5:00 o'clock, which means we're going to adjourn for the day.

Mr. Rios, anything people need to know? Okay, we're going to start up again 8:30
tomorrow morning. Thank you to the public for participating, listening at least. And we will continue tomorrow morning.

(Whereupon, at 5:00 p.m., the Advisory Board recessed, to reconvene at 8:30 a.m., October 18, 2016.)