



BULLETIN NO. 23-02

Issue Date: October 24, 2022

Effective Date: October 24, 2022

Expiration Date: October 24, 2023

Subject: Industrial Hygiene Reporting of Exposure Levels

Background: The Division of Energy Employees Occupational Illness Compensation (DEEOIC), given input from the Advisory Board on Toxic Substances and Worker Health (ABTSWH or Board), has modified how Industrial Hygienist (IH) staff are to characterize toxic substance exposure to eliminate reference to exposures that occurred within regulatory standards. IH characterization of exposure will describe a level of exposure given the assessment of available employee-specific evidence and application of the professional judgment of the certified IH. This supersedes guidance found at Ch. 15.11e of the Federal EEOICPA Procedure Manual (PM) (v7.0), or any subsequent version thereof until incorporated into the PM.

References: Federal (EEOICPA) Procedure Manual (v7.0).

Purpose: To modify IH staff procedure for assessing the level of toxic substance exposure

Applicability: All staff.

Actions:

1. Once a Claims Examiner (CE) has submitted a referral to obtain an assessment of the level of employee exposure to a toxic substance, the Medical Health Science Unit (MHSU) will assign the referral to an IH for evaluation and response. In assessing and characterizing the levels of exposure experienced by an employee, the assigned IH must conduct a thorough review of the relevant employee exposure data collected during the claim adjudication process and provided to them by the CE in the IH referral package. Information crucial to the IH assessment includes filtered Site Exposure Matrices (SEM) search outputs; exposure analysis worksheets; industrial hygiene exposure monitoring data obtained from employer records; exposure data supplied or communicated by the claimant in an Occupational History Questionnaire (OHQ), written statements, IH interviews, claim form documents, and any available medical documentation describing how a particular toxic substance exposure resulted in the claimed illness.

2. After the assigned IH has completed their assessment of the totality of available evidence, the IH will prepare a written memorandum that responds to the specific questions posed by the CE that will serve to describe the extent of likely occupational exposure to the targeted toxic substance(s) that the employee potentially experienced during covered employment. The IH's characterization of exposure will communicate the IH's interpretation of the available evidence and the application of their professional judgment in describing the extent of the employee's exposure.

3. Within the IH report, the IH will explain their analysis of the available evidence about the employee to assign a characterization of exposure for each targeted toxic substance. The IH will assign a level of employee exposure to each toxic substance as incidental, significant, or more than incidental exposure but less than significant.

Incidental exposure means the lowest reasonable level of contact with a toxic substance absent a finding of no exposure. An incidental exposure is one that occurs on an intermittent, infrequent basis, usually without a connection to the normal function of a particular job or work process. The IH will generally describe the exposure as occurring "in passing only."

A significant exposure is one that occurs at some interval of routine frequency and intensity associated with the work performed by the employee. Based upon the agent under consideration, such exposures may have occurred by inhalation, ingestion, or absorption. The IH categorizes significant exposure further as high, moderate, or low on a case-by-case basis after reviewing evidence available about the employee. In categorizing the level of exposure, the IH considers and weighs numerous factors including the following: the employee's labor classification and type of work performed; the presence or absence of exposure monitoring data; frequency of work activities or functions performed; proximity of exposure; and temporal knowledge (historical information about workplace conditions); the use of personal protective equipment, or the likelihood that workplace controls or mitigation strategies were in place to reduce (not remove) health risks. After considering all these factors or any other available exposure data available about the employee, the IH applies their professional knowledge and judgment to assign a level of significance.

In some instances, employees may be exposed in such a manner that the IH characterizes the exposure as occurring at more than an incidental level but not rising to the level of significant. This categorization applies to situations where the IH interprets the evidence in such a way as to conclude that the employee performed duties in a manner where contact with a toxic substance may have occurred. However, the evidence also documents that the employee's work occurred without any indication of workplace exposure violation or incident, the claimant has provided no substantive evidence of significant exposure, or the totality of evidence provides documentation of proper safety mitigation parameters (e.g., use of personal protective equipment).

4. With the completion of the IH written response, MHSU will notify the referring CE of the report's completion and that it has been uploaded to the claim record in the OWCP Imaging System. The CE will then proceed with further adjudication development including having the IH analysis evaluated by the claimant's physician or a Contract Medical Consultant to consider whether the level of reported exposure could have resulted in the claimed, diagnosed illness.

Disposition: Retain until incorporated in the Federal (EEOICPA) Procedure Manual.

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SUPERSEDED