

Proposed Revised Asbestos Presumption Recommendation

(February 2019)

As a result of interchange between the Board and EEOICP, the EEOICP and the Board have come to agreement on many aspects of EEOICP's current policies for consideration of claims for asbestos-related diseases. There is agreement on the set of diseases covered, important time factors (duration of exposure; latency), and the use of 1995 as a key date for presumption of significant asbestos exposure. There is also agreement that the asbestos-related disease claims of DOE workers but who do not meet exposure and causation presumption criteria adopted by EEOICP should be evaluated through the normal claims adjudication process, including use of industrial hygiene and medical evaluations when appropriate.

I. The Board notes the following provisions of Exhibit 15-4 (Exposure and Causation Presumptions with Development Guidance for Certain Conditions) of the EEOICP Procedure Manual V2.3:

A. Asbestos Exposure Presumptions

1. EEOICP presumes that the 19 labor categories designated on List 3a(1) [Exhibit 15-04] had significant exposure to asbestos prior to 1996. No other labor categories are presumed to have had significant exposure to asbestos.
2. EEOICP makes presumptions about the levels of significant exposure to asbestos (low, medium, and high). List 3a(1) categories are presumed to have had high significant exposure to asbestos through 1986 and low significant levels of exposure to asbestos from 1987 through 1995.
3. EEOICP presumes that labor categories other than those on List 3a(1) have had exposure to asbestos between January 1, 1987 and December 31, 1995, but makes no presumption about the significance of their level of asbestos exposure.
4. EEOICP presumes that all job titles other than those on List 3a(1) do not have significant asbestos exposure after 1986.

These presumptions are summarized in Table 1.

B. Asbestos Disease Causation Presumptions

For any of the seven asbestos-related diseases, EEOICP requires *as a matter of a causation presumption* that the clamant have a "significant level" of exposure to asbestos. The level (high, medium, or low) of significant exposure to asbestos is not specified with reference in the causation presumption. See the summary in Table 2 below.

II. The Board has several important residual concerns and recommended revisions:

1. Since the asbestos disease causation presumption criteria include “significant exposure” (as defined by the exposure presumption) without regard to whether such exposure is high, medium or low, the designation of asbestos exposure for List 3a(1) labor categories as high, medium, or low in the exposure presumption is not used and should be deleted from the Procedure Manual.
2. For labor categories other than those on List 3a(1), it is reasonable to retain the presumption that they had “some level of exposure to asbestos” prior to 1987 and that the industrial hygienist determine the significance of that exposure in decision-making on claims.
3. However, the Procedure Manual contains a clear negative presumption about asbestos exposure for jobs other than those in List 3a(1) between 1987 and 1996. That is, the existing policy presumes that asbestos exposure attendant to these jobs occurred but was not significant due to a low likelihood that exposures exceeded established occupational health standards. The Board believes that this presumption is not justified, because it assumes that occupational health standards were fully protective and that DOE worksites were in full compliance with such standards. Since the former is not true and the latter is not proven, the manual should take a more neutral stance on this issue and encourage an unbiased industrial hygiene assessment to determine the importance of exposures in the relevant claims. Thus, there should be no exposure presumption about the levels of asbestos exposure and their significance for jobs other than those in List 3a(1) between 1987 and 1996. When such claims are referred for an industrial hygiene assessment, the industrial hygienist will determine the significance of exposure to asbestos.
4. The asbestos diseases causation presumption adds a requirement of “day by day” exposure for all but two asbestos disease categories. This measure of exposure frequency should be presumed for claimants who meet the asbestos exposure presumption of significant exposure noted above [List 3a(1)]. The Board recommends that “day by day” be retained only for evaluating the claims that are undergoing review by an industrial hygienist.
5. List 3a(1) (Table 3) has many important maintenance and construction job categories but lacks selected job titles that were reasonably presumed to have been exposed to asbestos prior to 1997. An examination of the SEM-listed labor categories from five DOE sites or labor groups (Hanford and PNNL, K-25, Y-12, Idaho National Lab; and Construction) yielded a supplemental list (Table 4) as determined by a subset of Board members. Examples include janitor, HVAC mechanic, instrument mechanic, elevator mechanic, and others.

The Board recommends that a Board Committee work with the EEOICP and their industrial hygiene contractor to examine all SEM job titles and aliases and identify job titles that should be added to List 3a(1) for the purposes of a presumption of asbestos exposure.

Table 1. EEOICP Procedure Manual V2.3, Exhibit 15-4, Asbestos Exposure Presumption

Time period	Job Category	Overall Exposure	Specific Exposure
pre-1987	3a(1) list	presumed to be "significant"	high
pre-1987	other jobs	presumed to have had "some level of exposure"	significance determined by industrial hygienist (high moderate, low)
1987-1995	3a(1) list	presumed to be "significant"	low
1987-1995	other jobs	presumed to be "not significant"	—

Source. EEOICP Procedure Manual V2.3

Table 2. EEOICP Procedure Manual V2.3: Exposure Criteria Required for Causation Presumption

	Level of Exposure	Duration	Latency
Asbestosis	significant "day by day"	≥250 work days	10 years
Pleural plaques	significant "day by day"	≥250 work days	10 years
COPD	significant	20 years	20 years
Laryngeal cancer	significant "day by day"	≥250 work days	15 years
Lung cancer	significant "day by day"	≥250 work days	15 years
Mesothelioma	significant "day by day"	≥30 work days	15 years
Ovarian cancer	significant	≥250 days through 1986	15 years

Source. EEOICP Procedure Manual V2.3

Table 3. EEOICP Procedure Manual V2.3 List 3a(1), Exhibit 15-4

Automotive mechanic; Vehicle mechanic; Vehicle maintenance mechanic
Boilermaker
Carpenter; Drywaller; Plasterer
Demolition technician;
Laborer
Electrical mechanic; Electrician;
Floor covering worker
Furnace & saw operator; Furnace builder; Furnace operator; Furnace puller; Furnace technician; Furnace tender; Furnace unloader
Glazier; Glass installer; Glazer
Grinder operator;
Tool grinder;
Maintenance mechanic (general grinding);
Welder (general grinding);
Machinist (machine grinding)
Insulation worker; Insulation trade worker; Insulator
Ironworker;
Ironworker rigger
Maintenance mechanic;
Electrician;
Insulator;
Mason (concrete grinding); Mason; Brick & tile mason; Concrete and terrazzo worker; Bricklayer, Tiler
Millwright
Heavy equipment operator; Operating Engineer
Painter
Pipefitter, Plumber steamfitter; Plumber/pipefitter; Plumbing & pipefitting mechanic; Plumbing technician, Steamfitter
Roofer
Sheet metal mechanic; Sheet metal fabricator/installer
Welder; Welder burner; Welder mechanic

Table 4. Job Categories in 3a(1) List and Additional SEM Job Titles from Selected DOE Sites with Presumed Asbestos Exposure Prior to 1997[^]

3a1 List	Job Titles that should be added to the 3a1 list [^] (presumed asbestos exposure prior to 1997)
Automotive mechanic; Vehicle mechanic; Vehicle maintenance mechanic	Asbestos Worker*
Boilermaker	Auto Body Mechanic*; Auto Body Repair/Painter; Auto Body Repairman; Mechanic, Auto Paint and Body Repair; Technician, Auto Body
Carpenter; Drywall; Plasterer	Blacksmith
Demolition technician;	Boiler Operator
Laborer	Construction Worker
Electrical mechanic; Electrician;	Elevator Worker, Construction
Floor covering worker	Escort, Construction
Furnace & saw operator; Furnace builder; Furnace operator; Furnace puller; Furnace technician; Furnace tender; Furnace unloader	ESH Officer
Glazier; Glass installer; Glazer	Foreman, Crafts
Grinder operator;	Heat/AC, Construction*
Tool grinder;	Janitor; Janitor, Construction
Maintenance mechanic (general grinding);	Laborer; Laborer, Construction*
Welder (general grinding);	Maintenance Worker
Machinist (machine grinding)	Manager, Construction
Insulation worker; Insulation trade worker; Insulator	Mechanic, HVAC; Mechanic, HVAC/refrigeration; Mechanic, Air Conditioning/Refrigeration; Mechanic, Refrigeration; Refrigeration worker
Ironworker;	Mechanic, Instrument
Ironworker rigger	Mechanic, Power Equipment
Maintenance mechanic;	Mechanic, Service
Electrician;	Mechanic, System*
Insulator;	Mechanic, Vacuum Equipment
Mason (concrete grinding); Mason; Brick & tile mason; Concrete and terrazzo worker; Bricklayer, Tilesetter	Technician, Welding*
Millwright	Truck Driver, Construction
Heavy equipment operator; Operating Engineer	Vehicle and Construction Equipment Mechanic, Construction*
Painter	Construction Field Representative
Pipefitter, Plumber steamfitter; Plumber/pipefitter; Plumbing & pipefitting mechanic; Plumbing technician, Steamfitter	Firefighter
Roofer	Crafts foreman
Sheet metal mechanic; Sheet metal fabricator/installer	Lineman
Welder; Welder burner; Welder mechanic	Maintenance Shop Laborer
	Operator, Steam Plant
	Technician, Mechanical
	Technician, Instrument
	Technician, Maintenance
	Technician, Radiation
	D&D workers (Deactivation and Decommissioning)

*Job Titles that may or may not already be included on the 3a1 list

[^] Selected from SEM job categories from Hanford, PNLL, INL, K-25, Y-12, and Construction