



Good evening, Dr. Markowitz and Members of the Board. This is Terrie Barrie, Founding Member of the Alliance of Nuclear Worker Advocacy Groups. Thank you for the time to offer comments.

I was made aware by an authorized representative that new language has been added to Industrial Hygienists' reports. I'll read a portion of this. "DOE historically has not adhered to the OSHA Permissible Exposure Limits...but rather followed the more restrictive American Conference of Governmental Industrial Hygienists TLV-TWA levels...The Time weighted Average level concentration for a conventional 8-hour workday and a 40-hour work week, to which *it is believed* that nearly all workers may be repeatedly exposed, day after day for a working lifetime without adverse health effects."

"Nearly all workers." That obviously means that some workers *will* experience adverse health effects. You'll hear more about this and the possible impacts it has on a claim from the AR but I'd like to raise a few serious concerns I have about this statement. This statement is extremely misleading and inaccurate.

I researched DOE's acceptance of ACGIH's threshold limits. I found two references to DOE's acceptance of the ACGIH's limits. The first is a survey DOE provided to the Savannah River Site, [Savannah River Site \(energy.gov\)](http://energy.gov). It is dated April of 2015. Question 1 of the survey, states, "DOE *currently* defers to the Occupational Safety and Health Administration (OSHA) for establishing the permissible exposure limits (PEL) and uses an action level as the administrative level to assure that controls are implemented to prevent exposures from exceeding the permissible exposure limits."

The second DOE document I found was titled [Adopting the 2016 ACGIH TLV - Respirable Crystalline Silica \(orau.org\)](#). According to this document, DOE published amendments to 10 CFR 851 in January 2018. This amendment uses the 2016 Consensus Standards, *including* the ACGIH standard for Crystalline Silica a-Quartz and Cristobalite. Compliance was not expected to be achieved until 1/17/19 – a mere 3 ½ years ago. Yet, DEEOIC wants this language applied to **all** IH reports for workers employed after the mid-90s. I also filed a Freedom of Information Act request with the Department of Labor for any documents related to a meeting held on November 30, 2021 titled, “Discussion on adding “within regulatory standards language to [Industrial Hygienists (IH)] reviews.” It appears that DEEOIC has adopted the policy of “It’s easier to ask forgiveness later than to ask permission first.”

The Board’s charter charges them with providing advice on “the work of industrial hygienists. In fact, the first recommendation the Board offered to DEEOIC was to rescind Final Circular 15-06, which said exposures would be within regulatory limits after 1995. DEEOIC *accepted* that recommendation, but it now appears is now doing an end-around the Board’s authority.

This first meeting was held 20 days after the last Board meeting, yet DEEOIC did not mention to the Board that the IH language might be changed. But let’s give DEEOIC the benefit of the doubt and assume they did not know of the plans to change the IH language before or during the Board meeting. Because the Board is responsible for reviewing IH reports shouldn’t DEEOIC, at the very least, notified the Board that they were considering a change to the language prior to this meeting? Do they understand what an Advisory Board does? They are supposed to advise an agency according to their charter. How can the Board advise DEEOIC if they don’t know what DEEOIC plans to do? How can the claimants or their physicians trust IH reports that contain this language knowing it is an actual blanket policy provided by the National Office that IHs *must* include in any review of an employee post-1995?

I have serious doubts about DEEOIC’s sincerity when they say how much they appreciate the Board’s work. They didn’t notify the Board about this change until after it was done. They have slow-walked the Board’s years-long request for a support contractor. Then there’s the flagrant FACA violation by not posting the notice in a timely manner. The notice was not published in the Federal Register 16 days before the meeting and 7 days before the end of the

sign-up period for today's comments, it is becoming more and more apparent that DEEIOIC is merely giving lip-service to the Board when they say how much they appreciate the Board's work.

I'm glad the Board became aware of this issue through their review of claims. I ask that DEEIOIC immediately remove the language from the IH reports and enter into a discussion with the Board to determine whether this language is accurate and appropriate to be inserted into IH reviews.

The stakeholders definitely appreciate your service to improve the program. And I hope you will decide to remain on the Board. I will submit a copy of these comments to be posted to the Board's website. Thank you.

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