



November 23, 2018

**Written Comments Following the November 14-15, 2018 Meeting of the  
Advisory Board on Toxic Substance and Worker Health**

Dear Dr. Markowitz and members of the Board. My name is Terrie Barrie from the Alliance of Nuclear Worker Advocacy Group. I welcome the new board members and look forward to the continued review of this important compensation program. The previous board made many excellent recommendations to improve the program. I applaud the dedication of the previous board for their outstanding work.

I am thankful that DEEOIC accepted some of the recommendations to presume workplace exposure resulted in certain diseases. It was my hope that DEEOIC would soon accept the remaining recommendation in short order. Unfortunately, it doesn't appear that will happen at present.

Both Ms. Rachel Leiton, Director of DEEOIC, and Ms. Hearthway, Director of OWCP stated that the recommendations are debated internally. If these experts do not agree with the recommendations made by ABTSWH, DOL can reject the recommendations made by the board.

This is discouraging to say the least. Secretary Acosta assembled the board members because of their vast expertise in occupational medicine, epidemiology, and pulmonary medicine as well as members who have first hand knowledge of the workplace environments. Each are held in great esteem by their peers and claimant community.

To reject any of their recommendations is incomprehensible especially since the board thoroughly debates every angle of every issue before them. I find it ironic that earlier in the meeting that Ms. Leiton explained to the board that it would be appropriate for a claims examiner to find that a rationalized report from a medical specialist would have more probative value than a rationalized report from a general practitioner.

It is not my intention to demean the education of DOL's internal experts. I am sure that their educational background is as stated. What I do question is whether their expertise is more qualified than the board members, either as individual members or as a whole; enough expertise which would allow DOL's internal experts' opinions to hold more weight than ABTSWH.

If I may address the new board members – despite the strides the previous board made in identifying issues and providing sage counsel to DEEOIC, much work still needs to be done. I still hear complaints about the quality of the IH, CMC and toxicologists reports. I still hear evidence is ignored. In September, DEEOIC created a new office to adjudicate medical benefits claims. This change is meant to have medical professionals instead of claims examiners decide whether claims for medical therapies, durable medical equipment or home health care are appropriate for the covered condition. The statute does not specifically task the board to review, but then again, this office is new. However, the board's review of medical decisions made by DEEOIC medical personnel clearly fall under the board's responsibilities.

I also request the board investigate if the diseases covered under the Radiation Exposure Compensation Act (RECA) could be applied to workers exposed to uranium at DOE facilities. It seems to me that if a uranium miner, miller or transporter can be covered under RECA and Part E of EEOICPA for lung and certain kidney diseases because of exposure to uranium, it wouldn't take a great leap of faith to presume that DOE contract workers who processed uranium would develop these diseases. DOE covered employees should also have the presumption that exposure to uranium would cause, contribute or aggravate these diseases.

The last issue I wish to mention is the review of the Site Exposure Matrix. The previous board identified areas which need to be explored, for example incorporating other government websites for exposure assessments. However, I respectfully wish to remind the board about SEM's job classification and the exposure experienced by those job categories. It appears that if the job isn't accurately listed in the SEM with regards to process or presence in a particular building, the claims examiner will request further evidence from the claimant. However, if the claimant cannot provide the documentation, the claim will be denied. Your review of these issues will be invaluable to the claimant community and to DEEOIC.

These suggestions as well as the issues the Board has identified is a heavy load for the board to undertake in the two-year term appointment for the current members. I strongly recommend that the

Secretary adopt the board appointment procedure followed by NIOSH so that there will be no break in the Board's work. More than eight months elapsed since the board had its last meeting. Important work and advice could have been provided to DEEOIC in that time.

I also urge the Secretary to provide the board a supporting contractor, again, similar to the NIOSH board. A contractor who has the experience and time to delve into the nitty-gritty aspects of the SEM and to review DEEOIC's expert opinion reports. This is especially important because DEEOIC requested assistance on the health effects of radiation exposure for non-cancerous conditions.

I thank you for your time and appreciate the important work of the Advisory Board on Toxic Substances and Worker Health.

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