

UNITED STATES DEPARTMENT OF LABOR

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ADVISORY BOARD ON TOXIC SUBSTANCES
AND WORKER HEALTH

+ + + + +

MEETING

+ + + + +

THURSDAY
FEBRUARY 28, 2019

+ + + + +

The Advisory Board met telephonically,
Steven Markowitz, Chair, presiding.

MEMBERS

SCIENTIFIC COMMUNITY

JOHN DEMENT
GEORGE FRIEDMAN-JIMENEZ
MAREK MIKULSKI
KENNETH SILVER

MEDICAL COMMUNITY

MANIJEH BERENJI
STEVEN MARKOWITZ, Chair
CARRIE A. REDLICH

CLAIMANT COMMUNITY

KIRK DOMINA
RON MAHS
DURONDA POPE
CALIN TEBAY

DESIGNATED FEDERAL OFFICIAL

DOUGLAS FITZGERALD

CONTENTS

Welcome and Introduction	4
EEOICP Bulletin 19-03	10
Proposed Revised Asbestos Presumption Recommendation	15
Proposed Revised Occupational Health Questionnaire Recommendation	40
Proposed Revised Occupational Asthma Recommendation	62
Parkinson's Related Diseases	77
Break	95
Public Comment Tracking	96
Review of Final DOL EEOICP Rule Regarding Board Recommendations	98
Board Action List, November 2018 Board Meeting	104
Board Data and Claims Request, December 2018	107
Additional Items	119
Adjourn	133

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1 P-R-O-C-E-E-D-I-N-G-S

2 2:07 p.m.

3 MR. FITZGERALD: Good afternoon,
4 everyone. My name is Douglas Fitzgerald and I'd
5 like to welcome you to today's meeting of the
6 Department of Labor's Advisory Board on Toxic
7 Substances and Worker Health.

8 I'm the Board's Designated Federal
9 Office, or DFO.

10 On behalf of the Department of Labor,
11 I'd like to express my appreciation for the
12 diligent work of our Board members since our last
13 meeting in November preparing for this public
14 meeting.

15 As the DFO, I serve as the liaison
16 between the Department and the Board. The DFO is
17 responsible for approving meeting agendas and for
18 opening and adjourning meetings while ensuring
19 all provisions of the Federal Advisory Committee
20 Act, or the FACA, are met regarding the
21 operations of the Board.

22 I am also responsible for making sure

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1 that the Board's deliberations fall within the
2 parameters outlined in its enabling statute and
3 charter.

4 Within that context, I work closely
5 with the Board's Chair, Dr. Steven Markowitz, and
6 the Office of Workers' Compensation Programs to
7 ensure that the Board as an advisory body to the
8 Secretary is fulfilling its mandate to advise and
9 is addressing those issues of highest priority
10 and of greatest interest and of benefit to the
11 Secretary of Labor who is ultimately responsible
12 for the administration of the Energy Employees
13 Occupational Illness Compensation Program.

14 And, finally, I also work with the
15 appropriate Agency officials to ensure that all
16 relevant ethics regulations are satisfied.

17 We have a full agenda for the next
18 three hours this afternoon. Copies of all
19 meeting material are available at the Board's
20 website under the heading meetings.

21 The Board's website can be found at
22 dol.gov/owcp/energy/regs/compliance/advisory

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1 board.htm. Or you can simply Google Advisory
2 Board on Toxic Substances and Worker Health.

3 The Board's website has a page
4 dedicated entirely to this meeting. That page
5 contains all materials submitted to us in advance
6 of the meeting, but I would also note that some
7 of the academic materials the Board may reference
8 in its deliberations today are copyright
9 protected, so they are not posted for public use
10 -- but they cannot be posted for public use,
11 although they may be publically cited.

12 Those papers are noted on the website
13 as well.

14 There, you will also find today's
15 meeting agenda as well as instructions for
16 participating remotely in the meeting.

17 If you are joining by WebEx, please
18 note that this session is for viewing only and
19 will not be interactive.

20 During Board deliberations, I would
21 like to remind the members to mute their
22 telephones when they're not engaged in the

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1 discussion.

2 Also, please do not use the hold
3 function as it could result in turning the rest
4 of us to some unintended New Age musical
5 interlude.

6 The FACA requires that the minutes of
7 this meeting be prepared to include description
8 of the matters discussed here today and
9 conclusions reached by the Board.

10 As DFO, I prepare the minutes and make
11 sure they are certified by the Board's Chair.
12 The minutes of today's meeting will be available
13 on the Board's website no later than 90 calendar
14 days from today per FACA regulations.

15 And, if available sooner, they'd be
16 published before the 90th day.

17 Also, although the informal minutes
18 will be prepared as required by the FACA
19 regulations, we'll also be publishing verbatim
20 transcripts which are, obviously, more detailed
21 in nature.

22 Those transcripts will be available on

1 the Board's website as soon as possible.

2 I'm looking forward to working with
3 all of you and hearing your discussion this
4 afternoon.

5 And, with that, Mr. Chairman, I
6 convene this meeting of the Advisory Board on
7 Toxic Substances and Worker Health.

8 CHAIR MARKOWITZ: Thank you.

9 This is Steven Markowitz. I want to
10 welcome Board members back to another Board
11 meeting. I also want to welcome any members of
12 the public who are participating.

13 If you have a problem seeing the
14 materials or finding our website, all you need to
15 do is put in our initials, ABTSWH and you will
16 find our website.

17 We are, as you'll see some tabs in the
18 middle of the page, we are under the meetings, go
19 to the most recent meeting and you'll see the
20 materials listed for today.

21 I want to thank Doug Fitzgerald,
22 Carrie Rhoads, Kevin Bird for all the

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1 arrangements, all the work that's done in
2 preparation for today and also for the work
3 that's done, some of which is invisible to us in
4 between meetings. So, thank you very much.

5 Dr. Cassano is not participating
6 today. She emailed yesterday and had a personal
7 emergency so she's not able to participate today
8 and Dr. Berenji will be a few minutes late.

9 So, the Board has 12 members, and to
10 the extent we vote today, we will -- we may
11 affirmative vote represents a simple majority.
12 So, if there are 12 members of the Board in any
13 given vote to pass a recommendation or whatnot,
14 we would need 7 votes.

15 Usually, we come to consensus and
16 reach a higher threshold than that, but I'm just
17 letting you know that we would require seven
18 votes either way on any given recommendation.

19 So, the -- almost all the materials
20 that we are going to discuss today are on the
21 website. There were a couple that I sent to
22 Carrie late. I notice that one of them which I

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1 sent yesterday did arrive or Tuesday did make it
2 on the website just recently.

3 We're going to show most of these
4 things on the WebEx. And so, both the members
5 and members of the public, we'll be looking at
6 much of what we're able to access on the web.

7 There will be a few detailed documents
8 that we're not going to put up because it would
9 probably be more confusing than not. But they
10 are certainly available.

11 Let me see, if there's anything -- any
12 other comments on our web materials.

13 So, the agenda, I'm going to go
14 briefly through the agenda. We will make it
15 through the agenda today, I'm confident.

16 We're going to -- you see the agenda
17 on the WebEx screen, we're going to discuss the
18 revision asbestos presumption recommendation.

19 I think, actually, we should take
20 number nine which is the EEOICP Bulletin 19-03, a
21 recent bulletin which describes changes in the
22 procedure manual. I think we'll review that

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1 briefly first because it pertains to the items
2 one through three, the proposed revisions and
3 recommendations.

4 So, we will show, Kevin just by way of
5 notice, you don't have to show it right at the
6 moment, but the next thing we'll go to is the
7 Bulletin 19-03.

8 So, we're going to go through
9 revisions and the three prior recommendations of
10 the Board. All those recommendations stem from
11 the previous Board.

12 To orient you on the materials, what
13 we've done is compiled the original
14 recommendation on that given topic with the
15 original Department of Labor response together
16 with any revised recommendation we made.

17 And, if there was a further response
18 from DOL in that.

19 So, on the links on our meeting
20 website, we have -- you don't have to go between
21 different dates if you look at these -- the
22 asbestos recommendation, you will see in sequence

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1 the interchange between the Board and the
2 Department. And, that will serve as background
3 for the new text we're going to look at which is
4 considerably shorter on asbestos on the
5 occupation health questionnaire and on asthma.

6 I remind you that there are a couple
7 of other outstanding recommendations that still
8 require some work, specifically, COPD and
9 occupational hearing loss. And, those will be
10 covered at the next meeting in late April.

11 We're going to discuss initial work on
12 Parkinson's related issues, a brief report --
13 actually, Marek is going to lead that and Duronda
14 and I are going to add some things as well as
15 maybe some other people.

16 We'll refer to the public comments
17 tracking system we had.

18 We're going to review briefly the new
19 issued rule from the Department on EEOICP, but
20 stay focused really on the outcome of the
21 recommendations that the previous Board made in
22 April 2016.

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1 We're going to spend some time on our
2 action list we developed in our November meeting,
3 where we are in that action list. We also
4 submitted a data request December 10, 2018, I
5 want to go over that.

6 And, then, there's an additional item,
7 actually Ken Silver has nicely drafted kind of a
8 reformulation of -- or proposed reformulation of
9 DOL's request to the Board to look at the non-
10 cancer outcomes of radioactive materials.

11 And so, that's something that we will
12 add to the agenda.

13 Are there other items that people want
14 to talk about?

15 (NO AUDIBLE RESPONSE)

16 CHAIR MARKOWITZ: Okay.

17 Kevin, can you bring up Bulletin 19-
18 03?

19 So, this bulletin refers to the
20 Procedure Manual Version 2.3.

21 Actually, if there's anybody from the
22 Department of Labor on the phone who can chime in

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1 as to when the Version 2.3 was issued, I'd
2 appreciate it.

3 (NO AUDIBLE RESPONSE)

4 CHAIR MARKOWITZ: And, actually, while
5 that question is hanging out there, let me ask
6 Doug or Carrie, if we, you know, in our in person
7 meetings, usually there's a member of the
8 leadership of the program present who can answer
9 some factual questions or sort of brief kind of
10 non-policy issues, clarification questions.

11 Rachel, John or the like. Are any of
12 them available to answer such a question on this
13 call?

14 MR. FITZGERALD: I think we'd always
15 had somebody on request after a question the
16 Board had someone on the call. It's not a
17 standing request, I guess.

18 CHAIR MARKOWITZ: Okay, okay. So, I
19 take that as --

20 MR. FITZGERALD: If we requested them,
21 we could have arranged for that. But --

22 CHAIR MARKOWITZ: That's fine. But,

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1 the point is, there's no one available, right?
2 Okay. That's fine.

3 So, this is a recently effective job
4 bulletin. And, you can see some of the lists of
5 changes that were made in the Procedure Manual as
6 a result of, in part, of input from the Advisory
7 Board.

8 And, with regard to bladder cancer,
9 hearing loss, lung cancer, mesothelioma, ovarian
10 cancer, and pleural plaques.

11 And, you can see, for instance, that
12 they changed the amount of exposure for asbestos
13 exposure for mesothelioma, they changed the
14 latency for ovarian cancer, and pleural plaques.

15 And, they added benzidine. Actually,
16 that wasn't something the Board weighed in on,
17 but they added two new solvents to the list of
18 solvents that could be related to toxic substance
19 induced hearing loss.

20 And then, they, importantly, added a
21 presumption on lung cancer and asbestos.

22 So, if you scroll down a little bit

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1 more, Kevin, the bulletin then talks about
2 actions to be taken in the program to look back
3 at cases that are relevant to these changes and
4 that need re-examination in terms of
5 compensability.

6 And so, attached to this bulletin is
7 some screening worksheets. We don't need to
8 actually look at them, but it shows how the
9 program, national office, and then the district
10 offices lay out or screen and then analyze prior
11 claims given these new presumptions and new
12 attributes of compensation.

13 So, I just wanted to point out that
14 this is happening.

15 And, any comments or question on this?

16 (NO AUDIBLE RESPONSE)

17 CHAIR MARKOWITZ: Okay.

18 So, if you haven't seen this, it's
19 case law and it's worth taking a look at so you
20 can understand better how DOL undertakes to look
21 back at prior claims that, it can't be easy, but
22 it's necessary when the criteria for compensation

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1 change and evolve over time.

2 Okay, let's -- if there are any other
3 comments on this bulletin, now is the time,
4 otherwise, we can move on.

5 (NO AUDIBLE RESPONSE)

6 CHAIR MARKOWITZ: So, let's move to
7 the proposed asbestos presumption recommendation.

8 Just by way of background, there's
9 been -- the Board and Department have had back
10 and forth on asbestos issues for some time.

11 And, there are a couple of outstanding
12 issues that aren't fully resolved.

13 The Department has accepted much of
14 the advice, I would say, on asbestos from the
15 Board.

16 Okay, so this is -- what Kevin's
17 showing now is not what we're going to go
18 through, but just to point it out, don't move it
19 yet, Kevin, but it's an 18-page back and forth
20 from April '17 until late 2018 or early in 2018
21 in terms of asbestos. So, we're not going to go
22 through this, but there is background and we have

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1 it on the website.

2 It's our original recommendation then
3 their response, our revise, their response. And
4 now, we're going to talk about our revised
5 recommendation.

6 So, Kevin, if you can bring up
7 something called proposed revised asbestos
8 presumption?

9 So, just scroll down a little bit.
10 Hold on, this is the Occupational Health
11 Questionnaire. No, we want to go with the
12 asbestos proposed revised.

13 MR. BIRD: Yes, pulling it up right
14 now.

15 CHAIR MARKOWITZ: Yes, yes, fine.

16 Okay, great. And then, if you could
17 just scroll down a little bit.

18 Okay, so, briefly, just scroll down a
19 little bit more. Okay.

20 So, we picked the provisions directly
21 from the Procedure Manual, but the latest version
22 that the program lists 19 labor categories from

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1 an exhibit, but we've seen these before. They're
2 mostly the mainstream construction and
3 maintenance trades that are presumed to have been
4 exposed to asbestos before 1996.

5 Those are the only labor categories
6 and for which there is a presumption of
7 significant exposure.

8 They -- item number two -- and, by the
9 way, chime in if you have any questions or
10 comments -- item number two is that the program
11 and the Procedure Manual then proceed to assign
12 different levels of exposure within the
13 significant rubric, low, medium, and high.

14 And so, the list is presumed to have
15 high significant exposure through '86 and low
16 significant exposure from '87 to 1995. So, both
17 periods of time of significance, the presumption
18 is that it's high earlier and lower later on.

19 Item number three is that the program
20 presumes that any job categories that are not on
21 the list had exposure prior to '95, but it
22 doesn't remark on the significance of their

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1 exposure.

2 And then, finally, it -- the program
3 and the Procedure Manual presumes that all these
4 job titles other than the list do not have
5 significant exposure after 1986.

6 So, if you scroll down to Table 1 for
7 a moment, I don't know if this will help people
8 or not. But, there we go.

9 Different time periods on the left and
10 then the job categories, either the list or other
11 jobs, and then, the overall exposure in the case
12 of the people -- the job titles on the list it's
13 presumed to be significant prior to 1995,
14 although, one period high, another period low.

15 And then, in -- if you look at the
16 last row and the other jobs are presumed to be
17 not significant from the later time period.

18 So, Kevin, if you'd go back up now.

19 So, there -- and, I'm sorry, scroll
20 down so we can just look at Section B here.
21 Okay, okay.

22 So, in the Procedure Manual, when you

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1 actually look at the presumption causation
2 language, it only refers to the fact that the
3 claimant has to have a significant level of
4 exposure.

5 It doesn't -- whether that significant
6 exposure is high, medium, or low doesn't enter
7 into consideration in the causation presumption.

8 So, I think that's captured in Table 2
9 below. So, let's look -- if you could scroll
10 down to 2?

11 Okay, so this now, this summarizes the
12 causation presumption within the Procedure Manual
13 for the seven different asbestos related
14 conditions.

15 And so, on the left, you see the
16 conditions and then, the level of exposure in the
17 causation for a claimant to meet the presumption
18 of causation, there has to be significant
19 exposure.

20 And then, there's some language about
21 day by day in some of those, but the focus,
22 really, is that it has to be significant and

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1 then, the duration of latency, basically, it's
2 250 days except for COPD and mesothelioma and
3 latency is somewhere between 10 and 20 years.

4 So, and we're in accordance pretty
5 much with the time factor, the duration, and the
6 latency, that's -- those aren't really live
7 issues.

8 The issue with COPD, frankly, there's
9 a larger issue relating to COPD presumption. So,
10 we didn't -- we're not really focusing on that
11 here in asbestos.

12 Okay, so, you can go back up now to
13 where we were before, okay.

14 So, these are the residual concerns.

15 So, the first thing is that the
16 causation presumption only designates that the
17 level be significant and it doesn't specify
18 whether it's low, medium, or high.

19 So, it would appear there's no need
20 for the language and it's actually potentially
21 confusing as a -- with reference to the causation
22 presumption, there's no need for this designation

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1 of low, medium, and high because the list, where
2 it applies which is the list --- because, the
3 list of job categories, that group is presumed to
4 have significant exposure during the relevant
5 time period.

6 So, our recommendation is that that
7 designation of low, medium, and high for the
8 purposes of a causation presumption be deleted
9 because it's not used and at the minimum
10 potentially confusing.

11 And, item number two is, this is not a
12 change, this is just to recognize that for the
13 labor category other than those on the list, it's
14 reasonable to retain a presumption as the
15 Procedure Manual does, that they had some level
16 of exposure to asbestos prior to '87 because
17 there was asbestos in many of the locations.

18 So, but item three, though, the
19 Procedure Manual, as it stands now, has this
20 negative presumption about asbestos exposure for
21 jobs other than those on the list.

22 That is to say, it -- the existing

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1 policy presumes that that -- the asbestos
2 exposure in those jobs occurred, but that it
3 wasn't significant and, therefore, cannot be used
4 in the causation presumption.

5 So, they don't -- that group doesn't
6 enter causation presumption because they are
7 presumed not to have significant exposure.

8 And, the rationale for that is that it
9 was -- and this is between '87 and '96 -- the
10 rationale that the Department offers is that the
11 exposures were unlikely to exceed established
12 occupational health standards.

13 So, here, this proposed revision
14 points out we believe that the negative
15 presumption is not justified because it's based
16 on the rationale that the occupational health
17 standards were fully protective, which they
18 weren't.

19 And then, secondly, that all the work
20 sites were in compliance or full compliance,
21 which it, frankly, just unknown. The hopes were,
22 but unknown.

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1 And so, our recommendation is that the
2 Procedure Manual have more neutral language about
3 this exposure. And, leave it up to when there's
4 uncertainly, leave it up to an industrial
5 hygienist who is looking at the facts of the case
6 but not with the guidance that, of a negative
7 presumption that the exposure was not
8 significant.

9 And, thereby, more likely to be an
10 unbiased assessment of the significance of that
11 exposure.

12 So, our recommendation is that that
13 language presuming that the exposure was non-
14 significant be deleted which really leaves the
15 field open that when the claims examiner requires
16 it that the industrial hygienist make an open,
17 unbiased assessment of the significance of
18 exposure to asbestos.

19 Number four is, you note before, I
20 mentioned that there is in the causation
21 presumption this language of day by day. That is
22 to say that, to me, a given -- on most of the

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1 asbestos diseases, our worker had to have 250
2 days of day by day exposure meeting certain
3 latency period if they were in a certain job
4 title.

5 The -- this day by day reference is
6 unnecessary for the group of job titles on the
7 list because that group is generally known to
8 have reasonably frequent exposure to asbestos in
9 that time period.

10 And so, there's no reason to apply
11 that day by day standard to the list which is
12 what it looks like the language does.

13 The day by day analysis is reasonable
14 for the industrial hygiene assessment because it
15 communicates frequent exposure in a 250 day
16 period, totaling 250 days. That's fine.

17 But it -- the way it stands now, it
18 also seems to apply to the people -- the job
19 categories on the list and it's not really
20 necessary.

21 The most important, I think, part of -
22 - if you could scroll down just a little bit

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1 more, Kevin -- of the revised recommendation is
2 that the list of job titles that can be presumed
3 to have asbestos exposure prior to 1997 is
4 incomplete.

5 It does have many of the important
6 maintenance and construction jobs, electrician,
7 carpenter, sheet metal worker, mason, pipe fitter
8 and the like. But that there are other jobs
9 which are missing.

10 Now, this has been a matter of
11 discussion with the Board for some time. And so,
12 what Kirk Domina and John Dement and I did is the
13 DOL gave us the existing job categories from the
14 SEM and at five different DOE sites. So, it
15 included Hanford and Y-12 and one of the gaseous
16 diffusion plants, Idaho and, again, what's called
17 construction job titles.

18 And, what we looked at, we looked at
19 the complete list of job categories in the SEM.
20 So, for instance, in Paducah, there have been 85
21 job categories in the SEM, not the aliases, but
22 just the main job categories and then, at

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1 Hanford, there were I think about 400.

2 And so, we looked at those and we
3 said, okay, fine. Which of those do you believe
4 mostly because of maintenance and job -- and
5 construction job relationship, which of those
6 should be added?

7 And so, we -- if you scroll down,
8 Kevin, to actually Table 3 for a moment.

9 Just a reminder of what Table 3 is
10 what the list looks like currently. These are
11 the job titles presumed to be exposed to asbestos
12 prior to '93.

13 Okay, now, let's go to Table 4. Table
14 4 -- if you can scroll down further. Now that
15 you've got it.

16 Okay, so, Table 4, what it does is on
17 the left, you see that list, that same list and
18 on the right are additional job categories that
19 John, Kirk, and I found at one or more of those
20 five old sites that we believe can reasonably be
21 presumed to have significant asbestos exposure
22 prior to 1997.

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1 And, you'll recognize, maybe some of
2 them presume to have -- probably have a
3 relationship to the list on the left. It's
4 unclear and we've made a request to the
5 Department to provide us with a map, how they get
6 from list 3(a)(1) on the left to the SEM and the
7 various job categories on the SEM.

8 And, beyond that, how do they match it
9 to the job titles that claimants actually write
10 on their, you know, on their forms when they
11 submit their claims.

12 But, and there may be some
13 disagreement on the list on the right. But, most
14 of us familiar with asbestos related issues would
15 probably come to agreement on most of the job
16 titles on the right.

17 So, but that represents five DOE
18 sites. DOL gave us 15 sites in terms of the
19 lists of job categories from the SEM. But there
20 are, in the SEM, there are probably 60 or more
21 different DOE sites listed.

22 And so, the next task would be to take

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1 all of the DOE sites, take all of the job titles,
2 the job categories and probably the aliases, too,
3 and do what we did, which is identify job titles
4 that are -- have a high likelihood of meeting a
5 presumption.

6 And so, that would facilitate the
7 claims examiner. One of it was enlarge list
8 3(a)(1) to make it sort of more on target with
9 reality.

10 But, also, it would help the claims
11 examiner in decision making which is they could
12 move quite quickly from the claimant submitted
13 job title to the SEM to the presumption.

14 So, if you could just scroll back up
15 to the text, the end of the text? Okay, there we
16 go.

17 So, our thinking was how to do this.
18 And, if you look at the last paragraph, so the
19 recommendation is that a Board Committee work
20 with the program and their industrial hygiene
21 contractor to examine all SEM job titles and
22 aliases and identify job titles that should be

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1 added to list 3(a)(1) for the purposes of the
2 presumption of that exposure.

3 An alternative would be for the Board
4 to do this independently from the program. But
5 we would require resources to do that because
6 going through those lists is going to take some
7 time.

8 And, John and Kirk and I discussed it
9 and we thought, well, the Department has a
10 contractor and many of those industrial
11 hygienists are familiar with DOE sites, probably
12 familiar with asbestos and that we could work
13 directly with them and likely come to an
14 agreement on the expanded list 3(a)(1) that is
15 more realistic.

16 So, let me -- I'm going to stop here.

17 John, Kirk, do you have any additions or
18 comments?

19 MEMBER DEMENT: This is John.

20 I think you summarized our discussion
21 and deliberations very well, Steven.

22 I think it's fair to say that what

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1 we're presenting is these additional ones are
2 examples of jobs that we think are perfect to
3 list and not all inclusive, and we recognize
4 that.

5 The other thing is, there were a lot
6 of jobs as we went through these categories which
7 had high -- I would say had high suspicion of
8 being capable of satisfying this presumption, but
9 would require just a few questions with regard to
10 the actual work that they did.

11 So, I think the process of going
12 through and identifying a list of -- and I call
13 it jobs that we can come to a consensus on that
14 would expand this list would greatly simplify the
15 process for the things the examiner, at least in
16 terms of applying this presumption.

17 CHAIR MARKOWITZ: Kirk, you have
18 anything you want to say?

19 MEMBER DOMINA: Well, yes, going
20 through this, because of, you know, you've heard
21 me many times talk about jurisdiction and stuff --
22 -- and, like we had it like I was a technician,

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1 the RCT radioactive or the radiation monitors
2 because they were never included on anybody's
3 list.

4 And, like I said, they're always the
5 first one in on the job and the last one out
6 because radiation was always the thing until you
7 get into the 2000s where chemicals and toxic
8 substances were never, ever considered.

9 And so, and like, my main thing is,
10 too, that all these DOE sites all had steam heat,
11 so there's asbestos everywhere.

12 And so, you know, and so, certain job
13 titles, you have to know on that site what also
14 is under their jurisdiction. And, it's really
15 important on that because not all of them are the
16 same.

17 You know, it's just like our painters
18 out here tear up floor tile, that's under their
19 jurisdiction and, in these old buildings, it's
20 all asbestos tile.

21 And so, understanding and not trying
22 to just say, well, this job title only does this,

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1 that's not true. You know, they do a lot of
2 things and different things.

3 And, then, too, when -- during the
4 Cold War effort, when you have an event happen,
5 you're on a back shift or whatever, it's all
6 hands on deck on getting things straightened out
7 --- and, what people could have been exposed to.

8 Not -- we were never monitored for any
9 asbestos exposure because it would have shut
10 everything down. You know, they were never --
11 and then, you know, if something got knocked
12 loose, they just made somebody had -- sure had an
13 asbestos call and they went and picked it up and
14 you just carry on.

15 You didn't take samples or anything to
16 verify that the area was clear. You just moved
17 on.

18 And, I just -- I think it's important
19 that we look at it and work with them so they
20 have an understanding, you know, from a worker
21 perspective on how that goes.

22 I mean, to me, it's just like when the

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1 Part B Board comes out and there are people NIOSH
2 that come and talk to us because we're the ones
3 that are in the trenches and can explain it and
4 not say, this is what's supposed to have
5 happened, but that's not what really did happen.

6 CHAIR MARKOWITZ: And, you know, we
7 need to -- we need that kind of information in a
8 process going forward to look at job titles
9 across the sites. So, we would recreate the list
10 if the Department accepts our recommendation
11 about working with the contractor to identify job
12 titles, we would definitely make sure that that
13 perspective is present.

14 Are there other comments? Questions?

15 (NO AUDIBLE RESPONSE)

16 CHAIR MARKOWITZ: So, I want to
17 mention, if we can vote on this. And so, Kevin,
18 if you could go up, I want to point out what
19 we're voting on because I've blended -- if you go
20 to -- up a little bit more up to Item 1. There
21 it is, right there is good.

22 Because I did a blended comments with

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1 the recommendations. So, let me just be clear
2 and I guess this is a proposal to accept this
3 recommendation.

4 But, let me describe what the
5 recommendation is.

6 So, Item 1 would be -- it has to do
7 with this low, medium, high significance, rubric
8 for significance and the recommendation is that
9 it be deleted with reference to list 3(a)(1) for
10 the purposes of causation presumption.

11 Number two, it's not -- this is
12 actually -- is not really part of the
13 recommendation because it's not -- we're not
14 recommending a change. Were just saying that
15 it's reasonable, the current language is
16 reasonable.

17 Number three is about the negative
18 presumption on the non-list 3(a)(1) jobs. And,
19 there the recommendation is not explicit, so let
20 me make it explicit.

21 Which is that, the presumption that
22 these jobs do not have significant exposure prior

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1 to '96 should be deleted.

2 Number four is that the issue of day
3 by day exposure not be applied to any of the job
4 categories that are presumed to have significant
5 asbestos exposure.

6 And then, number five is the last
7 paragraph which is that the Board and Board
8 Committee work with the program and their
9 industrial hygiene contractor to examine and
10 identify relevant SEM job titles and aliases that
11 should be added to the list of 3(a)(1) for the
12 purposes of asbestos exposure.

13 Is there a second?

14 MEMBER FRIEDMAN-JIMENEZ: This is
15 George, I second.

16 CHAIR MARKOWITZ: Thank you, George.

17 So, it's open for discussion or
18 clarification if anyone needs it.

19 (NO AUDIBLE RESPONSE)

20 CHAIR MARKOWITZ: So, we're going to
21 take a vote then.

22 Doug, Carrie, how do we do -- do you

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1 want to roll call?

2 MR. FITZGERALD: I could do that.
3 I've got a tally sheet in front of me. I can
4 call everyone's name and ask for their yea or nay
5 or abstention.

6 CHAIR MARKOWITZ: Okay, you can go
7 ahead.

8 MR. FITZGERALD: So, is the motion
9 moved or --

10 CHAIR MARKOWITZ: Yes.

11 MR. FITZGERALD: Okay, if we're taking
12 a vote then, Dr. Dement?

13 MEMBER DEMENT: Yea.

14 MR. FITZGERALD: Mr. Domina?

15 MEMBER DOMINA: Yes.

16 MR. FITZGERALD: Dr. Friedman-Jimenez?

17 MEMBER FRIEDMAN-JIMENEZ: Yes.

18 MR. FITZGERALD: Mr. Mahs?

19 MEMBER MAHS: Yes.

20 MR. FITZGERALD: Dr. Mikulski?

21 MEMBER MIKULSKI: Yes.

22 MR. FITZGERALD: Ms. Pope?

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1 MEMBER POPE: Yes.

2 MR. FITZGERALD: Dr. Redlich?

3 MEMBER REDLICH: Yes.

4 MR. FITZGERALD: Dr. Silver?

5 MEMBER SILVER: Yes.

6 MR. FITZGERALD: Mr. Tebay?

7 MEMBER TEBAY: Yes.

8 MR. FITZGERALD: And, Chairman
9 Markowitz? I assume yes.

10 CHAIR MARKOWITZ: Yes.

11 MR. FITZGERALD: Okay.

12 CHAIR MARKOWITZ: Okay, thank you.

13 Let's move ahead with --

14 MR. FITZGERALD: Is Doctor -- has Dr.
15 Berenji joined us, by the way?

16 MEMBER BERENJI: I am here, yes, sir.

17 MR. FITZGERALD: Oh, okay. I did not
18 want to forget you, either. Are you voting?

19 MEMBER BERENJI: I was a little late
20 with patients, but I am here and I did hear the
21 tail end, and I do approve, so yea.

22 MR. FITZGERALD: Okay, thank you very

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1 much.

2 CHAIR MARKOWITZ: Okay, next is the
3 Occupational Health Questionnaire revised
4 recommendation. John, do you want to take over
5 here?

6 MEMBER DEMENT: Sure, Steven.

7 I -- first of all, we've gone several
8 rounds, I guess, the prior Board did, on the
9 occupational history questionnaire.

10 We made some recommendations
11 originally with regard to, I guess we called it
12 the current occupational history questionnaire,
13 and I tried to summarize it, if you could bring
14 that up on the screen. I guess it's the Word
15 file. Yes, okay, that's it.

16 And, so I've tried to -- what we tried
17 to do in this draft recommendation is to
18 summarize where we've been and where we think we
19 need to go.

20 We originally looked at the history
21 and we've, you know, we wanted more information
22 that would drive exposure levels. And so, we

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1 asked for more tasks to be included in it.

2 We asked for a response to a question
3 with regard to gases, dusts, and fumes for COPD.

4 We recommended pulling in some of the
5 tasks that we found to be useful from that
6 construction trade former worker program, BTMed.

7 And, the DOL has responded back and
8 basically didn't consider our recommendations, I
9 guess, appropriate or useful. They responded
10 back that they have another proposed draft
11 questionnaire. So, we looked at that
12 questionnaire as well in this round specifically.

13 We've looked at it before.

14 Sorry, guys, I've got some things
15 going on.

16 The new questionnaire basically is a
17 lot of area to write responses to questions on
18 and it's larger free text. And, we thought that
19 that still didn't give enough triggers, memory
20 recall triggers for the claimants to recall
21 specific exposures.

22 And, therefore, we've gone back and

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1 we've looked at the proposed new questionnaire.
2 We've made some recommendations specific to the
3 new questionnaire.

4 And so, if we can sort of scroll down
5 to -- and we've taken it by sections.

6 MR. BIRD: Are you looking for the
7 bottom of page one or are you looking for --

8 MEMBER DEMENT: So, it's the Section
9 4d, the labor category.

10 CHAIR MARKOWITZ: It's the middle of
11 page two.

12 MEMBER DEMENT: Yes, thanks, Steven.

13 MR. BIRD: And, you should be able to
14 scroll on your screen.

15 MEMBER DEMENT: Okay, I have control,
16 all right. Thank you.

17 So, we basically, and this -- these
18 labor categories, we thought that the labor
19 categories were sort of appropriate for broad
20 classification and we wanted specifically, if
21 possible, that these tie-ins to the questionnaire
22 tied back to the major categories on the DOE

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1 side.

2 It looks like it does, but it's sort
3 of hard for us not having that -- the broader
4 number of labor categories to really determine
5 that.

6 If we scroll down, wait a minute, I
7 got it. There's new Section 4(e) that requires
8 the claimant for each job to classify what areas
9 and activities.

10 And, largely, it's -- the new
11 questionnaire just gives you a statement of
12 categories of information that you're looking
13 for. And, it really requires the claimant to
14 really almost write out a written summary without
15 much of a trigger with regard to what should be
16 included in the summary.

17 So, it requires basically sort of an
18 essay.

19 The example they gave was a very good
20 one, but it's pretty unrealistic with regard to
21 what you might expect to get from a claimant.

22 So, we suggested more structure in

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1 that section. And, basically, in that section,
2 we would like to have a bit more structure that,
3 I guess, similar to what might have been in the
4 earlier questionnaire but with a little more
5 detail, if you will.

6 So, in each area, we wanted to retain
7 a structure that had some, basically, some column
8 headings and we give them some examples with
9 regard to what we think those column headings
10 might be. And, this is on page two.

11 So, these are the types of categories
12 that we'd like to see. And, we've suggested that
13 the old occupation history has -- I'm having a
14 hard time scrolling for some reason.

15 Kevin, can you scroll that down?
16 Mine's not working.

17 MR. BIRD: Yes, you're looking for the
18 bottom of page two still?

19 MEMBER DEMENT: Yes, I'm coming up to
20 the next page three.

21 MR. BIRD: Okay.

22 MEMBER DEMENT: We found, in terms of

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1 exposure, frequency -- the current questionnaire
2 has a much, I think, seven categories and pretty
3 hard for -- to operationalize.

4 And so, we -- for our case control
5 study, we simplified that and we used some key
6 trigger words that we think might be helpful.

7 This is our recommendation here and
8 it's one that we found to be useful and study
9 just has been published.

10 I think this will, you know, these
11 trigger words are easy for individuals to really
12 understand.

13 Okay, if we move down to Section 5.
14 In Section 5, the proposed new questionnaire
15 really has just some very broad categories of
16 exposure. It didn't ask the claimant to describe
17 their exposures in those categories.

18 Again, we just didn't -- and, I guess,
19 based on my experience of working with these
20 building trades, particularly for years, we
21 didn't feel that that would really glean the
22 information that we were interested in getting.

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1 So, in each one of these broad
2 categories, we're asking, again, to list a --
3 some -- a list of specific toxic substances that
4 are typically seen on the DOE side. A lot of
5 them are construction and maintenance trades, but
6 there are lots of production exposures as well.

7 Realizing that, the sites are somewhat
8 different with regards to exposures, but there's
9 a lot of commonality. And also, where there's
10 not a specific list of exposures to allow space
11 for the claimant to put that in.

12 So, don't put the burden on the
13 claimant to write out every exposure in a
14 paragraph.

15 And so, in that section, we're asking
16 to list toxic substances that were really
17 somewhat for the other questionnaire,
18 specifically those that might have a direct
19 disease link as we discussed at the Board before.

20 We've also recommended that this list,
21 because COPD is such an important outcome for the
22 program that the materials and substances that

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1 are known and the literature to be linked to COPD
2 specifically be put on that list.

3 Let's see what else was here.

4 We also noted some of the areas where
5 it seems like a lot of details requested on the
6 old questionnaire, specifically the high
7 explosives, I mean, has a lot of information
8 there, a lot of different materials listed.

9 We think that ought to be probably
10 pared down and not so extensive on the new
11 occupations questionnaire.

12 Again, for each one of the exposures,
13 we're asking for some measure of frequency and
14 duration. So, we feel like the combination of
15 knowing what the material is, the frequency and
16 duration and allowing the claimants to describe
17 how they used the material in a short sentence or
18 so would give information useful in doing the
19 qualitative exposure assessment, see how long the
20 basic variables.

21 We also -- okay, can you give me
22 control again, Kevin?

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1 MR. BIRD: So, you should be able to
2 scroll on your screen. Do you me want to try to
3 give you like total control so you control what
4 everyone else sees?

5 MEMBER DEMENT: I can't get past this
6 page.

7 MR. BIRD: You're on page 4 now?

8 MEMBER DEMENT: Yes, I am now.

9 MR. BIRD: Okay.

10 MEMBER DEMENT: Okay, and remember, in
11 our last recommendation, we specifically asked to
12 include some questions about vapor, gas, dust,
13 and fume exposures. Those we tied back into our
14 recommended COPD presumption.

15 The DOL say that they can't use this
16 vapor, gas, dust, and fumes because they have to
17 have a specific toxic substance.

18 You know, scientifically, we disagree
19 with that, that the VGDF paradigm really drives
20 COPD.

21 However, given the circumstances we're
22 operating in, we are asking specifically that,

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1 for the listed toxic substances in the list, to
2 be a checkbox added to ask the question, are they
3 exposed to VGDF?

4 That should satisfy the issue of
5 whether or not it's a toxic substance or not, at
6 least in our opinion.

7 Section 6 is the personal protective
8 equipment. The old questionnaire and somewhat in
9 the proposed new questionnaire, there's an
10 extensive discussion about PPE use. That may be
11 somewhat helpful.

12 We really think that that should be
13 reduced. PPE is a secondary line of defense so
14 the industrial hygienist is normally not very
15 effective. The fuel protection factors for most
16 types of PPE, particularly respiratory
17 protection, are quite variable and often quite
18 poor.

19 So, our view is this should be reduced
20 back because we don't need extensive questions on
21 PPE use. It's useful as a hygienist to know if
22 PPE was required maybe in a job, but we don't

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1 need an extensive list of PPE.

2 And, we really believe that positive
3 answers to having worn PPE really should not be a
4 factor in accepting or denying claims.

5 We've added a couple of different
6 additional references that we specifically
7 reference that we have a list of references on
8 our prior recommendation that are still
9 applicable.

10 The sort of -- the approach to this
11 new set of recommendations is quite similar to
12 our approach in the other. We've tried to modify
13 it to be responsive, I guess, to some of the DOL
14 concerns about how to implement it.

15 I'm open for questions at this point,
16 if there are any.

17 CHAIR MARKOWITZ: I'd just like to
18 make a comment, this is Steven.

19 So, this is not, you know, the aim is
20 not a research quality questionnaire, lest
21 anybody misunderstand. This is about getting
22 sufficient information to allow a claims examiner

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1 and an industrial hygienist to make informed
2 decisions.

3 So, and, secondly, we have not
4 redesigned the questionnaire. This -- these
5 recommendations are elements or consideration for
6 suggestions about the structure of the
7 questionnaire. But they actually work with
8 redesigning the questionnaire, formatting, et
9 cetera, we let the department.

10 In terms of the vapors, gas, dust, and
11 fumes, that question would be asked about any
12 toxic substance exposure that workers report.
13 So, it wouldn't be limited to the relatively
14 small number of agents that are -- have been
15 specifically related to COPD in the manner that
16 the Department of Labor recognizes now.

17 This is just to be clear about that.

18 MEMBER DEMENT: And, I think that's
19 good point because in many of the published
20 studies, specific agents are not identified.
21 It's simply vapor, gas, dust, and fumes as a
22 general category.

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1 Being workplace generated vapor, gas,
2 dust, and fumes, not genuine environment.

3 CHAIR MARKOWITZ: Right, right. And,
4 this is -- so, and, we're clearly recognizing
5 that this extra requirement that exposure to a
6 toxic substance must occur for a person to be
7 eligible for compensation.

8 So, this is a mechanism to kind of
9 link that extra requirement with, you know,
10 appropriate medical science at this point.

11 MEMBER DEMENT: Yes, I think it's
12 fairly -- we try and approach the COPD
13 presumption by -- in two phases.

14 One, it's specifically those agents
15 that are known based upon the literature to be
16 individually related to COPD. And, by expanding
17 the check marks to include other substances as
18 well.

19 CHAIR MARKOWITZ: I would -- this is
20 Steven -- I would just also add one last comment
21 which is that we've been talking about revising
22 the occupational health questionnaire for quite

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1 some time now.

2 And, it's not the entire policy
3 decision that most of our recommendations -- many
4 of our recommendations, particularly those we
5 have presumption involved, it doesn't -- it's not
6 the question of look back at prior claims, it's a
7 question of appropriate and useful tool.

8 And so, it would be nice to move -- to
9 make progress on this and get to a version that
10 can be piloted and then implemented.

11 MEMBER DEMENT: This is John, again.

12 I think one of the other issues that
13 we addressed in the prior recommendation and
14 probably ought to be considered here, and I guess
15 it's considered anyway, that whatever
16 questionnaire they develop as a draft, it really
17 needs to go into the field and be pilot tested
18 under some surface -- sort of real world
19 circumstances and get some feedback on both the
20 individuals trying to administer the
21 questionnaires as well as the claimants and how
22 it actually works.

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1 So, pilot testing I think is needed.

2 CHAIR MARKOWITZ: Other comments or
3 concerns? We would like to vote on this
4 recommendation. So, if -- the floor is --
5 there's no motion yet, but the floor is open.

6 MEMBER POPE: I just want to -- this
7 is Duronda Pope -- I just wanted to agree with
8 John about the pilot testing. Most times, in
9 order to find out how a system is working or how
10 things are working out in the field is to ask the
11 people that are actually doing work and to better
12 -- get a better understanding of how that is
13 really working out, that pilot program or
14 suggestions sounds great to me.

15 CHAIR MARKOWITZ: And, the Department
16 has previously communicated that they, you know,
17 they completely agree with the idea of pilot
18 testing. So, that's -- that would happen.

19 Other comments?

20 MEMBER SILVER: This is Ken Silver,
21 two points.

22 Can we assume that the Labor

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1 Department management is familiar with the great
2 work that BTMed has done with these
3 questionnaires and we transmit this
4 recommendation, I think, we should draw their
5 attention to either published literature or great
6 literature, your own progress report, internal
7 documents.

8 Because your questionnaires are really
9 the best that I've seen on DOE sites. And, we'll
10 probably come around to really appreciating all
11 this work that's been done by BTMed on the other
12 formal worker program division.

13 And, my other is, John, you sort of
14 hinted at this, but going back to our first
15 discussion, I think as Dr. Mikulski has
16 repeatedly made the point that the mere presence
17 of PPE is an indicator of hazardous exposures and
18 we should kind of leave it at that and not try to
19 parse whether it was worn.

20 The mere fact that it's there tells us
21 a lot.

22 MEMBER DEMENT: I agree. And, that's

1 the reason I think it ought to be in the
2 questionnaire but just scaled back. We don't
3 need to come to define -- get down to the type of
4 respirator they used.

5 We need to only know that respiratory
6 protection was required, which, as a hygienist,
7 it's just applied that there's potential for
8 exposure recognized.

9 I guess the, you know, there's -- if
10 you're going to, just from my perspective, if
11 you're going to spend a lot of time trying to get
12 information on an occupational history, spend
13 more of it looking at the exposures and less of
14 it on the PPE.

15 Because, as a hygienist, we know that
16 PPE is really not the way to protect individuals.

17 CHAIR MARKOWITZ: And, not to mention,
18 it's hard to get a handle on the actual use,
19 actual protection, whether the full program was
20 implemented.

21 So, just an interpretation of that
22 whatever comes out in the questionnaire but is

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1 just very difficult.

2 Other comments?

3 (NO AUDIBLE RESPONSE)

4 CHAIR MARKOWITZ: So, we need to vote.

5 Do I hear a motion? I need a motion to accept
6 the recommendation.

7 MEMBER DEMENT: This is John, I'll
8 move that we accept the recommendations.

9 CHAIR MARKOWITZ: Okay, is there a
10 second?

11 MEMBER DOMINA: This is Kirk, I
12 second.

13 CHAIR MARKOWITZ: Okay.

14 So, just to be clear, we're talking
15 about it starts on the middle of page two where
16 it says Board recommendations and it goes through
17 to page four.

18 And, it's not even the short, succinct
19 language, it -- there's some discussion rationale
20 built in to it, but it's very clear.

21 And, so, it's open -- the floor is
22 open for comments, discussion, questions.

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1 MEMBER DEMENT: This is John, again.

2 Kevin mentioned the prior publication.

3 I think in the original recommendation, we have
4 a list of the publications. And, if needed, we
5 can provide a list of additional ones as well.

6 CHAIR MARKOWITZ: So, this is Steven.

7 If I could offer an amendment to the
8 recommendation that the Board recommends -- would
9 recommend that expedited review of this revised
10 recommendation occur so that timely progress can
11 be made on creation of a revised occupational
12 health questionnaire and its pilot testing and
13 implementation.

14 Is that friendly amendment accepted by
15 the motion proposer?

16 MEMBER DEMENT: Yes, and we've thought
17 through this, we're dealing with this from day
18 one, yes.

19 CHAIR MARKOWITZ: Okay. So, what's on
20 the floor then is the slightly revised
21 recommendation.

22 Any other discussion?

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1 (NO AUDIBLE RESPONSE)

2 CHAIR MARKOWITZ: If not, then we
3 should take a vote.

4 MR. FITZGERALD: Okay.

5 Dr. Berenji?

6 MEMBER BERENJI: Yea, I approve.

7 MR. FITZGERALD: Okay, Dr. Dement?

8 MEMBER DEMENT: Yes.

9 MR. FITZGERALD: Mr. Domina?

10 MEMBER DOMINA: Yes.

11 MR. FITZGERALD: Dr. Friedman-Jimenez?

12 MEMBER FRIEDMAN-JIMENEZ: Yes.

13 MR. FITZGERALD: Mr. Mahs?

14 MEMBER MAHS: Yes.

15 MR. FITZGERALD: Dr. Mikulski?

16 MEMBER MIKULSKI: Yes.

17 MR. FITZGERALD: Ms. Pope?

18 MEMBER POPE: Yes.

19 MR. FITZGERALD: Dr. Redlich?

20 MEMBER REDLICH: Yes.

21 MR. FITZGERALD: Dr. Silver?

22 MEMBER SILVER: Yes.

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1 MR. FITZGERALD: Mr. Tebay?

2 MEMBER TEBAY: Yes.

3 MR. FITZGERALD: All right, and
4 Chairman Markowitz?

5 CHAIR MARKOWITZ: Yes.

6 MR. FITZGERALD: Okay.

7 CHAIR MARKOWITZ: Thank you.

8 So, the next is work related asthma.
9 Carrie, you want to lead this or --

10 MEMBER REDLICH: You know, I don't --
11 I'm just getting on the -- I've been --

12 CHAIR MARKOWITZ: No, I'm much more
13 happy to -- I'm happy to start with it, if you'd
14 like. It's up to you.

15 MEMBER REDLICH: Sure, do you want to
16 start? That's fine.

17 CHAIR MARKOWITZ: Sure, sure.

18 Okay, so, okay, but if you could bring
19 a proposed revised recommendation, let me give
20 the background because Carrie really led this
21 effort.

22 There was language in the Procedure

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1 Manual regarding asthma that didn't really
2 accurately reflect what we know about work
3 related asthma.

4 And, I should add that George
5 Friedman-Jimenez also played an important role in
6 developing this over in the last year and a half
7 or whatever.

8 And so, the back and forth on work
9 related asthma, again, that's available in a
10 compiled format on our meeting website, a
11 considerable part of the recommendation has been
12 accepted by the Department and they revised the
13 language of the Procedure Manual.

14 In particular, with regard to the
15 criteria for medical diagnosis of asthma. That
16 was an important area to come to agreement on.

17 So, we've moved beyond, for the most
18 part, the issue of how the diagnosis is made.

19 What's still active is the issue of
20 exposure and what kind of exposure can be
21 presumed to be related to work related asthma.

22 And, in particular -- and Carrie, any

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1 time you want to -- Kevin, can you bring up the
2 work related asthma proposed revised
3 recommendation?

4 MR. BIRD: Do you see it? I think I'm
5 on it. Is that the wrong recommendation?

6 CHAIR MARKOWITZ: Okay, so this was
7 just added to the -- to our webpage in the
8 meeting items in the last 24, 36 hours.

9 What I'm still looking at is personal
10 protective equipment.

11 Okay, so, Kevin, while you're doing
12 that, so, there is language that is in the
13 Procedure Manual that we want to look at on the
14 screen because that's the focus of some of the
15 recommendation.

16 MEMBER REDLICH: And, just for
17 background, the original asthma recommendation
18 had sort of four parts. And, three of the four
19 parts are generally, you know, the Department of
20 Labor incorporated.

21 But, there was one important one with
22 the criteria for work related asthma and they

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1 were related to that end result in the Procedure
2 Manual. And, that's what we're trying to get to.

3 CHAIR MARKOWITZ: Right. So,
4 actually, we'll read this language, okay, just
5 while we're getting this together here.

6 This is from the Procedure Manual, the
7 Section 5c(2) from Appendix 1.

8 And, it says that the qualified
9 physician conducts an examination and has to, and
10 let me quote here, quote, must provide a well-
11 rationalized explanation with specific
12 information on the mechanism for causing,
13 contributing to or aggravating the conditions.

14 The strongest justification for
15 acceptance in this type of claim is when the
16 physician can identify the asthmatic incident or
17 incidents that occurred while the employee worked
18 at the covered work site and the most likely
19 toxic substance trigger, end of quote.

20 So, let me ask Kevin, have you
21 identified the document we're interested in?

22 MR. BIRD: No, I'm sorry. Which

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1 document exactly are you interested in? Sorry.

2 CHAIR MARKOWITZ: It's called proposed
3 revised recommendation for work related asthma.

4 MR. BIRD: Okay, so, we should be
5 pulling it up now. It will just take a quick
6 second. Can you see that?

7 MEMBER REDLICH: That's it.

8 MR. BIRD: Okay, great.

9 CHAIR MARKOWITZ: I see, okay.

10 Yes, my WebEx isn't working, but if
11 you guys are looking at it, that's fine.

12 Carrie, does it show the --

13 MEMBER REDLICH: Yes.

14 CHAIR MARKOWITZ: -- we're talking
15 about? Okay.

16 MEMBER REDLICH: Yes, it's up.

17 CHAIR MARKOWITZ: Okay, so, Carrie,
18 you want to continue or you want me to address
19 it?

20 MEMBER REDLICH: So, this part, we
21 addressed the four and the concern was about the
22 wording of -- if you turn so the first part --

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1 it's the physician is asked to give a specific,
2 well, information on a mechanism that starts out,
3 diagnostic tests do not help define the
4 mechanism.

5 And so, a physician really would not
6 be able to respond to that and would be quite
7 confused.

8 So, we suggested removing that
9 wording. We give -- the second page of this
10 gives some alternate wording because I -- and if
11 none of the evidence states guidelines for
12 diagnosing work related asthma in the suggested
13 the physician should identify specific
14 mechanisms.

15 And then, the other wording as far as
16 the specific event, again, most cases of work
17 related asthma are recurrent repeated events and
18 not one single specific event.

19 So, again, that wording, I think, it
20 really confused the physician who was trying to
21 follow the manual and the instructions. And so,
22 we suggested removing that.

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1 Part of it, I think, historically,
2 with that, the active airway confused it years
3 ago originally defined as a single exposure
4 event. But, it's now well recognized that work
5 related asthma, whether it's irritants or
6 allergens, most typically occurs in settings of
7 repeated exposures to either irritants or
8 allergens.

9 So, we recommended removing these and
10 then suggested that they needed to identify a
11 specific event.

12 And then, similar to the -- the final
13 point was similar to the COPD discussion about
14 they have discussions. This is recognized that a
15 toxic substance can cause work related asthma.
16 The issue is whether the physician is -- if it's
17 not realistic for that physician to be able to
18 identify the single toxic substance when it's
19 most typically, there's a mixture of substances.

20 So, we felt that that wording just
21 wasn't really necessary and was really just too
22 confusing to the physician.

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1 So, we have proposed alternate working
2 to this paragraph and that's what's on the second
3 page of the document and on to -- here's the
4 alternate wording.

5 Is it -- should I go ahead and read it
6 or --

7 CHAIR MARKOWITZ: Yes, I'm -- it's
8 only the middle section, actually, which --

9 MEMBER REDLICH: That's right, it's
10 just part of it.

11 CHAIR MARKOWITZ: Right.

12 MEMBER REDLICH: And, the relevant
13 part was really just removing the part that we
14 mentioned in terms of the mechanisms, so the
15 revised wording looks at how the physician must
16 provide a well rationalized explanation with
17 specific supporting information, including the
18 basis for diagnosing asthma or working asthma at
19 the time of covered employment, and that the
20 basis for the relationship between asthma and the
21 covered work place.

22 And, we haven't asked for a specific

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1 mechanism or supporting information for these
2 five that's either in the manual or in printed
3 materials.

4 And then, the other revised wording
5 is, if the CE is unable able to obtain the
6 necessary medical evidence from the treating
7 physician to substantiate the claim for work
8 related asthma, then the CE will need to seek an
9 opinion from a CSC.

10 So, we felt that that really provided
11 clear guidance to the physicians. So, I think at
12 this point, we can open it if there are questions
13 or comments.

14 MEMBER FRIEDMAN-JIMENEZ: This is
15 George.

16 Carrie, I think this is really well
17 put together. I agree with everything. My
18 question is whether, in your view, something
19 that's an allergen would be considered a toxic
20 substance?

21 Latex, for example, is not generally
22 considered toxic. There are many asthma causing

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1 or aggravating agents that are allergens. Some
2 of them are not widely considered to be toxicant.

3 So, what's your opinion on how this
4 will be interpreted and are likely?

5 And, also, given the exposures, do you
6 think we're likely to miss many cases if we do
7 not explicitly include allergens as toxic
8 substances?

9 MEMBER REDLICH: Well, I think what
10 makes something toxic is the dose throughout the
11 frequency. So, the thing, you know, substance
12 can be either not toxic or toxic.

13 The act mentions a toxic substance, so
14 that's the wording. I mean, we could mention
15 that it also includes allergens.

16 MEMBER FRIEDMAN-JIMENEZ: That's
17 really my question, if you think it's worth --

18 MEMBER REDLICH: Yes, I don't have --

19 MEMBER FRIEDMAN-JIMENEZ: --
20 mentioning that?

21 MEMBER REDLICH: I don't -- we could
22 just mention that it could be either an irritant

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1 or an allergen and I think that would be fine to
2 include.

3 I have to check if that wording was in
4 some of the locations in the Procedure Manual
5 because there's also a description. Because
6 there -- I believe that there were earlier
7 description in the manual and I think it was in
8 the prior recommendation that it stops --

9 So, there is other wording sort of
10 describing what work related asthma is in other
11 parts of the Procedure Manual. I'm looking to
12 see if I had it here.

13 CHAIR MARKOWITZ: Yes, I mean, we
14 could -- this is Steven -- the Department does
15 seem to take a broad approach to what is a toxic
16 substance, to pinpoint it includes chemical,
17 biological, and some other category.

18 I can't remember whether that's from
19 the -- one the rules or what exactly, but it does
20 tend to take the broad approach.

21 One way for us to take a look at
22 whether it -- whether some of the allergens of

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1 concern are included and just look at the SEM and
2 see whether they're included here in the SEM.

3 The SEM doesn't include everything, we
4 know that, but it's certainly a good starting
5 point.

6 MEMBER FRIEDMAN-JIMENEZ: This is
7 George, again.

8 Another approach would be to look at
9 the denied claims and see if anyone is being
10 denied because their exposure is considered not a
11 toxic substance, but would fall in the category
12 of known or accepted asthma causing agents.

13 CHAIR MARKOWITZ: Well, we, in fact,
14 have requested some claims to review and
15 including looking up a number of claims of -- on
16 asthma. So, we would have, you know, 20, I think
17 we've requested 20 asthma cases to review. So,
18 we would have a chance to look at that.

19 MEMBER FRIEDMAN-JIMENEZ: I think that
20 would be interesting, thanks.

21 MEMBER REDLICH: Yes, I agree.

22 CHAIR MARKOWITZ: So, this is Steven.

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1 So, you know, this recommendation, we
2 have made a, I think, a softer recommendation on
3 this specific point in the past mixed in with
4 other elements on recommendations on asthma.
5 This one has not necessarily received the
6 attention that it needs.

7 And so, this is about drawing
8 attention to, frankly, an issue in which the
9 Department policy is really out of sync with
10 prevailing medical opinion.

11 And, it's hard for us to accept the
12 Department's changes so far or readily accept
13 their changes, but there still is this extra
14 piece to address in order to make sure that, you
15 know, that their -- the policies reflect,
16 obviously, this extra requirement, but also what
17 current medical science also shows.

18 So, that's why I think we've come back
19 to this point in a more focused way.

20 MEMBER REDLICH: Right, I agree
21 totally. And, also, just wording that would make
22 sense to a practicing clinician.

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1 CHAIR MARKOWITZ: Right. I think in
2 the instance of the word mechanism, I think
3 that's right. I think it's just not understood
4 what mechanism means to doctors who have to write
5 well rationalized reports.

6 Other comments?

7 (NO AUDIBLE RESPONSE)

8 CHAIR MARKOWITZ: So, we need a
9 motion, actually, on this.

10 MEMBER REDLICH: Well, I can move --

11 CHAIR MARKOWITZ: Or more --

12 MEMBER REDLICH: -- that we recommend
13 the revised wording to the language.

14 CHAIR MARKOWITZ: All right, I'm
15 sorry, the proposal is to adopt the
16 recommendation as set out on --

17 MEMBER REDLICH: That's correct. And, I
18 guess the specific recommendation is to review
19 the record -- the recommendation that used the
20 revised wording for the Procedure Manual on page
21 two.

22 CHAIR MARKOWITZ: Okay, but just for

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1 the sake of clarity, we can set specific language
2 even better than some broader comments and that
3 also say recommendation, too.

4 Is the proposal to accept the overall
5 recommendation, including the specific revised
6 language?

7 MEMBER REDLICH: Yes.

8 CHAIR MARKOWITZ: Thank you.

9 Hear a second?

10 MEMBER DEMENT: I will second.

11 CHAIR MARKOWITZ: Okay. So, the floor
12 is open for discussion.

13 (NO AUDIBLE RESPONSE)

14 CHAIR MARKOWITZ: Okay, so, if there's
15 no further discussion, then we need to take a
16 vote.

17 MEMBER FRIEDMAN-JIMENEZ: This is
18 George.

19 Are we going to add any reference to
20 an allergen in the language that we're
21 recommending?

22 CHAIR MARKOWITZ: Well --

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1 MEMBER FRIEDMAN-JIMENEZ: Or should we
2 wait on it?

3 CHAIR MARKOWITZ: My feeling is that
4 we should take a look at how -- on that issue,
5 how the SEM addresses some of the allergens of
6 concern to see whether, you know, if they're
7 already using it and accept it, then we don't
8 need a recommendation.

9 Or, secondly, to look at, I mean, look
10 at 20 claims to see how this issue is handled and
11 then to make a specific recommendation at that
12 time.

13 MEMBER REDLICH: Yes, and I think if
14 you look at any surveillance data that's been
15 collected, the majority of cases, the
16 overwhelming majority of specific allergen has
17 not been identified.

18 MEMBER FRIEDMAN-JIMENEZ: Yes, I think
19 that's true.

20 MEMBER REDLICH: Yes, I think it's --
21 yes, we could see what the cases show, but I
22 think it's the understanding of toxic substance

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1 is quite a broad word.

2 MEMBER FRIEDMAN-JIMENEZ: Okay. So,
3 then, we can table that concern, see if it's a
4 problem, and if it is a problem, then we may be
5 able to raise it in the future. But, for now, I
6 would agree with going ahead with the current
7 language.

8 CHAIR MARKOWITZ: Okay.

9 Other comments?

10 (NO AUDIBLE RESPONSE)

11 CHAIR MARKOWITZ: Okay, so let's take
12 a vote.

13 MR. FITZGERALD: Okay.

14 Dr. Berenji?

15 MEMBER BERENJI: Yes.

16 MR. FITZGERALD: Dr. Dement?

17 MEMBER DEMENT: Yes.

18 MR. FITZGERALD: Mr. Domina?

19 MEMBER DOMINA: Yes.

20 MR. FITZGERALD: Dr. Friedman-Jimenez?

21 MEMBER FRIEDMAN-JIMENEZ: Yes.

22 MR. FITZGERALD: Mr. Mahs?

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1 MEMBER MAHS: Yes.

2 MR. FITZGERALD: Dr. Mikulski?

3 MEMBER MIKULSKI: Yes.

4 MR. FITZGERALD: Ms. Pope?

5 MEMBER POPE: Yes.

6 MR. FITZGERALD: Dr. Redlich?

7 MEMBER REDLICH: Yes.

8 MR. FITZGERALD: Dr. Silver?

9 MEMBER SILVER: Yes.

10 MR. FITZGERALD: Mr. Tebay?

11 MEMBER TEBAY: Yes.

12 MR. FITZGERALD: And, Chairman
13 Markowitz?

14 CHAIR MARKOWITZ: Yes.

15 Okay, thanks.

16 So, let's do one more topic for ten
17 minutes and then we'll take just a short break,
18 if that's all right. Is that all right with
19 people? Or does anybody want to take the break
20 now, let me know.

21 (NO AUDIBLE RESPONSE)

22 CHAIR MARKOWITZ: Okay, so, let's deal

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1 with Parkinson's disorders. Marek, you want to
2 start this off?

3 MEMBER MIKULSKI: Sure, thank you,
4 Steven.

5 So, our group has been tasked with
6 looking at the most recent evidence of
7 Parkinson's disease relatedness to occupational
8 exposures as well as helping DOL with some issues
9 regarding the naming of the general group of the
10 Parkinsonism disorders.

11 Just a brief introduction, the
12 Parkinson's disease belongs to a group of
13 neurodegenerative disorders that affect the
14 dopamine system.

15 The dopamine system, amongst other
16 functions, is involved in the control of body
17 movement.

18 It is believed, based on the autopsy
19 studies that the main cause of the Parkinson's
20 disease is the reduction in the production of
21 dopamine in the part of the mid-brain called
22 substantia nigra that is responsible for control

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1 of emotions and movement.

2 Parkinson's belongs or rather is
3 included in -- under a -- in a group of diseases
4 known as Parkinsonism.

5 Now, interestingly, Parkinson's is one
6 of the most common causes of Parkinsonism.
7 However, only 10 to 15 percent of Parkinson's
8 disease are believed to be caused hereditary.
9 And, there is a lot of research work being
10 concentrated on the research of the remaining 80
11 to 85 percent of cases which are idiopathic
12 otherwise with no known causing factors.

13 There has been some work done and
14 published on differentiation between Parkinson's
15 disease and the other diseases under the general
16 umbrella of the Parkinsonism set of symptoms.

17 Clinically, it has been believed that
18 Parkinson's or the main -- or differentiation
19 between the Parkinson's and Parkinsonism is
20 possible due to or based on the positive response
21 to the dopamine substitutes such as Levodopa.

22 The American Medical Association

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1 published a set of a criteria -- diagnostic
2 criteria for Parkinson's disease.

3 However, these criteria are not
4 uniformly applied across the epidemiological
5 studies. There is epidemiological work, as I
6 said, being done looking at the causes or
7 possible causes of Parkinson's disease.

8 And, there has been several research
9 studies looking at occupational factors. But
10 this is still an issue being looked at.

11 We have not had really that much
12 chance to give an in depth look into the
13 literature on the subject. We are just starting
14 right now. And, there is a -- and the research
15 actually is going in varying directions.

16 There have been studies showing an
17 increased risk of Parkinson's disease following
18 exposures to solvents, triflora ethylene as well
19 as polychlorinated biphenyls.

20 And, these would be of the major
21 interest of our group as these exposures were
22 fairly common in the nuclear weapons context.

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1 Now, I did not talk much about
2 Parkinsonism and I'm sure that you may have heard
3 about the all different diseases that are being
4 associated -- not associated -- they are being
5 included under the general umbrella of
6 Parkinsonism.

7 Those, in general, are the diseases
8 that are believed to have or are known to be --
9 not associated, I'm sorry -- with known causes.

10 We are not looking at those, our
11 interest, our focus is Parkinson's disease at
12 this point.

13 There has been some updates in the ICD
14 coding, the new coding ICD-10 is much more
15 specific in terms of the Parkinsonism diseases.
16 However, Parkinson's disease is still grouped
17 under the same code as in the ICD-9 codes.

18 Steve, if you want to take it from
19 here?

20 CHAIR MARKOWITZ: Sure.

21 Duronda, do you want to talk about the
22 looking at the SEM?

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1 MEMBER POPE: Sure.

2 So, when I took a look at the SEM, and
3 I think we were tasked to see if there was a link
4 to Parkinson's disease, we did see a direct link
5 with Parkinson's disease in looking at the SEM.

6 So, and, the connection with the work
7 processes. So, I actually clicked on the health
8 effects and looked at Parkinson's and then we
9 looked -- they gave us a list of all the health
10 effects list and then, when you click on the work
11 processes, it gave you another drop down list.

12 So, there is definitely a connection
13 in correlation depending on which site you're
14 looking at.

15 CHAIR MARKOWITZ: Right. And, so, and
16 we looked at, I think, two different sites,
17 right? And, we --

18 MEMBER POPE: Right.

19 CHAIR MARKOWITZ: And, there was about
20 somewhere between on each of the two of those two
21 DOE sites, somewhere between 10 and 15 toxic
22 substances that were linked to Parkinson's,

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1 although a lot of them are, if I'm recalling
2 correctly, a lot of those 10 to 15 different
3 agents were variations of -- well, they contained
4 manganese or they related to carbon monoxide for
5 the most part.

6 MEMBER POPE: Yes.

7 CHAIR MARKOWITZ: Yes.

8 MEMBER POPE: I think the two major
9 work processes or work categories were machinists
10 and welders.

11 CHAIR MARKOWITZ: Right, and in fact,
12 they had in the list of toxic substances, their
13 mixtures, they included welding there.

14 Okay, so, anything else, Duronda, on
15 that?

16 MEMBER POPE: I don't think so. I
17 just looked up after we spoke, I just looked up
18 another couple of sites and found the same
19 things. So, there is definitely, you know,
20 evidence of connection there.

21 CHAIR MARKOWITZ: Right, right.

22 We tried to look across the complex

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1 actually by disease health effects. And, the SEM
2 isn't organized that way.

3 Actually, so, this is -- I think would
4 be useful, this would be an action item for
5 Carrie if the DOL could provide a listing of all
6 the agents, toxic substances in the SEM that they
7 relate to one of the family of Parkinson's codes
8 that they use in the health effects.

9 And, I can fill that out later,
10 Carrie, if you want. But --

11 So, Kevin, there's a file called
12 EEOICPV or Parkinson's disease claims data that I
13 sent to Carrie earlier, if you could bring that
14 up.

15 So, Duronda, I'm sorry, did I -- I
16 didn't mean to cut you off. Was there anything
17 else?

18 MEMBER POPE: No, no. I just wanted
19 to also mention that Ron helped me out, too. He
20 was also simultaneously looking at the same
21 thing. So, I think we arrived at the same
22 conclusion. Do you agree with that, Ron?

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1 MEMBER MAHS: And, actually, the same
2 thing just about at each site, painters, welders,
3 and the solvents the painters used, in general.

4 CHAIR MARKOWITZ: Yes.

5 Okay, so, what we're seeing on the
6 screen here is -- so, the Department provided us
7 with a spreadsheet with some Parkinson's data.
8 And, I -- you can leave the screen where it is.

9 And, I organized some of it, this will
10 only take a couple minutes to go through.

11 And, I didn't ask for a full
12 explanation of some of the variables. So, I
13 don't fully understand them, but I think it still
14 gives us some information.

15 Table 1 is who submitted the claim.
16 And, you can see the survivors were involved in a
17 fair proportion.

18 Table 2 is half the claimants were
19 alive and half not.

20 Table 3 is interesting, I -- most of
21 the claims have come in in the past 20 years.
22 Now, admittedly, Part B -- Part E, excuse me,

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1 that covers Parkinson's disease was part of the
2 amended EEOICPA Act in 2005. So, the door wasn't
3 open for compensation until then for Parkinson's
4 disease.

5 Or, it was, rather, the opening was
6 very narrow between 2000 and 2005.

7 But, in any event, most of the cases
8 are relatively recent.

9 Next, if you could scroll down, I
10 can't seem to do that, Kevin, from my computer
11 here.

12 And then, the first -- and this is
13 approved versus denial. First approval, first
14 denial, just the numbers by year.

15 I'm not sure exactly what first
16 approval and first denial is, and I don't believe
17 that they -- this means that the claim was
18 initially filed in the same year. So, there may
19 be a little bit of mismatch between the numbers
20 in the approvals versus denial years.

21 Nonetheless, I think it's interesting,
22 you can see that a certain point soon after Part

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1 E was put into effect, 50 percent of the -- in
2 any given year, 50 percent of the claims were
3 approved.

4 And then, there was a period of time
5 that relatively a few of the claims were
6 approved, 2013, 2014, 2015. But, in the last
7 couple of years, it's going back up.

8 Again, the columns representing
9 approval, denial are not necessarily the same
10 years, so I wouldn't look at the numbers too
11 precisely. We're looking sort of broadly at a
12 trend.

13 And, not sure, necessarily what it
14 means, but it also gives us a sense of how many
15 of -- of what the proportion that are approved
16 are which is we think about 50 percent.

17 I think there's another table --
18 here's another -- so, this is -- I forgot to
19 mention that 1,154 total Parkinson's claims since
20 2006, so a lot of claims, that's a lot of claims,
21 I think, for this illness or family of illnesses.

22 And, here's the site that's listed.

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1 Now, about a third of all people listed worked at
2 more than one site. So, all we did was kind of
3 the simplest thing which is to take --
4 disaggregate them, take them apart and then
5 assign them to multiple sites.

6 So, that means that the total number
7 we're looking at here is going to be greater than
8 the 1, 150 claims. So, if you can go back up?

9 Okay, so, this is -- and this is just
10 -- this is not percentage of claims or incidents,
11 it's just counts, it's just numbers of claims at
12 a given site.

13 And, again, I wouldn't read too much
14 into this in the sense of thinking that there's
15 necessarily anything going on at those particular
16 sites.

17 There are some of the larger sites, Y-
18 12, Savannah River, Oak Ridge, X-10, Hanford,
19 that appear there and they obviously have more
20 employees than most of the other -- many of the
21 other sites.

22 And then, the thing, the caveat at Oak

1 Ridge is that the workers at Y-12, K-25, and X-10
2 often worked at each other's facilities over
3 time. So, to assign them to a single site is,
4 for many people, isn't going to be necessarily
5 true.

6 But, I thought, nonetheless, it was
7 worth doing this as an initial run and taking a
8 look, Idaho, which is about number 10 is a very
9 large site. And, but the number of cases is
10 considerably less than Paducah, which is, I think
11 historically a much smaller site than Idaho.

12 So, in any case, this is, for what
13 it's worth, this is -- and, if you can scroll
14 down, you can see that there are a lot of DOE
15 sites and many of them have, you know, a handful
16 of cases.

17 Okay, so that's all I have to say
18 there on that -- on those data.

19 So, Marek, anything else or should we
20 open it up for comments?

21 MEMBER MIKULSKI: I think opening it
22 up for comments at this point.

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1 CHAIR MARKOWITZ: Marek, Dr. Cassano,
2 yourself, Duronda, Ms. Pope, who else is on this
3 working group?

4 MEMBER POPE: And Ron.

5 CHAIR MARKOWITZ: And, Mr. Mahs, okay,
6 thanks.

7 Okay, okay, so, this is the sort of
8 the initial look and we've got a considerable
9 more work to do.

10 The next meeting, April 23rd or 24th,
11 that's in seven weeks, how far do you think we
12 might get beyond where we are now by the time we
13 meet next? Marek, any just ballpark sense of
14 that?

15 MEMBER MIKULSKI: I think we'll be
16 able to look at the -- and review the literature
17 -- I mean, we've been covering the dose studies
18 over the last couple of weeks and hopefully are
19 going to be able to look at least most of them
20 and have some more insights into this.

21 CHAIR MARKOWITZ: Okay. And, just
22 something that Mr. Fitzgerald mentioned at the

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1 beginning, so the medical articles from the
2 published literature, unless they're open access,
3 we can't put them on our website.

4 So, we can circulate them among
5 ourselves, which we will do. But, it's
6 unfortunate, because it means we can't
7 necessarily provide all the literature we're
8 going to look at in an easily available way to
9 the public.

10 But, we could provide it by request or
11 whatever.

12 So, we'll have it by April 24th, we'll
13 have a reasonable look at the literature in terms
14 of causatives or aggravational agents. And,
15 we'll -- hopefully, DOL will give us some data on
16 sort of what the SEM says about the various job
17 titles, work sites, et cetera, toxic substances
18 that relate to Parkinson's.

19 Any other comments on -- anybody else
20 want to work on this working group, by the way?

21 (NO AUDIBLE RESPONSE)

22 CHAIR MARKOWITZ: If you change your

1 mind and you want to volunteer, it's great, just
2 let us know.

3 Any other comments? And then, we're
4 going to take just a break for a moment, but any
5 other?

6 MEMBER SILVER: Yes, this is Ken
7 Silver, if I could just plant the seed of a
8 question about what might be a large category of
9 people who might be seen as having a very low
10 dose.

11 Let's say that someone who welded
12 their career and they have material safety data
13 sheets for a typical welding rod that contained
14 manganese, but they don't know anything about the
15 base metals that they welded on.

16 I wonder how the CMCs and IHs are
17 handling those claims? Would manganese in
18 welding rods be sufficient to clinch a claim for
19 Parkinsonism?

20 I know you probably can't answer that
21 right now, but as we get into these and look at
22 the SEM, it seems that there might be

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1 demographics and tests of a pretty large group of
2 people in that category.

3 CHAIR MARKOWITZ: So, it's a question
4 about extensive exposure?

5 MEMBER SILVER: Right. So, would
6 documented exposure to welding rods containing
7 manganese with the worker having no knowledge
8 about the base metal manganese content be
9 considered a sufficient exposure?

10 CHAIR MARKOWITZ: Well, we have
11 requested 20 claims, 10 accepted and 10 denied on
12 Parkinson's disease. So, we will be able to get
13 a direct look at that, I think.

14 MEMBER SILVER: Great.

15 CHAIR MARKOWITZ: But if it -- maybe
16 we can also ask -- we don't have to arrive at a
17 final formulation of the question, but if there's
18 a question we want to direct to DOL, how do you
19 handle, you know, the whatever?

20 We can also ask them and ask for a
21 response. So, if you want to come up with a
22 particular question, again, we don't have to do

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1 it on the phone, the particular question, then we
2 can add it to the action. How about that?

3 MEMBER SILVER: Or maybe after the
4 next round of analysis of the claims, we question
5 them.

6 CHAIR MARKOWITZ: Yes.

7 MEMBER SILVER: We might have a little
8 more data.

9 CHAIR MARKOWITZ: Yes.

10 Any other comments? Questions on the
11 Parkinson's issue?

12 (NO AUDIBLE RESPONSE)

13 CHAIR MARKOWITZ: Okay, so I have just
14 short of 3:55, we're going to take a five minute
15 break. We have a fair amount to do, but we will
16 finish by 5:00. So, but I would like to start
17 back up promptly in five minutes, if that's all
18 right.

19 MR. BIRD: This is Kevin Bird.

20 And so, probably, on that note, it's
21 best if you can to just stay on the line so you
22 don't have to call back in just so we can begin

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1 promptly in five minutes.

2 CHAIR MARKOWITZ: And, Kevin, if you
3 can bring up the public comment tracking
4 spreadsheet, we'll look at that next.

5 MR. BIRD: Sounds good.

6 CHAIR MARKOWITZ: Okay, thanks.

7 (Whereupon, the above-entitled matter
8 went off the record at 3:53 p.m. and resumed at
9 4:02 p.m.)

10 MR. FITZGERALD: All right. Let's do
11 a quick roll call to see who's back with us.

12 MR. FITZGERALD: Is Dr. Berenji here?

13 MEMBER BERENJI: Yes, I'm here.

14 MR. FITZGERALD: Okay. And Dr. Dement?

15 MEMBER DEMENT: Yes.

16 MR. FITZGERALD: Mr. Domina?

17 MEMBER DOMINA: Here.

18 MR. FITZGERALD: All right. Dr.
19 Friedman-Jimenez?

20 MEMBER FRIEDMAN-JIMENEZ: I'm here.

21 MR. FITZGERALD: Mr. Mahs?

22 MEMBER MAHS: I'm here.

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1 MR. FITZGERALD: I heard Chairman
2 Markowitz.

3 CHAIR MARKOWITZ: Here.

4 MR. FITZGERALD: Dr. Mikulski?

5 MEMBER MIKULSKI: I'm here.

6 MR. FITZGERALD: All right. Ms. Pope?

7 MEMBER POPE: Here.

8 MR. FITZGERALD: All right. Dr.
9 Redlich?

10 MEMBER REDLICH: I'm here.

11 MR. FITZGERALD: All right. Dr.
12 Silver?

13 MEMBER SILVER: Here.

14 MR. FITZGERALD: And Mr. Tebay?

15 MEMBER TEBAY: Here.

16 MR. FITZGERALD: We are all here.

17 CHAIR MARKOWITZ: Okay. Good. So
18 we're looking at the screen. We're discussing
19 public comment tracking. So what Carrie Rhoads
20 has very nicely done is come up with a
21 spreadsheet that summarizes the public comments -
22 -- these are comments we hear at the meetings,

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1 but also emails that come in, comments that are
2 officially submitted.

3 And you can see the source, the
4 transcript page, that's from our meetings, if you
5 want to look at the detailed comments. Of course
6 the transcripts are on our website. And then
7 comments -- now under comments. The third,
8 Column C, this is something that Carrie has done
9 --- it is trying to summarize the main points of
10 the comment or at least some of the main points.

11 And they're not represented to be 100
12 percent accurate. They're certainly not
13 complete. They're intended to just be able to
14 trigger if a person's looking quickly at this
15 spreadsheet, to trigger thoughts about, if you
16 want to look at the commenter's ideas in more
17 detail that you can go to the transcript of our
18 meeting or go to the full comments which are
19 posted on our website.

20 So you may see some, I don't know,
21 errors or whatever in that column, but sure, you
22 can send those corrections to Carrie. But she

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1 made a very nice attempt to summarize what people
2 have said, or the major key words. And then
3 finally in the, in the Column E is some
4 responses, some comments, some of the department
5 in relation to some of these comments. So that,
6 you may find that illuminating also.

7 The intent of all this is to try to
8 keep some of the concerns that the public has in
9 mind, on the Board's agenda in an easily
10 accessible way so that we can in the items that
11 we talk about, take into account some of the
12 comments and also it affects some of the, some of
13 our agenda as we move forward. Unless there's a
14 comment or question about that, I think we can
15 move on.

16 Okay. Let's move on. You can take
17 this down. I'm not sure, Kevin, that we need to
18 be looking at anything or if you want, you can
19 bring up the final, the final rules published
20 February 8th by the department. So I wanted to
21 spend a couple minutes really just to complete
22 the loop here. So the Department put out a new

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1 rule on assets of the program, February 8th,
2 earlier this month.

3 By way of history, this rule has been
4 in formulation for several years when the Board,
5 the previous Board first met, April 2016, the
6 Department nicely reopened the comment period to
7 allow us to look at the proposed rule changes and
8 then to comment on them. And we did that. It
9 was the first, I think it was the first thing the
10 Board did actually, even before we knew a whole
11 lot about the program.

12 We made some comments and added them -
13 -- now in this rule here, and I, for those of us,
14 which is most of us, I think, I'm used to looking
15 at rules and final rules and what they consist
16 of. Much of it is about the comments that were
17 made on the proposed rules by the public, by us,
18 by others. And the DOL's response to those
19 comments.

20 By then, towards the end, it's
21 actually the changes in the rules. It's not
22 necessarily the easiest readings for those of us

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1 who don't do this in life. But I suppose some
2 people would say that about anatomy and philology
3 textbooks also. If you go to Page 3043, Kevin,
4 there's a specific section in which the
5 Department -- yeah, on the right there, just a
6 little bit, yeah, on the right column.

7 There's a subheading, Comments from
8 the Advisory Board on Toxic Substance and
9 Worker's Health. They referred to the comments
10 that we made. We made about 12 comments or so.
11 Half of them were considered within our, the
12 scope of what the Board is about. Half of them
13 were considered outside of our scope.

14 They stated of those that were
15 considered outside of our scope, they nonetheless
16 addressed the issues that we rose, that we raised
17 because those issues were raised by other public
18 commenters. So our comments were not ignored.
19 They were -- we had a couple of comments and
20 recommendations about the issues that -- they're
21 not even the subject of the notice of proposed
22 rulemaking. So that was interesting.

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1 I don't really want to go through --
2 most of our recommendations were not accepted, I
3 should say. The details are in this rule and
4 they cite our recommendation and then they
5 respond to them. To go over a couple just to
6 give you a flavor. On the section 303, 3049
7 actually. If you go to Page 3049? This is where
8 the proof of exposure to a toxic substance and
9 this is section 30.231. Okay. And we see it on
10 the right-hand column here. Okay. So the issue
11 was what -- let me just look for the -- okay.

12 So if you look in the right-hand
13 column under Section B, this is, this is the
14 rule, the advised rule, that it says that, I'm
15 quoting, quote, information from the following
16 sources may be considered at probative factual
17 evidence for purposes of establishing an
18 employee's exposure to a toxic substance at a DOE
19 facility or a leak out, a Section 5 facility.
20 One, to the extent practical, our purpose in DOE
21 sponsored formal worker program or an entity that
22 acted as a contractor or a subcontractor of the

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1 DOE. Two, OWCT site exposure matrices, or three,
2 any other entity deemed by OWCT to be a reliable
3 source of information.

4 So we had suggested in addition to
5 that list that it add among those itemized issues
6 the occupational history or affidavit obtained
7 from the claimant or from coworkers or the
8 occupational history obtained by a health care
9 provider outside of the formal worker program and
10 those suggestions really weren't accepted. I
11 think they were seen to be covered in Item Number
12 3, of any other entity. So, so be it.

13 We commented on -- this is Page 3035
14 but I think I can just summarize this. We
15 commented on the ability of a claimant who has an
16 effective claim for change positions and the
17 Department was altering its language on the
18 grounds by which or through which a claimant
19 could request a change in a treating physician.

20 So the claimant gets to pick whatever
21 initial physician they want to choose. But once
22 they're in the program and have a treating

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1 physician, if they want to change treating
2 physicians, they have to provide a rationale for
3 that. And we thought that was pretty
4 restrictive. And we suggested that the claimant
5 not have to actually cite any particular reason
6 if they wanted to switch because people want to
7 change doctors for all kinds of reasons.

8 It turns out that, that really, what
9 we proposed wasn't really in play, if I
10 understand this, the comments on the, on the
11 final rule. The Department was mostly just
12 interested in knowing what language or revision
13 in the language as to what kind of evidence the
14 claimant had to provide to the Department in
15 order to be able to change physicians.

16 So in any case, there are a few other
17 suggestions we made that were not accepted and if
18 you want to go further into this then it's all on
19 our website. You can look at the final rule.
20 You can look back at our April meeting of 2016.
21 That's where we made our proposed
22 recommendations. Also April 2016, is a redlined

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1 version of the proposed rules, so you can see the
2 changes that were recommended. And that's,
3 that's pretty much all I have to say about that.

4 Any questions or comments? Okay.

5 So we're going to move on to the Board
6 action list. Kevin, if you could bring that up
7 Kevin?

8 MR. BIRD: Yeah. I'm going, I'm
9 pulling it up right now for that. Let me just
10 confirm that for everyone one minute.

11 CHAIR MARKOWITZ: That's fine. When -
12 - I don't hear anything unless you're over there.
13 My phone has stopped working.

14 MR. BIRD: No, I think, I think I had
15 you on mute. Is this, is this the correct one?

16 CHAIR MARKOWITZ: Yeah. Yes, it is.
17 Yeah. Okay. So we're, we're going to go through
18 this. There's a second part to this, which is
19 Item number 8 on the agenda, which is our data
20 request. So first we'll just talk about the
21 action list that we produced from December and
22 what's happened so far or not happened. And then

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1 we'll talk about our data request.

2 So the first issue, and the link here
3 is going to pull up Bulletin 19-03 that we
4 started off, with leading with, which were the
5 changes in the procedure manual relating to
6 certain disease exposures. And it says here that
7 those changes outlined in bulletin 1903 are
8 prompting a review of about 2,000 pension
9 affected cases. They're around causation. And
10 how those cases will be identified and screened
11 is what's in 1903, the bulletin, if you want to
12 look at that more closely.

13 But that's the answer to our question
14 -- it's a lot, it's a lot of cases actually. And
15 so this is, for Carrie Rhoads an action item from
16 this meeting, which is that we, I think we've
17 made this request before, but I just want to make
18 sure it's out there. We would, understanding
19 that it takes quite a while to re-review these
20 cases, we would like some information when it's
21 available about the outcome of these reopened
22 cases.

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1 And it's possible by, I believe in why
2 they were reopened. Meaning that there were a
3 couple of solvents added to noise and for the
4 hearing loss that would be separate from the
5 asbestos lung cancer is separate from the benzene
6 bladder cancer and the like. Okay. So someone
7 had asked to look at the training page I think
8 for the claim's examiners, but it may be broader
9 than that. I haven't looked at it recently, but
10 there it is.

11 We had requested meeting the Medical
12 Director, Dr. Armstrong and Dr. Stokes, the
13 toxicologist. This is considered inappropriate
14 as line staff do not interact with the board in a
15 public forum. So if we have any questions about
16 various topics in their domain in relation to the
17 program, we should submit those in writing.

18 The board -- the Department did
19 provide us with the CDs. Dr. Armstrong has --
20 those are not available on our website yet. They
21 are available to the Board through email, but I
22 think we should post them on the website, too.

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1 As we post this, any attachment in what we're
2 reviewing now should also be on the website. Dr.
3 Armstrong has many years of experience in the
4 administration and military medicine. And Dr.
5 Stokes has many years of experience in
6 epidemiology, in addition to toxicology.

7 The annual statistics on claims and
8 the cases for 2015 to the present, we were sent a
9 series of tables with this. I don't know if
10 anybody got a chance to take a look at them.
11 What I saw was cumulative data for each of those
12 years. So in 2015 it was cumulative cases and
13 claims from the beginning of the program. And in
14 2016, it was the same thing. So it wasn't each
15 of those years from 2015 to 2018 captured. It
16 was a cumulative data over many years.

17 I don't know if anybody took a look at
18 this and saw -- maybe I just missed it -- saw
19 anything else. But anybody ever recall or have a
20 chance to look at this and see whether there
21 actually were one year, a succession of one-year
22 statistics?

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1 MEMBER REDLICH: No, I think -- this
2 is Carrie. I think this is the way it's been
3 done each year. You sort of have to subtract the
4 prior if you actually want to see the most recent
5 year.

6 CHAIR MARKOWITZ: Yeah. Well, yeah,
7 so we can do that. Matter of fact let me do that
8 then ask the Department whether it's, we can
9 interpret it as one-year numbers or whether, you
10 know, things get rearranged, re-categorized
11 cumulatively so that it's, it's just to get a
12 sense of the volume flowing through the system
13 and the Part B, Part E and also the relative
14 rates of approval of denial. So I will do that
15 and circulate that.

16 Next is percentage of cases that go to
17 an industrial hygienist and what are the category
18 of reasons why cases are sent. And so nicely
19 made out in their response is the procedure
20 whereby a claim is evaluated and under what
21 circumstances it's sent to an industrial
22 hygienist. So if people read that and have any

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1 additional questions about that then we can look
2 at that further.

3 They did send a table of industrial
4 hygiene and I'm not sure exactly where this table
5 is, whether it's on our website or not. It's --

6 MS. RHOADS: It's not posted on the
7 website yet. You just sent it to the Board in an
8 email.

9 CHAIR MARKOWITZ: Okay. Okay. So if
10 you could, you know, put a link to this question
11 so people can, the public can see it and we can
12 track it. And it's got some categories that I
13 don't really fully understand but it looks like
14 where 2018 -- well that, that'd, well -- I'm
15 about to say about 15 percent or so of both
16 accepted and denied claims had been through an
17 industrial hygienist evaluation.

18 I'm not -- that number may be as high
19 as say, 25 percent, 26 percent. I just have to
20 get clarification about this, which I will do and
21 write up some comments so we can understand it
22 better. With that, on first blush it looks like

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1 somewhere between 15 and 27 percent of claims
2 have an industrial hygiene evaluation as of 2018
3 --- but I think we need to get a better
4 understanding of that, unless somebody else took
5 a look at this and has a better sense of this.

6 Okay. Let's continue. Let's go down.

7 Accountability review findings, we, so the
8 Department does accountability reviews on all the
9 district offices on the claims. And if you
10 haven't taken a look, you can look at a link. So
11 my web's actually isn't working so I'm not sure
12 what people are looking at. So Kevin, are we
13 down on the accountability review section?

14 MR. BIRD: Yes. So it's on the page -
15 - you should be able to scroll down on your own
16 screen.

17 CHAIR MARKOWITZ: Yeah, yeah, well
18 mine seems to be frozen. So but I'm looking at a
19 paper copy so I'm fine as long we stay up with
20 it.

21 So if you look at the accountability
22 review findings, it refers to, there's metrics

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1 and indices used that aren't really apparent. So
2 I think we need to ask for some better
3 understanding of what those metrics are. And
4 ultimately, I think a lot of it is not
5 necessarily relevant to the board, but when we
6 look through, we will, when we look through
7 claims we're going to have some questions. And I
8 think this accountability review process will
9 help answer some of those questions.

10 The next topic is, we requested drafts
11 of documents that also has auditing of the
12 industrial hygiene work and reports. And the
13 Department's response is that, individualized
14 reports are evaluated by lead industrial
15 hygienists and that as part of the accountability
16 review process, they look at the quality of the
17 IH report and that there's no further audits.

18 I think we need more detail about
19 that. We want to look, we are charged to
20 evaluate the objectivity, quality consistency of
21 the industrial hygiene evaluation process and so
22 we need to request, I think, additional details

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1 beyond this response. And if there's any metrics
2 that are used as part of the accountability
3 review that are informative then we should
4 receive them, so I'll follow up on that and ask
5 formally some follow up questions.

6 The next issue is the medical audits -
7 - they provided online previous medical audits
8 and the more recent ones are now available.
9 These are performed by Dr. Armstrong, the medical
10 director. I looked at them all, the recent ones,
11 the end of 2017 and the first quarter of 2018,
12 and they're similar to the ones previously --
13 most of the weaknesses of the contract medical
14 physician reports center on impairment for most
15 of the detected weaknesses, center on impairment,
16 problems with their impairment analysis. Almost
17 nothing addresses causation. So that'll be of
18 interest, I think when we get to look at claims
19 and see what we think.

20 Again, interrupt me if there's
21 questions or comments. The next issue was that
22 we requested the scientific articles or sources

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1 of support for whatever medicine or science there
2 is in Exhibit 154 and 181. And we were asked to
3 provide specific requests. But they did provide
4 this report by Econometrica, 2005, which was
5 completed mostly by some physicians I think at
6 National Jewish Medical Center and a related
7 contractor.

8 And if you want to understand why the
9 procedure manual looks the way it does, I think
10 it's worth looking at that 2005 document since
11 that was kind of the foundational framework that
12 they used to get where they are today with some
13 evolution.

14 Did anybody get a chance to take a
15 look at that or remember what it looked like? Do
16 you have some --

17 MEMBER DEMENT: Yeah, I went through
18 it in reasonable detail. And my take on it is
19 exactly yours. I think it is the foundational
20 piece for a lot of the, at least the initial
21 parts of the program as it was developed. Now
22 you could argue with lots of pieces of it if you

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1 want just, so we go through it line by line but--

2 CHAIR MARKOWITZ: But we're, but
3 we're, we're not going to do that.

4 MEMBER DEMENT: Oh.

5 CHAIR MARKOWITZ: There is however one
6 very specific piece that is retained in the
7 procedure manual in the, I think it's in the
8 exhibits. And if I can, I think it's in Exhibit
9 18. Yeah, it's 18-1, which is called, quote,
10 measures for confirming sufficient evidence for
11 non-cancerous covered illness, end of quote. And
12 it needs to be reexamined because much of it is
13 in conflict with what the procedure manual now
14 says for asbestos, for COPD and a number of
15 different entities. So that just deserves a look
16 by the Department of Labor and some editing to
17 make it more consistent.

18 Okay. Moving on to the action list.
19 We asked how many claims there were for
20 Parkinson's Disease and we just discussed.
21 There're 1,154 claims submitted to 2006. And
22 then DOL provided us with question and answers

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1 the working group had, which was what got
2 international classification of disease, ICD
3 codes where, that they use in the claims
4 administration system. So that's a good thing.

5 We asked about claims filings for
6 individual DOE sites and just to the aggregate
7 data, it's a Part of B versus E by year, and
8 apparently the program doesn't keep data on
9 claims by site. So I think if we wanted to
10 pursue that we would have to cite some specifics
11 --- in fact in their response they say that they
12 don't understand the nature of our request and
13 want to know how it relates to our, one of our
14 assigned responsibilities. No comment. Any
15 comment?

16 MEMBER SILVER: This is Ken Silver.
17 You can certainly go to the DOL website and look
18 at claims paid by site and I don't remember
19 hearing if they found a double biller when they
20 pay a claim and reported that all of the sites
21 where the employee worked. I'm kind of confused
22 by their response.

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1 CHAIR MARKOWITZ: Yeah, well I know we
2 don't have really much time to spend on this, but
3 I didn't even realize that you could, you could
4 look at what you're saying, claim paid by site.
5 So I'm going to look further. If anybody wants
6 to pursue this conflict, we can come back to it.

7 Then we raised the issue of the public
8 submissions to the site exposure matrix. And
9 they provide some -- and then how long it took.
10 And they provide some data that the turnaround
11 time was roughly two months from submission. I'm
12 sorry. There were approximately 60 submissions
13 in each of the most recent fiscal or program
14 years and the average response time was about six
15 days, six or seven days.

16 I interpret this to mean the six- or
17 seven-day response time to mean that, that's the
18 date in which they were verified or not, you made
19 a decision or not. Unless someone reads that
20 differently. That strikes me as pretty quick
21 actually.

22 It does -- there is a related question

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1 that I wondered about, which is whether, how the
2 Department catalogs the changes it makes in the
3 SEM. I know it changes the SEM and then
4 announces that a revised SEM is available. But
5 does it have an inventory of -- and this is an
6 action item or question, sorry. Does the
7 Department maintain an inventory on the changes,
8 additions and deletions that it has for each
9 version of the SEM as it revises it?

10 I think they probably do, and the
11 question is, but the question is do they? And if
12 they do, could we see a recent example of that
13 from one revision to the next? And if that's not
14 clear, Carrie, I can clarify it later.

15 MR. FITZGERALD: Okay. We've got,
16 we've noted that.

17 CHAIR MARKOWITZ: Okay. So the next
18 item is -- again I'm not, I'm not looking at the
19 WebEx. I'm kind of assuming these are appearing
20 --- and I'm cognizant that we have 25 more
21 minutes so we will get through this.

22 The question is, how does a contractor

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1 for DOL analyze information on the SEM changes or
2 recommended changes to the SEM for particular
3 locations. So if there are any -- and so they
4 give an explanation. So anybody has any further
5 questions from that, we can discuss it now or
6 people can send in some additional questions if
7 they want some further clarification.

8 The next item was, could the
9 solicitor's office and the program explain how
10 they interpret the statute regarding toxic
11 substance. And so they do that. And they
12 basically say they derived it from how the
13 Department of Energy defined it when they
14 administered Part D. Part D is an obsolete part
15 of the original Act, that existed between 2000 -
16 2005, to deal with occupational diseases, other
17 than those covered by Part B. So Part D was
18 superseded by Part E. And probably don't need to
19 know more about that than just that.

20 There's also the deal for Act itself,
21 which mentions toxic substance and then they give
22 a quote, they give an excerpt from that.

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1 Although it doesn't, it doesn't define it. It
2 just, it shows where it references toxic
3 substance. And finally part of their response is
4 that vapors, gas, dust, and fumes are not
5 synonymous with toxic substances, but they
6 represent, quote, states of matter, end of quote.
7 So we learned that. Any comments or questions?

8 So this is useful. This is a useful
9 summary in case we get back to any questions or
10 wonderings about how they regard their issue of
11 toxic substance.

12 Moving on, is there process for the
13 industrial hygienist to ask questions or ask for
14 additional information without interviewing a
15 claimant? And the response to that is, yes, the
16 IH can talk to the claim's examiner. And then
17 there's a quoted section from the procedure
18 manual about how the IH interacts with the
19 claim's examiner.

20 It raises the, we had recommended that
21 the IH be permitted to interview the claimant
22 directly, and DOL accepted that. They wanted the

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1 claims examiner involved, which seems right. And
2 we need to hear back from the Department. What's
3 pending is that the progress on that activity is
4 what we're supposed to hear about.

5 Two last issues on the SEM, one, do
6 they include bystander exposure and the answer
7 is, no. And then, how many conditions are there
8 in the SEM, how many aliases? So 124 diseases,
9 around 37 diseases aliases. And I think this
10 question related to DOL's request to us to help
11 them with looking at the aliases. So we can use
12 that information to consider that, consider
13 whether we the resources to help them.

14 Okay. If there are no comments, we'll
15 move on. Are there comments?

16 MEMBER SILVER: I've -- this is Ken
17 Silver. When do you want to get that training
18 page link to work? Would you send it to me? We
19 don't need to glum on it now, but anyone gets
20 there, think of me and send me the working link
21 would you please?

22 CHAIR MARKOWITZ: Well I couldn't get

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1 it to work either. So maybe Carrie Rhoads, if
2 you could follow up on that.

3 The Board, some board members, a
4 subset of the Board formulated a data request at
5 the direction of the Board, which was submitted
6 December 10, 2018. And Kevin, do you have this --
7 -- it's called -- or are you showing it? ABC --

8 MR. BIRD: I'm pulling up. Yeah, I'm
9 pulling it up now. It should just be one second.

10 CHAIR MARKOWITZ: Okay. Okay, that's
11 fine. So this is a two-part request. One, had
12 to do with data and the other had to do with
13 claims. We requested data organized in a way
14 that had been done for the prior board. Only the
15 prior board it was restricted to Part -- pretty
16 much, Part B positions or respiratory conditions.

17 And so we've asked for updated
18 information by year for selected conditions and
19 you can just -- I'm not going to go through all
20 of this. But they included some lung disorders.

21 They included the most common Part E conditions
22 --- they included neurologic outcomes, cancer and

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1 kidney disease. A similar kind of data for each
2 of these areas. And then we provided a table to
3 describe what, kind of what the output could like
4 that would be useful.

5 This hasn't been produced and I don't
6 know, Secretary, whether there's any update on
7 when we're going to see some of these data? It's
8 been, we point out, we submitted this request
9 December 10 so we're now two-and-a-half months
10 past that.

11 MR. FITZGERALD: Yes, we've made
12 inquiries about the data and the status of that,
13 and I think it would be helpful because it is a
14 big request and considering the workload
15 involved, if we try to work with the program to
16 prioritize the request and maybe narrow the scope
17 a little bit because I think they're dealing with
18 some resource issues in terms of the staff time
19 required to pull this together.

20 CHAIR MARKOWITZ: Well does it start
21 with, they just go in order? We don't need the
22 whole set at the same time. In fact it'd be more

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1 useful to get parts of it. It's the same kind of
2 analysis for each subset of conditions. So once
3 it's done for one, you know, the challenges,
4 obstacles, whatever for one, the rest should be,
5 should flow pretty easily. But, yeah, let's
6 start with lung diseases and go from there.

7 MEMBER REDLICH: I think -- this
8 Carrie Redlich. So lung disease was part, just
9 really just to update of what they have given us
10 previously. So we didn't think that would be
11 that much work.

12 CHAIR MARKOWITZ: Right. That's, yeah,
13 that's the lung, for the lung conditions. Right
14 --- the others we hadn't previously asked for it,
15 but regardless. Anyway, so, yeah, we hear it. So
16 other request was for claims, to look at claims.
17 And we -- to the part, for the members of the
18 board who weren't on the prior board, we did look
19 at a sizeable number of claims. I can't really
20 remember. Does anybody remember the number? It
21 was I think several dozen, mostly in lung
22 disease.

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1 And so the request here was for more
2 claims and 20 claims for each of five pulmonary
3 conditions. That's 100 claims and additional 20
4 for Parkinson's disease. And again, we don't
5 need all the claims at the same time. A subset
6 because we can't handle all, you know, all the
7 claims at the same time. A subset would be most
8 helpful.

9 If there needs to be priorities, then,
10 sure, Parkinson's disease, a field could be in
11 asthma would probably be the most useful. Unless
12 other people have other ideas about that. Sure
13 we could start with those, but we would like to
14 start. We need to understand the claims.
15 Actually for all four assigned tasks to the
16 Board, so that is, that request stands.

17 Any other comments on this?

18 MEMBER DEMENT: This is John. I think
19 it's important for our upcoming in face meeting
20 to have some of those and for us to get a start.

21 Yeah, we don't need them all. We can't review
22 them all probably in that timeframe. But I think

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1 we'll be more productive in April if we've all
2 had a chance to get into these and develop some
3 comments and questions for discussion.

4 So yeah --

5 MEMBER REDLICH: Yeah, you know --

6 MEMBER DEMENT: -- so give us what you
7 have and let us get started.

8 MEMBER REDLICH: We had gotten about -
9 - I don't have the number exactly in front of me,
10 but it was around 70 or so of the Part B claims,
11 the respiratory ones. That was very helpful, so
12 for them --

13 CHAIR MARKOWITZ: I would echo what
14 John says. We have about seven weeks until the
15 next meeting and it would be extremely helpful to
16 be able to look at some claims before then. And
17 we need, we need a couple of weeks to look at
18 them.

19 MEMBER DEMENT: And just for more
20 clarification, we don't have those claims
21 anymore. You know, we, as the Board closed out
22 its last, this last proceedings, we were required

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1 as part of closing out the other board, to submit
2 all of those data back to the DOL. So we don't
3 have those in our hands right now.

4 CHAIR MARKOWITZ: Okay. So any other
5 comments on that? Otherwise we're going to move
6 on to the issue of non-cancer outcomes. If you
7 could bring up that piece, Kevin? And Ken, if
8 you want to -- I'm not, my WebEx isn't working at
9 the moment so I can't see whether it's up or not
10 --- but Ken, if you, and it is, well, if you want
11 to lead this discussion?

12 MEMBER REDLICH: Just before we go on
13 -- it's Carrie Redlich. I'm just a little
14 concerned because I think last time, we did get
15 both the data and the claims in a relatively
16 timely fashion. So I think it would be, but
17 where we're leaving this issue is just with the
18 Department of Labor like us to prioritize?

19 Because we don't need everything all
20 at once. I just, it seems like we don't really
21 know where things stand, whether part of the
22 information is just collected but not all of it,

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1 and that's why we haven't gotten it. Or whether
2 none of it has. So maybe we could just ask for
3 clarification of the status because I think it
4 would be fine for us to get the information at
5 least.

6 CHAIR MARKOWITZ: Yeah. And so if you
7 could also get the Department to produce sort of
8 a time table over the next few weeks for this
9 information.

10 MR. BIRD: Yeah, noted.

11 CHAIR MARKOWITZ: Okay. Ken?

12 MEMBER SILVER: Sure. So you all
13 remember on the second day of our November
14 meeting in D.C., John Vance distributed a two-
15 page list of topics on which program leaders
16 might want our help. And one of them has to do
17 with the non-cancer effects of exposure to
18 certain radioactive materials.

19 And my first thought was that the
20 leaders of radiogenic substances are radioactive.

21 And then another thought is that the long-term
22 study of the atomic bomb survivors are finding

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1 some interesting things about circulator
2 diseases, a broad category that includes heart
3 disease and stroke. So the Board agreed that a
4 couple of us might rewrite John Vance's paragraph
5 and layout a scope of work, and if it's agreeable
6 to the program leaders, perhaps embark on it.

7 I had access to a radiation biologist,
8 you may know, Dr. Isaf Al-Nabulsi at the
9 Department of Energy and she very helpfully sent
10 some links to the reports of the United Nation's
11 scientific committee on the effects of atomic
12 radiation, their reports as well as -- they're
13 organized in a weird way, when you try to access,
14 but she had everything I needed at her
15 fingertips.

16 So the first part simply makes the
17 point that all of the isotopes mentioned in Mr.
18 Vance's paragraph are heavy metals, but three of
19 them have no stable isotopes. So if they're
20 having non-cancer effects, it maybe the high
21 linear energy transfer, alpha radiation that's
22 responsible. Maybe chemical process, maybe as

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1 ATSDR states in their plutonium tox profile a
2 combination thereof.

3 One of the most interesting papers in
4 the literature about the non-cancer effects of
5 plutonium was published by Lee Newman in 2005,
6 and that's among the references, finding
7 interstitial lung disease even after controlling
8 for asbestos exposure. And then when it comes to
9 the atomic bomb studies, one of the UNSCR reports
10 that U.N. committee has a table that summarizes
11 the evidence of increased incidents of
12 circulatory disease or mortality in nuclear
13 worker populations.

14 So this is perhaps a roadmap to what a
15 working group could look at if in fact this is
16 what John Vance and colleagues want from us.

17 CHAIR MARKOWITZ: Kevin, could you
18 scroll down to show some of the references,
19 please?

20 MEMBER SILVER: I guess we can scroll
21 down. There we go.

22 MR. BIRD: Do you see it now? Is that

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1 what you need?

2 MEMBER SILVER: Yeah. Thank you very
3 much.

4 MR. BIRD: Okay.

5 MEMBER SILVER: So I guess it's open
6 for discussion. If anyone sees any flaws or
7 revisions before we ask for John Vance and his
8 colleagues to have a look at it?

9 CHAIR MARKOWITZ: So while people are
10 thinking -- this is Steven. So what the process
11 would be that we would submit this version of
12 basically -- you don't need to vote on it -- but
13 and ask them whether this represents what,
14 actually what there, is this a faithful
15 representation of their request. And then we can
16 figure out to the extent that which we can
17 address it. Does that sound right, Ken?

18 MEMBER SILVER: Yes.

19 CHAIR MARKOWITZ: Any suggestions or
20 amendments to this, what Ken's written up? Okay,
21 so fine, we'll pass it along and I asked whether
22 it's, this is what they have in mind. And then

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1 at next, at the Board meeting, we can -- unless
2 someone wants to take this on before then -- we
3 can discuss what to do about the request.

4 If there is a subset of board members
5 who want to, assuming that the Department, this
6 is acceptable to them or they, or some version of
7 it, if there's a subset of board members who want
8 to take this on, begin to take this on between
9 now and April 23rd, 24th, then that's fine.
10 Speak up. Otherwise we can just discuss it at
11 the meeting.

12 MEMBER SILVER: One word of caution is
13 that once you get into this literature, there's a
14 lot of health physics involved, internal dose
15 versus whole body dose. And this dovetails with
16 someone's day job, that's great. But it could be
17 a heavy lift.

18 CHAIR MARKOWITZ: Well thank you for
19 the warning. It's good to know. Okay. So we'll do
20 that. We need to close. Any other -- I want to
21 talk briefly about the next meeting, but are
22 there any other comments or questions at the

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1 moment?

2 Okay. So we are meeting in Augusta,
3 Georgia at the end of April. We're going to take
4 up, continue some of the topics we've already
5 discussed. I suspect we'll get to lingering
6 recommendations on, that'll still continue, and
7 on more, such as hearing loss. And I don't
8 recall offhand whether there's some other
9 recommendations that require further revision or
10 response, but I'll check on that.

11 We'll make progress on the Parkinson's
12 disease. We will hopefully have some claims and
13 some data that we will have had the opportunity
14 to analyze and discuss, and we'll pick up on
15 whatever action items we've developed from today
16 or ones that need some continued attention from
17 the previous meeting.

18 All right. Any other issues that the
19 people have in mind at this point that they want
20 to raise at the next meeting? Okay. Well, so
21 think about it and, you know, you can send me
22 your ideas and we can circulate them within the

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1 Board. And we'll take it from there. Any
2 closing comments, questions? Doug, anything you
3 need to tell us about the close of the meeting?

4 MR. FITZGERALD: No. I think
5 everything's on track for our next meeting and
6 we've been taking diligent notes of the
7 discussion. That's all we have. So unless there's
8 anything else, I will adjourn the meeting.

9 CHAIR MARKOWITZ: No, I just want to
10 thank people for their participation and getting
11 some work done. Telephone meetings are not the
12 easiest. It's much more fun in person. But it
13 was important to keep up some momentum and also
14 get some recommendations reviewed and approved.
15 So that's a good thing. Thank you.

16 MR. FITZGERALD: Great. Thank you all
17 for your time and energy with regards to this
18 effort. Appreciate it. And with that, we adjourn
19 the meeting. Thank you.

20 (Whereupon, the above-entitled matter
21 went off the record at 4:56 p.m.)
22

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