



ADVISORY BOARD ON RADIATION AND WORKER HEALTH

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February 6, 2002

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Lafayette, Indiana

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Cori B. Horner
Atlanta, Georgia

The Honorable Tommy G. Thompson
Secretary, Department of Health and Human Services
200 Independence Avenue
HHH Building, Room 603G
Washington, D.C. 20201

Dear Secretary Thompson:

The Advisory Board on Radiation and Worker Health held its first meeting on January 22 and 23, 2002, in Washington, D.C. All of the currently appointed members were present as well as the designated Federal Official who serves as Executive Secretary. The sessions were open to the public in accordance with Federal Advisory Committee Act requirements and were attended by a variety of individuals representing themselves or interest groups. A copy of the meeting Agenda is enclosed for your information.

In preparation for the meeting, the Board members individually reviewed proposed National Institute for Occupational Safety and Health (NIOSH) rulemaking for 42 CFR 81 (Guidelines for Determining the Probability of Causation Under the Energy Employees Occupational Illness Compensation Program Act of 2000) and 42 CFR 82 (Methods for Radiation Dose Reconstruction Under the Energy Employees Occupational Illness Compensation Program Act of 2000). The members also reviewed written comments by subject matter experts and by members of the public for these two rules. At the Board sessions, formal presentations were provided by NIOSH staff members on these and related issues. Also, comments were provided by some of the members of the public who were in attendance.

Under the provisions of the President's Executive Order of December 7, 2000, the Advisory Board has very specific responsibilities on advising the Secretary of Health and Human Services. In accordance with those responsibilities, I am pleased to provide the Advisory Board's recommendations concerning the proposed Guidelines for Determining Probability of Causation as set forth in 42 CFR Part 81. These recommendations are summarized in Enclosure 1.

Page 2 - The Honorable Tommy G. Thompson

In addition to dealing with the specific items mandated by the Executive Order, The Advisory Board wishes to comment on its current composition and make-up. We note that since the Public Law under which the Advisory Board was established provides for up to 20 members, and since the current number of members appointed is 10, there may be additional future appointments made to the Board. As a means of diminishing any perceived or real imbalance amongst the various sectors represented by the Board membership, the Board suggests that additional representation from the nuclear production workers sector would be a clear advantage and benefit to the Board in carrying out its mandate.

Please let me know if additional information or clarification is needed concerning the recommendations contained herein.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul L. Ziemer".

Paul L. Ziemer, Ph.D., CHP
Chairman

Enclosures (2)

cc:

Members, Advisory Board on Radiation and Worker Health

Enclosure 1

Recommendations and Comments from the Advisory Board on Radiation and Worker Health

The following comprise recommendations and comments from the Board in the context of responses to the three major questions found in Section I of the Preamble to the proposed rule, 42 CFR Part 81

1. The Board agrees that the NIOSH guidelines and procedures for probability of causation determinations have been developed using the best and most current scientific information relating radiation exposures to cancer risks. The use of current recommendations from independent expert bodies lends strength to the approach proposed by NIOSH. The NIOSH approach also implements the spirit of concern for nuclear workers that was inherent in the legislation underlying this compensation program. In this context, the NIOSH guidelines and procedures provide an appropriate application of existing science to the compensation process.

2. The Board has also noted the differences between the approach being used in this compensation program and that of the Atomic Veterans Act. There are significant differences in the categories of compensation covered by the two acts. In some cases, the Atomic Veterans Act required primarily that the claimants were present in a specific area, had one of the specified cancers, and were therefore compensated. This proposed rule is an effort to address much more complicated situations and to face the reality that simple exposure to radiation does not automatically presume the development of disease. The Board recognizes the excellent efforts of NIOSH staff and their subject matter experts in bringing the best known current science to an appropriate method for translating experience gained in the veterans exposure calculations to this civilian nuclear worker proposal.

3. The Board also agrees that the proposed NIOSH procedures appropriately allow for the incorporation of new scientific information into the compensation procedures as this new information becomes available. However, given the limited time that the Board has had to review the details of the probability of causation procedures and the potential impact of changes in the NIOSH IREP on compensation decisions, the Board recommends that the regulations be amended to formalize the role of the Board in reviewing any substantial changes in these procedures (i.e., the NIOSH IREP). This change should include publication of the planned changes in the Federal Register, an appropriate opportunity for public comment, and then review by this Board before finalization. Although these actions are included in the **Preamble "Background," (Section III, Subsection I, Paragraph 3)** of 42 CFR Part 81, making them part of the rule itself would formalize the updating process, significantly strengthening assurance that review of revisions by the Board will occur.

Enclosure 2

**Meeting Agenda
Advisory Board on Radiation and Worker Health
Holiday Inn on the Hill, Washington, D.C.
415 New Jersey Avenue, N.W.
Washington, D.C. 20001
(202) 638-1616
January 22-23, 2002**

January 22, 2002

8:30 - 9:00	Welcome and Introductions	Dr. Ziemer, Mr. Elliott and Board Members
9:00 - 9:30	FACA Orientation	Ms. Helen Kuykendall CDC Committee Management Office
9:30 - 10:00	Film on Committee Membership	
10:00 - 10:15	Break	
10:15 - 10:45	Office of General Counsel Briefing	Ms. Mary Armstrong Office of General Counsel
10:45 - 12:00	Review of EEOICPA, Executive Order and Charter	Mr. Larry Elliott Executive Secretary
12:00 - 1:00	Lunch	
1:00 - 1:45	Board Responsibilities/ Operating Procedures	Dr. Paul Ziemer - Chair Mr. Larry Elliott Executive Secretary
1:45 - 2:30	Probability of Causation Rule 42 CFR Part 81 General Background Scientific and Technical Basis	Mr. Ted Katz Dr. Mary Schubauer-Berigan
2:30 - 2:45	Break	
2:45 - 3:45	Interactive Radioepidemiologic Program (IREP)	Mr. Russ Henshaw and Dr. Mary Shubauer-Berigan

January 22, 2002 - Continued

3:45 - 4:30	Dose Reconstruction Rule 42 CFR Part 82 General Background Technical Approach - Overview	Mr. Ted Katz Dr. James Neton
4:30 - 5:30	Public Comment Period	

January 23, 2002

8:00 - 8:30	Administrative Orientation	Ms. Corrine Homer
8:30 - 8:45	Board Work Schedule	Mr. Larry Elliott Ms. Corrine Homer
8:45 - 12:15	Working Session on Probability of Causation Comments	
12:15 - 1:00	Lunch	
1:00 - 2:00	Public Comment Period	
2:00 - 3:00	Dose Reconstruction Rule 42 CFR Part 82 Technical Guidelines for External Dose Reconstruction and Internal Dose Reconstruction	Dr. Jim Neton
3:00 - 3:15	Break	
3:15 - 4:15	Working Session on Probability of Causation and/or Dose Reconstruction Comments	
4:15 - 4:30	Closing Comments/Adjourn	Dr. Paul Ziemer - Chair

****** Agenda items are subject to change as priorities dictate. ******