



NIOSH Dose Reconstruction Project Meeting Lawrence Livermore National Laboratory

Date:

November 30, 2004

Meeting with:

Alameda County Building and Construction Trades Council
Society of Professional Scientists and Engineers/University Professional and Technical Employees

Attendees:

Jim Stagg	International Brotherhood of Electrical Workers Local 595
Carl Jones	International Union of Painters and Allied Trades, DC 16, Local 3
Rick Werner	Sheet Metal Workers' International Association Local 104
Sue Byars	Society of Professional Scientists and Engineers/University Professional and Technical Employees
Kurt Glaeseman	Society of Professional Scientists and Engineers/University Professional and Technical Employees
Barry Luboviski	Alameda County Building and Construction Trades Council
Clifford Drescher	Carpenters Local 713
Inga Olson	Tri-Valley CARES
Eileen Montanna	Society of Professional Scientists and Engineers/University Professional and Technical Employees
Joyce Brooks	Tri-Valley CARES
Fran Schreiber	WORKSAFE

NIOSH and ORAU Team Representatives:

Stuart Hinnefeld – National Institute for Occupational Safety and Health (NIOSH) Office of Compensation Analysis Support (OCAS)

William Murray – Oak Ridge Associated Universities (ORAU)

Mark Lewis – ATL International Inc.

Dawn Catalano – ATL International, Inc.

Proceedings

Mark Lewis opened the meeting at approximately 1:40 p.m. by thanking the participants for being gracious hosts. Mr. Lewis described his background working with the Paper, Allied Industrial, Chemical, and Energy Workers International Union (PACE) as a union safety officer in Ohio. He explained that the purpose of the meeting is to discuss the Site Profile under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). Labor input is crucial to get help in describing the work history on the site from those who had hands-on experience. Mr. Lewis then introduced the rest of the Team and turned the meeting over to Mr. Hinnefeld of NIOSH for opening comments.

Mr. Hinnefeld explained that the Office of Compensation Analysis and Support was established to fulfill the responsibility of the National Institute for Occupational Safety and Health (NIOSH)



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under EEOICPA. The portion of the law that NIOSH handles covers cancers that may be related to radiation exposures at Department of Energy (DOE) sites. A worker's radiation dose is reconstructed based on the worker's individual dose records and other documentation from the site. Then the probability of causation is calculated from the reconstructed dose. Compensation is awarded if the probability of causation (POC) is more than 50%. Mr. Hinnefeld noted that Lawrence Livermore National Laboratory (LLNL) may present a particular challenge because so much of the work was classified. People with the appropriate security clearances are available to perform interviews. While the classified information could not be used in a public document, it could provide supporting information for the dose reconstructions. He also said that Congress directed NIOSH to err on the side of the higher dose, giving the claimant the benefit of the doubt when there is uncertainty about a dose. The law that established the program also established the Advisory Board on Radiation and Worker Health, which oversees the work being done in this program. The Advisory Board meeting is scheduled in Livermore for December 14-15, 2004, with a public comment session to follow. Mr. Hinnefeld said a meeting announcement would be sent out, and the agenda would be on the NIOSH website once finalized.

Mr. Hinnefeld explained that Oak Ridge Associated Universities (ORAU) is the prime contractor on this project. They perform the bulk of the work with assistance from subcontractors. NIOSH provides technical and policy direction. He then turned the meeting back to Mr. Murray.

Mr. Murray described his background dealing with worker issues at ORAU and NIOSH. He said that he has been involved with the Worker Outreach Program since its inception. The Outreach Program was started on the recommendation of the Advisory Board in 2003. At that time, many of the Site Profiles were already in progress and several were already completed. In the first phase of the Outreach Program, NIOSH and ORAU waited for those Site Profiles to be completed. Then we asked for comments from the workers on the completed Profiles. The second phase is now starting, in which comments are solicited at the beginning of the Site Profile development process. Mr. Murray said that a team has been assembled for the LLNL Site Profile, but nothing has been drafted yet.

Mr. Murray said that the Site Profiles are technical documents written for the health physicists who are performing dose reconstructions. He explained that recent legislation transferred the responsibility for Subtitle D of EEOICPA from the Department of Energy (DOE) to the Department of Labor (DoL). This change only affects Subtitle D, now Subtitle E, for toxic exposures. NIOSH and ORAU process claims for radiation-induced cancers under Subtitle B. Since the legislation is so new, not all questions can be answered until DOE completes the transfer. DOE has 210 days to get the records to DoL.

Mr. Murray pointed out that the proceedings were being recorded to produce accurate minutes, but that no one would be quoted directly. He said formal minutes will be sent to the unions for review and then posted to the NIOSH website. He continued with a discussion of the different components of radiation dose pertaining to reconstructions done under the EEOICPA. These include occupational radiation doses received by workers from radionuclides that get inside the body (internal dose) as well as external doses from sources outside the body such as x-ray machines, accelerators, or reactors. Doses measured and recorded by the Atomic Energy Commission, DOE, and the Manhattan Engineer District are used in dose reconstructions. NIOSH and ORAU include doses in addition to those documented in the dosimetry program to



account for radiation sources and radioactive material in the work environment (occupational environmental dose). An occupational medical dose is also added to the dose reconstruction, although it generally only applies to workers on the site who were required by the employer to receive periodic x rays. Records from different sites are combined for workers who worked at different sites.

Mr. Murray explained that the purpose of the meeting is to get input from the workers at the site to make sure the Site Profile is both accurate and complete. The Site Profile Team was assembled in September 2004. Once a draft is produced, it will go through several reviews at NIOSH and ORAU before it is approved by NIOSH. The document will be used as a technical handbook for dose reconstructions for LLNL.

- The Site Description will detail the work that has taken place as well as radioactive materials and sources on the site.
- The external dosimetry section reviews information about the types of radiation exposures and the badge program including, who got the badges, when the program began, and the badge exchange rate. A missed dose is calculated when there is a gap in the available information or when the record shows zero doses over a period of time.
- Information regarding the types of materials on site, the bioassay program, urinalysis, and the kinds of radiation that were measured in whole body counting is required for the internal dosimetry section. Because every worker was not included in the bioassay program, air monitoring information is critical.
- The Environmental Dose is mostly for workers who were not part of the monitoring program, who still could have been exposed from radioactive material in the air and other radiation sources in the work environment. NIOSH and ORAU are aware of releases that could have resulted in exposures.
- The Occupational Medical Dose is added because chest x rays were often required by the employer. The frequency of required x rays and the type of equipment used is considered in the determining the amount of the occupational medical dose added.

Mr. Murray gave the contact information for submitting comments, stating that they should be directed to NIOSH.

Discussion Session

Question:

What is the purpose of the Advisory Board meeting at LLNL next month? Will they be making findings at this meeting or just reviewing the program? Is there a public posting of the meeting?

Stuart Hinnefeld:

There will be a discussion of the progress that has been made in the program, including how many claims are in-house and how NIOSH is doing on preparing the Site Profiles. There will also be a report from the consulting company that the Board hired to oversee the work. The



website address is www.cdc.gov/niosh/ocas; follow the link for the Advisory Board for more information.

Comment:

It is very important for labor and community representatives to not only show up, but to participate in the discussion. Workers need to attend the meeting to discuss the issues and challenges of showing where people received doses from accidents or unsafe work practices. In addition, the audit group has drafted a report that DoL is reviewing before publication. A major concern is that the audit group is supposed to be independent, but the people in charge of the process are given the opportunity to review their report. Another problem is that the dose reconstruction process is going to be discussed, but only in private. It is important that this be done in a public forum so that labor and worker advocates have the opportunity to make suggestions regarding how the process can be improved.

When the Site Profile was completed at Mallinckrodt in St. Louis, the community had an opportunity to give input. But they felt it was too late to make any fundamental contribution. The worker input needs to come in early enough so that major changes can be addressed and the document revised if necessary.

Stuart Hinnefeld:

The contractor's report was provided to the Advisory Board members, but not to NIOSH. There is no opportunity to change what the contractor wrote before it is discussed in the public session. The contract is actually with the Department of Health and Human Services, not NIOSH. The contractor was hired to check on NIOSH, and there has been no perception of conflict of interest in their providing a draft to the oversight committee. The process may not always be in closed session. This is a subcommittee meeting and their first opportunity to discuss it.

NIOSH and ORAU hold these Outreach meetings to get input sooner rather than later. It is easier to comment on a document that exists, though. The Site Profiles are always open for revision; a major revision was recently adopted for the Iowa Site Profile based on feedback from the workers.

Concern:

How is the integrity of the workers to be protected? I could not, in good conscience, advise any worker to give testimony in open court with the understanding that there could be retribution in a lot of different ways. What process does NIOSH have in place that ensures some security for the workers? I would feel more comfortable advising them to submit statements without the individuals being identified. Is that a possibility?

Stuart Hinnefeld:

It is certainly not legal for any retribution to be taken. A very good avenue would be for union leadership to serve as the conduit for those statements. NIOSH would like the submitter to identify themselves on behalf of the membership, but the workers do not have to be named. A labor organization serving as a conduit for membership comments is relatively efficient.



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Concern:

When people give input, they don't always have the types of exposures sorted out. Workers can have both chemical and radiation exposure from the same job. Will NIOSH and ORAU accept whatever occupational exposure the person talks about? There are people who didn't know they had to make separate claims and thought they were filing for both.

William Murray:

That will be noted in the telephone interview conducted with each claimant. These are extensive and cover many topics. NIOSH and ORAU focus on the radiation exposure, but the interviewer takes down all the information.

Stuart Hinnefeld:

Until the recent legislation passed, different claims were filed with different agencies. NIOSH did not have authority to do anything with information regarding toxic exposures. Both parts are now going to be filed with DoL, but the process has not been established yet. Promulgation of regulations is part of the transfer; the regulations will likely be made public once they are announced.

Question:

Will NIOSH be in charge of Subtitle E when the changes are made?

Stuart Hinnefeld:

If the DoL needs a chemical site profile, they can ask NIOSH to produce it according to the legislation.

Question:

What about claims dealing with beryllium and silicosis? Are they filed under Subtitle B?

Stuart Hinnefeld:

Those claims do not go to NIOSH. DoL handles those claims.

Concern:

It seems unlikely that workers would have the level of detail needed to be of any value to a report this detailed. How can input be helpful? The unions will need to have something to show workers something to respond to. The site should already have the records for the workers to review. The workers do not have the resources to re-create this information. Are there any funds available through the Program for the unions to hire a consultant? LLNL does not have a Health and Safety department, so the workers need help getting this data together.

Stuart Hinnefeld:

The information that typically is gained in these meetings is the difference between the way management describes procedure and what the workers say actually happened on the job.

William Murray:

The workers also can provide information on specific incidents that may or may not appear in the plant records.

The document will be available for union review and comment after it is approved by NIOSH. The Building Trades at other sites have voiced similar concerns, because their work is also very different from that of the production workers. NIOSH and ORAU are working



with the Center to Protect Worker Rights on putting together a new section of these documents to address the other aspects of work such as construction and Decontamination and Decommissioning.

Mark Lewis:

When the Site Profile was reviewed for the site where I worked as a health and safety officer, the workers wanted to be involved in the development of the document rather than just review it after the fact. There were possible resources workers could have provided as well as information about who was most knowledgeable in certain areas.

Concern:

People need to start getting involved right away. If we wait another six months we will lose more people who could be giving input since some workers are already too sick to be involved and are dying. This Act went into affect in July 2001 and LLNL is last on the list to have a Site Profile done.

William Murray:

NIOSH and ORAU started working on claims by September 2002, at which time there were several thousand claims to be done. The Site Profile is only one resource that is used and none of the site profiles was completed when work began on dose reconstructions. There are only eight or nine completed, LLNL is in the second group of Site Profiles being worked on. About 600 claims have been filed for LLNL.

Comment:

It would be helpful to us to know which kinds of claims were filed. There are 1,100 overall claims including the 600 for radiation. We would like to find out how many were from the Building Trades.

Mark Lewis:

This Team does not have that kind of breakdown. The DOE Resource Center is available to help workers and survivors interpret the language and file claims. They may have more information in that regard.

Question:

Who is on the Site Profile Team? Can we obtain the names and contact information for the members of the Team? Will there be adjustments in reconstruction of the dose based on peak levels due to atmospheric releases or other accidents that occurred? Do NIOSH and ORAU have a chronology of the incidents that will be documented, and can the union have a copy of that to use as a prompt for the workers?

William Murray:

The Team may put together a chronology, and it can be forwarded for your use. I will provide any information I can to assist you with input for the Site Profile.

Question:

Who is the point of contact that we can direct inquires and information to? We would like to wrap with an understanding of who will respond to the questions that come out of today's meeting. It's a lot easier if we're not bouncing around looking for the answers. Will you be



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able to provide us with information on what resources are available under the law to hire consultants?

Stuart Hinnefeld:

I can provide any information you need to Bill Murray, and he will get back to you.

Question:

Who is your contact at the Center to Protect Workers Rights? We would like to work with the same person.

William Murray:

The Center to Protect Workers Right is one organization the Site Profile Team has talked to regarding how to get input from construction trades workers. The person contacted was Knute Ringen, from Seattle.

Question:

Can the claims be broken out into how many were beryllium and silicosis claims?

Stuart Hinnefeld:

NIOSH is only responsible for the radiation cases; those are the only ones that come to NIOSH. You can find out how many claims have been submitted on the website, but I have never seen a breakdown by beryllium and silicosis. You can send a request to DOL to see if they can help with that.

Question:

When people request records from DOL, they generally only get the LLNL records. If people worked at other locations, the records are not readily available. How does NIOSH account for the other places of employment?

Stuart Hinnefeld:

NIOSH requests those records as well.

Mr. Murray thanked the attendees for their participation, and adjourned the meeting at approximately 2:30 p.m.