1 and NIOSH. So you'll receive both items
2 simultaneously. The question is is does NIOSH
3 actually make copies and distribute to the entire
4 Board at the same time. I mean I don't know if
5 Dr. Ziemer wants to be in the business of
6 reproducing the deliverables and disseminating
7 them to the Board or should we do that at your
8 discretion.
9 **DR. ZIEMER:** Well, I'm certainly glad to
10 comment on that. I think NIOSH is, in a sense,
11 tasked with providing Board support, and I think
12 we would rely on them to do the distribution.
13 Wanda?
14 **MS. MUNN:** I move that the Chairman of this
15 Board be authorized to act on behalf of the Board
16 in notifying timely deliverables' receipt and in
17 authorizing payment of vouchers by the contractor
18 as submitted to him.
19 **DR. ZIEMER:** Thank you. Is there a second to
20 the motion?
21 **DR. DEHART:** Second.
22 **DR. ZIEMER:** Seconded. Discussion?
23 **DR. MELIUS:** Someone repeat exactly what's
24 included in the deliverable parts of that.
25 **DR. ZIEMER:** Can you read the motion back to

1 us, Ray?
2 (Whereupon, the motion was repeated by the
3 Court Reporter.)
4 **DR. ZIEMER:** Ready to vote? Okay. All in
5 favor, aye.
6 (Affirmative responses)
7 All opposed?
8 (No responses)
9 Abstentions?
10 (No responses)
11 Motion carries. Thank you.
12 **DR. ANDERSON:** Is the Chair agreeable?
13 **DR. ZIEMER:** I'm always agreeable, aren't I?
14 Next I'd ask that we take from the table the
15 motion that was made yesterday regarding a letter
16 to Secretary Thompson on the Special Exposure
17 Cohort. In the meantime, we asked Jim to actually
18 draft the letter that he was proposing so we had
19 something to work on, and I will interpret the
20 draft that has been distributed as the motion that
21 is before us. That motion has been duly seconded,
22 so we have before us a proposed letter to the
23 Secretary dealing with this issue.
24 I now open the floor for discussions, any
25 proposed changes or -- you can speak for or

1 against the motion. Tony?

2 **DR. ANDRADE:** I had two proposed changes.

3 One is fairly simple. It's in the very first

4 paragraph of the letter, first sentence, which

5 goes on to say (reading) I am writing to you to

6 express our concern about the delay.

7 I'm a little leery of using the word "delay".

8 It implies that there's perhaps some deliberate

9 activity in actually withholding the release of

10 the SEC draft legislation. If they are having

11 half as much problems or problem with it as we had

12 in getting our comments together, then I don't

13 blame them for taking this kind of time for its

14 review. Hence, I would simply suggest that we

15 change the word "delay" to "timeliness".

16 **DR. ZIEMER:** Are you making that as a

17 proposed amendment then?

18 **DR. ANDRADE:** Yes --

19 **DR. ZIEMER:** I'm not -- it's not obvious to

20 me whether that is a substantive change or a

21 friendly amendment. I might ask the movers --

22 mover and seconder if they regard that as friendly

23 or neutral or -- is it different? Is the impact -

24 -

25 **DR. MELIUS:** I don't have any strong

1 objection to it. I'd probably disagree with Tony
2 about some of the interpretation, but if people
3 are more comfortable with that word, that's fine.
4 **DR. ZIEMER:** It appears that the motioner
5 would accept that. What about the seconder?
6 **MR. ESPINOSA:** That's fine.
7 **DR. ZIEMER:** Okay. Then let's consider that
8 change. Thank you.
9 **DR. ANDRADE:** Second --
10 **DR. ZIEMER:** You still have the floor.
11 **DR. ANDRADE:** Right. Second of all, this may
12 be a little bit more controversial, we go down to
13 the bottom of the draft letter --
14 **DR. ZIEMER:** Are you at the bottom of the
15 first page or --
16 **DR. ANDRADE:** Bottom of the first page. I'd
17 like to propose that we strike the entire
18 paragraph, which carries on into the next -- onto
19 the second page. Reason for doing that is that it
20 implies that the SEC legislation is going to give
21 us definitive criteria for performing dose
22 reconstructions or for -- which are currently
23 ongoing. And I think those methods are being
24 developed, and I don't believe that there are
25 going to be new criteria as far as I can recall

1 the language in the draft legislation.
2 **DR. ZIEMER:** I think I will interpret that as
3 a motion to amend, is to strike the paragraph. Is
4 there a second to the motion to strike that
5 paragraph?
6 **MS. MUNN:** Yes, I'll -- I'll second that.
7 **DR. ZIEMER:** And it's seconded. Now we will
8 discuss this proposed amendment to strike that
9 paragraph. You may speak pro or con for the
10 motion to amend. We need to get some sense of the
11 Board on this.
12 **DR. MELIUS:** I can give you my sense.
13 **DR. ZIEMER:** Yeah.
14 **DR. MELIUS:** I think it sort of strikes to
15 the heart of the letter and some of the rationale
16 for why we should have concerns about this. I
17 think it's one of the concerns about the
18 timeliness of getting the final rule out. And I
19 think it's an important point, and I think
20 striking that entire paragraph is not appropriate.
21 **DR. ZIEMER:** Okay. Jim speaks for retaining
22 it. Anyone -- Henry and then Mark.
23 **DR. ANDERSON:** Yeah, to me, reading that, the
24 issue is we need to know, if we do a review,
25 rather than to say this review is, you know,

1 inadequate because there's insufficient dose
2 reconstruction, we need to know the definitions
3 that are going to be used so that when we review
4 we don't criticize a dose reconstruction that
5 might well have fallen into the special cohort.
6 So we -- while I'm not sure it'll help us in our
7 definitional review, it would help us, I believe,
8 on knowing, you know, kind of in the right-hand
9 side of this if we know what the criteria are,
10 then when we do our reviews we could say that this
11 -- whether or not this meets or would seem to meet
12 that or we need to, in our review, critique that
13 in that sense of the adequacy of the dose
14 reconstruction. It may be appropriate then that
15 that person would fall into special cohort if we
16 know what the definition of a special cohort is.
17 If we don't, all we're saying is there's problems
18 with the definition and that it then goes back and
19 you can churn and churn and churn, but it may well
20 be -- I mean that's how I read this, it helps us
21 set kind of the one bar that has to be reached in
22 adequate or not. And for our contractor, they
23 need to know that so they don't spend a lot of
24 time on it. And I think NIOSH needs to know that,
25 as well. I mean that's how I took it.

1 **DR. ZIEMER:** We've got Mark and then Tony.
2 **MR. GRIFFON:** Yeah, I'm speaking against the
3 amendment, as well. I just -- I was also thinking
4 as possible compromise language, the one thing
5 that we possibly can concede is that in the last
6 part of that sentence we could possibly rephrase
7 it to say the Board will, in many cases, need to
8 rely upon the criteria defined in this rule. I
9 think some of the dose reconstructions are not as
10 dependent on that -- that line, as defined in the
11 Special Exposure Cohort rule, and you know, work
12 has gone forward without that in place. I think
13 that's part of Tony's point, maybe not, but I
14 think that might be a possible compromise. I
15 don't know if that's agreeable to the original
16 proposer.
17 **DR. ZIEMER:** If this motion fails, then you
18 will have an opportunity to make those changes
19 that -- Tony.
20 **DR. ANDRADE:** I actually like Mark's idea. I
21 think that is a good compromise. I think the real
22 criteria that are going to be set forth in the
23 legislation are the guidelines by which special
24 cohorts will be defined, so that's looking at it
25 kind of from a different point of view. And so my

1 last change was going to be that on the next
2 paragraph that we just add the two words -- along
3 with what Mark proposed -- that potentially
4 eligible classes of workers da, da, da, have and
5 continue to be blocked from filing petitions to
6 become members. I think that that is a totally
7 appropriate -- and that that really goes to the
8 heart of the matter that Jim was bringing up.
9 **DR. ZIEMER:** Okay. Again, you will have
10 opportunity, after this motion, to address that
11 issue. Other -- Gen Roessler.
12 **DR. ROESSLER:** (Off microphone) (Inaudible)
13 **DR. ZIEMER:** Okay, other comments on this
14 motion? Jim?
15 **DR. MELIUS:** Just to indicate that once we
16 have dealt with the amendment that's on the floor
17 that I would be glad to accept both of Mark's and
18 Tony's recent suggestions as friendly amendments.
19 **DR. ZIEMER:** Okay, a hint of things to come.
20 It almost sounded like Tony was speaking against
21 his own motion there, but are there other
22 comments, pro or con?
23 Okay, then all in favor of the amendment --
24 if you vote in favor, you're voting to strike the
25 paragraph. All in favor will say aye.

1 (Affirmative responses)
2 All opposed say no.
3 (Negative responses)
4 The noes -- any abstentions?
5 (No responses)
6 The noes have it. The paragraph remains in.
7 We now can open the floor for certain friendly
8 amendments, and (Off microphone) (Inaudible).
9 **MR. GRIFFON:** I guess just to restate my --
10 what we discussed prior to this, the end of that
11 paragraph that we didn't strike, it says the Board
12 -- and I'm proposing that we rephrase it to say
13 the Board will, in many cases, need to rely upon
14 criteria defined in this final rule. And I
15 believe that's a friendly amendment.
16 Jim, for the record, I think you --
17 **DR. MELIUS:** That is a friendly amendment.
18 **DR. ZIEMER:** Wanda?
19 **MS. MUNN:** Also a friendly amendment, I
20 understand that the word "tasked" is commonly
21 accepted in parlance right now, but it's one of
22 those things that grates against the grain of
23 purists. I would really appreciate it if we could
24 change that to either "charged" or "is responsible
25 for" rather than "the Board is tasked with

1 reviewing..."

2 **MR. ELLIOTT:** So you're speaking to the first

3 -- or the last paragraph, first page --

4 **MS. MUNN:** Where -- I'm talking about the

5 same paragraph that Mark is talking about. I'm

6 just talking about the first line of it.

7 (Reading) The Advisory Board, pursuant to the Act,

8 is tasked with reviewing...

9 I'm suggesting that it be changed to

10 "charged" or "responsible for".

11 **MR. ELLIOTT:** And reaction to that?

12 **DR. MELIUS:** I would also accept "charged".

13 **MR. ELLIOTT:** Mr. Presley?

14 **MR. PRESLEY:** First paragraph, it says "On

15 behalf of the Advisory Board..." Should that not

16 read "The Advisory Board on Radiation and Worker

17 Health wishes to express our concern..."

18 **DR. MELIUS:** That would be fine with me, too.

19 I think, as we've done in the past with these

20 letters, we've let the Chair edit and -- in terms

21 of style and grammar and -- as he feels

22 appropriate, so...

23 **MR. ELLIOTT:** Dr. Ziemer, we have a friendly

24 amendment on the first paragraph, first sentence,

25 to change the language to read "The Advisory Board

1 on Radiation and Worker Health wishes to express"
2 -- correct, Mr. Presley?
3 **MR. PRESLEY:** Yes.
4 **MR. ELLIOTT:** And then down later, the bottom
5 of the first page, last paragraph, first sentence,
6 "The Advisory Board, pursuant to EEOICPA, is
7 charged" instead of "tasked".
8 And then the next -- top of the next page,
9 that last sentence in that same paragraph -- Mark,
10 help me out again here with what -- I --
11 **MR. GRIFFON:** Yeah, the Board will, in many
12 cases, need to rely upon the criteria defined in
13 this final rule.
14 **MR. ELLIOTT:** And the proposer of the motion
15 agreed with those friendly amendments, I believe.
16 **DR. MELIUS:** There was an additional --
17 **MR. ELLIOTT:** An additional one?
18 **DR. ANDERSON:** Potentially eligible was the
19 next one.
20 **DR. MELIUS:** Yeah, in the...
21 **DR. ZIEMER:** Where does the --
22 **DR. MELIUS:** The next to last paragraph, at
23 the beginning of that paragraph, "Potentially
24 eligible classes".
25 **DR. ZIEMER:** Thank you. While we're still