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November 14, 2007

Dr. Paul L. Ziemer
920 Southernview Drive, N.
Lafayette, Indiana 47909

Ms. Wanda I. Munn
1104 Pine
Richland, Washington 99354-2136

Dear Dr. Ziemer and Ms. Munn:

Enclosed you will find the NIOSH responses to the findings from the Board's contractor's review of PROC-0092, "Close-out Interview Procedure." NIOSH responses are provided in the appropriate column of the Findings Matrix. I am taking the unusual step of providing this letter of response to you as Chairs of the Advisory Board and of the Advisory Board's Working Group on Procedures Review because of the public interest that has already been generated by this report.

I am concerned that the report leaves the impression that the close-out interview process has not been effective in assuring that claimant concerns are adequately addressed and that there are widespread problems in the conduct of such interviews. Such an impression or perception would be incorrect. Although our procedure might indeed benefit from better documentation of actions taken when claimants express concerns during a close-out interview, the vast majority of claimants who have participated in these interviews have stated explicitly that they are satisfied with the interview outcome.

One particularly troubling assertion, which has been highlighted in the media, is that a final dose reconstruction report was completed prior to the conduct of the closeout interview, with the implication that important information is regularly and routinely ignored in the dose reconstruction process. This is not the case. The Board's contractor has provided us with the identity of this claimant, and we have verified from the date on its cover letter that the dose reconstruction was finalized six days after the close-out interview was completed. In this case it took several attempts to complete the close-out interview, in part because during one attempt the claimant indicated the possibility of an additional cancer diagnosis. The claimant was advised (according to the phone log) to provide any medical information to DOL, and the claim was placed in "pending" status. Later the claimant provided information that there was not an additional cancer, so the claim was removed from "pending" status. Thus information received at close-out interview was certainly considered in this claim.

Since this close-out interview occurred more than two years ago, it's not possible to reconstruct the extent of the investigation into the claimant-provided information about involvement in incidents. It is likely that staff concluded that the types of records referred to by the claimant would be unlikely to contain information such as personnel contamination readings that could be utilized in dose reconstructions. In addition, it was likely concluded that doses resulting from response to known events (this claimant's work experience) would be sufficiently modest that the overestimates in the dose reconstruction were sufficient to bound the dose for this case. Since the calculations in the dose reconstruction did not change, the dates on the first page of the dose reconstruction report, which indicate the completion of the dose reconstruction calculations, peer review, and approval by OCAS, were the same in the final dose reconstruction as they were in the draft. In retrospect it might have been preferable to change the wording in the "Dose from radiological incidents" section of the final dose reconstruction to reflect information received in the close-out interview. In this case, the OCAS approval date would have been re-set, while the dates for completing calculations and peer review would have remained the same as on the draft.

OCAS is very mindful of the importance of our interactions with claimants, and we strive to communicate effectively. Consequently we are carefully evaluating the various findings and recommendations in the Board's contractor's review, and intend to adopt any that are feasible and will improve the process.

NIOSH responses to the contractor's review findings are provided on the enclosed Findings Matrix. OCAS staff will continue to work with the Working Group on Procedures Review on this product, as it does on the other procedure review products. I have provided a copy of this letter and enclosure to John Mauro of SC&A (of the Board's contractor) and look forward to discussing this review of PROC-0092.

Sincerely,

[Signature on file]

Larry J. Elliott, Director
Office of Compensation Analysis and Support
National Institute for Occupational Safety & Health

Enclosure

cc: J. Mauro, SC&A
L. Wade, NIOSH, DFO – ABRWH