

From: "Jeanne Cisco" <uswbenefits@horizonview.net>  
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To: <jeannecisco@yahoo.com>

[EnergyAdvisoryBoard@dol.gov](mailto:EnergyAdvisoryBoard@dol.gov)

ATTENTION: OWCP - SUBMISSION TO ADVISORY BOARD ON  
TOXIC SUBSTANCES AND WORKER HEALTH  
MEETING DATES: APRIL 26 – 28, 2016

My name is Jeanne Cisco and I currently work at the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio. I am a Worker Health Protection Program Coordinator, as well as the United Steelworkers' Benefit Representative at the Portsmouth plant.

I have worked at the Portsmouth Gaseous Diffusion Plant 41 years and have knowledge of the plant processes and monitoring practices, as well as a knowledge of the many incidents that occurred throughout the years that could have contributed to the illnesses of the workers at the Portsmouth Plant. Using the SEM database as a tool to assist sick workers with their claims for illnesses that may have been related to toxic exposures at DOE facilities, provides insight to the improvements that could be beneficial to the Department of Labor, as well as the sick worker who applies for compensation.

After careful review of the 2014 Ombudsman's Annual Report to Congress, the 2010 Government Accountability Office Report, the 2013 SEM Review of The Institute of Medicine, and the 2014 SEM Review of the Interim Advisory Board on the Comparison Between Site Processes And Labor Categories, I have the following comments to the Board:

The Site Exposure Matrices (SEM) of the Department of Labor

1. DOL needs to have transparency when chemicals or other items are added or removed from the SEM, as well as an auditing process of the addition/deletion to the SEM with the rationale/documentation used to justify the action.

2. HazMap, which is the sole source of disease causation used as a basis for determining illness and exposure to toxic substance within the SEM, should be reviewed to determine accuracy.
  - a) Databases, in addition to HazMap should be used as additional sources of toxic exposure and health effects information.
  - b) A review of chemicals and related diseases in the SEM database is needed to ensure it reflects current literature associated with the DOE workforce processes and their associated chemical or radiation exposure and health effects, with all claims adjusted in a timely manner.
  - c) The SEM needs to address the lack of exposure information and complex/combined exposures/synergistic or additive-effect between radiation and exposure to a toxic substance.
  - d) The SEM should include “incidents” that have occurred within the facilities as captured by DOE’s Computerized Accident and Injury Reporting System (CAIRS), as well as other “incidents” not otherwise captured e.g., explosions, releases of toxic substances.
  - e) A review of job processes and associated toxic exposures in relation to worker classification at the DOE facilities needs to be done and incorporated into the SEM.

### Medical Guidance for EEOICP Claims Examiners with respect to Weighing of the Medical Evidence

1. Increased training on the DOE work processes and stronger occupational health and safety credentials for the Claim’s Examiner, District Medical Consultants/Physicians, and Health Physics Consultants.
2. An independent review of the Claim’s Examiner’s Procedure Manual with a clarification on its role in the decision process of a claim and clarification on the evidence used in the Chapter 2 medical guidance to Claims Examiners, as well as the transparency of all criteria used to change this medical guidance to the Claims Examiners.
3. There should be an ongoing process of quality control/quality assurance done with claims examiners and their decisions.

## 2010 GAO REPORT

There is no one to oversee quality, objectivity and consistency of DOL consultant physicians' work and no independent expert review of the scientific soundness of the detailed information in the SEM used in screening cases for compensability.

Occupational Health Physicians interviewed by GAO criticized the scientific soundness of the SEM, NOTING THAT THE ABSENCE OF PUBLISHED RESEARCH LINKING CHEMICALS - DISEASES **DOES NOT IN ITSELF CONSTITUTE THE BASIS FOR DENYING CLAIMS.**

Occupational Physicians and claimants also expressed concern that the site-specific information in the SEM such as location of toxins, building characteristics and job descriptions does not account for the exposures of roving workers who have duties in multiple buildings. Jobs not considered hazardous could be risky, depending on location.

The report stated the Claims Examiners have no medical expertise or training, but are required to reach decisions about causation of diseases on the basis of medical evidence.

Labor developed a Claims Examiner Manual that specifies how to request review, supplement and clarify employment and medical records.

Interpreting evidence of the health effects of toxic exposure for Part E claims adjudication is a complex, sophisticated task, yet this guidance is not reviewed by outside experts.

SEVERAL OCCUPATIONAL HEALTH EXPERTS GAO INTERVIEWED, AS WELL AS **BOTH FORMER MEDICAL DIRECTORS FOR PART E, EXPRESSED CONCERNS ABOUT THIS GUIDANCE.** FOR EXAMPLE, SOME PHYSICIANS OBJECTED TO LABOR'S INSTRUCTIONS THAT EXPOSURE TO EACH TOXIC SUBSTANCE BE EVALUATED INDEPENDENTLY. THE PHYSICIANS DISAGREED WITH LABOR'S POSITION THAT CURRENT SCIENCE DOES NOT SUPPORT THE ASSERTION THAT EXPOSURE TO MULTIPLE TOXINS HAS COMBINED EFFECTS ON HEALTH. Because the nuclear weapon facilities

typically exposed workers to multiple hazardous substances, the **PHYSICIANS ASSERT THAT IT IS NOT REALISTIC TO CONSIDER THE HEALTH EFFECTS OF EACH TOXIN IN ISOLATION.** THE SEM INCLUDES ONLY SINGLE CAUSAL LINKAGES AND DOES NOT ADDRESS COMBINATION OF TOXINS, THESE PHYSICIANS ARE CONCERNED THAT THE SEM IS NOT SUFFICIENTLY SOPHISTICATED TO INCLUDE THE NUANCES OF TOXIC EXPOSURE RESEARCH and the Claims Examiner will automatically deny if they do not find a causal link (even if Labor does discourage this practice)

The physician's role is limited to helping interpret medical evidence and responding to questions from Claims Examiners who are responsible for making all legal determinations.

Labor does not have an over site process in place to ensure quality, objectivity and consistency of its consultant physician's work. Of 78 physicians retained by Labor to help Claims Examiners interpret medical evidence on diagnosis, causation and impairment, only 61 reported specializing in occupational medicine.

Occupational Physicians and former Medical Directors for EEOICPA programs expressed concerns about consistency of the Consult Physician's reports and suggested the need for quality control measures such as peer review of sampled reports and trend analysis of multiple reports.

## **2013 REVIEW OF THE SEM BY THE NATIONAL INSTITUTE OF MEDICINE**

This review found the use of **HazMap** was good for basic health and safety information and is a good initial resource for this type of information, but there was important concerns that preclude its use as a substantial, comprehensive resource for assessing the causal relationship between toxic substance and occupational disease.

EEOICPA states that an illness or a disease may be compensable if "it is at least as likely as not that exposure to a toxic substance at a DOE facility was a significant factor in aggravating, contributing to, or

causing an illness.”

The “disease” field of HazMap, which contains the toxic substance - occupational disease links used in the SEM, DOES NOT CAPTURE INFORMATION ON EXPOSURES THAT AGGRAVATE OR CONTRIBUTE TO THE DISEASE; RATHER, IT CONTAINS ONLY LINKS BETWEEN EXPOSURE AND DISEASE THAT ARE DESIGNATED AS CAUSATIVE BY ITS DEVELOPER.

Findings also stated that there is a lack of exposure information and poor handling of complex exposures, including exposures to mixtures. There is also lack of clarity for why certain links are missing, incomplete or inconsistent exposure profiles for particular locations and jobs. They found a total disregard of epidemiological studies of DOE workers. The review stated THE SOLE USE OF HAZMAP FOR TOXIC SUBSTANCES - DISEASE LINKS, MORE SPECIFIC, FOCUSING ON INFORMATION ONLY IN THE SPECIFIC HEALTH EFFECTS FIELD, DOES NOT PERMIT CONSIDERATION OF MANY ASPECTS OF OCCUPATIONAL HEALTH, INCLUDING LEVEL OF EXPOSURE (CONCENTRATION, FREQUENCY, AND DURATION; STRENGTH OF ASSOCIATION, AND EXPOSURE TO MORE THAN ONE CHEMICAL AT A TIME. WITHOUT THE PERIOD OF USE, INTENSITY AND FREQUENCY OF EXPOSURE, IT WOULD BE DIFFICULT TO DETERMINE IF EXPOSURE WAS ACUTE OR CHRONIC.

OCCUPATIONAL DISEASES ARE LISTED IN THE SEM ONLY IF THEY ARE ASSOCIATED WITH EXPOSURE TO A TOXIC SUBSTANCE, SO DISEASES WITH A PARTICULAR JOB OR WORKER POPULATION MAY NOT BE INCLUDED.

The Review also stated that such organizations as IARC also look at the association between specific occupations without reference to exposure to specific toxic substances. DOL should consider those types of associations to identify other occupational diseases that may affect DOE contractor workforce.

There were several recommendations to DOL as a result of this review;

Use supplemental information sources to the health effects information imported from HazMap; improve structure and function of SEM, including the addition of available exposure information. Using a weight-of-evidence approach are critical for both maintaining and expanding HazMap database and for its use in SEM. Expansion of the information used in HazMap and inclusion of citations for all the information in each of its fields would greatly enhance its utility for SEM and provide a more comprehensive picture of adverse effects that may be associated with exposures to toxic substances at DOE sites. Two types of information that can be used to supplement the data field imported from HazMap is the Bibliographic information (such as TOXLINE, PUBMED) and Evaluative information such as Environmental Protection Agency (EPA), Integrated Risk Information System (IRIS) database and the National Toxicology Program (NTP) Substance Toxicology Studies/Specific Reports, Agency for Toxic Substances & Disease Registry (ATSDR) toxicologic profiles, background document for Preamble to Occupational Safety & Health Administration permissible limits, (IARC) monographs, California EPA Office of Environmental Health Hazard Assessment toxicity-criteria database and staff reports, documentation for the American Conference of Governmental Industrial Hygienists (ACGIH) threshold limit values, National Institute for Occupational Safety & Health (NIOSH) recommended exposure limit documentation and the NIOSH Pocket Guide to Chemical Hazards.

For all the above sources, conclusions on toxicity of a substance are drawn by a group of experts on the basis of established criteria and a weight-of-evidence approach.

Transparency of SEM database and the strengths of links assessed more easily. The HazMap disease field does not reference the evidence base (or citations) used to determine specific substance - disease link. This link must include appropriate bibliographic references in both SEM and HazMap. A review of existing causal links in SEM based solely on HazMap.

Expansion of SEM search capabilities so user can identify toxic substance and associated disease with specific job searches for more

than one site.

Quality Control Review of both databases (SEM, HazMap) is critical for ensuring accuracy of all records and data abstracted from each information source is correctly cited, no typographical errors and are complete (no information has been omitted) and a Peer Review of all new links in SEM that are based on HazMap with appropriate supplemental information descriptions to include whether appropriate references are screened and data accurately cited.

Assessment of occupational diseases that might result from complex exposures.

Identify potential new links and tracking them for possible inclusion in SEM, including those suggested by external sources.

Establish criteria for evidence-base for causal links between toxic substances and occupational diseases - criteria might be expanded to include a category of "evidence of no association" as it is used by IOM and IARC so diseases associated with a particular job or worker population (also looks at the association with job, but without reference to toxic substance)

Determine the information sources that might be reviewed to identify information on possible links and develop worksheet or other documentation to capture the evidence taken from each information source, including HazMap.

Oversee revisions of SEM to add appropriate fields for capturing supplemental information such as Chemical Interactions, route of exposure and IARC2A designations as well as supplemental sources used.

Update information such as the date of last revision of the record and the fields revised.

Periodic Review of a sample of the toxic substance-disease link from both accepted and rejected claims to determine whether SEM links are actually assisting in the claims process and if not, what improvements can be made and what other information could be

added to SEM to help claimants and the claims examiner, such as available monitoring information, disease terminology, or results of cohort studies of the DOE workers.

## **2012 OMBUDSMAN'S ANNUAL REPORT TO CONGRESS (DEEOIC'S RESPONSE)**

An area of complaint was that the expanded SEM does not accurately identify all areas where particular toxins were used and/or does not identify all the toxins to which certain categories of employees were exposed. Also that information submitted to update/correct SEM is ignored or never acted upon.

DEEOIC responded that they funded a committee at the Institute of Medicine of the National Academy of Sciences to review SEM and to provide DEEOIC with recommendations in 2012/2013. DEEOIC also stated that they evaluate all claimant and public submissions sent directly to the SEM team regarding health effect and toxic substance data and that when the public submits documentation that is scientifically valid, or demonstrates new knowledge on the actual use of a toxin at a facility, that it is incorporated into the SEM. During 2012, a total of 2,345 chemicals were added to the SEM and to date, 16,000 toxic substances were used at DOE.

Another complaint was that DEEOIC Decisions suggest the claim was denied solely based on review of SEM.

DEEOIC responded: Someone needs to determine whether the denial was in fact based on a review of the SEM; the SEM is merely one source used. The claims examiners utilize the expertise of the contract medical consultant for opinions on causation. The DEEOIC uses document acquisition requests for records from the DOE, affidavits from co-workers and reviews by Industrial Hygienists. Also, information can be submitted with the objection process or a request to re-open a final decision by submittal of new evidence.

There was a complaint that the decisions not clear on reasoning of conclusions.

DEEOIC responded that thorough explanations are given for the basis

of a decision. They also stated that results of their annual DEEOIC accountability review of case files showed they were thoroughly and accurately researched and the findings were properly evaluated with results appropriately applied to cases.

Claimants questioned whether they were afforded due process. In particular, instances where provisions of the DEEOIC Procedure Manual, a Bulletin, or a Circular are given the weight of law, and thus cited as the basis for resolving the claim. Without the documentation to support these provisions, claimants find it difficult, if not impossible, to develop a credible challenge to these provisions.

Claimants question whether the government is fully meeting its requirement to provide assistance in connection with a claim.

## **2014 SEM REVIEW OF THE DIAB INTERIM ADVISORY BOARD ON A COMPARISON BETWEEN SITE PROCESSES AND LABOR CATEGORIES**

The purpose was to assure there is a labor category to perform site processes or determine if there are labor categories with no corresponding site process.

The Board found that there were labor categories with no site processes in the sites they reviewed.

To improve/correct the SEM to expedite the work of the claims examiners and provide essential resources, the recommendations were; to assure all site processes have a corresponding job category, to link unclassified documents in the Contractor's possession to the SEM and to consult with facility experts when updating the SEM for understanding of the processes performed and the descriptions of job responsibilities/it is vital for the SEM to be efficiently used as a tool.)

