



September 9, 2016

Steven Markowitz MD., Dr.Ph.  
Chair  
Advisory Board on Toxic Substances and Worker Health  
U.S. Department of Labor  
Office of Workers' Compensation Programs  
Room S-3522, 200 Constitution Ave., NW  
Washington, DC 20210

Subject: Issues with revised Site Exposure Matrix

Dear Dr. Markowitz:

The Alliance of Nuclear Worker Advocacy Groups (ANWAG) is disappointed that the Department of Labor's Division of Energy Employees Occupational Illness Compensation (DEEOIC) failed to consult with the Advisory Board on Toxic Substances and Worker Health (ABTSWH) before releasing Final Bulletin 16-03, "Instructions for Use of the Direct Disease Linked Work Processes (DDLWP) in the Site Exposure Matrices (SEM) under Part E of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA)". We are certain that the cumulative expertise of ABTSWH would have enhanced the DDLWP by including more diseases and processes. It is our hope that ABTSWH will have the opportunity to provide the guidance needed to expand DDLWP in the future.

While researching this link

<https://www.dol.gov/owcp/energy/regs/compliance/PolicyandProcedures/finalbulletinshtml/EEOICPABulletin16-03.htm>

on SEM several ANWAG members encountered a number of problems with the May 10, 2016 revision of the database. Below are just a few examples.

**Radiation Monitors**

A former Rocky Flats worker noticed that Radiation Monitor was not listed as a labor category for that site. Further research found that this job title is listed as an alias under "Technician,

Radiological Control". It was shocking to learn that according to SEM, the Radiation Control Technicians were only exposed to six toxic substances: diesel exhaust, gasoline, gasoline engine exhaust, kerosene, and rubber. These workers, as you know, were in every building at the site monitoring for radiation. They were in and around every process performing their duties. It should be assumed that every Department of Energy (DOE) facility had a radiation control monitor and that they had the potential to be exposed to every hazardous material at the site.

An additional review of SEM was performed. Six of the major sites, Hanford, Idaho National Lab, Los Alamos National Lab, Pantex, Savannah River and Y-12, were searched for radiation monitor or its alias. Of those sites, only Hanford has a labor category for radiation monitor. The other five have no listing for this job title at all, even as an alias. Additionally, Hanford SEM shows over 2,000 toxic substances that a radiation monitor could have been exposed to, a far cry from the six substances at Rocky Flats.

### **Labor Category and Exposure**

This is just one example but the issue may prove to be prevalent with all sites. The Rocky Flats SEM shows that a filter technician would have worked in Buildings 442, 707, 771,774, and 776/777. SEM shows that each of those buildings had asbestos. Yet, SEM does not show that a filter technician, who could have been employed for decades, would have been exposed to asbestos, despite its presence in all of those buildings. (As late as July 1, 1992, the Rocky Flats' asbestos abatement program was still not completed.)

[http://eecap.org/PDF\\_Files/Colorado/Rocky\\_Flats/Miscellaneous/RF\\_Asbestos\\_Hazard\\_Inventories.pdf](http://eecap.org/PDF_Files/Colorado/Rocky_Flats/Miscellaneous/RF_Asbestos_Hazard_Inventories.pdf))

SEM's health effects database shows that exposure to asbestos could result in COPD. However, it is conceivable that a claim by a filter technician for COPD would be denied because SEM does not show the potential exposure to asbestos.

ANWAG appreciates ABTSWH's encouragement to the stakeholders to not only bring problems to its attention but to also offer suggestions on ways to improve the program.

The Institute of Medicine's review of SEM identified a number of problematic areas with the database. The above examples and the DEEOIC Interim Advisory Board's (DIAB) more detailed examination of SEM reveals that SEM has not shown any real improvement in the information it contains. We are very concerned that millions of taxpayer dollars have been wasted on an inaccurate database. Having an entire class of workers, whose presence at a nuclear facility is a given, missing from a site database is unacceptable. At the very minimum, having radiation monitors not listed in SEM may result in a delay in processing a claim because the claims examiner will need to request additional information from the claimant.

ANWAG is pleased that ABTSWH and DEEOIC are considering diseases that can be presumed to be the result of toxic exposures while employed at nuclear weapons facilities. We agree that a number of claims can be processed expeditiously by linking certain occupations to a number of diseases.

However, we are concerned that this may limit approval for workers outside those occupations. Workers who were designated as management or administrative employees often were exposed to levels of toxic substances that could result in a covered disease. For instance, an ANWAG Founding Member, whose job title was Development Associate III, which covered many different job functions but tells a claims examiner nothing specific about job duties. She was a project manager for pollution prevention, supporting DOE at every level from headquarters to contractor division. She was approved for nickel poisoning because she was housed in a building that had processed the barrier for uranium enrichment. Two other members, who were administrative professionals (one who is now deceased), were approved for chronic beryllium disease. We are aware of a claimant from Mound, whose job title was Laboratory Technician, was approved for a claim for Parkinsons Disease.

DOE nuclear weapons facilities were and are unlike any other manufacturing facility. It was not uncommon for some administrative workers to also be exposed to toxic substances. DEEOIC often receives detailed work histories from DOE when a claim is filed. These records include not only job titles but also building locations. It's important for worker exposure to be determined not only by the job titles, but also by their responsibilities and what the exposure potential was in fulfilling their duties. We ask that you consider these workers in your deliberations.

After October 31, 2002 and before the end of 2005, the Department of Labor's Office of the Solicitor offered a decision or interpretation on what constitutes DOE "proprietary interest" and "DOE operations." ANWAG filed a second Freedom of Information Act Request for this document and is waiting for its release. If ABTSWH feels it falls under their responsibility, ANWAG asks that you request this document from DEEOIC.

ANWAG hopes that this letter will assist you in identifying any deficiencies with SEM and that DEEOIC readily incorporates the Board's recommendations to improve SEM. We thank you for your commitment to improve this program and for the opportunity to submit comments and suggestions for your consideration.

Sincerely,

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