

From: [Donna Hand](#)
To: [DOL Energy Advisory Board Information](#)
Subject: Fwd: SEM report to sub committee
Date: Monday, July 11, 2016 4:57:43 PM

Please send to all members

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Subject: SEM report to sub committee

Date: Mon, 11 Jul 2016 17:00:27 -0400

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The SEM report is full of incorrect information and statements (who created this?)

1. page 1 "SEM cannot factually prove that an employee had exposure to a toxin or the level, extent or duration of exposure. It can only provide information on the likelihood of potential exposure". Binding law states that the site profile will be used a probative evidence for the claimants. significant factor means any factor; toxic substance means ANY MATERIAL THAT HAS THE POTENTIAL; exposure is defined as the employee came into contact with while performing work duties, not job categories.

2. Paragon hired workerd from the sites that were in management or protecting their statements while working for DOE. They were required to list the toxic substances used at the site, not to determine if the exposure would be "significant " to list the substances. Did not hire any occupational medical staff.

3. The workers information regarding the site was dismissed, instead of documenting it with DOE. (Pinellas Plant workers made a CD and sent it to DEEOIC, the resource center, and SEM which was based on documents from DOE but it was ignored) " SEM relies on documentation... a paper trial is required"

4. DAR records are not sent to SEM, and not in 3 days will a change happen, page 3

5. Paragon reviews the "source documents that relates to use of toxic substances in DOE operations" but Paragon employees do not know what each facility did, how the processes worked, which is classified, etc. I have documentstion that in 2006, Dr. Cohen stated that DEEOIC does not have any information on Pinellas from DOE, SEM could not list toxic substances for PINellas until 2008. The advanced SEM could not be listed until 2012.

6. Page 4 Peer reviewed studies are not accepted by DEEOIC, John Vance issued a statement to all DEEOIC that only SEM will be used and not to accept Haz-map directly. NLM chastized DEEOIC for stating that NLM approved Haz-map. NLM does not review/edit Haz-map, Jay Brown confirmed that only 2 other people on his staff review haz-map at the IOM meeting.

The IOM stated that Hazmap is for clinical and not for "causation". It should also be noted that the DEEOIC toxicologist refuses to accept animal studies, even if peer reviewed. Pub Med, Collaborative on Health and the Environment data base, ASTDR data base, OSHA, NIOSH, HSDB, 12th report on carcinogens, WHO reports, etc. are not accepted by DEEOIC or the SEM. The OWCP in the Contract Medical Consultant handbook list the reference sources for the CMCs to use in 2005. The same resources are used by advocates but DEEOIC will not accept them. The CMC Handbook also requires the CMC to do a "due diligence search" which means current studies are to be addressed.

7. On page 6.. " the function of the SEM is to identify the toxin(s) to which the employee had the GREATEST likelihood of exposure AND are associated with an established illness (health effect connection)." The SEM will only list the health effects of causation not aggravated or contributing to. Keith Stalnaker stated in 2010 that if the SEM lists the toxic substance to a health effect and to the work of the employee, then it should be accepted without going to a Contract Medical Consultant. However FAB and DEEOIC have been told that the SEM is a tool which must be used to accept partly that the exposures may have a connection but only when the facility+ labor category+health effect+work processes are used will the DEEOIC accept the claim. If one of the searches are missing the information then it will be sent to the IH and the CMC.

8. page 9.. "committee to provide DEEOIC policy guidance on linkages between toxins and occupational disease.....does the evidence support any causative presumptions and/or any exposure presumptions". The binding law states that Part E may include radiation and toxic substances and not just toxic substances. Until recently, the SEM did not address cancers since that is under Part B. The binding law states that a presumption will be allowed if the claimant provided by the preponderance of the evidence to meet all the criteria of employment, contact with toxic substance, and toxic substance health effect. The DEEOIC must provide "substantial evidence to the contrary" before the claimant may be denied. Please check out the Economatrix report that was initiated by John Vance in 2005 for how to develop a SEM for the Case Examiners, yet DEEOIC never implemented the recommendations.

9. page 9/10.. "multiple other factors that influence health outcomes". The "other factors" should not be considered in determinations since the binding law states how to determine Part E claims, "the least as likely as not" standard which was defined by DEEOIC/OWCP in the DMC/CMC handbook to be more than a suspicion and less than the preponderance of the evidence, <50%. This interpretation has not changed. And since it addresses substantial rights of the claimant, it would have to be filed under Notice and Comment requirements of the APA, Administrative Procedure Act.

CONCLUSION.....§ 7384w-1. Completion of site profiles.....

(b) INFORMATION.—The Secretary of Energy shall furnish to the Secretary of Labor any information that the Secretary of Labor finds necessary or useful for the production of such site profiles, including records from the Department of Energy former worker medical screening program.

(c) DEFINITION.—In this section, **the term “site profile” means an exposure assessment of a facility that identifies the toxic substances or processes that were commonly used in each building or process of the facility, and the time frame during which the potential for exposure to toxic substances existed.**

§ 30.230 What are the criteria necessary to establish that an employee contracted a covered illness under Part E of EEOICPA? (i) Has been diagnosed with an illness; and (ii) That it is at least as likely as not that exposure to a toxic substance at a Department of Energy facility or at a RECA section 5 facility, as appropriate, was a significant factor in aggravating, contributing to, or causing the illness; and (iii) That it is at least as likely as not that the exposure to such toxic substance was related to employment at a Department of Energy facility or a RECA section 5 facility, as appropriate. (2) In making the determination under paragraph (d)(1)(ii) of this section, OWCP will consider: (i) The nature, frequency and duration of exposure of the covered employee to the substance alleged to be toxic; (ii) Evidence of the carcinogenic or pathogenic properties of the alleged toxic substance to which the employee was exposed; (iii) An opinion of a qualified physician with expertise in treating, diagnosing or researching the illness claimed to be caused or aggravated by the alleged exposure

30.231 (b) Proof of exposure to a toxic substance may be established by the submission of any appropriate document or information that is evidence that such substance was present at the facility in which the employee was employed and that the employee came into contact with such substance. OWCP site exposure matrices may be used to provide probative factual evidence that a particular substance was present at either a DOE facility