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Subject: SEM
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From 2005 until 2010 the SEM was only seen by the Case Examiners. The SEM stated that toxic substances listed are a known causal link. The federal regulations preamble in 2006, OWCP stated that the SEM will be used as probative proof of exposure to a toxic substance. Stalkner stated in 2010, when the SEM became public, that the SEM will not establish aggravation or contributing to, only a causal link. *"OWCP is committed to helping claimants meet their burden of proof and is aware that some claimants may have difficulty proving both the presence of and their exposure to a toxic substance at a particular facility under Part E. In an effort to remedy this situation, OWCP is currently developing exposure matrices that will compile information provided by a variety of sources, including DOE, former worker medical survey programs, and **epidemiological studies**. For all of the DOE facilities, extensive documentation exists covering thousands of toxic materials. The matrices now being developed will be posted on our Web site and will be available to claimants and their representatives. While it is not possible to define precisely in a regulation how these complex matrices will be used in each case, OWCP's procedural guidance documents will provide additional clarity in this regard, and those documents will also be available to the public on our Web site. Federal Register /Vol. 71, No. 250 / Friday, December 29, 2006 /Rules and Regulations 78521"*

I have requested that the claimant and I have an **interview with the IH since FAB remanded the case due to exposure to nitric acid and plutonium. This request was denied**, at the hearing after the IH again stated that there was "contact" but "significant low level", the Employee claimant then explained it was significantly a large amount of exposure to nitric acid and plutonium, not just a little beaker. (This claimant was for optic neuropathy, where NIOSH pocket Guide lists the target organ for nitric acid is the eye).

*"it would be extremely difficult for claimants to satisfy their burden of proof under § 30.231 to establish both the presence of a toxic substance and the employee's exposure to the substance without the development of site exposure assessments of toxic substances. OWCP shares this concern and is committed to studying all of the available information pertaining to these sites and making publicly available a listing of the toxic substances present at such sites. The information compiled from these studies **will be accepted as probative evidence in determining the eligibility of claimants**, barring extraordinary and unusual circumstances, and § 30.231(b) has been modified to clarify OWCP's policies regarding this matter. 78524 Federal Register / Vol. 71, No. 250 / Friday, December 29, 2006 / Rules and Regulations "*

The regulations only require that the employee came into contact with the toxic substance, 20 CFR 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 or a RECA section 5 facility.**"*

The regulation further state that "*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; and (iv) Any other evidence that OWCP determines to have demonstrated relevance to the relation between a particular toxic substance and the claimed illness. 20 CFR 30. 231"*