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From: Gary Vander Boegh
Sent: Wednesday, April 16, 2014 8:31 AM
To: Worthington, Pat (Pat.Worthington@hq.doe.gov); Senator Richard Durbin (Bill_Houlihan@durbin.senate.gov); Kappy Scates (kappy@scatesfarms.com); Rachel Leiton (Leiton.Rachel@dol.gov); Terry Carmack (terry_carmack@mconnell.senate.gov); Cory.Hicks@mail.house.gov; Sec of Labor Thomas Perez (perez.thomas@dol.gov)
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Subject: SECOND REQUEST_DOL KNOWINGLY DENIES PART E ENTITLEMENT FOR ALLIED CHEMICAL HONEYWELL WORKERS BASED ON DOE'S REFUSAL TO INCLUDE ALLIED CHEMICAL/ HONEYWELL TO FEDERAL REGISTER AS "DOE FACILITY" & AWE
Importance: High

Ms. Worthington and Ms. Leiton, & **TO PRESIDENT BARACK OBAMA!** (Copy To Be Posted on CES WEB link www.commonwealthenvironmentalservices.com)

I want to again ask each of you for your attention to the below request. Per the EEOICPA statutes highlighted in **bold red and blue**, would you each provide Senator Durbin and Senator McConnell your definition of **"operations conducted on behalf of the Department of Energy?"** I attach the below statutes for your reference.

Gary S. Vander Boegh
DOE/ DOL Nuclear Worker Advocate/ Authorized Representative

(<http://www.dol.gov/owcp/energy/regs/compliance/law/EEOICPAALL.htm>) as follows:

TITLE 42—THE PUBLIC HEALTH AND WELFARE

CHAPTER 84—DEPARTMENT OF ENERGY

SUBCHAPTER XVI—ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM

§ 7384l. Definitions for program administration

In this subchapter:

(1) The term "covered employee" means any of the following:

- (A) A covered beryllium employee.
- (B) A covered employee with cancer.
- (C) To the extent provided in section 7384r of this title, a covered employee with chronic silicosis (as defined in that section).

(2) The term "atomic weapon" has the meaning given that term in section 11 d.* of the Atomic Energy Act of 1954 (42 U.S.C. 2014(d)).

(3) The term “atomic weapons employee” means any of the following:

(A) An individual employed by an atomic weapons employer during a period when the **employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon**, excluding uranium mining and milling.

(B) An individual employed—

- (i) at a facility with respect to which the National Institute for Occupational Safety and Health, in its report dated October 2003 and titled “Report on Residual Radioactive and Beryllium Contamination at Atomic Weapons Employer Facilities and Beryllium Vendor Facilities”, or any update to that report, found that there is a potential for significant residual contamination outside of the period in which weapons-related production occurred;
- (ii) by an atomic weapons employer or subsequent owner or operators of a facility described in clause (i); and**
- (iii) during a period, as specified in such report or any update to such report, of potential for significant residual radioactive contamination at such facility.

(4) The term “atomic weapons employer” means an entity, other than the United States, that—

(A) processed or produced, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling; and

(B) is designated by the Secretary of Energy as an atomic weapons employer for purposes of the compensation program.

(5) The term “atomic weapons employer facility” means a facility, owned by an atomic weapons employer, that is or was used to process or produce, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining or milling.

(11) The term “Department of Energy contractor employee” means any of the following:

(A) An individual who is or was in residence at a Department of Energy facility as a researcher for one or more periods aggregating at least 24 months.

(B) An individual who is or was employed at a Department of Energy facility by—

- (i) an entity that contracted with the Department of Energy to provide management and operating, management and integration, or environmental remediation at the facility; or
- (ii) a contractor or subcontractor that provided services, including construction and maintenance, at the facility.

(12) The term “Department of Energy facility” means any building, structure, or premise, including the grounds upon which such building, structure, or premise is located—

(A) in which operations are, or have been, conducted by, or on behalf of, the Department of Energy (except for buildings, structures, premises, grounds, or operations covered by Executive Order No. 12344, dated February 1, 1982 (42 U.S.C. 7158 note), pertaining to the Naval Nuclear Propulsion Program); **and**

(B) with regard to which the Department of Energy has or had—

- (i) a proprietary interest; **or**
- (ii) entered into a contract with an entity to provide management and operation, management and integration**, environmental remediation services, construction, or maintenance services.

PART E—CONTRACTOR EMPLOYEE COMPENSATION

§ 7385s. Definitions

In this part:

(1) The term "covered DOE contractor employee" means any Department of Energy contractor employee determined under section 7385s-4 to have contracted a covered illness through exposure at a Department of Energy facility.

Ms. Worthington and Ms. Leiton,

Would you mind confirming with Senator Durbin and his staff that DOE never utilized the Allied Chemical/ Honeywell plant in Metropolis, Illinois to process DOE materials after 1976? It is essential to assure OCAS Director Stuart Hinnefeld DOE materials and drums were not processed after 1976, to ensure accuracy in performing dose reconstructions for the Allied Chemical/ Honeywell nuclear workers. As you each are fully aware per the MOU's, it is also important to capture "site specific data" in the Technical Basis Documents that perhaps were omitted by Paragon Technical Services which might adversely affect Allied Chemical/ Honeywell nuclear workers "IREP" calculations that apply to nuclear workers from Kentucky, Missouri, Tennessee, and Illinois, at a minimum.

Your assistance will be greatly appreciated.

Gary S. Vander Boegh
Nuclear Worker Advocate.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

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If you have any additional questions regarding the revised dose reconstruction report, please contact our dose reconstruction contractor, Oak Ridge Associated Universities, toll-free at 1-800-322-0111.

Sincerely yours,

Stuart L. Hinnefeld
Director
Division of Compensation Analysis and Support

Introduction

The Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), Executive Order No. 13179, and the Radiation Dose Reconstruction Rule (42 CFR 82)¹

EEOICPA established a compensation program to provide a lump sum payment of \$150,000 and medical benefits as compensation to covered employees suffering from **designated illness** incurred as a result of their exposure to ionizing radiation, **beryllium**, or **silica** while in the **performance of duty for the Department of Energy and certain of its vendors, contractors, subcontractors**. This legislation also provided for payment of compensation to certain survivors of these covered employees.

In **Presidential Executive Order No. 13179**, the President designated the U.S. Department of Labor to administer this program for claims by current and former employees of nuclear weapons production facilities and their survivors who seek compensation for cancers caused by radiation exposures sustained in the performance of duty. **The Executive Order also directed the Department of Health and Human Services to estimate (reconstruct) the radiation doses received by these employees.** The Department of Labor uses the reconstructed radiation doses in evaluating whether the employee's cancer was at least as likely as not related to employment at the facilities covered by EEOICPA. **To fulfill the responsibilities assigned to the Department of Health and Human Services, the National Institute for Occupational Safety and Health (NIOSH) Division of Compensation Analysis and Support (DCAS) completes dose reconstructions using the methods described in the Radiation Dose Reconstruction Rule (42 CFR 82) for the Department of Labor's use in making compensation decisions.**

How Radiation Doses Are Reconstructed

NIOSH reconstructs radiation doses by evaluating all available information about an employee's radiation exposure. Some examples of data that reconstruction include, but are not limited to, **internal dosimetry**, **external dosimetry data** (such as film badge readings), **workplace air sampling results**, **workplace characterization data** (such as type of work performed and duration of exposure), and **descriptions of the type of work performed and duration of exposure**.

References

1. 42 CFR 82, *Methods for Radiation Dose Reconstruction Under the E*
Occupational Illness Compensation Program Act of 2000; Final Rule
Register/Vol.67, No. 85/Thursday, May 2, 2002, p 22314, SRDB Re