
For many years, the government promoted a legacy of neglect toward those [nuclear weapons] workers who helped build the strongest national security in the world. We failed to take care of our workers who became sick.

Former Energy Secretary Bill Richardson, January 11, 2001.

While the Nation can never fully repay these workers or their families, they deserve recognition and compensation for their sacrifices.

President Bill Clinton, December 7, 2000.

The passage in October 2000 of the Energy Employee Occupational Illness Compensation Program Act of 2000 was a landmark victory for workers adversely affected by U.S. nuclear weapons production facilities and an important achievement in PSR’s long struggle to raise public awareness of the health and environmental dangers associated with production of nuclear weapons. In April 2000, in what reflected a sharp break from the Department of Energy’s longstanding policy of denial, former Energy Secretary Bill Richardson announced that thousands of workers at U.S. nuclear weapons production facilities have been harmed as a result of radiation or toxic poisoning. Secretary Richardson’s acknowledgment of DOE’s responsibility for harmed workers paved the way for introducing legislation in the Congress to compensate these workers.

The legislation, signed into law by President Clinton on October 30, 2000, will become effective on July 31, 2001 (unless other legislation providing an alternative benefit program is enacted prior to the date). In addition to DOE employees, the compensation package covers workers employed by DOE contractors and subcontractors, companies that provided beryllium to DOE, and atomic weapons employers.¹

Secrecy, Deception, and the Bomb Business

Since the dawn of the nuclear age, hundreds of federal and private contractor facilities spread across the United States processed large volumes of nuclear weapons materials to assist in the rapid buildup of the U.S. nuclear arsenal.² Hundreds of thousands of workers were hired by large DOE sites such as Hanford, WA, Rocky Flats, CO, and Oak Ridge, TN and by numerous private contractor sites, both in heavily populated cities (for example, New York, NY, Pittsburgh, PA, and Columbus and Cleveland OH) and small residential towns (Ashtabula, OH, and Concord, MA) to help build thousands of nuclear weapons. Under the veil of national security, the government or the private contractors did not inform the communities or
the workers of the dangers involved in working with or living near a facility handling highly toxic and radioactive materials. In fact, many communities and workers were specifically reassured that their health and safety were not in danger.

Using national security concerns as justification, the government suppressed evidence of health risks, downplayed and denied negative health findings, and even resorted to intimidating health and environmental investigators. Information regarding the release of radioactive materials by weapons production facilities into the surrounding environment was covered up and sloppy monitoring of workers’ radiation doses resulted in such problematic data as “negative” exposure readings.

Following a series of frightening disclosures in the late 1980s about health and safety problems in the nation’s atomic weapons production facilities, PSR and other public interest groups successfully pressed for shutting down or limiting weapons production activities at number of these plants, including the DOE’s Hanford Reservation and the Rocky Flats Plant near Denver, Colorado, and demanded compensation for affected workers and communities. DOE’s admission that numerous workers and communities have been adversely affected by the nation’s nuclear weapons production facilities and the Congress’ passing of law to compensate workers for their illnesses validate what PSR has been advocating for over a decade—the very business of producing nuclear weapons is harmful to workers and citizens.

Most significant in the groundbreaking work done by PSR in this period was PSR’s independent, comprehensive research on the exposure to radioactive and toxic materials of nuclear weapons complex workers, convening a Physicians’ Task Force to address the issue. In 1992, long before DOE’s acknowledgment of health risks at nuclear weapons production facilities, the PSR Task Force’s landmark research published in Dead Reckoning exposed disturbing lapses in DOE’s protection and monitoring of more than 600,000 nuclear weapons workers over a half century. As one of the co-authors of the report and a PSR founding physicians Jack Gieger remarked, "Almost a decade ago, Dead

Workers Compensation Program at a Glance

- Workers suffering or that have suffered and died from bone cancer plus the list of cancers in the previously enacted Radiation Exposure Compensation Act (42 U.S.C. 2210 note), leukemia (other than chronic lymphocytic), lung cancer (with certain exceptions), multiple myeloma, non-Hodgkin lymphoma, and primary cancer of the thyroid, male breast, female breast, esophagus, stomach, pharynx, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary bladder, brain, colon, ovary, and liver (with certain exceptions), any beryllium sensitivity, chronic silicosis, and chronic beryllium related disease are eligible for compensation.

- Workers are eligible for compensation at some 320 sites (this number will increase as DOE investigates other nuclear weapons production facilities and adds new sites to the list).

- Workers or their families can request a lump sum payment of $150,000 or lost wages (unless there is any amendment indicating otherwise).

- Certain uranium miners or their survivors in Colorado, New Mexico, Wyoming, Utah, and Arizona, who have received a lump sum payment of $100,000 under the Radiation Exposure Compensation Act of 1990 (RECA) are entitled to receive an additional $ 50,000 lump sum payment and payment of future medical expenses for the cancer for which RECA benefits were awarded.

- Workers are also eligible for medical benefits from the date a claim was filed but no earlier than July 31, 2001.

- As of March 15, 2001, the deadline for introducing amendments to the Worker Compensation Act, no such amendments have been submitted.

- The Department of Labor, with its expertise in workers’ compensation programs, will have the responsibility for administering the program.

- Unless legislation for an alternative benefit program is enacted prior to July 31, 2001, the DOE’s office of Worker Advocacy will start accepting and processing claims.
Reckoning came to the same conclusions and exposed the flawed, defensive studies by DOE that served to obscure the truth.”

The findings of Dead Reckoning helped move oversight of health monitoring at the weapons production facilities from DOE to the Department of Health and Human Services. One of the authors of Dead Reckoning, Dr. David Michaels, PhD, MPH, went on to head DOE’s office of Environmental Safety and Health, under Energy Secretary Bill Richardson. Dr. Michaels was instrumental in drafting and promoting the Workers Compensation Act and is currently assisting the Department of Labor (DOL) as a consultant on effective and fair implementation of the program.

The Legislation

Decades of pressure from activists and grassroots organizations representing affected workers and communities, numerous public interest lawsuits against DOE facilities, and continued media coverage of the issue led to a bipartisan support in favor of a compensation program for ill workers. After months of deliberations the Congress passed the Energy Employee Occupational Illness Compensation Program Act in October 2000. President Bill Clinton signed it into law on October 30, 2000.

The legislation provides that former nuclear weapons workers who suffer from a radiation-induced cancer, beryllium disease, or chronic silicosis are eligible for a lump sum payment of $150,000 for disability and payment of medical expenses associated with their illness. In the case of deceased workers, compensation will go to their survivors. Unless other legislation providing an alternative benefit program is enacted prior to July 31, 2001, DOE’s Office of Worker Advocacy will start accepting and processing claims for benefit.

Before leaving office, former Energy Secretary Bill Richardson proposed jointly with former Labor Secretary Alexis Herman that the Congress expand the legislation to include an option for lost wages. If approved by the Congress, this amendment will give affected workers a choice of receiving a lump sum payment of $150,000, as allocated in the Compensation 2000 Act, or opting for compensation for lost wages as proposed in the new legislation.

In mid January 2001, DOE published a list of 317 federal nuclear weapons production facilities, beryllium vendors, and atomic employers where workers will be eligible for compensation. A revised version of this list, now including 320 facilities, was released on June 11. The Department is currently working on compiling details of the period of operation for these sites, the nature of the work, and the type and quantity of materials handled at these locations. A portion of this information was released in June, in a user-friendly, public-use database to assist claimants and government agencies alike. DOE is also examining additional facilities to determine whether they can be added to the list of sites where workers can file claims. According to DOE, the agency will continue to examine the list of eligible sites and add new facilities to the list, as more information becomes available.

Radiation-related Cancer Eligibility

An employee of DOE, of a DOE contractor, or of an atomic weapons employer, or such an employee’s survivor, is eligible for benefit if:

- The employee developed a cancer after beginning employment at a DOE or an atomic weapons facility.
- The employee’s cancer was at least “as likely as not” related to this employment, in accordance with guidelines to be developed that are based on a number of factors, including the employee’s radiation dose, calculations using radioepidemiological tables, the type of cancer, past health-related activities, and other relevant factors; and;
- The employee is or was disabled by or died from the cancer.

The Department of Labor, with its expertise in workers' compensation programs, is designated to administer the implementation of claim payments under the Compensation Program. The draft DOL regulations regarding implementation of the program were issued in May and the Department is currently preparing to do its part when the program goes into effect on July 31st of this year. Early in her tenure as the Secretary of Labor Elaine Chao appeared uncertain about her department’s ability to meet the July 31st deadline for implementation. During her confirmation hearing, Secretary Chao stated her commitment to oversee the implementation of the compensation program. Soon after in a March 9, 2001, letter to the White House, Chao, attempted to shift control of the implementation to the Department of Justice. After strong criticism by Republicans and Democrats alike, Secretary Chao changed her position and affirmed DOL’s responsibility for implementing the program. Strong bipartisan support in the Congress for this legislation will make it difficult for Secretary Chao to delay the compensation program for too long.

Preparing for Implementation

Under the Presidential Executive Order (Providing Compensation to America’s Nuclear Weapons Workers, Presidential Executive Order, number 13179) issued by President Clinton on December 7, 2000, the Secretaries of Labor, Health and Human Services, and Energy, as part of their annual budget submissions, are required to report to the Office of Management and Budget (OMB) on their activities under the compensation program, including total expenditures related to benefits and program administration. Under the order, they are required to report to OMB on the manner in which they will carry out their respective responsibilities of this program. This report is to include, among other things, a description of the administrative structure established within their agencies to implement the Act and the Executive Order. In addition, the Secretary of Labor is assigned the responsibility of annually reporting on the total number and types of claims for which compensation was considered and other data pertinent to evaluating the Federal Government's performance.

To help assure smooth implementation of the compensation legislation, the Executive Order also mandated establishment of a Worker Advocacy Advisory Committee (WAAC) to the Department of Energy. The committee was established:

- To advise DOE on worker compensation policy issues.
- To provide periodic review of Worker Advocacy Program initiatives and recommendations.
- To advise on plans, priorities, and strategies to improve the Worker Advocacy Program.

The WAAC reports to the Assistant Secretary for Environment, Safety and Health and assists DOE and the department of Labor in “making the worker compensation program more worker friendly.” The committee members, representing State workers' compensation agencies, labor unions, workers, communities, and medical and legal professionals, have begun their task and have held three public meetings thus far. WAAC is also responsible for setting up a physicians panel (either a central one to be located in Washington, DC, or several small ones to be located near big sites) to help DOE and DOL examine workers claims. The nature and the size of the panel(s) are yet to be decided.

The DOE Workers Helpline (1-866-888-3322), established for the purpose of providing information to potential claimants, has been receiving as many as 500 calls per week. As of April 10, 2001, the Helpline had received more than 19,000 inquiries about the compensation program. In response, DOE contacted some 11,000 people to provide details of the claim submission process. Over 10,000 workers’ names, prior related work descriptions, employment records, and illness histories have been documented. This information could potentially be turned into a claim-processing database. Some 23,000 claims are expected to be filed in the program’s first year. The federal government has budgeted $597 million for FY
2002 to compensate eligible workers. According to the Congressional Budget Office estimates, under the new compensation program DOE workers will receive $1.4 billion dollars in benefits over the next 10 years, and uranium miners and millers will receive an additional $450 million. Funding for both would be mandatory rather than appropriated.

Dr. Paul Seligman, Assistant Secretary for Health Studies, Department of Energy, has emphasized that DOE will make efforts to publicize the compensation program and eligibility criteria so that the maximum number of workers and their families can participate and benefit from the program. The Departments of Energy and Labor have agreed to launch a joint outreach program to inform workers of their eligibility under the compensation program. DOL and DOE are working together to establish ten Resource Centers around the country, located near DOE sites, to assist DOE workers and their families in the claims process. The Resource Centers will be located in Hanford, WA; Idaho Falls, ID; Las Vegas, NV; Espanola, NM; Denver, CO; Aiken, SC; Portsmouth, OH; Paducah, KY; Oak Ridge, TN, and Anchorage, AK. In addition, DOE and DOL will be conducting a series of town hall meetings across the country, to educate the public and the DOE community about the compensation program and to distribute claim forms. DOE also plans to have “mobile claim assistance office” reach out to workers at smaller or remote facilities. Attempts are being made to simplify paperwork and procedures to ensure that workers and their family members are not sent from one office to another. A Department of Labor Hotline (1-866-888-3322) has been set up to assist workers in filing a claim.

Conclusion

The road to achieving compensation for nuclear weapons workers has been a difficult one. The fight for workers and communities against the dangers posed to public health by the nation’s nuclear weapons production facilities, however, is far from over. PSR urges DOE and DOL to ensure that the compensation will be available to all affected workers at production plants, research facilities, and all other parts of the nuclear weapons complex. DOE must make public details of all facilities previously involved in nuclear weapons production, including the nature of work performed, the materials involved, and the health and safety risks to workers and communities that they may have or continue to pose. Moreover, the Department of Energy must also realize that, in addition to workers, hundreds of communities that have been adversely affected by our nuclear weapons production facilities warrant compensation and ensuring the adequate cleanup of numerous contaminated sites.

It is difficult to ascertain the full extent of the damage caused to workers, communities, and the environment by the production and maintenance of nuclear weapons during the past five decades. Only a small fraction of the total damage engendered by the nation’s nuclear weapons complex has been brought to public attention. PSR has worked hard for years to get this health information into the public eye. “Our ultimate goal in this struggle,” as PSR Executive Director Dr. Robert K. Musil asserts, “is to get out of the hazardous nuclear weapons production business altogether.”

Written by Jaya Tiwari, Research Fellow, Nuclear and Security Programs.

1 Under this legislation, atomic weapons employer is defined as a private company that processed material that emitted radiation and was used in the production of atomic weapons.  
4 http://tis.eh.doe.gov/advocacy/laws/20001207eo.html  
5 http://tis.eh.doe.gov/advocacy/status/status.html  
6 Ibid.  
8 Ibid.  