

# Energy Employees Occupational Illness Compensation Program (EEOICPA)

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# Energy Employees Occupational Illness Compensation Program (EEOICPA)

A program offering compensation to former and current workers for radiation-related cancers and occupational illness from “toxic exposures” incurred while working at any DOE facility, including BNL

# EEOICPA

- **Program established in 2000 by Act of Congress**
- **Rationale for program– findings of Congress that:**
  - Nuclear weapons production & testing: “ultra-hazardous work”
  - Nuclear weapons workers (“Cold Warriors”) may have been put in harms way w/o their knowledge or consent due to fear of adverse publicity, liability and employee demands for hazardous duty pay
  - There may have been unmonitored exposure to radiation & beryllium
- **Note:** Although program established to address illnesses of nuclear weapons workers, current and former workers from all DOE facilities, including BNL, are covered

# EEOICPA

Administered by the U.S. Department of Labor & has  
Two Parts

- **“Part B”– “Radiogenic Cancers” - cancers caused by exposure to radiation while claimant employed at DOE facility**
- **“Part E”– Illnesses resulting from “toxic exposures,” such as asbestosis or other illness from chemical exposures, while claimant employed at DOE facility**

# EEOICPA Parts B & E-- Details

- **“Part B”– Radiogenic Cancers - cancers**
- Allows compensation for cancers considered to have been caused by radiation exposures at DOE facilities
- When a worker with cancer applies, National Institute of Occupational Safety & Health (NIOSH) estimates claimant’s total workplace radiation dose and the probability that this dose caused the worker’s cancer
- If probability  $\geq 50\%$  (“more likely than not”), worker receives compensation (\$150K) Survivor’s benefit– surviving spouse or children
- Also: Benefits to workers who develop chronic beryllium disease
- **“Part E”– Illnesses resulting from “toxic exposures”**
- Compensation only if illness caused disability– size of cash payment based upon # of years worker experienced wage loss due to the illness, or the extent to which the illness impaired the worker. Benefit capped at \$250,000
- Limited survivor benefit (spouse or minor children) if worker had been disabled by the illness during his/her working life.

Parts B and E also cover medical expenses assoc. w/treating covered illness of a living claimant.

# The EEOICP Act (enabling legislation)

- Stipulates that the EEOICPA compensation program be designed to give a 99% probability that a valid cancer claim will be settled in favor of the claimant.
  - To achieve this, the program gives the benefit of the doubt to the claimant
    - Where gaps exist in radiation dose data, there is an assumption that radiation exposure occurred during gaps.
    - In estimating probability of causation: NIOSH uses highest estimate supported by the medical literature as to the potency of a given dose of radiation to cause a given type of cancer.
    - The Act allows for creation of a “Special Exposure Cohort” that, in special circumstances, makes it easier for workers to obtain benefits

# What is an EEOICPA “Special Exposure Cohort” (SEC) ?

- An SEC is a presumption -- for a defined special class of workers— that their cancers were caused by radiation exposure at a DOE facility, even absent radiation dose records supporting such a claim.
  - Special class or cohort may be limited to a DOE site, facility within that site, particular job titles or years of service
- The creation of an SEC is requested by a claimant (or class of claimants) if claimant feels that the radiation exposure record is incomplete or inaccurate. SEC requests are considered by the NIOSH Advisory Board on Radiation and Worker Health which recommends approval or disapproval to DOL.
- BNL’s SEC was approved due to gaps found in pre-1980 BNL internal dosimetry data— NIOSH unable to put an “upper limit” on applicants’ estimated radiation dose because monitoring incomplete or all data not recovered
- BNL’s SEC— approved by DOL in late 2009 on recommendation of NIOSH: applies to workers who worked at least 250 days at BNL 1947-1979— covers 22 cancer types considered caused by radiation

# 22 “Qualifying Cancers” covered under the SEC

- Bone cancer
- Renal (kidney) cancers
- Leukemia (other than chronic lymphocytic leukemia) provided the onset of the disease was at least two years after first exposure
- Lung cancer (other than in-situ lung cancer that is discovered during or after a post-mortem exam)

/ctd.

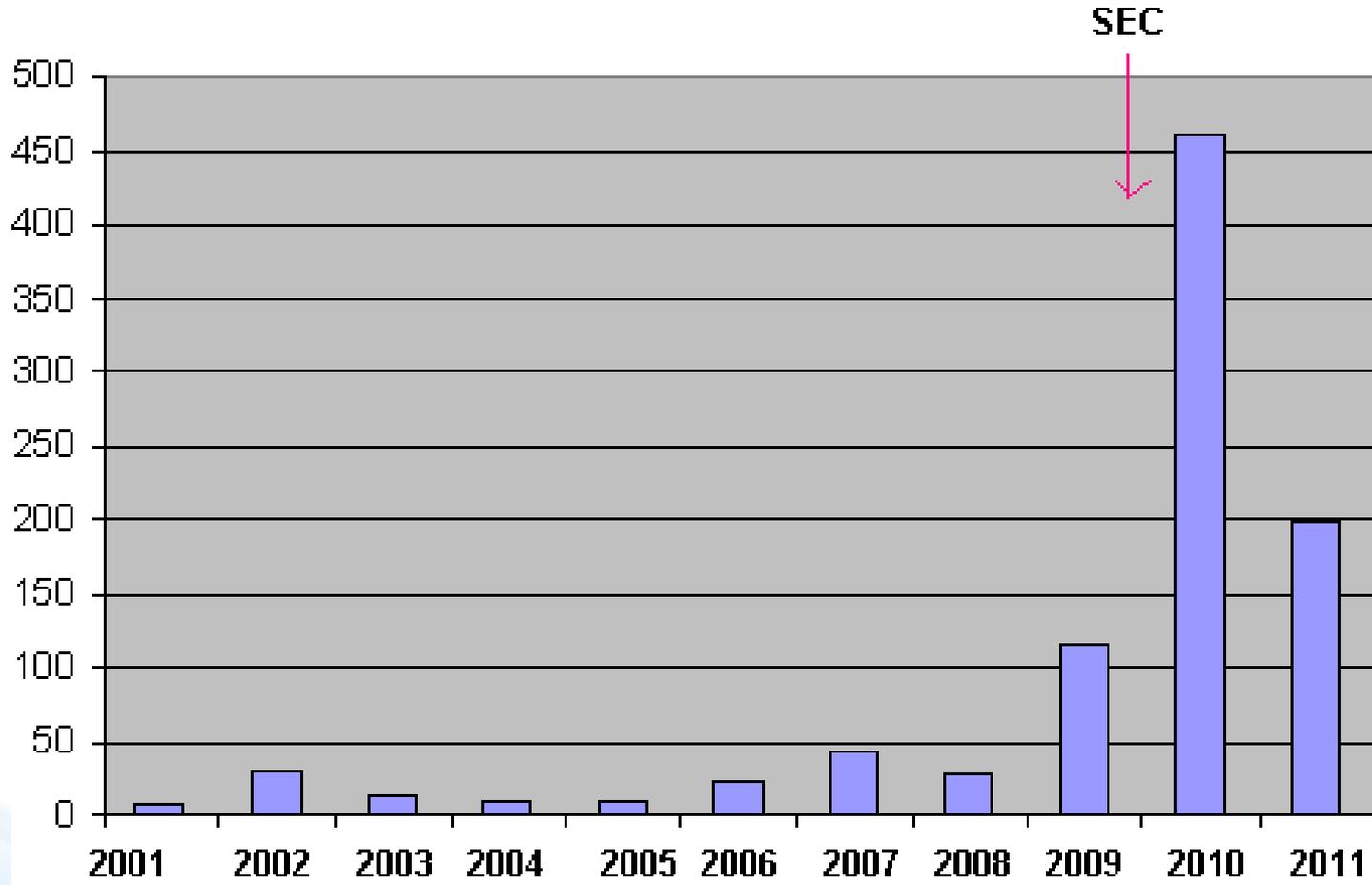
# ctd./ List of 22 Qualifying Cancers

The following cancers provided onset was at least five years after first exposure (cont'd):

- Bile ducts
- Brain
- Breast (female)
- Breast (male)
- Colon
- Esophagus
- Gall Bladder
- Liver
- Ovary
- Pancreas
- Pharynx
- Salivary Gland
- Small Intestine
- Stomach
- Thyroid
- Urinary Bladder

Note: Most common cancer types are covered by SEC (exceptions: skin, cervix, prostate)

# Passage of BNL SEC has resulted in a major up-tick in number of claims by BNL workers



# DOL decisions on BNL EEOICPA claims to-date

Claim type	#Approved	#Denied	Approval rate	Total Payout
Radiogenic Cancers (“Part B” Claims)	682	160	81%	\$66,420,000
Illnesses from “toxic exposures” (“Part E” Claims)	425	147	74%	\$28,883,187

# of claims approved gives impression that radiation exposure at BNL has caused a number of cancers, but, as noted, program strongly favors the applicant.

# How does BNL support the EEOICPA program?

- Publicizes the program through employee publications and direct mailings, “town hall” meetings and through the BNL retiree organization (BREA).
- Upon request, provides DOL and NIOSH with individual employee records needed to judge claims, including:
  - Radiation Exposure Records for adjudicating cancer claims by NIOSH: Internal/external dose, exposure incidents and workplace medical x-rays
  - Other exposure records for adjudicating illness claims from toxic exposures: non-radiation exposure records (chemicals), job history/job descriptions

# Questions about the EEOICPA Program?

To follow: Brief discussion of DOE Former  
Worker Medical Surveillance Program

# Former Worker Medical Surveillance Program (FWP)

[sometimes confused with EEOICPA]

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U.S. DEPARTMENT OF  
**ENERGY**

Office of  
Science

## Former Worker Medical Surveillance Program (FWP)

- A voluntary program of examination and testing available to former DOE contractor workers (including BNL)
- Purpose: detect possible occupational disorders
- Authorized by [1993 Defense Authorization Act \(PL 102-484\)](#), which called for DOE to assist workers in determining whether they had health issues related to their prior work at DOE facilities.
- Several FWPs started in 1996 (different ones for different DOE facilities)— initially at nuclear weapons sites, later broadened to include all DOE sites
- The FWP has been run thru cooperative agreements between DOE and newly created private organization that are collaborations between universities, labor unions, and organizations with expertise in administering medical programs. Independent of DOE and its contractors.

# 2 Former Worker Programs available to former BNL workers

- Building Trades Medical Screening Program – available to building trades workers (e.g.; plumbers, electricians, carpenters, construction workers)
  - Available to BNL former workers since 2005
  - >525 BNL former workers have received surveillance exams
- Worker Health Protection Program– available to all former BNL workers
  - New program administered through Queens College - 1 year, 100 examinees to-date
  - Actively recruiting– many potentially eligible former workers in the community

# Findings of BNL FWPs

## (most from Building Trades FWP)

### Cases of:

- Possible asbestos-related lung disease
- Hearing loss possibly due to occupational noise exposure (but age also a factor)
- Beryllium sensitization (blood test result indicating possible risk of later developing Chronic Beryllium Disease—a lung disorder)

# Links between DOE FWP (exams) and EEOICPA (benefits)

- Referral relationship: When FWP screening exam detects possible or definite occupational disorder, FWP personnel guide/assist the examinee in applying for benefits under EEOICPA or under State Workers Compensation
- Administrative Relationship: DOE FWP and DOE component of EEOICPA program (outreach and records searches) are administrated out of the same office at DOE Headquarters (*HS-14: DOE Office of Worker Screening and Compensation Support*)

# QUESTIONS?

One more slide– for more information...

# For More Information on EEOICPA and FWPs

- U.S. DOL EEOICPA Web site:  
<http://www.dol.gov/owcp/energy/>
- NIOSH Probability of Causation Rules/Methods  
(How NIOSH determines probability of causation for radiation cancer claims under EEOICPA)  
<http://www.cdc.gov/niosh/ocas/ocasirep.html#irep>
- DOE Former Worker Medical Screening Program:  
<http://hss.energy.gov/healthsafety/fwsp/formerworkermed>