

NIOSH Advisory Board Presentation

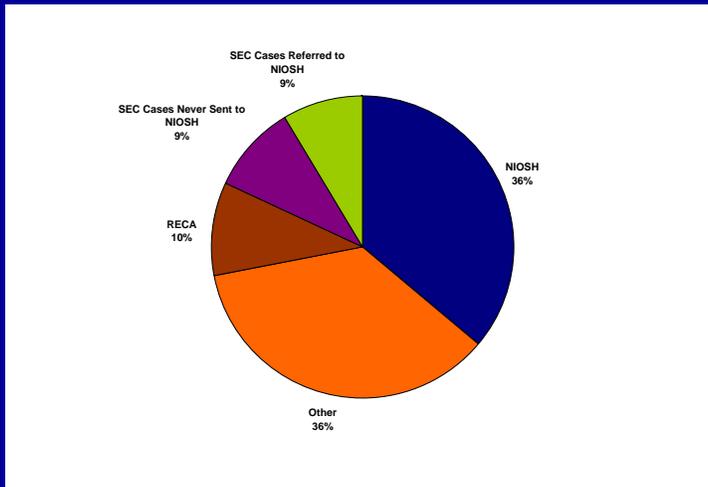


Rachel Leiton
Director
Division of Energy Employees
Occupational Illness Compensation
Department of Labor
August 2011

Enactment of EEOICPA

- **Enacted October 2000**
 - Part B, mandatory federal entitlement, by DOL
 - Part D, state workers comp. assistance, by DOE
- **Amendments October 2004**
 - Abolished Part D, created federal Part E, transferred to DOL
- **146,120 cases filed, over \$7.3 billion total compensation paid to date**
- **Agencies: Labor, Energy, HHS, Justice**
- **DOL locations**
 - DC, Jacksonville, Cleveland, Denver, and Seattle

Part B Cases Filed



Data as of August 3, 2011

3

HHS added SEC classes

- 2,976 cases withdrawn from NIOSH for SEC class review:

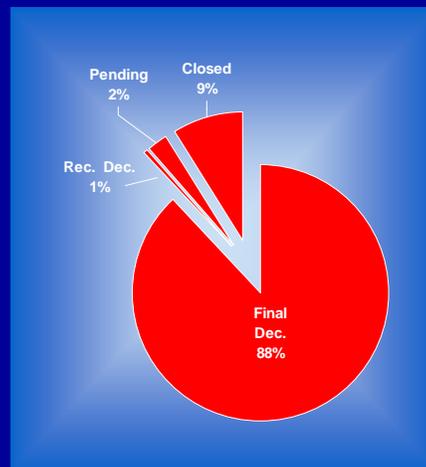
2,617 Final Decisions issued

2,530 Final Approvals

19 Recommended but no Final Decision

72 Cases Pending

268 Cases Closed



Data as of August 3, 2011

SEC Class Implementation Overview

- **NIOSH sends letter to DOL sharing draft language for new SEC class definition:**
 - Occurs a few weeks before NIOSH presents SEC class to the Advisory Board on Radiation and Worker Health (ABRWH)
- **DOL sends letter to NIOSH with comments on the draft SEC class definition, if applicable:**
 - Improves the consistency and fairness of claims adjudication
 - Speeds the process of determining which cases should be considered a part of the new SEC class
 - DOL does NOT comment on whether a new SEC class is necessary

SEC Class Implementation Overview (Cont'd)

- **DOL produces draft EEOICP circular:**
 - Draft EEOICP circular is produced after ABRWH makes its recommendation on the new SEC class definition
- **Draft EEOICP circular is based on NIOSH SEC Petition Evaluation Report**
 - Reasons for the new SEC class and the SEC class definition are taken directly from the NIOSH SEC Petition Evaluation Report
 - Many of the policies and procedures used by DOL when evaluating claims are the same for each SEC class

SEC Class Implementation Overview (Cont'd)

- SEC classes may not cover “all workers:”

Limited by monitoring status – was monitored or should have been monitored” (examples: LANL, LLNL)

Limited by work location, division, or building (examples: Ames Lab, LANL, tech areas)

Limited by job title (examples: Ames Lab sheet metal workers, Iowa Ordnance Plant radiographers)

Limited by certain process or operation (example: Iowa Ordnance Plant process area (Line 1), Y 12 Plant cyclotron operations)

- DOL relies on DOE records to place individuals in covered buildings, areas, etc., but often the records are not specific enough
- DOL includes in the circular a list of records that can be used when establishing membership in a SEC class

SEC Class Implementation Overview (Cont'd)

- Once HHS' Letter to Congress regarding the SEC Petition is sent – DOL's EEOICP circular is placed in final form

Circular must go through concurrence process

- Division of Energy Employees Occupational Illness Compensation (DEEOIC)
- Office of the Solicitor
- Office of Workers' Compensation Programs

- DOL's Goal – to have circular finalized by SEC class effective date

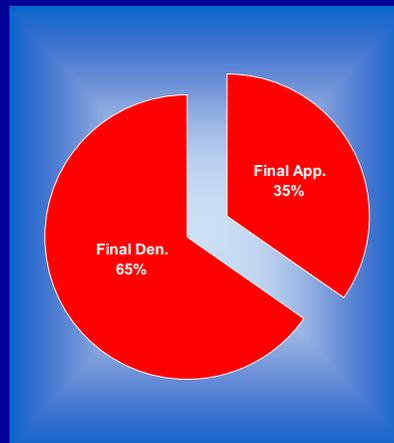
NIOSH Referral Case Status

- **35,377 Cases Referred to NIOSH for Dose Reconstruction**
- **32,907 Cases Returned by NIOSH that are Currently at DOL**
 - 28,810 with Dose Reconstruction
 - 4,097 without Dose Reconstruction
- **2,470 Cases that are Currently at NIOSH**
 - 1,823 Initial Referrals to NIOSH
 - 647 Reworks or Returns to NIOSH

Data as of August 3, 2011

NIOSH Dose Reconstruction Case Status

- **28,810 Cases returned by NIOSH that are currently at DOL w/ a Dose Reconstruction (DR)**
- **23,941 Cases w/ DR and a Final Decision**
 - 8,329 Final Approvals (POC 50% or Greater)
 - 15,612 Final Denials (POC less than 50%)



Data as of August 3, 2011

Part B Cancer Cases with Final Decision to Accept

- Accepted DR Cases – 7,837
11,058 Payees
\$ 1.16 Billion in Compensation
- Accepted SEC Cases – 14,109
23,449 Payees
\$2.09 Billion in Compensation
- Cases Accepted Based on SEC Status and POC 50% or Greater–510
638 Payees
\$76 Million in Compensation
- Totals: All Accepted SEC and DR Cases – 22,456
35,145 Payees
\$3.3 Billion in Compensation

Data as of August 11, 2011

Joint Outreach Task Group

- Joint Outreach Task Group (JOTG) members
 - DEEOIC
 - Ombudsman for the EEOICPA
 - NIOSH
 - Ombudsman to NIOSH under the EEOICPA
 - DOE Former Workers Medical Screening Program (FWP)
- Monthly conference call with all members

JOTG Outreach Events

- FY 2011 JOTG Town Hall Meetings:
 - Kansas City Plant (October 20, 2010)
 - Oak Ridge (April 13, 2011)
 - Savannah River Site (May 3, 2011)
 - Fermi National Accelerator Lab. And Argonne National Lab. – East (June 7, 2011)
- Town Hall Meeting video

DEEOIC SEC Outreach

- In response to new SECs DEEOIC conducted:
 - 6 Town Hall Meetings and 8 Traveling Resource Centers during FY '10 and '11
- In cases of smaller SECs – press releases are issued

Outreach to Covered Facilities (50 claims or less filed)

- Identified several covered facilities where less than 50 claims have been filed
 - Majority AWE facilities
- Concentrating efforts to notify individuals who worked at these facilities of potential EEOICPA benefits
 - Issuing press releases
 - Reaching out to unions, local government, other key stakeholders
 - Utilizing Resource Center staff

Use of the Rutenber Database for the Rocky Flats Plant Neutron SEC Class

- Database from the epidemiological studies conducted by the Rutenber team at the Colorado Department of Public Health and the Environment.
- The Rutenber study relied on the dosimetry records provided by the Rocky Flats radiation protection department to calculate unmonitored neutron dose.
- DOL will use the database as a resource for:
 - Placing employees in the Rocky Flats SEC buildings and/or
 - For determining whether they were exposed to 100mrem+ of neutron in any calendar year, i.e., the level of “should have been monitored for neutron exposures” in the SEC definition.

DOL Implementation of Ames Laboratory SEC Class

- During NIOSH Advisory Board telephone meeting on July 11, 2011 NIOSH proposed a SEC class for all workers for the period from January 1, 1942 through December 31, 1970, based on the inability to bound internal thorium and other radionuclide exposures.
- This new class subsumed three already existing SEC classes.
- The Board deferred a decision hoping to get additional details from DOL as to who is covered by the SEC class, i.e., which University personnel are covered, including non technical personnel, e.g. housekeeping, etc.

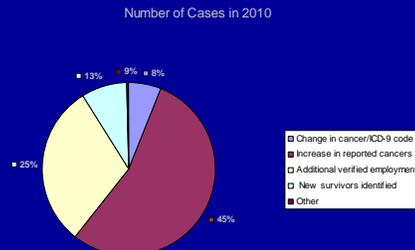
DOL GPRA Goals

- New goal FY 2012
- Time of receipt of claim to final decision
 - Includes NIOSH processing time
 - Includes cases that go to hearing and those that do not
- Will require close coordination with NIOSH
- Baseline FY 2011

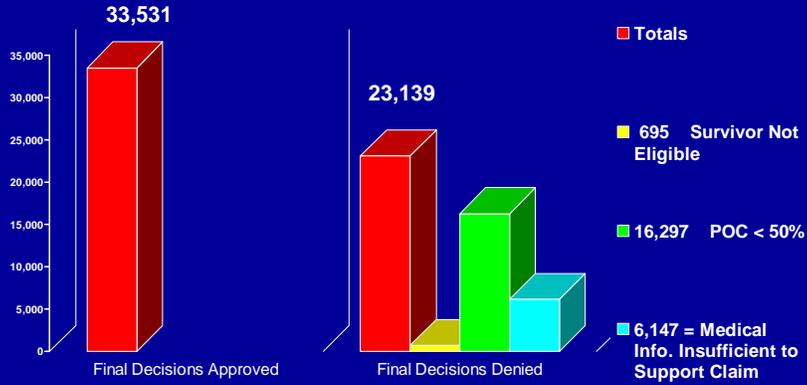
Summary of Reasons for Returning Cases to NIOSH for Re-Work (Reasons total more than actual reworks)

Reason for Re-work	Number of Cases in 2009	Number of Cases in 2010	Number of Cases in 2011 (until 6/30)
Change in cancer/ICD-9 code	34	47	15
Decrease in reported cancers (usually PoC >50%)	14	14	2
Increase in reported cancers	296	265	186
Change in cancer diagnosis date	9	11	6
Change in smoking history or race/ethnicity questionnaires	0	0	0
Employment site issues (e.g., different or non covered sites)	11	11	5
Additional verified employment	167	148	68
Decrease in verified employment	11	7	6
New survivors identified	47	74	31
Administrative issues (e.g., SSNs, DOB)	1	0	0
Technical Issues (mostly FAB issues and Director's Orders)	11	8	15

Summary of Reasons for Returning Cases to NIOSH for Re-Work (2010)

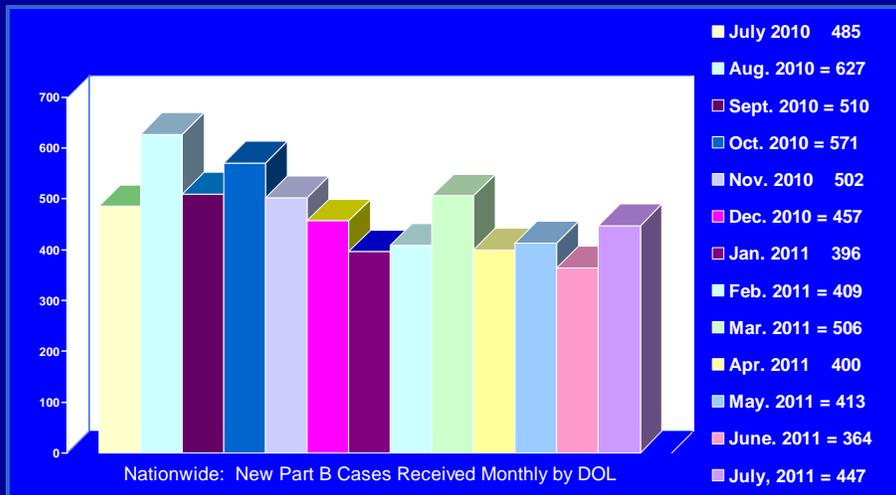


EEOICPA Part B Cases Final Decisions – Covered Applications



Data as of August 3, 2011

New Part B Cases Received Monthly by DOL



Data as of August 3, 2011

QUESTIONS ?

NIOSH Advisory Board Presentation

Handout Slides
August 2011

Employee Eligibility

Employed By	Part B	Part E
DOE Contractors and Subcontractors	Yes	Yes
DOE Federal Employees	Yes	No
AWE Employees	Yes	No
Beryllium Vendors	Yes	No
RECA	Yes	Yes

Covered Conditions

Condition	Part B	Part E
CBD	Yes	Yes
Beryllium Sensitivity	Medical Monitoring Only	Yes
Chronic Silicosis	Yes	Yes
Cancer	Yes	Yes
Any condition related to toxic exposure	No	Yes

Survivor Definition

Type	Part B	Part E
Spouse at time of death	Yes	Yes
Children - under age 18; under age 23 if full-time student; or any age if medically incapable of self-support	Yes	Yes
Adult Children	Yes	No

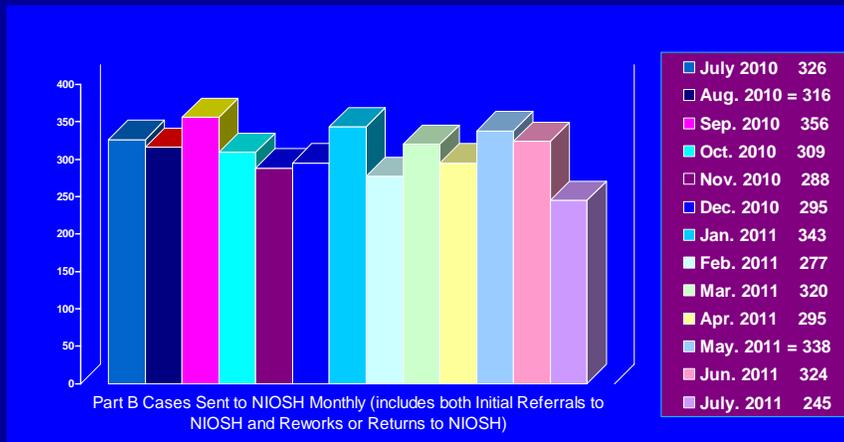
Benefits

Part B	Part E
\$150,000 Employee + Survivor	Impairment \$2,500 per % (Employee)
\$50,000 RECA Employee + Survivor	Wage Loss \$10,000-\$15,000 per year (Employee)
	\$125,000 Survivor
\$400,000 CAP for B+E combined	

Means of Verifying Employment

- DOE
 - EE-5 Employment Verification Form
- Oak Ridge Institute for Science and Education (ORISE)
- Center for Construction Research and Training (CPWR)
- Corporate Verifiers
- SSA wage data
- Affidavits

Part B Cases Sent to NIOSH Monthly

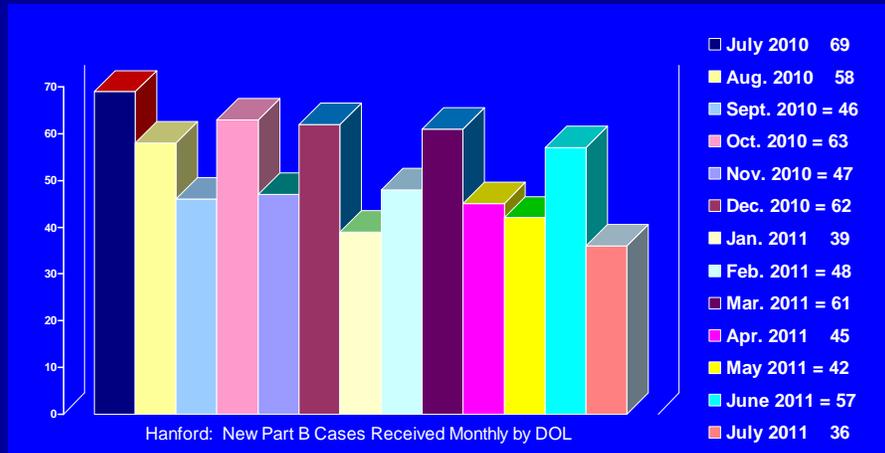


Data as of August 3, 2011

Top Four Worksites

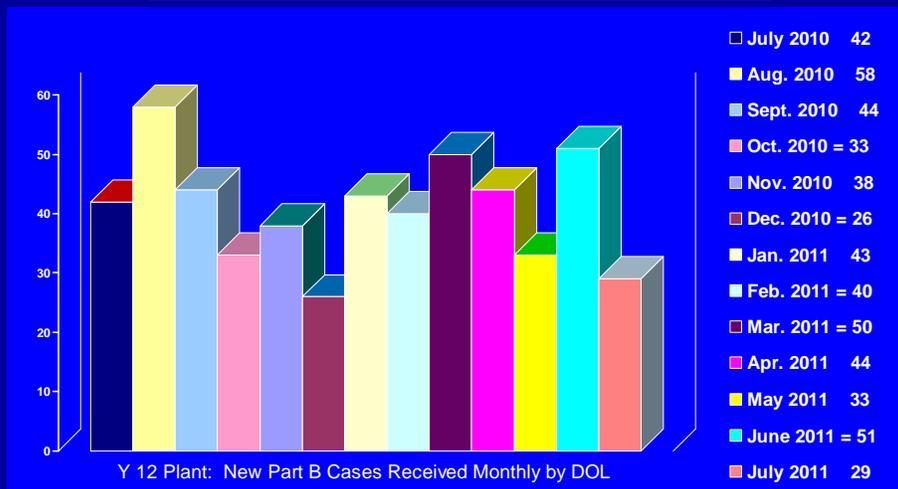
- The top 4 worksites generating new Part B EEOICPA cases are:
 - Hanford
 - Y-12
 - Bethlehem Steel
 - Oak Ridge Gaseous Diffusion Plant (K-25)

Hanford: New Part B Cases Received Monthly by DOL



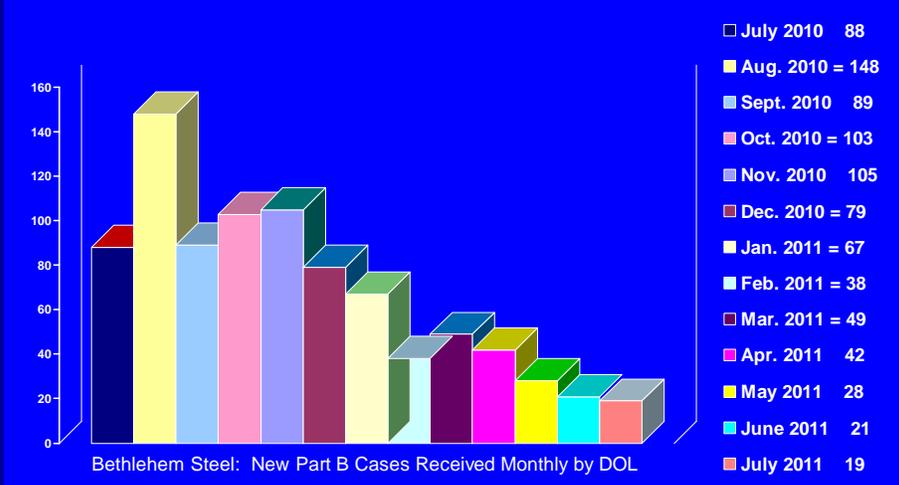
Data as of August 3, 2011

Y-12 Plant: New Part B Cases Received Monthly by DOL



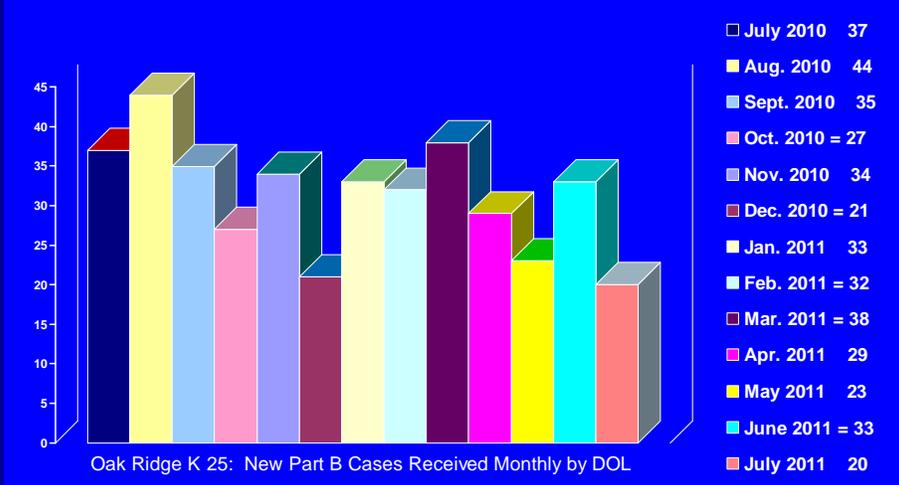
Data as of August 3, 2011

Bethlehem Steel: New Part B Cases Received Monthly by DOL



Data as of August 3, 2011

Oak Ridge K-25: New Part B Cases Received Monthly by DOL



Data as of August 3, 2011

SEC Petition Site Discussions ABRWH Agenda August 2011

	WR Grace and Co. (Maryland)	Y-12 Plant	Piqua Organic Moderated Reactor	Hanger 481
Cases (Claims) Part B & E	37 (55) Part B Only	15,396 (23,848)	34 (53)	16 (19)
Cases Returned by NIOSH w/ DR	17	3,517	8	4
Final Decisions (Part B)	21	6,089	14	5
Part B Approvals	8	3,902	8	1
Part E Approvals	N/A	3,781	6	0
Total Comp. & Medical Bills Paid	\$1.2 Million	\$978 Million	\$1.9 Million	\$150,000

Data as of August 9, 2011

SEC Petition Site Discussions ABRWH Agenda August 2011

	Hooker Electro chemical	FMPC	Norton Co.	Savannah River
Cases (Claims) Part B & E	273 (422) Part B Only	3,756 (4,944)	202 (359) Part B Only	12,679 (17,125)
Cases Returned by NIOSH w/ DR	134	1,114	54	3,777
Final Decisions (Part B)	154	1,395	147	4,543
Part B Approvals	15	516	88	1,613
Part E Approvals	N/A	641	N/A	2,147
Total Comp. & Medical Bills Paid	\$2.3 Million	\$135 Million	\$12.9 Million	\$463 Million

Data as of August 9, 2011

SEC Petition Site Discussions ABRWH Agenda August 2011

	Hanford	Pantex Plant	Vitro (PA)	Ames Lab.	Pacific Northwest Lab.
Cases (Claims) Part B & E	12,585 (19,717)	1,393 (1,737)	84 (134) Part B Only	656 (850)	1,980 (2,886)
Cases Returned by NIOSH w/ DR	3,144	416	19	119	535
Final Decisions (Part B)	5,148	575	47	265	830
Part B Approvals	3,004	190	25	176	548
Part E Approvals	2,650	224	N/A	175	485
Total Comp. & Medical Bills Paid	\$678 Million	\$45 Million	\$3.8 Million	\$36 Million	\$120 Million

Data as of August 9, 2011