Energy Employees Occupational Illness Compensation Program (EEOICPA) Adjudication of Radiation-related Cancer Claims

Larry Elliott
Director
Office of Compensation Analysis and Support
National Institute for Occupational Safety and Health

Legislative, Administrative, and Regulatory Authorities

- EEOICPA, P.L. 106-398, Section 3623 (b) (d-e); October 30, 2000
- Executive Order 13179 (65 FR 77487) December 7, 2000
- Performance Functions: Claims for Compensation, 20 CFR Part 30, Section 30.210 (Vol. 66, No. 102 FR 28970) May 25, 2001
- Probability of Causation Guidelines, 42 CFR Part 81 (Vol. 67, No. 85 FR 22296) May 2, 2002
- Methods for Dose Reconstruction, 42 CFR Part 82 (Vol. 67, No. 85 FR 22314) May 2, 2002

HHS/NIOSH Responsibilities

1. Promulgate the science-based regulations needed to adjudicate cancer claims under EEOICPA.

2. Conduct a program of dose reconstructions to estimate the radiation doses of employees needed to adjudicate most cancer claims under EEOICPA.

3. Consider the addition of classes of employees to the Special Exposure Cohort

4. Establish and Administer the Advisory Board on Radiation and Worker Health.

5. Conduct a study of residual contamination at nuclear weapons facilities.

6. Appoint physicians to the medical panels operated by DOE under Title D of EEOICPA.

Regulatory Responsibilities

Completed May 2, 2002: HHS promulgated two final regulations governing how:

1. NIOSH conducts dose reconstructions to estimate the radiation doses incurred by employees;

2. DOL determines “probability of causation” -- whether or not the radiation doses that an employee may have incurred in the performance of duty “at least as likely as not” to have caused the employee’s cancer.

NIOSH also completed extensive work establishing the initial scientific tools needed by DOL and NIOSH to operate under these two regulations. The National Cancer Institute of the NIH was instrumental in some of this work.

Regulatory Responsibilities
-- Continued --

Additions to the Special Exposure Cohort

- In June 2002, HHS issued a notice of proposed rulemaking proposing procedures for how HHS would consider adding classes to the Special Exposure Cohort.
- NIOSH held public meetings and obtained public comments on the proposal during the Summer of 2002.
- NIOSH substantially revised the proposal in response to public comments and issued new proposed rule March 7, 2003 for comment.
- All comments are being addressed and a new Regulation will be issued later this year.

Compensation Coverage Under EEOICPA

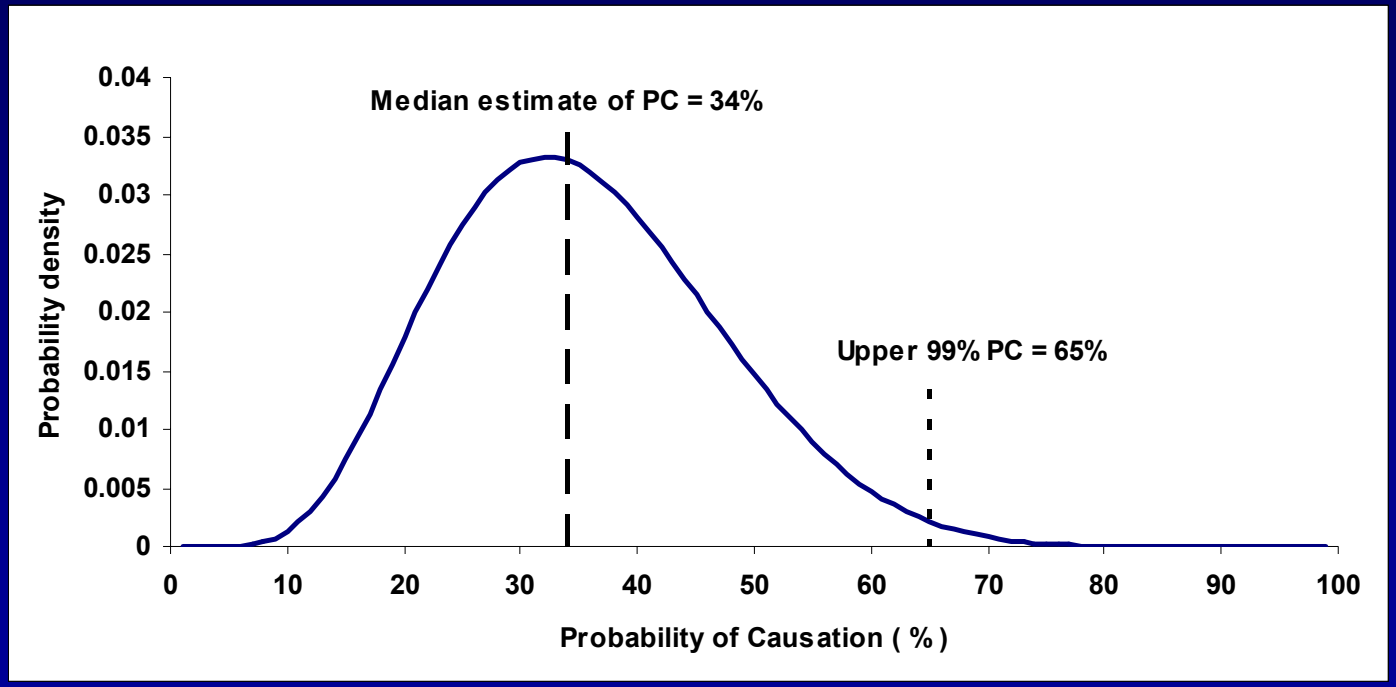
- ~ 650,000 Nuclear Weapons Production Workers
- ~ 100,000 Atomic Weapons Employees
- > 116,000 Legacy Waste Clean-up Workers

- Cancer, Beryllium Disease, Silicosis

- $150,000 Lump Sum Award
- Medical Benefits (Prospectively from time claim is filed)

PC uncertainty for leukemia

example: man exposed to 11 rem age 40, diagnosed age 50



Dose Reconstruction Program

- This is the largest radiation dose reconstruction program of its kind in the world.
- It is likely to serve more than 100,000 claims relating to employment at more than 300 facilities across the United States.
- It will employ more than 100 health physicists.
- We are completing a phase of developing the scientific and technical systems of this program.
- We have moved into a second phase: building the scale of this program to handle the high volume of demand.

Dose Reconstruction Program
-- Timeline --

- DOL referred the first batch of claims to NIOSH in October 2001.
- NIOSH awarded a contract to ORAU for major support of dose reconstruction in September 2002.
- NIOSH, ORAU, and DOE are working to complete data systems that will match the high demand.
- NIOSH now has approximately 13,000 claims for which we are collecting data from DOE and other sources.
- NIOSH and ORAU will continue building capacity through the summer, 2003.
- NIOSH intends to eliminate the backlog within two years.

Duration of Dose Reconstruction

- Individual claims may vary depending on complexity (days to months)
- Cases with extensive internal exposure expected to be the most complex
- Additional time required for previously unexamined locations and processes

Advisory Board on Radiation and Worker Health

What is the Board?

- Presently has 12 members, appointed by President Bush.
- Chaired by Paul Ziemer, former President of the Health Physics Society.
- Represents the perspectives of the relevant sciences and of nuclear weapons workers.
- Charged with advising HHS on most of its major responsibilities.

Advisory Board
-- Continued --

What has the Board accomplished?

- Very active: convened 10 times in its first 12 months, advising HHS on its regulations, procedures, and on program development.
- Will independently review a sample of completed dose reconstructions to provide advice on the validity and quality of estimates.
- Will advise HHS on additions to the special exposure cohort, once the regulation is final.

Residual Contamination Study

- Purpose of the study:
  - To determine whether or not significant contamination remained in any AWE facility or facility of a beryllium vendor after activities relating to the production of nuclear weapons were discontinued.
  - If so, whether or not the contamination could have caused or substantially contributed to the cancer or beryllium disease of the covered employee.

Appointing Physicians to DOE Panels under Part D

- HHS has appointed a total of 75 physicians to serve 25 DOE panels.

- Physicians are board-certified in occupational medicine, experienced, and cover diverse specialized expertise relevant to toxic exposures.

NIOSH Contact Points

- OCAS Phone Number 513-533-6800
- Tollfree Number 800-356-4676
- E-Mail ocas@cdc.gov
- Website www.cdc.gov/niosh
- NIOSH Regulatory Docket - niocindocket@cdc.gov