

**Jack J. Fix**  
**Fellow of the Health Physics Society**  
**Certified by the American Board of Health Physics**

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APR 25 2001

April 17, 2001

Larry J. Elliott  
Acting Director  
Office of Compensation  
Analysis and Support  
National Institute of Occupational  
Safety and Health  
4676 Columbia Parkway  
Cincinnati, Ohio 45226

Dear Larry:

Thank you for the opportunity to provide input to the development of an occupational illness compensation program. I propose that a program be implemented that:

- Evaluates all worker concerns regarding illness resulting from Department of Energy, predecessor agency, contractor and subcontractor employment.
- Utilizes medical, dosimetry and industrial hygiene technical review boards to assess potential worker exposure to hazardous agents, review records of exposure and evaluate the potential for disease causation based on known estimates of risk.
- Provides for partial awards for morbidity as well as mortality based on disease diagnosis, the association of disease and potential exposure, and the calculated risk.
- Calculates risks liberally in favor of workers to enhance overall acceptance of compensation program and to reduce litigation costs.
- Provides for medical monitoring of workers that receive compensation and the outcome of this monitoring to be incorporated into ongoing research regarding exposure, risk and disease incidence.
- Treats retired and employed workers, and their families, equally.

It is generally recognized that relatively few workers will qualify for compensation using the probability of causation (POC) methodology and the criterion of "more probable than not" (i.e.,  $POC > 50\%$ ) that radiation caused the disease. The nation's nuclear weapons operations involved potential worker exposure to many types of physical and chemical agents in addition to radiation. Assessment of the adequacy of

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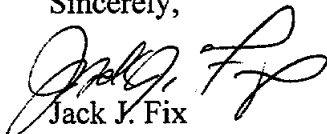
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monitoring for these non-radiological agents and the availability of records associating exposure to individual workers is challenging but important to implementing a credible occupational illness compensation program. Certainly, there is significant uncertainty in any retrospective assessment of exposure particularly for non-radiological agents. The review boards should base recommendations for compensation or denial on the known association of the specific disease of diagnosis and exposure to identified hazardous agents. The review boards should have the latitude to recommend full compensation based on their technical review of individual worker circumstances.

For workers with little evidence of exposure to physical and chemical agents associated with the specific disease of diagnosis, the POC methodology should be used to provide full or partial compensation from radiation exposure similar to the system used in the United Kingdom since 1982 (morbidity since 1987). DOE radiation records should be an important, if not primary, element of the review process. Partial awards should be provided based on the POC using a graduated scale (i.e., higher dosed workers receive proportionately greater award). Uncertainty in recorded dose should be considered in calculating the POC.

For workers who are currently living with the disease, medical monitoring should be provided similar to military personnel access to medical care or the existing DOE medical surveillance of retired workers. NIOSH access to medical information should be required of all workers, and their families, who receive compensation. This information should be incorporated into ongoing research regarding the association of disease with potential occupational exposures.

Sincerely,



Jack J. Fix  
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