



Department of Energy

Washington, DC 20585

July 2, 2010

The Honorable Maria Cantwell
United States Senate
Washington, DC 20515

Dear Senator Cantwell:

Thank you for your June 25, 2010, letter to Secretary of Energy Steven Chu urging the Departments of Energy (DOE) and Labor (DOL) to implement recommendations made by the Government Accountability Office (GAO) in its report on the Energy Employees Occupational Illness Compensation Program as quickly as practicable. The Secretary has requested that the Office of Health, Safety and Security provide you with a detailed response to the items that are directly related to DOE.

Under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA or the Act), DOE's responsibility is to provide records related to workers and historical DOE facility operations to both DOL and the National Institute for Occupational Safety and Health (NIOSH) in support of claims, site profiles, and the Special Exposure Cohort (SEC) evaluations so that workers and their families receive prompt adjudication decisions by DOL. As such, DOE views this important function as a moral commitment to thousands of its workers who have dedicated their lives to enhance the national security and scientific and technological leadership of the United States.

The GAO report discussed in detail the claims processing under Part B and Part E of the Act. It also discussed factors that affect the timeliness of completing dose reconstruction; e.g., the time to research and develop the site profiles and dose reconstruction guidance for more than 300 covered facilities. The GAO report acknowledged the difficulty for DOE in locating and obtaining personal exposure and employment data from older sites that do not have well-organized or computerized methods for locating documents. It also recognized that NIOSH has worked with DOE to clear sensitive and classified information to support publication of the site profiles. DOE has procedures in place regarding access to documents cleared for review and has granted security clearances to allow DOL, NIOSH, and the Advisory Board on Radiation and Worker Health and its contractor direct access to classified documents.





One of the GAO report recommendations was for DOE and DOL to establish a formal agreement or Memorandum of Understanding (MOU) to set forth each Agency's roles and expectations under EEOICPA. DOE and DOL have already discussed an EEOICPA MOU and have agreed that an MOU is necessary and beneficial to both Agencies. We have already been working with NIOSH on an EEOICPA MOU that we anticipate will be released by the end of the summer. We plan to use this MOU as the basis for a similar MOU with DOL.

Another recommendation in the GAO report was for DOL to establish a formal agreement and action plan with DOE to release more information, where appropriate, in the site exposure matrices (SEM) database in order to allow greater public access and input. Prior to the release of the GAO report, DOE had been working closely with DOL to review the data in the SEM and to determine whether the SEM database can be publicly released in full or in part. On the basis of our initial comprehensive review, we provided DOL with the approval to release 48 sites, plus the Uranium Mines, Mills, and Ore Buying Stations. We subsequently approved release of an additional 21 sites, including the Hanford Site, on June 30, 2010. Review of the remaining 47 sites is scheduled for completion by no later than March 2011, and DOL release of data on those sites will occur shortly after completion. Because DOE had initiated the classification review prior to the release of the GAO report, and in light of the significant progress already made, we do not believe that a formal agreement with DOL was necessary.

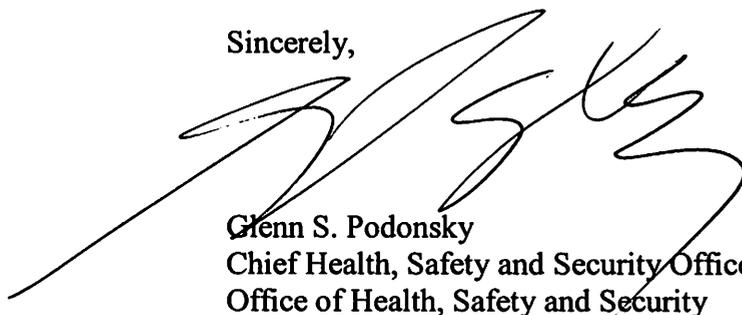
In your letter, you also raised the concern that the discovery of new employment records and scientific information can further delay the claims process. We want to assure you the Department is constantly striving to improve the quality of our records and our service to workers, DOL, and NIOSH. While we realize that the discovery of new information can, on occasion, cause delays or the reopening of claims, we feel that it is a step that we must take to ensure fair adjudication. With regard to the Hanford SEC, our recent research required extensive review of historical records. This was the driving force in much of the recent discovery of additional employment information and other records. We do not expect that we are likely to uncover such large collections of additional employment records in the future at Hanford.

We are also taking steps to preserve vital employment records for current contractor and subcontractor workers. Currently, contractual requirements for preservation of and DOE access to records varies for site contractors and subcontractors across the DOE complex. On May 24, 2010, a Notice of Proposed Rulemaking for revising the Department of Energy Acquisition Regulations (DEAR) Clause, *Access to and Ownership of Records*, was issued in the Federal Register for the required 30-day public comment period. When final, the

revisions to the DEAR Clause will assist employees, specifically, subcontractor employees, by requiring contractors/subcontractors to provide copies of certain records, such as personnel and Industrial Hygiene records, to DOE upon contract termination. This will end decades of contractors leaving with and/or destroying records after contractor termination or record retention period has elapsed.

We want to assure you that DOE is committed to the safety and health of our workforce and to ensuring the availability of records that could be critical for EEOICPA claims. If you have any further questions, please contact Ms. Betty A. Nolan, Senior Advisor for Congressional and Intergovernmental Affairs, on (202) 586-5450.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'G. Podonsky', is written over the typed name and title.

Glenn S. Podonsky
Chief Health, Safety and Security Officer
Office of Health, Safety and Security

cc: The Honorable Patty Murray
United States Senate
Washington, DC 20515

The Honorable Hilda Solis
Secretary of Labor
Washington, DC 20210

John Howard, MD, Director, NIOSH
Stuart L. Hinnefeld, Interim Director,
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