

issues - eeoicp

The Energy Employee Occupational Illness Compensation Program

Atomic Workers

Beginning in the early 1940s, the Department of Energy and its predecessors, the Atomic Energy Commission and the Manhattan Engineering District, relied upon hundreds of private-sector factories and laboratories to develop, test, and produce atomic weapons for use by the military. During the atomic weapons production process, these facilities became contaminated with radioactive materials. Recognizing that workers at these facilities may be suffering from illness caused by their work, Congress passed the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

Part B of the EEIOCP was enacted to provide compensation to workers with beryllium disease, silicosis, or radiation induced cancer. Employees or their survivors, whose claims are approved, may receive a lump-sum payment of \$150,000 and medical benefits for the covered illness. In October 2004, Congress amended the EEOICP with Part E, which provides compensation and medical benefits for DOE contractor and subcontractor employees whose illness were caused by exposure to any toxic substance while working at a DOE facility. Eligible survivors may receive federal compensation, if the employee's death was caused or contributed to by the covered occupational illness.

There are 10 sites in and around the 28th Congressional District of Western New York that qualify under the EEOICP:

Ashland Oil, Tonawanda

Bethlehem Steel, Lackawanna

Bliss & Laughlin Steel, Buffalo

Carborundum Company, Niagara Falls

Hooker Electrochemical, Niagara Falls

Lake Ontario Ordnance
Work, Niagara Falls

Linde Air Products, Buffalo

Linde Ceramics Plant, Tonawanda

Titanium Alloys Manufacturing, Niagara
Falls

University of Rochester
Atomic Energy Project, Rochester

Rep. Slaughter has been working to address this issue for many years and continues to fight hard for her constituents who were employed under the atomic workers program. Three years ago, Rep. Slaughter introduced an amendment to H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005.

This amendment allowed individuals to apply for benefits under the Energy Employees Occupational Illness Compensation Act if they developed covered illnesses and worked at facilities that the National Institute of Occupational Safety and Health (NIOSH) has found the potential for significant residual contamination. Additionally, this amendment required NIOSH to update the residual contamination report in 2005, 2006, and 2007 for sites where NIOSH has indicated it lacked sufficient information to reach conclusions. Rep. Slaughter was very pleased when this amendment was incorporated into the bill and became law on October 28, 2004.

Rep. Slaughter also supported the Energy Employees Occupational Illness Compensation Program Act which was passed in October 2000, as part of H.R. 4205, the Defense Authorization bill. It included a Subtitle D which authorized the Department of Energy (DOE) to provide assistance to DOE contractor employees filing state worker compensation claims for illnesses arising out of exposure

to toxic substances and other hazardous materials at a covered DOE facility. With passage of this bill, constituents in New York's 28th district who were not directly hired by DOE but instead contractors were able to apply for compensation.

In 2005, Rep. Slaughter called on NIOSH to release the site profile for the Linde Ceramics Plant and meet with workers from the Plant. NIOSH had said that the Linde Ceramics site profile would be completed by November 30, 2004. Four months later, these constituents were still waiting. After pressuring NIOSH, we finally saw the first draft site profile in the spring of 2005.

Rep. Slaughter also pressed the Administration numerous times to grant Linde special exposure cohort (SEC) status, and at the end of 2005, and she is pleased to report that they did designate SEC status for workers at Linde between October 1942 and October 1947. This designation is expected to affect about 80 former employees.

Early in 2007, the Centers for Disease Control (CDC) failed to provide enough funding for NIOSH to revise and implement an up-to-date site profile for the former Linde Ceramics Plant. An independent audit during the summer of 2006 concluded that NIOSH's initial site profile of Linde Ceramics was severely flawed and needed to be altered. Former Linde Workers will continue to be incorrectly denied compensation for the carcinogens they were exposed to until NIOSH develops an adequate site profile which would allow for an accurate assessment of exposure through dose reconstruction. After meeting with the auditors, Rep. Slaughter called on the Director of CDC to sufficiently fund NIOSH's efforts to revise and update the site profile. In November of 2007, CDC responded that the Advisory Board on Radiation and Worker Health has created a working group to review the Linde Ceramics site profile and make any changes necessary to eliminate its flaws. Rep. Slaughter will continue to put pressure on NIOSH to prepare a fair and accurate site profile that allows former workers to receive the compensation they deserve.

Most recently Rep. Slaughter joined with her colleagues from Western NY to ask NIOSH to address many concerns that have been raised by those seeking compensation. In December of 2007, she joined Senators Schumer and Clinton, along with Reps. Higgins and Reynolds, in a letter Larry Elliot, Director of NIOSH. This letter asked him to thoroughly address evidence that raised questions about the time period during which uranium was rolled at Bethlehem Steel, as well as the type of material that was rolled at the plant.

Additionally, on January 29, 2008, Rep. Slaughter joined Senators Clinton and Schumer in a letter to Secretary of Labor Elaine Chao, in response to the Department of Labor's decision to re-designate four buildings at Linde Ceramics. This re-designation from an Atomic Weapons Employer facility to a Department of Energy facility would prevent many of Linde's former workers from even applying for compensation. This was an unprecedented action by the Department of Labor and threatens to set a dangerous precedent of preventing former atomic workers from even applying for compensation. In our letter, the delegation demanded that NIOSH explain why they decided to consider this re-designation, the justification for re-designating these buildings and not other similar buildings, and finally we asked for information on how this decision could be appealed. Due to these efforts, in April of 2008 the Department of Labor decided to rescind the re-designation decision and allow all residual radiation workers coverage under Part B.

Finally, Rep. Slaughter asked for the help of the House Committee on Education and Labor in investigating the problems with the application of EEOICP, and the failure to adequately compensate those as guaranteed under law. On December 20, 2007 Rep. Slaughter joined Reps. Higgins and Reynolds in a letter to Education and Labor Chairman George Miller, asking him to hold a hearing to investigate the claims of nuclear workers in Western NY. Specifically, they asked that the Committee investigate the difficulties being faced by workers from Bethlehem Steel and their families in applying for and receiving compensations. We also asked that the Committee look into the Department of Labor's decision to re-designate the four buildings at Linde Ceramics. We hope that he will honor our request as the year progresses.

In addition to these actions, Rep. Slaughter and her staff are in constant contact with constituents and NIOSH following up on claims.