

**A Statement of the Cincinnati AFL-CIO Labor Council
Re: The Energy Employees Occupational Illness Compensation Program**

The Cincinnati AFL-CIO Labor Council represents over 125 unions and 90,000 workers in the greater Cincinnati area. Those workers have been employed at Fernald, in the Building Trades, and in factories covered by this Program. In regard to the Energy Employees Occupational Illness Compensation Program Act of 2000, the Cincinnati AFL-CIO maintains that the **Congressional Intent** was to assist workers who were exposed to toxic illness as a result of work performed in relation to efforts of the Department of Energy. The rules which are proposed for the administration of this act seem to go directly counter to the Congressional Intent.

*Rules:
counter to
Congressional
Intent*

The legislation directs the Department of Energy to help workers apply for workers' compensation and that such workers' records would be reviewed by an independent panel of physicians to determine whether the worker's illness meets the criteria based **on employment at an Energy Department facility**. It also states that DOE must assist the applicant in filing the claim, and direct its contractor not to contest the claim.

No one disagrees with these statements. Where disagreement occurs is at the point of who is responsible for the claim.

If the intent of Congress was to **assist workers in filing and obtaining** workers' compensation, then the idea that the individual States would handle each of those claims makes little sense. Subpart D of this legislation makes it quite clear that Congress intended to make such claims easier for workers. Because of the nature of toxic illnesses, workers compensation can often be difficult to obtain. Toxic illnesses don't conform to the timeliness standards of many workers' compensation regulations. In fact DOE asked for comments about timeliness specifically when this legislation was first being reviewed.

If this legislation was meant to be handled by local workers' compensation systems, and to be billed to the employers' insurance system, then what is the purpose of the legislation? That was already possible. Such an interpretation means that a worker who has a toxic illness must undergo a more specific application processes than a worker with any other work related illness or injury.



V. Daniel Radford
Executive Secretary-Treasurer

We believe that the Department of Energy missed the mark with these proposed guidelines. It is our view that Congress enacted this legislation and the provisions of Subpart D to provide a pathway for the ill workers to obtain relief under the State Workers Compensation systems. The rules proposed by DOL do nothing but erect multiple additional barriers to these victims.

State agreements must contain at least two provisions:

- a. The Agreements must provide for Federal standards to be applied in determining eligibility and causality.
- b. And they must provide for reimbursement or indemnification to contractors or insurance carriers for claims accepted under Subtitle D.

Congress intended these rules to be a relatively simple and straightforward way for the Department of Energy to assist workers in obtaining benefits under their State workers' compensation program by providing a mechanism for determining whether the illness arose out of employment and then authorizing DOE to pay the claim through a mechanism whereby DOE would instruct the contractor not to defend the claim in the State system setting the stage for the employer to bill the costs of that claim back to DOE.

We ask that the rules as proposed be reviewed and revised to reflect the Intent of Congress.



V. Daniel Radford
Executive Secretary-Treasurer