

## § 852.8

(1) The application was filed by or on behalf of a DOE contractor employee or a deceased DOE contractor employee's estate or survivor;

(2) The illness or death of the DOE contractor employee may have been caused by exposure to a toxic substance; and

(3) The illness or death of the DOE contractor employee may have been related to employment at a DOE facility.

(b) An agreement that a Physician Panel must apply the standards set forth in § 852.8 of this part when making a determination that an illness or death arose from exposure to a toxic substance during the course of employment at a DOE facility;

(c) An agreement that the Program Office must provide assistance to only those applicants with a positive determination from the Physician Panel; and

(d) An agreement that a positive determination by the Physician Panel has no effect on the scope of State workers' compensation proceedings, the conditions for compensation, or the rights and obligations of the participants in the proceeding; provided that consistent with Part D of the Act such a determination will prevent DOE and may prevent a DOE contractor from contesting an applicant's workers' compensation claim.

### **§ 852.8 How does a Physician Panel determine whether an illness or death arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility?**

A Physician Panel must determine whether the illness or death arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility on the basis of whether it is at least as likely as not that exposure to a toxic substance at a DOE facility during the course of employment by a DOE contractor was a significant factor in aggravating, contributing to or causing the illness or death of the worker at issue.

## 10 CFR Ch. III (1-1-05 Edition)

### **§ 852.9 What materials must a Physician Panel review prior to making a determination?**

The Physician Panel must review all records relating to the application that are provided by the Program Office, including but not limited to:

- (a) Medical records;
- (b) Employment records;
- (c) Exposure records;
- (d) Occupational history;
- (e) Workers' compensation records;
- (f) Medical literature or reports;
- (g) Any other records or evidence pertaining to the applicant's request for assistance;
- (h) A medical examiner's report, coroner's report, or death certificate for any application submitted by an estate or survivor of a deceased worker; and
- (i) Information submitted as a part of such a claim or developed by the Department of Labor (DOL) or by the Department of Health and Human Services (HHS) in the course of processing a claim for the applicant, including, where applicable, estimates of an applicant's cumulative radiation dose and the calculated probability that this dose was responsible for a cancer that is the subject of the claim, for any application submitted by an applicant also applying to DOL for benefits available under the Act.

### **§ 852.10 How may a Physician Panel obtain additional information or a consultation that it needs to make a determination?**

If, after reviewing all materials provided by the Program Office, a Physician Panel finds that it needs additional information or consultation with a specialist in order to make a determination, it must request this information or consultation through the Program Office. A Physician Panel may request:

- (a) A recorded interview under oath with the applicant, by an individual designated by the Program Office, if the Physician Panel believes only the applicant can provide the necessary information.
- (b) That the applicant provide additional medical information;