

Department of Energy

§ 852.3

(4) The Program Office processes a determination by a Physician Panel; and,

(5) Appeals may be undertaken.

(b) This part covers applications filed by or on behalf of a DOE contractor employee, or a deceased employee's estate or survivor, with respect to an illness or death of a DOE contractor employee that may have been caused by exposure to a toxic substance during the course of employment at a DOE facility.

(c) All actions under this part must be pursuant to the relevant State Agreement and consistent with its terms and conditions.

§ 852.2 What are the definitions of terms used in this part?

Act means the Energy Employees Occupational Illness Compensation Program Act of 2000, 42 U.S.C. 7384 *et seq.*

Applicant means an individual seeking assistance from the Program Office in filing a claim with the relevant State workers' compensation system, including but not limited to, a living DOE contractor employee, the estate of a deceased DOE contractor employee, or any survivor of a deceased DOE contractor employee who is eligible to apply for a death benefit or a survivor's benefit under the State workers' compensation system for which the applicant is seeking assistance in filing a claim.

DOE means the U.S. Department of Energy, and its predecessor agencies, including the Manhattan Engineering District, the Atomic Energy Commission, and the Energy Research and Development Administration.

DOE contractor employee means any of the following:

(a) An individual who is or was in residence at a DOE facility as a researcher for one or more periods aggregating at least 24 months.

(b) An individual who is or was employed at a DOE facility by

(i) An entity that contracted with DOE to provide management and operation, management and integration, or environmental remediation at the facility; or

(ii) A contractor or subcontractor that provided services, including con-

struction and maintenance, at the facility.

DOE facility means any building, structure or premise, including the grounds upon which such building, structure, or premise is located:

(a) In which operations are, or have been, conducted by, or on behalf of DOE (except for buildings, structures, premises, grounds, or operations covered by Executive Order No. 12344, dated February 1, 1982 (42 U.S.C. 7158 note), pertaining to the Naval Nuclear Propulsion Program); and

(b) With regard to which DOE has or had

(i) A proprietary interest; or

(ii) Entered into a contract with an entity to provide management and operation, management and integration, environmental remediation services, construction, or maintenance services.

Physician panel means one or more physicians (as determined by the Program Office), who are appointed by the Secretary of Health and Human Services, pursuant to part D of the Act, to evaluate applications of DOE contractor employees, under the procedures and requirements of this part.

Program office means the Office of Worker Advocacy within DOE's Office of Environment, Safety and Health, or any other DOE office subsequently assigned to perform the functions of the Secretary of Energy under Part D of the Act.

State agreement means an agreement negotiated between DOE and a State that sets forth the terms and conditions for dealing with an application for assistance under Part D of the Act in filing a claim with the State's workers' compensation system.

Toxic substance means any material that has the potential to cause illness or death because of its radioactive, chemical, or biological nature.

[67 FR 52853, Aug. 14, 2002, as amended at 69 FR 13712, Mar. 24, 2004]

§ 852.3 How does an individual obtain and submit an application for review and assistance?

(a) An individual obtains an application for review and assistance:

(1) In person from the Program Office, from any of the Resources Centers listed in Appendix A to this section, or

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from any DOE-sponsored Former Worker Program project;

(2) Through a written request mailed to Assistant Secretary, Office of Environment, Safety and Health, Office of Worker Advocacy, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585. or to any other address that DOE may subsequently publish by notice in the FEDERAL REGISTER;

(3) Through telephone request to 1-877-447-9756 or to any other telephone number that DOE may subsequently publish by notice in the FEDERAL REGISTER; or

(4) In printable format, from the Program Office's Web site at <http://tis.eh.doe.gov/advocacy/> or from any other Web site that DOE may subsequently publish by notice in the FEDERAL REGISTER.

(b) An individual submits an application for review and assistance—

(1) In person to the Program Office, to any Resource Center, or to any DOE-sponsored Former Worker Program project.

(2) By mail to the Program Office at the address identified in paragraph (a)(2) of this section, or to any other address that DOE may subsequently publish by notice in the FEDERAL REGISTER.

§ 852.4 What information and materials does an individual submit as a part of the application for review and assistance?

(a) As a part of the application for review and assistance, an individual must submit, in writing:

(1) Any application forms required by the Program Office.

(2) The name and address of any licensed physician who is the source of a diagnosis based upon documented medical information that the employee has or had an illness and that the illness may have resulted from exposure to a toxic substance while the employee was employed at a DOE facility and, to the extent practicable, a copy of the diagnosis and a summary of the information upon which the diagnosis is based.

(3) A signed medical release, authorizing non-DOE sources of medical information to provide the Program Office with any diagnosis, medical opin-

ion and medical records documenting the diagnosis or opinion that the employee has or had an illness and that the illness may have resulted from exposure to a toxic substance while the employee was employed at a DOE facility.

(4) To the extent practicable and appropriate, an occupational history obtained by a physician, an occupational health professional, or a DOE-sponsored Former Worker Program. (If such an occupational history is not reasonably available and is deemed by the Program Office to be needed for the fair adjudication of the claim, then the Program Office will assist the applicant in obtaining this history.)

(5) Any other information or materials deemed by the Program Office to be necessary to provide reasonable evidence that the employee has or had an illness that may have arisen from exposure to a toxic substance while employed at a DOE facility.

(b) The applicant may also submit directly to the Program Office any other information or materials providing evidence that the employee has or had an illness that may have resulted from exposure to a toxic substance during the course of employment at a DOE facility.

(c) The applicant must sign an affidavit attesting to the authenticity and completeness of any information or materials submitted to the Program Office, or provide the Program Office with other evidence of authenticity of submitted materials, such as certification of submitted copies of originals.

§ 852.5 What information and materials may an employer submit in response to a submission of an application to a Physician Panel?

(a) Upon receipt of an application and the Program Office's determination that the application meets the requirements of § 852.4, the Program Office must notify each of the applicant's relevant DOE contractor employers in writing of:

- (1) The existence of the application;
- (2) The name of the employee;
- (3) The diagnosis claimed; and
- (4) The likely date of onset or date of diagnosis, if known.