

been related to employment at a Department of Energy facility.

(c) Submittal of applications to panels

If provided in an agreement under subsection (a) of this section, and if the Secretary determines that the applicant submitted reasonable evidence under subsection (b)(2) of this section, the Secretary shall submit the application to a physicians panel established under subsection (d) of this section. The Secretary shall assist the employee in obtaining additional evidence within the control of the Department of Energy and relevant to the panel's deliberations.

(d) Composition and operation of panels

(1) The Secretary shall inform the Secretary of Health and Human Services of the number of physicians panels the Secretary has determined to be appropriate to administer this section, the number of physicians needed for each panel, and the area of jurisdiction of each panel. The Secretary may determine to have only one panel.

(2)(A) The Secretary of Health and Human Services shall appoint panel members with experience and competency in diagnosing occupational illnesses under section 3109 of title 5.

(B) Each member of a panel shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) the member is engaged in the work of a panel.

(3) A panel shall review an application submitted to it by the Secretary and determine, under guidelines established by the Secretary, by regulation, whether the illness or death that is the subject of the application arose out of and in the course of employment by the Department of Energy and exposure to a toxic substance at a Department of Energy facility.

(4) At the request of a panel, the Secretary and a contractor who employed a Department of Energy contractor employee shall provide additional information relevant to the panel's deliberations. A panel may consult specialists in relevant fields as it determines necessary.

(5) Once a panel has made a determination under paragraph (3), it shall report to the Secretary its determination and the basis for the determination.

(6) A panel established under this subsection shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(e) Assistance

If provided in an agreement under subsection (a) of this section—

(1) the Secretary shall review a panel's determination made under subsection (d) of this section, information the panel considered in reaching its determination, any relevant new information not reasonably available at the time of the panel's deliberations, and the basis for the panel's determination;

(2) as a result of the review under paragraph (1), the Secretary shall accept the panel's determination in the absence of significant evidence to the contrary; and

(3) if the panel has made a positive determination under subsection (d) of this section and the Secretary accepts the determination under paragraph (2), or the panel has made a

negative determination under subsection (d) of this section and the Secretary finds significant evidence to the contrary—

(A) the Secretary shall assist the applicant to file a claim under the appropriate State workers' compensation system based on the health condition that was the subject of the determination;

(B) the Secretary thereafter—

(i) may not contest such claim;

(ii) may not contest an award made regarding such claim; and

(iii) may, to the extent permitted by law, direct the Department of Energy contractor who employed the applicant not to contest such claim or such award,

unless the Secretary finds significant new evidence to justify such contest; and

(C) any costs of contesting a claim or an award regarding the claim incurred by the contractor who employed the Department of Energy contractor employee who is the subject of the claim shall not be an allowable cost under a Department of Energy contract.

(f) Information

At the request of the Secretary, a contractor who employed a Department of Energy contractor employee shall make available to the Secretary and the employee information relevant to deliberations under this section.

(g) GAO report

Not later than February 1, 2002, the Comptroller General shall submit to Congress a report on the implementation by the Department of Energy of the provisions of this section and of the effectiveness of the program under this section in assisting Department of Energy contractor employees in obtaining compensation for occupational illness.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3661], Oct. 30, 2000, 114 Stat. 1654, 1654A-512.)

REFERENCES IN TEXT

Level III of the Executive Schedule, referred to in subsec. (d)(2)(B), is set out in section 5314 of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (d)(6), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 85—AIR POLLUTION PREVENTION AND CONTROL

SUBCHAPTER I—PROGRAMS AND ACTIVITIES

PART A—AIR QUALITY AND EMISSION LIMITATIONS

Sec. 7401.	Congressional findings and declaration of purpose.
	(a) Findings.
	(b) Declaration.
	(c) Pollution prevention.
7402.	Cooperative activities.
	(a) Interstate cooperation; uniform State laws; State compacts.
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7403.	Research, investigation, training, and other activities.
	(a) Research and development program for prevention and control of air pollution.