



The Secretary of Energy

Washington, DC 20585

March 29, 2004

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

The purpose of this letter is to submit proposed legislation to amend Part D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA). The amendments would remove impediments to the Department of Energy's (DOE) timely processing of applications submitted to DOE under Part D. Specifically, the proposed legislation would eliminate the pay cap on physicians serving on Part D physician panels, eliminate the requirement that these physicians work on only a temporary or intermittent basis, and eliminate the requirement for agreements between DOE and States.

Part D authorizes DOE to provide assistance to DOE contractor employees in applying for State workers' compensation benefits. DOE provides this assistance by helping workers develop their case files and obtain a determination from a physician panel as to whether it is at least as likely as not that exposure to a toxic substance at a DOE facility was a significant factor in aggravating, contributing to, or causing the illness or death of the worker. The preparation of these case files is a multi-faceted effort that involves gathering employment records, establishing relevant occupational histories, and collecting medical records.

The current backlog of Part D applications pending at DOE is over 20,000 applications and growing. A significant factor contributing to this backlog is the inadequate supply of physicians willing to review applications and make determinations at the compensation rate allowed by EEOICPA, which limits the physicians pay to approximately \$69 per hour. Physicians with the requisite skills to make EEOICPA determinations normally are paid at a market rate of at least \$130 per hour. Further, the statutory requirement that physicians be retained as temporary or intermittent consultants or experts limits the availability of physicians who otherwise are capable and willing to serve on physician panels.

In order to eliminate the backlog of Part D applications and transition to a lower rate of processing applications, DOE needs a high degree of flexibility. The proposed legislation provides this flexibility, and would allow DOE to pay physicians at a rate high enough to attract sufficient numbers of them to do physician panel work.

DOE also is being hindered in the processing of Part D applications by the statutory requirement that DOE enter into an agreement with a State before DOE processes Part D

applications from individuals in the State. We believe these agreements are unnecessary. Nothing in EEOICPA requires a State to be bound by a physician panel determination nor authorizes DOE to participate in State workers' compensation proceedings. There is no conflict of interest between DOE and a State that requires an agreement. Despite this fact, in some instances, because of changes in State administrations and for other reasons, it has proven difficult to negotiate agreements with States. In these instances, the requirement for an agreement is preventing DOE from processing applications from hundreds of applicants.

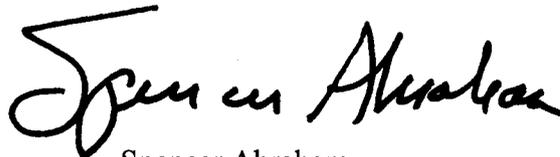
For these reasons, we urge prompt passage of the enclosed legislative proposal.

The Office of Management and Budget has advised the Department that enactment of this proposal is in accord with the program of the President.

The Administration is working on legislation to refine the definition of the DOE facility and will provide legislative language in the near future.

Should you have any questions or need additional information concerning this proposed legislation, please contact Mr. Rick Dearborn, Assistant Secretary, Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

A handwritten signature in black ink that reads "Spencer Abraham". The signature is written in a cursive, flowing style.

Spencer Abraham

Enclosures

A BILL

To improve the efficiency of the Department of Energy's Energy Employee Occupational
Illness

Compensation Program, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States
of America in Congress assembled,*

SECTION. 1. STATE AGREEMENTS.

Section 3661 of the Energy Employees Occupational Illness Compensation
Program Act of 2000 (42 U.S.C. 7385o) is amended by—

(1) in subsection (b), striking “Pursuant to agreements under subsection
(a), the” and inserting “The”;

(2) in subsection (c), striking “provided in an agreement under subsection
(a), and if”; and

(3) in subsection (e), striking “If provided in an agreement under
subsection (a)” and inserting “If a panel has reported a determination under
subsection (d)(5)”.

SEC. 2. PHYSICIANS PANELS.

Section 3661(d) of the Energy Employees Occupational Illness Compensation
Program Act of 2000 (42 U.S.C. 7385o(d)) is amended by amending paragraph (2) to
read as follows:

“(2) The Secretary of Health and Human Services shall select the individuals to serve as panel members based on experience and competency in diagnosing occupational illnesses. The Secretary shall appoint the individuals so selected as panel members or shall obtain by contract the services of such individuals as panel members.”.



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The Honorable Richard B. Cheney
President of the Senate
Washington, DC 20510

Dear Mr. President:

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