

Exhibit #15



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 12, 2001

Ms. Loretta Young
Office of Advocacy, EH-8
U.S. Department of Energy
1000 Independence Avenue
Washington, DC 20858

Dear Ms. Young:

In response to the September 7, 2001, Federal Register Notice requesting comments on the Guidelines for Physicians Panel Determinations on Worker Requests for Assistance in Filing State Workers' Compensation Benefits, several comments are enclosed. I regret not providing these comments before the requested deadline, but I was awaiting approval from our Office of General Council before forwarding them to your office.

It is my hope that these comments will be of assistance to you and your staff. If additional information is desired, please contact me at (301) 415-8715 or via e-mail at evh@nrc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Vincent Holahan".

E. Vincent Holahan, Ph.D.
Senior Level Advisor for
Health Effects Research Programs

Enclosure: As stated

General Comment. It is unclear why physicians panels will be convened to assist former Department of Energy (DOE) contract workers apply for state workers compensation benefits. If the Department of Energy intends to assist former workers, it is in the best position to assist the worker with the description and documentation of the occupational work place and toxic agents to which the worker was exposed. The physicians panel does not contribute to this activity. Rather, as described in the FRN, the physicians panel appears to be a screening tool that will discourage former DOE contract workers from applying for state assistance. In addition, the cost of administering the physicians panel relative to the benefits derived by the former employees is excessive. The DOE estimates they will spend \$92 million over ten years to assist workers in their receipt of \$34 million in benefits. DOE and OMB should carefully review the costs and benefits of this program before proceeding to final rulemaking.

1. Section II L. What is a Toxic Substance. A narrower definition is preferable. The original legislation did not consider biological or infectious agents as a part of the Energy Employees Occupational Illness Compensation Program, and as such is beyond the scope of this physicians panel. A definition that defines toxic substance as any chemical or compound capable of causing illness as a result of exposure is sufficient. This later definition would include exposure to radioisotopes such as oxides of uranium and other chemical compounds found in many of the former nuclear weapons development facilities.

2. Section II O regarding section 852.7: Why is the physicians panel making a causation determination before rendering assistance in filing for state worker's compensation benefits? The determination of causation is a state responsibility as part of its' worker's compensation program. It is the responsibility of the worker, with the assistance of the Department of Energy, to provide sufficient information for the state to render an informed decision. The physicians panel will be able to review medical information provided by the worker (or their personal physician) as it pertains to the current health status of the worker and comment upon the adequacy of the information to submit a claim. However, characterizing the occupational environment and prior exposure to toxic substance is the primary responsibility of the Department of Energy. In a majority of cases, the Department of Energy cannot provide a comprehensive description of worker exposure to toxic chemicals at former nuclear weapon development and fabrication facilities. Hence, how will a former worker and the physicians panel determine causation?

3. Section II Q. If the panel requests an interview with the applicant, who will pay for any travel associated with the interview? If consultations with specialists is required, are the specialists paid and at what rate? Requiring an interview before a physicians panel may result in a financial burden and physical hardship. Alternative methods of obtaining information should be explored.

4. Section II AA. Is it correct that the Department of Energy is proposing to spend \$92 million to ascertain whether or not it will assist workers claim \$34 million in benefits and most of the benefits are paid to claimants by the individual states? Similarly, DOE proposes spending \$19 million in FY 03 to ascertain whether or not it will assist workers claim \$10 million in benefits? What is the justification for this program? Is the physician panel intended to screen applicants to deny benefits or assist workers prepare a benefit claim package? If the intent is the former, what is the proposed cost benefit of the program as a result of denied applications? If the intent is the later, what is the purpose of the probability of causation determination? Why not

just provide all available documentation to state worker compensation commission's upon request?

5. Section III C. What is the basis for the Department of Energy's estimate of 1,200 workers being "potentially eligible for State compensation"? DOE estimates for annual claims contained in FRN 66, No. 102, May 25, 2001, regarding 20 CFR Parts 1 and 30, state that over 68,500 workers will apply for compensation under the EEOICPA for radiation, silicon, and/or beryllium related illnesses. Furthermore, 4,500 workers will be required to submit supplemental evidence under the "Act". Wouldn't many or all of these workers also apply for workers compensation benefits? Why is the estimate of 1,200 eligible workers not a gross underestimate?

6. Section 852.3. Is it possible to include the website address for the program office in this section to which applicants may submit an application for review and assistance?

7. Section 852.8. The exposure records (c) and information (h) included in the claim are most appropriate for radiation related exposures. Reword the sections to be more inclusive of exposure to chemical compounds and heavy metals.

8. Section 852.13 (a). No mention of returning medical records to the applicant or the applicant's primary medical provider, after the completion of the review process, is mentioned.

9. Section 852.15 (b)(1). Delete. If the expertise of the program office is so great they can overturn the determination of a physicians panel based on the program office's judgment of the available evidence, why is a physicians panel needed? If additional information becomes available, forward the information to the panel for reconsideration. If the panel has a conflict of interest, then re-review the information as provided in section (b)(2).