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Carter\_K\_Kirk@RL.gov on 09/19/2001 02:49:08 PM

To: Loretta Young/EH/DOE@EH  
cc:

Subject: 10 CFR Part 852. Guidelines for Physicians Panel ....Benefits - W ritten Comments

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Ms. Young,

Attached are my comments on the subject Rule due to you on or before October 9, 2001. The comments are in MS Word (\*.doc) format.

<<WRITTEN COMMENTS ON 10 CFR PART 852.doc>>

Thank you!

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 - WRITTEN COMMENTS ON 10 CFR PART 852.doc

WRITTEN COMMENTS ON 10 CFR PART 852, *Guidelines For Physicians Panel Determinations on Worker Requests for Assistance in Filing for State Workers' Compensation Benefits*, Federal Register, Vol. 66, No. 174, Friday, September 7, 2001, FR 46742-46752

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

Consideration given to the fact that compensation under this program will come from State OWCP funds, including self-insurer's, applications should also be made available from DOE and DOE contractors. If DOE, other than the Program Office, or its contractors provide applications to applicants, as "good faith", under this rule, DOE and DOE Contractors would be considered to be in violation of the law established under this part. This places DOE Operations and Area Offices, along with DOE contractors in a "Catch-22" position, and the language in this subpart further exacerbates the perceived "distrust" of DOE and its contractors.

Recommend that language be added to § 852.3(a)(1) which includes DOE Operations/Area Offices and DOE Contractors, and in §852.3(b)(1) which includes DOE Operations/Area Offices and DOE Contractors.

**§ 852.3 (a) (2) and (b) (2).** Language is provide in this part which provides address and contact information in for comments and participation in the public hearing, but language is absent in providing mailing address or contact information for applicants.

Recommend that language be provided which gives the mailing address to be used for the Program Office.

**10 CFR 852.** This part is absent language that provides the employer (i.e. DOE Operations/Area Offices and DOE Contractor organizations) an opportunity to provide information germane to an applicants request for compensation to the Program Office or the Physician's Panel. The processes described in this part denies the employers the right to "due process" and representation as describe in both the U.S. Constitution and Washington State Constitution.

Recommendation: Recommend that the employer (lower-tiered DOE Operations/Area Offices and their DOE Contractors) have the right to be notified in a timely manner by the Program Office, and as appropriate, be able to respond in a timely manner to the Program Office with relevant information that can rebut the application for compensation for a DOE contractor employee prior to determinations by the Program Office or the Physician Panel Review. Recommend modifying language in §852.4 which provides for timely notification and response to the Program Office from DOE Operations/Area Offices and Contractors prior to determinations on a claim by the Program Office.

**10 CFR 852 (Preamble- I. Introduction)** "After DOE enters into such an agreement with a State, and applicant can submit an application to the Program Office in DOE for assistance in filing a claim with that State's worker's compensation system."

1. Does this statement imply that as State agreements are entered into with the Program Office, that the public will be notified via the Federal Register of this agreement and the conditions under the Administrative Procedures Act? If not, how will the public be notified that an Agreement has been entered into with the DOE Program Office?
2. This statement implies that all applications for Physician's Panel already received under this act are null and void, pending notification of the state agreement?