Memorandum of Understanding (MOU) between the U.S. Department of Energy (DOE) and the State of Michigan

1. PURPOSE

The U.S. Department of Energy (DOE) and the State of Michigan (State) enter into this agreement to facilitate coordination and cooperation between the parties under subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (Act) (Pub.L.106-398).

2. AGREEMENT AND UNDERSTANDING BETWEEN DOE AND THE STATE

DOE and the State of Michigan enter into this agreement to facilitate operation of the DOE contractor worker assistance program, established pursuant to subtitle D of the Act, under which DOE may assist former or current contractor employees in filing claims under the State's workers' compensation system.

1. Pursuant to subtitle D, the DOE will provide assistance to DOE contractor employees in filing claims under the State of Michigan's workers' compensation system for an illness caused by exposure to a toxic substance at a DOE facility in accordance with the process set forth at 10 CFR Part 852.

2. A positive determination pursuant to Part 852 has no effect on the scope of Michigan State workers' compensation proceedings, the conditions for compensation, or the rights and obligations of the participants in the proceeding; provided that consistent with subtitle D such a determination will prevent DOE and may prevent a DOE contractor from contesting an applicant's workers' compensation claim. Preamble Question AA of 10 CFR Part 852, states that Section 852.19 requires the Program Office to advise the cognizant Secretarial Officer to recommend to the relevant Contracting Officer that, to the extent permitted by law, the DOE contractor be directed not to contest the claim or award. Subtitle D of the Act only provides that DOE may direct its contractors not to contest a determination by a Physician Panel. It neither affects nor authorizes DOE to give directives to persons who are not DOE contractors. Thus, it will not affect persons such as insurers. This will also not affect parties whose only contractual relationship with DOE is that of a lessee under a commercial lease, the purpose of which lease is in no way related to, or for support of, a DOE duty, responsibility, or obligation. However, if the lessee also has entered into a service or materials contract with DOE in connection with such lease, under which the leased premises will be used to carry out performance under the contract, the conclusion will be different. In addition, DOE may direct its contractors not to contest a determination by a Physician Panel only to the extent permitted by law. Thus, DOE cannot direct a contractor to take action that would violate the contractor's obligations under a State workers compensation system or other legal obligations such as a contractual obligation to an insurer.

3. AREAS OF COOPERATION

1. Upon Michigan Bureau of Workers' Compensation request, DOE agrees to promptly notify the Michigan Bureau of Workers' Compensation of workers' compensation claims that DOE has accepted as DOE work-related illnesses caused by exposure to toxic substances.

2. Upon request by the DOE, the State agrees to provide, in a timely manner, information concerning the status or outcome of a workers' compensation claim filed with the Michigan Bureau of Workers' Compensation by a DOE contractor employee or the employee's estate, consistent with Michigan Law.

4. IMPLEMENTATION

The DOE office responsible for implementation of this agreement is the Office of Environment, Safety and Health. The State official responsible for the implementation of this agreement is Director, Michigan Bureau of Workers & Unemployment Compensation, David Plawecki.

5. AMENDMENT AND TERMINATION

This Agreement may be amended or modified upon written agreement by both parties to the Agreement. The Agreement may be terminated upon ninety (90) days written notice by either party.

6. EFFECTIVE DATE

This Agreement is effective when signed by both parties.

Beverly A. Cook
Assistant Secretary for
Environment, Safety and Health
Department of Energy

Dated: 8/18/03

David Plawecki
Director
Michigan Bureau of Workers & Unemployment Compensation
State of Michigan

8/4/03