

From: maxine pennington
Sent: Saturday, August 26, 2017 12:32 AM
To: DOL Energy Advisory Board Information
Subject: Information for and Request for Working Group for Presumptions and Board

To Toxic Substances Advisory Board (EEOICPA)

As a retired chemist from the DOE's Kansas City Plant, and a claimant who has been sent notice of a draft denial decision, I would like to ask that exhibit 15-4 from DOL Federal (EEOICPA) Policy Manual version 1.0, April 2017 be reviewed by the Board or referred to the appropriate committee or working group for review.

Exhibit 15-4 is the basis for allowing a DOL regional examiner to make a favorable decision providing all 3 of the following apply to a EEOICPA claimant (they also deny if all three are not met without assessment of the individuals exposure claims):

1. diagnosis of sensorineural hearing loss in both ears
2. ten consecutive years of employment in one job category (qualified categories included in the policy) completed before 1990
3. exposure to any of the seven specific organic solvents linked to sensorineural hearing loss

Two presumptions in item 2 are inaccurate and are used to disqualify claimants under Part E with bilateral sensorineural hearing loss. I am an example of an employee who worked 16 consecutive years in the KCP analytical chemistry lab and during that time I had seven job titles. Job title presumption does not allow for the fact that many titles have functions, locations, and exposures that are identical. BEFORE 1990, is a presumption that because the TSCA was enacted prior to 1990, then the seven toxic solvents were not used at KCP after that date. I am attaching the same document regarding the dates of minimizing use of the chlorinated solvents and the goal of elimination by July 1993. This tri-party agreement was well publicized at KCP when it was signed by the top leader in each organization (DOE, Sandia, KCP). All of us analytical chemists worked diligently to try to eliminate the use of trichloroethylene degreasers at KCP and qualify substitute cleaning processes by the goal set by our presidents.

The presumptive 1990 date in DOL policy regarding decisions on hearing loss cases, is very similar to the post 1995 exposure guidance that was rescinded due to the Board recommendations by circular 17-4. I reviewed the meeting minutes for the April 2017 Board meeting and appreciate that the Board got DOL attention and action. Ms. Leitner stated that other policies were under review for the same date presumption error.

There are many published reports that support that 1994 was actually the goal date to eliminate chlorinated solvent use in weapons production: DOE's Environmental Restoration and Waste Management 5-year Plan of 1989, technical reports that were funded (in 1991 -1995) by this effort often called Environmental Conscious Manufacturing, the trip-party agreement.

This policy is glaring example of flawed decision-making processes based on inaccurate presumptions. Even though I provided the dated documents showing that we worked through 1994 with trichloroethylene vapor degreasers at KCP and also material standards that show the toxic solvent is still in use at the KCP, I was recommended a denial "based on policy".

I am not asking for individual intervention in my case. I am asking how to get recognition of the facts that the policy used to review hearing loss cases is not reflective of significant use of chlorinated solvents and potential exposures at KCP and Sandia during these years to 1993 when significant research was done to find substitutes for the toxic solvents.

Please contact me if additional information is needed.

Sincerely

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