

section 7384(9)(B) of this title, information specifying the estimated radiation dose of that employee during each employment specified in section 7384(9)(B) of this title, whether established by a dosimetry reading, by a method established under subsection (d) of this section, or by both a dosimetry reading and such method.

(2) The Secretary of Health and Human Services and the Secretary of Energy shall each make available to researchers and the general public information on the assumptions, methodology, and data used in establishing radiation doses under subsection (d) of this section. The actions taken under this paragraph shall be consistent with the protection of private medical records.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3623], Oct. 30, 2000, 114 Stat. 1654, 1654A-502; Pub. L. 108-375, div. C, title XXXI, §3168(b), Oct. 28, 2004, 118 Stat. 2190.)

REFERENCES IN TEXT

Section 7(b) of the Orphan Drug Act, referred to in subsec. (c)(3)(A), is section 7(b) of Pub. L. 97-414, which is set out in a note under section 241 of this title.

AMENDMENTS

2004—Subsec. (c)(4). Pub. L. 108-375 added par. (4).

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see Ex. Ord. No. 13179, Dec. 7, 2000, 65 F.R. 77487, set out as a note under section 7384 of this title.

§ 7384o. Advisory Board on Radiation and Worker Health

(a) Establishment

(1) Not later than 120 days after October 30, 2000, the President shall establish and appoint an Advisory Board on Radiation and Worker Health (in this section referred to as the “Board”).

(2) The President shall make appointments to the Board in consultation with organizations with expertise on worker health issues in order to ensure that the membership of the Board reflects a balance of scientific, medical, and worker perspectives.

(3) The President shall designate a Chair for the Board from among its members.

(b) Duties

The Board shall advise the President on—

(1) the development of guidelines under section 7384n(c) of this title;

(2) the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and

(3) such other matters related to radiation and worker health in Department of Energy facilities as the President considers appropriate.

(c) Staff

(1) The President shall appoint a staff to facilitate the work of the Board. The staff shall be headed by a Director who shall be appointed under subchapter VIII of chapter 33 of title 5.

(2) The President may accept as staff of the Board personnel on detail from other Federal

agencies. The detail of personnel under this paragraph may be on a nonreimbursable basis.

(d) Expenses

Members of the Board, other than full-time employees of the United States, while attending meetings of the Board or while otherwise serving at the request of the President, while serving away from their homes or regular places of business, shall be allowed travel and meal expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for individuals in the Government serving without pay.

(e) Security clearances

(1) The Secretary of Energy shall ensure that the members and staff of the Board, and the contractors performing work in support of the Board, are afforded the opportunity to apply for a security clearance for any matter for which such a clearance is appropriate. The Secretary should, not later than 180 days after receiving a completed application, make a determination whether or not the individual concerned is eligible for the clearance.

(2) For fiscal year 2007 and each fiscal year thereafter, the Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) a report specifying the number of applications for security clearances under this subsection, the number of such applications granted, and the number of such applications denied.

(f) Information

The Secretary of Energy shall, in accordance with law, provide to the Board and the contractors of the Board access to any information that the Board considers relevant to carry out its responsibilities under this subchapter, including information such as Restricted Data (as defined in section 2014(y) of this title) and information covered by the Privacy Act [5 U.S.C. 552a].

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3624], Oct. 30, 2000, 114 Stat. 1654, 1654A-504; Pub. L. 108-375, div. C, title XXXI, §3166(a), Oct. 28, 2004, 118 Stat. 2188.)

REFERENCES IN TEXT

The Privacy Act, referred to in subsec. (f), is probably a reference to section 552a of Title 5, Government Organization and Employees. See Short Title note set out under section 552a of Title 5.

AMENDMENTS

2004—Subsecs. (e), (f). Pub. L. 108-375 added subsecs. (e) and (f).

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 7384p. Responsibilities of Secretary of Health and Human Services

The Secretary of Health and Human Services shall carry out that Secretary's responsibilities with respect to the compensation program with the assistance of the Director of the National Institute for Occupational Safety and Health.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3625], Oct. 30, 2000, 114 Stat. 1654, 1654A-504.)

§ 7384q. Designation of additional members of special exposure cohort

(a) Advice on additional members

(1) The Advisory Board on Radiation and Worker Health under section 7384o of this title shall advise the President whether there is a class of employees at any Department of Energy facility who likely were exposed to radiation at that facility but for whom it is not feasible to estimate with sufficient accuracy the radiation dose they received.

(2) The advice of the Advisory Board on Radiation and Worker Health under paragraph (1) shall be based on exposure assessments by radiation health professionals, information provided by the Department of Energy, and such other information as the Advisory Board considers appropriate.

(3) The President shall request advice under paragraph (1) after consideration of petitions by classes of employees described in that paragraph for such advice. The President shall consider such petitions pursuant to procedures established by the President.

(b) Designation of additional members

Subject to the provisions of section 7384l(14)(C) of this title, the members of a class of employees at a Department of Energy facility, or at an atomic weapons employer facility, may be treated as members of the Special Exposure Cohort for purposes of the compensation program if the President, upon recommendation of the Advisory Board on Radiation and Worker Health, determines that—

(1) it is not feasible to estimate with sufficient accuracy the radiation dose that the class received; and

(2) there is a reasonable likelihood that such radiation dose may have endangered the health of members of the class.

(c) Deadlines

(1) Not later than 180 days after the date on which the President receives a petition for designation as members of the Special Exposure Cohort, the Director of the National Institute for Occupational Safety and Health shall submit to the Advisory Board on Radiation and Worker Health a recommendation on that petition, including all supporting documentation.

(2)(A) Upon receipt by the President of a recommendation of the Advisory Board on Radiation and Worker Health that the President should determine in the affirmative that paragraphs (1) and (2) of subsection (b) of this section apply to a class, the President shall have a period of 30 days in which to determine whether such paragraphs apply to the class and to submit that determination (whether affirmative or negative) to Congress.

(B) If the determination submitted by the President under subparagraph (A) is in the affirmative, the President shall also submit a report meeting the requirements of section 7384l(14)(C)(ii) of this title.

(C) If the President does not submit a determination required by subparagraph (A) within the period required by subparagraph (A), then upon the day following the expiration of that period, it shall be deemed for purposes of section 7384l(14)(C)(ii) of this title that the President submitted the report under that provision on that day.

(d) Access to information

The Secretary of Energy shall provide, in accordance with law, the Secretary of Health and Human Services and the members and staff of the Advisory Board on Radiation and Worker Health access to relevant information on worker exposures, including access to Restricted Data (as defined in section 2014(y) of this title).¹

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3626], Oct. 30, 2000, 114 Stat. 1654, 1654A-504; Pub. L. 107-107, div. C, title XXXI, §3151(a)(2), Dec. 28, 2001, 115 Stat. 1372; Pub. L. 108-375, div. C, title XXXI, §3166(b)(1), Oct. 28, 2004, 118 Stat. 2188.)

AMENDMENTS

2004—Subsecs. (c), (d). Pub. L. 108-375 added subsec. (c) and redesignated former subsec. (c) as (d).

2001—Subsec. (b). Pub. L. 107-107 inserted “, or at an atomic weapons employer facility,” after “Department of Energy facility” in introductory provisions.

§ 7384r. Separate treatment of chronic silicosis

(a) Sense of Congress

Congress finds that employees who worked in Department of Energy test sites and later contracted chronic silicosis should also be considered for inclusion in the compensation program. Recognizing that chronic silicosis resulting from exposure to silica is not a condition unique to the nuclear weapons industry, it is not the intent of Congress with this subchapter to establish a precedent on the question of chronic silicosis as a compensable occupational disease. Consequently, it is the sense of Congress that a further determination by the President is appropriate before these workers are included in the compensation program.

(b) Certification by President

A covered employee with chronic silicosis shall be treated as a covered employee (as defined in section 7384l(1) of this title) for the purposes of the compensation program required by section 7384d of this title unless the President submits to Congress not later than 180 days after October 30, 2000, the certification of the President that there is insufficient basis to include such employees. The President shall submit with the certification any recommendations about the compensation program with respect to covered employees with chronic silicosis as the President considers appropriate.

(c) Exposure to silica in the performance of duty

A covered employee shall, in the absence of substantial evidence to the contrary, be deter-

¹So in original. A closing parenthesis should probably follow “title”.