

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3653], as added Pub. L. 108-375, div. C, title XXXI, §3163(c), Oct. 28, 2004, 118 Stat. 2187.)

PART D—ASSISTANCE IN STATE WORKERS'  
COMPENSATION PROCEEDINGS

**§ 7385o. Repealed. Pub. L. 108-375, div. C, title XXXI, § 3162(i), Oct. 28, 2004, 118 Stat. 2186**

Section, Pub. L. 106-398, §1 [div. C, title XXXVI, §3661], Oct. 30, 2000, 114 Stat. 1654, 1654A-512, authorized Secretary of Energy to enter agreements with States to provide assistance to Department of Energy contractor employees in filing claims under the appropriate State workers' compensation system.

PART E—CONTRACTOR EMPLOYEE COMPENSATION

**§ 7385s. Definitions**

In this part:

(1) The term "covered DOE contractor employee" means any Department of Energy contractor employee determined under section 7385s-4 of this title to have contracted a covered illness through exposure at a Department of Energy facility.

(2) The term "covered illness" means an illness or death resulting from exposure to a toxic substance.

(3) The term "Secretary" means the Secretary of Labor.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3671], as added Pub. L. 108-375, div. C, title XXXI, §3161, Oct. 28, 2004, 118 Stat. 2178.)

**§ 7385s-1. Compensation to be provided**

Subject to the other provisions of this part:

**(1) Contractor employees**

A covered DOE contractor employee shall receive contractor employee compensation under this part in accordance with section 7385s-2 of this title.

**(2) Survivors**

After the death of a covered DOE contractor employee, compensation referred to in paragraph (1) shall not be paid. Instead, the survivor of that employee shall receive compensation as follows:

(A) Except as provided in subparagraph (B), the survivor of that employee shall receive contractor employee compensation under this part in accordance with section 7385s-3 of this title.

(B) In a case in which the employee's death occurred after the employee applied under this part and before compensation was paid under paragraph (1), and the employee's death occurred from a cause other than the covered illness of the employee, the survivor of that employee may elect to receive, in lieu of compensation under subparagraph (A), the amount of contractor employee compensation that the employee would have received in accordance with section 7385s-2 of this title if the employee's death had not occurred before compensation was paid under paragraph (1).

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3672], as added Pub. L. 108-375, div. C, title XXXI, §3161, Oct. 28, 2004, 118 Stat. 2178.)

**§ 7385s-2. Compensation schedule for contractor employees**

**(a) Compensation provided**

The amount of contractor employee compensation under this part for a covered DOE contractor employee shall be the sum of the amounts determined under paragraphs (1) and (2), as follows:

**(1) Impairment**

(A) The Secretary shall determine—

(i) the minimum impairment rating of that employee, expressed as a number of percentage points; and

(ii) the number of those points that are the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility.

(B) The employee shall receive an amount under this paragraph equal to \$2,500 multiplied by the number referred to in clause (ii) of subparagraph (A).

**(2) Wage loss**

(A) The Secretary shall determine—

(i) the calendar month during which the employee first experienced wage loss as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility;

(ii) the average annual wage of the employee for the 36-month period immediately preceding the calendar month referred to in clause (i), excluding any portions of that period during which the employee was unemployed; and

(iii) beginning with the calendar year that includes the calendar month referred to in clause (i), through and including the calendar year during which the employee attained normal retirement age (for purposes of the Social Security Act [42 U.S.C. 301 et seq.]—

(I) the number of calendar years during which, as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility, the employee's annual wage exceeded 50 percent of the average annual wage determined under clause (ii), but did not exceed 75 percent of the average annual wage determined under clause (ii); and

(II) the number of calendar years during which, as the result of any covered illness contracted by that employee through exposure to a toxic substance at a Department of Energy facility, the employee's annual wage did not exceed 50 percent of the average annual wage determined under clause (ii).

(B) The employee shall receive an amount under this paragraph equal to the sum of—

(i) \$10,000 multiplied by the number referred to in clause (iii)(I) of subparagraph (A); and

(ii) \$15,000 multiplied by the number referred to in clause (iii)(II) of subparagraph (A).