

From: [Kody Whitear](#)
To: [DOL Energy Advisory Board Information](#)
Subject: Asbestos Exposure 1987 through 1995
Date: Thursday, August 29, 2019 4:42:49 PM
Attachments: [v2.3 Asbestos Exposure Presumed 87-95.pdf](#)
[v3.0,v3.1 Asbestos Exposure Language Removed 87-95.pdf](#)

Hello Advisory Board:

My name is Kody Whitear and I have been knowledgeable of the Energy Employees Occupational Illness Compensation Program Act for the last several years. During that time I have noticed that the program's Policy and Procedure Manual (PPM) has been updated as new guidance is issued by various authorities. I am aware of the Final Rules set forth in April of this year and the stir those rules have caused.

During the implementation of the Final Rules and the release of the updated PPM version 3.0 and 3.1, there was a long standing provision removed from the PPM which may negatively affect former Department of Energy (DOE) employees who worked at a DOE facility from 1987 through 1995.

The previous PPM allowed for a presumption of significant exposure to asbestos at low levels for certain job categories known to work with or around asbestos from 01/01/1987 to 12/31/1995. You may reference the attached v2.3 excerpt.

The current PPM has removed this presumption. You may reference the attached v3.0,v3.1 excerpt. I am not aware of any new evidence which retroactively concluded these workers were not exposed to asbestos. To the contrary there appears to be a greater number reports being made by claimants who are stating they experienced exposure to asbestos not only from 1987 through 1995 but beyond. This is not surprising considering the latency period for asbestosis is 10-40 years and many of the former workers exposed to asbestos after 1987 and after the mid 1990s are only now beginning to present with lung disease secondary to asbestos exposure.

The removal of the asbestos exposure presumption now necessitates the completion of an industrial hygiene (IH) report for each claimant who is claiming asbestos related diseases and worked during this time period. The completion of the IH report does not seem to be necessary and it is disheartening to see more government resources wasted, costs and payments for IH reports increased, and most of all witness a further delay to the claimants who are in need of assistance whether it be medical costs, medical treatments, or financial hardship due to lost wages.

Over the years many accepted exposures has been stripped from the PPM as well as the Site Exposure Matrix (asthma, certain COPD related chemicals, etc. are no longer in the SEM) and it is difficult to see another exposure taken away from the former and current employees when there is mounting evidence that the exposures experienced at DOE facilities appears to be greater than what is recognized, not less.

I would request a review of the grounds upon which the removal of the asbestos presumption for certain job categories from 1987 through 1995 was based. It seems obstructive to those seeking relief for asbestos related diseases and it would be interesting to see what evidence was used to remove this presumption of exposure to asbestos from the PPM.

Sincerely,

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