

DEPARTMENT OF FINANCE
ADMINISTRATIVE CODE

CHAPTER 355-8-1
DIVISION OF RISK MANAGEMENT

355-8-1-.06 Compensation For Occupational Exposure To
Radiation.

(a) Definitions. For the purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section:

(1) Occupational Exposure to Radiation. Gradual exposure to radiation over a period of time from the use of or direct contact with radium, radioactive substances, roentgen rays (x-rays) or ionizing radiation, arising out of and in the course of the employment and resulting from the nature of the employment in which the employee is engaged, without regard to whether or not said exposure is inherent in the employment or can be eliminated or reduced by due care on the part of the employer.

(2) Nature of Employment. Such term shall mean that, as to the industry in which the employee is engaged, there is attached a particular hazard of such exposure that distinguishes it from the usual run of occupations and is in excess of the hazards of such exposure attending employment in general.

(b) The disablement or death of an employee cause by occupational exposure to radiation, as defined in this article, shall be treated as an injury by accident, and the employee or, in case of his death, his dependents shall be entitled to compensation as provided in this article. In no case, however, shall the employer be liable under this article for compensation by reason of exposure to radiation or for disability or death resulting therefrom, unless such exposure arose out of and in the course of the employment and resulted from the nature of the employment in which the employee was engaged.

(c) No employee of the employer nor the personal representative, surviving spouse or next of kin of any such employee shall have any right to any other method, form or amount of compensation or damages for occupational exposure to radiation, or for injury, disability, loss of service or death resulting from such exposure, arising out of and in the course of employment, or determination thereof, in any manner other than as provided in this article.

(d) If any employee, at the time of or in the course of entering into the employment of the employer by whom the compensation would otherwise be paid, willfully and falsely represented himself in

writing to the employer as not having previously been disabled, laid off or compensated in damages, workers' compensation or otherwise, because of occupational exposure to radiation, or as not having previously been subject to occupational exposure to radiation, such employee, his personal representative, parents, surviving spouse, dependents and next of kin shall be barred from compensation or other benefits provided by this article.

(e) In case of occupational exposure to radiation, as defined in this article, or of injury or disability resulting therefrom, all claims for compensation shall be forever barred, unless within one year after the employee first suffered disability therefrom and either knew or in the exercise of reasonable diligence should have known that the disability was caused therefrom, but in no event more than three years after date of the injury as hereinafter defined, the parties shall have agreed upon the compensation payable under this article, or unless within such period of time one of the parties shall have filed a claim for benefits under this program. In case of death, all claims for compensation shall be forever barred, unless the death results proximately from occupational exposure to radiation, as defined in this article, and occurs within three years of the date of the injury, as hereinafter defined, and unless within one year after such death the parties shall have agreed upon the compensation under this article, or unless within one year after such death one of the parties shall have filed a claim for benefits under this program provided, however, that if upon the date of the death of the employee the employee's claim is barred, any claim by or for his dependents shall like wise be barred. Where, however, payments of compensation have been made in any case, said limitations shall not take effect until the expiration of one year from the time of making the last payment. In case of the mental incapacity of the injured employee or his dependents to perform or cause to be performed any act required within the time in this section specified, the period of limitation in any such case shall be extended to become effective one year from the date when such incapacity ceases. No agreement, express or implied, to shorten or to extend said limitations shall be valid or binding on either of the parties when said employment, at the time of said exposure, is or was subject to the provisions of this article. The "date of the injury" shall mean, for all purposes of this article, the date of the last exposure to the hazards of radiation in the employment of the employer in whose employment the employee was last exposed, within a period of five years prior to the date of the injury, to the hazards of radiation in each of at least 12 months.

(f) The compensation payable for death or disability caused by occupational exposure to radiation shall be computed in the same manner and in the same amounts as for computing compensation for disability or death resulting from an accident arising out of and in the course of the employment, and the medical, surgical, hospital and burial benefits payable under this article caused by said exposure shall be computed in the same manner and in the same

amounts as for computing like benefits. The date of injury shall be considered the date of the accident for determining the applicable medical, surgical and hospital benefits, the minimum and maximum weekly benefits and the limitation on the total amount of compensation payable for occupational exposure to radiation.

(g) There shall be no presumption that disablement or death from any cause or infirmity is the result of occupational exposure to radiation nor that occupational exposure to radiation will result in disablement or death, and any person claiming compensation or other benefits under this article shall have the burden of establishing that he is entitled to such.

(h) The interested parties shall have the right to settle all matters of compensation and all questions arising under this article between themselves in accordance with and subject to the provisions of Rules .03 and .04, and in case of a dispute, either party may submit the controversy to the Review Board in accordance with and subject to the provisions of Rules .03 and .04.

Author:

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