

106TH CONGRESS
2^D SESSION

S. 2519

To authorize compensation and other benefits for employees of the Department of Energy, its contractors, subcontractors, and certain vendors who sustain illness or death related to exposure to beryllium, ionizing radiation, silica, or hazardous substances in the performance of their duties, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2000

Mr. VOINOVICH (for himself, Mr. REID, Mr. DEWINE, Mr. KENNEDY, Mr. BRYAN, Mr. MCCONNELL, Mr. HARKIN, Mr. THOMPSON, Mr. FRIST, and Mr. BUNNING) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To authorize compensation and other benefits for employees of the Department of Energy, its contractors, subcontractors, and certain vendors who sustain illness or death related to exposure to beryllium, ionizing radiation, silica, or hazardous substances in the performance of their duties, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Energy Employees Occupational Illness Compensation
4 Act of 2000”.

5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—COMPENSATION AND BENEFITS FOR ILLNESSES
RELATED TO BERYLLIUM EXPOSURE

Sec. 101. Definitions.

Sec. 102. Authority to provide compensation and benefits and certain additional assistance.

Sec. 103. Alternative compensation and benefits.

Sec. 104. Exposure to beryllium in the performance of duty.

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Sec. 106. Submittal of claims.

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Sec. 108. Review by administrative law judges of actions on claims by the Secretary of Labor.

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Sec. 110. Reconsideration of claims.

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Sec. 114. Treatment of compensation and benefits.

Sec. 115. Effect of receipt of compensation and benefits on right to receive certain other benefits.

Sec. 116. Satisfaction of claims against the United States and beryllium vendors.

Sec. 117. Assignment of claims.

Sec. 118. Forfeiture of compensation and benefits by convicted felons.

Sec. 119. Civil service retention rights.

Sec. 120. Subrogation of the United States.

Sec. 121. Memorandum of understanding.

Sec. 122. Other administrative provisions.

Sec. 123. Energy Employees’ Beryllium Compensation Fund.

Sec. 124. Regulations.

Sec. 125. Annual report.

Sec. 126. Authorization of appropriations for costs of administration.

TITLE II—COMPENSATION AND BENEFITS FOR ILLNESSES RE-
LATED TO EXPOSURE TO IONIZING RADIATION, SILICA, AND
HAZARDOUS SUBSTANCES

Sec. 201. Definitions.

Subtitle A—Cancer and Related Illnesses

- Sec. 211. Authority to provide compensation and benefits and certain additional assistance.
- Sec. 212. Alternative compensation and benefits.
- Sec. 213. Exposure to ionizing radiation, silica, and other hazardous substances in the performance of duty.
- Sec. 214. Authority to specify additional illnesses associated with exposure to radiation and hazardous substances.
- Sec. 215. Submittal of claims.
- Sec. 216. Allowance or denial of claims by the Secretary of Labor.
- Sec. 217. Review by administrative law judges of actions on claims by the Secretary of Labor.
- Sec. 218. Review of administrative law judge decisions by Benefits Review Board and United States courts of appeals.
- Sec. 219. Reconsideration of claims.
- Sec. 220. Administrative matters relating to decisions on claims.
- Sec. 221. Representation of claimants.
- Sec. 222. Computation of pay for purposes of payment of compensation.
- Sec. 223. Treatment of compensation and benefits.
- Sec. 224. Effect of receipt of compensation and benefits on right to receive certain other benefits.
- Sec. 225. Satisfaction of claims against the United States, Department of Energy contractors, and Department of Energy uranium vendors.
- Sec. 226. Assignment of claims.
- Sec. 227. Forfeiture of compensation and benefits by convicted felons.
- Sec. 228. Civil service retention rights.
- Sec. 229. Subrogation of the United States.
- Sec. 230. Other administrative provisions.

Subtitle B—Other Illnesses

- Sec. 241. Compensation and benefits for other illnesses.
- Sec. 242. Procedures relating to certain determinations of eligibility for compensation and benefits.
- Sec. 243. Presumed occupational diseases.

Subtitle C—General Provisions

- Sec. 251. Memorandum of understanding.
- Sec. 252. Regulations.
- Sec. 253. Nuclear Employees' Radiation Compensation Fund.
- Sec. 254. Annual report.
- Sec. 255. Authorization of appropriations for costs of administration.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

- 3 (1) Since World War II, Federal nuclear activi-
- 4 ties have been explicitly recognized by the United
- 5 States Government as an ultra-hazardous activity

1 under Federal law. Nuclear weapons production in-
2 volves unique dangers, including potential cata-
3 strophic nuclear accidents that private insurance
4 carriers will not cover, as well as chronic exposures
5 to radioactive and hazardous substances, such as be-
6 ryllium, that could medical harm even in small
7 amounts.

8 (2) Since the inception of the nuclear weapons
9 production program and for several decades after-
10 wards, large numbers of nuclear weapons workers at
11 Department of Energy and atomic weapons sites
12 were put at risk without their knowledge and con-
13 sent for reasons that, documents reveal, were driven
14 by fears of adverse publicity, liability, and employee
15 demands for hazardous duty pay.

16 (3) Numerous previously secret records docu-
17 ment the continuing unmonitored exposure of em-
18 ployees to radiation, beryllium, heavy metals, and
19 toxic substances at Department of Energy sites
20 across the country.

21 (4) Since World War II, the Department of En-
22 ergy and its predecessors have been self-regulating
23 with respect to nuclear safety, and occupational safe-
24 ty and health. No other Federal agency has been af-

1 forded such sweeping powers of self-regulation with
2 respect to hazardous activities.

3 (5) The Department of Energy policy to litigate
4 occupational illness claims regardless of merit has
5 deterred workers from filing workers compensation
6 claims and imposed major financial burdens on
7 workers who sought compensation. Department of
8 Energy contractors have been held harmless, even
9 for acts of negligence, while Department of Energy
10 workers have been denied workers compensation cov-
11 erage for occupational disease. The policy to avoid
12 legal liabilities at all costs has been in place for dec-
13 ades.

14 (6) Over the past 20 years more than 24 sci-
15 entific findings have emerged that indicate that De-
16 partment of Energy workers are experiencing in-
17 creased risks of death from cancer and nonmalign-
18 ant diseases at numerous facilities that provided
19 for the United States nuclear deterrent. Several of
20 these studies also establish a correlation between
21 such increased risk of disease and exposure to radi-
22 ation and beryllium.

23 (7) Existing information indicates that State
24 workers' compensation programs do not provide on
25 a uniform basis adequate compensation for the types

1 of occupational illnesses and diseases related to nu-
 2 clear weapons production.

3 (8) The civilian employees who performed du-
 4 ties uniquely related to the Department of Energy's
 5 nuclear weapons production program over the last
 6 50 years should have efficient, uniform, and ade-
 7 quate compensation for beryllium-related health con-
 8 ditions and radiation-related health conditions in
 9 order to assure fairness and equity.

10 **TITLE I—COMPENSATION AND**
 11 **BENEFITS FOR ILLNESSES**
 12 **RELATED TO BERYLLIUM EX-**
 13 **POSURE**

14 **SEC. 101. DEFINITIONS.**

15 (a) IN GENERAL.—In this title:

16 (1) DEPARTMENT OF ENERGY.—The term “De-
 17 partment of Energy” includes any predecessor agen-
 18 cy of the Department of Energy.

19 (2) DEPARTMENT OF ENERGY FACILITY.—

20 (A) IN GENERAL.—The term “Department
 21 of Energy facility” means any building, struc-
 22 ture, or premise, including the grounds upon
 23 which such building, structure, or premise is lo-
 24 cated, in which operations are conducted by, or
 25 on behalf of, the Department of Energy and

1 with regard to which the Department of Energy
2 has a proprietary interest or has entered into a
3 contract to provide management and operation,
4 management and integration, or environmental
5 remediation services.

6 (B) EXCLUSION.—The term shall not in-
7 clude any naval reactor facility covered under
8 Executive Order No. 12344.

9 (3) BERYLLIUM VENDOR.—The term “beryl-
10 lium vendor” means any of the following corpora-
11 tions:

12 (A) Atomics International.

13 (B) Brush Wellman, Incorporated, and its
14 predecessor, Brush Beryllium Company.

15 (C) General Atomics.

16 (D) General Electric Company.

17 (E) NGK Metals Corporation and its pred-
18 ecessors, Kawecki-Berylco, Cabot Corporation,
19 BerylCo, and Beryllium Corporation of Amer-
20 ica.

21 (F) Nuclear Materials and Equipment Cor-
22 poration.

23 (G) StarMet Corporation, and its prede-
24 cessor, Nuclear Metals, Incorporated.

25 (H) Wyman Gordon, Incorporated.

1 (I) Any other vendor, processor, or pro-
2 ducer of beryllium or related products des-
3 ignated by the Secretary of Labor as a beryl-
4 lium vendor under section 105(a).

5 (4) COVERED EMPLOYEE.—The term “covered
6 employee” means the following:

7 (A) A current or former employee of any
8 entity that contracted or subcontracted with the
9 Department of Energy to provide management
10 and operations, management and integration,
11 production, testing, research, development, envi-
12 ronmental remediation, waste management,
13 construction, uranium enrichment, or other
14 services at a Department of Energy facility, or
15 any entity that supplied uranium conversion or
16 manufacturing services to, for, or on behalf of
17 the Department of Energy, including any entity
18 specified in section 201(a)(3)(B).

19 (B) A current or former employee of a be-
20 ryllium vendor during a period when the vendor
21 entity was engaged in activities relating to the
22 production or processing of beryllium for sale
23 to, or use by, the Department of Energy.

24 (C) A current or former employee (as that
25 term is defined in section 8101(1) of title 5,

1 United States Code) who is or was employed at
2 a Department of Energy facility or at a facility
3 owned, operated, or occupied by a beryllium
4 vendor.

5 (5) COVERED ILLNESS.—The term “covered ill-
6 ness” means any of the following conditions:

7 (A) Beryllium sensitivity as established
8 by—

9 (i) for diagnoses on or after January
10 1, 1993, an abnormal beryllium lym-
11 phocyte proliferation test performed on ei-
12 ther blood or lung lavage cells;

13 (ii) for diagnoses before January 1,
14 1993, the presence of the criteria set forth
15 in subclause (I) and any three of the cri-
16 teria set forth in subclauses (II) through
17 (VI):

18 (I) Occupational or environ-
19 mental history, or epidemiologic evi-
20 dence of beryllium exposure.

21 (II) Characteristic chest radio-
22 graphic (or computed tomography
23 (CT)) abnormalities.

1 (III) Restrictive or obstructive
2 lung physiology testing or diffusing
3 lung capacity defect.

4 (IV) Lung pathology consistent
5 with chronic beryllium disease.

6 (V) Clinical course consistent
7 with chronic respiratory disorder.

8 (VI) Immunologic tests showing
9 beryllium sensitivity (skin patch test
10 or beryllium blood test preferred); or
11 (iii) other means specified under sec-
12 tion 105(b).

13 (B) Chronic beryllium disease as
14 established—

15 (i) by—

16 (I) beryllium sensitivity, as estab-
17 lished in accordance with subpara-
18 graph (A); and

19 (II) lung pathology consisting
20 with chronic beryllium disease,
21 including—

22 (aa) a lung biopsy showing
23 granulomas or a lymphocytic
24 process consistent with chronic
25 beryllium disease;

1 (bb) a computerized axial to-
2 mography scan showing changes
3 consistent with chronic beryllium
4 disease; or

5 (cc) pulmonary function or
6 exercise testing showing pul-
7 monary deficits consistent with
8 chronic beryllium disease; or

9 (ii) by other means specified under
10 section 105(b).

11 (C) Any injury, illness, impairment, or dis-
12 ability sustained as a consequence of a covered
13 illness referred to in subparagraph (A) or (B).

14 (6) SURVIVOR.—The term “survivor”, in the
15 case of a covered employee, means any individual
16 who stands in relation to the covered employee as an
17 individual referred to clause (i), (ii), or (iii) of para-
18 graph (3)(D) of section 8109(a) of title 5, United
19 States Code, stands in relation to an individual
20 under that section.

21 (7) TIME OF INJURY.—The term “time of in-
22 jury”, in the case of a covered employee, means the
23 last date on which the covered employee was exposed
24 to beryllium in the performance of duty.

1 (b) TERMS USED IN ADMINISTRATION.—Except as
2 otherwise provided in this title, in any case where a provi-
3 sion of this title provides for the application of a provision
4 of title 5, United States Code, the terms in section 8101
5 of title 5, United States Code, shall apply in the applica-
6 tion of such provision of title 5, United States Code, under
7 this title.

8 **SEC. 102. AUTHORITY TO PROVIDE COMPENSATION AND**
9 **BENEFITS AND CERTAIN ADDITIONAL ASSIST-**
10 **ANCE.**

11 (a) COMPENSATION AND BENEFITS ON ALLOWANCE
12 OF CLAIM.—Subject to the provisions of this title, the Sec-
13 retary of Labor shall, upon the allowance of a claim for
14 disability or death under this title—

15 (1) pay compensation for the disability or death
16 in accordance with sections 8105 through 8110,
17 8111(a), 8112, 8113(a), 8115, 8117, 8133 through
18 8135, and 8146a of title 5, United States Code;

19 (2) reimburse the claimant for any costs in-
20 curred by the claimant (other than costs previously
21 paid for or reimbursed under subsection (d)(3)) for
22 medical testing and diagnostic services necessary to
23 establish the existence of the covered illness con-
24 cerned;

1 (3) reimburse the claimant for any additional
2 reasonable medical expenses incurred by the claim-
3 ant in establishing the claim;

4 (4) in the case of a covered employee, furnish
5 the services and other benefits specified in section
6 8103 of title 5, United States Code; and

7 (5) in the case of a permanently disabled cov-
8 ered employee—

9 (A) inform the covered employee of the
10 availability of vocational rehabilitation services
11 under sections 8104 and 8111(b) of title 5,
12 United States Code; and

13 (B) furnish such services to the covered
14 employee in accordance with such sections.

15 (b) LIMITATIONS ON COMPENSATION AND BENE-
16 FITS.—(1) No compensation or benefits may be paid or
17 provided under subsection (a) for a covered illness or
18 death if the covered illness or death occurred under one
19 of the circumstances set forth in paragraph (1), (2), or
20 (3) of section 8102(a) of title 5, United States Code.

21 (2) No compensation may be paid under this title for
22 any period before the date of the enactment of this Act,
23 except in the case of compensation under section 103.

1 (c) ASSISTANCE FOR CLAIMANTS.—The Secretary of
2 Labor shall, upon the submittal of a claim under this title
3 for compensation and benefits under subsection (a)—

4 (1) provide assistance to the claimant in con-
5 nection with the claim, including—

6 (A) assistance in securing medical testing
7 and diagnostic services necessary to establish
8 the existence of a covered illness; and

9 (B) such other assistance as may be re-
10 quired to develop facts pertinent to the claim;
11 and

12 (2) provide such information to the authority
13 with responsibility for the allowance of claims under
14 section 107, or for review thereof under sections 108
15 and 109, as such authority may request for purposes
16 of determining eligibility for or amount of compensa-
17 tion or benefits under the claim, or verifying other
18 information with respect thereto.

19 (d) ASSISTANCE FOR POTENTIAL CLAIMANTS.—The
20 Secretary of Labor and the Secretary of Energy shall each
21 take appropriate actions to inform and assist covered em-
22 ployees who are potential claimants under this title, and
23 other potential claimants under this title, of the avail-
24 ability of compensation and benefits under this title, in-
25 cluding actions to—

1 (1) ensure the ready availability, in paper and
2 electronic format, of forms necessary for making
3 claims;

4 (2) provide such covered employees and other
5 potential claimants with information and other sup-
6 port necessary for making claims, including—

7 (A) medical protocols for medical testing
8 and diagnosis to establish the existence of a
9 covered illness; and

10 (B) lists of vendors approved for providing
11 laboratory services related to such medical test-
12 ing and diagnosis;

13 (3) pay or reimburse such covered employees
14 and other potential claimants for the costs of med-
15 ical testing and diagnostic services necessary to es-
16 tablish the existence of a covered illness, including
17 use of payment vouchers for that purpose; and

18 (4) provide such additional assistance to such
19 covered employees and other potential claimants as
20 may be required for the development of facts perti-
21 nent to a claim.

22 (e) INFORMATION FROM BERYLLIUM VENDORS AND
23 OTHER CONTRACTORS.—As part of the assistance pro-
24 vided under subsections (c) and (d), the Secretary of En-
25 ergy shall, upon request of the Secretary of Labor, require

1 a beryllium vendor or other Department of Energy con-
2 tractor or subcontractor to provide information relevant
3 to a claim or potential claim under this title to the Sec-
4 retary of Labor.

5 **SEC. 103. ALTERNATIVE COMPENSATION AND BENEFITS.**

6 (a) ELECTION OF COVERED EMPLOYEES.—(1) Sub-
7 ject to the provisions of this section, a covered employee
8 described in paragraph (2) may elect to receive compensa-
9 tion in the amount of \$200,000, as adjusted from time
10 to time pursuant to section 8146a(a) of title 5, United
11 States Code, together with medical services and benefits
12 specified in section 8103(a) of title 5, United States Code,
13 in lieu of any other compensation and benefits which the
14 covered employee might otherwise be allowed under this
15 title.

16 (2) A covered employee described in this paragraph
17 is any covered employee who—

18 (A) was exposed to beryllium in the perform-
19 ance of duty; and

20 (B) was diagnosed as having—

21 (i) a covered illness; or

22 (ii) a beryllium-related pulmonary condi-
23 tion, whether or not based upon the criteria
24 necessary to establish the existence of a covered
25 illness under this title, that was determined, ei-

1 ther contemporaneously or at any later time, to
2 be consistent with chronic beryllium disease.

3 (b) ELECTION OF SURVIVORS.—(1) Subject to the
4 provisions of this section, if a covered employee otherwise
5 eligible to make an election authorized by subsection (a)
6 dies before the date of the enactment of this Act, or before
7 making the election, whether or not the death is the result
8 of a beryllium-related condition, a survivor of the covered
9 employee (on behalf of the survivor and any other sur-
10 vivors of the covered employee) may elect to receive com-
11 pensation under that subsection in lieu of any other com-
12 pensation or benefits which such survivors might otherwise
13 be allowed under this title.

14 (2) The right to make an election under paragraph
15 (1) shall be afforded to the survivors of a covered employee
16 in the order of precedence set forth in section
17 8109(a)(3)(D) of title 5, United States Code.

18 (c) TIMING OF ELECTION.—An election to receive
19 compensation and benefits under this section may be made
20 at any time after the submittal under this title of the claim
21 on which such compensation and benefits is based, but not
22 later than 30 days after the date of the allowance or denial
23 of the claim by the Secretary of Labor under section 107.

24 (d) IRREVOCABILITY OF ELECTION.—(1) An election
25 under this section when made is irrevocable.

1 (2) An election under this section by a covered em-
2 ployee is binding on any survivors of the covered employee.

3 (e) PROHIBITION ON ADDITIONAL BENEFITS.—

4 When a covered employee, or the survivor of a covered em-
5 ployee, elects to receive compensation and benefits under
6 this section for a covered illness or beryllium-related pul-
7 monary condition, no other compensation or benefits may
8 be paid or provided under this title on account of the cov-
9 ered illness or beryllium-related condition, or any other
10 covered illness or beryllium-related pulmonary condition,
11 of the covered employee.

12 (f) EFFECT OF DETERMINATION REGARDING BE-

13 RYLLIUM-RELATED PULMONARY CONDITION.—The deter-

14 mination that a covered employee, or survivor of a covered

15 employee, has established the existence of a beryllium-re-

16 lated pulmonary condition pursuant to subsection (a) does

17 not constitute a determination that the covered employee,

18 or survivor, as the case may be, has established the exist-

19 ence of a covered illness for any other purpose.

20 **SEC. 104. EXPOSURE TO BERYLLIUM IN THE PERFORM-**

21 **ANCE OF DUTY.**

22 For purposes of this title, in the absence of substan-

23 tial evidence to the contrary, a covered employee shall be

24 treated as having been exposed to beryllium in the per-

25 formance of duty if the covered employee was employed

1 at a Department of Energy facility, or was present at the
2 facility, or a facility owned or operated by a beryllium ven-
3 dor, because of employment by the United States, a beryl-
4 lium vendor, or a contractor or subcontractor of the De-
5 partment of Energy, during a period when beryllium dust
6 particles or vapor may have been present at such facility.

7 **SEC. 105. AUTHORITY TO EXPAND LIST OF BERYLLIUM**
8 **VENDORS AND MEANS OF ESTABLISHING**
9 **COVERED ILLNESSES.**

10 (a) BERYLLIUM VENDORS.—The Secretary of Labor
11 may from time to time, and in consultation with the Sec-
12 retary of Energy, designate as a beryllium vendor for pur-
13 poses of section 101(a)(3) any vendor, processor, or pro-
14 ducer of beryllium or related products not previously listed
15 under or designated for purposes of that section if the Sec-
16 retary of Labor finds that such vendor, processor, or pro-
17 ducer has been engaged in activities related to the produc-
18 tion of processing of beryllium for sale to, or use by, the
19 Department of Energy in a manner similar to the entities
20 listed under or previously designated for purposes of that
21 section.

22 (b) MEANS OF ESTABLISHING COVERED ILL-
23 NESSES.—Not later than 180 days after receiving peer-
24 reviewed scientific or medical information on means of es-
25 tablishing the existence of a covered illness referred to in

1 subparagraph (A) or (B) of section 101(a)(5) not pre-
2 viously listed under or specified for purposes of such sub-
3 paragraph, the Secretary of Labor shall specify additional
4 means of establishing the existence of a covered illness re-
5 ferred to in such subparagraph.

6 **SEC. 106. SUBMITTAL OF CLAIMS.**

7 (a) CLAIM REQUIRED.—Except as otherwise provided
8 in this section, a claim for compensation and benefits
9 under this title shall be submitted to the Secretary of
10 Labor in the manner specified in section 8121 of title 5,
11 United States Code.

12 (b) GENERAL TIME LIMITATIONS.—A claim for com-
13 pensation and benefits under this title shall be filed under
14 this section not later than the later of—

15 (1) seven years after the date of the enactment
16 of this Act; or

17 (2) seven years after the date the claimant first
18 becomes aware that a covered illness, beryllium-re-
19 lated pulmonary condition, or death from such ill-
20 ness or condition of a covered employee may be con-
21 nected to the exposure of the covered employee to
22 beryllium in the performance of duty.

23 (c) NEW PERIOD FOR ADDITIONAL ILLNESSES AND
24 CONDITIONS.—A new period of limitation under sub-
25 section (b)(2) shall commence with each diagnosis of a

1 covered illness or beryllium-related pulmonary condition
2 that is different from a previously diagnosed covered ill-
3 ness or condition.

4 (d) TREATMENT OF CERTAIN CLAIMS.—For pur-
5 poses of subsection (b), the filing of a disability claim for
6 a covered illness or beryllium-related pulmonary condition
7 shall be treated as the filing of a death claim for such
8 covered illness or condition.

9 **SEC. 107. ALLOWANCE OR DENIAL OF CLAIMS BY THE SEC-**
10 **RETARY OF LABOR.**

11 (a) IN GENERAL.—(1) The Secretary of Labor shall
12 allow or deny each claim for compensation and benefits
13 submitted under section 106.

14 (2) The Secretary may allow or deny a claim, in whole
15 or in part.

16 (b) STANDARD OF REVIEW.—The Secretary of Labor
17 shall allow a claim under subsection (a) if the Secretary
18 finds that a disability or death of a covered employee as
19 specified in the claim resulted from a covered illness sus-
20 tained by the covered employee by reason of exposure to
21 beryllium in the performance of duty. Otherwise, the Sec-
22 retary shall deny the claim.

23 (c) FINDINGS OF FACT.—(1) In allowing or denying
24 a claim under this section, the Secretary of Labor shall
25 make findings of fact with respect to the claim.

1 (2) For purposes of making findings with respect to
2 a claim, the Secretary of Labor—

3 (A) shall consider the claim, the results of any
4 medical test or diagnosis undertaken to establish the
5 existence of a covered illness, and any report fur-
6 nished by the Secretary of Energy with respect to
7 the claim; and

8 (B) may conduct such investigation as the Sec-
9 retary of Labor considers appropriate.

10 (d) AVAILABLE AUTHORITIES.—In carrying out ac-
11 tivities under subsection (c), the Secretary of Labor may
12 utilize the authorities available to the Secretary under sec-
13 tions 8123, 8125, and 8126 of title 5, United States Code.

14 (e) DEADLINE.—The Secretary of Labor shall allow
15 or deny a claim under this section not later than 120 days
16 after the date of the submittal of the claim to the Sec-
17 retary under section 106.

18 (f) SERVICE OF DECISION.—The Secretary of Labor
19 shall have served upon a claimant the Secretary's decision
20 allowing or denying a claim under this section and any
21 findings of fact in support of such decision.

22 (g) FINALITY.—Unless a hearing is requested pursu-
23 ant to section 108(a), the decision to allow or deny a claim
24 under this section, and any findings in support of such
25 decision, shall become final and conclusive at the end of

1 the 30-day period beginning on the date of service with
2 respect to the claim under subsection (f).

3 **SEC. 108. REVIEW BY ADMINISTRATIVE LAW JUDGES OF AC-**
4 **TIONS ON CLAIMS BY THE SECRETARY OF**
5 **LABOR.**

6 (a) IN GENERAL.—A claimant for compensation and
7 benefits under this title is entitled, upon request made by
8 the claimant to the Secretary of Labor, to the review by
9 an administrative law judge appointed under section 3105
10 of title 5, United States Code, of the decision to allow or
11 deny a claim, and of any findings of fact in support of
12 such decision, by the Secretary of Labor under section
13 107.

14 (b) TIMING OF REQUESTS FOR REVIEW.—(1) Except
15 as provided in paragraph (2), a request under subsection
16 (a) with respect to a claim shall be made not later than
17 the end of the 30-day period beginning on the date of serv-
18 ice by the Secretary of Labor with respect to the claim
19 under section 107(f).

20 (2) An administrative law judge may extend the pe-
21 riod for requesting a review under paragraph (1) upon pe-
22 tition of a claimant and good cause shown.

23 (c) HEARINGS.—(1) An administrative law judge
24 shall hold a hearing on each review requested under sub-
25 section (a).

1 (2) Except as provided in paragraphs (3) and (4),
2 any hearing under this subsection shall be conducted in
3 accordance with the provisions of section 554 of title 5,
4 United States Code.

5 (3) A claimant may introduce at a hearing with re-
6 spect to a claim under paragraph (1) evidence not pre-
7 viously presented in support of the claim.

8 (4) The parties to a hearing under this subsection
9 shall be strictly limited to a claimant and the Secretary
10 of Labor (or the Secretary's designee).

11 (d) POWERS AND DUTIES OF ALJ.—An administra-
12 tive law judge shall, in the conduct of a hearing under
13 subsection (c) and otherwise in the review of a claim under
14 subsection (a), have the following powers, duties, and re-
15 sponsibilities:

16 (1) The powers, duties, and responsibilities
17 vested in the Secretary of Labor by section
18 8124(b)(2) of title 5, United States Code.

19 (2) The power to preserve and enforce order
20 during hearings.

21 (3) The power to issue subpoenas for, to admin-
22 ister oaths to, and to compel the attendance and tes-
23 timony of witnesses, or the production of books, pa-
24 pers, documents, and other evidence, or the taking

1 of depositions before any designated individual com-
2 petent to administer oaths.

3 (4) The power to examine witnesses.

4 (5) The power to do any other thing authorized
5 by law that the administrative law judge considers
6 appropriate for the effective discharge of responsibil-
7 ities under this section.

8 (e) CONTUMACY.—If any person in proceedings be-
9 fore an administrative law judge under this section dis-
10 obeys or resists any lawful order or process, or misbehaves
11 during a hearing or so near the place thereof as to ob-
12 struct the same, or neglects to produce, after having been
13 ordered to do so, any pertinent book, paper, or document,
14 or refuses to appear after having been subpoenaed, or
15 upon appearing refuses to take the oath as a witness, or
16 after having taken the oath refuses to be examined accord-
17 ing to law, the administrative law judge shall certify the
18 facts to the district court of the United States having ju-
19 risdiction in the place in which the administrative law
20 judge is sitting (or to the United States District Court
21 for the District of Columbia if the administrative law
22 judge is sitting in such District) which shall thereupon in
23 a summary manner hear the evidence as to the acts com-
24 plained of, and, if the evidence so warrants, punish such
25 person in the same manner and to the same extent as for

1 a contempt committed before the court, or commit such
2 person upon the same conditions as if the doing of the
3 forbidden act had occurred with reference to the process
4 of or in the presence of the court.

5 (f) CLOSURE OF RECORD.—The record on a hearing
6 under this section shall close at the conclusion of the hear-
7 ing, except when the administrative law judge grants, for
8 good cause, an extension not to exceed 30 days for the
9 submission of additional evidence and argument.

10 (g) DECISION.—(1) Not later than 45 days after the
11 closing of the record on a claim under subsection (f), but
12 in no event later than 180 days after receipt of the claim-
13 ant's request for a hearing on the claim, the administra-
14 tive law judge shall make a decision on the claim.

15 (2) In a decision under this subsection and in accord-
16 ance with the facts found on review of a claim, an adminis-
17 trative law judge may terminate, decrease, or increase the
18 compensation or benefits previously allowed on the claim,
19 or allow compensation or benefits previously refused or
20 discontinued.

21 (h) SERVICE OF DECISION.—(1) An administrative
22 law judge shall file with the Secretary of Labor a copy
23 of each decision made by the administrative law judge
24 under subsection (g).

1 (2) An administrative law judge shall have served on
2 the claimant the decision made by the administrative law
3 judge with respect to the claim under subsection (g), in-
4 cluding the basis of such decision.

5 (i) EFFECTIVE DATE OF DECISION.—Unless ap-
6 pealed to the Benefits Review Board under section 109,
7 the decision of an administrative law judge, including any
8 allowance as a result thereof, on a claim under this section
9 shall—

10 (1) become effective upon filing of the decision
11 with the Secretary of Labor and service upon the
12 claimant under subsection (h); and

13 (2) become final and conclusive at the end of
14 the 30-day period beginning on the date of such
15 service.

16 **SEC. 109. REVIEW OF ADMINISTRATIVE LAW JUDGE DECI-**
17 **SIONS BY BENEFITS REVIEW BOARD AND**
18 **UNITED STATES COURTS OF APPEALS.**

19 (a) IN GENERAL.—A claimant aggrieved by the deci-
20 sion of an administrative law judge under section 108 may
21 seek review of the decision by the Benefits Review Board
22 established by section 21(b) of the Longshore and Harbor
23 Workers' Compensation Act (33 U.S.C. 921(b)).

24 (b) TIMING OF REQUESTS FOR REVIEW.—(1) Except
25 as provided in paragraph (2), a request under subsection

1 (a) for the review of a decision shall be made not later
2 than the end of the 30-day period beginning on the effec-
3 tive date of the decision under section 108(i)(1).

4 (2) The Benefits Review Board may extend the pe-
5 riod for requesting the review of a decision under para-
6 graph (1) by not more than 30 additional days, upon peti-
7 tion of the claimant and good cause shown.

8 (c) POWERS AND DUTIES OF BENEFITS REVIEW
9 BOARD.—(1) Except as provided in paragraph (2), the
10 Benefits Review Board is authorized to hear and deter-
11 mine a request for a review of a decision under this section
12 in accordance with and pursuant to the authority vested
13 in the Board by section 21(b) of the Longshore and Har-
14 bor Workers' Compensation Act.

15 (2) The parties to a proceeding under this subsection
16 shall be strictly limited to a claimant and the Secretary
17 of Labor (of the Secretary's designee).

18 (d) DEADLINE FOR FINAL DETERMINATION.—The
19 Benefits Review Board shall make its final determination
20 with regard to the review of a decision under this section
21 not later than 240 days after the receipt of the request
22 for the review under subsection (a).

23 (e) REVIEW OF FINAL DETERMINATION BY UNITED
24 STATES COURTS OF APPEALS.—(1) A claimant adversely
25 affected or aggrieved by a final determination of the Bene-

1 fits Review Board under subsection (d) may obtain review
2 of the final determination in the United States court of
3 appeals for the circuit in which the claimant resides.

4 (2) The review of a final determination by the United
5 States court of appeals under paragraph (1) shall be gov-
6 erned by the provisions of section 21(c) of the Longshore
7 and Harbor Workers' Compensation Act.

8 **SEC. 110. RECONSIDERATION OF CLAIMS.**

9 (a) DESIGNATION OF ADDITIONAL BERYLLIUM VEN-
10 DORS OR MEANS OF ESTABLISHING COVERED ILL-
11 NESSES.—Notwithstanding any other provision of this
12 title, upon the designation of additional beryllium vendors
13 under section 105(a), or the specification of additional
14 means of establishing covered illnesses under section
15 105(b), a claimant, or, in the case of deceased covered em-
16 ployee who was a claimant, a survivor of such covered em-
17 ployee, may obtain the reconsideration of a decision deny-
18 ing the claim under this title.

19 (b) NEW EVIDENCE.—Notwithstanding any other
20 provision of this title, a claimant or, in the case of de-
21 ceased covered employee who was a claimant, a survivor
22 of such covered employee, may obtain reconsideration of
23 a decision denying the claim under this title based on new
24 evidence.

1 (c) PROCEDURES FOR RECONSIDERATION.—The sub-
2 mittal of an application for reconsideration of a claim
3 under this section shall be treated as the submittal of a
4 claim under section 106 for purposes of this title, except
5 that the limitations specified in subsection (b) of that sec-
6 tion shall not apply to the reconsideration of the claim
7 under this section.

8 **SEC. 111. ADMINISTRATIVE MATTERS RELATING TO DECI-**
9 **SIONS ON CLAIMS.**

10 (a) FAILURE TO ACT.—The failure of an authority
11 specified in section 107, 108, or 109 to make a decision
12 on a claim within the time period required for the decision
13 under the applicable section shall result in a decision in
14 favor of the claimant on the claim under such section.

15 (b) RESOLUTION OF REASONABLE DOUBT.—Any
16 reasonable doubt with regard to whether or not a claim
17 meets requirements of this title applicable to the claim
18 shall be resolved in favor of the claimant.

19 (c) USE OF PHYSICIAN SERVICES.—In securing med-
20 ical testing and diagnostic services to establish the exist-
21 ence of a covered illness under this title, a claimant may
22 utilize a physician of the claimant's choice, or a physician
23 sponsored by the Department of Labor or the beryllium
24 vendor or other Department of Energy contractor or sub-
25 contractor concerned, if available.

1 (d) PRODUCTION OF INFORMATION.—(1) A claimant
2 may commence an action in the appropriate district court
3 of the United States against the Department of Energy,
4 a beryllium vendor, or other contractor or subcontractor
5 of the Department, to compel the production of informa-
6 tion or documents requested by the Secretary of Labor,
7 an administrative law judge, or the Benefits Review Board
8 under this title if such information or documents are not
9 provided within 60 days after the date of the request.

10 (2) Upon successful resolution of any action brought
11 under this subsection, the court shall award the claimant
12 reasonable attorney fees and costs.

13 (3) Any costs awarded against the Department of
14 Energy, or a beryllium vendor, or other contractor or sub-
15 contractor of the Department, shall be considered costs
16 incurred by the Secretary of Energy, beryllium vendor or
17 contractor or subcontractor, as the case may be, which
18 may not be payable from amounts in the Energy Employ-
19 ees' Beryllium Compensation Fund.

20 (e) NO RIGHT OF REVIEW IN UNITED STATES OR
21 CONTRACTORS.—(1) Sections 108 and 109 shall not be
22 construed to confer upon the Secretary of Energy or the
23 Secretary of Labor, any beryllium vendor, or any other
24 contractor of subcontractor of the Department of Energy,

1 any right to a hearing or review on a matter covered by
2 such sections.

3 (2) In any review under section 108 or 109 of a deci-
4 sion of the Secretary of Labor under section 107, the Sec-
5 retary of Labor (or the Secretary's designee) may appear
6 before an administrative law judge, the Benefits Review
7 Board, or a United States court of appeals for purposes
8 of explaining the Secretary's decision under section 107.

9 **SEC. 112. REPRESENTATION OF CLAIMANTS.**

10 (a) IN GENERAL.—A claimant may authorize an at-
11 torney to represent the claimant in any proceeding under
12 this title.

13 (b) ATTORNEY FEES AND COSTS IN LATER PRO-
14 CEEDINGS.—(1) If a claimant in a proceeding under sec-
15 tion 108 or 109 who is represented by an attorney in such
16 proceeding is successful in such proceeding, there shall be
17 awarded, in addition to any allowance of compensation
18 and benefits under this title, reasonable attorney fees and
19 costs associated with such proceeding as approved by the
20 administrative law judge, the Benefits Review Board, or
21 court in such proceeding.

22 (2) If a claimant described in paragraph (1) is suc-
23 cessful in a proceeding covered by that paragraph by rea-
24 son of a finding that the denial of the claim of the claim-
25 ant under section 107 was arbitrary and capricious, the

1 claimant shall be awarded, in addition to any award of
2 attorney fees and costs under that paragraph, an amount
3 equal to 10 percent per year on the claim for each year
4 from the date of the original denial of the claim.

5 (3)(A) Except as provided in subparagraph (B), any
6 award of attorney fees and costs under paragraph (1) shall
7 be paid from the Energy Employees' Beryllium Compensa-
8 tion Fund directly to the attorney in a lump sum after
9 the order on which the award is based becomes final.

10 (B) Any award of attorney fees, costs, and other
11 amounts under this subsection for a claimant described
12 in paragraph (2) shall be considered costs incurred by the
13 Secretary of Labor, and shall not be paid from the Energy
14 Employees' Beryllium Compensation Fund.

15 (c) LIMITATION ON CHARGES FOR SERVICES COV-
16 ERED BY AWARD OF ATTORNEY FEES.—(1) An attorney
17 awarded attorney fees under this section for services pro-
18 vided with respect to a proceeding may not collect from
19 the claimant, whether directly or indirectly, for such serv-
20 ices.

21 (2) Whoever violates paragraph (1) shall be subject
22 to a civil fine of not more than \$5,000, imposed by the
23 Secretary of Labor.

1 (3) Any amounts collected under paragraph (2) shall
2 be deposited in the Energy Employees' Beryllium Com-
3 pensation Fund.

4 **SEC. 113. COMPUTATION OF PAY FOR PURPOSES OF PAY-**
5 **MENT OF COMPENSATION.**

6 For purposes of this title, the monthly pay of a cov-
7 ered employee shall be computed in accordance with sec-
8 tion 8114 of title 5, United States Code.

9 **SEC. 114. TREATMENT OF COMPENSATION AND BENEFITS.**

10 (a) IN GENERAL.—Any compensation or benefits al-
11 lowed, paid, or provided under this title—

12 (1) shall not be considered income for purposes
13 of the Internal Revenue Code, and shall not be sub-
14 ject to Federal income tax under the internal rev-
15 enue laws of the United States;

16 (2) shall not be included as income or resources
17 for purposes of determining eligibility to receive ben-
18 efits described in section 3803(c)(2)(C) of title 31,
19 United States Code, or the amount of those benefits;
20 and

21 (3) shall not be subject to offset under chapter
22 37 of title 31, United States Code.

23 (b) INSURANCE.—(1) Compensation or benefits paid
24 or provided under this title shall not be considered as any
25 form of compensation or reimbursement for a loss for pur-

1 poses of imposing liability on the individual receiving the
2 compensation or benefits to repay any insurance carrier
3 for insurance payments made.

4 (2) The payment or provision of compensation or ben-
5 efits under this title shall not be treated as affecting any
6 claim against an insurance carrier with respect to insur-
7 ance.

8 **SEC. 115. EFFECT OF RECEIPT OF COMPENSATION AND**
9 **BENEFITS ON RIGHT TO RECEIVE CERTAIN**
10 **OTHER BENEFITS.**

11 (a) REMUNERATION FROM THE FEDERAL GOVERN-
12 MENT.—While a covered employee described in section
13 101(a)(4)(C) is receiving compensation or benefits under
14 this title, or if the covered employee has been paid com-
15 pensation in a lump sum in commutation of installment
16 payments, until the expiration of the period during which
17 the installment payments would have continued pursuant
18 to section 8135 of title 5, United States Code, the covered
19 employee may not receive salary, pay, or remuneration of
20 any type from the United States, except—

21 (1) in return for service actually performed;

22 (2) pension for service in the Army, Navy, or
23 Air Force;

1 (3) benefits administered by the Secretary of
2 Veterans Affairs, unless such benefits are payable
3 for the same covered illness or death;

4 (4) retired pay, retirement pay, retainer pay, or
5 equivalent pay for service in the Armed Forces or
6 any other uniformed service; and

7 (5) retirement benefits under subchapter III of
8 chapter 83 of title 5, United States Code, or other
9 retirement system for employees of Federal or State
10 government.

11 (b) ELECTION OF FEDERAL BENEFITS.—(1) An in-
12 dividual who is allowed compensation or benefits under
13 this title for a covered illness or death of a covered em-
14 ployee described in section 101(a)(4)(C) and who is enti-
15 tled to receive benefits from the United States under a
16 provision of law other than this title for the covered illness
17 or death (except proceeds of an insurance policy), because
18 of service by the covered employee (or in the case of death,
19 by the deceased) as an employee of the Federal Govern-
20 ment or as a member in the Armed Forces, shall elect
21 to receive compensation or benefits under this title or ben-
22 efits under such other provision of law.

23 (2) An individual described in paragraph (1) shall
24 make the election provided for in that paragraph within
25 the time allowed by the Secretary of Labor by regulation.

1 (3)(A) An election under paragraph (1) when made
2 is irrevocable, except—

3 (i) when otherwise provided by statute; and

4 (ii) when compensation or benefits under this
5 title, or benefits under such other provision of law,
6 are modified by a law enacted after the date of the
7 enactment of this Act.

8 (B) The Secretary of Labor shall provide for the
9 manner and time of any election arising under subpara-
10 graph (A)(ii).

11 (c) STATE WORKERS' COMPENSATION.—(1) Subject
12 to paragraph (2), an individual who is allowed compensa-
13 tion or benefits under this title for a covered illness or
14 death of a covered employee and who is entitled to receive
15 benefits because of the covered illness or death from a
16 State workers' compensation system shall elect—

17 (A) to receive compensation and benefits under
18 this title; or

19 (B) to receive compensation and benefits in
20 part under this title and in part under the State
21 workers' compensation system as provided for under
22 subsection (d).

23 (2) An election shall not be required under paragraph
24 (2) if—

1 (A) at the time of injury, the State workers'
2 compensation coverage for the covered employee was
3 secured by a policy or contract of insurance; and

4 (B) the Secretary of Labor waives the require-
5 ment to make the election.

6 (3) An individual required to make an election pro-
7 vided for under paragraph (1) shall make the election
8 within the time allowed by the Secretary of Labor by regu-
9 lation.

10 (4)(A) An election under paragraph (1) when made
11 is irrevocable, unless the level of compensation or benefits
12 under this title, or under the applicable workers' com-
13 pensation system referred to in that paragraph, is modi-
14 fied by a law enacted after the date of the enactment of
15 this Act.

16 (B) The Secretary of Labor shall provide for the
17 manner and time of any election arising under subpara-
18 graph (A).

19 (d) PREVIOUS AWARD UNDER STATE WORKERS'
20 COMPENSATION OR INSURANCE.—(1) An individual who
21 has been awarded workers compensation on a claim, or
22 entered into a settlement of a claim, under a State work-
23 ers' compensation system or insurance for an occupational
24 disease or prospective occupational disease arising out of
25 the exposure of a covered employee at a Department of

1 Energy facility may file a claim for compensation and ben-
2 efits under this title.

3 (2) The amount of compensation payable under this
4 title to an individual described in paragraph (1) shall be
5 the amount to which the individual is otherwise entitled
6 under this title minus the amount of any workers' com-
7 pensation benefits provided under paragraph (1) as the
8 amount of such benefits are adjusted for inflation in con-
9 stant dollars in the year in which compensation payable
10 under this title commences.

11 (e) COORDINATION OF FEDERAL AND STATE BENE-
12 FITS.—An individual who elects under subsection
13 (c)(1)(B) to receive compensation and benefits in part
14 under this title and in part under a State workers' com-
15 pensation system shall receive under this title the com-
16 pensation and benefits to which the individual is entitled
17 under this title reduced by the amount of any workers'
18 compensation benefits that the individual receives or will
19 receive under the State workers' compensation system
20 during the period that compensation and benefits are pro-
21 vided under this title, except that the amount of such re-
22 duction shall not include an amount equal to the reason-
23 able costs (including legal and medical costs not reim-
24 bursed under this title), as determined by the Secretary

1 of Labor by regulation, incurred by the individual of ob-
2 taining such compensation and benefits.

3 **SEC. 116. SATISFACTION OF CLAIMS AGAINST THE UNITED**
4 **STATES AND BERYLLIUM VENDORS.**

5 The receipt by an individual of compensation and
6 benefits pursuant to the award of a claim under this title
7 shall constitute full settlement of all claims against the
8 United States under chapter 171 of title 28, United States
9 Code (commonly referred to as the Federal Tort Claims
10 Act), or any other provision of law, or against the beryl-
11 lium vendor or other contractor or subcontractor of the
12 Department of Energy, that arise of the exposure of the
13 covered employee concerned to beryllium in the perform-
14 ance of duty.

15 **SEC. 117. ASSIGNMENT OF CLAIMS.**

16 (a) PROHIBITION.—A claim under this title is not as-
17 signable or transferable, and any assignment or other
18 transfer of such claim is void.

19 (b) ATTACHMENT.—Compensation paid under this
20 title, and any claims therefor, are exempt from the claims
21 of any creditors.

22 **SEC. 118. FORFEITURE OF COMPENSATION AND BENEFITS**
23 **BY CONVICTED FELONS.**

24 (a) FORFEITURE OF ELIGIBILITY FOR FRAUD IN
25 CONNECTION WITH BENEFITS.—(1) Any individual con-

1 victed of a violation of section 1920 of title 18, United
2 States Code, or any other Federal or State criminal stat-
3 ute relating to fraud in the application for or receipt of
4 compensation or benefits, whether under this title or
5 under any other Federal or State workers' compensation
6 program or system, shall forfeit as of the date of such
7 conviction any compensation or benefits to which such in-
8 dividual would otherwise be entitled for a covered illness
9 under this title based on a time of injury on or before
10 the date of such conviction.

11 (2) Forfeiture for a conviction under paragraph (1)
12 shall be in addition to any action the Secretary of Labor
13 may take pursuant to section 8106 or 8129 of title 5,
14 United States Code, for the conviction.

15 (b) PROHIBITION ON BENEFITS DURING INCARCER-
16 ATION FOR FELONY.—(1) Notwithstanding any other pro-
17 vision of law and except as provided in paragraph (3), no
18 compensation or benefits may be paid or provided under
19 this title to or for any individual during any period during
20 which such individual is confined in a jail, prison, or other
21 penal institution or correctional facility pursuant to such
22 individual's conviction of an offense that constituted a fel-
23 ony under applicable law.

24 (2) An individual described in paragraph (1) may not
25 receive any benefits foregone under that paragraph for a

1 period of incarceration described in that paragraph after
2 the end of the period of incarceration.

3 (3)(A) If an individual described in paragraph (1) has
4 one or more dependents (as that term is defined in section
5 8110(a) of title 5, United States Code), the Secretary of
6 Labor may, during a period of incarceration of the indi-
7 vidual described in that paragraph, pay such dependents
8 a percentage of the compensation that would otherwise
9 have been payable to such individual under this title.

10 (B) The amount of compensation payable under sub-
11 paragraph (A) shall be computed in accordance with para-
12 graphs (1) through (5) of section 8133(a) of title 5,
13 United States Code, except that for purposes of such para-
14 graphs, any reference to a “deceased employee” shall be
15 treated as a reference to the individual described in para-
16 graph (1), and any reference to “widow” or “widower”
17 shall be treated as a reference to the spouse of the indi-
18 vidual.

19 (c) INFORMATION ON INCARCERATED INDIVID-
20 UALS.—(1) Notwithstanding any provision of section 552a
21 of title 5, United States Code, or any other provision of
22 Federal law, any agency of the United States Government
23 shall make available to the Secretary of Labor, upon writ-
24 ten request, the names and Social Security account num-
25 bers of individuals who are confined in a jail, prison, or

1 other penal institution or correctional facility under the
2 jurisdiction of that agency, pursuant to the individuals'
3 conviction of an offense that constituted a felony under
4 applicable law.

5 (2) The Secretary of Labor may use information
6 made available to the Secretary under paragraph (1) solely
7 for purposes of carrying out this section.

8 **SEC. 119. CIVIL SERVICE RETENTION RIGHTS.**

9 If a former covered employee described in section
10 101(a)(4)(C) who is receiving compensation and benefits
11 under this title resumes employment with the Federal
12 Government, the individual shall have the rights set forth
13 in section 8151 of title 5, United States Code, with respect
14 to such compensation and benefits, except that for pur-
15 poses of such section 8151, any reference to “compensa-
16 tion” shall be treated as a reference to compensation and
17 benefits under this title.

18 **SEC. 120. SUBROGATION OF THE UNITED STATES.**

19 (a) IN GENERAL.—Except as otherwise provided in
20 this title, if a covered illness, beryllium-related pulmonary
21 condition, or death for which compensation or benefits are
22 paid or provided under this title is caused under cir-
23 cumstances creating a legal liability in a person other than
24 the United States to pay damages, sections 8131 and
25 8132 of title 5, United States Code, shall apply.

1 (b) ADMINISTRATION.—(1) For purposes of this sec-
2 tion, any reference in section 8131 or 8132 of title 5,
3 United States Code, to the Employees' Compensation
4 Fund shall be treated as a reference to the Energy Em-
5 ployees' Beryllium Compensation Fund.

6 (2) For the purposes of this section, the requirement
7 under section 8131(a) of title 5, United States Code, that
8 an employee required to appear as a party or witness in
9 the prosecution of an action described in that section is
10 in active duty status while so appearing shall only apply
11 to a covered employee described in section 101(a)(4)(C).

12 **SEC. 121. MEMORANDUM OF UNDERSTANDING.**

13 (a) MEMORANDUM OF UNDERSTANDING.—Not later
14 than 180 days after the date of the enactment of this Act,
15 the Secretary of Energy shall enter into a memorandum
16 of understanding with the Secretary of Labor for purposes
17 of the administration of this title by the Secretary of
18 Labor, including the utilization of Department of Labor
19 services and facilities for such purposes.

20 (b) INCLUDED MATTERS.—The memorandum of un-
21 derstanding shall provide for the transfer to the Secretary
22 of Labor of funds authorized to be appropriated for the
23 Department of Energy under section 126 in order to cover
24 costs incurred by the Secretary of Labor in the adminis-
25 tration of this title.

1 (c) EXCLUDED MATTERS.—The memorandum of un-
2 derstanding shall not cover activities of the Secretary of
3 Energy authorized under section 105.

4 (d) DELEGATION OF RESPONSIBILITIES OF SEC-
5 RETARY OF LABOR.—The memorandum of understanding
6 shall permit the Secretary of Labor to delegate any func-
7 tions and responsibilities of that Secretary under the
8 memorandum of understanding to appropriate officers and
9 employees of the Department of Labor.

10 **SEC. 122. OTHER ADMINISTRATIVE PROVISIONS.**

11 (a) CRIMINAL PENALTIES FOR INTERFERENCE WITH
12 BENEFITS PROCESS.—(1) Whoever fails to provide infor-
13 mation, or knowingly provides false information, in re-
14 sponse to a request for information pursuant to subsection
15 (c), (d), or (e) of section 102 shall be fined, imprisoned,
16 or both, in accordance with section 1922 of title 18,
17 United States Code.

18 (2) Whoever induces, compels, or directs a covered
19 employee to forego filing a claim for compensation or ben-
20 efits under this title, or any extension or application there-
21 of, or willfully retains any notice, report, claim, or paper
22 which is required to be filed under this title, shall be fined,
23 imprisoned, or both, in accordance with section 1922 of
24 title 18, United States Code.

1 (b) PROVISION OF INFORMATION TO CLAIMANTS.—
2 Any information with respect to a claim that is provided
3 to the Secretary of Labor under this title by the Secretary
4 of Energy, any beryllium vendor, or any other contractor
5 or subcontractor of the Department of Energy shall also
6 be provided by the Secretary of Energy, such beryllium
7 vendor, or such contractor or subcontractor, as the case
8 may be, to the claimant concerned, at no cost to the claim-
9 ant concerned and in a manner not inconsistent with the
10 provisions of section 552a of title 5, United States Code
11 (commonly referred to as the Privacy Act), unless the
12 claimant concerned elects not to be provided such informa-
13 tion.

14 (c) RECOVERY OF OVERPAYMENT OF CLAIMS.—The
15 provisions of section 8129 of title 5, United States Code,
16 shall apply with respect to any overpayment of compensa-
17 tion on a claim under this title.

18 **SEC. 123. ENERGY EMPLOYEES' BERYLLIUM COMPENSA-**
19 **TION FUND.**

20 (a) ESTABLISHMENT.—There is hereby established
21 on the books of the Treasury of the United States a fund
22 to be known as the “Energy Employees’ Beryllium Com-
23 pensation Fund” (in this section referred to as the
24 “Fund”).

1 (b) ELEMENTS OF FUND.—There shall be deposited
2 in the Fund the following:

3 (1) Amounts appropriated for the Fund.

4 (2) Amounts that otherwise accrue to the Fund
5 under this title.

6 (c) AVAILABILITY.—(1) Amounts in the Fund may
7 be used for the provision of compensation and benefits and
8 other expenses authorized by this title in connection with
9 the provision of such compensation and benefits.

10 (2) Amounts in the Fund shall not be available for
11 the payment of costs incurred in the administration of this
12 title.

13 (3) Amounts in the Fund shall remain available until
14 expended.

15 (d) ADMINISTRATION OF FUND.—(1) Not later than
16 45 days before the end of each quarter of a fiscal year,
17 the Secretary of Labor shall determine the following:

18 (A) The total cost of compensation and benefits
19 and other payments made from the Fund during the
20 preceding fiscal year quarter.

21 (B) The balance in the Fund as of the end of
22 the preceding fiscal year quarter.

23 (C) An estimate of the anticipated expenditures
24 from the Fund for the payment of compensation and

1 benefits and other payments under this title for each
2 of the two succeeding fiscal year quarters.

3 (2) The determination made under paragraph (1) in
4 the last quarter of a fiscal year shall include, in addition
5 to the matter required under that paragraph, the fol-
6 lowing:

7 (A) The total cost of compensation and benefits
8 and other payments from the Fund during the pre-
9 ceding twelve months.

10 (B) An estimate of the anticipated expenditures
11 from the Fund for the payment of compensation and
12 benefits and other payments for each of the two suc-
13 ceeding fiscal years.

14 **SEC. 124. REGULATIONS.**

15 Not later than 120 days after the date of entry into
16 the memorandum of understanding required by section
17 121, the Secretary of Labor shall prescribe regulations for
18 purposes of the administration of this title.

19 **SEC. 125. ANNUAL REPORT.**

20 Not later than October 31 each year, the Secretary
21 of Labor shall submit to Congress a report on the adminis-
22 tration of this title during the preceding fiscal year. The
23 report shall include any determinations made under sec-
24 tion 123(d) during such fiscal year.

1 **SEC. 126. AUTHORIZATION OF APPROPRIATIONS FOR**
 2 **COSTS OF ADMINISTRATION.**

3 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
 4 hereby authorized to be appropriated for the Department
 5 of Energy for each fiscal year after fiscal year 2000 such
 6 sums as may be necessary in such fiscal year for the costs
 7 of administration of this title by the Secretary of Labor.

8 (b) TRANSFER.—The Secretary of Energy shall, pur-
 9 suant to the memorandum of understanding under section
 10 121, transfer to the Secretary of Labor any amounts ap-
 11 propriated pursuant to the authorization of appropriations
 12 in subsection (a).

13 **TITLE II—COMPENSATION AND**
 14 **BENEFITS FOR ILLNESSES**
 15 **RELATED TO EXPOSURE TO**
 16 **IONIZING RADIATION, SILICA,**
 17 **AND HAZARDOUS SUB-**
 18 **STANCES**

19 **SEC. 201. DEFINITIONS.**

20 (a) IN GENERAL.—In this title:

21 (1) DEPARTMENT OF ENERGY.—The term “De-
 22 partment of Energy” includes any predecessor agen-
 23 cy or successor agency of the Department of Energy,
 24 including the United States Enrichment Corpora-
 25 tion, a Federally-chartered corporation.

26 (2) DEPARTMENT OF ENERGY FACILITY.—

1 (A) IN GENERAL.—The term “Department
2 of Energy facility” means any building, struc-
3 ture, or premise, including the grounds upon
4 which such building, structure, or premise is lo-
5 cated, in which operations are conducted by, or
6 on behalf of, the Department of Energy and
7 with regard to which the Department of Energy
8 has a proprietary interest or has entered into a
9 contract to provide management and operation,
10 management and integration, or environmental
11 remediation services.

12 (B) INCLUDED FACILITIES.—The term
13 shall refer to the facilities (including any prede-
14 cessor or successor facilities to such facilities)
15 as follows:

16 (i) Amchitka Island Test Site, Am-
17 chitka, Alaska.

18 (ii) Lawrence Livermore National
19 Laboratory, Livermore, California.

20 (iii) Lawrence Berkeley Laboratory,
21 Berkeley, California.

22 (iv) Santa Susanna Facilities, Santa
23 Susanna, California.

24 (v) Rocky Flats Plant, Golden, Colo-
25 rado.

1 (vi) Pinellas Plant, St. Petersburg,
2 Florida.

3 (vii) Idaho National Engineering Lab-
4 oratory, Idaho Falls, Idaho.

5 (viii) Argonne National Laboratory,
6 Idaho and Illinois.

7 (ix) Fermi Nuclear Laboratory, Bata-
8 via, Illinois.

9 (x) Iowa Army Ammunition Plant,
10 Burlington, Iowa, but only the portion of
11 that plant operated for the Atomic Energy
12 Commission.

13 (xi) Paducah Plant, Paducah, Ken-
14 tucky.

15 (xii) Kansas City Plant, Kansas City,
16 Missouri.

17 (xiii) Weldon Spring Plant, Weldon
18 Spring, Missouri.

19 (xiv) Nevada Test Site, Mercury, Ne-
20 vada.

21 (xv) Los Alamos National Laboratory,
22 Los Alamos, New Mexico.

23 (xvi) Sandia National Laboratories,
24 New Mexico.

1 (xvii) Waste Isolation Pilot Project,
2 Carlsbad, New Mexico.

3 (xviii) Brookhaven National Labora-
4 tory, Upton, New York.

5 (xix) Fernald Feed Materials Produc-
6 tion Center, Fernald, Ohio.

7 (xx) Mound Facility, Miamisburg,
8 Ohio.

9 (xxi) Portsmouth Plant, Piketon,
10 Ohio.

11 (xxii) Savannah River, South Caro-
12 lina.

13 (xxiii) Oak Ridge Facility, Tennessee,
14 including the K-25 Plant, the Y-12 Plant,
15 and the X-10 Plant.

16 (xxiv) Pantex Plant, Amarillo, Texas.

17 (xxv) Hanford Works, Richland,
18 Washington.

19 (xxvi) Marshall Islands Nuclear Test
20 Sites, but only for period after December
21 31, 1958.

22 (C) EXCLUSION.—The term shall not in-
23 clude any naval reactor facility covered under
24 Executive Order No. 12344.

1 (3) DEPARTMENT OF ENERGY CONTRACTOR.—
2 The term “Department of Energy contractor”
3 means any entity that contracted or subcontracted
4 with the Department of Energy to provide manage-
5 ment and operations, management and integration,
6 production, testing, research, development, environ-
7 mental remediation, waste management, construc-
8 tion, or other services at a Department of Energy
9 facility.

10 (4) DEPARTMENT OF ENERGY URANIUM VEN-
11 DOR.—The term “Department of Energy uranium
12 vendor” means any entity that supplied uranium
13 conversion or manufacturing services for the Depart-
14 ment of Energy, including the following:

15 (A) Allied Signal, with respect to the Ura-
16 nium Hexafluoride Facility in Metropolis, Illi-
17 nois.

18 (B) Malinckrodt Chemical, St. Louis, Mis-
19 souri.

20 (C) Linde Air Products, Tonowanda, New
21 York.

22 (D) Reactive Metals, Ashtabula, Ohio.

23 (E) Nuclear Fuels Services, Erwin, Ten-
24 nessee.

1 (5) COVERED EMPLOYEE.—The term “covered
2 employee” means the following:

3 (A) A current or former employee of a De-
4 partment of Energy contractor or Department
5 of Energy uranium vendor.

6 (B) An employee of the United States En-
7 richment Corporation during a period when the
8 corporation was a Federally-chartered entity, or
9 an employee of a contractor or subcontractor of
10 the corporation during such period.

11 (C) A current or former employee (as that
12 term is defined in section 8101(1) of title 5,
13 United States Code) who is or was employed at
14 a Department of Energy facility or at a facility
15 owned, operated, or occupied by a Department
16 of Energy contractor or Department of Energy
17 uranium vendor.

18 (6) COVERED ILLNESS.—The term “covered ill-
19 ness” means medical conditions and diseases as fol-
20 lows:

21 (A) A medical condition or disease as fol-
22 lows, if the onset of the condition or disease
23 was at least 2 years after first exposure:

24 (i) In the case of an individual ex-
25 posed to ionizing radiation—

1 (I) leukemia (other than chronic
2 lymphocytic leukemia), multiple
3 myeloma, or lymphoma;

4 (II) primary cancer of the bone,
5 thyroid, male or female breast, esoph-
6 agus, stomach, pharynx, small intes-
7 tine, pancreas, bile ducts, gall bladder,
8 salivary gland, urinary bladder, brain,
9 colon, ovary, liver (except if cirrhosis
10 or hepatitis B is indicated), larynx,
11 prostate, kidney, or lung (other than
12 in situ lung cancer that is discovered
13 during or after a post-mortem exam);
14 or

15 (III) any other condition or dis-
16 ease specified by the Secretary of En-
17 ergy under section 214.

18 (ii) In the case of an individual ex-
19 posed to uranium or uranium
20 compounds—

21 (I) chronic renal disease (includ-
22 ing nephritis and kidney tubal necro-
23 sis); or

1 (II) any other condition or dis-
2 ease specified by the Secretary of En-
3 ergy under section 214.

4 (B) Chronic silicosis if—

5 (i) at least 10 years elapse between
6 initial exposure to silica and the emergence
7 of the condition; and

8 (ii) the condition is established—

9 (I) by a chest x-ray presenting
10 any combination of rounded opacities
11 of type p/q/r, with or without irregular
12 opacities, present in at least both
13 upper lung zones and of profusion 1/
14 0 or greater, as found in accordance
15 with the International Labor Organi-
16 zation classification system;

17 (II) by—

18 (aa) a physician's provi-
19 sional or working diagnosis of sili-
20 cosis;

21 (bb) a chest radiograph in-
22 terpreted as consistent with sili-
23 cosis; or

24 (cc) pathologic findings con-
25 sistent with silicosis; or

1 (III) by—

2 (aa) a history of occupa-
3 tional exposure to airborne silica
4 dust; and

5 (bb) a chest radiograph or
6 other imaging technique inter-
7 preted as consistent with silicosis
8 or pathologic findings consistent
9 with silicosis.

10 (C) Any disease, illness, impairment, or
11 disability sustained as a consequence of a med-
12 ical condition or disease covered by subpara-
13 graph (A) or (B).

14 (7) HAZARDOUS SUBSTANCE.—

15 (A) IN GENERAL.—The term “hazardous
16 substance” means any heavy metal, chemical,
17 mineral, or other toxic substance or compound
18 to which covered employees are exposed at a
19 Department of Energy facility or a facility of a
20 Department of Energy contractor or Depart-
21 ment of Energy uranium vendor.

22 (B) EXCLUSION.—The term does not in-
23 clude beryllium or related substances for which
24 compensation and benefits are allowable under
25 title I.

1 (8) SURVIVOR.—The term “survivor”, in the
2 case of a covered employee, means any individual
3 who stands in relation to the covered employee as an
4 individual referred to clause (i), (ii), or (iii) of para-
5 graph (3)(D) of section 8109(a) of title 5, United
6 States Code, stands in relation to an individual
7 under that section.

8 (9) TIME OF INJURY.—The term “time of in-
9 jury”, in the case of a covered employee, means the
10 last date on which the covered employee was exposed
11 to ionizing radiation, silica, or the hazardous sub-
12 stance involved.

13 (b) TERMS USED IN ADMINISTRATION.—Except as
14 otherwise provided in this title, in any case where a provi-
15 sion of this title provides for the application of a provision
16 of title 5, United States Code, the terms in section 8101
17 of title 5, United States Code, shall apply in the applica-
18 tion of such provision of title 5, United States Code, under
19 this title.

1 **Subtitle A—Cancer and Related**
2 **Illnesses**

3 **SEC. 211. AUTHORITY TO PROVIDE COMPENSATION AND**
4 **BENEFITS AND CERTAIN ADDITIONAL ASSIST-**
5 **ANCE.**

6 (a) COMPENSATION AND BENEFITS ON ALLOWANCE
7 OF CLAIM.—Subject to the provisions of this subtitle, the
8 Secretary of Labor shall, upon the allowance of a claim
9 for disability or death under this subtitle—

10 (1) pay compensation for the disability or death
11 in accordance with sections 8105 through 8110,
12 8111(a), 8112, 8113(a), 8115, 8117, 8133 through
13 8135, and 8146a of title 5, United States Code;

14 (2) reimburse the claimant for any costs in-
15 curred by the claimant (other than costs previously
16 paid for or reimbursed under subsection (d)(3)) for
17 medical testing and diagnostic services necessary to
18 establish the existence of the covered illness con-
19 cerned;

20 (3) reimburse the claimant for any additional
21 reasonable medical expenses incurred by the claim-
22 ant in establishing the claim;

23 (4) in the case of a covered employee, furnish
24 the services and other benefits specified in section
25 8103 of title 5, United States Code; and

1 (5) in the case of a permanently disabled cov-
2 ered employee—

3 (A) inform the covered employee of the
4 availability of vocational rehabilitation services
5 under sections 8104 and 8111(b) of title 5,
6 United States Code; and

7 (B) furnish such services to the covered
8 employee in accordance with such sections.

9 (b) LIMITATIONS ON COMPENSATION AND BENE-
10 FITS.—(1) No compensation or benefits may be paid or
11 provided under subsection (a) for a covered illness or
12 death if the covered illness or death occurred under one
13 of the circumstances set forth in paragraph (1), (2), or
14 (3) of section 8102(a) of title 5, United States Code.

15 (2) No compensation may be paid under this subtitle
16 for any period before the date of the enactment of this
17 Act, except in the case of compensation under section 212.

18 (c) ASSISTANCE FOR CLAIMANTS.—The Secretary of
19 Labor shall, upon the submittal of a claim under this sub-
20 title for compensation and benefits under subsection (a)—

21 (1) provide assistance to the claimant in con-
22 nection with the claim, including—

23 (A) assistance in securing medical testing
24 and diagnostic services necessary to establish
25 the existence of a covered illness; and

1 (B) such other assistance as may be re-
2 quired to develop facts pertinent to the claim;
3 and

4 (2) provide such information to the authority
5 with responsibility for the allowance of claims under
6 section 216, or for review thereof under sections 217
7 and 218, as such authority may request for purposes
8 of determining eligibility for or amount of compensa-
9 tion or benefits under the claim, or verifying other
10 information with respect thereto.

11 (d) ASSISTANCE FOR POTENTIAL CLAIMANTS.—The
12 Secretary of Labor and the Secretary of Energy shall take
13 appropriate actions to inform and assist covered employees
14 who are potential claimants under this subtitle, and other
15 potential claimants under this subtitle, of the availability
16 of compensation and benefits under this subtitle, including
17 actions to—

18 (1) ensure the ready availability, in paper and
19 electronic format, of forms necessary for making
20 claims;

21 (2) provide such covered employees and other
22 potential claimants with information and other sup-
23 port necessary for making claims, including—

1 (A) medical protocols for medical testing
2 and diagnosis to establish the existence of a
3 covered illness; and

4 (B) lists of vendors approved for providing
5 laboratory services related to such medical test-
6 ing and diagnosis;

7 (3) pay or reimburse such covered employees
8 and other potential claimants for the costs of med-
9 ical testing and diagnostic services necessary to es-
10 tablish the existence of a covered illness, including
11 use of payment vouchers for that purpose; and

12 (4) provide such additional assistance to such
13 covered employees and other potential claimants as
14 may be required for the development of facts perti-
15 nent to a claim.

16 (e) INFORMATION FROM CONTRACTORS AND URA-
17 NIUM VENDORS.—As part of the assistance provided
18 under subsections (c) and (d), the Secretary of Energy
19 shall, upon the request of the Secretary of Labor, require
20 a Department of Energy contractor or Department of En-
21 ergy uranium vendor to provide information relevant to
22 a claim or potential claim under this subtitle to the Sec-
23 retary of Labor.

1 **SEC. 212. ALTERNATIVE COMPENSATION AND BENEFITS.**

2 (a) ELECTION OF COVERED EMPLOYEES.—(1) Sub-
3 ject to the provisions of this section, a covered employee
4 described in paragraph (2) may elect to receive compensa-
5 tion in the amount of \$200,000, as adjusted from time
6 to time pursuant to section 8146a(a) of title 5, United
7 States Code, together with medical services and benefits
8 specified in section 8103(a) of title 5, United States Code,
9 in lieu of any other compensation and benefits which the
10 covered employee might otherwise be allowed under this
11 subtitle.

12 (2) A covered employee described in this paragraph
13 is any covered employee who—

14 (A) was exposed to ionizing radiation, silica, or
15 a hazardous substance in the performance of duty;
16 and

17 (B) establishes the existence of a covered ill-
18 ness.

19 (b) ELECTION OF SURVIVORS.—(1) Subject to the
20 provisions of this section, if a covered employee otherwise
21 eligible to make an election authorized by subsection (a)
22 dies before the date of the enactment of this Act, or before
23 making the election, whether or not the death is the result
24 of a covered illness, a survivor of the covered employee
25 (on behalf of the survivor and any other survivors of the
26 covered employee) may elect to receive compensation

1 under that subsection in lieu of any other compensation
2 or benefits which such survivors might otherwise be al-
3 lowed under this subtitle.

4 (2) The right to make an election under paragraph
5 (1) shall be afforded to the survivors of a covered employee
6 in the order of precedence set forth in section
7 8109(a)(3)(D) of title 5, United States Code.

8 (c) TIMING OF ELECTION.—An election to receive
9 compensation and benefits under this section may be made
10 at any time after the submittal under this subtitle of the
11 claim on which such compensation and benefits is based,
12 but not later than 30 days after the date of the allowance
13 or denial of the claim by the Secretary of Labor under
14 section 216.

15 (d) IRREVOCABILITY OF ELECTION.—(1) An election
16 under this section when made is irrevocable.

17 (2) An election under this section by a covered em-
18 ployee is binding on any survivors of the covered employee.

19 (e) PROHIBITION ON ADDITIONAL BENEFITS.—
20 When a covered employee, or the survivor of a covered em-
21 ployee, elects to receive compensation and benefits under
22 this section for a covered illness, no other compensation
23 or benefits may be paid or provided under this subtitle
24 on account of the covered illness, or any other covered ill-
25 ness, of the covered employee.

1 **SEC. 213. EXPOSURE TO IONIZING RADIATION, SILICA, AND**
2 **OTHER HAZARDOUS SUBSTANCES IN THE**
3 **PERFORMANCE OF DUTY.**

4 (a) EXPOSURE TO IONIZING RADIATION.—For pur-
5 poses of this subtitle, in the absence of substantial evi-
6 dence to the contrary, a covered employee shall be treated
7 as having been exposed to ionizing radiation in the per-
8 formance of duty if—

9 (1) the covered employee was employed at a De-
10 partment of Energy facility, or was present at such
11 a facility because of employment by the United
12 States, a Department of Energy contractor, or a De-
13 partment of Energy uranium vendor, for an aggre-
14 gate period of at least one year; and

15 (2) during such employment, the covered
16 employee—

17 (A) was monitored through the use of do-
18 simetry badges for exposure to ionizing radi-
19 ation, or would have been monitored for such
20 exposure had requirements, standards, or both,
21 in existence as of the date of the enactment of
22 this Act been in force during such employment;
23 or

24 (B) worked in a job that, as determined by
25 the Secretary of Energy by regulation, resulted
26 in exposure to radiation.

1 (b) EXPOSURE TO HAZARDOUS SUBSTANCES.—For
2 purposes of this subtitle, in the absence of substantial evi-
3 dence to the contrary, a covered employee shall be treating
4 as having been exposed to a hazardous substance in the
5 performance of duty if—

6 (1) the covered employee was employed at a De-
7 partment of Energy facility, or was present at such
8 a facility because of employment by the United
9 States, a Department of Energy contractor, or a De-
10 partment of Energy uranium vendor, for an aggre-
11 gate period of at least one year; and

12 (2) the covered employee—

13 (A) during such employment, was mon-
14 itored for exposure to the hazardous substance,
15 or would have been monitored for such exposure
16 had requirements, standards, or both, in exist-
17 ence as of the date of the enactment of this Act
18 been in force during such employment; or

19 (B) provides a work history of such em-
20 ployment that demonstrates exposure to the
21 hazardous substance during such employment.

22 (c) EXPOSURE TO SILICA.—For purposes of this sub-
23 title, in the absence of substantial evidence to the con-
24 trary, a covered employee shall be treated as having been

1 exposed to silica in the performance of duty if the covered
2 employee—

3 (1) was employed at a Department of Energy
4 facility, or was present at such a facility because of
5 employment by the United States or a Department
6 of Energy contractor for an aggregate period of at
7 least one year; and

8 (2) during such employment, was employed in
9 a work setting with known or probable silica expo-
10 sure.

11 **SEC. 214. AUTHORITY TO SPECIFY ADDITIONAL ILLNESSES**
12 **ASSOCIATED WITH EXPOSURE TO RADIATION**
13 **AND HAZARDOUS SUBSTANCES.**

14 (a) **AUTHORITY.**—The Secretary of Energy may from
15 time to time, and in consultation with the Secretary of
16 Labor, specify for purposes of section 201(a)(6) medical
17 conditions or diseases associated with exposure to ionizing
18 radiation or hazardous substances not previously listed or
19 specified for purposes of such section.

20 (b) **INFORMATION.**—In specifying medical conditions
21 and diseases under subsection (a), the Secretary of Energy
22 may rely upon the most current list of presumed occupa-
23 tional diseases established under section 243.

1 **SEC. 215. SUBMITTAL OF CLAIMS.**

2 (a) CLAIM REQUIRED.—Except as otherwise provided
3 in this section, a claim for compensation and benefits
4 under this subtitle shall be submitted to the Secretary of
5 Labor in the manner specified in section 8121 of title 5,
6 United States Code.

7 (b) GENERAL TIME LIMITATIONS.—A claim for com-
8 pensation and benefits under this subtitle shall be filed
9 under this section not later than the later of—

10 (1) seven years after the date of the enactment
11 of this Act; or

12 (2) seven years after the date the claimant first
13 becomes aware that a covered illness or death from
14 covered illness of a covered employee may be con-
15 nected to the exposure of the covered employee to
16 ionizing radiation or a hazardous substance in the
17 performance of duty.

18 (c) NEW PERIOD FOR ADDITIONAL ILLNESSES AND
19 CONDITIONS.—A new period of limitation under sub-
20 section (b)(2) shall commence with each diagnosis of a
21 covered illness that is different from a previously diag-
22 nosed covered illness.

23 (d) TREATMENT OF CERTAIN CLAIMS.—For pur-
24 poses of subsection (b), the filing of a disability claim for
25 a covered illness shall be treated as the filing of a death
26 claim for such covered illness.

1 **SEC. 216. ALLOWANCE OR DENIAL OF CLAIMS BY THE SEC-**
2 **RETARY OF LABOR.**

3 (a) IN GENERAL.—(1) The Secretary of Labor shall
4 allow or deny each claim for compensation and benefits
5 submitted under section 215.

6 (2) The Secretary may allow or deny a claim, in whole
7 or in part.

8 (b) STANDARD OF REVIEW.—The Secretary of Labor
9 shall allow a claim under subsection (a) if the Secretary
10 finds that a disability or death of a covered employee as
11 specified in the claim resulted from a covered illness sus-
12 tained by the covered employee by reason of exposure to
13 ionizing radiation or a hazardous substance in the per-
14 formance of duty. Otherwise, the Secretary shall deny the
15 claim.

16 (c) FINDINGS OF FACT.—(1) In allowing or denying
17 a claim under this section, the Secretary of Labor shall
18 make findings of fact with respect to the claim.

19 (2) For purposes of making findings with respect to
20 a claim, the Secretary of Labor—

21 (A) shall consider the claim, the results of any
22 medical test or diagnosis undertaken to establish the
23 existence of a covered illness, and any report fur-
24 nished by the Secretary of Energy with respect to
25 the claim; and

1 (B) may conduct such investigation as the Sec-
2 retary of Labor considers appropriate.

3 (d) AVAILABLE AUTHORITIES.—In carrying out ac-
4 tivities under subsection (c), the Secretary of Labor may
5 utilize the authorities available to the Secretary under sec-
6 tions 8123, 8125, and 8126 of title 5, United States Code.

7 (e) DEADLINE.—The Secretary of Labor shall allow
8 or deny a claim under this section not later than 120 days
9 after the date of the submittal of the claim to the Sec-
10 retary under section 215.

11 (f) SERVICE OF DECISION.—The Secretary of Labor
12 shall have served upon a claimant the Secretary's decision
13 allowing or denying a claim under this section and any
14 findings of fact in support of such decision.

15 (g) FINALITY.—Unless a hearing is requested pursu-
16 ant to section 217(a), the decision to allow or deny a claim
17 under this section, and any findings in support of such
18 decision, shall become final and conclusive at the end of
19 the 30-day period beginning on the date of service with
20 respect to the claim under subsection (f).

21 **SEC. 217. REVIEW BY ADMINISTRATIVE LAW JUDGES OF AC-**
22 **TIONS ON CLAIMS BY THE SECRETARY OF**
23 **LABOR.**

24 (a) IN GENERAL.—A claimant for compensation and
25 benefits under this subtitle is entitled, upon request made

1 by the claimant to the Secretary of Labor, to the review
2 by an administrative law judge appointed under section
3 3105 of title 5, United States Code, of the decision to
4 allow or deny a claim, and of any findings of fact in sup-
5 port of such decision, by the Secretary of Labor under
6 section 216.

7 (b) TIMING OF REQUESTS FOR REVIEW.—(1) Except
8 as provided in paragraph (2), a request under subsection
9 (a) with respect to a claim shall be made not later than
10 the end of the 30-day period beginning on the date of serv-
11 ice by the Secretary of Labor with respect to the claim
12 under section 216(f).

13 (2) An administrative law judge may extend the pe-
14 riod for requesting a review under paragraph (1) upon pe-
15 tition of a claimant and good cause shown.

16 (c) HEARINGS.—(1) An administrative law judge
17 shall hold a hearing on each review requested under sub-
18 section (a).

19 (2) Except as provided in paragraphs (3) and (4),
20 any hearing under this subsection shall be conducted in
21 accordance with the provisions of section 554 of title 5,
22 United States Code.

23 (3) A claimant may introduce at a hearing with re-
24 spect to a claim under paragraph (1) evidence not pre-
25 viously presented in support of the claim.

1 (4) The parties to a hearing under this subsection
2 shall be strictly limited to a claimant and the Secretary
3 of Labor (or the Secretary's designee).

4 (d) POWERS AND DUTIES OF ALJ.—An administra-
5 tive law judge shall, in the conduct of a hearing under
6 subsection (c) and otherwise in the review of a claim under
7 subsection (a), have the following powers, duties, and re-
8 sponsibilities:

9 (1) The powers, duties, and responsibilities
10 vested in the Secretary of Labor by section
11 8124(b)(2) of title 5, United States Code.

12 (2) The power to preserve and enforce order
13 during hearings.

14 (3) The power to issue subpoenas for, to admin-
15 ister oaths to, and to compel the attendance and tes-
16 timony of witnesses, or the production of books, pa-
17 pers, documents, and other evidence, or the taking
18 of depositions before any designated individual com-
19 petent to administer oaths.

20 (4) The power to examine witnesses.

21 (5) The power to do any other thing authorized
22 by law that the administrative law judge considers
23 appropriate for the effective discharge of responsibil-
24 ities under this section.

1 (e) CONTUMACY.—If any person in proceedings be-
2 fore an administrative law judge under this section dis-
3 obeys or resists any lawful order or process, or misbehaves
4 during a hearing or so near the place thereof as to ob-
5 struct the same, or neglects to produce, after having been
6 ordered to do so, any pertinent book, paper, or document,
7 or refuses to appear after having been subpoenaed, or
8 upon appearing refuses to take the oath as a witness, or
9 after having taken the oath refuses to be examined accord-
10 ing to law, the administrative law judge shall certify the
11 facts to the district court of the United States having ju-
12 risdiction in the place in which the administrative law
13 judge is sitting (or to the United States District Court
14 for the District of Columbia if the administrative law
15 judge is sitting in such District) which shall thereupon in
16 a summary manner hear the evidence as to the acts com-
17 plained of, and, if the evidence so warrants, punish such
18 person in the same manner and to the same extent as for
19 a contempt committed before the court, or commit such
20 person upon the same conditions as if the doing of the
21 forbidden act had occurred with reference to the process
22 of or in the presence of the court.

23 (f) CLOSURE OF RECORD.—The record on a hearing
24 under this section shall close at the conclusion of the hear-
25 ing, except when the administrative law judge grants, for

1 good cause, an extension not to exceed 30 days for the
2 submission of additional evidence and argument.

3 (g) DECISION.—(1) Not later than 45 days after the
4 closing of the record on a claim under subsection (f), but
5 in no event later than 180 days after receipt of the claim-
6 ant's request for a hearing on the claim, the administra-
7 tive law judge shall make a decision on the claim.

8 (2) In a decision under this subsection and in accord-
9 ance with the facts found on review of a claim, an adminis-
10 trative law judge may terminate, decrease, or increase the
11 compensation or benefits previously allowed on the claim,
12 or allow compensation or benefits previously refused or
13 discontinued.

14 (h) SERVICE OF DECISION.—(1) An administrative
15 law judge shall file with the Secretary of Labor a copy
16 of each decision made by the administrative law judge
17 under subsection (g).

18 (2) An administrative law judge shall have served on
19 the claimant the decision made by the administrative law
20 judge with respect to the claim under that subsection, in-
21 cluding the basis of such decision.

22 (i) EFFECTIVE DATE OF DECISION.—Unless ap-
23 pealed to the Benefits Review Board under section 218,
24 the decision of an administrative law judge, including any

1 allowance as a result thereof, on a claim under this section
2 shall—

3 (1) become effective upon filing of the decision
4 with the Secretary of Labor and service upon the
5 claimant under subsection (h); and

6 (2) become final and conclusive at the end of
7 the 30-day period beginning on the date of such
8 service.

9 **SEC. 218. REVIEW OF ADMINISTRATIVE LAW JUDGE DECISIONS BY BENEFITS REVIEW BOARD AND**
10 **UNITED STATES COURTS OF APPEALS.**
11

12 (a) **IN GENERAL.**—A claimant aggrieved by the deci-
13 sion of an administrative law judge under section 217 may
14 seek review of the decision by the Benefits Review Board
15 established by section 21(b) of the Longshore and Harbor
16 Workers' Compensation Act (33 U.S.C. 921(b)).

17 (b) **TIMING OF REQUESTS FOR REVIEW.**—(1) Except
18 as provided in paragraph (2), a request under subsection
19 (a) for the review of a decision shall be made not later
20 than the end of the 30-day period beginning on the effec-
21 tive date of the decision under section 217(i)(1).

22 (2) The Benefits Review Board may extend the pe-
23 riod for requesting the review of a decision under para-
24 graph (1) by not more than 30 additional days, upon peti-
25 tion of the claimant and good cause shown.

1 (c) POWERS AND DUTIES OF BENEFITS REVIEW
2 BOARD.—(1) Except as provided in paragraph (2), the
3 Benefits Review Board is authorized to hear and deter-
4 mine a request for a review of a decision under this section
5 in accordance with and pursuant to the authority vested
6 in the Board by section 21(b) of the Longshore and Har-
7 bor Workers' Compensation Act.

8 (2) The parties to a proceeding under this subsection
9 shall be strictly limited to a claimant and the Secretary
10 of Labor (of the Secretary's designee).

11 (d) DEADLINE FOR FINAL DETERMINATION.—The
12 Benefits Review Board shall make its final determination
13 with regard to the review of a decision under this section
14 not later than 240 days after the receipt of the request
15 for the review under subsection (a).

16 (e) REVIEW OF FINAL DETERMINATION BY UNITED
17 STATES COURTS OF APPEALS.—(1) A claimant adversely
18 affected or aggrieved by a final determination of the Bene-
19 fits Review Board under subsection (d) may obtain review
20 of the final determination in the United States court of
21 appeals for the circuit in which the claimant resides.

22 (2) The review of a final determination by the United
23 States court of appeals under paragraph (1) shall be gov-
24 erned by the provisions of section 21(c) of the Longshore
25 and Harbor Workers' Compensation Act.

1 **SEC. 219. RECONSIDERATION OF CLAIMS.**

2 (a) NEW EVIDENCE.—Notwithstanding any other
3 provision of this subtitle, a claimant or, in the case of de-
4 ceased covered employee who was a claimant, a survivor
5 of such covered employee, may obtain reconsideration of
6 a decision denying the claim under this subtitle based on
7 new evidence.

8 (b) PROCEDURES FOR RECONSIDERATION.—The
9 submittal of an application for reconsideration of a claim
10 under subsection (a) shall be treated as the submittal of
11 a claim under section 215 for purposes of this subtitle,
12 except that the limitations specified in subsection (b) of
13 that section shall not apply to the reconsideration of the
14 claim under this section.

15 **SEC. 220. ADMINISTRATIVE MATTERS RELATING TO DECI-**
16 **SIONS ON CLAIMS.**

17 (a) FAILURE TO ACT.—The failure of an authority
18 specified in section 216, 217, or 218 to make a decision
19 on a claim within the time period required for the decision
20 under the applicable section shall result in a decision in
21 favor of the claimant on the claim under such section.

22 (b) RESOLUTION OF REASONABLE DOUBT.—Any
23 reasonable doubt with regard to whether or not a claim
24 meets requirements of this subtitle applicable to the claim
25 shall be resolved in favor of the claimant.

1 (c) USE OF PHYSICIAN SERVICES.—In securing med-
2 ical testing and diagnostic services to establish the exist-
3 ence of a covered illness under this subtitle, a claimant
4 may utilize a physician of the claimant's choice, or a physi-
5 cian sponsored by the Department of Energy or the em-
6 ployer concerned, if available.

7 (d) PRODUCTION OF INFORMATION.—(1) A claimant
8 may commence an action in the appropriate district court
9 of the United States against the Department of Energy
10 or any Department of Energy contractor or Department
11 of Energy uranium vendor to compel the production of in-
12 formation or documents requested by the Secretary of
13 Labor, an administrative law judge, or the Benefits Re-
14 view Board under this subtitle if such information or docu-
15 ments are not provided within 60 days after the date of
16 the request.

17 (2) Upon successful resolution of any action brought
18 under this subsection, the court shall award the claimant
19 reasonable attorney fees and costs.

20 (3) Any costs awarded against the Department of
21 Energy, a Department of Energy contractor, or Depart-
22 ment of Energy uranium vendor shall be considered costs
23 incurred by the Secretary of Energy, Department of En-
24 ergy contractor, or Department of Energy uranium ven-
25 dor, as the case may be, which may not be payable from

1 amounts in the Nuclear Employees' Radiation Compensa-
2 tion Fund.

3 (e) NO RIGHT OF REVIEW IN UNITED STATES, CON-
4 TRACTORS, OR VENDORS.—(1) Sections 217 and 218 shall
5 not be construed to confer upon the Secretary of Energy
6 or the Secretary of Labor, any Department of Energy con-
7 tractor, or any Department of Energy uranium vendor any
8 right to a hearing or review on a matter covered by such
9 sections.

10 (2) In any review under section 217 or 218 of a deci-
11 sion of the Secretary of Labor under section 216, the Sec-
12 retary of Labor (or the Secretary's designee) may appear
13 before an administrative law judge, the Benefits Review
14 Board, or a United States court of appeals for purposes
15 of explaining the Secretary's decision under section 216.

16 **SEC. 221. REPRESENTATION OF CLAIMANTS.**

17 (a) IN GENERAL.—A claimant may authorize an at-
18 torney to represent the claimant in any proceeding under
19 this subtitle.

20 (b) ATTORNEY FEES AND COSTS IN LATER PRO-
21 CEEDINGS.—(1) If a claimant in a proceeding under sec-
22 tion 217 or 218 who is represented by an attorney in such
23 proceeding is successful in such proceeding, there shall be
24 awarded, in addition to any allowance of compensation
25 and benefits under this subtitle, reasonable attorney fees

1 and costs associated with such proceeding as approved by
2 the administrative law judge, the Benefits Review Board,
3 or court in such proceeding.

4 (2) If a claimant described in paragraph (1) is suc-
5 cessful in a proceeding covered by that paragraph by rea-
6 son of a finding that the denial of the claim of the claim-
7 ant under section 216 was arbitrary and capricious, the
8 claimant shall be awarded, in addition to any award of
9 attorney fees and costs under that paragraph, an amount
10 equal to 10 percent per year on the claim for each year
11 from the date of the original denial of the claim.

12 (3)(A) Except as provided in subparagraph (B), any
13 award of attorney fees and costs under paragraph (1) shall
14 be paid from the Nuclear Employees' Radiation Com-
15 pensation Fund directly to the attorney in a lump sum
16 after the order on which the award is based becomes final.

17 (B) Any award of attorney fees, costs, and other
18 amounts under this subsection for a claimant described
19 in paragraph (2) shall be considered costs incurred by the
20 Secretary of Labor, and shall not be paid from the Nuclear
21 Employees' Radiation Compensation Fund.

22 (c) LIMITATION ON CHARGES FOR SERVICES COV-
23 ERED BY AWARD OF ATTORNEY FEES.—(1) An attorney
24 awarded attorney fees under this section for services pro-
25 vided with respect to a proceeding may not collect from

1 the claimant, whether directly or indirectly, for such serv-
2 ices.

3 (2) Whoever violates paragraph (1) shall be subject
4 to a civil fine of not more than \$5,000, imposed by the
5 Secretary of Labor.

6 (3) Any amounts collected under paragraph (2) shall
7 be deposited in the Nuclear Employees' Radiation Com-
8 pensation Fund.

9 **SEC. 222. COMPUTATION OF PAY FOR PURPOSES OF PAY-**
10 **MENT OF COMPENSATION.**

11 For purposes of this subtitle, the monthly pay of a
12 covered employee shall be computed in accordance with
13 section 8114 of title 5, United States Code.

14 **SEC. 223. TREATMENT OF COMPENSATION AND BENEFITS.**

15 (a) IN GENERAL.—Any compensation or benefits al-
16 lowed, paid, or provided under this subtitle—

17 (1) shall not be considered income for purposes
18 of the Internal Revenue Code, and shall not be sub-
19 ject to Federal income tax under the internal rev-
20 enue laws of the United States;

21 (2) shall not be included as income or resources
22 for purposes of determining eligibility to receive ben-
23 efits described in section 3803(c)(2)(C) of title 31,
24 United States Code, or the amount of those benefits;
25 and

1 (3) shall not be subject to offset under chapter
2 37 of title 31, United States Code.

3 (b) INSURANCE.—(1) Compensation or benefits paid
4 or provided under this subtitle shall not be considered as
5 any form of compensation or reimbursement for a loss for
6 purposes of imposing liability on the individual receiving
7 the compensation or benefits to repay any insurance car-
8 rier for insurance payments made.

9 (2) The payment or provision of compensation or ben-
10 efits under this subtitle shall not be treated as affecting
11 any claim against an insurance carrier with respect to in-
12 surance.

13 **SEC. 224. EFFECT OF RECEIPT OF COMPENSATION AND**
14 **BENEFITS ON RIGHT TO RECEIVE CERTAIN**
15 **OTHER BENEFITS.**

16 (a) REMUNERATION FROM THE FEDERAL GOVERN-
17 MENT.—While a covered employee described in section
18 201(a)(5)(C) is receiving compensation or benefits under
19 this subtitle, or if the covered employee has been paid com-
20 pensation in a lump sum in commutation of installment
21 payments, until the expiration of the period during which
22 the installment payments would have continued pursuant
23 to section 8135 of title 5, United States Code, the covered
24 employee may not receive salary, pay, or remuneration of
25 any type from the United States, except—

1 (1) in return for service actually performed;

2 (2) pension for service in the Army, Navy, or
3 Air Force;

4 (3) benefits administered by the Secretary of
5 Veterans Affairs, unless such benefits are payable
6 for the same covered illness or death;

7 (4) retired pay, retirement pay, retainer pay, or
8 equivalent pay for service in the Armed Forces or
9 any other uniformed service; and

10 (5) retirement benefits under subchapter III of
11 chapter 83 of title 5, United States Code, or other
12 retirement system for employees of Federal or State
13 government.

14 (b) ELECTION OF FEDERAL BENEFITS.—(1) An in-
15 dividual who is allowed compensation or benefits under
16 this subtitle for a covered illness or death of a covered
17 employee described in section 201(a)(5)(C) and who is en-
18 titled to receive benefits from the United States under a
19 provision of law other than this subtitle for the covered
20 illness or death (except proceeds of an insurance policy),
21 because of service by the covered employee (or in the case
22 of death, by the deceased) as an employee of the Federal
23 Government or as a member in the Armed Forces, shall
24 elect to receive compensation or benefits under this sub-
25 title or benefits under such other provision of law.

1 (2) An individual described in paragraph (1) shall
2 make the election provided for in that paragraph within
3 the time allowed by the Secretary of Labor by regulation.

4 (3)(A) An election under paragraph (1) when made
5 is irrevocable, except—

6 (i) when otherwise provided by statute; and

7 (ii) when compensation or benefits under this
8 subtitle, or benefits under such other provision of
9 law, are modified by a law enacted after the date of
10 the enactment of this Act.

11 (B) The Secretary of Labor shall provide for the
12 manner and time of any election arising under subpara-
13 graph (A)(ii).

14 (c) STATE WORKERS' COMPENSATION.—(1) Subject
15 to paragraph (2), an individual who is allowed compensa-
16 tion or benefits under this title for a covered illness or
17 death of a covered employee and who is entitled to receive
18 benefits because of the covered illness or death from a
19 State workers' compensation system shall elect—

20 (A) to receive compensation and benefits under
21 this title; or

22 (B) to receive compensation and benefits in
23 part under this title and in part under the State
24 workers' compensation system as provided for under
25 subsection (d).

1 (2) An election shall not be required under paragraph
2 (2) if—

3 (A) at the time of injury, the State workers'
4 compensation coverage for the covered employee was
5 secured by a policy or contract of insurance; and

6 (B) the Secretary of Labor waives the require-
7 ment to make the election.

8 (3) An individual required to make an election pro-
9 vided for under paragraph (1) shall make the election
10 within the time allowed by the Secretary of Labor by regu-
11 lation.

12 (4)(A) An election under paragraph (1) when made
13 is irrevocable, unless the level of compensation or benefits
14 under this title, or under the applicable workers' com-
15 pensation system referred to in that paragraph, is modi-
16 fied by a law enacted after the date of the enactment of
17 this Act.

18 (B) The Secretary of Labor shall provide for the
19 manner and time of any election arising under subpara-
20 graph (A).

21 (d) PREVIOUS AWARD UNDER STATE WORKERS'
22 COMPENSATION OR INSURANCE.—(1) An individual who
23 has been awarded workers compensation on a claim, or
24 entered into a settlement of a claim, under a State work-
25 ers' compensation system or insurance for an occupational

1 disease or prospective occupational disease arising out of
2 the exposure of a covered employee at a Department of
3 Energy facility may file a claim for compensation and ben-
4 efits under this title.

5 (2) The amount of compensation payable under this
6 title to an individual described in paragraph (1) shall be
7 the amount to which the individual is otherwise entitled
8 under this title minus the amount of any workers' com-
9 pensation benefits provided under paragraph (1) as the
10 amount of such benefits are adjusted for inflation in con-
11 stant dollars in the year in which compensation payable
12 under this title commences.

13 (e) COORDINATION OF FEDERAL AND STATE BENE-
14 FITS.—An individual who elects under subsection
15 (c)(1)(B) to receive compensation and benefits in part
16 under this title and in part under a State workers' com-
17 pensation system shall receive under this subtitle the com-
18 pensation and benefits to which the individual is entitled
19 under this title reduced by the amount of any workers'
20 compensation benefits that the individual receives or will
21 receive under the State workers' compensation system
22 during the period that compensation and benefits are pro-
23 vided under this title, except that the amount of such re-
24 duction shall not include an amount equal to the reason-
25 able costs (including legal and medical costs not reim-

1 bursed under this title), as determined by the Secretary
2 of Labor by regulation, incurred by the individual of ob-
3 taining such compensation and benefits.

4 **SEC. 225. SATISFACTION OF CLAIMS AGAINST THE UNITED**
5 **STATES, DEPARTMENT OF ENERGY CONTRAC-**
6 **TORS, AND DEPARTMENT OF ENERGY URA-**
7 **NIUM VENDORS.**

8 The receipt by an individual of compensation and
9 benefits pursuant to the award of a claim under this sub-
10 title shall constitute full settlement of all claims against
11 the United States under chapter 171 of title 28, United
12 States Code (commonly referred to as the Federal Tort
13 Claims Act), or any other provision of law, or against the
14 Department of Energy contractor or Department of En-
15 ergy uranium vendor concerned, that arise of the exposure
16 of the covered employee concerned to ionizing radiation
17 or hazardous substances in the performance of duty.

18 **SEC. 226. ASSIGNMENT OF CLAIMS.**

19 (a) PROHIBITION.—A claim under this subtitle is not
20 assignable or transferable, and any assignment or other
21 transfer of such claim is void.

22 (b) ATTACHMENT.—Compensation paid under this
23 subtitle, and any claims therefor, are exempt from the
24 claims of any creditors.

1 **SEC. 227. FORFEITURE OF COMPENSATION AND BENEFITS**
2 **BY CONVICTED FELONS.**

3 (a) **FORFEITURE OF ELIGIBILITY FOR FRAUD IN**
4 **CONNECTION WITH BENEFITS.**—(1) Any individual con-
5 victed of a violation of section 1920 of title 18, United
6 States Code, or any other Federal or State criminal stat-
7 ute relating to fraud in the application for or receipt of
8 compensation or benefits, whether under this subtitle or
9 under any other Federal or State workers' compensation
10 program or system, shall forfeit as of the date of such
11 conviction any compensation or benefits to which such in-
12 dividual would otherwise be entitled for a covered illness
13 under this subtitle based on a time of injury on or before
14 the date of such conviction.

15 (2) Forfeiture for a conviction under paragraph (1)
16 shall be in addition to any action the Secretary of Labor
17 may take pursuant to section 8106 or 8129 of title 5,
18 United States Code, for the conviction.

19 (b) **PROHIBITION ON BENEFITS DURING INCARCER-**
20 **ATION FOR FELONY.**—(1) Notwithstanding any other pro-
21 vision of law and except as provided in paragraph (3), no
22 compensation or benefits may be paid or provided under
23 this subtitle to or for any individual during any period
24 during which such individual is confined in a jail, prison,
25 or other penal institution or correctional facility pursuant

1 to such individual's conviction of an offense that con-
2 stituted a felony under applicable law.

3 (2) An individual described in paragraph (1) may not
4 receive any benefits foregone under that paragraph for a
5 period of incarceration described in that paragraph after
6 the end of the period of incarceration.

7 (3)(A) If an individual described in paragraph (1) has
8 one or more dependents (as that term is defined in section
9 8110(a) of title 5, United States Code), the Secretary of
10 Labor may, during a period of incarceration of the indi-
11 vidual described in that paragraph, pay such dependents
12 a percentage of the compensation that would otherwise
13 have been payable to such individual under this subtitle.

14 (B) The amount of compensation payable under sub-
15 paragraph (A) shall be computed in accordance with para-
16 graphs (1) through (5) of section 8133(a) of title 5,
17 United States Code, except that for purposes of such para-
18 graphs, any reference to a "deceased employee" shall be
19 treated as any reference to the individual described in
20 paragraph (1), and a reference to "widow" or "widower"
21 shall be treated as a reference to the spouse of the indi-
22 vidual.

23 (c) INFORMATION ON INCARCERATED INDIVID-
24 UALS.—(1) Notwithstanding any provision of section 552a
25 of title 5, United States Code, or any other provision of

1 Federal law, any agency of the United States Government
2 shall make available to the Secretary of Labor, upon writ-
3 ten request, the names and Social Security account num-
4 bers of individuals who are confined in a jail, prison, or
5 other penal institution or correctional facility under the
6 jurisdiction of that agency, pursuant to the individuals'
7 conviction of an offense that constituted a felony under
8 applicable law.

9 (2) The Secretary of Labor may use information
10 made available to the Secretary under paragraph (1) solely
11 for purposes of carrying out this section.

12 **SEC. 228. CIVIL SERVICE RETENTION RIGHTS.**

13 If a former covered employee described in section
14 201(a)(5)(C) who is receiving compensation and benefits
15 under this subtitle resumes employment with the Federal
16 Government, the individual shall have the rights set forth
17 in section 8151 of title 5, United States Code, with respect
18 to such compensation and benefits, except that for pur-
19 poses of such section 8151, any reference to “compensa-
20 tion” shall be treated as a reference to compensation and
21 benefits under this subtitle.

22 **SEC. 229. SUBROGATION OF THE UNITED STATES.**

23 (a) IN GENERAL.—Except as otherwise provided in
24 this subtitle, if a covered illness or death for which com-
25 pensation or benefits are paid or provided under this sub-

1 title is caused under circumstances creating a legal liabil-
2 ity in a person other than the United States to pay dam-
3 ages, sections 8131 and 8132 of title 5, United States
4 Code, shall apply.

5 (b) ADMINISTRATION.—(1) For purposes of this sec-
6 tion, any reference in section 8131 or 8132 of title 5,
7 United States Code, to the Employees' Compensation
8 Fund shall be treated as a reference to the Nuclear Em-
9 ployees' Radiation Compensation Fund.

10 (2) For the purposes of this section, the requirement
11 under section 8131(a) of title 5, United States Code, that
12 an employee required to appear as a party or witness in
13 the prosecution of an action described in that section is
14 in active duty status while so appearing shall only apply
15 to a covered employee described in section 201(a)(5)(C).

16 **SEC. 230. OTHER ADMINISTRATIVE PROVISIONS.**

17 (a) CRIMINAL PENALTIES FOR INTERFERENCE WITH
18 BENEFITS PROCESS.—(1) Whoever fails to provide infor-
19 mation, or knowingly provides false information, in re-
20 sponse to a request for information pursuant to subsection
21 (c), (d), or (e) of section 211 shall be fined, imprisoned,
22 or both, in accordance with section 1922 of title 18,
23 United States Code.

24 (2) Whoever induces, compels, or directs a covered
25 employee to forego filing a claim for compensation or ben-

1 efits under this subtitle, or any extension or application
2 thereof, or willfully retains any notice, report, claim, or
3 paper which is required to be filed under this subtitle,
4 shall be fined, imprisoned, or both, in accordance with sec-
5 tion 1922 of title 18, United States Code.

6 (b) PROVISION OF INFORMATION TO CLAIMANTS.—
7 Any information with respect to a claim that is provided
8 to the Secretary of Labor under this subtitle by the Sec-
9 retary of Energy, any Department of Energy contractor,
10 or any Department of Energy uranium vendor shall also
11 be provided by the Secretary of Energy, such contractor,
12 or such vendor, as the case may be, to the claimant con-
13 cerned, at no cost to the claimant concerned and in man-
14 ner not inconsistent with the provisions of section 552a
15 of title 5, United States Code (commonly referred to as
16 the Privacy Act), unless the claimant concerned elects not
17 be provided such information.

18 (c) RECOVERY OF OVERPAYMENT OF CLAIMS.—The
19 provisions of section 8129 of title 5, United States Code,
20 shall apply with respect to any overpayment of compensa-
21 tion on a claim under this subtitle.

1 **Subtitle B—Other Illnesses**

2 **SEC. 241. COMPENSATION AND BENEFITS FOR OTHER ILL-** 3 **NESSSES.**

4 (a) **ELIGIBILITY TO SUBMIT CLAIMS.**—(1) Any cov-
5 ered employee who can establish that the exposure of such
6 covered employee to a hazardous substance at Department
7 of Energy facility or facility of a Department of Energy
8 contractor or Department of Energy uranium vendor was
9 a contributing factor to an illness or disease (other than
10 a covered illness) of such covered employee may submit
11 to the Secretary of Labor a claim for compensation and
12 benefits for such illness and disease under subtitle A.

13 (2) Any survivor of a deceased covered employee who
14 can establish that the exposure of such covered employee
15 to a hazardous substance at a facility referred to in that
16 paragraph was a contributing factor in the death (other
17 than death by reason of a covered illness) of such covered
18 employee may submit a claim to the Secretary for com-
19 pensation for such death under subtitle A.

20 (b) **SUPPORT FOR CLAIMANTS.**—(1) The Secretary of
21 Labor shall develop and provide to potential claimants
22 under subsection (a) a questionnaire suitable to provide
23 assistance to such potential claimants in identifying the
24 hazardous substances to which individuals were exposed
25 at facilities referred to in that subsection.

1 (2) The Secretary of Labor shall assist potential
2 claimants in assembling documents and information ap-
3 propriate to support their claims. Such assistance shall in-
4 clude the provision of an opportunity for potential claim-
5 ants to identify and review documents and information
6 under the jurisdiction of the Department of Energy, De-
7 partment of Energy contractors, and Department of En-
8 ergy uranium vendors.

9 (3)(A) As part of the assistance provided under para-
10 graph (2), the Secretary of Labor may employ or enter
11 into contracts with appropriate individuals to act as
12 ombudspersons to assist potential claimants in preparing
13 and submitting claims.

14 (B) The Secretary of Labor, after consultation with
15 the Secretary of Energy, may also enter into cooperative
16 agreements with labor organizations at Department of En-
17 ergy facilities and facilities of Department of Energy con-
18 tractors and Department of Energy uranium vendors to
19 act as ombudspersons under this paragraph.

20 (C) Individuals or organizations acting as
21 ombubspersons under this paragraph shall provide assist-
22 ance in a geographic region designated by the Secretary
23 of Labor for that purpose.

1 (D) No charge or fee may be imposed upon a poten-
2 tial claimant for any assistance provided under this para-
3 graph.

4 (c) RESOLUTION OF CLAIMS.—(1) Except as other-
5 wise provided in this subchapter, the resolution of any
6 claim submitted under subsection (a), including the pay-
7 ment or provision of compensation or benefits pursuant
8 to the allowance of the claim, shall be governed by the
9 provisions of subtitle A as if such claim had been sub-
10 mitted under that subtitle rather than subsection (a).

11 (2) In the case of any claim covered by section 242,
12 the Secretary of Labor may postpone the deadline in sec-
13 tion 216(e) for carrying out actions under section 216
14 pending the final evaluation of such claim under section
15 242.

16 **SEC. 242. PROCEDURES RELATING TO CERTAIN DETER-**
17 **MINATIONS OF ELIGIBILITY FOR COMPENSA-**
18 **TION AND BENEFITS.**

19 (a) IN GENERAL.—If the Secretary of Labor is un-
20 able, based on documents and information in a claim sub-
21 mitted under section 241, to make an affirmative deter-
22 mination that exposure to a hazardous substance identi-
23 fied in the claim was a contributing factor in the illness,
24 disease, or death associated with such exposure, the Sec-
25 retary of Labor shall forward the claim to the Secretary

1 of Health and Human Services for evaluation under this
2 section.

3 (b) REFERRAL TO PANELS OF PHYSICIANS.—(1) Not
4 later than seven days after being forwarded a claim under
5 subsection (a), the Secretary of Health and Human Serv-
6 ices shall refer the claim to a panel of physicians appointed
7 under subsection (c).

8 (2) The Secretary of Health and Human Services
9 shall prescribe in regulations procedures for receiving, re-
10 ferring, and receiving in return claims forwarded to that
11 Secretary under paragraph (1).

12 (c) PANELS OF PHYSICIANS.—(1)(A) The Secretary
13 of Health and Human Services shall, in consultation with
14 the Association of Occupational Health Clinics, appoint
15 one or more panels of physicians to carry out evaluations
16 of claims under this section.

17 (B) Each panel shall consist of three physicians who
18 have demonstrated expertise in diagnosing occupational
19 illnesses.

20 (C) The number of panels appointed under this sub-
21 section shall be based on geographic need and on estimates
22 of the caseload of such panels under this section. The Sec-
23 retary of Health and Human Services shall evaluate such
24 need and make such estimates in consultation with the
25 Secretary of Labor.

1 (2) Each member of a panel appointed under this
2 subsection shall be compensated at a rate equal to the
3 daily equivalent of the annual rate of basic pay prescribed
4 for level III of the Executive Schedule under section 5314
5 of title 5, United States Code, for each day (including
6 travel time) during which such member is engaged in the
7 performance of the duties of such panel.

8 (3) The Secretary of Health and Human Services
9 shall provide each panel appointed under this subsection
10 with such administrative support as such panel may re-
11 quire to carry out its duties under this section.

12 (4) The costs of a panel appointed under this sub-
13 section, including compensation of panel members under
14 paragraph (2), shall be paid from amounts transferred to
15 the Secretary of Labor under section 255(b).

16 (5) The Secretary of Health and Human Services
17 shall prescribe regulations relating to the activities of pan-
18 els under this section, including the provision of adminis-
19 trative support to such panels under paragraph (3).

20 (d) INFORMATION TO PANELS.—The Secretary of
21 Energy shall submit to the Secretary of Health and
22 Human Services who shall submit to panels of physicians
23 under subsection (c) information on—

24 (1) assessments over time of exposures to haz-
25 ardous substances at Department of Energy facili-

1 ties and facilities of Department of Energy contrac-
2 tors and Department of Energy uranium vendors;

3 (2) reports on environment, safety, and health
4 practices at Department of Energy facilities and fa-
5 cilities of Department of Energy contractors and
6 Department of Energy uranium vendors; and

7 (3) the results of medical evaluations and lab-
8 oratory tests carried out under the program to mon-
9 itor Department of Energy workers under section
10 3162 of the National Defense Authorization Act for
11 Fiscal Year 1993 (42 U.S.C. 7274(i)).

12 (e) EVALUATION OF CLAIMS BY PANELS.—(1) A
13 panel of physicians to which a claim is referred under sub-
14 section (b) shall evaluate the claim, including any medical
15 records and work history associated with the claim, to de-
16 termine whether or not the exposure to a hazardous sub-
17 stance identified in the claim was a contributing factor
18 to the illness, disease, or death of the covered employee
19 as specified in the claim.

20 (2)(A) A panel shall determine under paragraph (1)
21 that exposure to a hazardous substance was a contributing
22 factor to an illness, disease, or death only if the panel
23 finds that the exposure was a substantial contributing fac-
24 tor to the illness, disease, or death.

1 (B) For purposes of subparagraph (A), a panel shall
2 utilize the most current list of illnesses established under
3 section 243.

4 (3)(A) A panel shall, to the maximum extent prac-
5 ticable, complete the evaluation of a claim under this sub-
6 section not later than 60 days after the referral of the
7 claim to the panel.

8 (B) If a panel cannot complete the evaluation of a
9 claim within the time provided under subparagraph (A),
10 the panel shall notify the Secretary of Labor and the
11 claimant of the date by which the panel shall complete
12 evaluation of the claim.

13 (C) In the case of a claim described in subparagraph
14 (A), the panel concerned shall notify the Secretary of
15 Labor once every 60 days of the progress of the panel in
16 evaluating the claim until completion of the evaluation of
17 the claim.

18 (4) In evaluating a claim, a panel may secure the
19 services and advice of medical specialists with expertise
20 on matters relating to the claim.

21 (5) A claimant shall, upon request to the Secretary
22 of Labor, have an opportunity to submit to a panel addi-
23 tional medical information or other information on the
24 claim, and the panel shall take such information into ac-
25 count in its evaluation of the claim under this subsection.

1 (6)(A) In furtherance of the evaluation of a claim,
2 a panel may, upon request to the Secretary of Labor, re-
3 quest that a covered employee undergo diagnostic tests
4 specified by the panel.

5 (B) In furtherance of the evaluation of a claim, a
6 panel may also, upon request to the Secretary of Labor,
7 request that the Secretary of Energy, a Department of
8 Energy contractor, or a Department of Energy uranium
9 vendor provide the panel appropriate additional informa-
10 tion regarding the claim.

11 (C) In furtherance of the evaluation of a claim, a
12 panel may also—

13 (i) require additional diagnostic testing or phy-
14 sician's examination; and

15 (ii) request from the Secretary of Energy a list
16 of all hazardous substances to which covered employ-
17 ees were exposed at Department of Energy facilities
18 and facilities of Department of Energy contractors
19 and Department of Energy uranium vendors.

20 (D)(i) Members of a panel that receive Restricted
21 Data or Formerly Restricted Data under subparagraph
22 (C)(ii) shall hold security clearances appropriate for the
23 handling of such data.

1 (ii) The Secretary of Energy shall expedite the
2 issuance of any security clearance required under clause
3 (i).

4 (iii) The Secretary of Energy shall assist any panel
5 receiving data under subparagraph (C)(ii) in protecting
6 the security of such data.

7 (f) EVALUATION WITH INADEQUATE EXPOSURE IN-
8 FORMATION.—If in evaluating a claim under this section,
9 a panel of physicians determines that information on the
10 exposure of a covered employee to a hazardous substance
11 is nonexistent or insufficient for purposes of such evalua-
12 tion, the panel shall evaluate the nature and degree of
13 risks of exposure to hazardous substances to which the
14 covered employee concerned may have been subject as fol-
15 lows:

16 (1) By identifying each job held by the covered
17 employee during the period covered by the claim, in-
18 cluding length of employment, type of employment
19 activities, types of exposures to hazardous sub-
20 stances associated with such employment, and length
21 of time exposed to such hazards.

22 (2) By determining whether adequate protective
23 equipment was available for each such exposure.

24 (3) By determining whether exposure to two or
25 more such hazards, and whether such multiple haz-

1 ards, increases or increase the likelihood of a con-
2 nection between exposure and an illness or disease.

3 (4) By determining whether the covered em-
4 ployee was involved in an fire, explosion, accidental
5 release, or other accident involving such hazards.

6 (5) By determining whether similarly situated
7 employees have contracted similar illnesses or dis-
8 eases that are attributable to exposure to such haz-
9 ards.

10 (g) DETERMINATION ON CLAIM.—(1) Upon comple-
11 tion of an evaluation of a claim under this section, a panel
12 of physicians shall submit to the Secretary of Labor the
13 panel's determination whether or not exposure to a haz-
14 ardous substance identified in the claim, or identified in
15 evidence during the course of the evaluation, was a con-
16 tributing factor in the illness, disease, or death associated
17 with such exposure as specified the claim.

18 (2) The Secretary of Labor shall submit a copy of
19 a determination under paragraph (1) to the claimant.

20 (h) USE OF DETERMINATIONS.—(1) The Secretary
21 of Labor shall take into account a determination made
22 with respect to a claim under this section in deciding the
23 claim under this subtitle.

24 (2) For purposes of deciding the claim, the Secretary
25 shall utilize the determination of the panel in lieu of any

1 physicians examination that the Secretary would otherwise
2 have required under section 216(d).

3 (3) A claimant that disputes any determination of a
4 panel on a medical matter under this subsection may sub-
5 mit to the Secretary a qualified second opinion on that
6 matter. The Secretary shall pay any costs of obtaining
7 such second opinion.

8 **SEC. 243. PRESUMED OCCUPATIONAL DISEASES.**

9 (a) REQUIREMENT FOR LIST.—The Secretary of
10 Health and Human Services shall appoint an advisory
11 group for purposes of establishing a list of illnesses and
12 diseases that are presumed to be attributable to employ-
13 ment or work assignments at Department of Energy facili-
14 ties and facilities of Department of Energy contractors
15 and Department of Energy uranium vendors.

16 (b) MEMBERS OF ADVISORY GROUP.—The members
17 of the advisory group appointed under subsection (a) shall
18 include individuals who are experts in the fields of occupa-
19 tional medicine, internal medicine, toxicology, epidemi-
20 ology, health physics, and industrial hygiene worker com-
21 pensation programs, individuals who are current employ-
22 ees at facilities referred to in subsection (a), and individ-
23 uals who are former employees at such facilities.

1 (c) MATTERS CONSIDERED.—In establishing a list of
2 illnesses and diseases under subsection (a), the advisory
3 group shall—

4 (1) base the list on occupational exposures to
5 hazardous substances in industrial or laboratory
6 processes similar to the processes utilized in the fa-
7 cilities referred to in subsection (a); and

8 (2) take account—

9 (A) the fact that nuclear weapons produc-
10 tion is classified as an ultrahazardous activity
11 under the Atomic Energy Act of 1954 (42
12 U.S.C. 2011 et seq.); and

13 (B) the fact that Department of Energy
14 has been self-regulating with respect to occupa-
15 tional health and safety.

16 (d) ESTABLISHMENT OF LIST.—(1) In establishing
17 a list of illnesses and diseases under subsection (a), the
18 advisory group shall—

19 (A) identify and categorize the types and pat-
20 terns of illnesses and diseases which are potentially
21 attributable to employment at facilities referred to in
22 subsection (a), including the illnesses and diseases
23 that have been identified in, through, or by—

24 (i) medical screening programs conducted
25 by the Office of Environment, Safety, and

1 Health of the Department of Energy (including
2 the program to monitor Department of Energy
3 workers under section 3162 of the National De-
4 fense Authorization Act for Fiscal Year 1993
5 (42 U.S.C. 7274(i));

6 (ii) other medical programs of the Depart-
7 ment of Energy, Department of Energy con-
8 tractors, and Department of Energy uranium
9 vendors;

10 (iii) appropriate health studies and health
11 evaluations of the National Institute of Occupa-
12 tional Safety and Health;

13 (iv) peer-reviewed epidemiology studies;

14 (v) Tiger Team reports;

15 (vi) the hearings relating to worker health
16 conducted by the Assistant Secretary of Energy
17 for Environment, Safety, and Health at Depart-
18 ment of Energy facilities in 1999 and 2000;
19 and

20 (vii) the public;

21 (B) take into account the reports of the Na-
22 tional Economic Council entitled “The Link Between
23 Exposure to Occupational Hazards” and “Illnesses
24 In the Department of Energy Contractor Workforce
25 and Benefits Available to Department of Energy

1 Contractor Personnel From State Workers Com-
2 pensation Programs”;

3 (C) identify and take into account presumptions
4 that are supported in the scientific and medical lit-
5 erature;

6 (D) evaluate site-specific histories of working
7 conditions, hazards, and processes unique to Depart-
8 ment of Energy facilities and facilities of Depart-
9 ment of Energy contractors and Department of En-
10 ergy uranium vendors, and the adequacy of protec-
11 tive measures provided to workers exposed to such
12 conditions and hazards over the history of operations
13 of such facilities;

14 (E) assess whether patterns of illnesses, dis-
15 eases, or symptoms exist that are potentially attrib-
16 utable to exposure to the working conditions and
17 hazards at Department of Energy facilities and fa-
18 cilities of Department of Energy contractors and
19 Department of Energy uranium vendors, including
20 the conditions and hazards evaluated under subpara-
21 graph (D);

22 (F) determine whether Department of Energy
23 employees (including employees of Department of
24 Energy contractors and Department of Energy ura-
25 nium vendors) were adequately informed of their ex-

1 posure to working conditions and hazards at Depart-
2 ment of Energy facilities and facilities of Depart-
3 ment of Energy contractors and Department of En-
4 ergy uranium vendors, including the conditions and
5 hazards evaluated under subparagraph (D);

6 (G) evaluate and assess the relevance of pre-
7 sumptions of workplace causation have been estab-
8 lished in law or policy for workers similarly exposed
9 in other hazardous industries or occupations;

10 (H) evaluate whether and how many Depart-
11 ment of Energy employees (including employees of
12 Department of Energy contractors and Department
13 of Energy uranium vendors) were involved in acci-
14 dents where excessive exposures to hazardous sub-
15 stances occurred;

16 (I) determine whether Department of Energy
17 employees (including employees of Department of
18 Energy contractors and Department of Energy ura-
19 nium vendors) exposed to hazardous substances re-
20 ceived adequate follow-on emergency medical treat-
21 ment and monitoring and subsequent medical atten-
22 tion to determine their health impairment;

23 (J) determine whether Department of Energy
24 employees (including employees of Department of
25 Energy contractors and Department of Energy ura-

1 nium vendors), without their knowledge and consent,
2 were placed at undue risk of exposure to hazardous
3 substances without adequate protections or moni-
4 toring; and

5 (K) take into account such other matters as the
6 advisory group considers appropriate.

7 (2) If under paragraph (1)(C) the advisory group
8 identifies an illness or disease identifiable by biological in-
9 dicators, the list under subsection (a) shall specify the di-
10 agnostic tests required to establish that exposure or inges-
11 tion of a particular substance or compound will contribute
12 to such illness or disease.

13 (3)(A) If under paragraph (1)(J) the advisory group
14 determines that covered employees were placed at undue
15 risk of exposure without their knowledge and consent, the
16 advisory group shall also determine whether fairness and
17 equity require that a presumption be established in favor
18 of compensation for such covered employees for any spe-
19 cific type of illness, disease, or impairment.

20 (B) The advisory group shall submit to the Secretary
21 of Health and Human Services a report on any determina-
22 tion under subparagraph (A). The Secretary shall trans-
23 mit to Congress any report submitted to the Secretary
24 under the preceding sentence.

1 (e) FREQUENCY OF LIST.—The list required by sub-
2 section (a) shall be established not later than one year
3 after the date of the enactment of this Act, and shall be
4 updated not less often than annually thereafter.

5 (f) PUBLICATION.—The Secretary of Labor shall pro-
6 vide for the publication of the list required by subsection
7 (a), and of any update of the list under subsection (e),
8 in the Federal Register.

9 (g) USES OF LIST.—(1) The Secretary of Energy
10 may use the list established under subsection (a) for pur-
11 poses of the specification of additional medical conditions
12 and diseases under section 214.

13 (2) The Secretary of Labor may use the list for pur-
14 poses of resolving claims under this subtitle.

15 (3) Panels of physicians under section 242 may use
16 the list for purposes of evaluations of claims under that
17 section.

18 (4) The list may not be used for any purpose other
19 than a purpose specified in this subsection.

20 **Subtitle C—General Provisions**

21 **SEC. 251. MEMORANDUM OF UNDERSTANDING.**

22 (a) MEMORANDUM OF UNDERSTANDING.—Not later
23 than 120 days after the date of the enactment of this Act,
24 the Secretary of Energy shall enter into a memorandum
25 of understanding with the Secretary of Labor for purposes

1 of the administration of this title by the Secretary of
2 Labor, including the utilization of Department of Labor
3 services and facilities for such purposes.

4 (b) INCLUDED MATTERS.—The memorandum of un-
5 derstanding shall provide for the transfer to the Secretary
6 of Labor of funds authorized to be appropriated for the
7 Department of Energy under section 255 in order to cover
8 costs incurred by the Secretary of Labor in the adminis-
9 tration of this title.

10 (c) EXCLUDED MATTERS.—The memorandum of un-
11 derstanding shall not cover activities of the Secretary of
12 Energy authorized under section 214 or activities of the
13 Secretary of Energy under section 242(e)(6)(D).

14 (d) DELEGATION OF RESPONSIBILITIES OF SEC-
15 RETARY OF LABOR.—The memorandum of understanding
16 shall permit the Secretary of Labor to delegate any func-
17 tions and responsibilities of that Secretary under the
18 memorandum of understanding to appropriate officers and
19 employees of the Department of Labor.

20 **SEC. 252. REGULATIONS.**

21 (a) DEPARTMENT OF LABOR.—Not later than 120
22 days after the date of the entry into the memorandum of
23 understanding required by section 251, the Secretary of
24 Labor shall prescribe regulations for purposes of the ad-
25 ministration of this title.

1 (b) OTHER REGULATIONS.—Not later than 120 days
2 after the date of entry into the memorandum of under-
3 standing required by section 251—

4 (1) the Secretary of Energy shall prescribe the
5 regulations required under section 213(a)(2)(B); and

6 (2) the Secretary of Health and Human Serv-
7 ices shall prescribe the regulations required under
8 subsections (b) and (c) of section 242.

9 **SEC. 253. NUCLEAR EMPLOYEES' RADIATION COMPENSA-**
10 **TION FUND.**

11 (a) ESTABLISHMENT.—There is hereby established
12 on the books of the Treasury of the United States a fund
13 to be known as the “Nuclear Employees’ Radiation Com-
14 pensation Fund” (in this section referred to as the
15 “Fund”).

16 (b) ELEMENTS OF FUND.—There shall be deposited
17 in the Fund the following:

18 (1) Amounts appropriated for the Fund.

19 (2) Amounts that otherwise accrue to the Fund
20 under this title.

21 (c) AVAILABILITY.—(1) Amounts in the Fund may
22 be used for the provision of compensation and benefits and
23 other expenses authorized by this title in connection with
24 the provision of such compensation and benefits.

1 (2) Amounts in the Fund shall not be available for
2 the payment of costs incurred in the administration of this
3 title.

4 (3) Amounts in the Fund shall remain available until
5 expended.

6 (d) ADMINISTRATION OF FUND.—(1) Not later than
7 45 days before the end of each quarter of a fiscal year,
8 the Secretary of Labor shall determine the following:

9 (A) Total cost of compensation and benefits
10 and other payments made from the Fund during the
11 preceding fiscal year quarter.

12 (B) The balance in the Fund as of the end of
13 the preceding fiscal year quarter.

14 (C) An estimate of the anticipated expenditures
15 from the Fund for the payment of compensation and
16 benefits and other payments under this title for each
17 of the two succeeding fiscal year quarters.

18 (2) The determination made under paragraph (1) in
19 the last quarter of a fiscal year under paragraph (1) shall
20 include, in addition to the matter required under that
21 paragraph, the following:

22 (A) The total cost of compensation and benefits
23 and other payments from the Fund during the pre-
24 ceding twelve months.

