

106TH CONGRESS  
2D SESSION

# H. R. 5189

To provide for the payment of compensation for certain individuals employed in connection with Federal nuclear weapons programs who sustained occupational illness in the line of duty, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2000

Mr. UDALL of Colorado (for himself, Mr. WHITFIELD, Mr. STRICKLAND, Mr. GIBBONS, Mr. KANJORSKI, Mr. DUNCAN, Ms. KAPTUR, Mr. WAMP, Mr. KLINK, Mr. JENKINS, Ms. BERKLEY, Mr. GORDON, Mr. CLEMENT, Mr. HALL of Ohio, Mr. LUCAS of Kentucky, Mr. PHELPS, and Mr. BROWN of Ohio) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To provide for the payment of compensation for certain individuals employed in connection with Federal nuclear weapons programs who sustained occupational illness in the line of duty, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Energy Employees Oc-  
5 cupational Illness Compensation Act of 2000”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds as follows:

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  
6 under Federal law. Nuclear weapons production and  
7 testing involved unique dangers, including potential  
8 catastrophic nuclear accidents that private insurance  
9 carriers would not cover, as well as chronic expo-  
10 sures to radioactive and hazardous substances, such  
11 as beryllium and silica, that even in small amounts  
12 could cause medical harm.

13 (2) Since the inception of the nuclear weapons  
14 program and for several decades afterwards, large  
15 numbers of nuclear weapons workers at Department  
16 of Energy and at vendor sites who supplied the Cold  
17 War effort were put at risk without their knowledge  
18 and consent for reasons that, documents reveal, were  
19 driven by fears of adverse publicity, liability, and  
20 employee demands for hazardous duty pay.

21 (3) Numerous previous secret records docu-  
22 mented unmonitored radiation, beryllium, silica,  
23 heavy metals, and toxic substances' exposures and  
24 continuing problems at the Department of Energy  
25 and vendor sites across the country, where since  
26 World War II the Department of Energy and its

1 predecessors have been self-regulating with respect  
2 to nuclear safety and occupational safety and health.  
3 No other hazardous Federal activity has been per-  
4 mitted to have such sweeping self-regulatory powers.

5 (4) The Department of Energy policy to litigate  
6 occupational illness claims has deterred workers  
7 from filing workers compensation claims and im-  
8 posed major financial burdens for workers who  
9 sought compensation. Department of Energy con-  
10 tractors have been held harmless and the Depart-  
11 ment of Energy workers were denied workers com-  
12 pensation coverage for occupational disease.

13 (5) Over the past 20 years more than two  
14 dozen scientific findings have emerged that indicate  
15 that certain Department of Energy workers are ex-  
16 perencing increased risks of dying from cancer and  
17 non-malignant diseases at numerous facilities that  
18 provided for the Nation's nuclear deterrent. Several  
19 of these studies also establish a correlation between  
20 excess diseases and exposure to radiation, beryllium,  
21 and silica.

22 (6) While linking exposure to occupational haz-  
23 ards with the development of occupational disease is  
24 sometimes difficult, scientific evidence supports the  
25 conclusion that occupational exposure to dust par-

1        ticles or vapor of beryllium, even where there was  
2        compliance with the standards in place at the time,  
3        can cause beryllium sensitivity and chronic beryllium  
4        disease. Furthermore, studies indicate that 98 per-  
5        cent of radiation induced cancers within the Depart-  
6        ment of Energy complex occur at dose levels below  
7        existing maximum safe thresholds. Further, that  
8        workers at Department of Energy sites were exposed  
9        to silica, heavy metals, and toxic substances at levels  
10       that will lead or contribute to illness and diseases.

11            (7) Existing information indicates that State  
12       workers' compensation programs are not a uniform  
13       means to provide adequate compensation for the  
14       types of occupational illnesses and diseases related  
15       to the prosecution of the Cold War effort.

16            (8) The civilian men and women who performed  
17       duties uniquely related to the Department of Ener-  
18       gy's nuclear weapons production and testing pro-  
19       grams over the last 50 years should have efficient,  
20       uniform, and adequate compensation for beryllium-  
21       related health conditions, radiation-related health  
22       conditions, and silica-related health conditions in  
23       order to assure fairness and equity.

1 **SEC. 3. CONSTRUCTION WITH OTHER LAWS.**

2       References in this Act to a provision of another stat-  
3 ute shall be considered as references to such provision, as  
4 amended and as may be amended from time to time.

5 **SEC. 4. DEFINITIONS.**

6       (a) IN GENERAL.—In this Act:

7           (1) ATOMIC WEAPON.—The term “atomic weap-  
8 on” has the meaning given that term in section 11d.  
9 of the Atomic Energy Act of 1954 (42 U.S.C.  
10 2014(d)).

11           (2) ATOMIC WEAPONS EMPLOYEE.—The term  
12 “atomic weapons employee” means an individual em-  
13 ployed by an atomic weapons employer during a time  
14 when the employer was processing or producing, for  
15 the use by the United States, material that emitted  
16 radiation and was used in the production of an  
17 atomic weapon, excluding uranium mining and mill-  
18 ing.

19           (3) ATOMIC WEAPONS EMPLOYER.—The term  
20 “atomic weapons employer” means an entity that—

21           (A) processed or produced, for the use by  
22 the United States, material that emitted radi-  
23 ation and was used in the production of an  
24 atomic weapon, excluding uranium mining and  
25 milling; and

1           (B) is designated as an atomic weapons  
2           employer for purposes of this Act by the Sec-  
3           retary of Energy.

4           (4) ATOMIC WEAPONS EMPLOYER FACILITY.—  
5           The term “atomic weapons employer facility” means  
6           a facility, owned by an atomic weapons employer,  
7           that is or was used to process or produce, for use  
8           by the United States, material that emitted radi-  
9           ation and was used in the production of an atomic  
10          weapon, excluding uranium mining or milling.

11          (5) BERYLLIUM VENDOR.—The term “beryl-  
12          lium vendor” means the following:

13                 (A) Atomics International.

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

16                 (C) General Atomics.

17                 (D) General Electric Company.

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

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

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

1 (H) Wyman Gordan, Incorporated.

2 (I) Any other vendor, processor, or pro-  
3 ducer of beryllium or related products des-  
4 igned as a beryllium vendor for purposes of  
5 this Act under section 5(a).

6 (6) CHRONIC SILICOSIS.—The term “chronic  
7 silicosis” means silicosis if—

8 (A) at least 10 years elapse between initial  
9 exposure to silica and the emergence of the sili-  
10 cosis; and

11 (B) the silicosis is established by one of the  
12 following:

13 (i) A chest x-ray presenting any com-  
14 bination of rounded opacities of type  
15 p/q/r, with or without irregular opacities,  
16 present in at least both upper lung zones  
17 and of profusion 1/0 or greater, as found  
18 in accordance with the International Labor  
19 Organization classification system.

20 (ii) A physician’s provisional or work-  
21 ing diagnosis of silicosis, combined with—

22 (I) a chest radiograph interpreted  
23 as consistent with silicosis; or

24 (II) pathologic findings con-  
25 sistent with silicosis.

1 (iii) A history of occupational expo-  
2 sure to airborne silica dust and a chest  
3 radiograph or other imaging technique in-  
4 terpreted as consistent with silicosis or  
5 pathologic findings consistent with silicosis.

6 (7) COMPENSATION.—The term “compensa-  
7 tion” means the money allowance payable under this  
8 Act and any other benefits paid for from the Fund  
9 including the alternative compensation payable pur-  
10 suant to section 8.

11 (8) COVERED BERYLLIUM EMPLOYEE.—The  
12 term “covered beryllium employee” means the fol-  
13 lowing:

14 (A) A current or former employee (as that  
15 term is defined in section 8101(1) of title 5,  
16 United States Code) who may have been ex-  
17 posed to beryllium at a Department of Energy  
18 facility or at a facility owned, operated, or occu-  
19 pied by a beryllium vendor.

20 (B) A current or former employee of any  
21 entity that contracted with the Department of  
22 Energy to provide management and operation,  
23 management and integration, or environmental  
24 remediation of a Department of Energy facility  
25 or an employee of any contractor or subcon-



1 contractor that provided services, including con-  
2 struction and maintenance, at such a facility.

3 (C) A current or former employee of a be-  
4 ryllium vendor, or a contractor or subcontractor  
5 of a beryllium vendor, during a period when the  
6 vendor was engaged in activities related to the  
7 production or processing of beryllium for sale  
8 to, or use by, the Department of Energy.

9 (9) COVERED BERYLLIUM ILLNESS.—The term  
10 “covered beryllium illness” means any condition as  
11 follows:

12 (A) Beryllium sensitivity as established  
13 by—

14 (i) an abnormal beryllium lymphocyte  
15 proliferation test performed on either blood  
16 or lung lavage cells; or

17 (ii) other means specified under sec-  
18 tion 5(b).

19 (B) Chronic beryllium disease as estab-  
20 lished by the following:

21 (i) For diagnoses on or after January  
22 1, 1993—

23 (I) beryllium sensitivity, as estab-  
24 lished in accordance with subpara-  
25 graph (A); and

1 (II) lung pathology consistent  
2 with chronic beryllium disease,  
3 including—

4 (aa) a lung biopsy showing  
5 granulomas or a lymphocytic  
6 process consistent with chronic  
7 beryllium disease;

8 (bb) a computerized axial to-  
9 mography scan showing changes  
10 consistent with chronic beryllium  
11 disease; or

12 (cc) pulmonary function or  
13 exercise testing showing pul-  
14 monary deficits consistent with  
15 chronic beryllium disease.

16 (ii) For diagnoses before January 1,  
17 1993, the presence of four of the criteria  
18 set forth in subclauses (I) through (VI),  
19 including the criteria set forth in subclause  
20 (I) and any three of the criteria set forth  
21 in subclauses (II) through (VI):

22 (I) Occupational or environ-  
23 mental history, or epidemiologic evi-  
24 dence of beryllium exposure.

1 (II) Characteristic chest radio-  
2 graphic (or computed tomography  
3 (CT) abnormalities.

4 (III) Restrictive or obstructive  
5 lung physiology testing or diffusing  
6 lung capacity defect.

7 (IV) Lung pathology consistent  
8 with chronic beryllium disease.

9 (V) Clinical course consistent  
10 with a chronic respiratory disorder.

11 (VI) Immunologic tests showing  
12 beryllium sensitivity (skin patch test  
13 or beryllium blood test preferred).

14 (iii) Other means specified under sec-  
15 tion 5(b).

16 (C) Any injury, illness, impairment, or dis-  
17 ability sustained as a consequence of a covered  
18 beryllium illness referred to in subparagraph  
19 (A) or (B).

20 (10) COVERED EMPLOYEE.—The term “covered  
21 employee” means a covered beryllium employee, a  
22 covered employee with cancer, or a covered employee  
23 with chronic silicosis.

1           (11) COVERED EMPLOYEE WITH CANCER.—The  
2 term “covered employee with cancer” means the fol-  
3 lowing:

4                   (A) An individual who meets the criteria in  
5 section 6(c)(1).

6                   (B) A member of the Special Exposure Co-  
7 hort.

8           (12) COVERED EMPLOYEE WITH CHRONIC SILI-  
9 COSIS.—The term “covered employee with chronic  
10 silicosis” means a—

11                   (A) Department of Energy employee; or

12                   (B) Department of Energy contractor em-  
13 ployee;

14 with chronic silicosis who was exposed to silica in  
15 the performance of duty as determined in section  
16 3511(b).

17           (13) DEPARTMENT OF ENERGY.—The term  
18 “Department of Energy” includes the predecessor  
19 agencies of the Department of Energy, including the  
20 Manhattan Engineering District.

21           (14) DEPARTMENT OF ENERGY CONTRACTOR  
22 EMPLOYEE.—The term “Department of Energy con-  
23 tractor employee” means the following:

24                   (A) An individual who is or was in resi-  
25 dence at a Department of Energy facility as a

1 researcher for a period of at least 24 cumu-  
2 lative months.

3 (B) An individual who is or was employed,  
4 at a Department of Energy facility by—

5 (i) an entity that contracted with the  
6 Department of Energy to provide manage-  
7 ment and operating, management and inte-  
8 gration, or environmental remediation at  
9 the facility; or

10 (ii) a contractor or subcontractor that  
11 provided services, including construction  
12 and maintenance, at the facility.

13 (15) DEPARTMENT OF ENERGY FACILITY.—The  
14 term “Department of Energy facility” means any  
15 building, structure, or premise, including the  
16 grounds upon which such building, structure, or  
17 premise is located—

18 (A) in which operations are, or have been,  
19 conducted by, or on behalf of, the Department  
20 of Energy (except for buildings, structures,  
21 premises, grounds, or operations covered by Ex-  
22 ecutive Order 12344, pertaining to the Naval  
23 Nuclear Propulsion Program); and

24 (B) with regard to which the Department  
25 of Energy has or had—

- 1 (i) a proprietary interest; or
- 2 (ii) entered into a contract with an
- 3 entity to provide management and oper-
- 4 ation, management and integration, envi-
- 5 ronmental remediation services, construc-
- 6 tion, or maintenance services.

7 (16) FUND.—The term “Fund” means the En-

8 ergy Employees’ Occupational Illness Compensation

9 Fund under section 24.

10 (17) MONTHLY PAY.—The term “monthly pay”

11 means the monthly pay at the time of injury, or the

12 monthly pay at the time disability begins, or the

13 monthly pay at the time the compensable disability

14 recurs, if the recurrence begins more than 6 months

15 after the employee resumes regular full-time employ-

16 ment, whichever is greater, except when otherwise

17 determined under section 8113 of title 5, United

18 States Code.

19 (18) RADIATION.—The term “radiation” means

20 ionizing radiation in the form of—

- 21 (A) alpha particles;
- 22 (B) beta particles;
- 23 (C) neutrons;
- 24 (D) gamma rays; or

1 (E) accelerated ions or subatomic particles  
2 from accelerator machines.

3 (19) SECRETARY OF HEALTH AND HUMAN  
4 SERVICES.—The term “Secretary of Health and  
5 Human Services” means the Secretary of Health  
6 and Human Services with the assistance of the Di-  
7 rector of the National Institute for Occupational  
8 Safety and Health.

9 (20) SPECIAL EXPOSURE COHORT.—The term  
10 “Special Exposure Cohort” means the following  
11 groups of Department of Energy employees, Depart-  
12 ment of Energy contractor employees, and atomic  
13 weapons employees:

14 (A) Individuals who—

15 (i) were employed for a cumulative pe-  
16 riod of at least one year during the period  
17 prior to February 1, 1992—

18 (I) at the gaseous diffusion  
19 plants located in—

20 (aa) Paducah, Kentucky;

21 (bb) Portsmouth, Ohio; or

22 (cc) Oak Ridge, Tennessee;

23 and

24 (II) by—

1 (aa) the Department of En-  
2 ergy;

3 (bb) a Department of En-  
4 ergy contractor or subcontractor;  
5 or

6 (cc) an atomic weapons em-  
7 ployer; and

8 (ii) during employment covered by  
9 clause (i)—

10 (I) were monitored through the  
11 use of dosimetry badges for exposure  
12 at the plant of the external parts of  
13 the employee's body to radiation; or

14 (II) worked in a job that had ex-  
15 posures comparable to a job that is or  
16 was monitored through the use of do-  
17 simetry badges.

18 (B) Individuals who were employed by the  
19 Department of Energy or a Department of En-  
20 ergy contractor or subcontractor on Amchitka  
21 Island, Alaska, prior to January 1, 1974, and  
22 who were exposed to ionizing radiation in the  
23 performance of duty related to the Long Shot,  
24 Milrow, or Cannikin underground nuclear tests.



1 (C) Individuals designated as part of the  
2 Special Exposure Cohort by the Secretary of  
3 Health and Human Services, in accordance  
4 with section 8.

5 (21) SPECIFIED CANCER.—The term “specified  
6 cancer” means the following:

7 (A) Leukemia (other than chronic  
8 lymphocytic leukemia).

9 (B) Multiple myeloma.

10 (C) Non-Hodgkins lymphoma.

11 (D) Cancer of the—

12 (i) bladder;

13 (ii) bone;

14 (iii) brain;

15 (iv) breast (male or female);

16 (v) cervix;

17 (vi) digestive system (including esoph-

18 agus, stomach, small intestine, bile ducts,

19 colon, rectum, or other digestive organs);

20 (vii) gallbladder;

21 (viii) kidney;

22 (ix) larynx, pharynx, or other res-

23 piratory organs;

24 (x) liver;

25 (xi) lung;

- 1 (xii) male genitalia;  
2 (xiii) nasal organs;  
3 (xiv) nervous system;  
4 (xv) ovary;  
5 (xvi) pancreas;  
6 (xvii) prostate;  
7 (xviii) salivary gland (parotid or non-  
8 parotid);  
9 (xix) thyroid;  
10 (xx) ureter;  
11 (xxi) urinary tract or other urinary  
12 organs; or  
13 (xxii) uterus.

14 (22) SURVIVOR.—The term “survivor” means  
15 any individual or individuals eligible to receive com-  
16 pensation pursuant to section 8133 of title 5, United  
17 States Code.

18 (23) TIME OF INJURY.—The term “time of in-  
19 jury” means—

20 (A) in regard to a claim arising out of ex-  
21 posure to beryllium, the last date on which a  
22 covered employee was exposed to beryllium in  
23 the performance of duty in accordance with sec-  
24 tion 6(a);

1 (B) in regard to a claim arising out of  
2 chronic silicosis, the last date on which a cov-  
3 ered employee was exposed to silica in the per-  
4 formance of duty in accordance with section  
5 6(b); and

6 (C) in regard to a claim arising out of ex-  
7 posure to radiation, the last date on which a  
8 covered employee was exposed to radiation in  
9 the performance of duty in accordance with sec-  
10 tion 6(c)(1) or, in the case of a member of the  
11 Special Exposure Cohort, the last date on which  
12 the member of the Special Exposure Cohort was  
13 employed at the Department of Energy facility  
14 at which the member was exposed to radiation.

15 (b) TERMS USED IN ADMINISTRATION.—

16 (1) IN GENERAL.—The following terms have  
17 the meaning given those terms in section 8101 of  
18 title 5, United States Code—

19 (A) “physician”;

20 (B) “medical, surgical, and hospital serv-  
21 ices and supplies”;

22 (C) “injury”;

23 (D) “widow”;

24 (E) “parent”;

25 (F) “brother”;

- 1 (G) “sister”;
- 2 (H) “child”;
- 3 (I) “grandchild”;
- 4 (J) “widower”;
- 5 (K) “student”;
- 6 (L) “price index”;
- 7 (M) “organ”; and
- 8 (N) “United States medical officers and
- 9 hospitals”.

10 (2) EMPLOYEE.—In applying any provision of

11 chapter 81 of title 5, United States Code (except

12 section 8101), under this Act, the term “employee”

13 in such provision shall mean a covered employee.

14 (3) EMPLOYEES’ COMPENSATION FUND.—In

15 applying any provision of chapter 81 of title 5,

16 United States Code, under this Act, the term “Em-

17 ployees’ Compensation Fund” in such provision shall

18 mean the Fund.

19 **SEC. 5. EXPANSION OF LIST OF BERYLLIUM VENDORS AND**

20 **MEANS OF ESTABLISHING COVERED BERYL-**

21 **LIUM ILLNESSES.**

22 (a) BERYLLIUM VENDORS.—The Secretary of En-

23 ergy may from time to time, and in consultation with the

24 Secretary of Labor, designate as a beryllium vendor for

25 purposes of section 4(a)(5) any vendor, processor, or pro-

1 ducer of beryllium or related products not previously listed  
2 under or designated for purposes of that section if the Sec-  
3 retary of Energy finds that such vendor, processor, or pro-  
4 ducer has been engaged in activities related to the produc-  
5 tion or processing of beryllium for sale to, or use by, the  
6 Department of Energy in a manner similar to the entities  
7 listed in that section.

8 (b) MEANS OF ESTABLISHING COVERED BERYLLIUM  
9 ILLNESSES.—The Secretary of Health and Human Serv-  
10 ices may from time to time, and in consultation with the  
11 Secretary of Energy, specify means of establishing the ex-  
12 istence of a covered beryllium illness referred to in sub-  
13 paragraph (A) or (B) of section 4(a)(9) not previously list-  
14 ed under or specified for purposes of such subparagraph.

15 **PART A—BERYLLIUM, SILICOSIS, AND RADIATION**

16 **COMPENSATION**

17 **SEC. 6. EXPOSURE TO HAZARDS IN THE PERFORMANCE OF**

18 **DUTY.**

19 (a) BERYLLIUM.—In the absence of substantial evi-  
20 dence to the contrary, a covered beryllium employee shall  
21 be determined to have been exposed to beryllium in the  
22 performance of duty for the purposes of this Act if, and  
23 only if, the covered beryllium employee was—

24 (1) employed at a Department of Energy facil-  
25 ity; or

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

8           (b) CHRONIC SILICOSIS.—In the absence of substan-  
9           tial evidence to the contrary, a covered employee with  
10          chronic silicosis shall be determined to have been exposed  
11          to silica in the performance of duty for the purposes of  
12          this Act if, and only if, the covered employee with chronic  
13          silicosis was present during the mining of tunnels at a De-  
14          partment of Energy facility for tests or experiments re-  
15          lated to an atomic weapon.

16          (c) CANCER.—

17               (1) IN GENERAL.—A Department of Energy  
18          employee, Department of Energy contractor em-  
19          ployee, or an atomic weapons employee shall be de-  
20          termined to have sustained a cancer in the perform-  
21          ance of duty if, and only if, such employee—

22                       (A) contracted cancer after beginning em-  
23                       ployment at a Department of Energy facility  
24                       for a Department of Energy contractor or an

1 atomic weapons employer facility for an atomic  
2 weapons employer; and

3 (B) falls within guidelines that—

4 (i) are established by the Secretary of  
5 Health and Human Services by regulation,  
6 after consultation with the Secretary of  
7 Energy and after technical review by the  
8 Advisory Board under section 3512, for de-  
9 termining whether the cancer the employee  
10 contracted was at least as likely as not re-  
11 lated to employment at the facility;

12 (ii) are based on the radiation dose  
13 received by the employee (or a group of  
14 employees performing similar work) at the  
15 facility and the upper 99 percent con-  
16 fidence interval of the probability of causa-  
17 tion in the radioepidemiological tables pub-  
18 lished under section 7(b) of the Orphan  
19 Drug Act (42 U.S.C. 241 note), as such  
20 tables may be updated under section  
21 7(b)(3) of such Act from time to time;

22 (iii) incorporate the methods estab-  
23 lished under subsection (d); and

24 (iv) take into consideration the type of  
25 cancer; past health-related activities, such

1 as smoking; information on the risk of de-  
2 veloping a radiation-related cancer from  
3 workplace exposure; and other relevant fac-  
4 tors.

5 (2) SPECIAL EXPOSURE COHORT.—A member  
6 of the Special Exposure Cohort shall be determined  
7 to have sustained a cancer in the performance of  
8 duty if, and only if, such individual contracted a  
9 specified cancer after beginning employment at a  
10 Department of Energy facility for a Department of  
11 Energy contractor or an atomic weapons employer  
12 facility for an atomic weapons employer.

13 (d) RADIATION DOSE.—

14 (1) IN GENERAL.—The Secretary of Health and  
15 Human Services, after consultation with the Sec-  
16 retary of Energy, shall—

17 (A) establish by regulation methods for ar-  
18 riving at reasonable estimates of the radiation  
19 doses Department of Energy employees or De-  
20 partment of Energy contractor employees re-  
21 ceived at a Department of Energy facility and  
22 atomic weapons employees received at a facility  
23 operated by an atomic weapons employer if  
24 such employees were not monitored for expo-  
25 sure to radiation at the facility, or were mon-



1           itored inadequately, or if the employees' expo-  
2           sure records are missing or incomplete; and

3           (B) provide to an employee who meets the  
4           requirements of subsection (c)(1)(B) an esti-  
5           mate of the radiation dose the employee re-  
6           ceived based on dosimetry reading, a method es-  
7           tablished under subparagraph (A), or a com-  
8           bination of both.

9           (2) SCIENTIFIC REVIEW.—The Secretary of  
10          Health and Human Services shall establish an inde-  
11          pendent review process utilizing the Advisory Board  
12          under section 3512 to assess the methods estab-  
13          lished under paragraph (1)(A) and the application of  
14          those methods and to verify a reasonable sample of  
15          individual dose reconstructions provided under para-  
16          graph (1)(B).

17          (3) ACCESS TO DOSE RECONSTRUCTIONS.—The  
18          Secretary of Health and Human Services and the  
19          Secretary of Energy each shall, consistent with the  
20          protection of private medical records, make available  
21          to researchers and the general public information on  
22          the assumptions, methodology, and data used in  
23          dose reconstructions undertaken under this part.

1 **SEC. 7. ADVISORY BOARD ON RADIATION AND WORKER**  
2 **HEALTH.**

3 (a) ESTABLISHMENT.—

4 (1) IN GENERAL.—Not later than 120 days  
5 after the date of enactment of this Act, the Sec-  
6 retary of Health and Human Services, in consulta-  
7 tion with the Secretary of Energy, shall establish  
8 and appoint an Advisory Board on Radiation and  
9 Worker Health.

10 (2) BALANCE OF VIEWS.—In making appoint-  
11 ments to the Board, the Secretary of Health and  
12 Human Services shall also consult with labor unions  
13 and other organizations with expertise on worker  
14 health issues to ensure that the membership of the  
15 Board reflects a balance of scientific, medical, and  
16 worker perspectives.

17 (3) CHAIR.—The Secretary of Health and  
18 Human Services shall designate a Chair for the  
19 Board from among its members.

20 (b) DUTIES.—The Board shall advise the Secretary  
21 of Health and Human Services, Secretary of Energy, and  
22 Secretary of Labor on—

23 (1) the development of guidelines to be used by  
24 the Secretary of Health and Human Services under  
25 section 6;

1           (2) the scientific validity and quality of dose es-  
2           timation and reconstruction efforts being performed  
3           to implement compensation programs under this  
4           part; and

5           (3) other matters related to radiation and work-  
6           er health in Department of Energy facilities as the  
7           Secretary of Labor, the Secretary of Energy, or the  
8           Secretary of Health and Human Services may re-  
9           quest.

10          (c) STAFF.—

11           (1) IN GENERAL.—The Secretary of Health and  
12           Human Services shall appoint a staff to facilitate  
13           the work of the Board, headed by a Director ap-  
14           pointed under subchapter VIII of chapter 33 of title  
15           5, United States Code.

16           (2) DETAILS.—The Secretary of Health and  
17           Human Services may accept for staff of the Board  
18           personnel on detail from other Federal agencies to  
19           serve on the staff on a nonreimbursable basis.

20          (d) EXPENSES.—Members of the Board, other than  
21           full-time employees of the Federal Government, while at-  
22           tending meetings of the Board or while otherwise serving  
23           at the request of the Secretary of Health and Human  
24           Services while serving away from their homes or regular  
25           places of business, may be allowed travel and meal ex-

1 penses, including per diem in lieu of subsistence, as au-  
2 thorized by section 5703 of title 5, United States Code,  
3 for individuals in the Government serving without pay.

4 (e) APPLICABILITY OF FACCA.—The Advisory Board  
5 shall be subject to the Federal Advisory Committee Act  
6 (5 U.S.C. App.).

7 **SEC. 8. DESIGNATION OF ADDITIONAL MEMBERS OF THE**  
8 **SPECIAL EXPOSURE COHORT.**

9 (a) ADVICE ON MEMBERSHIP IN COHORT.—

10 (1) IN GENERAL.—Upon request of the Sec-  
11 retary of Health and Human Services, the Advisory  
12 Board on Radiation and Worker Health under sec-  
13 tion 7, based on exposure assessments by radiation  
14 health professionals, information provided by the  
15 Department of Energy, and other information  
16 deemed appropriate by the Board, shall advise the  
17 Secretary of Health and Human Services whether  
18 there is a class of employees at a Department of En-  
19 ergy facility who likely were exposed to radiation at  
20 the facility but for whom it is not feasible to esti-  
21 mate with sufficient accuracy the radiation dose they  
22 received.

23 (2) PROCEDURES.—The Secretary of Health  
24 and Human Services shall establish procedures for

1        considering petitions by classes of employees to re-  
2        quest the advice of the Board.

3        (b) TREATMENT AS MEMBERS OF COHORT.—A class  
4        of employees at a Department of Energy facility shall be  
5        considered as members of the Special Exposure Cohort for  
6        purposes of section 4(a)(20) if the Secretary of Health and  
7        Human Services, upon recommendation of the Advisory  
8        Board on Radiation and Worker Health and in consulta-  
9        tion with the Secretary of Energy, determines that—

10            (1) it is not feasible to estimate with sufficient  
11            accuracy the radiation dose which the class received;  
12            and

13            (2) there is a reasonable likelihood that the ra-  
14            diation dose may have endangered the health of  
15            members of the class.

16        (c) ACCESS TO INFORMATION.—The Secretary of En-  
17        ergy shall, in accordance with law, provide the Secretary  
18        of Health and Human Services and the members and staff  
19        of the Advisory Board under section 7 access to relevant  
20        information on worker exposures, including access to Re-  
21        stricted Data (as that term is defined in section 11y. of  
22        the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

1 **SEC. 9. AUTHORITY TO PROVIDE COMPENSATION AND**  
2 **OTHER ASSISTANCE.**

3 (a) COMPENSATION.—Subject to the provisions of  
4 this Act, the Secretary of Labor—

5 (1) shall pay compensation in accordance with  
6 sections 8105 through 8110, 8111(a), 8112, 8113,  
7 8115, 8117, 8133, 8134, 8146a(a), and 8146a(b) of  
8 title 5, United States Code, for the disability or  
9 death—

10 (A) from a covered beryllium illness of a  
11 covered beryllium employee who was exposed to  
12 beryllium while in the performance of duty as  
13 determined in accordance with section 6(a) of  
14 this Act;

15 (B) from chronic silicosis of a covered em-  
16 ployee with chronic silicosis who was exposed to  
17 silica in the performance of duty as determined  
18 in accordance with section 6(b) of this Act; or

19 (C) from cancer of a covered employee  
20 with cancer determined to have sustained that  
21 cancer in the performance of duty in accordance  
22 with section 6(c) of this Act or from any injury  
23 suffered as a consequence of that cancer;

24 (2) shall furnish the services and other benefits  
25 specified in section 8103 of title 5, United States  
26 Code, to—

1 (A) a covered beryllium employee with a  
2 covered beryllium illness who was exposed to be-  
3 ryllium in the performance of duty as deter-  
4 mined in accordance with section 6(a) of this  
5 Act;

6 (B) a covered employee with chronic sili-  
7 cosis who was exposed to silica in the perform-  
8 ance of duty as determined in accordance with  
9 section 6(b) of this Act; or

10 (C) a covered employee with cancer deter-  
11 mined to have sustained that cancer in the per-  
12 formance of duty in accordance with section  
13 6(c) of this Act or to have suffered any injury  
14 as a consequence of that cancer; and

15 (3) may direct a permanently disabled indi-  
16 vidual whose disability is compensable under this  
17 part to undergo vocational rehabilitation and shall  
18 provide for furnishing such vocational rehabilitation  
19 services pursuant to the provisions of sections 8104,  
20 8111(b), and 8113(b) of title 5, United States Code.

21 (b) LIMITATIONS ON COMPENSATION.—

22 (1) EMPLOYEE MISCONDUCT.—No compensa-  
23 tion or benefits may be paid or provided under this  
24 Act for a cancer (including a specified cancer),  
25 chronic silicosis, covered beryllium illness, or death

1 if the cancer (including a specified cancer), chronic  
2 silicosis, covered beryllium illness, or death occurred  
3 under one of the circumstances set forth in para-  
4 graph (1), (2), or (3) of section 8102(a) of title 5,  
5 United States Code.

6 (2) RETROACTIVE BENEFITS.—No compensa-  
7 tion may be paid under this section for any period  
8 before the date of enactment of this Act, except in  
9 the case of compensation under section 10.

10 (3) SOURCE.—All compensation under this part  
11 shall be paid from the Fund.

12 (c) COMPUTATION OF PAY.—

13 (1) IN GENERAL.—Except as otherwise pro-  
14 vided by this Act or by regulation, computation of  
15 pay under this Act shall be determined in accord-  
16 ance with section 8114 of title 5, United States  
17 Code.

18 (2) SUBSTITUTE RULE FOR SECTION  
19 8114(d)(3).—If either of the methods of determining  
20 the average annual earnings specified in section  
21 8114(d) (1) and (2) of title 5, United States Code,  
22 cannot be applied reasonably and fairly, the average  
23 annual earnings are a sum that reasonably rep-  
24 represents the annual earning capacity of the covered  
25 employee in the employment in which the employee



1 was working at the time of injury having regard to  
2 the previous earnings of the employee in similar em-  
3 ployment, and of other employees of the same em-  
4 ployer in the same or most similar class working in  
5 the same or most similar employment in the same or  
6 neighboring location, other previous employment of  
7 the employee, or other relevant factors. However, the  
8 average annual earnings may not be less than 150  
9 times the average daily wage the covered employee  
10 earned in the employment during the days employed  
11 within 1 year immediately preceding the time of in-  
12 jury.

13 (d) ASSISTANCE FOR CLAIMANTS.—The Secretary of  
14 Labor shall, upon the receipt of a request for assistance  
15 from a claimant for compensation under this section, pro-  
16 vide assistance to the claimant in connection with the  
17 claim, including—

18 (1) assistance in securing medical testing and  
19 diagnostic services necessary to establish the exist-  
20 ence of a covered beryllium illness or cancer; and

21 (2) such other assistance as may be required to  
22 develop facts pertinent to the claim.

23 (e) ASSISTANCE FOR POTENTIAL CLAIMANTS.—The  
24 Secretary of Energy, in consultation with the Secretary  
25 of Labor, shall take appropriate actions to inform and as-

1 sist covered employees who are potential claimants under  
2 this part, and other potential claimants under this part,  
3 of the availability of compensation under this part, includ-  
4 ing actions to—

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

8 (2) provide such covered employees and other  
9 potential claimants with information and other sup-  
10 port necessary for making claims, including—

11 (A) medical protocols for medical testing  
12 and diagnosis to establish the existence of a  
13 covered beryllium illness, silicosis, or cancer;  
14 and

15 (B) lists of vendors approved for providing  
16 laboratory services related to such medical test-  
17 ing and diagnosis;

18 (3) 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 (f) INFORMATION FROM BERYLLIUM VENDORS AND  
23 OTHER CONTRACTORS.—As part of the assistance pro-  
24 gram provided under subsections (d) and (e), and as per-  
25 mitted by law, the Secretary of Energy shall, upon the

1 request of the Secretary of Labor, require a beryllium ven-  
2 dor or other Department of Energy contractor or subcon-  
3 tractor to provide information relevant to a claim or poten-  
4 tial claim under this Act to the Secretary of Labor.

5 **SEC. 10. ALTERNATIVE COMPENSATION.**

6 (a) IN GENERAL.—Subject to the provisions of this  
7 section, a covered employee eligible for benefits under sec-  
8 tion 9(a), or the survivor of such covered employee if the  
9 employee is deceased, may elect to receive compensation  
10 in the amount of \$200,000 in lieu of any other compensa-  
11 tion under section 9(a)(1).

12 (b) DEATH BEFORE ELECTION.—

13 (1) IN GENERAL.—Subject to the provisions of  
14 this section, if a covered employee otherwise eligible  
15 to make an election provided by this section dies be-  
16 fore the date of enactment of this Act, or before  
17 making the election, whether or not the death is a  
18 result of a cancer (including a specified cancer),  
19 chronic silicosis, or covered beryllium illness, a sur-  
20 vivor of the covered employee on behalf of the sur-  
21 vivor and any other survivors of the covered em-  
22 ployee may make the election and receive the com-  
23 pensation provided for under this section.

24 (2) PRECEDENCE OF SURVIVORS.—The right to  
25 make an election and to receive compensation under

1 this section shall be afforded to survivors in the  
2 order of precedence set forth in section 8109 of title  
3 5, United States Code.

4 (c) TIME LIMIT FOR ELECTION.—An election under  
5 this section may be made at any time after the submittal  
6 under this part of the claim on which such compensation  
7 is based, but not later than 30 days after the latter of  
8 the date of—

9 (1) a determination by the Secretary of Labor  
10 that an employee is eligible for an award under this  
11 section; or

12 (2) a determination by the Secretary of Labor  
13 awarding an employee or an employee's survivors  
14 compensation for total or partial disability or com-  
15 pensation in case of death.

16 (d) IRREVOCABILITY OF ELECTION.—

17 (1) IN GENERAL.—An election under this sec-  
18 tion when made is irrevocable.

19 (2) BINDING EFFECT.—An election made by a  
20 covered employee or survivor under this section is  
21 binding on all survivors of the covered employee.

22 **SEC. 11. SUBMITTAL OF CLAIMS.**

23 (a) CLAIM REQUIRED.—A claim for compensation  
24 under this part shall be submitted to the Secretary of

1 Labor in the manner specified in section 8121 of title 5,  
2 United States Code.

3 (b) GENERAL TIME LIMITATIONS.—A claim for com-  
4 pensation under this part shall be filed under this section  
5 not later than the later of—

6 (1) seven years after the date of enactment of  
7 this Act;

8 (2) seven years after the date the claimant first  
9 becomes aware that a cancer (including a specified  
10 cancer), chronic silicosis, covered beryllium illness,  
11 or death from any of the foregoing of a covered em-  
12 ployee may be connected to the exposure of the cov-  
13 ered employee to beryllium, radiation, or silica in the  
14 performance of duty.

15 (c) NEW PERIOD FOR ADDITIONAL ILLNESSES AND  
16 CONDITIONS.—A new period of limitation under sub-  
17 section (b)(2) shall commence with each new diagnosis of  
18 a cancer (including a specified cancer), chronic silicosis,  
19 or covered beryllium illness that is different from a pre-  
20 viously diagnosed cancer (including a specified cancer),  
21 chronic silicosis, or covered beryllium illness.

22 (d) DEATH CLAIM.—The timely filing of a disability  
23 claim for a cancer (including a specified cancer), chronic  
24 silicosis, or covered beryllium illness shall satisfy the time  
25 requirements of this section for death benefits for the

1 same cancer (including a specified cancer), chronic sili-  
2 cosis, or covered beryllium illness.

3 **SEC. 12. ADJUDICATION AND ADMINISTRATION.**

4 (a) IN GENERAL.—

5 (1) REQUIREMENT.—The Secretary of Labor  
6 shall determine and make a finding of fact and  
7 make an award for or against payment of compensa-  
8 tion under this part after—

9 (A) considering the claim presented by the  
10 claimant, the results of any medical test or di-  
11 agnosis undertaken to establish the existence of  
12 a cancer (including a specified cancer), chronic  
13 silicosis, or covered beryllium illness, and any  
14 report furnished by the Secretary of Energy  
15 with respect to the claim; and

16 (B) completing such investigation as the  
17 Secretary of Labor considers necessary.

18 (2) SCOPE OF ALLOWANCE AND DENIAL.—The  
19 Secretary may allow or deny a claim, in whole or in  
20 part.

21 (b) AVAILABLE AUTHORITIES.—

22 (1) IN GENERAL.—Except as provided in para-  
23 graph (2), in carrying out activities under subsection  
24 (c), the Secretary of Labor may utilize the authori-  
25 ties available to the Secretary under sections 8123,

1 8124(b), 8125, 8126, 8128(a), and 8129 of title 5,  
2 United States Code.

3 (2) DISAGREEMENT.—If there is a disagree-  
4 ment under section 8123(a) of title 5, United States  
5 Code, between the physician making the examination  
6 for the United States and the physician of the em-  
7 ployee, the Secretary of Labor shall appoint a third  
8 physician from a roster of physicians with relevant  
9 expertise maintained by the Secretary of Health and  
10 Human Services.

11 (c) RIGHTS OF CLAIMANT.—

12 (1) IN GENERAL.—Except as provided by para-  
13 graph (2), the provisions of section 8127 of title 5,  
14 United States Code, shall apply.

15 (2) SUITS TO COMPEL INFORMATION.—A claim-  
16 ant may commence an action in the appropriate dis-  
17 trict court of the United States against a beryllium  
18 vendor, or other contractor or subcontractor of the  
19 Department of Energy, to compel the production of  
20 information or documents requested by the Sec-  
21 retary of Labor under this part if such information  
22 or documents are not provided within 180 days of  
23 the date of the request. Upon successful resolution  
24 of any action brought under this paragraph, the  
25 court shall award the claimant reasonable attorney

1 fees and costs to be paid by the defendant in such  
2 action.

3 (d) DEADLINES.—Beginning on the date that is two  
4 years after the date of enactment of this Act, the Sec-  
5 retary of Labor shall allow or deny a claim under this sec-  
6 tion not later than the later of—

7 (1) 180 days after the date of submittal of the  
8 claim to the Secretary under section 11; or

9 (2) 120 days after the date of receipt of infor-  
10 mation or documents produced under subsection  
11 (c)(2).

12 (e) RESOLUTION OF REASONABLE DOUBT.—Except  
13 as provided in subsection (b)(2), in determining whether  
14 a claimant meets the requirements of this part, the Sec-  
15 retary of Labor shall find in favor of the claimant in cir-  
16 cumstances where the evidence supporting the claim of the  
17 claimant and the evidence controverting the claim of the  
18 claimant is in equipoise.

19 (f) SERVICE OF DECISION.—The Secretary of Labor  
20 shall have served upon a claimant the Secretary's decision  
21 denying the claim under this section, including the finding  
22 of fact under subsection (a)(1).

23 (g) HEARINGS AND FURTHER REVIEW.—

24 (1) REGULATIONS.—The Secretary of Labor  
25 may prescribe regulations necessary for the adminis-



1       tration and enforcement of this Act including regula-  
2       tions for the conduct of hearings under this section.

3               (2) APPEALS PANELS.—

4               (A) IN GENERAL.—Regulations issued by  
5       the Secretary of Labor under this Act shall pro-  
6       vide for one or more Energy Employees' Com-  
7       pensation Appeals Panels of three individuals  
8       with authority to hear and, subject to applicable  
9       law and the regulations of the Secretary, make  
10      final decisions on appeals taken from deter-  
11      minations and awards with respect to claims of  
12      employees filed under this part.

13              (B) INTERAGENCY AGREEMENT.—Under  
14      an agreement between the Secretary of Labor  
15      and another Federal agency (except the Depart-  
16      ment of Energy), a panel appointed by the  
17      other Federal agency may provide these appel-  
18      late decisionmaking services.

19              (3) APPEAL.—An individual seeking review of a  
20      denial of an award under this section shall submit  
21      an appeal in accordance with the regulations under  
22      this subsection.

23              (h) RECONSIDERATION BASED ON NEW CRITERIA OR  
24      EVIDENCE.—

1           (1) NEW CRITERIA OR METHODS FOR ESTAB-  
2           LISHING WORK-RELATED ILLNESS.—A claimant may  
3           obtain reconsideration of a decision awarding or de-  
4           nying coverage under this part within one year after  
5           the effective date of regulations setting forth—

6                   (A) new criteria for establishing a covered  
7                   beryllium illness pursuant to section 5(b); or

8                   (B) additional or revised methods for de-  
9                   termining whether a cancer was at least as like-  
10                  ly as not related to employment pursuant to  
11                  section 6(c)(1)(B)(i);

12           by submitting evidence that is relevant and pertinent  
13           to the new regulations.

14           (2) NEW EVIDENCE.—A covered employee or  
15           covered employee’s survivor may obtain reconsider-  
16           ation of a decision denying an application for com-  
17           pensation or benefits under this Act if the employee  
18           or employee’s survivor has additional medical or  
19           other information relevant to the claim that was not  
20           reasonably available at the time of the decision and  
21           that likely would lead to the reversal of the decision.

22                   **PART B—EXPOSURE TO OTHER TOXIC**  
23                   **SUBSTANCES**

24           **SEC. 13. DEFINITIONS.**

25           In this part:

1           (1) DIRECTOR.—The term “Director” means  
2           the Director of the Office of Workers’ Compensation  
3           Advocate under section 217 of the Department of  
4           Energy Organization Act, as added by section 22 of  
5           this Act.

6           (2) PANEL.—The term “panel” means a physi-  
7           cians panel established under section 14(d).

8           (3) SECRETARY.—The term “Secretary” means  
9           the Secretary of Energy.

10 **SEC. 14. AGREEMENTS WITH STATES.**

11           (a) AGREEMENTS.—The Secretary, through the Di-  
12           rector, may enter into agreements with the Governor of  
13           a State to provide assistance to a Department of Energy  
14           contractor employee in filing a claim under the appro-  
15           priate State workers’ compensation system.

16           (b) PROCEDURE.—Pursuant to agreements under  
17           subsection (a), the Director may—

18                   (1) establish procedures under which an indi-  
19                   vidual may submit an application for review and as-  
20                   sistance under this section, and

21                   (2) review an application submitted under this  
22                   section and determine whether the applicant sub-  
23                   mitted reasonable evidence that—

1 (A) the application was filed by or on be-  
2 half of a Department of Energy contractor em-  
3 ployee or employee's estate, and

4 (B) the illness or death of the Department  
5 of Energy contractor employee may have been  
6 related to employment at a Department of En-  
7 ergy facility.

8 (c) SUBMITTAL OF APPLICATIONS TO PANELS.—If  
9 provided in an agreement under subsection (a), and if the  
10 Director determines that the applicant submitted reason-  
11 able evidence under subsection (b)(2), the Director shall  
12 submit the application to a physicians panel established  
13 under subsection (d). The Director shall assist the em-  
14 ployee in obtaining additional evidence within the control  
15 of the Department of Energy and relevant to the panel's  
16 deliberations.

17 (d) PANEL.—

18 (1) NUMBER OF PANELS.—The Director shall  
19 inform the Secretary of Health and Human Services  
20 of the number of physicians panels the Director has  
21 determined to be appropriate to administer this sec-  
22 tion, the number of physicians needed for each  
23 panel, and the area of jurisdiction of each panel.  
24 The Director may determine to have only one panel.

25 (2) APPOINTMENT.—

1           (A) IN GENERAL.—The Secretary of  
2           Health and Human Services shall appoint panel  
3           members with experience and competency in di-  
4           agnosing occupational illnesses under section  
5           3109 of title 5, United States Code.

6           (B) COMPENSATION.—Each member of a  
7           panel shall be paid at the rate of pay payable  
8           for level III of the Executive Schedule for each  
9           day (including travel time) the member is en-  
10          gaged in the work of a panel.

11          (3) DUTIES.—A panel shall review an applica-  
12          tion submitted to it by the Director and determine,  
13          under guidelines established by the Director, by rule,  
14          whether the illness or death that is the subject of  
15          the application arose out of and in the course of em-  
16          ployment by the Department of Energy and expo-  
17          sure to a toxic substance at a Department of Energy  
18          facility.

19          (4) ADDITIONAL INFORMATION.—At the re-  
20          quest of a panel, the Director and a contractor who  
21          employed a Department of Energy contractor em-  
22          ployee shall provide additional information relevant  
23          to the panel's deliberations. A panel may consult  
24          specialists in relevant fields as it determines nec-  
25          essary.

1           (5) DETERMINATIONS.—Once a panel has made  
2 a determination under paragraph (3), it shall report  
3 to the Director its determination and the basis for  
4 the determination.

5           (6) INAPPLICABILITY OF FACA.—A panel estab-  
6 lished under this section shall not be subject to the  
7 Federal Advisory Committee Act (5 U.S.C. App.).

8           (e) ASSISTANCE.—If provided in an agreement under  
9 subsection (a)—

10           (1) the Director shall review a panel’s deter-  
11 mination made under subsection (d), information the  
12 panel considered in reaching its determination, any  
13 relevant new information not reasonably available at  
14 the time of the panel’s deliberations, and the basis  
15 for the panel’s determination;

16           (2) as a result of the review under paragraph  
17 (1), the Director shall accept the panel’s determina-  
18 tion in the absence of compelling evidence to the  
19 contrary;

20           (3) if the panel has made a positive determina-  
21 tion under subsection (d) and the Director accepts  
22 the determination under paragraph (2), or the panel  
23 has made a negative determination under subsection  
24 (d) and the Director finds compelling evidence to the  
25 contrary—

1 (A) the Director shall—

2 (i) assist the applicant to file a claim  
3 under the appropriate State workers' com-  
4 pensation system based on the health con-  
5 dition that was the subject of the deter-  
6 mination;

7 (ii) recommend to the Secretary of  
8 Energy that the Department of Energy not  
9 contest a claim filed under a State work-  
10 ers' compensation system based on the  
11 health condition that was the subject of  
12 the determination and not contest an  
13 award made under a State workers' com-  
14 pensation system regarding that claim; and

15 (iii) recommend to the Secretary of  
16 Energy that the Secretary direct, as per-  
17 mitted by law, the contractor who em-  
18 ployed the Department of Energy con-  
19 tractor employee who is the subject of the  
20 claim not to contest the claim or an award  
21 regarding the claim; and

22 (B) any costs of contesting a claim or an  
23 award regarding the claim incurred by the con-  
24 tractor who employed the Department of En-  
25 ergy contractor employee who is the subject of

1           the claim shall not be an allowable cost under  
2           a Department of Energy contract.

3           (f) INFORMATION.—At the request of the Director,  
4 a contractor who employed a Department of Energy con-  
5 tractor employee shall make available to the Director or  
6 the employee, information relevant to deliberations under  
7 this section.

8           (g) GAO REPORT.—Not later than February 1,  
9 2002, the Comptroller General shall submit a report to  
10 the Congress evaluating the implementation by the De-  
11 partment of Energy of the provisions of this part and of  
12 the effectiveness of the program under this part in pro-  
13 viding compensation to Department of Energy contractor  
14 employees for occupational illness.

15                           **PART C—GENERAL PROVISIONS**

16           **SEC. 15. TREATMENT OF COMPENSATION AND BENEFITS.**

17           (a) IN GENERAL.—Any compensation or benefits al-  
18 lowed, paid, or provided under this Act—

19                   (1) shall not be included as income for purposes  
20                   of the Internal Revenue Code and shall not be sub-  
21                   ject to Federal income tax, and shall not be included  
22                   as income or resources for purposes of determining  
23                   eligibility to receive benefits described in section  
24                   3803(c)(2)(C) of title 31, United States Code, or the  
25                   amount of those benefits; and



1           (2) 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 Act shall not be considered as any  
5 form of compensation or reimbursement for a loss for pur-  
6 poses of imposing liability on an individual receiving the  
7 compensation or benefits to repay any insurance carrier  
8 for insurance payments made.

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

13           (c) PROHIBITION ON ASSIGNMENT OR ATTACHMENT  
14 OF CLAIMS.—The provisions of section 8130 of title 5,  
15 United States Code, shall apply to claims under this Act.

16           (d) RETENTION OF CIVIL SERVICE RIGHTS.—If a  
17 Federal employee found to be disabled under this Act re-  
18 sumes employment with the Federal Government, the em-  
19 ployee shall be entitled to the rights set forth in section  
20 8151 of title 5, United States Code.

21 **SEC. 16. FORFEITURE OF BENEFITS BY CONVICTED FEL-**  
22 **ONS.**

23           (a) FORFEIT COMPENSATION.—Any individual con-  
24 victed of a violation of section 1920 of title 18, United  
25 States Code, or any other Federal or State criminal stat-

1 ute relating to fraud in the application for or receipt of  
2 any benefit under this Act or under any other Federal or  
3 State workers' compensation law, shall forfeit (as of the  
4 date of such conviction) any entitlement to any benefit  
5 under this Act such individual would otherwise be awarded  
6 for any injury, illness or death covered by this Act for  
7 which the time of injury was on or before the date of the  
8 conviction. This forfeiture shall be in addition to any ac-  
9 tion the Secretary of Labor takes under sections 8106 or  
10 8129 of title 5, United States Code.

11 (b) DEPENDENTS.—(1) Notwithstanding any other  
12 provision of law, except as provided under paragraph (2),  
13 compensation under this Act shall not be paid or provided  
14 to an individual during any period during which such indi-  
15 vidual is confined in a jail, prison, or other penal institu-  
16 tion or correctional facility, pursuant to that individual's  
17 conviction of an offense that constituted a felony under  
18 applicable law. After this period of incarceration ends, the  
19 individual shall not receive compensation forfeited during  
20 the period of incarceration.

21 (2) If an individual has one or more dependents as  
22 defined under section 8110(a) of title 5, United States  
23 Code, the Secretary of Labor may, during the period of  
24 incarceration, pay to such dependents a percentage of the  
25 compensation that would have been payable to the indi-

1 vidual computed according to the percentages set forth in  
2 section 8133(a) (1) through (5) of title 5, United States  
3 Code.

4 (c) INFORMATION.—Notwithstanding section 552a of  
5 title 5, United States Code, or any other Federal or State  
6 law, an agency of the United States, a State, or a political  
7 subdivision of a State shall make available to the Sec-  
8 retary of Labor, upon written request from the Secretary  
9 of Labor and if the Secretary of Labor requires the infor-  
10 mation to carry out this section, the names and Social Se-  
11 curity account numbers of individuals confined, for convic-  
12 tion of a felony, in a jail, prison, or other penal institution  
13 or correctional facility under the jurisdiction of that agen-  
14 cy.

15 **SEC. 17. LIMITATION ON RIGHT TO RECEIVE BENEFITS.**

16 (a) CLAIMANT.—A claimant who receives compensa-  
17 tion for any claim under this Act, except for compensation  
18 provided under the authority of section 8103(b) of title  
19 5, United States Code, shall not receive compensation for  
20 any other claim under this Act.

21 (b) SURVIVOR.—If a survivor receives compensation  
22 for any claim under this Act derived from a covered em-  
23 ployee, except for compensation provided under the au-  
24 thority of section 8103(b) of title 5, United States Code,  
25 such survivor shall not receive compensation for any other

1 claim under this Act derived from the same covered em-  
2 ployee. A survivor of a claimant who receives compensa-  
3 tion for any claim under this Act, except for compensation  
4 provided under the authority of section 8103(b) of title  
5 5, United States Code, shall not receive compensation for  
6 any other claim under this Act derived from the same cov-  
7 ered employee.

8 (c) WIDOW OR WIDOWER.—A widow or widower who  
9 is eligible for benefits under this Act derived from more  
10 than one husband or wife shall elect one benefit to receive.

11 **SEC. 18. COORDINATION OF BENEFITS—STATE WORKERS’**  
12 **COMPENSATION.**

13 (a) IN GENERAL.—An individual who is eligible to  
14 receive compensation under this Act because of a cancer  
15 (including a specified cancer), chronic silicosis, covered be-  
16 ryllium illness, or death and who is also entitled to receive  
17 benefits because of the same cancer (including a specified  
18 cancer), chronic silicosis, covered beryllium illness, or  
19 death from a State workers’ compensation system shall  
20 elect which such benefits to receive, unless—

21 (1) at the time of injury, workers’ compensation  
22 coverage for the employee was secured by a policy or  
23 contract of insurance; and

24 (2) the Secretary of Labor waives the require-  
25 ment to make such an election.

1           (b) ELECTION.—The individual shall make the elec-  
2 tion within the time allowed by the Secretary of Labor.  
3 The election when made is irrevocable and binding on all  
4 survivors of that individual.

5           (c) COORDINATION.—Except as provided in para-  
6 graph (d), an individual who has been awarded compensa-  
7 tion under this Act and who also has received benefits  
8 from a State workers' compensation system because of the  
9 same cancer (including a specified cancer), chronic sili-  
10 cosis, covered beryllium illness, or death, shall receive com-  
11 pensation as specified under this Act reduced by the  
12 amount of any workers' compensation benefits that the in-  
13 dividual has received under the State workers' compensa-  
14 tion system as a result of the cancer (including a specified  
15 cancer), chronic silicosis, covered beryllium illness, or  
16 death attributable to the period subsequent to the effective  
17 date of this Act, after deducting the reasonable costs, as  
18 determined by the Secretary of Labor, of obtaining bene-  
19 fits under the State workers' compensation system.

20           (d) WAIVER.—An individual described in paragraph  
21 (a) who has also received, under paragraph (a)(2), a waiv-  
22 er of the requirement to elect between compensation under  
23 this Act and benefits under a State workers' compensation  
24 system shall receive compensation as specified in this Act  
25 for the cancer (including a specified cancer), chronic sili-

1 cosis, covered beryllium illness, or death, reduced by 80  
2 percent of the net amount of any workers' compensation  
3 benefits that the claimant has received under a State  
4 workers' compensation system attributable to the period  
5 subsequent to the effective date of this Act, after deduct-  
6 ing the reasonable costs, as determined by the Secretary  
7 of Labor, of obtaining benefits under the State workers'  
8 compensation system.

9 **SEC. 19. COORDINATION OF BENEFITS—FEDERAL WORK-**  
10 **ERS' COMPENSATION.**

11 (a) IN GENERAL.—An individual who is eligible to  
12 receive compensation under this Act because of a cancer  
13 (including a specified cancer), chronic silicosis, covered be-  
14 ryllium illness, or death and who is also entitled to receive  
15 benefits because of the same cancer (including a specified  
16 cancer), chronic silicosis, covered beryllium illness, or  
17 death from another Federal workers' compensation system  
18 shall elect which such benefits to receive.

19 (b) ELECTION.—The individual shall make the elec-  
20 tion within the time allowed by the Secretary of Labor.  
21 The election when made is irrevocable and binding on all  
22 survivors of that individual.

23 (c) COORDINATION.—An individual who has been  
24 awarded compensation under this Act and who also has  
25 received benefits from another Federal workers' com-

1 pension system because of the same cancer (including  
2 a specified cancer), chronic silicosis, covered beryllium ill-  
3 ness, or death, shall receive compensation as specified  
4 under this Act reduced by the amount of any workers'  
5 compensation benefits that the individual has received  
6 under the other Federal workers' compensation system as  
7 a result of the cancer (including a specified cancer), chron-  
8 ic silicosis, covered beryllium illness, or death.

9 **SEC. 20. RECEIPT OF BENEFITS—OTHER STATUTES.**

10 An individual may not receive compensation under  
11 this Act for cancer and also receive compensation under  
12 the Radiation Exposure Compensation Act (42 U.S.C.  
13 2210 note) or the Radiation-Exposed Veterans Compensa-  
14 tion Act (38 U.S.C. 112(c)).

15 **SEC. 21. DUAL COMPENSATION—FEDERAL EMPLOYEES.**

16 (a) LIMITATION.—While a Federal employee is re-  
17 ceiving compensation under this Act, or such employee has  
18 been paid a lump sum in commutation of installment pay-  
19 ments until the expiration of the period during which the  
20 installment payments would have continued, such em-  
21 ployee may not receive salary, pay, or remuneration of any  
22 type from the United States, except—

23 (1) in return for service actually performed;

24 (2) pension for service in the Army, Navy or

25 Air Force;

1           (3) other benefits administrated by the Depart-  
2           ment of Veterans Affairs unless such benefits are  
3           payable for the same covered illness or the same  
4           death; and

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

8           However, eligibility for or receipt of benefits under sub-  
9           chapter III of chapter 83 of title 5, United States Code,  
10          or another retirement system for employees of the Govern-  
11          ment, does not impair the right of the employee to com-  
12          pensation for scheduled disabilities specified by section  
13          8107 of title 5, United States Code.

14       **SEC. 22. DUAL COMPENSATION—OTHER EMPLOYEES.**

15          An individual entitled to receive compensation under  
16          this Act because of a cancer (including a specified cancer),  
17          chronic silicosis, covered beryllium illness, or death cov-  
18          ered by this Act of a covered employee, who also is entitled  
19          to receive from the United States under a provision of a  
20          statute other than this Act payments or benefits for that  
21          injury, illness or death (except proceeds of an insurance  
22          policy), because of service by such employee (or in the case  
23          of death, by the deceased) as an employee or in the Armed  
24          Forces, shall elect which benefits to receive. The individual  
25          shall make the election within the time allowed by the Sec-



1 retary of Labor. The election when made is irrevocable,  
2 except as otherwise provided by statute.

3 **SEC. 23. EXCLUSIVITY OF REMEDY AGAINST THE UNITED**  
4 **STATES, CONTRACTORS, AND SUBCONTRAC-**  
5 **TORS.**

6 (a) IN GENERAL.—The liability of the United States  
7 or an instrumentality of the United States under this Act  
8 with respect to a cancer (including a specified cancer),  
9 chronic silicosis, covered beryllium illness, or death of a  
10 covered employee is exclusive and instead of all other  
11 liability—

12 (1) of—

13 (A) the United States;

14 (B) any instrumentality of the United  
15 States;

16 (C) a contractor that contracted with the  
17 Department of Energy to provide management  
18 and operation, management and integration, or  
19 environmental remediation of a Department of  
20 Energy facility (in its capacity as a contractor);

21 (D) a subcontractor that provided services,  
22 including construction, at a Department of En-  
23 ergy facility (in its capacity as a subcontractor);  
24 and

1 (E) an employee, agent, or assign of an en-  
2 tity specified in subparagraphs (A) through  
3 (D);

4 (2) to—

5 (A) the covered employee;

6 (B) the covered employee's legal represent-  
7 ative, spouse, dependents, survivors and next of  
8 kin; and

9 (C) any other person, including any third  
10 party as to whom the covered employee has a  
11 cause of action relating to the cancer (including  
12 a specified cancer), chronic silicosis, covered be-  
13 ryllium illness, or death, otherwise entitled to  
14 recover damages from the United States, the  
15 instrumentality, the contractor, the subcon-  
16 tractor, or the employee, agent, or assign of one  
17 of them;

18 because of the cancer (including a specified cancer), chron-  
19 ic silicosis, covered beryllium illness, or death in any pro-  
20 ceeding or action including a direct judicial proceeding,  
21 a civil action, a proceeding in admiralty, or a proceeding  
22 under a tort liability statute or the common law.

23 (b) APPLICABILITY.—This section applies to all cases  
24 filed on after July 31, 2000.

1 (c) WORKERS' COMPENSATION.—This section does  
2 not apply to an administrative or judicial proceeding under  
3 a State or Federal workers' compensation statute subject  
4 to sections 18 through 22.

5 **SEC. 24. ELECTION OF REMEDY AGAINST BERYLLIUM VEN-**  
6 **DORS AND ATOMIC WEAPONS EMPLOYERS.**

7 (a) BERYLLIUM VENDORS.—If an individual elects to  
8 accept payment under this Act with respect to a covered  
9 beryllium illness or death of a covered employee, that ac-  
10 ceptance of payment shall be in full settlement of all tort  
11 claims related to such covered beryllium illness or death—

12 (1) against—

13 (A) a beryllium vendor or a contractor or  
14 subcontractor of a beryllium vendor; and

15 (B) an employee, agent, or assign of a be-  
16 ryllium vendor or of a contractor or subcon-  
17 tractor of a beryllium vendor;

18 (2) by—

19 (A) that individual;

20 (B) that individual's legal representative,  
21 spouse, dependents, survivors, and next of kin;  
22 and

23 (C) any other person, including any third  
24 party as to whom a covered employee has a  
25 cause of action relating to the covered beryllium

1 illness or death, otherwise entitled to recover  
2 damages from the beryllium vendor, the con-  
3 tractor or subcontractor of the beryllium ven-  
4 dor, or the employee, agent, or assign of the be-  
5 ryllium vendor, of the contractor or subcon-  
6 tractor of the beryllium vendor;

7 that arise out of the covered beryllium illness or death in  
8 any proceeding or action including a direct judicial pro-  
9 ceeding, a civil action, a proceeding in admiralty, or pro-  
10 ceeding under a tort liability statute or the common law.

11 (b) ATOMIC WEAPONS EMPLOYER.—If an individual  
12 elects to accept payment under this Act with respect to  
13 a cancer (including a specified cancer) or death of a cov-  
14 ered employee, that acceptance of payment shall be in full  
15 settlement of all tort claims—

16 (1) against—

17 (A) an atomic weapons employer; and

18 (B) an employee, agent, or assign of an  
19 atomic weapons employer;

20 (2) by—

21 (A) that individual;

22 (B) that individual's legal representative,  
23 spouse, dependents, survivors, and next of kin;  
24 and

1           (C) any other person, including any third  
2 party as to whom a covered employee has a  
3 cause of action relating to the cancer (including  
4 a specified cancer) or death, otherwise entitled  
5 to recover damages from the atomic weapons  
6 employer, or the employee, agent, or assign of  
7 the atomic weapons employer;  
8 that arise out of the cancer (including a specified cancer)  
9 or death in any proceeding or action including a direct  
10 judicial proceeding, a civil action, a proceeding in admi-  
11 nistrative proceedings, or proceeding under a tort liability statute or the  
12 common law.

13           (c) APPLICABILITY.—

14           (1) IN GENERAL.—With respect to a case filed  
15 after the date of enactment of this Act, alleging li-  
16 ability of—

17           (A) a beryllium vendor or a contractor or  
18 subcontractor of a beryllium vendor for a cov-  
19 ered beryllium illness or death of a covered be-  
20 ryllium employee; or

21           (B) an atomic weapons employer for a can-  
22 cer (including a specified cancer) or death of a  
23 covered employee;

1 the plaintiff shall not be eligible for benefits under  
2 this Act unless the plaintiff files such case within  
3 the applicable time limits in paragraph (2).

4 (2) TIME LIMITS.—

5 (A) SUITS AGAINST BERYLLIUM VEN-  
6 DORS.—Except as provided in subparagraph  
7 (B), a case described in paragraph (1)(A) shall  
8 be filed not later than the later of—

9 (i) 180 days after the date of enact-  
10 ment of this Act; or

11 (ii) 180 days after the date the plain-  
12 tiff first becomes aware that a covered be-  
13 ryllium illness or death of a covered beryl-  
14 lium employee may be connected to the ex-  
15 posure of the covered employee to beryl-  
16 lium in the performance of duty.

17 (B) NEW DIAGNOSES.—A new period of  
18 limitation under subparagraph (A)(ii) shall  
19 commence with each new diagnosis of a covered  
20 beryllium illness that is different from a pre-  
21 viously diagnosed covered beryllium illness.

22 (C) SUITS AGAINST ATOMIC WEAPONS EM-  
23 PLOYERS.—Except as provided in subparagraph  
24 (D), a case described in paragraph (1)(B) shall  
25 be filed not later than the later of—

1 (i) 180 days after the date of enact-  
2 ment of this Act; or

3 (ii) 180 days after the date the plain-  
4 tiff first becomes aware that a cancer (in-  
5 cluding a specified cancer) or death of a  
6 covered employee may be connected to the  
7 exposure of the covered employee to radi-  
8 ation in the performance of duty.

9 (D) NEW DIAGNOSES.—A new period of  
10 limitation under subparagraph (C)(ii) shall  
11 commence with each new diagnosis of a cancer  
12 (including a specified cancer) that is different  
13 from a previously diagnosed cancer.

14 (e) WORKERS' COMPENSATION.—This section does  
15 not apply to an administrative or judicial proceeding under  
16 a State or Federal workers' compensation statute subject  
17 to sections 3534 through 3538.

18 **SEC. 25. SUBROGATION OF THE UNITED STATES.**

19 (a) IN GENERAL.—If a cancer (including a specified  
20 cancer), covered beryllium illness, chronic silicosis, dis-  
21 ability, or death for which compensation is payable under  
22 this Act is caused under circumstances creating a legal  
23 liability in a person other than the United States to pay  
24 damages, sections 8131 and 8132 of title 5, United States

1 Code, shall apply, except to the extent specified in this  
2 Act.

3 (b) APPEARANCE OF EMPLOYEE.—For the purposes  
4 of this Act, the provision in section 8131 of title 5, United  
5 States Code, that provides that an employee required to  
6 appear as a party or witness in the prosecution of an ac-  
7 tion described in that section is in an active duty status  
8 while so engaged shall only apply to a Federal employee.

9 **SEC. 26. ENERGY EMPLOYEES' OCCUPATIONAL ILLNESS**  
10 **COMPENSATION FUND.**

11 (a) ESTABLISHMENT.—There is hereby established  
12 on the books of the Treasury a fund to be known as the  
13 Energy Employees' Occupational Illness Compensation  
14 Fund. The Secretary of the Treasury shall transfer to the  
15 Fund from the general fund of the Treasury the amounts  
16 necessary to carry out the purposes of this Act.

17 (b) USE OF THE FUND.—Amounts in the Fund shall  
18 be used for the payment of compensation under this Act  
19 and other benefits and expenses authorized by this Act  
20 or any extension or application thereof, and for payment  
21 of all expenses of the administration of this Act.

22 (c) COST DETERMINATIONS.—(1) Within 45 days of  
23 the end of every quarter of every fiscal year, the Secretary  
24 of Labor shall determine the total costs of compensation,  
25 benefits, administrative expenses, and other payments



1 made from the Fund during the quarter just ended; the  
2 end-of-quarter balance in the Fund; and the amount an-  
3 ticipated to be needed during the immediately succeeding  
4 two quarters for the payment of compensation, benefits,  
5 and administrative expenses under this Act.

6 (2) In making the determination under paragraph  
7 (1), the Secretary of Labor shall include, without amend-  
8 ment, information provided by the Secretary of Energy  
9 and the Secretary of Health and Human Services on the  
10 total costs and amounts anticipated to be needed for their  
11 activities under this Act.

12 (3) Each cost determination made in the last quarter  
13 of the fiscal year under paragraph (1) shall show, in addi-  
14 tion, the total costs of compensation, benefits, administra-  
15 tive expenses, and other payments from the Fund during  
16 the preceding 12-month expense period and an estimate  
17 of the expenditures from the Fund for the payment of  
18 compensation, benefits, administrative expenses, and other  
19 payments for each of the immediately succeeding two fis-  
20 cal years.

21 (d) ASSURING AVAILABLE BALANCE IN THE  
22 FUND.—Upon application of the Secretary of Labor, the  
23 Secretary of the Treasury shall advance such sums from  
24 the Treasury as are projected by the Secretary of Labor  
25 to be necessary, for the period of time equaling the date

1 of a projected deficiency in the Fund through 90 days fol-  
2 lowing the end of the fiscal year, for the payment of com-  
3 pensation and other benefits and expenses authorized by  
4 this Act or any extension or application thereof, and for  
5 payment of all expenses of administering this Act.

6 **SEC. 27. EFFECTIVE DATE.**

7 This Act is effective upon enactment, and applies to  
8 all claims, civil actions, and proceedings pending on, or  
9 filed on or after, the date of enactment of this Act.

10 **SEC. 28. TECHNICAL AND CONFORMING AMENDMENTS.**

11 (a) Section 1920 of title 18 is amended by inserting  
12 in the title “or Energy employee’s” after “Federal employ-  
13 ee’s” and by inserting “or the Energy Employees’ Occupa-  
14 tional Illness Compensation Act of 2000” after “title 5”.

15 (b) Section 1921 of title 18 is amended by inserting  
16 in the title “or Energy employees” after “Federal employ-  
17 ees” and by inserting “or the Energy Employees’ Occupa-  
18 tional Illness Compensation Act of 2000” after “title 5”.

19 (c) Section 210(a)(1) of the Energy Reorganization  
20 Act of 1974 (42 U.S.C. 5851(a)(1)) is amended by—

21 (1) in subparagraph (E), striking “or;” and in-  
22 serting “;”,

23 (2) in subparagraph (F), striking the period  
24 and inserting “; or”, and

1           (3) after subparagraph (F) inserting a new sub-  
2           paragraph as follows:

3                   “(G) filed an application for benefits or as-  
4                   sistance under the Energy Employees Occupa-  
5                   tional Illness Compensation Act of 2000”.

6           (d) Title II of the Department of Energy Organiza-  
7           tion Act (Public Law 95–91) is amended by adding at the  
8           end of the title the following:

9           “OFFICE OF WORKERS’ COMPENSATION ADVOCATE

10           “SEC. 217. (a) There shall be within the Department  
11           an Office of Workers’ Compensation Advocate. The Office  
12           shall be headed by a Director who shall be appointed by  
13           the Secretary. The Director shall be compensated at the  
14           rate provided for in level IV of the Executive Schedule  
15           under section 5315 of title 5, United States Code.

16           “(b) The Director shall be responsible for providing  
17           information, research reports, and studies to support the  
18           implementation of the Energy Employees’ Occupational  
19           Illness Compensation Act of 2000. Not later than 90 days  
20           after the date of enactment of this section, the Director  
21           shall enter into memoranda of agreement to provide for  
22           coordination of the efforts of the office with the Depart-  
23           ment of Labor and the Department of Health and Human  
24           Services.

25           “(c) The Director shall coordinate efforts within the  
26           Department to collect and make available to present and

1 former employees of the Department and its predecessor  
2 agencies, present and former employees of contractors and  
3 subcontractors to the Department and its predecessor  
4 agencies, and other individuals who are or were present  
5 at facilities owned or operated by the Department or its  
6 predecessor agencies information on occupational condi-  
7 tions and exposures to health hazards. Such information  
8 shall include information on substances and their chemical  
9 forms to which employees may have been exposed, records  
10 and studies relevant to determining occupational hazards,  
11 raw dosimetry and industrial hygiene data, results from  
12 medical screening programs, accident and other relevant  
13 occurrence reports, and reports, assessments, or reviews  
14 by contractors, consultants, or external entities relevant  
15 to assessing risk of occupational hazards or illness.

16 “(d) If the Director determines that—

17 “(1) an entity within the Department or an en-  
18 tity that is the recipient of a Departmental grant,  
19 contract, or cooperative agreement possesses infor-  
20 mation necessary to carry out the provisions of the  
21 Energy Employees’ Occupational Illness Compensa-  
22 tion Act of 2000; and

23 “(2) the production and sharing of that infor-  
24 mation under the provisions of the Energy Employ-

1       ees’ Occupational Illness Compensation Act of 2000  
2       is being unreasonably delayed;  
3       the Director shall have the authority, notwithstanding sec-  
4       tion 3213 of the National Nuclear Security Administration  
5       Act, to direct such entity to produce expeditiously such  
6       information in accordance with the provisions of this sec-  
7       tion and the Energy Employees’ Occupational Illness  
8       Compensation Act of 2000.  
9       “(e) The Director shall take actions to inform and  
10      assist potential claimants under the Energy Employees’  
11      Occupational Illness Compensation Act of 2000, pursuant  
12      to section 10(e) of such Act.”.

○