

103^D CONGRESS
1ST SESSION

S. 575

To amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 11 (legislative day, MARCH 3), 1993

Mr. KENNEDY (for himself and Mr. METZENBAUM) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, 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; REFERENCE; TABLE OF CON-**
4 **TENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Comprehensive Occupational Safety and Health Reform
7 Act”.

1 (b) REFERENCE.—Except as otherwise specifically
 2 provided, whenever in this Act an amendment or repeal
 3 is expressed in terms of an amendment to, or repeal of,
 4 a section or other provision, the reference shall be consid-
 5 ered to be made to a section or other provision of the Oc-
 6 cupational Safety and Health Act of 1970 (29 U.S.C. 651
 7 et seq.).

8 (c) TABLE OF CONTENTS.—The table of contents is
 9 as follows:

- Sec. 1. Short title; reference; table of contents.
- Sec. 2. Findings and purposes.

TITLE I—SAFETY AND HEALTH PROGRAMS

- Sec. 101. Safety and health programs.

TITLE II—SAFETY AND HEALTH COMMITTEES AND EMPLOYEE SAFETY AND HEALTH REPRESENTATIVES

- Sec. 201. Safety and health committees and employee safety and health rep-
representatives.
- Sec. 202. Employee participation in inspections.

TITLE III—COVERAGE

- Sec. 301. Extension of coverage to public employees.
- Sec. 302. Application of Act.
- Sec. 303. Application of OSHA to DOE nuclear facilities.
- Sec. 304. Extension of employer duties to all employees working at a place of
employment.

TITLE IV—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

- Sec. 401. Time frames for setting standards.
- Sec. 402. Basis for standards.
- Sec. 403. Recording of work related adverse medical conditions.
- Sec. 404. Public disclosure of all communications on standards.
- Sec. 405. Revision of permissible exposure limits.
- Sec. 406. Exposure monitoring and health surveillance.
- Sec. 407. Standard on ergonomic hazards.
- Sec. 408. Emergency temporary standards.
- Sec. 409. Air Contaminants.

TITLE V—ENFORCEMENT

- Sec. 501. No loss of employee pay for inspections.
- Sec. 502. Time frame for response to complaints.

- Sec. 503. Complaints.
- Sec. 504. Mandatory special emphasis.
- Sec. 505. Investigations of deaths and serious incidents.
- Sec. 506. Abatement of serious hazards during employer contests.
- Sec. 507. Right to contest citations and penalties.
- Sec. 508. Right of employee representatives to participate in other proceedings.
- Sec. 509. Objections to modification of citations.
- Sec. 510. Imminent danger inspections.
- Sec. 511. Citations and penalties for violations of sections 27, 28 and 31.
- Sec. 512. OSHA criminal penalties.
- Sec. 513. Commission member's terms.
- Sec. 514. Inspections.
- Sec. 515. Employee accountability.

TITLE VI—PROTECTION OF EMPLOYEES FROM DISCRIMINATION

- Sec. 601. Antidiscrimination provisions.
- Sec. 602. Posting of employee rights.

TITLE VII—OSHA TRAINING AND EDUCATION

- Sec. 701. Technical assistance to employers and employees.
- Sec. 702. OSHA assistance fund.

TITLE VIII—RECORDKEEPING AND REPORTING

- Sec. 801. Data collected by Secretary.
- Sec. 802. Employee reported illnesses.
- Sec. 803. Employee access.

TITLE IX—NIOSH

- Sec. 901. Hazard evaluation reports.
- Sec. 902. Safety research.
- Sec. 903. Contractor rights.
- Sec. 904. National surveillance program.
- Sec. 905. Establishment of NIOSH as a separate agency within Public Health Service.
- Sec. 906. NIOSH training.

TITLE X—STATE PLANS

- Sec. 1001. State plan committees and programs.
- Sec. 1002. Access to information; employee rights.
- Sec. 1003. Application of Federal standards.
- Sec. 1004. Complaints against a State plan.
- Sec. 1005. Action against a State plan.
- Sec. 1006. State plan conforming amendments.
- Sec. 1007. Effect on State law.

TITLE XI—VICTIMS' RIGHTS

- Sec. 1101. Victims' rights

TITLE XII—CONSTRUCTION SAFETY

- Sec. 1201. Short title.
- Sec. 1202. Definitions.

- Sec. 1203. Office of Construction Safety, Health, and Education.
- Sec. 1204. Construction safety and health plans and programs.
- Sec. 1205. Inspections, investigations, reporting, and recordkeeping.
- Sec. 1206. Advisory Committee on Construction Safety and Health.
- Sec. 1207. State construction safety and health plans.
- Sec. 1208. Construction Safety and Health Academy.
- Sec. 1209. Enforcement.
- Sec. 1210. Reports to Congress.
- Sec. 1211. Federal construction contracts.
- Sec. 1212. Relationship to existing law and regulations.
- Sec. 1213. Timetable for regulations.

TITLE XIII—ADMINISTRATION

- Sec. 1301. Administration.

TITLE XIV—EFFECTIVE DATE

- Sec. 1401. Effective date.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) during the past two decades progress has
 4 been made in reducing workplace deaths, injuries,
 5 and exposure to toxic substances through efforts of
 6 Federal agencies, States, employers, employees, and
 7 employee representatives;

8 (2) despite the progress described in paragraph
 9 (1), work-related injuries, illnesses, and deaths con-
 10 tinue to occur at rates that are unacceptable and
 11 that impose a substantial burden upon employers,
 12 employees, and the Nation in terms of lost produc-
 13 tion, wage loss, medical expenses, compensation pay-
 14 ments, and disability;

15 (3) employers and employees are not suffi-
 16 ciently involved in joint efforts to identify and cor-
 17 rect occupational safety and health hazards;

1 (4) employers and employees require better
2 training to identify safety and health problems;

3 (5) mandatory regulation is necessary to pro-
4 tect employees from health and safety hazards but
5 Federal agency standard setting has not kept pace
6 with knowledge about such hazards;

7 (6) enforcement of occupational safety and
8 health standards has not been adequate to bring
9 about timely abatement of hazardous conditions or
10 to deter violations of occupational health and safety
11 standards;

12 (7) millions of employees exposed to serious oc-
13 cupational safety and health hazards are excluded
14 from full coverage under the Occupational Safety
15 and Health Act of 1970; and

16 (8) the lack of accurate data and information
17 on work-related deaths, injuries, and illnesses has
18 impeded efforts to prevent such deaths, injuries, and
19 illnesses.

20 (b) PURPOSES.—The purposes of this Act are to—

21 (1) increase the joint participation of employers
22 and employees in identifying and correcting occupa-
23 tional safety and health hazards, by requiring the es-
24 tablishment of employer safety and health programs,

1 joint employer-employee safety and health commit-
 2 tees, and training and education programs;

3 (2) improve and expedite the setting of occupa-
 4 tional safety and health standards;

5 (3) strengthen Federal and State agency en-
 6 forcement of violations of safety and health stand-
 7 ards;

8 (4) assure that all employees are afforded full
 9 coverage and protection from safety and health haz-
 10 ards under the Occupational Safety and Health Act
 11 of 1970 or other Federal laws; and

12 (5) improve information and data on work re-
 13 lated injuries, illnesses and fatalities for purposes of
 14 enhancing occupational safety and health.

15 **TITLE I—SAFETY AND HEALTH** 16 **PROGRAMS**

17 **SEC. 101. SAFETY AND HEALTH PROGRAMS.**

18 Section 27 (29 U.S.C. 676) is amended to read as
 19 follows:

20 **“SEC. 27. SAFETY AND HEALTH PROGRAMS.**

21 **“(a) ESTABLISHMENT OF PROGRAM.—**

22 **“(1) IN GENERAL.—**Each employer shall, in ac-
 23 cordance with this section, establish and carry out a
 24 safety and health program to reduce or eliminate

1 hazards and to prevent injuries and illnesses to em-
2 ployees.

3 “(2) MODIFICATIONS TO SAFETY AND HEALTH
4 PROGRAMS.—The Secretary may by regulations is-
5 sued under subsection (c)(1) modify the require-
6 ments of this section with respect to classes of em-
7 ployers where the Secretary determines that, in light
8 of the nature of the risks faced by the employers’
9 employees, such a modification would not reduce the
10 employees’ safety and health protection.

11 “(3) DEFINITION OF WORKSITE.—As used in
12 this section and section 28, the term ‘worksite’
13 means a single physical location where business is
14 conducted or where operations are performed by em-
15 ployees of one or more employers.

16 “(b) REQUIREMENTS.—A safety and health program
17 established and carried out under subsection (a) shall be
18 a written program that shall include—

19 “(1) methods and procedures for identifying,
20 evaluating, and documenting safety and health haz-
21 ards;

22 “(2) methods and procedures for correcting the
23 safety and health hazards identified under para-
24 graph (1);

1 “(3) methods and procedures for investigating
2 and recording work-related deaths, injuries, and ill-
3 nesses;

4 “(4) methods and procedures for providing oc-
5 cupational safety and health services, including
6 emergency response and first aid procedures;

7 “(5) methods and procedures for employee par-
8 ticipation in the implementation of the employer’s
9 safety and health program, including (where applica-
10 ble) participation through a safety and health com-
11 mittee established under section 28;

12 “(6) methods and procedures for providing a
13 timely response in writing to the recommendations
14 of the safety and health committee, where applicable;

15 “(7) methods and procedures for providing
16 safety and health training and education to employ-
17 ees and to members of a safety and health commit-
18 tee established under section 28 (where applicable);

19 “(8) the designation of one or more representa-
20 tives of the employer who have the qualifications and
21 responsibility to identify safety and health hazards
22 and the authority to initiate corrective action where
23 appropriate;

24 “(9) in the case of a worksite where employees
25 of two or more employers work, procedures for each

1 employer to protect employees at the worksite from
2 hazards under the employer's control, including pro-
3 cedures to provide information on safety and health
4 hazards to other employers and employees at the
5 worksite; and

6 “(10) such other provisions as the Secretary re-
7 quires to effectuate the purposes of this Act.

8 “(c) REGULATIONS ON EMPLOYER SAFETY AND
9 HEALTH PROGRAMS.—

10 “(1) IN GENERAL.—Within 1 year of the date
11 of enactment of the Comprehensive Occupational
12 Safety and Health Reform Act, the Secretary shall
13 issue final regulations on employer safety and health
14 programs required by subsection (a), which shall
15 take effect no later than 18 months after such date
16 of enactment.

17 “(2) REGULATIONS ON TRAINING AND EDU-
18 CATION.—The regulations of the Secretary under
19 paragraph (1) with respect to an employer's safety
20 and health program shall—

21 “(A)(i) provide for training and education
22 of employees at the time of employment, in a
23 manner that is readily understood by such em-
24 ployees, concerning safety and health hazards,

1 control measures, and the employer's safety and
2 health program;

3 "(ii) provide for the dissemination of infor-
4 mation to employees at the time of employment,
5 in a manner that is readily understood by such
6 employees, regarding employee rights and appli-
7 cable laws and regulations; and

8 "(iii) provide for training and education of
9 employees who are selected to be safety and
10 health committee members, at the time of their
11 selection, that is necessary to enable such em-
12 ployees to carry out the activities of the com-
13 mittee under section 28; and

14 "(B) require that refresher training and
15 dissemination of information be provided on at
16 least an annual basis and that additional train-
17 ing and dissemination of information be pro-
18 vided to affected employees and to safety and
19 health committee members when there are
20 changes in conditions or operations that may
21 expose such employees to new or different safe-
22 ty or health hazards or when there are changes
23 in safety and health regulations or standards
24 under this Act that apply to the employer.

1 “(3) COORDINATION OF PROGRAMS.—The regu-
2 lations of the Secretary under paragraph (1) shall
3 provide that any specific program or training re-
4 quirements imposed by regulations under section 6
5 may be combined or coordinated with an employer’s
6 safety and health program.

7 “(4) NO LOSS OF PAY.—The time during which
8 employees are participating in training and edu-
9 cation provided in accordance with the regulations of
10 the Secretary shall be considered hours worked for
11 purposes of wages, benefits, and other terms and
12 conditions of employment. The training and edu-
13 cation shall be provided by the employer at no cost
14 to the employer’s employees.”.

15 **TITLE II—SAFETY AND HEALTH**
16 **COMMITTEES AND EMPLOYEE**
17 **SAFETY AND HEALTH REP-**
18 **RESENTATIVES**

19 **SEC. 201. SAFETY AND HEALTH COMMITTEES AND EM-**
20 **PLOYEE SAFETY AND HEALTH REPRESENTA-**
21 **TIVES.**

22 Section 28 is amended to read as follows:

1 **“SEC. 28. SAFETY AND HEALTH COMMITTEES AND EM-**
2 **EMPLOYEE SAFETY AND HEALTH REPRESENTA-**
3 **TIVES.**

4 “(a) PURPOSE.—The purpose of this section is to
5 bring employees and employers together in a
6 nonadversarial, cooperative effort to promote safety and
7 health in each worksite. A safety and health committee
8 established under subsection (b) is intended to assist the
9 employer and make recommendations regarding methods
10 of addressing safety and health hazards.

11 “(b) SAFETY AND HEALTH COMMITTEE ESTABLISH-
12 MENT.—Each employer who has 11 or more employees for
13 each working day in each of 20 or more calendar weeks
14 in the current or preceding calendar year shall establish
15 a safety and health committee (hereafter in this section
16 referred to as the ‘safety and health committee’) at each
17 worksite of the employer, except as provided in subsection
18 (e)(2).

19 “(c) RIGHTS OF COMMITTEE AND COMMITTEE MEM-
20 BERS.—

21 “(1) IN GENERAL.—Each safety and health
22 committee shall have the right, within reasonable
23 limits and in a reasonable manner, to—

24 “(A) review the employer’s safety and
25 health program established under sections 27
26 and 31 (where applicable);

1 “(B) review incidents resulting in work-re-
2 lated deaths, injuries, and illnesses and com-
3 plaints regarding safety or health hazards by
4 employees or safety and health committee mem-
5 bers;

6 “(C) review, upon a request made to the
7 employer by any safety and health committee
8 member, the employer’s work injury and illness
9 records, other than personally identifiable medi-
10 cal information, and other reports or documents
11 relating to occupational safety and health;

12 “(D) conduct inspections of the worksite at
13 least once every 3 months and in response to
14 complaints regarding safety or health hazards
15 by employees or safety and health committee
16 members;

17 “(E) conduct interviews with employees in
18 conjunction with inspections of the worksite;

19 “(F) conduct meetings at least once every
20 3 months and maintain written minutes of such
21 meetings;

22 “(G) observe the measurement of employee
23 exposure to toxic materials and harmful phys-
24 ical agents; and

1 “(H) establish procedures for exercising
2 the rights of the safety and health committee;
3 to the employer for improvements in the em-
4 ployer’s safety and health program and for the
5 correction of hazards to employee safety or
6 health.

7 “(2) RECOMMENDATIONS.—Each safety and
8 health committee and each member of the committee
9 shall have the right to—

10 “(A) make recommendations to the em-
11 ployer for improvements in the employer’s safe-
12 ty and health program and for the correction of
13 hazards to employee safety or health; and

14 “(B) receive from the employer a timely
15 written response to any such recommendation.

16 Recommendations under this paragraph shall be ad-
17 visory only and the employer shall retain full author-
18 ity to manage the worksite.

19 “(3) TIME FOR COMMITTEE ACTIVITIES.—The
20 employer shall permit members of the safety and
21 health committee to take such time from work as is
22 reasonably necessary to exercise the rights of the
23 committee, without suffering any loss of wages, ben-
24 efits, and other terms and conditions of employment
25 for time spent on duties of the committee.

1 “(d) COMMITTEE MEMBERSHIP.—

2 “(1) MEMBERSHIP.—Each safety and health
3 committee shall consist of the employee safety and
4 health representatives selected or appointed under
5 paragraph (3) and up to an equal number of em-
6 ployer representatives.

7 “(2) EMPLOYEE SAFETY AND HEALTH REP-
8 REPRESENTATIVES.—Except as provided in subsection
9 (e)(2), each safety and health committee shall, at a
10 minimum, include—

11 “(A) one employee safety and health rep-
12 resentative at each worksite where the average
13 number of nonmanagerial employees of the em-
14 ployer during the year ending January 1 was
15 more than 10, but less than 51;

16 “(B) two representatives where the number
17 of such employees was more than 50 but less
18 than 101; and

19 “(C) an additional employee safety and health
20 representative for each additional 100 such employ-
21 ees, up to 6 employee safety and health representa-
22 tives.

23 “(3) SELECTION.—The employer’s nonman-
24 agerial employees shall select employee safety and

1 health representatives by and from among them-
2 selves as follows:

3 “(A) Where none of the employer’s employ-
4 ees at a worksite are represented by an exclu-
5 sive bargaining representative, the employees
6 shall select employee safety and health rep-
7 resentatives.

8 “(B) Where the employer’s employees are
9 represented by a single exclusive bargaining
10 representative, the bargaining representative
11 shall designate the employee safety and health
12 representatives.

13 “(C) Where the employer’s employees are
14 represented by more than one exclusive rep-
15 resentative or where some but not all of the em-
16 ployees are represented by an exclusive rep-
17 resentative, each bargaining unit of represented
18 employees (and any residual group of unrep-
19 sented employees) shall have a proportionate
20 number of employee safety and health rep-
21 resentatives based on the number of employees
22 in each bargaining unit or group, except that
23 each such unit or group of 11 or more employ-
24 ees shall have at least one representative. The
25 selection process shall be conducted in accord-

1 ance with the provisions of subparagraph (A) or
2 (B) as applicable.

3 “(4) PROTECTION OF EMPLOYEE RIGHT.—An
4 employee’s right to seek to be an employee safety
5 and health representative and to otherwise partici-
6 pate in the selection process without being subject to
7 penalties, discipline, employer interference, or re-
8 prisal of any kind shall be protected.

9 “(e) REGULATIONS.—Within 1 year of the date of en-
10 actment of the Comprehensive Occupational Safety and
11 Health Reform Act, the Secretary shall issue regulations
12 on safety and health committees. Such regulations shall
13 be effective within 18 months of the date of enactment.
14 Such regulations shall include provisions on—

15 “(1) the functioning of committees, including
16 selection of employee safety and health representa-
17 tives, the terms of such representatives, and the
18 maintenance of records; and

19 “(2) the functioning of committees, including
20 the number and selection of employee safety and
21 health representatives—

22 “(A) where an employer’s employees do not
23 primarily report to or work at a fixed location;

1 “(B) with regard to worksites where less
2 than 11 employees of a covered employer are
3 employed; and

4 “(C) with regard to worksites where em-
5 ployees of more than one employer are em-
6 ployed.

7 “(f) ADDITIONAL RIGHTS.—The rights and remedies
8 provided to employees and employee safety and health rep-
9 resentatives by this section are in addition to, and not in
10 lieu of, any other rights and remedies provided by con-
11 tract, by other provisions of this Act, or by other applica-
12 ble law, and are not intended to alter or affect such rights
13 and remedies.”.

14 “(g) CONSTRUCTION.—A safety and health commit-
15 tee established under and operating in conformity with
16 this section shall not constitute a labor organization within
17 the meaning of section 2(5) of the National Labor Rela-
18 tions Act or a representative within the meaning of section
19 1, sixth, of the Railway Labor Act.”.

20 **SEC. 202. EMPLOYEE PARTICIPATION IN INSPECTIONS.**

21 Section 8(e) (29 U.S.C. 657(e)) is amended to read
22 as follows:

23 “(e) Subject to regulations issued by the Secretary,
24 a representative of the employer and a designee of the em-
25 ployee safety and health representatives shall be given an

1 opportunity to accompany the Secretary or the Secretary's
2 authorized representative during the physical inspection of
3 any workplace under subsection (a) for the purpose of aid-
4 ing such inspection. Where no employee safety and health
5 representatives have been selected, a representative au-
6 thorized by the employer's employees shall be given an op-
7 portunity to accompany the Secretary in lieu of the des-
8 ignee of the employee safety and health representatives.
9 Where there is no authorized employee representative, the
10 Secretary or the Secretary's authorized representative
11 shall consult with a reasonable number of employees con-
12 cerning matters of health and safety in the workplace.".

13 **TITLE III—COVERAGE**

14 **SEC. 301. EXTENSION OF COVERAGE TO PUBLIC EMPLOY-** 15 **EES.**

16 (a) DEFINITION OF EMPLOYER.—Section 3(5) (29
17 U.S.C. 652(5)) is amended by striking out “but does not
18 include” and inserting in lieu thereof “including”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 19 (29 U.S.C. 668) is repealed.

21 (2) Section 410(b) of title 39, United States
22 Code, is amended by striking out paragraph (7) and
23 inserting in lieu thereof the following new para-
24 graph:

1 “(7) the Occupational Safety and Health Act of
2 1970 (29 U.S.C. 651 et seq.);”.

3 **SEC. 302. APPLICATION OF ACT.**

4 Section 4(b) (29 U.S.C. 653(b)(1)) is amended—

5 (1) by redesignating paragraphs (2), (3), and
6 (4) as paragraphs (5), (6), and (7), respectively; and

7 (2) by striking out paragraph (1) and inserting
8 in lieu thereof the following new paragraphs:

9 “(b)(1) Where a Federal agency has promulgated and
10 is enforcing standards or regulations affecting occupa-
11 tional safety or health of some or all of the employees
12 within that agency’s regulatory jurisdiction, and the Sec-
13 retary determines that such a standard or regulation as
14 promulgated and the manner in which the standard or
15 regulation is being enforced provides protection to those
16 employees that is at least as effective as the protection
17 provided to those employees by the Secretary’s enforce-
18 ment of this Act, the Secretary may publish a notice in
19 the Federal Register setting forth that determination and
20 the reasons for the determination and certifying that the
21 Secretary has ceded jurisdiction to that Federal agency
22 with respect to the specified standards or regulations af-
23 fecting occupational safety and health. In determining
24 whether to cede jurisdiction to a Federal agency, the Sec-
25 retary shall seek to avoid duplication of, and conflicts be-

1 tween, health and safety requirements. Such certification
2 shall remain in effect unless and until rescinded by the
3 Secretary.

4 “(2) The Secretary shall, by regulation, establish pro-
5 cedures by which any person who may be adversely af-
6 fected by a decision of the Secretary certifying that the
7 Secretary has ceded jurisdiction to another Federal agency
8 pursuant to paragraph (1) may petition the Secretary to
9 rescind a certification under paragraph (1). Upon receipt
10 of such a petition, the Secretary shall investigate the mat-
11 ter and shall, within 90 days after receipt of the petition,
12 publish a decision with respect to the petition in the Fed-
13 eral Register.

14 “(3) Any person who may be adversely affected by—

15 “(A) a decision of the Secretary certifying that
16 the Secretary has ceded jurisdiction to another Fed-
17 eral agency pursuant to paragraph (1); or

18 “(B) a decision of the Secretary denying a peti-
19 tion to rescind such a certification,

20 may at any time prior to the sixtieth day after such deci-
21 sion is published in the Federal Register file a petition
22 challenging such decision with the United States court of
23 appeals for the circuit wherein such person resides or such
24 person has a principal place of business for judicial review
25 of such decision. A copy of the petition shall be forthwith

1 transmitted by the clerk of the court to the Secretary. The
2 Secretary's decision shall be set aside if found to be arbi-
3 trary, capricious, an abuse of discretion, or otherwise not
4 in accordance with law.

5 “(4) Nothing in this Act shall apply to working condi-
6 tions covered by the Federal Mine Safety and Health Act
7 of 1977 (30 U.S.C. 801 et seq.).”.

8 **SEC. 303. APPLICATION OF OSHA TO DOE NUCLEAR FACILI-**
9 **TIES.**

10 Paragraph (6) of section 4(b) (29 U.S.C. 653(b)(6))
11 (as so redesignated by section 302(1)) is amended to read
12 as follows:

13 “(6) Notwithstanding paragraph (1), this Act
14 shall apply with respect to employment performed in
15 the Federal nuclear facilities under the control or ju-
16 risdiction of the Department of Energy.”.

17 **SEC. 304. EXTENSION OF EMPLOYER DUTIES TO ALL EM-**
18 **PLOYEES WORKING AT A PLACE OF EMPLOY-**
19 **MENT.**

20 Paragraph (1) of section 5(a) (29 U.S.C. 654(a)(1))
21 is amended to read as follows:

22 “(1) shall furnish employment and a place of
23 employment which are free from recognized hazards
24 that are causing or are likely to cause death or seri-

1 ous physical harm to the employees of the employer
2 or to other employees at the place of employment.”.

3 **TITLE IV—OCCUPATIONAL SAFE-**
4 **TY AND HEALTH STANDARDS**

5 **SEC. 401. TIME FRAMES FOR SETTING STANDARDS.**

6 (a) RECOMMENDATIONS AND PETITIONS FOR STAND-
7 ARDS.—Paragraph (2) of section 6(b) (29 U.S.C.
8 655(b)(2)) is amended to read as follows:

9 “(2)(A) If the Secretary receives—

10 “(i) a recommendation of an advisory com-
11 mittee, the Secretary of Health and Human
12 Services, or the Administrator of the Environ-
13 mental Protection Agency; or

14 “(ii) a petition from an interested person
15 which sets forth with reasonable particularity
16 the facts which the person claims establish that
17 an occupational safety or health standard
18 should be promulgated, modified or revoked;

19 the Secretary shall, within 90 days of the receipt of
20 the recommendation or petition, publish in the Fed-
21 eral Register a response stating whether the Sec-
22 retary intends to publish a proposed rule promulgat-
23 ing, modifying or revoking such standard.

24 “(B) If the Secretary’s response states that the
25 Secretary does not intend to publish a proposed rule,

1 the Secretary shall set forth the reasons for that de-
2 cision. In all other cases, the Secretary shall, within
3 12 months of the decision, publish in the Federal
4 Register a proposed rule promulgating, modifying,
5 or revoking the standard cited in the petition or rec-
6 ommendation.”.

7 (b) PROCEDURE FOR COMMENT AND HEARING.—
8 Paragraph (3) of section 6(b) (29 U.S.C. 655(b)(3)) is
9 amended—

10 (1) by redesignating such paragraph as sub-
11 paragraph (B);

12 (2) by striking out “under paragraph (2)”;

13 (3) by inserting immediately before subpara-
14 graph (B) (as so redesignated) the following new
15 subparagraph:

16 “(3)(A) Where information developed by the
17 Secretary or submitted to the Secretary indicates
18 that a rule should be proposed promulgating, modi-
19 fying, or revoking an occupational safety or health
20 standard, the Secretary shall publish such a pro-
21 posed rule in the Federal Register and shall afford
22 interested persons a period of at least 30 days after
23 publication to submit written data or comments.”.

24 (c) TIME FRAME FOR ISSUING RULES.—Section
25 6(b)(4) (29 U.S.C. 655(b)(4)) is amended by striking out

1 “Within” and all that follows through “paragraph (3)”
2 and inserting in lieu thereof “Within 18 months of publi-
3 cation of a proposed rule under paragraph (2)(B)”.

4 (d) REVIEW OF SECRETARY’S FAILURE OR REFUSAL
5 TO ISSUE RULES.—Section 6 (29 U.S.C. 655) is amended
6 by adding at the end thereof the following new subsection:

7 “(h)(1) Any person who may be adversely affected by
8 a determination by the Secretary under subsection (b)(2)
9 not to propose a rule promulgating, modifying, or revoking
10 a standard may at any time prior to the sixtieth day after
11 such determination is published in the Federal Register
12 file a petition seeking review of such determination with
13 the United States court of appeals for the circuit wherein
14 such person resides or such person has a principal place
15 of business. A copy of the petition shall be forthwith trans-
16 mitted by the clerk of the court to the Secretary. The Sec-
17 retary’s determination shall be set aside if found to be ar-
18 bitrary, capricious, an abuse of discretion, or otherwise not
19 in accordance with law.

20 “(2) Any person who may be adversely affected by
21 a failure of the Secretary to take any action required by
22 this section within the time period prescribed therefor by
23 this section may at any time after such period of time has
24 elapsed file a petition for review stating that such action
25 has been unlawfully withheld or unreasonably delayed.

1 Such petition may be filed with the United States court
2 of appeals for the circuit wherein such person resides or
3 such person has a principal place of business. A copy of
4 the petition shall be forthwith transmitted by the clerk of
5 the court to the Secretary. The reviewing court shall com-
6 pel the Secretary to take any action that is found to have
7 been unlawfully withheld or unreasonably delayed. The
8 Secretary's desire to confer with, or to receive approval
9 from any other Federal agency or Federal executive offi-
10 cial, shall not justify the withholding or delaying of action
11 by the Secretary, except where such consultation or solici-
12 tation of approval is required by statute and has been pur-
13 sued in a timely fashion."

14 (e) JUDICIAL REVIEW.—Section 6(f) (29 U.S.C.
15 655(f)) is amended—

16 (1) by inserting after the first sentence the fol-
17 lowing new sentence: "However, no contention that
18 the standard is infeasible may be entertained in such
19 petition unless the contention and evidence to sup-
20 port the contention were presented to the Secretary
21 in the rulemaking proceeding wherein the challenged
22 standard was promulgated."; and

23 (2) by adding at the end thereof the following
24 new sentence: "The procedures under this subsection
25 shall be the exclusive means of challenging the valid-

1 ity of any occupational safety or health standard and
2 the validity of any such standard may not be raised
3 in an enforcement action under section 10 or 11.”.

4 **SEC. 402. BASIS FOR STANDARDS.**

5 Paragraph (8) of section 3 (29 U.S.C. 652(8)) is
6 amended to read as follows:

7 “(8) The term ‘occupational safety and health
8 standard’ means a standard which addresses a sig-
9 nificant risk to the safety or health of employees by
10 requiring conditions, or the adoption or use of one
11 or more practices, means, methods, operations, or
12 processes that most adequately assure, to the extent
13 feasible, safe and healthful employment and places
14 of employment.”.

15 **SEC. 403. RECORDING OF WORK RELATED ADVERSE MEDI-**
16 **CAL CONDITIONS.**

17 Section 6(b)(7) (29 U.S.C. 655(b)(7)) is amended by
18 inserting after the third sentence the following new sen-
19 tence: “The standard shall also prescribe requirements for
20 recording or reporting work-related adverse medical condi-
21 tions determined as a result of medical examinations or
22 tests conducted under the standard.”.

1 **SEC. 404. PUBLIC DISCLOSURE OF ALL COMMUNICATIONS**
2 **ON STANDARDS.**

3 Section 6(b) (29 U.S.C. 655(b)) is amended by add-
4 ing at the end thereof the following new paragraph:

5 “(9) The Secretary shall place all written com-
6 ments and communications and a summary of all
7 verbal communications with parties outside the De-
8 partment of Labor (including communications with
9 executive branch officials but not including commu-
10 nications with the President) regarding the promul-
11 gation, modification, or revocation of a standard
12 under this section in the public record not later than
13 10 working days after the receipt of such commu-
14 nications.”.

15 **SEC. 405. REVISION OF PERMISSIBLE EXPOSURE LIMITS.**

16 Section 6 (29 U.S.C. 655) (as amended by section
17 401(d)) is further amended by adding at the end thereof
18 the following new subsection:

19 “(i) In addition to other health and safety standards
20 promulgated under subsection (b), the Secretary shall, in
21 cooperation with the Secretary of Health and Human
22 Services, modify and establish exposure limits for toxic
23 materials and harmful physical agents on a regular basis
24 in the following manner and in accordance with the re-
25 quirements of subsection (b)(5):

1 “(1) The Secretary of Health and Human Serv-
2 ices, acting through the National Institute for Occu-
3 pational Safety and Health, shall regularly evaluate
4 available scientific evidence, data, and information to
5 determine if exposure limits for toxic materials and
6 harmful physical agents promulgated under sub-
7 sections (a) and (b) should be modified or if expo-
8 sure limits for other toxic materials and harmful
9 physical agents should be established to protect ex-
10 posed employees from material impairment of health
11 or functional capacity. Such evaluation shall include
12 a review of the scientific literature, standards of pri-
13 vate and professional organizations, national consen-
14 sus standards, standards adopted by other countries,
15 recommendations of State and Federal agencies, and
16 consideration of whether such toxic materials and
17 harmful physical agents pose a significant risk to
18 employee health or safety.

19 “(2) At least once every 3 years the Secretary
20 of Health and Human Services, acting through the
21 National Institute for Occupational Safety and
22 Health, shall, on the basis of the evaluation under
23 paragraph (1), develop and transmit to the Sec-
24 retary recommendations identifying toxic materials
25 and harmful physical agents, if any, for which expo-

1 sure limits should be modified or established to pro-
2 tect employees from material impairment of health
3 or functional capacity. For each such material or
4 agent, the recommendation shall include a suggested
5 permissible exposure limit, the basis for the sug-
6 gested exposure limit, and, where available, informa-
7 tion on feasible control measures.

8 “(3) Within 30 days of the receipt of rec-
9 ommendations under paragraph (2), the Secretary
10 shall publish the recommendations on exposure lim-
11 its in the Federal Register and provide a period of
12 30 days for public comment. The Secretary shall
13 evaluate the recommendations and public comments
14 and, within 6 months of the receipt of the rec-
15 ommendations, shall publish a proposed rule to mod-
16 ify, maintain, or establish exposure limits for each
17 toxic material and harmful physical agent for which
18 the Secretary of Health and Human Services has
19 recommended that such a limit should be modified
20 or established. If a proposed exposure limit is not
21 the same as the exposure limit suggested by the Sec-
22 retary of Health and Human Services, the Secretary
23 shall explain why the recommended limit is not being
24 proposed.

1 “(4) Within 1 year of the publication of the
2 proposed exposure limits under paragraph (3), the
3 Secretary shall issue a final standard, which stand-
4 ard shall be subject to the requirements of sub-
5 section (b)(5). If a final exposure limit is not the
6 same as the exposure limit recommended by the Sec-
7 retary of Health and Human Services, the Secretary
8 shall explain why the recommended exposure limit is
9 not being adopted.

10 “(5) In addition to the periodic review of per-
11 missible exposure limits required by this subsection,
12 the Secretary shall also establish or modify exposure
13 limits for toxic materials and harmful physical
14 agents whenever such action is warranted, pursuant
15 to subsections (b)(5) and (g).”.

16 **SEC. 406. EXPOSURE MONITORING AND HEALTH SURVEIL-**
17 **LANCE.**

18 Section 6 (42 U.S.C. 655) (as amended by section
19 405) is further amended by adding at the end thereof the
20 following new subsection:

21 “(j) Within 2 years of the effective date of the Com-
22 prehensive Occupational Safety and Health Reform Act,
23 the Secretary shall promulgate final standards on expo-
24 sure monitoring and health surveillance programs in the
25 following manner and in accordance with subsection (b):

1 “(1) The standard on exposure monitoring shall
2 include the following:

3 “(A) Requirements for a formal exposure
4 assessment where workers may be exposed to
5 toxic materials or harmful physical agents
6 which are subject to standards issued under
7 this section, including toxic materials or harm-
8 ful physical agents.

9 “(B) Requirements for regular monitoring
10 and measurement of toxic materials or harmful
11 physical agents for which an exposure limit has
12 been established by the Secretary or adopted by
13 the employer if such monitoring and measure-
14 ments will assist in protecting the health and
15 safety of workers exposed to such toxic mate-
16 rials or harmful physical agents.

17 “(C) Requirements for a written compli-
18 ance plan for reducing exposures where expo-
19 sures are determined to exceed limits estab-
20 lished by the Secretary or adopted by the em-
21 ployer.

22 “(D) Requirements for employees to be no-
23 tified in writing of exposures to toxic materials
24 or harmful physical agents above exposure lim-
25 its established by the Secretary or adopted by

1 the employer and the steps the employer is tak-
2 ing to reduce such exposures.

3 “(E) Requirements for maintenance and
4 access to records of exposure to toxic materials
5 or harmful physical agents.

6 “(2) The standard on health surveillance pro-
7 grams shall include the following:

8 “(A) Requirements for an evaluation of
9 employee exposure assessments and exposure
10 monitoring to identify which employees may be
11 at risk of material impairment of health or
12 functional capacity due to exposure to toxic ma-
13 terials or harmful physical agents.

14 “(B) Requirements for periodic medical ex-
15 aminations for employees identified to be at
16 risk of material impairment of health or func-
17 tional capacity due to exposure to toxic mate-
18 rials or harmful physical agents where such ex-
19 aminations are appropriate to identify or to
20 prevent material impairment of health or func-
21 tional capacity.

22 “(C) Requirements for the evaluation of
23 the results of medical examinations to deter-
24 mine if an employee or a group of employees
25 are exhibiting indications of present or potential

1 material impairment of health or functional ca-
2 pacity due to exposure to toxic substances or
3 harmful physical agents.

4 “(D) Requirements for the notification of
5 employees of the results of medical examina-
6 tions in a manner that is understood by the em-
7 ployees.

8 “(E) Provisions setting forth the qualifica-
9 tions for health care providers who may conduct
10 required medical examinations. Where feasible,
11 the Secretary in cooperation with the Secretary
12 of Health and Human Services shall establish
13 criteria and procedures for the certification of
14 health care providers who conduct medical ex-
15 aminations.

16 “(F) Provisions to assure the confidential-
17 ity of personally identifiable medical informa-
18 tion.

19 “(G) Provisions to prohibit discrimination
20 against employees based on the results of medi-
21 cal examinations, and, as appropriate, provi-
22 sions to provide protection of the wages, bene-
23 fits, and other terms and conditions of employ-
24 ment of employees who are transferred or re-

1 moved from their jobs due to the result of medi-
2 cal examinations.

3 “(H) Records developed under this sub-
4 section shall be maintained and made available
5 according to regulations published at section
6 1910.20 of title 29, Code of Federal Regula-
7 tions.”.

8 **SEC. 407. STANDARD ON ERGONOMIC HAZARDS.**

9 Section 6 (42 U.S.C. 655) (as amended by section
10 406) is further amended by adding at the end thereof the
11 following new subsection:

12 “(k) Within 2 years of the effective date of the Com-
13 prehensive Occupational Safety and Health Reform Act,
14 the Secretary shall issue a final standard on ergonomic
15 hazards to protect employees from work-related musculo-
16 skeletal disorders in accordance with subsection (b)(5).
17 The standard shall include the following:

18 “(1) Requirements for an ergonomics program
19 where employees are exposed to ergonomic hazards
20 which include provisions for hazard identification,
21 control measures, medical management, training and
22 education, and employee participation.

23 “(2) Requirements for an evaluation of job
24 processes, work station design, rate of work, and
25 work methods to identify ergonomic risk factors that

1 cause or are likely to cause musculoskeletal dis-
2 orders.

3 “(3) Requirements for control measures to re-
4 duce stressors and musculoskeletal disorders, includ-
5 ing engineering controls, new equipment, or work or-
6 ganization controls.

7 “(4) Requirements for an effective medical
8 management program for musculoskeletal disorders,
9 including requirements for qualified health care pro-
10 viders, health surveillance, appropriate diagnosis,
11 treatment, and followup.

12 “(5) Requirements for recording musculo-
13 skeletal disorders as an illness and reporting such
14 illnesses to the Secretary.

15 “(6) Requirements for training and education
16 of employees exposed to ergonomic hazards on
17 ergonomic risk factors, control measures, and the
18 employer’s medical management program.

19 “(7) Requirements for employee participation in
20 the establishment and implementation of the employ-
21 er’s ergonomic program through any safety and
22 health committee established under section 28.”.

23 **SEC. 408. EMERGENCY TEMPORARY STANDARDS.**

24 Section 6(c) (29 U.S.C. 655(c)) is amended—

1 (1) in paragraph (1) by striking out “if he de-
2 termines” and inserting in lieu thereof “if the Sec-
3 retary determines on the basis of the best available
4 evidence”; and

5 (2) in paragraph (3), by striking out “six
6 months” and inserting in lieu thereof “18 months”.

7 **SEC. 409. AIR CONTAMINANTS.**

8 Notwithstanding the provisions of chapter 5 of title
9 5, United States Code, or the provisions of section 6 of
10 the Occupational Safety and Health Act of 1970, the Sec-
11 retary of Labor shall, not later than 60 days after the
12 date of the enactment of the Comprehensive Occupational
13 Safety and Health Reform Act, by rule promulgate as an
14 occupational safety or health standard—

15 (1) the final rule on air contaminants published
16 at 54 Federal Register 2332 (January 19, 1989);
17 and

18 (2) the proposed rule on air contaminants for
19 construction, agriculture, and maritime published at
20 57 Federal Register 26001 (June 12, 1992).

21 The rule mandated by this section shall take effect upon
22 its issuance, however, the Secretary may provide in such
23 rule for a reasonable delay in the compliance deadlines for
24 specific provisions. Such rule after its issuance may be
25 modified or revoked in the same manner as any occupa-

1 tional safety or health standard promulgated pursuant to
2 section 6 of the Occupational Safety and Health Act of
3 1970.

4 **TITLE V—ENFORCEMENT**

5 **SEC. 501. NO LOSS OF EMPLOYEE PAY FOR INSPECTIONS.**

6 Section 8(e) (29 U.S.C. 657(e)) is amended by insert-
7 ing after the first sentence the following new sentence:
8 “Time spent by an employee on any such inspection shall
9 be deemed to be hours worked and no employee shall suf-
10 fer any loss of wages, benefits, and other terms and condi-
11 tions of employment for having participated in the inspec-
12 tion.”.

13 **SEC. 502. TIME FRAME FOR RESPONSE TO COMPLAINTS.**

14 The last sentence of section 8(f)(1) (29 U.S.C.
15 657(f)(1)) is amended by inserting before the period the
16 following: “not later than 30 days after the receipt of the
17 request for inspection”.

18 **SEC. 503. COMPLAINTS.**

19 Section (8)(f)(1) (29 U.S.C. 657(f)(1)) is amended—

20 (1) in the first sentence by inserting “the Act
21 or” after “a violation of”;

22 (2) in the second sentence, by striking out “Any
23 such notice” and all that follows through “and a
24 copy shall be provided” and inserting in lieu thereof
25 the following: “Any such notice shall set forth with

1 reasonable particularity the grounds for the notice,
2 and a copy of the notice if written or a summary of
3 the notice if oral shall be provided”; and

4 (3) by adding at the end thereof the following
5 new sentence: “The Secretary shall make a special
6 inspection in accordance with this section upon noti-
7 fication from any Federal or State agency that there
8 are reasonable grounds to believe that a violation of
9 this Act or a safety and health standard exists that
10 threatens physical harm or that an imminent danger
11 exists.”.

12 **SEC. 504. MANDATORY SPECIAL EMPHASIS.**

13 Section 8 (29 U.S.C. 657) is amended by adding at
14 the end thereof the following new subsection:

15 “(h)(1) The Secretary shall establish and carry out
16 a special emphasis inspection program for conducting in-
17 spections of industries or operations where—

18 “(A) existing hazards; or

19 “(B) newly recognized or new hazards intro-
20 duced into worksites;

21 warrant more intensive than normal inspections, as deter-
22 mined by the Secretary.

23 “(2) The Secretary shall annually designate the in-
24 dustries and operations for the special emphasis inspection
25 program and identify the number of special emphasis in-

1 inspections that the Secretary plans to conduct in each des-
2 ignated industry and operation and the number of enforce-
3 ment personnel required for such inspections.

4 “(3) Inspections conducted under paragraph (1) shall
5 be in addition to other programmed and complaint inspec-
6 tions conducted under this Act.

7 “(4) The Secretary shall annually submit a report to
8 the Congress on the special emphasis inspection program
9 as part of the Secretary’s annual report required under
10 section 26 which shall include information on inspections
11 conducted pursuant to paragraph (2) which were carried
12 out during the preceding year.”.

13 **SEC. 505. INVESTIGATIONS OF DEATHS AND SERIOUS INCI-**
14 **DENTS.**

15 Section 8 (29 U.S.C. 657) (as amended by section
16 504) is further amended by adding at the end thereof the
17 following new subsection:

18 “(i)(1) The Secretary shall investigate any work-
19 related death or serious incident.

20 “(2) If a death or serious incident occurs in a place
21 of employment covered by this Act, the employer shall no-
22 tify the Secretary of the death or serious incident in ac-
23 cordance with section 24(a)(5) and shall take appropriate
24 measures to prevent the destruction or alteration of any
25 evidence that would assist in investigating the death or

1 serious incident. The appropriate measures required by
2 this paragraph do not prevent an employer from taking
3 action on a worksite to prevent injury to employees or sub-
4 stantial damage to property. If an employer takes such
5 action, the employer shall notify the Secretary of the ac-
6 tion in a timely fashion.

7 “(3) As used in this subsection, the term ‘serious in-
8 cident’ means an incident that results in the hospitaliza-
9 tion of two or more employees.”.

10 **SEC. 506. ABATEMENT OF SERIOUS HAZARDS DURING EM-**
11 **PLOYER CONTESTS.**

12 (a) CITATIONS.—Section 9(a) (29 U.S.C. 658(a)) is
13 amended by inserting after the third sentence the follow-
14 ing new sentence: “If the Secretary or an authorized rep-
15 resentative of the Secretary believes that an alleged viola-
16 tion is serious and presents such a substantial risk to the
17 safety or health of employees that the initiation of review
18 proceedings should not suspend the running of the period
19 for the correction of the violation, the citation shall so
20 state.”.

21 (b) CITATIONS AND ENFORCEMENT.—Section 10 (29
22 U.S.C. 659) is amended—

23 (1) in subsection (b), by striking out “(which
24 period shall not begin to run until the entry of a
25 final order by the Commission in the case of any re-

1 view proceedings under this section initiated by the
2 employer in good faith and not solely for delay or
3 avoidance of penalties’’; and

4 (2) by adding at the end thereof the following
5 new subsection:

6 “(d)(1) Except as provided in paragraphs (2) and
7 (3), the period permitted for the correction of a violation
8 shall begin to run from the date of the receipt of the cita-
9 tion.

10 “(2) If the employer initiates timely review proceed-
11 ings under this section in which the employer contests
12 matters other than the proposed assessment of penalty or
13 characterization of the violation and the proceedings are
14 initiated by the employer in good faith and not solely for
15 delay, the period permitted for the correction of a violation
16 shall, except as provided in paragraph (3), not begin to
17 run until the entry of a final order by the Commission.

18 “(3) If the citation states that the violation is serious
19 and presents such a substantial risk to the safety or health
20 of employees that the initiation of review proceedings shall
21 not suspend the running of the period for correction of
22 the violation and if, simultaneous with initiating timely re-
23 view proceedings under the citation, the employer files a
24 statement asserting that the period for correction of the
25 violation should be suspended during such proceedings,

1 the Commission shall expedite the consideration and deci-
2 sion of the employer's review proceeding. In its decision
3 resolving that proceeding, the Commission may modify the
4 citation's provision that the period for the correction of
5 the violation shall run from the date of the receipt of the
6 citation, if the Commission determines, based on a consid-
7 eration of the nature of the violation, that the nature and
8 degree of risk posed to employees by the employer's refusal
9 to undertake prompt correction of the violation, and the
10 extent of any irreparable injury the employer would incur
11 by undertaking correction of the violation during the pend-
12 ency of review proceedings, that such provision is unrea-
13 sonable in the circumstances."

14 (c) PENALTIES.—Section 17(d) (29 U.S.C. 666(d))
15 is amended by striking out "(which period shall not begin
16 to run until the date of the final order of the Commission
17 in the case of any review proceeding under section 10 initi-
18 ated by the employer in good faith and not solely for delay
19 or avoidance of penalties)".

20 (d) EMPLOYER CONTEST.—Section 10(c) (29 U.S.C.
21 659(c)) is amended by inserting after the first sentence
22 the following new sentence: "The pendency of a contest
23 before the Commission shall not bar the Secretary from
24 inspecting a place of employment or from issuing a cita-
25 tion under section 9."

1 (e) STATUTE OF LIMITATION.—Section 9(c) (29
2 U.S.C. 658(c)) is amended by adding at the end thereof
3 the following new sentence: “The 6-month time limit shall
4 not apply to a notification of penalty.”.

5 (f) VERIFICATION OF ABATEMENT.—Section 10 (as
6 amended by subsection (b)) is further amended by adding
7 at the end thereof the following new subsection:

8 “(e)(1) Each employer to whom a citation for a seri-
9 ous, willful or repeated violation has been issued under
10 section 9 shall verify the abatement of such violation in
11 writing to the Secretary not later than 30 days after the
12 period for the correction of the violation has expired. Such
13 verification shall include appropriate documentary evi-
14 dence. Each such employer shall prominently post, within
15 10 days after the verification of abatement, at or near
16 each place that a violation referred to in the citation oc-
17 curred, a notice that the violation has been abated, and
18 shall make available to employees and employee represent-
19 atives for inspection a copy of the verification of abate-
20 ment provided to the Secretary pursuant to this sub-
21 section.

22 “(2) Not later than 1 year after the effective date
23 of this subsection, the Secretary shall promulgate final
24 regulations regarding the requirements of this sub-
25 section.”.

1 **SEC. 507. RIGHT TO CONTEST CITATIONS AND PENALTIES.**

2 The first sentence of section 10(c) (29 U.S.C. 659(c))
3 is amended—

4 (1) by inserting after “the issuance of a cita-
5 tion” the following: “or a modification of a citation
6 issued”; and

7 (2) by inserting after “files a notice with the
8 Secretary” the following: “alleging that the citation
9 fails properly to designate the violation as serious,
10 willful, or repeated, or that the proposed penalty is
11 not adequate, or”.

12 **SEC. 508. RIGHT OF EMPLOYEE REPRESENTATIVES TO PAR-**
13 **TICIPATE IN OTHER PROCEEDINGS.**

14 The last sentence of section 10(c) (29 U.S.C. 659(c))
15 is amended by striking out “hearings” and inserting in
16 lieu thereof “proceedings”.

17 **SEC. 509. OBJECTIONS TO MODIFICATION OF CITATIONS.**

18 Section 10 (29 U.S.C. 659) (as amended by section
19 506(e)) is amended by adding at the end thereof the fol-
20 lowing new subsection:

21 “(f)(1) If the Secretary intends to withdraw or to
22 modify a citation as a result of any agreement with the
23 cited employer, the rules of procedure prescribed by the
24 Commission shall provide for prompt notice to affected
25 employees or representatives of affected employees, and

1 which notice shall include the terms of the proposed agree-
2 ment.

3 “(2) Not later than 15 working days after the receipt
4 of the notice provided in accordance with paragraph (1),
5 any employee or representative of employees, regardless
6 of whether such employee or representative has previously
7 elected to participate in the proceedings, shall have the
8 right to file a notice with the Secretary alleging that the
9 proposed agreement fails to effectuate the purposes of this
10 Act and stating the respects in which it fails to do so.

11 “(3) Upon receipt of a notice filed under paragraph
12 (2), the Secretary shall consider the matter, and if the
13 Secretary determines to proceed with the proposed agree-
14 ment, the Secretary shall respond with particularity to the
15 statements presented in that notice.

16 “(4) Not later than 15 working days following the
17 Secretary’s response provided pursuant to paragraph (3),
18 the employee or representative of employees shall, upon
19 a request to the Commission, have the right to a hearing
20 as to whether adoption of the proposed agreement would
21 effectuate the purposes of this Act, including a determina-
22 tion as to whether the proposed agreement would ade-
23 quately abate the alleged violations.

24 “(5) If the Commission determines that a proposed
25 agreement fails to effectuate the purposes of this Act, the

1 proposed agreement shall not be entered as an order of
2 the Commission and the citation shall not be withdrawn
3 or modified in accordance with the proposed agreement.”.

4 **SEC. 510. IMMINENT DANGER INSPECTIONS.**

5 (a) SPECIAL CONDITIONS AND PRACTICES.—Section
6 13 (29 U.S.C. 662) is amended—

7 (1) by striking out subsection (c);

8 (2) by redesignating subsections (a) and (b) as
9 subsections (b) and (c), respectively;

10 (3) by inserting before subsection (b) (as so re-
11 designated) the following new subsection:

12 “(a)(1) If the Secretary determines, on the basis of
13 an inspection or investigation under this section, that a
14 condition or practice in a place of employment is such that
15 an imminent danger to safety or health exists that could
16 reasonably be expected to cause death or serious physical
17 harm or permanent impairment of the health or functional
18 capacity of an employee if not corrected immediately, the
19 Secretary shall so inform the employer and affected em-
20 ployees and shall request that the condition or practice
21 be corrected immediately or that employees be imme-
22 diately removed from exposure to such danger.

23 “(2) If the employer refuses to comply with a request
24 under paragraph (1), the Secretary shall immediately
25 cause notice to be posted in the workplace identifying the

1 equipment, process, or practice that is the source of the
2 imminent danger. Such notice shall take the form of a tag
3 or other device that will be seen by employees who might
4 otherwise be exposed to the dangerous equipment, process,
5 or practice. The notice shall be removed only by the Sec-
6 retary.

7 “(3) The fact that notice under paragraph (2) has
8 been posted shall be noted in any citation issued pursuant
9 to section 9 with respect to the hazard involved.

10 “(4) No person shall discharge or in any manner dis-
11 criminate against any employee because such employee
12 has refused to perform a duty that would expose the em-
13 ployee to the condition or a practice that has been identi-
14 fied as the source of an imminent danger by a notice post-
15 ed pursuant to paragraph (2). The right to refuse to per-
16 form such a duty shall be in addition to any other right
17 to refuse to perform hazardous work that is afforded to
18 employees by this Act, by standards or regulations issued
19 pursuant to this Act, by contract, or by other applicable
20 law.”; and

21 (4) in the first sentence of subsection (b) (as so
22 redesignated) to read as follows: “The United States
23 district courts shall have jurisdiction, upon petition
24 of the Secretary, to restrain any conditions or prac-

1 tices in any place of employment which pose an im-
 2 minent danger as described in subsection (a).”.

3 (b) PENALTIES.—Section 17 is amended—

4 (1) by redesignating subsections (h) through (l)
 5 as subsections (i) through (m), respectively; and

6 (2) by inserting after subsection (g) the follow-
 7 ing new subsection:

8 “(h) In the event that an employer does not imme-
 9 diately correct the hazard referenced in a notice posted
 10 under section 13(a)(2) or remove all employees from expo-
 11 sure thereto, the employer shall be assessed a civil penalty
 12 of not less than \$10,000 and not more than \$50,000 for
 13 each day during which an employee continues to be ex-
 14 posed to the hazard unless the Commission determines
 15 that the condition or practice is not of such a nature as
 16 to be covered by section 13(a).”.

17 **SEC. 511. CITATIONS AND PENALTIES FOR VIOLATIONS OF**
 18 **SECTIONS 27, 28 AND 31.**

19 (a) CITATIONS.—Section 9(a) (29 U.S.C. 658(a)) is
 20 amended by inserting “, 27, 28, or 31” after “section 5”.

21 (b) PENALTIES.—Section 17 (29 U.S.C. 666) is
 22 amended—

23 (1) in subsection (a), by inserting “, 27, 28, or
 24 31” after “section 5”;

1 (2) in subsection (b), by inserting “, 27, 28, or
2 31” after “section 5”; and

3 (3) in subsection (c), by inserting “, 27, 28, or
4 31” after “section 5”.

5 **SEC. 512. OSHA CRIMINAL PENALTIES.**

6 (a) IN GENERAL.—Section 17 (29 U.S.C. 666) (as
7 amended by section 510(b)) is further amended—

8 (1) in subsection (e)—

9 (A) by inserting after “employer” the fol-
10 lowing: “or any officer, management official, or
11 supervisor having direction, management, con-
12 trol, or custody of any place of employment”;

13 (B) by striking out “fine of not more than
14 \$10,000” and inserting in lieu thereof “fine in
15 accordance with section 3571 of title 18, United
16 States Code,”;

17 (C) by striking out “six months” and in-
18 serting in lieu thereof “10 years”;

19 (D) by striking out “fine of not more than
20 \$20,000” and inserting in lieu thereof “fine in
21 accordance with section 3571 of title 18, United
22 States Code,”;

23 (E) by striking out “one year” and insert-
24 ing in lieu thereof “20 years”; and

1 (F) by inserting “under this subsection or
2 subsection (i)” after “first conviction of such
3 person”;

4 (2) in subsection (f), by striking out “fine of
5 not more than \$1,000 or by imprisonment for not
6 more than six months,” and inserting in lieu thereof
7 “fine in accordance with section 3571 of title 18,
8 United States Code, or by imprisonment for not
9 more than 2 years,”;

10 (3) in subsection (g), by striking out “fine of
11 not more than \$10,000, or by imprisonment for not
12 more than six months,” and inserting in lieu thereof
13 “fine in accordance with section 3571 of title 18,
14 United States Code, or by imprisonment for not
15 more than 1 year,”;

16 (4) by redesignating subsections (i) through
17 (m) as subsections (j) through (n), respectively;

18 (5) by inserting after subsection (h) the follow-
19 ing new subsection:

20 “(i) Any employer or any officer, management offi-
21 cial, or supervisor having direction, management, control,
22 or custody of any place of employment who willfully vio-
23 lates any standard, rule, or order promulgated pursuant
24 to section 6, or any regulation prescribed pursuant to this
25 Act, and that violation causes serious bodily injury to any

1 employee but does not cause death to any employee, shall,
2 upon conviction, be punished by a fine in accordance with
3 section 3571 of title 18, United States Code, or by impris-
4 onment for not more than 5 years, or by both, except that
5 if the conviction is for a violation committed after a first
6 conviction of such person under this subsection or sub-
7 section (e), punishment shall be by a fine in accordance
8 with section 3571 of title 18, United States Code, or by
9 imprisonment for not more than 10 years, or by both,”;
10 and

11 (6) by adding at the end the following new sub-
12 section:

13 “(o) If a penalty or fine is imposed on a director,
14 officer, or agent of an employer under subsection (e), (f),
15 (g), or (i), such penalty or fine shall not be paid out of
16 the assets of the employer on behalf of that individual.”.

17 (b) DEFINITION.—Section 3 (29 U.S.C. 652) is
18 amended by adding at the end thereof the following new
19 subsection:

20 “(15) The term ‘serious bodily injury’ means
21 bodily injury that involves—

22 “(A) a substantial risk of death;

23 “(B) protracted unconsciousness;

24 “(C) protracted and obvious physical dis-
25 figurement; or

1 “(D) protracted loss or impairment of the
2 function of a bodily member, organ, or mental
3 faculty.”.

4 (c) JURISDICTION FOR PROSECUTION UNDER STATE
5 AND LOCAL CRIMINAL LAWS.—Section 17 (29 U.S.C.
6 666) (as amended by subsection (a)) is further amended
7 by adding at the end thereof the following new subsection:
8 “(p) Nothing in this Act shall preclude State and
9 local law enforcement agencies from conducting criminal
10 prosecutions in accordance with the laws of such State or
11 locality.”.

12 **SEC. 513. COMMISSION MEMBER’S TERMS.**

13 Section 12(b) (29 U.S.C. 661(b)) is amended by in-
14 serting after the first sentence the following new sentence:
15 “A member of the Commission may serve after the expira-
16 tion of the member’s term until a successor has taken of-
17 fice.”.

18 **SEC. 514. INSPECTIONS.**

19 Section 8(a) (29 U.S.C. 657(a)) is amended by add-
20 ing after paragraph (2) the following new flush left margin
21 sentence: “In carrying out the inspection authority under
22 this section, the Secretary shall establish an effective sys-
23 tem for targeting inspections of worksites, especially work-
24 sites with a high potential for death, serious injury, or ex-
25 posure to toxic materials or harmful physical agents and

1 shall establish priorities for such inspections to ensure
2 that enforcement activities are concentrated on such work-
3 sites.”.

4 **SEC. 515. EMPLOYEE ACCOUNTABILITY.**

5 Section 9 (29 U.S.C. 658) is amended by adding at
6 the end thereof the following new subsection:

7 “(d) A citation issued under subsection (a) to an em-
8 ployer who violates the requirements of section 5, any
9 standard, rule, or order promulgated pursuant to section
10 6, or any other regulation promulgated under this Act
11 shall be vacated if such employer demonstrates that—

12 “(1) employees of such employer have been pro-
13 vided with the proper training and equipment to pre-
14 vent such a violation;

15 “(2) work rules designed to prevent such a vio-
16 lation have been established and adequately commu-
17 nicated to employees by such employer and have
18 been effectively enforced when such a violation has
19 been discovered;

20 “(3) the failure of employees to observe work
21 rules led to the violation; and

22 “(4) reasonable steps have been taken by such
23 employer to discover any such violation.”.

1 **TITLE VI—PROTECTION OF EM-**
2 **PLOYEES FROM DISCRIMINA-**
3 **TION**

4 **SEC. 601. ANTIDISCRIMINATION PROVISIONS.**

5 (a) EMPLOYEE ACTIONS.—Section 11(c)(1) (29
6 U.S.C. 660(c)(1)) is amended by inserting before the pe-
7 riod at the end thereof the following: “including reporting
8 any injury, illness or unsafe condition to the employer,
9 agent of the employer, the safety and health committee,
10 or employee safety and health representative”.

11 (b) PROCEDURE.—Section 11(c) (29 U.S.C. 660(c))
12 is amended by striking out paragraphs (2) and (3) and
13 inserting in lieu thereof the following new paragraphs:

14 “(2) No person shall discharge or in any manner dis-
15 criminate against an employee for refusing to perform the
16 employee’s duties when the employee has a reasonable ap-
17 prehension that performing such duties would result in se-
18 rious injury to, or serious impairment of the health of,
19 the employee or other employees. The circumstances caus-
20 ing the employee’s apprehension of serious injury must be
21 of such a nature that a reasonable person, under the cir-
22 cumstances then confronting the employee, would conclude
23 that there is a bona fide danger of a serious injury or
24 serious impairment of health resulting from the cir-
25 cumstances. In order to qualify for protection, the em-

1 ployee, when practicable, must have sought from his em-
2 ployer, and have been unable to obtain, correction of the
3 circumstances causing the refusal to perform the employ-
4 ee's duties.

5 “(3) Any employee who believes that he or she has
6 been discharged, disciplined, or otherwise discriminated
7 against by any person in violation of paragraph (1) or (2)
8 may, within 180 days after such alleged violation occurs,
9 file (or have filed by any person on the employee's behalf)
10 a complaint with the Secretary alleging that such dis-
11 charge, discipline, or discrimination violates paragraph (1)
12 or (2). Upon receipt of such a complaint, the Secretary
13 shall notify the person named in the complaint of the filing
14 of the complaint.

15 “(4)(A)(i) Not later than 60 days after the receipt
16 of a complaint filed under paragraph (3), the Secretary
17 shall conduct an investigation and determine whether
18 there is reasonable cause to believe that the complaint has
19 merit. During the investigation, the Secretary shall notify
20 the person named in the complaint of the charges made
21 in the complaint, shall provide such person with an oppor-
22 tunity to meet with the inspector conducting the investiga-
23 tion, to submit a response to such charges, and to present
24 witnesses to rebut such charges. The Secretary shall also
25 consider the result of any collectively-bargained grievance

1 proceeding which may have been held with respect to such
2 charges. Upon completion of the investigation, the Sec-
3 retary shall notify the complainant and the respondent to
4 the complaint of the Secretary's findings. Where the Sec-
5 retary has concluded that there is reasonable cause to be-
6 lieve that a violation has occurred, the Secretary's findings
7 shall be accompanied by a preliminary order providing the
8 relief prescribed by subparagraph (B).

9 “(ii) After the Secretary has made findings, either
10 the respondent or the complainant may, within 30 days,
11 file objections to the findings or preliminary order, or
12 both, and request a hearing on the record, except that the
13 filing of such objections shall not operate to stay any rein-
14 statement remedy contained in the preliminary order. If
15 the Secretary does not issue findings with respect to a
16 complaint within 90 days of the receipt of the complaint,
17 the complainant may request a hearing on the record on
18 the complaint.

19 “(iii) A hearing requested under clause (ii) shall be
20 expeditiously conducted. Where a hearing is not timely re-
21 quested, the preliminary order shall be deemed a final
22 order which is not subject to judicial review. Upon the con-
23 clusion of such hearing, the Secretary shall issue a final
24 order within 120 days. In the interim, such proceedings
25 may be terminated at any time on the basis of a settlement

1 agreement entered into by the Secretary, the complainant,
2 and the person named in the complaint.

3 “(B) If, in response to a complaint filed under para-
4 graph (3), the Secretary determines that a violation of
5 paragraphs (1) or (2) has occurred, the Secretary shall
6 order—

7 “(i) the person who committed such violation to
8 correct the violation;

9 “(ii) such person to reinstate the complainant
10 to the complainant’s former position together with
11 the compensation (including back pay), terms, condi-
12 tions, and privileges of the complainant’s employ-
13 ment; and

14 “(iii) compensatory damages.

15 If such an order is issued, the Secretary, at the request
16 of the complainant, may assess against the person against
17 whom the order is issued a sum equal to the aggregate
18 amount of all costs and expenses (including attorney’s
19 fees) reasonably incurred, as determined by the Secretary,
20 by the complainant for, or in connection with, the bringing
21 of the complaint upon which the order was issued.

22 “(5)(A) Any person adversely affected or aggrieved
23 by an order issued after a hearing under paragraph (4)(A)
24 may obtain review of the order in the United States Court
25 of Appeals for the circuit in which the violation, with re-

1 spect to which the order was issued, allegedly occurred,
2 or the circuit in which such person resided on the date
3 of such violation. The petition for review must be filed
4 within 60 days from the issuance of the Secretary's order.
5 Such review shall be in accordance with the provisions of
6 chapter 7 of title 5, United States Code, and shall be
7 heard and decided expeditiously.

8 “(B) Whenever a person has failed to comply with
9 an order issued under paragraph (4)(A), the Secretary
10 shall file a civil action in the United States district court
11 for the district in which the violation was found to occur
12 in order to enforce such order. In actions brought under
13 this subparagraph, the district court shall have jurisdic-
14 tion to grant all appropriate relief, including injunctive re-
15 lief, reinstatement, and compensatory damages.

16 “(6) The legal burdens of proof set forth in section
17 1221(e) of title 5, United States Code, shall govern adju-
18 dication of protected activities under this subsection.”.

19 **SEC. 602. POSTING OF EMPLOYEE RIGHTS.**

20 Section 8(c)(1) (29 U.S.C. 657(c)(1)) is amended by
21 adding at the end thereof the following new sentence:
22 “Such regulations shall include provisions requiring em-
23 ployers to post for employees the protections afforded
24 under section 11(c).”.

1 **TITLE VII—OSHA TRAINING AND**
2 **EDUCATION**

3 **SEC. 701. TECHNICAL ASSISTANCE TO EMPLOYERS AND EM-**
4 **PLOYEES.**

5 Section 21 (29 U.S.C. 670) is amended by adding
6 at the end thereof the following new subsections:

7 “(d) The Secretary shall develop and dissemi-
8 nate, directly or by grants or contracts, model cur-
9 ricula, model programs and other information and
10 materials to assist employers in complying with the
11 requirements for safety and health programs and
12 employee safety and health training and education
13 under section 27, with the requirements for safety
14 and health committees under section 28, with the re-
15 quirements of section 5, including the requirements
16 of standards issued under section 6, and other re-
17 quirements of the Act.

18 “(e) The Secretary shall establish and implement a
19 program to provide technical assistance and consultative
20 services for employers and employees, either directly or
21 through grants or contracts, concerning worksite safety
22 and health and compliance with this Act. Such assistance
23 and consultation shall be targeted at small employers, high
24 hazard worksites, and high hazard industries.

1 “(f) The Secretary shall award grants for the estab-
2 lishment and functioning of regional or State safety re-
3 source councils or centers. Such councils or centers shall
4 identify safety and health resources within the State or
5 region that employers and employees can utilize—

6 “(1) to improve safety and health;

7 “(2) to assist with the development of industry-
8 specific projects to promote safety and health; and

9 “(3) to assist employers and employees with the
10 development of safety and health programs.

11 Such councils or centers shall be not-for-profit organiza-
12 tions, and shall include representatives from State agen-
13 cies, employers and labor organizations.

14 “(g) The Secretary shall establish a program under
15 which the Secretary may annually recognize employers
16 with outstanding safety and health records by presenting
17 such employers with a safety and health excellence award.

18 The Secretary may annually recognize other organizations
19 through the presentation of such awards in recognition of
20 the outstanding efforts of such organization to promote
21 occupational safety and health.”

22 **SEC. 702. OSHA ASSISTANCE FUND.**

23 Section 7 (29 U.S.C. 656) is amended by adding at
24 the end thereof the following new subsection:

1 “(d)(1) There is established in the Treasury of the
2 United States a revolving fund to be known as the ‘OSHA
3 Assistance Fund’ (hereinafter in this subsection referred
4 to as the ‘Fund’). The Fund shall be used to offset the
5 costs of implementing section 21 (including administrative
6 and personnel expenses). Monies in the Fund shall be
7 available without fiscal year limitation to the Secretary for
8 such purpose.

9 “(2)(A) The Secretary is authorized to charge fees
10 in accordance with this paragraph for technical assistance
11 and consultative services provided under section 21. Such
12 fees—

13 “(i) shall be imposed on a uniform basis on per-
14 sons receiving such assistance or services under sec-
15 tion 21;

16 “(ii) shall not exceed the cost of implementing
17 section 21; and

18 “(iii) with respect to each person receiving such
19 assistance or services, shall bear a reasonable rela-
20 tionship to the cost of providing such assistance or
21 services to such person.

22 “(B) Fees received by the Secretary under this sub-
23 section shall be deposited in the Fund.

24 “(C) The Secretary shall report with respect to each
25 fiscal year to the Congress on the operation of the Fund.

1 “(3) The Secretary of the Treasury shall invest the
 2 portion of the Fund not required to satisfy current ex-
 3 penditures from the Fund, as determined by the Sec-
 4 retary, in obligations of the United States or obligations
 5 guaranteed as to principal by the United States. Invest-
 6 ment proceeds shall be deposited in the Fund.”.

7 **TITLE VIII—RECORDKEEPING**
 8 **AND REPORTING**

9 **SEC. 801. DATA COLLECTED BY SECRETARY.**

10 Section 24(a) (29 U.S.C. 673) is amended—

11 (1) by designating the first through third sen-
 12 tences as paragraphs (1) through (3), respectively
 13 and margining such paragraphs accordingly; and

14 (2) by adding at the end the following new
 15 paragraphs:

16 “(4)(A) For the purpose of setting safety and health
 17 standards, targeting inspections to individual establish-
 18 ments, evaluating standard setting and enforcement pro-
 19 grams, and for other purposes, the Secretary shall collect
 20 such information as may be necessary and conduct analy-
 21 ses that identify—

22 “(i) industries, employers, establishments, proc-
 23 esses, operations, and occupations that have a high
 24 rate of injury or illness;

1 “(ii) factors that cause or contribute to injuries
2 and illnesses;

3 “(iii) workers’ compensation and other costs as-
4 sociated with the injuries and illnesses; and

5 “(iv) employee exposures to toxic substances
6 and harmful physical agents.

7 “(B) Data collected under this subsection shall be
8 publicly available in a form suitable for further statistical
9 analysis.

10 “(5) The Secretary shall issue regulations that re-
11 quire each employer covered by this Act to report to the
12 Secretary each work-related death of an employee of the
13 employer immediately upon knowledge of the employer
14 and to report each serious incident that results in the hos-
15 pitalization of two or more employees within 24 hours of
16 the incident.”.

17 **SEC. 802. EMPLOYEE REPORTED ILLNESSES.**

18 Section 8(c)(2) (29 U.S.C. 657(c)(2)) is amended by
19 striking out “deaths, injuries, and illnesses other than”
20 and inserting in lieu thereof “deaths, injuries, illnesses,
21 suspected work-related illnesses reported by an employee
22 or an employee’s physician unless the employer makes a
23 reasonable determination that the illness is not work-relat-
24 ed, and adverse medical conditions determined as a result
25 of a medical examination or test conducted under an occu-

1 pational safety or health standard. Records and reports
2 shall not be required for”.

3 **SEC. 803. EMPLOYEE ACCESS.**

4 Section 8(c)(2) (29 U.S.C. 657(c)(2)) is amended by
5 adding at the end the following new sentence: “The
6 records and reports required under this section shall be
7 made available to the Secretary, the Secretary of Health
8 and Human Services, employees and employee representa-
9 tives.”.

10 **TITLE IX—NIOSH**

11 **SEC. 901. HAZARD EVALUATION REPORTS.**

12 Section 20(a)(6) (29 U.S.C. 669(a)(6)) is amended—

13 (1) in the second sentence, by inserting “, or
14 whether any potentially hazardous condition or
15 harmful physical agent found in the place of employ-
16 ment poses a risk to exposed employees” after “as
17 used or found”; and

18 (2) by inserting after the second sentence the
19 following new sentence: “If a determination is not
20 made within 6 months of the request, the Secretary
21 shall provide the employer and employees with an in-
22 terim report on the known or suspected hazards, a
23 recommendation for control, and an estimate of the
24 time that a final determination will be made.”.

1 **SEC. 902. SAFETY RESEARCH.**

2 Section 20(a) (29 U.S.C. 669(a)) is amended by add-
3 ing at the end the following new paragraph:

4 “(8) The Secretary of Health and Human Services
5 shall identify major factors contributing to occupational
6 injuries and deaths through accident investigations and
7 epidemiological research.”.

8 **SEC. 903. CONTRACTOR RIGHTS.**

9 Section 20(b) (29 U.S.C. 669(b)) is amended in the
10 first sentence by inserting after “Secretary of Health and
11 Human Services” the following: “or the Secretary’s des-
12 ignees or contractors.”.

13 **SEC. 904. NATIONAL SURVEILLANCE PROGRAM.**

14 Section 20 (29 U.S.C. 669) is amended by adding
15 at the end thereof the following new subsection:

16 “(f)(1) Not later than 2 years after the date of enact-
17 ment of the Comprehensive Occupational Safety and
18 Health Reform Act, the Secretary of Health and Human
19 Services, acting through the National Institute for Occu-
20 pational Safety and Health, shall (in cooperation with
21 other agencies of the Department of Health and Human
22 Services and the Secretary of Labor) establish a national
23 surveillance program to identify cases of occupational ill-
24 nesses, deaths, and serious injuries. In conducting the na-
25 tional surveillance program, the Secretary of Health and
26 Human Services shall coordinate the activities of the Sec-

1 retary with State health agencies and Federal and State
2 workers' compensation agencies.

3 “(2)(A) The Secretary of Health and Human Serv-
4 ices shall collect data each year on the number and charac-
5 teristics of all occupational deaths, selected occupational
6 illnesses, and selected occupational injuries.

7 “(B) In selecting occupational illnesses and injuries
8 for the collection of data under subparagraph (A), the Sec-
9 retary of Health and Human Services shall consider the
10 known frequency of the disorder, the severity of the dis-
11 order, and the size of the population at risk.

12 “(3) The Secretary of Health and Human Services
13 shall prepare reports and analysis of deaths, occupational
14 illnesses, and injuries collected under the national surveil-
15 lance program and transmit the information to the Sec-
16 retary of Labor, State health agencies, employers, employ-
17 ees, and other interested parties.

18 “(4) The Secretary of Health and Human Services
19 may issue regulations to require an employer, through a
20 physician or other health professional employed by or
21 under contract to the employer, to report information on
22 occupational deaths, illnesses and injuries in order to
23 carry out the provisions of this subsection.”.

1 **SEC. 905. ESTABLISHMENT OF NIOSH AS A SEPARATE**
2 **AGENCY WITHIN PUBLIC HEALTH SERVICE.**

3 The second sentence of section 22(b) (29 U.S.C.
4 671(b)) is amended by inserting after “The Institute shall
5 be” the following: “established as a separate agency within
6 the United States Public Health Service and be”.

7 **SEC. 906. NIOSH TRAINING.**

8 Section 21(a) (29 U.S.C. 670(a)) is amended by in-
9 serting after “educational programs to provide an ade-
10 quate supply of qualified personnel to carry out the pur-
11 pose of this Act,” the following: “, including education
12 programs for employees and member of safety and health
13 committees, as appropriate.”.

14 **TITLE X—STATE PLANS**

15 **SEC. 1001. STATE PLAN COMMITTEES AND PROGRAMS.**

16 Section 18(c) (29 U.S.C. 667(c)) is amended—

17 (1) by striking “and” at the end of paragraph
18 (7);

19 (2) by striking the period at the end of para-
20 graph (8) and inserting a comma; and

21 (3) by adding at the end the following new
22 paragraph:

23 “(9) provides for the development of safety and
24 health programs, safety and health committees and
25 training programs that are at least as effective as
26 those required under sections 27 and 28, and”.

1 **SEC. 1002. ACCESS TO INFORMATION; EMPLOYEE RIGHTS.**

2 Section 18(c) (29 U.S.C. 667(c)) (as amended by sec-
3 tion 1001) is further amended by adding at the end there-
4 of the following new paragraph:

5 “(10) provides for reporting requirements, pro-
6 tection of employee rights, and access to information
7 that are at least as effective as those required under
8 this Act or other Federal laws which govern access
9 to information related to this Act.”.

10 **SEC. 1003. APPLICATION OF FEDERAL STANDARDS.**

11 Section 18 (29 U.S.C. 667) is amended by adding
12 at the end thereof the following new subsection:

13 “(i) In the event a State, within 6 months after the
14 promulgation of a safety and health standard by the Sec-
15 retary under section 6, fails to adopt or promulgate a
16 standard which is at least as effective as the Secretary’s
17 standard, the State shall enforce the Secretary’s standard
18 until a State standard which is at least as effective as such
19 standard is in effect.”.

20 **SEC. 1004. COMPLAINTS AGAINST A STATE PLAN.**

21 Section 18 (29 U.S.C. 667) (as amended by section
22 1003) is further amended—

23 (1) in the third sentence of subsection (e), by
24 inserting after “preceding sentence” the following:
25 “except as provided in subsections (f) and (j)”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(j)(1) If the Secretary receives a written complaint
4 from an employer, employee, or employee representative
5 that a State is deficient in its compliance with a provision
6 of its State plan and the Secretary determines that there
7 are reasonable grounds to believe that such deficiency ex-
8 ists, the Secretary shall promptly investigate any such
9 complaint, except that complaints which allege a deficiency
10 in an enforcement action by a State shall be investigated
11 within 30 days of the receipt of the complaint.

12 “(2) The Secretary shall, not later than 30 days after
13 the completion of any investigation, transmit the findings
14 in writing to the State and to the complainant, which find-
15 ings shall include recommendations for the correction of
16 any deficiency which is identified. If the Secretary deter-
17 mines there are no reasonable grounds to believe that a
18 deficiency exists, the Secretary shall notify the complain-
19 ant in writing of such determination.

20 “(3) Not later than 30 days after the receipt of find-
21 ings issued under paragraph (2), the State shall respond
22 to the Secretary in writing, describing what action the
23 State has taken in response to the Secretary’s findings
24 and recommendations.

1 “(4) If after receipt of the response of the State, the
2 Secretary believes a serious violation of the Act exists for
3 which the State has failed to issue a citation, the Secretary
4 with reasonable promptness shall issue a citation. Section
5 9(e) shall not apply with respect to a citation issued under
6 this paragraph.”.

7 **SEC. 1005. ACTION AGAINST A STATE PLAN.**

8 Section 18(f) (29 U.S.C. 667(f)) is amended—

9 (1) by designating the first sentence as para-
10 graph (1);

11 (2) by redesignating the second sentence as
12 paragraph (3);

13 (3) by margining such paragraphs accordingly;
14 and

15 (4) by inserting after paragraph (1) (as so des-
16 ignated) the following new paragraph:

17 “(2)(A) If the Secretary determines at any time that
18 there are reasonable grounds for concluding that there is
19 a failure to comply substantially with any provision of the
20 State plan (or any assurance contained therein), the Sec-
21 retary shall give notice to the State of the deficiencies
22 which, in the Secretary’s view, warrant a withdrawal of
23 approval, and shall allow 6 months for the correction of
24 the deficiencies.

1 “(B) If after 6 months the Secretary determines that
2 the State has not corrected the deficiencies and that
3 grounds for withdrawing approval of the State plan still
4 exist, the Secretary shall institute proceedings pursuant
5 to paragraph (3) for the withdrawal of approval of the
6 plan, unless the Secretary determines in writing that ex-
7 ceptional circumstances exist that justify a decision not
8 to institute such proceedings.

9 “(C) During the pendency of proceedings pursuant
10 to paragraph (3), the Secretary shall exercise jurisdiction,
11 concurrent with the State, over the safety and health is-
12 sues that are subject to the State plan.”.

13 **SEC. 1006. STATE PLAN CONFORMING AMENDMENTS.**

14 Section 18 (29 U.S.C. 667) (as amended by section
15 1004(2)) is further amended by adding at the end thereof
16 the following new subsection:

17 “(k)(1) Except as provided in paragraph (2), each
18 State which is exercising authority to operate a State safe-
19 ty and health plan under this section shall within 1 year
20 of the effective date of the Comprehensive Occupational
21 Safety and Health Reform Act modify the plan to conform
22 with the requirements of this Act.

23 “(2) In the case of a State which the Secretary identi-
24 fies as—

1 “(A) requiring State legislation (other than leg-
2 islation appropriating funds) to modify the State
3 safety and health plan to conform with the require-
4 ments of this Act; and

5 “(B) having a legislature which is not scheduled
6 to meet within 1 year of the effective date of the
7 Comprehensive Occupational Safety and Health Re-
8 form Act in legislative session in which such legisla-
9 tion may be considered;

10 the State shall modify the plan to conform with the re-
11 quirements of this Act within 1 year or by the first day
12 of the first calendar quarter beginning after the close of
13 the first legislative session of the State legislature that be-
14 gins after the effective date of the Comprehensive Occupa-
15 tional Safety and Health Reform Act, whichever is later.
16 For purposes of the previous sentence, in the case of a
17 State that has a 2-year legislative session, each year of
18 such session shall be deemed to be a separate session of
19 the State legislature.”.

20 **SEC. 1007. EFFECT ON STATE LAW.**

21 Section 18 (29 U.S.C. 667) (as amended by section
22 1006) is further amended by adding at the end thereof
23 the following new subsection:

24 “(l) Nothing in this section shall be construed to pre-
25 vent any State from enacting or enforcing State public

1 safety or health laws which are not limited to providing
 2 safe and healthful employment or places of employment,
 3 including laws that regulate employees or places of em-
 4 ployment as a means of protecting the health and safety
 5 of nonemployee members of the public as well as of em-
 6 ployees, such as those that license individuals to perform
 7 particular types of work.”.

8 **TITLE XI—VICTIMS’ RIGHTS**

9 **SEC. 1101. VICTIMS’ RIGHTS.**

10 Section 29 is amended to read as follows:

11 **“SEC. 29. VICTIMS’ RIGHTS.**

12 “(a) DEFINITION.—For purposes of this section, the
 13 term ‘victim’ means—

14 “(1) an employee who has sustained a work-re-
 15 lated injury or illness which is the subject of an in-
 16 spection or investigation conducted under section 8,
 17 or

18 “(2) a family member of an employee, if—

19 “(A) the employee is killed as a result of
 20 a work-related injury or illness which is the
 21 subject of an inspection or investigation con-
 22 ducted under section 8; or

23 “(B) the employee sustains a work-related
 24 injury which is the subject of an inspection or
 25 investigation conducted under section 8, and

1 the employee cannot reasonably exercise his or
2 her rights under this section.

3 “(b) RIGHTS.—On request, a victim shall be afforded
4 the right, with respect to a work-related injury, illness,
5 or death involving the employee, to—

6 “(1) meet with the Secretary, or an authorized
7 representative of the Secretary, regarding the in-
8 spection or investigation conducted under section 8
9 concerning the employee’s injury, illness, or death
10 before the Secretary’s decision to issue a citation or
11 take no action; and

12 “(2) receive, at no cost, a copy of any citation
13 or report, issued as a result of such inspection or in-
14 vestigation on the date the citation or report is is-
15 sued, be informed of any notice of contest filed
16 under section 10, and be provided an explanation of
17 the rights of employee and employee representatives
18 to participate in proceedings conducted under sec-
19 tion 10.

20 “(c) MODIFICATION OF CITATION.—Before entering
21 into an agreement to withdraw or modify a citation issued
22 as a result of an inspection or investigation of a death
23 or serious incident under section 8, the Secretary, on re-
24 quest, shall provide an opportunity to the victim to appear

1 and make a statement before the parties conducting settle-
2 ment negotiations.

3 “(d) NOTIFICATION AND REVIEW.—The Secretary
4 shall establish procedures—

5 “(1) to inform victims of their rights under this
6 section; and

7 “(2) for the informal review of any claim of a
8 denial of such rights.”.

9 **TITLE XII—CONSTRUCTION** 10 **SAFETY**

11 **SEC 1201. SHORT TITLE.**

12 This title may be cited as the “Construction Safety,
13 Health, and Education Improvement Act of 1993”.

14 **SEC. 1202. DEFINITIONS.**

15 Section 3 (29 U.S.C. 652) (as amended by section
16 512(b)) is further amended by adding at the end thereof
17 the following new paragraph:

18 “(16) For purposes of section 7(c), subsections
19 (j) through (l) of section 8, and sections 30 and 31:

20 “(A) The term ‘construction employer’
21 means an employer as defined in paragraph (5)
22 (including an employer who has no employees)
23 who is engaged primarily in the building and
24 construction industry or who performs construc-
25 tion work under a contract with a construction

1 owner, except that a utility providing or receiv-
2 ing mutual assistance in the case of a natural
3 or man-made disaster shall not be considered a
4 construction employer.

5 “(B) The term ‘construction owner’ means
6 a person who owns, leases or has effective con-
7 trol over property with or without improve-
8 ments, a structure, or other improvement on
9 real property on which construction work is
10 being, or will be, performed.

11 “(C) The term ‘construction project’
12 means all construction work by one or more
13 construction employers which is performed for a
14 construction owner and which is described in
15 work orders, permits, requisitions, agreements,
16 and other project documents.

17 “(D) The term ‘construction work’ means
18 work for construction, alteration, demolition, or
19 repair, or any combination thereof, including
20 painting and decorating, but does not include
21 work performed under a contract between a
22 construction employer and a homeowner for
23 work on the homeowner’s own residence, or rou-
24 tine maintenance and upkeep performed at least
25 monthly, and such term shall include work per-

1 formed under a contract between a construction
2 employer and an agency of the United States or
3 any State or political subdivision of a State.

4 “(E) The term ‘construction worksite’
5 means a site within a construction project
6 where construction work is performed by one or
7 more construction employers.

8 “(F) The term ‘competent person’ means a
9 representative of a construction employer who
10 satisfies the requirements of section 27(b)(8).”.

11 **SEC. 1203. OFFICE OF CONSTRUCTION SAFETY, HEALTH,**
12 **AND EDUCATION.**

13 The Occupational Safety and Health Act of 1970 (29
14 U.S.C. 651 et seq.) is amended—

15 (1) by striking out sections 30, 31 and 34;

16 (2) by redesignating sections 32 through 33 as
17 section 34 and 35, respectively; and

18 (2) by inserting after section 29 the following
19 new section:

20 **“SEC. 30. OFFICE OF CONSTRUCTION SAFETY, HEALTH,**
21 **AND EDUCATION.**

22 “(a) ESTABLISHMENT.—There is established in the
23 Occupational Safety and Health Administration an Office
24 of Construction Safety, Health, and Education (herein-
25 after in this section referred to as the ‘Office’) to ensure

1 safe and healthful working conditions in the performance
2 of construction work.

3 “(b) DUTIES.—The Secretary shall—

4 “(1) identify construction employers that have
5 high fatality rates or high lost workday injury or ill-
6 ness rates or who have demonstrated a pattern of
7 noncompliance with safety and health standards,
8 rules, and regulations;

9 “(2) develop a system for notification of em-
10 ployers identified under paragraph (1);

11 “(3) establish, after consultation with the Advi-
12 sory Committee on Construction Safety and Health,
13 training courses and curriculum for the training of
14 inspectors and other persons with duties related to
15 construction safety and health who are employed by
16 the Occupational Safety and Health Administration;

17 “(4) establish model compliance programs for
18 construction safety and health standards and assist
19 employers, employees, and organizations represent-
20 ing employers and employees in establishing training
21 programs appropriate to such standards; and

22 “(5) establish a toll-free line on which reports,
23 complaints, and notifications required under this Act
24 may be made.

25 “(c) PERSONNEL.—

1 “(1) DEPUTY ASSISTANT SECRETARY FOR CON-
2 STRUCTION.—The Office shall be headed by a Dep-
3 puty Assistant Secretary of Labor for Construction,
4 appointed by the Secretary. The Deputy Assistant
5 Secretary shall coordinate the activities of the Office
6 and the Advisory Committee on Construction Safety
7 and Health with the activities of other offices and
8 directorates within the Occupational Safety and
9 Health Administration to the extent that the activi-
10 ties of those other offices and directorates relate to
11 safety, health, and education in the construction in-
12 dustry.

13 “(2) QUALIFICATIONS OF INSPECTORS.—The
14 Secretary, with the advice of the Advisory Commit-
15 tee on Construction Safety and Health, shall deter-
16 mine the necessary qualifications and training re-
17 quirements for individuals employed by the Occupa-
18 tional Safety and Health Administration whose re-
19 sponsibilities include the inspection of construction
20 worksites. Such qualifications and requirements
21 shall, at a minimum, include—

22 “(A) a requirement that the inspector,
23 after receiving appropriate training, have a full
24 understanding of this Act and the Secretary’s

1 standards and regulations applicable to con-
2 struction work; and

3 “(B) in the case of a construction safety
4 inspector, at least 5 years of experience working
5 in the construction industry.”.

6 **SEC. 1204. CONSTRUCTION SAFETY AND HEALTH PLANS**
7 **AND PROGRAMS.**

8 The Occupational Safety and Health Act of 1970 (29
9 U.S.C. 651 et seq.) (as amended by section 1203) is fur-
10 ther amended by adding after section 30 the following new
11 section:

12 **“SEC. 31. CONSTRUCTION SAFETY AND HEALTH PLANS AND**
13 **PROGRAMS.**

14 “(a) PROJECT CONSTRUCTOR.—The Secretary shall,
15 by regulation, require each construction project to have
16 an individual or entity (hereinafter referred to as the
17 ‘project constructor’) that is responsible for the establish-
18 ment of the safety and health plan for such project and
19 for ensuring that the project safety coordinator exercises
20 the duties set forth in this Act. Such regulations shall re-
21 quire that—

22 “(1) if only one general or prime contractor ex-
23 ists on a construction project, such contractor shall
24 be the project constructor, unless such contractor

1 designates another entity with its consent to be the
2 project constructor; and

3 “(2) if a construction project has more than
4 one general or prime contractor, the construction
5 owner shall be the project constructor unless such
6 construction owner designates another entity with its
7 consent to be the project constructor.

8 “(b) CONSTRUCTION SAFETY AND HEALTH PLAN.—

9 “(1) IN GENERAL.—The Secretary shall, by
10 regulation, require that the project constructor for a
11 construction project develop and implement a writ-
12 ten construction safety and health plan for the con-
13 struction project (hereinafter in this section referred
14 to as the ‘plan’) to protect employees against haz-
15 ards which may occur at such project.

16 “(2) REQUIREMENTS.—The regulations under
17 paragraph (1) shall, at a minimum, require that the
18 plan shall include a hazard analysis and construction
19 process protocol which shall apply to each worksite
20 of the project. The analysis and protocol shall in-
21 clude a specific reference to critical conditions in the
22 construction process which may cause hazards to
23 exist, identify the methods to be used at such work-
24 site to ensure the structural stability of all buildings,
25 structures, and excavations, and list all inspections

1 and tests required at such worksite to protect the
2 safety and health of employees.

3 “(3) AVAILABILITY.—Copies of the plan shall
4 be made available to each construction employer
5 prior to commencement of construction work by that
6 employer.

7 “(c) PROJECT SAFETY COORDINATOR.—

8 “(1) IN GENERAL.—The Secretary shall, by
9 regulation, require that for every construction
10 project, the project constructor shall designate a
11 project safety coordinator appointed by and acting
12 on behalf of the project constructor. Such regula-
13 tions shall, at a minimum, require the following:

14 “(A) The project safety coordinator shall,
15 on behalf of the project constructor—

16 “(i) ensure the implementation of the
17 plan;

18 “(ii) ensure that each construction
19 employer on the project has a safety and
20 health program which complies with the
21 plan and the requirements of subsection
22 (d);

23 “(iii) conduct regular inspections of
24 the worksite to monitor compliance by em-

1 ployers with the plan and with their safety
2 and health programs;

3 “(iv) notify affected construction em-
4 ployers of any hazardous conditions discov-
5 ered at a construction worksite or of non-
6 compliance by an employer with the project
7 safety and health plan, or the employer’s
8 own safety and health plan; and

9 “(v) if the hazard or noncompliance is
10 not corrected, notify the construction
11 owner and the project constructor.

12 “(B) The project safety coordinator shall
13 issue written approval before an employer may
14 engage in an operation of a type determined by
15 the Secretary to pose a substantial risk of death
16 or serious bodily injury.

17 “(C) The project safety coordinator shall—

18 “(i) upon request of any construction
19 employer, employee, or employee represent-
20 ative, conduct an inspection at a construc-
21 tion worksite to determine if an imminent
22 danger exists and shall stop work at, or re-
23 move affected employees from, an area in
24 which such a danger exists;

1 “(ii) investigate each fatality, serious
2 bodily injury, structural failure, fire, or ex-
3 plosion that occurs on the project; and

4 “(iii) notify the Secretary if a con-
5 struction employer fails promptly to abate
6 an imminent danger, and request the Sec-
7 retary to conduct an immediate inspection
8 of the worksite.

9 “(D) The project safety coordinator shall
10 be on site as necessary and be promptly avail-
11 able at all times that work is being performed
12 on the project.

13 “(2) QUALIFICATIONS.—The project safety co-
14 ordinator shall be an individual who is certified by
15 an organization or organizations approved by the
16 Secretary as having fulfilled the requirements of a
17 standardized training course and testing program
18 developed or approved by the Secretary with the ad-
19 vice of the Advisory Committee on Construction
20 Safety and Health. Until the Secretary develops
21 such approved procedures, the project safety coordi-
22 nator shall meet the requirements of a competent
23 person under subsection (e).

24 “(d) CONSTRUCTION SAFETY AND HEALTH PRO-
25 GRAMS.—The Secretary shall, by regulation, require every

1 construction employer on a construction project to have
2 a written safety and health program established in accord-
3 ance with section 27 applicable to the employer's work on
4 such project. The Secretary's regulations shall, in addition
5 to the requirements under section 27(b), at a minimum,
6 require the following:

7 “(1) The program shall provide for safety and
8 health meetings to review the safety and health pro-
9 gram to be conducted with construction employees
10 during working hours prior to the commencement of
11 the employer's work on the project. Thereafter, safe-
12 ty and health meetings shall be held at least monthly
13 to provide updated information to employees on the
14 construction process and the hazards associated with
15 those processes. A safety and health meeting shall be
16 held with newly hired employees and with those em-
17 ployees assigned to construction work with which
18 they are unfamiliar before such work commences.

19 “(2) The program shall contain procedures for
20 the emergency evacuation of the employer's employ-
21 ees from a construction worksite.

22 “(3) The program shall contain procedures to
23 ensure that a competent person is on the construc-
24 tion worksite at all times that work is being per-
25 formed by such employer.

1 “(4) The program shall contain procedures to
2 ensure that all construction employees of the em-
3 ployer shall receive or have received within the 12-
4 month period immediately preceding their employ-
5 ment, general safety and health training in a man-
6 ner prescribed by the Secretary. The Secretary shall
7 prescribe a procedure or procedures by which an em-
8 ployer may verify that employees have received the
9 required training.

10 “(5) The program shall indicate if the employer
11 has received notification under section 30(b)(2).

12 “(e) COMPETENT PERSONS.—The Secretary shall, by
13 regulation, require each construction employer to des-
14 ignate one or more competent persons, in accordance with
15 section 27(b)(8), who shall be responsible for the adminis-
16 tration of the safety and health program. Such regulations
17 shall, at a minimum, require the following:

18 “(1) A competent person shall be on the con-
19 struction worksite at all times that work is being
20 performed by such employer.

21 “(2) A competent person shall engage in inspec-
22 tions of the site, materials, and equipment, as appro-
23 priate, and shall stop work of such employer at, or
24 remove affected employees of the employer from, an
25 area in which an imminent danger exists. The com-

1 petent person shall notify forthwith the project con-
2 structor or project safety coordinator of the immi-
3 nent danger and of the action taken to ensure the
4 prompt abatement of such danger and to prevent its
5 recurrence.

6 “(f) APPLICATION.—

7 “(1) IN GENERAL.—The Secretary, by regula-
8 tion, may modify the requirements of subsections (a)
9 through (e), or portions thereof, as they apply to
10 certain types of construction work or operations
11 where the Secretary determines that, in light of the
12 nature of the risks faced by employees engaged in
13 such work or operation, such a modification would
14 not reduce the employees’ safety and health protec-
15 tion. In making such modifications, the Secretary
16 shall take into account the risk of death or serious
17 injury or illness, and the frequency of fatalities and
18 the lost work day injury rate attendant to such work
19 or operations.

20 “(2) EMERGENCY WORK.—If it is necessary to
21 perform construction work on a worksite imme-
22 diately in order to prevent injury to persons, or sub-
23 stantial damage to property, and such work must be
24 conducted before compliance with the requirements
25 of the regulations under subsections (a) through (e)

1 can be made, the Secretary shall be given notice as
2 soon as practicable of such work. Compliance with
3 such requirements shall then be made as soon as
4 practicable thereafter.”

5 **SEC. 1205. INSPECTIONS, INVESTIGATIONS, REPORTING,**
6 **AND RECORDKEEPING.**

7 Section 8 (29 U.S.C. 657) (as amended by sections
8 504 and 505) is further amended by adding at the end
9 thereof the following new subsections:

10 “(j)(1) The Secretary shall establish an effective
11 targeting system for general schedule construction inspec-
12 tions. In establishing such system, the Secretary shall es-
13 tablish priorities to ensure that construction enforcement
14 activities are concentrated on construction work and con-
15 struction projects having a high potential for deaths, inju-
16 ries or illnesses and, within such construction projects, on
17 worksites or operations having a high potential for deaths,
18 injuries or illnesses.

19 “(2) In establishing construction inspection priorities
20 under paragraph (1), the Secretary shall give due weight
21 to—

22 “(A) the record of compliance with this Act and
23 its regulations by particular construction employers;
24 and

1 “(B) the fatality rate and the lost workday in-
2 jury rate attributable to particular construction own-
3 ers and construction employers and particular types
4 of construction projects and construction work.

5 “(3) The Secretary shall use reports and notices filed
6 under this subsection and subsection (i) and other perti-
7 nent information to develop the system of prioritized in-
8 spections required under this subsection.

9 “(4) The inspection priority system required by para-
10 graph (1) shall not have the effect of limiting the Sec-
11 retary’s authority to conduct inspections of any employer
12 or worksite under other provisions of this Act.

13 “(5) The Secretary shall, by regulation, require that,
14 before the commencement of (A) specific, highly hazard-
15 ous construction work, or (B) work by employers identified
16 under section 30(b)(1), the project constructor shall re-
17 port to the Secretary information regarding the project to
18 allow the Secretary, on the basis of the inspection priority
19 system required by paragraph (1), to determine whether
20 to conduct an inspection of such project or of a worksite
21 or worksites on such project. Such regulations shall re-
22 quire, at a minimum, that the information reported in-
23 clude the location of the project or worksite, the names
24 of the construction owner, project constructor, project
25 safety coordinator, and construction employers working on

1 the project, the type of work to be performed, and the
2 anticipated dates of such construction activities.

3 “(k)(1) The Secretary shall, by regulation, require
4 that the project constructor of a construction project
5 promptly report to the Secretary any incident involving
6 construction work that results in—

7 “(A) a fatality;

8 “(B) an injury or illness causing 2 or more hos-
9 pitalizations; or

10 “(C) a structural failure or fire or explosion
11 which caused or could have caused serious bodily in-
12 jury to an employee.

13 “(2) The Secretary’s regulations shall provide at a
14 minimum that each report required under paragraph (1)
15 shall contain the names, business addresses, and telephone
16 numbers of the construction owner of the worksite, the
17 project constructor and project safety coordinator, and the
18 construction employer whose construction employee was
19 killed or seriously injured.

20 “(3) The Secretary shall investigate any incident re-
21 ported pursuant to paragraph (1).

22 “(l) The Secretary shall, by regulation, require
23 project constructors to make and maintain accurate
24 records concerning fatalities, serious bodily injuries, struc-

1 tural failures, fires, and explosions at construction
2 projects.”.

3 **SEC. 1206. ADVISORY COMMITTEE ON CONSTRUCTION**
4 **SAFETY AND HEALTH.**

5 Section 7 (29 U.S.C. 656) is amended—

6 (1) by redesignating subsections (c) and (d) (as
7 added by section 702) as subsections (e) and (f), re-
8 spectively; and

9 (2) by inserting after subsection (b) the follow-
10 ing new subsections:

11 “(c)(1) The Advisory Committee on Construction
12 Safety and Health established by the Secretary pursuant
13 to section 107(e) of the Contract Work Hours and Safety
14 Standards Act (40 U.S.C. 333(e)), shall be composed of
15 15 members, as follows:

16 “(A) One member shall be designated by the
17 Secretary of Health and Human Services.

18 “(B) Five members, appointed by the Sec-
19 retary, shall be qualified by experience and affili-
20 ation with construction employer and employer asso-
21 ciations to present the viewpoint of the employers in-
22 volved and five members, appointed by the Sec-
23 retary, shall be qualified by experience and affili-
24 ation with labor organizations in the building and

1 construction industry to present the viewpoint of em-
2 ployees involved.

3 “(C) Two members, appointed by the Secretary,
4 shall be representatives of State safety and health
5 agencies.

6 “(D) Two members, appointed by the Sec-
7 retary, shall be qualified by knowledge and experi-
8 ence to be able to make useful contribution to the
9 work of the Advisory Committee.

10 “(2) The term of office of each member shall be 3
11 years. The terms of five members shall expire each year,
12 provided that the terms of no more than two representa-
13 tives of the same interest shall expire the same year. A
14 member whose term has expired shall continue to serve
15 until a successor is appointed unless such member resigns
16 or becomes unable to serve.

17 “(d)(1) In addition to the functions prescribed by sec-
18 tion 107(e) of the Contract Work Hours and Safety
19 Standards Act (40 U.S.C. 333(e)), the Advisory Commit-
20 tee on Construction Safety and Health shall also serve as
21 an advisory committee to the Secretary and the Secretary
22 of Health and Human Services on matters relating to the
23 administration of the Act. The Committee shall advise,
24 consult with, and make recommendations to the Secretary
25 and the Secretary of Health and Human Services in the

1 formulation of construction safety and health standards
2 and other regulations and with respect to policy matters
3 arising in the administration of this Act as it affects the
4 construction industry. In carrying out its functions, the
5 Advisory Committee may—

6 “(A) with the consent of the Secretary, obtain
7 special advisory and technical experts or consultants
8 as may be necessary to carry out the functions of
9 the Advisory Committee;

10 “(B) establish working groups to address mat-
11 ters coming before the Committee during times the
12 Committee is not in session;

13 “(C) schedule no fewer than four meetings dur-
14 ing each calendar year and require a transcript to
15 be kept of the meetings and to be made available for
16 public inspection; and

17 “(D) consider such matters as it may determine
18 to be appropriate, in addition to those matters re-
19 ferred by the Secretary.

20 “(2) The Secretary shall respond in writing to any
21 recommendations made by a majority of the members of
22 the Advisory Committee within 60 days of the Advisory
23 Committee’s issuance of such recommendation.”.

1 **SEC. 1207. STATE CONSTRUCTION SAFETY AND HEALTH**
2 **PLANS.**

3 Section 18 (29 U.S.C. 667) (as amended by sections
4 1003, 1004 and 1006) is further amended by adding at
5 the end thereof the following new subsection:

6 “(l) Any State plan that covers construction safety
7 and health shall contain requirements which, and the en-
8 forcement of which, are, and will be, at least as effective,
9 in providing safe and healthful employment and places of
10 employment in the construction industry as the require-
11 ments contained in subsection (c), and the requirements
12 imposed by, and enforced under, this Act and section 107
13 of the Contract Work Hours Standards Act (40 U.S.C.
14 333), including—

15 “(1) requirements relating to the training and
16 qualifications of State agency construction inspec-
17 tors;

18 “(2) requirements relating to construction safe-
19 ty and health plans and programs; and

20 “(3) requirements relating to inspections, inves-
21 tigations, reporting, and recordkeeping.”.

22 **SEC. 1208. CONSTRUCTION SAFETY AND HEALTH ACADEMY.**

23 The Occupational Safety and Health Act of 1970 (29
24 U.S.C. 651 et seq.) (as amended by section 1204) is fur-
25 ther amended by inserting after section 31 the following
26 new section:

1 **“SEC. 32. CONSTRUCTION SAFETY AND HEALTH ACADEMY.**

2 “There is established in the Occupational Safety and
3 Health Administration a Construction Safety and Health
4 Academy to conduct training of employees of the Occupa-
5 tional Safety and Health Administration who conduct in-
6 spections of construction worksites and such other persons
7 as the Secretary, with the advice of the Advisory Commit-
8 tee on Construction Safety and Health, shall consider ap-
9 propriate.”

10 **SEC. 1209. ENFORCEMENT.**

11 (a) CITATIONS.—Section 9(a) (29 U.S.C. 658(a)) is
12 amended by inserting “, 8, or 31” after “section 5”.

13 (b) PROJECT CONSTRUCTORS.—Section 9 (29 U.S.C.
14 658) (as amended by section 514) is further amended by
15 adding at the end the following:

16 “(f) For purposes of this section and sections 8, 10,
17 11, and 17 a project constructor shall be considered an
18 employer.”.

19 **SEC. 1210. REPORTS TO CONGRESS.**

20 The Occupational Safety and Health Act of 1970 (29
21 U.S.C. 651 et seq.) (as amended by section 1208) is fur-
22 ther amended by adding after section 32 the following new
23 section:

24 **“SEC. 33. REPORTS TO CONGRESS.**

25 “(a) IN GENERAL.—The Secretary, in consultation
26 with the Advisory Committee on Construction Safety and

1 Health, shall prepare and submit to the President for
2 transmittal to the Congress an annual report upon the
3 same general subjects as are set forth in section 26 and
4 as they relate to the construction industry, including the
5 operation of the Office of Construction Safety, Health,
6 and Education.

7 “(b) EFFECT OF EXISTING CONDITIONS IN CON-
8 STRUCTION INDUSTRY.—Within 120 days following the
9 conclusion of 3 years of operation of the Office of Con-
10 struction Safety, Health, and Education, the Secretary,
11 with the advice and assistance of the Advisory Committee
12 on Construction Safety and Health, shall prepare and sub-
13 mit to the President for transmittal to the Congress a re-
14 port upon the subject whether the then existing conditions
15 of occupational safety and health in the construction in-
16 dustry, the effectiveness of regulation and enforcement,
17 and any other relevant information supports the continued
18 existence of the Office within the Occupational Safety and
19 Health Administration, or the enactment of legislation to
20 establish in the Department of Labor a Construction In-
21 dustry Safety and Health Administration to be headed by
22 an Assistant Secretary of Labor for Construction Safety
23 and Health, or the enactment of legislation making any
24 other changes in the law.”.

1 **SEC. 1211. FEDERAL CONSTRUCTION CONTRACTS.**

2 The Occupational Safety and Health Act of 1970 (29
3 U.S.C. 651 et seq.) (as amended by section 1210) is fur-
4 ther amended by adding after section 33 the following new
5 section:

6 **“SEC. 34. FEDERAL CONSTRUCTION CONTRACTS.**

7 “Not later than 90 days after the date of the enact-
8 ment of this section, the Secretary shall deliver to the
9 Committee on Education and Labor of the House of Rep-
10 resentatives and the Committee on Labor and Human Re-
11 sources of the Senate recommendations regarding legisla-
12 tive changes required to make the safety records (includ-
13 ing records of compliance with Federal safety and health
14 laws and regulations) of persons bidding for contracts sub-
15 ject to section 107 of the Contract Work Hours and Safety
16 Standards Act (40 U.S.C. 333) a criterion to be consid-
17 ered in the awarding of such contracts.”.

18 **SEC. 1212. RELATIONSHIP TO EXISTING LAW AND REGULA-**
19 **TIONS.**

20 (a) IN GENERAL.—Nothing contained in the amend-
21 ments made by this title or the regulations issued to carry
22 out the amendments shall limit the application of, or less-
23 en, any of the requirements of the Occupational Safety
24 and Health Act of 1970 (29 U.S.C. 651 et seq.), the Con-
25 tract Work Hours Standards Act (40 U.S.C. 327 et seq.),

1 or the standards or regulations issued by the Secretary
2 of Labor to carry out either such Act.

3 (b) PROJECT CONSTRUCTORS.—The presence and
4 duties of a project constructor or a project safety coordi-
5 nator on a project shall not in any way diminish the re-
6 sponsibilities of construction employers under the Occupa-
7 tional Safety and Health Act of 1970 (29 U.S.C. 651 et
8 seq.) for the safety and health of their employees.

9 **SEC. 1213. TIMETABLE FOR REGULATIONS.**

10 The Secretary of Labor shall publish in the Federal
11 Register in proposed form, no later than 90 days after
12 the effective date of this Act, the regulations that this title
13 directs the Secretary to prescribe, and shall promulgate
14 the final regulations no later than 180 days after the effec-
15 tive date of this title. The final rules and regulations shall
16 become effective 60 days after the date on which they are
17 promulgated.

18 **TITLE XIII—ADMINISTRATION**

19 **SEC. 1301. ADMINISTRATION.**

20 There is established in the Department of Labor an
21 Occupational Safety and Health Administration to be
22 headed by an Assistant Secretary of Labor for Occupa-
23 tional Safety and Health who shall be appointed by the
24 President, by and with the advice and consent of the Sen-
25 ate. The Secretary of Labor shall, except as specifically

1 provided otherwise, carry out the Secretary's functions
 2 under the Occupational Safety and Health Act of 1970
 3 through the Occupational Safety and Health Administra-
 4 tion.

5 **TITLE XIV—EFFECTIVE DATE**

6 **SEC. 1401. EFFECTIVE DATE.**

7 (a) IN GENERAL.—Except as provided in subsection
 8 (b) and section 1213, this Act and the amendments made
 9 by this Act shall take effect upon the expiration of 90 days
 10 after the date of the enactment of this Act.

11 (b) EXCEPTIONS.—The amendments made by section
 12 302 shall take effect 1 year after the date of enactment
 13 of this Act.

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S 575 IS—2

S 575 IS—3

S 575 IS—4

S 575 IS—5

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