

106TH CONGRESS  
1ST SESSION

# S. 1954

To establish a compensation program for employees of the Department of Energy, its contractors, subcontractors, and beryllium vendors, who sustained beryllium-related illness due to the performance of their duty; to establish a compensation program for certain workers at the Paducah, Kentucky, gaseous diffusion plant; to establish a pilot program for examining the possible relationship between workplace exposure to radiation and hazardous materials and illnesses or health conditions; and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 1999

Mr. BINGAMAN (for himself, Mr. THOMPSON, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To establish a compensation program for employees of the Department of Energy, its contractors, subcontractors, and beryllium vendors, who sustained beryllium-related illness due to the performance of their duty; to establish a compensation program for certain workers at the Paducah, Kentucky, gaseous diffusion plant; to establish a pilot program for examining the possible relationship between workplace exposure to radiation and hazardous materials and illnesses or health conditions; and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Energy Employees’  
5 Compensation Act”.

6 **TITLE I—ENERGY EMPLOYEES’**  
7 **BERYLLIUM COMPENSATION**  
8 **ACT**

9 **SEC. 101. SHORT TITLE.**

10 This title may be cited as the “Energy Employees’  
11 Beryllium Compensation Act”.

12 **SEC. 102. FINDINGS.**

13 The Congress finds that—

14 (1) employees of the Department of Energy and  
15 its predecessor agencies and employees of its con-  
16 tractors and vendors have been and currently may  
17 be exposed to harmful substances, including dust  
18 particles or vapor of beryllium, while performing du-  
19 ties uniquely related to the Department of Energy’s  
20 nuclear weapons production program;

21 (2) while linking exposure to occupational haz-  
22 ards with the development of occupational disease is  
23 sometimes difficult, scientific evidence supports the  
24 conclusion that occupational exposure to dust par-  
25 ticles or vapor of beryllium uniquely related to the

1 Department of Energy’s nuclear weapons production  
2 program can cause beryllium sensitivity and chronic  
3 beryllium disease;

4 (3) existing information indicates that state  
5 workers’ compensation programs have failed to pro-  
6 vide efficient, uniform, and adequate compensation  
7 to remedy the concerns addressed by this title;

8 (4) the civilian men and women who performed  
9 duties uniquely related to the Department of Ener-  
10 gy’s nuclear weapons production program over the  
11 last 50 years should have efficient, uniform, and  
12 adequate compensation for beryllium-related health  
13 conditions for which sufficient scientific proof exists  
14 of causal connection to occupational exposure;

15 (5) this situation is sufficiently unique to the  
16 Department of Energy’s nuclear weapons production  
17 program that it is appropriate for Congressional ac-  
18 tion; and

19 (6) this action is not intended to have any prec-  
20 edential effect beyond this program.

21 **SEC. 103. DEFINITIONS.**

22 For the purpose of this title—

23 (1) “beryllium vendor” means:

24 (A) Atomics International;

25 (B) Brush Wellman, Inc.;

1 (C) General Atomics;

2 (D) General Electric Company;

3 (E) NGK Metals Corporation and its pred-  
4 ecessors; Kawecki-Berylco, Cabot Corporation,  
5 BerylCo, and Beryllium Corporation of Amer-  
6 ica;

7 (F) Nuclear Materials and Equipment Cor-  
8 poration;

9 (G) StarMet Corporation, and its prede-  
10 cessor, Nuclear Metals, Inc.;

11 (H) Wyman Gordan, Inc.; or

12 (I) any other vendor, processor, or pro-  
13 ducer of beryllium or related products des-  
14 igned as a beryllium vendor for the purposes  
15 of this title in regulations issued by the Sec-  
16 retary pursuant to section 104 of this title;

17 (2) “compensation” means the money allowance  
18 payable under this title and any other benefits paid  
19 for from the Energy Employees’ Beryllium Com-  
20 pensation Fund including the retroactive compensa-  
21 tion payable pursuant to section 111 of this title;

22 (3) “covered employee” means—

23 (A) an employee of any contractor that  
24 contracted with the Department of Energy to  
25 provide management and operation, manage-

1           ment and integration, or environmental remedi-  
2           ation of a Department of Energy facility or an  
3           employee of any subcontractor that provided  
4           services, including construction, at such a facil-  
5           ity;

6                   (B) an employee of a beryllium vendor dur-  
7           ing a period of time when that entity was en-  
8           gaged in activities related to beryllium that was  
9           produced or processed for sale to, or use by, the  
10          Department of Energy; or

11                   (C) an individual defined as an employee  
12          in section 8101(l) of title 5, United States  
13          Code, who may have been exposed to beryllium  
14          at a Department of Energy facility or at a facil-  
15          ity owned, operated, or occupied by a beryllium  
16          vendor;

17           (4) “covered illness” means any of the following  
18          conditions:

19                   (A) Beryllium Sensitivity, established by  
20           an abnormal beryllium lymphocyte proliferation  
21           test performed on either blood or lung lavage  
22           cells;

23                   (B) Chronic Beryllium Disease, established  
24           by—

1 (i) beryllium sensitivity, as defined in  
2 subparagraph (A), and

3 (ii) lung pathology consistent with  
4 Chronic Beryllium Disease, such as—

5 (I) a lung biopsy showing  
6 granulomas or a lymphocytic process  
7 consistent with Chronic Beryllium  
8 Disease,

9 (II) a computerized axial tomog-  
10 raphy scan showing changes con-  
11 sistent with Chronic Beryllium Dis-  
12 ease, or

13 (III) pulmonary function or exer-  
14 cise testing showing pulmonary defi-  
15 cits consistent with Chronic Beryllium  
16 Disease; or

17 (C) any injury or illness sustained as a  
18 consequence of a covered illness as defined in  
19 subparagraph (A) or (B) of this paragraph;

20 (5) “Department of Energy” includes the pred-  
21 ecessor agencies of the Department of Energy;

22 (6) “Department of Energy facility” means any  
23 building, structure, or premises, including the  
24 grounds upon which they are located, in which oper-  
25 ations are conducted by, or on behalf of, the Depart-

1       ment of Energy and with regard to which the De-  
2       partment of Energy has a proprietary interest or  
3       has entered into a contract with an entity to provide  
4       management and operation, management and inte-  
5       gration, or environmental remediation;

6               (7) “monthly pay” means the monthly pay at  
7       the time of injury, or the monthly pay at the time  
8       disability begins, or the monthly pay at the time  
9       compensable disability recurs, if the recurrence be-  
10      gins more than 6 months after the covered employee  
11      resumes regular full-time employment, whichever is  
12      greater, except when otherwise determined under  
13      section 8113 of title 5, United States Code;

14              (8) “Secretary” means the Secretary of Energy;

15              (9) “time of injury” means the last date on  
16      which a covered employee was exposed to beryllium  
17      in the performance of duty as specified in section  
18      106 of this title; and

19              (10) the following terms have the meaning  
20      given those terms in section 8101 of title 5, United  
21      States Code:

22                      (A) “physician”;

23                      (B) “medical, surgical, and hospital serv-  
24                      ices and supplies”;

25                      (C) “widow”;

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

11 **SEC. 104. REGULATORY AUTHORITY TO REVISE DEFINI-**  
12 **TIONS.**

13 (a) Additional vendors, processors, or producers of  
14 beryllium or related products may be designated as beryl-  
15 lium vendors for the purposes of this title in regulations  
16 issued by the Secretary, upon finding that such entities  
17 have been engaged in activities related to beryllium that  
18 was produced or processed for sale to, or use by, the De-  
19 partment of Energy in a manner similar to the entities  
20 listed in section 103(1) of this title.

21 (b) Additional criteria by which a claimant may es-  
22 tablish the existence of a covered illness, as defined in sec-  
23 tion 103(4) (A) or (B), may be specified in regulations  
24 issued by the Secretary, after consultation with the agency  
25 that contracts to administer this title.



1 **SEC. 105. ADMINISTRATION.**

2 (a) The Secretary shall administer this title and may  
3 enter into an agreement with another agency of the United  
4 States to utilize its services and facilities for the adminis-  
5 tration of this title, and to compensate them for such use.  
6 An agency of the United States may enter into a reimburs-  
7 able agreement with the Secretary for the administration  
8 of this title. The Secretary may delegate to any officer  
9 or employee, or to any agency of the United States, all  
10 powers and duties necessary for carrying out the purposes  
11 of this title.

12 (b) To assist and facilitate administration of this  
13 title, the Secretary shall—

14 (1) ensure the ready availability, in paper or  
15 electronic format or in both formats, of forms nec-  
16 essary for making claims and providing information  
17 under this title, and

18 (2) provide assistance to employees in connec-  
19 tion with this title.

20 (c) Upon a notification that a claimant has made a  
21 claim for benefits under this title, the Secretary shall pro-  
22 vide information concerning the claim to the officers or  
23 employees with delegated responsibility for administering  
24 this title.

25 (d) The Secretary may require a beryllium vendor to  
26 provide information concerning a claim filed under this

1 title to the officers or employees with delegated responsi-  
2 bility for administering this title.

3 **SEC. 106. EXPOSURE TO BERYLLIUM IN THE PERFORM-**  
4 **ANCE OF DUTY.**

5 (a) In the absence of substantial evidence to the con-  
6 trary, a covered employee, as defined in section 103(3) (A)  
7 or (C) of this title, shall be determined to have been ex-  
8 posed to beryllium in the performance of duty for the pur-  
9 poses of this title if, and only if, the covered employee was  
10 employed at a Department of Energy facility, or was  
11 present at the facility or at a facility owned or operated  
12 by a beryllium vendor, because of employment by the  
13 United States or a contractor or subcontractor of the De-  
14 partment of Energy, for any period of time, during a time  
15 period when beryllium dust particles or vapor may have  
16 been present at that facility.

17 (b) In order to be determined to have been exposed  
18 to beryllium in the performance of duty for the purposes  
19 of this title, a covered employee, as defined by section  
20 103(3)(B) of this title, must establish by substantial evi-  
21 dence that he or she may have been exposed to dust par-  
22 ticles or vapor of beryllium that was produced or processed  
23 for sale to, or use by, the Department of Energy.

1 **SEC. 107. COMPENSATION FOR DISABILITY OR DEATH,**  
2 **MEDICAL SERVICES, AND VOCATIONAL REHA-**  
3 **BILITATION.**

4 (a) Except as otherwise provided in this title, in ac-  
5 cordance with the provisions of the following sections, and  
6 subject to the availability of funds in the Energy Employ-  
7 ees' Compensation Fund, the United States is authorized  
8 to—

9 (1) pay the compensation specified in sections  
10 8105–8110, 8111(a), 8112–13, 8115, 8117, 8133–  
11 8135, and 8146a (a) and (b) of title 5, United  
12 States Code, for the disability or death from a cov-  
13 ered illness, of a covered employee who was exposed  
14 to beryllium while in the performance of duty as de-  
15 termined in accordance with section 106 of this title;

16 (2) furnish the services and other benefits spec-  
17 ified in section 8103 of title 5, United States Code,  
18 to a covered employee who sustains a covered illness  
19 as a result of exposure to beryllium while in the per-  
20 formance of duty as determined in accordance with  
21 section 106 of this title; and

22 (3) direct a permanently disabled individual  
23 whose disability is compensable under this title to  
24 undergo vocational rehabilitation and shall provide  
25 for furnishing vocational rehabilitation services pur-

1           suant to the provisions of sections 8104 and 8111(b)  
2           of title 5, United States Code  
3 unless the covered illness or death was caused by one of  
4 the circumstances set forth in subsections (a)(1)–(3) of  
5 section 8102 of title 5, United States Code.

6           (b) All compensation under this title shall be paid  
7 from the Energy Employees’ Beryllium Compensation  
8 Fund and shall be limited to the amounts available in the  
9 Fund.

10          (c) No payment of compensation may be made under  
11 this title for any period prior to the effective date of this  
12 title, except for the retroactive compensation specified in  
13 section 111 of this title.

14 **SEC. 108. COMPUTATION OF PAY.**

15          (a) Except as otherwise provided by this title or by  
16 regulation, computation of pay under this title shall be de-  
17 termined in accordance with section 8114 of title 5,  
18 United States Code.

19          (b) If either of the methods of determining the aver-  
20 age annual earnings specified in section 8114(d) (1) and  
21 (2) of title 5, United States Code, cannot be applied rea-  
22 sonably and fairly, the average annual earnings are a sum  
23 that reasonably represents the annual earning capacity of  
24 the covered employee in the employment in which the em-  
25 ployee was working at the time of injury having regard

1 to the previous earnings of the employee in similar employ-  
2 ment, and of other employees of the same employer in the  
3 same or most similar class working in the same or most  
4 similar employment in the same or neighboring location,  
5 other previous employment of the employee, or other rel-  
6 evant factors. However, the average annual earnings may  
7 not be less than 150 times the average daily wage the cov-  
8 ered employee earned in the employment during the days  
9 employed within 1 year immediately preceding the time  
10 of injury.

11 **SEC. 109. LIMITATIONS ON RECEIVING COMPENSATION.**

12 (a) While a covered employee as defined in section  
13 103(3)(C) is receiving compensation under this title, or  
14 if the covered employee has been paid a lump sum in com-  
15 mutation of installment payments until the expiration of  
16 the period during which the installment payments would  
17 have continued, the covered employee may not receive sal-  
18 ary, pay, or remuneration of any type from the United  
19 States, except—

- 20 (1) in return for service actually performed;
- 21 (2) pension for service in the Army, Navy, or  
22 Air Force;
- 23 (3) other benefits administered by the Depart-  
24 ment of Veterans Affairs unless such benefits are

1 payable for the same covered illness or the same  
2 death; and

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

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

12 (b) An individual eligible to receive benefits under  
13 this title because of a covered illness, or because of the  
14 death of a covered employee as defined in section  
15 103(3)(C), who also is entitled to receive from the United  
16 States under a provision of statute other than this title  
17 payments or benefits for that covered illness or death (ex-  
18 cept proceeds of an insurance policy), because of service  
19 by the covered employee (or in the case of death, by the  
20 deceased) as an employee or in the armed forces, shall  
21 elect which benefits to receive. The individual shall make  
22 the election within the time allowed by the Secretary. The  
23 election when made is irrevocable, except as otherwise pro-  
24 vided by statute.

1           (c) While a covered employee is receiving compensa-  
2 tion under this title, or if the covered employee has been  
3 paid a lump sum in commutation of installment payments  
4 until the expiration of the period during which the install-  
5 ment payments would have continued, the covered em-  
6 ployee may not receive payment of any benefits under any  
7 other Federal workers' compensation system for the same  
8 covered illness or the same death. Such an individual shall  
9 elect which benefits to receive. The individual shall make  
10 the election within the time allowed by the Secretary. The  
11 election when made is irrevocable.

12           (d) An individual eligible to receive benefits under  
13 this title because of a covered illness or death of a covered  
14 employee who is also entitled to receive benefits because  
15 of the covered illness or death of the covered employee  
16 from a state workers' compensation system shall elect  
17 which benefits to receive, unless:

18                   (1) at the time of injury workers' compensation  
19 coverage for the covered employee was secured by a  
20 policy or contract of insurance; and

21                   (2) the Secretary waives the requirement to  
22 make such an election.

23           (e) An individual required to make the election speci-  
24 fied in subsection (d) of this section shall make the elec-

1 tion within the time allowed by the Secretary. The election  
2 when made is irrevocable.

3 (f) A widow or widower who is eligible for benefits  
4 under this title derived from more than one husband or  
5 wife shall elect one benefit to be utilized.

6 **SEC. 110. COORDINATION OF BENEFITS.**

7 (a) A claimant, except as specified in subsection (b)  
8 of this section, awarded benefits under this title as a result  
9 of a covered illness or death of a covered employee who  
10 has received benefits because of the covered illness or  
11 death from any other state or federal workers' compensa-  
12 tion system and who has elected benefits under this title  
13 pursuant to section 109 (c) or (d) of this title shall receive  
14 compensation as specified in this title for the covered ill-  
15 ness or death, reduced by the amount of any workers'  
16 compensation benefits, that the claimant has received or  
17 will receive on account of the covered illness or death  
18 under any state or federal workers' compensation system,  
19 after deducting the reasonable costs, as determined by the  
20 Secretary, of obtaining such benefits.

21 (b) A claimant awarded benefits under this title as  
22 a result of a covered illness or death of a covered employee  
23 who has received benefits from a state workers' compensa-  
24 tion system because of the covered illness or death and  
25 who has received a waiver, pursuant to section 109(d)(2)



1 of this title, of the requirement to elect between benefits  
2 under this title and benefits under a state workers' com-  
3 pensation system shall receive compensation as specified  
4 in this title for the covered illness or death, reduced by  
5 eighty percent of the net amount of any workers' com-  
6 pensation benefits that the claimant has received or will  
7 receive on account of the covered illness or death under  
8 a state workers' compensation system, after deducting the  
9 reasonable costs, as determined by the Secretary, of ob-  
10 taining such benefits.

11 **SEC. 111. RETROACTIVE COMPENSATION.**

12 (a) A covered employee, who was exposed to beryllium  
13 in the performance of duty, as determined in accordance  
14 with section 106 of this title, and who, in addition—

15 (1) was diagnosed, prior to October 1, 1999, as  
16 having a beryllium-related pulmonary condition,  
17 whether or not based upon the criteria necessary to  
18 establish the existence of a covered illness under sec-  
19 tion 103(4) of this title, that was determined, either  
20 contemporaneously or at any time later, to be con-  
21 sistent with Chronic Beryllium Disease, as defined  
22 in section 103(4)(B); and

23 (2) demonstrates the existence of a beryllium-  
24 related pulmonary condition, and its diagnosis, by  
25 medical documentation created during the covered

1 employee's lifetime or at the time of death or au-  
2 topsy,  
3 may elect to receive retroactive compensation in the  
4 amount of \$100,000, in lieu of any other compensation  
5 to which the covered employee or the employee's survivors  
6 might otherwise be awarded under this title.

7 (b) If a covered employee who would have been eligi-  
8 ble to make the election provided by this section dies be-  
9 fore the effective date of this title, or before making the  
10 election, whether or not the death is the result of a beryl-  
11 lium-related condition, the employee's survivor or sur-  
12 vivors may make the election to receive retroactive com-  
13 pensation in the amount of \$100,000 in lieu of any other  
14 compensation that either the covered employee or the em-  
15 ployee's survivors might otherwise have been awarded  
16 under this title. The right to make an election pursuant  
17 to this section shall be afforded to survivors in the order  
18 of precedence set forth in section 8109 of title 5, United  
19 States Code.

20 (c) The election to receive retroactive compensation  
21 in lieu of other compensation under this statute shall be  
22 made within 30 days after the date of a decision deter-  
23 mining an award of compensation for total disability or  
24 partial disability under this title or the date that the Sec-  
25 retary informs the employee or the employee's survivor of

1 the decision to make such an election, whichever is later,  
2 unless the time is extended. The election when made by  
3 a covered employee or survivor is irrevocable and binding  
4 on all survivors.

5 (d) When a covered employee, or the employee's sur-  
6 vivor, has made an election to receive retroactive com-  
7 pensation pursuant to this section, no other payment of  
8 compensation under this title may be made on account of  
9 the same or any other covered illness or beryllium-related  
10 pulmonary condition of that employee.

11 (e) A determination that a covered employee or a sur-  
12 vivor of a covered employee has established a beryllium-  
13 related pulmonary condition, pursuant to subsection (a)  
14 of this section, does not constitute a determination that  
15 the covered employee, or a survivor of the covered em-  
16 ployee, has established the existence of a covered illness.

17 (f) The retroactive compensation payable under this  
18 section shall not be subject to the cost-of-living adjustment  
19 set forth in section 8146a(a) of title 5, United States  
20 Code.

21 **SEC. 112. EXCLUSIVITY OF REMEDY AGAINST THE UNITED**  
22 **STATES, CONTRACTORS, AND SUBCONTRAC-**  
23 **TORS.**

24 (a) The liability of the United States or an instru-  
25 mentality of the United States under this title with respect

1 to a covered illness, beryllium-related pulmonary condi-  
2 tion, or death of a covered employee is exclusive and in-  
3 stead of all other liability—

4 (1) of—

5 (A) the United States;

6 (B) the instrumentality;

7 (C) a contractor that contracted with the  
8 Department of Energy to provide management  
9 and operation, management and integration, or  
10 environmental remediation of a Department of  
11 Energy facility;

12 (D) a subcontractor that provided services,  
13 including construction, at a Department of En-  
14 ergy facility; and

15 (E) an employee, agent, or assign of an en-  
16 tity specified in subparagraphs (A)–(D)—

17 (2) to—

18 (A) the covered employee;

19 (B) the covered employee’s legal represent-  
20 ative, spouse, dependents, survivors, and next of  
21 kin, and

22 (C) any other person, including any third  
23 party as to whom a covered employee has a  
24 cause of action relating to the covered illness or  
25 death, otherwise entitled to recover damages

1 from the United States, the instrumentality, the  
2 contractor, the subcontractor, or the employee,  
3 agent, or assign of one of them,  
4 because of the covered illness, beryllium-related pulmonary  
5 condition, or death in any proceeding or action including  
6 a direct judicial proceeding, a civil action, a proceeding  
7 in admiralty, or a proceeding under a tort liability statute  
8 or the common law.

9 (b) This section applies to all cases in which a final  
10 judgment that is not subject to any further judicial review  
11 has not been entered on or before the date of enactment  
12 of this title.

13 (c) This section does not apply to an administrative  
14 or judicial proceeding under a state or federal workers'  
15 compensation statute subject to sections 109 and 110 of  
16 this title.

17 **SEC. 113. ELECTION OF REMEDY AGAINST BERYLLIUM VEN-**  
18 **DORS.**

19 (a) If an individual elects to accept payment under  
20 this title with respect to a covered illness, beryllium-re-  
21 lated pulmonary condition, or death of a covered employee,  
22 that acceptance of payment shall be in full settlement of  
23 all claims—

24 (1) against—

25 (A) a beryllium vendor, and

1 (B) an employee, agent, or assign of a be-  
2 ryllium vendor;

3 (2) by—

4 (A) that individual;

5 (B) that individual's legal representative,  
6 spouse, dependents, survivors, and next of kin;  
7 and

8 (C) any other person, including any third  
9 party as to whom a covered employee has a  
10 cause of action relating to the covered illness or  
11 death, otherwise entitled to recover damages  
12 from the beryllium vendor or the employee,  
13 agent, or assign of the beryllium vendor,  
14 that arise out of the covered illness, beryllium-related pul-  
15 monary condition, or death in any proceeding or action  
16 including a direct judicial proceeding, a civil action, a pro-  
17 ceeding in admiralty, or proceeding under a tort liability  
18 statute or the common law.

19 (b) This section does not apply to an administrative  
20 or judicial proceeding under a state or federal workers'  
21 compensation statute subject to sections 109 and 110 of  
22 this title.

1 **SEC. 114. CLAIM.**

2 A claim for compensation under this title shall be  
3 made in the manner specified in section 8121 of title 5,  
4 United States Code.

5 **SEC. 115. TIME LIMITATION ON FILING A CLAIM.**

6 (a) A claim for compensation under this title must  
7 be filed within the later of—

8 (1) seven years after the effective date of this  
9 title, or

10 (2) seven years after the date the claimant first  
11 becomes aware of—

12 (A) a diagnosis of a covered illness or a be-  
13 ryllium-related pulmonary condition, and

14 (B) the causal connection of that illness or  
15 condition to exposure to beryllium in the per-  
16 formance of duty as a covered employee.

17 (b) A new limitations period commences with each  
18 later diagnosis of a covered illness or beryllium-related  
19 pulmonary condition different from that previously diag-  
20 nosed.

21 **SEC. 116. REVIEW OF AWARD.**

22 The action of the Secretary, or his or her designee,  
23 including an agency that provides services in the adminis-  
24 tration of this title pursuant to an agreement, in allowing  
25 or denying a payment under this title is—

1           (1) final and conclusive for all purposes and  
2           with respect to all questions of law and fact, and

3           (2) not subject to review by another official of  
4           the United States or by a court by mandamus or  
5           otherwise.

6 **SEC. 117. ASSIGNMENT OF CLAIM.**

7           An assignment of a claim for compensation under  
8           this title is void. Compensation and claims for compensa-  
9           tion are exempt from claims of creditors.

10 **SEC. 118. ADJUDICATION.**

11          (a) A claimant may obtain reconsideration of a deci-  
12          sion awarding or denying coverage under this title after  
13          the promulgation by the Secretary, pursuant to section  
14          104 of this title, of new criteria for establishing coverage  
15          of a covered illness by submitting evidence that is relevant  
16          and pertinent to the new criteria.

17          (b) Except to the extent specified in this title, the  
18          adjudication of issues under this title shall be conducted  
19          in accordance with the provisions of sections 8123–8127,  
20          8128(a), and 8129 of title 5, United States Code.

21 **SEC. 119. SUBROGATION OF THE UNITED STATES.**

22          (a) If a covered illness, death, or beryllium-related  
23          pulmonary condition for which compensation is payable  
24          under this title is caused under circumstances creating a  
25          legal liability in a person other than the United States



1 to pay damages, sections 8131 and 8132 of title 5, United  
2 States Code, shall apply, except to the extent specified in  
3 this statute.

4 (b) For purposes of this section, references in sec-  
5 tions 8131 and 8132 of title 5, United States Code, to  
6 the Employees' Compensation Fund shall mean the En-  
7 ergy Employees' Beryllium Compensation Fund.

8 (c) For the purposes of this title, the provision in sec-  
9 tion 8131 of title 5, United States Code, that provides  
10 that an employee required to appear as a party or witness  
11 in the prosecution of an action described in that section  
12 is in an active duty status while so engaged shall only  
13 apply to a covered employee, as defined in section  
14 103(3)(C) of this title.

15 **SEC. 120. ENERGY EMPLOYEES' BERYLLIUM COMPENSA-**  
16 **TION FUND.**

17 (a) To carry out this title, there is hereby created  
18 in the Treasury of the United States the Energy Employ-  
19 ees' Beryllium Compensation Fund which shall consist  
20 of—

- 21 (1) sums that are appropriated for it,  
22 (2) amounts that are transferred to it from  
23 other Department of Energy accounts pursuant to  
24 section 125(a), and

1           (3) amounts that would otherwise accrue to it  
2           under this title.

3           (b) Amounts in the Energy Employees' Beryllium  
4 Compensation Fund are authorized to be used for the pay-  
5 ment of compensation and other benefits and expenses au-  
6 thorized by this title and for payment of all expenses in-  
7 curred in administering this title. Such funds are author-  
8 ized to be appropriated to remain available until expended.

9           (c)(1) Within 45 days of the end of every quarter of  
10 every fiscal year, the Secretary shall determine the total  
11 costs of benefits, administrative expenses, and other pay-  
12 ments made from the Energy Employees' Beryllium Com-  
13 pensation Fund during the quarter just ended; the end-  
14 of-quarter balance in the Fund; and the amount antici-  
15 pated to be needed during the immediately succeeding two  
16 quarters for the payment of benefits and administrative  
17 expenses under this title.

18           (2) Each cost determination made in the last quarter  
19 of the fiscal year under paragraph (1) shall show, in addi-  
20 tion, the total costs of benefits and expenses and other  
21 payments from the Fund during the preceding twelve-  
22 month expense period and an estimate of the expenditures  
23 from the Energy Employees' Beryllium Compensation  
24 Fund for the payment of benefits and expenses and other

1 payments for each of the immediately succeeding two fis-  
2 cal years.

3 **SEC. 121. FORFEITURE OF BENEFITS BY CONVICTED FEL-**  
4 **ONS.**

5 (a) Any individual convicted of a violation of section  
6 1920 of title 18, or any other federal or state criminal  
7 statute relating to fraud in the application for or receipt  
8 of any benefit under this title or under any other federal  
9 or state workers' compensation Act, shall forfeit (as of the  
10 date of such conviction) any benefit such individual would  
11 otherwise be awarded to under this title for any covered  
12 illness for which the time of injury was on or before the  
13 date of such conviction. Such forfeiture shall be in addi-  
14 tion to any action the Secretary may take pursuant to the  
15 provisions of sections 8106 or 8129 of title 5, United  
16 States Code.

17 (b)(1) Notwithstanding any other provision of law  
18 (except as provided under paragraph (3)), no benefits  
19 under this title shall be paid or provided to any individual  
20 during any period during which such individual is confined  
21 in a jail, prison, or other penal institution or correctional  
22 facility, pursuant to that individual's conviction of an of-  
23 fense that constituted a felony under applicable law.

1       (2) Such an individual shall not receive the benefits  
2 forfeited during the period of incarceration under para-  
3 graph (1), after the period of incarceration ends.

4       (3) If an individual has one or more dependents as  
5 defined under section 8110(a) of title 5, United States  
6 Code, the Secretary may, during the period of incarcer-  
7 ation, pay to these dependents a percentage of the benefits  
8 that would have been payable to such individual computed  
9 according to the percentages set forth in section 8133(a)  
10 (1) through (5) of title 5, United States Code.

11       (c) Notwithstanding the provision of section 552a of  
12 title 5, United States Code, or any other provision of Fed-  
13 eral or State law, any agency of the United States Govern-  
14 ment or of any State (or political subdivision thereof) shall  
15 make available to the Secretary, upon written request, the  
16 names and Social Security account numbers of individuals  
17 who are confined in a jail, prison, or other penal institu-  
18 tion or correctional facility under the jurisdiction of that  
19 agency, pursuant to the individuals' conviction of an of-  
20 fense that constituted a felony under applicable law, which  
21 the Secretary may require to carry out the provisions of  
22 this section.

1 **SEC. 122. REGULATIONS—BERYLLIUM COMPENSATION AP-**  
2 **PEALS PANEL.**

3 The Secretary may prescribe regulations necessary  
4 for the administration and enforcement of this title includ-  
5 ing regulations for the conduct of hearings under this title.  
6 The regulations shall provide for a Beryllium Compensa-  
7 tion Appeals Panel of three individuals with authority to  
8 hear and, subject to applicable law and the regulations of  
9 the Secretary, make final decisions on appeals taken from  
10 determinations and awards with respect to claims of cov-  
11 ered employees. Members of the Panel may be appointed  
12 by another agency of the United States to provide these  
13 appellate decision-making services pursuant to agreement  
14 with the Secretary.

15 **SEC. 123. CIVIL SERVICE RETENTION RIGHTS.**

16 In the event that a covered employee, as defined in  
17 section 103(3)(C) of this title, resumes employment with  
18 the Federal Government, the individual shall be entitled  
19 to the rights set forth in section 8151 of title 5, United  
20 States Code.

21 **SEC. 124. ANNUAL REPORT.**

22 The Secretary shall, at the end of each fiscal year,  
23 prepare a report with respect to the administration of this  
24 title.

1 **SEC. 125. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) There is hereby authorized to be appropriated to  
3 the Department of Energy for deposit into the Energy  
4 Employees' Beryllium Compensation Fund such sums as  
5 are necessary to carry out the purposes of this Act. In  
6 addition, the Department is authorized, to the extent pro-  
7 vided in advance in appropriations Acts, to transfer  
8 amounts to the Fund from other Department of Energy  
9 appropriations accounts, to be merged with amounts in the  
10 Fund and available for the same purposes.

11 (b) In any fiscal year, the Secretary shall limit the  
12 amount of the compensation and benefits payments to an  
13 amount not in excess of the sum of the appropriations to  
14 the Fund and amounts made available by transfer to the  
15 Fund. Notwithstanding any other provision of this Act,  
16 if in any fiscal year the Secretary finds that estimates of  
17 amounts contained in reports pursuant to section  
18 120(c)(1) for the payment of compensation, other benefits,  
19 and administrative activities authorized by this Act will  
20 exceed the amounts in the Fund, the Secretary is required  
21 to reduce compensation and benefits payments to the ex-  
22 tent necessary to make up any amounts by which benefits  
23 and other costs authorized by this Act exceed the amount  
24 in the Fund calculated on a fiscal year basis.

25 (c) The Secretary shall promulgate regulations to im-  
26 plement this section within 180 days of enactment.

1 **SEC. 126. CONSTRUCTION.**

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

5 **SEC. 127. CONFORMING AMENDMENTS.**

6       (a) Section 1920 of title 18 is amended by inserting  
7 in the title “or Energy employee’s” after “Federal employ-  
8 ee’s” and by inserting “or the Energy Employees’ Beryl-  
9 lium Compensation Act” after “title 5”.

10       (b) Section 1921 of title 18 is amended by inserting  
11 in the title “or Energy employees’ ” after “Federal em-  
12 ployees’ ” and by inserting “or the Energy Employees’ Be-  
13 ryllium Compensation Act” after “title 5”.

14       (c) Section 1922 of title 18 is amended by—

15           (1) inserting in the title “or Energy employ-  
16 ees’ ” after “Federal employees’ ”;

17           (2) inserting “(a)” before “Whoever,”;

18           (3) striking “, neglects,” after “willfully fails”;

19       and

20           (4) inserting a new subsection as follows:

21       “(b) Whoever is charged with the responsibility for  
22 providing information pursuant to sections 105(e) and  
23 105(d) of the Energy Employees’ Beryllium Compensation  
24 Act and who willfully fails or refuses to provide this infor-  
25 mation, or knowingly provides false information, or in-  
26 duces, compels, or directs an injured employee to forego

1 filing of any claim for compensation or other benefits pro-  
2 vided under the Energy Employees' Beryllium Compensa-  
3 tion Act or any extension or applicant thereof, or willfully  
4 retains any notice, report, claim, or paper which is re-  
5 quired to be filed under that Act or any extension or appli-  
6 cation thereof, or regulations prescribed thereunder, shall  
7 be fined under this title or imprisoned not more than one  
8 year, or both."

9 **SEC. 128. EFFECTIVE DATE.**

10 This title is effective upon enactment, and applies to  
11 all claims, civil actions, and proceedings pending on, or  
12 filed on or after, the date of enactment of this title.

13 **TITLE II—ENERGY EMPLOYEES**  
14 **PILOT PROJECT ACT**

15 **SEC. 201. SHORT TITLE.**

16 This title may be cited as the "Energy Employees  
17 Pilot Project Act."

18 **SEC. 202. PILOT PROJECT.**

19 The Secretary of Energy shall conduct a pilot pro-  
20 gram to examine the possible relationship between work-  
21 place exposures to radiation, hazardous materials, or both,  
22 and occupational illness or other adverse health conditions.

23 **SEC. 203. PHYSICIANS PANEL.**

24 Under section 202, a panel of physicians who spe-  
25 cialize in diseases and health conditions related to occupa-



1 tional exposure to radiation, hazardous materials, or both  
2 selected by the contractor that managed the Department  
3 of Energy's East Tennessee Technology Park (referred to  
4 in this title as the "facility") shall prepare a report con-  
5 cerning medical examinations of not more than 55 current  
6 and former employees of the facility. The report shall ad-  
7 dress whether each of these employees may have sustained  
8 any illness or other adverse health condition as a result  
9 of their employment at the facility.

10 **SEC. 204. SECRETARY OF ENERGY FINDING.**

11       The contractor shall provide the report of the panel  
12 completed under section 203 to the Secretary of Energy.  
13 The Secretary of Energy shall make a finding as to wheth-  
14 er an employee covered by the report sustained an illness  
15 or other adverse health condition as a result of exposure  
16 to radiation, hazardous materials, or both as part of em-  
17 ployment at the facility.

18 **SEC. 205. AWARD.**

19       If the Secretary of Energy makes a positive finding  
20 under section 204 regarding an employee, the Secretary  
21 may make an award to the employee of \$100,000. If the  
22 employee is eligible for an award under the Energy Em-  
23 ployees' Beryllium Compensation Act, the employee may  
24 elect to receive payment under this title in place of com-  
25 pensation under that Act.

1 **SEC. 206. ELECTION.**

2       The election to receive an award under section 205  
3 of this title, in lieu of compensation under the Energy Em-  
4 ployees' Beryllium Compensation Act, shall be made with-  
5 in 30 days after the date of a decision by the Secretary  
6 of Energy determining to award compensation for total  
7 disability or partial disability under the Energy Employ-  
8 ees' Beryllium Compensation Act or the date that the Sec-  
9 retary of Energy informs the employee of the decision to  
10 make such an election, whichever is later, unless the time  
11 is extended by the Secretary of Energy. This election when  
12 made is irrevocable and binding on all survivors.

13 **SEC. 207. SURVIVOR'S ELECTION.**

14       If an employee who would have been eligible to make  
15 the election provided by this section dies before making  
16 this election, a survivor of the employee may make the  
17 election to receive an award pursuant to section 206 of  
18 this title, in lieu of any compensation to which either the  
19 employee or the employee's survivor might otherwise have  
20 been awarded under the Energy Employees' Beryllium  
21 Compensation Act. The right to make an election pursu-  
22 ant to this section shall be afforded to survivors in the  
23 order of precedence set forth in section 8109 of title 5,  
24 United States Code, as amended, and as may be amended  
25 from time to time.

1 **SEC. 208. STATUS OF AWARD.**

2 The award specified in section 205 of this title shall  
3 not be considered income for purposes of the Internal Rev-  
4 enue Code.

5 **SEC. 209. PAYMENT IN FULL SETTLEMENT OF CLAIMS**  
6 **AGAINST THE UNITED STATES, CONTRAC-**  
7 **TORS, AND SUBCONTRACTORS.**

8 (a) If an individual elects to accept payment under  
9 this title, that acceptance of payment shall be in full settle-  
10 ment of all claims—

11 (1) against—

12 (A) the United States;

13 (B) the Department of Energy;

14 (C) a contractor that contracted with the  
15 Department of Energy to provide management  
16 and operation, management and integration, or  
17 environmental remediation at the facility;

18 (D) a subcontractor that provided services,  
19 including construction, at the facility; and

20 (E) an employee, agent, or assign of an en-  
21 tity or individual specified in subparagraphs

22 (A)–(D);

23 (2) by—

24 (A) that individual;

1 (B) that individual's legal representative,  
2 spouse, dependents, survivors, the next of kin;  
3 and

4 (C) any other person, including any third  
5 party as to whom a covered employee has a  
6 cause of action relating to the covered illness or  
7 death, otherwise entitled to recover damages  
8 from an entity or individual specified in sub-  
9 section (1),

10 that arise out of the condition for which the payment was  
11 made, in any proceeding or action including a direct judi-  
12 cial proceeding, a civil action, a proceeding in admiralty,  
13 or an administrative or judicial proceeding under a tort  
14 liability statute, the common law, or another federal work-  
15 ers' compensation statute.

16 (b) This section does not apply to an administrative  
17 or judicial proceeding under a state workers' compensation  
18 statute.

19 (c) A claimant who is awarded benefits under this  
20 title for an illness or other adverse health condition and  
21 who has received any payment made under a final award  
22 or judgment or settlement on a claim, including a claim  
23 under any state or other federal workers' compensation  
24 system, because of the same illness or adverse health con-  
25 dition, shall receive compensation as specified in this title

1 for the illness or adverse health condition, reduced by the  
 2 amount of any such payment, excluding payments for  
 3 medical expenses under a workers' compensation system.

4 **SEC. 210. SUBROGATION.**

5       Upon making an award under this title, the United  
 6 States is subrogated for the amount of the award to a  
 7 right or claim that the employee to whom the award was  
 8 made may have against any person on account of the same  
 9 illness or adverse health condition that was the cause of  
 10 the award.

11 **SEC. 211. AUTHORIZATION OF APPROPRIATIONS.**

12       There are authorized to be appropriated such sums  
 13 as are necessary to carry out this title and these funds  
 14 shall remain available until expended. Authority under this  
 15 title to make payments is effective in any fiscal year only  
 16 to the extent, or in the amounts, provided in advance in  
 17 an appropriations Act.

18 **TITLE III—PADUCAH EMPLOYEES EXPOSURE COMPENSA-**  
 19 **EES EXPOSURE COMPENSA-**  
 20 **TION ACT**

21 **SEC. 301. SHORT TITLE.**

22       This title may be cited as the “Paducah Employees’  
 23 Exposure Compensation Act”.

24 **SEC. 302. DEFINITIONS.**

25       For purposes of this title—

1           (1) “Department of Energy” includes the pred-  
2           cessor agencies of the Department of Energy;

3           (2) “Paducah employee” means an individual  
4           employed at the Paducah, Kentucky, gaseous diffu-  
5           sion plant by—

6                   (A) the Department of Energy, or

7                   (B) an entity that contracted with the De-  
8           partment of Energy to provide management  
9           and operations, management and integration, or  
10          environmental remediation at the plant; and

11          (3) “specified disease” means—

12                   (A) leukemia (other than chronic  
13          lymphocytic leukemia), provided that the initial  
14          exposure occurred after the age of 20 and the  
15          onset of the disease was between two and 30  
16          years after the first exposure; and

17                   (B) the following diseases, provided onset  
18          was at least five years after first exposure:

19                           (i) multiple myeloma,

20                           (ii) lymphomas (other than Hodgkin’s  
21          disease), and

22                           (iii) primary cancer of the bone, lung  
23          (provided not a heavy smoker), thyroid  
24          (provided initial exposure occurred by the  
25          age of 20), male or female breast (provided

1 initial exposure occurred prior to age 40),  
2 esophagus (provided low alcohol consump-  
3 tion and not a heavy smoker), stomach  
4 (provided initial exposure occurred before  
5 age 30), pharynx (provided not a heavy  
6 smoker), small intestine, pancreas (pro-  
7 vided not a heavy smoker), bile ducts, gall  
8 bladder, or liver (except if cirrhosis or hep-  
9 atitis B is indicated).

10 **SEC. 303. PADUCAH EMPLOYEES' EXPOSURE COMPENSA-**  
11 **TION FUND.**

12 (a) **ESTABLISHMENT.**—There is established in the  
13 Treasury of the United States the Paducah Employees'  
14 Exposure Compensation Fund (referred to in this title as  
15 the "Fund").

16 (b) **PURPOSE.**—The amounts in the Fund are avail-  
17 able only for disbursement by the Attorney General under  
18 section 305.

19 (c) **TERMINATION.**—The Fund shall terminate 22  
20 years after the date of enactment of this title. If all of  
21 the amounts in the Fund have not been expended by the  
22 end of that 22-year period, amounts remaining in the  
23 Fund shall be deposited in the miscellaneous receipts ac-  
24 count in the Treasury.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to the Fund such sums  
3 as may be necessary to carry out the purposes of this title.  
4 Amounts appropriated to the Fund remain available until  
5 expended or until deposited in the Treasury under sub-  
6 section (d).

7 (e) AUTHORITY.—Authority under this title to enter  
8 into contracts or to make payments is effective in any fis-  
9 cal year only to the extent, or in the amounts, provided  
10 in advance in an appropriations Act.

11 **SEC. 304. ELIGIBLE EMPLOYEES.**

12 A Paducah employee who—

13 (1) was employed at the Paducah, Kentucky,  
14 gaseous diffusion plant for at least one year during  
15 the period beginning on January 1, 1953, and end-  
16 ing on February 1, 1992;

17 (2) during that period—

18 (A) was monitored through the use of do-  
19 simetry badges for exposure at the plant of the  
20 external parts of the employee's body to radi-  
21 ation from gamma rays, or

22 (B) worked in a job that, as determined by  
23 regulation, led to exposure to radioactive con-  
24 taminants, including plutonium contaminants;  
25 and



1           (3) submits written medical documentation as  
2           to having contracted a specified disease after begin-  
3           ning employment under paragraph (1) and after be-  
4           ginning being monitored or beginning work at a job  
5           as specified under paragraph (2),  
6 is authorized to receive \$100,000, if the claim for payment  
7 is filed with the Attorney General by or on behalf of the  
8 Paducah employee and the Attorney General determines,  
9 in accordance with section 305, that the claim meets the  
10 requirements of this title.

11 **SEC. 305. DETERMINATION AND PAYMENT OF CLAIMS.**

12           (a) **FILING PROCEDURES.**—The Attorney General  
13 shall establish procedures under which an individual may  
14 submit a claim for payment under this title.

15           (b) **DETERMINATION.**—

16           (1) In accordance with this subsection, the At-  
17 torney General determines whether each claim filed  
18 under this title meets the requirements of this title.

19           (2) The Attorney General shall—

20           (A) in consultation with the Surgeon Gen-  
21 eral, establish guidelines for determining what  
22 constitutes written medical documentation,  
23 under section 304(3), that an individual con-  
24 tracted a specified disease; and

1 (B) in consultation with the Secretary of  
2 Energy, establish guidelines for making deter-  
3 minations of employment under section 304(1)  
4 and exposure under section 304(2).

5 (3) The Attorney General may consult with the  
6 Surgeon General and the Secretary of Energy in  
7 making determinations of eligibility for compensa-  
8 tion.

9 (c) PAYMENT.—

10 (1) The Attorney General is authorized to pay,  
11 from amounts available in the Fund, claims filed  
12 under this title that the Attorney General deter-  
13 mines meet the requirements of this title.

14 (2) Upon payment of a claim under this sec-  
15 tion, the United States is subrogated for the amount  
16 of the payment to a right or claim that the indi-  
17 vidual to whom the payment was made may have  
18 against any person on account of a specified disease  
19 contracted following employment and exposure as set  
20 out in section 304.

21 (3)(A) In the case of a Paducah employee who  
22 is deceased at the time of payment under this sec-  
23 tion, the payment may be made only as follows:

24 (i) If the Paducah employee is survived by  
25 a spouse who is living at the time of payment,

1 the payment shall be made to the surviving  
2 spouse.

3 (ii) If there is no spouse living at the time  
4 of payment, the payment shall be made in equal  
5 shares to all children of the Paducah employee  
6 who are living at the time of payment.

7 (iii) If there are no spouse or children liv-  
8 ing at the time of payment, the payment shall  
9 be made in equal shares to the parents of the  
10 Paducah employee who are living at the time of  
11 payment.

12 (iv) If there are no spouse, children, or  
13 parents living at the time of payment, the pay-  
14 ment shall be made in equal shares to all  
15 grandchildren of the Paducah employee who are  
16 living at the time of payment.

17 (v) If there are no spouse, children, par-  
18 ents or grandchildren living at the time of pay-  
19 ment, the payment shall be made in equal  
20 shares to the grandparents of the Paducah em-  
21 ployee who are living at the time of payment.

22 (B) If a Paducah employee eligible for payment  
23 under this title dies before filing a claim under this  
24 title, a survivor of that employee who may receive

1 payment under subparagraph (A) may file a claim  
2 for payment under this title.

3 (C) For purposes of this paragraph—

4 (i) the “spouse” of a Paducah employee is  
5 a wife or husband of that employee who was  
6 married to that employee for a least one year  
7 immediately before the death of that employee;

8 (ii) a “child” includes a natural child, a  
9 stepchild in a regular parent-child relationship,  
10 and an adopted child;

11 (iii) a “parent” includes fathers and moth-  
12 ers through adoption;

13 (iv) a “grandchild” of a Paducah employee  
14 is a child of a child of that employee; and

15 (v) a “grandparent” of a Paducah em-  
16 ployee is a parent of a parent of that employee.

17 (d) ACTION ON CLAIM—

18 (1) The Attorney General shall complete the de-  
19 termination on each claim filed in accordance with  
20 the procedures established under subsection (a) not  
21 later than twelve months after the claim is so filed.

22 (2) The Attorney General may request from a  
23 claimant, or from an individual or entity on behalf  
24 of a claimant, additional information or documenta-  
25 tion necessary to complete the determination on the

1 claim in accordance with the procedures established  
2 under subsection (b). The period of time from the  
3 Attorney General's request for additional informa-  
4 tion or documentation until the time the information  
5 or documentation is provided, or the requested party  
6 informs the Attorney General the information or  
7 documentation cannot or will not be provided, is not  
8 counted toward the twelve month time-limit estab-  
9 lished under this subsection.

10 (e) PAYMENT IN FULL SETTLEMENT OF CLAIMS  
11 AGAINST THE UNITED STATES, CONTRACTORS, AND SUB-  
12 CONTRACTORS.—(1) If an individual elects to accept pay-  
13 ment under this title, that acceptance of payment shall  
14 be in full settlement of all claims—

15 (A) against—

16 (i) the United States;

17 (ii) the Department of Energy;

18 (iii) a contractor that contracted with the  
19 Department of Energy to provide management  
20 and operation, management and integration, or  
21 environmental remediation at the Paducah facil-  
22 ity;

23 (iv) a subcontractor that provided services,  
24 including construction, at the Paducah facility;  
25 and

1 (v) an employee, agent, or assign of an en-  
2 tity or individual specified in clauses (i)–(iv);

3 (B) by—

4 (i) that individual;

5 (ii) that individual’s legal representative,  
6 spouse, dependents, survivors, and next of kin;  
7 and

8 (iii) any other person, including any third  
9 party as to whom a covered employee has a  
10 cause of action relating to the covered illness or  
11 death, otherwise entitled to recover damages  
12 from an entity or individual specified in sub-  
13 paragraph (A),

14 that arise out of the illness for which the payment was  
15 made, in any proceeding or action including a direct judi-  
16 cial proceeding, a civil action, a proceeding in admiralty,  
17 or an administrative or judicial proceeding under a tort  
18 statute, the common law, or another Federal workers’  
19 compensation statute.

20 (2) This section shall not apply to an administrative  
21 or judicial proceeding under a state workers’ compensation  
22 statute.

23 (3) A claimant who is awarded benefits under this  
24 title for a specified illness and who has received any pay-  
25 ment made under a final award or judgment or settlement

1 on a claim, including a claim under any state or other  
2 Federal workers' compensation system, because of the  
3 same specified illness shall receive compensation as speci-  
4 fied in this title for the specified illness, reduced by the  
5 amount of any such payment, excluding payments for  
6 medical expenses under a workers' compensation system.

7 (4) An individual may receive no more than one pay-  
8 ment under this title. An individual may not receive com-  
9 pensation under this title and under the Radiation Expo-  
10 sure Compensation Act (42 U.S.C. 2210 note), or under  
11 the Radiation-Exposed Veterans Compensation Act (38  
12 U.S.C. 112(e)).

13 (f) COSTS OF ADMINISTERING THE ADJUDICA-  
14 TIONS.—

15 (1) Costs incurred by the Attorney General in  
16 carrying out this section shall not be paid from the  
17 Fund or set off against, or otherwise deducted from,  
18 a payment under this section to an individual.

19 (2) The Department of Energy shall reimburse  
20 the Department of Justice for the costs incurred by  
21 the Department of Justice in connection with estab-  
22 lishing and administering the program established  
23 by this title until the duties of the Attorney General  
24 terminate under subsection (g).

1 (g) TERMINATION OF ATTORNEY GENERAL DU-  
2 TIES.—The duties of the Attorney General under this sec-  
3 tion cease when the Fund terminates.

4 (h) PAYMENTS UNDER OTHER LAWS.—An amount  
5 paid to an individual under this section—

6 (1) shall not be subject to federal income tax  
7 under the internal revenue laws of the United  
8 States;

9 (2) shall not be included as income or resources  
10 for purposes of determining eligibility to receive ben-  
11 efits described in section 3803(c)(2)(C) of title 31,  
12 United States Code or the amount of those benefits;  
13 and

14 (3) shall not be subject to offset under section  
15 3701 et seq. of title 31, United States Code.

16 (i) REGULATORY AUTHORITY.—The Attorney Gen-  
17 eral may issue regulations to carry out this title.

18 (j) ISSUANCE OF REGULATIONS, GUIDELINES, AND  
19 PROCEDURES.—Regulations, guidelines, and procedures  
20 to carry out this title shall be issued not later than 270  
21 days after the date of enactment of this title.

22 (k) ADMINISTRATIVE APPEALS PROCEDURE AND JU-  
23 DICIAL REVIEW.—

24 (1) A decision denying a claim under this title  
25 may be appealed to an Appeals Officer designated by



1 the Attorney General. Before seeking judicial review  
2 of a decision denying a claim under this title, an in-  
3 dividual first must seek review by the designated Ap-  
4 peals Officer.

5 (2) If the designated Appeals Officer affirms  
6 the decision denying a claim, the individual whose  
7 denial of claim was affirmed on appeal may seek ju-  
8 dicial review in a district court of the United States.  
9 The court shall review the denial of claim based sole-  
10 ly on the administrative record and shall set aside  
11 the denial only if it is arbitrary, capricious, an abuse  
12 of discretion, or otherwise not in accordance with  
13 law.

14 **SEC. 306. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.**

15 CLAIMS.—A claim cognizable under this title is not  
16 assignable or transferable.

17 **SEC. 307. LIMITATIONS ON CLAIMS.**

18 A claim to which this title applies is barred unless  
19 the claim is filed within 20 years after the date of the  
20 enactment of this title.

21 **SEC. 308. ATTORNEY FEES.**

22 Notwithstanding any contract, the representative of  
23 an individual may not receive, of services rendered in con-  
24 nection with the claim of an individual under this title,  
25 more than 10 per centum of a payment made under this

1 title on the claim. A representative who violates this sec-  
2 tion shall be fined not more than \$5,000.

3 **SEC. 309. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF**  
4 **DAMAGES.**

5 A payment made under this title shall not be consid-  
6 ered as any form of compensation or reimbursement for  
7 a loss for purposes of imposing liability on the individual  
8 receiving the payment, on the basis of this receipt, to  
9 repay any insurance carrier for insurance payments. A  
10 payment under this title does not affect any claim against  
11 an insurance carrier with respect to insurance.

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