

Calendar No. 485

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
117-146 }

FEDERAL FIREFIGHTERS FAIRNESS
ACT OF 2021

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1116

TO AMEND CHAPTER 81 OF TITLE 5, UNITED STATES CODE,
TO CREATE A PRESUMPTION THAT A DISABILITY OR DEATH
OF A FEDERAL EMPLOYEE IN FIRE PROTECTION ACTIVITIES
CAUSED BY ANY OF CERTAIN DISEASES IS THE RESULT OF
THE PERFORMANCE OF SUCH EMPLOYEES DUTY, AND FOR
OTHER PURPOSES



SEPTEMBER 13, 2022.—Ordered to be printed

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FEDERAL FIREFIGHTERS FAIRNESS ACT OF 2021

SEPTEMBER 13, 2022.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1116]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1116) to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employees duty, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 1116, the *Federal Firefighters Fairness Act of 2022*, amends the eligibility for workers' compensation benefits under the Federal Employees' Compensation Act (FECA) for federal employees in fire protection activities by establishing a presumption of causation for certain specific illnesses and diseases associated with employment in firefighting. Under the bill, a federal firefighter with five years or more of accrued service may file worker compensation claims of disability or death due to a disease specified on a list of illnesses

and diseases established by the bill. Upon medical confirmation, the claim will then be approved under FECA, as long as there is not more than a ten-year latency period between the last date of service and the disease diagnosis. The Department of Labor (DOL), in consultation with the National Institute on Occupational Safety and Health (NIOSH), must periodically review this list to determine if updates are needed based on the latest scientific evidence.

II. BACKGROUND AND NEED FOR THE LEGISLATION

The Federal Employees Compensation Act established a workers' compensation program for federal employees.¹ The FECA program pays disability, survivors, and medical benefits to employees who are injured or become ill in the course of their federal employment and to survivors of employees killed on the job.² DOL administers the FECA program, and the costs of the benefits are paid by each employee's host agency.³

It can be challenging for individuals to make successful claims under FECA when they are diagnosed with illnesses or diseases with a long latency period, like cancers and lung and heart diseases. Except where presumptions are stipulated in law, the claimant must provide extensive evidence of each incident where they may have contracted their service-related disease.⁴ Experts estimate that fewer than 1 in 100 occupational cancer victims receives workers' compensation benefits.⁵ Federal firefighters are uniquely susceptible to the challenges of navigating the complex FECA process, given that they face both immediate safety risks posed by an active fire and the danger of longer term health conditions associated with their work.

Firefighters are routinely exposed to health hazards, including flame retardants and toxic substances from burning buildings.⁶ The primary route of toxic exposure during fires is through inhalation, but exposure can also occur from absorption through the skin.⁷ Although necessary, personal protective equipment (PPE) does not fully protect firefighters from these hazards. Firefighters may not always be wearing PPE during all phases of a fire response.⁸ Addi-

¹5 U.S.C. §8101 et seq.

²Department of Labor, Federal Employees' Compensation Program (www.dol.gov/agencies/owcp/FECA) (accessed July 7, 2022).

³Congressional Research Service, *The Federal Employees' Compensation Act (FECA): Workers' Compensation for Federal Employees* (R42107) (June 7, 2022).

⁴Department of Labor, Federal Employees' Compensation Act—Frequently Asked Questions (www.dol.gov/agencies/owcp/FECA/fec-faq) (accessed July 7, 2022).

⁵American Public Health Association, *The Critical Need to Reform Workers' Compensation* (Policy Statement No. 20174) (Nov. 7, 2017) (www.apha.org/Policies-and-Advocacy/Public-Health-Policy-Statements/Policy-Database/2018/01/18/The-Critical-Need-to-Reform-Workers-Compensation) (accessed July 7, 2022).

⁶Beverly Shen et al., *Organophosphate Flame Retardants in Dust Collected from United States Fire Stations*, Environment International (Dec. 13, 2017); B.M. Alexander and C. Stuart Baxter, *Flame Retardant contamination of firefighter personal protective clothing-A potential health risk for firefighters*, Journal of Occupational and Environmental Hygiene (July 13, 2016); C.C. Austin et al., *Characterization of Volatile Organic Compounds in Smoke at Municipal Structural Fires*, Journal of Toxicology and Environmental Health (July 20, 2001); and W.T. Lowry et al., *Studies of Toxic Gas Production During Actual Structural Fires in the Dallas Area*, Journal of Forensic Sciences (Jan. 1985).

⁷Jennifer L.A. Keir et al., *Elevated Exposures to Polycyclic Aromatic Hydrocarbons and Other Organic Mutagens in Ottawa Firefighters Participating in Emergency, On-Shift Fire Suppression*, Environmental Science and Technology (Nov. 7, 2017).

⁸Michael A. Maglio et al., *Situational Pressures That Influence Firefighters' Decision Making About Personal Protective Equipment: A Qualitative Analysis*, American Journal of Health Behavior (Sept. 2016); D.M. Bolstad-Johnson et al., *Characterization of Firefighter Exposures During Fire Overhaul*, American Industrial Hygiene Association Journal (June 4, 2010).

tionally, a self-contained breathing apparatus may run out of air inside a burning environment, resulting in significant smoke inhalation.⁹ Furthermore, uniforms do not completely prevent dermal exposure.¹⁰ Because of these gaps in PPE, toxic chemicals can enter firefighters' bodies via their breath and skin.

Firefighters are exposed to smoke that contains more complex combustion products due to the increased number of synthetics in U.S. homes and businesses.¹¹ Many fire-related hazards are known to be cancer-causing chemicals, or carcinogens. The International Agency for Research on Cancer (IARC) classifies chemicals according to their potential to cause cancer in humans: carcinogenic to humans; probably carcinogenic to humans; and possibly carcinogenic to humans.¹² There are at least 11 chemicals frequently present in the firefighting environment that are classified by IARC as carcinogenic to humans, such as arsenic, asbestos, benzene, and formaldehyde.¹³ These chemicals are linked to cancers of the kidney, prostate, liver, and lung, as well as leukemia, non-Hodgkin lymphoma, and multiple myeloma.¹⁴ Many other chemicals found in fire scenes are probably or possibly carcinogenic to humans.¹⁵

Due to frequent exposure to carcinogens, firefighters are more likely to develop cancer compared to the general population. A meta-analysis of 32 studies identified 10 cancers that firefighters have a statistically significant increased risk of developing: testicular (102% greater risk), multiple myeloma (53%), non-Hodgkin lymphoma (51%), skin and malignant melanoma (39% and 32%, respectively), brain (32%), rectum (29%), prostate (28%), stomach (22%), and colon (21%).¹⁶ Data from the National Cancer Institute also found that non-lymphatic leukemia risks are significantly elevated among firefighters.¹⁷ Firefighters are also more likely to die from certain cancers. A study of almost 30,000 career firefighters conducted by NIOSH found that firefighters have a 14% increased risk of dying from cancer compared to the general population, including seven specific cancers identified by this study as having a statistically significant increased risk of death.¹⁸ Furthermore, in addition to lung cancer, firefighters are at greater risk of developing lung diseases, such as Chronic Obstructive Pulmonary Disease (COPD) and are at increased risk for sudden cardiac events.¹⁹

⁹David C. Cone et al., *Fireground Use of an Emergency Escape Respirator*, Prehospital Emergency Care (July 7, 2010).

¹⁰Department of Health and Human Services, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, *Evaluation of Dermal Exposure to Polycyclic Aromatic Hydrocarbons in Firefighters* (2010–0156–3196) (Dec. 2013).

¹¹Stephen Kerber, *Analysis of Changing Residential Fire Dynamics and Its Implications on Firefighter Operational Timeframes*, Fire Technology (Sept. 20, 2012).

¹²International Agency for Research on Cancer, *Known Carcinogens in the Firefighting Environment*, (www.iaff.org/wp-content/uploads/2020-Carcinogens-and-Cancer-handout-002.pdf) (accessed July 21, 2022).

¹³*Id.*

¹⁴*Id.*

¹⁵Lyon France and International Agency for Research on Cancer, *Painting, Firefighting, and Shiftwork*, (2010).

¹⁶Grace K. LeMasters et al., *Cancer Risk Among Firefighters: A Review and Meta-Analysis of 32 Studies*, Journal of Occupational and Environmental Medicine (Nov. 2006).

¹⁷William Morton & Danijela Marjanovic, *Leukemia Incidence by Occupation in the Portland-Vancouver Metropolitan Area*, American Journal of Industrial Medicine (1984).

¹⁸Robert D Daniels et al., *Mortality and Cancer Incidence in a Pooled Cohort of US Firefighters from San Francisco, Chicago and Philadelphia (1950–2009)*, Occupational and Environmental Medicine (June 2014).

¹⁹Lynne Pinkerton et al., *Mortality in a Cohort of US Firefighters from San Francisco, Chicago and Philadelphia: An Update*, Occupational and Environmental Medicine (2020); Tee L.

This wealth of evidence outlining the occupational hazards of firefighting and the increased risk of certain diseases, illnesses, and death relates to the importance of federal firefighters qualifying for workers' compensation benefits. Currently, 49 of 50 states have in place presumptive disability coverage for state and local firefighters in recognition of the research tying increased instances of these illnesses to the firefighting occupation.²⁰ However, to establish that an illness, injury, or death is work-related, FECA requires extensive information linking the disease or illness to a specific exposure and requires a detailed narrative of the history of the disease or illness.²¹ This puts an unrealistic burden on federal firefighters to link their disease or illness to a specific exposure or event, despite the overwhelming research that indicates such a link to the firefighting profession. As a result, many of these claims are denied or result in delayed approval.

The *Federal Firefighters Fairness Act of 2022* supports federal firefighters in their application for FECA benefits by deeming 16 specified diseases as proximately caused by their employment. In recognition of the extensive research that has been conducted tying these illnesses and diseases to the firefighting occupation, this bill shifts the burden of evidence away from the firefighter. The bill also requires periodic updates of the list of diseases so that the FECA policy toward presumptive conditions stays up-to-date with the latest scientific evidence.

III. LEGISLATIVE HISTORY

Senator Thomas Carper (D-DE) introduced S. 1116, the *Federal Firefighters Fairness Act of 2021*, on April 14, 2021, with Senators Susan Collins (R-ME), Dianne Feinstein (D-CA), Angus King (I-ME), and Chris Van Hollen (D-MD). The bill was referred to the Committee on Homeland Security and Governmental Affairs. An additional 21 Senators have since joined the bill as cosponsors.

The Committee considered S. 1116 at a business meeting on May 25, 2022. Senator Carper offered a substitute amendment and a modification to the substitute amendment. The substitute amendment made a number of changes to the underlying text, including: (1) updating the short title to the *Federal Firefighter Fairness Act of 2022*; (2) updating the list of diseases and illnesses to align with a version that passed the U.S. House of Representatives; (3) establishing a new section in title 5 specific to workers' compensation for fire protection activities; (4) directing the Department of Interior and U.S. Department of Agriculture, in consultation with NIOSH, to conduct a study on the long-term health effects of federal wildland firefighters; (5) directing DOL to submit a report on affected employees; and (6) increasing the time period for claimants to provide supporting documentation to DOL. The modification to

Guidotti, *Mortality of Urban Firefighters in Alberta, 1927-1987*, *American Journal of Industrial Medicine* (June 1993); Sheila Weinmann et al., *COPD and Occupational Exposures: A Case-Control Study*, *Journal of Occupational and Environmental Medicine* (May 2008); Stefanos N. Kales et al., *Firefighters and On-Duty Deaths from Coronary Heart Disease: A Case Control Study*, *Environmental Health: A Global Access Science Source* (Nov. 6, 2003); Elpidoforos S. Soteriades et al., *Cardiovascular Disease in US Firefighters A Systematic Review*, *Cardiology in Review* (July-August 2011).

²⁰International Association of Fire Fighters, AFL-CIO (www.iaff.org/presumptive-health/) (accessed June 28, 2022).

²¹Department of Labor, *Notice of Occupational Disease and Claim for Compensation* (Oct. 2018) (www.dol.gov/sites/dolgov/files/owcp/regs/compliance/ca-2.pdf) (access July 21, 2022).

the substitute amendment made adjustments to the processes for updating the list of presumptive diseases to require DOL and NIOSH make such updates based on the weight of the best available scientific evidence and to clearly identify that evidence in the rule. Senator Carper’s substitute amendment and modification to the substitute amendment were adopted by voice vote *en bloc*.

The bill, as amended by the Carper modified substitute amendment, was ordered reported favorably by voice vote *en bloc*, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Lankford, Romney, Scott, and Hawley present.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Federal Firefighters Fairness Act of 2022.”

Sec. 2. Certain illnesses and diseases presumed to be work-related cause of disability or death for federal employees in fire protection activities

Subsection (a) adds a new section 8143b to title 5, United States Code, entitled “Employees in fire protection activities.”

Subsection (a) of the new section 8143b defines the terms “employee in fire protection activities,” “rule,” and “Secretary” in the context of this section.

Subsection (b) of the new section 8143b establishes an initial list of illnesses and diseases that are deemed to be proximately caused by employment in fire protection activities. Federal employees who have worked for at least 5 years in aggregate in fire protection may file worker compensation claims of disability or death due to an illness or disease specified on the list, provided they are diagnosed with the illness and disease within 10 years after their last active date of employment in fire protection. The initial list includes bladder cancer, brain cancer, chronic obstructive pulmonary disease, colorectal cancer, esophageal cancer, kidney cancer, leukemias, lung cancer, mesothelioma, multiple myeloma, Non-Hodgkin lymphoma, prostate cancer, skin cancer, sudden cardiac events or strokes within 24 hours of engaging in fire protection activities, testicular cancer, and thyroid cancer.

In addition, subsection (b) of the new section 8143b directs DOL to periodically review the list of illnesses and diseases in consultation with NIOSH. The Secretary may add an illness or disease to the list by rule based on the best available scientific evidence, such as recommendations and assessments by NIOSH, the National Toxicology Program, the National Academies of Sciences, Engineering, and Medicine, and the International Agency for Research on Cancer.

Subsection (b) requires the Secretary, within 120 days after the bill’s enactment, to establish a process to inform federal employees in fire protection activities who file a claim related to an illness or disease under the new section 8143b of title 5 about opportunities to voluntarily enroll in the National Firefighter Registry or a similar initiative conducted by the Centers for Disease Control and Prevention.

Subsection (c) directs the Secretary, within three years after the bill's enactment, to evaluate the best available scientific evidence related to the risk of developing breast cancer, gynecological cancers, and rhabdomyolysis due to fire protection activities and to add these conditions to the list established in the new section 1843b of title 5 if the evidence leads to such a determination. The Secretary must submit a report of the findings and determination to the Senate Homeland Security and Governmental Affairs Committee and the House Committee on Education and Labor.

Subsection (d) calls for a comprehensive study conducted by the Department of the Interior and U.S. Department of Agriculture, in consultation with NIOSH, on the long-term health effects that federal wildland firefighters experience after being exposed to fires, smoke, and toxic fumes when in service. The report will include the race, age, gender, and time of service of wildland firefighters participating in the study and recommendations to Congress on what legislative actions are needed to prevent such health issues. The report will be submitted to the Senate Homeland Security and Governmental Affairs Committee and the House Committee on Education and Labor.

Subsection (e) requires the Secretary to include, within the Department's annual reports to Congress on the administration of the workers' compensation program, a report on the number and demographics of employees in fire protection activities with illness and diseases from the list established by the bill. The report may include recommendations for additional actions that would minimize the risk of adverse health impacts.

Sec. 3. Increase in time-period for FECA claimant to supply supporting documentation to Office of Worker's Compensation

This section instructs the Secretary to amend federal regulations to increase the number of days claimants have to submit additional evidence after the Office of Workers' Compensation Programs (OWCP) determines the evidence already submitted is not sufficient. Specifically, claimants would be allowed at least 60 days to submit additional evidence required by OWCP, rather than 30 days.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 8, 2022.

Hon. GARY PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1116, the Federal Firefighters Fairness Act of 2022.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Meredith Decker.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance			
S. 1116, Federal Firefighters Fairness Act of 2022			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 25, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	7	26
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	7	26
Spending Subject to Appropriation (Outlays)	0	6	27
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

The bill would:

- Increase the number of firefighters and other federal employees who can receive federal workers' compensation benefits under the Federal Employees' Compensation Act

Estimated budgetary effects would mainly stem from

- Additional spending for workers' compensation benefits

Areas of significant uncertainty include

- Estimating the incidence of disease among federal firefighters

Bill summary: S. 1116 would expand eligibility for federal workers engaged in fire protection who have certain diseases and conditions to receive medical, wage replacement, and death benefits under the Federal Employees' Compensation Act (FECA). The bill would also extend the length of time FECA claimants have to provide documentation to the Department of Labor (DOL).

Estimated Federal Cost: The estimated budgetary effects of S. 1116 are shown in Table 1. The costs of the legislation fall within

budget functions 300 (natural resources), 550 (health) and 600 (income security).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 1116

	By fiscal year, millions of dollars—												
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2022– 2027	2022– 2032
	Net Increases in Direct Spending												
Estimated Budget Authority	0	*	1	1	2	2	3	3	4	4	5	7	26
Estimated Outlays	0	*	1	1	2	2	3	3	4	4	5	7	26
	Increases in Spending Subject to Appropriation												
Estimated Authorization	0	*	1	1	2	2	3	4	4	5	5	6	27
Estimated Outlays	0	*	1	1	2	2	3	4	4	5	5	6	27
Memorandum:													
Intragovernmental Collec- tions ^a	0	*	-1	-1	-2	-2	-3	-4	-4	-5	-5	-6	-27

Components may not sum to totals because of rounding; * = between -\$500,000 and \$500,000.

a. Intragovernmental collections from federal agencies to the Department of Labor to pay for federal workers' compensation benefits paid to those agencies' employees.

Basis of estimate: For this estimate, CBO assumes that S. 1116 will be enacted by the end of calendar year 2022 and that the estimated amounts will be available in each year. Estimated outlays are based on historical spending patterns for the affected programs.

Direct spending: Under current law, federal employees are eligible for workers' compensation benefits, including medical expenses, disability payments, and death payments to survivors, if they can demonstrate a connection between their federal employment and their injury or illness. S. 1116 would confer presumptive eligibility for such benefits upon federal firefighters if they contract certain diseases, including heart disease, lung disease, and certain cancers. Based on the rates of incidence, disability, and death associated with those diseases, CBO estimates that more than 400 people would newly qualify for benefits over the next decade than would qualify under current law. CBO estimates that providing such additional FECA benefits would increase direct spending by \$29 million over the 2022–2032 period.

Some claimants who would receive FECA benefits under the legislation would have received other federal benefits under current law. When such claimants qualify for FECA benefits, spending from other programs could be reduced. Enacting the bill would reduce the federal government's share of health care premiums for federal retirees under the Federal Employees Health Benefits program because costs for covered medical conditions would be paid under FECA. In addition, spending for some disability programs could be lower but CBO expects that reduction would not be significant. After accounting for those effects, which would total \$3 million over the 10-year period, CBO estimates that enacting S. 1116 would, on net, increase mandatory spending by \$26 million over the 2022–2032 period.

S. 1116 would extend the period of time that FECA claimants have to provide additional documentation to DOL, if the agency has determined more evidence is needed to support their claim. Using information about current practices, CBO estimates that this provision would result in a negligible increase in direct spending over the next 10 years.

Spending subject to appropriation: FECA costs are charged back to a claimant’s employing agency and those amounts are paid from the agency’s salaries and expense accounts. (Most federal firefighters are employed by the Departments of Agriculture and the Interior.) Based on the timing of those reimbursements, CBO estimates that S. 1116 would increase discretionary costs for salaries and expenses by a total of \$27 million over the 2022–2032 period; most of the costs would be borne by those two departments. Any spending would be subject to the availability of appropriated funds. Those reimbursements would be transferred to and credited to the FECA account, as shown in the memorandum line in Table 1.

Uncertainty: The disease incidence among federal firefighters and other workers engaged in fire protection is a significant source of uncertainty in the estimate. CBO estimates that a higher percentage of those workers would be diagnosed with heart disease, lung disease, and certain cancers compared to the general population, based on studies of firefighters’ relative risk of contracting these diseases. If the incidence of disease differs from CBO’s estimates, spending might be higher or lower than estimated.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays are subject to those pay-as-you-go procedures are shown in Table 1.

Increase in long-term deficits: CBO estimates that enacting S. 1116 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2033.

Mandates: None.

Previous CBO estimate: On April 19, 2022, CBO transmitted a cost estimate for H.R. 2499, the Federal Firefighters Fairness Act of 2022, as ordered reported by the House Committee on Education and Labor on March 16, 2022. Both pieces of legislation would expand eligibility for federal workers engaged in fire protection who have certain diseases and conditions to receive FECA benefits. The Senate bill also would provide more time for FECA claimants to provide documentation. Differences in the estimated costs between the two pieces of legislation are primarily because of different assumed enactment dates.

Estimate prepared by: Federal Costs: Meredith Decker (federal workers’ compensation); Stuart Hammond (Federal Employees Health Benefits); Mandates: Andrew Laughlin.

Estimate reviewed by: Elizabeth Cove, Delisle Chief, Income Security Cost Estimates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

UNITED STATES CODE

* * * * *

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

PART III—EMPLOYEES

* * * * *

Subpart G—Insurance and Annuities

* * * * *

Chapter 81—Compensation for Work Injuries

* * * * *

Subchapter I—Generally

* * * * *

SEC. 8143b. EMPLOYEES IN FIRE PROTECTION ACTIVITIES

(a) *DEFINITIONS.—In this section:*

(1) *Employee in Fire Protection Activities.—The term “employee in fire protection activities” means an employee employed as a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous material worker, who—*

(A) is trained in fire suppression;

(B) has the legal authority and responsibility to engage in fire suppression;

(C) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations in which life, property, or the environment is at risk, including the prevention, control, suppression, or management of wildland fires; and

(D) performs the activities described in subparagraph (C) as a primary responsibility of the job of the employee.

(2) *RULE.—The term “rule” has the meaning given the term in section 804.*

(3) *SECRETARY.—The term “Secretary” means Secretary of Labor.*

(b) **CERTAIN ILLNESSES AND DISEASES DEEMED TO BE PROXIMATELY CAUSED BY EMPLOYMENT IN FIRE PROTECTION ACTIVITIES.—**

(1) *IN GENERAL.—For a claim under this subchapter of disability or death of an employee who has been employed for not less than 5 years in aggregate as an employee in fire protection activities, an illness or disease specified on the list established under paragraph (2) shall be deemed to be proximately caused by the employment of that employee, if the employee is diagnosed with that illness or disease not later than 10 years after the last active date of employment as an employee in fire protection activities.*

(2) *ESTABLISHMENT OF INITIAL LIST.—There is established under this section the following list of illnesses and diseases:*

(A) Bladder cancer.

(B) Brain cancer.

(C) Chronic obstructive pulmonary disease.

(D) Colorectal cancer.

(E) Esophageal cancer.

(F) Kidney cancer.

(G) Leukemias.

(H) Lung cancer.

(I) Mesothelioma.

(J) Multiple myeloma.

(K) Non-Hodgkin lymphoma.

(L) Prostate cancer.

(M) Skin cancer (melanoma).

(N) A sudden cardiac event or stroke while, or not later than 24 hours after, engaging in the activities described in subsection (a)(1)(C).

(O) Testicular cancer.

(P) Thyroid cancer.

(3) ADDITIONS TO THE LIST.—

(A) IN GENERAL.—

(i) PERIODIC REVIEW.—The Secretary shall—

(I) in consultation with the Director of the National Institute on Occupational Safety and Health and any advisory committee determined appropriate by the Secretary, periodically review the list established under paragraph (2); and

(II) if the Secretary determines that the weight of the best available scientific evidence warrants adding an illness or disease to the list established under paragraph (2), as described in subparagraph (B) of this paragraph, make such an addition through a rule that clearly identifies that scientific evidence.

(ii) CLASSIFICATION.—A rule issued by the Secretary under clause (i) shall be considered to be a major rule for the purposes of chapter 8.

(B) BASIS FOR DETERMINATION.— The Secretary shall add an illness or disease to the list established under paragraph (2) based on the weight of the best available scientific evidence that there is a significant risk to employees in fire protection activities of developing that illness or disease.

(C) AVAILABLE EXPERTISE.—In determining significant risk for purposes of subparagraph (B), the Secretary may accept as authoritative, and may rely upon, recommendations, risk assessments, and scientific studies (including analyses of National Firefighter Registry data pertaining to Federal firefighters) by the National Institute for Occupational Safety and Health, the National Toxicology Program, the National Academies of Sciences, Engineering, and Medicine, and the International Agency for Research on Cancer.