

**(c) Voluntary program**

The Secretary shall ensure that a State, local, or Department of Health and Human Services plan to administer or use a covered countermeasure is consistent with any declaration under 247d-6d of this title and any applicable guidelines of the Centers for Disease Control and Prevention and that potential participants are educated with respect to contraindications, the voluntary nature of the program, and the availability of potential benefits and compensation under this part.

**(d) Exhaustion; exclusivity; election****(1) Exhaustion**

Subject to paragraph (5), a covered individual may not bring a civil action under section 247d-6d(d) of this title against a covered person (as such term is defined in section 247d-6d(i)(2) of this title) unless such individual has exhausted such remedies as are available under subsection (a), except that if amounts have not by law been provided for the Fund under subsection (a), or if the Secretary fails to make a final determination on a request for benefits or compensation filed in accordance with the requirements of this section within 240 days after such request was filed, the individual may seek any remedy that may be available under section 247d-6d(d) of this title.

**(2) Tolling of statute of limitations**

The time limit for filing a civil action under section 247d-6d(d) of this title for an injury or death shall be tolled during the pendency of a claim for compensation under subsection (a).

**(3) Rule of construction**

This section shall not be construed as superseding or otherwise affecting the application of a requirement, under chapter 171 of title 28, to exhaust administrative remedies.

**(4) Exclusivity**

The remedy provided by subsection (a) shall be exclusive of any other civil action or proceeding for any claim or suit this section encompasses, except for a proceeding under section 247d-6d of this title.

**(5) Election**

If under subsection (a) the Secretary determines that a covered individual qualifies for compensation, the individual has an election to accept the compensation or to bring an action under section 247d-6d(d) of this title. If such individual elects to accept the compensation, the individual may not bring such an action.

**(e) Definitions**

For purposes of this section, the following terms shall have the following meanings:

**(1) Covered countermeasure**

The term “covered countermeasure” has the meaning given such term in section 247d-6d of this title.

**(2) Covered individual**

The term “covered individual”, with respect to administration or use of a covered counter-

measure pursuant to a declaration, means an individual—

(A) who is in a population specified in such declaration, and with respect to whom the administration or use of the covered countermeasure satisfies the other specifications of such declaration; or

(B) who uses the covered countermeasure, or to whom the covered countermeasure is administered, in a good faith belief that the individual is in the category described by subparagraph (A).

**(3) Covered injury**

The term “covered injury” means serious physical injury or death.

**(4) Declaration**

The term “declaration” means a declaration under section 247d-6d(b) of this title.

**(5) Eligible individual**

The term “eligible individual” means an individual who is determined, in accordance with subsection (b), to be a covered individual who sustains a covered injury.

(July 1, 1944, ch. 373, title III, §319F-4, as added Pub. L. 109-148, div. C, §3, Dec. 30, 2005, 119 Stat. 2829.)

**Editorial Notes****REFERENCES IN TEXT**

H. Con. Res. 95 of the 109th Congress, referred to in subsec. (a), is H. Con. Res. 95, Apr. 28, 2005, 119 Stat. 3633, which is not classified to the Code.

**§ 247d-6f. Provision of medical countermeasures to Indian programs and facilities**

In the event that the Secretary deploys the contents of the Strategic National Stockpile under section 247d-6b(a) of this title, or otherwise distributes medical countermeasures to States to respond to a public health emergency declared by the Secretary under section 247d of this title, the Secretary shall, in consultation with the applicable States, make such contents or countermeasures directly available to Indian Tribes and Tribal organizations (as such terms are defined in section 5304 of title 25), which may include through health programs or facilities operated by the Indian Health Service, that are affected by such public health emergency.

(July 1, 1944, ch. 373, title III, §319F-5, as added Pub. L. 117-328, div. FF, title II, §2408(b), Dec. 29, 2022, 136 Stat. 5789.)

**§ 247d-7. Repealed. Pub. L. 117-328, div. FF, title II, § 2231(b), Dec. 29, 2022, 136 Stat. 5753**

Section, act July 1, 1944, ch. 373, title III, §319G, as added Pub. L. 106-505, title I, §102, Nov. 13, 2000, 114 Stat. 2323; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814, related to demonstration programs to enhance bioterrorism training, coordination, and readiness.

**§ 247d-7a. Grants regarding training and education of certain health professionals****(a) In general**

The Secretary may make awards of grants and cooperative agreements to appropriate public