

PART A—ESTABLISHMENT OF COMPENSATION
PROGRAM AND COMPENSATION FUND

§ 7384d. Establishment of Energy Employees Occupational Illness Compensation Program

(a) Program established

There is hereby established a program to be known as the “Energy Employees Occupational Illness Compensation Program” (in this subchapter referred to as the “compensation program”). The President shall carry out the compensation program through one or more Federal agencies or officials, as designated by the President.

(b) Purpose of program

The purpose of the compensation program is to provide for timely, uniform, and adequate compensation of covered employees and, where applicable, survivors of such employees, suffering from illnesses incurred by such employees in the performance of duty for the Department of Energy and certain of its contractors and sub-contractors.

(c) Eligibility for compensation

The eligibility of covered employees for compensation under the compensation program shall be determined in accordance with the provisions of part B as may be modified by a law enacted after the date of the submittal of the proposal for legislation required by section 7384f of this title.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3611], Oct. 30, 2000, 114 Stat. 1654, 1654A-497.)

§ 7384e. Establishment of Energy Employees Occupational Illness Compensation Fund

(a) Establishment

There is hereby established on the books of the Treasury a fund to be known as the “Energy Employees Occupational Illness Compensation Fund” (in this subchapter referred to as the “compensation fund”).

(b) Amounts in compensation fund

The compensation fund shall consist of the following amounts:

- (1) Amounts appropriated to the compensation fund pursuant to the authorization of appropriations in section 7384g(b) of this title.
- (2) Amounts transferred to the compensation fund under subsection (c).

(c) Financing of compensation fund

Upon the exhaustion of amounts in the compensation fund attributable to the authorization of appropriations in section 7384g(b) of this title, the Secretary of the Treasury shall transfer directly to the compensation fund from the General Fund of the Treasury, without further appropriation, such amounts as are further necessary to carry out the compensation program.

(d) Use of compensation fund

Subject to subsection (e), amounts in the compensation fund shall be used to carry out the compensation program.

(e) Administrative costs not paid from compensation fund

No cost incurred in carrying out the compensation program, or in administering the com-

penetration fund, shall be paid from the compensation fund or set off against or otherwise deducted from any payment to any individual under the compensation program.

(f) Investment of amounts in compensation fund

Amounts in the compensation fund shall be invested in accordance with section 9702 of title 31, and any interest on, and proceeds from, any such investment shall be credited to and become a part of the compensation fund.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3612], Oct. 30, 2000, 114 Stat. 1654, 1654A-497.)

§ 7384f. Legislative proposal

(a) Legislative proposal required

Not later than March 15, 2001, the President shall submit to Congress a proposal for legislation to implement the compensation program. The proposal for legislation shall include, at a minimum, the specific recommendations (including draft legislation) of the President for the following:

- (1) The types of compensation and benefits, including lost wages, medical benefits, and any lump-sum settlement payments, to be provided under the compensation program.
- (2) Any adjustments or modifications necessary to appropriately administer the compensation program under part B.
- (3) Whether to expand the compensation program to include other illnesses associated with exposure to toxic substances.
- (4) Whether to expand the class of individuals who are members of the Special Exposure Cohort (as defined in section 7384f(14) of this title).

(b) Assessment of potential covered employees and required amounts

The President shall include with the proposal for legislation under subsection (a) the following:

- (1) An estimate of the number of covered employees that the President determines were exposed in the performance of duty.
- (2) An estimate, for each fiscal year of the compensation program, of the amounts to be required for compensation and benefits anticipated to be provided in such fiscal year under the compensation program.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3613], Oct. 30, 2000, 114 Stat. 1654, 1654A-498.)

§ 7384g. Authorization of appropriations

(a) In general

Pursuant to the authorization of appropriations in section 3103(a),¹ \$25,000,000 may be used for purposes of carrying out this subchapter.

(b) Compensation fund

There is hereby authorized to be appropriated \$250,000,000 to the Energy Employees Occupational Illness Compensation Fund established by section 7384e of this title.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3614], Oct. 30, 2000, 114 Stat. 1654, 1654A-498.)

¹ See References in Text note below.

REFERENCES IN TEXT

Section 3103(a), referred to in subsec. (a), means section 1 [div. C, title XXXVI, §3103(a)] of Pub. L. 106-398, Oct. 30, 2000, 114 Stat. 1654, 1654A-449, which is not classified to the Code.

PART B—PROGRAM ADMINISTRATION

§ 7384I. Definitions for program administration

In this subchapter:

(1) The term “covered employee” means any of the following:

(A) A covered beryllium employee.

(B) A covered employee with cancer.

(C) To the extent provided in section 7384r of this title, a covered employee with chronic silicosis (as defined in that section).

(2) The term “atomic weapon” has the meaning given that term in section 2014(d) of this title.

(3) The term “atomic weapons employee” means any of the following:

(A) An individual employed by an atomic weapons employer during a period when the employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling.

(B) An individual employed—

(i) at a facility with respect to which the National Institute for Occupational Safety and Health, in its report dated October 2003 and titled “Report on Residual Radioactive and Beryllium Contamination at Atomic Weapons Employer Facilities and Beryllium Vendor Facilities”, or any update to that report, found that there is a potential for significant residual contamination outside of the period in which weapons-related production occurred;

(ii) by an atomic weapons employer or subsequent owner or operators of a facility described in clause (i); and

(iii) during a period, as specified in such report or any update to such report, of potential for significant residual radioactive contamination at such facility.

(4) The term “atomic weapons employer” means an entity, other than the United States, that—

(A) processed or produced, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling; and

(B) is designated by the Secretary of Energy as an atomic weapons employer for purposes of the compensation program.

(5) The term “atomic weapons employer facility” means a facility, owned by an atomic weapons employer, that is or was used to process or produce, for use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining or milling.

(6) The term “beryllium vendor” means any of the following:

(A) Atomics International.

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

(C) General Atomics.

(D) General Electric Company.

(E) NGK Metals Corporation and its predecessors, Kawecki-Berylco, Cabot Corporation, BerylCo, and Beryllium Corporation of America.

(F) Nuclear Materials and Equipment Corporation.

(G) StarMet Corporation and its predecessor, Nuclear Metals, Incorporated.

(H) Wyman Gordan, Incorporated.

(I) Any other vendor, processor, or producer of beryllium or related products designated as a beryllium vendor for purposes of the compensation program under section 7384m of this title.

(7) The term “covered beryllium employee” means the following, if and only if the employee is determined to have been exposed to beryllium in the performance of duty in accordance with section 7384n(a) of this title:

(A) A current or former employee (as that term is defined in section 8101(1) of title 5) who may have been exposed to beryllium at a Department of Energy facility or at a facility owned, operated, or occupied by a beryllium vendor.

(B) A current or former employee of—

(i) any entity that contracted with the Department of Energy to provide management and operation, management and integration, or environmental remediation of a Department of Energy facility; or

(ii) any contractor or subcontractor that provided services, including construction and maintenance, at such a facility.

(C) A current or former employee of a beryllium vendor, or of a contractor or subcontractor of a beryllium vendor, during a period when the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy.

(8) The term “covered beryllium illness” means any of the following:

(A) Beryllium sensitivity as established by an abnormal beryllium lymphocyte proliferation test performed on either blood or lung lavage cells.

(B) Established chronic beryllium disease.

(C) Any injury, illness, impairment, or disability sustained as a consequence of a covered beryllium illness referred to in subparagraph (A) or (B).

(9) The term “covered employee with cancer” means any of the following:

(A) An individual with a specified cancer who is a member of the Special Exposure Cohort, if and only if that individual contracted that specified cancer after beginning employment at a Department of Energy facility (in the case of a Department of Energy employee or Department of Energy contractor employee) or at an atomic weapons employer facility (in the case of an atomic weapons employee).

(B)(i) An individual with cancer specified in subclause (I), (II), or (III) of clause (ii), if and only if that individual is determined to