

Attachment A  
Energy Employees Occupational Illness Compensation Program Act of 2000

#### **§ 7384p. Responsibilities of Secretary of Health and Human Services**

The Secretary of Health and Human Services shall carry out that Secretary's responsibilities with respect to the compensation program with the assistance of the Director of the National Institute for Occupational Safety and Health. Pub. L. 106-398, Title XXXVI, § 3625

#### **§ 7384q. Designation of additional members of Special Exposure Cohort**

(a) **ADVICE ON ADDITIONAL MEMBERS**—(1) The Advisory Board on Radiation and Worker Health under section 7384o of this title shall advise the President whether there is a class of employees at any Department of Energy facility who likely were exposed to radiation at that facility but for whom it is not feasible to estimate with sufficient accuracy the radiation dose they received.

(2) The advice of the Advisory Board on Radiation and Worker Health under paragraph (1) shall be based on exposure assessments by radiation health professionals, information provided by the Department of Energy, and such other information as the Advisory Board considers appropriate.

(3) The President shall request advice under paragraph (1) after consideration of petitions by classes of employees described in that paragraph for such advice. The President shall consider such petitions pursuant to procedures established by the President.

(b) **DESIGNATION OF ADDITIONAL MEMBERS**—Subject to the provisions of section 7384l(14)(C) of this title, the members of a class of employees at a Department of Energy facility, or at an atomic weapons employer facility, may be treated as members of the Special Exposure Cohort for purposes of the compensation program if the President, upon recommendation of the Advisory Board on Radiation and Worker Health, determines that—

(1) it is not feasible to estimate with sufficient accuracy the radiation dose that the class received; and

(2) there is a reasonable likelihood that such radiation dose may have endangered the health of members of the class.

(c) **ACCESS TO INFORMATION**—The Secretary of Energy shall provide, in accordance with law, the Secretary of Health and Human Services and the members and staff of the Advisory Board on Radiation and Worker Health access to relevant information on worker exposures, including access to Restricted Data (as defined in section 11 y.\* of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y))).

Pub. L. 106-398, Title XXXVI, § 3626; Pub. L. 107-107, § 3151(a)(2)

\*So in original. Probably should be "section 11(y)".

#### **§ 7384r. Separate treatment of chronic silicosis**

(a) **SENSE OF CONGRESS**—The Congress finds that employees who worked in Department of Energy test sites and later contracted chronic silicosis should also be considered for inclusion in the compensation program. Recognizing that chronic silicosis resulting from exposure to silica is not a condition unique to the nuclear weapons industry, it is not the intent of Congress with this subchapter to establish a precedent on the question of chronic silicosis as a compensable occupational disease. Consequently, it is the sense of Congress that a further determination by the President is appropriate before these workers are included in the compensation program.

(b) **CERTIFICATION BY PRESIDENT**—A covered employee with chronic silicosis shall be treated as a covered employee (as defined in section 7384l(1)) of this title for the purposes of the compensation program required by section 7384d of this title unless the President submits to Congress not later than 180 days after October 30, 2000 the certification of the President that

there is insufficient basis to include such employees. The President shall submit with the certification any recommendations about the compensation program with respect to covered employees with chronic silicosis as the President considers appropriate.

(c) EXPOSURE TO SILICA IN THE PERFORMANCE OF DUTY—A covered employee shall, in the absence of substantial evidence to the contrary, be determined to have been exposed to silica in the performance of duty for the purposes of the compensation program if, and only if, the employee was present for a number of work days aggregating at least 250 work days during the mining of tunnels at a Department of Energy facility located in Nevada or Alaska for tests or experiments related to an atomic weapon.

(d) COVERED EMPLOYEE WITH CHRONIC SILICOSIS—For purposes of this subchapter, the term "covered employee with chronic silicosis" means a Department of Energy employee, or a Department of Energy contractor employee, with chronic silicosis who was exposed to silica in the performance of duty as determined under subsection (c).

(e) CHRONIC SILICOSIS—For purposes of this subchapter, the term "chronic silicosis" means a non- malignant lung disease if—

(1) the initial occupational exposure to silica dust preceded the onset of silicosis by at least 10 years; and

(2) a written diagnosis of silicosis is made by a medical doctor and is accompanied by—

(A) a chest radiograph, interpreted by an individual certified by the National Institute for Occupational Safety and Health as a B reader, classifying the existence of pneumoconioses of category 1/0 or higher;

(B) results from a computer assisted tomograph or other imaging technique that are consistent with silicosis; or

(C) lung biopsy findings consistent with silicosis.

Pub. L. 106-398, Title XXXVI, § 3627; Pub. L. 107-107, § 3151(a)(3)

#### **§ 7384s. Compensation and benefits to be provided**

(a) COMPENSATION PROVIDED—(1) Except as provided in paragraph (2), a covered employee, or the survivor of that covered employee if the employee is deceased, shall receive compensation for the disability or death of that employee from that employee's occupational illness in the amount of \$150,000.

(2) A covered employee shall, to the extent that employee's occupational illness is established beryllium sensitivity, receive beryllium sensitivity monitoring under subsection (c) in lieu of compensation under paragraph (1).

(b) MEDICAL BENEFITS—A covered employee shall receive medical benefits under section 7384t of this title for that employee's occupational illness.

(c) BERYLLIUM SENSITIVITY MONITORING—An individual receiving beryllium sensitivity monitoring under this subsection shall receive the following:

(1) A thorough medical examination to confirm the nature and extent of the individual's established beryllium sensitivity.

(2) Regular medical examinations thereafter to determine whether that individual has developed established chronic beryllium disease.

(d) PAYMENT FROM COMPENSATION FUND—The compensation provided under this section, when authorized or approved by the President, shall be paid from the compensation fund established under section 7384e of this title.

(e) PAYMENTS IN THE CASE OF DECEASED PERSONS—(1) In the case of a covered employee who is deceased at the time of payment of compensation under this section, whether or not the death is the result of the covered employee's occupational illness, such payment may be made only as follows:

(A) If the covered employee is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(B) If there is no surviving spouse described in subparagraph (A), such payment shall be made in equal shares to all children of the covered employee who are living at the time of payment.

(C) If there is no surviving spouse described in subparagraph (A) and if there are no children described in subparagraph (B), such payment shall be made in equal shares to the parents of the covered employee who are living at the time of payment.

(D) If there is no surviving spouse described in subparagraph (A), and if there are no children described in subparagraph (B) or parents described in subparagraph (C), such payment shall be made in equal shares to all grandchildren of the covered employee who are living at the time of payment.

(E) If there is no surviving spouse described in subparagraph (A), and if there are no children described in subparagraph (B), parents described in subparagraph (C), or grandchildren described in subparagraph (D), then such payment shall be made in equal shares to the grandparents of the covered employee who are living at the time of payment.

(F) Notwithstanding the other provisions of this paragraph, if there is—

(i) a surviving spouse described in subparagraph (A); and

(ii) at least one child of the covered employee who is living and a minor at the time of payment and who is not a recognized natural child or adopted child of such surviving spouse, then half of such payment shall be made to such surviving spouse, and the other half of such payment shall be made in

equal shares to each child of the covered employee who is living and a minor at the time of payment.

(2) If a covered employee eligible for payment dies before filing a claim under this title, a survivor of that employee who may receive payment under paragraph (1) may file a claim for such payment.

(3) For purposes of this subsection—

(A) the "spouse" of an individual is a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

(B) a "child" includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

(C) a "parent" includes fathers and mothers through adoption;

(D) a "grandchild" of an individual is a child of a child of that individual; and

(E) a "grandparent" of an individual is a parent of a parent of that individual.

(f) EFFECTIVE DATE—This section shall take effect on July 31, 2001, unless Congress otherwise provides in an Act enacted before that date.

Pub. L. 106-398, Title XXXVI, § 3628; Pub. L. 107-107, § 3151(a)(4)(A)