

Short Title

1957 Acts. This section was enacted by section 4 of Pub.L. 85-256, Sept. 2, 1957, 71 Stat. 576, which Act is popularly known as the Price-Anderson Act and also as the Atomic Energy Damages Act. For complete classification of this Act to the Code see Tables.

Findings Regarding 2000 Amendments

Pub.L. 106-245, § 2, July 10, 2000, 114 Stat. 501, provided that:

"Congress finds that--

"(1) the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) recognized the responsibility of the Federal Government to compensate individuals who were harmed by the mining of radioactive materials or fallout from nuclear arms testing;

"(2) a congressional oversight hearing conducted by the Committee on Labor and Human Resources of the Senate demonstrated that since enactment of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), regulatory burdens have made it too difficult for some deserving individuals to be fairly and efficiently compensated;

"(3) reports of the Atomic Energy Commission and the National Institute for Occupational Safety and Health testify to the need to extend eligibility to States in which the Federal Government sponsored uranium mining and milling from 1941 through 1971;

"(4) scientific data resulting from the enactment of the Radiation Exposed Veterans Compensation Act of 1988 (38 U.S.C. 101 note) [amending section 1112 of Title 38, enacting provisions set out as a note under section 1112 of Title 38, and amending provisions set out as a note under section 354 of Title 38], and obtained from the Committee on the Biological Effects of Ionizing Radiations, and the President's Advisory Committee on Human Radiation Experiments provide medical validation for the extension of compensable radiogenic pathologies;

"(5) above-ground uranium miners, millers and individuals who transported ore should be fairly compensated, in a manner similar to that provided for underground uranium miners, in cases in which those individuals suffered disease or resultant death, associated with radiation exposure, due to the failure of the Federal Government to warn and otherwise help protect citizens from the health hazards addressed by the Radiation Exposure Compensation Act of 1990 (42 U.S.C. 2210 note); and

"(6) it should be the responsibility of the Federal Government in partnership with State and local governments and appropriate healthcare organizations, to initiate and support programs designed for the early detection, prevention and education on radiogenic diseases in approved States to aid the thousands of individuals adversely affected by the mining of uranium and the testing of nuclear weapons for the Nation's weapons arsenal."

Affidavits

Pub.L. 106-245, § 3(e)(2), July 10, 2000, 114 Stat. 507, provided that:

"(A) In general.—The Attorney General shall take such action as may be necessary to ensure that the procedures established by the Attorney General under section 6 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) provide that, in addition to any other material that may be used to substantiate employment history for purposes of determining working level months, an individual filing a claim under those procedures may make such a substantiation by means of an affidavit described in subparagraph (B).

"(B) Affidavits.—An affidavit referred to under subparagraph (A) is an affidavit--

"(i) that meets such requirements as the Attorney General may establish; and

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"(ii) is made by a person other than the individual filing the claim that attests to the employment history of the claimant."

#### GAO reports

Pub.L. 106-245, § 3(i), July 10, 2000, 114 Stat. 508, provided that:

"(1) In general.--Not later than 18 months after the date of the enactment of this Act [July 10, 2000], and every 18 months thereafter, the General Accounting Office shall submit a report to Congress containing a detailed accounting of the administration of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) by the Department of Justice.

"(2) Contents.--Each report submitted under this subsection shall include an analysis of--

"(A) claims, awards, and administrative costs under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note); and

"(B) the budget of the Department of Justice relating to such Act."

#### Abolition of the Joint Committee on Atomic Energy

The Joint Committee on Atomic Energy, referred to in subsecs. (i) and (o)(4), was abolished by section 2258 of this title and references to the Joint Committee are deemed, on or after Sept. 20, 1977, to refer to the committees of the Senate or House of Representatives which, under the rules of the Senate or House, have jurisdiction over the subject matter with records and files of the Joint Committee being transferred to the respective committees of the House or Senate.

#### Negotiated Rulemaking on Financial Protection for Radiopharmaceutical Licensees

Section 19 of Pub.L. 100-408 provided that:

##### "(a) Rulemaking proceeding.--

"(1) Purpose.--The Nuclear Regulatory Commission (hereafter in this section referred to as the 'Commission') shall initiate a proceeding, in accordance with the requirements of this section, to determine whether to enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with persons licensed by the Commission under section 81, 104(a), or 104(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2111, 2134(a), and 2134(c)) or by a State under section 274(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical purposes (hereafter in this section referred to as 'radiopharmaceutical licensees').

"(2) Final determination.--A final determination with respect to whether radiopharmaceutical licensees, or any class of such licensees, shall be indemnified pursuant to section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and if so, the terms and conditions of such indemnification, shall be rendered by the Commission within 18 months of the date of the enactment of this Act [Aug. 20, 1988].

##### "(b) Negotiated rulemaking.--

"(1) Administrative Conference guidelines.--For the purpose of making the determination required under subsection (a), the Commission shall, to the extent consistent with the provisions of this Act [see Short Title of 1988 Amendments note set out under section 2011 of this title], conduct a negotiated rulemaking in accordance with the guidance provided by the Administrative Conference of the United States in Recommendation 82-4, 'Procedures for Negotiating Proposed Regulations' (42 Fed.Reg. 30708, July 15, 1982).

"(2) Designation of convener.--Within 30 days of the date of the enactment of this Act [Aug. 20, 1988], the

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Commission shall designate an individual or individuals recommended by the Administrative Conference of the United States to serve as a convener for such negotiations.

"(3) **Submission of recommendations of the convener.**--The convener shall, not later than 7 months after the date of the enactment of this Act [Aug. 20, 1988], submit to the Commission recommendations for a proposed rule regarding whether the Commission should enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with radiopharmaceutical licensees and, if so, the terms and conditions of such indemnification. If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the proposed rule submitted by the convener shall set forth the procedures for the execution of indemnification agreements with radiopharmaceutical licensees.

"(4) **Publication of recommendations and proposed rule.**--If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the Commission shall publish the recommendations of the convener submitted under paragraph (3) as a notice of proposed rulemaking within 30 days of the submission of such recommendations under such paragraph.

"(5) **Administrative procedures.**--To the extent consistent with the provisions of this Act [see Short Title of 1988 Amendments note set out under section 2011 of this title], the Commission shall conduct the proceeding required under subsection (a) in accordance with section 553 of title 5, United States Code [5 U.S.C.A. § 553]."

#### Radiation Exposure Compensation Act

Pub.L. 101-426, Oct. 5, 1990, 104 Stat. 920, as amended Pub.L. 101-510, Div. C, Title XXXI, §§ 3139, 3140, Nov. 5, 1990, 104 Stat. 1835, 1837; Pub.L. 102-486, Title XXX, § 3018, Oct. 24, 1992, 106 Stat. 3131; Pub.L. 106-245, § 3(a) to (d), (e)(1), (f) to (h), July 10, 2000, 114 Stat. 502 to 508, provided that:

#### "Section 1. Short Title.

"This Act [this note] may be cited as the 'Radiation Exposure Compensation Act'.

#### "Sec. 2. Findings, purpose, and apology.

"(a) **Findings.**--The Congress finds that--

"(1) fallout emitted during the Government's atmospheric nuclear tests exposed individuals to radiation that is presumed to have generated an excess of cancers among these individuals;

"(2) the health of the individuals who were exposed to radiation in these tests was put at risk to serve the national security interests of the United States;

"(3) radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of the United States Government exposed miners to large doses of radiation and other airborne hazards in the mine environment that together are presumed to have produced an increased incidence of lung cancer and respiratory diseases among these miners;

"(4) the United States should recognize and assume responsibility for the harm done to these individuals; and

"(5) the Congress recognizes that the lives and health of uranium miners and of individuals who were exposed to radiation were subjected to increased risk of injury and disease to serve the national security interests of the United States.

"(b) **Purpose.**--It is the purpose of this Act [this note] to establish a procedure to make partial restitution to the individuals described in subsection (a) for the burdens they have borne for the Nation as a whole.

"(c) **Apology.**--The Congress apologizes on behalf of the Nation to the individuals described in subsection (a) and

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their families for the hardships they have endured.

**"Sec. 3. Trust Fund.**

**"(a) Establishment.**--There is established in the Treasury of the United States, a trust fund to be known as the 'Radiation Exposure Compensation Trust Fund' (hereinafter in this Act [this note] referred to as the 'Fund'), which shall be administered by the Secretary of the Treasury.

**"(b) Investment of amounts in the Fund.**--Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from any such investment shall be credited to and become a part of the Fund.

**"(c) Availability of the Fund.**--Amounts in the Fund shall be available only for disbursement by the Attorney General under section 6.

**"(d) Termination.**--The Fund shall terminate 22 years after the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [Pub.L. 106-245, 114 Stat. 501, which was enacted July 10, 2000]. If all of the amounts in the Fund have not been expended by the end of that 22-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

**"(e) Authorization of appropriations.**--There are authorized to be appropriated to the Fund such sums as may be necessary to carry out its purposes. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

**"Sec. 4. Claims relating to atmospheric nuclear testing.**

**"(a) Claims.--**

**"(1) Claims relating to leukemia.--**

**"(A) In general.**--An individual described in this subparagraph shall receive an amount specified in subparagraph (B) if the conditions described in subparagraph (C) are met. An individual referred to in the preceding sentence is an individual who--

**"(i)(I)** was physically present in an affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on October 31, 1958;

**"(i)(II)** was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962; or

**"(i)(III)** participated onsite in a test involving the atmospheric detonation of a nuclear device; and

**"(ii)** Submits written documentation that such individual developed leukemia--

**"(I)** after the applicable period of physical presence described in subclause (I) or (II) of clause (i) or onsite participation described in clause (i)(III) (as the case may be); and

**"(II)** more than 2 years after first exposure to fallout.

**"(B) Amounts.**--If the conditions described in subparagraph (C) are met, an individual--

**"(i)** who is described in subclause (I) or (II) of subparagraph (A)(i) shall receive \$50,000; or

**"(ii)** who is described in subclause (III) of subparagraph (A)(i) shall receive \$75,000.

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"(C) Conditions.--The conditions described in this subparagraph are as follows:

"(i) Initial exposure occurred prior to age 21.

"(ii) The claim for a payment under subparagraph (B) is filed with the Attorney General by or on behalf of the individual.

"(iii) The Attorney General determines, in accordance with section 6 [of this note], that the claim meets the requirements of this Act [this note].

"(2) Claims relating to specified diseases.--Any individual who--

"(A) was physically present in the affected area for a period of at least 2 years during the period beginning on January 21, 1951, and ending on October 31, 1958,

"(B) was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, or

"(C) participated onsite in a test involving the atmospheric detonation of a nuclear device,

and who submits written medical documentation that he or she, after such period of physical presence or such participation (as the case may be), contracted a specified disease, shall receive \$50,000 (in the case of an individual described in subparagraph (A) or (B)) or \$75,000 (in the case of an individual described in subparagraph (C)), if--

"(i) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

"(ii) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act [this note].

"(3) Conformity with section 6.--Payments under this section may be made only in accordance with section 6.

"(4) Exclusion.--No payment may be made under this section on any claim of the Government of the Marshall Islands, or of any citizen or national of the Marshall Islands, that is referred to in Article X, Section 1 of the Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of section 177 of the Compact of Free Association (as approved by the Compact of Free Association Act of 1985 (Public Law 99-239) [set out as a note under section 1681 of Title 48, Territories and Insular Possessions]).

"(b) Definitions.--For purposes of this section, the term--

"(1) 'affected area' means--

"(A) in the State of Utah, the counties of Washington, Iron, Kane, Garfield, Sevier, Beaver, Millard, Wayne, San Juan, and Piute;

"(B) in the State of Nevada, the counties of White Pine, Nye, Lander, Lincoln, Eureka, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71; and

"(C) in the State of Arizona, the counties of Coconino, Yavapai, Navajo, Apache, and Gila; and

"(2) 'specified disease' means leukemia (other than chronic lymphocytic leukemia), provided that initial exposure occurred after the age of 20 and the onset of the disease was at least 2 years after first exposure, lung cancer (other than in situ lung cancer that is discovered during or after a post-mortem exam), and the following diseases, provided onset was at least 5 years after first exposure: multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of the: thyroid, male or female breast, esophagus, stomach, pharynx, small intestine, pancreas, bile

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ducts, gall bladder, salivary gland, urinary bladder, brain, colon, ovary, or liver (except if cirrhosis or hepatitis B is indicated).

**"Sec. 5. Claims relating to uranium mining.**

**"(a) Eligibility of individuals.--**

**"(1) In general.--**An individual shall receive \$100,000 for a claim made under this Act [this note] if--

**"(A) That individual--**

**"(i)** was employed in a uranium mine or uranium mill (including any individual who was employed in the transport of uranium ore or vanadium-uranium ore from such mine or mill) located in Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon, and Texas at any time during the period beginning on January 1, 1942, and ending on December 31, 1971; and

**"(ii)(I)** was a miner exposed to 40 or more working level months of radiation and submits written medical documentation that the individual, after that exposure, developed lung cancer or a nonmalignant respiratory disease; or

**"(II)** was a miller or ore transporter who worked for at least 1 year during the period described under clause (i) and submits written medical documentation that the individual, after that exposure, developed lung cancer or a nonmalignant respiratory disease or renal cancers and other chronic renal disease including nephritis and kidney tubal tissue injury;

**"(B)** the claim for that payment is filed with the Attorney General by or on behalf of that individual; and

**"(C)** the Attorney General determines, in accordance with section 6 [of this note], that the claim meets the requirements of this Act [this note].

**"(2) Inclusion of additional States.--**Paragraph (1)(A)(i) shall apply to a State, in addition to the States named under such clause, if--

**"(A)** an Atomic Energy Commission uranium mine was operated in such State at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

**"(B)** the State submits an application to the Department of Justice to include such State; and

**"(C)** the Attorney General makes a determination to include such State.

**"(3) Payment requirement.--**Each payment under this section may be made only in accordance with section 6 [of this note].

**"(b) Definitions.--**For purposes of this section--

**"(1)** the term 'working level month of radiation' means radiation exposure at the level of one working level every work day for a month, or an equivalent exposure over a greater or lesser amount of time;

**"(2)** the term 'working level' means the concentration of the short half-life daughters of radon that will release (1.3 x 10<sup>5</sup>) million electron volts of alpha energy per liter of air;

**"(3)** the term 'nonmalignant respiratory disease' means fibrosis of the lung, pulmonary fibrosis, cor pulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis;

**"(4)** the term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community,

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that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Indians;

"(5) The term 'written medical documentation' for purposes of proving a nonmalignant respiratory disease or lung cancer means, in any case in which the claimant is living--

"(A)(i) an arterial blood gas study; or

"(ii) a written diagnosis by a physician meeting the requirements of subsection (c)(1); and

"(B)(i) a chest x-ray administered in accordance with standard techniques and the interpretive reports of a maximum of two National Institute of Occupational Health and Safety certified 'B' readers classifying the existence of the nonmalignant respiratory disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the 'ILO'), or subsequent revisions;

"(ii) high resolution computed tomography scans (commonly known as 'HRCT scans') (including computer assisted tomography scans (commonly known as 'CAT scans'), magnetic resonance imaging scans (commonly known as 'MRI scans'), and positron emission tomography scans (commonly known as 'PET scans')) and interpretive reports of such scans;

"(iii) pathology reports of tissue biopsies; or

"(iv) pulmonary function tests indicating restrictive lung function, as defined by the American Thoracic Society;

"(6) The term 'lung cancer'--

"(A) means any physiological condition of the lung, trachea, or bronchus that is recognized as lung cancer by the National Cancer Institute; and

"(B) includes in situ lung cancers;

"(7) the term 'uranium mine' means any underground excavation, including 'dog holes', as well as open pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted; and

"(8) the term 'uranium mill' includes milling operations involving the processing of uranium ore or vanadium-uranium ore, including both carbonate and acid leach plants.

"(c) Written documentation.--

"(1) Diagnosis alternative to arterial blood gas study.--

"(A) In general.--For purposes of this Act [this note], the written diagnosis and the accompanying interpretive reports described in subsection (b)(5)(A) shall--

"(i) be considered to be conclusive; and

"(ii) be subject to a fair and random audit procedure established by the Attorney General.

"(B) Certain written diagnoses.--

"(i) In general.--For purposes of this Act [this note], a written diagnosis made by a physician described under clause (ii) of a nonmalignant pulmonary disease or lung cancer of a claimant that is accompanied by written documentation shall be considered to be conclusive evidence of that disease.

"(ii) **Description of physicians.**--A physician referred to under clause (i) is a physician who--

"(I) is employed by the Indian Health Service or the Department of Veterans Affairs; or

"(II) is a board certified physician; and

"(III) has a documented ongoing physician patient relationship with the claimant.

"(2) **Chest x-rays.**--

"(A) **In general.**--For purposes of this Act [this note], a chest x-ray and the accompanying interpretive reports described in subsection (b)(5)(B) shall--

"(i) be considered to be conclusive; and

"(ii) be subject to a fair and random audit procedure established by the Attorney General.

"(B) **Certain written diagnoses.**--

"(i) **In general.**--For purposes of this Act [this note], a written diagnosis made by a physician described in clause (ii) of a nonmalignant pulmonary disease or lung cancer of a claimant that is accompanied by written documentation that meets the definition of that term under subsection (b)(5) shall be considered to be conclusive evidence of that disease.

"(ii) **Description of physicians.**--A physician referred to under clause (i) is a physician who--

"(I) Is employed by--

"(aa) the Indian Health Service; or

"(bb) the Department of Veterans Affairs; and

"(II) has a documented ongoing physician patient relationship with the claimant.

"Sec. 6. **Determination and payment of claims.**

"(a) **Establishment of filing procedures.**--The Attorney General shall establish procedures whereby individuals may submit claims for payments under this Act [this note]. In establishing procedures under this subsection, the Attorney General shall take into account and make allowances for the law, tradition, and customs of Indian tribes (as that term is defined in section 5(b) [of this note]) and members of Indian tribes, to the maximum extent practicable.

"(b) **Determination of claims.**--

"(1) **In general.**--The Attorney General shall, in accordance with this subsection, determine whether each claim filed under this Act [this note] meets the requirements of this Act [this note]. All reasonable doubt with regard to whether a claim meets the requirements of this Act [this note] shall be resolved in favor of the claimant.

"(2) **Consultation.**--The Attorney General shall--

"(A) in consultation with the Surgeon General, establish guidelines for determining what constitutes written medical documentation that an individual contracted leukemia under section 4(a)(1), a specified disease under section 4(a)(2), or other disease specified in section 5;

"(B) in consultation with the Director of the National Institute for Occupational Safety and Health, establish guidelines for determining what constitutes documentation that an individual was exposed to the working level



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months of radiation under section 5; and

"(C) in consultation with the Secretary of Defense and the Secretary of Energy, establish guidelines for determining what constitutes documentation that an individual participated onsite in a test involving the atmospheric detonation of a nuclear device under section 4(a)(2)(C).

The Attorney General may consult with the Surgeon General with respect to making determinations pursuant to the guidelines issued under subparagraph (A), with the Director of the National Institute for Occupational Safety and Health with respect to making determinations pursuant to the guidelines issued under subparagraph (B), and with the Secretary of Defense and the Secretary of Energy with respect to making determinations pursuant to the guidelines issued under subparagraph (C).. [sic]

"(c) Payment of claims.--

"(1) In general.--The Attorney General shall pay, from amounts available in the Fund, claims filed under this Act [this note] which the Attorney General determines meet the requirements of this Act [this note].

"(2) Offset for certain payments.--(A) A payment to an individual, or to a survivor of that individual, under this section on a claim under subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4 or a claim under section 5 shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of--

"(i) exposure to radiation, from atmospheric nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4, or

"(ii) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

"(B) A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4(a)(2)(C) shall be offset by the amount of--

"(i) any payment made pursuant to a final award or settlement on a claim (other than a claim for workers' compensation), against any person, or

"(ii) any payment made by the Department of Veterans Affairs,

that is based on injuries incurred by that individual on account of exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device. The amount of the offset under this subparagraph with respect to payments described in clauses (i) and (ii) shall be the actuarial present value of such payments.

"(3) Right of subrogation.--Upon payment of a claim under this section, the United States Government is subrogated for the amount of the payment to a right or claim that the individual to whom the payment was made may have against any person on account of injuries referred to in paragraph (2).

"(4) Payments in the case of deceased persons.--

"(A) In general.--In the case of an individual who is deceased at the time of payment under this section, such payment may be made only as follows:

"(i) If the individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

"(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the individual who are living at the time of payment.

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"(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

"(iv) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii) or parents described in clause (iii), such payment shall be made in equal shares to all grandchildren of the individual who are living at the time of payment.

"(v) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii), parents described in clause (iii), or grandchildren described in clause (iv), then such payment shall be made in equal shares to the grandparents of the individual who are living at the time of payment.

"(B) Individuals who are survivors.--If an individual eligible for payment under section 4 or 5 dies before filing a claim under this Act [this note], a survivor of that individual who may receive payment under subparagraph (A) may file a claim for such payment under this Act [this note].

"(C) Definitions.--For purposes of this paragraph--

"(i) 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;

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

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

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

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

"(D) Application of Native American law.--In determining those individuals eligible to receive compensation by virtue of marriage, relationship, or survivorship, such determination shall take into consideration and give effect to established law, tradition, and custom of the particular affected Indian tribe.

"(d) Action on claims.--

"(1) In general.--The Attorney General shall complete the determination on each claim filed in accordance with the procedures established under subsection (a) not later than twelve months after the claim is so filed. For purposes of determining when the 12-month period ends, a claim under this Act [this note] shall be deemed filed as of the date of its receipt by the Attorney General. In the event of the denial of a claim, the claimant shall be permitted a reasonable period in which to seek administrative review of the denial by the Attorney General. The Attorney General shall make a final determination with respect to any administrative review within 90 days after the receipt of the claimant's request for such review. In the event the Attorney General fails to render a determination within 12 months after the date of the receipt of such request, the claim shall be deemed awarded as a matter of law and paid.

"(2) Additional information.--The Attorney General may request from any claimant under this Act [this note], or from any individual or entity on behalf of any such claimant, any reasonable additional information or documentation necessary to complete the determination on the claim in accordance with the procedures established under subsection (a).

"(3) Treatment of period associated with request.--

"(A) In general.--The period described in subparagraph (B) shall not apply to the 12-month limitation under paragraph (1).

"(B) Period.--The period described in this subparagraph is the period--

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"(i) beginning on the date on which the Attorney General makes a request for additional information or documentation under paragraph (2); and

"(ii) ending on the date on which the claimant or individual or entity acting on behalf of that claimant submits that information or documentation or informs the Attorney General that it is not possible to provide that information or that the claimant or individual or entity will not provide that information.

"(4) Payment within 6 weeks.--The Attorney General shall ensure that an approved claim is paid not later than 6 weeks after the date on which such claim is approved.

"(5) Native American considerations.--Any procedures under this subsection shall take into consideration and incorporate, to the fullest extent feasible, Native American law, tradition, and custom with respect to the submission and processing of claims by Native Americans.

"(e) Payment in full settlement of claims against the United States.--The acceptance of payment by an individual under this section shall be in full satisfaction of all claims of or on behalf of that individual against the United States, or against any person with respect to that person's performance of a contract with the United States, that arise out of exposure to radiation, from atmospheric nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4, exposure to radiation in a uranium mine at any time during the period described in section 5(a), or exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device.

"(f) Administrative costs not paid from the Fund.--No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any individual.

"(g) Termination of duties of Attorney General.--The duties of the Attorney General under this section shall cease when the Fund terminates.

"(h) Certification of treatment of payments under other laws.--Amounts paid to an individual under this section--

"(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

"(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code [section 3803(c)(2)(C) of Title 31, Money and Finance], or the amount of such benefits.

"(i) Use of existing resources.--The Attorney General should use funds and resources available to the Attorney General to carry out his or her functions under this Act [this note]. Not later than 180 days after the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [Pub.L. 106-245, 114 Stat. 501, which was enacted July 10, 2000], the Attorney General shall issue revised regulations to carry out this Act [this note].

"(j) Regulatory authority.--The Attorney General may issue such regulations as are necessary to carry out this Act [this note].

"(k) Issuance of regulations, guidelines, and procedures.--Regulations, guidelines, and procedures to carry out this Act [this note] shall be issued not later than 180 days after the date of the enactment of this Act [Oct. 15, 1990].

"(l) Judicial review.--An individual whose claim for compensation under this Act [this note] is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

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**"Sec. 7. Claims not assignable or transferable; choice of remedies.**

**"(a) Claims not assignable or transferable.**--No claim cognizable under this Act [this note] shall be assignable or transferable.

**"(b) Choice of remedies.**--No individual may receive payment under both sections 4 and 5 of this Act [this note], and no individual may receive more than one payment under section 4 of this Act.

**"Sec. 8. Limitations on claims.**

**"(a) In general.**--A claim to which this Act [this note] applies shall be barred unless the claim is filed within 22 years after the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [Pub.L. 106-245, 114 Stat. 501, which was enacted July 10, 2000].

**"(b) Resubmittal of claims.**--After the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [Pub.L. 106-245, 114 Stat. 501, which was enacted July 10, 2000], any claimant who has been denied compensation under this Act [this note] may resubmit a claim for consideration by the Attorney General in accordance with this Act [this note] not more than three times. Any resubmittal made before the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [Pub.L. 106-245, 114 Stat. 501, which was enacted July 10, 2000] shall not be applied to the limitation under the preceding sentence.

**"Sec. 9. Attorney Fees**

**"(a) General rule.**--Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Act [this note], more than that percentage specified in subsection (b) of a payment made under this Act [this note] on such claim.

**"(b) Applicable percentage limitations.**--The percentage referred to in subsection (a) is--

**"(1)** 2 percent for the filing of an initial claim; and

**"(2)** 10 percent with respect to--

**"(A)** any claim with respect to which a representative has made a contract for services before the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [Pub.L. 106-245, 114 Stat. 501, which was enacted July 10, 2000]; or

**"(B)** a resubmission of a denied claim.

**"(c) Penalty.**--Any such representative who violates this section shall be fined not more than \$5,000.

**"Sec. 10. Certain claims not affected by awards of damages.**

A payment made under this Act [this note] shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments, or to repay any person on account of worker's compensation payments; and a payment under this Act [this note] shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

**"Sec. 11. Budget Act.**

No authority under this Act [this note] to enter into contracts or to make payments shall be effective in any fiscal year except to such extent or in such amounts as are provided in advance in appropriations Acts.

**"Sec. 12. Report.**

## 42 USCA s 2210

"(a) Report.--The Secretary of Health and Human Services shall submit a report on the incidence of radiation related moderate or severe silicosis and pneumoconiosis in uranium miners employed in the uranium mines that are defined in section 5 and are located off of Indian reservations.

"(b) Completion.--Such report shall be completed not later than September 30, 1992.

**"Sec. 13. Repeal.**

"Section 1631 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1985 (42 U.S.C. 2212) is repealed."

## Termination of Advisory Commissions

Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub.L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in Appendix 2 to Title 5, Government Organization and Employees.

## EXECUTIVE ORDERS

## EXECUTIVE ORDER NO. 12658

Ex. Ord. No. 12658, Nov. 18, 1988, 53 F.R. 47517, as amended Ex. Ord. No. 12665, Jan. 12, 1989, 54 F.R. 1919, which established the President's Commission on Catastrophic Nuclear Accidents, was revoked by Ex. Ord. No. 12774, Sept. 27, 1991, 56 F.R. 49835, set out as a note under Appendix 2 to Title 5, Government Organization and Employees.

## EXECUTIVE ORDER NO. 12891

Ex. Ord. No. 12891, Jan. 15, 1994, 59 F.R. 2935, relating to the advisory committee on human radiation experiments, was revoked by Ex. Ord. No. 13062, Sept. 29, 1997, 62 F.R. 51755, set out as a note under section 14 of Appendix 2 to Title 5, Government Organization and Employees.

## CROSS REFERENCES

Employer defined for purposes of Nuclear Whistleblower Protection, see 42 USCA § 5851.

Euratom cooperation program, nonliability of United States, see 42 USCA § 2296.

Licenses for domestic distribution of special nuclear material subject to liability provisions of this section, see 42 USCA § 2073.

Licensing of uranium enrichment facility, this section not applicable to facility constructed after November 15, 1990, see 42 USCA § 2243.

Nuclear incident involving nuclear reactor of United States warship, payment of claims or judgments of bodily injury, death, or damage resulting from, see 42 USCA § 2211.

Price-Anderson coverage not applicable to this section with respect to license for uranium enrichment facility constructed after November 15, 1990, see 42 USCA § 2243.

Punishment for violation of provisions notwithstanding agreement of indemnification under this section for purposes of--