

103D CONGRESS
1ST SESSION

H. R. 1280

To revise the Occupational Safety and Health Act of 1970.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1993

Mr. FORD of Michigan (for himself, Mr. CLAY, Mr. MILLER of California, Mr. MURPHY, Mr. KILDEE, Mr. MARTINEZ, Mr. OWENS, Mr. SAWYER, Mr. PAYNE of New Jersey, Mrs. UNSOELD, Mrs. MINK, Mr. ANDREWS of New Jersey, Mr. ENGEL, Mr. BECERRA, Mr. GENE GREEN of Texas, Mr. STRICKLAND, Mr. DE LUGO, and Mr. FALEOMAVAEGA) introduced the following bill; which was referred jointly to the Committees on Education and Labor and House Administration

A BILL

To revise the Occupational Safety and Health Act of 1970.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CON-**
4 **TENTS.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “Comprehensive Occupational Safety and Health Reform
7 Act”.

8 (b) **REFERENCE.**—Except as otherwise specifically
9 provided, whenever in this Act an amendment or repeal

1 is expressed in terms of an amendment to, or repeal of,
 2 a section or other provision, the reference shall be consid-
 3 ered to be made to a section or other provision of the Oc-
 4 cupational Safety and Health Act of 1970 (29 U.S.C. 651
 5 et seq.).

6 (c) TABLE OF CONTENTS.—The table of contents is
 7 as follows:

- Sec. 1. Short title; reference; table of contents.
- Sec. 2. Findings.

TITLE I—SAFETY AND HEALTH PROGRAMS

- Sec. 101. Safety and health programs.

TITLE II—SAFETY AND HEALTH COMMITTEES AND EMPLOYEE SAFETY AND HEALTH REPRESENTATIVES

- Sec. 201. Safety and health committees and employee safety and health rep-
representatives.

TITLE III—COVERAGE

- Sec. 301. Extension of coverage to public employees.
- Sec. 302. Congressional coverage.
- Sec. 303. Application of OSHA to DOE nuclear facilities.
- Sec. 304. Extension of employer duties to all employees working at a place of
employment.

TITLE IV—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

- Sec. 401. Time frames for setting standards.
- Sec. 402. Occupational safety and health standard.
- Sec. 403. Recording of adverse medical condition.
- Sec. 404. Public disclosure of all communications on standards.
- Sec. 405. Revision of permissible exposure limits.
- Sec. 406. Exposure monitoring and health surveillance.
- Sec. 407. Standard on ergonomic hazards.
- Sec. 408. Emergency temporary standard.
- Sec. 409. Air contaminants.

TITLE V—ENFORCEMENT

- Sec. 501. No loss of employee pay for inspections.
- Sec. 502. Time frame for response to complaints.
- Sec. 503. Complaints.
- Sec. 504. Mandatory special emphasis.
- Sec. 505. Investigations of deaths and serious incidents.
- Sec. 506. Abatement of serious hazards during employer contests to a citation.
- Sec. 507. Right to contest citations and penalties.

- Sec. 508. Right of employee representatives to participate in other proceedings.
- Sec. 509. Objections to modification of citations.
- Sec. 510. Imminent danger inspections.
- Sec. 511. Citations and penalties for violations.
- Sec. 512. OSHA criminal penalties.
- Sec. 513. Commission members' terms.
- Sec. 514. Inspections.
- Sec. 515. Employee accountability.
- Sec. 516. Serious penalty.

TITLE VI—PROTECTION OF EMPLOYEES FROM DISCRIMINATION

- Sec. 601. Antidiscrimination provisions.
- Sec. 602. Posting of employee rights.

TITLE VII—TECHNICAL ASSISTANCE AND TRAINING

- Sec. 701. Technical assistance to employers and employees.

TITLE VIII—RECORDKEEPING AND REPORTING

- Sec. 801. Data collected by Secretary.
- Sec. 802. Employee reported illnesses.
- Sec. 803. Employee access.

TITLE IX—NIOSH

- Sec. 901. Hazard evaluation reports.
- Sec. 902. Safety research.
- Sec. 903. Contractor rights.
- Sec. 904. National surveillance program.
- Sec. 905. Establishment of NIOSH as a separate agency within Public Health Service.
- Sec. 906. Conforming amendments changing references from HEW to HHS.
- Sec. 907. NIOSH Training.

TITLE X—STATE PLANS

- Sec. 1001. State plan committees and programs.
- Sec. 1002. Access to information; employee rights.
- Sec. 1003. Application of Federal standards.
- Sec. 1004. Complaints against a State plan.
- Sec. 1005. Action against State plan.
- Sec. 1006. State plan conforming amendments.
- Sec. 1007. Validity of State laws.

TITLE XI—VICTIM'S RIGHTS

- Sec. 1101. Victim's rights.

TITLE XII—CONSTRUCTION SAFETY

- Sec. 1201. Definitions.
- Sec. 1202. Office of Construction Safety, Health, and Education.
- Sec. 1203. Construction safety and health plans and programs.
- Sec. 1204. Inspections, investigations, reporting, and recordkeeping.
- Sec. 1205. Advisory Committee on Construction Safety and Health.
- Sec. 1206. State construction safety and health plans.

- Sec. 1207. Construction Safety and Health Academy.
- Sec. 1208. Enforcement.
- Sec. 1209. Reports to Congress.
- Sec. 1210. Federal construction contracts.
- Sec. 1211. Relationship to existing law and regulations.
- Sec. 1212. Timetable for regulations.

TITLE XIII—WORKER'S COMPENSATION STUDY

- Sec. 1301. Commission.

TITLE XIV—ADMINISTRATION

- Sec. 1401. Administration.

TITLE XV—EFFECTIVE DATE

- Sec. 1501. Effective date.

1 SEC. 2. FINDINGS.

2 Congress finds that—

3 (1) during the past two decades progress has
 4 been made in reducing workplace deaths, injuries,
 5 and exposure to toxic substances through efforts of
 6 Federal agencies, States, employers, employees, and
 7 employee representatives;

8 (2) despite the progress described in paragraph
 9 (1), work-related injuries, illnesses, and deaths con-
 10 tinue to occur at rates that are unacceptable and
 11 that impose a substantial burden upon employers,
 12 employees, and the Nation in terms of lost produc-
 13 tion, wage loss, medical expenses, compensation pay-
 14 ments, and disability;

15 (3) employers and employees are not suffi-
 16 ciently involved in working together in joint efforts

1 to identify and correct occupational safety and
2 health hazards;

3 (4) employers and employees require better
4 training to identify safety and health problems;

5 (5) mandatory regulation is necessary to pro-
6 tect employees from health and safety hazards but
7 Federal agency standard setting has not kept pace
8 with knowledge about such hazards;

9 (6) enforcement of occupational safety and
10 health standards has not been adequate to bring
11 about timely abatement of hazardous conditions or
12 to deter violations of occupational safety and health
13 standards.

14 (7) millions of employees exposed to serious oc-
15 cupational safety and health hazards are excluded
16 from full coverage under the Occupational Safety
17 and Health Act of 1970; and

18 (8) the lack of accurate data and information
19 on work-related deaths, injuries, and illnesses has
20 impeded efforts to prevent such deaths, injuries, and
21 illnesses.

1 **TITLE I—SAFETY AND HEALTH**
2 **PROGRAMS**

3 **SEC. 101. SAFETY AND HEALTH PROGRAMS.**

4 (a) IN GENERAL.—Section 27 (29 U.S.C. 676) is
5 amended to read as follows:

6 **“SEC. 27. SAFETY AND HEALTH PROGRAMS.**

7 “(a) IN GENERAL.—

8 “(1) PURPOSE.—Each employer shall establish
9 and carry out in accordance with this section a safe-
10 ty and health program to reduce or eliminate haz-
11 ards and to prevent injuries and illnesses to employ-
12 ees.

13 “(2) MODIFICATIONS TO SAFETY AND HEALTH
14 PROGRAMS.—The Secretary may, by regulations is-
15 sued under subsection (c)(1), modify the require-
16 ments of this section on classes of employers where
17 the Secretary determines that in light of the nature
18 of the risks faced by the employers’ employees, such
19 a modification would not adversely affect employee
20 safety and health.

21 “(3) WORKSITE DEFINITION.—As used in this
22 section and section 28, the term ‘worksite’ means a
23 single physical location where business is conducted
24 or operations are performed by employees of an em-
25 ployer.

1 “(b) REQUIREMENTS.—Each employer covered by
2 this section shall establish and carry out a written safety
3 and health program that includes—

4 “(1) methods and procedures for identifying,
5 evaluating, and documenting safety and health haz-
6 ards, including investigating and recording work-re-
7 lated illnesses, injuries, and deaths;

8 “(2) methods and procedures for correcting the
9 safety and health hazards identified under para-
10 graph (1);

11 “(3) methods and procedures for providing
12 emergency response first-aid and other occupational
13 health services;

14 “(4) methods and procedures for employee par-
15 ticipation in the implementation of the employer’s
16 safety and health program, including participation
17 through a safety and health committee established
18 under section 28, where applicable;

19 “(5) methods and procedures for providing
20 safety and health training and education to employ-
21 ees and to members of a safety and health commit-
22 tee established under section 28;

23 “(6) the designation of representatives of the
24 employer who have the qualifications and respon-
25 sibility to identify safety and health hazards and the

1 authority to initiate corrective action where appro-
2 priate;

3 “(7) in the case of a worksite where employees
4 of two or more employers work, procedures for each
5 employer to protect employees at the worksite from
6 hazards under the employer’s control, including pro-
7 cedures to provide information on safety and health
8 hazards to other employers and employees at the
9 worksite; and

10 “(8) such other provisions as the Secretary re-
11 quires to effectuate the purposes of this Act.

12 “(c) REGULATIONS ON EMPLOYER SAFETY AND
13 HEALTH PROGRAMS.—

14 “(1) IN GENERAL.—The Secretary shall within
15 one year of the effective date of the Comprehensive
16 Occupational Safety and Health Reform Act issue
17 final regulations on employer safety and health pro-
18 grams required by subsection (a) which shall take ef-
19 fect no later than 18 months after such effective
20 date.

21 “(2) REGULATIONS ON TRAINING AND EDU-
22 CATION.—The regulations of the Secretary under
23 paragraph (1) respecting an employer’s safety and
24 health program shall—

1 “(A)(i) provide for training and education
2 of employees at the time of employment, in a
3 manner that is readily understood by such em-
4 ployees, concerning safety and health hazards,
5 control measures, and the employer’s safety and
6 health program;

7 “(ii) provide for the dissemination of infor-
8 mation to employees at the time of employment,
9 in a manner that is readily understood by such
10 employees, regarding employee rights and appli-
11 cable laws and regulations; and

12 “(iii) provide for training and education of
13 employees who are selected to be safety and
14 health committee members, at the time of their
15 selection, to enable such employees to carry out
16 the activities of the committee under section 28;
17 and

18 “(B) require that refresher training be
19 provided on at least an annual basis and that
20 additional training be provided to employees
21 and to safety and health committee members
22 when there are changes in conditions or oper-
23 ations that may expose employees to new or dif-
24 ferent safety or health hazards or when there
25 are changes in safety and health regulations or

1 standards under this Act that apply to the em-
2 ployer.

3 “(3) COORDINATION OF PROGRAMS.—The regu-
4 lations of the Secretary under paragraph (1) shall
5 provide that any specific program or training re-
6 quirements imposed by regulations issued under sec-
7 tion 6 may be combined or coordinated with an em-
8 ployer’s safety and health program.

9 “(4) NO LOSS OF PAY.—The time during which
10 employees are participating in training and edu-
11 cation provided in accordance with the regulations of
12 the Secretary shall be considered hours worked for
13 purposes of wages, benefits, and other terms and
14 conditions of employment. The training and edu-
15 cation shall be provided by an employer at no cost
16 to the employer’s employees.”.

17 **TITLE II—SAFETY AND HEALTH**
18 **COMMITTEES AND EMPLOYEE**
19 **SAFETY AND HEALTH REP-**
20 **RESENTATIVES**

21 **SEC. 201. SAFETY AND HEALTH COMMITTEES AND EM-**
22 **PLOYEE SAFETY AND HEALTH REPRESENTA-**
23 **TIVES.**

24 (a) IN GENERAL.—Section 28 is amended to read as
25 follows:

1 **“SEC. 28. SAFETY AND HEALTH COMMITTEES AND EM-**
2 **PLOYEE SAFETY AND HEALTH REPRESENTA-**
3 **TIVES.**

4 “(a) **PURPOSE.**—The purpose of this section is to
5 bring employees and employers together in a
6 nonadversarial, cooperative effort to promote safety and
7 health in each worksite. A safety and health committee
8 established under subsection (b) assists the employer and
9 makes recommendations regarding methods of addressing
10 safety and health hazards.

11 “(b) **SAFETY AND HEALTH COMMITTEE ESTABLISH-**
12 **MENT.**—Each employer of 11 or more employees shall es-
13 tablish a safety and health committee at each worksite of
14 the employer except as provided in subsections (e) and (g)
15 (hereinafter in this section referred to as the ‘safety and
16 health committee’). For purposes of this section, the term
17 ‘employee’ means an employee who is employed by an em-
18 ployer an average of 20 or more hours per week.

19 “(c) **COMMITTEE RIGHTS.**—

20 “(1) **IN GENERAL.**—Each safety and health
21 committee shall have the right, within reasonable
22 limits and in a reasonable manner, to—

23 “(A) review any safety and health program
24 established under section 27;

25 “(B) review incidents resulting in work-re-
26 lated deaths, injuries, and illnesses and com-

1 complaints regarding safety or health hazards by
2 employees or safety and health committee mem-
3 bers;

4 “(C) review, upon request to the employer
5 by any safety and health committee member,
6 the employer’s work injury and illness records,
7 other than personally identifiable medical infor-
8 mation, and other reports or documents relating
9 to occupational safety and health;

10 “(D) conduct inspections of the worksite at
11 least once every 3 months and in response to
12 complaints regarding safety or health hazards
13 by employees or safety and health committee
14 members;

15 “(E) conduct interviews with employees in
16 conjunction with inspections of the worksite;

17 “(F) conduct meetings at least once every
18 3 months and maintain written minutes of such
19 meetings;

20 “(G) observe the measurement of employee
21 exposure to toxic materials and harmful phys-
22 ical agents;

23 “(H) establish procedures for exercising
24 the rights of the safety and health committee;
25 and

1 “(I) make, and receive a response from the
2 employer to—

3 “(i) recommendations on behalf of the
4 safety and health committee (including the
5 separate views of any member of the com-
6 mittee), or

7 “(ii) recommendations on behalf of
8 the employer or employee representatives
9 on such safety and health committee,
10 to the employer for improvements in the em-
11 ployer’s safety and health program and for the
12 correction of hazards to employee safety or
13 health.

14 Recommendations under subparagraph (I) shall be
15 advisory only and the employer shall retain full au-
16 thority to manage the worksite.

17 “(2) TIME FOR SAFETY AND HEALTH COMMIT-
18 TEE ACTIVITIES.—The employer shall permit mem-
19 bers of the safety and health committee to take such
20 time from work as is reasonably necessary to exer-
21 cise the rights of the committee, without suffering
22 any loss of wages, benefits, and other terms and
23 conditions of employment for time spent on duties of
24 the committee.

25 “(d) SAFETY AND HEALTH COMMITTEE.—

1 “(1) MEMBERSHIP.—Each safety and health
2 committee shall consist of the employee safety and
3 health representatives selected or appointed under
4 paragraph (3) and up to an equal number of em-
5 ployer representatives.

6 “(2) EMPLOYEE SAFETY AND HEALTH REP-
7 RESENTATIVES.—The safety and health committee
8 shall include—

9 “(A) 1 employee safety and health rep-
10 resentative at each worksite where the average
11 number of nonmanagerial employees of the em-
12 ployer during the year ending January 1 was
13 more than 10, but less than 50;

14 “(B) 2 representatives where the number
15 of employees is at least 50 but less than 100;
16 and

17 “(C) an additional employee safety and
18 health representative for each additional 100
19 such employees, up to a maximum of 6 em-
20 ployee safety and health representatives.

21 “(3) SELECTION.—The employer’s nonmana-
22 gerial employees shall select employee safety and
23 health representatives by and from among them-
24 selves as follows:

1 “(A) Where none of the employer’s employ-
2 ees at a worksite are represented by an exclu-
3 sive bargaining representative, the employees
4 shall select employee safety and health rep-
5 resentatives.

6 “(B) Where the employer’s employees are
7 represented by a single exclusive bargaining
8 representative, the bargaining representative
9 shall designate the employee safety and health
10 representatives.

11 “(C) Where the employer’s employees are
12 represented by more than one exclusive rep-
13 resentative or where some but not all of the em-
14 ployees are represented by an exclusive rep-
15 resentative, each bargaining unit of represented
16 employees (and any residual group of unrepre-
17 sented employees) shall have a proportionate
18 number of employee safety and health rep-
19 resentatives based on the number of employees
20 in each bargaining unit or group, except that
21 each such unit or group of 11 or more employ-
22 ees shall have at least one representative. The
23 selection process shall be conducted in accord-
24 ance with subparagraph (A) or (B), as applica-
25 ble.

1 “(4) Each employee’s right to seek to be an em-
2 ployee safety and health representative and to other-
3 wise participate in the selection process without
4 being subject to penalties, discipline, employer inter-
5 ference, or reprisal of any kind shall be protected.

6 “(e) REGULATIONS.—The Secretary shall, within 1
7 year of the effective date of the Comprehensive Occupa-
8 tional Safety and Health Reform Act, issue regulations on
9 safety and health committees. Such regulations shall be
10 effective within 18 months of the effective date. Such reg-
11 ulations shall include provisions on—

12 “(1) the functioning of committees, including
13 the selection of employee safety and health rep-
14 resentatives, the terms of employee safety and health
15 representatives, and maintenance of records; and

16 “(2) the functioning of committees, the method
17 of selection, and the number of employee safety and
18 health representatives—

19 “(A) where an employer’s employees do not
20 primarily report to or work at a fixed location;

21 “(B) with regard to worksites with less
22 than 11 employees of a covered employer; and

23 “(C) where employees of more than 1 em-
24 ployer are employed.

1 “(f) ADDITIONAL RIGHTS.—The rights and remedies
2 provided to employees and employee safety and health rep-
3 resentatives by this section are in addition to, and not in
4 lieu of, any other rights and remedies provided by con-
5 tract, by other provisions of this Act, or by other applica-
6 ble law, and are not intended to alter or affect such rights
7 and remedies.

8 “(g) ALTERNATIVE MECHANISMS FOR EMPLOYEE
9 PARTICIPATION.—Upon application of the employer, the
10 Secretary may approve the establishment of a mechanism
11 for employee participation in safety and health decision
12 making which differs in form from the safety and health
13 committee if the alternative ensures that employees may
14 meaningfully participate in safety and health activities at
15 the worksite. An application to establish an alternative
16 mechanism for employee participation may not be ap-
17 proved by the Secretary unless—

18 “(1) the mechanism for employee participation
19 provides for the free and fair selection of employee
20 participants by and from among the employer’s
21 nonmanagerial employees in a manner that ensures
22 that employees will not be subject to penalties, dis-
23 cipline, employer interference, or reprisals of any
24 kind;

1 “(2) the mechanism for employee participation
2 ensures that the rights under subsection (c) may be
3 exercised by the employee participants; and

4 “(3) the mechanism for employee participation
5 contains such other provisions as the Secretary may
6 require.

7 The Secretary shall not approve an application unless the
8 employer’s nonmanagerial employees have received notice
9 and have been provided at least 60 days in which to com-
10 ment on the application.

11 “(h) A safety and health committee established under
12 and operating in conformity with section 28 shall not con-
13 stitute a labor organization within the meaning of section
14 2(5) of the National Labor Relations Act or a representa-
15 tive within the meaning of section 1, sixth, of the Railway
16 Labor Act.”.

17 (b) EMPLOYEE PARTICIPATION IN INSPECTIONS.—
18 Section 8(e) (29 U.S.C 657(e)) is amended to read as fol-
19 lows:

20 “(e) Subject to regulations issued by the Secretary,
21 a representative of the employer and a designee of the em-
22 ployee safety and health representatives shall be given an
23 opportunity to accompany the Secretary or the Secretary’s
24 authorized representative during the physical inspection of
25 any workplace under subsection (a) for the purpose of aid-

1 ing such inspection. Where no employee safety and health
2 representatives have been selected, a representative au-
3 thorized by an employer's employees shall be given an op-
4 portunity to accompany the Secretary in lieu of the des-
5 ignee of the employee safety and health representative.
6 Where there is no authorized employee representative, the
7 Secretary or the Secretary's authorized representative
8 shall consult with a reasonable number of employees con-
9 cerning matters of health and safety in the workplace.”.

10 **TITLE III—COVERAGE**

11 **SEC. 301. EXTENSION OF COVERAGE TO PUBLIC EMPLOY-** 12 **EES.**

13 Section 3(5) (29 U.S.C. 652(5) is amended by insert-
14 ing “, including any State or political subdivision of a
15 State” after “who has employees” and by striking out “or
16 any State or political subdivision of a State”.

17 **SEC. 302. CONGRESSIONAL COVERAGE.**

18 (a) HOUSE ACTIONS.—The Committee on House Ad-
19 ministration of the House of Representatives shall estab-
20 lish and maintain an effective and comprehensive occupa-
21 tional safety and health program to protect the health and
22 safety of congressional employees (as defined in section
23 2107 of title 5, United States Code, but not including an
24 employee who is paid by the Secretary of the Senate). The
25 program shall provide—

1 (1) for compliance with section 5(a)(1) of the
2 Occupational Safety and Health Act of 1970 (re-
3 ferred to in this subsection as the "Act"), the occu-
4 pational health and safety standards issued under
5 section 6 of the Act, and the regulations issued
6 under section 8 of the Act;

7 (2) for the development of written health and
8 safety programs consistent with section 27 of the
9 Act and the establishment of joint health and safety
10 committees consistent with section 28 of the Act;
11 and

12 (3) for the establishment of an effective en-
13 forcement mechanism to ensure compliance with the
14 requirements of the health and safety programs de-
15 veloped under this section.

16 (4) for the Fair Employment Practices Board
17 of the House of Representatives to establish proce-
18 dures (consistent with the procedures under section
19 11(c) of the Occupational Safety and Health Act of
20 1970) for discrimination cases brought under the
21 program.

22 Under the program, if a willful violation of a standard is-
23 sued under section 6 results in the death or serious bodily
24 injury of an employee, such violation may be referred to
25 the Attorney General for prosecution.

1 (b) COMMITTEE ON HOUSE ADMINISTRATION.—In
2 connection with the program established under subsection
3 (a), the Committee on House Administration of the House
4 of Representatives shall—

5 (1) acquire, maintain, and require the use of
6 engineering controls, work practice controls, safety
7 equipment, personal protective equipment, and other
8 devices reasonably necessary to protect employees;
9 and

10 (2) employ, as appropriate, individuals qualified
11 by education and experience to identify occupational
12 safety and health hazards and to recommend correc-
13 tive actions.

14 (c) RULEMAKING.—The provisions of this section are
15 enacted by the House of Representatives as an exercise
16 of the rulemaking power of the House of Representatives
17 with full recognition of the right of the House to change
18 its rules in the same manner and to the same extent as
19 in the case of any other rule of the House.

20 **SEC. 303. APPLICATION OF OSHA TO DOE NUCLEAR FACILI-**
21 **TIES.**

22 Paragraph (3) of section 4(b) (29 U.S.C. 653(b)(6))
23 is amended to read as follows:

24 “(3) Notwithstanding paragraph (1) of this sub-
25 section, this Act shall apply with respect to employment

1 performed in the Federal nuclear facilities under the con-
 2 trol or jurisdiction of the Department of Energy.”.

3 **SEC. 304. EXTENSION OF EMPLOYER DUTIES TO ALL EM-**
 4 **PLOYEES WORKING AT A PLACE OF EMPLOY-**
 5 **MENT.**

6 Section 5(a)(1) (29 U.S.C. 654(a)(1)) is amended—

7 (1) by striking “each of his employees” and in-
 8 serting “each employee”; and

9 (2) by striking “to his employees” and inserting
 10 “to employees at the place of employment”.

11 **TITLE IV—OCCUPATIONAL SAFE-**
 12 **TY AND HEALTH STANDARDS**

13 **SEC. 401. TIME FRAMES FOR SETTING STANDARDS.**

14 (a) RECOMMENDATIONS AND PETITIONS FOR STAND-
 15 ARDS.—Paragraph (2) of section 6(b) (29 U.S.C.
 16 655(b)(2)) is amended to read as follows:

17 “(2)(A) If the Secretary receives—

18 “(i) a recommendation of an advisory com-
 19 mittee, the Secretary of Health and Human
 20 Services, or the Administrator of the Environ-
 21 mental Protection Agency, or

22 “(ii) a petition from an interested person
 23 which petition sets forth with reasonable par-
 24 ticularity the facts which the person claims es-
 25 tablish that an occupational safety or health

1 standard should be promulgated, modified or
2 revoked,
3 the Secretary shall, within 90 days after receipt of
4 the recommendation or petition, publish in the Fed-
5 eral Register a response stating whether the Sec-
6 retary intends to publish a proposed rule promulgat-
7 ing, modifying or revoking such standard.

8 “(B) If the Secretary’s response states that the
9 Secretary does not intend to publish a proposed rule,
10 the Secretary shall set forth the reasons for that de-
11 cision. In all other cases, the Secretary shall, within
12 12 months following the decision, publish in the
13 Federal Register a proposed rule promulgating,
14 modifying, or revoking the standard cited in the pe-
15 tition or recommendation.”.

16 (b) PROCEDURE FOR COMMENT AND HEARING.—
17 Paragraph (3) of section 6(b) (29 U.S.C. 655(b)(3)) is
18 amended—

19 (1) by designating the present language as sub-
20 paragraph (B) and by striking out “under para-
21 graph (2)”; and

22 (2) by inserting at the beginning the following:

23 “(3)(A) When information developed by the
24 Secretary or submitted to the Secretary indicates
25 that a rule should be proposed promulgating, modi-

1 fying, or revoking an occupational safety or health
2 standard, the Secretary shall publish such a pro-
3 posed rule in the Federal Register and shall afford
4 interested persons a period of at least 30 days after
5 publication to submit written data or comments.”.

6 (c) TIME FRAME FOR ISSUING RULES.—Section
7 6(b)(4) (29 U.S.C. 655(b)(4)) is amended by striking
8 “Within” and all that follows through “paragraph (3)”
9 and inserting “Within 18 months following publication of
10 a proposed rule under paragraph (2)(B)”.

11 (d) REVIEW OF SECRETARY’S FAILURE OR REFUSAL
12 TO ISSUE RULES.—Section 6 (29 U.S.C. 655) is amended
13 by adding at the end the following:

14 “(h)(1) Any person who may be adversely affected by
15 a determination by the Secretary under subsection (b)(2)
16 not to propose a rule promulgating, modifying, or revoking
17 a standard may at any time prior to the sixtieth day after
18 such determination is published in the Federal Register
19 file a petition seeking review of such determination with
20 the United States court of appeals for the circuit wherein
21 such person resides or such person has a principal place
22 of business. A copy of the petition shall be forthwith trans-
23 mitted by the clerk of the court to the Secretary. The Sec-
24 retary’s determination shall be set aside if found to be ar-

1 bitrary, capricious, an abuse of discretion, or otherwise not
2 in accordance with law.

3 “(2) Any person who may be adversely affected by
4 a failure of the Secretary to take any action required by
5 this section within the time period prescribed therefor by
6 this section may at any time after such period of time has
7 elapsed file a petition for review stating that such action
8 has been unlawfully withheld or unreasonably delayed.
9 Such petition may be filed with the United States court
10 of appeals for the circuit wherein such person resides or
11 such person has a principal place of business. A copy of
12 the petition shall be forthwith transmitted by the clerk of
13 the court to the Secretary. The reviewing court shall com-
14 pel the Secretary to take any action that is found to have
15 been unlawfully withheld or unreasonably delayed. The
16 Secretary’s desire to confer with, or to receive approval
17 from any other Federal agency or Federal executive offi-
18 cial, shall not justify the withholding or delaying of action
19 by the Secretary, except where such consultation or solici-
20 tation of approval is required by statute and has been pur-
21 sued in a timely fashion.”.

22 (e) JUDICIAL REVIEW.—Section 6(f) (29 U.S.C.
23 655(f)) is amended by adding at the end the following:
24 “The procedures of this subsection shall be the exclusive
25 means of challenging the validity of any occupational safe-

1 ty and health standard and the validity of any such stand-
2 ard may not be raised in an enforcement action under sec-
3 tion 10 or 11.”.

4 **SEC. 402. OCCUPATIONAL SAFETY AND HEALTH STANDARD.**

5 Section 3(8) (29 U.S.C. 652(8)) is amended to read
6 as follows:

7 “(8) The term ‘occupational safety and health
8 standard’ means a standard which addresses a sig-
9 nificant risk to the safety or health of employees by
10 requiring conditions, or the adoption or use of one
11 or more practices, means, methods, operations, or
12 processes that most adequately assure, to the extent
13 feasible, safe and healthful employment and places
14 of employment. For purposes of this paragraph, the
15 term ‘significant risk’ means a risk from an occupa-
16 tional safety or health hazard which may be reason-
17 ably anticipated to cause material impairment of
18 health or functional capacity to employees exposed
19 to such safety or health hazard. A risk shall not be
20 considered significant—

21 “(A) in the case of a toxic substance or
22 harmful physical agent that may cause cancer,
23 if the risk resulting from employee exposure to
24 such substance or agent does not exceed one in

1 a million (as determined by conservative risk
2 assessment models), or

3 “(B) in the case of an occupational safety
4 or health hazard other than a potential carcino-
5 gen, if a condition, practice, or exposure is not
6 reasonably anticipated to cause material impair-
7 ment of health or functional capacity to employ-
8 ees exposed to such hazard, taking into account
9 an ample margin of safety.”.

10 **SEC. 403. RECORDING OF ADVERSE MEDICAL CONDITION.**

11 Section 6(b)(7) (29 U.S.C. 655(b)(7)) is amended by
12 inserting after the third sentence the following: “The
13 standard shall also prescribe requirements for recording
14 or reporting work-related adverse medical conditions de-
15 termined as a result of medical examinations or tests con-
16 ducted under the standard.”.

17 **SEC. 404. PUBLIC DISCLOSURE OF ALL COMMUNICATIONS**
18 **ON STANDARDS.**

19 Section 6(b) (29 U.S.C. 655(b)) is amended by add-
20 ing at the end the following:

21 “(9) The Secretary shall place all written com-
22 ments and communications and a summary of all
23 verbal communications with parties outside the De-
24 partment of Labor (including communications with
25 executive branch officials but not including commu-

1 nications with the President) regarding the promul-
2 gation, modification, or revocation of a standard
3 under this section in the public record within 10
4 working days of the receipt of such communica-
5 tions.”.

6 **SEC. 405. REVISION OF PERMISSIBLE EXPOSURE LIMITS.**

7 Section 6 (29 U.S.C. 655) (as amended by section
8 401(d)) is amended by adding at the end the following:

9 “(i) In addition to other health and safety standards
10 promulgated under subsection (b), the Secretary shall, in
11 cooperation with the Secretary of Health and Human
12 Services, modify and establish exposure limits for toxic
13 materials and harmful physical agents on a regular basis
14 in the following manner and in accordance with the re-
15 quirements of subsection (b)(5):

16 “(1) The Secretary of Health and Human Serv-
17 ices, acting through the National Institute for Occu-
18 pational Safety and Health, shall regularly evaluate
19 available scientific evidence, data, and information to
20 determine if exposure limits for toxic materials and
21 harmful physical agents promulgated under sub-
22 sections (a) and (b) should be modified or if an ex-
23 posure limit should be established to protect exposed
24 employees from material impairment of health or
25 functional capacity. Such evaluation shall include a

1 review of the scientific literature, standards of pri-
2 vate and professional organizations, national consen-
3 sus standards, standards adopted by other countries,
4 recommendations of State and Federal agencies, and
5 consideration of whether such toxic materials and
6 harmful physical agents pose a significant risk to
7 employee health or safety.

8 “(2) At least every 3 years the Secretary of
9 Health and Human Services, acting through the Na-
10 tional Institute for Occupational Safety and Health,
11 shall, on the basis of the evaluation under paragraph
12 (1), develop and shall transmit to the Secretary rec-
13 ommendations identifying toxic materials and harm-
14 ful physical agents, if any, for which exposure limits
15 should be modified or established to protect employ-
16 ees from material impairment of health or functional
17 capacity. For each such material or agent, the rec-
18 ommendation shall include a suggested permissible
19 exposure limit, the basis for the suggested exposure
20 limit, and, where available, information on feasible
21 control measures.

22 “(3) Within 30 days of receipt of recommenda-
23 tions under paragraph (2), the Secretary shall pub-
24 lish the recommendations on exposure limits in the
25 Federal Register and provide a period of 30 days for

1 public comment. The Secretary shall evaluate the
2 recommendations and public comments and, within
3 6 months of the receipt of the recommendations, the
4 Secretary shall publish a proposed rule to modify,
5 maintain, or establish exposure limits for each toxic
6 material and harmful physical agent for which the
7 Secretary of Health and Human Services has rec-
8 ommended that such limit should be modified or es-
9 tablished. If a proposed exposure limit is not the
10 same as the exposure limit recommended by the Sec-
11 retary of Health and Human Services, the Secretary
12 shall explain why the recommended limit is not being
13 proposed.

14 “(4) Within one year of the publication of the
15 proposed exposure limits under paragraph (3), the
16 Secretary shall issue a final standard, which stand-
17 ard shall be subject to the requirements of sub-
18 section (b)(5). If a final exposure limit is not the
19 same as the exposure limits recommended by the
20 Secretary of Health and Human Services, the Sec-
21 retary shall explain why the recommended exposure
22 limit is not being adopted.

23 “(5) In addition to the periodic review of per-
24 missible exposure limits required by paragraph (1),
25 the Secretary shall also establish or modify exposure

1 limits for toxic materials and harmful physical
2 agents whenever such action is warranted, pursuant
3 to subsections (b)(5) and (g).”.

4 **SEC. 406. EXPOSURE MONITORING AND HEALTH SURVEIL-**
5 **LANCE.**

6 Section 6 (29 U.S.C. 655) (as amended by section
7 405) is amended by adding at the end the following:

8 “(j) Within two years after the effective date of the
9 Comprehensive Occupational Safety and Health Reform
10 Act, the Secretary shall promulgate final standards on ex-
11 posure monitoring and health surveillance programs in the
12 following manner and in accordance with subsection (b).

13 “(1) The standard on exposure monitoring shall
14 include the following:

15 “(A) Requirements for a formal exposure
16 assessment where workers may be exposed to
17 toxic materials or harmful physical agents
18 which are subject to standards issued under
19 this section, including toxic materials or harm-
20 ful physical agents.

21 “(B) Requirements for regular monitoring
22 and measurement of toxic materials or harmful
23 physical agents for which an exposure limit has
24 been established by the Secretary or adopted by
25 the employer if such monitoring and measure-

1 ments will assist in protecting the health and
2 safety of workers exposed to such toxic mate-
3 rials or harmful physical agents.

4 “(C) Requirements for a written compli-
5 ance plan for reducing exposures where expo-
6 sures are determined to exceed limits estab-
7 lished by the Secretary or adopted by the em-
8 ployer.

9 “(D) Requirements for employees to be no-
10 tified in writing of exposures to toxic materials
11 or harmful physical agents above exposure lim-
12 its established by the Secretary or adopted by
13 the employer and the steps the employer is tak-
14 ing to reduce such exposures.

15 “(E) Requirements for maintenance and
16 access to records of exposure to toxic materials
17 or harmful physical agents.

18 “(2) The standard on health surveillance pro-
19 grams shall include the following:

20 “(A) Requirements for an evaluation of
21 employee exposure assessments and exposure
22 monitoring to identify which employees may be
23 at risk of material impairment of health or
24 functional capacity due to exposure to toxic ma-
25 terials or harmful physical agents.

1 “(B) Requirements for periodic medical ex-
2 aminations for employees identified to be at
3 risk of material impairment of health or func-
4 tional capacity due to exposure to toxic mate-
5 rials or harmful physical agents where such ex-
6 aminations are appropriate to identify or to
7 prevent material impairment of health or func-
8 tional capacity.

9 “(C) Requirements for the evaluation of
10 the results of medical examinations to deter-
11 mine if an employee or a group of employees
12 are exhibiting indications of present or potential
13 material impairment of health or functional ca-
14 pacity due to exposure to toxic substances or
15 harmful physical agents.

16 “(D) Requirements for the notification of
17 employees of the results of medical examina-
18 tions in a manner that is understood by the em-
19 ployees.

20 “(E) Provisions setting forth the qualifica-
21 tions for health care providers who may conduct
22 required medical examinations. Where feasible,
23 the Secretary in cooperation with the Secretary
24 of Health and Human Services shall establish
25 criteria and procedures for the certification of

1 health care providers who conduct medical ex-
2 aminations.

3 “(F) Provisions to assure the confidential-
4 ity of personally identifiable medical informa-
5 tion.

6 “(G) Provisions to prohibit discrimination
7 against employees based on the results of medi-
8 cal examinations, and as appropriate provisions
9 to provide protection of the wages, benefits, and
10 other terms and conditions of employment of
11 employees who are transferred or removed from
12 their jobs due to the result of medical examina-
13 tions.

14 “(H) Records developed under this sub-
15 section shall be maintained and made available
16 according to regulations published at 29 CFR
17 1910.20.”.

18 **SEC. 407. STANDARD ON ERGONOMIC HAZARDS.**

19 Section 6 (29 U.S.C. 655) (as amended by section
20 406) is amended by adding at the end the following:

21 “(k) Within 2 years of the effective date of the Com-
22 prehensive Occupational Safety and Health Reform Act,
23 the Secretary shall issue a final standard on ergonomic
24 hazards to protect employees from work-related musculo-

1 skeletal disorders in accordance with subsection (b)(5).

2 The standard shall include the following:

3 “(1) Requirements for an ergonomics program
4 where employees are exposed to ergonomic hazards
5 which requirements shall include provisions for haz-
6 ard identification, control measures, medical man-
7 agement, training and education, and employee par-
8 ticipation.

9 “(2) Requirements for an evaluation of job
10 processes, work station design, rate of work, and
11 work methods to identify ergonomic risk factors that
12 cause or are likely to cause musculoskeletal dis-
13 orders.

14 “(3) Requirements for control measures to re-
15 duce stressors and musculoskeletal disorders, includ-
16 ing engineering controls, new equipment, or work or-
17 ganization controls.

18 “(4) Requirements for an effective medical
19 management program for musculoskeletal disorders,
20 including requirements for qualified health care pro-
21 viders, health surveillance, appropriate diagnosis,
22 treatment, and follow up.

23 “(5) Requirements for recording musculo-
24 skeletal disorders as an illness and reporting such
25 illnesses to the Secretary.

1 “(6) Requirements for training and education
2 of employees exposed to ergonomic hazards on
3 ergonomic risk factors, control measures, and the
4 employer’s medical management program.

5 “(7) Requirements for employee participation in
6 the establishment and implementation of the employ-
7 er’s ergonomic program through any safety and
8 health committee established under section 28.”.

9 **SEC. 408. EMERGENCY TEMPORARY STANDARD.**

10 Section 6(c) (29 U.S.C. 655(c)) is amended—

11 (1) in paragraph (1), by striking “if he deter-
12 mines” and inserting “if the Secretary determines
13 on the basis of the best available evidence”; and

14 (2) in paragraph (3), by striking “six months”
15 and inserting “18 months”.

16 **SEC. 409. AIR CONTAMINANTS.**

17 Not later than 60 days after the date of the enact-
18 ment of this Act, The Secretary of Labor shall issue an
19 interim final regulation reducing permissible exposure lim-
20 its to toxic substances. Such interim final regulation shall
21 include and place into effect—

22 (1) the final rule on air contaminants published
23 at 54 Federal Register 2332 (January 19, 1989),
24 and

1 (2) the proposed rule on air contaminants for
2 construction, agriculture, and maritime published at
3 57 Federal Register 26001 (June 12, 1992).

4 Such interim final regulation shall take effect upon its is-
5 suance (except that such regulation may include a reason-
6 able delay in the effective date of specific provisions) and
7 shall have the legal effect of an occupational safety and
8 health standard issued under section 6 of the Occupational
9 Safety and Health Act of 1970.

10 **TITLE V—ENFORCEMENT**

11 **SEC. 501. NO LOSS OF EMPLOYEE PAY FOR INSPECTIONS.**

12 Section 8(e) (29 U.S.C. 657(e)) (as amended by sec-
13 tion 201(b)) is amended by inserting after the first sen-
14 tence the following: "Time spent by an employee on any
15 such inspection shall be deemed to be hours worked and
16 no employee shall suffer any loss of wages, benefits, and
17 other terms and conditions of employment for having par-
18 ticipated in the inspection."

19 **SEC. 502. TIME FRAME FOR RESPONSE TO COMPLAINTS.**

20 The last sentence of section 8(f)(1) (29 U.S.C.
21 657(f)(1)) is amended by inserting before the period the
22 following: "within 30 days of receipt of the request for
23 inspection".

24 **SEC. 503. COMPLAINTS.**

25 Section (8)(f)(1) (29 U.S.C. 657(f)(1)) is amended—

1 (1) by inserting "the Act or" after "a violation
2 of";

3 (2) in the second sentence, by striking out "Any
4 such notice" through "and a copy shall be provided"
5 and inserting in lieu thereof the following: "Any
6 such notice shall set forth with reasonable particu-
7 larity the grounds for the notice, and a copy of the
8 notice if written or a summary of the notice if oral
9 shall be provided"; and

10 (3) by adding at the end the following: "The
11 Secretary shall make a special inspection in accord-
12 ance with this section upon notification from any
13 Federal or State agency that there are reasonable
14 grounds to believe that a violation of this Act or
15 safety and health standard under section 6 exists
16 that threatens physical harm."

17 **SEC. 504. MANDATORY SPECIAL EMPHASIS.**

18 Section 8 (29 U.S.C. 657) is amended by adding at
19 the end the following:

20 "(h)(1) The Secretary shall establish and carry out
21 a special emphasis inspection program for conducting in-
22 spections of industries or operations where—

23 "(A) existing hazards, or

24 "(B) newly recognized or new hazards intro-
25 duced into worksites,

1 warrant more intensive than normal inspections, as deter-
2 mined by the Secretary.

3 “(2) The Secretary shall annually designate the in-
4 dustries and operations for the special emphasis inspection
5 program and identify the number of special emphasis in-
6 spections that the Secretary plans to conduct in each des-
7 ignated industry and operation and the number of enforce-
8 ment personnel required for such inspections.

9 “(3) Inspections conducted under paragraph (1) shall
10 be in addition to other programmed and complaint inspec-
11 tions conducted under this Act.

12 “(4) The Secretary shall annually submit a report to
13 the Congress on the special emphasis inspection program
14 as part of the Secretary’s annual report required under
15 section 26 which includes information on inspections con-
16 ducted pursuant to paragraph (2) which were carried out
17 during the preceding year.”.

18 **SEC. 505. INVESTIGATIONS OF DEATHS AND SERIOUS INCI-**
19 **DENTS.**

20 Section 8 (29 U.S.C. 657) (as amended by section
21 504) is amended by adding at the end the following:

22 “(i)(1) The Secretary shall investigate any work-re-
23 lated death or serious incident.

24 “(2) If a death or serious incident occurs in a place
25 of employment covered by this Act, the employer shall no-

1 tify the Secretary of the death or serious incident and shall
2 take appropriate measures to prevent the destruction or
3 alteration of any evidence that would assist in investigat-
4 ing the death or serious incident. The appropriate meas-
5 ures required by this paragraph do not prevent an em-
6 ployer from taking action on a worksite to prevent injury
7 to employees or substantial damage to property. If an em-
8 ployer takes such action, the employer shall notify the Sec-
9 retary of the action in a timely fashion.

10 “(3) As used in this subsection, the term ‘serious in-
11 cident’ means an incident that results in the hospitaliza-
12 tion of 2 or more employees.”.

13 **SEC. 506. ABATEMENT OF SERIOUS HAZARDS DURING EM-**
14 **PLOYER CONTESTS TO A CITATION.**

15 (a) CITATIONS AND ENFORCEMENT.—Section 10 (29
16 U.S.C. 659) is amended as follows:

17 (1) in subsection (b), by inserting after “which
18 period” the following: “for other than serious viola-
19 tions”;

20 (2) by adding at the end the following:

21 “(d) For each violation which the Secretary charac-
22 terizes as serious, willful, or repeated, the period permitted
23 for the correction of the violation shall begin to run upon
24 receipt of the citation. The filling of a notice of contest
25 by an employer shall not operate as a stay of the period

1 for correction of the violation. In cases where the failure
2 to stay the period for correction of the violation may pose
3 an undue hardship for an employer, the Commission, on
4 the basis of an employer's motion, may stay the running
5 of such period while proceedings before the Commission
6 are pending. In determining whether a stay should be is-
7 sued, the Commission shall consider—

8 “(1) whether the employer has demonstrated a
9 likelihood of success on the merits;

10 “(2) whether the employer will suffer irrepar-
11 arable harm absent a stay;

12 “(3) whether issuance of the stay will substan-
13 tially injure the other parties interested in the pro-
14 ceeding; and

15 “(4) the public interest.”.

16 (b) PENALTIES.—Section 17(d) (29 U.S.C. 666(d))
17 is amended by inserting after “which period” the follow-
18 ing: “for other than serious violations”.

19 (c) EMPLOYER CONTEST.—Section 10(c) (29 U.S.C.
20 659) is amended by inserting after the first sentence the
21 following: “The pendency of a contest before the Commis-
22 sion shall not bar the Secretary from inspecting a place
23 of employment or from issuing a citation under section
24 9.”.

1 (d) STATUTE OF LIMITATION.—Section 9(c) (29
2 U.S.C 658(c)) is amended by adding at the end the follow-
3 ing: “The six month time limit shall not apply to a notifi-
4 cation of penalty.”.

5 (e) VERIFICATION OF ABATEMENT.—Section 10 (as
6 amended by subsection (a)) is amended by adding at the
7 end thereof the following:

8 “(e) Each employer to whom a citation for a serious,
9 willful or repeated violation has been issued under section
10 9 shall verify the abatement of such violation in writing
11 to the Secretary not later than 30 days after the period
12 for correction of the violation has expired. Such verifica-
13 tion shall include appropriate documentary evidence of
14 abatement. In addition, each such employer shall promi-
15 nently post, within 10 days after the verification of abate-
16 ment, at or near each place a violation occurred a notice
17 that the violation has been abated, and shall make avail-
18 able to employees and employee representatives for inspec-
19 tion a copy of the verification of abatement provided to
20 the Secretary pursuant to this subsection. The Secretary
21 shall issue regulations to implement this subsection within
22 one year of the date of the enactment of the Comprehen-
23 sive Occupational Safety and Health Reform Act.”.

1 **SEC. 507. RIGHT TO CONTEST CITATIONS AND PENALTIES.**

2 The first sentence of section 10(c) (29 U.S.C. 659(c))
3 is amended by—

4 (1) inserting after “9(a)” the second time it ap-
5 pears the following: “or a modification of a cita-
6 tion”, and

7 (2) inserting after “files a notice with the Sec-
8 retary” the following: “alleging that the citation fails
9 properly to designate the violation as serious, willful,
10 or repeated, or that the proposed penalty is not ade-
11 quate, or”.

12 **SEC. 508. RIGHT OF EMPLOYEE REPRESENTATIVES TO PAR-**
13 **TICIPATE IN OTHER PROCEEDINGS.**

14 The last sentence of section 10(c) (29 U.S.C. 659(c))
15 is amended by striking out “hearings” and inserting in
16 lieu thereof “proceedings”.

17 **SEC. 509. OBJECTIONS TO MODIFICATION OF CITATIONS.**

18 Section 10 (29 U.S.C. 659) (as amended by section
19 506(e)) is amended by adding at the end the following:

20 “(f)(1) If the Secretary intends to withdraw or to
21 modify a citation as a result of any agreement with the
22 cited employer, the rules of procedure prescribed by the
23 Commission shall provide for prompt notice to affected
24 employees or representatives of affected employees, which
25 notice shall include the terms of the proposed agreement.

1 “(2) Within 15 working days of receipt of the notice
2 provided in accordance with paragraph (1), any employee
3 or representative of employees, regardless of whether such
4 employee or representative has previously elected to par-
5 ticipate in the proceedings, shall have the right to file a
6 notice with the Secretary alleging that the proposed agree-
7 ment fails to effectuate the purposes of this Act and stat-
8 ing the respects in which it fails to do so.

9 “(3) Upon receipt of a notice filed under paragraph
10 (2), the Secretary shall consider the matter, and if the
11 Secretary determines to proceed with the proposed agree-
12 ment, the Secretary shall respond with particularity to the
13 statements presented in that notice.

14 “(4) Within 15 working days following the Sec-
15 retary’s response provided pursuant to paragraph (3), the
16 employee or representative of employees shall, upon a re-
17 quest to the Commission, have the right to a hearing as
18 to whether adoption of the proposed agreement would ef-
19 fectuate the purposes of this Act, including a determina-
20 tion as to whether the proposed agreement would ade-
21 quately abate the alleged violations.

22 “(5) If the Commission determines that a proposed
23 agreement fails to effectuate the purposes of this Act, the
24 proposed agreement shall not be entered as an order of

1 the Commission and the citation shall not be withdrawn
2 or modified in accordance with the proposed agreement.”.

3 **SEC. 510. IMMINENT DANGER INSPECTIONS.**

4 (a) SPECIAL CONDITIONS AND PRACTICES.—Section
5 13 (29 U.S.C. 662) is amended—

6 (1) by striking out subsection (c), by redesignig-
7 nating subsections (a) and (b) as subsections (b)
8 and (c), respectively, and by inserting before sub-
9 section (b) (as so redesignated) the following:

10 “(a)(1) If the Secretary determines, on the basis of
11 an inspection or investigation under this section, that a
12 condition or practice in a place of employment is such that
13 an imminent danger to safety or health exists that could
14 reasonably be expected to cause death or serious physical
15 harm or permanent impairment of the health or functional
16 capacity of employees if not corrected immediately, the
17 Secretary shall so inform the employer and affected em-
18 ployees and shall request that the condition or practice
19 be corrected immediately or that employees be imme-
20 diately removed from exposure to such danger.

21 “(2) If the employer refuses to comply with the re-
22 quest under paragraph (1), the Secretary shall imme-
23 diately cause notice to be posted in the workplace identify-
24 ing the equipment, process, or practice that is the source
25 of the imminent danger. Such notice shall take the form

1 of a tag or other device that will be seen by employees
2 who might otherwise be exposed to the dangerous equip-
3 ment, process, or practice. The notice shall be removed
4 only by the Secretary.

5 “(3) The fact that notice under paragraph (2) has
6 been posted shall be noted in any citation issued pursuant
7 to section 9 with respect to the hazard involved.

8 “(4) No person shall discharge or in any manner dis-
9 criminate against any employee because such employee
10 has refused to perform a duty that has been identified as
11 the source of an imminent danger by a notice posted pur-
12 suant to paragraph (2). The right to refuse to perform
13 such a duty shall be in addition to any other right to
14 refuse to perform hazardous work that is afforded to em-
15 ployees by this Act, by standards or regulations issued
16 pursuant to this Act, by contract, or by other applicable
17 law.”; and

18 (2) by amending the first sentence of subsection
19 (b) (as so redesignated) to read as follows: “The
20 United States district courts shall have jurisdiction,
21 upon petition of the Secretary, to restrain any condi-
22 tions or practices in any place of employment which
23 pose an imminent danger as described in subsection
24 (a).”.

1 (b) PENALTIES.—Section 17 is amended by redesignating subsections (h) through (l) as subsections (i) through (m), respectively, and by inserting after subsection (g) the following:

5 “(h) In the event that an employer does not immediately correct the hazard referenced in a notice posted under section 13(a)(2) or remove all employees from exposure thereto, the employer shall be assessed a civil penalty of not less than \$10,000 and not more than \$50,000 for each day during which an employee continues to be exposed to the hazard unless the Commission determines the condition or practice is not of such nature as to be covered by section 13(a).”.

14 **SEC. 511. CITATIONS AND PENALTIES FOR VIOLATIONS.**

15 (a) CITATIONS.—Section 9(a) is amended by inserting “, 27 or 28” after “section 5”.

17 (b) PENALTIES.—Section 17 is amended—

18 (1) in subsection (a), by inserting “, 27, 28, or 30” after “section 5”,

20 (2) in subsection (b), by inserting “, 27, 28, or 30” after “section 5”, and

22 (3) in subsection (c), by inserting “, 27, 28, or 30” after “section 5”.

1 **SEC. 512. OSHA CRIMINAL PENALTIES.**

2 (a) IN GENERAL.—Section 17 (29 U.S.C. 666) (as
3 amended by section 510(b)) is amended—

4 (1) in subsection (e)—

5 (A) by inserting after “employer” the fol-
6 lowing: “and every officer, management official,
7 or supervisor having direction, management,
8 control, or custody of any place of employment
9 of such employee”;

10 (B) by striking out “fine of not more than
11 \$10,000” and inserting in lieu thereof “fine in
12 accordance with section 3571 of title 18, United
13 States Code,”;

14 (C) by striking out “six months” and in-
15 serting in lieu thereof “10 years”;

16 (D) by striking out “fine of not more than
17 \$20,000” and inserting in lieu thereof “fine in
18 accordance with section 3571 of title 18, United
19 States Code,”; and

20 (E) by striking out “one year” and insert-
21 ing in lieu thereof “20 years”;

22 (2) in subsection (f), by striking out “fine of
23 not more than \$1,000 or by imprisonment for not
24 more than six months,” and inserting in lieu thereof
25 “fine in accordance with section 3571 of title 18,

1 United States Code, or by imprisonment for not
2 more than 2 years,”;

3 (3) in subsection (g), by striking out “fine of
4 not more than \$10,000, or by imprisonment for not
5 more than six months,” and inserting in lieu thereof
6 “fine in accordance with section 3571 of title 18,
7 United States Code, or by imprisonment for not
8 more than 1 year,”;

9 (4) by redesignating subsections (i) through
10 (m) as subsections (j) through (n), respectively;

11 (5) by inserting after subsection (h) the follow-
12 ing:

13 “(i) Any employer and any officer, management offi-
14 cial, or supervisor having direction, management, control,
15 or custody of any place of employment who willfully vio-
16 lates any standard, rule, or order promulgated pursuant
17 to section 6, or any regulation prescribed pursuant to this
18 Act, and that violation causes serious bodily injury to any
19 employee but does not cause death to any employee, shall,
20 upon conviction, be punished by a fine in accordance with
21 section 3571 of title 18, United States Code, or by impris-
22 onment for not more than 5 years, or by both, except that
23 if the conviction is for a violation committed after a first
24 conviction of such person under this subsection or sub-
25 section (e), punishment shall be by a fine in accordance

1 with section 3571 of title 18, United States Code, or by
2 imprisonment for not more than 10 years, or by both.”;
3 and

4 (6) by adding at the end the following:

5 “(o) If a penalty or fine is imposed on a director,
6 officer, or agent of an employer under subsection (e), (f),
7 (g), or (i), such penalty or fine shall not be paid out of
8 the assets of the employer on behalf of that individual.”.

9 (b) DEFINITION.—Section 3 (29 U.S.C. 652) is
10 amended by adding at the end the following:

11 “(15) The term ‘serious bodily injury’ means
12 bodily injury that involves—

13 “(A) a substantial risk of death;

14 “(B) protracted unconsciousness;

15 “(C) protracted and obvious physical dis-
16 figurement; or

17 “(D) protracted loss or impairment of the
18 function of a bodily member, organ, or mental
19 faculty.”.

20 (c) JURISDICTION FOR PROSECUTION UNDER STATE
21 AND LOCAL CRIMINAL LAWS.—Section 17 (29 U.S.C.
22 666) (as amended by subsection (a) of this section) is
23 amended by adding at the end the following:

24 “(p) Nothing in this Act shall preclude State and
25 local law enforcement agencies from conducting criminal

1 prosecutions in accordance with the laws of such State or
2 locality.”.

3 **SEC. 513. COMMISSION MEMBER'S TERMS.**

4 Section 12(b) (29 U.S.C. 661(b)) is amended by add-
5 ing after the first sentence the following: “A member of
6 the Commission may serve after the expiration of the
7 member’s term until a successor has taken office.”.

8 **SEC. 514. INSPECTIONS.**

9 Section 8(a) (29 U.S.C. 657(a)) is amended by add-
10 ing after and below paragraph (2) the following: “In car-
11 rying out the inspection authority under this section, the
12 Secretary shall establish an effective system for targeting
13 inspections of worksites, especially worksites with a high
14 potential for death, serious injury, or exposure to toxic
15 materials or harmful physical agents and shall establish
16 priorities for such inspections to ensure that enforcement
17 activities are concentrated on such worksites.”.

18 **SEC. 515. EMPLOYEE ACCOUNTABILITY.**

19 Section 9 (29 U.S.C. 658) is amended by adding at
20 the end the following:

21 “(d) A citation issued under subsection (a) to an em-
22 ployer who violates the requirements of section 5, any
23 standard, rule, or order promulgated pursuant to section
24 6, or any other regulation promulgated under this Act
25 shall be vacated if such employer demonstrates that—

1 “(1) employees of such employer have been pro-
2 vided with the proper training and equipment to pre-
3 vent such a violation;

4 “(2) work rules designed to prevent such a vio-
5 lation have been established and adequately commu-
6 nicated to employees by such employer and have
7 been effectively enforced when such a violation has
8 been discovered;

9 “(3) the failure of employees to observe work
10 rules led to the violation; and

11 “(4) reasonable steps have been taken by such
12 employer to discover any such violation.”.

13 **SEC. 516. SERIOUS PENALTY.**

14 Section 17(b) (29 U.S.C. 656(b)) is amended by in-
15 serting “(1)” after “(b)” and by adding at the end the
16 following:

17 “(2) The minimum penalty for a violation described
18 in paragraph (1) shall be at least \$1,000. The amount
19 of any such increased penalty collected by the Secretary
20 (beyond fiscal year 1992 penalty collection levels) shall be
21 credited as an offsetting collection to the appropriation ac-
22 count of the Secretary for expenses for the administration
23 of this Act and shall remain available to the Secretary
24 until expended.”.

1 **TITLE VI—PROTECTION OF EM-**
2 **PLOYEES FROM DISCRIMINA-**
3 **TION**

4 **SEC. 601. ANTIDISCRIMINATION PROVISIONS.**

5 (a) **EMPLOYEE ACTIONS.**—Section 11(c)(1) (29
6 U.S.C. 660(c)(1)) is amended by adding before the period
7 at the end the following: “including reporting any injury,
8 illness or unsafe condition to the employer, agent of the
9 employer, the safety and health committee, or employee
10 safety and health representative”

11 (b) **PROCEDURE.**—Section 11(c) (29 U.S.C. 660(c)
12 is amended by striking out paragraphs (2) and (3) and
13 inserting in lieu thereof the following:

14 “(2) No person shall discharge or in any manner dis-
15 criminate against an employee for refusing to perform the
16 employee’s duties when the employee has a reasonable ap-
17 prehension that performing such duties would result in se-
18 rious injury to the employee or other employees. The cir-
19 cumstances causing the employee’s apprehension of seri-
20 ous injury must be of such a nature that a reasonable per-
21 son, under the circumstances then confronting the em-
22 ployee would conclude that there is a bona fide danger
23 of an injury or serious impairment of health resulting from
24 the circumstances. In order to qualify for protection, the
25 employee, when practicable, must have sought from his

1 employer, and have been unable to obtain, correction of
2 the circumstances causing the refusal to perform the em-
3 ployee's duties.

4 “(3) Any employee who believes that the employee
5 has been discharged, disciplined, or otherwise discrimi-
6 nated against by any person in violation of paragraph (1)
7 or (2) may, within 180 days after such alleged violation
8 occurs, file (or have filed by any person on the employee's
9 behalf) a complaint with the Secretary alleging such dis-
10 charge, discipline, or discrimination violates paragraph (1)
11 or (2). Upon receipt of such a complaint, the Secretary
12 shall notify the person named in the complaint of the filing
13 of the complaint.

14 “(4)(A)(i) Within 60 days of receipt of a complaint
15 filed under paragraph (3), the Secretary shall conduct an
16 investigation and determine whether there is reasonable
17 cause to believe that the complaint has merit. During the
18 investigation, the Secretary shall notify the respondent to
19 the complaint of the charges made in the complaint, shall
20 provide the respondent with an opportunity to meet the
21 investigator conducting the investigation, to submit a re-
22 sponse to such charges, and to present witnesses to rebut
23 such charges. The Secretary shall also consider the result
24 of any collectively bargained grievance proceeding which
25 may have been held with respect to such charges. Upon

1 completion of the investigation, the Secretary shall notify
2 the complainant and the respondent to the complaint of
3 the Secretary's findings. Where the Secretary has con-
4 cluded that there is reasonable cause to believe that a vio-
5 lation has occurred, the Secretary's findings shall be ac-
6 companied by a preliminary order providing the relief pre-
7 scribed by subparagraph (B).

8 “(ii) After the Secretary has made findings either the
9 person alleged to have committed the violation or the com-
10 plainant may, within 30 days, file objections to the find-
11 ings or preliminary order, or both, and request a hearing
12 on the record, except that the filing of such objections
13 shall not operate to stay any reinstatement remedy con-
14 tained in the preliminary order. If the Secretary does not
15 issue findings with respect to a complaint within 90 days
16 of the receipt of the complaint, the complainant may re-
17 quest a hearing on the record on the complaint.

18 “(iii) A hearing requested under clause (ii) shall be
19 expeditiously conducted. Where a hearing is not timely re-
20 quested, the preliminary order shall be deemed a final
21 order which is not subject to judicial review. Upon the con-
22 clusion of such hearing, the Secretary shall issue a final
23 order within 120 days. In the interim, such proceedings
24 may be terminated at any time on the basis of a settlement

1 agreement entered into by the Secretary, the complainant,
2 and the person alleged to have committed the violation.

3 “(B) If, in response to a complaint filed under para-
4 graph (3), the Secretary determines that a violation of
5 paragraphs (1) or (2) has occurred, the Secretary shall
6 order—

7 “(i) the person who committed such violation to
8 correct the violation,

9 “(ii) such person to reinstate the complainant
10 to the complainant’s former position together with
11 the compensation (including back pay), terms, condi-
12 tions, and privileges of the complainant’s employ-
13 ment, and

14 “(iii) compensatory damages.

15 If such an order is issued, the Secretary, at the request
16 of the complainant, may assess against the person against
17 whom the order is issued a sum equal to the aggregate
18 amount of all costs and expenses (including attorney’s
19 fees) reasonably incurred, as determined by the Secretary,
20 by the complainant for, or in connection with, the bringing
21 of the complaint upon which the order was issued.

22 “(5)(A) Any person adversely affected or aggrieved
23 by an order issued after a hearing under paragraph (4)(A)
24 may obtain review of the order in the United States Court
25 of Appeals for the circuit in which the violation, with re-

1 spect to which the order was issued, allegedly occurred,
2 or the circuit in which such person resided on the date
3 of such violation. The petition for review must be filed
4 within 60 days from the issuance of the Secretary's order.
5 Such review shall be in accordance with the provisions of
6 chapter 7 of title 5, United States Code, and shall be
7 heard and decided expeditiously.

8 “(B) Whenever a person has failed to comply with
9 an order issued under paragraph (4)(A), the Secretary
10 shall file a civil action in the United States district court
11 for the district in which the violation was found to occur
12 in order to enforce such order. In actions brought under
13 this subparagraph, the district court shall have jurisdic-
14 tion to grant all appropriate relief, including injunctive re-
15 lief, reinstatement, and compensatory damages.

16 “(6) In determining whether a violation of paragraph
17 (1) or (2) has occurred, the legal burdens of proof are
18 as follows:

19 “(A) A violation of paragraph (1) or (2) may
20 be determined to have occurred only if the complain-
21 ant demonstrates that the exercise of a right pro-
22 tected by such paragraph was a contributing factor
23 in the discharge or discrimination alleged in the
24 complaint.

1 “(B) Relief may not be ordered if the employer
2 named in the complaint demonstrates by clear and
3 convincing evidence that the employer would have
4 taken the same unfavorable action against the com-
5 plainant in the absence of the complainant’s exercise
6 of such protected rights.”.

7 **SEC. 602. POSTING OF EMPLOYEE RIGHTS.**

8 Section 8(c)(1) (29 U.S.C. 657(c)(1)) is amended by
9 adding at the end the following: “Such regulations shall
10 include provisions requiring employers to post for employ-
11 ees the protections afforded under section 11(c).”.

12 **TITLE VII—TECHNICAL**
13 **ASSISTANCE AND TRAINING**

14 **SEC. 701. TECHNICAL ASSISTANCE TO EMPLOYERS AND EM-**
15 **PLOYEES.**

16 Section 7 (29 U.S.C. 656) is amended by adding at
17 the end the following:

18 “(d)(1) The Secretary shall develop and disseminate,
19 directly or by grant or contract, training curricula, model
20 programs, and other information and materials designed
21 to assist employers in complying with—

22 “(A) the requirements for safety and health
23 programs and employee safety and health training
24 and education under section 27,

1 “(B) the requirements for safety and health
2 committees under section 28,

3 “(C) the requirements of section 5, including
4 the requirements of standards issued under section
5 6, and

6 “(D) other requirements of this Act.

7 “(2) The Secretary shall establish and implement a
8 program to provide technical assistance and consultative
9 services for employers and employees, either directly or by
10 grant or contract, concerning worksite safety and health
11 and compliance with this Act. Such assistance and con-
12 sultative services shall be targeted at small employers,
13 high hazard worksites, and high hazard industries.

14 “(e)(1) There is established in the Treasury of the
15 United States a revolving fund to be known as the ‘OSHA
16 Assistance Fund’ (hereinafter in this subsection referred
17 to as the ‘Fund’). The Fund shall be used to pay the costs
18 of implementing subsection (d) (including administrative
19 and personnel expenses). Monies in the Fund shall be
20 available without fiscal year limitation to the Secretary for
21 such purpose.

22 “(2)(A) The Secretary shall charge fees in accordance
23 with this paragraph to offset the cost of implementing sub-
24 section (d). Such fees—

1 “(i) shall be imposed on a uniform basis on per-
2 sons receiving assistance under subsection (d);

3 “(ii) shall not exceed the cost of implementing
4 subsection (d); and

5 “(iii) with respect to each person receiving such
6 assistance, shall bear a reasonable relationship to
7 the cost of providing such assistance to such person.

8 “(B) Fees received by the Secretary under this sub-
9 section shall be deposited in the Fund.

10 “(C) The Secretary shall report with respect to each
11 fiscal year to the Congress on the operation of the Fund
12 and shall include in such report—

13 “(i) a summary of the assistance which the Sec-
14 retary has provided under subsection (d) with mon-
15 ies in the Fund in the fiscal year for which such re-
16 port is prepared;

17 “(ii) the cost to the Secretary to provide such
18 assistance; and

19 “(iii) the amount of any fee received by the Sec-
20 retary for such assistance.

21 “(3) The Secretary of the Treasury shall invest the
22 portion of the Fund not required to satisfy current ex-
23 penditures from the Fund, as determined by the Sec-
24 retary, in obligations of the United States or obligations

1 guaranteed as to principal by the United States. Invest-
2 ment proceeds shall be deposited in the Fund.

3 “(4) There is transferred to the Fund \$30,000,000
4 from the Salaries and Expenses appropriation of the Sec-
5 retary for fiscal year 1994.”.

6 **TITLE VIII—RECORDKEEPING** 7 **AND REPORTING**

8 **SEC. 801. DATA COLLECTED BY SECRETARY.**

9 Section 24(a) (29 U.S.C. 673) is amended—

10 (1) by designating the first through third sen-
11 tences as paragraphs (1) through (3), respectively;
12 and

13 (2) by adding at the end the following:

14 “(4)(A) For the purpose of setting safety and health
15 standards, targeting inspections to individual establish-
16 ments, evaluating standard setting and enforcement pro-
17 grams, and for other purposes, the Secretary shall collect
18 such information as may be necessary and conduct analy-
19 ses that identify—

20 “(i) industries, employers, establishments, proc-
21 esses, operations, and occupations that have a high
22 rate of injury or illness;

23 “(ii) factors that cause or contribute to injuries
24 and illnesses;

1 “(iii) workers’ compensation and other costs as-
2 sociated with the injuries and illnesses; and

3 “(iv) employee exposures to toxic substances
4 and harmful physical agents.

5 “(B) Data collected under subparagraph (A) shall be
6 publicly available in a form suitable for further statistical
7 analysis.

8 “(C) The Secretary shall issue regulations that re-
9 quire each employer covered by this Act to report to the
10 Secretary each work-related death of an employee of the
11 employer immediately upon knowledge of the employer
12 and to report each serious incident that results in the hos-
13 pitalization of 2 or more employees of the employer within
14 24 hours of the incident.”.

15 **SEC. 802. EMPLOYEE REPORTED ILLNESSES.**

16 Section 8(c)(2) (29 U.S.C. 657(c)(2)) is amended by
17 striking “injuries and illnesses other than minor injuries
18 requiring only first aid treatment and” and inserting “in-
19 juries, illnesses, a work-related illness reported by an em-
20 ployee or an employee’s physician unless the employer
21 makes a reasonable determination that the illness is not
22 work related, and an adverse medical condition determined
23 as a result of a medical examination or test conducted
24 under an occupational safety and health standard.

1 Records and reports shall not be required for minor inju-
2 ries requiring only first aid treatment and”.

3 **SEC. 803. EMPLOYEE ACCESS.**

4 Section 8(c)(2) (29 U.S.C. 657(c)(2)) is amended by
5 adding at the end the following: “The records and reports
6 required under this section shall be made available to the
7 Secretary, to the Secretary of Health and Human Serv-
8 ices, to employees, and to employee representatives.”.

9 **TITLE IX—NIOSH**

10 **SEC. 901. HAZARD EVALUATION REPORTS.**

11 Section 20(a)(6) (29 U.S.C. 669(a)(6)) is amended—

12 (1) in the second sentence, by inserting “,
13 whether any potentially hazardous condition or
14 harmful physical agent found in the place of employ-
15 ment poses a risk to exposed employees” after “as
16 used or found”; and

17 (2) by inserting after the second sentence the
18 following: “If a determination is not made within 6
19 months of the request, the Secretary shall provide
20 the employer and employees with an interim report
21 on the known or suspected hazards, a recommenda-
22 tion for control, and an estimate of the time that a
23 final determination will be made.”.

1 **SEC. 902. SAFETY RESEARCH.**

2 Section 20(a) (29 U.S.C. 669(a)) is amended by add-
3 ing at the end the following:

4 “(8) The Secretary of Health and Human Services
5 shall identify major factors contributing to occupational
6 injuries and deaths through accident investigations and
7 epidemiological research.”.

8 **SEC. 903. CONTRACTOR RIGHTS.**

9 Section 20(b) (29 U.S.C. 669(b)) is amended in the
10 first sentence by inserting after “Secretary of Health and
11 Human Services” the following: “or the Secretary’s des-
12 ignees or contractors”

13 **SEC. 904. NATIONAL SURVEILLANCE PROGRAM.**

14 Section 20 (29 U.S.C. 669) is amended by adding
15 at the end the following:

16 “(f)(1) The Secretary of Health and Human Services,
17 acting through the National Institute for Occupational
18 Safety and Health, shall (in cooperation with other agen-
19 cies of the Department of Health and Human Services and
20 the Secretary of Labor), within 2 years of the date of the
21 enactment of the Comprehensive Occupational Safety and
22 Health Reform Act, establish a national surveillance pro-
23 gram to identify cases of occupational illnesses, deaths,
24 and serious injuries. In conducting the national surveil-
25 lance program, the Secretary of Health and Human Serv-
26 ices shall coordinate the activities of the Secretary with

1 State health agencies and Federal and State workers'
2 compensation agencies.

3 “(2)(A) The Secretary of Health and Human Serv-
4 ices shall collect data each year on the number and charac-
5 teristics of all occupational deaths, selected occupational
6 illnesses, and selected occupational injuries.

7 “(B) In selecting occupational illnesses and injuries
8 for the collection of data under subparagraph (A), the Sec-
9 retary of Health and Human Services shall consider the
10 known frequency of the disorder, the severity of the dis-
11 order, and the size of the population at risk.

12 “(3) The Secretary of Health and Human Services
13 shall prepare reports and analysis of deaths, occupational
14 illnesses, and injuries collected under the national surveil-
15 lance program and transmit the information to the Sec-
16 retary of Labor, State health agencies, employers, employ-
17 ees, and other interested parties.

18 “(4) The Secretary of Health and Human Services
19 may issue regulations to require an employer, through a
20 physician or other health professional employed by or
21 under contract to the employer, to report information on
22 occupational deaths, illnesses and injuries in order to
23 carry out the provisions of this subsection.”.

1 **SEC. 905. ESTABLISHMENT OF NIOSH AS A SEPARATE**
 2 **AGENCY WITHIN PUBLIC HEALTH SERVICE.**

3 The second sentence of section 22(b) (29 U.S.C.
 4 671(b)) is amended by inserting after "The Institute shall
 5 be" the following: "established as a separate agency within
 6 the United States Public Health Service and be".

7 **SEC. 906. CONFORMING AMENDMENTS CHANGING REF-**
 8 **ERENCES FROM HEW TO HHS.**

9 The Occupational Safety and Health Act of 1970 is
 10 amended by striking out "Health, Education, and Wel-
 11 fare" each place it appears in sections 6 through 8 (29
 12 U.S.C. 655 through 657), sections 20 through 26 (29
 13 U.S.C. 669 through 675), and section 27(c)(1) (29 U.S.C
 14 676(c)(1) and inserting in lieu thereof "Health and
 15 Human Services".

16 **SEC. 907. NIOSH TRAINING.**

17 Section 21(a) (29 U.S.C. 670(a)) is amended by in-
 18 serting after "education programs to provide an adequate
 19 supply of qualified personnel to carry out the purposes of
 20 this Act," the following: "including education programs
 21 for employees and members of safety and health commit-
 22 tees, as appropriate,"

23 **TITLE X—STATE PLANS**

24 **SEC. 1001. STATE PLAN COMMITTEES AND PROGRAMS.**

25 Section 18(c) (29 U.S.C. 667(c)) is amended—

1 (1) by striking “and” at the end of paragraph
2 (7);

3 (2) by striking the period at the end of para-
4 graph (8) and inserting a comma; and

5 (3) by adding at the end the following:

6 “(9) provides for the development of safety and
7 health programs and safety and health committees
8 and training programs that are at least as effective
9 as those required under sections 27 and 28, and.”.

10 **SEC. 1002. ACCESS TO INFORMATION; EMPLOYEE RIGHTS.**

11 Section 18(c) (29 U.S.C. 667(c)) (as amended by sec-
12 tion 1001) is amended by adding at the end the following:

13 “(10) provides for reporting requirements, pro-
14 tection of employee rights, and access to information
15 that are at least as effective as those required under
16 this Act or other Federal laws which govern access
17 to information related to this Act.”.

18 **SEC. 1003. APPLICATION OF FEDERAL STANDARDS.**

19 Section 18 (29 U.S.C. 667) is amended by adding
20 at the end the following:

21 “(i) In the event a State, within 6 months after the
22 promulgation of a safety and health standard by the Sec-
23 retary under section 6, fails to adopt or promulgate a
24 standard which is at least as effective as the Secretary’s
25 standard, the State shall enforce the Secretary’s standard

1 until a State standard which is at least as effective as such
2 standard is in effect.”.

3 **SEC. 1004. COMPLAINTS AGAINST A STATE PLAN.**

4 Section 18 (29 U.S.C. 667) (as amended by section
5 1003) is amended—

6 (1) in the third sentence of subsection (e), by
7 inserting after “preceding sentence” the following:

8 “except as provided in subsections (f) and (j)”; and

9 (2) by adding at the end the following:

10 “(j)(1) If the Secretary receives a written complaint
11 from an employer, employee, or employee representative
12 that a State is deficient in its compliance with a provision
13 of its State plan and the Secretary determines that there
14 are reasonable grounds to believe that such deficiency ex-
15 ists, the Secretary shall promptly investigate any such
16 complaint, except that complaints which allege a deficiency
17 in an enforcement action by a State shall be investigated
18 within 30 days of the receipt of the complaint.

19 “(2) The Secretary shall, within 30 days of comple-
20 tion of any investigation, transmit the findings in writing
21 to the State and to the complainant, which findings in-
22 clude recommendations to correct any deficiency which is
23 identified. If the Secretary determines there are no reason-
24 able grounds to believe that a deficiency exists, the Sec-

1 retary shall notify the complainant in writing of such de-
2 termination.

3 “(3) Within 30 days of the receipt of a finding issued
4 under paragraph (2), the State shall respond to the Sec-
5 retary in writing as to what action the State has taken
6 in response to the Secretary’s findings and recommenda-
7 tions.

8 “(4) If after receipt of the response of the State the
9 Secretary believes a serious violation of this Act exists for
10 which the State has failed to issue a citation, the Secretary
11 with reasonable promptness shall issue a citation. Section
12 9(c) shall not apply with respect to a citation issued under
13 this paragraph.”.

14 **SEC. 1005. ACTION AGAINST STATE PLAN.**

15 Section 18(f) (29 U.S.C. 667(f)) is amended—

16 (1) by designating the first sentence as para-
17 graph (1);

18 (2) by redesignating the second sentence as
19 paragraph (3); and

20 (3) by inserting after paragraph (1) (as so des-
21 ignated) the following new paragraph:

22 “(2)(A) If the Secretary determines at any time that
23 there are reasonable grounds for concluding there is a fail-
24 ure to comply substantially with any provision of the State
25 plan (or any assurance contained therein), the Secretary

1 shall give notice to the State of the deficiencies which, in
2 the Secretary's view, warrant such withdrawal of approval,
3 and shall allow 6 months for the correction of the defi-
4 ciencies.

5 “(B) If after 6 months the Secretary determines that
6 the State has not corrected the deficiencies and that
7 grounds for withdrawing approval of the State plan still
8 exist, the Secretary shall institute proceedings pursuant
9 to paragraph (3) for the withdrawal of approval of the
10 plan, unless the Secretary determines in writing that ex-
11 ceptional circumstances exist that justify a decision not
12 to institute such proceedings.

13 “(C) During the pendency of proceedings pursuant
14 to paragraph (3), the Secretary shall exercise jurisdiction,
15 concurrent with the State, over the safety and health is-
16 sues that are subject to the State plan.”.

17 **SEC. 1006. STATE PLAN CONFORMING AMENDMENTS.**

18 Section 18 (29 U.S.C. 667) (as amended by section
19 1004) is amended by adding at the end the following:

20 “(k)(1) Each State which is exercising authority to
21 operate a State safety and health plan under this section
22 shall within one year of the effective date of the Com-
23 prehensive Occupational Safety and Health Reform Act
24 modify the plan to conform with the requirements of this
25 Act.

1 “(2) In the case of a State which the Secretary identi-
2 fies as—

3 “(A) requiring State legislation (other than leg-
4 islation appropriating funds) to modify the State
5 safety and health plan to conform to the require-
6 ments of this Act, and

7 “(B) having a legislature which is not scheduled
8 to meet within 1 year of the effective date of the
9 Comprehensive Occupational Safety and Health Re-
10 form Act in legislative session in which such legisla-
11 tion may be considered,

12 the State shall modify the plan to conform to the require-
13 ments of this Act within 1 year or by the first day of the
14 first calendar quarter beginning after the close of the first
15 legislative session of the State legislature that begins after
16 the effective date of the Comprehensive Occupational Safe-
17 ty and Health Reform Act, whichever is later. For pur-
18 poses of the previous sentence, in the case of a State that
19 has a 2-year legislative session, each year of such session
20 shall be deemed to be a separate session of the State legis-
21 lature.”.

22 **SEC. 1007. VALIDITY OF STATE LAWS.**

23 Section 18 (29 U.S.C. 667) (as amended by section
24 1006) is amended by adding at the end the following:

1 “(1) Nothing in this section shall prevent any State
2 from enacting or enforcing State public safety and health
3 laws which are not limited to providing safe and healthful
4 employment or places of employment, including—

5 “(1) laws that regulate employees or places of
6 employment as a means of protecting the safety and
7 health of both non-employee members of the public
8 and employees, and

9 “(2) laws that license individuals to perform
10 particular types of work.”.

11 **TITLE XI—VICTIM’S RIGHTS**

12 **SEC. 1101. VICTIM’S RIGHTS.**

13 Section 29 is amended to read as follows:

14 **“SEC. 29. VICTIM’S RIGHTS.**

15 “(a) DEFINITION.—For purposes of this section, the
16 term ‘victim’ means—

17 “(1) an employee who has sustained a work-re-
18 lated injury or illness which is the subject of an in-
19 spection or investigation conducted under section 8,
20 or

21 “(2) a family member of an employee if the
22 employee—

23 “(A) is killed as a result of a work-related
24 injury or illness which is the subject of an in-

1 specion or investigation of a death or serious
2 incident conducted under section 8; or

3 “(B) sustains a work-related injury which
4 is the subject of an inspection or investigation
5 conducted under section 8 and the employee
6 cannot reasonably exercise the employee’s rights
7 under this section.

8 “(b) RIGHTS.—On request, a victim shall be afforded
9 the right, with respect to a work-related injury, illness,
10 or death, to—

11 “(1) meet with the Secretary or an authorized
12 representative of the Secretary respecting the inspec-
13 tion or investigation conducted under section 8 con-
14 cerning the injury, illness, or death before the Sec-
15 retary’s decision to issue a citation or to take no ac-
16 tion, and

17 “(2) receive, at no cost, a copy of any citation
18 or report issued as a result of such inspection or in-
19 vestigation on the date the citation or report is is-
20 sued, be informed of any notice of contest filed
21 under section 10.

22 “(c) MODIFICATION OF CITATION.—Before entering
23 into an agreement to withdraw or modify a citation issued
24 as a result of an inspection or investigation of a death
25 or serious incident under section 8, the Secretary, on re-

1 quest, shall provide an opportunity to the victim involved
2 to appear and make a statement before the parties con-
3 ducting any settlement negotiations.

4 “(d) NOTIFICATION.—The Secretary shall take rea-
5 sonable actions to inform victims of their rights under this
6 section.”.

7 **TITLE XII—CONSTRUCTION** 8 **SAFETY**

9 **SEC 1201. DEFINITIONS.**

10 Section 3 (29 U.S.C. 652) (as amended by section
11 512(b)) is further amended by adding at the end thereof
12 the following new paragraph:

13 “(16) For purposes of section 7(c), subsections
14 (j) through (l) of section 8, and sections 30 and 31:

15 “(A) The term ‘construction employer’
16 means an employer as defined in paragraph (5)
17 (including an employer who has no employees)
18 who is engaged primarily in the building and
19 construction industry or who performs construc-
20 tion work under a contract with a construction
21 owner, except that a utility providing or receiv-
22 ing mutual assistance in the case of a natural
23 or man-made disaster shall not be considered a
24 construction employer.

1 “(B) The term ‘construction owner’ means
2 a person who owns, leases or has effective con-
3 trol over property with or without improve-
4 ments, a structure, or other improvement on
5 real property on which construction work is
6 being, or will be, performed.

7 “(C) The term ‘construction project’
8 means all construction work by one or more
9 construction employers which is performed for a
10 construction owner and which is described in
11 work orders, permits, requisitions, agreements,
12 and other project documents.

13 “(D) The term ‘construction work’ means
14 work for construction, alteration, demolition, or
15 repair, or any combination thereof, including
16 painting and decorating, but does not include
17 work performed under a contract between a
18 construction employer and a homeowner for
19 work on the homeowner’s own residence, or rou-
20 tine maintenance and upkeep performed at least
21 monthly, and such term shall include work per-
22 formed under a contract between a construction
23 employer and an agency of the United States or
24 any State or political subdivision of a State.

1 “(E) The term ‘construction worksite’
2 means a site within a construction project
3 where construction work is performed by one or
4 more construction employers.

5 “(F) The term ‘competent person’ means a
6 representative of a construction employer who is
7 capable of identifying safety and health hazards
8 and has authorization from the employer to
9 take prompt corrective action.”.

10 **SEC. 1202. OFFICE OF CONSTRUCTION SAFETY, HEALTH,**
11 **AND EDUCATION.**

12 The Occupational Safety and Health Act of 1970 (29
13 U.S.C. 651 et seq.) is amended—

14 (1) by striking out sections 29 through 32 and
15 section 34; and

16 (2) by inserting after section 28 the following
17 new section:

18 **“SEC. 30. OFFICE OF CONSTRUCTION SAFETY, HEALTH,**
19 **AND EDUCATION.**

20 “(a) ESTABLISHMENT.—There is established in the
21 Occupational Safety and Health Administration an Office
22 of Construction Safety, Health, and Education (herein-
23 after in this section referred to as the ‘Office’) to ensure
24 safe and healthful working conditions in the performance
25 of construction work.

1 “(b) DUTIES.—The Secretary shall—

2 “(1) identify construction employers that have
3 high fatality rates or high lost workday injury or ill-
4 ness rates or who have demonstrated a pattern of
5 noncompliance with safety and health standards,
6 rules, and regulations;

7 “(2) develop a system for notification of em-
8 ployers identified under paragraph (1);

9 “(3) establish, after consultation with the Advi-
10 sory Committee on Construction Safety and Health,
11 training courses and curriculum for the training of
12 inspectors and other persons with duties related to
13 construction safety and health who are employed by
14 the Occupational Safety and Health Administration;

15 “(4) establish model compliance programs for
16 construction safety and health standards and assist
17 employers, employees, and organizations represent-
18 ing employers and employees in establishing training
19 programs appropriate to such standards; and

20 “(5) establish a toll-free line on which reports,
21 complaints, and notifications required under this Act
22 may be made.

23 “(c) PERSONNEL.—

24 “(1) DEPUTY ASSISTANT SECRETARY FOR CON-
25 STRUCTION.—The Office shall be headed by a Dep-

1 uty Assistant Secretary of Labor for Construction,
2 appointed by the Secretary. The Deputy Assistant
3 Secretary shall coordinate the activities of the Office
4 and the Advisory Committee on Construction Safety
5 and Health with the activities of other offices and
6 directorates within the Occupational Safety and
7 Health Administration to the extent that the activi-
8 ties of those other offices and directorates relate to
9 safety, health, and education in the construction in-
10 dustry.

11 “(2) QUALIFICATIONS OF INSPECTORS.—The
12 Secretary, with the advice of the Advisory Commit-
13 tee on Construction Safety and Health, shall deter-
14 mine the necessary qualifications and training re-
15 quirements for individuals employed by the Occupa-
16 tional Safety and Health Administration whose re-
17 sponsibilities include the inspection of construction
18 worksites. Such qualifications and requirements
19 shall, at a minimum, include—

20 “(A) a requirement that the inspector,
21 after receiving appropriate training, have a full
22 understanding of this Act and the Secretary’s
23 standards and regulations applicable to con-
24 struction work; and

1 “(B) in the case of a construction safety
2 inspector, at least 5 years of experience working
3 in the construction industry.”.

4 **SEC. 1203. CONSTRUCTION SAFETY AND HEALTH PLANS**
5 **AND PROGRAMS.**

6 The Occupational Safety and Health Act of 1970 (29
7 U.S.C. 651 et seq.) (as amended by section 1202) is fur-
8 ther amended by adding after section 30 the following new
9 section:

10 **“SEC. 31. CONSTRUCTION SAFETY AND HEALTH PLANS AND**
11 **PROGRAMS.**

12 “(a) PROJECT CONSTRUCTOR.—The Secretary shall,
13 by regulation, require each construction project to have
14 an individual or entity (hereinafter referred to as the
15 ‘project constructor’) that is responsible for the establish-
16 ment of the safety and health plan for such project and
17 for ensuring that the project safety coordinator exercises
18 the duties set forth in this Act. Such regulations shall re-
19 quire that—

20 “(1) if only one general or prime contractor ex-
21 ists on a construction project, such contractor shall
22 be the project constructor, unless such contractor
23 designates another individual or entity with its con-
24 sent to be the project constructor; and

1 “(2) if a construction project has more than
2 one general or prime contractor, the construction
3 owner shall be the project constructor unless such
4 construction owner designates another individual or
5 entity with its consent to be the project constructor.

6 “(b) CONSTRUCTION SAFETY AND HEALTH PLAN.—

7 “(1) IN GENERAL.—The Secretary shall, by
8 regulation, require that the project constructor for a
9 construction project develop and implement a writ-
10 ten construction safety and health plan for the con-
11 struction project (hereinafter in this section referred
12 to as the ‘plan’) to protect employees against haz-
13 ards which may occur at such project.

14 “(2) REQUIREMENTS.—The regulations under
15 paragraph (1) shall, at a minimum, require that the
16 plan shall include a hazard analysis and construction
17 process protocol which shall apply to each worksite
18 of the project. The analysis and protocol shall in-
19 clude a specific reference to critical conditions in the
20 construction process which may cause hazards to
21 exist, identify the methods to be used at such work-
22 site to ensure the structural stability of all buildings,
23 structures, and excavations, and list all inspections
24 and tests required at such worksite to protect the
25 safety and health of employees.

1 “(3) AVAILABILITY.—Copies of the plan shall
2 be made available to each construction employer
3 prior to commencement of construction work by that
4 employer.

5 “(c) PROJECT SAFETY COORDINATOR.—

6 “(1) IN GENERAL.—The Secretary shall, by
7 regulation, require that for every construction
8 project, the project constructor shall designate a
9 project safety coordinator appointed by and acting
10 on behalf of the project constructor. Such regula-
11 tions shall, at a minimum, require the following:

12 “(A) The project safety coordinator shall,
13 on behalf of the project constructor—

14 “(i) implement the plan;

15 “(ii) ensure that each construction
16 employer on the project has a safety and
17 health program which complies with the
18 plan and the requirements of subsection
19 (d);

20 “(iii) conduct regular inspections of
21 the worksite to monitor compliance by em-
22 ployers with the plan and with their safety
23 and health programs;

24 “(iv) notify affected construction em-
25 ployers of any hazardous conditions discov-

1 ered at a construction worksite or of non-
2 compliance by an employer with the project
3 safety and health plan, or the employer's
4 own safety and health plan; and

5 “(v) if the hazard or noncompliance is
6 not corrected, notify the construction
7 owner and the project constructor.

8 “(B) The project safety coordinator shall
9 issue written approval before an employer may
10 engage in an operation of a type determined by
11 the Secretary to pose a substantial risk of death
12 or serious bodily injury.

13 “(C) The project safety coordinator shall—

14 “(i) upon request of any construction
15 employer, employee, or employee represent-
16 ative conduct an inspection at a construc-
17 tion worksite to determine if an imminent
18 danger exists and shall stop work at, or re-
19 move affected employees from, an area in
20 which such a danger exists;

21 “(ii) investigate each fatality, serious
22 bodily injury, structural failure, fire, or ex-
23 plosion that occurs on the project; and

24 “(iii) notify the Secretary if a con-
25 struction employer fails promptly to abate

1 an imminent danger, and request the Sec-
2 retary to conduct an immediate inspection
3 of the worksite.

4 “(D) The project safety coordinator shall
5 be on site as necessary and be promptly avail-
6 able at all times that work is being performed
7 on the project.

8 “(2) QUALIFICATIONS.—The project safety co-
9 ordinator shall be an individual who is certified by
10 an organization or organizations approved by the
11 Secretary as having fulfilled the requirements of a
12 standardized training course and testing program
13 developed or approved by the Secretary with the ad-
14 vice of the Advisory Committee on Construction
15 Safety and Health. Until the Secretary develops
16 such approved procedures, the project safety coordi-
17 nator shall meet the requirements of a competent
18 person under subsection (e).

19 “(d) CONSTRUCTION SAFETY AND HEALTH PRO-
20 GRAMS.—The Secretary shall, by regulation, require every
21 construction employer on a construction project to have
22 a written safety and health program applicable to the em-
23 ployer’s work on such project. The Secretary’s regulations
24 shall, in addition to the requirements under section 27(b),
25 at a minimum, require the following:

1 “(1) The program shall provide for safety and
2 health meetings to review the safety and health pro-
3 gram to be conducted with construction employees
4 during working hours prior to the commencement of
5 the employer’s work on the project. Thereafter, safe-
6 ty and health meetings shall be held at least monthly
7 to provide updated information to employees on the
8 construction process and the hazards associated with
9 those processes. A safety and health meeting shall be
10 held with newly hired employees and with those em-
11 ployees assigned to construction work with which
12 they are unfamiliar before such work commences.

13 “(2) The program shall contain procedures for
14 the emergency evacuation of the employer’s employ-
15 ees from a construction worksite.

16 “(3) The program shall contain procedures to
17 ensure that a competent person is on the construc-
18 tion worksite at all times that work is being per-
19 formed by such employer.

20 “(4) The program shall contain procedures to
21 ensure that all construction employees of the em-
22 ployer shall receive or have received within the 12-
23 month period immediately preceding their employ-
24 ment, general safety and health training in a man-
25 ner prescribed by the Secretary. The Secretary shall

1 prescribe a procedure or procedures by which an em-
2 ployer may verify that employees have received the
3 required training.

4 “(5) The program shall indicate if the employer
5 has received notification under section 30(b)(2).

6 “(e) COMPETENT PERSONS.—The Secretary shall, by
7 regulation, require each construction employer to des-
8 ignate one or more competent persons who shall be respon-
9 sible for the administration of the safety and health pro-
10 gram. Such regulations shall, at a minimum, require the
11 following:

12 “(1) A competent person shall be on the con-
13 struction worksite at all times that work is being
14 performed by such employer.

15 “(2) A competent person shall engage in inspec-
16 tions of the site, materials, and equipment, as appro-
17 priate, and shall stop work of such employer at, or
18 remove affected employees of the employer from, an
19 area in which an imminent danger exists. The com-
20 petent person shall notify forthwith the project con-
21 structor or project safety coordinator of the immi-
22 nent danger and of the action taken to ensure the
23 prompt abatement of such danger and to prevent its
24 recurrence.

25 “(f) APPLICATION.—

1 “(1) IN GENERAL.—The Secretary, by regula-
2 tion, may modify the requirements of subsections (a)
3 through (e), or portions thereof, as they apply to
4 certain types of construction work or operations
5 where the Secretary determines that, in light of the
6 nature of the risks faced by employees engaged in
7 such work or operation, such a modification would
8 not adversely affect employee safety and health. In
9 making such modifications, the Secretary shall take
10 into account the risk of death or serious injury or
11 illness, and the frequency of fatalities and the lost
12 work day injury rate attendant to such work or op-
13 erations.

14 “(2) EMERGENCY WORK.—If it is necessary to
15 perform construction work on a worksite imme-
16 diately in order to prevent injury to persons, or sub-
17 stantial damage to property, and such work must be
18 conducted before compliance with the requirements
19 of the regulations under subsections (a) through (e)
20 can be made, the Secretary shall be given notice as
21 soon as practicable of such work. Compliance with
22 such requirements shall then be made as soon as
23 practicable thereafter.”.

1 **SEC. 1204. INSPECTIONS, INVESTIGATIONS, REPORTING,**
2 **AND RECORDKEEPING.**

3 Section 8 (29 U.S.C. 657) (as amended by sections
4 504 and 505) is further amended by adding at the end
5 thereof the following new subsections:

6 “(j)(1) The Secretary shall establish an effective
7 targeting system for general schedule construction inspec-
8 tions. In establishing such system, the Secretary shall es-
9 tablish priorities to ensure that construction enforcement
10 activities are concentrated on construction projects, work-
11 sites, or operations having a high potential for deaths, in-
12 juries or illnesses.

13 “(2) In establishing construction inspection priorities
14 under paragraph (1), the Secretary shall give due weight
15 to—

16 “(A) the record of compliance with this Act and
17 its regulations by particular construction employers;
18 and

19 “(B) the fatality rate and the lost workday in-
20 jury rate attributable to particular construction own-
21 ers and construction employers and particular types
22 of construction projects and construction operations.

23 “(3) The Secretary shall use reports and notices filed
24 with the Secretary and other pertinent information to de-
25 velop the construction inspection priorities required under
26 this subsection.

1 “(4) The construction inspection priorities required
2 by paragraph (1) shall not have the effect of limiting the
3 Secretary’s authority to conduct inspections of any em-
4 ployer or worksite under other provisions of this Act.

5 “(5) The Secretary shall, by regulation, require that,
6 before the commencement of (A) specific, highly hazard-
7 ous construction work, or (B) work by employers identified
8 under section 30(b)(1), the project constructor shall re-
9 port to the Secretary information regarding the project to
10 allow the Secretary, on the basis of the inspection priority
11 system required by paragraph (1), to determine whether
12 to conduct an inspection of such project or of a worksite
13 or worksites on such project. Such regulations shall re-
14 quire, at a minimum, that the information reported in-
15 clude the location of the project or worksite, the names
16 of the construction owner, project constructor, project
17 safety coordinator, and construction employers working on
18 the project, the type of work to be performed, and the
19 anticipated dates of such construction activities.

20 “(k)(1) The Secretary shall, by regulation, require
21 that the project constructor of a construction project
22 promptly report to the Secretary any incident involving
23 construction work that results in—

24 “(A) an injury or illness causing 2 or more hos-
25 pitalizations; or

1 “(B) a structural failure or fire or explosion
2 which caused or could have caused serious bodily in-
3 jury to employees.

4 “(2) The Secretary’s regulations shall provide at a
5 minimum that each report required under paragraph (1)
6 shall contain the names, business addresses, and telephone
7 numbers of the construction owner of the worksite, the
8 project constructor and project safety coordinator, and the
9 construction employer whose construction employee was
10 killed or seriously injured.

11 “(3) The Secretary shall investigate any incident re-
12 ported pursuant to paragraph (1).

13 “(l) The Secretary shall, by regulation, require
14 project constructors to make and maintain accurate
15 records concerning fatalities, serious bodily injuries, struc-
16 tural failures, fires, and explosions at construction
17 projects.”.

18 **SEC. 1205. ADVISORY COMMITTEE ON CONSTRUCTION**
19 **SAFETY AND HEALTH.**

20 Section 7 (29 U.S.C. 656) (as amended by section
21 701) is amended—

22 (1) by redesignating subsections (c), (d), and
23 (e) as subsections (e), (f), and (g), respectively; and

24 (2) by inserting after subsection (b) the follow-
25 ing new subsections:

1 “(c)(1) The Advisory Committee on Construction
2 Safety and Health, established by the Secretary pursuant
3 to section 107(e) of the Contract Work Hours and Safety
4 Standards Act (40 U.S.C. 333(e)), shall be composed of
5 15 members, as follows:

6 “(A) One member shall be designated by the
7 Secretary of Health and Human Services.

8 “(B) Five members, appointed by the Sec-
9 retary, shall be qualified by experience and affili-
10 ation with construction employer and employer asso-
11 ciations to present the viewpoint of the employers in-
12 volved and five members, appointed by the Sec-
13 retary, shall be qualified by experience and affili-
14 ation with labor organizations in the building and
15 construction industry to present the viewpoint of em-
16 ployees involved.

17 “(C) Two members, appointed by the Secretary,
18 shall be representatives of State safety and health
19 agencies.

20 “(D) Two members, appointed by the Sec-
21 retary, shall be qualified by knowledge and experi-
22 ence to be able to make useful contribution to the
23 work of the Advisory Committee.

24 “(2) The term of office of each member shall be 3
25 years. The terms of 5 members shall expire each year and

1 the terms of no more than 2 representatives of the same
2 interest shall expire the same year. A member whose term
3 has expired shall continue to serve until a successor is ap-
4 pointed unless such member resigns or becomes unable to
5 serve.

6 “(d)(1) In addition to the functions prescribed by sec-
7 tion 107(e) of the Contract Work Hours and Safety
8 Standards Act (40 U.S.C. 333(e)), the Advisory Commit-
9 tee on Construction Safety and Health shall also serve as
10 an advisory committee to the Secretary and the Secretary
11 of Health and Human Services on matters relating to the
12 administration of this Act. The Committee shall advise,
13 consult with, and make recommendations to the Secretary
14 and the Secretary of Health and Human Services in the
15 formulation of construction safety and health standards
16 and other regulations and with respect to policy matters
17 arising in the administration of this Act as it affects the
18 construction industry. In carrying out its functions, the
19 Advisory Committee may—

20 “(A) with the consent of the Secretary, obtain
21 special advisory and technical experts or consultants
22 as may be necessary to carry out the functions of
23 the Advisory Committee;

1 “(B) establish working groups to address mat-
2 ters coming before the Committee during times the
3 Committee is not in session;

4 “(C) schedule no fewer than four meetings dur-
5 ing each calendar year and require a transcript to
6 be kept of the meetings and to be made available for
7 public inspection; and

8 “(D) consider such matters as it may determine
9 to be appropriate, in addition to those matters re-
10 ferred by the Secretary.

11 “(2) The Secretary shall respond in writing to any
12 recommendations made by a majority of the members of
13 the Advisory Committee within 60 days of the Advisory
14 Committee’s issuance of such recommendation.”.

15 **SEC. 1206. STATE CONSTRUCTION SAFETY AND HEALTH**
16 **PLANS.**

17 Section 18 (29 U.S.C. 667) (as amended by sections
18 1003, 1004 and 1006) is further amended by adding at
19 the end thereof the following new subsection:

20 “(l) Any State plan that covers construction safety
21 and health shall contain requirements which, and the en-
22 forcement of which, are, and will be, at least as effective,
23 in providing safe and healthful employment and places of
24 employment in the construction industry as the require-
25 ments contained in subsection (c), and the requirements

1 imposed by, and enforced under, this Act and section 107
2 of the Contract Work Hours Standards Act (40 U.S.C.
3 333), including—

4 “(1) requirements relating to the training and
5 qualifications of State agency construction inspec-
6 tors;

7 “(2) requirements relating to construction safe-
8 ty and health plans and programs; and

9 “(3) requirements relating to inspections, inves-
10 tigations, reporting, and recordkeeping.”.

11 **SEC. 1207. CONSTRUCTION SAFETY AND HEALTH ACADEMY.**

12 The Occupational Safety and Health Act of 1970 (29
13 U.S.C. 651 et seq.) (as amended by section 1203) is fur-
14 ther amended by inserting after section 31 the following
15 new section:

16 **“SEC. 32. CONSTRUCTION SAFETY AND HEALTH ACADEMY.**

17 “‘There is established in the Occupational Safety and
18 Health Administration a Construction Safety and Health
19 Academy to conduct training of employees of the Occupa-
20 tional Safety and Health Administration who conduct in-
21 spections of construction worksites and such other persons
22 as the Secretary, with the advice of the Advisory Commit-
23 tee on Construction Safety and Health, shall consider ap-
24 propriate.”.

1 **SEC. 1208. ENFORCEMENT.**

2 Section 9 (29 U.S.C. 658) (as amended by section
3 515) is further amended by adding at the end the follow-
4 ing:

5 “(e) For purposes of this section and sections 8, 10,
6 11, and 17, a project constructor shall be considered an
7 employer.”.

8 **SEC. 1209. REPORTS TO CONGRESS.**

9 The Occupational Safety and Health Act of 1970 (29
10 U.S.C. 651 et seq.) (as amended by section 1202) is fur-
11 ther amended by adding after section 33 the following new
12 section:

13 **“SEC. 34. REPORTS TO CONGRESS.**

14 “(a) IN GENERAL.—The Secretary, in consultation
15 with the Advisory Committee on Construction Safety and
16 Health, shall prepare and submit to the President for
17 transmittal to the Congress an annual report upon the
18 same general subjects as are set forth in section 26 and
19 as they relate to the construction industry, including the
20 operation of the Office of Construction Safety, Health,
21 and Education.

22 “(b) EFFECT OF EXISTING CONDITIONS IN CON-
23 STRUCTION INDUSTRY.—Within 120 days following the
24 conclusion of 3 years of operation of the Office of Con-
25 struction Safety, Health, and Education, the Secretary,
26 with the advice and assistance of the Advisory Committee

1 on Construction Safety and Health, shall prepare and sub-
2 mit to the President for transmittal to the Congress a re-
3 port upon the subject whether the then existing conditions
4 of occupational safety and health in the construction in-
5 dustry, the effectiveness of regulation and enforcement,
6 and any other relevant information supports the continued
7 existence of the Office within the Occupational Safety and
8 Health Administration, or the enactment of legislation to
9 establish in the Department of Labor a Construction In-
10 dustry Safety and Health Administration to be headed by
11 an Assistant Secretary of Labor for Construction Safety
12 and Health, or the enactment of legislation making any
13 other changes in the law.”.

14 **SEC. 1210. FEDERAL CONSTRUCTION CONTRACTS.**

15 Not later than 90 days after the date of the enact-
16 ment of this Act, the Secretary of Labor shall deliver to
17 the Committee on Education and Labor of the House of
18 Representatives and the Committee on Labor and Human
19 Resources of the Senate recommendations regarding legis-
20 lative changes required to make the safety records (includ-
21 ing records of compliance with Federal safety and health
22 laws and regulations) of persons bidding for contracts sub-
23 ject to section 107 of the Contract Work Hours and Safety
24 Standards Act (40 U.S.C. 333) a criterion to be consid-
25 ered in the awarding of such contracts.

1 **SEC. 1211. RELATIONSHIP TO EXISTING LAW AND REGULA-**
2 **TIONS.**

3 (a) **IN GENERAL.**—Nothing contained in the amend-
4 ments made by this title or the regulations issued to carry
5 out the amendments shall limit the application of, or less-
6 en, any of the requirements of the Occupational Safety
7 and Health Act of 1970 (29 U.S.C. 651 et seq.), the Con-
8 tract Work Hours Standards Act (40 U.S.C. 327 et seq.),
9 or the standards or regulations issued by the Secretary
10 of Labor to carry out either such Act.

11 (b) **PROJECT CONSTRUCTORS.**—The presence and
12 duties of a project constructor or a project safety coordi-
13 nator on a project shall not in any way diminish the re-
14 sponsibilities of construction employers under the Occupa-
15 tional Safety and Health Act of 1970 (29 U.S.C. 651 et
16 seq.) for the safety and health of their employees.

17 **SEC. 1212. TIMETABLE FOR REGULATIONS.**

18 The Secretary shall publish in the Federal Register
19 in proposed form, no later than 90 days after the effective
20 date of this Act, the regulations that this Act directs the
21 Secretary to prescribe, and shall promulgate the final reg-
22 ulations no later than 180 days after the effective date
23 of this title. The final rules and regulations shall become
24 effective 60 days after the date on which they are promul-
25 gated.

TITLE XIII—WORKER'S COMPENSATION STUDY

SEC. 1301. COMMISSION.

(a) **ESTABLISHMENT.**—There is established the Federal Worker's Compensation Commission (hereinafter in this title referred to as the "Commission").

(b) **MEMBERSHIP.**—The Commission shall be composed of 15 members appointed as follows:

(1) 7 members shall be appointed by the President. One of such members shall be the Chairman.

(2) 4 members shall be appointed by the Speaker of the House of Representatives. The Speaker may appoint a Member of Congress to serve on the Commission.

(3) 4 members shall be appointed by the Majority Leader of the Senate. The Majority Leader may appoint a Member of the Senate to serve on the Commission.

8 members of the Commission shall constitute a quorum for the purpose of doing business.

(c) **DUTIES.**—The duties of the Commission are as follows:

(1) The Commission shall review the recommendations of the National Commission on State Workmen's Compensation Laws to determine the ex-

1 tent such recommendations were implemented, to
2 identify barriers to such implementation which ex-
3 isted or still exist, and to determine if the rec-
4 ommendations which were not implemented are still
5 appropriate.

6 (2) The Commission shall study the feasibility
7 of utilizing worker's compensation data to target
8 loss prevention activities on high risk occupations.

9 (3) The Commission shall examine worker's
10 compensation laws to determine—

11 (A) the effectiveness of the laws in meeting
12 financial and medical needs of injured workers,

13 (B) the adequacy of the administrative sys-
14 tem under such laws and the appropriateness of
15 such laws being the exclusive remedy for inju-
16 ries and deaths in light of disputes, litigation,
17 and delays in resolving cases brought under
18 such laws,

19 (C) whether such laws provide adequately
20 for occupational illnesses and diseases and pro-
21 vide for quality control and medical and reha-
22 bilitation costs with cost control,

23 (D) whether such laws provide sufficient
24 time for recuperation and counseling before an
25 injured or ill worker returns to full duty,

1 (E) the relationship between worker's com-
2 pensation, safety and health programs, and in-
3 surance rates and services,

4 (F) the feasibility and appropriateness of
5 transferring the branch of the Department of
6 Labor involved in worker's compensation stud-
7 ies from the Employment Standards Adminis-
8 tration to the Occupational Safety and Health
9 Administration, and

10 (G) the feasibility of preempting State
11 worker's compensation laws with a national pro-
12 gram.

13 (4) The Commission shall evaluate the factors
14 responsible for the differentials in workers' com-
15 pensation insurance premiums in different States in
16 high hazard occupations and shall make rec-
17 ommendations for reducing injury rates and exces-
18 sive workers' compensation costs in such occupa-
19 tions. Such an evaluation shall include a review of
20 the injury rates, laws, and programs and practices
21 pursuant to the laws in the States. The rec-
22 ommendations of the Commission shall be sent to
23 the Governors of the States, State legislatures, and
24 the Congress.

1 (5) The Commission shall report to the Con-
2 gress on the effect of preemption under section 514
3 of the Employee Retirement Income Security Act of
4 1974 on State workers' compensation laws and on
5 whether such preemption has been used by employ-
6 ers to undercut worker protection, coverage, and the
7 premium structure under State workers' compensa-
8 tion laws.

9 (6) The Commission shall transmit to the
10 President and the Congress not later than two years
11 after the effective date of this Act a final report con-
12 taining a detailed statement of its findings, conclu-
13 sions, and recommendations.

14 (d) AUTHORITY.—

15 (1) The Commission or, on the authorization of
16 the Commission, any subcommittee or members
17 thereof, may, for the purpose of carrying out sub-
18 section (c), hold such hearings, take such testimony,
19 and sit and act at such times and places as the
20 Commission deems advisable. Any member author-
21 ized by the Commission may administer oaths or af-
22 firmations to witnesses appearing before the Com-
23 mission or any subcommittee or members thereof.

24 (2) Each department, agency, and instrumen-
25 tality of the executive branch of the Government, in-

1 including independent agencies, shall furnish to the
2 Commission, upon request made by the Chairman,
3 such information as the Commission deems nec-
4 essary to carry out its functions under subsection
5 (c).

6 (3) Subject to such regulations as may be
7 adopted by the Commission, the Chairman shall
8 have the power to—

9 (A) appoint and fix the compensation of an
10 executive director, and such additional staff
11 personnel as the Chairman deems necessary,
12 without regard to the provisions of title 5, Unit-
13 ed States Code, governing appointments in the
14 competitive service, and without regard to the
15 provisions of chapter 51 and subchapter III of
16 chapter 53 of such title relating to classification
17 and General Schedule pay rates, but at rates
18 not in excess of the maximum rate for GS-18
19 of the General Schedule under section 5332 of
20 such title, and

21 (B) procure temporary and intermittent
22 services to the same extent as is authorized by
23 section 3109 of title 5, United States Code.

24 (4) The Commission may enter into contracts
25 with Federal or State agencies, private firms, insti-

1 tutions, and individuals for the conduct of research
2 or surveys, the preparation of reports, and other ac-
3 tivities necessary to the discharge of its duties.

4 (5) Members of the Commission who are not
5 Members of Congress shall receive compensation for
6 each day they are engaged in the performance of
7 their duties as members of the Commission at the
8 daily rate prescribed for GS-18 under section 5332
9 of title 5, United States Code, and shall be entitled
10 to reimbursement for travel, subsistence, and other
11 necessary expenses.

12 **TITLE XIV—ADMINISTRATION**

13 **SEC. 1401. ADMINISTRATION.**

14 There is established in the Department of Labor an
15 Occupational Safety and Health Administration to be
16 headed by an Assistant Secretary of Labor for Occupa-
17 tional Safety and Health appointed by the President, by
18 and with the advice and consent of the Senate. The Sec-
19 retary shall, except as specifically provided otherwise,
20 carry out the Secretary's functions under the Occupational
21 Safety and Health Act of 1970 through the Occupational
22 Safety and Health Administration.

1 **TITLE XV—EFFECTIVE DATE**

2 **SEC. 1501. EFFECTIVE DATE.**

3 This Act and the amendments made by this Act shall
4 take effect upon the expiration of 90 days after the date
5 of the enactment of this Act.

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