

108TH CONGRESS
2D SESSION

H. R. 3864

To provide coverage under the Energy Employees Occupational Illness Compensation Program for individuals employed at atomic weapons employer facilities during periods of residual contamination.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2004

Ms. SLAUGHTER (for herself, Mr. QUINN, Mr. STRICKLAND, and Mr. WHITFIELD) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide coverage under the Energy Employees Occupational Illness Compensation Program for individuals employed at atomic weapons employer facilities during periods of residual contamination.

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.**

4 This Act may be cited as the “Residual Radioactive
5 Contamination Compensation Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Beginning in the early 1940s, the Depart-
4 ment of Energy and its predecessors, the Atomic
5 Energy Commission and the Manhattan Engineering
6 District, relied upon hundreds of private-sector fac-
7 tories and laboratories to develop, test, and produce
8 atomic weapons for use by the military, and these
9 facilities became contaminated with radioactive ma-
10 terials during the atomic weapons production proc-
11 ess.

12 (2) The Energy Employees Occupational Illness
13 Compensation Program Act of 2000 (in this section
14 referred to as “EEOICPA”) provides health care
15 and lump-sum benefits for radiation-related cancers
16 and other illnesses to certain covered workers made
17 sick while they toiled in the nation’s nuclear weap-
18 ons factories, including vendor facilities. EEOICPA
19 defines these private-sector vendor facilities as
20 “atomic weapons employer facilities”, and employees
21 working in such facilities while their employers were
22 under contract to process nuclear weapons materials
23 are defined as “atomic weapons employees”.

24 (3) Many of the atomic weapons employer fa-
25 cilities were not properly decontaminated after proc-
26 essing radioactive materials such as thorium, ura-

1 nium, and radium and retained significant levels of
2 contamination. Workers who were hired and em-
3 ployed in such atomic weapons employer facilities
4 after the date that contracts ended for production
5 were potentially exposed to significant amounts of
6 radiation. Congress was not aware of the presence of
7 residual radioactive contamination in these facilities
8 when it enacted EEOICPA, thus inadvertently deny-
9 ing coverage under the law to those who were unwit-
10 tingly exposed to radiation left over from nuclear
11 weapons activities.

12 (4) In December 2001, the National Defense
13 Authorization Act for Fiscal Year 2002 (Public Law
14 107–107) was enacted, which required in section
15 3151(b) that the National Institute for Occupational
16 Safety and Health study and issue a final report to
17 Congress by December 2002 describing which of the
18 atomic weapons employer facilities had significant
19 residual radioactive contamination remaining in
20 them after processing materials for use in atomic
21 weapons and during what time periods such radio-
22 active contamination remained.

23 (5) In October 2003, the Institute issued a re-
24 port, titled “Report on Residual Radioactive and Be-
25 ryllium Contamination in Atomic Weapons Employer

1 and Beryllium Vendor Facilities”. The report found
2 that, out of 219 atomic weapons employer facili-
3 ties—

4 (A) 97 (44 percent) of such facilities have
5 potential for significant residual radioactive
6 contamination outside of the periods in which
7 atomic weapons-related production occurred;

8 (B) 88 (40 percent) of such facilities have
9 little potential for significant residual radio-
10 active contamination outside of the periods in
11 which atomic weapons-related production oc-
12 curred; and

13 (C) 34 (16 percent) of such facilities have
14 insufficient information to make a determina-
15 tion.

16 (6) Congress is now aware that workers were
17 employed in a substantial number of atomic weapons
18 employer facilities years after the Manhattan Project
19 ended. These workers were potentially harmed by
20 legacy residual radioactive contamination that per-
21 meated the walls, the floors, and the air of their
22 worksites well after the Atomic Energy Commission
23 and the Department of Energy terminated contracts
24 for production activities. This exposure to residual

1 radioactive contamination took place without the
2 knowledge or consent of these workers.

3 (7) Congress therefore declares that, based on
4 the scientific assessment by the Institute, those
5 workers hired and employed in such facilities during
6 the period after Cold War production stopped but
7 during which the Institute found there was signifi-
8 cant residual radioactive contamination should be
9 defined as “atomic weapons employees” under
10 EEOICPA, should be eligible to apply for compensa-
11 tion under subtitle B of EEOICPA, and should have
12 their claims evaluated on the same basis as those
13 atomic weapons employees who were employed dur-
14 ing the period when processing of radioactive mate-
15 rials was underway as part of the atomic weapons
16 program.

17 **SEC. 3. COVERAGE UNDER ENERGY EMPLOYEES OCCUPA-**
18 **TIONAL ILLNESS COMPENSATION PROGRAM**
19 **OF INDIVIDUALS EMPLOYED AT ATOMIC**
20 **WEAPONS EMPLOYER FACILITIES DURING**
21 **PERIODS OF RESIDUAL CONTAMINATION.**

22 Paragraph (3) of section 3621 of the Energy Employ-
23 ees Occupational Illness Compensation Program Act of
24 2000 (42 U.S.C. 7384l) is amended to read as follows:

1 “(3) The term ‘atomic weapons employee’
2 means any of the following:

3 “(A) An individual employed at an atomic
4 weapons employer facility during a period when
5 the employer was processing or producing, for
6 the use by the United States, material that
7 emitted radiation and was used in the produc-
8 tion of an atomic weapon, excluding uranium
9 mining and milling.

10 “(B) An individual employed—

11 “(i) at an atomic weapons employer
12 facility with respect to which the National
13 Institute for Occupational Safety and
14 Health, in its report dated October 2003
15 and titled ‘Report on Residual Radioactive
16 and Beryllium Contamination at Atomic
17 Weapons Employer Facilities and Beryl-
18 lium Vendor Facilities’, or any update to
19 that report, found that there is a potential
20 for significant residual contamination out-
21 side of the period in which weapons-related
22 production occurred; and

23 “(ii) during a period, as specified in
24 such report or any update to such report,

1 of significant residual contamination at
2 that facility.”.

3 **SEC. 4. UPDATE TO REPORT.**

4 In each of 2005, 2006, and 2007, the Director of the
5 National Institute for Occupational Safety and Health
6 shall submit to Congress, not later than December 31 of
7 that year, an update to the report required by section
8 3151(b) of the National Defense Authorization Act for
9 Fiscal Year 2002 (Public Law 107–107; 42 U.S.C. 7384
10 note). Each such update shall—

11 (1) for each facility for which such report, or
12 any update to such report, found that insufficient
13 information was available to determine whether sig-
14 nificant residual contamination was present, deter-
15 mine whether significant residual contamination was
16 present;

17 (2) for each facility for which such report, or
18 any update to such report, found that significant re-
19 sidual contamination remained present as of the
20 date of the report, determine the date on which such
21 contamination ceased to be present;

22 (3) for each facility for which such report, or
23 any update to such report, found that significant re-
24 sidual contamination was present but for which the
25 Director has been unable to determine the extent to

1 which such contamination is attributable to beryl-
2 lium or atomic weapons-related activities, identify
3 the specific dates of coverage attributable to such
4 activities and, in so identifying, presume that such
5 contamination is attributable to such activities until
6 there is evidence of decontamination of residual con-
7 tamination identified with beryllium or atomic weap-
8 ons-related activities; and

9 (4) if new information that pertains to the re-
10 report has been made available to the Director since
11 that report was submitted, identify and describe
12 such information.

13 **SEC. 5. PUBLICATION IN FEDERAL REGISTER.**

14 The Director shall ensure that the report referred to
15 in section 4, and each update required by section 4, are
16 published in the Federal Register not later than 15 days
17 after being released.

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