

110TH CONGRESS
1ST SESSION

S. 776

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the energy employees occupational illness compensation program.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2007

Mrs. CLINTON (for herself and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the energy employees occupational illness compensation program.

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. FINDINGS.**

4 Congress finds that—

5 (1) employees working on Cold War-era nuclear
6 weapons were employed in hundreds of facilities
7 owned by the Federal Government and private sector

1 producing and processing radioactive materials for
2 use in the nuclear weapons program of the United
3 States beginning in the mid-1940's;

4 (2) those atomic workers helped to build the
5 nuclear arsenal that served as a deterrent to the So-
6 viet Union during the Cold War, but many paid a
7 high price in terms of their health;

8 (3) during the Cold War, many atomic workers
9 were exposed to radiation and placed in harm's way
10 by the Department of Energy and contractors, sub-
11 contractors, and vendors of the Department—

12 (A) without the knowledge and consent of
13 the workers;

14 (B) without adequate radiation monitoring;
15 and

16 (C) without necessary protections from in-
17 ternal or external occupational radiation expo-
18 sures;

19 (4) due to the inequities posed by the factors
20 described in paragraph (3) and the resulting poten-
21 tial harm, Congress legislatively designated classes
22 of Cold War-era workers at the Paducah, Kentucky,
23 Portsmouth, Ohio, Oak Ridge K-25, and the Am-
24 chitka Island test sites as members of the Special
25 Exposure Cohort under the Energy Employees Occu-

1 pational Illness Compensation Program Act of 2000
2 (42 U.S.C. 7384 et seq.);

3 (5)(A) the contribution of the State of New
4 York to the security of the United States throughout
5 the Cold War was very significant; and

6 (B) New York is home to 36 former atomic
7 weapons employer facilities and sites of the Depart-
8 ment of Energy that produced and processed radio-
9 active materials, carried out classified research, op-
10 erated nuclear reactors, and processed high level nu-
11 clear waste, 14 of which are located in the western
12 region of New York;

13 (6) research by the Department of Energy, the
14 National Institute for Occupational Safety and
15 Health, the Advisory Board on Radiation and Work-
16 er Health, and congressional committees indicates
17 that—

18 (A) workers at certain facilities were not
19 adequately monitored for internal or external
20 exposures to ionizing radiation to which the
21 workers were exposed during the 1940's to
22 1960's; and

23 (B) at other facilities, records were not
24 maintained, are not reliable, or fail to measure

1 the radioactive isotopes to which workers were
2 exposed;

3 (7) at Bethlehem Steel in Lackawanna, New
4 York, an atomic weapons employer facility (as de-
5 fined in section 3621 of the Energy Employees Oc-
6 cupational Illness Compensation Program Act of
7 2000 (42 U.S.C. 7384l)), no personal radiation do-
8 simetry monitoring records are available;

9 (8) if it is determined that it is not feasible to
10 estimate radiation dose with sufficient accuracy and
11 there is a reasonable likelihood that a class of work-
12 ers may have been endangered, the Secretary of
13 Health and Human Services is authorized, after re-
14 ceiving advice from the Advisory Board on Radiation
15 and Worker Health, to designate additional classes
16 of workers as members of the Special Exposure Co-
17 hort under section 3626 of the Energy Employees
18 Occupational Illness Compensation Program Act of
19 2000 (42 U.S.C. 7384q);

20 (9) the Secretary of Health and Human Serv-
21 ices promulgated regulations on May 28, 2004, to
22 establish procedures for classes of individuals to pe-
23 tition for membership in the Special Exposure Co-
24 hort;

1 (10) section 3626(b) of the Energy Employees
2 Occupational Illness Compensation Program Act of
3 2000 (42 U.S.C. 7384q(b)) provides for the designa-
4 tion of an additional class of employees in the Spe-
5 cial Exposure Cohort if it is not feasible to estimate
6 with sufficient accuracy the radiation dose that the
7 class received and there is a reasonable likelihood
8 that the radiation dose may have endangered the
9 health of members of the class; and

10 (11) legislation is needed to provide additional
11 parameters to the Secretary of Health and Human
12 Services and the Advisory Board on Radiation and
13 Worker Health for evaluating petitions for the Spe-
14 cial Exposure Cohort in cases in which there is lim-
15 ited or nonexistent individual radiation exposure
16 monitoring or an absence of records.

17 **SEC. 2. ADDITION OF CLASSES OF FORMER NUCLEAR**
18 **WEAPONS PROGRAM WORKERS IN THE SPE-**
19 **CIAL EXPOSURE COHORT UNDER ENERGY**
20 **EMPLOYEES OCCUPATIONAL ILLNESS COM-**
21 **PENSATION PROGRAM.**

22 Section 3626(b) of the Energy Employees Occupa-
23 tional Illness Compensation Program Act of 2000 (42
24 U.S.C. 7384q(b)) is amended—

25 (1) by inserting “(A)” after “(1)”;

1 (2) by redesignating paragraph (2) as subpara-
2 graph (B);

3 (3) by striking the period at the end and insert-
4 ing “; or”; and

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

6 “(2)(A) subject to subparagraph (B), in the
7 case of a class of employees employed at an atomic
8 weapons employer facility or a Department of En-
9 ergy facility during a period (in the aggregate) of at
10 least 250 days (or a shorter duration connected to
11 discrete events, as determined by the Secretary) dur-
12 ing which—

13 “(i) the employees in the class had the po-
14 tential for exposure to occupational ionizing ra-
15 diation from production or processing materials
16 related to atomic weapons, or engaged in re-
17 search, development, testing, assembly, dis-
18 assembly, decontamination, decommissioning, or
19 waste management, or work related to such ac-
20 tivities; and

21 “(ii)(I) fewer than 50 percent of the em-
22 ployees in the class were individually monitored
23 on a regular basis (using reliable methods and
24 procedures) under a formal health physics pro-
25 gram for exposure to internal and external ion-

1 izing radiation for the types of radiation and
2 specific radioactive isotopes to which the em-
3 ployees had the potential for exposure during
4 the period when the employees were exposed;

5 “(II) individual internal and external expo-
6 sure records for the types of radiation and spe-
7 cific radioactive isotopes to which the employees
8 in the class were potentially exposed at the fa-
9 cility during the period when the employees
10 were exposed are nonexistent or are not avail-
11 able; or

12 “(III) to the extent that a portion of indi-
13 vidual internal or external records are available
14 for the period from the facility, individual radi-
15 ation doses cannot be reliably determined for
16 greater than $\frac{2}{3}$ of the employees in the class
17 using the individual internal and external moni-
18 toring records from the facility; and

19 “(B) in the case of a class of employees em-
20 ployed at a facility for which the National Institute
21 for Occupational Safety and Health has updated the
22 report and made the determination described in sec-
23 tion 3169(b)(4) of the Ronald W. Reagan National
24 Defense Authorization Act for Fiscal Year 2005
25 (Public Law 108–375; 42 U.S.C. 7384 note) during

1 a period determined under the report, during which
2 (as determined by the Secretary) the employees at
3 the facility met the criteria described in clauses (i)
4 and (ii) of subparagraph (A).”.

5 **SEC. 3. REGULATIONS.**

6 (a) **IN GENERAL.**—Not later than 90 days after the
7 date of enactment of this Act, the Secretary of Health and
8 Human Services shall modify the regulations and proce-
9 dures of the Secretary relating to the Special Exposure
10 Cohort under the Energy Employees Occupational Illness
11 Compensation Program Act of 2000 (42 U.S.C. 7384 et
12 seq.) to conform the regulations and procedures to section
13 3626(b)(2) of the Energy Employees Occupational Illness
14 Compensation Program Act of 2000 (as amended by sec-
15 tion 2).

16 (b) **BETHLEHEM STEEL SITE.**—

17 (1) **INITIATION OF PETITION.**—Not later than
18 90 days after the date of enactment of this Act, the
19 Secretary of Health and Human Services shall ini-
20 tiate a petition to include workers employed at the
21 Bethlehem Steel site in Lackawanna, New York as
22 a class to be included in the Special Exposure Co-
23 hort in accordance with section 3626(b)(2) of the
24 Energy Employees Occupational Illness Compensa-

1 tion Program Act of 2000 (as amended by section
2 2).

3 (2) EVALUATION.—The evaluation of the peti-
4 tion shall be conducted in accordance with section
5 3626 of the Energy Employees Occupational Illness
6 Compensation Program Act of 2000 (42 U.S.C.
7 7384q).

8 (c) REPORT.—Not later than 90 days after the date
9 of enactment of this Act, the Secretary of Health and
10 Human Services shall submit to Congress a report that
11 identifies the facilities, classes, and the number of claim-
12 ants in each class who meet the criteria established under
13 section 3626(b)(2) of the Energy Employees Occupational
14 Illness Compensation Program Act of 2000 (as amended
15 by section 2) for membership in the Special Exposure Co-
16 hort.

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