

111TH CONGRESS  
1ST SESSION

# H. R. 2114

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, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2009

Mr. HIGGINS (for himself, Ms. SLAUGHTER, Mr. LEE of New York, and Mr. MASSA) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and Labor, 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

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## 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, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Ed Walker Memorial  
3 Act for Improvements to the Energy Employees Occupa-  
4 tional Illness Compensation Program”.

5 **SEC. 2. FINDINGS.**

6       Congress makes the following findings:

7           (1) Beginning in the mid-1940s, workers at  
8 hundreds of facilities owned by the Federal Govern-  
9 ment and entities in the private sector produced and  
10 processed radioactive materials for use in the nu-  
11 clear weapons program of the United States.

12           (2) Those workers at nuclear weapons facilities  
13 helped to build the nuclear arsenal that served as a  
14 deterrent to the Soviet Union during the Cold War,  
15 but many of those workers paid a high price in  
16 terms of their health.

17           (3) During the Cold War, many workers at nu-  
18 clear weapons facilities were exposed to radiation  
19 and placed in harm’s way by the Department of En-  
20 ergy and contractors, subcontractors, and vendors of  
21 the Department—

22                   (A) without the knowledge and consent of  
23 the workers;

24                   (B) without adequate radiation monitoring;  
25 and

1 (C) without necessary protections from in-  
2 ternal or external occupational radiation expo-  
3 sures.

4 (4) Because of the inequities described in para-  
5 graph (3) and the resulting potential harm to work-  
6 ers employed at nuclear weapons facilities, Congress  
7 designated classes of Cold War-era workers at the  
8 Paducah, Kentucky, Portsmouth, Ohio, Oak Ridge  
9 K-25, and Amchitka Island test sites as members of  
10 the Special Exposure Cohort under the Energy Em-  
11 ployees Occupational Illness Compensation Program  
12 Act of 2000 (42 U.S.C. 7384 et seq.).

13 (5) The contribution of the State of New York  
14 to the security of the United States throughout the  
15 Cold War was very significant.

16 (6) Thirty-six former atomic weapons employer  
17 facilities or Department of Energy facilities that  
18 produced and processed radioactive materials, car-  
19 ried out classified research, operated nuclear reac-  
20 tors, and processed high level nuclear waste are lo-  
21 cated in New York. Fourteen of those facilities are  
22 located in the western region of New York.

23 (7) Research by the Department of Energy, the  
24 National Institute for Occupational Safety and  
25 Health, the Advisory Board on Radiation and Work-

1 er Health, and congressional committees indicates  
2 that—

3 (A) workers at certain atomic weapons em-  
4 ployer facilities and Department of Energy fa-  
5 cilities were not adequately monitored for inter-  
6 nal or external exposures to ionizing radiation  
7 to which the workers were exposed during the  
8 1940s, 1950s, and 1960s; and

9 (B) at other facilities, records were not  
10 maintained, or the records from those facilities  
11 are not reliable or failed to measure the radio-  
12 active isotopes to which workers were exposed.

13 (8) No personal radiation dosimetry monitoring  
14 records are available from the Bethlehem Steel site  
15 in Lackawanna, New York, which falls within the  
16 definition of an atomic weapons employer facility  
17 under section 3621 of the Energy Employees Occu-  
18 pational Illness Compensation Program Act of 2000  
19 (42 U.S.C. 7384l).

20 (9) Section 3626(b) of the Energy Employees  
21 Occupational Illness Compensation Program Act of  
22 2000 (42 U.S.C. 7384q(b)) authorizes the President,  
23 upon the recommendation of the Advisory Board on  
24 Radiation and Worker Health, to designate addi-  
25 tional classes of employees in the Special Exposure

1 Cohort if it is not feasible to estimate with sufficient  
2 accuracy the radiation dose that the class received  
3 and there is a reasonable likelihood that the radi-  
4 ation dose may have endangered the health of mem-  
5 bers of the class.

6 (10) On May 28, 2004, the Secretary of Health  
7 and Human Services issued a final rule establishing  
8 procedures for designating additional classes of em-  
9 ployees in the Special Exposure Cohort (69 Fed.  
10 Reg. 30,764).

11 (11) Legislation is needed to provide additional  
12 parameters to the President, the Secretary of Health  
13 and Human Services, and the Advisory Board on  
14 Radiation and Worker Health for evaluating peti-  
15 tions for inclusion in the Special Exposure Cohort of  
16 classes of employees with respect to which there was  
17 limited or nonexistent individual radiation exposure  
18 monitoring or an absence of records.

1 **SEC. 3. ADDITION OF CLASSES OF FORMER NUCLEAR**  
2 **WEAPONS PROGRAM WORKERS TO THE SPE-**  
3 **CIAL EXPOSURE COHORT UNDER ENERGY**  
4 **EMPLOYEES OCCUPATIONAL ILLNESS COM-**  
5 **PENSATION PROGRAM.**

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

9 (1) by inserting “(A)” after “(1)”;

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

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

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

15 “(2)(A) in the case of a class of employees em-  
16 ployed at a Department of Energy facility or an  
17 atomic weapons employer facility during a period (in  
18 the aggregate) of at least 250 days (or a shorter du-  
19 ration connected to discrete events, as determined by  
20 the President) during which—

21 “(i) the employees in the class had the po-  
22 tential for exposure to occupational ionizing ra-  
23 diation from production or processing materials  
24 related to atomic weapons, or engaged in re-  
25 search, development, testing, assembly, dis-  
26 assembly, decontamination, decommissioning, or

1 waste management, or work related to such ac-  
2 tivities; and

3 “(ii)(I) fewer than 50 percent of the em-  
4 ployees in the class were individually monitored  
5 on a regular basis (using reliable methods and  
6 procedures) under a formal health physics pro-  
7 gram for exposure to internal and external ion-  
8 izing radiation for the types of radiation and  
9 specific radioactive isotopes to which the em-  
10 ployees had the potential for exposure during  
11 the period when the employees were exposed;

12 “(II) individual internal and external expo-  
13 sure records for the types of radiation and spe-  
14 cific radioactive isotopes to which the employees  
15 in the class were potentially exposed at the fa-  
16 cility during the period when the employees  
17 were exposed are nonexistent or are not avail-  
18 able; or

19 “(III) to the extent that a portion of indi-  
20 vidual internal or external records are available  
21 for the period from the facility, individual radi-  
22 ation doses cannot be reliably determined for  
23 more than  $\frac{2}{3}$  of the employees in the class  
24 using the individual internal and external moni-  
25 toring records from the facility; and

1           “(B) in the case of a class of employees em-  
2       ployed at a facility with respect to which the Direc-  
3       tor of the National Institute for Occupational Safety  
4       and Health has made the determination described in  
5       section 3169(b)(4) of the Ronald W. Reagan Na-  
6       tional Defense Authorization Act for Fiscal Year  
7       2005 (Public Law 108–375; 42 U.S.C. 7384 note)  
8       during the residual contamination period described  
9       in such section, the employees at the facility met the  
10      criteria described in clauses (i) and (ii) of subpara-  
11      graph (A).”.

12   **SEC. 4. REGULATIONS.**

13       (a) IN GENERAL.—Not later than 90 days after the  
14      date of the enactment of this Act, the Secretary of Health  
15      and Human Services shall issue regulations for desig-  
16      nating additional classes of employees as members of the  
17      Special Exposure Cohort under section 3626(b)(2) of the  
18      Energy Employees Occupational Illness Compensation  
19      Program Act of 2000, as amended by section 3.

20       (b) BETHLEHEM STEEL SITE.—Not later than 90  
21      days after the date of the enactment of this Act, the Sec-  
22      retary of Health and Human Services shall determine  
23      under 3626(b)(2) of the Energy Employees Occupational  
24      Illness Compensation Program Act of 2000, as amended  
25      by section 3, whether workers employed at the Bethlehem

1 Steel site in Lackawanna, New York, meet the require-  
2 ments of such section for membership in the Special Expo-  
3 sure Cohort.

4 (c) REPORT.—Not later than 90 days after the date  
5 of the enactment of this Act, the Secretary of Health and  
6 Human Services shall submit to Congress a report that  
7 identifies each of the following:

8 (1) Any Department of Energy facilities or  
9 atomic weapons employer facilities (as those terms  
10 are defined in section 3621 of the Energy Employees  
11 Occupational Illness Compensation Program Act of  
12 2000 (42 U.S.C. 7384*l*)) at which classes of employ-  
13 ees were employed that meet the requirements for  
14 membership in the Special Exposure Cohort under  
15 section 3626(b)(2) of the Energy Employees Occu-  
16 pational Illness Compensation Program Act of 2000,  
17 as amended by section 3.

18 (2) The number of such classes.

19 (3) The number of employees in each such  
20 class.

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