

110TH CONGRESS
2D SESSION

S. 2589

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

FEBRUARY 4, 2008

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. SHORT TITLE; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Ed Walker Memorial Act for Improvements to the En-
6 ergy Employees Occupational Illness Compensation Pro-
7 gram”.

1 (b) FINDINGS.—Congress finds that—

2 (1) employees working on Cold War era nuclear
3 weapons were employed in hundreds of facilities
4 owned by the Federal Government and private sector
5 producing and processing radioactive materials for
6 use in the nuclear weapons program of the United
7 States beginning in the mid-1940's;

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

12 (3) during the Cold War, many atomic workers
13 were exposed to radiation and placed in harm's way
14 by the Department of Energy and contractors, sub-
15 contractors, and vendors of the Department—

16 (A) without the knowledge and consent of
17 the workers;

18 (B) without adequate radiation monitoring;

19 and

20 (C) without necessary protections from in-
21 ternal or external occupational radiation expo-
22 sures;

23 (4) due to the inequities posed by the factors
24 described in paragraph (3) and the resulting poten-
25 tial harm, Congress legislatively designated classes

1 of Cold War era workers at the Paducah, Kentucky,
2 Portsmouth, Ohio, Oak Ridge K-25, and the Am-
3 chitka Island test sites as members of the Special
4 Exposure Cohort under the Energy Employees Occu-
5 pational Illness Compensation Program Act of 2000
6 (42 U.S.C. 7384 et seq.);

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

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

17 (6) research by the Department of Energy, the
18 National Institute for Occupational Safety and
19 Health, the Advisory Board on Radiation and Work-
20 er Health, and congressional committees indicates
21 that—

22 (A) workers at certain facilities were not
23 adequately monitored for internal or external
24 exposures to ionizing radiation to which the

1 workers were exposed during the 1940's to
2 1960's; and

3 (B) at other facilities, records were not
4 maintained, are not reliable, or fail to measure
5 the radioactive isotopes to which workers were
6 exposed;

7 (7) at Bethlehem Steel in Lackawanna, New
8 York, an atomic weapons employer facility (as de-
9 fined in section 3621 of the Energy Employees Oc-
10 cupational Illness Compensation Program Act of
11 2000 (42 U.S.C. 7384l)), no personal radiation do-
12 simetry monitoring records are available;

13 (8) if it is determined that it is not feasible to
14 estimate radiation dose with sufficient accuracy and
15 there is a reasonable likelihood that a class of work-
16 ers may have been endangered, the Secretary of
17 Health and Human Services is authorized, after re-
18 ceiving advice from the Advisory Board on Radiation
19 and Worker Health, to designate additional classes
20 of workers as members of the Special Exposure Co-
21 hort under section 3626 of the Energy Employees
22 Occupational Illness Compensation Program Act of
23 2000 (42 U.S.C. 7384q);

24 (9) the Secretary of Health and Human Serv-
25 ices promulgated regulations on May 28, 2004, to

1 establish procedures for classes of individuals to pe-
2 tition for membership in the Special Exposure Co-
3 hort;

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

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

1 **SEC. 2. ADDITION OF CLASSES OF FORMER NUCLEAR**
2 **WEAPONS PROGRAM WORKERS IN 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) subject to subparagraph (B), in the
16 case of a class of employees employed at an atomic
17 weapons employer facility or a Department of En-
18 ergy facility during a period (in the aggregate) of at
19 least 250 days (or a shorter duration connected to
20 discrete events, as determined by the Secretary) dur-
21 ing which—

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

1 assembly, decontamination, decommissioning, or
2 waste management, or work related to such ac-
3 tivities; and

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

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

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

1 using the individual internal and external moni-
2 toring records from the facility; and

3 “(B) in the case of a class of employees em-
4 ployed at a facility for which the National Institute
5 for Occupational Safety and Health has updated the
6 report and made the determination described in sec-
7 tion 3169(b)(4) of the Ronald W. Reagan National
8 Defense Authorization Act for Fiscal Year 2005
9 (Public Law 108–375; 42 U.S.C. 7384 note) during
10 a period determined under the report, during which
11 (as determined by the Secretary) the employees at
12 the facility met the criteria described in clauses (i)
13 and (ii) of subparagraph (A).”.

14 **SEC. 3. REGULATIONS.**

15 (a) IN GENERAL.—Not later than 90 days after the
16 date of enactment of this Act, the Secretary of Health and
17 Human Services shall modify the regulations and proce-
18 dures of the Secretary relating to the Special Exposure
19 Cohort under the Energy Employees Occupational Illness
20 Compensation Program Act of 2000 (42 U.S.C. 7384 et
21 seq.) to conform the regulations and procedures to section
22 3626(b)(2) of the Energy Employees Occupational Illness
23 Compensation Program Act of 2000 (as amended by sec-
24 tion 2).

25 (b) BETHLEHEM STEEL SITE.—

1 (1) INITIATION OF PETITION.—Not later than
2 90 days after the date of enactment of this Act, the
3 Secretary of Health and Human Services shall ini-
4 tiate a petition to include workers employed at the
5 Bethlehem Steel site in Lackawanna, New York as
6 a class to be included in the Special Exposure Co-
7 hort in accordance with section 3626(b)(2) of the
8 Energy Employees Occupational Illness Compensa-
9 tion Program Act of 2000 (as amended by section
10 2).

11 (2) EVALUATION.—The evaluation of the peti-
12 tion shall be conducted in accordance with section
13 3626 of the Energy Employees Occupational Illness
14 Compensation Program Act of 2000 (42 U.S.C.
15 7384q).

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

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