

107TH CONGRESS
1ST SESSION

H. R. 1534

To designate the Federal agencies responsible for implementing the Energy Employees Occupational Illness Compensation Program Act of 2000.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. WHITFIELD (for himself, Mr. STRICKLAND, Mr. UDALL of Colorado, Mr. BROWN of Ohio, Ms. BERKLEY, Mr. GIBBONS, Mr. WAMP, Mr. CONYERS, Mr. DUNCAN, and Mr. HILLEARY) 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 designate the Federal agencies responsible for implementing the Energy Employees Occupational Illness Compensation Program Act of 2000.

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 “Energy Employees Occupational Illness Compensation
6 Program Designation of Responsibilities Act”.

7 (b) **FINDINGS.**—

1 (1) Since World War II, hundreds of thousands
2 of men and women have served the Nation in build-
3 ing its nuclear defense. In the course of their work,
4 they overcame previously unimagined scientific and
5 technical challenges. However, thousands of these
6 courageous Americans paid a high price for their
7 service, developing disabling or fatal illnesses as a
8 result of exposure to silica, beryllium, ionizing radi-
9 ation, and other hazards unique to nuclear weapons
10 production and testing.

11 (2) Too often, these workers were neither ade-
12 quately protected from, nor informed of, the occupa-
13 tional hazards to which they were exposed.

14 (3) Over the past 20 years more than 2 dozen
15 scientific findings have emerged that indicate that
16 Department of Energy workers are experiencing in-
17 creased risks of dying from cancer and nonmalign-
18 ant diseases at numerous facilities that provided
19 for the Nation's nuclear deterrent. Several of these
20 studies also establish a correlation between excess
21 diseases and exposure to silica, radiation, and beryl-
22 lium.

23 (4) Federal workers' compensation programs
24 have generally not included these workers. Further,
25 because of long latency periods, the uniqueness of

1 the hazards to which they were exposed, and inad-
2 equate exposure data, many of these individuals
3 have been unable to obtain State workers' compensa-
4 tion benefits. This problem has been exacerbated by
5 the past policy of the Department of Energy and its
6 predecessors of encouraging and assisting its con-
7 tractors in opposing the claims of workers who
8 sought those benefits.

9 (5) The civilian men and women who performed
10 duties uniquely related to the Department of Ener-
11 gy's nuclear weapons production program over the
12 last 50 years should have efficient, uniform, and
13 adequate compensation for beryllium-related health
14 conditions, radiation-related health conditions, and
15 silica-related health conditions in order to assure
16 fairness and equity.

17 (6) The Federal Government should provide
18 necessary information and otherwise help employees
19 of the Department of Energy or its contractors to
20 determine if their illnesses are associated with condi-
21 tions of their nuclear weapons-related work. It
22 should provide workers and their survivors with all
23 pertinent and available information necessary for
24 evaluating and processing claims. It should also en-

1 sure that this program minimizes the administrative
2 responsibilities to accomplish these goals.

3 (7) This situation is sufficiently unique to the
4 Department of Energy’s nuclear weapons production
5 program that it is appropriate for congressional ac-
6 tion.

7 **SEC. 2. ALLOCATION OF RESPONSIBILITIES FOR ADMIN-**
8 **ISTERING PROGRAM.**

9 (a) SECRETARY OF LABOR.—The Secretary of Labor
10 shall have primary responsibility for administering the En-
11 ergy Employees Occupational Illness Compensation Pro-
12 gram (hereinafter in this Act referred to as the “Pro-
13 gram”) established under section 3611 of the Energy Em-
14 ployees Occupational Illness Compensation Program Act
15 of 2000 (as enacted by Public Law 106–398; 114 Stat.
16 1654A–497) (hereinafter in this Act referred to as the
17 “2000 Act”). Specifically, the Secretary shall immediately
18 and forthwith carry out the following with respect to the
19 Program:

20 (1) Administer and decide all questions arising
21 under the 2000 Act not assigned to other agencies
22 by that Act or this Act, including determining the
23 eligibility of individuals with covered occupational ill-
24 nesses and their survivors and adjudicating claims
25 for compensation and benefits.

1 (2) Not later than May 31, 2001, promulgate
2 regulations for the administration of the Program,
3 except for functions assigned to other agencies pur-
4 suant to the 2000 Act or this Act.

5 (3) Not later than July 31, 2001, ensure the
6 availability, in paper and electronic format, of forms
7 necessary for making claims under the Program.

8 (4) Develop informational materials, in coordi-
9 nation with the Secretary of Energy and the Sec-
10 retary of Health and Human Services, to help poten-
11 tial claimants understand the Program and the ap-
12 plication process, and provide these materials to in-
13 dividuals upon request and to the Secretary of En-
14 ergy and the Attorney General for dissemination to
15 potentially eligible individuals.

16 (b) SECRETARY OF HEALTH AND HUMAN SERV-
17 ICES.—The Secretary of Health and Human Services shall
18 carry out the following with respect to the Program:

19 (1) Not later than May 31, 2001, promulgate
20 regulations establishing—

21 (A) guidelines, pursuant to section 3623(c)
22 of the 2000 Act, to assess the likelihood that an
23 individual with cancer sustained the cancer in
24 the performance of duty at a Department of

1 Energy facility or an atomic weapons employer
2 facility, as defined by that Act; and

3 (B) methods, pursuant to section 3623(d)
4 of the 2000 Act, for arriving at and providing
5 reasonable estimates of the radiation doses re-
6 ceived by individuals applying for assistance
7 under the Program for whom there are inad-
8 equate records of radiation exposure.

9 (2) In accordance with procedures developed by
10 the Secretary of Health and Human Services, con-
11 sider and issue determinations on petitions by class-
12 es of employees to be treated as members of the
13 Special Exposure Cohort.

14 (3) With the assistance of the Secretary of En-
15 ergy, apply the methods promulgated under sub-
16 section (b)(1)(B) to estimate the radiation doses re-
17 ceived by individuals applying for assistance.

18 (4) Upon request from the Secretary of Energy,
19 appoint members for a physician panel or panels to
20 consider individual workers' compensation claims as
21 part of the Worker Assistance Program under the
22 process established pursuant to subsection (c)(5).

23 (5) Provide the Advisory Board established
24 under section 3 with administrative services, funds,
25 facilities, staff, and other necessary support services

1 and perform the administrative functions of the
2 President under the Federal Advisory Committee
3 Act, as amended (5 U.S.C. App.), with respect to
4 the Advisory Board.

5 (c) SECRETARY OF ENERGY.—The Secretary of En-
6 ergy shall carry out the following with respect to the Pro-
7 gram:

8 (1) Provide the Secretary of Health and
9 Human Services and the Advisory Board on Radi-
10 ation and Worker Health access, in accordance with
11 law, to all relevant information pertaining to worker
12 exposures, including access to restricted data, and
13 any other technical assistance needed to carry out
14 their responsibilities under subsection (b)(2) and
15 section 3(b), respectively.

16 (2) Upon request from the Secretary of Health
17 and Human Services or the Secretary of Labor, and
18 as permitted by law, require a Department of En-
19 ergy contractor, subcontractor, or designated beryl-
20 lium vendor, pursuant to section 3631(e) of the
21 2000 Act, to provide information relevant to a claim
22 under the Program.

23 (3) Identify and notify potentially eligible indi-
24 viduals of the availability of compensation under the
25 Program.

1 (4) Designate, pursuant to sections 3621(4)(B)
2 and 3622 of the 2000 Act, atomic weapons employ-
3 ers and additions to the list of designated beryllium
4 vendors.

5 (5) Pursuant to Subtitle D of the 2000 Act, ne-
6 gotiate agreements with the chief executive officer of
7 each State in which there is a Department of En-
8 ergy facility, and other States as appropriate, to pro-
9 vide assistance to a Department of Energy con-
10 tractor employee on filing a State workers' com-
11 pensation system claim, and establish a Worker As-
12 sistance Program to help individuals whose illness is
13 related to employment in the Department of Ener-
14 gy's nuclear weapons complex, or the individual's
15 survivor if the individual is deceased, in applying for
16 State workers' compensation benefits. This assist-
17 ance shall include—

18 (A) submittal of reasonable claims to a
19 physician panel, appointed by the Secretary of
20 Health and Human Services and administered
21 by the Secretary of Energy, under procedures
22 established by the Secretary of Energy, for de-
23 termination of whether the individual's illness
24 or death arose out of and in the course of em-
25 ployment by the Department of Energy or its

1 contractors and exposure to a toxic substance
2 at a Department of Energy facility; and

3 (B) for cases determined by the physician
4 panel and the Secretary of Energy under sec-
5 tion 3661(d) and (e) of the 2000 Act to have
6 arisen out of and in the course of employment
7 by the Department of Energy or its contractors
8 and exposure to a toxic substance at a Depart-
9 ment of Energy facility, providing assistance to
10 the individual in filing for workers' compensa-
11 tion benefits. The Secretary shall not contest
12 these claims and, to the extent permitted by
13 law, shall direct a Department of Energy con-
14 tractor who employed the applicant not to con-
15 test the claims.

16 (6) Report on the Worker Assistance Program
17 by making publicly available on at least an annual
18 basis claims-related data, including the number of
19 claims filed, the number of illnesses found to be re-
20 lated to work at a Department of Energy facility,
21 job location and description, and number of success-
22 ful State workers' compensation claims awarded.

23 (d) ATTORNEY GENERAL.—The Attorney General
24 shall carry out the following with respect to the Program:

1 (1) Develop procedures to notify, to the extent
2 possible, each claimant (or the survivor of that
3 claimant if deceased) whose claim for compensation
4 under section 5 of the Radiation Exposure Com-
5 pensation Act has been or is approved by the De-
6 partment of Justice, of the availability of supple-
7 mental compensation and benefits under the Pro-
8 gram.

9 (2) Identify and notify eligible covered uranium
10 employees or their survivors of the availability of
11 supplemental compensation under the Program.

12 (3) Upon request by the Secretary of Labor,
13 provide information needed to adjudicate the claim
14 of a covered uranium employee under the Program.

15 **SEC. 3. ESTABLISHMENT OF ADVISORY BOARD ON RADI-**
16 **ATION AND WORKER HEALTH.**

17 (a) ESTABLISHMENT.—Pursuant to Public Law 106–
18 398, there is hereby established an Advisory Board on Ra-
19 diation and Worker Health. The Advisory Board shall con-
20 sist of not more than 20 members to be appointed by the
21 President. Members shall include affected workers and
22 their representatives, and representatives from scientific
23 and medical communities. The President shall designate
24 a Chair for the Board among its members.

25 (b) DUTIES.—The Advisory Board shall—

1 (1) advise the Secretary of Health and Human
2 Services on the development of guidelines under sec-
3 tion 2(b)(1)(A);

4 (2) advise the Secretary of Health and Human
5 Services on the scientific validity and quality of dose
6 reconstruction efforts performed for the Program;
7 and

8 (3) upon request by the Secretary of Health
9 and Human Services, advise the Secretary on wheth-
10 er there are individuals or classes of employees at
11 any Department of Energy facility who were exposed
12 to radiation but for whom it is not feasible to esti-
13 mate their radiation dose with sufficient accuracy,
14 and on whether such radiation dose may have en-
15 dangered the health of members of the class.

16 **SEC. 4. REPORTING REQUIREMENTS.**

17 The Secretaries of Labor, Health and Human Serv-
18 ices, and Energy shall, as part of their annual budget sub-
19 missions, report to the Office of Management and Budget
20 on their activities under the Program, including total ex-
21 penditures related to benefits and program administra-
22 tion. Each such report shall include, among other things,
23 a description of the administrative structure established
24 within their agencies to implement the 2000 Act. In addi-
25 tion, the Secretary of Labor shall annually report on the

1 total number and types of claims for which compensation
2 was considered and other data pertinent to evaluating the
3 Federal Government's performance in fulfilling the re-
4 quirements of the 2000 Act.

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