

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1506

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

JULY 27, 2005

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.

○