

110TH CONGRESS  
2D SESSION

# H. R. 6766

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to expand the category of individuals eligible for compensation, to improve the procedures for providing compensation, and to improve transparency, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2008

Mr. UDALL of Colorado (for himself and Mr. PERLMUTTER) 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 expand the category of individuals eligible for compensation, to improve the procedures for providing compensation, and to improve transparency, 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 “Compensation and Re-  
3 spect for Energy Workers Act of 2008” or the “CARE  
4 Act”.

5 **SEC. 2. EXPANSION OF CANCERS FOR WHICH INDIVIDUALS**  
6 **ARE ELIGIBLE TO RECEIVE COMPENSATION**  
7 **UNDER THE ENERGY EMPLOYEES COM-**  
8 **PENSATION PROGRAM ACT OF 2000 AND THE**  
9 **RADIATION EXPOSURE COMPENSATION ACT.**

10 Section 4(b)(2) of the Radiation Exposure Com-  
11 pensation Act (42 U.S.C. 2210 note) is amended—

12 (1) by striking “(other than chronic  
13 lymphocytic leukemia)” and inserting “(including  
14 chronic lymphocytic leukemia)”;

15 (2) by inserting “posterior subcapsular cata-  
16 racts, nonmalignant thyroid nodular disease, para-  
17 thyroid adenoma, malignant tumors of the brain and  
18 central nervous system, bronchio-alveolar carcinoma,  
19 benign neoplasms of the brain and central nervous  
20 system,” after “disease),”; and

21 (3) by striking “or lung” and inserting “lung,  
22 skin, kidney, salivary gland, rectum, pharynx, or  
23 prostate”.

1 **SEC. 3. DISTRIBUTION OF INFORMATION TO CLAIMANTS**  
2 **AND POTENTIAL CLAIMANTS.**

3 (a) INDEPENDENT PHYSICIANS FOR PERFORMANCE  
4 OF MEDICAL AND IMPAIRMENT SCREENINGS.—Paragraph  
5 (2) of subsection (b) of section 3631 of the Energy Em-  
6 ployees Occupational Illness Compensation Program Act  
7 of 2000 (42 U.S.C. 7384v) is amended—

8 (1) in subparagraph (A), by striking “and” at  
9 the end;

10 (2) by redesignating subparagraph (B) as sub-  
11 paragraph (C); and

12 (3) by inserting after subparagraph (A) the fol-  
13 lowing:

14 “(B) lists of physicians qualified to per-  
15 form medical and impairment screenings on  
16 matters relating to the compensation program  
17 who are identified for purposes of this subpara-  
18 graph by one or more independent medical as-  
19 sociations, institutions of higher education, or  
20 both selected by the President for purposes of  
21 this subparagraph; and”.

22 (b) NOTICE OF AVAILABLE BENEFITS.—Such section  
23 is further amended by adding at the end the following:

24 “(d) NOTICE TO CLAIMANTS ON AVAILABLE BENE-  
25 FITS.—The President shall provide to an individual who  
26 files a claim for compensation under this subtitle or sub-

1 title E written notice on the benefits for which the indi-  
2 vidual may be eligible under this Act.”.

3 **SEC. 4. ENHANCEMENT OF SITE PROFILES OF DEPART-**  
4 **MENT OF ENERGY FACILITIES.**

5 (a) INCLUSION OF TRADE NAMES OF CHEMICALS IN  
6 SITE PROFILES.—Subsection (c) of section 3633 of the  
7 Energy Employees Occupational Illness Compensation  
8 Program Act of 2000 (42 U.S.C. 7384w–1) is amended  
9 by adding at the end the following new sentence: “In iden-  
10 tifying any chemical commonly used in a building or proc-  
11 ess of a facility, an exposure assessment shall include the  
12 trade name (if any) of such chemical.”.

13 (b) PUBLIC ACCESS TO SITE PROFILES AND RE-  
14 LATED INFORMATION.—Such section is further amended  
15 by adding at the end the following:

16 “(e) PUBLIC ACCESS TO SITE PROFILES AND RE-  
17 LATED INFORMATION.—The Secretary of Labor shall  
18 make available to the public each site profile prepared  
19 under subsection (a) and any other database used by the  
20 Department to evaluate claims for compensation under  
21 this Act.”.

1 **SEC. 5. PAYMENT OF COMPENSATION TO SURVIVORS AND**  
2 **ESTATES OF CONTRACTOR EMPLOYEES.**

3 Section 3672 of the Energy Employees Occupational  
4 Illness Compensation Program Act of 2000 (42 U.S.C.  
5 7385s-1) is amended to read as follows:

6 **“SEC. 3672. COMPENSATION TO BE PROVIDED.**

7 “Subject to the other provisions of this subtitle:

8 “(1) CONTRACTOR EMPLOYEES.—

9 “(A) IN GENERAL.—A covered DOE con-  
10 tractor employee shall receive contractor em-  
11 ployee compensation under this subtitle in ac-  
12 cordance with section 3673.

13 “(B) COMPENSATION AFTER DEATH OF  
14 CONTRACTOR EMPLOYEE.—Except as provided  
15 in paragraph (2)(B), if the death of a con-  
16 tractor employee occurs after the employee ap-  
17 plies for compensation under this subtitle but  
18 before such compensation is paid, the amount  
19 of compensation the employee would have re-  
20 ceived under this paragraph shall be paid to a  
21 survivor of the employee (for purposes of sec-  
22 tion 3674) or, if the employee has no survivors,  
23 the estate of the employee.

24 “(2) SURVIVORS.—

25 “(A) IN GENERAL.—Except as provided in  
26 subparagraph (B), a survivor of a covered DOE

1 contractor employee shall receive contractor em-  
2 ployee compensation under this subtitle in ac-  
3 cordance with section 3674.

4 “(B) ELECTION OF CONTRACTOR EM-  
5 PLOYEE COMPENSATION OR SURVIVOR COM-  
6 PENSATION.—A survivor who is otherwise eligi-  
7 ble to receive compensation pursuant to both  
8 subparagraph (A) and paragraph (1)(B) shall  
9 not receive compensation pursuant to both sub-  
10 subparagraph (A) and paragraph (1)(B), but shall  
11 receive compensation pursuant to subparagraph  
12 (A) or paragraph (1)(B), as elected by the sur-  
13 vivor.”.

14 **SEC. 6. EXPANSION OF AUTHORITY OF OMBUDSMAN OF EN-**  
15 **ERGY EMPLOYEES OCCUPATIONAL ILLNESS**  
16 **COMPENSATION PROGRAM.**

17 Section 3686 of the Energy Employees Occupational  
18 Illness Compensation Program Act of 2000 (42 U.S.C.  
19 7385s–15) is amended—

20 (1) by amending subsection (c) to read as fol-  
21 lows:

22 “(c) DUTIES.—The duties of the Office shall be as  
23 follows:

24 “(1) To assist individuals in making claims  
25 under this subtitle and subtitle B.

1           “(2) To provide information on the benefits  
2 available under this subtitle and subtitle B and on  
3 the requirements and procedures applicable to the  
4 provision of such benefits.

5           “(3) To act as an advocate on behalf of individ-  
6 uals seeking benefits under this subtitle and subtitle  
7 B.

8           “(4) To make recommendations to the Sec-  
9 retary regarding the location of centers (to be known  
10 as ‘resource centers’) for the acceptance and devel-  
11 opment of claims for benefits under this subtitle and  
12 subtitle B.

13           “(5) To carry out such other duties as the Sec-  
14 retary shall specify.”;

15           (2) in subsection (d), by inserting “or subtitle  
16 B” after “this subtitle”;

17           (3) in subsection (e), by inserting “and subtitle  
18 B” after “this subtitle” each place it appears; and

19           (4) by striking subsection (g) and inserting the  
20 following:

21           “(g) CONTRACT AUTHORITY.—The Ombudsman may  
22 contract for the services of individuals with expertise in  
23 such matters, including health physics, medicine, indus-  
24 trial hygiene, and toxicology, as the Ombudsman considers

1 appropriate for the performance of the duties of the Of-  
2 fice.”.

3 **SEC. 7. EXTENSION OF TIME FOR CLAIMANTS TO RESPOND**  
4 **TO REQUESTS FOR INFORMATION.**

5 If the Secretary of Labor requests information from  
6 an individual who has filed a claim for compensation under  
7 the Energy Employees Occupational Illness Compensation  
8 Program Act of 2000 with respect to that claim, the indi-  
9 vidual shall have not less than 120 days to respond to  
10 the request.

11 **SEC. 8. EXTENSION OF STATUTE OF LIMITATIONS FOR JU-**  
12 **DICIAL REVIEW OF CONTRACTOR EMPLOYEE**  
13 **CLAIMS.**

14 (a) IN GENERAL.—Section 3677(a) of the Energy  
15 Employees Occupational Illness Compensation Program  
16 Act of 2000 (42 U.S.C. 7385s–6(a)) is amended by strik-  
17 ing “within 60 days” and inserting “not later than 1  
18 year”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall apply with respect to final decisions  
21 of the Secretary of Labor under subtitle E of the Energy  
22 Employees Occupational Illness Compensation Program  
23 Act of 2000 (42 U.S.C. 7385s et seq.) issued on or after  
24 the date of the enactment of this Act.

1 **SEC. 9. PAYMENT OF TRANSPORTATION EXPENSES AND**  
2 **FOR PERSONAL CARE SERVICES.**

3 (a) IN GENERAL.—Not later than 90 days after the  
4 date of enactment of this Act, the Secretary of Labor shall  
5 prescribe regulations to provide for the direct payment to  
6 providers of the costs to individuals described in sub-  
7 section (b) of—

8 (1) personal care services (as that term is used  
9 in section 30.403 of title 20, Code of Federal Regu-  
10 lations (as in effect on the day before the date of the  
11 enactment of this Act)) authorized pursuant to sec-  
12 tion 3629 of the Energy Employees Occupational Ill-  
13 ness Compensation Program Act of 2000 (42 U.S.C.  
14 7384t); and

15 (2) necessary and reasonable transportation ex-  
16 penses incident to securing medical services, appli-  
17 ances, or supplies pursuant to section 3629(c) of  
18 such Act.

19 (b) COVERED INDIVIDUALS.—An individual described  
20 in this subsection is an individual who receives medical  
21 benefits under section 3629(a) of the Energy Employees  
22 Occupational Illness Compensation Program Act of 2000  
23 (42 U.S.C. 7384t(a)).

1 **SEC. 10. ENHANCEMENT OF TRANSPARENCY IN CLAIMS**  
2 **PROCESS.**

3 (a) INFORMATION PROVIDED UPON DENIAL OF  
4 CLAIM; CORRESPONDENCE IN EASILY UNDERSTANDABLE  
5 LANGUAGE.—Not later than 90 days after the date of the  
6 enactment of this Act, the President shall prescribe regu-  
7 lations to ensure that—

8 (1) any notification to an individual making a  
9 claim under the Energy Employees Occupational Ill-  
10 ness Compensation Program Act of 2000 that the  
11 claim has been denied, and all other correspondence  
12 with such an individual with respect to a claim, are  
13 written in language that is clear, concise, and easily  
14 understandable; and

15 (2) any such notification is accompanied by an  
16 explanation of the reasons for denying the claim and  
17 a description of the information, if any, the indi-  
18 vidual could have submitted that might have resulted  
19 in approval of the claim.

20 (b) DOCUMENT RETENTION.—Not later than 90 days  
21 after the date of the enactment of this Act, the Secretary  
22 of Labor and the Secretary of Energy shall jointly pre-  
23 scribe regulations to ensure that the Department of Labor  
24 and the Department of Energy—

1           (1) retain all original documents in the posses-  
2           sion of such Departments related to a Department  
3           of Energy facility if—

4                   (A) employees of that facility might rea-  
5                   sonably be expected to file claims for compensa-  
6                   tion under the Energy Employees Occupational  
7                   Illness Compensation Program Act of 2000;  
8                   and

9                   (B) the documents might reasonably be ex-  
10                  pected to be used by such employees in making  
11                  such claims; and

12           (2) provide such employees access to such docu-  
13           ments.

14 **SEC. 11. DEFINITION OF MEMBER OF SPECIAL EXPOSURE**  
15 **COHORT.**

16           (a) IN GENERAL.—Section 3621(14) of the Energy  
17           Employees Occupational Illness Compensation Program  
18           Act of 2000 (42 U.S.C. 7384l(14)) is amended by adding  
19           at the end the following new subparagraph:

20                   “(D) The employee was so employed for a  
21                   number of work days aggregating at least 250  
22                   work days before January 1, 2006, by the De-  
23                   partment of Energy or a Department of Energy  
24                   contractor or subcontractor at the Rocky Flats  
25                   site in Colorado.”.

1       (b) REAPPLICATION.—A claim that an individual  
2 qualifies, by reason of section 3621(14)(D) of the Energy  
3 Employees Occupational Illness Compensation Program  
4 Act of 2000 (as added by subsection (a) of this Act), for  
5 compensation or benefits under such Act shall be consid-  
6 ered for compensation or benefits notwithstanding any de-  
7 nial of any other claim for compensation with respect to  
8 such individual.

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