

110TH CONGRESS
1ST SESSION

S. 650

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide for certain nuclear weapons program workers to be included in the Special Exposure Cohort under the compensation program established by that Act.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2007

Mr. REID 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 provide for certain nuclear weapons program workers to be included in the Special Exposure Cohort under the compensation program established by that Act.

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.**

4 This Act may be cited as the “Nevada Test Site Vet-
5 erans’ Compensation Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The contribution of the State of Nevada to
2 the security of the United States throughout the
3 Cold War and since has been unparalleled.

4 (2) In 1950, President Harry S Truman des-
5 ignated what would later be called the Nevada Test
6 Site as the country's nuclear proving grounds and,
7 a month later, the first atmospheric test at the Ne-
8 vada Test Site was detonated.

9 (3) The United States conducted 100 above-
10 ground and 828 underground nuclear tests at the
11 Nevada Test Site from 1951 to 1992.

12 (4) Out of the 1,054 nuclear tests conducted in
13 the United States, 928, or 88 percent, were con-
14 ducted at the Nevada Test Site.

15 (5) The Nevada Test Site has served, and con-
16 tinues to serve, as the premier research, testing, and
17 development site for the nuclear defense capabilities
18 of the United States.

19 (6) The Nevada Test Site and its workers are
20 an essential and irreplaceable part of the Nation's
21 defense capabilities.

22 (7) Individuals working on Cold War-era nu-
23 clear weapons programs were employed in facilities
24 owned by the Federal Government and the private
25 sector producing and testing nuclear weapons and

1 engaging in related atomic energy defense activities
2 for the national defense beginning in the 1940s.

3 (8) These Cold War atomic energy veterans
4 helped to build and test the nuclear arsenal that
5 served as a deterrent during the Cold War, sacri-
6 ficing their personal health and well-being in service
7 to the United States.

8 (9) During the Cold War, many of these work-
9 ers were exposed to radiation, beryllium, and silica,
10 and were placed in harm's way by the Department
11 of Energy and contractors, subcontractors, and ven-
12 dors of the Department without the workers' knowl-
13 edge or consent, without adequate radiation moni-
14 toring, and without necessary protections from inter-
15 nal or external occupational radiation exposure.

16 (10) The Energy Employees Occupational Ill-
17 ness Compensation Program Act of 2000 (42 U.S.C.
18 7384 et seq.) (in this section referred to as
19 “EEOICPA”) was enacted to ensure fairness and
20 equity for the men and women who, during the past
21 60 years, performed duties uniquely related to the
22 nuclear weapons production and testing programs of
23 the Department of Energy, its predecessor agencies,
24 and its contractors by establishing a program that
25 would provide timely, uniform, and adequate com-

1 pensation for beryllium- and radiation-related health
2 conditions.

3 (11) Research by the Department of Energy,
4 the National Institute for Occupational Safety and
5 Health (NIOSH), NIOSH contractors, the Presi-
6 dent's Advisory Board on Radiation and Worker
7 Health, and congressional committees indicates that
8 at certain nuclear weapons facilities—

9 (A) workers were not adequately monitored
10 for internal or external exposure to ionizing ra-
11 diation; and

12 (B) records were not maintained, are not
13 reliable, are incomplete, or fail to indicate the
14 radioactive isotopes to which workers were ex-
15 posed.

16 (12) Due to the inequities posed by the factors
17 described above and the resulting harm to the work-
18 ers, Congress designated classes of atomic weapons
19 employees at the Paducah, Kentucky, Portsmouth,
20 Ohio, Oak Ridge K-25, Tennessee, and the Am-
21 chitka Island, Alaska, sites as members of the Spe-
22 cial Exposure Cohort under EEOICPA.

23 (13) It has become evident that it is not fea-
24 sible to estimate with sufficient accuracy in a timely
25 manner the radiation dose received by employees at

1 the Department of Energy facility at the Nevada
2 Test Site for many reasons, including the following:

3 (A) The NIOSH Technical Basis Docu-
4 ment, the threshold document for radiation dose
5 reconstruction under EEOICPA, has incomplete
6 radionuclide lists.

7 (B) NIOSH has not demonstrated that it
8 can estimate dose from exposure to large, non-
9 respirable hot particles.

10 (C) There are significant gaps in environ-
11 mental measurement and exposure data.

12 (D) Resuspension doses have been seri-
13 ously underestimated.

14 (E) NIOSH has not been able to estimate
15 accurately exposures to bomb assembly workers
16 and radon levels.

17 (F) NIOSH has not demonstrated that it
18 can accurately sample tritiated water vapor.

19 (G) External dose records lack integrity.

20 (H) There are no beta dose data from be-
21 fore 1966.

22 (I) There are no neutron dose data from
23 before 1966 and only partial data after such
24 date.

1 (J) There are no internal dose data from
2 before late 1955 or 1956, and limited data until
3 well into the 1960s.

4 (K) NIOSH has ignored exposure from
5 more than a dozen underground tests that vent-
6 ed, including Blanca, Des Moines, Baneberry,
7 Camphor, Diagonal Line, Riola, Agrini, Midas
8 Myth, Misty Rain, and Mighty Oak.

9 (L) Instead of monitoring individuals,
10 groups were monitored, resulting in unreliable
11 personnel monitoring.

12 (14) Some Nevada Test Site workers, despite
13 having worked with significant amounts of radio-
14 active materials and having known exposures leading
15 to serious health effects, have been denied com-
16 pensation under EEOICPA as a result of flawed cal-
17 culations based on records that are incomplete or in
18 error, or based on faulty assumptions and incorrect
19 models.

20 (15) Although basal cell carcinoma and chronic
21 lymphocytic leukemia are both radiogenic cancers
22 that employees at the Nevada Test Site may have
23 contracted in the scope of their work, EEOICPA
24 currently will not include individuals with basal cell
25 carcinoma as members of the Special Exposure Co-

hort, nor does it provide for compensation for employees with chronic lymphocytic leukemia.

SEC. 3. INCLUSION OF CERTAIN NUCLEAR WEAPONS PROGRAM WORKERS IN SPECIAL EXPOSURE COHORT UNDER ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384*l*) is amended—

(1) in paragraph (9), by adding at the end the following new subparagraph:

“(C) An individual described in paragraph (14)(D).”; and

(2) in paragraph (14), by adding at the end the following new subparagraph:

“(D) The employee was so employed at the Nevada Test Site or other similar sites located in Nevada during the period beginning on January 1, 1950, and ending on December 31, 1993, and contracted an occupational illness, basal cell carcinoma, or chronic lymphocytic leukemia, and, during such employment—

“(i) was present during an atmospheric or underground nuclear test or performed drillbacks, tunnel re-entry, or

1 clean-up work following such a test (with-
2 out regard to the duration of employment);

3 “(ii) was present at an event involving
4 the venting of an underground test or dur-
5 ing a planned or unplanned radiation re-
6 lease (without regard to the duration of
7 employment);

8 “(iii) was present during testing or
9 post-test activities related to nuclear rocket
10 or ramjet engine testing at the Nevada
11 Test Site (without regard to the duration
12 of employment);

13 “(iv) was assigned to work at Area 51
14 or other classified program areas of the
15 Nevada Test Site (without regard to the
16 duration of employment); or

17 “(v) was employed at the Nevada Test
18 Site, and was employed in a job activity
19 that—

20 “(I) was monitored for exposure
21 to ionizing radiation; or

22 “(II) was comparable to a job
23 that is, was, or should have been mon-
24 itored for exposure to ionizing radi-
25 ation at the Nevada Test Site.”.

1 (b) DEADLINE FOR CLAIMS ADJUDICATION.—Claims
2 for compensation under section 3621(14)(D) of the En-
3 ergy Employees Occupational Illness Compensation Pro-
4 gram Act of 2000, as added by subsection (a), shall be
5 adjudicated and a final decision issued—

6 (1) in the case of claims pending as of the date
7 of the enactment of this Act, not later than 30 days
8 after such date; and

9 (2) in the case of claims filed after the date of
10 the enactment of this Act, not later than 30 days
11 after the date of such filing.

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