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2010 (111th Congress) > [H.R. 5119](#)

H.R. 5119: Radiation Exposure Compensation Act Amendments of 2010

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Apr 22, 2010 - Introduced in House. This is the original text of the bill as it was written by its sponsor and submitted to the House for consideration. This is the latest version of the bill currently available on GovTrack.

111th CONGRESS

2d Session

H. R. 5119

To amend the Radiation Exposure Compensation Act to improve compensation for workers involved in uranium mining, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

April 22, 2010

Mr. LUJAN (for himself, Ms. BORDALLO, Mr. GRIJALVA, Mr. HEINRICH, Mrs. KIRKPATRICK of Arizona, Mr. MATHESON, Mrs. NAPOLITANO, Mr. SALAZAR, and Mr. TEAGUE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, 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 amend the Radiation Exposure Compensation Act to improve compensation for workers involved in uranium mining, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Radiation Exposure Compensation Act Amendments of 2010'.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision of law, the reference shall be considered to be made to a section or other provision of the Radiation Exposure Compensation Act ([Public Law 101-426](#); [42 U.S.C. 2210](#) note).

SEC. 3. EXTENSION OF FUND.

Section 3(d) is amended--

(1) by striking the first sentence and inserting 'The Fund shall terminate 19 years after the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2010.'; and

(2) by striking '22-year' and inserting '19-year'.

SEC. 4. CLAIMS RELATING TO ATMOSPHERIC TESTING.

(a) Leukemia Claims Relating to Trinity Test in New Mexico and Tests in the Pacific - Section 4(a)(1)(A) is amended--

(1) in clause (i)--

(A) in subclause (II)--

(i) by striking 'in the affected area' and inserting 'in an affected area'; and

(ii) by striking 'or' after the semicolon;

(B) by redesignating subclause (III) as subclause (V); and

(C) by inserting after subclause (II) the following:

'(III) was physically present in an affected area for the period beginning on June 30, 1945, and ending on July 31, 1945; or

'(IV) was
physically
present in an
affected area--

'(aa) for a period of at least 1 year during the period beginning on June 30, 1946, and ending on August 19, 1958; or

'(bb) for the period beginning on April 25, 1962, and ending on November 5, 1962; or'; or

(2) in clause (ii)(I), by striking 'physical presence described in subclause (I) or (II) of clause (i) or onsite participation described in clause (i)(III)' and inserting 'physical presence described in subclause (I), (II), (III), or (IV) of clause (i) or onsite participation described in clause (i)(V)'.

(b) Amounts for Claims Related to Leukemia- Section 4(a)(1) is amended--

(1) in subparagraph (A) by striking 'an amount' and inserting 'the amount'; and

(2) by striking subparagraph (B) and inserting the following:

'(B) AMOUNT- If the conditions described in subparagraph (C) are met, an individual who is described in subparagraph (A)(i) shall receive \$150,000.'.

(c) Specified Diseases Claims Relating to Trinity Test in New Mexico and Tests in the Pacific- Section 4(a)(2) is amended--

(1) in subparagraph (A), by striking 'in the affected area' and inserting 'in an affected area';

(2) in subparagraph (B)--

(A) by striking 'in the affected area' and inserting 'in an affected area'; and

(B) by striking 'or' at the end;

(3) by redesignating subparagraph (C) as subparagraph (E); and

(4) by inserting after subparagraph (B) the following:

'(C) was physically present in an affected area for the period beginning on

June 30, 1945, and ending on July 31, 1945;

'(D) was physically present in an affected area--

'(i) for a period of at least 2 years during the period beginning on June 30, 1946, and ending on August 19, 1958; or

'(ii) for the period beginning on April 25, 1962, and ending on November 5, 1962; or'.

(d) Amounts for Claims Related to Specified Diseases- Section 4(a)(2) is amended in the matter following subparagraph (D) (as redesignated by subsection (c) of this section) by striking '\$50,000 (in the case of an individual described in subparagraph (A) or (B)) or \$75,000 (in the case of an individual described in subparagraph (C)),' and inserting '\$150,000'.

(e) Medical Benefits- Section 4(a) is amended by adding at the end the following:

'(5) MEDICAL BENEFITS- An individual receiving a payment under this section shall be eligible to receive medical benefits in the same manner and to the same extent as an individual eligible to receive medical benefits under section 3629 of the Energy Employees Occupational Illness Compensation Program Act (as enacted into law by [Public Law 106-398](#); 114 Stat. 165A-507).'

(f) Downwind States- Section 4(b)(1) is amended to read as follows:

'(1) 'affected area' means--

'(A) except as provided under subparagraphs (B) and (C), Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, and Utah;

'(B) with respect to a claim by an individual under subsection (a)(1)(A)(i)(III) or (2)(C), only New Mexico; and

'(C) with respect to a claim by an individual

under subsection (a)(1)(A)(i)(IV)
or (2)(D), only Guam.’.

SEC. 5. CLAIMS RELATING TO URANIUM MINING.

(a) Employees of Mines and Mills- Section
5(a)(1)(A)(i) is amended--

(1) by inserting ‘(I)’ after ‘(i)’;

(2) by striking ‘December 31,
1971; and’ and inserting
‘December 31, 1990; or’; and

(3) by adding at the end the
following:

‘(II) was employed
as a core driller in a
State referred to in
subclause (I) during the
period described in such
subclause; and’.

(b) Miners- Section 5(a)(1)(A)(ii)(I) is
amended by inserting ‘or renal cancer or
any other chronic renal disease, including nephritis
and kidney tubal tissue injury’ after ‘nonmalignant
respiratory disease’.

(c) Millers, Core Drillers, and Ore
Transporters- Section 5(a)(1)(A)(ii)(II) is
amended--

(1) by inserting ‘, core driller,’ after
‘was a miller’;

(2) by inserting ‘(I)’ after ‘ clause
(i)’; and

(3) by striking all that follows
‘nonmalignant respiratory disease’
and inserting ‘or renal cancer or any other
chronic renal disease, including nephritis
and kidney tubal tissue injury; or’.

(d) Combined Work Histories- Section 5(a)
(1)(A)(ii) is further amended--

(1) by striking ‘or’ at the end of
subclause (I); and

(2) by adding at the end the
following:

‘(III)(aa)
does not
meet the conditions
of subclause (I) or
(II);

‘(bb) worked,
during the

period described in clause (i)(I), in two or more of the following positions: miner, miller, core driller, and ore transporter;

'(cc) meets the requirements of paragraph (4) or (5), or both; and

'(dd) submits written medical documentation that the individual developed lung cancer or a nonmalignant respiratory disease or renal cancer or any other chronic renal disease, including nephritis and kidney tubal tissue injury after exposure to radiation through work in one or more of the positions referred to in item (aa)';.

(e) Dates of Operation of Uranium Mine- Section 5(a)(2)(A) is amended by striking 'December 31, 1971' and inserting 'December 31, 1990'.

(f) Special Rules Relating to Combined Work Histories- Section 5(a) is amended by adding at the end the following:

'(4) SPECIAL RULE RELATING TO COMBINED WORK HISTORIES FOR INDIVIDUALS WITH AT LEAST ONE YEAR OF EXPERIENCE- An individual meets the requirements of this paragraph if the individual worked in one or more of the positions referred to in paragraph (1)(A)(ii)(III)(bb) for a period of at least one year during the period described in paragraph (1)(A)(i)(I).

'(5) SPECIAL RULE RELATING TO COMBINED WORK HISTORIES FOR MINERS- An individual meets the requirements of this paragraph if the individual, during the period described in paragraph (1)(A)(i)(I), worked as a miner and was exposed to such number of working level months that the

Attorney General determines, when combined with the exposure of such individual to radiation through work as a miller, core driller, or ore transporter during the period described in paragraph (1)(A)(i)(I), results in such individual being exposed to a total level of radiation that is greater or equal to the level of exposure of an individual described in paragraph (4).’.

(g) Definition of Core Driller- Section 5(b) is amended--

(1) by striking ‘and’ at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting ‘; and’; and

(3) by adding at the end the following:

‘(9) the term ‘core driller’ means any individual employed to engage in the act or process of obtaining cylindrical rock samples of uranium or vanadium by means of a borehole drilling machine for the purpose of mining uranium or vanadium.’.

SEC. 6. EXPANSION OF USE OF AFFIDAVITS IN DETERMINATION OF CLAIMS; REGULATIONS.

(a) Affidavits- Section 6(b) is amended by adding at the end the following:

‘(3) AFFIDAVITS-

‘(A) EMPLOYMENT HISTORY- For purposes of this Act, the Attorney General shall accept a written affidavit or declaration as evidence to substantiate the employment history of an individual as a miner, miller, core driller, or ore transporter if the affidavit--

‘(i) is provided in addition to other material that may be used to substantiate the employment history of the individual;

‘(ii) attests to the employment history of the individual;

'(iii) is made subject to penalty for perjury; and

'(iv) is made by a person other than the individual filing the claim.

'(B) PHYSICAL PRESENCE IN AFFECTED AREA- For purposes of this Act, the Attorney General shall accept a written affidavit or declaration as evidence to substantiate an individual's physical presence in an affected area during a period described in section 4(a)(1)(A)(i) or section 4(a)(2) if the affidavit-

'(i) is provided in addition to other material that may be used to substantiate the individual's presence in an affected area during that time period;

'(ii) attests to the individual's presence in an affected area during that period;

'(iii) is made subject to penalty for perjury; and

'(iv) is made by a person other than the individual filing the claim.

'(C) PARTICIPATION AT TESTING SITE- For purposes of this Act, the Attorney General shall accept a written affidavit or declaration as evidence to substantiate an individual's participation onsite in a test involving the atmospheric detonation of a nuclear device if the affidavit--

'(i) is provided in addition to other material that may be used to substantiate the individual's participation onsite in a test involving the atmospheric detonation of a nuclear device;

'(ii) attests to the individual's participation onsite in a test involving the atmospheric detonation of a nuclear device;

'(iii) is made subject to penalty for perjury; and

'(iv) is made by a person other than the individual filing the claim.'

(b) Technical and Conforming Amendments- Section 6 is amended--

(1) in subsection (b)(2)(C), by striking 'section 4(a)(2)(C)' and inserting 'section 4(a)(2)(E)';

(2) in subsection (c)(2)--

(A) in subparagraph (A)--

(i) in the first sentence, by striking 'subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4' and inserting 'subsection (a)(1), (a)(2)(A), (a)(2)(B), (a)(2)(C), or (a)(2)(D) of section 4'; and

(ii) in clause (i), by striking 'subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4' and inserting 'subsection (a)(1), (a)(2)(A), (a)(2)(B), (a)(2)(C), or (a)(2)(D) of section 4'; and

(B) in subparagraph (B), by striking 'section 4(a)(2)(C)' and inserting 'section 4(a)(2)(E)'; and

(3) in subsection (e), by striking 'subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4' and inserting 'subsection (a)(1), (a)(2)(A), (a)(2)(B), or (a)(2)(C) of section 4'.

(c) Regulations- Section 6(k) is amended by adding at the end the following: 'Not later than 180 days after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2010, the Attorney General shall issue revised regulations to carry out this Act.'.

SEC. 7. LIMITATION ON CLAIMS.

(a) Extension of Filing Time- Section 8(a) is amended--

(1) by striking '22 years' and inserting '19 years'; and

(2) by striking '2000' and inserting '2010'.

(b) Resubmittal of Claims- Section 8(b) is amended to read as follows:

'(b) Resubmittal of Claims-

'(1) DENIED CLAIMS- After the date of enactment of the Radiation Exposure Compensation Act Amendments of 2010, any claimant who has been denied compensation under this Act may resubmit a claim for consideration by the Attorney General in accordance with this Act not more than three times. Any resubmittal made before the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2010 shall not be applied to the limitation under the preceding sentence.

'(2) PREVIOUSLY SUCCESSFUL CLAIMS-

'(A) IN GENERAL- After the date of enactment of the Radiation Exposure Compensation Act Amendments of 2010, any claimant who received compensation under this Act may submit a request to the Attorney General for additional compensation and benefits. Such request shall contain--

'(i) the claimant's name, social security number, and date of birth;

'(ii) the amount of award received under this Act before the date of enactment of the Radiation Exposure Compensation Act Amendments of 2010;

'(iii) any additional benefits and compensation sought through such request; and

'(iv) any additional information required by the Attorney General.

'(B) ADDITIONAL COMPENSATION- If the claimant received compensation under this Act before the date of enactment of the Radiation Exposure Compensation Act Amendments of 2010 and submits a request under subparagraph (A), the Attorney General shall--

'(i) pay the claimant the amount that is equal to any excess of--

'(I) the amount the claimant is eligible to receive under this Act (as amended by the Radiation Exposure Compensation Act Amendments of 2010); minus

'(II) the aggregate amount paid to the claimant under this Act before the date of enactment of the Radiation Exposure Compensation Act Amendments of 2010; and

'(ii) in any case in which the claimant was compensated under section 4, provide the claimant with medical benefits under section 4 (a)(5).'

SEC. 8. ATTORNEY FEES.

Section 9(b)(1) is amended by striking '2 percent' and inserting '10 percent'.

**SEC. 9. GRANT PROGRAM ON
EPIDEMIOLOGICAL IMPACTS OF URANIUM
MINING AND MILLING.**

(a) Definitions- In this section--

(1) the term 'institution of higher education' has the meaning given under section 101 of the Higher Education Act of 1965 ([20 U.S.C. 1001](#));

(2) the term 'program' means the grant program established under subsection (b); and

(3) the term 'Secretary' means the Secretary of Health and Human Services.

(b) Establishment- The Secretary shall establish a grant program relating to the epidemiological impacts of uranium mining and milling. Grants awarded under the program shall be used for the study of the epidemiological impacts of uranium mining and milling among non-occupationally exposed individuals, including family members of uranium miners and millers.

(c) Administration- The Secretary shall administer the program through the National Institute of Environmental Health Sciences.

(d) Eligibility and Application- Any institution of higher education or nonprofit private entity shall be eligible to apply for a grant. To apply for a grant an eligible institution or entity shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(e) Authorization of Appropriations- There are authorized to be appropriated to carry out this section \$3,000,000 for each of fiscal years 2011 through 2016.

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