

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3218**

OFFERED BY MS. Rice of New York

At the appropriate place in title V, insert the following:

1 **SEC. 5** ____ . **RECONSIDERATION OF PREVIOUSLY DENIED**
2 **CLAIMS FOR DISABILITY COMPENSATION**
3 **FOR VETERANS WHO ALLEGE FULL-BODY EX-**
4 **POSURE TO NITROGEN MUSTARD GAS, SUL-**
5 **FUR MUSTARD GAS, OR LEWISITE DURING**
6 **WORLD WAR II.**

7 (a) **IN GENERAL.**—

8 (1) **RECONSIDERATION REQUIRED.**—The Sec-
9 retary of Veterans Affairs shall reconsider all claims
10 for compensation described in paragraph (2) and
11 make a new determination regarding each such
12 claim.

13 (2) **CLAIMS FOR COMPENSATION DESCRIBED.**—
14 A claim for compensation described in this para-
15 graph is a claim for compensation under chapter 11
16 of title 38, United States Code, that the Secretary
17 determines—

1 (A) arose from the alleged full-body expo-
2 sure of a veteran to a covered substance—

3 (I) during active military, naval, or
4 air service during World War II; and

5 (ii) at a site listed in paragraph (3);

6 and

7 (B) was denied before the date of the en-
8 actment of this Act.

9 (3) SITES.—The sites listed in this paragraph
10 are the following:

11 (A) Camp Siebert, Alabama.

12 (B) Fort McClellan, Alabama.

13 (C) Huntsville Arsenal, Alabama.

14 (D) Rocky Mountain Arsenal, Colorado.

15 (E) Naval Research Laboratory, D.C.

16 (F) Bushnell Field, Florida.

17 (G) Great Lakes Naval Training Center,
18 Illinois.

19 (H) Edgewood Arsenal, Maryland.

20 (I) Fort Detrick, Maryland.

21 (J) Naval Research Laboratory, Maryland.

22 (K) Naval Training Center, Bainbridge,
23 Maryland.

24 (L) Horn Island Installation, Mississippi.

25 (M) Camp Crowder, Missouri.

- 1 (N) Hart's Island, New York.
2 (O) Camp Lejeune, North Carolina.
3 (P) Charleston, South Carolina.
4 (Q) Dugway Proving Ground, Utah.
5 (R) Toole Army Depot, Utah.
6 (S) Naval Research Laboratory, Virginia.
7 (T) U.S.S. Eagle Boat No. 58.
8 (U) Ondal, India.
9 (V) Fort Clayton, San Jose Island, Pan-
10 ama.

11 (W) Any site the Secretary of Veterans Af-
12 fairs determines is appropriate.

13 (4) FACTORS OF CONSIDERATION.—In making
14 a determination under paragraph (1), the Sec-
15 retary—

16 (A) shall consider—

17 (i) that contemporaneous records of
18 testing of full-body exposure to a covered
19 substance frequently may be unavailable
20 because such tests were classified or such
21 records were lost or destroyed;

22 (ii) that many veterans were sworn to
23 secrecy following testing described in
24 clause (i);

1 (iii) each statement based on personal
2 knowledge of a veteran who served at a
3 site listed in paragraph (3);

4 (iv) information in the report from the
5 Secretary of Defense under subsection
6 (b)(2); and

7 (v) any evidence the Secretary con-
8 siders relevant; and

9 (B) may not determine that testing of full-
10 body exposure to a covered substance did not
11 occur at a site based solely on—

12 (i) information contained in the De-
13 partment of Defense and Department of
14 Veterans Affairs Chemical Biological War-
15 fare Database; or

16 (ii) any list of known sites of testing
17 of full-body exposure to a covered sub-
18 stance maintained by the Department of
19 Veterans Affairs or the Department of De-
20 fense.

21 (5) PRESUMPTION OF EXPOSURE.—In carrying
22 out paragraph (1), when the Secretary of Veterans
23 Affairs makes a determination regarding whether a
24 veteran experienced full-body exposure to a covered
25 substance, the Secretary—

1 (A) shall presume, unless there is affirma-
2 tive evidence to establish otherwise, that the
3 veteran experienced such exposure by reason of
4 the service of the veteran in World War II—

5 (i) based on the locations listed in
6 paragraph (3); and

7 (ii) consistent with the places, types,
8 and circumstances of service of the veteran
9 in accordance with section 1154 of title 38;
10 and

11 (B) shall resolve each reasonable doubt in
12 favor of the veteran.

13 (6) EFFECTIVE DATE OF AWARD.—The effec-
14 tive date of any award of disability compensation re-
15 sulting from reconsideration of a claim under para-
16 graph (1) shall be fixed in accordance with the facts
17 found, but shall not be earlier than the date of the
18 receipt of the claim for compensation described in
19 paragraph (2).

20 (b) INVESTIGATION AND REPORT BY THE SEC-
21 RETARY OF DEFENSE.—Not later than 180 days after the
22 date of the enactment of this Act, the Secretary of Defense
23 shall—

24 (1) investigate and assess each site—

1 (A) where the Army Corps of Engineers
2 has uncovered evidence of testing conducted by
3 the Department of Defense during World War
4 II to assess the effects of full-body exposure to
5 a covered substance on humans; or

6 (B) with regards to which more than two
7 veterans have been denied claims for compensa-
8 tion under chapter 11 of title 38, United States
9 Code, in connection with exposure to a covered
10 substance at such site; and

11 (2) submit to the appropriate congressional
12 committees and the Secretary of Veterans Affairs a
13 report on testing described in paragraph (1)(A), in-
14 cluding—

15 (A) a list of each location where such test-
16 ing occurred, including locations investigated
17 and assessed under paragraph (1);

18 (B) the dates of each such testing; and

19 (C) the number of members of the Armed
20 Forces who experienced full-body exposure to a
21 covered substance in each such testing.

22 (c) INVESTIGATION AND REPORT BY SECRETARY OF
23 VETERANS AFFAIRS.—Not later than 180 days after the
24 date of the enactment of this Act, the Secretary of Vet-
25 erans Affairs shall—

1 (1) investigate and assess—

2 (A) the actions taken by the Secretary to
3 contact individuals who experienced full-body
4 exposure to a covered substance in the course
5 of testing described in subsection (b)(1)(A);

6 (B) the number of claims filed with the
7 Secretary for disability compensation under
8 chapter 11 of title 38, United States Code, arising
9 from testing described in subsection
10 (b)(1)(A); and

11 (C) the percentage of claims described in
12 subparagraph (B) that the Secretary denied.

13 (2) submit to the appropriate congressional
14 committees and the Secretary of Defense a report
15 regarding the investigations and assessments carried
16 out under paragraph (1).

17 (d) DEFINITIONS.—In this section:

18 (1) The terms “active military, naval, or air
19 service”, “veteran”, and “World War II” have the
20 meanings given such terms in section 101 of title 38,
21 United States Code.

22 (2) The term “appropriate congressional com-
23 mittees” means—

1 (A) the Committees on Armed Services of
2 the House of Representatives and the Senate;
3 and

4 (B) the Committees on Veterans' Affairs of
5 the House of Representatives and the Senate.

6 (3) The term "covered substance" means—

7 (A) nitrogen mustard gas;

8 (B) sulfur mustard gas; or

9 (C) Lewisite.

10 (4) The term "full-body exposure", with respect
11 to a covered substance, has the meaning given that
12 term by the Secretary of Defense.

