

## § 79.5

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establish eligibility under any compensable claim category set forth in § 79.3(a).

(b) In the event that reasonable doubt exists with regard to whether a claim meets the requirements of the Act, that doubt shall be resolved in favor of the claimant or eligible surviving beneficiary.

(c) Written affidavits or declarations, subject to penalty for perjury, will be accepted only for the following purposes:

(1) To establish eligibility of family members as set forth in § 79.71(e), (f), (g), (h), or (i);

(2) To establish other compensation received as set forth in § 79.75(c) or (d);

(3) To establish employment in a uranium mine, mill or as an ore transporter on the standard claim form in the manner set forth in §§ 79.43(d), 79.53(d) and 79.63(d), respectively; and

(4) To substantiate the claimant's uranium mining employment history for purposes of determining working level months of radiation exposure by providing the types of information set forth in § 79.43(d), so long as the affidavit or declaration:

(i) Is provided in addition to any other material that may be used to substantiate the claimant's employment history as set forth in § 79.43;

(ii) Is made subject to penalty for perjury;

(iii) Attests to the employment history of the claimant; and

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

### **§ 79.5 Requirements for medical documentation, contemporaneous records, and other records or documents.**

(a) All medical documentation, contemporaneous records, and other records or documents submitted by a claimant or eligible surviving beneficiary to prove any criterion provided for in this part must be originals, or certified copies of the originals, unless it is impossible to obtain an original or certified copy of the original. If it is impossible for a claimant to provide an original or certified copy of an original, the claimant or eligible surviving beneficiary must provide a written statement with the uncertified copy setting forth the reason why it is im-

possible to provide an original or a certified copy of an original.

(b) All documents submitted by a claimant or eligible surviving beneficiary must bear sufficient indicia of authenticity or a sufficient guarantee of trustworthiness. The Program shall not accept as proof of any criterion of eligibility any document that does not bear sufficient indicia of authenticity, or is in such a physical condition, or contains such information, that otherwise indicates the record or document is not reliable or trustworthy. When a record or document is not accepted by the Program under this section, the claimant or eligible surviving beneficiary shall be notified and afforded the opportunity to submit additional documentation in accordance with § 79.72(b) or (c).

(c) To establish eligibility the claimant or eligible surviving beneficiary may be required to provide additional records to the extent they exist. Nothing in this section shall be construed to limit the Assistant Director's (specified in § 79.70(a)) ability to require additional documentation.

## **Subpart B—Eligibility Criteria for Claims Relating to Leukemia**

### **§ 79.10 Scope of subpart.**

The regulations in this subpart describe the criteria for eligibility for compensation under section 4(a)(1) of the Act and the evidence that will be accepted as proof of the various eligibility criteria. Section 4(a)(1) of the Act provides for a payment of \$50,000 to individuals exposed to fallout from the detonation of atmospheric nuclear devices at the Nevada Test Site due to their physical presence in an affected area during a designated time period and who later developed leukemia, and \$75,000 to individuals who participated onsite in a test involving the atmospheric detonation of a nuclear device and who later developed leukemia.

### **§ 79.11 Definitions.**

(a) *Affected area* means one of the following geographical areas, as they were recognized by the state in which they are located, as of July 10, 2000:

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(1) In the State of Utah, the counties of Beaver, Garfield, Iron, Kane, Millard, Piute, San Juan, Sevier, Washington, and Wayne;

(2) In the State of Nevada, the counties of Eureka, Lander, Lincoln, Nye, White Pine, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71;

(3) In the State of Arizona, the counties of Coconino, Yavapai, Navajo, Apache, Gila, and that part of Arizona that is north of the Grand Canyon.

(b) *Atmospheric detonation of a nuclear device* means only a test conducted by the United States prior to January 1, 1963, as listed in § 79.31(d).

(c) *Designated time period* means the period beginning on January 21, 1951, and ending on October 31, 1958, or the period beginning on June 30, 1962, and ending on July 31, 1962, whichever is applicable.

(d) *First exposure or initial exposure* means the date on which the claimant was first physically present in the affected area during the designated time period, or the date on which the claimant first participated onsite in an atmospheric detonation of a nuclear device, whichever is applicable.

(e) *Leukemia* means any medically recognized form of acute or chronic leukemia other than chronic lymphocytic leukemia.

(f) *Onsite* means physical presence above or within the official boundaries of any of the following locations:

(1) The Nevada Test Site (NTS), Nevada;

(2) The Pacific Test Sites (Bikini Atoll, Enewetak Atoll, Johnston Island, Christmas Island, the test site for the shot during Operation Wigwam, the test site for Shot Yucca during Operation Hardtack I, and the test sites for Shot Frigate Bird and Shot Swordfish during Operation Dominic I) and the official zone around each site from which non-test affiliated ships were excluded for security and safety purposes;

(3) The Trinity Test Site (TTS), New Mexico;

(4) The South Atlantic Test Site for Operation Argus and the official zone around the site from which non-test affiliated ships were excluded for security and safety purposes;

(5) Any designated location within a Naval Shipyard, Air Force Base, or other official government installation where ships, aircraft, or other equipment used in an atmospheric nuclear detonation were decontaminated; or

(6) Any designated location used for the purpose of monitoring fallout from an atmospheric nuclear test conducted at the Nevada Test Site.

(g) *Participant* means an individual—

(1) Who was:

(i) A member of the armed forces;

(ii) A civilian employee or contract employee of the Manhattan Engineer District, the Armed Forces Special Weapons Project, the Defense Atomic Support Agency, the Defense Nuclear Agency, or the Department of Defense or its components or agencies or predecessor components or agencies;

(iii) An employee or contract employee of the Atomic Energy Commission, the Energy Research and Development Administration, or the Department of Energy;

(iv) A member of the Federal Civil Defense Administration or the Office of Civil and Defense Mobilization; or

(v) A member of the United States Public Health Service; and

(2) Who:

(i) Performed duties within the identified operational area around each atmospheric detonation of a nuclear device;

(ii) Participated in the decontamination of any ships, planes, or equipment used during the atmospheric detonation of a nuclear device;

(iii) Performed duties as a cloud tracker or cloud sampler;

(iv) Served as a member of the garrison or maintenance forces on the atoll of Enewetak between June 21, 1951, and July 1, 1952; between August 7, 1956, and August 7, 1957; or between November 1, 1958, and April 30, 1959; or

(v) Performed duties as a member of a mobile radiological safety team monitoring the pattern of fallout from an atmospheric detonation of a nuclear device.

(h) *Period of atmospheric nuclear testing* means any of the periods associated with each test operation specified in § 79.31(d), plus an additional six-month period thereafter.

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(i) *Physically present* (or *physical presence*) means present (or presence) for a substantial period of each day.

**§ 79.12 Criteria for eligibility for claims relating to leukemia.**

To establish eligibility for compensation under this subpart, a claimant or eligible surviving beneficiary must establish each of the following:

(a)(1) That the claimant was physically present at any place within the affected area for a period of at least one year (12 consecutive or cumulative months) during the period beginning on January 21, 1951, and ending on October 31, 1958;

(2) That the claimant was physically present at any place within the affected area for the entire, continuous period beginning on June 30, 1962, and ending on July 31, 1962; or

(3) That the claimant was present onsite at any time during a period of atmospheric nuclear testing and was a participant during that period in the atmospheric detonation of a nuclear device;

(b) That after such period of physical presence or onsite participation the claimant contracted leukemia;

(c) That the claimant's initial exposure occurred prior to age 21; and

(d) That the onset of the leukemia occurred more than two years after the date of the claimant's first exposure to fallout.

**§ 79.13 Proof of physical presence for the requisite period and proof of participation onsite during a period of atmospheric nuclear testing.**

(a) Proof of physical presence may be made by the submission of any trustworthy contemporaneous record that, on its face or in conjunction with other such records, establishes that the claimant was present in the affected area for the requisite period during the designated time period. Examples of such records include:

(1) Records of the federal government (including verified information submitted for a security clearance), any tribal government, or any state, county, city or local governmental office, agency, department, board or other entity, or other public office or agency;

(2) Records of any accredited public or private educational institution;

(3) Records of any private utility licensed or otherwise approved by any governmental entity, including any such utility providing telephone services;

(4) Records of any public or private library;

(5) Records of any state or local historical society;

(6) Records of any religious organization;

(7) Records of any regularly conducted business activity or entity;

(8) Records of any recognized civic or fraternal association or organization; and

(9) Medical records created during the designated time period.

(b) Proof of physical presence by contemporaneous records may also be made by submission of original postcards and envelopes from letters (not copies) addressed to the claimant or an immediate family member during the designated time period that bear a postmark and a cancelled stamp(s).

(c) The Program will presume that an individual who resided or was employed on a full-time basis within the affected area was physically present during the time period of residence or full-time employment.

(d) For purposes of establishing eligibility under § 79.12(a)(1), the Program will presume that proof of a claimant's residence at one or more addresses or proof of full-time employment at one location within the affected area on any two dates less than three years apart during the period beginning on January 21, 1951, and ending on October 31, 1958, establishes the claimant's presence within the affected area for the period between the two dates reflected in the documentation submitted as proof of presence.

(e) For purposes of establishing eligibility under § 79.12(a)(1), the Program will presume that proof of residence at one or more addresses or proof of full-time employment at one location within the affected area on two dates, one of which is before January 21, 1951, and another of which is within the specified time period, establishes the claimant's presence in the affected area between January 21, 1951, and the date within