

§ 79.1

AUTHORITY: Secs. 6(a), 6(i) and 6(j), Pub. L. 101-426, 104 Stat. 920, as amended by secs. 3(c)-(h), Pub. L. 106-245, 114 Stat. 501 and sec. 11007, Pub. L. 107-273, 116 Stat. 1758 (42 U.S.C. 2210 note; 5 U.S.C. 500(b)).

SOURCE: Order No. 2711-2004, 69 FR 13634, Mar. 23, 2004, unless otherwise noted.

Subpart A—General

§ 79.1 Purpose.

The purpose of the regulations in this part is to implement the Radiation Exposure Compensation Act (“Act”), as amended by the Radiation Exposure Compensation Act Amendments of 2000 (“2000 Amendments”) and by the 21st Century Department of Justice Appropriations Authorization Act (“Appropriations Authorization Act”). The Act authorizes the Attorney General of the United States to establish procedures for making certain payments to qualifying individuals who contracted one of the diseases listed in the Act. The amount of each payment and a general statement of the qualifications are indicated in § 79.3(a). The procedures established in this part are designed to utilize existing records so that claims can be resolved in a reliable, objective, and non-adversarial manner, quickly and with little administrative cost to the United States or to the person filing the claim.

§ 79.2 General definitions.

(a) *Act* means the Radiation Exposure Compensation Act, Public Law 101-426, as amended by sections 3139 and 3140 of Public Law 101-510, the Radiation Exposure Compensation Act Amendments of 2000, Public Law 106-245 (see 42 U.S.C. 2210 note), and the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107-273.

(b) *Child* means a recognized natural child of the claimant, a stepchild who lived with the claimant in a regular parent-child relationship, or an adopted child of the claimant.

(c) *Claim* means a petition for compensation under the Act filed with the Radiation Exposure Compensation Program by a claimant or by his or her eligible surviving beneficiary or beneficiaries.

(d) *Claimant* means the individual, living or deceased, who is alleged to

28 CFR Ch. I (7-1-08 Edition)

satisfy the criteria for compensation set forth either in section 4 or in section 5 of the Act.

(e) *Contemporaneous record* means any document created at or around the time of the event that is recorded in the document.

(f) *Eligible surviving beneficiary* means a spouse, child, parent, grandchild or grandparent who is entitled under section 6(c)(4)(A) or (B) of the Act to file a claim or receive a payment on behalf of a deceased claimant.

(g) *Grandchild* means a child of a child of the claimant.

(h) *Grandparent* means a parent of a parent of the claimant.

(i) *Immediate family member* of a person means a spouse or child if the person is an adult; but if the person is a minor, *immediate family member* means a parent.

(j) *Indian Tribe* means any Indian Tribe, band, nation, pueblo, or other organized group or community that is recognized as eligible for special programs and services provided by the United States to Indian Tribes.

(k) *Medical document, documentation, or record* means any contemporaneous record of any physician, hospital, clinic, or other certified or licensed health care provider, or any other records routinely and reasonably relied on by physicians in making a diagnosis.

(l) *Onset* or *incidence* of a specified compensable disease means the date a physician first diagnosed the disease.

(m) *Parent* means the natural or adoptive father or mother of the claimant.

(n) *Program* or *Radiation Exposure Compensation Program* means the component of the Constitutional and Specialized Torts Litigation Section of the Torts Branch of the Civil Division of the United States Department of Justice designated by the Attorney General to execute the powers, duties, and responsibilities assigned to the Attorney General pursuant to pertinent provisions of the Act.

(o) *Spouse* means a wife or husband who was married to the claimant for a period of at least one (1) year immediately before the death of the claimant.

(p) *Tribal organization* means any formally organized group or other entity

Department of Justice

§ 79.4

that is chartered, registered or sponsored by an Indian Tribe to perform duties for an Indian Tribe and is accountable for its actions to the tribal government.

(q) *Trust Fund* or *Fund* means the Radiation Exposure Compensation Trust Fund in the Department of the Treasury, administered by the Secretary of the Treasury pursuant to section 3 of the Act.

§ 79.3 Compensable claim categories under the Act.

(a) In order to receive a compensation payment, each claimant or eligible surviving beneficiary must establish that the claimant meets each and every criterion of eligibility for at least one of the following compensable categories designated in the Act:

(1) *Claims of leukemia.* (i) For persons exposed to fallout from the atmospheric detonation of nuclear devices at the Nevada Test Site due to their physical presence in an affected area during a designated time period, the amount of compensation is \$50,000.

(ii) For persons exposed to fallout from the atmospheric detonation of nuclear devices due to their participation onsite in a test involving the atmospheric detonation of a nuclear device, the amount of compensation is \$75,000. The regulations governing these claims are set forth in subpart B of this part.

(2) *Claims related to the Nevada Test Site fallout.* For persons who contracted certain specified diseases after being exposed to fallout from the atmospheric detonation of nuclear devices at the Nevada Test Site due to their physical presence in an affected area during a designated time period, the amount of compensation is \$50,000. The regulations governing these claims are set forth in subpart C of this part.

(3) *Claims of onsite participants.* For persons who contracted certain specified diseases after onsite participation in the atmospheric detonation of a nuclear device, the amount of compensation is \$75,000. The regulations governing these claims are set forth in subpart D of this part.

(4) *Miners' claims.* For persons who contracted lung cancer or certain non-malignant respiratory diseases after being employed in uranium mines lo-

cated in specified states during the designated time period who were exposed to a specified minimum level of radiation during the course of their employment or worked for at least one year (12 consecutive or cumulative months) in a uranium mine in specified states during the designated time period, the amount of compensation is \$100,000. The regulations governing these claims are set forth in subpart E of this part.

(5) *Millers' claims.* For persons who contracted lung cancer, certain non-malignant respiratory diseases, renal cancer, or chronic renal disease (including nephritis and kidney tubal tissue injury) following employment for at least one year (12 consecutive or cumulative months) in a uranium mill in specified states during the designated time period, the amount of compensation is \$100,000. The regulations governing these claims are set forth in subpart F of this part.

(6) *Ore transporters' claims.* For persons who contracted lung cancer, certain nonmalignant respiratory diseases, renal cancer, or chronic renal disease (including nephritis and kidney tubal tissue injury) following employment for at least one year (12 consecutive or cumulative months) as a transporter of uranium ore or vanadium-uranium ore from a uranium mine or uranium mill located in specified states during the designated time period, the amount of compensation is \$100,000. The regulations governing these claims are set forth in subpart G of this part.

(b) Any claim that does not meet all the criteria for at least one of these categories, as set forth in paragraph (a) of this section, must be denied.

(c) All claims for compensation under the Act must comply with the claims procedures and requirements set forth in subpart H of this part before any payment can be made from the Fund.

§ 79.4 Determination of claims and affidavits.

(a) The claimant, eligible surviving beneficiary, or beneficiaries bear the burden of providing evidence of the existence of each element necessary to