Public Health Service, HHS

§ 81.6

Determining probability of causation

§ 81.5 Use of personal and medical information.

Determining probability of causation may require the use of the following personal and medical information provided to DOL by claimants under DOL regulations 20 CFR part 30:

(a) Year of birth

(b) Cancer diagnosis (by ICD–9 code) for primary and secondary cancers

(c) Date of cancer diagnosis

(d) Gender

(e) Race/ethnicity (if the claim is for skin cancer or a secondary cancer for which skin cancer is a likely primary cancer)

(f) Smoking history (if the claim is for lung cancer or a secondary cancer for which lung cancer is a likely primary cancer)

§ 81.6 Use of radiation dose information.

Determining probability of causation will require the use of radiation dose information provided to DOL by the National Institute for Occupational Safety and Health (NIOSH) under HHS regulations 42 CFR part 82. This information will include annual dose estimates for each year in which a dose was incurred, together with uncertainty distributions associated with...
each dose estimate. Dose estimates will be distinguished by type of radiation (low linear energy transfer (LET), protons, neutrons, alpha, low-energy x-ray) and by dose rate (acute or chronic) for external and internal radiation dose.

Section 81.10 Use of cancer risk assessment models in NIOSH IREP

(a) The risk models used to estimate probability of causation for covered employees under EEOICPA will be based on risk models updated from the 1985 NIH Radioepidemiological Tables. These 1985 tables were developed from analyses of cancer mortality risk among the Japanese atomic bomb survivor cohort. The National Cancer Institute (NCI) and Centers for Disease Control and Prevention (CDC) are updating the tables, replacing them with a sophisticated analytic software program. This program, the Interactive RadioEpidemiological Program (IREP), models the dose-response relationship between ionizing radiation and 33 cancers using morbidity data from the same Japanese atomic bomb survivor cohort. In the case of thyroid cancer, radiation risk models are based on a pooled analysis of several international cohorts.

(b) NIOSH will change the risk models in IREP, as needed, to reflect the radiation exposure and disease experiences of employees covered under EEOICPA, which differ from the experiences of the Japanese atomic bomb survivor cohort. Changes will be incorporated in a version of IREP named NIOSH-IREP, specifically designed for adjudication of claims under EEOICPA. Possible changes in IREP risk models include the following:

(1) Addition of risk models to IREP, as needed, for claims under EEOICPA (e.g., malignant melanoma and other skin cancers)

(2) Modification of IREP risk models to incorporate radiation exposures unique to employees covered by EEOICPA (e.g., radon and low energy x rays from employer-required medical screening programs, adjustment of relative biological effectiveness distributions based on neutron energy).

(3) Modification of IREP risk models to incorporate new understanding of radiation-related cancer effects relevant to employees covered by EEOICPA (e.g., incorporation of inverse dose-rate relationship between high LET radiation exposures and cancer; adjustment of the low-dose effect reduction factor for acute exposures).

(4) Modification of IREP risk models to incorporate new understanding of the potential interaction between cancer risk associated with occupational exposures to chemical carcinogens and radiation-related cancer effects.

(5) Modification of IREP risk models to incorporate temporal, race and ethnicity-related differences in the frequency of certain cancers occurring generally among the U.S. population.

(6) Modifications of IREP to facilitate improved evaluation of the uncertainty distribution for the probability of causation for claims based on two or more primary cancers.

Section 81.11 Use of uncertainty analysis in NIOSH-IREP

(a) EEOICPA requires use of the uncertainty associated with the probability of causation calculation, specifically requiring the use of the upper 99% confidence interval (credibility limit) estimate of the probability of causation estimate. As described in the NCI document, uncertainty from several sources is incorporated into the probability of causation calculation performed by NIOSH-IREP. These sources include uncertainties in estimating: radiation dose incurred by the covered employee; the radiation dose-cancer relationship (statistical uncertainty in the specific cancer risk

1NIOSH-IREP is available for public review on the NIOSH homepage at: www.cdc.gov/niosh/ocas/ocasirep/html.