(b) Claimants Associated with the Atomic Energy Commission (AEC) or the Department of Energy (DOE), or Who Were Members of the Federal Civil Defense Administration or the Office of Civil and Defense Mobilization. (1) A claimant or eligible surviving beneficiary who alleges that the claimant was present onsite during the atmospheric detonation of a nuclear device as an employee of the AEC, the DOE or any of their components, agencies or offices, or as an employee of a contractor of the AEC, or DOE, or as a member of the Federal Civil Defense Administration or the Office of Civil and Defense Mobilization, must submit the following information on the claim form:
   (i) The claimant’s name;
   (ii) The claimant’s Social Security number;
   (iii) The site at which the claimant participated in the atmospheric detonation of a nuclear device;
   (iv) The name or other identifying information associated with the claimant’s organization, unit, assignment, or employer at the time of the claimant’s participation onsite;
   (v) The dates of the claimant’s assignment onsite; and
   (vi) As full and complete a description as possible of the claimant’s official duties, responsibilities, and activities while participating onsite.

   (2) A claimant or eligible surviving beneficiary under this section need not at the time the claim is filed submit any additional documentation demonstrating the claimant’s presence onsite during the atmospheric detonation of a nuclear device; however, additional documentation may thereafter be required as set forth in paragraph (b)(3) of this section.

   (3) Upon receipt under this subpart of a claim that contains the information set forth in paragraph (b)(1) of this section, the Radiation Exposure Compensation Program will forward the information to the Nevada Field Office of the Department of Energy (DOE/NV) and request that the DOE/NV conduct a search of its records for the purpose of gathering facts relating to the claimant’s presence onsite and participation in the atmospheric detonation of a nuclear device. If the facts gathered by the DOE/NV are insufficient to establish the eligibility criteria in §79.32, the claimant or eligible surviving beneficiary will be notified and afforded the opportunity to submit military, government, or business records in accordance with the procedure set forth in §79.72(c).

§ 79.34 Proof of medical condition.

Proof of medical condition under this subpart will be made in the same manner and according to the same procedures and limitations as are set forth in §79.16 and §79.26.

§ 79.35 Proof of onset of leukemia at least two years after first exposure, and proof of onset of a specified compensable disease more than five years after first exposure.

Absent any indication to the contrary, the earliest date of onsite participation indicated on any records accepted by the Radiation Exposure Compensation Program as proof of the claimant’s onsite participation will be presumed to be the date of first or initial exposure. The date of onset will be the date of diagnosis as indicated on the medical documentation accepted by the Radiation Exposure Compensation Program as proof of the specified compensable disease. Proof of the onset of leukemia shall be established in accordance with §79.15.

§ 79.36 Indication of the presence of hepatitis B or cirrhosis.

Possible indication of hepatitis B or cirrhosis will be determined in accordance with the provisions of §79.27.

Subpart E—Eligibility Criteria for Claims by Uranium Miners

§ 79.40 Scope of subpart.

The regulations in this subpart define the eligibility criteria for compensation under section 5 of the Act pertaining to miners, i.e., uranium mine workers, and the nature of the evidence that will be accepted as proof
of the various eligibility criteria. Section 5 of the Act provides for a payment of $100,000 to miners who contracted primary lung cancer or one of a limited number of nonmalignant respiratory diseases following exposure to a defined minimum level of radiation during employment in aboveground or underground uranium mines or following employment for at least one year in aboveground or underground uranium mines in specified states during the period beginning January 1, 1942, and ending December 31, 1971.

§ 79.41 Definitions.

(a) Cor pulmonale means heart disease, including hypertrophy of the right ventricle, due to pulmonary hypertension secondary to fibrosis of the lung.

(b) Designated time period means the period beginning on January 1, 1942, and ending on December 31, 1971.

(c) Employment for at least one year means employment for a total of at least one year (12 consecutive or cumulative months).

(d) Fibrosis of the lung or pulmonary fibrosis means chronic inflammation and scarring of the pulmonary interstitium and alveoli with collagen deposition and progressive thickening.

(e) Miner or uranium mine worker means a person who operated or otherwise worked in a uranium mine.

(f) National Institute for Occupational Safety and Health (NIOSH) certified “B” reader means a physician who is certified as such by NIOSH. A list of certified “B” readers is available from the Radiation Exposure Compensation Program upon request.

(g) Nonmalignant respiratory disease means fibrosis of the lung, pulmonary fibrosis, cor pulmonale related to fibrosis of the lung, silicosis, or pneumoconiosis.

(h) Pneumoconiosis means a chronic lung disease resulting from inhalation and deposition in the lung of particulate matter, and the tissue reaction to the presence of the particulate matter. For purposes of this subpart, the claimant’s exposure to the particulate matter that led to the disease must have occurred during employment in a uranium mine.

(i) Primary lung cancer means any physiological condition of the lung, trachea, or bronchus that is recognized under that name or nomenclature by the National Cancer Institute. The term includes in situ lung cancers.

(j) Readily available documentation means documents in the possession, custody, or control of the claimant or an immediate family member.

(k) Silicosis means a pneumoconiosis due to the inhalation of the dust of stone, sand, flint, or other materials containing silicon dioxide, characterized by the formation of pulmonary fibrotic changes.

(l) Specified state means Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon, or Texas. Additional states may be included, provided:

(1) A uranium mine was operated in such state at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

(2) The state submits an application to the Assistant Director (specified in § 79.70(a)) to include such state; and

(3) The Assistant Director makes a determination to include such state.

(m) Uranium mine means any underground excavation, including “dog holes,” as well as open-pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted.

(n) Working level means the concentration of the short half-life daughters of radon that will release \((1.3 \times 10^5)\) million electron volts of alpha energy per liter of air.

(o) Working level month of radiation means radiation exposure at the level of one working level every work day for a month, or an equivalent cumulative exposure over a greater or lesser amount of time.

(p) Written diagnosis by a physician means a written determination of the nature of a disease made from a study of the signs and symptoms of a disease that is based on a physical examination of the patient, medical imaging or a chemical, microscopic, microbiologic, immunologic or pathologic study of physiologic and functional tests, secretions, discharges, blood, or
tissue. For purposes of satisfying the requirement of a “written diagnosis by a physician” for living claimants specified in §79.46, a physician submitting a written diagnosis of a nonmalignant respiratory disease must be employed by the Indian Health Service or the Department of Veterans Affairs or be board certified, and must have a documented, ongoing physician-patient relationship with the claimant. An “ongoing physician-patient relationship” can include referrals made to specialists from a primary care provider for purposes of diagnosis or treatment. “Board certification” requires, in addition to physician licensing, the successful completion of a residency training program and passage of a Board exam in a relevant field or specialty. Relevant specialties include: family practice, internal medicine, pathology, preventive medicine, radiology, surgery, and thoracic surgery (and including subspecialties such as cardiovascular disease, medical oncology, pulmonary disease) as listed by the American Board of Medical Specialties.

§ 79.42 Criteria for eligibility for claims by miners.

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

(a) The claimant was employed as a miner in a specified state;
(b) The claimant was so employed at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;
(c) The claimant was exposed during the course of his or her mining employment to 40 or more working level months of radiation or worked for at least one year in a uranium mine or mines during the period identified in paragraph (b) of this section; and
(d) The claimant contracted lung cancer or a nonmalignant respiratory disease following such exposure.

§ 79.43 Proof of employment as a miner.

(a) The Department will accept, as proof of employment for a designated time period, information contained in any of the following records:

1. Records created by or gathered by the Public Health Service (PHS) in the course of any health studies of uranium workers during or including the period 1942–1990;
2. Records of a uranium worker census performed by the PHS at various times during the period 1942–1990;
3. Records of the Atomic Energy Commission (AEC), or any of its successor agencies; and
4. Records of federally supported, health-related studies of uranium workers, including:
   (i) Studies conducted by Geno Saccamanno, M.D., St. Mary’s Hospital, Grand Junction, Colorado; and
   (ii) Studies conducted by Jonathan Samet, M.D., University of New Mexico School of Medicine.

(b) The Program will presume that the employment history for the time period indicated in records listed in paragraph (a) of this section is correct. If the claimant or eligible surviving beneficiary wishes to contest the accuracy of such records, then the claimant or eligible surviving beneficiary may provide one or more of the records identified in paragraph (c) of this section, and the Assistant Director will determine whether the employment history indicated in the records listed in paragraph (a) is correct.

(c) If the sources in paragraph (a) of this section do not contain information regarding the claimant’s uranium mine employment history, do not contain sufficient information to establish exposure to at least 40 working level months of radiation, do not contain sufficient information to establish uranium mining employment for one year during the period identified in §79.42(b), or if a claimant or eligible surviving beneficiary wishes to contest the accuracy of such records, then the claimant or eligible surviving beneficiary may submit records from any of the following sources, and the Assistant Director shall consider such records (in addition to any sources listed in paragraph (a) of this section) in order to determine whether the claimant has established the requisite employment history:

1. Governmental records of any of the specified states, including records
of state regulatory agencies, containing information on uranium mine workers and uranium mines;

(2) Records of any business entity that owned or operated a uranium mine, or its successor-in-interest;

(3) Records of the Social Security Administration reflecting the identity of the employer, the years and quarters of employment, and the wages received during each quarter;

(4) Federal or State income tax records that contain relevant statements regarding the claimant’s employer and wages;

(5) Records containing factual findings by any governmental judicial body, state worker’s compensation board, or any governmental administrative body adjudicating the claimant’s rights to any type of benefits (which will be accepted only to prove the fact of and duration of employment in a uranium mine);

(6) Statements in medical records created during the period 1942–1971 indicating or identifying the claimant’s employer and occupation;

(7) Records of an academic or scholarly study, not conducted in anticipation of or in connection with any litigation, and completed prior to 1990; and

(8) Any other contemporaneous record that indicates or identifies the claimant’s occupation or employer.

(d) To the extent that the documents submitted from the sources identified in this section do not so indicate, the claimant or eligible surviving beneficiary must set forth under oath on the standard claim form the following information, if known:

(1) The names of the mine employers for which the claimant worked during the time period identified in the documents;

(2) The names and locations of any mines in which the claimant worked;

(3) The actual time period the claimant worked in each mine;

(4) The claimant’s occupation in each mine; and

(5) Whether the mining employment was conducted aboveground or underground.

(e) If the claimant or eligible surviving beneficiary cannot provide the name or location of any uranium mine at which the claimant was employed as required under paragraph (d)(2) of this section, then the Program shall, if possible, determine such information from records reflecting the types of mines operated or owned by the entity for which the claimant worked.

(f) If the information provided under paragraphs (a) and (c) of this section is inadequate to determine the time period during which the claimant was employed in each uranium mine, then the Program will, where possible, calculate such employment periods in the following manner, for purposes of calculating working level months of exposure:

(1) If records of the Social Security Administration exist that indicate the claimant’s work history, the Program will estimate the period of employment by dividing the gross quarterly income by the average pay rate per hour for the claimant’s occupation;

(2) If such Social Security Administration records do not exist, but other records exist that indicate that the claimant was employed in a uranium mine on the date recorded in the record, but do not indicate the period of employment, then the Program will apply the following presumptions:

(i) If the records indicate that the claimant worked at the same mine or for the same uranium mining company on two different dates at least three months apart but less than 12 months apart, then the Program will presume that the claimant was employed at the mine or for the mining company for the entire 12-month period beginning on the earlier date.

(ii) If the records indicate that the claimant worked at the same mine or for the same uranium mining company on two different dates at least one month apart but less than three months apart, then the Program will presume that the claimant was employed at the mine or for the mining company for the entire six-month period beginning on the earlier date.

(iii) If the records indicate that the claimant worked at any mine or for a uranium mining company on any date within the designated time period, but the presumptions listed in this paragraph (f) are not applicable, then the...
§ 79.44 Proof of working level month exposure to radiation.
(a) If one or more of the sources in §79.43(a) contain a calculated total of working level months (WLMs) of radiation for the claimant equal to or greater than 40 WLMs, then the Program will presume that total to be correct, absent evidence to the contrary, in which case the claimant or eligible surviving beneficiary need not submit additional records.

(b) If the sources in §79.43(a) do not contain a calculated total of WLMs of radiation for the claimant, or contain a calculated total that is less than 40 WLMs, a claimant or eligible surviving beneficiary may submit the following records reflecting a calculated number of WLMs of radiation for periods of employment established under §79.43(c):

1. Certified copies of records of regulatory agencies of the specified states, provided that the records indicate the mines at which the claimant was employed, the time period of the claimant’s employment in each mine, the exposure level in each mine during the claimant’s employment, and the calculations on which the claimant’s WLMs are based, unless the calculation is apparent;

2. Certified copies of records of the owner or operator of a uranium mine in the specified states, provided that the records indicate the mines at which the claimant was employed, the time period of the claimant’s employment in each mine, the exposure level in each mine during the claimant’s employment, and the calculations on which the claimant’s WLMs are based, unless the calculation is apparent.

(c) If the number of WLMs established under paragraphs (a) and (b) of this section is equal to or greater than 40 WLMs, the Program will, where possible, calculate additional WLMs in the manner set forth in paragraphs (d) through (g) of this section for the periods of employment for which the sources in paragraphs (a) and (b) do not establish calculated totals. When calculating an exposure level for a particular period of a claimant’s employment history, the Program will apply aboveground exposure levels with respect to those periods in which the claimant worked principally aboveground and will apply underground exposure levels with respect to those periods in which the claimant worked principally underground.

(d) To the extent the sources referenced in paragraphs (a) and (b) of this section do not contain a calculated number of WLMs, but do contain annual exposure levels measured in Working Levels (WLs) for mines in which the claimant was employed, the Program will calculate the claimant’s exposure to radiation measured in WLs in each mine for the period of the claimant’s employment, in the manner set forth in paragraph (g) of this section:

1. Records of the AEC, or its successor agencies;

2. Records of the PHS, including radiation-level measurements taken in the course of health studies conducted.
of uranium miners during or including the period 1942–1971;
(3) Records of the United States Bureau of Mines;
(4) Records of regulatory agencies of the specified states; or
(5) Records of the business entity that was the owner or operator of the mine.

(f) For periods of employment in unidentified or misidentified uranium mines that a claimant establishes under §79.43(c) through (f), the Program will determine annual exposure levels measured in WLs in the unidentified or misidentified mines by calculating an average of the annual exposure levels measured in WLs in all the uranium mines owned or operated by the entities for which the claimant worked during the appropriate time periods and in the identified states.

(g) With respect to periods of employment in unidentified or misidentified uranium mines that a claimant establishes under §79.43(c) as to which paragraph (d) of this section is not applicable, and periods of employment in unidentified or misidentified uranium mines that a claimant establishes under §79.43(c) through (f), the Program will use the following methodology to calculate the annual exposure level measured in WLs for each mine:

(1) If one or more radiation measurements are available for a mine in a given year, such values will be averaged to generate the WLs for the mine for that year.

(2) If radiation measurements exist for the mine, but not for the year in which the claimant was employed in the mine, the WLs for the mine for that year will be estimated if possible as follows:

(i) If annual average measurements exist within four years of the year in which the claimant was employed in the mine, the measurements for the two closest years will be averaged, and that value will be assigned to the year the claimant was employed in the mine;

(ii) If one or more annual average measurements exist for a mine, but are not more than five years from the year the claimant was employed, the annual average closest in time will be assigned either forward or backward in time for two years.

(3) If the methods described in paragraph (g)(2) of this section interpolate or project the annual exposure level measured in WLs for a mine in a year in which the claimant was employed in the mine, the Program will use an estimated average for mines of the same or similar type, ventilation, and ore composition in the same geographical area for that year. An estimated area average will be calculated as follows:

(i) If actual measurements from three or more mines of the same or similar type, ventilation, and ore composition are available from mines in the same locality as the mine in which the claimant was employed, the average of the measurements for the mines within that locality will be used.

(ii) If there are insufficient actual measurements from mines in the same locality to use the method in paragraph (g)(3)(i) of this section, an average of exposure levels in mines in the same mining district will be used.

(iii) If there is no average of exposure levels from mines in the same mining district, the average of exposure levels in mines in the same state will be used.

(iv) If there are insufficient actual measurements from mines in the same state, the estimated average for the State of Colorado for the relevant year will be used.

(4) With respect to a year between 1942 and 1949, if the claimant was employed in a mine for which no exposure levels are available for that year, then the Program will estimate the annual exposure levels measured in WLs by averaging the two earliest exposure levels recorded from that mine after the year 1941. If there are not two exposure levels recorded from that mine, the Program will estimate the WLs by averaging the two earliest exposure levels after the year 1941 from the mines identified according to the methods set forth in paragraphs (g)(3)(i) through (iv).

(h) The Program will calculate a claimant’s total exposure to radiation expressed in WLMs, for purposes of establishing eligibility under §79.42(c), by adding together the WLMs for each period of employment that the claimant has established. For those periods of a
§ 79.45 Proof of primary lung cancer.

(a) In determining whether a claimant developed primary lung cancer following pertinent employment as a miner, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed primary lung cancer must be supported by medical documentation. To prove that a claimant developed primary lung cancer, the claimant or beneficiary may submit any form of medical documentation specified in paragraph (e) of this section. In all cases, the Program will review submitted medical documentation, and will, in addition and where appropriate, review any pertinent records discovered within the sources identified in paragraphs (b), (c), and (d) of this section.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant’s medical condition. (In cases where the claimant is deceased, the Program will accept as proof of medical condition verification from the state cancer or tumor registry that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of primary lung cancer.)

(c) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant’s medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. (In cases where the claimant is deceased, the Program will accept as proof of the claimant’s medical condition such medical records or abstracts of medical records containing a verified diagnosis of primary lung cancer.)

(d) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers, and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant’s medical condition is contained in the records of the study, the Program will, where appropriate, request such records from the custodian and will review records that it obtains from the custodian. (In cases where the claimant is deceased, the Program will accept as proof of the claimant’s medical condition such medical records or abstracts of medical records containing a verified diagnosis of primary lung cancer.)

(e)(1) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted primary lung cancer. Such documentation will be most useful where it contains an explicit statement of diagnosis or such other information or data from which the appropriate authorities at the National Cancer Institute can make a diagnosis to a reasonable degree of medical certainty:

(1) Pathology report of tissue biopsy, including, but not limited to, specimens obtained by any of the following methods:

(A) Surgical resection;
(B) Endoscopic endobronchial or transbronchial biopsy;
(C) Bronchial brushings and washings;
(D) Pleural fluid cytology;
(E) Fine needle aspirate;
(F) Pleural biopsy; or
(G) Sputum cytology;
(ii) Autopsy report;
(iii) Bronchoscopy report;
(iv) One of the following summary medical reports:
   (A) Physician summary report;
   (B) Hospital discharge summary report;
   (C) Operative report;
   (D) Radiation therapy summary report; or
   (E) Oncology summary or consultation report;
(v) Reports of radiographic studies, including:
   (A) X-rays of the chest;
   (B) Chest tomograms;
   (C) Computer-assisted tomography (CT); or
   (D) Magnetic resonance imaging (MRI); or
   (vi) Death certificate, provided that it is signed by a physician at the time of death.

§ 79.46 Proof of nonmalignant respiratory disease.

(a) In determining whether a claimant developed a nonmalignant respiratory disease following pertinent employment as a miner, the Assistant Director shall resolve all reasonable doubt in favor of the claimant. A conclusion that a claimant developed a nonmalignant respiratory disease must be supported by medical documentation. In cases where the claimant is deceased, the claimant’s beneficiary may submit any form of medical documentation specified in paragraph (d)(1) of this section, and for proof of cor pulmonale must also submit one or more forms of documentation specified in paragraph (d)(2). A living claimant must at a minimum submit the medical documentation required in paragraph (d)(3) of this section, and for proof of cor pulmonale must also submit one or more forms of documentation specified in paragraph (d)(2). In all cases, the Program will review submitted medical documentation, and will, in addition and where appropriate, review any pertinent records discovered within the sources referred to in paragraphs (b) and (c) of this section. With respect to a deceased claimant, the Program will treat as equivalent to a diagnosis of pulmonary fibrosis any diagnosis of “restrictive lung disease” made by a physician employed by the Indian Health Service.

(b) Where appropriate, the Radiation Exposure Compensation Program will search the records of the PHS (including NIOSH), created or gathered during the course of any health study of uranium workers conducted or being conducted by these agencies, to determine whether those records contain proof of the claimant’s medical condition. In cases where the claimant is deceased, the Program will accept as proof of medical condition the verification of the PHS or NIOSH that it possesses medical records or abstracts of medical records of the claimant that contain a verified diagnosis of a nonmalignant respiratory disease.

(c) If medical records regarding the claimant were gathered during the course of any federally supported, health-related study of uranium workers and the claimant or eligible surviving beneficiary submits with the claim an Authorization To Release Medical or Other Information that authorizes the Program to contact the custodian of the records of the study to determine if proof of the claimant’s medical condition is contained in the records of the study, the Program will, where appropriate, request such records from that custodian and will review records that it obtains from the custodian. In cases where the claimant is deceased, the Program will accept as proof of the claimant’s medical condition such medical records or abstracts of medical records containing a verified diagnosis of a nonmalignant respiratory disease.

(d) (1) A claimant or beneficiary may submit any of the following forms of medical documentation in support of a claim that the claimant contracted a nonmalignant respiratory disease, including pulmonary fibrosis, fibrosis of the lung, cor pulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis:
§ 79.46 28 CFR Ch. I (7–1–15 Edition)

(i) Pathology report of tissue biopsy;
(ii) Autopsy report;
(iii) If an x-ray exists, the x-ray and interpretive reports of the x-ray by a maximum of two NIOSH certified “B” readers classifying the existence of disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the “ILO”), or subsequent revisions;
(iv) If no x-rays exist, an x-ray report;
(v) Physician summary report;
(vi) Hospital discharge summary report;
(vii) Hospital admitting report;
(viii) Death certificate, provided that it is signed by a physician at the time of death; or
(ix) Documentation specified in paragraphs (d)(3)(i) and (d)(3)(ii) of this section.

(2) In order to demonstrate that the claimant developed cor pulmonale related to fibrosis of the lung, the claimant or beneficiary must, at a minimum, submit one or more of the following medical records:
(i) Right heart catheterization;
(ii) Cardiology summary or consultation report;
(iii) Electrocardiogram;
(iv) Echocardiogram;
(v) Physician summary report;
(vi) Hospital discharge summary report;
(vii) Autopsy report;
(viii) Report of physical examination; or
(ix) Death certificate, provided that it is signed by a physician at the time of death.

(3) Notwithstanding any other documentation provided, a living claimant must at a minimum provide the following medical documentation:
(i) Either:
(A) An arterial blood gas study administered at rest in a sitting position, or an exercise arterial blood gas test, reflecting values equal to or less than the values set forth in the tables in appendix B to this part; or
(B) A written diagnosis by a physician in accordance with §79.41(p); and
(ii) One of the following:
(A) A chest x-ray administered in accordance with standard techniques accompanied by interpretive reports of the x-ray by a maximum of two NIOSH certified “B” readers, classifying the existence of disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the “ILO”), or subsequent revisions;
(B) High-resolution computed tomography scans (commonly known as “HRCT scans”), including computer-assisted tomography scans (commonly known as “CAT scans”), magnetic resonance imaging scans (commonly known as “MRI scans”), and positron emission tomography scans (commonly known as “PET scans”), and interpretive reports of such scans;
(C) Pathology reports of tissue biopsies; or
(D) Pulmonary function tests indicating restrictive lung function and consisting of three reproducible time/volume tracings recording the results of the forced expiratory volume in one second (FEV1) and the forced vital capacity (FVC) administered and reported in accordance with the Standardization of Spirometry—1994 Update by the American Thoracic Society, and reflecting values for FEV1 or FVC that are less than or equal to the lower limit of normal for an individual of the claimant’s age, sex, height, and ethnicity as set forth in the tables in appendix A to this part.

(e) The Assistant Director shall treat any documentation described in paragraph (d)(3)(i)(B) or paragraph (d)(3)(ii)(A) of this section as conclusive evidence of the claimant’s nonmalignant respiratory disease; provided, however, that the Program may subject such documentation to a fair and random audit to guarantee its authenticity and reliability for purposes of treating it as conclusive evidence; and provided further that, in order to be treated as conclusive evidence, a written diagnosis described in paragraph (d)(3)(i)(B) must be by a physician who is employed by the Indian Health Service or the Department of Veterans Affairs or who is board certified (as described in §79.41(p)), and who must have a documented, ongoing physician-patient relationship with the claimant. Notwithstanding the conclusive effect given to certain evidence, nothing in this paragraph shall be construed as relieving a living claimant of...
the obligation to provide the Program with the forms of documentation required under paragraph (d)(3).

Subpart F—Eligibility Criteria for Claims by Uranium Millers

§ 79.50 Scope of subpart.
The regulations in this subpart define the eligibility criteria for compensation under section 5 of the Act pertaining to millers, i.e., uranium mill workers, and the nature of evidence that will be accepted as proof that a claimant satisfies such eligibility criteria. Section 5 of the Act provides for a payment of $100,000 to “millers” who contracted primary lung cancer, one of a limited number of nonmalignant respiratory diseases, primary renal cancer, or chronic renal disease, following employment for at least one year as a uranium mill worker in specified states during the period beginning January 1, 1942, and ending December 31, 1971.

§ 79.51 Definitions.
(a) Chronic renal disease means the chronic, progressive, and irreversible destruction of the nephron. It is exhibited by diminution of renal function.

(b) Cor pulmonale means heart disease, including hypertrophy of the right ventricle, due to pulmonary hypertension secondary to fibrosis of the lung.

(c) Designated time period means the period beginning on January 1, 1942, and ending on December 31, 1971.

(d) Employment for at least one year means employment for a total of at least one year (12 consecutive or cumulative months).

(e) Fibrosis of the lung or pulmonary fibrosis means chronic inflammation and scarring of the pulmonary interstitium and alveoli with collagen deposition and progressive thickening.

(f) Kidney tubal (tubular) tissue injury means structural or functional damage to the kidney tubules that results in renal disease and dysfunction.

(g) Miller or uranium mill worker means a person who operated or otherwise worked in a uranium mill.

(h) National Institute for Occupational Safety and Health (NIOSH) certified “B” reader means a physician who is certified as such by NIOSH. A list of certified “B” readers is available from the Radiation Exposure Compensation Program upon request.

(i) Nephritis means an inflammatory process of the kidneys resulting in chronic renal dysfunction.

(j) Nonmalignant respiratory disease means fibrosis of the lung, pulmonary fibrosis, cor pulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis.

(k) Pneumoconiosis means a chronic lung disease resulting from inhalation and deposition in the lung of particulate matter, and the tissue reaction to the presence of the particulate matter. For purposes of this subpart, the claimant’s exposure to the particulate matter that led to the disease must have occurred during employment in a uranium mill.

(l) Primary lung cancer means any physiological condition of the lung, trachea, or bronchus that is recognized under that name or nomenclature by the National Cancer Institute. The term includes in situ lung cancers.

(m) Readily available documentation means documents in the possession, custody, or control of the claimant or an immediate family member.

(n) Primary renal cancer means any physiological condition of the kidneys that is recognized under that name or nomenclature by the National Cancer Institute.

(o) Silicosis means a pneumoconiosis due to the inhalation of the dust of stone, sand, flint, or other materials containing silicon dioxide, characterized by the formation of pulmonary fibrotic changes.

(p) Specified state means Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon, or Texas. Additional states may be included, provided:

(1) A uranium mine was operated in such state at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

(2) The state submits an application to the Assistant Director (specified in §79.70(a)) to include such state; and

(3) The Assistant Director makes a determination to include such state.

(q) Uranium mill means any milling operation involving the processing of