

Department of Justice

§ 79.13

(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.

(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:

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(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 the specified time period, provided the dates are not more than three years apart.

(f) 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 after October 31, 1958, and another of which is within the specified time period, establishes the claimant's presence in the affected area between the date within the specified time period and October 31, 1958, provided the dates are not more than three years apart.

(g) For purposes of establishing eligibility under §79.12(a)(2), the Program will presume that proof of residence or proof of full-time employment within the affected area at least one day during the period beginning June 30, 1962, and ending July 31, 1962, and proof of residence or proof of full-time employment at the same address or location within six months before June 30, 1962, and six months after July 31, 1962, establishes the claimant's physical presence for the necessary one-month-and-one-day period.

(h) For purposes of establishing eligibility under §79.12(a)(2), the Program will presume that proof of residence or full-time employment at the same address or location on two separate dates at least 14 days apart within the time period beginning June 30, 1962, and ending July 31, 1962, establishes the claimant's physical presence for the necessary one-month-and-one-day period.

(i) For purposes of establishing eligibility under §79.12(a)(3), the claimant must establish, in accordance with §79.33, that he or she participated on-site in the atmospheric detonation of a nuclear device.