§ 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.
§ 79.42 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:

(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 \(1.3 \times 10^6\) 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.