

- (C) neutrons;
- (D) gamma rays; or
- (E) accelerated ions or subatomic particles from accelerator machines.

(17) The term “specified cancer” means any of the following:

- (A) A specified disease, as that term is defined in section 4(b)(2) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note).
- (B) Bone cancer.
- (C) Renal cancers.
- (D) Leukemia (other than chronic lymphocytic leukemia), if initial occupational exposure occurred before 21 years of age and onset occurred more than two years after initial occupational exposure.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3621], Oct. 30, 2000, 114 Stat. 1654, 1654A-498; Pub. L. 107-20, title II, §2403(a), July 24, 2001, 115 Stat. 175; Pub. L. 107-107, div. C, title XXXI, §3151(a)(1), (4)(C), Dec. 28, 2001, 115 Stat. 1371, 1374; Pub. L. 108-375, div. C, title XXXI, §§3166(b)(2), 3168(a), Oct. 28, 2004, 118 Stat. 2189, 2190.)

REFERENCES IN TEXT

Executive Order No. 12344, referred to in par. (12)(A), is set out as a note under section 2511 of Title 50, War and National Defense.

Section 4(b)(2) of the Radiation Exposure Compensation Act, referred to in par. (17)(A), is section 4(b)(2) of Pub. L. 101-426, which is set out in a note under section 2210 of this title.

AMENDMENTS

2004—Par. (3). Pub. L. 108-375, §3168(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The term ‘atomic weapons employee’ means an individual employed by an atomic weapons employer during a period when the employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling.”

Par. (14)(C)(ii). Pub. L. 108-375, §3166(b)(2), substituted “30 days” for “180 days”.

2001—Par. (17)(C). Pub. L. 107-20 added subpar. (C).

Par. (17)(D). Pub. L. 107-107, §3151(a)(1), added subpar. (D).

Par. (18). Pub. L. 107-107, §3151(a)(4)(C), struck out par. (18) which read as follows: “The term ‘survivor’ means any individual or individuals eligible to receive compensation pursuant to section 8133 of title 5.”

EFFECTIVE DATE OF 2001 AMENDMENTS

Pub. L. 107-107, div. C, title XXXI, §3151(a)(4)(D), Dec. 28, 2001, 115 Stat. 1374, provided that: “The amendments made by this paragraph [amending this section and sections 7384s and 7384u of this title] shall take effect on July 1, 2001.”

Pub. L. 107-20, title II, §2403(b), July 24, 2001, 115 Stat. 175, provided that: “This section [amending this section] shall be effective on October 1, 2001.”

§ 7384m. Expansion of list of beryllium vendors

Not later than December 31, 2002, the President may, in consultation with the Secretary of Energy, designate as a beryllium vendor for purposes of section 7384l(6) of this title any vendor, processor, or producer of beryllium or related products not previously listed under or designated for purposes of such section 7384l(6) of

this title if the President finds that such vendor, processor, or producer has been engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy in a manner similar to the entities listed in such section 7384l(6) of this title.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3622], Oct. 30, 2000, 114 Stat. 1654, 1654A-502.)

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see Ex. Ord. No. 13179, Dec. 7, 2000, 65 F.R. 77487, set out as a note under section 7384 of this title.

§ 7384n. Exposure in the performance of duty

(a) Beryllium

A covered beryllium employee shall, in the absence of substantial evidence to the contrary, be determined to have been exposed to beryllium in the performance of duty for the purposes of the compensation program if, and only if, the covered beryllium employee was—

(1) employed at a Department of Energy facility; or

(2) present at a Department of Energy facility, or a facility owned and operated by a beryllium vendor, because of employment by the United States, a beryllium vendor, or a contractor or subcontractor of the Department of Energy,

during a period when beryllium dust, particles, or vapor may have been present at such facility.

(b) Cancer

An individual with cancer specified in subclause (I), (II), or (III) of section 7384l(9)(B)(ii) of this title shall be determined to have sustained that cancer in the performance of duty for purposes of the compensation program if, and only if, the cancer specified in that subclause was at least as likely as not related to employment at the facility specified in that subclause, as determined in accordance with the guidelines established under subsection (c) of this section.

(c) Guidelines

(1) For purposes of the compensation program, the President shall by regulation establish guidelines for making the determinations required by subsection (b) of this section.

(2) The President shall establish such guidelines after technical review by the Advisory Board on Radiation and Worker Health under section 7384o of this title.

(3) Such guidelines shall—

(A) be based on the radiation dose received by the employee (or a group of employees performing similar work) at such facility and the upper 99 percent confidence interval of the probability of causation in the radioepidemiological tables published under section 7(b) of the Orphan Drug Act (42 U.S.C. 241 note), as such tables may be updated under section 7(b)(3) of such Act from time to time;

(B) incorporate the methods established under subsection (d) of this section; and

(C) take into consideration the type of cancer, past health-related activities (such as smoking), information on the risk of developing a radiation-related cancer from workplace exposure, and other relevant factors.