Claims Based on Ionizing Radiation Exposure

**Answer Key**

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Topic 1 Exercise – Student Handout

1. **Name five radiogenic diseases.**

Any listed in 38 CFR 3.311.

All forms of leukemia except chronic lymphatic (lymphocytic) leukemia

Thyroid cancer

Breast cancer

Lung cancer

Bone cancer

Liver cancer

Skin cancer

Esophageal cancer

Stomach cancer

Colon cancer

Pancreatic cancer

Kidney cancer

Urinary bladder cancer

Salivary gland cancer

Multiple myeloma

Posterior subcapsular cataracts

Non-malignant thyroid nodular disease

Ovarian cancer

Parathyroid adenoma

Tumors of the brain and central nervous system

Cancer of the rectum

Lymphomas other than Hodgkin’s disease

Prostate cancer

Any other cancer

1. What did *Combee v. Brown* establish?

That direct service connection can be established by showing that the disease was incurred during or aggravated by service.

1. What is the definition of a radiation exposed veteran?

A veteran who, while serving on active duty, or as an individual who, while a member of the reserve component of the Armed Forces during a period of ACDUTRA or INACDUTRA, participated in a *radiation risk activity.*

1. Can service connection be granted for cancers due to exposure to microwaves from radar equipment? If so, under what regulation? Where would this claim be processed?

Yes. 3.303 (d). At the regional office of jurisdiction as this is NOT an ionizing radiation claim that would be transferred to Jackson, MS.

1. List the two Manual references related to processing radiation claims.

[M21-1 IV.ii.1.B](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#!agent/portal/554400000001034/article/554400000014904/M21-1-Part-IV-Subpart-ii-Chapter-1-S)

[M21-1 IV.ii.1.C](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#!agent/portal/554400000001034/article/554400000014905/M21-1-Part-IV-Subpart-ii-Chapter-1-S)

1. List two of the three ways that a claim for exposure to ionizing radiation can be established.

* Any of the several types of cancer that are presumptively service-connected, as listed in 38 U.S.C 1112 and 38 C.F.R. 3.309(d).
* Any of the “radiogenic diseases” that are listed under 38 C.F.R. 3.311(b). They will be considered service-connected, provided that certain conditions specified in that regulation are met.
* Direct service connection can be established by showing that the disease was incurred during or aggravated by service – as established in *Combee v. Brown* (1994).

1. **List three court cases that have helped shape the radiation claims process.**

*Hardin v. West* (1998)

*Earle v. Brown* (1994)

*Hilkert v. West* (1999)

*Stone v Gober* (2000)

*Ramey v. Brown* (1996)

*Ramey v. Gober* (1997)

*McGuire v. West* (1998)

*Rucker v. Brown* (1997)

1. **Under 38 C.F.R. 3.311, what is the definition of Hiroshima and Nagasaki occupation claims?**

In all claims based on participation in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, dose data will be requested from the Department of Defense.

Topic 2 Exercise - Student Handout

**Where are claims for radiation exposure with a radiogenic disease processed? Where are claims for radiation exposure without a radiogenic disease processed (Veteran claims exposure but does not have a recognized disease)?**

Claims for radiation exposure are processed at the Jackson, MS, Regional Office.

Claims for radiation exposure without a recognized radiogenic disease are processed at the Regional Office of Jurisdiction (ROJ).

What should you (RVSR) do if you receive a claim that is ready to rate with a verified radiogenic disease?

Bring this case to your station’s appropriate person to have the claim brokered to the Jackson, MS Regional Office.