

Subpart C—Eligibility Criteria

GENERAL PROVISIONS

§ 30.200 What is the scope of this subpart?

The regulations in this subpart describe the criteria for eligibility for benefits for claims under Part B of EEOICPA relating to covered beryllium illness under sections 7384l, 7384n, 7384s and 7384t of the Act; for cancer under sections 7384l, 7384n, 7384q and 7384t of the Act; for chronic silicosis under sections 7384l, 7384r, 7384s and 7384t of the Act; and for claims relating to covered uranium employees under sections 7384t and 7384u of the Act. These regulations also describe the criteria for eligibility for benefits for claims under Part E of EEOICPA relating to covered illnesses under sections 7385s-4 and 7385s-5 of the Act. This subpart describes the type and extent of evidence that will be necessary to establish the criteria for eligibility for compensation for these illnesses.

ELIGIBILITY CRITERIA FOR CLAIMS RELATING TO COVERED BERYLLIUM ILLNESS UNDER PART B OF EEOICPA

§ 30.205 What are the criteria for eligibility for benefits relating to beryllium illnesses covered under Part B of EEOICPA?

To establish eligibility for benefits under this section, the claimant must establish the criteria set forth in both paragraphs (a) and (b) of this section:

(a) The employee is a covered beryllium employee only if the criteria in paragraphs (a)(1) and (a)(3) of this section, or (a)(2) and (a)(3) of this section, are established:

(1) The employee is a "current or former employee as defined in 5 U.S.C. 8101(1)" (see § 30.5(t) of this part) who may have been exposed to beryllium at a DOE facility or at a facility owned, operated, or occupied by a beryllium vendor; or

(2) The employee is a current or former civilian employee of:

(i) Any entity that contracted with the DOE to provide management and operation, management and integration, or environmental remediation of a DOE facility; or

(ii) Any contractor or subcontractor that provided services, including construction and maintenance, at such a facility; or

(iii) A beryllium vendor, or of a contractor or subcontractor of a beryllium vendor, during a period when the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the DOE, including periods during which environmental remediation of a vendor's facility was undertaken pursuant to a contract between the vendor and DOE; and

(3) The civilian employee was exposed to beryllium in the performance of duty by establishing that he or she was, during a period when beryllium dust, particles, or vapor may have been present at such a facility:

(i) Employed at a DOE facility (as defined in § 30.5(x) of this part); or

(ii) Present at a DOE facility, or at a facility owned, operated, or occupied by a beryllium vendor, because of his or her employment by the United States, a beryllium vendor, a contractor or subcontractor of a beryllium vendor, or a contractor or subcontractor of the DOE. Under this paragraph, exposure to beryllium in the performance of duty can be established whether or not the beryllium that may have been present at such facility was produced or processed for sale to, or use by, DOE.

(b) The employee has one of the following:

(1) Beryllium sensitivity as established by an abnormal beryllium LPT performed on either blood or lung lavage cells.

(2) Established chronic beryllium disease.

(3) Any injury, illness, impairment, or disability sustained as a consequence of the conditions specified in paragraphs (b)(1) and (2) of this section.

§ 30.206 How does a claimant prove that the employee was a "covered beryllium employee" exposed to beryllium dust, particles or vapor in the performance of duty?

(a) Proof of employment at or physical presence at a DOE facility, or a facility owned, operated, or occupied by a beryllium vendor, because of employment by the United States, a beryllium