

OWCP will accept photocopies, certified copies, and original documents and records.

(b) To establish eligibility, the employee or his or her survivor may be required to provide, where appropriate, additional contemporaneous records to the extent they exist or an authorization to release additional contemporaneous records or a statement by the custodian(s) of the record(s) certifying that the requested record(s) no longer exist. Nothing in this section shall be construed to limit OWCP's ability to require additional documentation.

(c) If a claimant submits a certified statement, by a person with knowledge of the facts, that the medical records containing a diagnosis and date of diagnosis of a covered medical condition no longer exist, then OWCP may consider other evidence to establish a diagnosis and date of diagnosis of a covered medical condition. However, if the certified statement is a self-serving document, OWCP may reject the claim based upon a lack of evidence of a covered medical condition.

§ 30.114 What kind of evidence is needed to establish a covered medical condition and how will that evidence be evaluated?

(a) Evidence of a covered medical condition may include: A physician's report, laboratory reports, hospital records, death certificates, x-rays, magnetic resonance images or reports, computer axial tomography or other imaging reports, lymphocyte proliferation testings, beryllium patch tests, pulmonary function or exercise testing results, pathology reports including biopsy results and other medical records. A claimant is not required to submit all of the evidence listed in this paragraph. A claimant may submit other evidence that is not listed in this paragraph to establish a covered medical condition. Nothing in this section shall be construed to limit OWCP's ability to require additional documentation.

(b) The medical evidence submitted will be used to establish the diagnosis and the date of diagnosis of the covered medical condition.

(1) For covered beryllium illnesses, additional medical evidence, as set

forth in § 30.207, is required to establish a beryllium illness.

(2) For chronic silicosis, additional medical evidence, as set forth in § 30.222, is required to establish chronic silicosis.

(3) For consequential injuries or illnesses, the claimant must also submit a physician's fully rationalized medical report showing the causal relationship between the resulting illness or injury and the covered medical condition.

(c) OWCP will evaluate the medical evidence in accordance with recognized and accepted diagnostic criteria used by physicians to determine whether the claimant has established the medical condition for which compensation is sought in accordance with the requirements of the Act.

SPECIAL PROCEDURES FOR CERTAIN
CANCER CLAIMS

§ 30.115 For those claims that do not seek benefits pursuant to the Special Exposure Cohort provisions, what will OWCP do once it determines that a covered employee (or a survivor of such an employee) has established that he or she contracted cancer under § 30.211?

(a) Other than claims solely for a non-radiogenic cancer listed by HHS at 42 CFR 81.30, OWCP will forward any such claimant's application package (including, but not limited to, Forms EE-1, EE-2, EE-3, EE-4 and EE-5, as appropriate) to HHS for dose reconstruction. At that point in time, development of the claim by OWCP is suspended.

(1) This package will include OWCP's initial findings in regard to the covered employee's diagnosis and date of diagnosis, as well as any employment history compiled by OWCP (including information such as dates and locations worked, and job titles). The package, however, does not constitute a recommended or final decision by OWCP on the claim.

(2) HHS will then reconstruct the covered employee's radiation dose, following such further development of the employment history as it may deem necessary, and provide OWCP, DOE and the claimant with the final dose reconstruction report. The final dose reconstruction record will be delivered to

OWCP with the final dose reconstruction report and to the claimant upon request.

(b) Following its receipt of the reconstructed dose from HHS, OWCP will consider whether the claimant has met the eligibility criteria set forth in subpart C of this part.

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 relating to covered beryllium illness under sections 7384l, 7384n, 7384s and 7384t of the Act; for claims relating to employees with cancer under sections 7384l, 7384n, 7384q and 7384t of the Act; for claims relating to chronic silicosis under sections 7384l, 7384r, 7384s and 7384t; and for claims relating to covered uranium employees under sections 7384t and 7384u. This subpart describes the type and extent of evidence that will be accepted as evidence of the various criteria for eligibility for compensation for each of these illnesses.

ELIGIBILITY CRITERIA FOR CLAIMS RELATING TO COVERED BERYLLIUM ILLNESS

§ 30.205 What are the criteria for eligibility for benefits relating to covered beryllium illness?

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 by establishing:
 - (1) The employee is a “current or former employee as defined in 5 U.S.C. 8101(1)” (see § 30.5(r) 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 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; and

(3) The 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(v) 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, 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 vendor, or a contractor or subcontractor of a beryllium vendor during a period when beryllium dust, particles, or vapor may have been present at such a facility, may be made by the submission of any trustworthy records that,