

§ 82.0

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Subpart A—Introduction

§ 82.0 Background information on this part.

The Energy Employees Occupational Illness Compensation Program Act (EEOICPA), 42 U.S.C. 7384–7385 [1994, supp. 2001], provides for the payment of compensation benefits to covered employees and, where applicable, sur-

vivors of such employees, of the United States Department of Energy (“DOE”), its predecessor agencies and certain of its contractors and subcontractors. Among the types of illnesses for which compensation may be provided are cancers. There are two categories of covered employees with cancer under EEOICPA for whom compensation may be provided. The regulations that follow under this part apply only to the category of employees described under paragraph (a) of this section.

(a) One category is employees with cancer for whom a dose reconstruction must be conducted, as required under 20 CFR 30.115.

(b) The second category is members of the Special Exposure Cohort seeking compensation for a specified cancer, as defined under EEOICPA. The U.S. Department of Labor (DOL) which has primary authority for implementing EEOICPA, has promulgated regulations at 20 CFR 30.210 and 30.213 that identify current members of the Special Exposure Cohort and requirements for compensation. Pursuant to section 3626 of EEOICPA, the Secretary of HHS is authorized to add additional classes of employees to the Special Exposure Cohort.

§ 82.1 What is the purpose of this part?

The purpose of this part is to provide methods for determining a reasonable estimate of the radiation dose received by a covered employee with cancer under EEOICPA, through the completion of a dose reconstruction. These methods will be applied by the National Institute for Occupational Safety and Health (NIOSH) in a dose reconstruction program serving claimants under EEOICPA, as identified under § 82.0.

§ 82.2 What are the basics of dose reconstruction?

The basic principle of dose reconstruction is to characterize the radiation environments to which workers were exposed and to then place each worker in time and space within this exposure environment. Then methods are applied to translate exposure to radiation into quantified radiation doses at the specific organs or tissues relevant to the types of cancer occurring

among the workers. A hierarchy of methods is used in a dose reconstruction, depending on the nature of the exposure conditions and the type, quality, and completeness of data available to characterize the environment.

(a) If found to be complete and adequate, individual worker monitoring data, such as dosimeter readings and bioassay sample results, are given the highest priority in assessing exposure. These monitoring data are interpreted using additional data characterizing the workplace radiation exposures. If radiation exposures in the workplace environment cannot be fully characterized based on available data, default values based on reasonable and scientific assumptions may be used as substitutes. For dose reconstructions conducted in occupational illness compensation programs, this practice may include use of assumptions that represent the worst case conditions. For example, if the solubility classification of an inhaled material can not be determined, the dose reconstruction would use the classification that results in the largest dose to the organ or tissue relevant to the cancer and that is possible given existing knowledge of the material and process.

(b) If individual monitoring data are not available or adequate, dose reconstructions may use monitoring results for groups of workers with comparable activities and relationships to the radiation environment. Alternatively, workplace area monitoring data may be used to estimate the dose. As with individual worker monitoring data, workplace exposure characteristics are used in combination with workplace monitoring data to estimate dose.

(c) If neither adequate worker nor workplace monitoring data are available, the dose reconstruction may rely substantially on process description information to analytically develop an exposure model. For internal exposures, this model includes such factors as the quantity and composition of the radioactive substance (the source term), the chemical form, particle size distribution, the level of containment, and the likelihood of dispersion.

§ 82.3 What Are the Requirements for Dose Reconstruction Under EEOICPA?

(a) Dose reconstructions are to be conducted for the following covered employees with cancer seeking compensation under EEOICPA: An employee who was not monitored for exposure to radiation at DOE or Atomic Weapons Employer (AWE) facilities; an employee who was monitored inadequately for exposure to radiation at such facilities; or an employee whose records of exposure to radiation at such facility are missing or incomplete. Technical limitations of radiation monitoring technology and procedures will require HHS to evaluate each employee's recorded dose. In most, if not all cases, monitoring limitations will result in possibly undetected or unrecorded doses, which are estimated using commonly practiced dose reconstruction methods and would have to be added to the dose record.

(b) Section 7384(n)(e) of EEOICPA requires the reporting of radiation dose information resulting from dose reconstructions to the covered employees for whom claims are being adjudicated. DOE is specifically charged with this responsibility but the Department of Health and Human Services (HHS), which will be producing the dose reconstruction information, will report its findings directly to the claimant, as well as to DOL and DOE. HHS will also make available to researchers and the general public information on the assumptions, methodology, and data used in estimating radiation doses, as required by EEOICPA.

§ 82.4 How Will DOL Use the Results of the NIOSH Dose Reconstructions?

Under 42 CFR part 81, DOL will apply dose reconstruction results together with information on cancer diagnosis and other personal information provided to DOL by the claimant to calculate an estimated probability of causation. This estimate is the probability that the cancer of the covered employee was caused by radiation exposure at a covered facility of DOE or an Atomic Weapons Employer (AWE).