

## § 83.0

## 42 CFR Ch. I (10–1–12 Edition)

- 83.11 What happens to petition submissions that do not satisfy all relevant requirements under §§ 83.7 through 83.9?
- 83.12 How will NIOSH notify petitioners, the Board, and the public of petitions that have been selected for evaluation?
- 83.13 How will NIOSH evaluate petitions, other than petitions by claimants covered under § 83.14?
- 83.14 How will NIOSH evaluate a petition by a claimant whose dose reconstruction NIOSH could not complete under 42 CFR Part 82?
- 83.15 How will the Board consider and advise the Secretary on a petition?
- 83.16 How will the Secretary decide the outcome of a petition?
- 83.17 How will the Secretary report a final decision to add a class of employees to the Cohort and any action of Congress concerning the effect of the final decision?
- 83.18 How can petitioners obtain an administrative review of a final decision by the Secretary?
- 83.19 How can the Secretary cancel or modify a final decision to add a class of employees to the Cohort?

AUTHORITY: 42 U.S.C. 7384q; E.O. 13179, 65 FR 77487, 3 CFR, 2000 Comp., p. 321.

SOURCE: At 69 FR 30780, May 28, 2004, unless otherwise noted.

### Subpart A—Introduction

#### § 83.0 Background information on the procedures in this part.

The Energy Employees Occupational Illness Compensation Program Act, as amended (“EEOICPA” or “the Act”), 42 U.S.C. 7384–7385, provides for the payment of compensation benefits to covered employees and, where applicable, survivors of such employees, of 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 methods set forth in the statute for claimants to establish that a cancer incurred by a covered worker is compensable under EEOICPA. The first is to establish that the cancer is at least as likely as not related to covered employment at a DOE or Atomic Weapons Employer (“AWE”) facility pursuant to guidelines issued by the Department of Health and Human Services (“HHS”), which are found at 42 CFR part 81. The second method to establish that a cancer incurred by a covered worker is

compensable under EEOICPA is to establish that the worker is a member of the Special Exposure Cohort (“the Cohort”) and suffered a specified cancer after beginning employment at a DOE facility or AWE facility. In Section 3621(14) of EEOICPA (42 U.S.C. 7384l(14)) Congress included certain classes of employees in the Cohort. Section 3626 of the Act (42 U.S.C. 7384q) authorizes the addition to the Cohort of other classes of employees. This authority has been delegated to the Secretary of HHS by Executive Order 13179.

#### § 83.1 What is the purpose of the procedures in this part?

EEOICPA authorizes the President to add classes of employees to the Cohort, while providing Congress with the opportunity to review and expedite or reverse these decisions. The President delegated his authority to the Secretary of HHS. This part specifies the procedures by which HHS will determine whether to add new classes of employees from DOE and AWE facilities to the Cohort. HHS will consider adding new classes of employees in response to petitions by, or on behalf of, such classes of employees. The procedures specify requirements for petitions and for their consideration. These requirements are intended to ensure that petitions are submitted by authorized parties, are justified, and receive uniform, fair, scientific consideration. The procedures are also designed to give petitioners and interested parties opportunity for appropriate involvement in the process, and to ensure that the process is timely and consistent with requirements specified in EEOICPA. The procedures are not intended to provide a second opportunity to qualify a claim for compensation, once HHS has completed the dose reconstruction and DOL has determined that the cancer subject to the claim was not “at least as likely as not” caused by the estimated radiation doses. DOL has established procedures separate from those covered by this part, under 20 CFR part 30, for cancer claimants who want to contest the factual determinations or how NIOSH conducted their dose reconstructions.