



BULLETIN NO. 23-01

Issue Date: October 24, 2022

Effective Date: October 24, 2022

Expiration Date: October 24, 2023

Subject: Causal Presumption for Chronic Silicosis Under Part E

Background: The Division of Energy Employees Occupational Illness Compensation Program (DEEOIC) currently administers a statutory standard for Part B claimants who submit claims for chronic silicosis. The Energy Employees Occupational Illness Compensation Program Act (EEOICPA) stipulates that coverage under Part B extends to those covered employees with chronic silicosis who DEEOIC determines had exposure to silica while present for a number of days aggregating at least 250 workdays during the mining of tunnels at a Department of Energy (DOE) facility located in Nevada or Alaska for tests or experiments related to an atomic weapon. An employee who meets these criteria under Part B, and worked as a DOE contractor or subcontractor, would also qualify for coverage under Part E.

In addition to the existing statutory standard, DEEOIC has recently conducted an analysis of available medical health science literature. It has concluded that under Part E, it may be presumed that exposure to silica during covered contractor or subcontractor employment at a qualifying Department of Energy facility results in chronic silicosis, if certain conditions are satisfied. For a covered Part E contractor or subcontractor employee with diagnosed chronic silicosis, it may be presumed that exposure to silica resulted in the disease when evidence establishes that the employee had significant exposure to silica dust for an aggregate of 180 workdays of occupational exposure, and there is a latency of at least 10 years between the initial occupational exposure and diagnosis. For any covered employee that does not satisfy the presumption described in this bulletin, their claim must undergo routine development to determine if it is at least as likely as not that exposure to a toxic substance was a significant factor in causing, aggravating, or contributing to the diagnosed illness.

References: Federal (EEOICPA) Procedure Manual (v6.0).

Purpose: To provide a causal presumption for chronic silicosis under Part E.

Applicability: All staff.

Actions:

1. Upon receipt of a claim under Part E for chronic silicosis, the CE will determine whether the medical evidence establishes a diagnosis for the claimed illness and that the employee has qualifying contractor or subcontractor employment at a Department of Energy facility. Under Part E, for a diagnosis of chronic silicosis it is necessary for a physician to have interpreted available clinical or diagnostic evidence to come to a reasoned conclusion that the employee has the disease.
2. Once the CE determines that the employee has diagnosed chronic silicosis and covered employment, the CE may presume that the disease has resulted from a toxic substance exposure if the following criteria are satisfied:
 - a. Exposure: The employee must have been employed for an aggregate of 180 workdays in a position that would have had significant exposure to crystalline silicon dioxide and/or silica dust. This can be determined by an Industrial Hygiene assessment.
 - b. Latency: The evidence establishes a latency of at least 10 years between the initial occupational exposure and a diagnosis of silicosis.
3. If the CE cannot make a finding that a covered employee with chronic silicosis meets the presumptive standard, the CE must proceed with an evaluation of the claim given existing procedural guidance for obtaining an evaluation of the claim from a qualified physician to ascertain whether any established exposure to silica is at least as likely as not a significant factor in causing, aggravating, or contribution to the disease.

Disposition: Retain until incorporated in the Federal (EEOICPA) Procedure Manual.

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