



**EMPLOYEE:** [Name Deleted]  
**CLAIMANT:** [Name Deleted]  
**CASE ID NUMBER:** [Number Deleted]  
**DOCKET NUMBER:** 20230627-50036451-2  
**DECISION DATE:** October 23, 2023

**NOTICE OF FINAL DECISION**  
**FOLLOWING A REVIEW OF THE WRITTEN RECORD**

This decision of the Final Adjudication Branch (FAB) concerns your claim for beryllium sensitivity under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA), 42 U.S.C. § 7384 *et seq.* For the reasons stated below, FAB reverses the recommended decision to deny the claim and awards you medical monitoring for beryllium sensitivity under Part B of EEOICPA.

**STATEMENT OF THE CASE**

On December 7, 2022, you filed a claim for benefits under EEOICPA for beryllium sensitivity. In support of your claim, you submitted the results of a beryllium lymphocyte proliferation test (BeLPT) performed on blood cells obtained on October 17, 2022, which showed an abnormal response to beryllium sulfate. You also reported employment for Materion Natural Resources, Inc. at the Beryllium Mill in Delta, Utah from December 5, 2005 through August 7, 2014. The case file contains a statement from the corporate verifier for Materion Brush, Inc., indicating that you were employed by Materion Brush, Inc., at the Delta, Utah facility from December 5, 2005 to August 7, 2014.

The district office issued a recommended decision to approve your claim on February 6, 2023, finding that you were a covered beryllium employee with beryllium sensitivity, and forwarded the case to FAB. After a review of the evidence, FAB was unable to determine whether the Delta Mill was a covered beryllium vendor facility during the period of your employment and referred the claim to the National Office of the Division of Energy Employees Occupational Illness Compensation to determine whether you had covered employment. At the time of that referral, coverage was not extended to employees of Materion Natural Resources, Inc., as it was not named in the statute, nor had it been designated by the Department of Energy (DOE) as a beryllium vendor. Therefore, FAB remanded your claim to the district office on April 21, 2023.

By letter dated May 9, 2023, the district office advised you that your employment by Materion Natural Resources, Inc. at the Beryllium Mill in Delta, Utah did not appear to be covered under EEOICPA. The district office then asked you to submit evidence that you were employed by a DOE contractor or subcontractor. Your authorized representative responded by alleging that

you were a covered beryllium employee because the Delta, Utah facility processes beryllium ores for DOE. However, the district office then issued a June 27, 2023 recommended decision to deny your claim because the evidence did not establish that you had worked at a covered beryllium vendor facility, and forwarded your case to FAB for an independent review of the evidence.

On September 14, 2023, DOE published a notice regarding the Beryllium Mill in Delta, Utah in the *Federal Register*, indicating that “This Notice is being published to reflect the fact that the Beryllium Mill in Delta, Utah (‘Beryllium Mill in Delta’) is a covered beryllium vendor facility under EEOICPA.”

### **OBJECTIONS**

Your authorized representative filed a timely objection to the recommended decision, stating that the operations of Materion Natural Resources, Inc. have been and continue to be conducted on behalf of DOE. She also maintained that Materion Natural Resources, Inc. is a wholly owned subsidiary of Materion Corporation and is the sole supplier of beryllium to Materion Brush, Inc. Since Materion Brush, Inc. is a named statutory beryllium vendor, she concluded that employees of Materion Natural Resources, Inc. should also be considered covered beryllium employees under EEOICPA.

You submitted a signed Form EN-16 answering “No” to all questions regarding tort claims, state workers’ compensation claims and fraud.

Based on the foregoing, I hereby make the following:

### **FINDINGS OF FACT**

1. On December 7, 2022, you filed a claim for beryllium sensitivity.
2. You were diagnosed with beryllium sensitivity on October 17, 2022.
3. You worked at the Beryllium Mill in Delta, Utah from December 5, 2005 to August 7, 2014.

Based on these findings of fact, I hereby also make the following:

### **CONCLUSIONS OF LAW**

FAB has independently reviewed the evidence of record and the recommended decision issued by the district office on June 27, 2023. A claimant who receives a recommended decision from the district office is entitled to file objections to the findings of fact and conclusions of law. 20 C.F.R. § 30.310 (2019). In reviewing any objections submitted, FAB will review the written record, to include any additional evidence or argument submitted by the claimant, and conduct any additional investigation determined to be warranted in the case. 20 C.F.R. § 30.313.

The statutory term “covered beryllium employee” includes a “current or former employee 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 Department of Energy.” 42 U.S.C. § 7384l(7)(C). Brush Wellman, Inc., and its predecessor, Brush Beryllium Company, is a statutory beryllium vendor listed at 42 U.S.C. § 7384l(6)(B). On March 8, 2011, the corporate name of Brush Wellman, Inc. changed to Materion Brush, Inc. The covered time frame for this statutory beryllium vendor is August 18, 1943 and continuing regardless of the work location. EEOICPA Circular No. 11-09 (issued May 13, 2011).

On September 14, 2023, DOE published a notice updating the list of covered facilities in the *Federal Register*<sup>1</sup>, in which it stated that “The Beryllium Mill in Delta was operated by Brush Beryllium Company from 1969-1971, Brush Wellman, Inc. from 1971-January 23, 2001, Brush Resources, Inc. from January 23, 2001-March 8, 2011, and Materion Natural Resources, Inc. from March 8, 2011-present. For purposes of coverage under EEOICPA, all references to ‘Brush Wellman, Incorporated’ or ‘Brush Wellman, Inc.’ include its predecessor and successor entities, including the aforementioned entities.” DOE published the notice to update its list of covered facilities and recognize that the Beryllium Mill in Delta, Utah is a covered beryllium vendor facility under EEOICPA. Therefore, the evidence is sufficient to conclude that your employment at the Beryllium Mill in Delta, Utah for Materion Natural Resources, Inc., from December 5, 2005 to August 7, 2014 is qualifying employment at a beryllium vendor facility under EEOICPA.

Under Part B of EEOICPA, a diagnosis of beryllium sensitivity is established by an abnormal BeLPT performed on either blood or lung lavage cells. 42 U.S.C. § 7384l(8)(A). The medical evidence in the case file includes an abnormal BeLPT performed on blood cells, thus establishing a diagnosis of beryllium sensitivity.

For these reasons, you are a “covered beryllium employee” and your beryllium sensitivity is a “covered beryllium illness” as those terms are defined at 42 U.S.C. § 7384l(7)-(8). You are entitled to beryllium sensitivity monitoring under Part B of EEOICPA effective as of your date of filing, December 7, 2022. 42 U.S.C. § 7384s(a)(2).

Paula Rangoon  
Hearing Representative  
Final Adjudication Branch

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<sup>1</sup> 88 Fed. Reg. 63095 (September 14, 2023).