

on entitlement to any benefits under EEOICPA.

**§30.102 In general, how does an employee file a claim for additional impairment or wage-loss under Part E of EEOICPA?**

(a) An employee previously awarded impairment benefits by OWCP may file a claim for additional impairment benefits. Such claim must be based on an increase in the employee's minimum impairment rating attributable to the covered illness or illnesses from the impairment rating that formed the basis for the last award of such benefits by OWCP. OWCP will only adjudicate claims for such an increased rating that are filed at least two years from the date of the last award of impairment benefits. However, OWCP will not wait two years before it will adjudicate a claim for additional impairment that is based on an allegation that the employee sustained a new covered illness.

(b) An employee previously awarded wage-loss benefits by OWCP may be eligible for additional wage-loss benefits for periods of wage-loss that were not addressed in a prior claim only if the employee had not reached his or her Social Security retirement age at the time of the prior award. OWCP will adjudicate claims filed on a yearly basis in connection with each succeeding calendar year for which qualifying wage-loss under Part E is alleged, as well as claims that aggregate calendar years for which qualifying wage-loss is alleged.

(c) Employees should use Form EE-10 to claim for additional impairment or wage-loss benefits under Part E of EEOICPA.

(1) The employee, or the person filing the claim on behalf of the employee, shall affirm that the information provided on Form EE-10 is true, and must inform OWCP of any subsequent changes to that information.

(2) The employee is responsible for submitting with any claim filed under this section, or arranging for the submission of, factual and medical evidence establishing that he or she experienced another calendar year of qualifying wage-loss, and/or medical evidence establishing that he or she has

an increased minimum impairment rating, as appropriate.

**§30.103 How does a claimant make sure that OWCP has the evidence necessary to process the claim?**

(a) Claims and certain required submissions should be made on forms prescribed by OWCP. Persons submitting forms shall not modify these forms or use substitute forms.

Form No.	Title
(1) EE-1 ..	Claim for Benefits Under the Energy Employees Occupational Illness Compensation Program Act.
(2) EE-2 ..	Claim for Survivor Benefits Under the Energy Employees Occupational Illness Compensation Program Act.
(3) EE-3 ..	Employment History for a Claim Under the Energy Employees Occupational Illness Compensation Program Act.
(4) EE-4 ..	Employment History Affidavit for a Claim Under the Energy Employees Occupational Illness Compensation Program Act.

(b) Copies of the forms listed in this section are available for public inspection at the Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. They may also be obtained from OWCP district offices and on the Internet at <http://www.dol.gov/esa/regs/compliance/owcp/eoicp/main.htm>.

**VERIFICATION OF ALLEGED EMPLOYMENT**

**§30.105 What must DOE do after an employee or survivor files a claim?**

(a) After it receives a claim for benefits described in §§30.100 or 30.101, OWCP may request that DOE verify the employment history provided by the claimant. Upon receipt of such a request, DOE will complete Form EE-5 as soon as possible and transmit the completed form to OWCP. On this form, DOE will certify either that it concurs with the employment history provided by the claimant, that it disagrees with such history, or that it can neither concur nor disagree after making a reasonable search of its records and also making a reasonable effort to locate pertinent records not already in its possession.

(b) Claims for additional impairment or wage-loss benefits under Part E of the Act described in §30.102 will not require any verification of employment

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by DOE, since OWCP will have made any required findings on this particular issue when it adjudicated the employee's initial claim for benefits.

### **§ 30.106 Can OWCP request employment verification from other sources?**

(a) For most claims filed under EEOICPA, DOE has access to sufficient factual information to enable it to fulfill its obligations described in § 30.105(a). However, in instances where it lacks such information, DOE may arrange for other entities to provide OWCP with the information necessary to verify an employment history submitted as part of a claim. These other entities may consist of either current or former DOE contractors and subcontractors, atomic weapons employers, beryllium vendors, or other entities with access to relevant employment information.

(b) On its own initiative, OWCP may also arrange for entities other than DOE to perform the employment verification duties described in § 30.105(a).

#### EVIDENCE AND BURDEN OF PROOF

### **§ 30.110 Who is entitled to compensation under the Act?**

(a) Under Part B of EEOICPA, compensation is payable to the following covered Part B employees, or their survivors:

(1) A "covered beryllium employee" (as described in § 30.205(a)) with a covered beryllium illness (as defined in § 30.5(o)) who was exposed to beryllium in the performance of duty (in accordance with § 30.206).

(2) A "covered Part B employee with cancer" (as described in § 30.210(a)).

(3) A "covered Part B employee with chronic silicosis" (as described in § 30.220).

(4) A "covered uranium employee" (as defined in § 30.5(s)).

(b) Under Part E of EEOICPA, compensation is payable to a "covered Part E employee" (as defined in § 30.5(p)), or his or her survivors.

(c) Any claim that does not meet all of the criteria for at least one of these categories, as set forth in the regulations in this part, must be denied.

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(d) All claims for benefits under the Act must comply with the claims procedures and requirements set forth in subpart B of this part before any payment can be made from the Fund.

### **§ 30.111 What is the claimant's responsibility with respect to burden of proof, production of documents, presumptions, and affidavits?**

(a) Except where otherwise provided in the Act and these regulations, the claimant bears the burden of proving by a preponderance of the evidence the existence of each and every criterion necessary to establish eligibility under any compensable claim category set forth in § 30.110. Proof by a preponderance of the evidence means that it is more likely than not that the proposition to be proved is true. Subject to the exceptions expressly provided in the Act and the regulations in this part, the claimant also bears the burden of providing to OWCP all written medical documentation, contemporaneous records, or other records and documents necessary to establish any and all criteria for benefits set forth in these regulations.

(b) In the event that the claim lacks required information or supporting documentation, OWCP will notify the claimant of the deficiencies and provide him or her an opportunity for correction of the deficiencies.

(c) Written affidavits or declarations, subject to penalty for perjury, by the employee, survivor or any other person, will be accepted as evidence of employment history and survivor relationship for purposes of establishing eligibility and may be relied on in determining whether a claim meets the requirements of the Act for benefits if, and only if, such person attests that due diligence was used to obtain records in support of the claim, but that no records exist.

(d) A claimant will not be entitled to any presumption otherwise provided for in these regulations if substantial evidence exists that rebuts the existence of the fact that is the subject of the presumption. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate