

§ 30.302

deny a subpoena requested by a claimant can only be challenged as part of a request for reconsideration of any adverse decision of the FAB which results from the hearing.

§ 30.302 Who pays the costs associated with subpoenas?

(a) Witnesses who are not employees or former employees of the federal government shall be paid the same fees and mileage as paid for like services in the District Court of the United States where the subpoena is returnable, except that expert witnesses shall be paid a fee not to exceed the local customary fee for such services.

(b) Where OWCP asked that the witness submit evidence into the case record or asked that the witness attend, OWCP shall pay the fees and mileage. Where the claimant asked for the subpoena, and where the witness submitted evidence into the record at the request of the claimant, the claimant shall pay the fees and mileage.

§ 30.303 What information may OWCP request in connection with a claim under Part E of EEOICPA?

At any time during the course of development of a claim for benefits under Part E, OWCP may determine that it needs relevant information to adjudicate the claim. When this occurs, and at the request of OWCP, DOE and/or any contractor who employed a Department of Energy contractor employee must provide to OWCP information or documents in response to the request in connection with a claim under Part E of EEOICPA.

(a) The party to whom the request is made must respond to OWCP within 90 days of the request with either:

(1) The requested information or documents; or

(2) A sworn statement that a good faith search for the requested information or documents was conducted, and that the information or documents could not be located.

(b) DOE and/or the DOE contractor who employed a Department of Energy contractor employee must query third parties under its control to acquire the requested information or documents.

(c) In providing the requested information or documents, DOE and/or the

20 CFR Ch. I (4-1-11 Edition)

DOE contractor who employed a DOE contractor employee must preserve the current organization of the requested information or documents, and must provide such description and indexing of the requested information or documents as OWCP considers appropriate to facilitate their use by OWCP.

(d) Information or document requests may include, but are not limited to, requests for records, files and other data, whether paper, electronic, imaged or otherwise, developed, acquired or maintained by DOE or the DOE contractor who employed a DOE contractor employee. Such information or documents may include records, files and data on facility industrial hygiene, employment of individuals or groups, exposure and medical records, and claims applications.

RECOMMENDED DECISIONS ON CLAIMS

§ 30.305 How does OWCP determine entitlement to EEOICPA compensation?

(a) In reaching a recommended decision with respect to EEOICPA compensation, OWCP considers the claim presented by the claimant, the factual and medical evidence of record, the dose reconstruction report calculated by HHS (if any), any report submitted by DOE and the results of such investigation as OWCP may deem necessary.

(b) The OWCP claims staff applies the law, the regulations and its procedures when it evaluates the medical evidence and the facts as reported or obtained upon investigation.

§ 30.306 What does the recommended decision contain?

The recommended decision shall contain findings of fact and conclusions of law. The recommended decision may accept or reject the claim in its entirety, or it may accept or reject a portion of the claim presented. It is accompanied by a notice of the claimant's right to file objections with, and request a hearing before, the FAB.

§ 30.307 To whom is the recommended decision sent?

(a) A copy of the recommended decision will be mailed to the claimant's last known address and to the claimant's designated representative before