

## Office of Workers' Compensation Programs, Labor

§ 30.0

### DETERMINATIONS OF AVERAGE ANNUAL WAGE AND PERCENTAGES OF LOSS

- 30.810 How will OWCP calculate the average annual wage of a covered Part E employee?
- 30.811 How will OWCP calculate the duration and extent of a covered Part E employee's initial period of compensable wage-loss?
- 30.812 May a covered Part E employee claim for subsequent periods of compensable wage-loss?

### SPECIAL RULES FOR CERTAIN SURVIVOR CLAIMS UNDER PART E OF EEOICPA

- 30.815 Are there special rules that OWCP will use to determine the extent of a deceased covered Part E employee's compensable wage-loss?

## Subpart J—Impairment Benefits Under Part E of EEOICPA

### GENERAL PROVISIONS

- 30.900 Who can receive impairment benefits under Part E?
- 30.901 How does OWCP determine the extent of an employee's impairment that is due to a covered illness contracted through exposure to a toxic substance at a DOE facility or a RECA section 5 facility, as appropriate?
- 30.902 How will OWCP calculate the amount of the award of impairment benefits that is payable under Part E?

### MEDICAL EVIDENCE OF IMPAIRMENT

- 30.905 How may an impairment evaluation be obtained?
- 30.906 Who will pay for an impairment evaluation?
- 30.907 Can an impairment evaluation obtained by OWCP be challenged prior to issuance of the recommended decision?
- 30.908 How will the FAB evaluate new medical evidence submitted to challenge the impairment determination in the recommended decision?

### RATABLE IMPAIRMENTS

- 30.910 Will an impairment that cannot be assigned a numerical percentage using the AMA's *Guides* be included in the impairment rating?
- 30.911 Does maximum medical improvement always have to be reached for an impairment to be included in the impairment rating?
- 30.912 Can a covered Part E employee receive benefits for additional impairment following an award of such benefits by OWCP?

AUTHORITY: 5 U.S.C. 301; 31 U.S.C. 3716 and 3717; 42 U.S.C. 7384d, 7384t, 7384u and 7385s-10; Executive Order 13179, 65 FR 77487, 3 CFR,

2000 Comp., p. 321; Secretary of Labor's Order No. 4-2001, 66 FR 29656.

SOURCE: 71 FR 78534, Dec. 29, 2006, unless otherwise noted.

## Subpart A—General Provisions

### INTRODUCTION

### § 30.0 What are the provisions of EEOICPA, in general?

Part B of the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA or Act), 42 U.S.C. 7384 *et seq.*, provides for the payment of compensation benefits to covered Part B employees and, where applicable, survivors of such employees, of the United States Department of Energy (DOE), its predecessor agencies and certain of its contractors and subcontractors. Part B also provides for the payment of supplemental compensation benefits to other covered Part B employees who have already been found eligible for benefits under section 5 of the Radiation Exposure Compensation Act, as amended (RECA), 42 U.S.C. 2210 note, and where applicable, survivors of such persons. Part E of the Act provides for the payment of compensation benefits to covered Part E employees and, where applicable, survivors of such employees. The regulations in this part describe the rules governing filing, processing, and paying claims for benefits under both Part B and Part E of EEOICPA.

(a) Part B of EEOICPA provides for the payment of either lump-sum monetary compensation for the disability of a covered Part B employee due to an occupational illness or for monitoring for beryllium sensitivity, as well as for medical and related benefits for such illness. Part B also provides for the payment of monetary compensation for the disability of a covered Part B employee to specified survivors if the employee is deceased at the time of payment.

(b) Part E of EEOICPA provides for the payment of monetary compensation for the established wage-loss and/or impairment of a covered Part E employee due to a covered illness, and for medical and related benefits for such covered illness. Part E also provides for

## § 30.1

## 20 CFR Ch. I (4–1–12 Edition)

the payment of monetary compensation for the death (and established wage-loss, where applicable) of a covered Part E employee to specified survivors if the covered Part E employee is deceased at the time of payment.

(c) All types of benefits and conditions of eligibility listed in this section are subject to the provisions of EEOICPA and this part.

### **§ 30.1 What rules govern the administration of EEOICPA and this chapter?**

In accordance with EEOICPA, Executive Order 13179 and Secretary's Order No. 4-2001, the primary responsibility for administering the Act, except for those activities assigned to the Secretary of Health and Human Services (HHS), the Secretary of Energy and the Attorney General, has been delegated to the Assistant Secretary of Labor for Employment Standards. The Assistant Secretary, in turn, has delegated the responsibility for administering the Act to the Director of the Office of Workers' Compensation Programs (OWCP). Except as otherwise provided by law, the Director of OWCP and his or her designees have the exclusive authority to administer, interpret and enforce the provisions of the Act.

### **§ 30.2 In general, how have the tasks associated with the administration of EEOICPA claims process been assigned?**

(a) In E.O. 13179, the President assigned the tasks associated with administration of the EEOICPA claims process among the Secretaries of Labor, HHS and Energy, and the Attorney General. In light of the fact that the Secretary of Labor has been assigned primary responsibility for administering EEOICPA, almost the entire claims process is within the exclusive control of OWCP. This means that all claimants file their claims with OWCP, and OWCP is responsible for granting or denying compensation under the Act (see §§ 30.100 through 30.102). OWCP also provides assistance to claimants and potential claimants by providing information regarding eligibility and other program requirements, including information on completing claim forms and the types and availability of medical testing and di-

agnostic services related to occupational illnesses under Part B of the Act and covered illnesses under Part E of the Act. In addition, OWCP provides an administrative review process for claimants who disagree with its recommended and final adverse decisions on claims of entitlement (see §§ 30.300 through 30.320).

(b) However, HHS has exclusive control of the portion of the claims process under which it provides reconstructed doses for certain radiogenic cancer claims (see § 30.115). HHS also has exclusive control of the process for designating classes of employees to be added to the Special Exposure Cohort under Part B of the Act, and has promulgated regulations governing that process at 42 CFR part 83. Finally, HHS has promulgated regulations at 42 CFR part 81 that set out guidelines that OWCP follows when it assesses the compensability of an employee's radiogenic cancer (see § 30.213). DOE and DOJ must, among other things, notify potential claimants and submit evidence that OWCP deems necessary for its adjudication of claims under EEOICPA (see §§ 30.105, 30.112, 30.206, 30.212 and 30.221).

### **§ 30.3 What do these regulations contain?**

This part 30 sets forth the regulations governing administration of all claims that are filed with OWCP, except to the extent specified in certain provisions. Its provisions are intended to assist persons seeking benefits under EEOICPA, as well as personnel in the various federal agencies and DOL who process claims filed under EEOICPA or who perform administrative functions with respect to EEOICPA. The various subparts of this part contain the following:

(a) *Subpart A.* The general statutory and administrative framework for processing claims under both Parts B and E of EEOICPA. It contains a statement of purpose and scope, together with definitions of terms, information regarding the disclosure of OWCP records, and a description of rights and penalties involving EEOICPA claims, including convictions for fraud.

(b) *Subpart B.* The rules for filing claims for entitlement under