

§ 30.101

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OWCP, from DOE, or on the Internet at www.dol.gov/esa/regs/compliance/owcp/eeoicp/main.htm. The employee must file his or her claim with OWCP, or another person may do so on the employee's behalf.

(b) The employee may withdraw his or her claim by so requesting in writing to OWCP at any time before OWCP determines eligibility for benefits.

(c) A claim is considered to be "filed" on the date that the employee mails his or her claim to OWCP, as determined by postmark, or on the date that the claim is received by OWCP or DOE, whichever is the earliest determinable date, but in no event earlier than July 31, 2001.

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

(2) Except for a covered uranium employee, the employee is responsible for submitting, or arranging for the submission of, medical evidence to OWCP that establishes that he or she sustained an occupational illness.

§ 30.101 In general, how is a survivor's claim filed?

(a) A survivor of an employee who sustained an occupational illness may file a claim for compensation in writing on or after July 31, 2001. Form EE-2 should be used for this purpose, but any written communication that requests benefits under the Act will be considered a claim. It will, however, be necessary for a survivor to submit a Form EE-2 for OWCP to fully develop the claim. Copies of Form EE-2 may be obtained from OWCP, from DOE, or on the Internet at www.dol.gov/esa/regs/compliance/owcp/eeoicp/main.htm. The claiming survivor must file his or her claim with OWCP, or another person may do so on the survivor's behalf. Although only one survivor need file a claim under this section to initiate the development process, OWCP will distribute any monetary benefits paid among all eligible surviving beneficiaries pursuant to the terms of § 30.501.

(b) A survivor may withdraw his or her claim by so requesting in writing

to OWCP at any time before OWCP determines eligibility for benefits.

(c) A survivor must be alive to receive any payment; there is no vested right to such payment.

(d) A survivor's claim is considered to be "filed" on the date that the survivor mails his or her claim to OWCP, as determined by postmark, or the date that the claim is received by OWCP or DOE, whichever is the earliest determinable date, but in no event earlier than July 31, 2001.

(1) The survivor, or the person filing the claim on behalf of the survivor, shall affirm that the information provided on the Form EE-2 is true, and must inform OWCP of any subsequent changes to that information.

(2) Except for the survivor of a covered uranium employee, the survivor is responsible for submitting, or arranging for the submission of, evidence to OWCP that establishes that the employee upon whom the survivor's claim is based was eligible for such benefits, including medical evidence that establishes that the employee sustained an occupational illness.

§ 30.102 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. DOE is expected to maintain an adequate supply of the basic forms needed for filing claims under the EEOICPA.

Form No.	Title
(1) EE-1	Claim for Benefits Under Energy Employees Occupational Illness Compensation Program Act.
(2) EE-2	Claim for Survivor Benefits Under Energy Employees Occupational Illness Compensation Program Act.
(3) EE-3	Employment History for Claim Under Energy Employees Occupational Illness Compensation Program Act.
(4) EE-4	Employment History Affidavit for Claim Under the Energy Employees Occupational Illness Compensation Program Act.
(5) EE-5	Department of Energy's Response to Employment History for Claim Under the Energy Employees Occupational Illness Compensation Program Act.
(6) EE-7	Medical Requirements Under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

(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, D.C. 20210. They may also be obtained from OWCP district offices, from DOE, and on the Internet at www.dol.gov/esa/regs/compliance/owcp/eeoicp/main.htm.

CLAIMS FOR OCCUPATIONAL ILLNESS—
ACTIONS OF DOE

§ 30.105 What must DOE do after an employee files a claim for an occupational illness?

(a) DOE shall complete Form EE-5 as soon as possible and transmit the completed form to OWCP. On this form, DOE shall certify that it concurs with the employment information provided by the employee, or that it disagrees with such information, 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) Upon request of a claimant, DOE shall also assist such claimant in completing Form EE-4 and transmit the completed form to OWCP.

(c) DOE should not wait for the employee to submit the necessary supporting medical evidence before it forwards any Form EE-1 (or other document containing an employee's claim) it has received to OWCP.

§ 30.106 What should DOE do when an employee with a claim for an occupational illness dies?

(a) When possible, DOE shall furnish a Form EE-2 to all survivors likely to be entitled to compensation after the death of an employee. DOE should also supply information about completing and filing the form.

(b) DOE shall complete Form EE-5 as soon as possible and transmit the completed form to OWCP. On this form, DOE shall certify that it concurs with the employment information provided by the survivor, or that it disagrees with such information, 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.

(c) Upon request of a survivor, DOE shall also assist such survivor in completing Form EE-4 and transmit the completed form to OWCP.

(d) DOE should not wait for the claiming survivor to submit the necessary supporting medical evidence before it forwards any Form EE-2 (or other document containing a survivor's claim) it has received to OWCP.

EVIDENCE AND BURDEN OF PROOF

§ 30.110 Who is entitled to compensation under the Act?

(a) Compensation is payable to the following covered employees, or their survivors:

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

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

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

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

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

(c) 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 these regulations, the