

## **SUPPORTING STATEMENT**

### **ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT FORMS (VARIOUS)**

**OMB NO. 1240-0002**

This ICR would revise the information collection to incorporate proposed regulatory updates to the existing approved Energy Employees Occupational Illness Compensation program Act information collection requirements.

#### **A. Justification**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collections. Attach a copy of the appropriate section of each statute and of each regulation mandating or authorizing the collection of information.**

The Office of Workers' Compensation Programs (OWCP) is the primary agency responsible for the administration of the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA or Act), 42 U.S.C. § 7384 *et seq.* The Act provides for the payment of compensation to covered employees and, where applicable, survivors of deceased employees, who sustained either "occupational illnesses" or "covered illnesses" in the performance of duty for the Department of Energy and certain of its contractors and subcontractors. The Act sets forth eligibility criteria for claimants for compensation under Part B and Part E of the Act, and outlines the various elements of compensation payable from the Fund established by the Act.

The following sections of the final regulations implementing the Act contain currently approved information collection requirements in OMB Control No. 1240-0002: 20 CFR 30.100, 30.101, 30.102, 30.103, 30.111, 30.112, 30.113, 30.114, 30.206, 30.207, 30.212, 30.213, 30.214, 30.215, 30.221, 30.222, 30.226, 30.231, 30.232, 30.415, 30.416, 30.417, 30.505, 30.620, 30.806, 30.905 and 30.907. OMB Control No. 1240-0002 also currently contains the information collection requirement found in the Act at 42 U.S.C. § 7385s-11.

This ICR seeks to revise No. 1240-0002 by adding two new information collection requirements, and by moving the existing requirement in current 20 CFR 30.806. The two new requirements

are in proposed 20 CFR 30.114(b)(3) and 30.403. Although the requirements in proposed 20 CFR 30.807(b) are not new and have been approved under the PRA and appear in the final regulations at 20 CFR 30.806, they have been moved, without substantive change, to a new location in the proposed regulations. To implement one of the new information collection requirements, two new forms (the EE-17A and the EE-17B) have been devised; the other new requirement will be implemented using existing requirements in No. 1240-0002 (the EE-11A and the EE-11B). The current requirement in 20 CFR 30.806 that has been moved in this ICR to proposed 20 CFR 30.807(b) will also be implemented using an existing requirement in No. 1240-0002 (the EE-11B).

The information collections in this ICR collect demographic, factual and medical information needed to determine entitlement to benefits under the EEOICPA. Before benefits may be paid, the case file must contain medical and employment evidence showing the claimant's eligibility. The various collections in this ICR and the purpose of each are listed below:

EE-1 -- Used to file a claim under Part B and/or E of EEOICPA, and is to be completed by the living current or former employee. It requests information about the illness or illnesses being claimed, and information about tort suits, settlements or awards in litigation, state workers' compensation benefits, and fraud convictions that impact entitlement. Also available in Spanish. (20 CFR 30.100, 30.103, 30.505 and 30.620)

EE-2 -- Used by the survivor of a deceased employee to file a claim under Part B and/or E of EEOICPA. It requests information on both the survivor and the deceased employee. It also requests information about illnesses, tort suits, settlements or awards in litigation, state workers' compensation benefits, and fraud convictions that impact entitlement. Also available in Spanish. (20 CFR 30.101, 30.103, 30.505 and 30.620)

EE-3 -- Used to gather factual information about the employee's work history. Also available in Spanish. (20 CFR 30.103, 30.111, 30.113, 30.114, 30.206, 30.212, 30.214, 30.221 and 30.231)

EE-4 -- Used to support the claimed employment history (supplied by the employee or survivor) by affidavit. Also available in Spanish. (20 CFR 30.103, 30.111, 30.113, 30.114, 30.206, 30.212, 30.214, 30.221 and 30.231)

EE-5A -- Used to collect supplemental employment evidence from

claimants to substantiate periods of unverified employment. There is no standard form or format for the submission of this information. For purposes of identification only, this requirement has been designated the "EE-5A." (20 CFR 30.112)

EE-5B - Used to collect information from current and former DOE contractors to substantiate periods of unverified employment. There is no standard form or format for the submission of the information. For purposes of identification only, this requirement has been designated the "EE-5B." (20 CFR 30.106)

EE-7 -- Informs an employee, survivor or physician of the medical evidence needed to establish a diagnosis of an "occupational illness" under Part B or a "covered illness" under Part E of EEOICPA. Also available in Spanish. (20 CFR 30.103, 30.207, 30.215, 30.222, 30.232(a), 30.415, 30.416 and 30.417)

EE-7A -- Required when an injury, illness, or disability is sustained as a consequence of an "occupational illness" under Part B or a "covered illness" under Part E of EEOICPA. There is no standard form or format for the submission of this medical information. For purposes of identification only, this requirement has been designated the "EE-7A." (20 CFR 30.207, 30.215, 30.222, 30.226 and 30.232(b))

EE-8 -- Letter to claimant, sent with enclosure EN-8, used to obtain information on the employee's smoking history when lung cancer due to radiation is claimed. Guidelines issued by HHS require OWCP to ask for information regarding the employee's smoking history before OWCP can determine the probability of causation for radiogenic lung cancer. (20 CFR 30.213)

EE-9 -- Letter to claimant, sent with enclosure EN-9, used to obtain information concerning the race or ethnicity of the employee when radiogenic skin cancer is claimed. Guidelines issued by HHS require OWCP to ask for this particular information regarding the employee's race/ethnicity before OWCP can determine the probability of causation for radiogenic skin cancer. (20 CFR 30.213)

EE-10 -- Used by a covered Part E employee who has received an award for wage-loss and/or impairment due to a "covered illness" to claim for a subsequent calendar year of wage-loss and/or any additional impairment. It requests information needed to support a claim for an additional award. (20 CFR 30.102, 30.103, 30.505)

EE-11A -- Letter to claimant about impairment benefits under Part E, sent with enclosure EN-11A, used to obtain medical evidence necessary to support an initial award for permanent impairment due to an accepted "covered illness." (20 CFR 30.114(b)(3), 30.905 and 30.907)

EE-11B -- Letter to claimant about wage-loss benefits under Part E, sent with enclosure EE-11B, used to obtain the factual and medical evidence necessary to support an initial award for wage-loss benefits due to an accepted "covered illness." (20 CFR 30.114(b)(3) and 30.807(b))

EE-12 -- Letter to covered Part B and E employees receiving medical benefits, sent with enclosure EN-12, used to collect updated information about settlements or awards in litigation and state workers' compensation benefits that impact continuing entitlement. (20 CFR 30.100 and 30.505)

EE-13 -- Letter to state workers' compensation authorities, sent with enclosure EN-13, used to identify covered Part E employees receiving medical benefits who have also been awarded state workers' compensation for their covered illnesses. (42 USC 7385s-11)

EE-16 -- Letter to claimant, sent with enclosure EN-16, used to verify/obtain updated information about tort suits, settlements or awards in litigation, state workers' compensation benefits, and fraud convictions that impact entitlement immediately prior to issuance of a recommended decision on the claim. (20 CFR 30.505 and 30.620)

EE-17A -- Used by a covered Part B employee or a covered Part E employee who has been awarded medical benefits for treatment of an "occupational illness" or a "covered illness" to make an initial claim for home health care, nursing home, or assisted living benefits. It requests the name, address and telephone numbers of the covered Part B employee's or covered Part E employee's treating physician. (20 CFR 30.403)

EE-17B -- Request to the treating physician selected by the covered Part B employee or covered Part E employee for medical information needed to support an initial claim for home health care, nursing home, or assisted living benefits. It asks for the date the physician conducted the required face-to-face examination of the covered Part B employee or covered Part E

employee, and the Letter of Medical Necessity needed to support the claim. (20 CFR 30.403)

EE-20 -- Letter to claimant, sent with enclosure EN-20, used to obtain financial information necessary to pay approved claims under Part B or Part E of EEOICPA. (20 CFR 30.505 and 30.620)

In addition to the above reporting requirements, the Form EE-5 is sent to the Department of Energy (DOE) and is used to verify the alleged employment history submitted by the claimant. The EE-5 is a verification document only. The DOE reviews employment information in its files to verify the information. This form is not a public use form and no burden has been assigned. A copy of the form is included in this ICR for informational purposes only.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The information collected by these forms is used by claims examiners in OWCP to determine eligibility for compensation. The information, with the medical evidence and other supporting documentation, is used to determine whether or not the claimant is entitled to compensation under Part B or Part E of EEOICPA, and the amount of that compensation.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

In accordance with the Government Paperwork Elimination Act, the currently approved Forms EE-1, EE-2, EE-3 and EE-4 are fillin-able and are posted on the Internet at <http://www.dol.gov/owcp/energy/regs/compliance/claimsforms.htm>. A claimant may complete the form online and print out a paper copy and mail it to OWCP. The current Form EE-7 is also posted on the Internet at the same URL, but has not been made fillinable since the Form EE-7 only informs claimants of the type of medical evidence they must submit in support of their claims.

The EE-5A, EE-5B, and EE-7A are non-form collection requirements

and do not have a "form" to be posted on the Internet. The Form EE-5 is not a "public" form subject to GPEA, and Forms EE-10, EE-11A, EE-11B, EE-12, EE-16, EE-17A, EE-17B and EE-20 are only sent to respondents at a particular time and at a particular stage in the claims adjudication process, so it is impractical for OWCP to make these forms fillinable and to post them on the Internet since doing so would likely lead to their improper use by respondents. The Form EE-13 is sent to state workers' compensation authorities and is accompanied by Privacy Act information; therefore it is impractical for OWCP to make this form electronically interactive. And finally, the Forms EE-8 and EE-9 are claims development letters, generated by claims examiners, and are contained in OWCP's word processing software.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item A.2 above.**

The information requested in these collections is not duplicative of any information available elsewhere. The beneficiaries and their treating physicians are the only sources of the required information.

**5. If the collection information impacts small businesses or other small entities), describe any methods used to minimize burden.**

The information collections in OMB Control No. 1240-0002 have been streamlined to obtain the necessary information while imposing the minimum burden on the respondent. This information collection imposes a burden on individuals, rather than small businesses or other small entities. The Forms EE-7, EE-7A, EE-11A and EE-17B do not impose any additional burden on small businesses or other small entities since providing medical evidence is part of the medical providers' usual business practice. This information collection does not have a significant economic impact on a substantial number of small businesses.

**6. Describe the consequence of Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

If this information were not collected, or were collected less frequently, OWCP would be unable to properly provide benefits to

EEOICPA claimants. If benefits were paid in the absence of full information, there would be numerous incorrect payments.

**7. Explain any special circumstances required in the conduct of this information.**

There are no special circumstances for conducting this information collection.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.**

Comments concerning the information collection requirements being added to and moved in No. 1240-0002 in this revision are being solicited in a Federal Register notice published as part of the preamble to a rulemaking. Any comments received as a result of this notice will be addressed in the preamble to the Final rule.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payment or gift is provided to a respondent, other than compensation payments.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.**

The information collected by OMB Control No. 1240-0002 is fully protected under the Privacy Act in the system of records known as DOL/ESA-49.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary; the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions of a sensitive nature on these forms.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not make special surveys to obtain information on which to base burden estimates. Consultation with a sample of potential respondents is desirable. If the burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated burden and explain the reason for the variance. Generally, estimates should not include burden hours for customary and usual business practices. Provide estimates of the hour burden of the collection of information.**

The chart below shows the projected burden hours based on a total estimated number of initial claims filed annually of 8,625. Burden hour estimate have been derived from actual data for FY 2014.

<u>Require-</u> <u>ment</u>	<u>Time To</u> <u>Complete</u>	<u>Freq.</u> <u>of Resp.</u>	<u>Number of</u> <u>Respondents</u>	<u>Number of</u> <u>Responses</u>	<u>Hours</u> <u>Burden</u>
EE-1	17 min.	1	3884	3884	1100
EE-2	21 min.	1	4741	4741	1659
EE-3	60 min.	1	6071	6071	6071
EE-4	30 min.	1	1342	1342	671
EE-5A	30 min.	1	1144	1144	572
EE-5B	30 min.	20	294	5878	2939
EE-7	15 min.	1	6071	6071	1518
EE-7A	15 min.	1	452	452	113
EE-8	5 min.	1	785	785	65
EE-9	5 min.	1	1837	1837	153
EE-10	5 min.	1	5000	5000	417
EE-11A	15 min.	1	3767	3767	942
EE-11B	30 min.	1	520	520	260
EE-12	20 min.	1	9898	9898	3299
EE-13	16 hrs.	1	51	51	816
EE-16	20 min.	1	1837	1837	611
EE-17A	5 min.	1	3286	3286	274
EE-17B	30 min.	1	3286	3286	1643
EE-20	5 min.	1	<u>7475</u>	<u>7475</u>	<u>623</u>



TOTALS 61,741 67,325 23,746

The requirements have a total respondent burden hour estimate of 23,746. Using the February 2015 national average nonfarm private hourly wage of \$24.78 from the Bureau of Labor Statistics, the respondent cost estimate for these requirements is \$588,425.88 (23,746 x \$24.53 = \$588,425.88).

**13. Annual Costs to Respondents (capital/start-up & operation and maintenance).**

There are no recordkeeping or collection costs associated with the factual information collected on the EE-1, EE-2, EE-3, EE-4, EE-5A, EE-5B, EE-8, EE-9, EE-10, EE-11A, EE-12, EE-16, EE-17A or EE-20. Since the medical and factual information requested by the EE-7, EE-7A, EE-11A, EE-13 and EE-17B is kept as a usual and customary business practice, there is no additional recordkeeping or collection cost associated with those requirements. The only operation and maintenance cost for respondents in OMB Control No. 1240-0002 is for mailing. Since Forms EE-3 and/or EE-4 always accompany the Form EE-1 or Form EE-2, an estimated annual total of 60,583 mailed responses at \$.49 + \$.03 (postage + envelope) per response = \$31,503.16.

**14. Provide estimates of annualized cost to the Federal Government.**

Federal Cost Estimate:

Review Costs:

<u>Requirement</u>	<u>Time to Review</u>	<u>Total Responses</u>	<u>Reviewer (GS-11/4 Hourly*)</u>	<u>Cost</u>
EE-1	5 min.	3884	\$30.87	\$ 9,991.59
EE-2	5 min.	4741	\$30.87	\$ 12,196.22
EE-3	15 min.	6071	\$30.87	\$ 46,852.94
EE-4	15 min.	1342	\$30.87	\$ 10,356.89
EE-5A	10 min.	1144	\$30.87	\$ 5,885.88
EE-5B	10 min.	5878	\$30.87	\$ 30,242.31
EE-7	15 min.	6071	\$30.87	\$ 46,852.94
EE-7A	15 min.	452	\$30.87	\$ 3,488.31
EE-8	3 min.	785	\$30.87	\$ 1,211.65
EE-9	3 min.	1837	\$30.87	\$ 2,835.41
EE-10	5 min.	5000	\$30.87	\$ 12,862.50

EE-11A	10 min.	3767	\$30.87	\$ 19,381.22
EE-11B	10 min.	520	\$30.87	\$ 2,674.40
EE-12	5 min.	9898	\$30.87	\$ 25,462.61
EE-13	8 hrs.	51	\$30.87	\$ 12,594.96
EE-16	30 min.	1837	\$30.87	\$ 28,354.10
EE-17A	5 min.	3286	\$30.87	\$ 8,453.24
EE-17B	15 min.	3286	\$30.87	\$ 25,359.71
EE/EN-20	5 min.	7475	\$30.87	\$ 19,229.44

\*Using Salary Table 2015-RUS

Total number of responses (annually).....67,325  
Total time to review.....10,504.90 Hours  
Total Review Cost.....\$324,286.26  
Printing.....\$1,000.00  
Mailing (forms are submitted to the  
Federal government; there is potential  
Federal postage cost for EE-20).....\$3,887.00  
  
Total Federal Cost.....\$329,173.26

**15. Explain the reasons for any program changes or adjustments.**

There is an overall adjustment of +556 in burden hours due to a shift in the type of claims being adjudicated to those that require the submission of more information, and the new EE-17A and EE-17B; this increase has been offset by a reduction in the amount of burden hours for other requirements in Control No. 1240-0002. There has also been an increase in the operation and maintenance costs of +\$3,414, due to new responses and increased mailing costs, from \$28,089 to \$31,503.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection information, completion of report, publication dates, and other actions.**

Data collected with these forms will not be published.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The forms will display the OMB number and expiration date.

**18. Explain each exception to the certification statement in ROCIS.**

There are no exceptions to certification.