

**SUPPORTING STATEMENT FOR ENERGY EMPLOYEES OCCUPATIONAL
ILLNESS COMPENSATION PROGRAM ACT FORMS**

OMB CONTROL NO. 1240-0002

This ICR seeks to extend the previously approved collection in OMB No. 1240-0002.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and 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 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 regulations implementing EEOICPA 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, 30.403, 30.415, 30.416, 30.417, 30.505, 30.620, 30.807(b), 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.

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, using the regulatory citations of the new final regulations:

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 notifies claimant that additional information will be needed to support a claim for an additional award. Sent with either the EE/EN-11A or EE/EN-11B (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.” Also sent to claimant when the EE-10 is submitted to obtain the necessary medical evidence. (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.” Also sent to claimant when the EE-10 is submitted to obtain the necessary factual and medical evidence. (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, 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 fillable and are posted on the Internet at https://www.dol.gov/agencies/owcp/energy/regs/compliance/claim_forms. Claimants may choose to complete the form(s) online and print out a paper copy and mail it to OWCP. Alternatively, claimants may contact one of OWCP's Resource Centers by telephone, have the staff fill in the form(s) for them and mail it to them for submission, or they may choose to visit one of the Resource Centers in person and submit their form(s) directly. The current Form EE-7 is also posted on the Internet at the same URL, but has not been made fillable 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 fillable 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 claim 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 claimants and their treating physicians are the only sources of the required information.

5. If the collection of 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. The Forms EE-7, 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 to 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 that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**

- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

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. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection-of-information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Consultations with respondents who submit information were privately conducted to evaluate the appropriateness and ease of collecting the information. The vast majority of respondents were satisfied with the appropriateness and ease of this collection. Comments concerning the information collection requirements in No. 1240-0002 were also solicited from the public in a *Federal Register* notice published on October 13, 2021 (86 FR 56986). One comment with the following suggestions was received: (1) claimants should be able to submit the EE-1 and EE-2 through the Energy Document Portal rather than mailing them; (2) the EN-8 and EN-9 should be combined into a single response; and (3) the EE-10 is a waste of time and should be combined with the EE/EN-11A and EE/EN-11B into a single form posted on the agency website.

OWCP considered the comments, however, the first suggestion cannot be adopted because until a case is created in the agency's electronic system, there is no electronic case file into which the Energy Document Portal could file the EE-1 or EE-2. The second suggestion cannot be adopted because the EN-8 and EN-9 are sent to different claimant populations (those claiming for radiogenic lung cancer vs. those claiming for radiogenic skin cancer). And the third suggestion cannot be adopted because the EE-10 is used to claim for additional wage-loss or impairment

benefits, while the EE/EN-11A and EE/EN-11B are initial claims for those benefits, so combining them into a single form would likely result in even more respondent confusion. Also, these forms are not posted on the agency website because they are sent out by claims examiners at the appropriate stages in claim development, and posting them would result in their submission at incorrect points in that process.

9. Explain any decision to provide any payments 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, regulation, 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/OWCP-11.

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 conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. General, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information**

collection activities should not be included here. Instead, this cost should be included in Item 14.

Estimated Annualized Respondent Cost and Hour Burden

The chart below shows the projected burden hours based on a total estimated number of initial claims (Forms EE-1 and EE-2) filed annually of 7,929. Burden hour estimates below have been derived from data for FY2020.

<u>Requirement</u>	<u>Time To Complete</u>	<u>Frequency of Response</u>	<u>Number of Respondents</u>	<u>Number of Responses</u>	<u>Hours Burden</u>
EE-1	17 min.	1	3325	3325	942
EE-2	21 min.	1	4604	4604	1611
EE-3	60 min.	1	2494	2494	2494
EE-4	30 min.	1	1006	1006	503
EE-8	5 min.	1	405	405	34
EE-9	5 min.	1	1118	1118	93
EE-10	5 min.	1	1651	1651	138
EE-11A	15 min.	1	3288	3288	822
EE-11B	30 min.	1	670	670	335
EE-12	20 min.	1	9,253	9,253	3084
EE-16	20 min.	1	2877	2877	959
EE-17A	5 min.	1	2530	2530	211
EE-20	5 min.	1	4802	4802	400
EE-7	15 min.	1	3949	3949	987
EE-17B	30 min.	1	2530	2530	1265
EE-13	16 hrs.	1	51	51	816
EE-5A	30 min.	1	773	773	387
EE-5B	30 min.	2	1224	2448	1224
EE-7A	15 min.	1	277	277	69
TOTALS			46,827	48,051	16,374

The requirements have a total respondent burden hour estimate of 16,374. Using the August 2021 national average nonfarm private hourly wage of \$30.73 from the Bureau of Labor Statistics, the respondent cost estimate for these requirements is \$503,173.02 (16,374 x \$30.73 = \$503,173.02).

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a**

total operation and maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

There are no capital or start-up 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-11B, 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 are also no additional capital or start-up costs associated with those requirements. The only operation and maintenance cost for respondents in OMB Control No. 1240-0002 is for mailing costs for all forms. An estimated annual maximum of 44,553 mailed responses at \$.78 + \$.03 (first class postage and 1 additional ounce + envelope) per response = \$36,087.93 in mailing costs, rounded to \$36,088.

14. Provide estimates of the annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

Federal Cost Estimate:

Review Costs:

Time	Total	Reviewer (GS-11/4)
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<u>Requirement</u>	<u>to Review</u>	<u>Responses</u>	<u>Hourly*)</u>	<u>Cost</u>
EE-1	5 min.	3325	\$34.08	\$9,443.00
EE-2	5 min.	4604	\$34.08	\$13,075.36
EE-3	15 min.	2494	\$34.08	\$21,248.88
EE-4	15 min.	1006	\$34.08	\$8,571.12
EE-5A	10 min.	773	\$34.08	\$4,390.64
EE-5B	10 min.	2448	\$34.08	\$13,904.64
EE-7	15 min.	3949	\$34.08	\$33,645.48
EE-7A	15 min.	277	\$34.08	\$2,360.04
EE-8	3 min.	405	\$34.08	\$690.12
EE-9	3 min.	1118	\$34.08	\$1,905.07
EE-10	5 min.	1651	\$34.08	\$4,688.84
EE-11A	10 min.	3288	\$34.08	\$18,675.84
EE-11B	10 min.	670	\$34.08	\$3,805.60
EE-12	5 min.	9,253	\$34.08	\$26,278.52
EE-13	8 hrs.	51	\$34.08	\$13,904.64
EE-16	30 min.	2877	\$34.08	\$49,024.08
EE-17A	5 min.	2530	\$34.08	\$7,185.20
EE-17B	15 min.	2530	\$34.08	\$21,555.60
EE/EN-20	5 min.	4802	\$34.08	\$13,637.68

*Using Salary Table 2021-RUS

Total number of responses (annually).....	48,051
Total time to review.....	7,863.57 Hours
Total Review Cost.....	\$267,990.35
Printing.....	\$1,000.00
Mailing (forms are submitted to the Federal government; there is potential Federal postage cost for EE-20).....	\$3,889.62
Total Federal Cost.....	\$272,879.97

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

There is an overall adjustment of -3418 in burden hours due to a decrease in the number of initial claims being adjudicated (-12,243 fewer responses). There has also been a slight increase in the operation and maintenance costs of +\$3,752, due to the increased postage cost of mailed responses.

16. For collections of information whose results will be published, outline plans for tabulations, 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 of 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.

There are no exceptions to certification.