



RELEASE - PART 2-1400 WAGE-LOSS DETERMINATIONS, FEDERAL
(EEOICPA) PROCEDURE MANUAL

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EXPLANATION OF MATERIAL TRANSMITTED:

This material is issued as procedural guidance to update, revise and replace the text of EEOICPA Part E Procedure Manual (PM) E-800 Wage-Loss Determinations. This material is to be placed in the new Unified PM binder and is intended to stand as policy guidance for both Parts of the EEOICPA.

- This material streamlines the wage-loss determination process by conferring authority to obtain Social Security wage and earning data from the Social Security Administration to the District Offices.
- This material explains the role of the Resource Centers in educating and soliciting wage-loss claims from claimants.
- This material provides new letters for use by Claims Examiners (CEs) in developing wage-loss claims. It also simplifies the Wage-Loss Worksheets in calculating the Average Annual Wage and determining the percentage of wage-loss and award amount.
- This material explains the Wage-Loss Calculator in ECMS and its preferred role in calculating wage-loss benefits.

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FILING INSTRUCTIONS:

File this transmittal behind Part 1 in the front of the new Unified Federal (EEOICPA) Procedure Manual.

Distribution: List No. 3: All DEEOIC Employees
List No. 6: Regional Directors, District Directors, Assistant District Directors, National Office Staff, and Resource Center Staff.

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1. Purpose and Scope. This chapter contains the procedures to solicit, develop, calculate, and issue wage-loss determinations under Part E of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). This chapter also describes some relevant terminology and definitions. The Claims Examiner (CE) determines whether a claim for wage-loss, as a result of a covered illness contracted through work related exposure to a toxic substance at a Department of Energy (DOE) facility or Radiation Exposure Compensation Act (RECA) section 5 facility, needs to be solicited for a covered Part E employee or survivor claim. If claimed, the CE develops for the necessary wage and medical evidence, calculates the amount of compensable wage-loss and issues a recommended decision for Final Adjudication Branch (FAB) review and issuance of a final decision.

2. Policy. Division of Energy Employees Occupational Illness Compensation (DEEOIC) staff is responsible for processing wage-loss determinations and ensuring that benefits are appropriately paid as defined under 42 U.S.C. §7385s, §7385s-1, §7385s-2(a)(2), §7385s-3, §7385s-5, § 7385s-11, and §7385s-12.

3. Definitions.

a. Average Annual Wage (AAW) refers to four (4) times the average quarterly wages for the twelve (12) quarters that preceded the quarter during which the covered Part E employee first experienced wage-loss due to a covered illness that was caused by exposure to a toxic substance at a DOE facility or RECA section 5 facility, excluding any quarter during which the employee was unemployed. (See subparagraph f below). The calculated AAW is the baseline wage against which the CE measures a subsequent calendar year wage earned by a covered Part E employee.

b. A calendar year is defined as the twelve-month period from January through December.

c. The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. The CPI is the most widely used measure of inflation. The CPI is often used to adjust benefit payments (for example, Social Security and Federal Employee Compensation Act payments) and income eligibility levels for government assistance, and to automatically provide cost-of-living wage adjustments.

d. Normal Social Security Retirement Age is the age at which an employee receives unreduced Social Security retirement benefits. This age varies by date of birth and is set by §216(1) of the Social Security Act, 42 U.S.C. §416(1).

In general, persons born during or before 1937 are eligible for unreduced Social Security retirement benefits at age 65. The eligibility age increases in two-month increments for persons born between 1937 and 1960 until it reaches 67, which is the age at which persons born during or after 1960 become eligible for unreduced Social Security retirement benefits. (See Exhibit 1)

To determine the normal Social Security retirement age for a covered Part E employee, the CE may also use the Social Security Administration website <http://www.socialsecurity.gov/OACT/ProgData/nra.html>.

e. A quarter is defined as the three-month period of January through March, April through June, July through September, or October through December.

f. A quarter during which the employee was unemployed (for purposes of determining AAW) is a quarter during which \$700 (in constant 2005 dollars) or less in wages were earned by the covered Part E employee, unless the quarter is one where the employee was retired. If the CE determines that the adjusted value is \$700 or less, then the employee is considered to have been unemployed during that quarter and it will not be included in the calculation of the AAW.

g. A quarter during which the employee was employed (for purposes of determining AAW) is a quarter in which the adjusted value of the employee's wages for the quarter exceeds \$700 in constant 2005 dollar values. For example, \$700.01 in adjusted value is considered to be a quarter of employment. A quarter in which the employee was employed will be included in the AAW calculation.

h. A year of wage-loss is defined as a calendar year in which the covered Part E employee's wages were less than the employee's AAW, as a result of the covered illness that is due to the covered Part E employee's exposure to a toxic substance at a covered facility. Prior to making this finding, the CE adjusts the yearly wages for inflation to

determine their values during the calendar year in which the covered Part E employee first experienced wage-loss due to a covered illness.

4. General Requirements for Wage-Loss. Wage-loss determinations are based upon the calendar years of wage-loss occurring up to and including either the calendar year the employee reaches normal Social Security retirement age or the last calendar year of wage-loss prior to the submission of the wage-loss claim, whichever occurs first.

a. Criteria to Establish a Claim for Wage-Loss:

- (1) Covered Part E Employee. The employee is, or was, an employee of a covered DOE contractor or subcontractor; and
- (2) Covered Illness. The employee developed a covered illness as a result of exposure to a toxic substance at a covered DOE facility or RECA section 5 facility; and
- (3) Documented Wage-Loss. The employee experienced wage-loss as a result of the covered illness prior to his or her normal Social Security retirement age.

b. Instances When Wage-Loss Is Not Developed:

- (1) The employee is not a covered Part E employee if he or she worked for an atomic weapons employer or for a beryllium vendor (unless the employee was employed during a period in which the facility was designated as a DOE facility for remediation and the employee was employed by a remediation contractor).
- (2) The covered Part E employee experiences wage-loss (as a result of contracting a covered illness) only after his or her normal Social Security retirement age.
- (3) The covered Part E employee dies no more than 10 years before his or her normal Social Security retirement age and does not experience any wage-loss prior to his or her death (for survivor claims).

5. How to Claim Wage-Loss. The Resource Centers (RCs) and the district offices (DOs) solicit wage-loss claims from claimants who are potentially eligible for wage-loss benefits.

a. RCs' Role: RCs engage in outreach efforts and educate employees on the requirements for filing and obtaining wage-loss benefits. The RCs also assist employees with the submission of their wage-loss claims.

(1) When a final decision is issued to a living employee with a positive causation determination under Part E, the FAB sends a copy of the final decision to the designated RC. This is done only in situations where there is no indication that a claim has already been made for wage-loss. Final decisions that pertain strictly to survivors of a deceased employee are not referred to the RC, but instead processed as described in subparagraph b below.

(2) Upon receipt of the final decision, the RC calls the employee to provide information about the potential wage-loss benefits available, explains eligibility requirements or program procedures, and responds to any questions. The RC then memorializes the telephone call in the Telephone Management System (TMS) section of ECMS and forwards a printout to the appropriate DO or Co-Located Unit (CE2) for association with the case file.

b. District Offices' Role. In conjunction with the RCs' outreach of the employee as mentioned in paragraph 6a above, the CE sends initial wage-loss solicitation letter (Exhibit 2) to the claimant (employee or potentially eligible survivor).

(1) Timeframe. This solicitation letter is sent after issuance of a final decision to accept under Part E.

(2) Explanation. The letter explains the criteria to establish wage-loss.

(3) Request for Wage-Loss Claim. The letter requests that the claimant advise DEEOIC in writing if claiming wage-loss, identify the condition(s) for which he or she is claiming wage-loss, and provide the

dates (month and year) of claimed wage-loss. Evidence of 12 quarter wages prior to the first quarter of claimed wage-loss is also required. An SSA Form 581 (Authorization to Obtain Earnings Data from the Social Security Administration) is enclosed with the solicitation letter. Additional factual employment evidence that supports the claimed wage-loss is also requested, along with medical evidence supporting a causal relationship between the covered illness and the wage-loss claimed.

(4) Follow-up Solicitation Letter. The claimant is allotted 60 days to respond to the initial solicitation letter with a follow-up solicitation letter (Exhibit 3) sent to the claimant at the first 30 day interval. Prior to mailing the follow-up solicitation letter, the CE calls the claimant to ensure the receipt of the initial solicitation letter and determines if the claimant wants to file a wage-loss claim.

(5) Final Solicitation Letter. If a written response to initiate a claim for wage-loss is not received within 30 days of the follow-up solicitation letter or if the claimant informs the CE that he or she does not want to pursue a claim for wage-loss, the CE sends a letter to the claimant advising that DEEOIC will not develop the claim for wage-loss at this time (Exhibit 4). The CE also advises the claimant of his or her right to claim wage-loss in the future.

6. Development of Wage-Loss Claims. Upon receipt of a signed statement claiming wage-loss, the CE determines if there is sufficient medical and wage evidence to develop for wage-loss. If not, the CE sends a letter requesting the required evidence from the claimant. If there is no response within 30 days, the CE sends a follow-up letter to the claimant. Prior to mailing the follow-up letter, the CE contacts the claimant by telephone to assist the claimant with obtaining the required evidence. If the claimant does not submit the necessary evidence within the allotted 60 days from the first development letter, the CE may proceed by issuing a recommended decision to deny the claim for wage-loss benefits.

7. Medical Evidence to Establish Wage-Loss. The claimant is required to submit medical evidence that is of sufficient

probative value to establish that the period of wage-loss claimed is causally related to the covered Part E employee's covered illness.

There are instances when the medical evidence shows multiple conditions contributing to the wage-loss. As long as the evidence establishes that any covered illness contributed to the employee's wage-loss, then the medical evidence is sufficient to prove causal relationship.

An acceptance of Social Security Disability benefits alone is not sufficient evidence to establish a causal relationship, unless accompanied by supporting medical evidence.

If a secondary cancer is the accepted covered illness but the primary is not accepted (e.g., secondary bone cancer is accepted but the primary prostate cancer is not accepted), the medical evidence needs to support that the wage-loss is causally related to the secondary cancer, because the causation requirement has not been met for the primary cancer.

The CE develops the case for a causal relationship between the claimed years of wage-loss and the covered Part E employee's covered illness by requesting medical evidence from the claimant and/or medical provider. Medical evidence can include the following:

- a. Narrative Report from a Physician. A physician's narrative report needs to explain the causal relationship between the covered illness and the period(s) of wage-loss and reference medical evidence that is contemporaneous to the claimed period(s) of wage-loss. A narrative report that is based solely on the physician's expectations is not considered sufficient evidence of probative value.
- b. Return to Work Slips Signed by a Physician.
- c. Physician's Office Notes. Physician notes that indicate the covered Part E employee had stopped working, reduced his work hours or missed work due to the covered illness.
- d. District Medical Consultant (DMC) Opinion. The CE must use discretion when determining if a DMC referral is warranted. A referral to a DMC is not required when the wage evidence supports that the employee's adjusted wages

is greater than 75% of his or her AAW. Additionally, the CE does not refer to a DMC if the claimant and/or treating physician have not been contacted first for the requisite medical information.

The CE may request the opinion of a DMC on causal relationship between the covered illness and wage-loss if the evidence is inconclusive. The DMC may also provide an opinion regarding the period of illness-related wage-loss. In most instances, wage-loss questions are best handled by a DMC who specializes in occupational medicine. In the DMC referral, the CE must specify the period of wage-loss in question and the accepted covered illness. The DMC must be instructed to provide a detailed rationale for his or her opinion.

Example of a wage-loss question to DMC: Please review the case records to determine if the employee's wage-loss for the period from June 1975 to August 1999 is causally related to the accepted illness of asbestosis. If the available medical evidence is insufficient to make a wage-loss determination for a certain period, please indicate the dates. Please provide your rationale to support your conclusion.

Procedures for referring a case to a DMC and "Prompt Pay" of DMC bills can be found in EEOICPA Procedure Manual (PM) Chapter 2-0300 and will be in the new EEOICPA PM 2-0800 Developing and Weighing Medical Evidence.

8. Wage Evidence Required to Establish Wage-Loss. Wages are defined as all monetary payments that the covered Part E employee earns from employment or services that are taxed as income by the Internal Revenue Service. Salaries, overtime compensation, sick leave, vacation leave, tips, and bonuses received for employment services are considered wages. However, capital gains, IRA distributions, pensions, annuities, unemployment compensation, state workers' compensation benefits, medical retirement benefits, and Social Security benefits are not considered wages. The CE obtains evidence of the employee's wages for the calendar year(s) during the claimed period(s) of wage-loss and for the 12 quarters immediately preceding the first quarter of claimed wage-loss. These 12 quarters wages immediately preceding the first quarter of claimed wage-loss are used to determine the AAW. (See paragraph 9)

The CE generally relies upon the earnings information that has been reported to the Social Security Administration (SSA), but can also rely upon additional wage information submitted by the claimant.

a. SSA earnings records are received from the claimant if available or the CE submits a signed Form SSA-581 (see Exhibit 5) from the claimant to SSA to gather this information.

(1) RC staff are responsible for obtaining a completed SSA-581 from all employees and from clearly eligible survivors at the time the employee or survivor completes or submits his or her claim form at the RC in person. Each DO has an office specific form indicating where SSA must send the results of the inquiry. The SSA-581 forms for each office are located on the Share Drive in the Policies and Procedures folder, Forms subfolder.

(2) If the RC does not obtain a signed SSA-581, or if a claim (EE-1 or EE-2) is submitted directly to the DO or mailed to the RC, the CE should send an SSA-581 to the claimant, if it is needed for employment verification and/or determination of wage-loss.

(3) To be processed by SSA, a signed SSA-581 must be dated no earlier than 60 days from the date of submission to the SSA. If the timeframe between the signature date of the SSA-581 and submission to SSA exceeds sixty (60) days, the CE or RC staff will need to obtain a new, signed and dated SSA-581.

(4) Whenever subsequent development is undertaken with regard to employment verification, a request should be made to the claimant to complete a SSA-581 form, if pertinent wage and earning documentation is not present in the case record. A claimant should be advised that completion of the SSA-581 is a crucial part of the employment verification and/or wage-loss process and that their signature on the SSA-581 is only valid for sixty (60) days.

The information required on the SSA-581 form depends on the type of request. In a development letter, the CE advises the claimant of the information needed on

the SSA-581:

(a) **Employee Claims:** The employee, authorized representative, CE or the RC staff is to complete the following section of the SSA-581: name of employee; social security number; date of birth of employee; and other name(s) used. The employee or the authorized representative will fill-in the employee's address/daytime telephone number, and date the form was signed. The employee or the authorized representative must sign the SSA-581 and print his or her name.

(b) **Survivor Claims:** The survivor, CE or the RC staff is to complete the following sections of the SSA-581 form: name of social security number holder (employee); employee's social security number; date of employee's birth; date of employee's death; and other name(s) used. The survivor will fill-in the survivor's address/daytime telephone number; indicate the appropriate box to show relationship; add the date signed; sign the form; and print his or her name in the requested space.

The CE or the RC staff explain that the survivor must provide proof of the employee's death and his or her relationship to the employee. Proof of death includes: a copy of the death certificate, mortuary or interment record, or court issued document. Proof of relationship includes: marriage certificate, birth certificate, adoption papers, or other court issued document(s). SSA requires that these documents be submitted in order to process requests from survivors.

(5) Once the claimant returns the signed SSA-581 document and any accompanying documents, the CE or RC staff complete the following sections:

(a) The CE or RC staff fill in the years deemed necessary to verify employment and/or establish wage-loss on the "Periods Requested" line. The CE or RC staff is to identify the time period for employment history by searching the Energy Case

Management System (ECMS), the records in the case file, wage-loss claims, or other documents or forms in the file.

In the box titled, "Requesting Organization's Information," the CE or RC staff sign in the section, "Signature of Organization Official" as well as provide the district office toll free telephone number and fax number.

(b) The CE or RC staff ensure that the upper right hand corner of the form allocated for "Requesting Organization:" indicates the correct district office where the SSA's response should be sent.

(6) The original (signed) SSA-581, and supporting documents (if the request is submitted by a survivor) must be submitted via Federal Express to the SSA, Wilkes Barre Data Operations Center (WBDOC), at the following address:

The Social Security Administration
Wilkes Barre Data Operations Center
PO Box 1040
Wilkes Barre, PA 18767-1040

The CE updates the case status screen in ECMS and date stamp the forms at the time that the form is sent to SSA. This date serves as the status effective date. A copy of the form is retained in the case file.

(7) Following submission of a Form SSA-581, the CE or someone designated by the District Director, is responsible for determining if SSA has received the earnings request (Form SSA-581) and for obtaining a status update on the employment verification request.

(a) If there has been no response from SSA within thirty (30) calendar days of the date of the submission to SSA, the CE calls for status update. The telephone call is documented in the TMS section of ECMS and a printed copy placed in the case. If SSA indicates that no SSA-581 form has been received, the CE must resubmit the form.

Otherwise, the CE obtains the status and monitors for further follow-up.

(b) Inquiries to SSA are made by calling one of ten phone numbers (Modules) depending on the last four digits of the relevant employee's Social Security number (Exhibit 6).

(c) If the CE does not receive a completed SSA-L460 within thirty (30) days of the first inquiry call to SSA (the 60th day), the CE makes another follow-up call to determine the status of the request and proceeds as necessary. At this point, it will be necessary to obtain a newly signed SSA-581 from the claimant and resubmit the SSA-581 to SSA as outlined above.

(8) After the completed SSA-581 form is sent, and a copy is placed in the case file, a SSA Point of Contact (POC) designated by the District Director ensures that the form is logged into a tracking spreadsheet. The spreadsheet should contain, at minimum, the case number, date sent to SSA, and cost of the request.

(a) DO determines the cost of the request according to the number of years for which information is sought. Form SSA-7050-F4 (Request for Social Security Earnings Information, available on the SSA website at <http://www.ssa.gov/online/ssa-7050.pdf>) identifies the cost by the number of years requested. For example, if one (1) year of earnings information is requested, the cost is \$15.00. The cost increases incrementally by year, up until forty (40) years of requested employment. For each year after forty (40) years, add \$1.00 for each year.

(9) At the end of each quarter, the DOL National Office SSA POC obtains the SSA-581 submission logs maintained in each DO and sample the contents to properly evaluate contract outlays.

(10) Upon receipt of a completed SSA-L460, the CE updates the case status screen in ECMS. The designated

employee confirms that the years received by SSA equals the years used to determine the cost. If there is a discrepancy, the DO SSA POC must contact SSA immediately to rectify the issue.

b. Tax Returns and W2 Forms provide proof of the covered employee's wages in instances where the employer did not report accurate and/or complete earnings to SSA or when the covered Part E employee worked for an employer where there was no reporting of income to SSA. If a W2 Form is submitted, the claimant must also submit an affidavit attesting that he or she has submitted all W2 Forms for that calendar year;

c. Pay Stubs that provide proof of the employee's wages;

d. Union records that provide proof of the employee's wages;

e. Pension records that provide proof of the employee's wages; and

f. Document Acquisition Request (DAR) for Pay and Salary Records that provide an employee's pay, salary, any workers' compensation claim or other documents affecting wage. Examples of records from the DOE database include, but are not limited to, Official Personnel Files of Contractor Employees, Contractor Job Classification, Employee Awards Files, Notification of Personnel Actions, Classification Appraisals, Wage Survey Files, and Unemployment Compensation Records.

9. Calculation of Average Annual Wage (AAW). The AAW is the baseline wage against which the CE measures each claimed year of wage-loss to determine wage-loss percentage. To calculate the AAW, the CE adds up the wages from the quarters (up to 12 quarters) immediately prior to, but not including, the quarter where the covered Part E employee first experiences wage-loss due to a covered illness. The CE must exclude the wages from any quarter during which the employee was unemployed (See paragraph 3f). The sum of the total wages must be divided by the number of quarters included in the sum to get the average quarterly wage. The CE then multiplies the average quarterly wage by four (4) to determine the AAW.

Part 2 - Claims

Wage-Loss Determinations

To determine if a quarter must be excluded because the employee was unemployed, the CE must determine if the employee earned \$700 or less in constant 2005 dollars for that quarter. The following chart provides the value of \$700 in constant 2005 dollars from the years of 1942 through 2008.

1942	1943	1944	1945	1946	1947	1948	1949
\$58.66	\$62.26	\$63.34	\$64.78	\$70.18	\$80.26	\$86.74	\$85.66

1950	1951	1952	1953	1954	1955	1956	1957
\$86.74	\$93.57	\$95.37	\$96.09	\$96.81	\$96.45	\$97.89	\$101.13

1958	1959	1960	1961	1962	1963	1964	1965
\$104.01	\$104.73	\$106.53	\$107.61	\$108.69	\$110.13	\$111.57	\$113.37

1966	1967	1968	1969	1970	1971	1972	1973
\$116.61	\$120.21	\$125.24	\$132.08	\$139.64	\$145.76	\$150.44	\$159.79

1974	1975	1976	1977	1978	1979	1980	1981
\$177.43	\$193.62	\$204.78	\$218.10	\$234.65	\$261.29	\$296.56	\$327.15

1982	1983	1984	1985	1986	1987	1988	1989
\$347.30	\$358.46	\$373.93	\$387.25	\$394.45	\$408.84	\$425.76	\$446.27

1990	1991	1992	1993	1994	1995	1996	1997
\$470.39	\$490.18	\$504.94	\$520.05	\$533.37	\$548.48	\$564.68	\$577.63

1998	1999	2000	2001	2002	2003	2004	2005
\$586.63	\$599.59	\$619.74	\$637.38	\$647.46	\$662.21	\$679.85	\$700.00

2006	2007	2008
\$722.58	\$743.16	\$771.70

The CE may also calculate the dollar value of any wages for any given year to reflect their value (buying power/worth) to 2005 dollars by using the CPI Inflation Calculator on the Bureau of Labor Statistics' website

http://www.bls.gov/data/inflation_calculator.htm.

Example: If the evidence indicates the employee earned \$100 in a quarter of employment in 1963, the CE, using the CPI Inflation Calculator, determines that \$100 in 1963 has the same adjusted value as \$638.24 in 2005 dollars. Since the adjusted value of \$638.24 is less than \$700 in constant 2005 dollars, the CE considers the employee to have been

unemployed for that quarter and that quarter is excluded in the calculation of the AAW.

If a covered employee is unemployed for three quarters during the AAW period; the CE adds the wages from the nine (9) quarters of employment (excluding the wages from the three quarters of unemployment) and divides by nine (9) rather than twelve (12) to get the average quarterly wages. The CE then multiplies the average quarterly wages by four (4) to obtain the AAW. (See Exhibit 7 for Wage-Loss Worksheet #1, Calculate Average Annual Wage)

a. Retirement. If a covered Part E employee is retired prior to his or her normal Social Security retirement age, he or she is not considered unemployed under Part E. Even though the retired employee has no wages reported to SSA, this time period is not excluded from the calculation of the AAW. The CE determines that the AAW of the employee is \$0 if he or she was retired (prior to his or her normal Social Security retirement age) during the entire twelve (12) quarters immediately preceding the quarter during which he or she first experienced wage loss due to a covered illness.

If the employee earned wages during any of the 12 quarters and then retired before the end of the 12 quarters, those earned wages are included in the AAW calculation.

Example: If the covered employee earned no wages for two quarters during the AAW period due to retirement, the CE adds the covered employee wages for the 12 quarters including the two quarters of retirement and divides the sum by twelve (12) to get the average quarterly wages. The CE then multiplies the average quarterly wages by four (4) to obtain the AAW.

b. Maximum Amount of Taxable Earnings. If the employee's earnings meet SSA's maximum amount of taxable earnings for that year, those earnings that exceed the maximum limit are not reflected in the SSA statement. The CE can find the maximum amount of taxable earnings under the SSA for a specific year at the SSA website:

<http://www.ssa.gov/OACT/COLA/cbb.html>.

(1) Multiple Employers. For any year in which the covered Part E employee is employed by multiple

employers, according to SSA, each of the employers withholds Social Security taxes on the wages without regard to what the other employers may have withheld. Therefore, the covered Part E employee can potentially meet the maximum amount of taxable earnings under SSA from each employer for the same year in question.

To determine if any additional wages may have been unaccounted for in the SSA earnings summary, the CE contacts the claimant by telephone and requests evidence to support additional wages (see paragraph 8 for different types of wage evidence). The CE must memorialize the claimant's response in the TMS section of ECMS. The CE follows up with a letter notifying the claimant of the earnings information included in the SSA earnings summary for the applicable year(s). The letter requests that the claimant submit evidence of wages that may have been unaccounted for as a result of reaching the maximum amount of taxable earnings under the SSA. If the claimant does not submit additional evidence within 30 days of the letter, the CE uses the earnings summary information as reported by the SSA.

c. Additional Wages. If there is evidence of wages based on records other than SSA, the CE adds any additional wages earned by the employee during those same quarters as supported by the submitted evidence.

d. Annual SSA Earnings Report. In the late 1970's, SSA began reporting yearly earnings summary instead of quarterly earnings summary. In instances when only a detailed SSA yearly earnings summary is available, the CE divides the yearly earnings by 4 (representing 4 quarters in a year) to estimate the quarterly earnings for each year.

10. Determination of Wage-Loss Percentage. The CE compares the AAW of a covered Part E employee with his or her adjusted (for inflation) wages in later calendar years to determine the wage-loss percentage. The CE begins with the calendar year that includes the quarter in which the claimed wage-loss commenced, and concludes with the last calendar year of claimed wage-loss, the calendar year in which the employee reached normal Social Security retirement age or the calendar year in which the employee would have reached his normal Social Security retirement age but for his covered illness related death.

a. Adjustment of Wages for Inflation. Wages must be adjusted for inflation for each calendar year that wage-loss is claimed. The wages are adjusted for inflation to reflect the value (buy power/worth) during the calendar year in which the covered Part E employee first experienced wage-loss due to a covered illness. The CE can perform this calculation by using the CPI Inflation Calculator on the Bureau of Labor Statistics' website http://www.bls.gov/data/inflation_calculator.htm.

Example: The employee claims wage-loss first commencing in 1993 and ending in 2002 when the employee reaches normal Social Security retirement age. The CE must adjust the yearly wages for inflation to reflect the value of the wages for the calendar year in which the wage-loss first commenced (which in this example is 1993). If the employee earned \$38,000 in 1995, this wage is adjusted for inflation using the CPI Inflation Calculator to \$36,030.20 to reflect the value in 1993 dollars. (See Exhibit 8 for Wage-Loss Worksheet #2, Adjust Wage for Each Year of Claimed Wage-Loss)

b. Comparison with the AAW. The CE compares the AAW of the covered Part E employee with his or her adjusted wages in later calendar years to ascertain the wage-loss percentage for each claimed year of wage-loss. For example, \$36,030.20 (Adjusted Wage) ÷ \$46,000 (AAW) = 78% (Wage-Loss Percentage). (See Exhibit 9 for Wage-Loss Worksheet #3, Determine Percentage of Wage-Loss and Award Amount).

11. Employee Wage-Loss Compensation. The CE uses the wage-loss percentage to determine the amount of the employee's wage-loss compensation.

a. If the employee's adjusted wages during a claimed calendar year is greater than 75% ($X > 75\%$) of his or her AAW, then the employee is not considered to have wage-loss for that calendar year and the employee is not awarded wage-loss benefits for that calendar year.

Example #1:	AAW	= \$46,000
	Adjusted wages	= \$36,030.20
	Percentage of AAW	= 78%

EEOICPA. If the survivor is found to be entitled to survivor benefits, he or she may also be entitled to additional compensation for wages lost by the employee as a result of the covered illness. The CE undertakes the same medical and employment development and AAW calculation as if the employee had filed a claim. The difference is that the monetary benefit provided to a survivor is limited to an additional \$25,000 or \$50,000 based on the number of years in which the employee's adjusted wages during a claimed calendar year is equal to or less than 50% ($X \leq 50\%$) of his or her AAW.

a. Percentage of Loss: If the covered Part E employee dies as a result of the covered illness prior to his or her normal Social Security retirement age, the CE performs the same inflation adjustment calculation as an employee claim for each calendar year of wage-loss claimed through and including the calendar year of death to determine the percentage of loss.

For the years after the employee's death, the CE assumes that the employee had no wages and therefore the adjusted wages were less than or equal to 50% of the AAW for each year after the year of the employee's death up to and including the calendar year of his or her normal Social Security retirement age.

In some instances, the employee may have lost wages due to a covered illness prior to his or her death. In this situation, the CE calculates the period of wage-loss (prior to and including the calendar year of the employee's death) and adds any calendar years in which adjusted wages were less than or equal to 50% of the employee's AAW to the number of calendar years after the year of the employee's death up to and including the calendar year of his or her normal Social Security retirement age (based on the assumption that the employee did not earn any wages after his or her death) in order to determine the survivor's entitlement.

(1) \$25,000 Award. For the survivor to be awarded an additional \$25,000, the employee must have 10 to 19 years in which the employee's adjusted wage is equal to or less than 50% ($X \leq 50\%$) of his or her AAW.

(2) \$50,000 Award. For the survivor to be awarded an additional \$50,000, the employee must have 20 or more

years in which the employee's adjusted wage is equal to or less than 50% of his or her AAW.

b. Survivor Election. If a covered Part E employee dies after submitting a wage-loss claim but before compensation is paid and death is caused solely by a non-covered illness or illnesses, the survivor may elect to receive the compensation that would have been payable to the employee, including wage-loss and/or impairment.

13. Maximum Aggregate Compensation. The amount of monetary compensation provided under Part E (impairment and wage-loss compensation), excluding medical benefits, cannot exceed \$250,000. The CE considers any previous compensation awarded under Part E for impairment and/or wage-loss to determine if a subsequent award needs to be reduced to ensure that it does not exceed the \$250,000 maximum aggregate compensation. In determining the aggregate compensation, reduction of compensation based on state workers' compensation coordination or tort offset is not taken into consideration. For example, if the employee was previously awarded benefits for impairment in the amount of \$100,000 but his compensation was reduced because of tort offset to \$60,000, the amount of compensation used to determine the maximum aggregate compensation is \$100,000.

14. Wage-Loss Calculator. The Wage-Loss Calculator in ECMS is an instrumental tool and the preferred method to calculate wage-loss benefits. The CE enters the employee's wages for all claimed years of wage-loss and the twelve (12) quarters immediately prior to the first quarter of experienced wage-loss into the Wage-Loss Calculator. The Wage-Loss Calculator will calculate the twelve (12) quarterly wages immediately prior to the first quarter of experienced wage-loss into 2005 dollar value. The CE must designate any quarter that is below the \$700 in constant 2005 dollar threshold as either unemployed or retired quarters (See paragraph 9 above) before the Wage-Loss Calculator determines the AAW. The Wage-Loss Calculator adjusts for inflation the annual wages for each calendar year that wage-loss is claimed and compares the adjusted wages with the AAW to determine the percentage of loss. The Wage-Loss Calculator calculates the wage-loss compensation that is payable. Detailed instructions on the use of the Wage-Loss Calculator are located on the National Office Shared Drive.

15. Recommended Decisions and Final Decisions. The CE first determines if the employee contracted a covered illness due to

exposure to a toxic substance at a DOE facility or RECA section 5 facility prior to making a determination on wage-loss. The CE can develop for the wage-loss simultaneously with the development of other aspects of the case, but this development should not delay the issuance of a recommended decision to award medical or impairment benefits. If a Part E claimant files a signed statement requesting wage-loss, CE must develop the wage-loss claim and issue a recommended decision for potential wage-loss benefits. If the claimant formally files a claim for wage-loss and then subsequently submits a signed written request to withdraw the wage-loss claim, a recommended decision on wage-loss benefits is not required.

Prior to the issuance of a recommended decision that deals with wage-loss benefits, it is important that either the Part E Wage-Loss Worksheets are completed or the Wage-Loss Calculator in ECMS has been used, and printouts of the calculation are placed in the case file. The recommended decision must include a discussion of the figures used to come to a wage-loss decision. Wage-loss calculations must be clearly explained so that a claimant may request a hearing if he or she disagrees.

The FAB Representative must evaluate the figures and calculations used by the CE. Printouts of the calculation performed by the FAB Representative are placed in the case file. If the FAB Representative cannot determine the basis for a wage-loss calculation made by the CE in a recommended decision the case file may be remanded.

16. Additional Filings for Wage-Loss Compensation. A covered Part E employee who has been previously awarded compensation for wage-loss may file a Form EE-10 for subsequent calendar years of wage-loss. The covered Part E employee may file a Form EE-10 on a yearly basis, or for an aggregate of calendar years in which wage-loss is alleged. The EE-10 must be supported by sufficient employment and medical evidence to establish that the claimant is entitled to additional wage-loss benefits.

- a. The RCs maintain a list of employees that have received wage-loss awards. When one year following issuance of the last wage-loss award has elapsed, the RC contacts the employee to determine if he or she wishes to claim an additional year of wage-loss.

Normal Social Security Retirement Age Table

Normal retirement age is the age at which an employee may receive unreduced Social Security retirement benefits. This age varies by date of birth and is set by section 216(1) of the Social Security Act, 42 U.S.C. 416(1). In general, persons born during or before 1937 are eligible for unreduced Old Age, Survivors, and Disability Insurance (OASDI) (i.e. Social Security) retirement benefits at age 65. The eligibility age increases in two-month increments for persons born between 1937 and 1960 until it reaches 67, which is the age at which persons born during or after 1960 become eligible for unreduced OASDI retirement benefits.

- The normal retirement age is age 65 for a covered Part E employee born on 1/1/38 or earlier.
- For a covered Part E employee born on 1/2/38 or later, please refer to the chart below for the normal retirement age respectively:

If the Birth Date is...	The Normal Retirement Age is...
1/2/38 thru 1/1/39	65 years and 2 months
1/2/39 thru 1/1/40	65 years and 4 months
1/2/40 thru 1/1/41	65 years and 6 months
1/2/41 thru 1/1/42	65 years and 8 months
1/2/42 thru 1/1/43	65 years and 10 months
1/2/43 thru 1/1/55	66 years
1/2/55 thru 1/1/56	66 years and 2 months
1/2/56 thru 1/1/57	66 years and 4 months
1/2/57 thru 1/1/58	66 years and 6 months
1/2/58 thru 1/1/59	66 years and 8 months
1/2/59 thru 1/1/60	66 years and 10 months
1/2/60 and later	67 years

INITIAL SOLICITATION LETTER

U.S. Department of Labor

Employment Standards Administration
 Office Of Workers' Compensation Programs
 Division of Energy Employees' Compensation
 DO Address
 City, State Zip
 Phone: (xxx) xxx-xxxx or (xxx) xxx-xxxx
 Fax: (xxx) xxx-xxxx



Date:

File Number:

Response requested

Name
 Address
 Address

Dear Ms./Mr. :

I am writing in regards to your claim for employee benefits under Part E of the Energy Employees' Occupational Illness Compensation Program Act (EEOICPA). Your claim has been accepted for the following covered illness(es): . Therefore, you may now be eligible for wage-loss benefits due to your covered illness(es).

Wage - Loss: Wage-loss compensation is awarded if 1) an employee's loss of earnings was caused by his/her covered illness and 2) is payable for only the years of wage-loss experienced before normal Social Security Administration retirement age; usually 65 years of age (see enclosed chart to find your normal retirement age). We have also provided a brochure that provides additional information on how wage-loss awards are calculated.

Based on the above criteria, if you believe you would qualify and you wish to file for wage-loss benefits, this is what we will need from you to make a determination for an entitlement to wage-loss. Please provide a signed written response that includes the following:

- An indication whether you would like to claim wage-loss;
- The month and year you first and last experienced wage-loss as a result of the accepted covered illness(es): .
- The earnings and medical documentation to support the period of wage-loss being claimed as discussed below.

Earnings: For proof of wage-loss, we need records of your earnings 12 quarters (3 years) prior to when you first experienced wage-loss to the present. To assist us in this effort, you may submit any legible copies of trustworthy earnings records for this period of time. This includes, but may not be limited to:

• Social Security earnings statements	• Social Security disability records
• Tax Returns	• Pay Stubs
• Union Records	• Pension Records

To assist you, we will also attempt to obtain your social security earnings records. Please complete and sign the attached Form SSA-581 and return it to our office. It is very important that you return the SSA-581 Form signed and completed in order for our office to request and obtain your earnings records. This form is time sensitive; please sign and return to our office as soon as possible.

Medical: In addition, you must provide medical evidence establishing a causal relationship between the accepted covered illness(es) and when you first and last experienced wage-loss. Examples of this may include:

- Medical reports or doctor’s notes showing you were unable to work as a result of one of the above accepted covered illnesses;
- Return to work slips signed by a doctor;
- A doctor’s signed statement explaining the causal relationship between the accepted covered illness(es) and the period(s) of wage-loss

Please submit the requested information to our office by . If you need additional time to obtain and submit the information, please call me as soon as you can to discuss an extension. You may contact me toll free at 1-()- - .

Sincerely,

Claims Examiner

Enclosure: SSA-581
 Pamphlet, “Wage- Loss Benefits”
 Social Security Retirement Age Table

FOLLOW-UP SOLICITATION LETTER

U.S. Department of Labor

Employment Standards Administration
Office Of Workers' Compensation Programs
Division of Energy Employees' Compensation
DO Address
City, State ZIP
Phone: DO Phone No.
Fax: DO FAX No.



Date:

File Number:

2nd Inquiry - **Response requested**

Name
Address
Address

Dear Ms./Mr. :

I am writing in regards to your claim for employee benefits under Part E of the Energy Employees' Occupational Illness Compensation Program Act (EEOICPA). On , I wrote to you outlining wage-loss benefits that you might be entitled to due to your covered illness(es). I have not heard from you so please let me recap your potential benefits.

Wage- Loss: Wage-loss compensation is awarded if an employee's loss of earnings was caused by his/her covered illness. Wage-loss compensation is payable for only years before normal Social Security Administration retirement age; usually 65 years of age (see chart to find your normal retirement age).

Based on the above criteria, if you believe you would qualify and you wish to file for wage-loss benefits, this is what we will need from you to make a determination for entitlement to wage-loss. Please provide a signed written response that includes the following:

- An indication whether you would like to claim wage-loss;
- The month and year you first and last experienced wage-loss as a result of the accepted covered illness(es): .
- The earnings and medical documentation to support the period of wage-loss being claimed as discussed below.

Earnings: For proof of wage-loss, we need records of your earnings 12 quarters (3 years) prior to when you first experienced wage-loss to the present. To assist us in this effort, you may submit any legible copies of trustworthy earnings records for this period of time. This includes, but may not be limited to:

• Social Security earnings statements	• Pay Stubs
• Social Security disability records	• Union Records
• Tax Returns	• Pension Records

To assist you, we will also attempt to obtain your social security earnings records. Please complete and sign the attached Form SSA-581 and return it to our office. It is very important that you return the SSA-581 Form signed and completed in order for our office to request and obtain your earnings records. This form is time sensitive please sign and return to our office as soon as possible.

Medical: In addition, you must provide medical evidence establishing a causal relationship between the accepted covered illness(es) and when you first and last experienced wage-loss. Examples of this may include:

- Medical reports or doctor’s notes showing you were unable to work as a result of one of the above accepted covered illnesses;
- Return to work slips signed by a doctor;
- A doctor’s signed statement explaining the causal relationship between the accepted covered illness(es) and the period(s) of wage-loss

Please submit the requested information to our office by _____. If I do not hear from you by _____, I will assume you are not interested in filing for wage-loss benefits at this time and I will suspend development of your wage-loss claim until further notice from you. If you have any questions about your claim or wage-loss in general you may contact me toll free at 1-(____)-____-_____.

Sincerely,

Claims Examiner

Enclosure: SSA-581
 Pamphlet, “Wage- Loss Benefits”
 Social Security Retirement Age Table

FINAL SOLICITATION LETTER

U.S. Department of Labor

Employment Standards Administration
Office Of Workers' Compensation Programs
Division of Energy Employees' Compensation
DO Address
City, State ZIP
Phone: DO Phone No.
Fax: DO FAX No.



Date

File Number:

Dear Mr./Ms. :

On _____ and again on _____, I sent you letters asking if you would like to file a claim for wage-loss benefits. As of this date, I have not received a response from you.

I would like to thank you for taking the time to consider our request to file for benefits. Your decision not to respond at this time does not relinquish your right to file a claim for wage-loss benefits in the future; therefore, I will put this issue on hold until further notice from you.

If at anytime you would like to pursue wage-loss benefits or if you would like to discuss this issue further or other benefits available under this program, do not hesitate to call me toll-free, at _____. If it is more convenient, you may visit one of our local resource centers for additional help.

Sincerely,

Claims Examiner

SSA 581 FORM

Form Approved OMB Number 0960-0602

AUTHORIZATION TO OBTAIN EARNINGS DATA FROM THE SOCIAL SECURITY ADMINISTRATION

Social Security Administration Attention: DERO 300 N. Greene Street Baltimore, Maryland 21290-0300

Requesting Organization: Job No. Name and Address:

Name: Social Security Number: Other Last Name(s), Such as Maiden Name, Used to Report Your/or the Deceased's Earnings: Date of Birth: Date of Death: (if applicable)

Please furnish the requesting organization shown above, or its designees, an itemized statement of all amounts of earnings reported to my record, or to the record identified above, for the periods specified by that organization, and the identification numbers, names, and addresses of the reporting employers.

TO BE COMPLETED BY OFFICIAL OF REQUESTING ORGANIZATION ONLY. Periods Requested: through. Signature of Organization Official: Telephone Number: FAX Number:

I am the individual to whom the record/information applies or that person's parent (if a minor) or legal guardian, or a person who is authorized to sign on behalf of the individual to whom the record/information applies. I know that if I make any representation which I know is false to obtain information from Social Security records, I could be punished by a fine or imprisonment or both.

Address/DAYTIME Telephone Number of Social Security Number Holder: (or Authorized Representative). Relationship: (if other than SSN holder) Natural or Adoptive Parent, Legal Guardian, Other (Specify)

Date Signed. Signature of Social Security Number Holder (or Authorized Representative). Your Name Please Print

Form SSA-581 (1-2002) EF (1-2002) Destroy All Prior Editions

See reverse for Privacy Act Statement

PRIVACY ACT STATEMENT:

Section 205 (c) (2) (A) of the Social Security Act allows us to ask for the information you give us on this form. The information is needed so that the Social Security Administration can quickly identify your record or the record of the deceased individual who is the subject of a request you are making and prepare the earnings statement you want. You do not have to give us this information. However, without the information we may not be able to process your request. The information you provide will be used primarily for issuing the earnings statement you request. The information you provide may be given out if a Federal law requires that we give out the information; if a Congressman or the President's office needs this information to answer questions you ask them; or the Department of Justice needs the information for investigating or prosecuting violations of the Social Security Act.

We may also use the information you give us when we match records by computer. Matching programs compare our records with those of other Federal, State, or local government agencies. Many agencies may use matching programs to find or prove that a person qualifies for benefits paid by the Federal government. The law allows us to do this even if you do not agree to it.

Explanations about these and other reasons why information about you may be used or given out are available in Social Security offices. If you want to learn more about this, contact any Social Security office.

PAPERWORK REDUCTION ACT STATEMENT

This information collection meets the clearance requirements of 44 U.S.C. §3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You are not required to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take you about 2 minutes to read the instructions, gather the necessary facts, and answer the questions.

Telephone Inquiries to SSA		
<u>Modules</u>	<u>SSN Last 4 Group</u>	<u>Telephone Number</u>
Module 1	(0000-0999)	(410) 966-1247
Module 2	(1000-1999)	(410) 966-5657
Module 3	(2000-2999)	(410) 597-1045
Module 4	(3000-3999)	(410) 597-1049
Module 5	(4000-4999)	(410) 966-8512
Module 6	(5000-5999)	(410) 597-1053
Module 7	(6000-6999)	(410) 597-1057
Module 8	(7000-7999)	(410) 597-1061
Module 9	(8000-8999)	(410) 966-8844
Module 10	(9000-9999)	(410) 597-1065

PART E WAGE-LOSS WORKSHEET #1

Part E Wage-Loss Worksheet - # 1			
Employee's Name:	File #:	Claims Examiner's Name:	District Office:
Calculate Average Annual Wage			
1.	Enter date of first wage-loss (MM/DD/YYYY)		
2.	Enter the total number of quarters (of the 12 quarters prior to but not including the quarter of the date entered in line 1) in which the employee was employed (Earned more than \$700 in constant 2005 dollars)		
3.	Enter the combined total of wages of the quarters (quarter in which the employee was employed) included on Line 2.		
4.	Divide line 3 by line 2.		
5.	Multiply line 4 by 4. This is the Average Annual Wage .		

PART E WAGE-LOSS WORKSHEET #2

Part E Wage-Loss Worksheet - # 2			
Employee's Name:	File #:	Claims Examiner's Name:	District Office:
Adjust Wages for Each Year of Claimed Wage-Loss			
1.	Calendar year in which wage-loss commenced .		
2.	Calendar year in which wage-loss is claimed .		
3.	Total amount of wages earned in the claimed year of wage-loss.		
4.	Using CPI Inflation Calculator		
	a.	Dollar amount from line 3 .	a.
	b.	Year from line 2 .	b.
	c.	Year from line 1 .	c.
	d.	Press "Calculate" button. This is the Adjust Earnings for this year of wage-loss.	d.

PART E WAGE-LOSS WORKSHEET #3

Part E Wage-Loss Worksheet - # 3	
Employee's Name:	File #:
Claims Examiner's Name:	District Office:
Determine Percentage of Wage-Loss and Award Amount	
1.	Adjusted Earnings (from Worksheet # 2, line 4d).
2.	Divide line 1 by the Average Annual Wage (from Worksheet # 1)
3.	Multiply line 2 by 100 (line 2 X 100). Enter percentage .
4.	If percentage from line 3 is less than or equal to 50% (line 3 ≤ 50%), enter \$15,000.
	If percentage from line 3 is greater than 50 %, but less than or equal to 75% (50% < line 3 ≤ 75%), enter \$10,000.
This is the award amount for claimed year of wage-loss.	