



RELEASE - TRANSMISSION OF REVISED MATERIAL TO BE
INCORPORATED INTO THE FEDERAL (EEOICPA) PROCEDURE MANUAL:
CHAPTER 2-1400, WAGE-LOSS DETERMINATIONS.

EEOICPA TRANSMITTAL NO. 15-07

July 2015

EXPLANATION OF MATERIAL TRANSMITTED:

This material is issued as procedural guidance to update, revise and replace the text of the EEOICPA Procedure Manual (PM) Chapter 2-1400, Wage-Loss Determinations. This version incorporates changes that have arisen since the last publication of Chapter 2-1400 to include:

- Removes reference to the Resource Center role in handling wage-loss claims.
- Revises procedures in requesting and obtaining Social Security earnings records.
- Explains the use of Form EE-11B/EN-11B in developing wage-loss claims.
- Provides time limits for claimant to submit wage-loss claims, and to submit required medical and wage-loss evidence.

The following exhibit has been removed from the previous version of Chapter 2-1400:

- Development Letter for Wage-Loss with Attachments.

The following exhibits have been added:

- Form EE-11B/EN-11B, Development Form for Wage-Loss.
- Form EE-10/EN-10, Development Form for Subsequent Wage-Loss
- Revised Form SSA-581.
- Cover sheet for rejected SSA-581.



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1. Purpose and Scope. This chapter provides procedures for evaluating a wage-loss claim under Part E and describes relevant terminology and definitions related to wage-loss. In addition, the chapter provides guidance on how to evaluate wage and medical evidence to determine if wage-loss compensation can be awarded. The chapter also explains how compensable wage-loss is calculated.

a. OWCP Imaging System (OIS). Anyone undertaking development action with regard to a claim for wage-loss is to ensure that documents generated or received during the evaluation process are properly bronzed/scanned into the OIS. This guidance applies to any of the procedures described throughout this chapter.

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. Wage-loss decisions issued by DEEOIC staff are to explain each finding relevant to the applicable wage loss decision, along with a clear description of the calculations used to compute any possible wage-loss benefit.

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 Claims Examiner (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 Employees' 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)

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 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 employee's wages were less than the employee's AAW, as a result of the covered illness that is due to the 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 employee first experienced wage-loss due to a covered illness.

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4. General Requirements for Wage-Loss. There are some general requirements that a CE has to establish before a case can be accepted for wage-loss:

a. Covered Part E Employee. The employee is, or was, an employee of a covered DOE contractor or subcontractor; and

b. 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

c. Trigger Month. A particular year and month (trigger month) that the employee first experienced wage-loss as a result of the covered illness prior to his or her normal Social Security retirement age; and

d. Causal Relationship. Wage-loss in the trigger month was causally related to the employee's covered illness; and

e. Wage-Loss: Wage-loss occurred due to the covered illness. 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.

5. When Wage-Loss Is Not Covered: Wage-loss benefit is to be denied in the following circumstances:

a. Employee is not a covered Part E employee: If the employee 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) he/she is not considered a covered Part E employee and is not entitled to wage-loss benefits.

b. Wage-loss is not due to a covered illness: For example, if the employee was not earning wages because of a Reduction-In-Force at his job before the trigger month, wage-loss cannot be awarded because the wage-loss was due to a Reduction-In-Force and not due to a covered illness.

c. Employee experiences wage-loss (as a result of a covered illness) after his or her normal Social Security retirement age.

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d. Employee's death occurs less 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).

e. Employee did not earn wages before the trigger month. For example, if the employee did not work and was not earning wages before the trigger month, wage-loss is to be denied because the employee did not earn wages prior to the trigger month to be able to establish a reduction in wages.

6. How to File Initial Wage-Loss Claims. After a Part E final decision is issued to a claimant with a positive causation determination, the CE sends Form EE-11B/EN-11B (See Exhibit 2) to solicit wage-loss claims from claimants who are potentially eligible for wage-loss benefits.

a. Wage-Loss Letter and Response Form (Form EE-11B/EN-11B): Form EE-11B lists the criteria to establish wage-loss. The form includes an explanation regarding earnings records for the 12 quarters prior to the first quarter of claimed wage-loss and contains a solicitation for earning records. Form EE-11B includes a statement that earnings records will be requested from the Social Security Administration (SSA). However, since SSA no longer requires the claimant's signature on Form SSA-581 to submit earnings records, the CE is no longer required to include Form SSA-581 (See paragraph 10a) with Form EE-11B. Form EE-11B also includes a request for additional employment evidence that supports the claimed wage-loss, along with medical evidence supporting a causal relationship between the covered illness and the wage-loss claimed. The form contains an instruction for the claimant to submit Form EN-11B (Wage-Loss Benefits Response Form) if he/she is claiming wage-loss, and to identify the condition(s) for which he/she is claiming wage-loss, and provide the date (trigger month and year) of claimed wage-loss.

b. Timeframe: The CE is to allot 60 days for the claimant to respond to Form EE-11B/EN-11B, with a follow up request sent to the claimant at the first 30-day interval. The CE uses Form EE-11B/EN-11B for the follow up request, but marks the form "Second Request." The CE does not develop for wage-loss until a completed Form EN-11B is received.

(1) If the claimant does not respond to Form EE-11B/EN-11B within 60 days, the CE sends a final Form EE-11B/EN-11B marked as a "Final Request" to the claimant. After the CE sends the final request Form EE-11B/EN-11B, the CE updates the Energy Compensation System (ECS) to indicate that the claimant is not claiming wage-loss.

If at any time the claimant informs the CE that he/she does not want to pursue a claim for wage-loss, the CE sends a letter to the claimant advising that the DEEOIC will not undertake further development of the claim for wage-loss at this time. The CE also notifies the claimant of the right to claim wage-loss in the future (See Exhibit 3).

c. If the claimant submits Form EN-11B claiming wage-loss, the CE updates ECS to reflect the wage-loss claim. The wage-loss claim date is the postmark date of the form, if available, or the date the district office, FAB, Central Mail Room (CMR), or Resource Center receives the form, whichever is the earliest determinable date.

7. How to File Subsequent Wage-Loss Claims. An employee who has been previously awarded compensation for wage-loss may file a Form EN-10 (See Exhibit 4) for subsequent calendar years of wage-loss. The employee may file a Form EN-10 on a yearly basis, or for an aggregate of calendar years in which wage-loss is alleged. With the filing of an EN-10, the claimant is to submit sufficient employment and medical evidence to establish that the claimant is entitled to additional wage-loss benefits.

8. Development of Wage-Loss Claims. Upon receipt of a signed Form EN-11B or Form EN-10 claiming wage-loss or subsequent wage-loss, respectively, the CE determines if there is sufficient medical and earnings evidence to support a claim 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 contacts the claimant by telephone to assist the claimant with obtaining the required evidence. The CE advises the claimant verbally of the need to obtain this evidence. The CE explains that if the required evidence is not submitted within 30 days, a recommended decision to deny the wage-loss claim may be issued. It is important that the CE record this discussion carefully in the phone calls section of ECS. After this phone call, the CE sends a written summary of the call to the claimant.

If at the end of this total 60-day period no evidence exists to show progress in obtaining the necessary wage-loss evidence and the claimant has not provided a valid reason for the delay (e.g. he/she was sick), the CE is to issue a recommended decision to deny the wage-loss claim.

9. Medical Evidence to Establish Wage-Loss. The claimant is required to submit medical evidence of sufficient probative value to establish that the period of wage-loss claimed is causally related to the 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 a 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 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 is to contain an explanation about 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 speculative in nature, or is not well-rationalized is not considered to be of sufficient probative value.

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b. Return to Work Slips Signed by a Physician. The work slip is to indicate that the return to work was from a covered illness.

c. Physician's Office Notes. Physician notes are to indicate that the employee had stopped working, reduced his work hours or missed work due to the covered illness.

d. Contract Medical Consultant (CMC) Opinion. The CE is to use discretion when determining if a CMC referral is warranted. For example, a referral to a CMC is not warranted when there is insufficient wage evidence to prove wage-loss. Additionally, the CE does not refer a case file to a CMC if the claimant and/or treating physician have not been contacted first for the requisite medical information.

The CE is to request the opinion of a CMC on causal relationship between the covered illness and wage-loss if the evidence is inconclusive. The CMC may also provide an opinion regarding the period of illness-related wage-loss. In most instances, wage-loss questions are best handled by a CMC who specializes in occupational medicine. In the CMC referral, the CE specifies the period of wage-loss in question and identifies the accepted covered illness. The CE instructs the CMC to provide a detailed rationale for his or her opinion. The CE submits both medical and employment evidence for CMC evaluation.

Example of a wage-loss question to CMC: 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, indicate the dates. Provide your rationale to support your conclusion.

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10. Wage Evidence to Establish Wage-Loss. Wages are defined as all monetary payments that the employee earns from employment or services that are taxed as income by the Internal Revenue Service. Salaries, overtime compensation, sick leave, vacation leave, tips, buyouts 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 of wages immediately preceding the first quarter of claimed wage-loss are used to determine the AAW. (See paragraph 12)

The CE generally relies upon the earnings information that has been reported to the 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 digitally faxes a completed Form SSA-581 to SSA to obtain this information (See Exhibit 5). The form is also located on the shared drive in the Forms folder under Policies and Procedures). The process to obtain earnings records using Form SSA-581 is as follows:

(1) The CE is to complete the top portion of the Number Holder's Information section on the SSA-581. This includes the following information: name; social security number; date of birth of employee; date of death of employee (if applicable); and other name(s) used. The CE completes the form with the years deemed necessary to verify employment and/or establish wage-loss on the "Periods Requested" line. In the box entitled, "Requesting Organization's Information," the CE types his or her name and identifies the district office under, "Signature of Organization Official." The CE dates the form and lists his or her direct phone number, along with the district office fax number. The CE is to capitalize all entries on the SSA-581.

(2) The completed SSA-581 must be digitally faxed to SSA using fax number 877-278-7067. A cover letter is not required with the SSA-581, nor is it necessary to fax the second page of the SSA-581 that contains the Privacy Act Statement. The CE is responsible for bronzing into OIS the completed SSA-581 and fax receipt.

(3) If the faxed SSA-581 is deficient, the SSA contacts the CE directly to explain the deficiency, or the SSA emails the DEEOIC designated Point of Contact (POC) with a list of rejected SSA-581s for each district office. This email will include the name of the employee, the employee's social security number, SSA reference number, and the reason(s) for the rejected SSA-581.

(4) The POC forwards the email of a rejected SSA-581 to the assigned CE. After making the necessary corrections, the CE digitally faxes the corrected SSA-581 with a cover sheet (Exhibit 6) to FAX number 410-966-4210. The cover sheet must include the SSA reference number. The CE is responsible for bronzing into OIS any document received or created in response to a rejected SSA-581.

(5) Upon receipt and processing of a SSA-581, the SSA releases a statement of earnings, known as an SSA-L460. The SSA will mail the SSA-L460 to the DEEOIC Central Mail Room (CMR), located in London, Kentucky, where it is scanned and indexed into OIS.

(6) If the CE does not receive a completed SSA-L460 within thirty (30) days of the faxed SSA-581, the CE calls the SSA to determine the status of the request. If the SSA indicates that the SSA-581 has not been received, the CE must refax the SSA-581 in accordance with Step 4. After the SSA-581 is refaxed, the CE must follow-up with the SSA within thirty (30) days. Otherwise, the CE obtains the status and monitors for SSA response.

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(7) Inquiries to the SSA are made by calling one of six phone numbers (Modules) depending upon the last four digits of the relevant Social Security number (See Exhibit 7). When calling the SSA, the following information should be available to expedite the inquiry:

(a) SSA-issued job code (8015). The four-digit job code appears in the "Requesting organization" section of the SSA-581 form.

(b) Name of your organization.

(c) A copy of the SSA-581 or earnings statement in question.

(d) The full SSN of the number holder (employee), or the control number from the earnings statement.

(8) Upon receipt of a completed SSA-L460, the CE documents receipt of the SSA response in ECS. Should the SSA fail to submit an SSA-L460 after following up within the established procedures, the CE is to proceed with claim adjudication based upon the evidence contained in the case record or request other forms of wage information as noted below:

b. Tax Returns and W2 Forms provide proof of the employee's wages in instances where the employer did not report accurate and/or complete earnings to SSA, when the employee worked for an employer where there was no reporting of income to SSA, or where SSA earnings records indicates that the employee earned more than the maximum amount of taxable earnings (see paragraph 12c). If a W2 Form is submitted, the claimant is to 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.

11. Wage-Loss Calculator. The Wage-Loss Calculator in ECS is used 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 calculates the Average Annual Wage (AAW), determines the wage-loss percentage and calculates the wage-loss award.

12. Calculation of AAW. The AAW is the baseline wage against which the Wage-Loss Calculator measures each claimed year of wage-loss to determine the wage-loss percentage. To determine the AAW, the Wage-Loss Calculator adds the wages from the quarters (up to 12 quarters) immediately prior to, but not including, the quarter where the employee first experiences wage-loss due to a covered illness. The sum of the total wages is divided by the number of quarters included in the sum to get the average quarterly wage. The Wage-Loss Calculator then multiplies the average quarterly wage by four (4) to determine the AAW.

The Wage-Loss Calculator will identify any quarter in which the employee earned \$700 or less in constant 2005 dollars. The Wage-Loss Calculator determines the dollar value of any wages for any given year to reflect their value (buying power/worth) to 2005 dollar by using the CPI Inflation Calculator on the Bureau of Labor Statistics' website

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

Example: If the CE enters that the employee earned \$100 in a quarter of employment in 1963, the Wage-Loss Calculator, 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 Wage-Loss Calculator identifies this quarter for further review by the CE. The CE must identify the quarter as either unemployed or retired depending on the employee status for that quarter.

a. Unemployed: If the CE considers the employee to have been unemployed for a particular quarter that quarter is excluded in the calculation of the AAW.

Example: If an employee is unemployed for three quarters during the AAW period; the Wage-Loss Calculator 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 Wage-Loss Calculator then multiplies the average quarterly wages by four (4) to obtain the AAW.

It should be noted that a wage-loss claim is denied if the employee did not earn any wages before the trigger month. To establish a claim for wage-loss, the employee first had to earn wages before the trigger month.

b. Retired. If an employee is retired prior to his or her normal Social Security retirement age due to his covered condition, he/she is not considered unemployed under Part E. Even though the retired employee has no wages reported to SSA or the wages are less than \$700 in constant 2005 dollars, this time period is not excluded from the calculation of the AAW.

Example: If the CE determines that the employee 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, the AAW is \$0.

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 Wage Loss Calculator identified two quarters as quarters with earnings less than \$700 in constant 2005 dollars and the CE identified these two quarters were due to retirement, the Wage-Loss Calculator adds the 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.

c. 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 is to 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 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 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 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 10 for different types of wage evidence). The CE memorializes the claimant's response in ECS. 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). In the letter, the CE 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 is to proceed with claim adjudication based upon the evidence contained in the case record.

d. 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.

e. 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.

13. Determination of Wage-Loss Percentage. The Wage-Loss Calculator compares the AAW of an employee with his or her adjusted (for inflation) wages in later calendar years to determine the wage-loss percentage. The Wage-Loss Calculator 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 are 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 employee first experienced wage-loss due to a covered illness. The Wage-Loss Calculator performs this calculation by using the CPI Inflation Calculator.

Example: The employee claims wage-loss first commencing in 1993 and ending in 2002 when the employee reaches normal Social Security retirement age. The Wage-Loss Calculator adjusts 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 \$36,030.18 to reflect the value in 1993 dollars.

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b. Comparison with the AAW. The Wage-Loss Calculator compares the AAW of the 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, $\$36,030.18$ (Adjusted Wage) \div $\$46,000$ (AAW) = 78% (Wage-Loss Percentage).

14. Employee Wage-Loss Compensation. The Wage-Loss Calculator 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 the 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	=	\$46,000.00
	Adjusted wages	=	\$36,030.18
	Percentage of AAW	=	78%

b. \$10,000 is awarded for each year in which the employee's adjusted wages during a claimed calendar year is greater than 50% but less than or equal to 75% ($50\% < X \leq 75\%$) of the AAW.

Example #1:	AAW	=	\$46,000.00
	Adjusted wages	=	\$34,662.00
	Percentage of AAW	=	75%

Example #2:	AAW	=	\$46,000.00
	Adjusted wages	=	\$23,661.80
	Percentage of AAW	=	51%

c. \$15,000 is awarded for each year in which the employee's adjusted wages during a claimed calendar year is equal to or less than 50% ($X \leq 50\%$) of the AAW.

Example #1:	AAW	=	\$46,000.00
	Adjusted wages	=	\$23,076.00
	Percentage of AAW	=	50%

Example #2:	AAW	=	\$46,000.00
	Adjusted wages	=	\$11,646.75
	Percentage of AAW	=	25%

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The following is an example of a Wage-Loss Calculation:

AVERAGE ANNUAL WAGE: \$46,000.00

Year	Reported Earnings	Adjusted Earnings	Percentage	Compensation
1993	\$44,000.00	\$44,000.00	96%	\$0
1994	\$40,000.00	\$39,001.30	85%	\$0
1995	\$38,000.00	\$36,030.20	78%	\$0
1996	\$35,000.00	\$32,233.90	70%	\$10,000.00
1997	\$38,500.00	\$34,662.00	75%	\$10,000.00
1998	\$30,000.00	\$26,595.10	58%	\$10,000.00
1999	\$26,000.00	\$22,551.00	49%	\$15,000.00
2000	\$27,500.00	\$23,076.00	50%	\$15,000.00
2001	\$29,000.00	\$23,661.80	51%	\$10,000.00
2002	\$14,500.00	\$11,646.75	25%	\$15,000.00
Wage-Loss Payable Compensation				\$85,000.00

15. Survivor Wage-Loss Compensation. The CE first determines whether the survivor is entitled to benefits under Part E of the EEOICPA. If the survivor is found to be entitled to survivor benefits, he/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 employee dies as a result of the covered illness prior to his or her normal Social Security retirement age, the Wage-Loss Calculator 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 Wage-Loss Calculator 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 ensures that the Wage-Loss Calculator includes 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) \$25,000.00 Award. For the survivor to be awarded an additional \$25,000.00, 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) \$50,000.00 Award. For the survivor to be awarded an additional \$50,000.00, 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 an employee dies after filing a claim, but before any payment is received, and if the employee's death was caused solely by a non-covered illness, the survivor (any survivor including the spouse) has the election of benefits option. The survivor may elect to receive compensation that the employee would have received had he/she not died prior to payment. It is not necessary for the employee to have filed a claim specifically for wage-loss or impairment to have the election of benefit option available. As long as the employee filed a claim for Part E benefits, claims for impairment and wage-loss are assumed. However, if the employee received any compensation for impairment or wage-loss, prior to his death, such payment voids the election of benefit option.

Part 2 - Claims

Wage-Loss Determinations

16. Maximum Aggregate Compensation. The amount of monetary compensation provided under Part E (impairment and wage-loss compensation), excluding medical benefits, cannot exceed \$250,000.00. 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 \$250,000.00 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 \$100,000.00 but his compensation was reduced because of tort offset to \$60,000.00, the amount of compensation used to determine the maximum aggregate compensation is \$100,000.00.

17. 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 Form EE-11B or Form EN-10 claiming wage-loss or subsequent wage loss, the CE develops the wage-loss claim and the CE issues 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.

In a recommended decision to accept wage-loss benefits, the CE is to include a narrative explanation of all the relevant findings. The recommended decision is to include an explanation of the trigger month and how it was determined, the causal relationship between the covered illness and wage-loss and how it was established, the AAW (including all figures used), the retirement age and the calendar year in which the employee would reach that age and its significance in wage-loss calculation. Prior to the issuance of a recommended decision to award wage-loss benefits, the calculations performed by the Wage-Loss Calculator must be bronzed in OIS. The CE is to clearly explain all the figures used in the Wage-Loss Calculator and how the wage-loss award was calculated so that a claimant may request a hearing if he/she disagrees with the figures.

Part 2 - Claims

Wage-Loss Determinations

In a recommended decision denying wage-loss benefits, the CE is to explain which specific requirement(s) was not established to justify the wage-loss denial.

For finalizing a wage-loss recommended decision, the FAB Representative independently evaluates the CE findings and wage-loss calculations for accuracy. The FAB Representative ensures that a copy of the DO calculations is in OIS. Printouts of the calculation performed by the FAB Representative are also bronzed in OIS. If the FAB Representative cannot determine the basis for a wage-loss decision, the case file is remanded.

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

Date:

File Number:

Response requested

Name

First Request

Address

Second Request

Address

Final Request

Dear Ms./Mr. :

This letter is in regard to your claim under Part E of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). Your claim has been accepted for the following illness(es): List illness(es). As such, you may be eligible for a monetary award for wage-loss caused by the accepted illness(es).

Wage-Loss: Wage-loss benefits: (1) are awarded if the accepted illness(es) caused or contributed to an employee's loss of earnings; and (2) are payable only for the calendar years of wage-loss experienced before an employee's normal Social Security retirement age. A person's normal retirement age is based on the year when he/she was born and is usually 65 years of age, but can be as high as 67 years of age (see the enclosed Social Security Retirement Age Table). Wage-loss benefits are payable only through the calendar year when normal retirement age is reached.

Based on the above criteria, if you believe you (either as the employee or as the employee's survivor) may qualify and wish to file for wage-loss benefits, please complete the enclosed Form EN-11B (Wage-Loss Benefits Response Form) and be sure to provide the following information:

- Check "YES" to indicate that you are seeking wage-loss benefits.
- Identify the accepted illness(es) (see the first paragraph of this letter) for which you are seeking wage-loss benefits.

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EE-11B
December 2013

Part 2 - Claims

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- Enter the month and year {your or the employee's} initial wage-loss began due to the identified accepted illness(es).
- Enter the months and years {you or the employee} last experienced wage-loss as a result of the identified accepted illness(es).

In addition, earnings and medical documentation must be submitted to support the period of wage-loss being claimed as discussed below.

Earnings: For proof of wage-loss, we need the records of earnings for the 12 quarters (36 months) prior to the quarter when {you or the employee} first experienced wage-loss. We also need records of earnings up to the present or when the wage-loss ceased (or through the year of normal retirement age). To assist us in this effort, you may submit any legible copies of trustworthy earnings records for this period of time. This includes, but is not limited to:

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

To help you in this regard, we will also attempt to obtain earnings records from the Social Security Administration. Please complete and sign the attached Form SSA-581 and return it with the EN-11B as soon as possible since your signature on the form is only valid for sixty (60) days.

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

- Medical reports or doctor's notes showing an inability to work as a result of one of the above accepted illnesses;

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-
- Return to work slips signed by a doctor;
 - A doctor's report explaining the causal relationship between the accepted illness(es) and the period(s) of wage-loss. This may include a medically-required reduction in work-hours or a change to a lower-paying job.

If you elect not to pursue a wage-loss claim at this time, please mark "NO" on Form EN-11B and we will not further develop the issue. Also, if this letter is identified above as a "Final Request" and we do not hear from you, we will also not develop this issue further. However, you retain the right to pursue a wage-loss claim in the future simply by notifying us in writing and sending it to the address at the bottom of the enclosed EN-11B.

We would appreciate receiving your written response within 30 days. If you have any questions regarding this letter or wage-loss benefits in general, or you need additional time to submit the requested information, please do not hesitate to contact me. You may call me at (xxx) xxx-xxxx.

Sincerely,

Claims Examiner

Enclosure: SSA-581
Pamphlet, "Wage-Loss Benefits"
Social Security Retirement Age Table
EN-11B

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Expiration Date: 12/31/2016

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December 2013

PRIVACY ACT STATEMENT

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Energy Employees Occupational Illness Compensation Program Act (42 USC 7384 et seq.) (EEOICPA) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information received will be used to determine eligibility for, and the amount of, benefits payable under EEOICPA, and may be verified through computer matches or other appropriate means. (3) Information may be disclosed to physicians and other health care providers for use in providing treatment, performing evaluations for the Office of Workers' Compensation Programs, and for other purposes related to the medical management of the claim. (4) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision.

PUBLIC BURDEN STATEMENT

According to the Paperwork Reduction Act of 1995, no persons are required to respond to the information collections on this form unless it displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain EEOICPA benefits (20 CFR 30.505). Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the U.S. Department of Labor, Office of Workers' Compensation Programs, Room S3524, 200 Constitution Avenue N.W., Washington, D.C. 20210, and reference OMB Control No. 1240-0002 and Form EE/EN-11B. **Do not submit the completed form to this address.**

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Expiration Date: 12/31/2016

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December 2013

File No.

Employee Name:

Wage-Loss Benefits Response Form

YES, I wish to pursue a claim for wage-loss benefits for the following accepted illness(es):

The initial wage-loss due to the above-listed accepted illness(es) began:
_____/_____(Month/Year)

I am claiming wage-loss due to the above-listed accepted illness(es) for the following period:

From: ____/____(Month/Year) To: ____/____(Month/Year)

NO, I am not pursuing wage-loss benefits at this time. I understand that I can file for wage-loss benefits in the future by submitting a signed statement to that effect to the district office.

Signature (Required)

Signature *Date*

Mail form to: DOL DEEOIC Central Mail Room Correspondence
P.O. Box 8306
London, KY 40742-8306

Or you may FAX it to: DO FAX Number

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Expiration Date: 12/31/2016

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December 2013

U.S. Department of Labor

Office of Workers' Compensation Programs
Division of Energy Employees Occupational
Illness Compensation
DOL DEEOIC Central Mail Room
P. O. Box 8306
London, KY 40742-8306
Phone: DO Phone No.
Fax: DO FAX No.



Date

Case ID:
Employee Name:

Dear Mr./Ms. :

This is regarding your claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). On Date of Letter or Phone Call you advised us that you do not want to pursue a claim for wage-loss.

I would like to thank you for taking the time to consider our request to file for benefits. Please note that your decision at this time does not relinquish your right to file a claim for wage-loss in the future. Therefore, we will not undertake further development for wage-loss at this time. Should you wish to pursue a claim in the future, please notify us in writing at the address above.

If you have any questions about your claim 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

Part 2 - Claims

Wage-Loss Determinations

[Insert Date]

Name
Address
City, State ZIP

File Number:

Dear Mr. / Ms. Claimant:

This letter is in reference to your claim under Part E of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

Our records indicate that you received a prior award under Part E of EEOICPA for impairment and/or wage-loss as a result of an accepted work-related illness. The rules governing the administration of the Energy program allow for an individual to seek additional benefits after a certain period of time has elapsed since a prior award of benefits. The attached EN-10 is used to claim those additional benefits. However, to claim additional benefits using the EN-10, you must be aware of the following:

WAGE-LOSS - A claim for additional wage-loss benefits may only be submitted if at least one year has elapsed since you were previously awarded benefits for wage-loss in a final decision. In addition, eligibility is based on qualifying wage-loss sustained in calendar year increments as a result of the accepted illness. If you claim for additional wage-loss benefits due to an accepted illness, development will be initiated to obtain the evidence necessary to show that you have sustained additional wage-loss due to your accepted illness. This will include obtaining financial and medical documentation from you in support of the claim. You cannot seek benefits for calendar years of wage-loss that have been addressed previously by a final decision.

IMPAIRMENT - A claim for increased permanent impairment benefits may only be submitted if at least two years has elapsed since you were last awarded impairment benefits in a final decision. If you claim for additional impairment benefits, development will commence to determine the extent to which your accepted illness has resulted in an increased permanent impairment of the whole body. This will require a medical examination by an appropriate physician, and a review of up-to-date medical documentation.

The attached EN-10 should be completed only if you are pursuing additional wage-loss or impairment benefits and can obtain the evidence necessary to establish your claim. You may claim additional wage-loss and impairment

OMB Control No: 1240-0002
Expiration Date: 12/31/2016

Form EE-10
December 2013

Part 2 - Claims

Wage-Loss Determinations

at the same time. If you choose to file for additional benefits, mail the enclosed EN-10 to the following address:

DOL DEEOIC Central Mail Room Correspondence
P.O. Box 8306
London, KY 40742-8306

If you are not interested in filing a claim for additional benefits at this time, take no action with regard to this letter. Should you have questions about completing the EN-10, please contact your district office at (Insert Number)

Sincerely,

Printed Name
Title

Enclosure: EN-10

Privacy Act Statement

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Energy Employees Occupational Illness Compensation Program Act (42 USC 7384 et seq.) (EEOICPA) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information received will be used to determine eligibility for, and the amount of, benefits payable under EEOICPA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agencies or private entities that employed the employee to verify statements made, answer questions concerning the status of the claim and to consider other relevant matters. (4) Information may be disclosed to physicians and other health care providers for use in providing treatment, performing evaluations for the Office of Workers' Compensation Programs, and for other purposes related to the medical management of the claim. (5) Information may be given to Federal, state, and local agencies for law enforcement purposes, to obtain information relevant to a decision under EEOICPA, to determine whether benefits are being paid properly, including whether prohibited payments have been made, and, where appropriate, to pursue debt collection actions required or permitted by the Debt Collection Act. (6) Disclosure of your social security number (SSN) or tax identification number (TIN) is mandatory. We are authorized to collect your SSN or TIN under Executive Order 9397 (November 22, 1943). Your SSN or TIN, and other information maintained by the Office, may be used for identification, to support debt collection efforts carried on by the Federal government, and for other purposes required or authorized by law. (7) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision.

Public Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to the information collections on this form unless it displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 5 minutes per response, including time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain EEOICPA benefits (20 CFR 30.102). Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the U.S. Department of Labor, Office of Workers' Compensation Programs, Room S3524, 200 Constitution Avenue N.W., Washington, D.C. 20210, and reference OMB Control No. 1240-0002 and Form EE/EN-10. **Do not submit the completed form to this address.**

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Expiration Date: 12/31/2016

EE-10
December 2013

Department of Labor
Program – DEEOIC | Job Code - 8015
Primary Fax: 904-359-9294 | Secondary Fax: 904-359-9294

Itemized Statement of Earnings (581) Reject fax

TO: Social Security Administration
Planning Automation and Training Staff/HSS

FROM:

FAX: 410-966-4210

PAGES:

PHONE: (410) 966-6995 || Donald Fair

DATE:

RE: Itemized Statement of Earnings (581) Reject

CC:

Reject Reference #

- Urgent For Review Please Comment Please Reply Please Recycle

Comments: [Your comments here]

SSN Range (Last 4 digits)	Module Number	Help Desk Telephone No.
0000-0999	Mod 1	410-966-1247
1000-1999	Mod 2	410-966-5657
2000-3999	Mod 3	410-597-1045
4000-5999	Mod 4	410-966-8512
6000-7999	Mod 5	410-597-1061
8000-9999	Mod 6	410-597-1065