

first became aware of his hearing loss and realized its relation to his federal employment on September 4, 2001. Appellant noted that he was advised at hearing evaluations that his hearing had changed. He retired effective September 30, 2007. On the reverse side of the claim form, M.A., an injury compensation specialist, indicated that appellant's supervisor was no longer working at the employing establishment and that she was unable to provide any information about appellant's exposure to noise during his employment.

In support of his claim, appellant submitted a copy of his position description along with his health record from the employing establishment, and a series of employing establishment audiograms performed as part of an employing establishment hearing conservation program. This included a reference audiogram dated November 13, 1995, and yearly audiograms dated September 24, 1996, August 5, 1997, September 28, 1998, November 10, 1998, October 4, 2000, May 21, 2001, September 4, 2001, September 11, 2002, and October 28, 2003. The audiogram from October 4, 2000 revealed the following decibel (dB) losses at 500, 1,000, 2,000, and 3,000 Hertz (Hz): 80, 80, 75, and 80 for the right ear, and 15, 5, 5, and 10 for the left ear, respectively. The audiogram from September 4, 2001 revealed the following dB losses at 500, 1,000, 2,000, and 3,000 Hz: 80, 70, 70, and 85 for the right ear, and 10, 10, 5, and 10 for the left ear, respectively. The audiogram from September 11, 2002, revealed the following dB losses at 500, 1,000, 2,000, and 3,000 Hz: 75, 65, 75, and 75 for the right ear, and 15, 10, 5, and 15 for the left ear, respectively. The audiogram from October 28, 2003 revealed the following dB losses at 500, 1,000, 2,000, and 3,000 Hz: 65, 70, 75, and 85 for the right ear, and 15, 10, 10, and 10 for the left ear, respectively. The audiograms all contained notations that there was a threshold shift from the November 13, 1995 reference audiogram, appellant had routine noise exposure, asymmetric hearing loss, and referral criteria was met as there was auditory masking. The records further reflect that appellant has a prosthetic ear on the right side.

In an August 7, 2025 letter, Kerry S. Braumberger, an audiologist, related that an audiogram taken that day indicated a mild-to-profound sensorineural precipitous sloping hearing loss unilaterally on the left side, noting that he has a prosthetic ear on the right side. Hearing aids were recommended. A copy of the August 7, 2025 audiogram was provided.

In a September 5, 2025 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a questionnaire for completion. OWCP afforded appellant 60 days to submit the requested evidence.

In a separate letter also dated September 5, 2025, OWCP requested additional information from the employing establishment, including comments from a knowledgeable supervisor regarding the accuracy of the employee's statements, and factual and medical evidence related to appellant's employment-related noise exposure in the course of his federal employment. It afforded the employing establishment 30 days to respond.

In a September 9, 2025 statement, appellant indicated that he retired on September 30, 2007 after working 33 years in the positions of missile disassembly, jet aircraft wiring and maintenance. He stated that he regularly worked around jet engines and was exposed to closed and prolonged exposure to loud and repetitive industrial noises, including metal striking metal and high-decibel and high-torque impact tools, such as pneumatic rivet guns and missile disassembly tools. Appellant described his work environment in enclosed hangars. He indicated that although

he sometimes used hearing protection, the intensity, duration and frequency of the noise exposure, particularly in enclosed or reverberant areas, rendered full hearing protection difficult or ineffective.

In a follow-up letter dated October 16, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the September 5, 2025 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In an undated letter, which OWCP received October 29, 2025, appellant indicated that all employees were directed to get hearing tests, but they were never told they could file a workers' compensation claim.

By decision dated November 10, 2025, OWCP denied appellant's claim, finding that he had not timely filed his claim for compensation within the requisite three-year time limit provided under 5 U.S.C. § 8122.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

The issue of whether a claim was timely filed is a preliminary jurisdictional issue that precedes any determination on the merits of the claim.⁵ In cases of injury on or after September 7, 1974 section 8122(a) of FECA provides that an original claim for compensation for disability or death must be filed within three years after the injury or death.⁶ Section 8122(b) provides that, in

² *Id.*; see *J.S.*, Docket No. 26-0074 (issued February 20, 2026); *R.B.*, Docket No. 18-1327 (issued December 31, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *Y.K.*, Docket No. 18-0806 (issued December 19, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁵ *R.S.* Docket No. 24-0419 (issued May 22, 2024); *C.D.*, 58 ECAB 146 (2006); *David R. Morey*, 55 ECAB 642 (2004); *Mitchell Murray*, 53 ECAB 601 (2002); *Charles Walker*, 55 ECAB 238 (2004); *Charles W. Bishop*, 6 ECAB 571 (1954).

⁶ *Supra* note 1 at § 8122(a). See also *S.F.*, Docket No. 19-0283 (issued July 15, 2019); *W.L.*, 59 ECAB 362 (2008); *Gerald A. Preston*, 57 ECAB 270 (2005); *Laura L. Harrison*, 52 ECAB 515 (2001).

latent disability cases, the time limitation does not begin to run until the claimant is aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship between the employment and the compensable disability.⁷ The Board has held that, if an employee continues to be exposed to injurious working conditions after such awareness, the time limitation begins to run on the last date of this exposure.⁸

In an occupational disease claim, the time for filing a claim begins to run when the employee first becomes aware, or reasonably should have been aware, of a possible relationship between his or her condition and his or her federal employment. Such awareness is competent to start the limitation period even though the employee does not know the precise nature of the impairment or whether the ultimate result of such affect would be temporary or permanent.⁹

Even if a claim is not filed within the three-year period of limitation, it would still be regarded as timely under section 8122(a)(1) if the immediate superior had actual knowledge of his or her alleged employment-related injury within 30 days or written notice of the injury was provided within 30 days pursuant to section 8119.¹⁰ The knowledge must be such as to put the immediate superior reasonably on notice of an on-the-job injury or death.¹¹ The Board has held that a program of periodic audiometric examinations conducted by an employing establishment in conjunction with an employee testing program for hazardous noise exposure is sufficient to constructively establish actual knowledge of a hearing loss, such as to put the immediate supervisor on notice of an on-the-job-injury.¹² A hearing loss identified on such a test would constitute actual knowledge on the part of the employing establishment of a possible work injury.¹³

ANALYSIS

The Board finds that appellant has met his burden of proof to establish that he timely filed a claim for compensation, pursuant to 5 U.S.C. § 8122(a).

On September 3, 2025 appellant filed a Form CA-2, noting that he first became aware of his hearing loss and realized its relationship to his federal employment on September 4, 2001. Under section 8122(b), the time limitation begins to run when he became aware of causal relationship, or, if he continued to be exposed to noise after awareness, the date he is no longer

⁷ *Id.* at § 8122(b).

⁸ See *G.M.*, Docket No. 18-0768 (issued October 4, 2018); *Linda J. Reeves*, 48 ECAB 373 (1997).

⁹ See *A.M.*, Docket No. 19-1345 (issued January 28, 2020); *Larry E. Young*, 52 ECAB 264 (2001).

¹⁰ *Supra* note 1 at §§ 8122(a)(1); 8122(a)(2); see also *Larry E. Young, id.*

¹¹ *R.S.*, *supra* note 5; *B.H.*, Docket No. 15-0970 (issued August 17, 2015); *Willis E. Bailey*, 49 ECAB 511 (1998).

¹² *R.G.*, Docket No. 25-0001 (issued October 31, 2024); *C.D.*, Docket No. 24-0902 (issued September 30, 2024); *D.B.*, Docket No. 24-0274 (issued July 29, 2024); *L.B.*, Docket No. 12-1548 (issued January 10, 2013); *James W. Beavers*, 57 ECAB 254 (2005).

¹³ *Id.*

exposed to noise.¹⁴ Appellant retired from federal employment on September 30, 2007. Therefore, the three-year time limitation began to run on September 30, 2007, his date of last exposure. As appellant did not file his occupational disease claim until September 3, 2025, the Board finds that it was not filed within the three-year time period under section 8122(b).¹⁵

Appellant's claim would still be regarded as timely under section 8122(a)(1) of FECA if his immediate supervisor had actual knowledge of the injury within 30 days of appellant's last exposure to hazardous noise in federal employment, *i.e.*, within 30 days of his last exposure no later than September 30, 2007.¹⁶ The Board notes that the employing establishment conducted a hearing conservation program for which he submitted a series of audiograms, including for the period September 4, 2001 through October 28, 2003, prior to his retirement. These audiograms, obtained as part of an employing establishment hearing conservation program, demonstrated a progressive worsening of appellant's left ear hearing loss while still employed.

Appellant's documented hearing loss constitutes actual knowledge by the employing establishment of a possible work-related hearing loss within 30 days of appellant's last noise exposure, which occurred no later than September 30, 2007.¹⁷ Therefore, based on the audiometric test results from the employing establishment's hearing conservation program, his hearing loss claim is considered timely.¹⁸

The case shall, therefore, be remanded for OWCP to adjudicate the merits of the claim. Following this, and other such development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish that he timely filed a claim for compensation, pursuant to 5 U.S.C. § 8122(a).

¹⁴ *Supra* note 1 at § 8122(b).

¹⁵ *G.C.*, Docket No. 12-1783 (issued January 29, 2013).

¹⁶ *Supra* note 1 at § 8122(a)(1).

¹⁷ *J.G.*, Docket No. 25-0790 (issued September 22, 2025); *see D.B.*, Docket No. 24-0274 (issued July 29, 2024); *R.F.*, Docket No. 16-1398 (issued December 19, 2016).

¹⁸ *J.G.*, *id.*; *J.C.*, Docket No. 18-1178 (issued February 11, 2019); *L.B.*, *supra* note 12; *James W. Beaver*, *supra* note 12.

ORDER

IT IS HEREBY ORDERED THAT the November 10, 2025 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: March 30, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board