

**DEEOIC FINAL ADJUDICATION  
BRANCH  
HEARING TRAINING**

**SESSION BACKGROUND INFORMATION**

<b>Session Title</b>	DEEOIC Final Adjudication Branch Hearing Training
<b>Instructional Time</b>	75 minutes
<b>Session Description</b>	<p>This session focuses on how to prepare for and conduct a hearing as well as what activities must be completed once a hearing has been conducted.</p> <p>The conduct of a mock hearing occurs during the session.</p>
<b>Instructional Objectives</b>	List the steps that must be completed before, during, and after a hearing.
<b>Instructor Materials</b>	<p>For this session, the following materials are required:</p> <p>FABHearingSession.PPT</p>
<b>Participant Guide</b>	FAB Hearing Process Session
<b>Mock Hearing</b>	A mock hearing enactment is presented to the trainees.

## HEARING TRAINING SESSION INSTRUCTIONAL CONTENT



SHOW PPT

#1

**EEOICP**  
The Energy Employees Occupational Illness Compensation Program

**DEEOIC Final Adjudication Branch  
Hearing Training**

1

This is the first slide of a presentation. It features a blue header with the EEOICP logo and name. The main content area is white with the title 'DEEOIC Final Adjudication Branch Hearing Training' in blue. The slide number '1' is in the bottom right corner.



SHOW PPT

#2

**EEOICP**  
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**The Governing Rules**

- 20 C.F.R. §§ 30.310-30.319 (2009)
- Procedure Manual, Ch. 2-1800 (October 2009)
- PM 2-1800 .5 Review of Dose Reconstruction in FAB Hearings
- Performance Standard No. 3
- E-Mail Directives

2

This is the second slide of a presentation. It features a blue header with the EEOICP logo and name. The main content area is white with the title 'The Governing Rules' in blue. Below the title is a bulleted list of five items. The slide number '2' is in the bottom right corner.

## OVERVIEW



#3

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### Governing Rules for FAB Review of Dose Reconstruction

- Reg. § 30.318 & Bulletin 03-23
- HHS DR Methodology - Binding on FAB
- OWCP ALALAN Methodology - Binding on FAB
- Factual findings upon which HHS based DR - reviewable by FAB
- Application of DR methodology - reviewable by FAB
- “Methodology” v. “Factual Findings” and “Application”

3



#4

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### Performance Standard No. 3

- FD addresses all objections brought up during Hearing (94-97%)
- Transcripts sent to claimants within 7 days of FAB receipt (93-95%)
- Hearings completed & conducted properly (94-97%)
- “The Fine Print”

4

## OVERVIEW, CONTINUED



#5

The slide header features the EEOICP logo in large blue letters, with the full name 'The Energy Employees Occupational Illness Compensation Program' in smaller text below it. The background of the header includes several yellow triangular warning icons (radiation, biohazard, etc.) and a faint image of a microscope.

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**Email Directives (Sampler)**

- Claimants must give one week's notice of non-claimant, non-AR attendees
- Waivers must be signed for all non-claimants and non-ARs attending hearing
- No independent audio or video recording of proceedings

5



#6

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**Email Directives (Sampler), continued**

- Call claimants to remind them of hearing
- Claimant withdraws request or fails to appear - update ECMS appeal status screen and adjust FD due date to RWR
- Do not spindle hearing script, or other hearing-prep notes in file
- Answers to FAQs
- FD must list and respond to every objection raised

6

**OVERVIEW, CONTINUED**

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<b>Participant Guide Page</b>	<i>A copy of the Waiver of Confidentiality Rights is included in this session of the Participant Guide on page 7.</i> <i>A copy of the Hearing FAQs is included in this session of the Participant Guide on pages 8 and 9.</i>
<b>Instructor NOTE</b>	<i>Review the waiver form and FAQs with the trainees.</i>
<b>Transition</b>	With this introduction to the overall hearing process, now let's turn our attention to those activities to be undertaken to properly prepare to conduct a hearing.

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**PREPARING FOR THE HEARING**

SHOW PPT

#7

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**At Your Office...**

- Is hearing request timely and filed by claimant or AR?
- Need for hearing, or can/should case be remanded now?
- Can FD be issued now on part of case?
- Does part of the case need to be referred to CE2?
- FD due date versus hearing date. Need expedited transcript?

7

**Instructor  
NOTE***The HR should conduct a thorough initial review of the case file.*

SHOW PPT

#8

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**At Your Office..., continued**

- Make travel arrangements
- Familiarize yourself with provisions of “temporary duty travel guide”
- Use Carlson Wagonlit’s eTravel system for authorizations, actual arrangements and vouchers

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## PREPARING FOR THE HEARING, CONTINUED



#9

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### Travel Points

- Plan your travel to minimize time away from the office.
- Know what the allowed GSA per diem (lodging and MI&E) rates are before you make reservations.
- Do not simply rely on what the government travel agent tells you.
- You cannot claim “actual” for lodging above amount allowed in per diem unless justified and approved by FAB chief in writing and in advance of travel.
- Car rentals – “prudent person” rule – make sure to use a rental car company that does not charge mileage.
- Driving POV versus common carrier – must have supervisor’s prior approval subject to DOL guidelines (only when advantageous to the government, not to the employee).
- Complete and submit travel voucher within five (5) days of return from trip. Supporting receipts must be scanned into the system.

9



#10

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### Hearing Scheduling

- Hearing Scheduling Unit in FAB National Office schedules all hearings
- Hearing Scheduling Unit may add hearing to established trip with less than 30 days notice to claimant if claimant contacted and waived right to 30 days notice
  - HR **must** obtain signed waiver prior to conducting hearing
  - Hearing Scheduling Unit normally gets the signed waiver prior to scheduling the hearing

10



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## PREPARING FOR THE HEARING, CONTINUED

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KEY  
POINT

Various factors were considered in scheduling the hearing and the scheduler took a “big picture” approach to the scheduling.

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SHOW PPT

#11

The slide features a header with the EEOICP logo and the text 'The Energy Employees Occupational Illness Compensation Program'. The background includes a collage of safety-related icons such as radiation symbols, a biohazard, and a stethoscope. The main content is a bulleted list of procedures for requesting a change to a scheduled hearing.

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### Requests to Change a Scheduled Hearing

- Must go from HR to supervisor
- Supervisor contacts supervisor in charge of Hearing Scheduling Unit
- Under **no** circumstances should HR contact any member of Hearing Scheduling Unit for changes or attempt to exert influence in hearing scheduling process
- If something occurs prior to hearing that would eliminate need for hearing, HR should bring it to attention of supervisor who will contact the Hearing Scheduling Unit supervisor

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PREPARING FOR THE HEARING, CONTINUED

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SHOW PPT

#12

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**Requests to Change a Scheduled Hearing, continued**

- Withdraws prior to scheduled hearing day, HR must acknowledge claimant's withdrawal and subsequent cancellation of hearing in writing
- Give claimant(s) 10 days from date of acknowledgement letter to submit any additional evidence
- Send copy of cancellation letter to Hearing Scheduling Unit as soon as it is received by HR

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KEY  
POINT

The HR should notify his/her supervisor immediately of a withdrawal so that the court reporter and hearing location can be cancelled, even if it is a verbal withdrawal.

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**Instructor  
NOTE**

***Indicate to whom in the Hearing Scheduling Unit the copy of the cancellation letter should be sent.***

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## PREPARING FOR THE HEARING, CONTINUED



#13

The slide header features the EEOICP logo in large blue letters, with the full name 'The Energy Employees Occupational Illness Compensation Program' in smaller text below it. The background of the header includes several yellow triangular warning symbols with black outlines, some containing radiation or biohazard symbols, and a medical stethoscope on the right side.

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## Preparing for the Hearing

- Have you done an initial review of the case?
  - Conduct an initial case review
  - Be very well prepared
  - Know all critical case facts
  - Know controlling law
  - Know what issues need to be developed
  - Anticipate questions you will be asked and be prepared to answer them
  - Know who AR is, if any

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#14

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## Draft Script of Hearing

- Opening remarks
- Statement of case
- Claimant's objections
- Swearing-in and testimony
- Closing remarks and explaining further process

14

## PREPARING FOR THE HEARING, CONTINUED



#15

A presentation slide for the EEOICP (The Energy Employees Occupational Illness Compensation Program). The slide has a blue header with the EEOICP logo and the program name. The background features a collage of images including radiation warning symbols, a stethoscope, and a microscope. The main content is titled 'Day Before the Hearing' and lists three bullet points: 'Reminder call to claimant(s)', 'Send e-mail to supervisor: out-of-the-office, itinerary and contact numbers', and 'Pack:' followed by two sub-bullets: 'Tape recorder, tapes and batteries' and 'Blank waiver forms, blank AR appointment forms, FAQs'. The slide number '15' is in the bottom right corner.

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### Day Before the Hearing

- Reminder call to claimant(s)
- Send e-mail to supervisor: out-of-the-office, itinerary and contact numbers
- Pack:
  - Tape recorder, tapes and batteries
  - Blank waiver forms, blank AR appointment forms, FAQs

15

**Participant  
Guide Page**

*A copy of the AR Appointment Form is included in this session of the Participant Guide on page 18.*

**Instructor  
NOTE**

*Review the AR appointment form with the trainees.*

**Transition**

There are several activities that you must conduct on the day of the hearing.

**CONDUCTING THE HEARING**

#16

The slide header features the EEOICP logo in large blue letters, with the full name 'The Energy Employees Occupational Illness Compensation Program' in smaller text below it. The background of the header includes several yellow triangular warning symbols with black exclamation marks and a medical stethoscope.

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## HR Role During Hearing

- HR must perform all of these roles:
  - Judge
  - Teacher
  - Resource

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#17

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## “Judge” Role

▪ Conduct, control and guide proceedings	▪ Ensure testimony and evidence are material and relevant
▪ Ensure waivers signed	▪ Gather evidence on all critical elements
▪ Ensure good record made of hearing	▪ Assess credibility of witnesses
▪ Swear-in each witness before they testify	▪ Mark and accept offered exhibits
▪ Listen attentively to all testimony and argument	

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## CONDUCTING THE HEARING, CONTINUED



#18

The slide header features the EEOICP logo in large blue letters, with the full name 'The Energy Employees Occupational Illness Compensation Program' in smaller text below it. The background of the header includes several yellow triangular hazard symbols (radiation, biohazard, etc.) and a medical stethoscope.

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**“Teacher” Role**

- Educate claimant(s) on purpose and process of hearing – help them understand
- Educate claimant(s) on law controlling their case
- Listen attentively and adjust to claimant’s needs and expectations
- Educate claimant(s) on what happens after hearing

18



#19

The slide header features the EEOICP logo in large blue letters, with the full name 'The Energy Employees Occupational Illness Compensation Program' in smaller text below it. The background of the header includes several yellow triangular hazard symbols (radiation, biohazard, etc.) and a medical stethoscope.

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**“Resource” Role**

- Represent DOL and DEEOIC
- Give claimant(s) your contact information but not your direct phone number
- Answer all questions
- Offer and provide information to help claimant(s) through process

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## CONDUCTING THE HEARING, CONTINUED



#20

The slide header features the text 'EEOICP' in large blue letters, with 'The Energy Employees Occupational Illness Compensation Program' in smaller blue text below it. The background of the header includes several yellow triangular warning symbols with black outlines and a stethoscope graphic on the right side.

## EEOICP

The Energy Employees Occupational Illness Compensation Program

### HR's Goals

- The belief that the HR knows and respects the EEOICPA law
- The belief that the HR cares about their case and is interested in what the witnesses had to say
- The feeling that they can trust the HR to be fair in their case and to deal with them honestly
- A realistic expectation regarding the outcome of their case

20



#21

The slide header features the text 'EEOICP' in large blue letters, with 'The Energy Employees Occupational Illness Compensation Program' in smaller blue text below it. The background of the header includes several yellow triangular warning symbols with black outlines and a stethoscope graphic on the right side.

## EEOICP

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### Conducting the Hearing

- Be early
- Professional in manner, dress and conduct
- Prepared – know case
- Knowledgeable of law
- Courteous, understanding, patient and respectful
- Control hearing
- Flexible

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## CONDUCTING THE HEARING, CONTINUED



#22

The slide header features the EEOICP logo in large blue letters, with the full name 'The Energy Employees Occupational Illness Compensation Program' in smaller text below it. The background of the header includes a collage of hazard symbols (radiation, biohazard, etc.) and a stethoscope.

### Before Going “On the Record”

- Orient yourself to facility
- Meet point of contact and arrange receptionist help, if available
- Introduce yourself to the designated Court reporter
- Introductions (spellings, pronunciations); use Mr., Mrs., or Ms. when referring to all in hearing room; do not use first names
- Make claimant(s) comfortable and explain the purpose of the hearing
- Explain purpose of hearing
- Provide overview of how hearing will proceed
- Ask if they have any questions on the hearing process

22



#23

The slide header features the EEOICP logo in large blue letters, with the full name 'The Energy Employees Occupational Illness Compensation Program' in smaller text below it. The background of the header includes a collage of hazard symbols (radiation, biohazard, etc.) and a stethoscope.

### While “On the Record”

- Opening remarks
- Statement of case
- Claimant’s written objections
- Swear-in witnesses
- Take testimony
- Listen attentively and ask questions
- Take notes of critical testimony
- Accept exhibits
- Answer questions, including those about NIOSH
- Advise of 20- and 30-day time frames
- Close record

23



## CONDUCTING THE HEARING, CONTINUED



#24

The slide header features the EEOICP logo in large blue letters, with the full name 'The Energy Employees Occupational Illness Compensation Program' in smaller text below it. The background includes a collage of radiation warning symbols, a stethoscope, and a medical monitor.

### What Not to Do While “On the Record”

- Don’t disparage EEOICPA program
- Don’t say law is “arbitrary”
- Don’t promise to do anything of critical importance, e.g., send case to health physicist before issuing FD
- Don’t promise certain outcome
- Don’t put strict, unreasonable limits or restrictions on witnesses
- Don’t say wrong names, e.g., reading template errors of wrong claimant or facility

24



#25

The slide header features the EEOICP logo in large blue letters, with the full name 'The Energy Employees Occupational Illness Compensation Program' in smaller text below it. The background includes a collage of radiation warning symbols, a stethoscope, and a medical monitor.

### After Going “Off the Record”

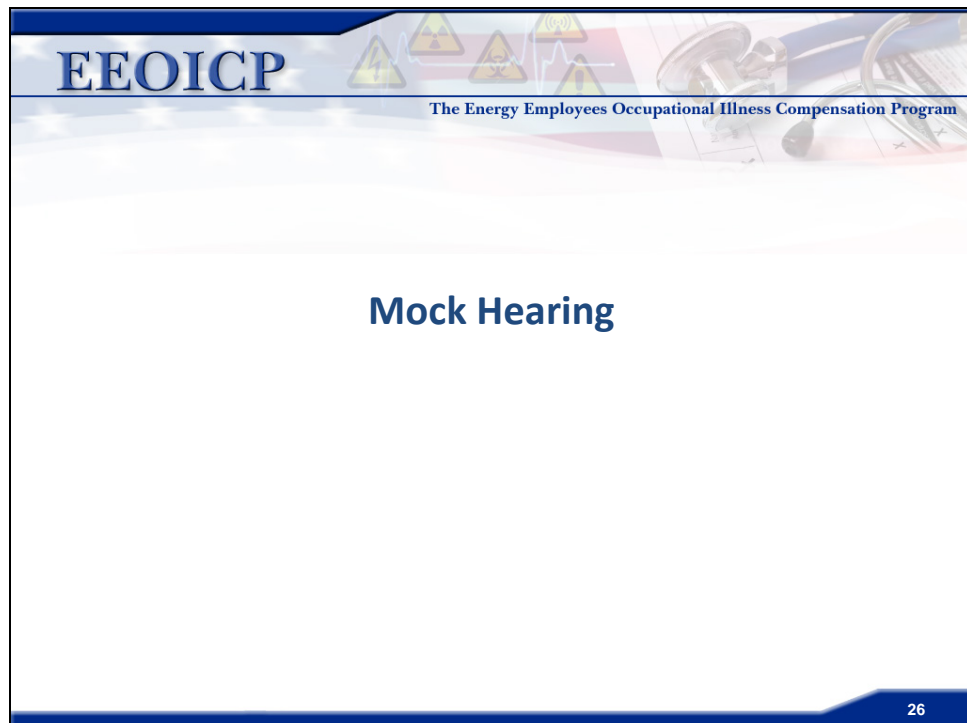
- Courteous good-byes
- Use formal names
- Stay professional
- Be careful what you say, even more so because you are off the record

25

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CONDUCTING THE HEARING, CONTINUED

#26



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**Instructor  
NOTE**

*Once the activities that are to be conducted on the day of the hearing have been addressed, demonstrate to the trainees how an actual hearing takes place.*

*Allocate approximately 30 minutes for the conduct of the mock hearing.*

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**Transition**

Now let's look at the activities you conduct after the hearing.

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## AFTER THE HEARING



SHOW PPT

#27

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### A Day After the Hearing

- ECMS coding - “Hearing Convened”
- If Claimant was “No Show”:
  - Update ECMS Appeal Status Screen with Hearing Held
  - Send RWR letter to claimant
- Fulfill any promises made to the claimant – do anything that you said you would do at the hearing, e.g., send copies of exhibits

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SHOW PPT

#28

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### Within 5 and 7 Days After the Hearing

- **Within 5 days** of return from hearing, complete and submit travel voucher – supporting receipts must be scanned into system
- Send out transcripts with cover letters

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## AFTER THE HEARING, CONTINUED



#29

The slide header features the EEOICP logo in large blue letters, with the full name 'The Energy Employees Occupational Illness Compensation Program' in smaller text below it. The background of the header includes several yellow triangular warning icons with black symbols (radiation, biohazard, etc.) and a medical stethoscope.

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### A Month After the Hearing

- Receiving new evidence
- Receive new claim forms (Bulletin 03-29)
- Remand or not based on evidence/testimony at hearing?

29



#30

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### 30 Days After the Hearing

▪ Drafting the FD:	▪ Issuing the FD:
<ul style="list-style-type: none"><li>• Address all objections</li><li>• Address exhibits and new evidence</li></ul>	<ul style="list-style-type: none"><li>• When to issue on 31<sup>st</sup> day (almost always)</li><li>• When to issue on 179<sup>th</sup> day (rarely)</li><li>• ECMS Coding: Don't forget to close out appeal screen</li></ul>

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## SESSION SUMMARY



#31

The slide header features the EEOICP logo in large blue letters, followed by the subtitle 'The Energy Employees Occupational Illness Compensation Program' in smaller blue text. The background of the header includes several yellow triangular hazard symbols (radiation, biohazard, etc.) and a medical stethoscope.

## EEOICP

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### Summary

- Numerous governing rules - be familiar with all of them
- Before hearing activities:
  - Conduct initial case review
  - Make all necessary travel arrangements in accordance with all rules and regulations
  - Obtain signed waiver
  - Prepare draft script

31



#32

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## EEOICP

The Energy Employees Occupational Illness Compensation Program

### Summary, continued

- Conduct hearing activities:
  - Ensure that you are judge, teacher, resource
  - Manage claimant goals
  - Establish positive atmosphere before going 'on record'
  - Be careful to conduct all 'on record' activities
  - Make sure to close hearing in professional manner

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## SESSION SUMMARY, CONTINUED



#33

A presentation slide for the EEOICP (The Energy Employees Occupational Illness Compensation Program). The slide has a blue header with the EEOICP logo and the program name. The main content area is white with a blue border. It contains the title 'Summary, continued' and a bulleted list of activities following a hearing. The slide number '33' is in the bottom right corner.

**EEOICP**  
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### Summary, continued

- After hearing activities:
  - Next day – ECMS coding
  - Within 5 days of return to office – travel voucher and supporting receipts
  - Next week – transcripts with cover letters
  - Next month – receive new evidence and claim forms, remand determination
  - After 30 days – draft FD, issue FD, closeout in ECMS

33

**Instructor  
NOTE**

***Make sure that all trainees have had the opportunity to ask any outstanding questions about the information that has been covered in this session.***

**Conclusion**

This concludes the hearing training session.