



RELEASE - TRANSMISSION OF REVISED MATERIAL TO BE
INCORPORATED INTO THE FEDERAL (EEOICPA) PROCEDURE MANUAL:
CHAPTER 2-1100 ELIGIBILITY REQUIREMENTS FOR CERTAIN URANIUM
WORKERS.

EEOICPA TRANSMITTAL NO.09-03

May, 2009

EXPLANATION OF MATERIAL TRANSMITTED:

This material is issued as procedural guidance to update and revise the Chapter on Eligibility Requirements for Certain Uranium Workers. This material is transmitted for use in accordance with the existing Federal (EEOICPA) Procedure Manual (PM) and replaces Chapters 2-0900 and E-700. This material is to be placed in the new unified PM binder.

PM Chapter 2-1100 Eligibility Requirements for Certain Uranium Workers is being revised and updated for use as procedural guidance to:

- Combine administration of Parts B and E for uranium claims filed under the EEOICPA.
- Define the Radiation Exposure Compensation Act (RECA) and the role the law plays in developing and adjudicating claims under the EEOICPA.
- Explain how the Division of Energy Employees Occupational Illness Compensation (DEEOIC) identifies a uranium worker claim.
- Explain how DEEOIC communicates with Department of Justice (DOJ) and the role DOJ plays in case file development.
- Explain how evidence is weighed and developed for covered employment and to provide an explanation of the role of the Site Exposure Matrices (SEM) in causation and employment development.

- Explain how RECA Section 4 claims are identified.
- Explain how DEEOIC evaluates RECA Section 4 claims and the instances where a RECA Section 4 claimant might be eligible for benefits under the EEOICPA.



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Director, Division of
Energy Employees Occupational Illness Compensation

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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Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

1. Purpose and Scope. This chapter describes the policies and procedures for processing claims involving uranium miners, millers, and ore transporters who worked at facilities covered by Section 5 of the Radiation Exposure Compensation Act (RECA) and, where applicable, the survivors of such employees. This chapter also describes the policies and procedures for processing claims involving claimants who applied for an award under Section 4 of the RECA.

2. RECA Background.

a. Department of Justice (DOJ) Administered. On October 5, 1990, Congress passed the Radiation Exposure Compensation Act ("RECA"), 42 U.S.C. § 2210 note, providing for payments to individuals who contracted certain cancers and other serious diseases as a result of their exposure to radiation released during above-ground nuclear weapons tests or as a result of their exposure to radiation during covered employment. It was the intent of Congress in enacting EEOICPA to treat certain uranium workers covered under RECA the same as Department of Energy (DOE) workers under EEOICPA.

b. Section 5 of RECA.

(1) Covered Employee. Uranium miners, uranium mill workers and uranium and vanadium-uranium ore transporters who transported ore from mines or mills.

(2) Covered States. Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon and Texas.

(3) Covered Time Period. January 1, 1942 through December 31, 1971.

(4) Covered Illnesses. Primary lung cancer, renal cancer, other chronic renal diseases including nephritis and kidney tubal tissue injury, and the following nonmalignant respiratory illnesses: pulmonary fibrosis, fibrosis of the lung, cor pulmonale related to pulmonary fibrosis, silicosis and pneumoconiosis.

2. RECA Background. (Continued)

(5) Benefits Payable by DOJ. A payment of \$100,000 is available to eligible employees or their survivors.

c. Section 4 of RECA.

(1) Downwinders.

(a) Coverage: Individuals who were physically present in one of the affected areas downwind of the Nevada Test Site during a period of atmospheric nuclear testing, and later developed a covered illness.

(b) Covered Illnesses: Leukemia (other than chronic lymphocytic leukemia), multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of the thyroid, male or female breast, esophagus, stomach, pharynx, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary bladder, brain, colon, ovary, liver (except if cirrhosis or hepatitis B is indicated), or lung.

(c) Benefits Payable by DOJ: A payment of \$50,000 is available to eligible individuals.

(2) Onsite Participants.

(a) Coverage: Individuals who participated onsite in a test involving the atmospheric detonation of a nuclear device, and later developed a covered illness.

(b) Covered Illnesses: Same as downwinders.

(c) Benefits Payable by DOJ: A payment of \$75,000 is available to eligible individuals.

2. RECA Background. (Continued)

d. All claims identified as RECA claims, Section 4 or Section 5, should be referred to the Denver District Office for adjudication regardless of the employee's last place of employment.

3. How DOL Identifies a RECA Section 5 Uranium Worker. The Claims Examiner (CE) can identify a claim submitted by a Section 5 RECA uranium worker, or an eligible surviving beneficiary of such uranium worker, by reviewing the information provided on the EE-1 or EE-2. If the claimant indicated on the EE-1 or EE-2 that the employee was a uranium worker, or that a Section 5 RECA award was applied for or has been approved, the claim is to be developed in accordance with the guidance set out under this Chapter. In cases where the EE-1 or EE-2 does not specify if the employee was/is a uranium worker and/or the Section 5 RECA status, the CE will review the EE-3, if provided, for an indication of possible RECA employment.

4. Determining Uranium Worker Eligibility. Under Part B, eligibility is entirely dependent upon a Section 5 RECA award. Under Part E, denial of a Section 5 award by the DOJ has no effect on a claimant's eligibility. The CE must independently develop a claimant's Part E claim as set forth in this Chapter.

a. Benefits Available Under Part B.

(1) Award Letter from DOJ. 42 U.S.C. § 7384u describes the requirements for determining eligibility for benefits under Part B of the EEOICPA. An individual is a "covered uranium employee" when the DOJ has determined that the employee or his or her survivor is entitled to payment of \$100,000 as compensation due under Section 5 of the RECA for a claim made under that statute and has issued a Section 5 RECA award. Receipt of payment is not required. DOJ advises DOL of Section 5 RECA awards in writing (Exhibit 1).

4. Determining Uranium Worker Eligibility. (Continued)

(2) No Additional Development. Once the CE receives confirmation of the Section 5 award, the Part B claim is in posture for acceptance. The illness awarded under RECA by DOJ must also be awarded under Part B of the EEOICPA.

(3) Benefits Payable. If the Section 5 RECA recipient is a uranium worker and was approved for a lump sum compensation payment of \$100,000 under Section 5 of the RECA, the additional lump sum payment of \$50,000 under Part B of the EEOICPA will be made to the uranium worker. The uranium worker is also eligible for medical benefits in relation to his or her accepted covered condition(s) per 42 U.S.C § 7384t.

(a) If the Section 5 RECA recipient is deceased, the uranium worker's eligible survivor(s) is entitled to the additional lump sum payment of \$50,000 compensation. The CE will review the claim for survivor benefits per 42 U.S.C. § 7384u(e).

(b) If the Section 5 RECA recipient(s) was awarded benefits as surviving beneficiary(s) of a covered uranium worker, the additional lump sum payment of \$50,000 under the EEOICPA will be made to the same recipient(s). No survivorship development is conducted. For example, it is unnecessary to obtain a marriage certificate from a surviving spouse who has already received a Section 5 RECA award as a surviving beneficiary.

(c) If the uranium worker's survivor(s) received the Section 5 RECA award and died, only the eligible survivor(s) of the uranium worker described in 42 U.S.C. § 7384u(e) are eligible for EEOICPA benefits.

4. Determining Uranium Worker Eligibility. (Continued)

(4) Issuing Recommended and Final Decisions. A decision of acceptance of a Part B claim will address the fact that the additional lump sum payment of \$50,000 and medical benefits are awarded in addition to and as a result of Section 5 RECA award of \$100,000.

b. Benefits Available Under Part E.

(1) NO DOJ Award Required. As noted above, a DOJ Section 5 award denial has no effect on a claimant's eligibility under Part E due to expanded definition of a covered uranium worker under Part E and coverage extending to any medical condition if it is determined to be related to exposure to toxic substances at a covered DOE facility or covered uranium mine or mill. The CE must independently develop a claimant's Part E claim where there is no DOJ award.

(2) DOJ Award Letter / Part B Acceptance. In all instances other than awards involving survivors, an acceptance under Part B will correlate to an automatic acceptance under Part E as to the medical conditions accepted by DOJ and the CE can prepare a recommended decision to accept the claim for benefits under the Act and proceed with whatever other development that is required (i.e. other claimed illnesses, impairment claims and wage loss claims).

(a) Eligible survivors of Section 5 RECA award recipients, and survivors who are award recipients in their own right, are approved for benefits under Part B of the EEOICPA. However, such acceptance under Part B does not automatically translate to an acceptance under Part E. Survivors of Section 5 RECA award recipients, and survivors who are award recipients in their own right, must submit the requisite documents to establish survivorship eligibility under Part E. All Part E survivorship rules apply to RECA survivors. The CE develops

4. Determining Uranium Worker Eligibility. (Continued)

all necessary requirements to establish survivorship eligibility as it is defined under Part E of the EEOICPA.

(3) Benefits Payable. In addition to medical benefits, Part E of the Act grants covered employees compensation for impairment and/or wage loss related to an accepted illness.

5. Developing RECA Section 5 Claims. The CE must evaluate the status of the Part B and Part E claims as follows in order to proceed with adjudication. In all cases where employment verification is required, the CE proceeds under the guidance set forth under paragraph 6. In all instances where a uranium worker files a claim under EEOICPA without demonstrating a RECA award, DOL must write to DOJ for additional information.

a. Section 5 RECA Covered Condition. Once a Section 5 RECA claim is identified, the CE prepares a letter to DOJ (Exhibit 2) notifying DOJ that a claim based on RECA has been submitted and requesting information concerning whether the claimant either received an award or filed a claim under Section 5 of the RECA. This letter provides DOJ with options for response depending on the status of the RECA claim. The initial inquiry to DOJ is not done via email. As discussed below, no further information is required of DOJ if a Section 5 RECA award has been approved for all claimed conditions. If a Section 5 RECA claim is pending, the letter requests that DOJ send a letter verifying employment and all medical, employment and survivorship evidence on file. If the Section 5 award is denied, the letter requests the following: a copy of DOJ's decision and all employment, medical and survivorship evidence available to DOJ. If no Section 5 RECA claim exists, the letter requests that DOJ send a letter verifying employment.

b. Condition Not Covered Under RECA Section 5, But Claim Involves a Uranium Miner. The CE prepares a different letter to DOJ (Exhibit 3) if the claimed condition is not a

5. Developing RECA Section 5 Claims. (Continued)

covered RECA Section 5 illness. This letter requests that DOJ send all employment, medical and survivorship evidence available to DOL and a statement verifying employment regardless of the outcome of the Section 5 claim.

c. If the claimant filed for a medical condition that is not covered under the RECA in addition to covered RECA conditions, the CE may send the standard request to DOJ (Exhibit 2) and defer the request for copy of records until additional development is conducted to avoid multiple requests for the same claim. The CE may also defer the request for copy of records based on the nature and quality of the medical evidence in the case file. Upon receipt of the requested documentation from DOJ, the CE can request whatever additional evidence deemed necessary for development at a later date via follow up email communication with DOJ. The CE attaches a copy of the EE-1 or EE-2 to the letter in all instances. The EE-1 or EE-2 signed by the claimant serves as a Privacy Act waiver allowing DOJ to release information to DOL regarding specific individuals.

d. Response from DOJ.

(1) DOJ Approves the Section 5 Award. DOJ advises DOL of Section 5 RECA awards in writing (Exhibit 1). Once the CE receives confirmation of the award, the Part B claim is in posture for acceptance.

(2) DOJ Award Adjudication Pending. If a Section 5 RECA claim is filed but pending DOJ adjudication, DOJ will provide DOL with a letter (Exhibit 4). DOJ also provides DOL with the factual statement of employment as requested and all employment, medical and survivorship evidence available to DOJ. The CE proceeds to develop for benefits under Part E. Any factual statement provided by the DOJ verifying the uranium worker's specific dates and places of employment covered under Section 5 of the RECA suffices to verify employment as to those specific dates and places only.

5. Developing RECA Section 5 Claims. (Continued)

(3) DOJ Denies Section 5 Award. A DOJ Section 5 award denial automatically translates into a DOL denial under Part B. However, due to the expanded definition of a covered uranium worker and expanded covered conditions under Part E, a DOJ Section 5 award denial has no effect on Part E adjudication, and the CE continues to develop for coverage regardless of any negative determination or pending action on the part of DOJ. DOJ may deny Section 5 awards based upon RECA employment requirements that have no bearing on the EEOICPA. Additionally, DOJ denies Section 5 awards if the claimed condition is not a covered condition under the RECA. Expanded covered conditions under Part E might allow for an acceptance where DOJ has denied a claim. Accordingly, the CE proceeds to develop for Part E benefits, obtains all information relevant to DOJ's adjudication process from DOJ, and evaluates all available evidence to reach a determination as to coverage under the Act.

(4) No DOJ Section 5 Claim Filed. If the DOJ responds (Exhibit 5) indicating the claimant has not filed for an award under Section 5 of the RECA, the CE will contact the claimant in writing (Exhibit 6) and advise the claimant that benefits may only be awarded under Part B of the EEOICPA if the covered employee or claimant has been approved for an award under Section 5 of the RECA. The letter also notifies the claimant their Part E claim is not dependent on a Section 5 RECA award and is being developed. In such cases, the CE requests employment verification from DOJ (See Exhibits 2 and 3). The letter should ask the DOJ to confirm the accuracy of the claimed employment and whether the reported employment is covered under the RECA. The CE completes development of the Part E claim and issues a recommended decision as soon as all the required facts are examined and a coverage determination made.

5. Developing RECA Section 5 Claims. (Continued)

(5) If a claimant was denied due to having no Section 5 RECA award and later obtains an award and submits it to DEEOIC, there is no need to require the claimant to file a new claim. In this instance, the claim is simply reopened and adjudicated under the guidance set out in this Chapter.

e. Evaluating and Obtaining Evidence from DOJ. In some cases DOJ initially provides verification of RECA Section 5 employment in the form of a factual statement of employment. The initial communication with DOJ (Exhibit 2) indicates that additional evidence may be sought as claim adjudication proceeds. The DO CE seeks additional evidence from DOJ as necessary by contacting DOJ in writing (either by letter or email) requesting whatever additional documentation is required to adjudicate the claim under Part E. DOJ has requested that all medical, employment and survivorship (if applicable) evidence be requested at the same time to avoid multiple requests on the same claim.

In cases where DOJ does not grant a Section 5 award based upon employment, the CE requests all employment and medical evidence in DOJ's possession and renders an independent finding as to employment. The CE reviews all evidence obtained from DOJ to assist in reaching a decision regarding the acceptance or denial of benefits under the EEOICPA.

(1) Concurrent Development. While obtaining information from DOJ is important, the CE concurrently conducts independent development as needed to obtain employment, medical, survivorship and exposure evidence that assists the CE in adjudicating the claim under Part E. Such development should begin immediately upon receipt of the claim file in the DO if a medical condition is claimed that is not covered under the RECA or if the applicant indicates a RECA claim was not filed. The CE pursues additional evidence from the claimant, treating physicians, other health care providers, employers, and exhausts all

5. Developing RECA Section 5 Claims. (Continued)

other sources of information when developing for adjudication. The CE reviews and weighs all evidence obtained through the development process before issuing the recommended decision.

f. Cancer Claims. Based upon a diagnosed cancer not accepted under RECA and covered employment, the case file must be referred for dose reconstruction to the Department of Health and Human Service's National Institute for Occupational Safety and Health (NIOSH). The dose reconstruction is used to determine the probability of causation between the diagnosed cancer and the radiation dose potentially received during the covered employment. If a cancer claim is accepted under Part E based on exposure to a chemical or biological toxic substance, there is no need to refer the case to NIOSH.

g. Issuing the Recommended / Final Decision and Post Adjudication Actions. Once the CE receives confirmation of a Section 5 RECA award, a recommended decision to accept the Part B claim should be issued. In all instances other than awards involving survivors, an acceptance under Part B will correlate to an acceptance under Part E as to the medical conditions accepted by DOJ and the CE can prepare a recommended decision to accept the claim for benefits under the Act and proceed with whatever other development that is required (i.e. other claimed illnesses, impairment claims and wage loss claims). The recommended decision of acceptance will address the fact that the additional lump sum payment of \$50,000 and medical benefits when applicable, are awarded in addition to the Section 5 RECA award of \$100,000.

(1) Part E Claim in Posture for Denial. If after complete development, the CE determines that the Part E claim is in posture for denial, no recommended decision denying benefits is issued until DOJ has issued its decision regarding the Section 5 award, because a DOJ acceptance may prompt an automatic

5. Developing RECA Section 5 Claims. (Continued)

approval under Part B and Part E (except in certain survivorship cases). In such cases where the Part E EEOICPA claim is in posture for denial and is pending adjudication at DOJ, the CE may administratively close the claim for timeliness purposes and reopen once DOJ issues its decision.

(2) Acceptances. If after complete development the CE determines that any part of the Part E EEOICPA claim is in posture for acceptance, a recommended decision is issued accepting the claim under Part E. The CE must address the status of the Part B claim in the recommended decision.

(3) Part B Reopening. If a Part B claim is denied by the Final Adjudication Branch because the claimant has not filed for or received an award under Section 5 of the RECA and the claimant later submits evidence showing a Section 5 award, a reopening should be initiated by the district office.

6. Verifying RECA Section 5 Part E Employment. Under Part E, the CE must develop claimed employment if the employee or survivor claims a medical condition not included in the claimant's RECA award. If not already submitted, the CE will send a Form EE-3 to the claimant so that all potentially eligible employment can be identified and developed. This should be done upon the initial review of the claim file if a medical condition is claimed that is not covered under the RECA. The CE does not need to develop employment under Part E where all claimed medical conditions were awarded under RECA.

a. DOJ Employment Verification. Upon receipt of the notification letter that the Department of Labor has received a RECA claim, DOJ searches its records. DOJ issues a letter to DOL regarding the status of the claimant's Section 5 RECA claim. If requested, DOJ will also provide copies of all medical, employment and survivorship evidence on file for the employee. DOJ refers to survivorship documents as "identification" documents.

6. Verifying RECA Section 5 Part E Employment. (Continued)

(1) Employment Verified. In instances where employment is verified by a Section 5 RECA award, the CE accepts this as proof establishing covered employment under the EEOICPA for the medical conditions upon which the RECA award is based.

(2) Employment Not Verified. In cases where DOJ has denied a Section 5 award based upon employment, the CE requests from DOJ (Exhibit 2) all evidence at its disposal that was used to determine that employment could not be verified. In instances where DOJ denies a Section 5 RECA claim because employment cannot be verified, or where no Section 5 RECA claim exists, the CE must independently develop employment.

(a) Reasons for Failure to Verify: DOJ cannot verify employment if no record of employment exists or if claimed employment at a certain mine or mill falls outside of the period in which the mine or mill was in operation or outside of the covered time period. In such instances, the CE conducts further development and obtains additional evidence where available in an attempt to verify employment during the covered time period of January 1, 1942 through December 31, 1971.

b. Use of SEM for Employment Development. The SEM cannot by itself verify employment. However, SEM should be used to verify the claimed site of covered employment years of operation and known operating contractors during the period of claimed employment. SEM contains a list of uranium mines, uranium mills and vanadium-uranium ore transporters and the time period each was in operation. By obtaining Social Security Administration (SSA) earnings records, the CE can confirm the employee worked for the reported employer(s). However, an affidavit (such as a Form EE-4) or verification from the DOJ is needed to place the worker at the covered site. Additionally, the SEM "Site History" section for each facility lists all prime operating

6. Verifying RECA Section 5 Part E Employment. (Continued)

entities and respective operating dates. The CE should attempt to match the operator's name and dates to employment evidence as an additional corroborative step toward verifying employment.

c. Uranium Worker Employment Requirements. In developing a claim for a uranium worker, only one day of employment exposure is required, but additional employment may be necessary to satisfy certain causation criteria regarding exposure as will be outlined in the new unified EEOICPA PM 2-0700 Establishing Toxic Substance Exposure.

d. The CE assesses exposure for a uranium ore transporter based upon that individual's confirmed presence at a uranium mine or mill. Claimed exposure in transit will not be considered when conducting a causation analysis. Only the time in which an ore transporter is actually physically present at a mine or mill will be counted as covered employment for exposure development purposes.

7. Verifying Part E Exposure for RECA Section 5 Claims. The CE evaluates exposure for uranium workers based upon SEM and/or other data which will be outlined in the new unified EEOICPA PM 2-0700. The CE also verifies exposure through employment exposure records and supporting evidence submitted by the claimant. In addition, the Resource Center (RC) calls the claimant to complete an occupational history questionnaire (OHQ) on RECA claims to obtain information regarding exposure.

a. Ensuring SEM Accuracy. - All covered RECA Section 5 uranium mines, mills and ore transporters should be listed in SEM because all such employment is covered under the EEOICPA. If the CE identifies a uranium mine, uranium mill or a vanadium-uranium ore transporter in operation during the covered time period but not listed in SEM, the CE should provide all pertinent facts regarding the omitted site or employer to the designated DO SEM point of contact (POC). The DO SEM POC will contact the National Office SEM POC via email. The National Office SEM POC will then contact DOJ to determine coverage.

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

7. Verifying Part E Exposure for RECA Section 5 Claims.
(Continued)

b. Employment Evidence. The CE uses employment records, where available, to evaluate for exposure. The CE obtains such evidence from either the claimant or the employer and reviews the totality of the evidence of file to determine whether or not it is established that the employee was exposed to a toxic substance.

c. Occupational History Development. As noted above, the RC calls the claimant to complete an OHQ on most RECA claims involving the worker or eligible survivors. An OHQ is designed specifically to develop information regarding workplace exposure. The CE is to request that the RC conduct an OHQ interview if one has not been conducted for an eligible claimant.

8. RECA Section 4 Claims. Some EEOICPA claimants may have filed a claim under Section 4 of the RECA. The statutory language in 42 U.S.C. § 7385j of the EEOICPA acts as a bar to any cancer claim filed by an individual under EEOICPA who has received compensation under Section 4 RECA. Section 4 of the RECA only provides benefits for cancer. As such, a claimant cannot receive an award under both Section 4 RECA and the EEOICPA for a cancer claim regardless of whether the claimant filed for different cancers under EEOICPA than awarded under RECA 4 or if the claimant filed for multiple cancers and one or more cancers is the same as the cancer awarded under RECA Section 4. If a claimant has not yet received a Section 4 RECA award and is eligible for an EEOICPA award, the claimant must choose between the Section 4 RECA award and the EEOICPA award. A RECA Section 4 award has no effect on non-cancerous conditions claimed under the EEOICPA.

Under RECA, an individual cannot receive an award under both Section 4 and Section 5. Without an award under RECA section 5, a claim based on RECA employment will not meet the Part B requirements.

8. RECA Section 4 Claims. (Continued)

a. Identifying a Section 4 RECA Claimant. The CE can identify a claim submitted by a Section 4 RECA claimant by reviewing the information provided on the EE-1 or EE-2. If the claimant checked the box indicating he or she applied for an award under Section 4 RECA, the claim is to be developed in accordance with the guidance set out in this section.

b. Letter to DOJ - Section 4 RECA. Once a Section 4 RECA claim is identified, the CE prepares a letter to DOJ (Exhibit 7) requesting information concerning whether the claimant either received an award or filed a claim under Section 4 of the RECA. The CE attaches a copy of the EE-1 or EE-2 to the letter in all instances.

c. DOJ Approves the Section 4 Award. Should cancer be the only claimed illness under the EEOICPA, and an acceptance of an award under RECA Section 4 is confirmed, the CE may proceed with a recommended denial of compensation under Part E. The denial of compensation should specifically reference the exclusion of benefits for cancer under both EEOICPA and RECA contained in 42 U.S.C. § 7385j.

d. DOJ Award Adjudication Pending. If the response from DOJ indicates that a RECA Section 4 decision is pending, the CE takes the following actions depending on the claimed conditions:

- (1) Cancer. - The CE must prepare a letter to the claimant(s), explaining that an EEOICPA and a RECA Section 4 cancer claim cannot be adjudicated concurrently. The claimant(s) must be asked to select which program they wish to pursue benefits under, for the claimed cancer(s). The claimant(s) must be notified that if they accept the RECA Section 4 award, they cannot receive an award under the EEOICPA for a cancer claim. The claimant(s) should be notified that if they either fail to respond within 30 days, or if they elect to pursue their cancer claim under RECA, their EEOICPA cancer claim will be denied. The

8. RECA Section 4 Claims. (Continued)

claimant(s) should also be advised that if they wish to pursue their cancer claim under EEOICPA, they must formally withdraw their claim from RECA, and confirmation of such withdrawal must be obtained from DOJ. The letter should further state that if their RECA claim ultimately ends in a denial, then they may seek to have their EEOICPA cancer claim reopened.

Depending upon the response from the claimant(s), the CE will either proceed with the adjudication of the claimed cancer (upon confirmation of RECA Section 4 withdrawal) or will proceed with development of the case for non-cancerous conditions, and will issue a recommended decision that includes a denial for the claimed cancer. Any recommended decision that includes a denial of a claimed cancer, on the grounds that compensation cannot be awarded under both RECA Section 4 and EEOICPA, must reference 42 U.S.C. § 7385j.

(2) Non-Cancer. Any non-cancerous condition will be treated like any other claim.

e. Rejection of Section 4 RECA Award. If DOJ reports that a RECA-4 award has been granted, but the claimant has elected to reject the settlement, and if a copy of the Acceptance of Payment form confirms this, the CE can proceed with the adjudication of the cancer claim under the EEOICPA.

9. Interagency Consistency. As noted above, since uranium workers and their survivors are treated and defined differently under Part E than Part B, and the universe of covered conditions has expanded significantly under Part E, uniform consistency in agency decision making is not always possible. Nonetheless, DOL and DOJ will inform each other when decisions are to be issued that are inconsistent with the other agency's findings. Both DOJ and DOL will work to issue consistent decisions where employment verification findings are concerned, but this may not always be possible. As such, FAB supplies DOJ with copies of final decisions issued to RECA claimants. DOJ will provide DEEOIC

9. Interagency Consistency. (Continued)

National Office with copies of those decisions inconsistent with DEEOIC findings. Additionally, the Senior CE in the DO will inform DOJ via email when a recommended decision is being issued that is inconsistent with a DOJ decision.

SUPERSEDED

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

[District Director]
District Director
U.S. Department of Labor
EEOICP
1999 Broadway
Suite 1120
Denver, CO 80202-5711

RE: John M. Doe, DOL Cl. No. 211-16-0000; DOL Cl. No. 999-99-9999

Dear [District Director]:

We have conducted a search of our records and have determined that the claim filed on behalf of John M. Doe by his eligible surviving beneficiary, Jane M. Doe, was approved for an award under Section 5 of the Radiation Exposure Compensation Act, 42 U.S.C. § 2210 note (2000), amended by Pub. L. No. 107-273 (2002), on August 1, 2001, for the following medical condition: Pulmonary fibrosis, Fibrosis of the Lung, Lung Cancer, Cor Pulmonale, Chronic Renal Disease, Silicosis, and Pneumoconiosis, Moderate to Sever. Please feel free to contact me with any questions, comments or concerns you may have.

Very Truly Yours,

Claudia B. Gangi
Trial Attorney
Civil Division
United States Department of Justice
Ben Franklin Station
Washington, D.C. 20044-0146
(202) 616-4138

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

U.S. DEPARTMENT OF LABOR

Employment Standards Administration
Energy Employees' Occupational Illness Compensation
1999 Broadway, Suite 1120
Denver, CO 80202-5711



Date:

US DEPARTMENT OF JUSTICE
RECA PROGRAM

1425 NEW YORK AVE. NW, ROOM 3148
WASHINGTON, DC 20005 [All letters to this address must be
grouped together and sent via an overnight carrier]

Re: Employee:
Employee SSN:

Dear:

The U.S. Department of Labor (DOL) has received a claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) regarding the above-referenced employee. Please see attached EE-1/EE-2 claim form. The claimant seeks benefits as a Radiation Exposure Compensation Act (RECA) uranium worker or survivor of a uranium worker under the EEOICPA. Accordingly, DOL requests the following information from the Department of Justice (DOJ) so that the claim under the EEOICPA may be processed:

1. Confirmation of entitlement under Section 5 of the RECA;
2. If an award has not been issued, then advise if a Section 5 RECA claim is pending. If pending, please provide DOL with a letter that includes a factual statement verifying dates and places of employment covered under Section 5 of the RECA and a copy of all employment, medical and identification records in DOJ's possession regarding the employee. If the claim is denied at a later date, please provide information under the criteria set out below;

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

3. If DOJ denied the Section 5 RECA claim, please provide DOL with all employment, medical and identification records in DOJ's possession regarding the employee and a copy of DOJ's decision in this matter;
4. If no Section 5 RECA claim has been filed, please provide DOL with a letter verifying dates and places of employment covered under Section 5 of the RECA.

DOL appreciates your cooperation so that we may fully adjudicate the above-referenced claim for benefits under the EEOICPA. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Claims Examiner

Enclosures: EE-1 or EE-2

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

U.S. DEPARTMENT OF LABOR

Employment Standards Administration
Energy Employees' Occupational Illness Compensation
1999 Broadway, Suite 1120
Denver, CO 80202-5711



Date:

US DEPARTMENT OF JUSTICE
RECA PROGRAM

1425 NEW YORK AVE. NW, ROOM 3148

WASHINGTON, DC 20005 [All letters to this address must be
grouped together and sent via an overnight carrier]

Re: Employee:
Employee SSN:

Dear:

The U.S. Department of Labor (DOL) has received a claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) regarding the above-referenced employee. Please see attached EE-1/EE-2 claim form. The claimant seeks benefits as a Radiation Exposure Compensation Act (RECA) uranium worker under the EEOICPA.

As the claimant seeks benefits for a medical condition not covered under the RECA, please provide DOL with a letter that includes a factual statement verifying dates and places of employment covered under Section 5 of the RECA and all employment, medical and identification records in DOJ's possession regarding the employee. Please also include a copy of any DOJ decision in this matter if it has not been submitted.

DOL appreciates your cooperation so that we may fully adjudicate the above-referenced claim for benefits under the EEOICPA. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Claims Examiner

Enclosures: EE-1 or EE-2

EEOICPA Tr. No. 09-03

May 2009

Exhibit 3

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

[District Director]
District Director
U.S. Department of Labor
EEOICP
1999 Broadway
Suite 1120
Denver, CO 80202-5711

RE: John M. Doe, DOL Cl. No. 211-16-0000; DOL Cl. No. 999-99-9999

Dear [District Director]:

We have conducted a search of our records and have determined that Jane M. Doe filed a claim on behalf of John M. Doe under Section 5 of the Radiation Exposure Compensation Act, 42 U.S.C. § 2210 note (2000), amended by Pub. L. No. 107-273 (2002) ("RECA"), on August 1, 2001. Please note that the RECA claim is still **pending**. Feel free to contact me with any questions, comments or concerns you may have.

Very Truly Yours,

Claudia B. Gangi
Trial Attorney
Civil Division
United States Department of Justice
Ben Franklin Station
Washington, D.C. 20044-0146
(202) 616-413

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

[District Director]
District Director
U.S. Department of Labor
EEOICP
1999 Broadway
Suite 1120
Denver, CO 80202-5711

RE: John M. Doe, DOL Cl. No. 211-16-0000; DOL Cl. No. 999-99-9999

Dear [District Director]:

We have conducted an extensive search of our records and have determined that **no one** has filed a claim on behalf of John M. Doe under Section 5 of the Radiation Exposure Compensation Act, 42 U.S.C. § 2210 note (2000), amended by Pub. L. No. 107-273 (2002). Please feel free to contact me with any questions, comments or concerns you may have.

Very Truly Yours,

Claudia B. Gangi
Trial Attorney
Civil Division
United States Department of Justice
Ben Franklin Station
Washington, D.C. 20044-0146
(202) 616-4138

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

U.S. DEPARTMENT OF LABOR

Employment Standards Administration
Energy Employees' Occupational Illness Compensation
1999 Broadway, Suite 1120
Denver, CO 80202-5711
1-888-805-3389 (toll-free)



Date:

Claimant Name
Street Address
City, State Zip

Uranium Worker:
SSN:
RECA Claim No.:

Dear Claimant:

We are in receipt of the claim you filed under the Energy Employee Occupational Illness Compensation Program Act (EEOICPA). The information you provided on your claim form indicates that (uranium worker's name) was a uranium worker.

The Denver District Office contacted the Department of Justice on (Date Contacted) to request verification that you have been approved for an award under Section 5 of the Radiation Exposure Compensation Act (RECA). On (Date Replied), the Department of Justice confirmed that they have not received a claim from you under the RECA.

Uranium workers are not covered under Part B of the EEOICPA unless they have received a notice of award from the Department of Justice under Section 5 of RECA. The first step in pursuing a claim under Part B of the EEOICPA with the Division of Energy Employees Occupational Illness Compensation Program (DEEOICP) is to file a claim with the Department of Justice under Section 5 of RECA.

This letter serves as official notification that you have 60 days from the date of this correspondence to file a claim with the Department of Justice under Section 5 of RECA. It is your responsibility to provide this office with proof that you have filed with the Department of Justice under Section 5 of RECA.

If you do not file a claim with the Department of Justice or provide proof of filing to the DEEOICP within the allotted 60 days, this office will render a decision on your Part B EEOICPA

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

claim. Your Part E claim is not dependent on a Section 5 RECA award and is presently under development.

The Department of Justice may be contacted at:

U.S. Department Of Justice
Radiation Exposure Compensation Program
P.O. Box 146
Ben Franklin Station
Washington, D.C. 20044-0416

Or by calling:

1-800-729-7327

Sincerely,

Name
Claims Examiner

SUPERSEDED

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

U.S. DEPARTMENT OF LABOR

Employment Standards Administration
Energy Employees' Occupational Illness Compensation
1999 Broadway, Suite 1120
Denver, CO 80202-5711



Date:

US DEPARTMENT OF JUSTICE

RECA PROGRAM

1425 NEW YORK AVE. NW, ROOM 3148

WASHINGTON, DC 20005 [All letters to this address must be
grouped together and sent via an overnight carrier]

Re: Employee:
Employee SSN:

Dear:

The U.S. Department of Labor (DOL) has received a claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) regarding the above-referenced employee. Please see the attached EE-1 or EE-2 claim form. The employee (or a beneficiary of the employee), has indicated that they are seeking benefits under the Radiation Exposure Compensation Act (RECA) section 4.

To make a determination of eligibility under the EEOICPA, the Department of Labor requires information on the status of the RECA section 4 claim. Please provide the following:

- Copy of any RECA section 4 award or denial notice
- If a RECA section 4 award was granted, but the claimant has elected to reject payment, provide DOL with a copy of the Acceptance of Payment form, indicating such election.

DOL appreciates your assistance. Please mail any correspondence or other documentation to the address listed above. Should you

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

have any questions or concerns, please do not hesitate to
contact me.

Sincerely,

Name
Claims Examiner

Enclosures: EE-1 or EE-2

SUPERSEDED

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1. Purpose and Scope. This chapter describes the policies and procedures for processing claims involving uranium miners, millers, and ore transporters who worked at facilities covered by Section 5 of the Radiation Exposure Compensation Act (RECA) and, where applicable, the survivors of such employees. This chapter also describes the policies and procedures for processing claims involving claimants who applied for an award under Section 4 of the RECA.

2. RECA Background.

a. Department of Justice (DOJ) Administered. On October 5, 1990, Congress passed the Radiation Exposure Compensation Act ("RECA"), 42 U.S.C. § 2210 note, providing for payments to individuals who contracted certain cancers and other serious diseases as a result of their exposure to radiation released during above-ground nuclear weapons tests or as a result of their exposure to radiation during covered employment. It was the intent of Congress in enacting EEOICPA to treat certain uranium workers covered under RECA the same as Department of Energy (DOE) workers under EEOICPA.

b. Section 5 of RECA.

(1) Covered Employee. Uranium miners, uranium mill workers and uranium and vanadium-uranium ore transporters who transported ore from mines or mills.

(2) Covered States. Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon and Texas.

(3) Covered Time Period. January 1, 1942 through December 31, 1971.

(4) Covered Illnesses. Primary lung cancer, renal cancer, other chronic renal diseases including nephritis and kidney tubal tissue injury, and the following nonmalignant respiratory illnesses: pulmonary fibrosis, fibrosis of the lung, cor pulmonale related to pulmonary fibrosis, silicosis and pneumoconiosis.

2. RECA Background. (Continued)

(5) Benefits Payable by DOJ. A payment of \$100,000 is available to eligible employees or their survivors.

c. Section 4 of RECA.

(1) Downwinders.

(a) Coverage: Individuals who were physically present in one of the affected areas downwind of the Nevada Test Site during a period of atmospheric nuclear testing, and later developed a covered illness.

(b) Covered Illnesses: Leukemia (other than chronic lymphocytic leukemia), multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of the thyroid, male or female breast, esophagus, stomach, pharynx, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary bladder, brain, colon, ovary, liver (except if cirrhosis or hepatitis B is indicated), or lung.

(c) Benefits Payable by DOJ: A payment of \$50,000 is available to eligible individuals.

(2) Onsite Participants.

(a) Coverage: Individuals who participated onsite in a test involving the atmospheric detonation of a nuclear device, and later developed a covered illness.

(b) Covered Illnesses: Same as downwinders.

(c) Benefits Payable by DOJ: A payment of \$75,000 is available to eligible individuals.

2. RECA Background. (Continued)

d. All claims identified as RECA claims, Section 4 or Section 5, should be referred to the Denver District Office for adjudication regardless of the employee's last place of employment.

3. How DOL Identifies a RECA Section 5 Uranium Worker. The Claims Examiner (CE) can identify a claim submitted by a Section 5 RECA uranium worker, or an eligible surviving beneficiary of such uranium worker, by reviewing the information provided on the EE-1 or EE-2. If the claimant indicated on the EE-1 or EE-2 that the employee was a uranium worker, or that a Section 5 RECA award was applied for or has been approved, the claim is to be developed in accordance with the guidance set out under this Chapter. In cases where the EE-1 or EE-2 does not specify if the employee was/is a uranium worker and/or the Section 5 RECA status, the CE will review the EE-3, if provided, for an indication of possible RECA employment.

4. Determining Uranium Worker Eligibility. Under Part B, eligibility is entirely dependent upon a Section 5 RECA award. Under Part E, denial of a Section 5 award by the DOJ has no effect on a claimant's eligibility. The CE must independently develop a claimant's Part E claim as set forth in this Chapter.

a. Benefits Available Under Part B.

(1) Award Letter from DOJ. 42 U.S.C. § 7384u describes the requirements for determining eligibility for benefits under Part B of the EEOICPA. An individual is a "covered uranium employee" when the DOJ has determined that the employee or his or her survivor is entitled to payment of \$100,000 as compensation due under Section 5 of the RECA for a claim made under that statute and has issued a Section 5 RECA award. Receipt of payment is not required. DOJ advises DOL of Section 5 RECA awards in writing (Exhibit 1).

4. Determining Uranium Worker Eligibility. (Continued)

(2) No Additional Development. Once the CE receives confirmation of the Section 5 award, the Part B claim is in posture for acceptance. The illness awarded under RECA by DOJ must also be awarded under Part B of the EEOICPA.

(3) Benefits Payable. If the Section 5 RECA recipient is a uranium worker and was approved for a lump sum compensation payment of \$100,000 under Section 5 of the RECA, the additional lump sum payment of \$50,000 under Part B of the EEOICPA will be made to the uranium worker. The uranium worker is also eligible for medical benefits in relation to his or her accepted covered condition(s) per 42 U.S.C § 7384t.

(a) If the Section 5 RECA recipient is deceased, the uranium worker's eligible survivor(s) is entitled to the additional lump sum payment of \$50,000 compensation. The CE will review the claim for survivor benefits per 42 U.S.C. § 7384u(e).

(b) If the Section 5 RECA recipient(s) was awarded benefits as surviving beneficiary(s) of a covered uranium worker, the additional lump sum payment of \$50,000 under the EEOICPA will be made to the same recipient(s). No survivorship development is conducted. For example, it is unnecessary to obtain a marriage certificate from a surviving spouse who has already received a Section 5 RECA award as a surviving beneficiary.

(c) If the uranium worker's survivor(s) received the Section 5 RECA award and died, only the eligible survivor(s) of the uranium worker described in 42 U.S.C. § 7384u(e) are eligible for EEOICPA benefits.

4. Determining Uranium Worker Eligibility. (Continued)

(4) Issuing Recommended and Final Decisions. A decision of acceptance of a Part B claim will address the fact that the additional lump sum payment of \$50,000 and medical benefits are awarded in addition to and as a result of Section 5 RECA award of \$100,000.

b. Benefits Available Under Part E.

(1) NO DOJ Award Required. As noted above, a DOJ Section 5 award denial has no effect on a claimant's eligibility under Part E due to expanded definition of a covered uranium worker under Part E and coverage extending to any medical condition if it is determined to be related to exposure to toxic substances at a covered DOE facility or covered uranium mine or mill. The CE must independently develop a claimant's Part E claim where there is no DOJ award.

(2) DOJ Award Letter / Part B Acceptance. In all instances other than awards involving survivors, an acceptance under Part B will correlate to an automatic acceptance under Part E as to the medical conditions accepted by DOJ and the CE can prepare a recommended decision to accept the claim for benefits under the Act and proceed with whatever other development that is required (i.e. other claimed illnesses, impairment claims and wage loss claims).

(a) Eligible survivors of Section 5 RECA award recipients, and survivors who are award recipients in their own right, are approved for benefits under Part B of the EEOICPA. However, such acceptance under Part B does not automatically translate to an acceptance under Part E. Survivors of Section 5 RECA award recipients, and survivors who are award recipients in their own right, must submit the requisite documents to establish survivorship eligibility under Part E. All Part E survivorship rules apply to RECA survivors. The CE develops

4. Determining Uranium Worker Eligibility. (Continued)

all necessary requirements to establish survivorship eligibility as it is defined under Part E of the EEOICPA.

(3) Benefits Payable. In addition to medical benefits, Part E of the Act grants covered employees compensation for impairment and/or wage loss related to an accepted illness.

5. Developing RECA Section 5 Claims. The CE must evaluate the status of the Part B and Part E claims as follows in order to proceed with adjudication. In all cases where employment verification is required, the CE proceeds under the guidance set forth under paragraph 6. In all instances where a uranium worker files a claim under EEOICPA without demonstrating a RECA award, DOL must write to DOJ for additional information.

a. Section 5 RECA Covered Condition. Once a Section 5 RECA claim is identified, the CE prepares a letter to DOJ (Exhibit 2) notifying DOJ that a claim based on RECA has been submitted and requesting information concerning whether the claimant either received an award or filed a claim under Section 5 of the RECA. This letter provides DOJ with options for response depending on the status of the RECA claim. The initial inquiry to DOJ is not done via email. As discussed below, no further information is required of DOJ if a Section 5 RECA award has been approved for all claimed conditions. If a Section 5 RECA claim is pending, the letter requests that DOJ send a letter verifying employment and all medical, employment and survivorship evidence on file. If the Section 5 award is denied, the letter requests the following: a copy of DOJ's decision and all employment, medical and survivorship evidence available to DOJ. If no Section 5 RECA claim exists, the letter requests that DOJ send a letter verifying employment.

b. Condition Not Covered Under RECA Section 5, But Claim Involves a Uranium Miner. The CE prepares a different letter to DOJ (Exhibit 3) if the claimed condition is not a

5. Developing RECA Section 5 Claims. (Continued)

covered RECA Section 5 illness. This letter requests that DOJ send all employment, medical and survivorship evidence available to DOL and a statement verifying employment regardless of the outcome of the Section 5 claim.

c. If the claimant filed for a medical condition that is not covered under the RECA in addition to covered RECA conditions, the CE may send the standard request to DOJ (Exhibit 2) and defer the request for copy of records until additional development is conducted to avoid multiple requests for the same claim. The CE may also defer the request for copy of records based on the nature and quality of the medical evidence in the case file. Upon receipt of the requested documentation from DOJ, the CE can request whatever additional evidence deemed necessary for development at a later date via follow up email communication with DOJ. The CE attaches a copy of the EE-1 or EE-2 to the letter in all instances. The EE-1 or EE-2 signed by the claimant serves as a Privacy Act waiver allowing DOJ to release information to DOL regarding specific individuals.

d. Response from DOJ.

(1) DOJ Approves the Section 5 Award. DOJ advises DOL of Section 5 RECA awards in writing (Exhibit 1). Once the CE receives confirmation of the award, the Part B claim is in posture for acceptance.

(2) DOJ Award Adjudication Pending. If a Section 5 RECA claim is filed but pending DOJ adjudication, DOJ will provide DOL with a letter (Exhibit 4). DOJ also provides DOL with the factual statement of employment as requested and all employment, medical and survivorship evidence available to DOJ. The CE proceeds to develop for benefits under Part E. Any factual statement provided by the DOJ verifying the uranium worker's specific dates and places of employment covered under Section 5 of the RECA suffices to verify employment as to those specific dates and places only.

5. Developing RECA Section 5 Claims. (Continued)

(3) DOJ Denies Section 5 Award. A DOJ Section 5 award denial automatically translates into a DOL denial under Part B. However, due to the expanded definition of a covered uranium worker and expanded covered conditions under Part E, a DOJ Section 5 award denial has no effect on Part E adjudication, and the CE continues to develop for coverage regardless of any negative determination or pending action on the part of DOJ. DOJ may deny Section 5 awards based upon RECA employment requirements that have no bearing on the EEOICPA. Additionally, DOJ denies Section 5 awards if the claimed condition is not a covered condition under the RECA. Expanded covered conditions under Part E might allow for an acceptance where DOJ has denied a claim. Accordingly, the CE proceeds to develop for Part E benefits, obtains all information relevant to DOJ's adjudication process from DOJ, and evaluates all available evidence to reach a determination as to coverage under the Act.

(4) No DOJ Section 5 Claim Filed. If the DOJ responds (Exhibit 5) indicating the claimant has not filed for an award under Section 5 of the RECA, the CE will contact the claimant in writing (Exhibit 6) and advise the claimant that benefits may only be awarded under Part B of the EEOICPA if the covered employee or claimant has been approved for an award under Section 5 of the RECA. The letter also notifies the claimant their Part E claim is not dependent on a Section 5 RECA award and is being developed. In such cases, the CE requests employment verification from DOJ (See Exhibits 2 and 3). The letter should ask the DOJ to confirm the accuracy of the claimed employment and whether the reported employment is covered under the RECA. The CE completes development of the Part E claim and issues a recommended decision as soon as all the required facts are examined and a coverage determination made.

5. Developing RECA Section 5 Claims. (Continued)

(5) If a claimant was denied due to having no Section 5 RECA award and later obtains an award and submits it to DEEOIC, there is no need to require the claimant to file a new claim. In this instance, the claim is simply reopened and adjudicated under the guidance set out in this Chapter.

e. Evaluating and Obtaining Evidence from DOJ. In some cases DOJ initially provides verification of RECA Section 5 employment in the form of a factual statement of employment. The initial communication with DOJ (Exhibit 2) indicates that additional evidence may be sought as claim adjudication proceeds. The CE seeks additional evidence from DOJ as necessary by contacting DOJ in writing (either by letter or email) requesting whatever additional documentation is required to adjudicate the claim under Part E. DOJ has requested that all medical, employment and survivorship (if applicable) evidence be requested at the same time to avoid multiple requests on the same claim.

In cases where DOJ does not grant a Section 5 award based upon employment, the CE requests all employment and medical evidence in DOJ's possession and renders an independent finding as to employment. The CE reviews all evidence obtained from DOJ to assist in reaching a decision regarding the acceptance or denial of benefits under the EEOICPA.

(1) Concurrent Development. While obtaining information from DOJ is important, the CE concurrently conducts independent development as needed to obtain employment, medical, survivorship and exposure evidence that assists the CE in adjudicating the claim under Part E. Such development should begin immediately upon receipt of the claim file in the DO if a medical condition is claimed that is not covered under the RECA or if the applicant indicates a RECA claim was not filed. The CE pursues additional evidence from the claimant, treating physicians, other health care providers, employers, and exhausts all

5. Developing RECA Section 5 Claims. (Continued)

other sources of information when developing for adjudication. The CE reviews and weighs all evidence obtained through the development process before issuing the recommended decision.

f. Cancer Claims. Based upon a diagnosed cancer not accepted under RECA and covered employment, the case file must be referred for dose reconstruction to the Department of Health and Human Service's National Institute for Occupational Safety and Health (NIOSH). The dose reconstruction is used to determine the probability of causation between the diagnosed cancer and the radiation dose potentially received during the covered employment. If a cancer claim is accepted under Part E based on exposure to a chemical or biological toxic substance, there is no need to refer the case to NIOSH.

g. Issuing the Recommended / Final Decision and Post Adjudication Actions. Once the CE receives confirmation of a Section 5 RECA award, a recommended decision to accept the Part B claim should be issued. In all instances other than awards involving survivors, an acceptance under Part B will correlate to an acceptance under Part E as to the medical conditions accepted by DOJ and the CE can prepare a recommended decision to accept the claim for benefits under the Act and proceed with whatever other development that is required (i.e. other claimed illnesses, impairment claims and wage loss claims). The recommended decision of acceptance will address the fact that the additional lump sum payment of \$50,000 and medical benefits when applicable, are awarded in addition to the Section 5 RECA award of \$100,000.

(1) Part E Claim in Posture for Denial. If after complete development, the CE determines that the Part E claim is in posture for denial, no recommended decision denying benefits is issued until DOJ has issued its decision regarding the Section 5 award, because a DOJ acceptance may prompt an automatic

5. Developing RECA Section 5 Claims. (Continued)

approval under Part B and Part E (except in certain survivorship cases). In such cases where the Part E EEOICPA claim is in posture for denial and is pending adjudication at DOJ, the CE may administratively close the claim for timeliness purposes and reopen once DOJ issues its decision.

(2) Acceptances. If after complete development the CE determines that any part of the Part E EEOICPA claim is in posture for acceptance, a recommended decision is issued accepting the claim under Part E. The CE must address the status of the Part B claim in the recommended decision.

(3) Part B Reopening. If a Part B claim is denied by the Final Adjudication Branch because the claimant has not filed for or received an award under Section 5 of the RECA and the claimant later submits evidence showing a Section 5 award, a reopening should be initiated by the district office.

6. Verifying RECA Section 5 Part E Employment. Under Part E, the CE must develop claimed employment if the employee or survivor claims a medical condition not included in the claimant's RECA award. If not already submitted, the CE will send a Form EE-3 to the claimant so that all potentially eligible employment can be identified and developed. This should be done upon the initial review of the claim file if a medical condition is claimed that is not covered under the RECA. The CE does not need to develop employment under Part E where all claimed medical conditions were awarded under RECA.

a. DOJ Employment Verification. Upon receipt of the notification letter that the Department of Labor has received a RECA claim, DOJ searches its records. DOJ issues a letter to DOL regarding the status of the claimant's Section 5 RECA claim. If requested, DOJ will also provide copies of all medical, employment and survivorship evidence on file for the employee. DOJ refers to survivorship documents as "identification" documents.

6. Verifying RECA Section 5 Part E Employment. (Continued)

(1) Employment Verified. In instances where employment is verified by a Section 5 RECA award, the CE accepts this as proof establishing covered employment under the EEOICPA for the medical conditions upon which the RECA award is based.

(2) Employment Not Verified. In cases where DOJ has denied a Section 5 award based upon employment, the CE requests from DOJ (Exhibit 2) all evidence at its disposal that was used to determine that employment could not be verified. In instances where DOJ denies a Section 5 RECA claim because employment cannot be verified, or where no Section 5 RECA claim exists, the CE must independently develop employment.

(a) Reasons for Failure to Verify: DOJ cannot verify employment if no record of employment exists or if claimed employment at a certain mine or mill falls outside of the period in which the mine or mill was in operation or outside of the covered time period. In such instances, the CE conducts further development and obtains additional evidence where available in an attempt to verify employment during the covered time period of January 1, 1942 through December 31, 1971.

b. Use of SEM for Employment Development. The SEM cannot by itself verify employment. However, SEM should be used to verify the claimed site of covered employment years of operation and known operating contractors during the period of claimed employment. SEM contains a list of uranium mines, uranium mills and vanadium-uranium ore transporters and the time period each was in operation. By obtaining Social Security Administration (SSA) earnings records, the CE can confirm the employee worked for the reported employer(s). However, an affidavit (such as a Form EE-4) or verification from the DOJ is needed to place the worker at the covered site. Additionally, the SEM "Site History" section for each facility lists all prime operating

6. Verifying RECA Section 5 Part E Employment. (Continued)

entities and respective operating dates. The CE should attempt to match the operator's name and dates to employment evidence as an additional corroborative step toward verifying employment.

c. Uranium Worker Employment Requirements. In developing a claim for a uranium worker, only one day of employment exposure is required, but additional employment may be necessary to satisfy certain causation criteria regarding exposure as will be outlined in the new unified EEOICPA PM 2-0700 Establishing Toxic Substance Exposure.

d. The CE assesses exposure for a uranium ore transporter based upon that individual's confirmed presence at a uranium mine or mill. Claimed exposure in transit will not be considered when conducting a causation analysis. Only the time in which an ore transporter is actually physically present at a mine or mill will be counted as covered employment for exposure development purposes.

7. Verifying Part E Exposure for RECA Section 5 Claims. The CE evaluates exposure for uranium workers based upon SEM and/or other data which will be outlined in the new unified EEOICPA PM 2-0700. The CE also verifies exposure through employment exposure records and supporting evidence submitted by the claimant. In addition, the Resource Center (RC) calls the claimant to complete an occupational history questionnaire (OHQ) on RECA claims to obtain information regarding exposure.

a. Ensuring SEM Accuracy. - All covered RECA Section 5 uranium mines, mills and ore transporters should be listed in SEM because all such employment is covered under the EEOICPA. If the CE identifies a uranium mine, uranium mill or a vanadium-uranium ore transporter in operation during the covered time period but not listed in SEM, the CE should provide all pertinent facts regarding the omitted site or employer to the designated DO SEM point of contact (POC). The DO SEM POC will contact the National Office SEM POC via email. The National Office SEM POC will then contact DOJ to determine coverage.

7. Verifying Part E Exposure for RECA Section 5 Claims.

(Continued)

b. Employment Evidence. The CE uses employment records, where available, to evaluate for exposure. The CE obtains such evidence from either the claimant or the employer and reviews the totality of the evidence of file to determine whether or not it is established that the employee was exposed to a toxic substance.

c. Occupational History Development. As noted above, the RC calls the claimant to complete an OHQ on most RECA claims involving the worker or eligible survivors. An OHQ is designed specifically to develop information regarding workplace exposure. The CE is to request that the RC conduct an OHQ interview if one has not been conducted for an eligible claimant.

8. RECA Section 4 Claims. Some EEOICPA claimants may have filed a claim under Section 4 of the RECA. The statutory language in 42 U.S.C. § 7385j of the EEOICPA acts as a bar to any cancer claim filed by an individual under EEOICPA who has received compensation under Section 4 RECA. Section 4 of the RECA only provides benefits for cancer. As such, a claimant cannot receive an award under both Section 4 RECA and the EEOICPA for a cancer claim regardless of whether the claimant filed for different cancers under EEOICPA than awarded under RECA 4 or if the claimant filed for multiple cancers and one or more cancers is the same as the cancer awarded under RECA Section 4. If a claimant has not yet received a Section 4 RECA award and is eligible for an EEOICPA award, the claimant must choose between the Section 4 RECA award and the EEOICPA award. A RECA Section 4 award has no effect on non-cancerous conditions claimed under the EEOICPA.

Under RECA, an individual cannot receive an award under both Section 4 and Section 5. Without an award under RECA section 5, a claim based on RECA employment will not meet the Part B requirements.

8. RECA Section 4 Claims. (Continued)

a. Identifying a Section 4 RECA Claimant. The CE can identify a claim submitted by a Section 4 RECA claimant by reviewing the information provided on the EE-1 or EE-2. If the claimant checked the box indicating he or she applied for an award under Section 4 RECA, the claim is to be developed in accordance with the guidance set out in this section.

b. Letter to DOJ - Section 4 RECA. Once a Section 4 RECA claim is identified, the CE prepares a letter to DOJ (Exhibit 7) requesting information concerning whether the claimant either received an award or filed a claim under Section 4 of the RECA. The CE attaches a copy of the EE-1 or EE-2 to the letter in all instances.

c. DOJ Approves the Section 4 Award. Should cancer be the only claimed illness under the EEOICPA, and an acceptance of an award under RECA Section 4 is confirmed, the CE may proceed with a recommended denial of compensation under Part E. The denial of compensation should specifically reference the exclusion of benefits for cancer under both EEOICPA and RECA contained in 42 U.S.C. § 7385j.

d. DOJ Award Adjudication Pending. If the response from DOJ indicates that a RECA Section 4 decision is pending, the CE takes the following actions depending on the claimed conditions:

(1) Cancer. - The CE must prepare a letter to the claimant(s), explaining that an EEOICPA and a RECA Section 4 cancer claim cannot be adjudicated concurrently. The claimant(s) must be asked to select which program they wish to pursue benefits under, for the claimed cancer(s). The claimant(s) must be notified that if they accept the RECA Section 4 award, they cannot receive an award under the EEOICPA for a cancer claim. The claimant(s) should be notified that if they either fail to respond within 30 days, or if they elect to pursue their cancer claim under RECA, their EEOICPA cancer claim will be denied. The

8. RECA Section 4 Claims. (Continued)

claimant(s) should also be advised that if they wish to pursue their cancer claim under EEOICPA, they must formally withdraw their claim from RECA, and confirmation of such withdrawal must be obtained from DOJ. The letter should further state that if their RECA claim ultimately ends in a denial, then they may seek to have their EEOICPA cancer claim reopened.

Depending upon the response from the claimant(s), the CE will either proceed with the adjudication of the claimed cancer (upon confirmation of RECA Section 4 withdrawal) or will proceed with development of the case for non-cancerous conditions, and will issue a recommended decision that includes a denial for the claimed cancer. Any recommended decision that includes a denial of a claimed cancer, on the grounds that compensation cannot be awarded under both RECA Section 4 and EEOICPA, must reference 42 U.S.C. § 7385j.

(2) Non-Cancer. Any non-cancerous condition will be treated like any other claim.

e. Rejection of Section 4 RECA Award. If DOJ reports that a RECA-4 award has been granted, but the claimant has elected to reject the settlement, and if a copy of the Acceptance of Payment form confirms this, the CE can proceed with the adjudication of the cancer claim under the EEOICPA.

9. Interagency Consistency. As noted above, since uranium workers and their survivors are treated and defined differently under Part E than Part B, and the universe of covered conditions has expanded significantly under Part E, uniform consistency in agency decision making is not always possible. Nonetheless, DOL and DOJ will inform each other when decisions are to be issued that are inconsistent with the other agency's findings. Both DOJ and DOL will work to issue consistent decisions where employment verification findings are concerned, but this may not always be possible. As such, FAB supplies DOJ with copies of final decisions issued to RECA claimants. DOJ will provide DEEOIC

9. Interagency Consistency. (Continued)

National Office with copies of those decisions inconsistent with DEEOIC findings. Additionally, the Senior CE in the DO will inform DOJ via email when a recommended decision is being issued that is inconsistent with a DOJ decision.

SUPERSEDED

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

[District Director]
District Director
U.S. Department of Labor
EEOICP
1999 Broadway
Suite 1120
Denver, CO 80202-5711

RE: John M. Doe, DOL Cl. No. 211-16-0000; DOL Cl. No. 999-99-9999

Dear [District Director]:

We have conducted a search of our records and have determined that the claim filed on behalf of John M. Doe by his eligible surviving beneficiary, Jane M. Doe, was approved for an award under Section 5 of the Radiation Exposure Compensation Act, 42 U.S.C. § 2210 note (2000), amended by Pub. L. No. 107-273 (2002), on August 1, 2001, for the following medical condition: Pulmonary fibrosis, Fibrosis of the Lung, Lung Cancer, Cor Pulmonale, Chronic Renal Disease, Silicosis, and Pneumoconiosis, Moderate to Sever. Please feel free to contact me with any questions, comments or concerns you may have.

Very Truly Yours,

Claudia B. Gangi
Trial Attorney
Civil Division
United States Department of Justice
Ben Franklin Station
Washington, D.C. 20044-0146
(202) 616-4138

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers**U.S. DEPARTMENT OF LABOR**

Employment Standards Administration
Energy Employees' Occupational Illness Compensation
1999 Broadway, Suite 1120
Denver, CO 80202-5711



Date:

US DEPARTMENT OF JUSTICE
RECA PROGRAM
1425 NEW YORK AVE. NW, ROOM 3148
WASHINGTON, DC 20005 **[All letters to this address must be
grouped together and sent via an overnight carrier]**

Re: Employee:
Employee SSN:

Dear:

The U.S. Department of Labor (DOL) has received a claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) regarding the above-referenced employee. Please see attached EE-1/EE-2 claim form. The claimant seeks benefits as a Radiation Exposure Compensation Act (RECA) uranium worker or survivor of a uranium worker under the EEOICPA. Accordingly, DOL requests the following information from the Department of Justice (DOJ) so that the claim under the EEOICPA may be processed:

1. Confirmation of entitlement under Section 5 of the RECA;
2. If an award has not been issued, then advise if a Section 5 RECA claim is pending. If pending, please provide DOL with a letter that includes a factual statement verifying dates and places of employment covered under Section 5 of the RECA and a copy of all employment, medical and identification records in DOJ's possession regarding the employee. If the claim is denied at a later date, please provide information under the criteria set out below;

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

-
3. If DOJ denied the Section 5 RECA claim, please provide DOL with all employment, medical and identification records in DOJ's possession regarding the employee and a copy of DOJ's decision in this matter;
 4. If no Section 5 RECA claim has been filed, please provide DOL with a letter verifying dates and places of employment covered under Section 5 of the RECA.

DOL appreciates your cooperation so that we may fully adjudicate the above-referenced claim for benefits under the EEOICPA. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Claims Examiner

Enclosures: EE-1 or EE-2

U.S. DEPARTMENT OF LABOR

Employment Standards Administration
Energy Employees' Occupational Illness Compensation
1999 Broadway, Suite 1120
Denver, CO 80202-5711



Date:

US DEPARTMENT OF JUSTICE

RECA PROGRAM

1425 NEW YORK AVE. NW, ROOM 3148

WASHINGTON, DC 20005 **[All letters to this address must be
grouped together and sent via an overnight carrier]**

Re: Employee:
Employee SSN:

Dear:

The U.S. Department of Labor (DOL) has received a claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) regarding the above-referenced employee. Please see attached EE-1/EE-2 claim form. The claimant seeks benefits as a Radiation Exposure Compensation Act (RECA) uranium worker under the EEOICPA.

As the claimant seeks benefits for a medical condition not covered under the RECA, please provide DOL with a letter that includes a factual statement verifying dates and places of employment covered under Section 5 of the RECA and all employment, medical and identification records in DOJ's possession regarding the employee. Please also include a copy of any DOJ decision in this matter if it has not been submitted.

DOL appreciates your cooperation so that we may fully adjudicate the above-referenced claim for benefits under the EEOICPA. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Claims Examiner

Enclosures: EE-1 or EE-2

EEOICPA Tr. No. 09-03
May 2009

Exhibit 3

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

[District Director]
District Director
U.S. Department of Labor
EEOICP
1999 Broadway
Suite 1120
Denver, CO 80202-5711

RE: John M. Doe, DOL Cl. No. 211-16-0000; DOL Cl. No. 999-99-9999

Dear [District Director]:

We have conducted a search of our records and have determined that Jane M. Doe filed a claim on behalf of John M. Doe under Section 5 of the Radiation Exposure Compensation Act, 42 U.S.C. § 2210 note (2000), amended by Pub. L. No. 107-273 (2002) ("RECA"), on August 1, 2001. Please note that the RECA claim is still **pending**. Feel free to contact me with any questions, comments or concerns you may have.

Very Truly Yours,

Claudia B. Gangi
Trial Attorney
Civil Division
United States Department of Justice
Ben Franklin Station
Washington, D.C. 20044-0146
(202) 616-413

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

[District Director]
District Director
U.S. Department of Labor
EEOICP
1999 Broadway
Suite 1120
Denver, CO 80202-5711

RE: John M. Doe, DOL Cl. No. 211-16-0000; DOL Cl. No. 999-99-9999

Dear [District Director]:

We have conducted an extensive search of our records and have determined that **no one** has filed a claim on behalf of John M. Doe under Section 5 of the Radiation Exposure Compensation Act, 42 U.S.C. § 2210 note (2000), amended by Pub. L. No. 107-273 (2002). Please feel free to contact me with any questions, comments or concerns you may have.

Very Truly Yours,

Claudia B. Gangi
Trial Attorney
Civil Division
United States Department of Justice
Ben Franklin Station
Washington, D.C. 20044-0146
(202) 616-4138

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

U.S. DEPARTMENT OF LABOR

Employment Standards Administration
Energy Employees' Occupational Illness Compensation
1999 Broadway, Suite 1120
Denver, CO 80202-5711
1-888-805-3389 (toll-free)



Date:

Claimant Name
Street Address
City, State Zip

Uranium Worker:
SSN:
RECA Claim No.:

Dear Claimant:

We are in receipt of the claim you filed under the Energy Employee Occupational Illness Compensation Program Act (EEOICPA). The information you provided on your claim form indicates that (**uranium worker's name**) was a uranium worker.

The Denver District Office contacted the Department of Justice on (**Date Contacted**) to request verification that you have been approved for an award under Section 5 of the Radiation Exposure Compensation Act (RECA). On (**Date Replied**), the Department of Justice confirmed that they have not received a claim from you under the RECA.

Uranium workers are not covered under Part B of the EEOICPA unless they have received a notice of award from the Department of Justice under Section 5 of RECA. The first step in pursuing a claim under Part B of the EEOICPA with the Division of Energy Employees Occupational Illness Compensation Program (DEEOICP) is to file a claim with the Department of Justice under Section 5 of RECA.

This letter serves as official notification that you have 60 days from the date of this correspondence to file a claim with the Department of Justice under Section 5 of RECA. It is your responsibility to provide this office with proof that you have filed with the Department of Justice under Section 5 of RECA.

If you do not file a claim with the Department of Justice or provide proof of filing to the DEEOICP within the allotted 60 days, this office will render a decision on your Part B EEOICPA

Part 2 - Claims

Eligibility Requirements for
Certain Uranium Workers

claim. Your Part E claim is not dependent on a Section 5 RECA award and is presently under development.

The Department of Justice may be contacted at:

**U.S. Department Of Justice
Radiation Exposure Compensation Program
P.O. Box 146
Ben Franklin Station
Washington, D.C. 20044-0416**

Or by calling:

1-800-729-7327

Sincerely,

Name
Claims Examiner

U.S. DEPARTMENT OF LABOR

Employment Standards Administration
Energy Employees' Occupational Illness Compensation
1999 Broadway, Suite 1120
Denver, CO 80202-5711



Date:

US DEPARTMENT OF JUSTICE
RECA PROGRAM
1425 NEW YORK AVE. NW, ROOM 3148
WASHINGTON, DC 20005 **[All letters to this address must be
grouped together and sent via an overnight carrier]**

Re: Employee:
Employee SSN:

Dear:

The U.S. Department of Labor (DOL) has received a claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) regarding the above-referenced employee. Please see the attached EE-1 or EE-2 claim form. The employee (or a beneficiary of the employee), has indicated that they are seeking benefits under the Radiation Exposure Compensation Act (RECA) section 4.

To make a determination of eligibility under the EEOICPA, the Department of Labor requires information on the status of the RECA section 4 claim. Please provide the following:

- Copy of any RECA section 4 award or denial notice
- If a RECA section 4 award was granted, but the claimant has elected to reject payment, provide DOL with a copy of the Acceptance of Payment form, indicating such election.

DOL appreciates your assistance. Please mail any correspondence or other documentation to the address listed above. Should you

have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Name
Claims Examiner

Enclosures: EE-1 or EE-2

SUPERSEDED