

HHS Determination Concerning a Petition to Add Members to the
Special Exposure Cohort
under the
Energy Employees Occupational Illness Compensation Program Act of 2000

Determination Concerning a Petition for Employees from
Norton Company
Worcester, Massachusetts



I. Determination

I, Kathleen Sebelius, Secretary of Health and Human Services (Secretary), have determined that the employees defined in Section II of this report do not meet the statutory criteria for addition to the Special Exposure Cohort (SEC), as authorized under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. § 7384q.

October 26, 2011
Date

[Signature on file]
Kathleen Sebelius

II. Employee Class Definition

All Atomic Weapons Employees who worked in any building or area at the facility owned by Norton Co. (or a subsequent owner) in Worcester, Massachusetts, from October 11, 1962 through October 31, 2009.

III. Decision Criteria and Recommendations

Pursuant to 42 U.S.C. § 7384q, to designate a class for addition to the SEC, the Secretary must determine, upon recommendation of the Advisory Board on Radiation and Worker Health (Board), that

- (1) it is not feasible to estimate with sufficient accuracy the radiation dose that the class received; and
- (2) there is a reasonable likelihood that such radiation dose may have endangered the health of members of the class.

The SEC final rule states in 42 C.F.R. § 83.13(c)(1) that it is feasible in two situations to estimate the radiation dose that the class received with sufficient accuracy. First, the rule states that radiation doses may be estimated with sufficient accuracy if NIOSH has established that it has access to sufficient information to estimate the maximum radiation dose for every type of cancer for which radiation doses are reconstructed that could have been incurred under plausible circumstances by any member of the class. Alternatively, radiation doses may be estimated with sufficient accuracy if NIOSH has established that it has access to sufficient information to estimate the radiation doses of members of the class more precisely than a maximum dose estimate.

In a letter received by the Secretary on September 19, 2011, the Board, pursuant to 42 U.S.C. § 7384q, agreed with the following NIOSH findings, effectively advising the Secretary that radiation dose can be reconstructed with sufficient accuracy for certain Norton Company employees in accordance with provisions of EEOICPA and the SEC final rule.

IV. Determination Findings

Feasibility of Estimating Radiation Doses with Sufficient Accuracy

The Secretary established the feasibility determination for the class of employees covered by this report based upon the findings summarized below.

- NIOSH determined that workers during the residual period from October 11, 1962 through October 31, 2009 may have received internal and external exposure to residual uranium, thoria, and thoron contamination that was generated during the operational and residual radiation periods.
- NIOSH has determined that it has access to sufficient information to estimate the maximum internal radiation dose that could have been incurred from exposure to uranium, thoria, and thoron during the residual period. Using gross alpha air monitoring results collected at the Norton Co. near the end of the AWE operational period and during the residual radiation period, and the guidance in ORAUT-OTIB-0070, and empirical source-term depletion-rate information, NIOSH can bound the internal doses potentially received from exposures to residual uranium and thoria for the period from October 11, 1962 through October 31, 2009.
- NIOSH has access to sufficient information to estimate the maximum external radiation dose that could have been incurred from exposure to uranium and thoria during the residual period. The gross alpha air contamination data from the operational period and the methods described in Battelle-TBD-6000 allow NIOSH to bound external doses from residual uranium and thoria for the period from October 11, 1962 through October 31, 2009.
- NIOSH determined that the reconstruction of internal and external doses is feasible for the residual radiation period from October 11, 1962 through October 31, 2009.
- NIOSH determined that it has access to sufficient Norton Co. facility information to either (1) estimate the maximum internal and external radiation dose for every type of cancer for which radiation doses are reconstructed that could have been incurred under plausible circumstances by any member of the evaluated class; or (2) estimate the internal and external radiation doses to members of the evaluated class more precisely than a maximum dose estimate.
- The Board concurred with the NIOSH findings.

Health Endangerment

Because the Secretary established that it is feasible to estimate with sufficient accuracy the radiation doses encountered by Norton Co. employees as specified in this class, a determination of health endangerment is not required.

V. Effect of the Determination

Members of the class of employees covered by this determination and their survivors continue to be eligible to submit claims for compensation under EEOICPA. As required for cancer claims covering other DOE and Atomic Weapons Employer employees (or Atomic Weapons Employees) not included in the SEC, qualified cancer claims under Part B of EEOICPA for members of this class will be adjudicated by the Department of Labor, in part on the basis of radiation dose reconstructions which will be conducted by NIOSH.

VI. Administrative Review of Determination

The determination provided in this report may be subject to an administrative review within HHS, pursuant to 42 C.F.R. § 83.18(a). On the basis of such a review, if the Secretary decides to designate the class of employees covered by this determination, in part or in whole, as an addition to the SEC, the Secretary would transmit a new report to Congress providing the designation and the criteria and findings on which the decision was based.