HHS Designation of Additional Members of the Special Exposure Cohort
under the
Energy Employees Occupational Illness Compensation Program Act of 2000

Designating a Class of Employees from

Simonds Saw and Steel Company
Lockport, New York

I. Designation

I, Kathleen Sebelius, Secretary of Health and Human Services, designate the class of employees defined in Section II of this report 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.

January 6, 2011	[Signature on file]
Date	Kathleen Sebelius

II. Employee Class Definition

All Atomic Weapons Employer employees who worked at Simonds Saw and Steel Co. from January 1, 1948 through December 31, 1957, for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

III. Designation Criteria and Recommendations

Pursuant to 42 U.S.C. § 7384q, for the class defined in Section II of this report, the Secretary has determined, and the Advisory Board on Radiation and Worker Health (Board) has recommended, 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.

The Board, pursuant to 42 U.S.C. § 7384q, advised the Secretary to designate the class as an addition to the SEC in a letter received by the Secretary on December 10, 2010.

IV. Designation 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.

- Principal sources of internal and external radiation exposures for members of the proposed class included gamma (photon) and beta radiation associated with handling and working in proximity to natural, enriched, and depleted uranium metals, and thorium metal.

- NIOSH located sufficient personnel monitoring, area monitoring, and source term data that, when coupled with existing dose reconstruction methods, support reconstructing internal doses from uranium exposures at Simonds Saw and Steel Co. during the operational time period from January 1, 1948 through December 31, 1957. However, NIOSH has not located sufficient personnel monitoring, source term, or air sampling data which will allow internal exposures to thorium and its associated gaseous decay product (thoron) to be reconstructed at Simonds Saw and Steel during that same time period.

- NIOSH determined that it can reconstruct internal dose from all sources at Simonds Saw and Steel Co. during the residual period from January 1, 1958 through December 31, 2006.

- In sum, NIOSH finds that it is not feasible to estimate, with sufficient accuracy, the total internal radiation dose for workers at Simonds Saw and Steel Co. during the period from January 1, 1948 through December 31, 1957.

- Although NIOSH identified significant issues impacting its ability to bound internal doses for the proposed class, NIOSH believes that it has access to sufficient information and monitoring data to support bounding internal doses for the residual period from January 1, 1958 through December 31, 2006.

- NIOSH located sufficient personnel monitoring, area monitoring, and source term data that, when coupled with existing dose reconstruction methods, support reconstructing external doses from uranium exposures at Simonds Saw and Steel Co. during the operational time period from January 1, 1948 through December 31, 1957. However, NIOSH has not located sufficient personnel monitoring, area monitoring, or source term data which will allow external exposures to thorium to be reconstructed at Simonds Saw and Steel Co. during that same time period.

- NIOSH also determined that it can reconstruct external dose from all sources during the residual period from January 1, 1958 through December 31, 2006.

- In sum, NIOSH finds that it is not feasible to estimate, with sufficient accuracy, the total external dose for workers at Simonds Saw and Steel Co. during the period from January 1, 1948 through December 31, 1957.

- NIOSH determined that it is not able to include occupational medical dose in dose reconstructions for Simonds Saw and Steel Co. workers because the medical X-ray procedures were performed at an off-site, non-covered facility.

- As detailed above, NIOSH has documented that it cannot complete the dose reconstructions related to this petition with sufficient accuracy for the employees who worked at Simonds Saw and Steel Co. during the period from January 1, 1948 through December 31, 1957.

- Pursuant to 42 C.F.R. § 83.13(c)(1), NIOSH determined that there is insufficient information to either: (1) 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; or (2) estimate the radiation doses of members of the class more precisely than a maximum dose estimate.

- Although NIOSH found that it is not possible to completely reconstruct radiation doses for employees who worked at Simonds Saw and Steel Co. during the period from January 1, 1948 through December 31, 1957, NIOSH intends to use any reliable internal and external monitoring data that may be available for an individual claim (and that can be interpreted using existing NIOSH dose reconstruction processes or procedures), and existing methods contained in *The Site Profile for Simonds Saw and Steel,* ORAUT-TKBS-0032, to support a partial dose reconstruction for non-presumptive cancers and/or cases that have less than 250 work days of employment.

- The Board concurred with the NIOSH evaluation and recommended the proposed class for addition to the SEC.

Health Endangerment

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

(1) Pursuant to 42 C.F.R. § 83.13(c)(3), NIOSH established that there is a reasonable likelihood that such radiation doses may have endangered the health of members of the class. Pursuant to 42 C.F.R. § 83.13(c)(3)(ii), NIOSH specified a minimum duration of employment to satisfy this health endangerment criterion as "having been employed for a number of work days aggregating at least 250 work days within the parameters established for this class or in combination with work days within the parameters (excluding aggregate work day requirements) established for one or more other classes of employees in the Cohort."

(2) NIOSH did not identify any evidence from the petitioners or from other resources that would establish that the class was exposed to radiation during a discrete incident likely to have involved exceptionally high-level exposures, such as a nuclear criticality incident, as defined under 42 C.F.R. § 83.13(c)(3)(i).

(3) The Board concurred with NIOSH's finding that the health of the class may have been endangered and defined the class according to the 250-work day requirement specified under 42 C.F.R. § 83.13(c)(3)(ii).

IV. Effect and Effective Date of Designation

The Secretary submits this report on the designation of one additional class to the SEC for review by Congress, pursuant to 42 U.S.C. §§ 7384*l*(14)(C)(ii) and 7384q(c)(2)(A), as amended by the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375 (codified as amended in scattered sections of 42 U.S.C.). Pursuant to 42 U.S.C. § 7384*l*(14)(C)(ii), as amended by the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375 (codified as amended in scattered sections of 42 U.S.C.), the designation in this report will become effective 30 days after the date of this report's submission to Congress "unless Congress otherwise provides."

V. Administrative Review of Designation

The health endangerment determination of the designation 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 expand the class of employees covered by this designation, the Secretary would transmit a supplementary report to Congress providing the expanded employee class definition and the criteria and findings on which the decision was based.