

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

Oak Ridge Hospital
Oak Ridge, Tennessee



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.

December 10, 2009
Date

[Signature on file]
Kathleen Sebelius

II. Employee Class Definition

All employees of the Department of Energy, its predecessor agencies, and its contractors and subcontractors who worked in any location at the Oak Ridge Hospital in Oak Ridge, Tennessee, from May 15, 1950 through December 31, 1959, for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the SEC.

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 November 19, 2009.

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.

- NIOSH determined that members of this class may have received internal and external radiation exposures from potential inadvertent inhalation and ingestion of radioactive contaminants as a result of the operation of a medical radioisotope laboratory at the Oak Ridge Hospital as well as the support operations that were provided to the ORINS cancer research facility by the Oak Ridge Hospital.
- NIOSH located no internal or sufficient external monitoring data, no area monitoring data or sufficiently detailed process or source term information associated with the Oak Ridge Hospital to bound worker exposures at the Oak Ridge Hospital during the period from May 15, 1950 through December 31, 1959.
- NIOSH finds that it is not feasible to estimate, with sufficient accuracy, the total internal dose for workers who worked in any location at the Oak Ridge Hospital from May 15, 1950 through December 31, 1959 and NIOSH finds that it is not feasible to estimate, with sufficient accuracy, the total external dose for the class of employees covered by this evaluation, with the exception of some workers where limited external monitoring data may be available. NIOSH finds that it is feasible to estimate, with sufficient accuracy, occupational medical dose for the class of employees covered by this evaluation..
- 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.
- 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

- (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).

V. 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/(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/(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."

VI. 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.