

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
Bliss & Laughlin Steel Company
Buffalo, New York



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.

June 3, 2011

Date

[Signature on file]

Kathleen Sebelius

II. Employee Class Definition

All Atomic Weapons Employees who worked at the Bliss & Laughlin Steel Company located at 110 Hopkins Street, Buffalo, New York, for the period from January 1, 1951 through December 31, 1952 and/or during the residual period from January 1, 1953 through December 31, 1998.

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 March 30, 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 Bliss & Laughlin Steel 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 the principal source of internal radiation doses for the class evaluated was from the inhalation and ingestion of uranium particles in the dust generated by the machining and handling of uranium metal, and the principal source of external radiation doses were from deposition of uranium particles in the dust from the machining of uranium rods and the direct handling of uranium.
- NIOSH found that the available monitoring records, process descriptions, and source-term data and alternative data sources are adequate to complete internal and external dose reconstruction with sufficient accuracy for the evaluated class of employees.
- NIOSH obtained process information and air monitoring data collected during the rod-turning operations, and has assessed Battelle-TBD-6000, and monitoring data bounding similar operations at other sites sufficient to bound internal and external dose.
- NIOSH determined that it has access to sufficient information to bound internal and external dose for all members of the evaluated class.
- Although no records have been identified that indicate that occupational medical X-rays were required during the operational period, the dose associated with X-ray exams can be assessed using the methodology defined in ORAUT-OTIB-0006, *Dose Reconstruction from Occupationally Related Diagnostic X-Ray Procedures*.
- NIOSH determined that it has access to sufficient Bliss & Laughlin Steel Company information to either (1) estimate the maximum external and internal 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 external and internal radiation doses to members of the evaluated class more precisely than a maximum dose estimate.

In its letter to the Secretary, the Board concurred with these NIOSH findings.

Health Endangerment

Because the Secretary established that it is feasible to estimate with sufficient accuracy the radiation doses encountered by Bliss & Laughlin Steel Company 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.