

U.S. Department of Health and Human Services 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 Certain Employees from
Sandia National Laboratory
Albuquerque, New Mexico



I. Determination

I, Xavier Becerra, Secretary of Health and Human Services (Secretary) (HHS), 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.

[Signature on File]

August 8, 2023

Xavier Becerra, Secretary

Date

II. Employee Class Definition

All personnel that worked in any area at Sandia National Laboratories in Albuquerque, New Mexico, for the period from January 1, 1997, through May 21, 2011.

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 can be estimated with sufficient accuracy if the National Institute for Occupational Safety and Health (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 can 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 dated September 5, 2022, and received on September 12, 2022, the Board, pursuant to 42 U.S.C. § 7384q, agreed with the following NIOSH findings, effectively advising the Secretary that radiation doses can be reconstructed with sufficient accuracy for the evaluated class of employees who worked at the Sandia National Laboratory in accordance with provisions of EEOICPA and the SEC final rule.

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IV. Determination Findings

Feasibility of Estimating Radiation Doses

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

- The principal sources of internal radiation dose for members of the proposed class included exposures to plutonium, tritium, uranium, americium, and fission and activation products. Potential exposure pathways could have involved the handling of these radionuclides during waste-burial operations or exposure to surface or air contamination associated with reactors and/or accelerators work. NIOSH has concluded that internal radiation dose reconstruction for these exposures is feasible.
- NIOSH has determined that it has sufficient information to reconstruct internal radiation doses for the evaluated class of employees who worked at the site from the period from January 1, 1997, through May 21, 2011. The Board concurred with this finding
- The principal sources of external radiation doses for members of the proposed class included exposures to beta, gamma, and neutron radiation. Exposures could have occurred from a variety of scenarios, including waste-handling activities and hot cell work, work with reactors and accelerators, analysis of samples obtained from blast experiments conducted at the Nevada Test Site, and medical X-rays received onsite as a condition of employment.
- NIOSH has determined that it has sufficient information to reconstruct all external radiation doses for the entire evaluation period from January 1, 1963, through May 21, 2011, including the evaluated class of employees who worked at the site from January 1, 1997, through May 21, 2011. The Board concurred with this finding.
- NIOSH determined that it is feasible to reconstruct with sufficient accuracy occupational medical dose for Sandia National Laboratory workers over the entire evaluation period from January 1, 1963, through May 21, 2011. The Board concurred with this finding.
- NIOSH has established that it has access to sufficient information to: (1) estimate the maximum radiation dose, for every type of cancer for which radiation doses are reconstructed, that could have been incurred in plausible circumstances in any member of the class; or (2) estimate radiation doses more precisely than an estimate of maximum dose for the evaluated class of Sandia National Laboratory employees who worked at the site from January 1, 1997, through May 21, 2011. Information in available resources is sufficient to estimate the maximum internal and external potential exposure to members of the evaluated class under plausible circumstances during the specified periods.
- The Board concurred with NIOSH's determination that dose reconstruction is feasible for the evaluated class of Sandia National Laboratory employees who worked at the site from

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January 1, 1997, through May 21, 2011, and therefore the class should not be added to the SEC.

Health Endangerment

Because the Secretary established that it is feasible to estimate the radiation doses encountered by Sandia National Laboratory 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 Department of Energy 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 will transmit a new report to Congress providing the designation and the criteria and findings on which the decision was based.