

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

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Determination Concerning a Petition for Employees from

Simonds Saw and Steel Company  
Lockport, New York



## I. Determination

I, Sylvia M. Burwell, Secretary of the U.S. Department of Health and Human Services (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]

October 9, 2014

Sylvia M. Burwell

Date

## II. Employee Class Definition

All Atomic Weapons Employer employees who worked at Simonds Saw and Steel Co. in Lockport, New York, from January 1, 1958, through December 31, 2006.

## 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 (the 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 the Centers for Disease Control and Prevention's 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 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. NIOSH determined that it has access to sufficient site-specific information to reconstruct radiation doses incurred by the class of employees covered by this report with sufficient accuracy.

In a letter received by the Secretary on September 3, 2014, 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 employees at the Simonds Saw and Steel Co. in Lockport, New York, 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.

- Principal sources of internal radiation exposures for members of the proposed class included exposures to natural, enriched, and depleted uranium metals and thorium metals.
- NIOSH has 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.
- Consequently, NIOSH finds that it is feasible to bound with sufficient accuracy, the total internal radiation dose for workers at Simonds Saw and Steel Co. during the residual period from January 1, 1958, through December 31, 2006.
- Principal sources of 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.
- NIOSH has 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 determined that it has access to sufficient site-specific 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 workers at Simonds Saw and Steel Co. from January 1, 1958, through December 31, 2006; or (2) estimate the internal and external radiation doses to workers at Simonds Saw and Steel Co. from January 1, 1958, through December 31, 2006, more precisely than a maximum dose estimate. The Board concurred with this determination.
- The Board concurred with NIOSH's determination that that dose reconstruction is feasible for the class of Simonds Saw and Steel Co. workers covered by Petition 00157 for the period from January 1, 1958, through December 31, 2006, and therefore should not be added to the SEC.

### Health Endangerment

Because the Secretary established that it is feasible to estimate with sufficient accuracy the radiation doses encountered by employees at Simonds Saw and Steel Co. in Lockport, New York, 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 would transmit a new report to Congress providing the designation and the criteria and findings on which the decision was based.