

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
Hanford Site
Richland, Washington



I. Determination

I, Kathleen Sebelius, Secretary of the Department of Health and Human Services, 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]

March 6, 2013

Kathleen Sebelius

Date

II. Employee Class Definition

All personnel who were internally monitored (urine or fecal), who worked at the Plutonium Finishing Plant in the 200 Area at the Hanford Site, from January 1, 1987, through December 31, 1989.

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 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 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 addition to evaluating dose reconstruction feasibility, NIOSH further investigated the integrity of the Hanford bioassay data. Based on its full research of the class under evaluation, NIOSH found no evidence that the integrity of the bioassay data being used for dose reconstructions for this proposed class was affected by the environmental data falsification problem at the laboratory doing the bioassay analysis. The Board's own review of the data also agreed with NIOSH's determination regarding the integrity of the bioassay data. Consequently, the Board concurred with the conclusion that the class of workers covered by Petition 00155 should not be added to the SEC.

In a letter received by the Secretary on February 4, 2013, 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 Hanford Site in Richland, Washington, 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.

- The principal sources of internal radiation dose for members of the class under evaluation were plutonium, uranium, neptunium, and americium. Plutonium radionuclides of concern included Pu-238, Pu-239, and Pu-240. Uranium radionuclides of concern included U-233, U-234, U-235, and U-238. Np-237 and Am-241 were also internal exposure sources. The principal sources of external radiation exposure for members of the class under evaluation were low-energy photons and neutrons.
- In its previous evaluations of petition SEC-00057, NIOSH concluded that for the period from January 1, 1987, through December 31, 1989, it has access to sufficient information to either: (1) estimate the maximum internal and external radiation doses 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 internal and external radiation doses to members of the class more precisely than a maximum dose estimate. This current evaluation into the quality of U.S. Testing Company, Inc., (UST) bioassay data from Richland has found no evidence to the contrary. These evaluations included bounding process-related doses, bounding ambient environmental doses, and occupational medical x-ray external doses.
- The Board concurred with NIOSH's determination that the integrity of the bioassay data being used for dose reconstructions for this proposed class was not affected by the environmental data falsification problem at the laboratory doing the bioassay analysis.
- The Board concurred with the conclusion that the class of workers covered by Petition 00155 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 the Hanford Site in Richland, Washington, 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.