

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

Kansas City Plant
Kansas City, Missouri



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]
Sylvia M. Burwell

April 12, 2016
Date

II. Employee Class Definition

All employees who worked in any area of the Kansas City Plant site in Kansas City, Missouri, from January 1, 1949, through December 31, 1993.

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 January 19, 2016, 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 Kansas City Plant (KCP) in Kansas City, Missouri, 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 source of internal radiation doses for members of the proposed class included potential inhalation and ingestion of airborne uranium and thorium from machining operations, and resuspended surface contamination during work with non-radioactive materials.
- NIOSH has access to sufficient personnel monitoring, area monitoring, and source term data that, when coupled with existing exposure assessments, support the reconstruction of internal doses at KCP during the time period from January 1, 1949, through December 31, 1993.
- NIOSH concludes that there are methods available in the KCP Site Profile (ORAUT-TKBS-0031), Battelle-TBD-6000, and ORAUT-OTIB-0070, as well as breathing zone air data, bioassay data, and operational descriptions, so that uranium, thorium, and thoron internal radiation doses can be completely reconstructed with sufficient accuracy for KCP workers during the time period from January 1, 1949, through December 31, 1993.
- The principal sources of external radiation exposures for members of the proposed class included gamma and beta radiation associated with handling and working in proximity to uranium and thorium; isotopic beta, gamma-ray, and neutron radiation-emitting sources; industrial radiation-generating devices (e.g., x-ray machines and electron accelerators); and radiation from uranium and thorium contamination after work with those materials was completed.
- NIOSH has located sufficient personnel monitoring, area monitoring, and source term data that, when coupled with existing dose reconstruction methods and exposure assessments, support the reconstruction of external doses at KCP during the time period from January 1, 1949, through December 31, 1993.
- NIOSH concludes it is feasible, using available external monitoring data for KCP radiation workers and methods available in the KCP Site Profile (ORAUT-TKBS-0031) and ORAUT-OTIB-0020, to bound external ambient radiation doses for unmonitored workers for the period from January 1, 1949, through December 31, 1993. NIOSH plans to use existing methods to reconstruct occupational medical x-ray doses for the evaluated time periods.

- 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 KCP during the time period from January 1, 1949, through December 31, 1993; or (2) estimate the internal and external radiation doses to workers at KCP during the time period from January 1, 1949, through December 31, 1993, more precisely than a maximum dose estimate.
- The Board concurred with NIOSH's determination that dose reconstruction is feasible for the class of KCP workers covered by Petition 00210 for the period from January 1, 1949, through December 31, 1993, 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 the KCP in Kansas City, 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 U.S. 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 U.S. 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.