October 26, 2011

The Honorable Joseph R. Biden, Jr.
President of the United States Senate
Washington, D.C. 20510

Dear Mr. President:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) and 42 C.F.R. pt. 83, a petition was filed on behalf of workers from the Piqua Organic Moderated Reactor in Piqua, Ohio, to be added to the Special Exposure Cohort (SEC).

The Centers for Disease Control and Prevention’s (CDC) National Institute for Occupational Safety and Health (NIOSH) evaluated the petition and presented its findings to the Advisory Board on Radiation and Worker Health (Board) on August 23, 2011. The Board considered the petition, and on September 19, 2011, I received the Board’s recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Director of NIOSH and the Director of CDC. Based on this information, I have determined that the following employees do not meet the statutory criteria for addition to the SEC, as authorized under EEOICPA, 42 U.S.C. § 7384q.

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked in any location at the Piqua Organic Moderated Reactor during the operational period from January 1, 1963 through May 1, 1966.

The criteria and findings upon which this determination is based are provided in the enclosed report.

Please contact me if you have any further questions regarding this matter.

Sincerely,

[Signature on file]

Kathleen Sebelius
Secretary

Enclosure
The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, D.C.  20510

Dear Senator Reid:

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Please contact me if you have any further questions regarding this matter.

Sincerely,

[Signature on file]

Kathleen Sebelius  
Secretary

Enclosure
The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, D.C.  20510  

Dear Senator McConnell:

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Please contact me if you have any further questions regarding this matter.

Sincerely,

[Signature on file]

Kathleen Sebelius  
Secretary

Enclosure
The Honorable John A. Boehner  
Speaker of the House of Representatives  
Washington, D.C.  20515

Dear Mr. Speaker:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) and 42 C.F.R. pt. 83, a petition was filed on behalf of workers from the Piqua Organic Moderated Reactor in Piqua, Ohio, to be added to the Special Exposure Cohort (SEC).

The Centers for Disease Control and Prevention’s (CDC) National Institute for Occupational Safety and Health (NIOSH) evaluated the petition and presented its findings to the Advisory Board on Radiation and Worker Health (Board) on August 23, 2011. The Board considered the petition, and on September 19, 2011, I received the Board’s recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Director of NIOSH and the Director of CDC. Based on this information, I have determined that the following employees do not meet the statutory criteria for addition to the SEC, as authorized under EEOICPA, 42 U.S.C. § 7384q.

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The criteria and findings upon which this determination is based are provided in the enclosed report.

Please contact me if you have any further questions regarding this matter.

Sincerely,

[Signature on file]

Kathleen Sebelius  
Secretary

Enclosure
The Honorable Nancy Pelosi  
Minority Leader  
House of Representatives  
Washington, D.C.  20515  

Dear Representative Pelosi:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) and 42 C.F.R. pt. 83, a petition was filed on behalf of workers from the Piqua Organic Moderated Reactor in Piqua, Ohio, to be added to the Special Exposure Cohort (SEC).

The Centers for Disease Control and Prevention’s (CDC) National Institute for Occupational Safety and Health (NIOSH) evaluated the petition and presented its findings to the Advisory Board on Radiation and Worker Health (Board) on August 23, 2011. The Board considered the petition, and on September 19, 2011, I received the Board’s recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Director of NIOSH and the Director of CDC. Based on this information, I have determined that the following employees do not meet the statutory criteria for addition to the SEC, as authorized under EEOICPA, 42 U.S.C. § 7384q.

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked in any location at the Piqua Organic Moderated Reactor during the operational period from January 1, 1963 through May 1, 1966.

The criteria and findings upon which this determination is based are provided in the enclosed report.

Please contact me if you have any further questions regarding this matter.

Sincerely,

[Signature on file]

Kathleen Sebelius  
Secretary  

Enclosure
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

Piqua Organic Moderated Reactor

Piqua, Ohio
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.

October 26, 2011  [Signature on file]
Date   Kathleen Sebelius

II. Employee Class Definition

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked in any location at the Piqua Organic Moderated Reactor during the operational period from January 1, 1963 through May 1, 1966.

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 September 19, 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 Norton 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 workers during the operational period from January 1, 1963 through May 1, 1966 may have received internal and external exposure to photon, beta, and/or neutron radiation from activities associated with maintaining and operating the reactor. Potential exposure sources also include radioactive materials from the operation and maintenance of the nuclear reactor and radioactive materials in the form of calibration sources.

- NIOSH has determined that it has access to sufficient external dose summary reports and workplace monitoring data to bound potential external exposures for all employees associated with reactor activities who worked within and around the reactor dome at the Piqua Organic Moderated Reactor site during the period from January 1, 1963 through February 28, 1969. NIOSH also finds it is feasible to reconstruct occupational medical X-ray dose for this period. Consequently, NIOSH finds that it is feasible to estimate, with sufficient accuracy, the total external dose and occupational medical dose for the class of employees covered by this evaluation.

- NIOSH concluded that it could reconstruct with sufficient accuracy all external and occupational medical X-ray dose, and internal dose from various radionuclides from January 1, 1963 through May 1, 1966.

- NIOSH determined that it has access to sufficient Piqua Organic Moderated Reactor in Piqua, Ohio, site 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 member of the evaluated class; or (2) estimate the internal and external radiation doses to members of the evaluated class more precisely than a maximum dose estimate.

- The Board concurred with the NIOSH findings.

Health Endangerment

Because the Secretary established that it is feasible to estimate with sufficient accuracy the radiation doses encountered by Piqua Organic Moderated Reactor 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.