

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
Date

[Signature on file]
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.