

U.S. Department of Health and Human Services 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 Certain Employees from
Rocky Flats Plant
Golden, Colorado



I. Determination

I, Eric D. Hargan, Acting Secretary of Health and Human Services (Secretary) (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.

November 8, 2017

[Signature on File]

Date

Eric D. Hargan

II. Employee Class Definition

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked at the Rocky Flats Plant in Golden, Colorado, from January 1, 1984, through December 31, 2005.

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.

In a letter received by the Secretary on May 10, 2017, the Board, pursuant to 42 U.S.C. § 7384q, agreed with the following NIOSH findings, effectively advising the Secretary that radiation doses can be reconstructed with sufficient accuracy for certain employees at the Rocky Flats Plant (RFP) 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 potential sources of internal radiation that NIOSH investigated during its evaluation of the proposed class included exposures to tritium, neptunium, thorium, uranium-233, and fission and activation products at the Critical Mass Laboratory (CML). The modes of exposure for the radionuclides of concern were ingestion and inhalation.
- NIOSH concluded that tritium doses from the on-site, environmental release in 1973 can be reconstructed using the bioassay results collected after the release. Bioassay results from potentially exposed individuals can be used to reconstruct their tritium doses for the time period from January 1, 1974, through December 31, 2005.
- Likewise, NIOSH concluded that doses from fission and activation products at the CML can be reconstructed using workplace air monitoring results coupled with information about the power level and duration of CML experiments.
- The principal sources of external radiation doses for members of the proposed class were evaluated in the SEC-00030 RFP evaluation report. SEC-00030 concluded that all external doses except those for neutrons could be estimated with sufficient accuracy. Therefore, with respect to SEC-00192, NIOSH concluded that there is no need to again assess external exposures and dose reconstruction feasibility at RFP.
- NIOSH also concluded that operations that posed significant potential for internal and external exposure to neptunium, thorium, and uranium-233 had ended by December 31, 1983. Consequently, there is no need to reconstruct doses resulting from these radionuclides for the time period.
- NIOSH has established that it has access to sufficient information to: (1) estimate the maximum radiation dose, for every type of cancer for which radiation doses are reconstructed, that could have been incurred in plausible circumstances by any member of the class; or (2) estimate radiation doses more precisely than an estimate of maximum dose.
- The Board concurred with NIOSH's determination that dose reconstruction is feasible for the evaluated class of RFP workers during the period from January 1, 1984, through December 31, 2005, 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 RFP 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 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 will transmit a new report to Congress providing the designation and the criteria and findings on which the decision was based.