

U.S. Department of Health and Human Services Designation
of Additional Members of the Special Exposure Cohort
under the
Energy Employees Occupational Illness Compensation Program Act of 2000

Designating a Class of Employees

Westinghouse Electric Corporation

Bloomfield, New Jersey



I. Designation

I, Sylvia M. Burwell, Secretary of the U.S. Department of Health and Human Services (HHS), designate the class of employees defined in Section II of this report 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.

July 28, 2015
Date

[Signature on File]
Sylvia M. Burwell

II. Employee Class Definition

All Atomic Weapons Employees who worked at the facility owned by Westinghouse Electric Corp., in Bloomfield, New Jersey, during the period from February 1, 1958, through May 31, 1958, or during the period from June 1, 1959, through June 30, 1959, for a number of work days aggregating at least 250 work days, occurring either solely under this employment, or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

III. Designation Criteria and Recommendations

Pursuant to 42 U.S.C. § 7384q, for the class defined in Section II of this report, the Secretary has determined, and the Advisory Board on Radiation and Worker Health (Board) has recommended, 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.

NIOSH determined that there is insufficient information to estimate the radiation dose of individual members of the class with sufficient accuracy under the two above-mentioned situations. The Board, pursuant to 42 U.S.C. § 7384q, advised the Secretary to designate the class as an addition to the SEC in a letter received by the Secretary on July 1, 2015.

IV. Designation Findings

Infeasibility of Estimating Radiation Doses with Sufficient Accuracy

The Secretary designates the class of employees covered by this report based upon the findings summarized below.

- The principal sources of internal and external radiation for members of the proposed class during the operational and residual contamination periods at the facility include exposures to uranium and thorium utilized in the site's commercial activities; uranium metal and contamination during AWE-related rolling operations; and residual uranium and thorium contamination from previous AWE operations during the 1942-1949 period.
- NIOSH does not have access to personnel and workplace monitoring data for the uranium and thorium commercial radiological activities that were performed concurrently with AWE-related operations. Therefore, NIOSH finds it is not feasible to estimate internal and external exposures due to the commercial activities with sufficient accuracy for all workers at the WEC site during the periods from February 1, 1958 through May 31, 1958, and June 1, 1959 through June 30, 1959.
- NIOSH obtained sufficient information allowing it to estimate internal radiation doses due to the AWE rolling operations for the periods from February 1, 1958 through May 31, 1958, and June 1, 1959 through June 30, 1959. Additionally, NIOSH obtained sufficient information allowing it to estimate internal radiation doses for the following time periods: January 1, 1950 through January 31, 1958; June 1, 1958 through May 31, 1959; and July 1, 1959 through April 30, 2000.
- NIOSH will use methods outlined in *Battelle-TBD-6000*, *OCAS-TIB-009*, and *ORAUT-OTIB-0070*, as well as available air data and operational descriptions, for reconstructing external exposures due to the AWE rolling operations for the periods from February 1, 1958 through May 31, 1958, and June 1, 1959 through June 30, 1959. NIOSH also found it could estimate external radiation doses with sufficient accuracy for the following time periods: January 1, 1950 through January 31, 1958; June 1, 1958 through May 31, 1959; and July 1, 1959 through April 30, 2000.
- NIOSH has determined that reconstruction of medical dose is feasible by using methods and claimant-favorable assumptions in the technical information bulletin *Dose Reconstruction from Occupational Medical X-Ray Procedures* (ORAUT-OTIB-0006).
- Therefore, in the absence of available personnel and workplace monitoring data for the site's commercial activities, NIOSH finds that it is not feasible to completely estimate

internal and external exposures with sufficient accuracy for all workers at the WEC site during the periods from February 1, 1958 through May 31, 1958, and June 1, 1959 through June 30, 1959.

- Although NIOSH found that it is not possible to completely reconstruct radiation doses for the proposed class, NIOSH intends to use any internal and external monitoring data that may become available for an individual claim (and that can be interpreted using existing NIOSH dose reconstruction processes or procedures). Therefore, dose reconstructions for individuals employed with Westinghouse Electric Corp., including contractors and subcontractors during the periods from February 1, 1958 through May 31, 1958, and June 1, 1959 through June 30, 1959, but who do not qualify for inclusion in the SEC, may also be performed using this data as appropriate.
- Pursuant to 42 C.F.R. § 83.13(c)(1), NIOSH determined that there is insufficient information to either: (1) 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; or (2) estimate the radiation doses of members of the class more precisely than a maximum dose estimate.
- The Board concurred with NIOSH's recommendation to add the proposed class of workers to the SEC.

Health Endangerment

The Secretary established the health endangerment determination for the class of employees covered by this report based upon the findings summarized below.

- (1) Pursuant to 42 C.F.R. § 83.13(c)(3), NIOSH established that there is a reasonable likelihood that such radiation doses may have endangered the health of members of the class. Pursuant to 42 C.F.R. § 83.13(c)(3)(ii), NIOSH specified a minimum duration of employment to satisfy this health endangerment criterion as "having been employed for a number of work days aggregating at least 250 work days within the parameters established for this class or in combination with work days within the parameters established for one or more other classes of employees in the Cohort."
- (2) NIOSH did not identify any evidence from the petitioners or from other resources that would establish that the class was exposed to radiation during a discrete incident likely to have involved exceptionally high-level exposures, such as a nuclear criticality incident, as defined under 42 C.F.R. § 83.13(c)(3)(i).
- (3) The Board concurred with NIOSH's finding that the health of the class may have been endangered and defined the class according to the 250-workday requirement specified under 42 C.F.R. § 83.13(c)(3)(ii).

V. Effect and Effective Date of Designation

The Secretary submits this report on the designation of one additional class to the SEC for review by Congress, pursuant to 42 U.S.C. §§ 7384l(14)(C)(ii) and 7384q(c)(2)(A), as amended by the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375 (codified as amended in scattered sections of 42 U.S.C.). Pursuant to 42 U.S.C. § 7384l(14)(C)(ii), as amended by the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. No. 108-375 (codified as amended in scattered sections of 42 U.S.C.). The designation in this report will become effective 30 days after the date of this report's submission to Congress "unless Congress otherwise provides."

VI. Administrative Review of Designation

The health endangerment determination of the designation 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 expand the class of employees covered by this designation, the Secretary would transmit a supplementary report to Congress providing the expanded employee class definition and the criteria and findings on which the decision was based.