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 and 42 C.F.R. pt. 83, a petition was filed on behalf of workers from Westinghouse Atomic Power Development Plant, 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 February 18, 2009. The Board considered the petition, and on March 4, 2009, I received the Board's recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Acting Director of NIOSH and the Acting Director of CDC. Based on this information, I have designated the following class for addition to the SEC:

All Atomic Weapons Employer (AWE) employees who worked at Westinghouse Atomic Power Development Plant in East Pittsburgh, Pennsylvania from August 13, 1942 through December 31, 1944, 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 in the SEC.

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

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

Sincerely,

Charles E. Johnson
Acting Secretary

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

Dear Senator Reid:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 and 42 C.F.R. pt. 83, a petition was filed on behalf of workers from Westinghouse Atomic Power Development Plant, 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 February 18, 2009. The Board considered the petition, and on March 4, 2009, I received the Board's recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Acting Director of NIOSH and the Acting Director of CDC. Based on this information, I have designated the following class for addition to the SEC:

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

Sincerely,

Charles E. Johnson
Acting Secretary

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

Dear Senator McConnell:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 and 42 C.F.R. pt. 83, a petition was filed on behalf of workers from Westinghouse Atomic Power Development Plant, to be added to the Special Exposure Cohort (SEC).

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

Sincerely,

Charles E. Johnson  
Acting Secretary

Enclosure
The Honorable Nancy Pelosi  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Madam Speaker:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 and 42 C.F.R. pt. 83, a petition was filed on behalf of workers from Westinghouse Atomic Power Development Plant, 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 February 18, 2009. The Board considered the petition, and on March 4, 2009, I received the Board’s recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Acting Director of NIOSH and the Acting Director of CDC. Based on this information, I have designated the following class for addition to the SEC:

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

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

Sincerely,

Charles E. Johnson  
Acting Secretary

Enclosure
The Secretary of Health and Human Services
Washington, D.C. 20201

MAR 3 i 2009

The Honorable John A. Boehner
Minority Leader
House of Representatives
Washington, D.C. 20515

Dear Congressman Boehner:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 and 42 C.F.R. pt. 83, a petition was filed on behalf of workers from Westinghouse Atomic Power Development Plant, 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 February 18, 2009. The Board considered the petition, and on March 4, 2009, I received the Board’s recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Acting Director of NIOSH and the Acting Director of CDC. Based on this information, I have designated the following class for addition to the SEC:

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

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

Sincerely,

[Signature]

Charles E. Johnson
Acting Secretary

Enclosure
HHS 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 from

Westinghouse Atomic Power Development Plant
East Pittsburgh, Pennsylvania
I. Designation

I, Charles E. Johnson, Acting Secretary of Health and Human Services (Secretary), 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.

March 31, 2009

Date

Charles E. Johnson

II. Employee Class Definition

All Atomic Weapons Employer (AWE) employees who worked at Westinghouse Atomic Power Development Plant in East Pittsburgh, Pennsylvania from August 13, 1942 through December 31, 1944, 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 in the SEC.

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.

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 March 4, 2009.
IV. Designation 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 lacks sufficient information, which includes specific biological monitoring data, sufficient air monitoring information, sufficient process and radiological source information, and surrogate data from similar operations at other sites that would allow it to estimate the potential internal or external exposures to natural or enriched uranium to which the proposed class may have been exposed. However, as indicated above NIOSH believes that it is possible to reconstruct occupational medical dose.

- NIOSH has documented that it cannot complete dose reconstructions related to this petition. The basis of this finding demonstrates that NIOSH does not have access to sufficient information to estimate either the maximum radiation dose incurred by any member of the class or to estimate such radiation doses more precisely than a maximum dose estimate.

- 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 the NIOSH evaluation and recommended the proposed class for addition to the SEC.

- Although NIOSH found that it is not possible to completely reconstruct radiation doses for these employees, NIOSH can reconstruct occupational medical dose. Therefore, individuals with non-presumptive cancers may be considered for partial dose reconstructions.

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 (excluding aggregate work day requirements) 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


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.