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HHS ISSUES FINAL RULES TO ASSIST COMPENSATION OF NUCLEAR WORKERS FOR JOB-RELATED CANCERS

The [U.S. Department of Health and Human Services \(HHS\)](#) today issued two final rules under which the department will provide scientific expertise to assist decision-making under the [Energy Employees Occupational Illness Compensation Program Act](#) of 2000.

The [U.S. Department of Labor \(DOL\)](#) will use these regulations in processing claims by current and former employees of nuclear weapons production facilities and their survivors who seek compensation for certain cancers caused by occupational radiation exposures but who are not requesting compensation under the ["Special Exposure Cohort"](#) provisions of the Compensation Act. The Special Exposure Cohort includes workers who were employed at specific production or test sites designated in the Act.

"Today's rules establish strong scientific methodologies to help carry out this complex and important program," HHS Secretary Tommy G. Thompson said. "These methodologies, which have been reviewed by the public, by scientific experts, and by the independent Advisory Board on Radiation and Worker Health, will help to provide the civilian veterans of the Cold War or their survivors with claims assessments that are as fair, timely and equitable as possible."

The final rules, "Methods for Radiation Dose Reconstruction" and "Guidelines for Determining the Probability of Causation," address comments from the public and an independent advisory board.

The final rule on dose reconstruction establishes the methods that will be used by the Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH) in estimating claimants' past occupational exposures to radiation, in cancer cases referred to CDC/NIOSH by DOL.

Under an interim final rule issued for public comment last October, CDC/NIOSH began to conduct dose reconstructions for initial claims referred by DOL, pending public comment and completion of a final rule. Issuance of the final rule allows CDC/NIOSH to begin transmitting dose reconstructions to DOL, when completed, for use in processing claims.

The final rule on probability of causation specifies the scientific guidelines that DOL will use in determining whether it is at least as likely as not that an energy employee's cancer was caused by occupational exposure to radiation at nuclear weapons production sites. To the extent that the science and data involve uncertainties, those uncertainties will be handled to the advantage of the claimant. The final rule follows a proposed rule that also was issued for public comment last October.

Both the interim rule on dose reconstruction and the proposed rule on probability of causation also were reviewed by the Advisory Board on Radiation and Worker Health, which was established by the Compensation Act to advise HHS on its duties under the Act. The Advisory Board found that the rules were fair, that they make the best use of current science, and that they meet the expressed intent of

Congress to give the benefit of the doubt to claimants in instances where scientific uncertainties exist and radiation records are limited or do not exist.

The methods and guidelines rely on well-established scientific procedures and principles for estimating radiation exposures and determining radiation-related cancer risks. They take into account available radiation exposure and health data, including information obtained from the work sites and from parties with expertise on exposure conditions at the work sites, which includes the employees themselves. CDC/NIOSH is drawing on scientific models developed by the [National Cancer Institute](#).

Under the final rule, HHS also will obtain reviews by the [Advisory Board on Radiation and Worker Health](#), with public input, for the purpose of keeping the implementation of the rules in step with scientific progress on dose reconstruction and probability of causation.

The two final rules will be published in the May 2 Federal Register and also will be available online at <http://www.cdc.gov/niosh>. Copies may be obtained by calling [1-800-35-NIOSH](#) (1-800-356-4674).