



## **Policy and Procedures for Adding Non-Cancer Conditions To the List of WTC-Related Health Conditions**

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**March 21, 2014**

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### **I. Authority**

The *Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions* is based on the James Zadroga 9/11 Health and Compensation Act of 2010 (“Act”)<sup>1</sup> and the World Trade Center (WTC) Health Program regulations.<sup>2</sup>

### **II. Introduction**

The Act provides two pathways to initiate the process of deciding whether to propose adding a health condition to the List of WTC-Related Health Conditions (“List”). These pathways are: (1) the Administrator of the WTC Health Program may initiate the process at the Administrator’s own discretion;<sup>3</sup> or (2) the Administrator initiates the process after receiving a petition<sup>4</sup> by an interested party.<sup>5</sup> A health condition may only be added to the List by rulemaking.

### **III. Review of Scientific and Medical Information and Administrator Determination**

Once the process of determining whether to propose adding a health condition to the List is initiated, the Administrator will select a Response Team under the direction of the Associate Director for Science of the WTC Health Program to provide input on whether the available

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<sup>1</sup> 42 U.S.C. § 300mm et seq.

<sup>2</sup> 42 C.F.R. Part 88.

<sup>3</sup> 42 U.S.C. § 300mm-22(a)(6)(A).

<sup>4</sup> When the Administrator receives a submission from an interested party to add a health condition to the List of WTC-related health conditions (List) he determines whether it meets the requirements for a petition specified in 42 C.F.R. § 88.17(a)(1).

<sup>5</sup> 42 U.S.C. § 300mm-22(a)(6)(B).

scientific and medical information has the potential to provide a basis for a decision on whether to add the health condition to the List.

**A. Systematic Literature Search**

The Response Team obtains information about the health condition among 9/11 exposed populations by performing a systematic literature search.

**B. Literature Evidence Review**

The Response Team will review the relevance, quantity, and quality of the evidence available in peer-reviewed, published, epidemiologic studies of 9/11-exposed populations relative to its potential to provide a basis for deciding whether to propose adding the health condition to the List and then will document and discuss their findings with the Administrator.

**C. Administrator Determination**

The Administrator determines whether the evidence available in peer-reviewed, published, epidemiologic studies about the health condition among 9/11 exposed populations has the potential to provide a basis for a decision on whether to add the health condition and whether to proceed with an assessment of that information.

1. Where the Administrator determines that the evidence does not provide a sufficient basis for a decision:
  - a. The evaluation will be documented and archived according to document management requirements; and
  - b. If the evaluation was initiated by a petition, then the Administrator:
    - i. Publishes the determination in the *Federal Register* that the available information is insufficient to take action;<sup>6</sup> and
    - ii. Notifies the petitioner in writing of the decision simultaneously to the determination being published in the Federal Register.
2. Where the Administrator determines that the available evidence has the potential to provide a basis for a decision, the Administrator may:
  - a. Have the Response Team assess the scientific and medical evidence and provide input on whether the available information supports a causal relationship between 9/11 exposures and the health condition [see Section IV.A.], or

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<sup>6</sup> 42 U.S.C. § 300mm-22 (a)(6)(B)(iv).

- b. Request advice from the WTC Health Program Scientific/Technical Advisory Committee (STAC) [see Section IV.B.].

#### **IV. Assessment of Scientific and Medical Information**

##### **A. WTC Health Program Response Team**

###### **1. Review Criteria**

The Response Team will assess the relevance, quality, bias, and confounding of the peer-reviewed, published, epidemiologic studies of 9/11 exposed populations applying the following criteria extrapolated from the Bradford Hill criteria:

- a. Strength of the association between a 9/11 exposure and a health condition (including the magnitude of the effect and statistical significance);
- b. Consistency of the findings across multiple studies. If only a single published epidemiologic study is available for assessment, the consistency of findings cannot be evaluated and strength of association will necessarily place greater emphasis on statistical significance than on the magnitude of the effect;
- c. Biological gradient, or dose-response relationships between 9/11 exposures and the health condition; and
- d. Plausibility and coherence with known facts about the biology of the health condition.

###### **2. Discussion with Administrator**

The Response Team will ensure that the results of the assessment are documented and discussed with the Administrator.

##### **B. Administrator Actions**

If the assessment was performed in response to a petition, the Administrator will take one of the following actions:

- 1. If the evidence provides substantial<sup>7</sup> support for a causal relationship between 9/11 exposures and the health condition, the Administrator will publish in the

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<sup>7</sup> The substantial evidence standard is met when the WTC Health Program assesses all of the available, relevant information and determines with high confidence that the evidence supports its findings regarding a causal association between the 9/11 exposure(s) and the health condition.

*Federal Register* a notice of proposed rulemaking (NPRM) to add the health condition to the List;<sup>8</sup> or

2. If the evidence provides substantial support that 9/11 exposures are not causally related to the health condition, the Administrator then publishes in the *Federal Register* a determination not to propose a rule and the basis for such determination;<sup>9</sup> or
3. If the evidence is insufficient to take either of the actions in III.A.2. or 3., above the Administrator then publishes that determination in the *Federal Register*;<sup>10</sup> or
4. If the evidence provides only modest<sup>11</sup> support for a causal relationship between 9/11 exposures and the health condition, the Administrator will request additional assessment of whether a causal relationship is supported by other published, peer-reviewed, epidemiologic studies of associations between 9/11 agents<sup>12</sup> and the health condition.
  - a. The evaluation of these other studies must include an assessment of the similarity of the exposure conditions documented in the epidemiologic studies and the exposure conditions that occurred as a result of the 9/11 terrorist attacks and cleanup. Similarity of exposure conditions includes factors such as magnitude, route of exposure, physical form (e.g., particulate, gas, fume, vapor or solute), duration, and timing. Emphasis will be given to outcomes from acute and subchronic exposures.
  - b. For outcomes from subchronic exposures, the consistency of the presence of the 9/11 agent during the response and recovery should be assessed.
  - c. If the additional assessment adds enough support for the Administrator to determine that there is substantial<sup>5</sup> support for a causal relationship between 9/11 agents and the health condition, the Administrator will publish in the *Federal Register* an NPRM to add the health condition to the List. In the absence of substantial support for a causation relationship, the Administrator determines the evidence is insufficient

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<sup>8</sup> 42 U.S.C. § 300mm-22(a)(6)(B)(ii).

<sup>9</sup> 42 U.S.C. § 300mm-22(a)(6)(B)(iii).

<sup>10</sup> 42 U.S.C. § 300mm-22(a)(6)(B)(iv).

<sup>11</sup> The modest evidence standard is met when the WTC Health Program assesses all of the available, relevant information and determines with moderate confidence that the evidence supports its findings regarding a causal association between the 9/11 exposure(s) and the health condition.

<sup>12</sup> 9/11 agents are chemical, physical, biological, or other agents or hazards reported in a published, peer-reviewed exposure assessment study of responders or survivors who were present in either the New York City disaster area as defined in 42 C.F.R. Part 88, or at the Pentagon, or in Shanksville, Pennsylvania.

to take action and then publishes that determination in the *Federal Register*.

5. If the assessment was initiated by the Administrator, the Administrator may take one of the actions described in Section IV.B.

## V. WTC Health Program Scientific/Technical Advisory Committee (STAC)

### A. Convening the STAC

The Administrator may convene the STAC if he determines that its advice would be helpful. For example, where there is need of an interpretation of conflicting or inconclusive published scientific evidence, the Administrator may convene the STAC.

### B. Meeting Procedures

If the Administrator decides to request a recommendation from the STAC regarding a health condition, the Administrator provides a charge to the STAC, and the Designated Federal Official (DFO) works with the STAC to schedule meetings and assemble information needed to develop recommendations on whether 9/11 exposures have a causal relationship with the health condition.

### C. Time Limits

1. If a petition has been received, within 60 days of receipt of the petition to add a health condition to the List the Administrator may send a letter to the STAC Chair requesting advice on whether to add the petitioned health condition and establishes a time period, up to 180 days, for the committee to provide recommendations and the scientific and medical basis for those recommendations.
2. If a petition has not been received, the Administrator establishes a time period for the STAC to provide recommendations and a report on the scientific or medical basis for those recommendations.
3. After receiving the report and recommendations from the STAC, the Administrator will evaluate the STAC's advice and will take appropriate action under Section IV.B.1. through 4.

**Exception:** The option found in Section IV.B.3. above is not an option for the Administrator when advice has been requested from the STAC in response to a petition.

## **VI. Rulemaking**

### **A. NPRM**

If the Administrator decides to publish an NPRM in the *Federal Register* to add the health condition, following receipt and review of public comments he will again review the available evidence and any new scientific and medical information provided by commenters.

### **B. Comments From the NPRM**

The Administrator will then determine whether the rationale discussed in the NPRM is changed by the information supplied by commenters. If the evidence continues to support the addition of the health condition:

1. A final rule is developed and published in the *Federal Register*;
2. The condition is added to the List of WTC-Related Health Conditions; and
3. Implementation procedures will be developed, including establishing coverage conditions such as:
  - a. Exposure qualifications;
  - b. Time intervals; and
  - c. Other procedures as appropriate to the particular health condition.

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