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ALLIANCE OF NUCLEAR WORKER ADVOCACY GROUPS

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February 21, 2006

National Institute of Occupational Safety and Health
NIOSH Docket Office
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RIN 0920-AA19

The Alliance of Nuclear Worker Advocacy Groups (ANWAG) respectfully submits the following comments on the Final Interim Rules for Procedures for Designating Classes of Employees as Members of the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Act of 2000.

First, let us preface our comments with a general observation. It is our interpretation of the legislation enacted under the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, "Following the receipt by NIOSH of a petition for designation as members of the Cohort, NIOSH must submit a recommendation on that petition, including all documentation to the Advisory Board on Radiation and Worker Health (the Board) with 180 days" that Congress intended to expedite the SEC process by placing this time limit upon NIOSH. It is obvious that NIOSH interprets the legislation differently. Except in one instance, which we will mention below, the rules allow for indeterminate delays.

NIOSH has reduced the time that a petitioner can request a review from 30 days to seven calendar days. Although NIOSH states in the preamble that this is adequate, ANWAG does not agree. As the petitioner must specify why the findings should be reversed, seven days may not be adequate to research the findings or consult with others. ANWAG recommends that the 30-day timeline remain the same.

The petitioner is only permitted to object to the findings based on the information already submitted.

The rule allows that new information can be submitted as a revision. However, it is at NIOSH's discretion as to whether they will reconsider the initial finding that a petition does not qualify. It is our position that NIOSH must reconsider any new information that would qualify a petition.

NIOSH has allowed itself an open-ended time period to "qualify" petitions. Sec. 83.13 (c) identifies the areas in which a petition must satisfy in order to be considered. NIOSH should be able to easily identify any areas that are lacking and advise the petitioners. A time limit for the initial review needs to be set. We suggest that NIOSH have 15 days to review the petition and request further information from the petitioners. We understand that NIOSH requires the petitioner to supply this information within 10 days. After receipt of the additional information, NIOSH should have 10 days to qualify the petition.

There is much discussion in the preamble of complying with the 180-day time period. Yet in the text of the rule itself, there is no mention that NIOSH will submit a recommendation within 180 days. This needs to be corrected to read that NIOSH will submit the evaluation to the Board within 180 days. This time limit is quite adequate for NIOSH to qualify the petition and prepare the evaluation.

In summary, it is ANWAG's opinion that the Interim Final Rules thwarts the intent of Congress to expedite petitions. We respectfully request that these rules incorporate steps to ensure that an evaluation of a petition is sent to the Board in 180 days from receipt of the petition.

Sincerely,

Janet R. Michel
For the members of ANWAG