

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

Santa Susana Field Laboratory
Santa Susana, California



I. Designation

I, Kathleen Sebelius, Secretary of Health and Human Services, 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.

April 5, 2010
Date

[Signature on file]
Kathleen Sebelius

II. Employee Class Definition

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked in any area of Area IV of the Santa Susana Field Laboratory from January 1, 1959 through December 31, 1964, 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.

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 8, 2010.

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 biological monitoring data, sufficient air monitoring information, or sufficient process and radiological source information, to allow it to estimate with sufficient accuracy the potential internal exposures to various radionuclides to which the proposed class may have been subjected during the time period from January 1, 1959 through December 31, 1964.
- NIOSH finds that it is likely feasible to reconstruct external dose, including occupational medical dose, for Area IV of the Santa Susana Field Laboratory (SSFL-Area IV) workers with sufficient accuracy.
- There is currently one SEC class of SSFL-Area IV workers associated with a previous NIOSH evaluation of SEC petition SEC-00093. The period currently designated for inclusion in the SEC extends from January 1, 1955 through December 31, 1958.
- Through the course of ongoing dose reconstruction, continued data capture efforts, and investigations associated with SEC-00093, NIOSH has since determined that although bioassay data are available for some monitored workers after 1958, some SSFL-Area IV workers could have received intakes of radioactive materials after 1958 that went unmonitored.
- 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.
- During the development of co-worker distribution models to assess potential internal dose to unmonitored workers, NIOSH has found that the available bioassay data have limitations which preclude the development of adequate co-worker models for the years prior to 1965. Therefore, NIOSH determined that it is necessary to propose an extension of the SEC time period for the SSFL-Area IV site through December 31, 1964.
- 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 at SSFL-Area IV during the period from January 1, 1959 through December 31, 1964, but who do not qualify for inclusion in the SEC, may be performed using these data as appropriate.

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-work day 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. §§ 7384/(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. § 7384/(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.