

HHS Determination Concerning a Petition to Add Members to the
Special Exposure Cohort
under the
Energy Employees Occupational Illness Compensation Program Act of 2000

Determination Concerning a Petition for Employees from

Hanger 481

Kirtland Air Force Base

Albuquerque, New Mexico



I. Determination

I, Kathleen Sebelius, Secretary of Health and Human Services (Secretary), have determined that the employees defined in Section II of this report do not meet the statutory criteria 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.

May 11, 2012

Date

[Signature on file]

Kathleen Sebelius

II. Employee Class Definition

All employees who worked at Hangar 481, Kirtland Air Force Base (AFB), from March 1, 1989 through February 29, 1996.

III. Decision Criteria and Recommendations

Pursuant to 42 U.S.C. § 7384q, to designate a class for addition to the SEC, the Secretary must determine, upon recommendation of the Advisory Board on Radiation and Worker Health (Board), 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.

In a letter received by the Secretary on April 11, 2012, the Board, pursuant to 42 U.S.C. § 7384q, agreed with the following NIOSH findings, effectively advising the Secretary that radiation dose can be reconstructed with sufficient accuracy for certain Hangar 481, Kirtland Air Forces Base employees in accordance with provisions of EEOICPA and the SEC final rule.

IV. Determination 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 determined that no unsealed radioactive materials were handled nor were radioactive materials stored at the Hangar 481 facility. Radioactive materials handled by workers at Hangar 481 were in sealed DOT-compliant containers and monitored in accordance with DOT regulations to verify radiation and contamination levels on package exteriors.
- Based on the available information on the radiological program and potential for internal exposure sources, NIOSH concluded that internal radiological exposures to Ross Aviation employees resulting from services rendered for the DOE at Hangar 481 are unlikely to have occurred.
- Sandia National Laboratories, being an adjacent facility, was used to provide a bounding estimate of the dose from ambient environmental internal dose during the covered period.
- External dose records exist for many Ross Aviation personnel and the Radiation Exposure Information and Reporting System (REIRS) reported data have been verified using Eberline dosimetry data from 1990-1994. The individual results of these records or use of the highest dose received by monitored personnel, adequately bounds external dose for unmonitored workers.
- Responses to questions and interviews with former Hangar 481 workers indicate that annual occupational X-ray examinations were not performed at Hangar 481. Based on this information, medical X-ray dose for Hangar 481 personnel is not a covered exposure to be included in the dose reconstruction. Therefore, medical X-ray dose is not a consideration for workers at Hangar 481.
- After reviewing the additional information and data obtained subsequent to the original evaluation, NIOSH has concluded that the original feasibility determination is confirmed. Specifically, given the availability of TLD data for the covered years of employment, it is feasible to bound the evaluated worker class external dose (reconstruct external doses with sufficient accuracy). The TLD data available from 1989 through 1995 is believed to adequately assess the radiological exposures at Hangar 481, Kirtland AFB during this timeframe and is, therefore, adequate for performing dose reconstructions. Using the methods described in ORAUT-OTIB-0008, dose for 1996 can be over estimated by using the highest individual dosimetry data for all previous covered years (1989 through 1995).

- NIOSH determined that it has access to sufficient Hanger 481, Kirtland Air Force Base information to either (1) estimate the maximum internal and external 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 evaluated class; or (2) estimate the internal and external radiation doses to members of the evaluated class more precisely than a maximum dose estimate.
- The Board concurred with the NIOSH findings.

Health Endangerment

Because the Secretary established that it is feasible to estimate with sufficient accuracy the radiation doses encountered by all employees who worked at Hangar 481, Kirtland Air Force Base (AFB), from March 1, 1989 through February 29, 1996, a determination of health endangerment is not required.

V. Effect of the Determination

Members of the class of employees covered by this determination and their survivors continue to be eligible to submit claims for compensation under EEOICPA. As required for cancer claims covering other DOE and Atomic Weapons Employer employees (or Atomic Weapons Employees) not included in the SEC, qualified cancer claims under Part B of EEOICPA for members of this class will be adjudicated by the Department of Labor, in part on the basis of radiation dose reconstructions which will be conducted by NIOSH.

VI. Administrative Review of Determination

The determination 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 designate the class of employees covered by this determination, in part or in whole, as an addition to the SEC, the Secretary would transmit a new report to Congress providing the designation and the criteria and findings on which the decision was based.