

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

**Sandia National Laboratories
Albuquerque, New Mexico**



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.

May 11, 2012
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 at Sandia National Laboratories in Albuquerque, New Mexico, from January 1, 1963 through December 31, 1994, 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 April 11, 2012.

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 determined that principal sources of internal radiation for members of the proposed class included exposures to plutonium, tritium, uranium, americium, and fission and activation products. Potential exposure pathways could have involved the handling of these radionuclides during waste-burial operations and related research and support missions or exposure to surface or air contamination associated with reactors and/or accelerators work.
- NIOSH found that source terms and associated exposures varied over the evaluated period. Considering the potential exposure scenarios, NIOSH finds it is unable to estimate these internal exposures with sufficient accuracy for the period from January 1, 1963 through December 31, 1994. Additionally, a contribution factor to the extension of the SEC class time period thru 1994 was that the internal dosimetry data from 1992 thru 1994 was found not suitable for dose reconstruction.
- NIOSH determined that principal sources of external radiation for members of the proposed class included exposures to alpha, beta, gamma, and neutron radiation. Exposures could have occurred during waste-handling activities and hot cell work. Work with reactors and accelerators also involved exposure potential for workers. Samples obtained from blast experiments conducted at the Nevada Test Site and analyzed at Sandia National Laboratories-Albuquerque could have resulted in external exposure. Additionally, medical X-rays performed onsite as a condition of employment would have resulted in external exposures to the evaluated class.
- NIOSH has found that it has access to sufficient information to support reconstructing external and medical X-ray dose for all evaluated periods at the site. However, NIOSH lacks sufficient information, which includes specific biological monitoring data, sufficient air monitoring information, process and radiological source information, and surrogate data from similar operations at other sites that would allow it to estimate the potential internal radiological exposures for all workers who worked at the Sandia National Laboratories in Albuquerque, New Mexico during the period from January 1, 1963 through December 31, 1994.
- Based on the findings, NIOSH concluded that it is not feasible to estimate internal exposures with sufficient accuracy for all workers at the Sandia National Laboratories-Albuquerque site from January 1, 1963 through December 31, 1994. The basis of this finding demonstrates that NIOSH does not have access to sufficient information to estimate either the maximum radiation dose incurred by any member of the class or to estimate such radiation doses more precisely than a maximum dose estimate for that period.

- NIOSH will continue to review and evaluate internal exposure reconstruction feasibility for the 1995 through 2011 period when additional and applicable monitoring databases become available. If NIOSH finds information indicating that doses cannot be bound for the time period from January 1, 1995 through May 21, 2011, NIOSH will proceed with an 83.14 petition recommending an additional class.
- 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.
- Although NIOSH found that it is not possible to reconstruct radiation doses for the proposed class, NIOSH intends to use any internal and external monitoring data that may become available (and that can be interpreted using existing NIOSH dose reconstruction processes or procedures) for an individual claim. Dose reconstructions for individuals employed at the Sandia National Laboratories-Albuquerque facility during the period from January 1, 1963 through December 31, 1994, but who do not qualify for inclusion in the SEC, may be performed using these data as appropriate.
- The Board concurred with the NIOSH evaluation and recommended the proposed class for addition to the SEC.

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), the NIOSH Director 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), the NIOSH Director 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) The Board and the NIOSH Director 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 NIOSH Director concurred with the Board'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.