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

Rocky Flats Plant
Golden, Colorado

I. Designation

I, Michael O. Leavitt, Secretary of Health and Human Services (Secretary), 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.

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Date

Michael O. Leavitt

II. Employee Class Definition

Employees of the Department of Energy (DOE), its predecessor agencies, or DOE contractors or subcontractors who were monitored or should have been monitored for neutron exposures while working at the Rocky Flats Plant in Golden, Colorado, for a number of work days aggregating at least 250 work days from January 1, 1959, through December 31, 1966, or in combination with work days within the parameters established for one or more other classes of employees 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 it is established that there is 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 it is established that there is 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 July 5, 2007.

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.

(1) It is not possible to definitively establish that the highest-exposed Rocky Flats Plant workers were monitored for neutrons during the time period from 1959 through 1966.

a. During this period of time, there were activities on the Rocky Flats Plant site that had the potential to expose some workers to significant neutron doses. These activities generated neutrons with varying energy spectra, making it difficult to quantify doses accurately.

b. At the commencement of operations at the Rocky Flats Plant in 1952, the site had limited neutron monitoring capabilities. Neutron exposures were monitored using glass track plates supplied by the Los Alamos Scientific Laboratory, and there were only about 20 plates per exchange cycle available. Starting in the late 1950's, neutron exposures were monitored using film badges, beginning with those workers judged to be at highest risk by the health physics staff. Throughout the early 1960's, the neutron monitoring program was expanded and more workers were brought into the program, culminating with the inclusion of the highest exposed workers in the neutron monitoring program by 1967.

(2) The reconstruction of unmonitored workers' doses during this period, using neutron-to-photon ratio techniques, results in these workers receiving some of the highest neutron exposures at the site, however the inherent uncertainty in this technique precludes establishing an upper-bound dose.

(3) Pursuant to 42 C.F.R. § 83.13(c)(1), it was determined that there is insufficient information either 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, or to estimate the radiation doses of members of the class more precisely than a maximum dose estimate.

(4) There is sufficient information to reconstruct certain components of internal and external dose for members of the class.

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), it was 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), a minimum duration of employment was specified 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) No evidence from the petitioners or from other resources was identified 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's recommendation was that the health of the class may have been endangered and that the class should be defined according to the 250-workday 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*l*(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*l*(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.