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

Sandia National Laboratory
Livermore, California

I. Determination

I, Michael O. Leavitt, 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.

JUL 2 9 2008

Date

Michael O. Leavitt

II. Employee Class Definition

Department of Energy employees or its contractor or subcontractor employees who worked as x-ray technologists and materials scientists at Sandia National Laboratory – Livermore in the X-ray Diffraction and Fluorescence Laboratory, Building 913 – Room 113 and Building 913 – Room 128 from December 1, 1967 through December 31, 1990.

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 May 2, 2008, 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

Sandia National Laboratory - Livermore 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 upon the findings summarized below.

(1) External dosimetry records are available for the covered period applicable to the petition. NIOSH concluded that the external monitoring data are sufficient to estimate the maximum external radiation dose for every type of cancer for which radiation doses are reconstructed that could have been incurred by any member of the class. Therefore, external radiation dose can be estimated with sufficient accuracy for the class.

(2) Records indicate that all members of the proposed class were monitored for internal uranium exposures during the time period relevant to the petition. Missed dose (associated with zero or less than detectable results) can be estimated. NIOSH has a complete set of bioassay data for the members of the proposed class.

(3) NIOSH found that the available monitoring records, process descriptions and source term data available are sufficient to complete dose reconstructions for the proposed class of employees.

(4) NIOSH has established that it has access to sufficient information to either: (1) estimate the maximum internal and/or 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 class; or (2) estimate the internal and/or external radiation doses to members of the class more precisely than a maximum dose estimate.

In its letter to the Secretary, the Board concurred with these NIOSH findings.

Health Endangerment

Because the Secretary established that it is feasible to estimate with sufficient accuracy the radiation doses encountered by certain Sandia National Laboratory - Livermore employees as specified in this class, 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 not included in the SEC, qualified cancer claims under Subpart 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 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.