THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

DEC 14 2007

The Honorable Richard Cheney
President of the United States Senate
Washington, D.C. 20510

Dear Mr. President:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 and 42 C.F.R. Part 83, a petition was filed on behalf of workers from the Y-12 Plant in Oak Ridge, Tennessee, to be added to the Special Exposure Cohort (SEC).

The Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH) evaluated the petition and presented its findings to the Advisory Board on Radiation and Worker Health (Board) on October 4, 2007. The Board considered the petition, and on October 30, 2007, I received the Board's recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Director, NIOSH, and the Director, CDC. I have determined that the following employees do not meet the statutory criteria for addition to the SEC, as authorized under EEOICPA, 42 U.S.C. § 7384q:

> Statisticians who performed statistical analysis of biological experiments (working within the Oak Ridge National Laboratory Biological Sciences Division) in all locations at the Y-12 Plant in Oak Ridge, Tennessee, who were employed by the Department of Energy or its contractors between January 1, 1958, and June 30, 1958.

The criteria and findings upon which this determination is based are provided in the enclosed report.

Please feel free to contact me should you have any further thoughts or questions.

Sincerely,

Michael O. Leavitt

Enclosure

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

DEC 14 2007

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 and 42 C.F.R. Part 83, a petition was filed on behalf of workers from the Y-12 Plant in Oak Ridge, Tennessee, to be added to the Special Exposure Cohort (SEC).

The Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH) evaluated the petition and presented its findings to the Advisory Board on Radiation and Worker Health (Board) on October 4, 2007. The Board considered the petition, and on October 30, 2007, I received the Board's recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Director, NIOSH, and the Director, CDC. I have determined that the following employees do not meet the statutory criteria for addition to the SEC, as authorized under EEOICPA, 42 U.S.C. § 7384q:

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Sincerely,

Michael O. Leavitt

Enclosure

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

DEC 14 2007

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

Dear Senator McConnell:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 and 42 C.F.R. Part 83, a petition was filed on behalf of workers from the Y-12 Plant in Oak Ridge, Tennessee, to be added to the Special Exposure Cohort (SEC).

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Please feel free to contact me should you have any further thoughts or questions.

Sincerely,

Michael O. Leavitt

Enclosure

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

DEC 14 2007

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Madam Speaker:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 and 42 C.F.R. Part 83, a petition was filed on behalf of workers from the Y-12 Plant in Oak Ridge, Tennessee, to be added to the Special Exposure Cohort (SEC).

The Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH) evaluated the petition and presented its findings to the Advisory Board on Radiation and Worker Health (Board) on October 4, 2007. The Board considered the petition, and on October 30, 2007, I received the Board's recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Director, NIOSH, and the Director, CDC. I have determined that the following employees do not meet the statutory criteria for addition to the SEC, as authorized under EEOICPA, 42 U.S.C. § 7384q:

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Please feel free to contact me should you have any further thoughts or questions.

Sincerely,

Michael O. Leavitt

Enclosure

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

DEC 14 2007

The Honorable John A. Boehner
Minority Leader
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Boehner:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 and 42 C.F.R. Part 83, a petition was filed on behalf of workers from the Y-12 Plant in Oak Ridge, Tennessee, to be added to the Special Exposure Cohort (SEC).

The Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH) evaluated the petition and presented its findings to the Advisory Board on Radiation and Worker Health (Board) on October 4, 2007. The Board considered the petition, and on October 30, 2007, I received the Board's recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Director, NIOSH, and the Director, CDC. I have determined that the following employees do not meet the statutory criteria for addition to the SEC, as authorized under EEOICPA, 42 U.S.C. § 7384q:

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The criteria and findings upon which this determination is based are provided in the enclosed report.

Please feel free to contact me should you have any further thoughts or questions.

Sincerely,

Michael O. Leavitt

Enclosure

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

Y-12 Plant
Oak Ridge, Tennessee

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.

DEC 14 2007

Date

Michael O. Leavitt

II. Employee Class Definition

Statisticians who performed statistical analysis of biological experiments (working within the Oak Ridge National Laboratory Biological Sciences Division) in all locations at the Y-12 Plant in Oak Ridge, Tennessee, who were employed by the Department of Energy or its contractors between January 1, 1958, and June 30, 1958.

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 October 30, 2007, 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

Y-12 Plant 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) The basis for the petition is an unrecorded and unmonitored discrete radiological incident that occurred at the Biological Sciences Division at the Y-12 Plant in Oak Ridge, Tennessee, during the first quarter of 1958. NIOSH did not identify any evidence of a discrete radiological incident, and medical evidence related to the petition does not support an acute exposure.

(2) The petition provided evidence of modification of the relevant exposure records. Upon review of the relevant historical exposure records, NIOSH concluded that the investigation and report findings of the modification were consistent with the processes and reporting methods.

(3) NIOSH determined that there are sufficient bioassay data, air monitoring data, and coworker data to support NIOSH's ability to bound (reconstruct with sufficient accuracy) the internal dose for the proposed class.

(4) NIOSH's evaluation focused on external monitoring data because of the exposure scenario identified in the petition. NIOSH has external monitoring data for members of the class and can use coworker data for unmonitored workers who should have been monitored. Therefore, NIOSH concluded that it is possible to bound (reconstruct with sufficient accuracy) the external dose for the proposed class.

(5) 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 Y-12 Plant 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.