

HHS Designation of Additional Members of the  
Special Exposure Cohort  
under the  
Energy Employees Occupational Illness Compensation Program Act of 2000

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Designating a Class of Employees from  
Los Alamos National Laboratory (LANL)  
Los Alamos, New Mexico



HHS Special Exposure Cohort Designation:  
Los Alamos National Laboratory (LANL)

## 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.

JUN 22 2007

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 radiological exposures while working in operational Technical Areas with a history of radioactive material use at the Los Alamos National Laboratory (LANL) for a number of work days aggregating at least 250 work days from March 15, 1943 through December 31, 1975, 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 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 May 25, 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 upon the findings summarized below.

- (1) People working at the Los Alamos National Laboratory (LANL) during this time period worked in nuclear weapons development and testing and other technical and scientific research involving exposures to many different radionuclides.
- (2) The NIOSH review of the available monitoring data as well as the available source term information found that they lacked adequate information necessary to conduct adequate individual dose reconstructions for a number of radionuclides during a significant percentage of the time period in question. The Board concurs with this conclusion that individual dose reconstructions are not feasible for people working in these technical areas from March 15, 1943 through December 31, 1975.
- (3) Pursuant to 42 C.F.R. § 83.13(c)(1), NIOSH 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) Although NIOSH found that it is not possible to completely reconstruct radiation doses for these employees, NIOSH determined that it is possible to reconstruct components of the internal dose including tritium (1950-1975), polonium (1944-1956), plutonium (1944-1975), and uranium (1943-1975), and of the external dose including gamma (1946-1975), beta (1949-1975), neutron (1946-1975) and occupational medical X-ray (1943-1975), and therefore individuals with non-presumptive cancers may be considered for partial dose reconstructions.

##### Health Endangerment

The Secretary established the health endangerment determination for the class of employees covered by this report upon the findings summarized below.

- (1) Pursuant to 42 C.F.R. § 83.13(c)(3), NIOSH 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), NIOSH 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) NIOSH 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 Board concurred with the finding of NIOSH that the health of the class may have been endangered and defined the class 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 designation of one additional class to the SEC for review by Congress, pursuant to 42 U.S.C. §§ 7384l(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. § 7384l(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.