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

Vitro Manufacturing
Canonsburg, Pennsylvania

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.

April 29, 2011
Date

[Signature on file]
Kathleen Sebelius

II. Employee Class Definition

All Atomic Weapons Employer employees who worked at Vitro Manufacturing in Canonsburg, Pennsylvania, from January 1, 1958 through December 31, 1959, 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 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 March 30, 2011.

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 members of this class may have received internal and external radiation exposures to site contamination and residue piles containing uranium and uranium progeny, including radon. Vitro Manufacturing processed scrap and residues that could have resulted in the generation of airborne dust, surface contamination, and direct contact with bulk radioactive materials. The potential for unmonitored exposures continued at Vitro Manufacturing until Atomic Weapons Employer (AWE) operations concluded in 1959.

- NIOSH evaluated the feasibility for completing dose reconstructions for all atomic weapons employees who worked in any area at the Vitro Manufacturing facility in Canonsburg, Pennsylvania from January 1, 1958 through December 31, 1959.

- NIOSH found no indication that bioassay measurements were collected for the period from January 1, 1958 through December 31, 1959. Air monitoring and contamination survey data are not available for this period. Moreover, NIOSH determined that area air sampling results for the time period from 1949 through 1953 were inadequate to bound internal intakes from uranium progeny during the period from January 1, 1958 through December 31, 1959.

- NIOSH has been unable to locate any individual external monitoring data for the period from January 1, 1958 through December 31, 1959. NIOSH has access to a limited amount of general process and radiological source term information associated with uranium recovery work, but no specific information regarding the work at Vitro Manufacturing during the class period.

- NIOSH finds that it does not have access to sufficient personnel monitoring, workplace monitoring, or source term data to estimate unmonitored internal and external exposures for Vitro Manufacturing workers during the period of continued AWE operations from January 1, 1958 through December 31, 1959. Consequently, NIOSH finds that it is not feasible to estimate, with sufficient accuracy, unmonitored internal and external exposures and resulting doses for workers at Vitro Manufacturing (Canonsburg) during the period from January 1, 1958 through December 31, 1959.

- 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 completely reconstruct radiation doses for employees who worked at Vitro Manufacturing in Canonsburg, Pennsylvania during the period from January 1, 1958 through December 31, 1959, NIOSH intends to use any reliable internal and external monitoring data that may become available for an individual claim (and that can be interpreted using existing NIOSH dose reconstruction processes or procedures). Dose reconstructions for individuals employed at Vitro Manufacturing (Canonsburg) during the period from January 1, 1958 through December 31, 1959, but who do not qualify for inclusion in the SEC, may be performed using these data as appropriate.

- NIOSH finds that it is feasible to reconstruct occupational medical dose for Vitro Manufacturing workers with sufficient accuracy by using claimant-favorable assumptions in the Technical Information Bulletin, *Dose Reconstruction from Occupationally Related Diagnostic X-Ray Procedures* (ORAUT-OTIB-0006) and *Guidance on Assigning Occupational X-Ray Dose Under EEOICPA for X-Rays Administered Off Site* (ORAUT-OTIB-0079).

- 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), 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 NIOSH'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*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.