THE SECRETARY OF HEALTH AND HUMAN SERVICES

WASHINGTON, D.C. 20201

December 10, 2009

The Honorable Joseph R. Biden, Jr.
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. pt. 83, a petition was filed on behalf of workers from the Hanford site in Richland, Washington, 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 20, 2009. The Board considered the petition, and on November 19, 2009, I received the Board's recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Director of NIOSH and the Director of CDC. Based on this information, I have designated the following class for addition to the SEC:

> All employees of the Department of Energy, its predecessor agencies, and its contractors and subcontractors who worked at the Hanford site in Richland, Washington, from October 1, 1943 through June 30, 1972, 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 included in the Special Exposure Cohort.

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

Please contact me if you have any further questions regarding this matter.

Sincerely,

Kathleen Sebelius

Kathleen Sebelius

Enclosure

THE SECRETARY OF HEALTH AND HUMAN SERVICES

WASHINGTON, D.C. 20201

December 10, 2009

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. pt. 83, a petition was filed on behalf of workers from the Hanford site in Richland, Washington, to be added to the Special Exposure Cohort (SEC).

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THE SECRETARY OF HEALTH AND HUMAN SERVICES

WASHINGTON, D.C. 20201

December 10, 2009

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. pt. 83, a petition was filed on behalf of workers from the Hanford site in Richland, Washington, to be added to the Special Exposure Cohort (SEC).

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

December 10, 2009

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. pt. 83, a petition was filed on behalf of workers from the Hanford site in Richland, Washington, to be added to the Special Exposure Cohort (SEC).

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Kathleen Sebelius

Kathleen Sebelius

Enclosure

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

December 10, 2009

The Honorable John A. Boehner
Minority Leader
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. pt. 83, a petition was filed on behalf of workers from the Hanford site in Richland, Washington, 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 20, 2009. The Board considered the petition, and on November 19, 2009, I received the Board's recommendation concerning this petition. I have also received the deliberations, findings, and recommendations of the Director of NIOSH and the Director of CDC. Based on this information, I have designated the following class for addition to the SEC:

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Kathleen Sebelius

Kathleen Sebelius

Enclosure

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

Hanford
Richland, Washington

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.

DEC 1 0 2009
Date

Kathleen Sebelius

II. Employee Class Definition

All employees of the Department of Energy, its predecessor agencies, and its contractors and subcontractors who worked at the Hanford site in Richland, Washington, from October 1, 1943 through June 30, 1972, 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 included 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 November 19, 2009.

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.

Feasibility of Dose Reconstruction Findings

NIOSH lacks sufficient information, which includes biological monitoring data, sufficient air monitoring information, or sufficient process and radiological source information that would allow it to estimate the potential internal exposures to which the proposed class may have been exposed.

NIOSH determined that it is likely feasible to reconstruct with sufficient accuracy the occupational medical dose received by Hanford workers.

- There are currently two classes of Hanford workers associated with two previous NIOSH evaluations of SEC petition SEC-00057. The earliest period currently designated for inclusion in the SEC begins October 1, 1943. The latest period currently designated for inclusion in the SEC ends on December 31, 1968.

- NIOSH determined that additional dose reconstruction infeasibilities exist due to work at Hanford with inadequately monitored radionuclides such as purified forms of polonium, thorium, and neptunium. These additional dose reconstruction infeasibilities envelop the time period of January 1, 1945 through June 30, 1972, and as such extend beyond the time period associated with the existing approved SEC classes for Hanford.

- NIOSH determined that reconstruction of internal dose is not feasible for the summative time period from October 1, 1943 through June 30, 1972, due to the lack of adequate biological monitoring data, sufficient air monitoring information, or sufficient process and radiological source term data.

- NIOSH further determined that there is insufficient information available to enable NIOSH to accurately assess whether an energy employee, or class of employees, did, or did not, potentially enter specific Areas of the Hanford site during the periods of time associated with both:

    1. the previously designated SEC classes; and

    2. the recently identified polonium, thorium, and neptunium dose reconstruction infeasibilities.

- Due to the lack of access control and worker movement data, NIOSH determined that it is necessary to remove the Area-specific parameters associated with the current Hanford SEC class definitions. Therefore, NIOSH finds it necessary to include all workers and all areas in the proposed SEC class definition for the period from October 1, 1943 through June 30, 1972.

- 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.

- The Board concurred with the NIOSH evaluation and recommended the proposed class for addition to the SEC.

- Although NIOSH found that it is not possible to completely reconstruct radiation doses for the proposed class, the NIOSH intends to use any 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). Therefore, dose reconstructions for individuals employed at the Hanford site during the period from October 1, 1943 through June 30, 1972, but who do not qualify for inclusion in the SEC, may be performed using these data as appropriate.

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.