U.S. Department of Health and Human Services Designation

of Additional Members to the Special Exposure Cohort

under the

Energy Employees Occupational Illness Compensation Program Act of 2000

Designation Concerning a Petition for Certain Employees from

Metals and Controls Corporation

Attleboro, Massachusetts

I. Designation

I, Xavier Becerra, Secretary of Health and Human Services (Secretary) (HHS), have determined that the employees defined in Section II of this report 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.

[Signature on File]	September 9, 2024
Xavier Becerra, Secretary	Date

II. Employee Class Definition

All atomic weapons employees who worked at Metals and Controls Corp. in Attleboro, Massachusetts, from January 1, 1968, through September 21, 1995, 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 SEC.

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 the National Institute for Occupational Safety and Health (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 dated August 8, 2024, and received on August 14, 2024, the Board, pursuant to 42 U.S.C. § 7384q, both agreed and disagreed with the following NIOSH findings as detailed below, effectively advising the Secretary that radiation doses could not be reconstructed with

sufficient accuracy for the evaluated class of employees who worked at the Metals and Controls (M&C) Corporation in accordance with provisions of EEOICPA and the SEC final rule.

IV. Designation Findings

Feasibility of Estimating Radiation Doses

The Secretary established the feasibility determination for the class of employees covered by this report based upon the findings summarized below:

- The principal sources of internal radiation dose for members of the proposed class included inhalation and ingestion exposures of uranium and thorium coming from residual activity remaining because of and at the end of Atomic Weapons Employer (AWE) Facility operations.

- The Board and the NIOSH Director concluded that reconstruction of internal exposures is not feasible for the evaluated class of employees who worked at M&C from the period from January 1, 1968, through September 21, 1995.

- The principal sources of external radiation dose for members of the proposed class included residual surface and subsurface contamination exposures to uranium and thorium after AWE operations ended. The Board concurs with NIOSH's findings that external doses can be reconstructed with sufficient accuracy.

- NIOSH and the Board determined that available information is sufficient for use in dose reconstruction of external doses in accordance with existing NIOSH methods and procedures.

- The Board concurs with NIOSH that medical X-rays are not a covered occupational radiation exposure during a residual radiation period. NIOSH finds that it is not applicable to reconstruct medical X-ray dose for M&C during the period from January 1, 1968, through September 21, 1995.

- The Board determined that NIOSH has insufficient information to estimate with sufficient accuracy all potential internal doses from radionuclides-associated intrusive work activities by construction and maintenance workers that included pipe cleanouts, underground utility replacement and maintenance, and subsurface construction activities to which the evaluated class of workers may have been exposed during the period from January 1, 1968, through September 21, 1995.

- The basis of this finding demonstrates that NIOSH does not have access to sufficient information, including process monitoring and source term information, available to estimate either the maximum radiation dose incurred by any member of the class or to estimate such radiation doses more precisely than a maximum dose estimate for that period. The NIOSH Director concurs with the Board's dose-reconstruction infeasibility determination.

- Pursuant to 42 C.F.R. § 83.13(c)(1), the Board and the NIOSH Director has determined that NIOSH lacks sufficient 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 more precisely than a maximum dose estimate for the members of the class at M&C during the period from January 1, 1968, through September 21, 1995.

- Although it is not possible to completely reconstruct radiation doses for workers at M&C Corp. in Attleboro, Massachusetts, from January 1, 1968, through September 21, 1995, NIOSH intends to use any reliable internal monitoring data, including bioassay data, that may be available for an individual claim during this period (and that can be interpreted using existing NIOSH dose reconstruction processes or procedures). Dose reconstructions for workers at M&C Corp. in Attleboro, Massachusetts, from January 1, 1968, through September 21, 1995, but who do not qualify for inclusion in the SEC may be performed using these data as appropriate.

- The NIOSH Director concurred with the Board's dose-reconstruction infeasibility determination and recommendation to designate the proposed class 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), the Board established that there is a reasonable likelihood that such radiation doses may have endangered the health of members of the class. 42 C.F.R. § 83.13(c)(3)(ii) specifies 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) The Board did not identify any evidence from the petitioners or from other sources showing 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 determined 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). The NIOSH Director concurred with the Board's health endangerment determination.

V. Effect and Effective Date of the 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. §§ 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.