Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA)
Special Exposure Cohort
Regulation 42 CFR Part 83

Request for Office of Management and Budget (OMB) Review and Approval
for a Federally Sponsored Data Collection
(0920-0639) **RENEWAL**

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Attachments

SUPPORTING STATEMENT

Special Exposure Cohort Petitions under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA). The only change to this package is an increase to the burden hours because more petitioners are requesting to have their work site named as a special exposure cohort.

A. Justification

1. Circumstances Making the Collection of Information Necessary

The Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. §§ 7384-7385 [1994, supp. 2001], established a compensation program to provide a lump sum payment of $150,000 and medical benefits as compensation to covered employees suffering from designated illnesses incurred as a result of their exposure to radiation, beryllium, or silica while in the performance of duty for the Department of Energy and certain of its vendors, contractors and subcontractors. This legislation also provided for payment of compensation for certain survivors of these covered employees.

EEOICPA instructed the President to designate one or more Federal Agencies to carry out the compensation program. Accordingly, the President issued Executive Order 13179 ("Providing Compensation to America's Nuclear Weapons Workers") on December 7, 2000 (65 FR 77487), assigning primary responsibility for administration of the compensation program to the Department of Labor (DOL). The executive order directed the Department of Health and Human Services (HHS) to perform several technical and policymaking roles in support of the DOL program.

Among other duties, the executive order directed HHS to establish and implement procedures for considering petitions by classes of nuclear weapons workers to be added to the "Special Exposure Cohort" (the "Cohort"), a cohort of various groups of workers selected by Congress whose claims for cancer under EEOICPA can be adjudicated without demonstrating that their cancer was "at least as likely as not" caused by radiation doses they incurred in the performance of duty. In brief, EEOICPA authorizes HHS to designate such classes of employees for addition to the Cohort when HHS lacks sufficient information to estimate with sufficient accuracy the radiation doses of the employees, if HHS also finds that the health of members of the class may have been endangered by the radiation doses they potentially incurred. On May 28, 2004, HHS published the Final Rule of the procedures for adding such classes to the Cohort at 42 C.F.R. pt. 83 (Attachment A). HHS published an Interim Final Rule on SEC procedures December 22, 2005 (70 FR 75949) (Attachment B) in response to the new requirements of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Public Law 108–375 (codified as amended in scattered sections of 42 U.S.C.) that amended EEOICPA.

The HHS procedures authorizes a variety of individuals and organizations to submit petitions, as follows: (1) one or more nuclear weapons workers or their survivors; (2) labor organizations; and (3) one or more individuals or entities authorized in writing by nuclear weapons workers or their

survivors. Petitioners are required to provide a variety of necessary information, as discussed below.

NIOSH has developed two petition forms to assist the petitioners in providing this information efficiently and completely, to meet the petitioning requirements specified by HHS under 42 C.F.R. § 83.9. Petition Form A (Attachment D) is a one-page form that may be used by EEOICPA cancer claimants for whom NIOSH attempted to conduct dose reconstructions and determined that available information is not sufficient to complete the dose reconstruction. Petition Form B (Attachment E), accompanied by separate instructions, is intended for all other petitioners. The majority of the petitions received to date have been submitted on Form B. Both of the forms can be downloaded electronically (http://www.cdc.gov/niosh/ocas/how2add.html) and submitted electronically to the OCAS email box or mailed through the U.S. postal service or some other method. HHS is not requiring petitioners to use the forms. Petitioners can choose to submit petitions as letters or in other formats, but petitions must meet the informational requirements referenced above.

In addition to the petition forms, HHS is requiring the use of an authorization form (Attachment F) by employees or their survivors when they choose to authorize another party to petition on behalf of the class of employees of which the authorizing employee is a member.

2. Purpose and Use of the Information

The petition is essential to the process of considering the addition of a class of employees to the Cohort under EEOICPA and is legally required under EEOICPA (42 U.S.C. § 7384q(a)(3)) and as proposed under 42 C.F.R. pt. 83. HHS will use information provided by the petitioner(s) to:

a. identify the petitioner(s), obtain their contact information, and establish that the petitioner(s) is qualified and intends to petition HHS;
b. establish an initial definition of the class of employees being proposed to be considered for addition to the Cohort;
c. determine whether there is justification to require HHS to evaluate whether or not to add the proposed class to the Cohort; such an evaluation involves potentially extensive data collection, analysis, and related deliberations by NIOSH, the presidentially appointed Advisory Board on Radiation and Worker Health ("Board"), and HHS;
d. target the evaluation by HHS to examine relevant potential limitations of radiation monitoring and/or dosimetry-relevant records and to the potential for related radiation exposures that might have endangered the health of members of the class.

Petitioners using Form A (those for whom NIOSH has already determined it lacks sufficient information to complete the petitioner-claimant's dose reconstruction) would only provide information relevant to item "a" above. In the process of attempting the dose reconstruction for the petitioner-claimant, NIOSH would have already obtained information addressing items "b-d."

The mandatory use of the authorization form by individuals to authorize others to petition on

behalf of a class of employees will ensure that the authorizing individual is clearly informed of the rights he is imparting on the party being authorized, and that HHS has sufficient information to identify authorized parties and document their authorization.

3. Use of Information Technology and Burden Reduction

Petitioners will be allowed to submit petitions electronically, although they may have to submit some information in hard copy (e.g., affidavits and copies of reports, addressed under § 83.9(c). The average burden for petitions depends on whether or not the petition is based on a NIOSH finding that it cannot complete a dose reconstruction for the petitioner. For such petitions, (expected to be the majority), the average burden of reading and completing petition Form A, or of providing such information without the form, is estimated at three minutes. For other petitions, the average burden of completing petition Form B is estimated at 5 hours. The majority of the burden to this latter group would arise from the efforts of these petitioners to collect, versus report, required information.

The informational requirements for petitions under 42 C.F.R. § 83.9 have been simplified based on public comment to minimize the burden on petitioners, while obtaining information essential to enable HHS to apply resources efficiently and effectively to meet its mandatory responsibility under EEOICPA to consider Cohort additions. In addition, HHS has decided to produce two separate forms, rather than one form for all users, to eliminate irrelevant form instructions and content for the two distinct sets of potential petitioners, as outlined above.

Finally, the use of the petition forms, which is voluntary, is intended to help petitioners submit necessary information as efficiently as possible. The form reduces the need for petitioners to consider how to organize their information and increases the likelihood that they will provide sufficient, minimal, and appropriate information in their initial submission. Petitioners who do not provide sufficient and appropriate information initially will have to supplement their initial submission to qualify their petition for evaluation by HHS.

4. Efforts to Identify Duplication and Use of Similar Information

No other projects are duplicated by the information collection proposed here. The Cohort was created statutorily in October 2000 with the enactment of EEOICPA. The requirement for classes of employees to submit petitions to be considered for addition to the Cohort was mandated by EEOICPA (42 U.S.C. § 7384q(a)(3)) and is implemented under 42 C.F.R. pt. 83. For petitioners who have already provided relevant information to NIOSH as claimants requiring dose reconstructions under 42 C.F.R. pt. 82, NIOSH has restricted informational requirements under 42 C.F.R. § 83.9 to exclude information already collected during the dose reconstruction process.

5. Impact on Small Businesses or Other Small Entities

The HHS rule would allow various types of small entities to submit petitions on behalf of classes of nuclear weapons employees, when authorized by employees or their survivors, possibly

including: voluntary associations of workers and their survivors, labor organization local affiliates, law firms representing one or more employees and/or survivors of employees, or other individuals or entities, as provided for under 42 CFR Part 83 (§ 83.7). Petition requirements are minimally burdensome to all petitioners, including these small businesses and entitities.

6. Consequences of Collecting the Information Less Frequently

The petition process does not require repeated data submissions by the petitioner(s).

7. Special Circumstances Relating to the Guidelines of 5 C.F.R. § 1320.5

The request fully complies with the regulation.

8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside the Agency

8a. Federal Register Notice

Attached is a copy of the Federal Register Notice (Attachment C) which contains the request for comments on the proposed collection of information. CDC published the notice on March 7, 2007 (Volume 72, Number 44 (pages 10217-10219), but received no comments in response.

8b. Consultations

Pursuant to EEOICPA and Executive Order 13179, this compensation program involves the Departments of Labor, Energy, Justice and Health and Human Services. All agencies that have a role related to the SEC under EEOICPA have concurred with the contents of the Final Rule and reviewed the Interim Final Rule. In addition, NIOSH established the current informational requirements, in part, in response to public comments received in response to the first NPRM issued to promulgate 42 C.F.R. pt. 83 on June 25, 2002, and the second NPRM issued on March 7, 2003. NIOSH convened four public meetings near nuclear weapons production sites across the country to obtain public comments as well as comments from the Board which is made up of members of the public with relevant medical, scientific and worker backgrounds. NIOSH has not received comments from the public or the Board that indicate a modification of the forms used by petitioners is needed.

9. Explanation of Any Payment or Gift to Respondents

There is no payment or gift to respondents.

10. Assurance of Confidentiality Provided to Respondents

The CDC Privacy Act Officer has reviewed this application and has determined that the Privacy Act is applicable. The information collected from petitioners will be stored in the Privacy Act System of Records 09-20-0147, newly named “Occupational Health Epidemiological Studies

and EEOICPA Program Records" as published in the Federal Register on September 29, 2003. This information is treated in the manner prescribed by the Privacy Act and in accordance with the routine uses permitted under 09-20-0147.

The information collected in the petition includes identifiable personal information, (petitioner's have the option of giving their name or social security number). It is maintained indefinitely in secure, limited access computer files as well as in paper files located in locked file cabinets within a secured, limited access facility. Access is limited to NIOSH employees and contractors involved in the petition evaluation process, and members of the Board involved in the review of petitions. All contractors have had security training and must sign a confidentiality agreement that all sensitive information will be handled in a secure manner, under NIOSH policies.

11. Justification for Sensitive Questions

There are no questions of a sensitive nature in the petition forms.

12. Estimates of Annualized Burden Hours

A. The estimated annual burden of this data collection is described in the table below.

Form Name (CFR Reference)	Respondents	Number of Respondents	Number of Responses per Respondent	Avg. Burden per Respondent (in hours)	Total Burden (in hours)
83.9	Form A	30	1	3/60	2
83.9	Form B	40	1	5	200
83.9	Without Form B	5	1	6	28
83.16	Appeals of proposed decisions	5	1	45/60	4
Authorization Form		20	1	3/60	1
TOTAL		100			235

The 3 minutes average burden for petitioners to complete Petition Form A is based on a pre-test of the form by NIOSH staff of various backgrounds, education, and occupations. All staff read and completed the form carefully in less than 3 minutes.

Petition Form B can be completed in 5 hours or less, depending on the number of petitioners, the circumstances on which the petition is based, and the extent to which the relevance and interpretation of any documentation provided in support of the petition has to be explained by the petitioner(s). NIOSH staff read the instructions and completed Form B, using fictional information, in less than 32 minutes. Assuming that petitioners may be more cautious in reading instructions and completing the form, NIOSH estimates petitioners might require a maximum of 60 minutes to complete the form. The collection or organization of documentation in support of such petitions could require as little as 15 minutes, when the petitioner(s) already have possession of sufficient documentation, or as much as 4 hours if the petitioners must make a maximum effort, which would entail preparing and obtaining notarization of two separate statements from two individuals (1 hour for the preparation of a written statement x 2 = 2 hours; 1 hour to obtain notarization of the statement x 2 = 2 hours). Hence, the total burden of collecting information (at maximum) and completing Form B is estimated as 4 hours to collect information and 1 hour to complete Form B.

The 3 minutes to complete the Authorization Form is estimated based on the pre-test of Petition Form A, which requires the user to read and consider more instructions and explanation.

B. The annual costs to respondents associated with this burden is as follows:

Respondents	Number of Respondents	Number of Responses	Hourly Rate*	Respondent Cost
83.9 -Form A	30	1	$5.15	$154.50
83.9 - Form B	40	1	$5.15	$206.00
83.9 – w/out Form B	5	1	$5.15	$25.75
83.16- Appeals of proposed decisions	5	1	$5.15	$25.75
Authorization Form	20	1	$5.15	$103.00
TOTAL				$515.00

*Current National minimum wage

13. Estimate of Other Total Annual Cost Burden to Respondents or Recordkeepers

None.

14. Annualized Cost to the Federal Government

Summary Table

Information Collection Element	Annualized Cost
Petition Form A and B	$59.00
Authorization Form	$1.80
Personnel	$14,873.00
TOTAL	$14934.00

Basis for Cost Estimates

Petition Forms A and B:

form printing, envelope & postal charges:	$59
total annual costs:	$59

Authorization Form

form printing, envelope & postal charges	$1.80
total annual costs:	$1.80

Personnel Costs

GS-7 Information Specialist10 hours ($21.70 per hour)	$	217.00
GS-13 Health Physicist 320 hours ($45.80 per hour)	$	14,656.00
Total annual costs	$	14,934.00

15. Explanation for Program Changes or Adjustments

Adjustments include an increase in burden hours because more petitioners are requesting to have their work site named as a Special Exposure Cohort.

16. Plans for Tabulation and publication and Project Time Schedule

Information collection is not intended for publication. Information collected will be used to consider whether or not to add classes of employees to the Special Exposure Cohort according to legal requirements established under 42 C.F.R. pt. 83. Information collection is required for each petition submitted to HHS throughout the operation of the DOL compensation program, which will continue indefinitely.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

Display is appropriate.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

Exceptions are not requested.