

U.S. Department of Health and Human Services
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
Savannah River Site
Aiken, South Carolina



I. Designation

I, Xavier Becerra, Secretary of Health and Human Services (HHS), 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.

[Signature on File]

Xavier Becerra, Secretary

August 18, 2021

Date

II. Employee Class Definition

“All construction trade employees of Department of Energy subcontractors [excluding employees of the following prime contractors who worked at the Savannah River Site in Aiken, South Carolina, during the specified time periods: E. I. du Pont de Nemours and Company, October 1, 1972, through March 31, 1989; and Westinghouse Savannah River Company, April 1, 1989, through December 31, 1990], who worked at the Savannah River Site from October 1, 1972, through December 31, 1990, 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 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.

The Board determined that NIOSH has not established that there is sufficient information to estimate the radiation dose of individual members of the class with sufficient accuracy under the two abovementioned situations. 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 July 22, 2021.

IV. Designation Findings

Infeasibility of Estimating Radiation Doses with Sufficient Accuracy

The Secretary established the infeasibility determination for the class of Savannah River Site (SRS) employees covered by this report based upon the findings summarized below.

- The principal sources of internal exposure included potential intakes of tritium, uranium, plutonium, thorium, neptunium, americium, californium, and mixed activation and fission products.
- The Board determined that NIOSH has insufficient information, including a lack of job-specific radio-bioassay monitoring data for subcontractor construction trades workers (CTWs), and assurance of workplace monitoring and source term data, to enable NIOSH to estimate with sufficient accuracy all potential internal doses from radionuclides associated with fuel handling, reactor operations, fuel reprocessing, and/or research activities, to which the evaluated class of workers may have been exposed during the period from October 1, 1972, through December 31, 1990.
- The principal sources of external exposure for members of the evaluated class were plutonium, uranium, thorium, neptunium, americium, californium, and mixed fission and activation products, as well as required medical x-ray examinations.
- The Board determined that NIOSH has sufficient information to reconstruct external doses based on dosimeter measurements, workplace measurements, and complex-wide approaches for reconstructing medical x-ray exposures.
- Pursuant to 42 C.F.R. § 83.13(c)(1), the Board 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 Savannah River Site during the period from October 1, 1972, through December 31, 1990.

- Although it is not possible to completely reconstruct radiation doses for the proposed class, NIOSH intends to use any internal monitoring data that may be available for an individual claim (and that can be interpreted using existing NIOSH dose reconstruction processes or procedures). Therefore, dose reconstructions for subcontractor CTWs employed at SRS in Aiken, South Carolina for the period from October 1, 1972, through December 31, 1990, 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 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.