

U.S. Department of Labor

Office of Workers' Compensation Programs
Division of Energy Employees Occupational
Illness Compensation
Washington, DC 20210



EEOICPA CIRCULAR NO. 21-03

DATE: September 17, 2021

SUBJECT: Savannah River Site (SRS) Special Exposure Cohort (SEC) Class between October 1, 1972 and December 31, 1990.

The purpose of this Circular is to notify all Division of Energy Employees Occupational Illness Compensation (DEEOIC) staff of a new SEC class designation for the SRS located in Aiken, South Carolina. Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) and 42 C.F.R. Part 83, a petition was filed on behalf of workers from SRS, in Aiken, South Carolina, to be added to the SEC.

The decision to initiate this petition occurred after the National Institute for Occupational Safety and Health (NIOSH) determined that it could not reconstruct a dose under 42 C.F.R. § 83.13. NIOSH presented its findings to the Advisory Board on Radiation and Worker Health ("the Board") at 14 Board meetings held between February 24, 2011 and June 23, 2021. On July 22, 2021, the Secretary of Health and Human Services (HHS) received the Board's recommendation to add to the SEC a class of employees who worked at the SRS. On August 18, 2021, the Secretary of HHS designated the following class for addition to the SEC in a report to Congress:

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.

September 2021

EEOICPA CIRCULAR No. 21-03

A copy of the Secretary's letter to Congress recommending the designation is included as Attachment 1. Although Congress had the authority to reject the recommendation within a 30-day time frame, Congress took no action. Therefore, the SEC designation for this class became effective as of September 17, 2021, which was 30 days after the Secretary of HHS designated the class for addition to the SEC in the report to Congress.

This is the second SEC class for workers at the SRS. The first class was the subject of EEOICPA Circular No. 12-08, which covered SRS employees who worked at the SRS, in Aiken, South Carolina, between January 1, 1953 and September 30, 1972.

To qualify under this new class, the employee must have worked at the SRS in Aiken, South Carolina, for 250 days during October 1, 1972 to December 31, 1990, and meet the additional criteria specified in the above class definition.

If the employee does not have 250 work days at the SRS during the period noted, the case file must be reviewed to determine if additional days in the SEC can be found by combining days from employment meeting the criteria for other SEC classes and aggregating them together to meet the 250-workday requirement.

While a new SEC class has been added for employees who worked at the SRS, NIOSH intends to use any available internal and external monitoring data that are available for an individual claim (and that can be interpreted using existing NIOSH dose reconstruction processes or procedures). This means that for claims that do not satisfy the SEC membership criteria, a partial dose reconstruction is to be performed by NIOSH.

A copy of the NIOSH letter to affected employees at the facility is included as Attachment 2.

This Circular should be used in conjunction with the Federal (EEOICPA) Procedure Manual (PM) Chapter 14.8 (Version 5.0). A screening worksheet is included as Attachment 3.

As outlined in the Federal (EEOICPA) PM, the district offices and Final Adjudication Branch (FAB) offices are to use the comprehensive list provided as the basis for an initial screening of cases associated with all SEC classes. For screening only, the results reflected on the initial screening worksheet must be recorded in ECS using the Screening (SEC/PER/Other) Navigation Panel. From the Screening (SEC/PER/Other) Navigation Panel on the case, select the

'Create' button. Based on the result of the review and in accordance with the 'SEC Class Screening Worksheet', select the appropriate result of "Likely" if the case is likely an SEC, "Unlikely" if it is unlikely that the case will be an SEC or "Development Needed" if development is needed. The date of the signed worksheet is recorded in the "Date" field. The reason associated with the SEC is selected in the "Reason" field. For this SEC, the reason is "Rvwd per Circular 21-03 SRS (10/1/1972 - 12/31/1990)." If the District Office and FAB staff determine that the case is going to be awarded based on an SEC, a positive SEC causation path must be created in the Causation tab found under Development Components in ECS. In the SEC causation path, select the SER and SEF blocks, and enter the dates and the SER Reason and SEF Reason "Rvwd per Circular 21-03 SRS (10/1/1972 - 12/31/1990)."

For

RACHEL D. POND
Director, Division of Energy Employees
Occupational Illness Compensation

Attachments



THE SECRETARY OF HEALTH AND HUMAN SERVICES

WASHINGTON, D.C. 20201

August 18, 2021

The Honorable Kamala D. Harris
Vice President of the United States
President
United States Senate
Washington, DC 20510

Madam Vice President:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) and 42 C.F.R. pt. 83, a petition was filed on behalf of workers at the Savannah River Site, in Aiken, South Carolina, 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) completed the evaluation of the petition [SEC-00103] for the time periods from October 1, 1972, through December 31, 1990, and presented various aspects of its findings and analyses to the Advisory Board on Radiation and Worker Health (the Board) at 14 Board meetings held between February 24, 2011, and June 23, 2021.

The Board considered the petition, and on July 22, 2021, I received the Board's recommendation concerning this petition. I also received the Board's deliberations, findings, and recommendations from the Director of NIOSH and the Director of CDC. Based on this information, I have determined that the following employees meet the statutory criteria for addition to the SEC, as authorized under EEOICPA, 42 U.S.C. § 7384q.

"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."

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,

[Signature on File]

Xavier Becerra

Enclosure

September 2021

EEOICPA CIRCULAR No. 21-03

Attachment 1



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

NIOSH Tracking Number: NIOSH Claim ID
Energy Employee: Energy Employee Name

National Institute for Occupational
Safety and Health
Robert A. Taft Laboratories
1090 Tusculum Ave
Cincinnati, OH 45226-1938
Phone: 877-222-7570
Fax: 513-533-6840

Claimant Name
Address
City, State, Zip, Country

Date

Dear Claimant Name:

As you may know, a petition to add a class of former employees who worked at the Savannah River Plant, Aiken, SC, to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) was received by NIOSH. This letter is to provide you with information about the status of this petition and the effect this petition may have on your claim.

On August 18, 2021, in a report to Congress, the Secretary of the Department of Health and Human Services, Xavier Becerra, recommended the following class of employees be added to the SEC:

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."

Because Congress took no action within 30 days after receiving the report, the above class was added to the SEC September 17, 2021.

Our records indicate that you, or the energy employee on the claim, worked at the Savannah River Plant during the period from October 1, 1972, through December 31, 1990, and were diagnosed with an SEC-specified cancer. Your case will be reviewed to see whether it meets the criteria to be included in this new SEC class.

Because the Department of Labor (DOL) determines whether a case is eligible to be included and receive compensation under SEC classes, your claim will be returned to DOL. DOL will then review the case and determine whether your case is eligible to be included in the new SEC for the Savannah River Site. Qualification for compensation under the SEC requires certain medical and employment criteria be met. DOL will let you know the results of this review when it is complete. If you do not meet the criteria for compensation under the new SEC class, DOL will let us know and your case will continue in the dose reconstruction process.

I hope this information is helpful. Should you have any questions about the SEC process, or about eligibility requirements for the new class of employees that has been added to the SEC, you should contact the NIOSH Division of Compensation of Analysis and Support (DCAS) toll-free at 1-877-222-7570 or by email at <dcas@cdc.gov>. Additional information about DCAS and the SEC procedures can be found on the DCAS Web site at <<http://www.cdc.gov/niosh/ocas>>.

Sincerely,

Grady Calhoun, Director
Division of Compensation Analysis and Support
National Institute for Occupational Safety and Health

Representatives

September 2021

EEOICPA CIRCULAR No. 21-03

**Savannah River Site (SRS)
SEC Class Screening Worksheet**

1) Employee Name _____

2) SS# _____

3) Is there proof of a diagnosis of a specified cancer? Y / N
If yes, (list cancer type and diagnosis date)

4) Does there appear to be 250 workdays of covered employment between October 1, 1972 and December 31, 1990? Y / N If yes, identify employment period at Savannah River Site.

5) Does the case record indicate that the employee was a construction trade employee of a DOE subcontractor at SRS between October 1, 1972 and December 31, 1990 [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]? Y/N

6) If either question 3 or 4 or 5 is answered “no,” is there anything in the file to suggest that additional development might change the answers to “yes?” Y / N

If so, what development is needed?

ECS Action Taken on SEC Screening Navigation Panel:

- Select “Likely” (#3 and #4 and #5 all Yes)
- Select “Unlikely” (any of #3 or #4 or #5 are No; and #6 is also No)
- Select “Development Needed” (#6 is a Yes)

Date

Signature