



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

DEC - 8 2005

The Honorable Richard Cheney  
President of the 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 to add a class of certain workers of the Linde Ceramics Plant in Niagara Falls, New York, to the Special Exposure Cohort (SEC).

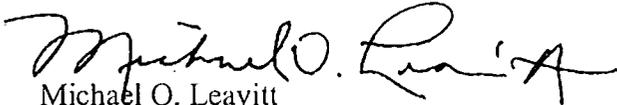
After the petition qualified for evaluation under 42 C.F.R. § 83.7-83.9, the Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH) evaluated the petition using the procedures in 42 C.F.R. § 83.13. NIOSH presented findings to the Advisory Board on Radiation and Worker Health ("the Board") at the Board meeting on October 19, 2005. On November 9, 2005, I received from the Board a recommendation to designate the class; in a memorandum dated November 9, 2005, the Director of NIOSH provided me with a proposed decision.

Based upon consideration of the findings, deliberations, and recommendations of the Board and the concurrences by the Director of NIOSH and by the Director of CDC, I have designated the following class for addition to the SEC:

Atomic weapons employees who worked at the Linde Ceramics Plant from October 1, 1942, through October 31, 1947, and who were employed for a number of work days aggregating at least 250 work days, either solely under this employment or in combination with work days within the parameters (excluding aggregate work day requirements) established for other classes of employees included in the SEC.

The criteria and findings upon which this designation is based are provided in the enclosed report. Please call me if you have any questions regarding this matter.

Sincerely,

  
Michael O. Leavitt

Enclosure



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

DEC - 8 2005

The Honorable J. Dennis Hastert  
Speaker of the House of Representatives  
Washington, D.C. 20515

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Sincerely,

A handwritten signature in black ink that reads "Michael O. Leavitt".

Michael O. Leavitt

Enclosure

HHS Designation of Additional Members of the  
Special Exposure Cohort  
under the  
Energy Employees Occupational Illness Compensation Program Act

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Designating a Class of Employees from

Linde Ceramics Plant  
Niagara Falls, NY



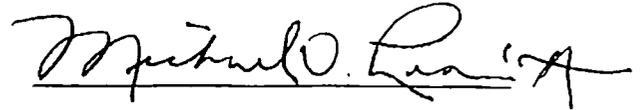
HHS Special Exposure Cohort Designation:  
Linde Ceramics Plant

## I. Designation

I, Michael O. Leavitt, Secretary of Health and Human Services ("the Secretary"), 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 - 8 2005

Date



Michael O. Leavitt

## II. Employee Class Definition

Atomic Weapons Employees who worked at the Linde Ceramics Plant from October 1, 1942 through October 31, 1947 and who were employed for a number of work days aggregating at least 250 work days, either solely under this employment or in combination with work days within the parameters (excluding aggregate work day requirements) established for other classes of employees included in the SEC.

## 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 ("the 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, 42 C.F.R. § 83.13(c)(1), states that it is feasible to estimate the radiation dose that the class received with sufficient accuracy under two situations. First, the rule states that radiation doses can be estimated with sufficient accuracy if it is established there is 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 can be estimated with sufficient accuracy if it is established that there is access to sufficient information to estimate the radiation doses of members of the class more precisely than a maximum dose estimate. 42 C.F.R. § 83.3(c)(1)(i).

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 dated November 8, 2005 and received by the Secretary on November 9, 2005.

## 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 upon the findings summarized below.

- (1) The site produced uranium materials during the periods 1942-1946 and 1947-1949. Available descriptions of work activities indicate the potential for very high airborne concentrations of radioactive materials.
- (2) Radiation surveys and film badge data provide means for reconstructing external doses and it is possible to estimate the exposure that resulted from occupational medical x-rays.
- (3) Data from October 1942 to October 1947 is insufficient to support reconstruction of internal exposures and resulting doses. Urinalysis for internal dosimetry was implemented in November 1947. The air monitoring program, including task analysis with air concentrations measured in breathing zone, general area, and process area, began in 1947.
- (4) As governed by 42 C.F.R. § 83.13(c)(1), it is determined that there is insufficient information either 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, or to estimate the radiation doses of members of the class more precisely than a maximum dose estimate.

### Health Endangerment

The Secretary established the health endangerment determination for the class of employees covered by this report upon the findings summarized below.

- (1) As governed by 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) The evidence indicates that some workers in the class may have accumulated substantial intakes of radionuclides.

(3) No evidence was identified from the petitioners or from other resources that would establish that the class was exposed to radiation during a discrete incident, such as a nuclear criticality incident, as defined under 42 C.F.R. § 83.13(c)(3)(i).

(4) The Board concurred with the finding of NIOSH that the health of the class may have been endangered and further concurred with NIOSH in this respect by defining the class according to the 250 work day employment 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 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. § 83.16(b). 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 criterion and findings on which the decision was based.