



JAN 12 2006

01-18-06 P02:29 IN

Larry J. Elliott
Director, Office of Compensation Analysis and Support
National Institute for Occupational Safety and Health
Centers for Disease Control and Prevention
Mail Stop C-46
4676 Columbia Parkway
Cincinnati, Ohio 45226

Re: Handling of Linde Ceramics Cases for New SEC Class for 1942 - 1947

Dear Larry:

On December 8, 2005, the Secretary of the Department of Health and Human Services (HHS), Michael Leavitt, designated the following class for addition to the SEC in a report to Congress:

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.

This designation became effective on January 9, 2006, in the absence of Congressional action as provided for under 42 U.S.C. 7384l(14)(C).

A report attached to Secretary Leavitt's letter, entitled "HHS Designation of Additional Members of the Special Exposure Cohort," provided the supporting rationale for designating a class of employees of the Linde Ceramics Plant in Niagara Falls, New York,¹ from October 1, 1942 through October 31, 1947.

Section IV, "Designation Findings," summarized NIOSH's finding that "... there is insufficient 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, or to estimate the radiation doses of members of the class more precisely than a maximum dose estimate." The designation found that

¹ While this report identifies the Linde Ceramics Plant as located in Niagara Falls, NY, this facility is actually located in Tonawanda, NY.

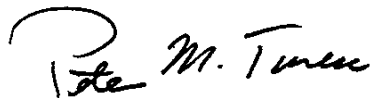
“Radiation survey and film badge data provide means for reconstructing external doses and it is possible to estimate the exposure that resulted from occupational medical x-rays.” It went on to find, however, that “Data from October 1942 to October 1947 is insufficient to support reconstruction of internal 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.”

Thus, the Secretary of Health and Human Services determined that it is not feasible to undertake dose reconstructions for individuals employed at the Linde Ceramics Plant from October 1, 1942 through October 31, 1947. Review of relevant documents including “An Exposure Matrix for Linde Ceramics Plant (including Tonawanda Laboratory),” (May 31, 2005) discloses that the term Linde Ceramics Plant encompasses only the buildings at the Tonawanda site identified as Buildings 30, 31, 37, and 38. It does not therefore include either the Tonawanda Laboratory or other buildings also located at that site. Individuals employed at those facilities do not appear to be included in the Special Exposure Cohort as a result of the recent designation.

Since the designation determined that radiation survey and film badge data provide the means for reconstructing external doses and it is possible to estimate the exposure that resulted from occupational medical X-rays, NIOSH will have to perform dose reconstructions in regard to all non-specified cancers and for specified cancers where the covered employee does not qualify for the Special Exposure Cohort for failure to meet the duration requirement. These should be solely based upon the covered employee’s work history.

I would appreciate NIOSH providing two lists of employees at the Linde Ceramics Plant (Buildings 30, 31, 37, and 38) from October 1, 1942 through October 31, 1947. One list should cover such employees with at least one specified cancer and the other list should address employees with non-specified cancers. NIOSH should return all cases with specified cancers (with the administrative record on a CD) to the Department of Labor Cleveland District Office for the Office of Workers’ Compensation Programs to complete adjudication as appropriate. Also, as has occurred for previous addition of classes to the SEC, NIOSH should send letters to the claimants for cases with specified cancers that are returned to DOL.

Sincerely,



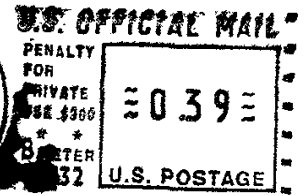
Peter M. Turcic
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