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

JUN 2 2 2007

The Honorable Richard Cheney
President of the United States 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. § 83.14, the Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH) initiated a petition for a class of workers from W.R. Grace in Erwin, Tennessee, to be added to the Special Exposure Cohort (SEC).

On May 3, 2007, NIOSH presented its findings on the petition's evaluation to the Advisory Board on Radiation and Worker Health ("the Board") at the Board meeting in Westminster, Colorado. On May 25, 2007, I received the deliberations, findings, and recommendations of the Board, the Director of NIOSH, and the Director of CDC, and I have designated the following class for addition to the SEC:

> Atomic Weapons Employer (AWE) employees who were monitored or should have been monitored for potential exposure to thorium while working in any of the 100 series buildings or Buildings 220, 230, 233, 234, 301, or 310 at the W. R. Grace site at Erwin, Tennessee for a number of work days aggregating at least 250 work days from January 1, 1958 through December 31, 1970, or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

The criteria and findings upon which this designation is based are provided in the enclosed report.

Please call me if you have any further questions regarding this matter.

Sincerely,

Michael O. Leavitt

Enclosure

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

JUN 2 2 2007

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Madam Speaker:

Pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 and 42 C.F.R. § 83.14, the Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH) initiated a petition for a class of workers from W.R. Grace in Erwin, Tennessee, to be added to the Special Exposure Cohort (SEC).

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Sincerely,

Michael O. Leavitt

Enclosure

HHS 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

W. R. Grace
Erwin, Tennessee

I. Designation

I, Michael O. Leavitt, Secretary of Health and Human Services (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.

JUN 2 2 2007

Date

Michael O. Leavitt

II. Employee Class Definition

Atomic Weapons Employer (AWE) employees who were monitored or should have been monitored for potential exposure to thorium while working in any of the 100 series buildings or Buildings 220, 230, 233, 234, 301, or 310 at the W. R. Grace site at Erwin, Tennessee for a number of work days aggregating at least 250 work days from January 1, 1958 through December 31, 1970, or in combination with work days within the parameters established for one or more other classes of employees 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 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, 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 May 25, 2007.

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) W. R. Grace AWE employees in the proposed class could have received internal and external radiation exposures from uranium, thorium, and plutonium.

(2) The NIOSH review of the available monitoring data found that no thorium bioassay data were available until the late 1980s. With the exception of a single air sample, air monitoring data were also unavailable. Further, there was insufficient information to determine an appropriate source term for thorium.

(3) Pursuant to 42 C.F.R. § 83.13(c)(1), NIOSH 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.

(4) NIOSH determined that there is sufficient information to estimate the internal dose from uranium and plutonium and occupational external exposures, including medical exposures, for members of the class.

Health Endangerment

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

(1) Pursuant to 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) NIOSH did not identify any evidence from the petitioners or from other resources that would establish 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 concurred with the finding of NIOSH that the health of the class may have been endangered and defined the class according to the 250-workday 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. §§ 7384*l*(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. § 7384*l*(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.