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Sent: Tuesday, April 27, 2010 9:40 PM
To: NIOSH Docket Office (CDC)
Cc: Chen, Jihong (Jane) (CDC/NIOSH/EID) (CTR)
Subject: 194 - Ten-Year Review of the NIOSH Radiation Dose Reconstruction Program Comments

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Comments
April 27, 2010
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Re: Docket Number NIOSH-194

To Whom It May Concern:
The Linde Ceramics SEC Action Group is grateful for the opportunity to provide the following comments to the National Institute for Occupational Safety and Health (NIOSH) for its ten year EEOICPA review.

Comment #1: Conflict of Interest - Oak Ridge Associated Universities (ORAU)

The Linde Ceramics SEC Action Group remains deeply concerned regarding the appearance of a conflict of interest with the work provided by ORAU as the primary facilitator, evaluator, and research arm for the Division of Compensation Analysis and Support (DCAS). ORAU conducts the primary research for the evaluation of the issues that will be dispositive of whether DCAS will recommend the approval or denial of a Special Exposure Cohort (SEC) petition. ORAU is also the primary contractor used by DCAS to conduct individual dose reconstruction determinations. The conflict of interest arises in the appearance that ORAU has a financial interest in denying SEC petitions in order to continue to have their lucrative contract with the CDC renewed year after year. Unless there exists a steady flow of claimants to dose within the individual dose reconstruction program, ORAU's utility to DCAS would evaporate. If SEC petitions are granted, particularly for residual radiation periods, the number of individual claimants that ORAU will need to dose will decrease incrementally over time. The appearance of this financial incentive by ORAU to deny SEC petitions, or in the alternative significantly limit an SEC's scope, stands in direct contradiction to the remedial and reparative nature of this claimant favorable compensation program. The Linde Ceramics SEC Action respectfully requests that this vital matter of a conflict of interest within ORAU's agenda be addressed without delay.

Comment #2: Timeliness of SEC Evaluations - Regulatory Time Constraints of Evaluation Reports

The Linde Ceramics SEC Action Group is currently involved in the evaluation of its SEC petition covering the residual radiation period at the Linde Ceramics facility. There has been an ongoing concern about

the ability for DCAS to revise SEC Evaluation Reports (ER) ad infinitum and well beyond the regulatory 180 day deadline specifically delineated at 42 CFR 83.13. The ability for DCAS to revise ERs well beyond the 180 day deadline unfairly penalizes petitioners. Why is DCAS permitted to revise ERs continually and then present the final revised ER to the Advisory Board for the Board's evaluation? It is understandable that ERs should be revised to benefit petitioners, however the recommendation that DCAS submits to the Board for the Board's final evaluation of the viability of any SEC should be limited to the original ER issued by DCAS at the 180 day deadline prescribed at 42 CFR 83.13. DCAS should not be permitted to go beyond the regulatory deadline for the issuance of an ER when such latitude creates a detriment to the petitioner's best interests and an imbalance in the capacity a petitioner has to defend against DCAS's recommendation.

In conclusion, the Linde Ceramics SEC Action Group very much appreciates the opportunity to address these matters with NIOSH and we ask that the foregoing issues be addressed specifically within the ten year EEOICPA review.

Sincerely,
Antoinette Bonsignore
Linde Ceramics SEC Action Group