Miller, Diane M.

From: Montgomery, Cheryl C [ccmont@solutia.com]
Sent: Monday, April 07, 2003 3:48 PM
To: NIOCINDOCKET@CDC.GOV
Subject: COMMENT RE 42 CFR PART 83 PROPOSED RULE

Untitled Attachment 42CFRPart83.doc
(29 KB)
NIOSH Docket Officer
NIOCDINDOCKET@CDC.GOV

Re: Department of Health and Human Services
   42 CFR Part 83
   Procedure for Designating Classes of Employees as
   Members of the Special Exposure Occupational Illness
   Compensation Program Act of 2000; Notice of Proposed
   Rulemaking; Proposed Rule

To: HHS Representative

I have studied the very lengthy publication of March 7, 2003 in the Federal Register on
the proposal noted above. I believe that many of the critical issues have been addressed
by public comments to date. However, I have several comments to reinforce those
published as well as to add a point that I did not see as directly addressed.

The proposal to authorized NIOSH to identify “if applicable” “a set of one or more types
of cancers to which NIOSH’s finding that it was not feasible to estimate dose with
sufficient accuracy” would serve to fragment a potential class. The original authorization
speaks to “exposure cohorts”; the rule does not address “disease cohorts”. Inclusion of
this change/addition to the original rule will significantly change the intent and
applicability.

In addition to the concerns already recorded about the length of time required by NIOSH
to complete dose reconstruction or to determine that “dose reconstruction is not feasible”
and then the additional time to add a class, I have concerns about the influence or control
that NIOSH may be given to the outcome of petitions. NIOSH is controlling the decision
(and timing for the decision) that “dose reconstruction is not feasible” thus controlling
one of the major factors necessary for petitions to add classes.

While I fully recognize that sufficiently detailed regulations must be maintained for
programs affecting so many people and such potentially large amounts of public monies,
we must all realize that people are dying while waiting for funds that are fully mandated
by law.

Cheryl Montgomery