

**Miller, Diane M.**

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**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)

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April 7, 2003

NIOSH Docket Officer  
[NIOCINDOCKET@CDC.GOV](mailto:NIOCINDOCKET@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