

Miller, Diane M.

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Sent: Thursday, October 18, 2001 7:42 PM
To: 'NIOCINDOCKET@CDC.GOV'
Subject: Comments on Proposed Rules, 42 CFR Part 82



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NIOSH Docket Officer,

Attached are my comments on the Proposed EEIOCPA Rules that were published in the Federal Register on October 5, 2001, p. 50978ff.

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Comments on
Proposed Rules – 42 CFR Part 82
“Methods for Radiation Dose Reconstruction Under the Energy Employees
Occupational Illness Compensation Program Act of 2000; Interim Final Rule With
Request for Comments”

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October 18, 2001

1. Sec. 82.10(e) -- The condition that information by the claimant can be used if "not refuted by other evidence" is unfair and will serve to protect those DOE contractors that modified worker exposure records to diminish the levels received. I have been told by several workers that either their exposure records did not reflect their total dose or they were asked to approve modifying other worker records to reflect levels substantially lower than the measured dose. There needs to be some process included in these rules to justly consider adjusting the dose estimate when workers report that their exposure records have been inappropriately modified. The current language addressing "incomplete or missing exposure records" is insufficient to encompass known instances of exposure records being inappropriately redacted.

2. Sec. 82.10(l) -- The proposed rules should be changed to allow for subsequent rounds of the "closing" interview if the worker provided additional dose-related information during previous interviews. The claimant must be given another interview, including the opportunity to provide additional information, after each time the individual dose estimate is calculated. This will allow an opportunity for explanations of how the additional information was considered in recalculating a dose estimate.

3. Sec. 82.12(c) -- This provision for refusing any compensation if the dose reconstruction cannot be completed is also unfair. It will penalize workers when DOE or its contractors lost or destroyed records necessary for dose reconstruction. The rules should be modified to create some process to fairly resolve situations that involve missing or destroyed records. The injured worker should not be denied compensation due to the actions of others.

Thank you for considering these comments as you prepare the final rules.