

NIOSH is unable to obtain records or confirmation of the occurrence of such an incident from sources independent of the petitioner(s). In such cases, either of the following may qualify as evidence:

(i) Medical evidence that one or more members of the class may have incurred

a high level radiation dose from the incident, such as a depressed white blood cell count associated with radiation exposure or the application of chelation therapy; or

(ii) Confirmation by affidavit from two employees who witnessed the incident,

providing this evidence is consistent with other information available to HHS.

TABLE 1 FOR § 83.9.—SUMMARY OF INFORMATIONAL REQUIREMENTS FOR PETITIONS

[Petitioner(s) must submit identifying and contact information and either A. or B. of this table]

A. The claimant's authorization of the petition, based on NIOSH having found it could not complete a dose reconstruction for the claimant submitting the petition; or	B. (1) Proposed class definition identifying: (i) Facility, (ii) relevant locations at the facility; (iii) job titles/duties, (iv) period of employment, and if relevant, (v) exposure incident. (2) Basis for infeasibility of dose reconstruction; either: (i) Lack of monitoring; or (ii) destruction, falsification, or loss of records; or (iii) expert report; or (iv) published scientific report.
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**§ 83.10 If a petition satisfies all relevant requirements under § 83.9, does this mean the class will be added to the Cohort?**

Satisfying the informational requirements for a petition does not mean the class will be added to the Cohort. It means the petition will receive a full evaluation by NIOSH, the Board, and HHS, as described under §§ 83.13 through 83.16. The role of the petitioner(s) is to identify classes of employees that should be considered for addition to the Cohort.

**§ 83.11 What happens to petitions that do not satisfy all relevant requirements under §§ 83.7 through 83.9?**

(a) NIOSH will notify the petitioner(s) of any requirements that are not met by the petition, assist the petitioner(s) with guidance in developing relevant information, and provide 30 calendar days for the petitioner(s) to revise the petition accordingly.

(b) After 30 calendar days from the date of notification under paragraph (a) of this section, NIOSH will notify the petitioner(s) of its decision to evaluate the petition, or its final decision that the petition has failed to meet the requirements for evaluation and the basis for this decision.

(c) Based on new information, NIOSH may, at its discretion, reconsider a decision not to select a petition for evaluation.

**§ 83.12 How will NIOSH notify petitioners, the Board, and the public of petitions that have been selected for evaluation?**

(a) NIOSH will notify the petitioner(s) in writing that it has selected the petition for evaluation. NIOSH will also provide the petitioner(s) with information on the steps of the evaluation and other processes required pursuant to these procedures.

(b) NIOSH will combine separate petitions and evaluate them as a single petition if, at this or at any point in the evaluation process, NIOSH finds such

petitions represent the same class of employees.

(c) NIOSH will present petitions selected for evaluation to the Board with plans specific to evaluating each petition. Each evaluation plan will include the following elements:

(1) An initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation conducted under § 83.13; and

(2) A list of activities for evaluating the radiation exposure potential of the class and the adequacy of existing records and information needed to conduct dose reconstructions for all class members under 42 CFR part 82.

(d) NIOSH may initiate work to evaluate a petition immediately, prior to presenting the petition and evaluation plan to the Board.

(e) NIOSH will publish a notice in the **Federal Register** notifying the public of its decision to evaluate a petition.

**§ 83.13 How will NIOSH evaluate petitions, other than petitions by claimants covered under § 83.14?**

(a) NIOSH will collect information on the types and levels of radiation exposures that potential members of the class may have incurred, as specified under 42 CFR 82.14, from the following potential sources, as necessary:

(1) The petition or petitions submitted on behalf of the class;

(2) DOE and AWE facility records and information;

(3) Potential members of the class and their survivors;

(4) Labor organizations who represent or represented employees at the facility during the relevant period of employment;

(5) Managers, radiation safety officials, and other witnesses present during the relevant period of employment at the DOE or AWE facility;

(6) NIOSH records from epidemiological research on DOE

populations and records from dose reconstructions conducted under 42 CFR part 82;

(7) Records from research, dose reconstructions, medical screening programs, and other related activities conducted to evaluate the health and/or radiation exposures of employees of DOE, DOE contractors or subcontractors, and the AWEs; and

(8) Other sources.

(b) NIOSH will evaluate records and information collected to make the following determinations:

(1) *Is it feasible to estimate the level of radiation doses of individual members of the class with sufficient accuracy?* (i) Radiation doses can be estimated with sufficient accuracy if NIOSH has established that it has access to sufficient information to estimate the maximum radiation dose that could have been incurred in plausible circumstances by any member of the class.

(ii) In general, to establish a positive finding under paragraph (b)(1)(i) of this section would require, at a minimum, that NIOSH have access to reliable information on the identity or set of possible identities and maximum quantity of each radioisotope (the radioactive source material) to which members of the class were potentially exposed without adequate protection. Alternatively, if members of the class were potentially exposed without adequate protection to unmonitored radiation from radiation generating equipment (e.g., particle accelerator, industrial x-ray equipment), in general, NIOSH would require relevant equipment design and performance specifications or information on maximum emissions.

(iii) In general, access to personal dosimetry data and area monitoring data are not necessary to estimate the maximum radiation doses that could