



# HEALTH PHYSICS SOCIETY

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*Specialists in Radiation Safety*

18 September, 2019

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NIOSH  
Cincinnati, OH 45226  
Attn: Regulatory Office

**Eric Goldin, Ph.D., CHP**  
**President**

Subject: 42 CFR Part 81 [Docket Number CDC-2019-0050; NIOSH-329] RIN 0920-AA74: Guidelines for Determining the Probability of Causation Under the Energy Employees Occupational Illness Compensation Program Act of 2000; Technical Amendments

The Health Physics Society<sup>1</sup> (HPS) is a professional organization whose mission is to promote excellence in the science and practice of radiation safety. The HPS appreciates the opportunity to provide comments, in the attached document, as a response to the August 1, 2019 request. If you have any questions regarding these comments, please contact the HPS Agency Liaison, Craig Little, at 970-260-2810 or by email to [agencyliaison@hps.org](mailto:agencyliaison@hps.org).

Sincerely,

Eric Goldin, PhD, CHP  
President

cc: Craig Little, PhD, HPS Agency Liaison  
Brett Burk, HPS Executive Director

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<sup>1</sup> The Health Physics Society is a non-profit scientific professional organization whose mission is to promote the practice of radiation safety. Since its formation in 1956, the Society has grown to include over 4,000 scientists, physicians, engineers, lawyers, and other professionals representing academia, industry, government, national laboratories, the Department of Defense, and other organizations. Society activities include encouraging research in radiation science, developing standards, and disseminating radiation safety information. Society members are involved in understanding, evaluating, and controlling the potential risks from radiation relative to the benefits. Official position statements are prepared and adopted in accordance with standard policies and procedures of the Society.

**Health Physics Society Comments on  
42 CFR Part 81 [Docket Number CDC–2019–0050; NIOSH–329] RIN  
0920–AA74 Guidelines for Determining the Probability of Causation  
Under the Energy Employees Occupational Illness Compensation  
Program Act of 2000; Technical Amendments**

As a scientific organization of professionals who specialize in radiation safety, the HPS generally supports the rule change proposed by the National Institute for Occupational Safety and Health (NIOSH). The purpose of NIOSH's proposed revision is, "...to update references to the International Classification of Disease (ICD) codes from ICD–9–CM to ICD–10–CM, and remove outdated references to chronic lymphocytic leukemia from Energy Employees Occupational Illness Compensation Program regulations".

It is not clear why NIOSH initially employed ICD-9 when ICD-10 was adopted before EEOICPA was enacted. Nevertheless, it is appropriate to migrate to ICD-10 now, as this is the current version of the ICD system. However, ICD-11 has been released for consultation, and will be officially adopted in January 2022 (<https://www.who.int/classifications/icd/en/>). NIOSH should begin preparations now for migration to ICD-11 in 2022.

The background for the rule states, "In addition, the definition of the term "non-radiogenic cancer" is removed because all cancers are considered radiogenic and there are no longer any non-radiogenic cancers ineligible for receiving a dose reconstruction from NIOSH". This is a very claimant-favorable policy decision which is not supported by scientific evidence. According to UNSCEAR (Report to the General Assembly with Scientific Annexes: Volume II. New York, NY; 2013), "...for about 30% of tumour types (including Hodgkin's lymphoma, prostate, rectum and uterus cancer), there is only a weak or no relationship between radiation exposure and risk at any age of exposure." To be consistent with scientific evidence we recommend a revision to remove the assertion that there are no non-radiogenic. The revised NIOSH language would state, "In addition, the definition of the term "non-radiogenic cancer" is removed because all cancers are eligible for receiving a dose reconstruction from NIOSH".