

**Office of the Secretary Special Exposure Cohort**  
**Administrative Review Guidance:**  
**Frequently Asked Questions (FAQ)**

This FAQ document provides guidance regarding the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) Special Exposure Cohort (SEC) Administrative Review process. It includes a summary of the regulations at 42 CFR § 83.18 (“How can petitioners obtain an administrative review of a final decision by the Secretary?”), as well as additional instructions on how to appeal the Secretary’s determination to deny adding a class of employees to the SEC.

**Can petitioners appeal a decision by the Secretary to deny SEC status?**

Yes, petitioners may challenge the Secretary's final decision to deny adding a class to the SEC or a health endangerment determination by requesting an Administrative Review of the decision.

**When and how can petitioners submit a request for an Administrative Review of a decision by the Secretary to deny SEC status?**

Petitioners must contest a final decision to deny adding a class to the SEC or a health endangerment determination by submitting a written request to the Secretary of Health and Human Services within 30 calendar days of receiving the notification letter from NIOSH. All Administrative Review requests must be made in writing, in hard copy only, and sent to the Executive Secretary to the Department of Health and Human Services by U.S. mail or courier (such as FedEx or UPS) at the address provided below:

C’Reda J. Weeden  
Executive Secretary to the Department of Health and Human Services  
Room 603-H  
200 Independence Avenue, S.W.  
Washington, DC 20201  
Phone: 202-690-5627

**Who should petitioners contact with inquiries regarding the Administrative Review process?**

While requests for Administrative Review may only be submitted in writing, in hard copy only, and sent by U.S. mail or courier to the Executive Secretary to the Department of Health and Human Services (see FAQ above), inquiries related to the Administrative Review process should be sent via email, for direct reply, to the Office of the Assistant Secretary for Health general mailbox at [ASH@hhs.gov](mailto:ASH@hhs.gov).

## What information must petitioners include in a request for an Administrative Review?

Petitioners' request for an Administrative Review must include evidence that the Secretary's final decision relies on a record of either (1) substantial factual errors or (2) substantial errors in the implementation of the procedures set out in the EEOICPA SEC regulations at 42 CFR part 83.

## Can petitioners submit new information or documentation concerning the petition along with the request for an Administrative Review?

No, the Administrative Review is limited to the existing administrative record for each petition. Petitioners may not introduce any new information or documentation concerning the petition or the NIOSH or Advisory Board evaluation(s) that was not submitted or presented by the petitioner(s) or others to NIOSH or to the Advisory Board prior to the Advisory Board's issuing its recommendations under 42 CFR § 83.15.

## What constitutes a properly filed request for Administrative Review?

The Administrative Review request should describe the substantial factual errors or substantial errors in the implementation of the procedures set out in the EEOICPA SEC regulations at 42 CFR part 83. Because the panel is provided with the administrative record for each case (see FAQs below), petitioners should not include portions of the administrative record with the request. Furthermore, because SEC regulations prohibit petitioners from introducing new information or documentation, any new information or documentation submitted with a request will not be provided to the panel. All enclosures to the Administrative Review request must be submitted in hard copy only.

## Who is responsible for reviewing the Secretary's final decision in an Administrative Review?

A panel of three HHS personnel is responsible for reviewing the merits of the petitioner's challenge and the resolution of the issues contested by the challenge. The panel is appointed by the Secretary and must be independent of NIOSH.

## What information and documents must the review panel consider when assessing the petitioner's challenge?

The regulations specify certain information and documents that the review panel is required to consider when assessing the petitioner's challenge. Review panels are required to consider the views and information submitted by the petitioner(s) in the challenge, the NIOSH evaluation report(s), the report containing the recommendations of the Advisory Board issued under 42 CFR § 83.15, and the recommendations of the Director of NIOSH to the Secretary.

## What additional information and documents may the review panel consider when assessing the petitioner's challenge?

The review panel may also consider information presented or submitted to the Advisory Board and the deliberations of the Advisory Board prior to the issuance of the recommendations of the Advisory Board under 42 CFR § 83.15. This may include relevant Board and workgroup or subcommittee meeting transcripts and other information that comprises the administrative record for the SEC determination.

## What must the review panel consider when assessing the accuracy of the Secretary's final decision?

The review panel considers whether HHS substantially complied with the procedures set out in the regulations at 42 CFR part 83, the factual accuracy of the information supporting the final decision, and the principal findings and recommendations of NIOSH and those of the Advisory Board issued under 42 CFR § 83.15.

## How long does the review panel have to complete its review?

No timeline governs the review panel's conduct of the review. Each request and review is considered and conducted on a case-by-case basis.

## What happens once the review panel completes its review?

Once the review panel completes its review, a report of the panel's findings and recommendations is sent to the Secretary. The Secretary will then decide whether or not to revise a final decision contested by the petitioners after considering information and recommendations provided to the Secretary by the Director of NIOSH, the Advisory Board, and from the HHS administrative review panel. HHS will transmit a report of the Secretary's decision to the petitioner(s).

## What happens if the Secretary decides to change a decision to deny adding a class to the SEC?

If the Secretary decides, based on information and recommendations provided by the administrative review panel, NIOSH, and the Advisory Board, to change a designation of a class under 42 CFR § 83.17(a) or a determination under 42 CFR § 83.16(c), the Secretary will transmit to Congress a report providing such change to the designation or determination. HHS will also publish a notice summarizing the decision in the *Federal Register*.

## When does a new designation by the Secretary take effect?

A new designation of the Secretary will take effect 30 calendar days after the date on which the report of the Secretary is submitted to Congress, unless Congress takes an action that reverses or expedites the designation. Such new designations and related congressional actions will be further reported by the Secretary pursuant to paragraphs (d) and (e) of § 42 CFR 83.17.