

**Summary from Working Group on SEC Petitions that Did Not Qualify
NIOSH (Taft Labs), Cincinnati, Ohio
November 9, 2006**

Attendance: James Lockey (Chair), Brad Clawson, Genevieve Roessler, Wanda Munn, James Melius, Larry Elliott, Lewis Wade, LaVon Rutherford, and Emily Howell

General Conclusions:

The working group (WG) reviewed approximately 2/3 of the 29 SEC petitions that were not qualified. Full documentation was provided within the working notebooks as to the process followed by NIOSH and the rationale for petition disqualification. The final rule as reflected in the legislation was followed. The WG thought that the work by NIOSH on these petitions was claimant friendly.

Specific Recommendations:

- Final rule states that the appeal process should be completed in 30 days through a review of a three person panel. Final decision is then at the discretion of the NIOSH director. The WG urges that this appeal process be completed as stipulated in the final rule within a 30-day period of time.
- NIOSH should consider surveying the audience they are serving in regard to recognition of the availability of the SEC petition process and knowledge of the audience in regard to accessing the SEC petition process.
- It was suggested that within the initial letter from NIOSH acknowledging that a petition has been received, mention should be made that a second phone consultation with the petitioner will be made to evaluate progress made on any potential deficiencies in the initial application and the availability of a 30 day extension if in fact progress appears to be being made.
- Within the letter sent out by NIOSH indicating deficiencies in the petitioner filed SEC petition it is stated additional information has to be provided within 30 days. It is suggested that this letter state that a second phone consultation will be held within approximately 10 days of the expiration of this 30 day period of time at which point a NIOSH representative will determine the progress made by the petitioner in addressing listed deficiencies. At this second phone consultation and at the discretion of the NIOSH representative a 30 day extension may be granted.

The purpose of this is to inform the petitioner that a phone consultation will be held regarding the petitioner's progress in retrieving additional information. The second purpose is to gather information from the petitioner to allow a more objective decision as to whether a 30 day extension is appropriate.

- It should be made clear in the "final" letter that disqualifies a SEC petition that the petition can be re-opened at any time by the petitioner if new information is provided.
- The various letters from NIOSH should be reviewed and made more audience friendly taking into consideration the legal concern as to the language within the final rule.
- Within the internal procedures for the evaluation of the special exposure cohort petitions, guidance should be provided in regard to the terms "adequacy" and "credibility".
- Phone consultation by NIOSH personnel were comprehensive, informative and well-documented and petitioner friendly.

**Summary from Working Group on SEC Petitions that Did Not Qualify
Cincinnati Airport Marriott
March 28, 2007**

Attendance: James Lockey (Chair) Brad Clawson, Genevieve Roessler, Wanda Munn, Larry Elliott, Lewis Wade, LaVon Rutherford, and Emily Howell, and via telephone: Laurie Breyer, Denise Brock

Unable to Attend: James Melius

- Within the "final" letter that disqualifies a SEC petition, there should be a clear explanation as to why the SEC petition did not qualify. This explanation should be provided in an audience friendly manner taking into consideration the legal concerns as to the language in the final rule.
- The support documentation outlining why specific SEC petitions do not qualify should be made part of the permanent NIOSH files of those SEC petitions.

- Close-out communication via phone by NIOSH personnel should be attempted with the petitioner in those cases where the SEC petition was not qualified. This will provide an opportunity for NIOSH personnel to answer questions by the petitioner regarding the content and language of the “final” letter.
- The Work Group commends the hiring of SEC petition counselors as petitioner advocates (Laurie Breyer and Denise Brock). This will be a great benefit in the pre-petition, petition and post petition process.
- Dr. Howard’s administrative review panel reviewed and provided support documentation regarding their opinion on those SC petitions that were initially not felt to be qualified.