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OFFICE OF SCIENCE AND TECHNOLOGY POLICY
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11 Dec 90

Jay –

I came across this and thought you might find it helpful.

We look forward to hearing from you Thursday.

Tom Welch

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Committee Management Guide

REVISED AUGUST 1990

Prepared by the
Division of Personnel and Management

CMG

FOREWORD

This Guide is written primarily for the Designated Foundation Officials of NSF advisory committees and panels, but contains useful information for anyone working with committees in other capacities.

Contents are based on pertinent laws (the Federal Advisory Committee Act (FACA) and the Government in the Sunshine Act), regulations (GSA Regulations on Advisory Committee Management), and NSF policy and procedures embodied especially in NSF Manual 1, Chapter IV-100, "Committee Management," NSF Manual 15, "NSF Conflict-of-Interest Rules and Standards of Conduct," and NSF Manual 10, "Proposal and Award Manual".

The Forms Window has copies of ADM IV-100 and other NSF issuances. The Committee Management Officer (CMO) and the Office of the General Counsel have copies of the GSA Regulations, FACA, and the Government in the Sunshine Act.

This revision of the Guide incorporates the new consultation form that replaces the letter of consultation and charter, and includes guidance for subcommittees and the new Special Emphasis Panels, as well as how to select the proper type of group for advice.

If you have any questions, please contact Ms. Becky Winkler, the Committee Management Officer, in the Management Analysis Branch of the Division of Personnel and Management. She can be reached at 357-7363, in Room 208.

Margaret L. Windus
Director, Division of Personnel
and Management

Revised: August 1990

CMG

TABLE OF CONTENTS

	Page
Foreword	i
Chapter I - Introduction	
A. Basic Information	1
B. Responsibilities	5
Chapter II - Establishing An Advisory Committee	
A. Overview of the Establishment Process	7
B. Designating Members	9
C. Charter Preparation	12
Chapter III - Holding Meetings	
A. Before the Meeting	16
B. During the Meeting	20
C. After the Meeting	22
Chapter IV - Disseminating Advisory Committee Information to the Public	
A. Information at Committee Meetings	24
B. Reports on Committees	24
C. Reports by Advisory Committees	26
Chapter V - Renewing/Amending Charters and Terminating Committees	
A. Renewals	27
B. Amendments	27
C. Expirations and Terminations	28
APPENDICES	
Signature Authorities for Committee Management Documents	A-1
Consultation on Federal Advisory Committee (form)	A-2
Example of Information to Include in Consultation Form/Charter	A-4
Sample Notice of Establishment	A-6
Timetable for Establishing an Advisory Committee and Announcing First Meeting	A-7
Notice of Meeting Format	A-8
Sample Notice of Renewal	A-9
NSF Form 1230, "Conflicts-of-Interest Statement for NSF Advisory Committee/Review Panel Members"	A-10
Example of Minutes of Proposal Review Meeting	A-12
Types of Groups for Getting Advice	A-14
Example of a Closed Meeting Report	A-16
NSF Form 1216, "Multi-Campus System Waiver"	A-18
SUBJECT INDEX	iii

CHAPTER I - INTRODUCTION

A. BASIC INFORMATION

1. What is an advisory committee?

An advisory committee is any group formed or used by a Federal agency with one or more non-Federal members that is asked to give an agency advice.

The name or designation of the group does not in any way affect whether the group is an advisory committee. Just because you call the group something other than "advisory committee," does not mean it is not legally an advisory committee. See Appendix J for guidance on which type of group to use.

2. What is "FACA"?

The Federal Advisory Committee Act (FACA) is the law on which the Committee Management Regulations and NSF policies and procedures are based. All Federal advisory committees are subject to the requirements of FACA. (See 4., below for exceptions.)

3. What are the requirements under FACA?

Advisory committees must:

a. be chartered (see Chapter II);

b. publish a notice in the Federal Register of their establishment and renewal (see Chapter II);

c. publish a notice in the Federal Register of all meetings which must be open to the public with few exceptions (see Chapter III);

d. keep minutes of all meetings and make them available to the public with few exceptions (see Chapter III);

e. be renewed every 2 years or they terminate (see Chapter V); and

f. at least annually, account for each committee's costs, activities, and members (see Chapter IV).

Further details and instructions for each of these requirements are located in the remaining chapters, as indicated above, and in appendices to this Guide.

4. Are there circumstances when a committee would not be subject to FACA?

Yes. The following criteria define when an advisory committee must comply with FACA, but there may be exceptions:

1. group provides advice and recommendations to a Federal official;

A subcommittee, whether chartered separately or not, must comply with the requirements of FACA including publishing notice of meetings at least 15 days before all meetings. A meeting must be open to the public unless it, or a part thereof, is closed pursuant to law with the explicit approval of the Office of the General Counsel. Even if closed in its entirety, notice must be published in the Federal Register.

All records, including everything received by a committee and everything it produces (e.g., drafts and detailed minutes of meetings), must be kept until the committee is disbanded.

All records also must be available to the public for inspection and copying unless they, or portions of them, must be withheld under one of the statutory exemptions such as where disclosure would constitute an unwarranted invasion of personal privacy.

8. Do I have to charter a site visit group?

Site visit groups must be chartered under FACA:

- if they have one or more members who are not employees of the Federal Government and

- if the group's discussion or deliberation is used as a source of advice or recommendation, even if the group does not give specific advice or recommendations.

However, you need not consider chartering where a non-Federal person advises a Program Officer since this is not a "group" but one person advising the Government.

Like other advisory committees, a site visit group must be balanced in its membership in terms of the points of view represented and the functions to be performed.

9. What alternatives to chartering do I have?

You could use an existing NSF committee, use another agency's committee, or you could hold public hearings.

In fact, as part of the consultation form in the establishment process, you have to tell GSA why you decided not to use another method to meet your needs instead of setting up a new committee. (See Appendix J for alternatives.)

10. Who can establish an advisory committee?

The Director, NSF, has delegated to Assistant Directors and Staff Office Directors responsibility for establishing, as well as renewing and terminating, committees. (See Appendix A, Signature Authorities for Advisory Committee Documents.)

11. If I need to charter a committee, what do I have to do to establish it and how long does it take?

you could be sued, particularly if the committee gave advice on policy, money, or regulations.

Also, the advice and recommendations of the committee might be considered invalid.

If you discover you have a group that should be chartered, contact the CMO.

B. RESPONSIBILITIES

1. Assistant Director or Staff Office Director oversees compliance with FACA in his or her organization.

2. Designated Foundation Official (DFO) is the full-time or permanent part-time NSF staff member designated by the Assistant Director/Staff Office Director to be responsible for the committee.

The DFO:

a. approves or calls and attends committee meetings;

b. approves the agenda;

c. ensures that the Notice of Meeting is published in the Federal Register and that minutes are prepared and certified by the Committee Chair on a timely basis;

d. ensures that all committee members are instructed on current ethics laws and regulations;

e. guards against committee member conflicts of interest;

f. adjourns the meeting when he or she determines that adjournment is in the public interest;

g. assures that the committee's recommendations are reviewed promptly and accepted advice is implemented as appropriate;

h. maintains and provides minutes, reports, documents (subject to FOIA), costs, and other information about the committee;

i. assures the committee's efficient operation and that the FACA requirements are met; and

j. is familiar with the openness provisions of FACA. (See Chapter III.)

3. Committee Management Officer (CMO) is designated by the Director to ensure that legal and regulatory requirements are met, to provide advice and guidance to NSF officials, and to serve as liaison with other agencies about NSF advisory committees.

The CMO:

a. reviews all proposed establishments, renewals, or charter amendments for overall compliance with FACA, GSA Regulations, and NSF policy;

b. coordinates and/or summarizes input to required committee management reports;

c. maintains a central repository for committee management documents,

CMG II A

CHAPTER II - ESTABLISHING AN ADVISORY COMMITTEE

A. OVERVIEW OF THE ESTABLISHMENT PROCESS

1. What documents are required to establish an advisory committee?

As stated in Chapter I, to establish an advisory committee you need a completed consultation form (which replaces the letter of consultation and charter) and a Notice of Establishment.

See question 3., below for details of the process.

2. How long can an advisory committee be in existence?

Advisory committees are established for a maximum of 2 years. However, a committee can be renewed, in 2-year increments, for as long as there is a need for it. You may also have a much shorter duration, depending upon the time required for the committee to accomplish its objectives.

3. Exactly how does the establishment process work in terms of paperwork flow?

The CMO will give you instructions on what information is necessary for establishment and will work with you in creating the consultation form. For SEP's, the CMO will give you a partially completed consultation form for completion and approval within your directorate (see Appendix B for the consultation form and Appendix C for examples of information to include on the consultation form). The CMO will also ask you to prepare a notice of establishment (see Appendix D for a sample Notice of Establishment).

Once you have completed the consultation form and your division and directorate officials have signed it, the CMO handles the concurrence process.

GSA reviews the documents for compliance with FACA and sends a copy of the consultation form/charter to the NSF Budget Examiner at OMB. The Budget Examiner uses a working knowledge of NSF to determine the real need for a committee. The Budget Examiner and GSA will jointly decide concurrence in the establishment.

When GSA concurs, the CMO publishes the Notice of Establishment in the Federal Register.

The CMO files the consultation form/charter with Congress, GSA, and the Library of Congress 15 calendar days after the Notice appears in the Federal Register.

The committee is effective on the "file date" (date consultation form is sent to the Library of Congress) which the CMO types in the upper right corner of the consultation form/charter. The

You must keep all other records until the committee terminates. (See V-B.2 for information on records retention.) Records include reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents that were made available to or prepared for or by your committee.

Additionally, all records must be available to the public for inspection and copying unless they, or portions of them, must be withheld under one of the statutory exemptions such as where disclosure would constitute an unwarranted invasion of personal privacy.

For SEP's, where different Program Officers manage different panel meetings, the DFO should be careful to ensure that each Program Officer provides to the DFO copies of these documents for reports and retention. There should be *only one* location designated for the retention of SEP records in each division.

B. DESIGNATING MEMBERS

1. Do I have to wait until my committee is effective before I can designate my members?

No, you can carry out all administrative tasks, including designating members, before the committee is established. You may not, however, operate, meet, or take any action as a committee until it is established (i.e., "filed" with Congress following GSA's review and publication of Notice).

2. What do I need to consider when selecting members?

You need to consider: a) balanced membership, b) number of members needed to perform the function, and c) terms of service. These considerations are described below.

a. Balanced Membership. FACA and Federal Advisory Committee Management Regulations require that Federal advisory committees maintain balanced membership.

This means you need to consider a cross-section of those directly affected, interested and qualified, as appropriate to the nature and functions of the committee. Committees requiring technical expertise should include persons with demonstrated professional or personal qualifications and experience relevant to the functions and tasks to be performed.

NSF has specific guidance on the selection of members in Chapter I of the Proposal and Award Manual (PAM).

The Director, NSF, is interested in maintaining balanced membership on NSF committees and at least annually reviews with each Assistant Director the statistical report on composition for his/her advisory committees. (See Chapter IV B for more on this report.)

Below are general guidelines on balanced membership.

compensation limitations as well as NSF's conflicts requirements.

5. What are the conflicts requirements?

Before any member (including Federal members) can serve, you, as Designated Foundation Official, must ensure that each potential member has read and signed NSF Form 1230, "Conflicts of Interest Statement for NSF Advisory Committee/Review Panel Members." (See Appendix H for copy of NSF Form 1230.)

After reading and signing the Statement, members return the form to you to resolve any future conflicts issues. You must retain the forms and record any action taken. (See NSF Manual 15, Subpart B., Section 681.20 (e.).) Also, at meetings you must resolve conflicts questions.

For SEP members, you will need to get new submissions of NSF Form 1230 each time they are designated.

See Chapter III for more information and NSF Manual 15, Subpart B., Section 681.20 (c.).

6. Are there any other forms concerning conflicts that are needed?

Yes. If a member is from a state university system that has several semi-autonomous campuses, before the meeting you complete an NSF Form 1216, "Multi-Campus System Waiver." (See Appendix L.) You should keep one copy in the committee files and send the other to OGC. Be sure the information on that form is complete and accurate.

For SEP members, you will need to get new submissions of NSF Form 1216 each time they are designated, where appropriate.

7. Are all advisory committee members paid a fee for their services?

No. There is no requirement to pay advisory committee members. Some members will not want compensation and some are not allowed to be paid. Federal members, for instance, are not offered compensation by law (5 USC 5533, 5536; 31 USC 484).

You should generally assume that all non-Federal members wish to be paid our standard $100 a day fee unless they tell you otherwise.

Regardless of whether members are paid a fee or not, they are currently authorized to be reimbursed up to $160/day for costs of hotel accommodations, meals, taxis, and miscellaneous expenses when in travel status.

8. How are advisory committee members paid?

Members are paid under the guidance of FIN I Section 170.

Essentially, *advisory committee* members are paid from PD&M funds and *advisory panel* members from program funds.

Formal paperwork to compensate members is under a travel

below) by the average annual salary of each staff member. The cost includes fringe benefits (calculated by multiplying the amount of compensation by 14%); and

- non-member consultant compensation.

You may estimate member costs using your own formula or you may follow the guide below.

Compensation: multiply the number of non-Federal members who will receive compensation by $100 (fee). (See B.7. for who can receive compensation.) Then multiply the total compensation cost by the number of meeting days. You would use this procedure for determining non-member consultant costs as well.

4. How do I compute costs for Travel and Per Diem, as shown on the consultation form?

Travel and Per Diem is calculated for non-Federal and Federal members, NSF staff, and non-member consultants.

You may compute travel costs by multiplying the number of members on the committee by $500 (average round-trip transportation cost and expenses).

5. What about "other" costs?

Other costs include items such as postage, rental of conference space in a hotel, printing costs, and court reporter fees.

6. What do I do to calculate staff support years?

Staff Support Years is comprised of any time Federal employees spend in support of the advisory committee. This includes time spent attending the advisory committee/panel meeting. (See 8., below for an exception.)

Do the following for each individual staff member:

a. **Total the estimated number of days** (or part of a day) that the staff member is expected to work on the committee, including meeting days.

b. **Multiply the estimated number of days** the staff member is expected to work on the committee **by 8 hours** to get the total hours/year.

c. **Divide the expected annual hours** of work on the committee **by 2087** (available hours per year) to get the percentage of a work year to be spent on the committee.

d. **Multiply this percentage by** the respective staff member's **annual gross salary** to get cost per year for that staff member's work on the committee.

Then, when you've done this for each staff member, **add all of the salaries and percentages of time** expected to be spent on committee work for the total staff costs and time.

CMG II C

8. If a Program Officer is also a member of an advisory panel, e.g., chairperson, would you count the days he attends the meeting under "staff support" or "Federal member compensation"?

You would include meeting attendance under Federal *member* compensation. However, you would include his/her time due to "staff work" before and after the meeting under staff costs and staff years.

9. Do I have to break out all of the above costs in my consultation form/charter?

Yes, as shown in Appendix B, the form submitted to GSA for concurrence includes cost estimates for the current and next fiscal year.

CHAPTER III - HOLDING MEETINGS

A. BEFORE THE MEETING

1. What is the first thing I should do to plan for a meeting?

If the committee is new, you should be sure it will be formally established ("filed") *at least 20 days before you plan to meet*. You may, however, designate members and determine meeting logistics (date, location, etc.) between the time the consultation form is delivered to GSA and the charter (consultation form) is filed.

When you inform members officially of the meeting and provide them with material to prepare for discussions, include NSF Form 1230 for signature and returning to you. Where appropriate, provide members with NSF Form 1216 also. (See II B-5 & 6; Appendices H and L for forms.)

At the same time you set the meeting date, you should decide on the type of meeting you need, i.e., open to the public, closed, or part open. See questions below for criteria and instructions for closing a meeting.

As soon as you've decided the meeting date, you should consider the timing for announcing the meeting in the Federal Register and requesting a determination to close the meeting, if necessary.

The CMO will sign and publish the notice of meeting and will process the determination, if meeting is to be closed or part closed to the public. As mentioned earlier, more time is needed to process a meeting that is closed or partly closed to the public. See Appendix F for meeting notice requirements.

Instead of preparing a notice of meeting, program staff with SEP's may provide the CMO with meeting information, i.e., panel name, dates, times, agenda (e.g., PYI), type (e.g., closed to the public), and room number (and building, city, state, if not at NSF). The CMO will then prepare the notice of meeting and have it published in the Federal Register.

2. Do I have to open my meeting to the public?

Yes, the Federal Advisory Committee Act states that each advisory committee meeting shall be open to the public. However, FACA allows for the exemption of certain types of meetings from being open. At NSF, we use the below-listed exemptions from the Government in the Sunshine Act to close meetings for proposal review and oversight.

You may close a meeting, or part of a meeting, *only* where the specific agenda item addresses:

- trade secrets and commercial or financial information obtained from a

the CMO maintain a copy of the Sunshine Act for your information.)

5. If committee members plan to discuss committee business at an informal gathering, should that discussion be made part of the formal agenda and meeting announcement?

Yes. You should discourage planned discussion of committee business outside announced meetings. The GSA Committee Management Secretariat believes that informal meetings or gatherings of committee members in which substantive committee business is discussed should be disclosed if they occur.

GSA recognizes the administrative difficulty in this area and believes that the sponsoring agency can best determine whether a specific gathering of committee members constitutes an advisory committee meeting. When in doubt, contact either the Office of the General Counsel or the Committee Management Officer.

6. Suppose it's not possible to send the meeting notice on time, what do I do?

You can still publish the notice and have your meeting but you must include the reason for being late with the meeting notice to be published in the Federal Register.

If your meeting is to be closed to the public, *you should inform the CMO immediately* even if you're not sure of the exact date of the meeting so the determination to close can be made.

7. What happens if the meeting has to be cancelled, postponed, or otherwise changed?

If there's time, the CMO will publish a cancellation or postponement notice in the Federal Register. The CMO could also publish an amendment to the notice for such things as significant changes in the agenda or type of meeting, or in the number of days the meeting is to be held.

If you want to change from an open to a closed meeting, contact OGC or the CMO *immediately* for guidance.

If you need to change the time of the meeting or room number at the last minute, you could phone those people you knew were planning to attend and post a sign on the door of the scheduled room directing people to the correct room. You would, of course, announce any changes in time at the meeting itself.

8. Why must I publish a meeting notice if the meeting is to be closed to the public?

FACA requires that notices of *all* meetings be published in the Federal Register, except for reasons of national security.

9. How many copies of the meeting notice do I need?

You need only send one copy whether you provide 1) just the meeting data, not in Notice format, or 2) the notice in the proper format.

15. If I had the reverse situation, could I do the same thing, that is, start the open session early?

No, since some members of the public may be planning to attend the open session. If you began the open session early, you'd run the risk of having adverse publicity or being sued. You should consult OGC before considering this course of action.

16. Do I have to notify anyone other than the CMO (for notice publication) when I hold a meeting?

Although the law does not require any other notification, you may wish to issue a press release or use the NSF electronic Bulletin Board to notify NSF staff. The CMO provides meeting notices of open/part-open meetings to the editor of the NETWORK for internal publication.

B. DURING THE MEETING

1. Do I have to attend the entire meeting?

Yes, according to FACA a designated officer or employee of the Federal Government shall chair or attend each meeting. That person is authorized to adjourn the meeting whenever he/she determines it to be in the public interest. "No advisory committee shall conduct any meeting in the absence of that officer or employee." (Public Law 92-463, Section 10 (e).)

"Federal official" includes IPA's and Visiting Scientists ("rotators").

2. What are some of the things I, as DFO, need to be aware of while the meeting is going on?

a. You should have all members, staff, and visitors sign a roster.

b. You must have someone take minutes, regardless of whether the meeting is open or closed. (This is required by law.) See 5., below, for content requirement for minutes.

c. If the meeting is for proposal review, the Conflicts-of-Interest Regulations require you to read to the panelists a statement concerning conflicts (see NSF Manual 15, Section 681.25(c)).

d. You must resolve all conflicts and record in the minutes the action taken.

3. Who should take minutes?

That varies. Some program officials have their support staff take minutes and some might do it themselves. For open meetings, some officials use a court reporter.

4. Must the minutes be verbatim?

No, just an accurate description of each matter discussed and the resolution, if any, made by the committee. And, it is not necessary to record individual votes, only the decision.

6. If the meeting is closed to the public do I still have to have detailed minutes?

Yes. Minutes must contain all of the information listed in 5., above.

However, when considering what to send to the public, minutes of closed meetings should be reviewed to ensure that they do not divulge any information that should be protected. (See Chapter IV-A for discussion about releasing minutes and other information to the public.)

7. If I have an open meeting, do I have to allow members of the public to participate in the meeting?

FACA requires that:

a. Each meeting be held at a reasonable time and in a place reasonably accessible to the public;

b. Any member of the public be permitted to file a written statement with the committee; and

c. Any member of the public be allowed to speak at the meeting if the agency's regulations so permit.

NSF has no standard guidelines on public participation in committee meetings. You (as DFO) should develop operating procedures that include provisions for appropriate opportunities for public comment. You may develop these procedures with your committee members.

The chairperson should let the public know at the beginning of the meeting what the procedures are for public participation.

8. Can I have a working luncheon or dinner?

Yes, just make sure you include it in your meeting announcement.

9. What happens if someone disrupts the meeting?

If the situation warrants, you, as an officer of the Government, can adjourn the meeting if you believe it to be in the public interest to do so. You could also call building security (357-7919 at NSF).

C. AFTER THE MEETING

1. When are minutes due?

While there is no specific time requirement, minutes generally should be available 30 days after the meeting date.

However, if your committee has its minutes approved by the full committee at its next meeting and you're not sure when the next meeting will be held, you may get the minutes approved by mail or electronic message.

2. Who prepares and signs the minutes?

The Designated Foundation Official is responsible for assuring the preparation and distribution of minutes; the chairperson is responsible for certifying that the minutes are accurate.

CHAPTER IV - DISSEMINATING ADVISORY COMMITTEE INFORMATION TO THE PUBLIC

A. INFORMATION AT COMMITTEE MEETINGS

1. Besides minutes of meetings, what information do I have to give to a requestor?

Subject to the Freedom of Information Act, you must make available for public inspection the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents that were made available to or prepared for or by your committee until the committee ceases to exist.

NOTE: If the request mentions FOIA, you must immediately send it to the NSF FOIA Officer in OLPA.

2. What about minutes of meetings that were closed to the public?

As stated in Chapter III-B, you will *not be required to divulge* any information that should be protected (trade secrets, confidential commercial/financial information, and personal information where disclosure would clearly constitute an unwarranted invasion of personal privacy).

If you have any of that material in your minutes, you must sanitize the minutes or other documents to remove it before sending a copy to the requestor.

Other information such as aggregate information for awards (or declinations or postpones) and general discussion about the proposals themselves would be valid information to send to the public. For example, you may include what research areas the proposals were from or possibly what research areas need more attention.

Appendix I provides an example of minutes of proposal review meetings and has areas noted that either must or may be withheld from the public. (See also IV-B.1.b., below for closed meeting report requirements.)

B. REPORTS ON COMMITTEES

1. What reports are required by FACA and GSA and when are they due?

There are three reports required but none have a specific due date. A description of each and the time of year they are due is as follow:

a. **Annual Report of the President on Federal Advisory Committees**. This fiscal year report is required by FACA and consists of data such as:

- the number and types of meetings held during the preceding fiscal year;

CMG IV B

The CMO sends out a reminder that these reports are due, usually in the spring.

2. Are there any other reports regularly required?

Yes, the Annual Report on Composition of NSF Advisory Committees is an internal report on committee membership. The Director, NSF, is interested in maintaining balanced membership on NSF committees and at least annually reviews a statistical report on composition.

The report contains an analyses on age, geographic distribution, gender, race, disability, affiliation, and field of science. Programs provide the raw data and the CMO prepares the report.

The data are collected simultaneously with the Annual Report of the President on Federal Advisory Committees. The report is distributed to the Director, Executive Council, Committee on Equal Opportunities in Science and Engineering, Division Directors, DFO's and other interested staff.

C. REPORTS BY ADVISORY COMMITTEES

1. What is the requirement concerning advisory committee reports?

Each time a committee issues a formal report to NSF, 9 copies should be sent to the CMO to be forwarded to the Library of Congress for public use and one copy filed in the committee file.

Reports should have a cover sheet indicating the name of the committee and name and date of the report.

2. What kind of reports do I have to submit?

Reports of Advisory Committees are usually Committee of Visitors oversight reports or studies addressed to the Assistant Director.

"Reports of meetings" (minutes) are not considered formal reports of committees.

CHAPTER V - RENEWING/AMENDING CHARTERS AND TERMINATING COMMITTEES

A. RENEWALS

1. When must I renew my committee?

A committee automatically expires 2 years after establishment unless it is renewed. (See C., below.)

2. How do I renew my committee?

The procedure for renewing a committee is the same as for establishing one (see Chapter II) with the following exceptions:

- The renewal consultation form/charter must be received by GSA at least 30 calendar days before the committee is scheduled to expire (generally 2 years from the Filed Date indicated on the consultation form).

- A Notice of Renewal (see Appendix G) rather than a Notice of Establishment is published in the Federal Register and there is no time requirement for the Notice to be published before the committee can meet. (For establishments, a committee must wait 15 days after publishing notice of establishment before it can meet.)

3. Does the CMO notify programs when a committee is up for renewal?

Yes, the CMO will send you notification before your committee expires in sufficient time for you to decide if you want to continue it. The CMO also provides instructions on how to renew your committee.

B. AMENDMENTS

1. What do I need to do to amend my consultation form/charter?

For minor amendments, you need to send the CMO a copy of your consultation form with changes indicated in Remarks.

Examples of minor changes are: name changes, changes in the Designated Foundation Official, or slight increases (10% or less) in number of members or costs.

The DFO (or Sponsoring Official) and CMO sign the revised consultation form and the CMO files it with Congress, the Library of Congress, and GSA. The CMO provides you with a copy for your committee files.

For major changes, such as changes in the objectives and scope of the committee, you must provide the CMO with a copy of the consultation form with revised information in the appropriate blocks and identification of changes indicated in Remarks.

You and your Assistant Director/Office Director, (or Sponsoring Official), and CMO sign the revised consultation form. The

SIGNATURE AUTHORITIES FOR COMMITTEE MANAGEMENT DOCUMENTS

Responsibility for signing various committee management documents is indicated below:

Signature Authorities	Responsibilities
Director	Has overall authority of all NSF committees as outlined in FACA (delegated - see below); makes determinations to close meetings for other than proposal review and oversight.
Assistant Directors and Directors of Staff Offices	Sign consultation forms/charters for establishments/renewals/major amendments; approve requests from DFO's for terminations; and sign designation letters where appropriate.
Division Directors	Sign establishment/renewal/major amendment consultation forms/charters for division/program level committees, in conjunction with Assistant Directors. Sign designation letters for division/program level committees.
Committee Chair	Certify accuracy of minutes.
Committee Management Officer	Signs documents required to be published in the Federal Register (meeting notices, Notices of Establishment and Renewal), minor consultation form/charter amendments, and determinations to close advisory committee meetings for proposal review and oversight (Director signs any others).

CONSULTATION ON FEDERAL ADVISORY COMMITTEE 0304-GSA-XX

1. DATE OF CONSULTATION: FILED DATE:
2. NAME OF COMMITTEE:

3. COMMITTEE STATUS: __ A. ESTABLISHMENT __ B. REESTABLISHMENT
__ C. RENEWAL __ D. AMENDMENT TO CHARTER

4. AGENCY TO WHOM COMMITTEE REPORTS:
National Science Foundation

5. AGENCY PROVIDING COMMITTEE SUPPORT:
National Science Foundation

6. EST. DURATION OF COMMITTEE (YRS): __

7. PROPOSED TERMINATION DATE: __

8. EST. NO. OF TOTAL MEETINGS: __

9. FREQUENCY OF MEETINGS/YEAR: __

10. TYPE OF COMMITTEE: __ A. AD HOC __ B. CONTINUING

11. BRIEF STATEMENT COVERING COMMITTEE'S SCOPE AND OBJECTIVES OF ITS ACTIVITY.

12. DESCRIBE THE DUTIES AND RESPONSIBILITIES OF COMMITTEE AND INDICATE IF THE GROUP PERFORMS OTHER THAN ADVISORY FUNCTIONS.

13. WHY IS THE COMMITTEE ESSENTIAL FOR THE CONDUCT OF AGENCY BUSINESS AND IN THE PUBLIC INTEREST?

14. EXPLAIN WHY THE ADVICE OR INFORMATION CANNOT BE OBTAINED FROM OTHER SOURCES.

15. DESCRIBE THE AGENCY'S PLAN TO ATTAIN BALANCED MEMBERSHIP.

16. HAVE THE COMMITTEE AND SUBCOMMITTEE MEMBERS BEEN BRIEFED ON CURRENT ETHICS LAWS AND REGULATIONS? __ Yes __ No - Explain

EXAMPLE OF INFORMATION TO INCLUDE IN CONSULTATION FORM/CHARTER

A. SCOPE AND OBJECTIVES. (Item 11)

[Advisory Committees] To provide advice, recommendations, and oversight concerning support for research and research-related activities in the area of (discipline).

[Advisory Panels] Primarily, to advise on the merit of proposals for research and research-related purposes submitted to NSF for financial support. Additionally, the Panel provides general advice, and policy guidance to the (program name) Program.

[Special Emphasis Panels] To advise on the merit of special initiative proposals or applications submitted to NSF for financial support.

B. DUTIES AND RESPONSIBILITIES. (Item 12)

[Advisory Committees]

1. Advise NSF of the impact of its research support programs and other policies on the scientific community.

2. [If applicable) Perform oversight of program management, overall program balance, and other aspects of program performance.

3. [If applicable] Subcommittees may be formed to perform specific functions for the Committee. Subcommittees will not function independently of the Committee, i.e., they will send all recommendations to the Committee for consideration.

[Advisory Panels]

1. Evaluate proposals and provide written recommendations on those proposals as a part of the selection process.

2. Evaluate the state of the scientific field and the effectiveness of the Program in meeting the needs of the field.

3. Review procedures in the Program to assure that those proposals of highest scientific merit and with the greatest probability for future development of science are selected for financial support.

SAMPLE NOTICE OF ESTABLISHMENT

[Follow the instructions that appear in parentheses and select the appropriate wording if a choice is given.]

NATIONAL SCIENCE FOUNDATION

Committee Management
Notice of Establishment

The Assistant Director for (directorate) has determined that the establishment of the (name of Committee/Panel) is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 USC 1861 et seq.. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

NAME OF COMMITTEE: (Enter official name of Committee or Panel from consultation form/charter.)

PURPOSE: (Use wording from the Objectives and Scope section (#11) of the consultation form or charter.)

BALANCED MEMBERSHIP PLANS. (Following information provided in item #15 on the consultation form or in charter, describe your plan to attain balanced membership.)

RESPONSIBLE NSF OFFICIAL: (Name and telephone number of official responsible for responding to questions from, or for receiving comments provided by, any interested person.)

M. Rebecca Winkler
Committee Management Officer

Timetable for Establishing an Advisory Committee and Announcing First Meeting

STEP	EST. # DAYS	DESCRIPTION
1. Prepare consultation form & get directorate approval	5	Program informs CMO; prepares documents as described in Guide; obtains signatures. (See Chapter II and Appendices A - D.)
2. CMO reviews & signs	1	CMO receives signed package, reviews for compliance with FACA, NSF policy, signs and has handcarried to GSA. (See Chapter II.)
3. GSA reviews	15	If ok, GSA sends copy to NSF Budget Examiner at OMB. If ok, OMB informs GSA who calls concurrence to CMO. If problem, GSA/OMB phones CMO who mediates to resolve problem. (See Chapter II.)
4. Publish Notice of Establishment	15 4 1/	When GSA concurs, CMO informs program, signs the Notice of Establishment and has published in the Federal Register. (See Chapter II and Appendix D.)
If meeting to be closed/part open, program should inform CMO at least 30 calendar days before meeting.		
5. File charter	(1) 2/	CMO files consultation form 15 days after Notice is printed. "File date" of consultation form (date consultation form is sent to the Hill) is date committee is established. CMO sends copy of consultation form to program. (See Chapter II.)
(Designate members)	(15) 2/	Program selects potential members, gets approvals, and sends letter of designation with conflict-of-interest form to members. (See Chapter II.)
6. Publish Meeting Notice	15 4 1/	Program prepares Notice, gets approvals; CMO signs and has published in the Federal Register. (See Chapter III and Appendix F.)
Total Est.	59	Days Required for "Routine" Establishment

1/ The Federal Register requires 4 workdays to process notices.

2/ May file consultation form and select and designate committee members during establishment process.

NOTE: If committee establishment is **required** in less time; contact the CMO immediately.

NOTICE OF MEETING FORMAT
(Follow the instructions that appear in parentheses)

NATIONAL SCIENCE FOUNDATION
NOTICE OF MEETING

The National Science Foundation announces the following meeting:

NAME: (Enter consultation form/charter name.)

DATE AND TIME: (Enter date(s) of meeting and time meeting starts and adjourns, e.g., July 8 and 9, 1990, 9:00 to 5:00 each day.)

PLACE: (Enter room number and street address. If meeting is being held in a hotel, include suite number, if possible, and street address.)

TYPE OF MEETING: (Enter Open, Closed, or Part Open. If Part Open, indicate times for open and closed portions.)

CONTACT PERSON: (List name, title, address, and phone number of person most knowledgeable about meeting.)

PURPOSE OF MEETING: (State purpose of **meeting** rather than purpose of **committee/panel**.)

AGENDA: (Only need a summary but every category that is to be discussed must be mentioned. May identify the type of proposals to be reviewed, e.g., PYI.)

National Science Foundation

Washington, D.C. 20550

Conflicts-of-Interest Statement for NSF Advisory Committee/ Review Panel Members

Your designation as an advisory committee/review panel member requires that:

1. If you handle proposals or other applications, you must be aware of potential conflict situations. Examples of potentially biasing affiliations or relationships are listed on the back of this form. Should any conflict arise during your term, you must bring the matter to the attention of the person who asked you to serve as an advisory committee/review panel member. That official will determine how the matter should be handled and will tell you what further steps, if any, to take.

2. If your designation gives you access to information not generally available to the public, you must not use that information for your personal benefit or make it available for the personal benefit of any other individual or organization. This is to be distinguished from the entirely appropriate general benefit of learning more about the Foundation, learning from other advisory committee/review panel members, or becoming better acquainted with the state of a given discipline.

---(TEAR HERE AND RETURN TO NSF)---

I have read the list of possible conflicts on the back of this form and understand that I must contact the appropriate NSF official if a conflict exists or arises during my term of service. I also will not divulge any confidential information I may become aware of during my term. I further understand that I must sign and return this Conflicts Statement to the appropriate official before I may serve.

Name (Please Print):_____

Signature:_____ Date:_____

Advisory Committee/Review Panel:_____

_____

Date Received from Member:_____

To Be Retained in Program File

NSF Form 1230 (10-88) All Previous Editions are Obsolete

Example of Minutes of Proposal Review Meeting

National Science Foundation
Advisory Panel for Widgets
Minutes

(1) The Advisory Panel for Widgets met in closed session on May 19 and 20, 1990, from 8:00 to 5:00 each day in Room 1242, National Science Foundation, 1800 G Street, N.W., Washington, D.C. The meeting was devoted to the review and evaluation of research proposals.

(2) Panel members** present during the meeting were:

Dr. George Hill	Northwestern University
Dr. Patricia Brook	University of Texas @ Austin
Dr. Cliff J. Cleggett	Pennsylvania State University
Dr. Lucy A. Parlett	Williams College
Dr. Mary C. Fose	University of Maryland @ College Park

(3) Staff members present during the meeting were:

Dr. Harold West, Program Director, Widgets
Dr. April Posey, Assistant Program Director
Dr. Robert Fall, Associate Program Director

(4) The meeting began with a reminder to panel members about possible conflicts of interests regarding the proposals to be reviewed. Members were cautioned about the confidential information in the files and in the panel's discussions and conclusions.

(5) The panel reviewed and evaluated 229 research proposals and projects as part of the selection process for awards in the four program areas of the Widget Sciences Research Section. The proposals fell about equally among the four programmatic areas of the Section -- Physical Widgets, Chemical Widgets, Economics and Geography.

Of the 229 proposals reviewed, 120 were recommended for award subject to availability of funds and other considerations of the Program Officer, 60 were recommended for award if funds become available, and 49 were recommended for declination.

Panel discussion on proposals is summarized (panel summary**) and incorporated herein by reference. This panel summary is filed in the pertinent proposal jacket and a copy is sent to the proposer. When NSF makes an award, most information about the proposal becomes available to the public, but the recommendation of the panel is not disclosed to the public because it is a predecisional document in the deliberative process.

TYPES OF GROUPS FOR GETTING ADVICE

If you need:	Use:	Your Responsibilities are:
1. advice [1/] given *directly* to NSF	a chartered advisory committee that is:	
	a. an existing NSF committee or another agency's committee.	If you use an existing advisory committee, be sure you adhere to guidelines in CM Guide, e.g., announce meetings, keep minutes, monitor conflict-of-interest problems, and committee annually reports activities to GSA.
	- OR -	
	b. committee you establish solely for this purpose.	If you establish your own committee, you must follow all guidelines in the CM Guide, e.g., a. Charter under FACA; b. Announce meetings in Federal Register, keep minutes, have balanced membership; c. Report activities annually via CMO to GSA; and d. File reports with Congress via CMO.
2. advice [1/] *through another (parent) committee*, consisting of members, drawn in whole or in part from parent committee	a dependent (unchartered) subcommittee of an established (chartered) advisory committee	a. Ensure parent committee's charter authorizes it to establish subcommittees; b. Ensure parent committee considers subcommittee's recommendations before advice is given to NSF. c. Ensure subcommittee adheres to FACA requirements, see b-d above;

Example of a Closed Meeting Report
(NSF Letterhead)

FY XXXX REPORT OF CLOSED MEETINGS OF THE
ADVISORY PANEL ON WIDGETS

The Advisory Panel on Widgets met four times during FY 1990. The purpose of the panel is to review, evaluate, and discuss proposals submitted to the Widgets Program for financial support. All sessions of the panel were closed to the public because the panel was engaged in the review of proposals that included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters were within exemptions 4 and 6 of the Government in the Sunshine Act.

Each meeting began with reading of the NSF conflict-of-interest statement reminding panel members about possible conflicts of interests regarding the proposals to be reviewed. In accordance with Agency policy, members were cautioned about the confidential information in the files and in the panel's discussions and conclusions.

Throughout the fiscal year, the panel reviewed a total of 1,297 research proposals and projects as part of the selection process for awards in the four program areas of the Widget Sciences Research Section. The proposals fell about equally among the four programmatic areas of the Section -- Physical Widgets, Chemical Widgets, Economics, and Geography.

Of the 1,297 proposals reviewed, 390 were recommended for award subject to availability of funds and other considerations of the Program Officer, 667 were recommended for award if funds become available, and 240 were recommended for declination. A list of proposal numbers showing the panel's action on each was prepared. To protect the personal privacy of the proposers, this list is not available to the public. Lists of final award recipients are available when a final NSF decision is reached.

[NOTE: If the list of final award recipients is available, you may wish to attach it to your report.]

This report was prepared in accord with Section 10(d) of the Federal Advisory Committee Act.

(signature)
Harold West, Chairman
Advisory Panel for Widgets

Date:

Attachment

National Science Foundation
MULTI-CAMPUS SYSTEM WAIVER

An NSF employee[1] or advisory committee/review panel member[2] who has a continuing employment, retirement, or reemployment relationship with a multi-campus institution may be involved with proposals and other matters submitted to NSF from any campus of the institution *only* if a waiver is approved *before* his or her involvement, but he or she can not be involved for a campus where he or she has some direct affiliation.

CAUTION: A waiver cannot be granted for a person who participates in or advises on decision making that affects the system instead of affecting only the single campus. For example, a Department Chairperson advising on multi-campus budgeting or planning and a member of a multi-campus advisory panel would not be eligible for a waiver.

_____ is employed at _____,
(NSF employee or committee /panel member) (institution)

_____ **and works in a position that serves only that campus.**
(campus)

The NSF employee or committee/review panel member has been appointed/designated to serve the NSF from _____ to _____. In this position, he/she may be asked, as a Federal employee or committee/review panel member, to handle proposals or other matters from other campuses.

Pursuant to 18 USC 208(b)(1), and the authority delegated to me by the Director, I have determined that his/her interests in the other parts of the institution are not so substantial as to be deemed likely to affect the integrity of the services that the Foundation may expect from him/her.

Therefore, he/she is disqualified as to matters involving only the campus cited above and may participate in matters involving other parts of the institution.

_____ _____
(Signature and typed name of appropriate Assistant Director/Staff Office Director or Division Director) (Date)

[1] NSF employee includes Visiting Scientist, IPA, and Special Government Employee (consultant/expert)

[2] Advisory Committee/Review Panel refers to members of advisory committees, advisory panels, review panels, and oversight groups.

White - Originating Office
Pink - OGC

NSF Form 1216 (7/90)

All Previous Editions are Obsolete

SUBJECT INDEX

Subject	Page Number
Ad hoc committee, definition	28
Administrative time, definition	14
Advisory committee	
definition, requirements	1
types of groups for getting advice	A-14
Agenda	
approving	5
for meeting notice	16
Amendments, described and process	27
Assistant Director or Staff Office Director, responsibility	5
Budget Examiner, role in establishing a committee	7
Central repository for committee management documents,	
responsiblity for maintaining	6
Chairperson	
how to determine costs for	15
responsibility	36
role at meeting	22
selection of	6
Closed meeting	
changing from an open meeting	18
criteria, examples	17
determination timing	18
notice of meeting	18
reporting on	25
requirements	3
timing of determination	8
when to decide	16
Closed session	
emergency, at an open meeting	19
rescheduling	19
Committee activities and cost, reporting on	25
Committee Management Officer (CMO), responsibilities	5
Committee Management Reports	
description	24
responsibility	5
Committee Management Secretariat, GSA, responsibility	6
Committee of Visitors, description of when to close to the public	17
Committee's operation, responsibility for	5
Committee's recommendations, assuring prompt review of	5
Conflict, situations documented, an example	21
Conflicts	
requirements	11
resolution of	20

SUBJECT INDEX

Subject	Page Number
Establishing a committee	
concurrence	7
documents required	7
expeditious establishment	8
GSA's role	8, 12
notice of establishment, sample	A-6
notification of establishment	8
process	7
signature responsibility	8
timing	8, A-7
Establishment, notice of	7
Ethics laws and regulations, instruction	5
Expiration, how to identify expiration date	28
Federal Advisory Committee Act	
definition	1
GSA regulations, NSF policy, overall compliance with	5
not subject to	1
subject to	2
Federal members, determining compensation	12
Federal Register	3
Federal staff	
determining cost	12
fringe benefits	13
File date, definition	7
FOIA requests, what to do	24
GSA	
role in amendments	28
role in establishing a committtee	7
role in reviewing/reporting on committees	25
role in terminations	28
Hotel accommodations, reimbursement for	11
Informal discussion, requirements under FACA	18
Information to the public, responsibility for providing	5
IPA, role	20
Meeting	
access to secure location	19
accessibility	19
as working lunch/dinner	22
attendance, informing of changes	18
calling, or approving the call of	5
cancelled or postponed	18
change in agenda after start of meeting	19
close for other than proposal review or oversight	17
closed, procedure to	17
closed, report	25

SUBJECT INDEX

Subject	Page Number
NSF Form 1216, "Multi-Campus System Waiver"	
example	A-18
requirement for	11
NSF Form 1230, "Conflicts-of-Interest Statement for NSF Advisory Committee/Proposal Review Panel Members"	
example	A-10
requirements	11
Office of the General Counsel (OGC), responsibility	6
OMB Budget Examiner, responsibility	6
Open meeting	
rescheduling	20
when to decide	16
Openness, responsibility for ensuring	5
Overview, requirements and Guide references	1
Panel summaries	
not same as minutes	23
send to proposers	23
Public dissemination, documents to be made available	24
Public participation, at meetings	22
Records	3
availability to the public	9
definition	9
disposition of terminated/expired committees	28
how long to keep	9
responsibility for keeping committee records	8
Renewing a committee	
notice, format sample	A-9
process	27
timing	27
Reports by Advisory Committees	
requirement for dissemination	26
Reports of meetings	
vs. minutes	26
Reports on committees	
Annual Composition of NSF Advisory Committees	26
Annual Report of the President on Federal Advisory Committees	24
closed meeting report, example	A-16, 25
description	24
SEP (Special Emphasis Panel)	4
establishing	7
maintaining records for	9
notice of meeting	16
terms of membership	10
Signature Authorities	A-1, 8

OSTP / PCAST

I Introduction

FACA is a companion act to FOIA, Govt in Sunshine, & Privacy Act

FOIA / Govt in Sunshine Act

~~all~~ designed to open up the information the govt has to make the process of governing more accessible

PCAST is an advisory committee w/in meaning of FACA
This affects you in a number of ways.

II. FACA Requirements

A. Charter setting forth the name & purpose for the committee, the agency that will provide support to the committee, and an estimate of the cost of operating the committee
this is a simple document
it can already been filed & is available to the public

B. Advisory Committee Mtgs shall be open to the public
1- 15 days advance notice of mtgs shall be given

2- Notice shall be published in the Federal Register

3- Interested persons shall be permitted to appear before the committee or file statements

C. Mtgs may be closed if the Pres or Dr. Bromley determines that it may be closed ~~under~~ under the Govt in the Sunshine Act
1- Any portion of mtgs can be closed - Classified info, with security, personnel matters, trade secrets / confidential business info, or info relative to proposed agency actions.
2- Closed mtg must be explained in writing.

D. Records must be kept

E. Committee Info ~~copy~~ may only be held at the call of a federal official & may be requested on the decision of a federal official.

F. Finally, ⇒ "records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection & copying"

What does this mean?

notes, minute – in general, documents prepared by you or for you are subject to disclosure on request by a member of the general public

1- Subject to the same kinds of exemptions as discussed w/ respect to ~~FOIA~~ closed mtgs –
national security, classified info, personnel matters, trade secrets, geological info, personnel info, law enforcement records

2- Also exempt – anything involving legal advice may be withheld if/ai atty-client privilege and anything which might reveal/inhibit (if disclosed) the deliberative process of the Committee
exchanges of notes
disparate views – so long as internal
disparate views may be made public

3- Any FOIA requests will need to be processed promptly through Counsel

6. Bds Comm may be chartered for 2 yrs — expire unless renewed

THE PRESIDENT'S COUNCIL OF ADVISERS ON SCIENCE AND TECHNOLOGY (PCAST)

NORMAN BORLAUG, Distinguished Professor, Department of Soils and Crop Sciences, Texas A&M University

ALLAN BROMLEY, Assistant to the President for Science and Technology, Executive Office of the President (Chairman)

SOLOMON BUCHSBAUM, Senior Vice President, Technology Systems, AT&T Bell Laboratories

CHARLES DRAKE, Albert Bradley Professor of Earth Sciences and Professor of Geology, Dartmouth College

RALPH GOMORY, President, The Alfred P. Sloan Foundation

BERNADINE HEALY, Chairman of the Research Institute, The Cleveland Clinic Foundation (Vice-Chairman)

PETER LIKINS, President, Lehigh University

THOMAS LOVEJOY, Assistant Secretary for External Affairs, Smithsonian Institution

WALTER MASSEY, Vice President for Research and for Argonne National Laboratory, University of Chicago

JOHN McTAGUE, Vice President-Research, Ford Motor Company

DANIEL NATHANS, Professor of Molecular Biology and Genetics, Johns Hopkins University School of Medicine

DAVID PACKARD, Chairman of the Board, Hewlett-Packard Company

HAROLD SHAPIRO, President, Princeton University

Office of the Press Secretary
(Miami, Florida)

For Immediate Release January 19, 1990

EXECUTIVE ORDER

- - - - - - -

PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), an advisory committee on science and technology, it is hereby ordered as follows:

Section 1. Establishment. There is established the President's Council of Advisors on Science and Technology ("Council"). The Council shall be composed of not more than 15 members, one of whom shall be the Director of the Office of Science and Technology Policy, and 14 of whom shall be distinguished individuals from the private sector to be appointed by the President. The Director of the Office of Science and Technology Policy shall serve as Chairman of the Council. The Vice Chairman shall be appointed by the President from among the 14 private sector members. The Chairman shall report directly to the President.

Sec. 2. Functions. (a) The Council shall advise the President on matters involving all areas of science and technology.

(b) In the performance of its advisory duties the Council shall conduct a continuing review and assessment of developments in science and technology, and shall, through the Chairman, report thereon to the President whenever requested.

(c) The Chairman may, from time to time, invite experts to investigate and report to the Council on specific issues of national consequence.

Sec. 3. Administration. (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Council and its panels such information with respect to scientific and technological matters as required for the purpose of carrying out its functions.

(b) Members of the Council shall serve without any compensation for their work on the Council. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707).

(c) Any expenses of the Council shall be paid from the funds available for the expenses of the Office of Science and Technology Policy.

(d) The Office of Administration shall, on a reimbursable basis, provide such administrative services as may be required.

Sec. 4. General. (a) Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Council, shall be performed by the Office of Administration in accord with the guidelines and procedures established by the Administrator of General Services.

(b) The Council shall terminate on June 30, 1991, unless sooner extended.

GEORGE BUSH

THE WHITE HOUSE,

January 19, 1990.

# # #

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

CHARTER

PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY

1. Committee's Official Designation:

President's Council of Advisors on Science and Technology (PCAST). The Council was established by Executive Order Number 12700, dated January 19,1990.

2. Objective and Scope of Activities and Duties:

- The purpose of the PCAST is to advise the President on all matters involving science and technology.
- In furtherance of this mission the PCAST shall conduct a continuing review and assessment of developments in science and technology and the chairman may invite panels of experts to investigate and report to the Council on specific issues of national importance.

3. Duration

The Council will have continuing responsibility for advising the President. The Council will terminate on June 30, 1991, unless sooner extended.

4. Official to Whom the Council Reports:

The PCAST will report to the President, through the Chairman of the Council.

5. Agency Responsible for Providing Necessary Support for this Council:

Office of Science and Technology Policy(OSTP).

6. Description of Duties:

The Duties of the Council are solely advisory and are stated in paragraph 2 above.

7. Costs:

The estimated annual operating cost of the Council is $375,000, including 2 man years of support staff activity.

8. Estimated Number and Frequency of Meetings:

The President's Council of Advisors on Science and Technology shall normally meet twelve times each year at regular intervals, and at such other times as may be called by the President or the Director, OSTP. In addition, 10-15 meetings each year by Panels are anticipated.

9. Panels:

Panels may be formed to conduct studies on specific issues assigned by the President or the Director, OSTP.

10. Members:

PCAST members shall be appointed by the President from the private sector. The PCAST shall consist of no more than 14 members and the Chairman. The Director, OSTP shall serve as Chairman of the Council, and the Vice Chairman shall be appointed by the President from the members of the Council.

The Council may utilize additional technical experts as needed to constitute its panels and study groups. These technical experts shall be appointed by the Chairman and shall serve at the pleasure of the Chairman.

This Charter for the Advisory Committee named above is hereby approved:

Signed: D. Allan Bromley

Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, and Chairman, President's Council of Advisors on Science and Technology.

Date signed: January 23, 1990

Date filed: January 24, 1990

THE WHITE HOUSE

WASHINGTON

November 8, 1990

MEMORANDUM FOR MICHELLE K. VAN CLEAVE
COUNSEL
OFFICE OF SCIENCE AND TECHNOLOGY POLICY

FROM: JAY S. BYBEE
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Closing PCAST Meetings Under FACA

You have inquired whether Dr. Bromley has the authority to close meetings of the President's Council of Advisors on Science and Technology in accordance with FACA when he serves both as the head of the Office of Science and Technology Policy and as Chairman of PCAST.

Section 10(d) of FACA, 50 U.S.C. Appdx 2, provides that the open meeting requirements of FACA "shall not apply to any portion of an advisory committee meeting where the President or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with [the Sunshine in the Government Act]." The President's Council of Advisors on Science and Technology reports to OSTP, of which Dr. Bromley is the agency head. Accordingly, either Dr. Bromley or the President may make the determination to close a PCAST meeting.

We see no disqualifying conflict between Dr. Bromley's duties as head of OSTP and his duties as Chairman of PCAST. First, FACA itself does not disqualify Dr. Bromley from making the determination to close a PCAST meeting. Congress clearly contemplated that "full-time officers or employees of the Federal Government" would serve on advisory committees, and yet FACA makes no provision for such contingency. See 50 U.S.C. Appdx 2 § (2)(C)(iii) (exempting from FACA a committee composed entirely of federal officers or employees). Nevertheless, there is no disabling or disqualifying language in FACA with respect to this (or any other) determination by a federal officer or an agency head.

Second, in our view, there is no conflict between Dr. Bromley's dual roles that would counsel prudential abstention. As agency head, Dr. Bromley must protect classified, personnel and other sensitive information to the degree permitted by FACA and the Freedom of Information Act and Government in the Sunshine Act,

which are incorporated into FACA by reference. 5 U.S.C. Appdx 2 § 10(b), (d). Neither PCAST nor Dr. Bromley, as its Chairman, has an interest in seeing such information released to the public. In sum, there is no conflict between Dr. Bromley's duties, and he may make the determination to close all or some portion of PCAST's meetings in the ordinary course of his duties as head of OSTP.

Thank you for the opportunity to comment on this matter. If we can be of further assistance, please do not hesitate to contact us.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20506

November 5, 1990

MEMORANDUM FOR JAY BYBEE
WHITE HOUSE COUNSEL

FROM: MICHELLE K. VAN CLEAVE
COUNSEL

SUBJECT: DETERMINATION TO CLOSE PCAST MEETINGS

As I believe you are aware, it has been Dr. Bromley's practice as Director, OSTP, to make determinations to close meetings of the President's Council of Advisors on Science and Technology (PCAST) under the provisions of Sec. 10(d) of FACA. This is consistent with OSTP's responsibility to provide administrative support to the PCAST.

However, Dr. Bromley also serves as Chairman of the PCAST, raising the question whether he may step out of that role in order to make an independent determination to close PCAST meetings as Director, OSTP, or whether there is an inherent conflict in his dual-hatted status that would require a different procedure. In the exercise of caution, and because PCAST is a Presidential advisory board, we would appreciate your advice as to whether or not Dr. Bromley is the lawful determining authority for PCAST meeting closures.

ID # 183165 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: D. Allan Bromley

☐ **MI Mail Report** **User Codes: (A)** _____ **(B)** _____ **(C)** _____

Subject: Requests assistance with Federal Advisory Committee Act, Freedom of Information Act and laws involving conflict of interest - as it relates to the President's Council of Advisors on Science and Technology

ROUTE TO: Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CMOS	ORIGINATOR	90/10/15			/ /
	Referral Note:				
CMAT 23	A	90/10/15	TC	C	90/10/29
	Referral Note:				
CMAT 12	A	90/10/15	TC	C	90/10/25
Restaffed	Referral Note:				
CMAT 19	A	90/10/29		C	90/12/18
	Referral Note:		See comments -		
		/ /			/ /
	Referral Note:				

ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: no special action on my part - Jay Byrnes & A. Schwartz will handle the matter. MMSV 10/26/90. Restaffed to Jay Byrnes (CMAT 19) (close out)

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

5/81

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20506

October 10, 1990

MEMORANDUM FOR C. BOYDEN GRAY

FROM: D. ALLAN BROMLEY

SUBJECT: REQUEST FOR INFORMATION BRIEFINGS

As Chairman of the President's Council of Advisors on Science and Technology (PCAST), I request your assistance on three areas of Council interest. They are the Federal Advisory Committee Act, the Freedom of Information Act, and laws involving conflict of interest.

While serving the President with private-sector advice on science and technology, the PCAST must be fully compliant and responsive in these three areas. Although PCAST members have been given waivers regarding conflict of interest, we want our actions to be above reproach so that our effectiveness is not in any way lessened. The PCAST members and I would like to know more about these areas and especially how they may affect the PCAST process and its products. We would also like to know what exceptions are permitted in these areas e.g., when a PCAST meeting can be closed and under what circumstances can FOIA requests be denied. Perhaps you may have some suggestions on how to obtain short information briefings, tailored to our needs. This would be of great assistance.

The November meeting of the PCAST will be scheduled in the near future. If you would suggest an appropriate person or persons who could brief the members on these issues, we could set aside some time for information briefings and discussions.

I have enclosed a copy of the PCAST Charter, membership list, a list of planned panels, an example of a panel charter, and a list of possible questions that might be raised by PCAST members.

I would very much appreciate your assistance in this matter.

Enclosures

Office of the Press Secretary
(Miami, Florida)

For Immediate Release January 19, 1990

EXECUTIVE ORDER

- - - - - - - -

PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), an advisory committee on science and technology, it is hereby ordered as follows:

Section 1. Establishment. There is established the President's Council of Advisors on Science and Technology ("Council"). The Council shall be composed of not more than 15 members, one of whom shall be the Director of the Office of Science and Technology Policy, and 14 of whom shall be distinguished individuals from the private sector to be appointed by the President. The Director of the Office of Science and Technology Policy shall serve as Chairman of the Council. The Vice Chairman shall be appointed by the President from among the 14 private sector members. The Chairman shall report directly to the President.

Sec. 2. Functions. (a) The Council shall advise the President on matters involving all areas of science and technology.

(b) In the performance of its advisory duties the Council shall conduct a continuing review and assessment of developments in science and technology, and shall, through the Chairman, report thereon to the President whenever requested.

(c) The Chairman may, from time to time, invite experts to investigate and report to the Council on specific issues of national consequence.

Sec. 3. Administration. (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Council and its panels such information with respect to scientific and technological matters as required for the purpose of carrying out its functions.

(b) Members of the Council shall serve without any compensation for their work on the Council. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707).

(c) Any expenses of the Council shall be paid from the funds available for the expenses of the Office of Science and Technology Policy.

(d) The Office of Administration shall, on a reimbursable basis, provide such administrative services as may be required.

THE PRESIDENT'S COUNCIL OF ADVISERS ON SCIENCE AND TECHNOLOGY (PCAST)

NORMAN BORLAUG, Distinguished Professor, Department of Soils and Crop Sciences, Texas A&M University

ALLAN BROMLEY, Assistant to the President for Science and Technology, Executive Office of the President (Chairman)

SOLOMON BUCHSBAUM, Senior Vice President, Technology Systems, AT&T Bell Laboratories

CHARLES DRAKE, Albert Bradley Professor of Earth Sciences and Professor of Geology, Dartmouth College

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DANIEL NATHANS, Professor of Molecular Biology and Genetics, Johns Hopkins University School of Medicine

DAVID PACKARD, Chairman of the Board, Hewlett-Packard Company

HAROLD SHAPIRO, President, Princeton University

PCAST PANELS UNDER CONSIDERATION

Proposed Panels 1990-1991

High Performance Computing and Communications

Chairman: Sol Buchsbaum
Vice Chairman: Ralph Gomory

Education and Human Resources

Chairman: Peter Likins
Vice Chairman: Charles Drake

International Economic Competitiveness

Including Subset issue: Materials Science and Engineering

Chairman: Ralph Gomory/John McTague
Vice Chairman: Harold Shapiro/Peter Likins

Proposed Panels 1991-1992

Bioscience and Biotechnology

Chairman: Dan Nathans
Vice Chairman: Bernadine Healy

Global Environment and Natural Resources

Chairman: Tom Lovejoy
Vice Chairman: David Packard
Norman Borlaug

7/19/90

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR SOLOMON J. BUCHSBAUM
President's Council of Advisers on Science and Technology (PCAST)

FROM: D. ALLAN BROMLEY
Chairman, PCAST

SUBJECT: Terms of Reference for the PCAST Panel on High Performance Computing and Communications

You are requested to chair a PCAST Panel on High Performance Computing and Communications.

The purpose of this Panel is to enable PCAST to advise the President on issues related to high performance computing and communications that have a bearing on long-range national goals, government regulation, the transition of Federal programs to industry, participation of the States, and foreign access.

The U.S.'s technological leadership in computing, communications, and applications is critical to its ability to compete effectively in world trade. Maintaining a strong national defense capability is also directly related to the advancement and application of computing and digital communications technology. There is a five-year history of development for a Federal initiative in high performance computing supported by reports authored by participants from academia, industry, the National Academy of Sciences, the National Research Council, the White House Science Council, the Office of Technology Assessment, and professional societies, that include the Institute of Electrical and Electronics Engineers and the Society for Industrial and Applied Mathematics. The Office of Science and Technology Policy (OSTP) and the Federal Coordinating Council for Science, Engineering and Technology (FCCSET) have issued six reports that have led to plans for such an initiative. Federal science agencies, including DOD, NSF, DOE, and NASA, have created major programs that support the initiative. Congress has shown growing interest as well: three pieces of legislation are active, and a fourth is under development. The goal is to maintain and extend U.S. leadership, encourage additional U.S. sources of production, quicken the pace of innovation by diffusing the technology into the research and education communities, and increase U.S. productivity and competitiveness through networked computing in analysis, design and manufacturing. Finally, the OSTP report, The Federal High Performance Computing Program, issued on September 8, 1989, calls for an advisory panel consisting of eminent individuals from industry and academia.

The Panel on High Performance Computing and Communications shall:

1. Conduct a one-time review of and advise on the goals and strategies proposed in The Federal High Performance Computing Program report of September 8, 1989.

2. Advise on an effective transition strategy to evolve the NREN (National Research and Education Network) into a commercial, high performance, general purpose national communications network serving the S&T community, business, educational institutions, and eventually the general public.

3. Advise on general societal needs that can be served by high performance computing suitably connected through digital networks, and identify means for a broad diffusion of the benefits of the High Performance Computing Program.

4. Identify major issues and decisions of a non-technical or semi-technical nature (e.g. standards, foreign participation, and regulatory issues) that will have a significant impact upon the ability of the private sector to remain viable and competitive.

5. Advise on ways of coping with, even exploiting, the various contrasting objectives in computational education. These include: theory vs. systems; scientific computing vs. business computing; research personnel vs. practicing professionals; production of Ph.Ds vs. other goals of higher education.

The Panel will submit its first report by December 31, 1990.

Administrative Provisions

(a) This PCAST Panel on High Performance Computing and Communications shall satisfy the requirement of The Federal High Performance Computing Program's private sector panel to advise on issues related to long-range national goals, government regulation, transition of Federal programs to industry, participation of the States in the national program, and issues of foreign access.

(b) Ad hoc working groups with participation not limited to the Panel members may be formed to assist the Panel in its work.

Duration

The Panel's activities and the continuing need for the Panel shall be reviewed annually by the Chairman of the PCAST.

Chairman

The Panel Chairman shall convene meetings of the Panel at times and locations of the Chairman's choice in consultation with the Chairman of the PCAST.

Vice Chairman

The Vice Chairman shall act in the stead of the Chairman at his request.

Compensation

Private sector members of the Panel shall receive no compensation for their service. Their travel expenses and per diem subsistence shall be reimbursed in accordance with regulations which apply to persons serving intermittently in government service.

Temporary supporting staff of the Panel who are not Federal employees may be reimbursed in accordance with contracts developed by the OSTP in accordance with regulations which apply to temporary employees of the Executive Office of the President.

Determination

I hereby determine that the formation of the PCAST Panel on High Performance Computing and Communications is in the public interest in connection with the performance of duties imposed on the Executive Branch by law, and that such duties can best be performed through the advice and counsel of such a group.

The Terms of Reference for the PCAST Panel on High Performance Computing and Communications include no assignment requiring Panel members to participate personally and substantially in the conduct of any specific procurement, or place any member in the position of acting as a "procurement official."

Approved:

D. Allan Bromley

April 26, 1990
Date

Possible Questions

1. When bringing on panel members who are not PCAST members:

   - what is the required paperwork?

   - do they get a waiver on conflict of interest as PCAST members did?

   - once a panel member is nominated and agrees to serve, how long will it take before he can go to work on a panel?

   - are panel members Government employees while serving? Consultants to OSTP or EOP?

   - what about security clearances? How long will it take?

2. We believe that a great deal of our meetings will deal with information on proposed action by the President and Government agencies. We believe that premature disclosure of such information is likely to significantly frustrate implementation of proposed agency actions. Accordingly, we intend to close PCAST and panel meetings based on 5 USC 552 b (c) (9).
Are we correct in doing so?

3. Do PCAST members require written travel authorization before coming to each PCAST meeting? Panel meetings?

4. Do FACA and FOIA agree on what papers, notes, etc. must be released upon request to the public? Or does one go further than the other?

   - For meeting notes containing, in part, non-releasable information, how do we handle a request for the releasable portions?

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   - Do we treat FACA and FOIA requests by foreign governments the same as U.S. citizen requests?

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5. Are PCAST memoranda to the President subject to FOIA, to FACA requests? What are the exceptions permitting denial of the request?

6. What are examples of conflict of interest situations likely to be encountered by PCAST members? By non-PCAST panel members?

ID # 183165 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: D. Allan Bromley

☐ **MI Mail Report** **User Codes:** (A) _____ (B) _____ (C) _____

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CU OF		ORIGINATOR	90/10/15			/ /
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			/ /			/ /
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OFFICE OF SCIENCE AND TECHNOLOGY POLICY
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October 10, 1990

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THE WHITE HOUSE

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For Immediate Release January 19, 1990

EXECUTIVE ORDER

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7/19/90

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR SOLOMON J. BUCHSBAUM
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FROM: **D. ALLAN BROMLEY**
Chairman, PCAST

SUBJECT: **Terms of Reference for the PCAST Panel on High Performance Computing and Communications**

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Determination

I hereby determine that the formation of the PCAST Panel on High Performance Computing and Communications is in the public interest in connection with the performance of duties imposed on the Executive Branch by law, and that such duties can best be performed through the advice and counsel of such a group.

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Approved:

D. Allan Bromley

April 26, 1990
Date

Possible Questions

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Bromley:

2. Premature disclosure – frustration of proposed agency actions
can only be closed under 5 USC § 552(b)(9)?
a) head of agency head must make determination
b) premature disclosure must be likely to
(1) significantly frustrate implementation of
a proposed agency action
[action must close, proposed]
(2) agency has not yet disclosed content of action
(3) agency is not required by law to make disclosure
prior to announcing the action.
c) determination must be in writing + must
contain reasons

4. FACA and FOIA
a) FACA and FOIA are coextensive w/ respect to
what materials must be released
5 USC apply 2 § 10(b)
"subject to 5 USC § 552)

b) Non-releasable info
info can be redacted

c) Must respond to request
FOIA – 10 days ??!
100 pp free – may charge after that

d) foreign govt requests under FOIA
???

govt
coll
FOIP

c) notes by a PCAST member
subject to FOIA — anything officials except person

5- PCAST memoranda to POTUS are subj to FACA/FOIA
subj to exceptions to FOIA:

1- a) paperwork -
SF 86 req'd for sec clearance (only if clearance)
panel members are not Pres appointees
see Twitter Vine clearance
similar to having on people for OSTP
financial disclosure - PDS II

b) if in representative capacity - no waiver needed,
not SGEs
consultants are SGEs
SGEs may need waivers
case by case
Twitter Vine clearance should be handled

c) time - depends on sec clearances, fully process

d) Panel members may be SGE/gvt employees
consultants to OSTP, not EOP

6- DK; depends
EWH Counsel does not do ethics work for OSTP, no other

SGE ←

THE WHITE HOUSE
WASHINGTON

Date 8-9-90

TO: Ed Hearst

FROM: JAY S. BYBEE
Associate Counsel to the President

As we discussed. I will be happy to meet with you at your convenience.

Phone 456-2898

EXECUTIVE ORDER

- - - - - - -

PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY

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(c) Any expenses of the Council shall be paid from the funds available for the expenses of the Office of Science and Technology Policy.

(d) The Office of Administration shall, on a reimbursable basis, provide such administrative services as may be required.

Sec. 4. General. Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Council, shall be performed by the Office of Administration in accord with the guidelines and procedures established by the Administrator of General Services.

(b) The Committee shall terminate on June 30, 1991, unless sooner extended.

THE WHITE HOUSE,

EXECUTIVE ORDER

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PRESIDENT'S COMMISSION ON
AVIATION SECURITY AND TERRORISM

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish a Commission on Aviation Security and Terrorism, it is hereby ordered as follows:

Section 1. Establishment. (a) There is established the President's Commission on Aviation Security and Terrorism to review and evaluate policy options in connection with aviation security, with particular reference to the destruction on December 21, 1988, of Pan American World Airways Flight 103. The Commission shall consist of seven members appointed by the President. Two members shall be Senators, and two shall be Members of the House of Representatives; they shall represent both parties equally. The President shall consult with the Majority and Republican Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives in making appointments from the Senate and House of Representatives, respectively.

(b) The President shall designate a Chairman from among the members of the Commission.

Sec. 2. Functions. (a) The Commission shall conduct a comprehensive study and appraisal of practices and policy options with respect to preventing terrorist acts involving aviation. In conducting this effort, the Commission shall evaluate the adequacy of existing procedures for aviation security, compliance therewith, and enforcement thereof. The Commission also shall review options for handling terrorist threats, including prior notification to the public. Further, the Commission shall investigate practices, policies, and laws with respect to the treatment of families of victims of terrorist acts.

(b) Within 6 months of the date of this order, the Commission shall submit a report to the President, which shall be classified if necessary, containing findings and recommendations. If the Commission's report is classified, an unclassified version shall be prepared for public distribution.

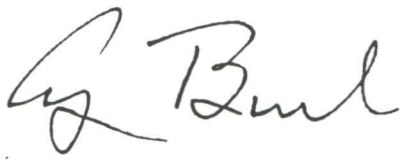
Sec. 3. Administration. (a) To the extent permitted by law and fully protecting intelligence sources and methods and the ongoing investigations into the destruction of Pan American World Airways Flight 103 of December 21, 1988, the heads of executive departments, agencies, and independent instrumentalities shall provide the Commission, upon request, with such information as it may require for purposes of carrying out its functions.

(b) Members of the Commission appointed from among private citizens may receive compensation for their work on the Commission at the daily rate specified for GS-18 of the General Schedule. While engaged in the work of the Commission, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707).

(c) To the extent permitted by law and subject to the availability of appropriations, the Department of Transportation shall, among other Administrative functions, provide the Commission with administrative services, funds, facilities, staff, and other support services necessary for the performance of its functions, and the Secretary of Transportation shall perform the functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), except that of reporting to the Congress, in accordance with the guidelines and procedures established by the Administrator of General Services.

(d) The Commission shall adhere to the requirements set forth in the Federal Advisory Committee Act, as amended. All executive branch officials assigned duties by the Federal Advisory Committee Act shall comply with its requirements with respect to this Commission.

Sec. 4. General Provision. The Commission shall terminate 30 days after submitting its report to the President.



THE WHITE HOUSE,

August 4, 1989.

THE WHITE HOUSE

WASHINGTON

February 2, 1990

MEMORANDUM FOR THE FILE

FROM: JAY S. BYBEE
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: President's Council of Advisors on Science and Technology

Karl Erb sent me the attached PCAST materials. I called him and told him that PCAST might face some criticism for (1) the adequacy of its notice; (2) the explanation for the lateness of the notice; (3) closing the entire meeting; and (4) the lack of an explanation for closing the meeting.

I have previously advised Erb and Michelle Van Cleave on these matters and had warned them that there were a number of legal obstacles to be overcome before OSTP could call a PCAST meeting for Camp David on February 3. I had given them fairly detailed instructions. They did not clear these latest materials with me.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20506

1/25/90

To Jay Bybee
Re PCAST Establishment

Jay the executive order was signed last friday (1/19) by the President.

Council members have not yet been named by the President.

We have filed the charter (attached) with GSA, & published the notice of Meeting (also attached)

Thanks for your help again

Karl Erb

1/25 called
K. Erb to generally say that this does not comply w/ FACA on several grounds:
attachments - for your files

§ 5101
adequacy of notice
explanation for notice
closing mtg, explanation for closing mtg.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20506

January 22, 1990

Office of the Federal Register
National Archives and Records Services
Washington, D. C. 20408

Please publish the enclosed notice in the Federal Register as soon as possible. It is requested that the notice be placed on file as of today.

We were unable to meet the 15-day notice requirement due to final determination as to whether or not portions of the meeting had to be closed and signing of the Executive Order.

Please telephone confirmation and publishing date to my office, 456-7740.

Best regards,

Barbara J. Diering

Barbara J. Diering
Special Assistant

Attachment

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY

NOTICE OF MEETING

The President's Council of Advisors on Science and Technology (PCAST) will meet on February 3, 1990 at Camp David, Maryland, from 10:30 a.m. until 1:30 p.m.

The purpose of the Council is to advise the President on matters involving science and technology.

Proposed Agenda:

1. Opening Remarks by the President.

2. Orientation of Members Concerning PCAST Functions and Operations.

3. Discussion of Selected Science and Technology Issues of National Importance.

4. Discussion of Panel Activities and Composition.

5. Discussion of Future Agenda.

The meeting will be closed to the public.

The meeting will include discussion of information that is classified in the interest of national defense or for foreign policy reasons. In addition, agenda items 2, 3, and 4 will involve discussions of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of recommendations made concerning agency action. A portion of the discussion of panel composition will involve the disclosure of information of a personal nature the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, the meeting will be closed to the public pursuant to 5 U. S. C. §552b.(c)(1), (2), (6), and (9)(B).

Barbara J. Diering
Barbara J. Diering
Committee Management Officer

January 22, 1990

BILLING CODE FY 1990
3170-01 OSTP

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

CHARTER

PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY

1. Committee's Official Designation:

President's Council of Advisors on Science and Technology (PCAST). The Council was established by Executive Order Number 12700, dated January 19,1990.

2. Objective and Scope of Activities and Duties:

- The purpose of the PCAST is to advise the President on all matters involving science and technology.
- In furtherance of this mission the PCAST shall conduct a continuing review and assessment of developments in science and technology and the chairman may invite panels of experts to investigate and report to the Council on specific issues of national importance.

3. Duration

The Council will have continuing responsibility for advising the President. The Council will terminate on June 30, 1991, unless sooner extended.

4. Official to Whom the Council Reports:

The PCAST will report to the President, through the Chairman of the Council.

5. Agency Responsible for Providing Necessary Support for this Council:

Office of Science and Technology Policy(OSTP).

6. Description of Duties:

The Duties of the Council are solely advisory and are stated in paragraph 2 above.

7. Costs:

The estimated annual operating cost of the Council is $375,000, including 2 man years of support staff activity.

8. Estimated Number and Frequency of Meetings:

The President's Council of Advisors on Science and Technology shall normally meet twelve times each year at regular intervals, and at such other times as may be called by the President or the Director, OSTP. In addition, 10-15 meetings each year by Panels are anticipated.

9. Panels:

Panels may be formed to conduct studies on specific issues assigned by the President or the Director, OSTP.

10. Members:

PCAST members shall be appointed by the President from the private sector. The PCAST shall consist of no more than 14 members and the Chairman. The Director, OSTP shall serve as Chairman of the Council, and the Vice Chairman shall be appointed by the President from the members of the Council.

The Council may utilize additional technical experts as needed to constitute its panels and study groups. These technical experts shall be appointed by the Chairman and shall serve at the pleasure of the Chairman.

This Charter for the Advisory Committee named above is hereby approved:

Signed: 

D. Allan Bromley

Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, and Chairman, President's Council of Advisors on Science and Technology.

Date signed: January 23, 1990

Date filed: January 24, 1990

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release February 2, 1990

SCIENCE AND TECHNOLOGY ACCOMPLISHMENTS
AND INITIATIVES OF THE BUSH ADMINISTRATION

FACT SHEET

The President announced today the appointment of the members of the President's Council of Advisors on Science and Technology (PCAST). This distinguished panel of scientists, engineers and industry leaders will provide high-level advice directly to the President on a wide range of important issues concerning science and technology.

Advances in science and technology are a key to increased economic competitiveness and improving our quality of life. The President's action today caps a year of vigorous activity by the Administration to advance science and technology issues on a broad front. The three broad areas of activity are summarized below:

I. Strengthening Federal Science and Technology Policy

II. Enhancing Federal Research and Development Activities

III. Encouraging Increased Private Sector Research and Development Investment

I. Strengthening Federal Science and Technology Policy

- o Establishing the National Space Council. -- The President issued an Executive Order on April 20, 1989, establishing the National Space Council, chaired by the Vice President. The Space Council provides advice and assistance to the President on space policy and strategy and monitors and coordinates the implementation of space policy among the civil, national security and commercial space sectors.

- o Establishing the Administration's Council on Competitiveness. -- The President established the Council on Competitiveness, chaired by the Vice President, to oversee regulatory and other competitiveness issues, such as reform of product

liability laws. A new Working Group will coordinate and review Administration policy and regulations, and will focus on enhancing applied research and on streamlining risk-based regulation of new biotechnology products to ensure safety and promote competitive economic development.

- o Upgrading the Status of the Science Advisor and Increasing the Budget for the Office of Science and Technology Policy. -- The President has raised the status of the Science Advisor to Assistant to the President for Science and Technology. The Science Advisor now participates in deliberations of the Cabinet and of the Domestic and Economic Policy Councils to ensure that science and technology issues are fully reflected in Administration policy development. In addition, the FY 1991 budget proposes $3.3 million for OSTP, double the FY 1989 level.

- o Strengthening the Federal Coordinating Council on Science, Engineering and Technology (FCCSET). -- The Science Advisor initiated action to improve the interagency coordination apparatus for science and technology by consolidating and enhancing the current FCCSET committee structure. Building on the successful experience of the FCCSET Committee on Earth Science, new committees will be formed to coordinate Federal efforts in education and human resource development, materials science, and others.

- o Reinvigorating the Council on Environmental Quality (CEQ). -- The President is committed to strengthening the CEQ and to ensuring that it has the capacity to serve as an effective source of environmental analysis and information in the White House. Accordingly, the President's FY 1991 budget increases CEQ's budget by 90 percent and CEQ's staff by 70 percent.

II. Enhancing Federal Research and Development Activities

A. Increased Investment in Federal R&D

- o The President has proposed a total of $71 billion for research and development (R&D), including R&D facilities, in his FY 1991 budget. This is an increase of $4.5 billion, or 7 percent, over FY 1990 enacted levels.

- o Civilian R&D will increase by 12 percent, and defense-related R&D will increase by 4 percent.

- The President has also proposed to allocate $12 billion for basic research, an increase of $1 billion, or 8 percent, over FY 1990. Basic research is an essential investment in the nation's scientific and technological future, including its future scientists and engineers.

B. Science and Technology Education

The President has moved aggressively to address the shortcomings in the nation's science and technology education enterprise. He has set goals for the nation's schools and students in science and math, and the FY 1991 budget will provide over $1 billion in direct spending in five agencies for science, mathematics and engineering education.

- National Science Foundation (NSF). -- NSF will allocate $463 million in FY 1991, a 30 percent increase over FY 1990, for a wide variety of education activities to improve the quality of teachers and students, the numbers of students choosing science, math, or engineering careers, and the numbers staying in those fields, particularly those in traditionally under-represented groups.

- Department of Education. -- The Department will continue to build on its strong relationships with State educational entities. The FY 1991 budget proposes $230 million, an increase of 69 percent, for the Dwight D. Eisenhower Mathematics and Science program, which provides funds to States to implement improved programs for teaching math and science. In addition, five million is requested for the new National Science Scholars program to recognize outstanding high school students by providing fellowship support for them to study in the fields of mathematics and science in college. The Department will also launch an initiative under its Upward Bound program to provide academic assistance and encouragement to help disadvantaged students pursue study in mathematics and science.

- National Aeronautics and Space Administration (NASA). -- NASA will allocate $51 million in FY 1991, an increase of 21 percent, for education activities including the "Spacemobile" program, teacher and student workshops and research experiences at NASA laboratories, and special efforts to increase minority participation in science and engineering.

- o Department of Energy (DOE). -- DOE will provide $25 million in FY 1991, a 47 percent increase, for educational activities including support for graduate and undergraduate students and high school and university faculty. DOE will implement a new program, in collaboration with the private sector, to train high school faculty in the state-of-the-art science and technology conducted at the DOE laboratories.

- o National Institutes of Health (NIH). -- The research training grant program will be funded at a level of $292 million, which will support almost 12,000 graduate trainees in research laboratories throughout the nation.

C. Doubling the Budget of the National Science Foundation

The President has maintained his strong commitment to the importance of basic research by proposing $2.4 billion in budget authority, a more than 14 percent increase, for the National Science Foundation in FY 1991. This will continue progress toward doubling the NSF budget by FY 1993.

- o World-Class Research Equipment. -- The President has also recognized that world-class science and technology requires world-class research equipment. He has supported the construction of a replacement for the important radiotelescope at Greenbank, West Virginia, and, for FY 1991, has proposed the initiation or continuation of several high-priority, specialized research facilities including the National High Magnetic Field Laboratory, the Laser Interferometer Gravitational Wave Observatory, and two 8-meter optical/infrared telescopes.

- o Academic Research Facilities Modernization. -- In addition to research support, the President will also continue the Academic Research Facilities modernization program begun by NSF in FY 1990. Continuing the program will increase management experience and permit evaluation of its impact on U.S. science and technology.

- o U.S. Antarctic Program. -- NSF manages the U.S. Antarctic Program for the government. This program supports national goals in the Antarctic and is the principal expression of the U.S. presence on the Antarctic continent. The FY 1991

budget will expand an important environmental, safety, and health initiative in the Antarctic to ensure that this world scientific resource is preserved and that the safety and health of scientists working on the continent are assured.

D. Understanding and Exploring Space

The President is committed to a continuing, active and exciting American presence in space -- indeed, to America's leadership in space science and exploration. Overall, the FY 1991 budget proposes $15.2 billion for NASA, an increase of $2.9 billion, or 24 percent. NASA's budget has increased by almost 40 percent over FY 1989.

- o Space Shuttle. -- The current fleet of three Space Shuttles are the world's most versatile launch vehicles. In FY 1989, the Space Shuttle fleet completed four successful flights. The Space Shuttle Columbia recently accomplished the spectacular retrieval of the Long Duration Exposure Facility. The FY 1991 budget proposes $4.2 billion, an increase of 22 percent, for Space Shuttle production and operations. This funding will allow for a safe build-up to 10 Shuttle flights, the delivery of the fourth Shuttle, Endeavor, and enhancements such as the Advanced Solid Rocket Motor and the Extended Duration Orbiter capability.

- o Space Station Freedom. -- Space Station Freedom is the largest international R&D project ever undertaken. In FY 1989, the program underwent a reevaluation that has resulted in a more achievable program and funding profile. The FY 1991 budget continues the President's commitment to the Space Station by proposing a total of $2.6 billion, an increase of 36 percent. This will provide for the critical transition from design to actual fabrication.

- o Moon/Mars Exploration. -- On July 20, 1989, the President proposed that America undertake an ambitious mission of manned exploration of the solar system. This journey will begin with the first step in the FY 1991 budget towards this new goal -- nearly $1.3 billion, an increase of 47 percent -- to support robotic science missions and to develop the pacing and innovative technologies that will be needed. Of particular interest is the continued commitment of the Administration to

the National Aerospace Plane (NASP) program. In FY 1989 the National Space Council reviewed and revised this program in keeping with a more stable and sustainable pace of technology and funding.

- o Space Science and Applications. -- The U.S. is committed to maintaining its world leadership in space science. An exciting new era of discovery has now begun in unmanned planetary exploration, astronomy, and Earth observations. In 1989, three important scientific missions were launched: Magellan to Venus, Galileo to Jupiter, and the Cosmic Background Explorer. The FY 1991 budget proposes $3.3 billion, an increase of 22 percent, for the continued support of missions planned for launch in 1990 including the Hubble Space Telescope, the Gamma Ray Observatory, and the Ulysses mission to explore the Sun, and development of future missions such as the Comet Rendezvous/Asteroid Flyby and the Cassini mission to Saturn.

E. Global Environmental Change

- o U.S. Global Change Research Program (USGCRP). -- The U.S. is the world leader in global change research. The President has endorsed the USGCRP, a coordinated, multi-agency research program of space- and ground-based research and observations designed to provide a sound scientific basis for rational policy decisionmaking on global change issues. The FY 1991 budget proposes over $1 billion for this effort, an increase of 57 percent.

- o Mission to Planet Earth (MTPE). -- On July 20, the President also affirmed the importance of NASA's contribution to the USGCRP, Mission to Planet Earth. The largest part of this initiative consists of a major new program for FY 1991, the Earth Observing System, a series of space platforms and instruments developed by the U.S., Europe and Japan, which will collect a broad spectrum of environmental data related to global warming, drought, oceans, etc. MTPE will permit, for the first time, an analysis of Earth as an integrated system.

- o International Activities. -- The President believes that continuing U.S. scientific leadership is needed to address global environmental issues. In the past year, the

President announced U.S. support for a worldwide phaseout of chloroflurocarbon (CFC) production to the extent safe substitutes are available. In 1990, the U.S. will host the Plenary Session of the Intergovernmental Panel on Climate Change (IPCC) in February; a meeting of the world's economic, scientific, and environmental officials to discuss global environmental issues in the Spring; and the first negotiation session on the Framework Convention on Climate Change in late Fall.

F. Environment

- o Clean Air Act. -- The President demonstrated his commitment to clean air by transmitting Clean Air Act Amendments to Congress in July 1989. The President's plan allows for both environmental protection and economic development and is based on a commitment to using the best science available. In support of his Clean Air proposals, the FY 1991 air research budget of the Environmental Protection Agency will increase by $8 million to a total of $95 million.

G. The Superconducting Super Collider and High Energy Physics

- o The Superconducting Super Collider (SSC). -- The SSC will provide an enormous advance in the capability to explore the secrets of matter and energy. Over the past year, the Department of Energy has established the SSC laboratory at a site near Dallas, Texas. The new laboratory team is conducting a thorough reevaluation of all technical systems with particular attention to magnet design and technical performance of the accelerator. In FY 1989, research continued on the design and testing of magnets. Approximately 8,000 magnets will be used in the 53-mile SSC tunnel. In addition, during FY 1989, DOE continued work on the site-specific Environmental Impact Statement (EIS). The EIS is necessary before DOE makes a decision on the "footprint" of the SSC and starts acquiring land for the project.

- o High Energy and Nuclear Physics. -- The President supports a robust program of research in the areas of high-energy and nuclear physics, which offer the prospects of increasing our knowledge of the basic constituents of matter. Last year,

scientists discovered and conducted measurements of the Z-nought particle utilizing the recently upgraded Stanford Linear Collider. The Z-nought particle is important because it transmits one of the basic forces between elementary particles. The FY 1991 budget provides a funding increase of 8 percent to continue research at Stanford and the three other large accelerator centers: the Brookhaven National Laboratory on Long Island, the Cornell Electron Storage Ring in New York State, and the Fermilab National Laboratory.

H. Life Sciences

- o Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS). -- The Administration remains committed to making continued progress against HIV and AIDS. Five therapies have been approved for use, and since January 1989 over 35 clinical trials have been initiated in a search for additional therapeutic drugs. The Administration has recently taken action to enable State Medicaid programs to cover the costs of the drug AZT for HIV-infected individuals who do not yet exhibit AIDS symptoms. The FY 1991 budget proposes $3.5 billion in total for HIV/AIDS research, treatment, prevention and income support, an increase of 18 percent.

- o Human Genome Project. -- The evolution of genetic engineering techniques over the last decade has enabled the initiation of one of the most exciting science projects ever undertaken -- the development of a map of the full complement of human genetic material (the human genome). Such an undertaking will vastly increase our understanding of the nature and cause of many diseases. Over the past year, important advances have already been made, such as the identification of the gene that accounts for a large proportion of all cystic fibrosis cases. The FY 1991 budget proposes $108 million for the National Institutes of Health and $46 million for the Department of Energy to pursue collaboratively this important project.

- o Biotechnology. -- Recent breakthroughs in biotechnology, such as recombinant DNA techniques, cell fusion and gene therapy, offer unprecedented opportunities for improving the nation's productivity, health, and well-being. Increasing Federal investment in basic biotechnology research

will spur further advances, as will initiatives that improve payoffs on investments. The FY 1991 budget proposes $3.6 billion for biotechnology R&D, an increase of 6 percent over 1990.

- o Agricultural Research Initiative. -- American farmers are among the most productive in the world. New techniques in genetics, molecular and cell biology have led to innovative approaches that will enhance our ability to produce food, while addressing concerns of safety, nutrition and the environment. The FY 1991 budget will launch a National Research Initiative to more than double the size of USDA's competitive grants program. This will expand funds for plant and animal biotechnology to $50 million, with a particular emphasis on mapping the genome of important crop plants. Like the Human Genome Initiative, this effort will create new opportunities to explore the genetic potential of plants.

I. Energy

- o National Energy Strategy. -- The President has directed Secretary of Energy Watkins to develop a National Energy Strategy to guide the Administration's energy policies and programs. The Department has held two rounds of public hearings and plans to issue a draft document in April. A key element of the strategy will be a blueprint for future energy R&D programs and activities.

- o Clean Coal Technology. -- The Administration is committed to a $2.5 billion program to demonstrate emerging clean coal technologies. This program will provide additional cost-effective alternatives for reducing acid rain.

- o Solar/Renewables and Energy Conservation R&D. -- The President is committed to assisting the development of emerging technologies that offer the potential to provide new sources of energy as well as new ways to use it more efficiently, while protecting the environment. On January 26, 1990, the Department of Energy announced a new 11-point initiative in this area. The FY 1991 budget provides an increase of 8 percent in funding for conservation, solar and other renewable energy technology R&D.

- o Enhanced Oil and Gas Recovery Research. -- Up to two-thirds of oil and gas reserves are still left in the ground with conventional recovery techniques. In order to stimulate the use of new technologies to increase production from these existing fields, the President proposed four new tax initiatives, including a 10 percent credit for new tertiary enhanced recovery projects. In addition, the FY 1991 budget proposes $17 million to establish oil and gas geosciences research consortia with industry and universities to advance the science underlying oil and gas recovery.

J. Advanced Technology

- o National Institute of Standards and Technology (NIST). -- The FY 1991 budget proposes $198 million for NIST, a 21 percent increase over the 1990 enacted level, and includes substantial increases for core NIST research programs such as robotics, lightwave technology, quality chemical measurements, and advanced semiconductor measurement. NIST research programs form the basis for the development of the measurements and standards on which U.S. industries depend. The FY 1991 budget also includes increased funding for improvements to NIST facilities. In addition, the budget includes funding for two programs to encourage the development and transfer to the private sector of a wide range of advanced technologies.

  - -- Manufacturing Technology Centers. -- The budget proposes to continue funding for these centers, requesting $5 million in FY 1991. This program provides matching grants to universities or non-profit organizations to establish centers for the transfer of innovative, advanced manufacturing technology to small and medium-sized businesses.

  - -- Advanced Technology Program (ATP). -- The budget requests $10 million in FY 1991, the 1990 funding level, for this program. The ATP will provide seed money to industry-led consortia doing generic, pre-competitive research into promising technologies.

- o Magnetic Levitation Transportation. -- The FY 1991 budget proposes nearly $10 million for R&D on this

emerging technology, an increase of almost 400 percent. These efforts are being carried out by both the Department of Transportation (about $6 million) and the Army Corps of Engineers (almost $4 million). Each agency is pursuing a public-private partnership designed to facilitate private development of an operational maglev system in the U.S.

K. National Security

- o DOD Technology Base. -- The President supports a strong technology base to develop options for future weapons systems and to guard against technological surprise by adversaries. The FY 1991 budget includes $3.4 billion for the technology base (basic and applied research) funded through the Department of Defense. This will support programs ranging from basic research in the physical sciences to development of high-speed semiconductors for use in advanced communications systems and computers.

- o Strategic Defense Initiative (SDI). -- The SDI program remains a high priority of the President. The FY 1991 budget requests $4.5 billion for SDI, an increase of $0.9 billion over 1990. The SDI program is developing options for strategic defenses based on advanced technologies. Particular emphasis is being placed on promising new concepts such as the "Brilliant Pebbles" small space-based interceptor missiles.

III. Encouraging Increased Private Sector R&D Investment

Private sector investment accounts for about 50 percent of the total national investment in R&D. In addition, the private sector is the principal performer for R&D and is ultimately responsible for transforming R&D results into useful new products and processes. The Administration has taken a number of steps to encourage increased private sector R&D investment and technological innovation.

- o Encouraging Savings and Investment. -- The President is proposing the Family Savings Account to stimulate increased savings that provide the resources needed for investments in the future. In addition, the President is proposing to lower the tax on capital gains in order to promote increased entrepreneurial activity and investment.

- Research and Experimentation Tax Credit. -- The President again proposes to make permanent the 20 percent tax credit targeted specifically to research and experimentation (R&E) by allowing 100 percent of total research expenses to be used for the computation of the credit for all years after December 31, 1989. In 1989, the Congress enacted a short-term extension in response to the President's proposal of last February.

- Encouraging R&D by Transnational Companies. -- The President proposes to make permanent the rules, as modified by the Omnibus Budget Reconciliation Act of 1989, for the allocation of foreign and domestic R&E expenditures for companies with foreign operations. The proposal would also allow 100 percent of U.S. expenditures to be covered rather than the current 75 percent. This proposal would apply to all tax years beginning after August 1, 1990, when the current rules expire.

- Intellectual Property. -- The President is committed to pursuing aggressively improved international protection of intellectual property. The current negotiations in the Uruguay Round of the General Agreement on Tariffs and Trade are an important forum for this activity.

- Tort Reform/New Product Liability. -- The Administration has endorsed changes in product liability laws to help restore balance to the tort system, to increase competitiveness, and to reduce uncertainty, particularly for new products, while providing incentives to produce safe products.

# # #

THE WHITE HOUSE

Office of the Press Secretary
(Knoxville, Tennessee)

For Immediate Release February 2, 1990

The President today announced the appointment of the President's Council of Advisers on Science and Technology (PCAST), comprised of 12 distinguished scientists and engineers. This panel will provide high-level advice directly to the President on a wide range of important issues concerning science and technology.

PCAST will be the first Presidential scientific advisory group in many years to report directly to the President. Its establishment is a measure of the Bush Administration's high esteem for science and a recognition that advances in science and technology contribute in a major way to increased economic competitiveness. It also reflects the President's desire to strengthen Federal science and technology policy, enhance Federal research and development activities, and encourage private sector involvement in research and development.

The United States scientific community leads the world in creating new knowledge. Through PCAST, the President is seeking to provide the best obtainable private sector advice to Executive Branch decision-making in science and technology.

PCAST will be chaired by Dr. D. Allan Bromley, Assistant to the President for Science and Technology. A list of the members and their affiliations is attached, along with a fact sheet on science and technology accomplishments in the Bush Administration.

PCAST was established January 19, 1990, by Executive Order 12700. Its members will be sworn in later today by the Vice President at the White House.

-more-

NORMAN E. BORLAUG

Nobel Laureate Borlaug, of Texas, is currently leader of the Sasakawa-Global-2000 agricultural program in sub-Saharan Africa, Distinguished Professor of International Agriculture at Texas A&M University, and a Senior Consultant to CIMMYT. He was Director of the Wheat Research and Production Program of the International Maize and Wheat Improvement Center, Mexico, from 1964 until his retirement in 1979.

Dr. Borlaug's career began in 1935 in the U.S. Forest Service, and he subsequently worked as an instructor in plant pathology at the University of Minnesota in 1941, where he received his Ph.D. From 1942 through 1944 he was a microbiologist with the E. I. DuPont de Nemours & Co.. He also served as research scientist in charge of wheat improvement with the Cooperative Mexican Agricultural Program, Mexican Ministry of Agriculture and the Rockefeller Foundation, 1944-60, and later, as Associate Director of the Foundation assigned to the Inter-American Food Crop Program, 1960-63.

D. ALLAN BROMLEY, CHAIRMAN

D. Allan Bromley, of Connecticut, is Assistant to the President for Science and Technology and Director of the Office of Science and Technology Policy (OSTP).

Dr. Bromley carried out pioneering studies on both the structure and dynamics of nuclei and is considered the father of modern heavy ion science. He has played major roles in the development of accelerators, of detection systems, and in computer based data acquisition and analysis systems. He is currently on leave from his position as Henry Ford II Professor of Physics at Yale University, where he was founder and Director of the A.W. Wright Nuclear Structure Laboratory.

Dr. Bromley has been a leader in the national and international science and science policy communities for more than 20 years, serving as a member of the White House Science Council throughout the Reagan Administration and as a member of the National Science Board in 1988-89. He received the President's National Medal of Science in 1988 and the Presidential Medal of the New York Academy of Sciences in 1989. He has served as President of the American Association for the Advancement of Science and of the International Union of Pure and Applied Physics.

Dr. Bromley received the B.Sc. degree in 1948 at Queen's University, Canada, the M.Sc. degree from Queen's University in 1950, and the Ph.D. degree in nuclear physics from the University of Rochester in 1952. He has since been awarded 10 honorary doctorates.

SOLOMON J. BUCHSBAUM

Solomon J. Buchsbaum, of New Jersey, has been Senior Vice President, Technology Systems, at AT&T Bell Laboratories since 1979. His early career included work at the MIT Research Laboratory of Electronics. He received his Ph.D. in physics from MIT in 1957. He joined Bell Laboratories in 1958 as a member of the technical staff and later became department head and director of the Electronics Research Laboratory. In 1968, he was named Vice President for Research at the Sandia Laboratories and served in a number of different capacities. He returned to Bell Laboratories in 1971 as an Executive Director. In 1976 he became Vice President, Network Planning and Customer Systems.

Dr. Buchsbaum is a member of the National Academy of Sciences and of the National Academy of Engineering. He was the recipient of the President's National Medal of Science in 1986.

CHARLES L. DRAKE

Charles L. Drake, of Vermont, has been the Albert Bradley Professor of Earth Sciences at Dartmouth since 1984 and Professor of Geology since 1969. Dr. Drake's professional career began at Columbia University in 1953. He joined the staff at Dartmouth in 1958 after receiving his Ph.D. in geology from Columbia University where he has continued his career, including service as Professor and Chairman of the Department, 1967-69; as Dean of Graduate Studies and as Associate Dean of the Science Department, 1978-81.

Dr. Drake is a recipient of the G. P. Woollard Award, Geophysical Division of the Geological Society of America.

RALPH E. GOMORY

Ralph E. Gomory, of New York, is President of the Sloan Foundation and, until his recent retirement, was Senior Vice President for Science and Technology, IBM Corporation. He received his Ph.D. in mathematics from Princeton in 1954.

Dr. Gomory's professional experience includes teaching and research at Princeton from 1957-59. In 1959, he joined the Research Division of IBM and was named Director of the Mathematical Sciences Department in 1965. In 1970 he became IBM Director of Research and held that position until 1985, becoming IBM Vice President in 1973, Senior Vice President in 1985, and IBM Senior Vice President for Science and Technology in 1986. He has been awarded a number of honorary degrees and prizes, including the John von Neumann Theory Prize in 1984 and the National Medal of Science in 1988.

BERNADINE HEALY, VICE CHAIRMAN

Bernadine Healy, of Ohio, is Chairman of the Research Institute of The Cleveland Clinic Foundation, a position she assumed in 1985, and is a staff member of the Clinic's Department of Cardiology. Prior to that time, she was Deputy Director of the Office of Science and Technology Policy at the White House, and until that appointment had been a Professor at The Johns Hopkins University School of Medicine and Hospital. Dr. Healy received her medical degree from Harvard Medical School in 1970. Her medical career continued at Johns Hopkins from 1976 to 1984, where she was Professor of Cardiology and Medicine, Director of the Coronary Care Unit, and Assistant Dean for Postdoctoral Programs and Faculty Development.

Dr. Healy is a member of the Institute of Medicine of the National Academy of Sciences. She is the immediate Past President of the American Heart Association and a former President of the American Federation for Clinical Research.

PETER W. LIKINS

Peter W. Likins, of Pennsylvania, has been President of Lehigh University since 1982. His professional career began as a development engineer with the Jet Propulsion Laboratory, California Institute of Technology, in 1958. In 1964 he joined the faculty at the University of California, Los Angeles, where he became Professor of Engineering and later, Associate Dean. Dr. Likins received his Ph.D. in engineering mechanics from Stanford in 1965. In 1976 he became Professor and Dean of Columbia University, serving until 1980, when he became Provost of the University.

THOMAS E. LOVEJOY

Thomas E. Lovejoy, of Virginia, is the Assistant Secretary for External Affairs, The Smithsonian Institution. His previous experience includes service as a research assistant at the University of Pennsylvania, 1971-74, after receiving his Ph.D. in biology from Yale University in 1971; as Executive Assistant to the Science Director and as Assistant to the Vice President for Resources and Planning of the Academy of Natural Sciences, 1972-73; as the Vice President for Science of the World Wildlife Fund-U.S., 1973-87; and as Executive Vice President, 1985-89.

Dr. Lovejoy is President of the Society for Conservation Biology.

WALTER E. MASSEY

Walter E. Massey, of Illinois, has been the Vice President of the University of Chicago for Research and for Argonne National Laboratory since 1984. He has also been Professor of Physics at the University since 1979.

Dr. Massey previously served as a physics instructor at Morehouse College, 1958-59; and after receiving his Ph.D. in physics from Washington University in 1966, as a staff physicist with the Argonne National Laboratory until 1968; as Assistant Professor of Physics, University of Illinois, Urbana, 1968-70; Associate Professor of Physics and Dean of the College, Brown University, 1975-79. He is Vice President, and President-elect, of the American Physical Society and is the Past President and Chairman of the American Association for the Advancement of Science.

JOHN P. MCTAGUE

John P. McTague, of Michigan, is Vice President-Research, Ford Motor Company, and has served in that position since 1986.

In 1983 Dr. McTague was appointed Deputy Director of the Office of Science and Technology Policy, becoming Acting Science Advisor to the President and Acting Director of OSTP in 1986. Prior to that, he was Chairman of the National Synchrotron Light Source Department, Brookhaven National Laboratory, 1982-83. He was Professor of Chemistry and a member of the Institute of Geophysics and Planetary Physics, University of California, Los Angeles, 1970-82. Dr. McTague began his professional career as a member of the Technical Staff, North American Aviation Science Center, on receiving his Ph.D. in physical chemistry from Boston University, and remained there until 1970. He is U.S. Chairman of the U.S. Japan Joint High Level Advisory Panel on Cooperation in Research and Development in Science and Technology.

DANIEL NATHANS

Nobel Laureate Nathans, of Maryland, is Professor of Molecular Biology and Genetics at The Johns Hopkins University Medical School and Senior Investigator of the Howard Hughes Medical Institute. He has been on the faculty of The Johns Hopkins University Medical School since 1962.

After receiving his Medical Degree from Washington University in 1954, he served as Medical Resident at the Columbia-Presbyterian Medical Center in New York, 1955, 1957-59; as Clinical Associate at the National Cancer Institute, 1955-57, and Guest Investigator in biochemistry at the Rockefeller University, 1959-62.

Dr. Nathans received the Nobel Prize in Physiology or Medicine in 1978 for his research with enzymes that cut DNA into specific pieces, one of the basic tools of genetic engineering.

DAVID PACKARD

David Packard, of California, has been Chairman of the Board of the Hewlett-Packard Co. since 1972. Mr. Packard received his B.A. and B.S.E.E. degrees from Stanford University in 1934 and 1939, respectively.

His professional experience includes service as an engineer with the Vacuum Tube Engineering Department, GE Co., 1936-38; co-founder and partner, the Hewlett-Packard Co., 1939-47; President, 1947-64; and Chairman and Chief Executive Officer, 1964-69. Prior to his present position, Mr. Packard served as U.S. Deputy Secretary of Defense from 1969-71.

Mr. Packard received the Vannevar Bush Award of the National Science Board in 1987 and the President's National Medal of Technology and the Presidential Medal of Freedom in 1988.

HAROLD T. SHAPIRO

Harold T. Shapiro, of New Jersey, has been President of Princeton University since 1988.

Dr. Shapiro's previous academic experience has been with the University of Michigan, after receiving his Ph.D. in economics from Princeton in 1964, first as an Assistant Professor of Economics. His career progressed from Associate Professor, 1967-70; Professor, 1970-76; Chairman of the Department of Economics, 1974-77; Professor of Economics and Public Policy, 1977; Vice President for Academic Affairs, 1977-79.

Dr. Shapiro was President of the University of Michigan from 1980 until 1987. He has served as a member of many industrial, governmental and academic boards and commissions.

# # #

EXECUTIVE ORDER

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PRESIDENT'S COUNCIL OF ADVISORS ON SCIENCE AND TECHNOLOGY

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), an advisory committee on science and technology, it is hereby ordered as follows:

Section 1. Establishment. There is established the President's Council of Advisors on Science and Technology ("Council"). The Council shall be composed of not more than 15 members, 14 of whom shall be distinguished individuals from the private sector to be appointed by the President. The Director of the Office of Science and Technology Policy shall serve as Chairman of the Council. The Vice-Chairman shall be appointed by the President from among the 14 private sector members. The Chairman shall report directly to the President.

Sec. 2. Functions. (a) The Council shall advise the President on matters involving all areas of science and technology.

(b) In the performance of its advisory duties the Council shall conduct a continuing review and assessment of developments in science and technology, and shall, through the Chairman, report thereon to the President whenever requested.

(c) The Chairman may, from time to time, invite panels of experts to investigate and report to the Council on specific issues of national consequence.

Sec. 3. Administration. The heads of Executive agencies shall, to the extent permitted by law, provide the

Council and its panels such information with respect to scientific and technological matters as required for the purpose of carrying out its functions.

(b) Members of the Council shall serve without any compensation for their work on the Council. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701-5707).

(c) Any expenses of the Council shall be paid from the funds available for the expenses of the Office of Science and Technology Policy.

(d) The Office of Administration shall, on a reimbursable basis, provide such administrative services as may be required.

Sec. 4. General. Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Council, shall be performed by the Office of Administration in accord with the guidelines and procedures established by the Administrator of General Services.

(b) The Committee shall terminate on June 30, 1991, unless sooner extended.

THE WHITE HOUSE,

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

August 21, 1989

MEMORANDUM FOR THE PRESIDENT

FROM: Richard G. Darman
Director

SUBJECT: Proposed Executive Order Entitled "President's Council of Advisors on Science and Technology"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order, prepared by the Office of Science and Technology Policy, that would establish a council to advise you on matters involving all areas of science and technology.

BACKGROUND: On February 9, 1989, you announced your intention to create, as soon as feasible, an advisory council of distinguished individuals to advise you on issues and topics involving science and technology. The proposed Executive order would implement your decision by establishing the "President's Council of Advisors on Science and Technology" ("Council").

The Council would be composed of not more than 15 members, 14 of whom would be distinguished individuals appointed by you from the private sector. The Director of the Office of Science and Technology Policy would serve as Chairman of the Council, and the Vice-Chairman would be appointed by you from among the 14 private sector members.

The Council would advise you on matters involving all areas of science and technology. It would conduct a continuing review and assessment of developments in science and technology and would invite panels of experts to investigate and report to the Council on specific issues of national consequence.

None of the affected agencies objects to the proposed Executive order.

RECOMMENDATION: I recommend that you sign the attached Executive order.

Attachment

Karl Erb
Michelle Van Cleave

U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

August 30, 1989

MEMORANDUM

Re: Proposed Executive Order entitled
"President's Council of Advisors
on Science and Technology

The attached proposed Executive Order has been submitted by the Office of Science and Technology Policy in the Executive Office of the President. The Office of Management and Budget, with the approval of the Director, has forwarded it to this Department for review of its form and legality.

The proposed Order will establish a council to advise the President on matters involving all areas of science and technology. The council, which would be composed of the Director of the Office of Science and Technology and no more than fourteen individuals from the private sector, would conduct a continuing review and assessment of developments in science and technology and would invite panels of experts to report to the council on specific issues of national consequence.

The proposed Order is acceptable with respect to its form and legality.

William P. Barr
Assistant Attorney General
Office of Legal Counsel

U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

August 30, 1989

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed Executive Order entitled "President's Council of Advisors on Science and Technology." This proposed Executive Order has been submitted by the Office of Science and Technology Policy in the Executive Office of the President. The Office of Management and Budget, with the approval of the Director, has forwarded it to this Department for review of its form and legality.

The proposed Executive Order is approved with respect to form and legality.

Respectfully,

William P. Barr
Assistant Attorney General
Office of Legal Counsel

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

August 21, 1989

Honorable Dick Thornburgh
United States Attorney General
Washington, D.C. 20503

Dear Mr. Attorney General:

Enclosed, in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive order entitled "President's Council of Advisors on Science and Technology." The proposed Executive order, which was prepared by the Office of Science and Technology Policy in the Executive Office of the President, would establish a council to advise the President on matters involving all areas of science and technology.

On February 9, 1989, the President announced his intention to create, as soon as feasible, an advisory committee of distinguished individuals that would advise him on issues and topics involving science and technology. The proposed Executive order would implement his decision by establishing the "President's Council of Advisors on Science and Technology" ("Council").

The Council would be composed of not more than 15 members, 14 of whom would be distinguished individuals appointed by the President from the private sector. The Director of the Office of Science and Technology Policy would serve as Chairman of the Council, and the Vice-Chairman would be appointed by the President from among the 14 private sector members.

The Council would advise the President on matters involving all areas of science and technology. It would conduct a continuing review and assessment of developments in science and technology and would invite panels of experts to investigate and report to the Council on specific issues of national consequence.

Your staff may direct any questions concerning this proposed Executive order to Mr. Mac Reed of this office (395-5600).

This proposed Executive order has the approval of the Director of the Office of Management and Budget.

Sincerely,

Robert G. Damus

Robert G. Damus
Acting General Counsel

Enclosures

THE WHITE HOUSE

WASHINGTON

January 10, 1990

MEMORANDUM FOR MICHELLE VAN CLEAVE
ASSOCIATE DIRECTOR FOR INDUSTRIAL TECHNOLOGY
OFFICE OF SCIENCE AND TECHNOLOGY POLICY

FROM: JAY S. BYBEE jsb
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Requirements for Convening and Closing a Meeting Under the Federal Advisory Committee Act

You have requested background information on what steps need to be taken in order to convene a meeting under the Federal Advisory Committee Act ("FACA"), 5 U.S.C. Appdx 2. You have also asked under what conditions a meeting, or some portion of a meeting, can be closed to the public. The basic requirements of FACA are found in 5 U.S.C. (Appdx 2) 9-10 and have been amplified in regulations of the General Services Administration, 41 C.F.R. 101-6.10 et seq. (a copy of the relevant laws is attached):

1. No advisory committee may meet or take any action until a charter has been filed with the Administrator of the General Services Administration and a copy of the charter filed with the Library of Congress. GSA's regulations provide that the charter should be filed with the Committee Management Secretariat. I have dealt with Chuck Houghton (523-1343) at GSA and found him to knowledgeable and very cooperative.

2. The charter must contain the following information:

(a) the committee's official designation;
(b) the committee's objectives and the scope of its activity;
(c) the period of time necessary for the committee to carry out its purposes;
(d) the agency or official to whom the committee reports;
(e) the agency responsible for providing the necessary support for the committee;
(f) a description of the committee's duties;
(g) an estimate of the annual operating costs in both dollars and man-years for the committee;
(h) the estimated number and frequency of committee meetings;

(i) the committee's termination date; and
(j) the date the charter is filed.

3. In addition, FACA requires that each advisory committee meeting shall be open to the public. By regulation, GSA has stated that this means that meetings must be held at a reasonable time and place and in a room of sufficient size to accommodate the committee and members of the public. It also means that the committee will receive written statements. The committee may also decide to permit members of the public to speak.

4. Advance written notice of the meeting must be provided, unless the committee explains in its notice the "exceptional circumstances" that prevent timely notice. GSA regulations specify 15 working days notice and publication in the Federal Register.

5. An advisory committee meeting may be closed under certain circumstances. If the President determines that some portion of the meeting falls within the exceptions set forth in the Government in the Sunshine Act, 5 U.S.C. 552b, then that portion of the meeting may be closed. GSA regulations state that in the case of a Presidential advisory committee, the committee must submit a written request to the Administrator of GSA, citing the specific reasons for closing the meeting. GSA reviews that request and if it agrees, then the meeting may be closed. The committee chairman must make a copy of the GSA decision available to the public and explain in the notice of the meeting in the Federal Register why some portion of the meeting is to be closed.

6. Under the Government in the Sunshine Act, 5 U.S.C. 552b(c), in order for the advisory committee to close a meeting, the information that will be discussed must be likely to (please note that this list represents a summary and not a detailed account):

(a) disclose classified matters;
(b) relate solely to the internal personnel rules and practices of an agency;
(c) disclose matters that Congress has elsewhere exempted from disclosure;
(d) disclose trade secrets and commercial or financial information that is considered privileged or confidential;
(e) involve accusing a person of a crime;
(f) disclose personal information that constitutes an unwarranted invasion of personal privacy;
(g) disclose certain investigatory records compiled for law enforcement procedures
(h) disclose information related to agencies responsible for the regulation of financial institutions;

(i) disclose prematurely information that would frustrate a proposed agency action or would lead to financial speculation; or
(j) relate to the issuance of a subpoena or the agency's participation in litigation.

This is an outline of the steps that must be taken before any committee meeting may be held. FACA sets forth other requirements for keeping minutes, filing reports, and amending charters. Please contact us if we can provide further guidance. As I mentioned on the phone, I will be happy to work with you on the filing of a charter.

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March 18, 1980, I established a Nuclear
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JIMMY CARTER

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JIMMY CARTER

APPENDIX 2

FEDERAL ADVISORY COMMITTEE ACT

Pub.L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended Pub.L. 94–409, § 5(c), Sept. 13, 1976, 90 Stat. 1247; 1977 Reorg. Plan No. 1, § 5F, 42 F.R. 56101, 91 Stat. 1634; Pub.L. 96–523, § 2, Dec. 12, 1980, 94 Stat. 3040; Pub.L. 97–375, Title II, § 201(c), Dec. 21, 1982, 96 Stat. 1822.

Sec.

1. Short title.
2. Findings and purpose.
3. Definitions.
4. Applicability; restrictions.
5. Responsibilities of Congressional committees; review; guidelines.
6. Responsibilities of the President; report to Congress; annual report to Congress; exclusion.
7. Responsibilities of the Director, Office of Management and Budget; Committee Management Secretariat, establishment; review; recommendations to President and Congress; agency cooperation; performance guidelines; uniform pay guidelines; travel expenses; expense recommendations.
8. Responsibilities of agency heads; Advisory Committee Management Officer, designation.
9. Establishment and purpose of advisory committees; publication in Federal Register; charter; filing; contents; copy.
10. Advisory committee procedures; meetings; notice; publication in Federal Register; regulations; minutes; certification; annual report; Federal officer or employee, attendance.
11. Availability of transcripts; "agency proceeding".
12. Fiscal and administrative provisions; record-keeping; audit; agency support services.
13. Responsibilities of Library of Congress; reports and background papers; depository.
14. Termination of advisory committees; renewal; continuation.
15. Effective date.

Law Review Commentaries

Advisers and secrets: The role of agency confidentiality in the Federal Advisory Committee Act. James T. O'Reilly, 13 N.Ky.L.Rev. 27 (1986).

§ 1. Short title

This Act may be cited as the "Federal Advisory Committee Act".

Cross References

Pacific Salmon Commission, this Act not applicable to consultations by Commissioners and Panel members, see section 3632(h) of Title 16, Conservation.

Notes of Decisions

1. **Disclosure of membership**

This Act requires that the names of members of the Humanities Panel of the National Endowment for the Humanities be made available to the public by subgroup, but does not require that such disclosure occur until after the particular subgroup's work has been completed. 1980 (Counsel-Inf. Op.) 4B Op.O.L.C. 743.

§ 2. Findings and purpose

(a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

(b) The Congress further finds and declares that—

(1) the need for many existing advisory committees has not been adequately reviewed;

(2) new advisory committees should be established only when they are determined to be essential and their number should be kept to the minimum necessary;

(3) advisory committees should be terminated when they are no longer carrying out the purposes for which they were established.

(4) standards and uniform procedures should govern the establishment, operation, administration, and duration of advisory committees.

(5) the Congress and the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees; and

(6) the function of advisory committees should be advisory only, and that all matters under their consideration should be determined, in accordance with law, by the official, agency, or officer involved.

EXECUTIVE ORDER NO. 11686

Ex.Ord. No. 11686, Oct. 7, 1972, 37 F.R. 21421, set out as a note under this section, which related to committee management, was superseded by Ex.Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, set out as a note under this section.

EXECUTIVE ORDER NO. 11769

Ex.Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, formerly set out as a note under this section, which related to committee management, was revoked by Ex.Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, set out as a note under this section.

EXECUTIVE ORDER NO. 12024

Dec. 1, 1977, 42 F.R. 61445

TRANSFER OF CERTAIN ADVISORY COMMITTEE FUNCTIONS

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I) [this Appendix], Section 301 of Title 3 of the United States Code [section 301 of Title 3, The President], Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [section 581c of Title 31, Money and Finance], and Section 7 of Reorganization Plan No. 1 of 1977 (42 FR 56101 (October 21, 1977)) [set out in Appendix II of this title], and as President of the United States of America, in accord with the transfer of advisory committee functions from the Office of Management and Budget to the General Services Administration provided by Reorganization Plan No. 1 of 1977 [set out in Appendix II of this title], it is hereby ordered as follows:

Section 1. The transfer, provided by Section 5F of Reorganization Plan No. 1 of 1977 (42 FR 56101) [set out in Appendix II of this title], of certain functions under the Federal Advisory Committee Act, as amended (5 U.S.C.App. I) [this Appendix], from the Office of Management and Budget and its Director to the Administrator of General Services is hereby effective.

Sec. 2. There is hereby delegated to the Administrator of General Services all the functions vested in the President by the Federal Advisory Committee Act, as amended, except that, the annual report to the Congress required by Section 6(c) of that Act [section 6(c) of this Appendix] shall be prepared by the Administrator for the President's consideration and transmittal to the Congress.

Sec. 3. The Director of the Office of Management and Budget shall take all actions necessary or appropriate to effectuate the transfer of functions provided in this Order, including the transfer of funds, personnel and positions, assets, liabilities, contracts, property, records, and other items related to the functions transferred.

Sec. 4. Executive Order No. 11769 of February 21, 1974 is hereby revoked.

Sec. 5. Any rules, regulations, orders, directives, circulars, or other actions taken pursuant to the functions transferred or reassigned as provided in this Order from the Office of Management and Budget to the Administrator of General Services, shall remain in effect as if issued by the Administrator until amended, modified, or revoked.

Sec. 6. This Order shall be effective November 20, 1977.

JIMMY CARTER

§ 3. Definitions

For the purpose of this Act—

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is—

(A) established by statute or reorganization plan, or

(B) established or utilized by the President, or

(C) established or utilized by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term

terminated when they are no longer
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should govern the establishment, oper-
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be determined, in accordance with law,
ed.

ER NO. 11686

Ex.Ord. No. 11769, Feb. 21, 1974, 39 F.R.
125, set out as a note under this section.

ER NO. 11769

oked by Ex.Ord. No. 12024, Dec. 1, 1977, 42
R. 61445, set out as a note under this section.

ER NO. 12024

F.R. 61445

Y COMMITTEE FUNCTIONS

sted in the President by the Federal Advisory
ommittee Act, as amended, except that, the
nual report to the Congress required by Section
c) of that Act [section 6(c) of this Appendix]
all be prepared by the Administrator for the
esident's consideration and transmittal to the
ongress.

Sec. 3. The Director of the Office of Manage-
nt and Budget shall take all actions necessary
appropriate to effectuate the transfer of func-
ns provided in this Order, including the transfer
funds, personnel and positions, assets, liabilities,
ntracts, property, records, and other items relat-
to the functions transferred.

Sec. 4. Executive Order No. 11769 of Febru-
21, 1974 is hereby revoked.

Sec. 5. Any rules, regulations, orders, di-
tives, circulars, or other actions taken pursuant
the functions transferred or reassigned as pro-
ed in this Order from the Office of Manage-
nt and Budget to the Administrator of General
vices, shall remain in effect as if issued by the
ministrator until amended, modified, or re-
ed.

Sec. 6. This Order shall be effective Novem-
20, 1977.

JIMMY CARTER

e Administrator of General Services,
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Government, except that such term

excludes (i) the Advisory Commission on Intergovernmental Relations, (ii) the Commission on Government Procurement, and (iii) any committee which is composed wholly of full-time officers or employees of the Federal Government.

(3) The term "agency" has the same meaning as in section 551(1) of Title 5.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

(As amended 1977 Reorg. Plan No. 1, § 5F, 42 F.R. 56101, 91 Stat. 1634.)

Commission on Government Procurement. The Commission on Government Procurement, referred to in par. (2)(ii), terminated Apr. 30, 1973, pursuant to Pub.L. 91-129, set out as a note under section 251 of Title 41, Public Contracts.

Transfer of Functions. "'Administrator' means Administrator of General Services" was substituted for "'Director' means Director of the Office of Management and Budget" in par. (1), pursuant to Reorg. Plan No. 1 of 1977, § 5F, 42 F.R. 56101, 91 Stat. 1634, set out in Appendix I of this title, which transferred all functions of the Office of Management and Budget and its Director relating to the Committee Management Secretariat, which is responsible pursuant to section 7(a) of this Act for all matters relating to advisory committees, to the Administrator of General Services, effective Nov. 20, 1977, as provided by section 1 of Ex.Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, set out under section 2 of this Act in this Appendix.

Notes of Decisions

Advisory committee 2
Agency 4
Exemptions 5
Purpose 1
Standing to sue 3

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1. Purpose

Purpose of Federal Advisory Committee Act is to control advisory committee process and to open to public scrutiny manner in which government agencies obtain advice from private individuals and groups. Washington Legal Foundation v. American Bar Ass'n Standing Committee on Federal Judiciary, D.D.C.1986, 648 F.Supp. 1353.

This Appendix was intended to apply to committees created by agencies and to those not originally created by agencies but subsequently used by them as advisory committees. Center for Auto Safety v. Tiemann, D.C.D.C.1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

Purpose of this Appendix is to eliminate useless advisory committees, strengthen independence of remaining advisory committees, and prevent advisory groups from becoming self-serving. Consumers Union of U.S., Inc. v. Department of Health, Ed. and Welfare, D.C.D.C.1976, 409 F.Supp. 473, affirmed 551 F.2d 466, 179 U.S.App. D.C. 280.

This Appendix was not intended to apply to all amorphous, ad hoc group meetings; only groups having some sort of established structure and defined purpose constitute "advisory committees" within meaning of this Appendix. Nader v. Baroody, D.C.D.C.1975, 396 F.Supp. 1231.

In enacting this Appendix, Congress was concerned with formally organized advisory committees which President or an executive department or official directed to make recommendations on identified governmental policy for which specific advice was sought. Id.

2. Advisory committee

Determination that the American Association of State Highway and Transportation Officials is an advisory committee within the meaning of Federal Advisory Committee Act, this Appendix, when it provides input to the Federal Highway Administration with respect to proposals to require that state highway construction plans provide for minimum safety standards did not impermissibly impair the organization's freedoms of speech and association under U.S.C.A. Const. Amend. 1. Center for Auto Safety v. Cox, 1978, 580 F.2d 689, 188 U.S.App.D.C. 426.

Panel of scientist-executives convened by the Secretary of the Department of Energy to study safety of a government-owned nuclear reactor in operation in state of Washington in light of nuclear disaster at a similar power station in the Soviet Union was not an "advisory committee" within meaning of the Federal Advisory Committee Act, and thus, panel's labors would be permitted to go forward as contemplated without attendance of nonprofit environmental protection organization, where panel members had not been asked to comment upon nuclear power generally or manner of its regulation, but merely to examine whether government ought to allow a single reactor to continue in operation, and panel members would work independently and report alone. Natural Resources Defense Council, Inc. v. Herrington, D.D.C.1986, 637 F.Supp. 116.

The Commission on the Bicentennial of United States Constitution, created by Congress in 1983 to facilitate the celebration of the 200th anniversary of the Constitution, is not an "advisory committee" within the meaning of the Federal Advisory Committee Act, which requires that advisory committees hold open meetings and give reasonable advance notice of meetings, where the Committee did not render advice to the federal government, but made recommendations to state, local and private entities, and was empowered to undertake itself the federal projects which it was to plan. Public Citizen v. Commission on the Bicentennial of U.S. Constitution, D.C.D.C.1985, 622 F.Supp. 753.

National Industries for the Severely Handicapped did not constitute an "advisory committee" as contemplated by the Federal Advisory Committee Act [Federal Advisory Committee Act, § 1 et seq., 5 U.S.C.A.App. II] since its advisory capacity to the Committee for Purchase From the Blind and Other Severely Handicapped was secondary to its operational activities. HLI Lordship Industries, Inc. v. Committee for Pur-

chase from the Blind & Other Severely Handicapped, D.C.Va.1985, 615 F.Supp. 970.

Task forces cochaired by members of Executive Committee of Private Sector Survey established by the President to give advice on cost-effective management of federal programs were not subject to this Appendix, as they merely provided information and recommendations for consideration to the Committee, notwithstanding that they were intimately involved in gathering of information about federal programs and formulation of possible recommendations for consideration of the Committee. National Anti-Hunger Coalition v. Executive Committee of President's Private Sector Survey on Cost Control, D.C.D.C.1983, 557 F.Supp. 524, affirmed 711 F.2d 1071, 229 U.S.App.D.C. 143.

Although Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards is an "advisory committee" subject to provisions of this appendix the Commission's Atomic Safety and Licensing Board is not an "advisory committee." Hunt v. Nuclear Regulatory Commission, D.C.Okl.1979, 468 F.Supp. 817, affirmed 611 F.2d 332, certiorari denied 100 S.Ct. 1084, 445 U.S. 906, 63 L.Ed.2d 322.

Organization consisting of representatives of state highway and transportation departments and officials of United States Department of Transportation was "utilized" by Federal Highway Administration when adopting regulations relating to certification acceptance of state safety standards pursuant to the Federal Highway Act, section 101 et seq. of Title 23, so that discussions between the Federal Highway Administration and the organization were covered by this Appendix. Center for Auto Safety v. Tiemann, D.C.1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

Fact that Food and Drug Administration may have lacked statutory authority to require cosmetics industry to test ingredients in products would not preclude Administration from appointing appropriate advisory committee on such subject, which committee would be subject to this Appendix. Consumers Union of U.S., Inc. v. Department of Health, Ed. and Welfare, D.C.D.C.1976, 409 F.Supp. 473, affirmed 551 F.2d 466, 179 U.S.App.D.C. 280.

Where organization representing cosmetics industry presented industry-sponsored proposal to Food and Drug Administration, seeking its advice and comments regarding voluntary cosmetics testing program, and Administration was unable either to develop or require cosmetics testing program, such presentation by organization did not give rise to "advisory" relationship within meaning of this Appendix. Id.

"Established," within provision of this section defining advisory committee as one established by statute, does not include committees which merely can be said to owe their existence to legislation. Lombardo v. Handler, D.C.D.C.1975, 397 F.Supp. 792, affirmed 546 F.2d 1043, 178 U.S.App.D.C. 277, certiorari denied 97 S.Ct. 2639, 431 U.S. 932, 531 L.Ed.2d 248.

Bi-weekly White House meetings with selected groups, including major business organizations and private sector groups, do not create "advisory committees" within meaning of this Appendix, such meetings are unstructured, informal and not conducted for purpose of obtaining advice on specific subjects indicated in advance. Nader v. Baroody, D.C.D.C.1975, 396 F.Supp. 1231.

3. Standing to sue

Neither private citizen nor United States Senator, either as consumers or by virtue of Senator's position as such, had standing to complain that National Petroleum Council and its subgroups were unlawfully functioning as advisory committees because they were not fairly balanced in membership and were improperly influenced by petroleum industry special interests, contrary to requirements of this appendix and Federal Energy Administration Act, section 761 et seq. of Title 15. Metcalf v. National Petroleum Council, 1977, 553 F.2d 176, 180 U.S.App.D.C. 31.

Consumer representative, who asked to attend certain bi-weekly meetings with selected groups held at White House and who was denied admission, had standing to seek declaration that such meetings created "advisory committees" within meaning of this Appendix. Nader v. Baroody, D.C.D.C.1975, 396 F.Supp. 1231.

4. Agency

National Academy of Sciences is not an "agency" within this appendix, requiring certain publicity of committee meetings, and its committee on motor vehicle emissions is not an "advisory committee" either as a committee established by statute or one established or utilized by the Environmental Protection Agency. Lombardo v. Handler, D.C.D.C.1975, 397 F.Supp. 792, affirmed 546 F.2d 1043, 178 U.S.App.D.C. 277, certiorari denied 97 S.Ct. 2639, 431 U.S. 932, 53 L.Ed.2d 248.

5. Exemptions

In order to be exempt from requirements of the Federal Advisory Committee Act, this Appendix, as a state or local committee, a group must show that it is a state or local committee and that it was established to advise or make recommendations to state or local agencies. Center for Auto Safety v. Cox, 1978, 580 F.2d 689, 188 U.S.App.D.C. 426.

Exemption from requirements of this Appendix where committee is composed wholly of full-time officers or employees of the federal government did not apply to committee of state and federal employees. Center for Auto Safety v. Tiemann, D.C.D.C.1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

The Congress did not intend the Federal Advisory Committee Act to apply to a body created jointly by the United States and another nation, such as the U.S.-Japan Consultative Group on Economic relations. 1979 (Counsel-Inf. Op.) 3 Op.O.L.C. 321.

§ 4. Applicability; restrictions

(a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any

Bi-weekly White House meetings with selected groups, including major business organizations and private sector groups, do not create "advisory committees" within meaning of this Appendix, such meetings are unstructured, informal and not conducted for purpose of obtaining advice on specific subjects indicated in advance. Nader v. Baroody, D.C.D.C.1975, 396 F.Supp. 1231.

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... order, or regulation promulgated ...mittee except to the extent that any

Act of Congress establishing any such advisory committee specifically provides otherwise.

(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by—

(1) the Central Intelligence Agency; or

(2) the Federal Reserve System.

(c) Nothing in this Act shall be construed to apply to any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

§ 5. Responsibilities of Congressional committees; review; guidelines

(a) In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. Any such legislation shall—

(1) contain a clearly defined purpose for the advisory committee;

(2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;

(3) contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;

(4) contain provisions dealing with authorization of appropriations, the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the standing committee determines the provisions of section 10 of this Act to be inadequate; and

(5) contain provisions which will assure that the advisory committee will have adequate staff (either supplied by an agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) To the extent they are applicable, the guidelines set out in subsection (b) of this section shall be followed by the President, agency heads, or other Federal officials in creating an advisory committee.

Code of Federal Regulations

Committee management regulations—
- Consumer Products Safety Commission, see 16 CFR 1018.1.
- Department of Agriculture, see 7 CFR 25.1.
- Department of Education, see 34 CFR 11.1.
- Department of Health and Human Services, see 45 CFR 11.1.
- Federal Emergency Management Agency, see 44 CFR 12.1.
- Marine Mammal Commission, see 50 CFR 510.1.
- Nuclear Regulatory Commission, see 10 CFR 7.1.

Notes of Decisions

Balanced point of view 3
Orders 2
Standing to sue 1
Task forces 4

1. Standing to sue

Nonprofit public interest law center, which claimed that violation of Federal Advisory Committee Act section requiring membership of advisory committees to be fairly balanced in terms of points of view represented, by the American Bar Association Standing Committee on Federal Judiciary, contributed to exclusion of center from judicial review process, pleaded sufficient injury to confer standing to bring suit seeking to enforce balanced membership requirement under Act, where center claimed that Committee consulted on regular basis with liberal public interest groups to exclusion of conservative public interest organizations and that center had been "directly affected" by lack of balance on Committee. Washington Legal Foundation v. American Bar Ass'n Standing Committee on Federal Judiciary, D.D.C. 1986, 648 F.Supp. 1353.

In action for declaratory and injunctive relief alleging that National Petroleum Council and its subgroups were unlawfully functioning as advisory committees because they were not fairly balanced in membership and were improperly influenced by certain petroleum industry special interests contrary to requirements of this section and Federal Energy Administration Act provision, section 776 of Title 15, plaintiffs' allegations of injury to themselves as consumers: anticipated higher costs for petroleum products; potential environmental damage and threats to health and safety; and anticipated denial of benefits from development of alternative sources of energy, did not confer standing to sue upon plaintiffs, particularly in light of fact that there was no nexus between plaintiffs' alleged injuries and defendants' challenged action. Metcalf v. National Petroleum Council, D.C.D.C. 1976, 407 F.Supp. 257, affirmed 553 F.2d 176.

In action by United States Senator alleging that National Petroleum Council and its subgroups were unlawfully functioning as advisory committees because they were not fully balanced in membership and were improperly influenced by certain petroleum industry special interests, Senator did not have standing to sue on theory that defendants' actions had affected effectiveness of his votes for this Appendix and Federal Energy Administration Act, section 761 et seq. of Title 15, and had hindered him in carrying out his legislative duties through his inability to get unbiased advice and accurate information from Department of Interior and Federal Energy Administration because of Council's input into that process, particularly in view of fact that Senator showed no nexus between his alleged injuries and defendants' challenged action. Id.

2. Orders

Where dispute as to whether particular organization was covered by the Federal Advisory Committee Act, this Appendix, arose out of the consultation by a federal agency with the organization over certain proposed regulations, and where there was no allegation or proof that all contacts between the agency and the organization constituted a utilization of the organization as advisory committee, order that any future meeting between the representatives of the federal government and the organization be subject to the Federal Advisory Committee Act was overbroad, the order should apply only to consultation for advice or recommendations on proposed regulations. Center for Auto Safety v. Cox, 1978, 580 F.2d 689, 188 U.S.App.D.C. 426.

3. Balanced point of view

Executive Committee of the President's Private Sector Survey on Cost Control did not violate balanced viewpoint requirement of this Appendix on basis that virtually every member of the executive committee was an executive of a major corporation and that no public-interest representatives or beneficiaries of federal feeding programs had been appointed where Survey was designed to apply private sector expertise to attain cost-effective management in the federal government, since Survey's members represented fair balance of viewpoints given the functions to be performed. National Anti-Hunger Coalition v. Executive Committee of President's Private Sector Survey on Cost Control, 1983, 711 F.2d 1071, 229 U.S.App.D.C. 143.

The Executive Committee of the Private Sector Survey created by the President to give detailed advice on cost-effective management of the federal government and its agencies did not violate the balanced viewpoint requirement of this Appendix because most committee members were executives of major corporations, with two being academics and one from the labor community, and this Appendix did not require representation of public interest advocates or beneficiaries of federal food assistance programs. National Anti-Hunger Coalition v. Executive Committee of President's Private Sector Survey on Cost Control, D.C.D.C. 1983, 557 F.Supp. 524, affirmed 711 F.2d 1071, 229 U.S.App.D.C. 143.

Failure of the defendant commission to appoint more than one individual in outspoken opposition to ratification of the Equal Rights Amendment (ERA) to the United States Constitution when setting up the state committee to coordinate lobbying activities for the amendment in state legislature was not such as to establish a violation of this Appendix in that this Appendix did not, by its terms or otherwise, require balancing of points of view on the Equal Rights Amendment issue in the state coordinating committee. Hall v. Siegel, D.C.Ill.1977, 467 F.Supp. 750.

All interests need not be represented or represented equally to meet applicable balance of membership requirements, but required standard must be judged on case-by-case determination, depending on authority creating particular committee. 1981, 60 Comp.Gen. 386.

4. Task forces

Task forces established to assist Executive Committee of the President's Private Sector Survey on Cost Control in the study of domestic feeding programs for low-income persons were not subject to this Appendix where it appeared that task force reports and recommendations would be exhaustively reviewed and revised by Executive Committee. National Anti-Hunger Coalition v. Executive Committee of President's Private Sector Survey on Cost Control, 1983, 711 F.2d 1071, 229 U.S.App.D.C. 143.

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§ 6. Responsibilities of the President; report to Congress; annual report to Congress; exclusion

(a) The President may delegate responsibility for evaluating and taking action, where appropriate, with respect to all public recommendations made to him by Presidential advisory committees.

(b) Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate shall make a report to the Congress stating either his proposals for action or his reasons for inaction, with respect to the recommendations contained in the public report.

(c) The President shall, not later than December 31 of each year, make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding fiscal year. The report shall contain the name of every advisory committee, the date of and authority for its creation, its termination date or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the names and occupations of its current members, and the total estimated annual cost to the United States to fund, service, supply, and maintain such committee. Such report shall include a list of those advisory committees abolished by the President, and in the case of advisory committees established by statute, a list of those advisory committees which the President recommends be abolished together with his reasons therefor. The President shall exclude from this report any information which, in his judgment, should be withheld for reasons of national security, and he shall include in such report a statement that such information is excluded.

(As amended Pub.L. 97-375, Title II, § 201(c), Dec. 21, 1982, 96 Stat. 1822.)

1982 Amendment. Subsec. (c). Pub.L. 97-375, § 201(c), substituted provision that the President shall, not later than Dec. 31 of each year, make an annual report to Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding fiscal year, for provision the President, not later than March 31 of each calendar year after 1972, make an annual report to Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding calendar year.

Effective Date of 1982 Amendment. Section 201(c) of Pub.L. 97-375 provided in part that the amendment by that section to subsec. (c) of this section is effective July 1, 1983.

§ 7. Responsibilities of the Administrator of General Services; Committee Management Secretariat, establishment; review; recommendations to President and Congress; agency cooperation; performance guidelines; uniform pay guidelines; travel expenses; expense recommendations

(a) The Administrator shall establish and maintain within the General Services Administration a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

(b) The Administrator shall, immediately after October 6, 1972, institute a comprehensive review of the activities and responsibilities of each advisory committee to determine—

(1) whether such committee is carrying out its purpose;

(2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

(3) whether it should be merged with other advisory committees; or

(4) whether is should be abolished.

The Administrator may from time to time request such information as he deems necessary to carry out his functions under this subsection. Upon the completion of the Administrator's review he shall make recommendations to the President and to either the agency head or the Congress with respect to action he believes should be taken. Thereafter, the Administrator shall carry out a similar review annually. Agency heads shall cooperate with the Administrator in making the reviews required by this subsection.

(c) The Administrator shall prescribe administrative guidelines and management controls applicable to advisory committees, and, to the maximum extent feasible, provide advice, assistance, and guidance to advisory committees to improve their performance. In carrying out his functions under this subsection, the Administrator

shall consider the recommendations of each agency head with respect to means of improving the performance of advisory committees whose duties are related to such agency.

(d)(1) The Administrator after study and consultation with the Director of the Office of Personnel Management, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS–18 of the General Schedule under section 5332 of title 5, United States Code;

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service; and

(C) such members—

(i) who are blind or deaf or who otherwise qualify as handicapped individuals (within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794)), and

(ii) who do not otherwise qualify for assistance under section 3102 of Title 5, by reason of being an employee of an agency (within the meaning of section 3102(a)(1) of such Title 5),

may be provided services pursuant to section 3102 of such Title 5 while in performance of their advisory committee duties.

(2) Nothing in this subsection shall prevent—

(A) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(B) an individual who immediately before his service with an advisory committee was such an employee,

from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States.

(e) The Administrator shall include in budget recommendations a summary of the amounts he deems necessary for the expenses of advisory committees, including the expenses for publication of reports where appropriate.

(As amended Pub.L. 96–523, § 2, Dec. 12, 1980, 94 Stat. 3040; 1977 Reorg. Plan No. 1, § 5F, 42 F.R. 56101, 91 Stat. 1634.)

References in Text. Section 501 of the Rehabilitation Act of 1973, referred to in subsec. (d)(1)(C)(i), is classified to section 791 of Title 29, Labor, rather than to section 794 of Title 29 as shown in text.

1980 Amendment. Subsec. (d)(1). Pub.L. 96–523 added subpar. (C).

Effective Date of 1980 Amendment. Amendment by Pub.L. 96–523 effective sixty days after Dec. 12, 1980, see section 3 of Pub.L. 96–523, set out as a note under section 3102 of this title.

Transfer of Functions. "Administrator", meaning Administrator of General Services, was substituted for "Director", meaning Director of the Office of Management and Budget, in text, "General Services Administration" for "Office of Management and Budget" in subsec. (a), and "Administrator's" for "Director's" in subsec. (b), pursuant to Reorg. Plan No. 1 of 1977, § 5F, 42 F.R. 56101, 91 Stat. 1634, set out in Appendix 1 of this title, which transferred all functions of the Office of Management and Budget and its Director relating to the Committee Management Secretariat, which is responsible pursuant to subsec. (a) of this section for all matters relating to advisory committees, to the Administrator of General Services effective Nov. 20, 1977, as provided by section 1 of Ex.Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, set out under section 2 of this Act in this Appendix.

"Director of the Office of Personnel Management" was substituted for "Civil Service Commission" in subsec. (d) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of this title, which transferred all functions vested by statute in the United States Civil Service Commission to the Director of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex.Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of this title.

All functions of the Office of Management and Budget and the Director thereof relating to the Committee Management Secretariat were transferred to the Administrator of General Services by Reorg. Plan No. 1 of 1977, § 5F, 42 F.R. 56101, 91 Stat. 1634, set out in this Appendix, effective

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of this title.

l functions of the Office of Management and
et and the Director thereof relating to the
mittee Management Secretariat were transfer-
o the Administrator of General Services by
g Plan No. 1 of 1977, § 5F, 42 F.R. 56101,
at 1634, set out in this Appendix, effective

on or before Apr. 1, 1978, at such time as specified by the President.

Legislative History. For legislative history and purpose of Pub.L. 96-523, see 1980 U.S. Code Cong. and Adm. News, p. 6530.

§ 8. Responsibilities of agency heads; Advisory Committee Management Officer, designation

(a) Each agency head shall establish uniform administrative guidelines and management controls for advisory committees established by that agency, which shall be consistent with directives of the Administrator under section 7 and section 10. Each agency shall maintain systematic information on the nature, functions, and operations of each advisory committee within its jurisdiction.

(b) The head of each agency which has an advisory committee shall designate an Advisory Committee Management Officer who shall—

(1) exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established by that agency;

(2) assemble and maintain the reports, records, and other papers of any such committee during its existence; and

(3) carry out, on behalf of that agency, the provisions of section 552 of title 5, United States Code, with respect to such reports, records, and other papers.

(As amended 1977 Reorg. Plan No. 1, § 5F, 42 F.R. 56101, 91 Stat. 1634.)

Transfer of Functions. "Administrator", meaning Administrator of General Services, was substituted for "Director", meaning Director of the Office of Management and Budget, in subsec. (a), pursuant to Reorg. Plan No. 1 of 1977, § 5F, 42 F.R. 56101, 91 Stat. 1634, set out in Appendix 1 of this title, which transferred all functions of the Office of Management and Budget and its Director relating to the Committee Management Secretariat, which is responsible pursuant to section 7(a) of this Act for all matters relating to advisory committees, to the Administrator of General Services, effective Nov. 20, 1977, as provided by section 1 of Ex.Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, set out under section 2 of this Act in this Appendix.

§ 9. Establishment and purpose of advisory committees; publication in Federal Register; charter; filing, contents, copy

(a) No advisory committee shall be established unless such establishment is—

(1) specifically authorized by statute or by the President; or

(2) determined as a matter of formal record, by the head of the agency involved after consultation with the Administrator with timely notice published in the Federal Register, to be in the public interest in connection with the performance of duties imposed on that agency by law.

(b) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer of the Federal Government.

(c) No advisory committee shall meet or take any action until an advisory committee charter has been filed with (1) the Administrator, in the case of Presidential advisory committees, or (2) with the head of the agency to whom any advisory committee reports and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency. Such charter shall contain the following information:

(A) the committee's official designation;

(B) the committee's objectives and the scope of its activity;

(C) the period of time necessary for the committee to carry out its purposes;

(D) the agency or official to whom the committee reports;

(E) the agency responsible for providing the necessary support for the committee;

(F) a description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(G) the estimated annual operating costs in dollars and man-years for such committee;

(H) the estimated number and frequency of committee meetings;

(I) the committee's termination date, if less than two years from the date of the committee's establishment; and

(J) the date the charter is filed.

A copy of any such charter shall also be furnished to the Library of Congress.

(As amended 1977 Reorg. Plan No. 1, § 5F, 42 F.R. 56101, 91 Stat. 1634.)

Transfer of Functions. "Administrator", meaning Administrator of General Services, was substituted for "Director", meaning Director of the Office of Management and Budget, in subsecs. (a) and (c), pursuant to Reorg. Plan No. 1 of 1977, § 5F, 42 F.R. 56101, 91 Stat. 1634, set out in Appendix 1 of this title, which transferred all functions of the Office of Management and Budget and its Director relating to the Committee Management Secretariat, which is responsible pursuant to section 7(a) of this Act for all matters relating to advisory committees, to the Administrator of General Services, effective Nov. 20, 1977, as provided by section 1 of Ex.Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, set out under section 2 of this Act in this Appendix.

Notes of Decisions

Compliance, necessity of 2
Members of committee 3
Purpose 1

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1. Purpose

Purpose of this Appendix is to control the advisory committee process and to open to public scrutiny the manner in which government agencies obtain advice from private individuals. Food Chemical News, Inc. v. Davis, D.C.D.C.1974, 378 F.Supp. 1048.

2. Compliance, necessity of

Where a federal agency utilizes an advisory committee for the purpose of obtaining advice, the agency must charter and establish the committee in compliance with all the terms of this Appendix, and failure to comply with such requirements cannot be employed as a subterfuge for avoiding the public access requirements of this Appendix. Food Chemical News, Inc. v. Davis, D.C.D.C. 1974, 378 F.Supp. 1048.

If Energy Policy Task Force's Plan drafting role gives it more than solely advisory functions, its charter should so state, citing authority given for those functions. 1981, 60 Comp.Gen. 356.

3. Members of committee

Presence of retired Supreme Court justice and active circuit judge on Presidential Commission to investigate organized crime did not violate constitutional separation-of-powers doctrine, service of judges was voluntary, judicial membership on advisory commission did not prevent it from carrying out its duties, and participation by judges did not disrupt operation of courts. Matter of President's Com'n on Organized Crime Subpoena of Scarfo, C.A.3 (N.J.) 1986, 783 F.2d 370.

§ 10. Advisory committee procedures; meetings; notice, publication in Federal Register; regulations; minutes; certification; annual report; Federal officer or employee, attendance

(a)(1) Each advisory committee meeting shall be open to the public.

(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Administrator shall prescribe regulations to provide for other types of public notice to insure that all interested persons are notified of such meeting prior thereto.

(3) Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Administrator may prescribe.

(b) Subject to section 552 of title 5, United States Code, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.

(c) Detailed minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes shall be certified to by the chairman of the advisory committee.

(d) Subsections (a)(1) and (a)(3) of this section shall not apply to any portion of an advisory committee meeting where the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may

ncy of committee meetings;
f less than two years from the date of

urnished to the Library of Congress.
56101, 91 Stat. 1634.)

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advisory committee shall be kept and complete and accurate description of copies of all reports received, issued, accuracy of all minutes shall be mmittee.

shall not apply to any portion of an or the head of the agency to which such portion of such meeting may

be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code. Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552(b) of title 5, United States Code.

(e) There shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee. The officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No advisory committee shall conduct any meeting in the absence of that officer or employee.

(f) Advisory committees shall not hold any meetings except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government, and in the case of advisory committees (other than Presidential advisory committees), with an agenda approved by such officer or employee.

(As amended Pub.L. 94–409, § 5(c), Sept. 13, 1976, 90 Stat. 1247; 1977 Reorg. Plan No. 1, § 5F, 42 F.R. 56101, 91 Stat. 1634.)

1976 Amendment. Pub.L. 94–409 added "portion of an" following "to any" and substituted provisions relating to determinations for closing to the public such portion of the meeting in accordance with section 552b(c) of Title 5, for provisions relating to determinations of matters listed in section 552(b) of Title 5.

Effective Date of 1976 Amendment. Amendment by Pub.L. 94–409 effective 180 days after Sept. 13, 1976, see section 6 of Pub.L. 94–409, set out as a note under section 552b of this title.

Transfer of Functions. "Administrator", meaning Administrator of General Services, was substituted for "Director", meaning Director of the Office of Management and Budget, in subsec. (a)(2) and (3), pursuant to Reorg. Plan No. 1 of 1977, § 5F, 42 F.R. 56101, 91 Stat. 1634, set out in Appendix 1 of this title, which transferred all functions of the Office of Management and Budget and its Director relating to the Committee Management Secretariat, which is responsible pursuant to section 7(a) of this Act for all matters relating to advisory committees, to the Administrator of General Services, effective Nov. 20, 1977, as provided by section 1 of Ex.Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, set out under section 2 of this Act in this Appendix.

Legislative History. For legislative history and purpose of Pub.L. 94–409, see 1976 U.S. Code Cong. and Adm. News, p. 2183.

Notes of Decisions

Burden of proof 6
Construction with other laws 1
Convening of meetings 3b
Discretion of agency 3a
Exchange of information 5
Injunction 7
Interagency or intra-agency memoranda 9
Meetings within section 3
Public access 8
Public participation 4
Purpose 2
Regulations 10
Standing to sue 11

1. Construction with other laws

Freedom of Information Act provisions, section 552 of this title, dealing with intra-agency and interagency memoranda are applicable, under this section to advisory committee meetings. Aviation Consumer Action Project v. Washburn, 1976, 535 F.2d 101, 175 U.S.App.D.C. 273.

Subsection (d) of this section, providing that a meeting may be closed when it is determined by agency head that such meeting will involve matters listed in Freedom of Information Act, section 552 of this title, did not apply so as to permit exclusion of public from all meetings of advisory committees serving cost of living council. Nader v. Dunlop, D.C.D.C.1973, 370 F.Supp. 177.

2. Purpose

Two separate "informal" meetings with consumer and distilled spirits industry representatives relative to drafting proposed regulations of the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department on ingredient labeling of distilled spirits were meetings of "advisory committees" utilized by the Bureau Director to obtain advice within the meaning of this Appendix, and said meetings were therefore open to the public. Food Chemical News, Inc. v. Davis, D.C.D.C. 1974, 378 F.Supp. 1048.

Subsection (d) of this section, providing that a meeting may be closed when it is determined by agency head that such meeting will involve matters listed in section 552 of this title, was not intended to include all deliberative conversations of committee meetings. Nader v. Dunlop, D.C.D.C.1973, 370 F.Supp. 177.

3. Meetings within section

Where meeting between Food and Drug Administration and organization representing cosmetics industry was for purpose of presenting organization's voluntary ingredient testing program, and no matters of Administration policy or regulation were at issue, parties were not bound by provisions of this Appendix, and thus neither public access to such meetings, nor chartering of such organization, would be required. Consumers Union of U.S., Inc. v. Department of Health, Ed. and Welfare, D.C.D.C.1976, 409 F.Supp. 473, affirmed 551 F.2d 466, 179 U.S.App.D.C. 280.

At a minimum a relatively detailed analysis of bases for closing various portions of meetings of advisory committees serving cost of living council must be provided. Nader v. Dunlop, D.C.D.C. 1973, 370 F.Supp. 177.

Where Defense Advisory Committee on Women in the Services was group of outsiders called on because of their expertise to offer views and comments unavailable within agency, meeting of such committee did not involve "inter-agency" nor "intra-agency" affairs and meeting was required to be open. Gates v. Schlesinger, D.C.D.C.1973, 366 F.Supp. 797.

3a. Discretion of agency

Under this section, advisory committees both meet and render advice to governmental agencies involved at the pleasure of those agencies and if it pleases agency in question to refrain from convening committee or soliciting its advice, agency is entirely at liberty to do so. Dabney v. Reagan, D.C.N.Y.1982, 559 F.Supp. 861.

3b. Convening of meetings

Fact that solar energy and energy conservation bank's advisory committees' charters provided that they would ordinarily convene in full session four times a year did not abrogate express subsec. (f) of this section that advisory committees "shall not hold any meeting except at the call of, or with the advance approval of," the designated feceral employee. Dabney v. Reagan, D.C.N.Y.1982, 559 F.Supp. 861.

4. Public participation

While plaintiffs were entitled to have meeting of Defense Advisory Committee on Women in the Services conducted so as to be open to public, there was no right of public participation in advisory committee. Gates v. Schlesinger, D.C.D.C. 1973, 366 F.Supp. 797.

5. Exchange of information

Executive committee's review of staff recommendations concerning cost control under food stamp program were deliberative and not a mere sham and did not violate this section where task force recommendations were distributed to members of executive committee for study in advance of public hearing and at the hearing comments were specifically brought to attention of full membership even though belatedly filed and in other instances the committee rejected recommendations contained in the staff reports. National Anti-Hunger Coalition v. Executive Committee of President's Private Sector Survey on Cost Control, D.C.D.C.1983, 566 F.Supp. 1515.

For purposes of this Appendix, exchange of information does not make advisory committee "part of" its government agency. Gates v. Schlesinger D.C.D.C.1973, 366 F.Supp. 797.

6. Burden of proof

This section does not contain same express provision as Freedom of Information Act, section 552 of this title, which places burden of proof on agency to sustain its action, but underlying policy considerations are identical and burden of proof should be comparable. Nader v. Dunlop, D.C.D.C.1973, 370 F.Supp. 177.

7. Injunction

Where pleadings were limited to actions of Travel Advisory Board in holding closed meeting and did not refer to any other advisory committees in the Department of Commerce, and where all evidence was directed towards the TAB, injunction which purported to require timely advance public notice of each meeting of the TAB or any other advisory committee in the Department was overbroad. Aviation Consumer Action Project v. Washburn, 1976, 535 F.2d 101, 175 U.S.App.D.C. 273.

Injury to nonprofit environmental protection organization if panel of scientist-executives convened by the Secretary of the Department of Energy to study safety of government-owned nuclear reactor in Washington were determined to in fact be subject to requirements of the Federal Advisory Committee Act was neither substantial nor irreparable, whereas injury to the Secretary and the remainder of the country caused by delay would be substantial and irreparable, and thus, organization was not entitled to preliminary injunction enjoining activities of panel until organization's representative should be allowed to attend, where any recommendations by panel would soon be available by request under the Freedom of Information Act. Natural Resources Defense Council, Inc. v. Herrington, D.D.C.1986, 637 F.Supp. 116.

Exemption relating to interagency or intra-agency memorandum or letters did not apply so as to permit meeting of Defense Advisory Committee on Women in the Services to be closed, and court would issue preliminary injunction requiring such meeting to be open to the public. Gates v. Schlesinger, D.C.D.C.1973, 366 F.Supp. 797.

8. Public access

The press has a statutory right under this Appendix as well as a privilege under U.S.C.A. Const. Amend. 1 to report on the manner in which government affairs are conducted. Food Chemical News, Inc. v. Davis, D.C.D.C.1974, 378 F.Supp. 1048.

The privacy exemption of the open meeting requirement in section 552 of Title 5, Government Organization and employees, made applicable to advisory committees may permit closing of some portions of meetings of subgroups of the Humanities Panel, at which individual grant applications are discussed. 1982 Counsel-Inf.Op. 4B Op.O.L.C. 743.

Legislation that would grant the President's Commission on the Accident at Three Mile Island the power to issue subpoenas is sufficient also to allow the closing of its meetings under certain circumstances under the exemption contained in section 552b(c)(10) of this title relating to the "agency's issuance of a subpoena. 1979 (Counsel-Inf. Op.) 3 Op.O.L.C. 208.

9. Interagency or intra-agency memoranda

Evidence that there had been more than 20 meetings of the Travel Advisory Board and that on only three occasions had portions of the meeting been closed to the public demonstrated that the Board was not abusing exemption provided to it under subsec. (d) of this section from requirement of holding open meetings when interagency and intra-agency memoranda were being dis-

Injunction

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cussed. Aviation Consumer Action Project v. Washburn, 1976, 535 F.2d 101, 175 U.S.App.D.C. 273.

Provisions of this section dealing with open meetings do not apply to any advisory committee meeting which the head of an agency determines is concerned with interagency or intra-agency memoranda. Id.

Even after interagency or intra-agency memorandum has been disclosed to member of an advisory committee, the memorandum may still be considered an inter-agency or intra-agency memorandum so that fact that such disclosure is made to a member of an advisory committee does not preclude advisory committee from holding a closed meeting in accordance with the exemption provided for in subsec. (d) of this section and section 552 of this title. Id.

10. Regulations

Where regulations which were challenged had been revised through procedure in which the revised regulations were published in draft form and public comment was invited and where the new regulations were temporary, court would not overturn original regulations despite failure of Federal Highway Administration to comply with requirements of this Appendix in adopting the initial regulations. Center for Auto Safety v. Tiemann, D.C.D.C.1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

11. Standing to sue

Persons active in opposing enactment of Equal Rights Amendment to United States Constitution were without standing to bring suit against National Commission on the Observance of International Women's Year, 1975, to enjoin it from supporting enactment of the Equal Rights Amendment, engaging in lobbying activities, and other pursuits. Mulqueeny v. National Commission on the Observance of Intern. Women's Year, 1975, C.A.Ill.1977, 549 F.2d 1115.

Corporation in business of manufacturing and supplying military decorations and insignia to government had standing to assert violations of the Federal Advisory Committee Act in challenging action of Committee for Purchase From the Blind and Other Severely Handicapped to take particular medals and medal sets out of competitive bidding and place them on list as commodities suitable for procurement by government for qualified nonprofit agencies for the blind or other severely handicapped since corporation had injury in fact based on Committee's decision, injury could be remedied if court invalidated decision, and corporation's interest fell within zone of interest of the Act. HLI Lordship Industries, Inc. v. Committee for Purchase from the Blind & Other Severely Handicapped, D.C.Va.1985, 615 F.Supp. 970.

Individual recipients of federal food assistance benefits and an antihunger coalition were granted standing to challenge membership on the President's Executive Committee of the Private Sector Survey as lacking the balanced representation required by this Appendix as well as to question Committee's compliance with procedural requirements of this Appendix. National Anti-Hunger Coalition v. Executive Committee of President's Private Sector Survey on Cost Control, D.C.D.C. 1983, 557 F.Supp. 524, affirmed 711 F.2d 1071, 229 U.S.App.D.C. 143.

Nonprofit corporation whose activities centered broadly upon transportation safety issues and whose functions included monitoring activities of Federal Highway Administration had standing to challenge alleged failure of the Federal Highway Administration to comply with rule-making provisions of sections 551 et seq. and 701 et seq. of this title when providing for alternative procedure for approving state highway safety plans and failure of the Federal Highway Administration to open meetings with a particular organization to the public pursuant to this Appendix. Center for Auto Safety v. Tiemann, D.C.D.C.1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

§ 11. Availability of transcripts; "agency proceeding"

(a) Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts of agency proceedings or advisory committee meetings.

(b) As used in this section "agency proceeding" means any proceeding as defined in section 551(12) of title 5, United States Code.

References in Text. Effective date of this Act, referred to in subsec. (a), as meaning effective upon expiration of ninety days following enactment of Pub.L. 92–463 on Oct. 6, 1972, see section 15 of Pub.L. 92–463.

Notes of Decisions

1. Standing to sue

Any person whose request for information under this appendix had been denied has standing to sue for the information. Center for Auto Safety v. Tiemann, D.C.D.C.1976, 414 F.Supp. 215, remanded on other grounds 580 F.2d 689, 188 U.S.App.D.C. 426.

§ 12. Fiscal and administrative provisions; recordkeeping; audit; agency support services

(a) Each agency shall keep records as will fully disclose the disposition of any funds which may be at the disposal of its advisory committees and the nature and

extent of their activities. The General Services Administration, or such other agency as the President may designate, shall maintain financial records with respect to Presidential advisory committees. The Comptroller General of the United States, or any of his authorized representatives, shall have access, for the purpose of audit and examination, to any such records.

(b) Each agency shall be responsible for providing support services for each advisory committee established by or reporting to it unless the establishing authority provides otherwise. Where any such advisory committee reports to more than one agency, only one agency shall be responsible for support services at any one time. In the case of Presidential advisory committees, such services may be provided by the General Services Administration.

§ 13. Responsibilities of Library of Congress; reports and background papers; depository

Subject to section 552 of title 5, United States Code, the Administrator shall provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants. The Librarian of Congress shall establish a depository for such reports and papers where they shall be available to public inspection and use.

(As amended 1977 Reorg. Plan No. 1, § 5F, 42 F.R. 56101, 91 Stat. 1634.)

Transfer of Functions. "Administrator", meaning Administrator of General Services, was substituted for "director", meaning Director of the Office of Management and Budget, in text, pursuant to Reorg. Plan No. 1 of 1977, § 5F, 42 F.R. 56101, 91 Stat. 1634, set out in Appendix 1 of this title, which transferred all functions of the Office of Management and Budget and its Director relating to the Committee Management Secretariat, which is responsible pursuant to section 7(a) of this Act for all matters relating to advisory committees, to the Administrator of General Services, effective Nov. 20, 1977, as provided by section 1 of Ex.Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, set out under section 2 of this Act in this Appendix.

§ 14. Termination of advisory committees; renewal; continuation

(a)(1) Each advisory committee which is in existence on the effective date of this Act shall terminate not later than the expiration of the two-year period following such effective date unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or that officer by appropriate action prior to the expiration of such two-year period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(2) Each advisory committee established after such effective date shall terminate not later than the expiration of the two-year period beginning on the date of its establishment unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or such officer by appropriate action prior to the end of such period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(b)(1) Upon the renewal of any advisory committee, such advisory committee shall file a charter in accordance with section 9(c).

(2) Any advisory committee established by an Act of Congress shall file a charter in accordance with such section upon the expiration of each successive two-year period following the date of enactment of the Act establishing such advisory committee.

(3) No advisory committee required under this subsection to file a charter shall take any action (other than preparation and filing of such charter) prior to the date on which such charter is filed.

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F.R. 56101, 91 Stat. 1634.)

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(c) Any advisory committee which is renewed by the President or any officer of the Federal Government may be continued only for successive two-year periods by appropriate action taken by the President or such officer prior to the date on which such advisory committee would otherwise terminate.

References in Text. Effective date of this Act, referred to in subsec. (a)(1), as meaning effective upon expiration of ninety days following enactment of Pub.L. 92–463 on Oct. 6, 1972, see section 15 of Pub.L. 92–463.

EXECUTIVE ORDER NO. 11827

Ex.Ord. No. 11827, Jan. 4, 1975, 40 F.R. 1217, as amended, formerly set out as a note under this section, which provided for the continuance of certain federal advisory committees, was superseded by Ex.Ord. No. 11948, Dec. 20, 1976, 41 F.R. 55705, set out as a note under this section.

EXECUTIVE ORDER NO. 11948

Ex.Ord. No. 11948, Dec. 20, 1976, 41 F.R. 55705, as amended by Ex.Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839; Ex.Ord. No. 12029, Dec. 14, 1977, 42 F.R. 63631, formerly set out as a note under this section, which provided for the continuance of certain federal advisory committees, was superseded by Ex.Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, set out as a note under this section.

EXECUTIVE ORDER NO. 12007

Aug. 22, 1977, 42 F.R. 42839

TERMINATION OF CERTAIN PRESIDENTIAL ADVISORY COMMITTEES

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to terminate certain advisory committees in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

Section 1. (a) The Citizens' Advisory Council on the Status of Women is terminated.

(b) Executive Order No. 11126 of November 1, 1963, as amended by Executive Order No. 11221 of May 6, 1965 [set out as a note under Section 2000e of Title 42, The Public Health and Welfare], is further amended as follows:

(1) Subsection (5) of Section 102 is revoked.

(2) Section 103, in order to delete a reference to the Council, is amended to read as follows:

"Annually the Committee shall transmit a report to the President concerning the status of women."

(3) Part II is revoked.

(4) The second sentence of Section 301, in order to delete references to the Council, is amended to read as follows:

"To the extent practical and to the extent permitted by law (1) all Executive agencies shall cooperate with the Committee and furnish it such information and assistance as may be necessary for the performance of its functions, and (2) the Secretary of Labor shall furnish staff, office space, office facilities and supplies, and other necessary assistance, facilities, and services for the Committee."

Sec. 2. (a) The Citizens' Advisory Committee on Environmental Quality is terminated.

(b) Part II of Executive Order No. 11472 of May 29, 1969, as amended by paragraphs (7) and (8) of section 4 of Executive Order No. 11514 of March 5, 1970 [set out as a note under section 4321 of Title 42, The Public Health and Welfare], is revoked.

Sec. 3. (a) The Advisory Council for Minority Enterprise is terminated.

(b) Section 2 of Executive Order No. 11625 of October 13, 1971 [set out as a note under section 631 of Title 15, Commerce and Trade], is revoked.

Sec. 4. (a) The Consumer Advisory Council is terminated.

(b) Executive Order No. 11583 of February 24, 1971 [set out as a note under section 887d of Title 20, Education], is amended as follows:

(1) The second sentence of subsection (b)(1) of section 2 is amended by deleting "(including the Consumer Advisory Council established in section 5 of this order)"

(2) Section 5 is revoked.

Sec. 5. (a) The President's Advisory Board on International Investment is terminated.

(b) Executive Order No. 11962 of January 19, 1977 [set out as a note under section 3107 of Title 22, Foreign Relations and Intercourse], is revoked.

Sec. 6. Subsections (a), (g), (i), and (j) of Section 1 of Executive Order No. 11948 of December 20, 1976 [set out as a note under this section], which extended the above advisory committees until December 31, 1979, is superseded.

JIMMY CARTER

EXECUTIVE ORDER NO. 12029

Dec. 14, 1977, 42 F.R. 63631

TERMINATION OF A PRESIDENTIAL ADVISORY COMMITTEE

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to terminate an advisory com-

mittee in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C.App. I), it is hereby ordered as follows.

Section 1. (a) The Quetico-Superior Committee is terminated.

(b) Executive Order No. 11342, as amended, is revoked.

Sec. 2. Subsection (e) of Section 1 of Executive Order No. 11948 of December 20, 1976, which extended the above advisory committee until December 31, 1978, is superseded.

JIMMY CARTER

EXECUTIVE ORDER NO. 12110

Ex.Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, formerly set out as a note under this section, which provided for the continuance of certain federal advisory committees, was superseded by Ex.Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, set out as a note under this section.

EXECUTIVE ORDER NO. 12258

Ex.Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, as amended by Ex.Ord. No. 12271, Jan. 15, 1981, 46 F.R. 4677; Ex.Ord. No. 12299, Mar. 17, 1981, 46 F.R. 17751; Ex.Ord. No. 12305, May 5, 1981, 46 F.R. 25421; Ex.Ord. No. 12336, Dec. 21, 1981, 46 F.R. 62239, which provided for the continuance of certain federal advisory committees, was superseded by Ex.Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, set out as a note below.

[Executive Order No. 12299, which had been set out in the credit to this Executive Order, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.]

EXECUTIVE ORDER NO. 12305

May 5, 1981, 46 F.R. 25421

TERMINATION OF CERTAIN FEDERAL ADVISORY COMMITTEES

By the authority vested in me as President by the Constitution of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C.App. I), the following Executive Orders, establishing advisory committees, are hereby revoked and the committees terminated:

(a) Executive Order No. 12059 of May 11, 1978, as amended, [set out as a note under section 44 of Title 28, Judiciary and Judicial Procedure], establishing the United States Circuit Judge Nominating Commission;

(b) Executive Order No. 11992 of May 24, 1977 [set out as a note preceding chapter 1 of Title 28], establishing the Committee on Selection of Federal Judicial Officers;

(c) Executive Order No. 12084 of September 27, 1978, as amended by Executive Order 12097 of November 8, 1978, [set out as a note under section 133 of Title 28], establishing the Judicial Nominating Commission for the District of Puerto Rico; and

(d) Executive Order No. 12064 of June 5, 1978, [set out as a note under section 7443 of Title 26, Internal Revenue Code], establishing the United States Tax Court Nominating Commission.

Subsections (g), (i), (j) and (k) of Section 1-101 of Executive Order No. 12258, [set out as a note under this section], extending these committees, are also revoked.

RONALD REAGAN

EXECUTIVE ORDER NO. 12379

Aug. 17, 1982, 47 F.R. 30699

TERMINATION OF BOARDS COMMITTEES, AND COMMISSIONS

By the authority vested in me as President by the Constitution and statutes of the United States of America, and to terminate the establishing authorities for committees that are inactive or no longer necessary, it is hereby ordered as follows:

Section 1. Executive Order No. 12071, as amended [set out as a note under section 1001 of Title 29, Labor], establishing the President's Commission on Pension Policy is revoked.

Sec. 2. Executive Order No. 12042 [not classified to the code], creating a Board of Inquiry to Report on Labor Disputes Affecting the Bituminous Coal Industry in the United States, is revoked.

Sec. 3. Executive Order No. 12085 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between the Norfolk and Western Railway Company and Certain of Its Employees, is revoked.

Sec. 4. Executive Order No. 12132 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between the National Railway Labor Conference and Certain of Its Employees, is revoked.

Sec. 5. Executive Order No. 12095 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between Wien Air Alaska, Inc., and Certain Individuals, is revoked.

Sec. 6. Executive Order No. 12159 [not classified to the code], creating an Emergency Board to Investigate Disputes Between the Chicago, Rock Island, Pacific Railroad and Peoria Terminal Company and Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees; and the United Transportation Union, is revoked.

Sec. 7. Executive Order No. 12182 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between the Long Island Rail Road and Certain of Its Employees, is revoked.

Sec. 8. Executive Order No. 12207 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between the Port Author-

Sec. 2. Subsection (e) of Section 1 of Executive Order No. 11948 of December 20, 1976, which extended the above advisory committee until December 31, 1978, is superseded.

JIMMY CARTER

DER NO. 12110

federal advisory committees, was superseded by Ex.Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, set out as a note under this section.

DER NO. 12258

tees, was superseded by Ex.Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, set out as a note below.

[Executive Order No. 12299, which had been set out in the credit to this Executive Order, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.]

DER NO. 12305

6 F.R. 25421

ERAL ADVISORY COMMITTEES

(c) Executive Order No. 12084 of September 27, 1978, as amended by Executive Order 12097 of November 8, 1978, [set out as a note under section 133 of Title 28], establishing the Judicial Nominating Commission for the District of Puerto Rico; and

(d) Executive Order No. 12064 of June 5, 1978, [set out as a note under section 7443 of Title 26, Internal Revenue Code], establishing the United States Tax Court Nominating Commission.

Subsections (g), (i), (j) and (k) of Section 1-101 of Executive Order No. 12258, [set out as a note under this section], extending these committees, are also revoked.

RONALD REAGAN

DER NO. 12379

47 F.R. 30699

MITTEES AND COMMISSIONS

Railway Labor Conference and Certain of Its Employees, is revoked.

Sec. 5. Executive Order No. 12095 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between Wien Air Alaska, Inc., and Certain Individuals, is revoked.

Sec. 6. Executive Order No. 12159 [not classified to the code], creating an Emergency Board to Investigate Disputes Between the Chicago, Rock Island, Pacific Railroad and Peoria Terminal Company and Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, and the United Transportation Union, is revoked.

Sec. 7. Executive Order No. 12182 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between the Long Island Rail Road and Certain of Its Employees, is revoked.

Sec. 8. Executive Order No. 12207 [not classified to the code], creating an Emergency Board to Investigate a Dispute Between the Port Authority Trans-Hudson Corporation and Certain of Its Employees, is revoked.

Sec. 9. Executive Order No. 12262 [set out as a note under section 1001 of Title 29, Labor], establishing an Interagency Employee Benefit Council, is revoked.

Sec. 10. Executive Order No. 12275 [set out as a note under section 951 of Title 20, Education], establishing the Design Liaison Council, is revoked.

Sec. 11. Executive Order No. 11829, as amended [set out as a note under section 640d of Title 25, Indians], establishing the Hopi-Navajo Land Settlement Interagency Committee, is revoked.

Sec. 12. Executive Order No. 11022, as amended [set out as a note under section 3001 of Title 42, The Public Health and Welfare], establishing the President's Council on Aging, is revoked.

Sec. 13. Executive Order No. 12192 [set out as a note under section 2021 of Title 42], establishing the State Planing [Planning] Council on Radioactive Waste Management, is revoked.

Sec. 14. Executive Order No. 12075, as amended [set out as a note under section 1450 of Title 42], establishing the Interagency Coordinating Council, is revoked.

Sec. 15. Executive Order No. 11782 [set out as a note under section 2281 of Title 12, Banks and Banking], establishing the Federal Financing Bank Advisory Council, is revoked.

Sec. 16. Executive Order No. 12089, as amended [set out as a note under section 2401 of Title 15, Commerce and Trade], establishing the National Productivity Council, is revoked.

Sec. 17. Executive Order No. 11330, as amended [set out as a note preceding section 2711 of Title 42, The Public Health and Welfare], establishing the President's Council on Youth Opportunity, is revoked.

Sec. 18. Executive Order No. 11256 [not classified to the code], establishing the President's Committee on Food and Fiber and establishing the National Advisory Commission on Food and Fiber, is revoked.

Sec. 19. Executive Order No. 11654 [set out as a note under section 278f of Title 15, Commerce and Trade], continuing the Federal Fire Council, is revoked.

Sec. 20. Executive Order No. 12083, as amended [set out as a note under section 7101 of Title 42, The Public Health and Welfare], establishing the Energy Coordinating Committee, is revoked.

Sec. 21. Executive Order No. 12285, as amended and ratified [set out as a note under section 1701 of Title 50, War and National Defense], establishing the President's Commission on Hostage Compensation, is revoked.

Sec. 22. Executive Order No. 12202, as amended [set out as a note under section 5848 of Title 42, The Public Health and Welfare], establishing the Nuclear Safety Oversight Committee, is revoked.

Sec. 23. Executive Order No. 12194 [set out as a note under section 4321 of Title 42], establishing the Radiation Policy Council, is revoked.

Sec. 24. The veterans' Federal Coordinating Committee (Weekly Compilation of Presidential Documents, volume 14, number 41, page 1743) [not classified to the code] is terminated.

Sec. 25. The President's Council on Energy Efficiency (Weekly Compilation of Presidential Documents, volume 16, numbers 18 and 30, pages 790 and 1404) [not classified to the code] is terminated.

RONALD REAGAN

EXECUTIVE ORDER NO. 12399

Ex.Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, which related to the continuance of certain federal advisory committees, was superseded by Ex.Ord.No. 12534, Sept. 30, 1985, 50 F.R. 40319, set out as a note under this section.

EXECUTIVE ORDER NO. 12489

Ex.Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, which related to the continuance of certain federal advisory committees was superseded by Ex.Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, set out as a note under this section.

EXECUTIVE ORDER NO. 12534

Ex.Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, which related to the continuance of certain federal advisory committees, was superseded by Ex.Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, set out as a note under this section.

EXECUTIVE ORDER NO. 12610

Sept. 30, 1987, 52 F.R. 36901

CONTINUANCE OF CERTAIN FEDERAL ADVISORY COMMITTEES

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C., App.), it is hereby ordered as follows:

Section 1. Each Advisory Committee listed below is continued until September 30, 1989:

(a) Advisory Committee on Small and Minority Business Ownership; Executive Order No. 12190 (Small Business Administration) [set out as a note under section 636 of Title 15, Commerce and Trade].

(b) Committee for the Preservation of the White House; Executive Order No. 11145, as

amended (Department of the Interior) [set out as a note under section 110 of Title 3, the President].

(c) Federal Advisory Council on Occupational Safety and Health; Executive Order No. 12196, as amended (Department of Labor) [set out as a note under section 7902 of this title].

(d) President's Committee on White House Fellowships; Executive Order No. 11183, as amended (Office of Personnel Management).

(e) President's Committee on the International Labor Organization; Executive Order No. 12216 (Department of Labor) [set out as a note under section 271 of Title 22, Foreign Relations and Intercourse].

(f) President's Committee on Mental Retardation; Executive Order No. 11776 (Department of Health and Human Services) [set out as a note preceding section 6000 of Title 42, the Public Health and Welfare].

(g) President's Committee on the National Medal of Science; Executive Order No. 11287, as amended (National Science Foundation) [set out as a note under section 1881 of Title 42].

(h) President's Council on Physical Fitness and Sports; Executive Order No. 12345, as amended (Department of Health and Human Services) [set out as a note under section 300U–5 of Title 42].

(i) President's Economic Policy Advisory Board; Executive Order No. 12296 (Office of Policy Development) [set out as a note under section 1023 of Title 15].

(j) President's Export Council; Executive Order No. 12131, as amended (Department of Commerce) [set out as a note under section 2401 of the Appendix to Title 50, War and National Defense].

(k) President's National Security Telecommunications Advisory Committee; Executive Order No. 12382, as amended (Department of Defense).

Sec. 2. Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act that are applicable to the committees listed in Section 1 of this Order, except that of reporting annually to the Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with guidelines and procedures established by the Administrator of General Services.

Sec. 3. The following Executive Orders, which established committees that have terminated or whose work is completed, are revoked:

(a) Executive Order No. 12490, establishing the National Commission on Space [formerly set out as a note under section 2451 of Title 42]

(b) Executive Order No. 12427, establishing the President's Advisory Council on Private Sector Initiatives.

(c) Executive Order No. 12526, establishing the President's Blue Ribbon Commission on Defense Management.

(d) Executive Order No. 12511, establishing the President's Child Safety Partnership.

(e) Executive Order No. 12503, as amended by Executive Order No. 12529, establishing the President's Commission on Americans Outdoors [formerly set out as a note under section 460*l*–1 of Title 16 Conservation].

(f) Executive Order No. 12435, establishing the President's Commission on Organized Crime [formerly set out as a note under section 1961 of Title 18, Crimes and Criminal Procedure].

(g) Executive Order No. 12575, establishing the President's Special Review Board.

(h) Executive Order No. 12546, establishing the Presidential Commission on the Space Shuttle Challenger Accident.

Sec. 4. Executive Order No. 12534 [formerly set out as a note under this section] is superseded.

Sec. 5. This Order shall be effective September 30, 1987.

RONALD REAGAN

Notes of Decisions

Powers and duties 3
Presumptions 4
Prospective effect 1
Remedies available 2

1. Prospective effect

This Appendix Committee Act was intended to have both immediate effect through this section providing for termination of advisory committees and prospective effect through sections 5, 6 and 7 providing procedures which contemplate studied decision on whether particular advisory committee is necessary. Carpenter v. Morton, D.C.Nev. 1976, 424 F.Supp. 603.

2. Remedies available

Congress in enacting this Appendix was concerned about proliferation of advisory committees which had outlived their usefulness; to remedy situation, Congress chose to terminate all advisory committees. Carpenter v. Morton, D.C.Nev. 1976, 424 F.Supp. 603.

3. Powers and duties

Congress contemplated that this Appendix would affect existing substantive law and that if it was later decided advisory committees were necessary, Congress would enact legislation to recharter them; Secretary of Interior had no obligation or authority to recharter advisory boards of which plaintiffs were members. Carpenter v. Morton, D.C.Nev.1976, 424 F.Supp. 603.

4. Presumptions

The rebuttable presumption that, unless a statute creating an advisory committee deals expressly with its termination, the committee terminates 2 years after enactment of the Federal Advisory Committee Act or after the creation of the committee, whichever comes later, may be rebutted by a showing that the Congress, in creating a committee, assigned to it a specific ongoing function that is integral to a particular statutory scheme 1979 (Counsel-Inf.Op.) 3 Op.O.L.C. 170.

§ 15. Effective date

Except as provided in section 7(b), this Act shall become effective upon the expiration of ninety days following October 6, 1972.

(viii) Communicating employee transportation needs to local public transportation authorities and other organizations (such as private bus companies) furnishing multipassenger modes of transportation; and

(ix) Establishing ridesharing goals and objectives for the facility.

(2) Prepare a facility report for annual submission to the agencywide coordinator.

(b) *Agencywide employee transportation coordinator.* Agencies shall appoint an individual to serve as an agencywide ETC. The agencywide ETC shall:

(1) Serve as a point of contact for the agency's facility ETC's;

(2) Serve as a liaison between other agencywide ETC's, State, and local ridesharing agencies and the GSA Central Office;

(3) Assist in the development and implementation of an agencywide ridesharing program; and

(4) Submit promptly any change in the name, address, title, or telephone number of the agencywide ETC to GSA.

§ 101-6.303 Reporting procedures.

(a) The head of each agency shall submit to GSA by June 1 of each year a report which shall include:

(1) The name, address, title, and telephone number of the agencywide ETC;

(2) A narrative on actions taken and barriers encountered in promoting ridesharing within the agency;

(3) Information on any notable facility achievements; and

(4) A copy of instructions issued to the agency's facility ETC's for implementing the Federal Facility Ridesharing Program.

(b) Reports shall be submitted to: Federal Facility Ridesharing Program, General Services Administration (FT), Washington, D.C. 20406, Telephone: FTS 557-1256/(703-557-1256).

(c) Interagency report control number 0258-GSA-AN has been assigned to this report.

§ 101-6.304 Exemptions.

Facilities with less than 100 full-time employees or less than 100 full-time employees on the largest shift are not required to submit an annual report. Agencies shall not subdivide buildings, groups of buildings, or worksites for the purpose of meeting the exemption standards.

§ 101-6.305 Assistance to agencies.

(a) Due to the large number of Federal, State, local and private sector groups involved in the promotion of ridesharing programs, there are various resources available to Federal agencies interested in technical assistance and promotional materials for use in their ridesharing programs. To aid agencies in identifying these resources, GSA has designated ridesharing coordinators at each of its regional offices. A list of these coordinators and information concerning the national program can be obtained by contacting the office listed in § 101-6.303(b).

(b) Ridesharing management assistance is often available from local ridesharing agencies found in most cities throughout the country. These agencies may be sponsored by State or local governments, public transportation authorities, universities, Chambers of Commerce, Councils of Governments, etc. In addition to providing commuter matching services, these agencies have experience in local ridesharing promotion activities, vanpool and buspool programs, and are familiar with management of commuter disruptions such as transit strikes, bridge closings, as well as air pollution alerts. ETC's are encouraged to use the services of the local ridesharing agencies to the greatest extent possible.

Subparts 101-6.4–101-6.9 [Reserved]

Subpart 101-6.10—Federal Advisory Committee Management

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); sec. 7, 5 U.S.C., App.; and E.O. 12024, 3 CFR 1977 Comp., p. 158.

SOURCE: 52 FR 45929, Dec. 2, 1987, unless otherwise noted.

§ 101-6.1001 Scope.

(a) This subpart defines the policies, establish minimum requirements, and provide guidance to agency management for the establishment, operation, administration, and duration of advisory committees subject to the Federal Advisory Committee Act, as amended. Reporting requirements which keep the Congress and the public informed of the number, purpose, membership, activities, and cost of these advisory committees are also included.

(b) The Act and this subpart do not apply to advisory meetings or groups listed in § 101-6.1004.

§ 101-6.1002 Policy.

The policy to be followed by Federal departments, agencies, and commissions, consistent with the Federal Advisory Committee Act, as amended, is as follows:

(a) An advisory committee shall be established only when it is essential to the conduct of agency business. Decision criteria include whether committee deliberations will result in the creation or elimination of, or change in regulations, guidelines, or rules affecting agency business; whether the information to be obtained is already available through another advisory committee or source within the Federal Government; whether the committee will make recommendations resulting in significant improvements in service or reductions in cost; or whether the committee's recommendations will provide an important additional perspective or viewpoint impacting agency operations;

(b) An advisory committee shall be terminated whenever the stated objectives of the committee have been accomplished; the subject matter or work of the committee has become obsolete by the passing of time or the assumption of the committee's main functions by another entity within the Federal Government; or the agency determines that the cost of operation is excessive in relation to the benefits accruing to the Federal Government;

(c) An advisory committee shall be balanced in its membership in terms of the points of view represented and the functions to be performed; and

(d) An advisory committee shall be open to the public in its meetings except in those circumstances where a closed meeting shall be determined proper and consistent with the provisions in the Government in the Sunshine Act, 5 U.S.C. 552(b).

§ 101-6.1003 Definitions.

"Act" means the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

"Administrator" means the Administrator of General Services.

"Advisory committee" subject to the Act means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, which is established by statute, or established or utilized by the President or any agency official for the purpose of obtaining advice or recommendations on issues or policies which are within the scope of his or her responsibilities.

"Agency" has the same meaning as in section 551(1) of Title 5 of the United States Code.

"Committee Management Secretariat" ("Secretariat"), established pursuant to the Act is responsible for matters relating to advisory committees, and carries out the Administrator's responsibilities under the Act and Executive Order 12024.

"Committee member" means an individual who serves by appointment on an advisory committee and has the full right and obligation to participate in the activities of the committee, including voting on committee recommendations.

"Presidential advisory committee" means any advisory committee which advises the President. It may be established by the President or by the Congress, or used by the President in the interest of obtaining advice or recommendations for the President. "Independent Presidential advisory committee" means any Presidential advisory committee not assigned by the President, or the President's delegate, or the Congress in law, to an agency for administrative and other support for which the Administrator of General Services may provide administrative and other support on a reimbursable basis.

"Staff member" means any individual who serves in a support capacity to an advisory committee.

"Utilized" (or "used"), as referenced in the definition of "Advisory committee" in this section, means a committee or other group composed in whole or in part of other than full-time officers or employees of the Federal Government with an established existence outside the agency seeking its advice which the President or agency official(s) adopts, such as through institutional arrangements, as a preferred source from which to obtain advice or recommendations on a specific issue or policy within the scope of his or her responsibilities in the same manner as that individual would obtain advice or recommendations from an established advisory committee.

§ 101-6.1004 Examples of advisory meetings or groups not covered by the Act or this subpart.

The following are examples of advisory meetings or groups not covered by the Act or this subpart;

(a) Any committee composed wholly of full-time officers or employees of the Federal Government;

(b) Any advisory committee specifically exempted by an Act of Congress;

(c) Any advisory committee established or utilized by the Central Intelligence Agency;

(d) Any advisory committee established or utilized by the Federal Reserve System;

(e) The Advisory Committee on Intergovernmental Relations;

(f) Any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies;

(g) Any committee which is established to perform primarily operational as opposed to advisory functions. Operational functions are those specifically provided by law, such as making or implementing Government decisions or policy. An operational committee may be covered by the Act if it becomes primarily advisory in nature. It is the responsibility of the administering agency to determine whether such a committee is primarily operational. If so, it would not fall under the requirements of the Act and this Subpart, but would continue to be regulated under relevant laws, subject to the direction of the President and the review of the appropriate legislative committees;

(h) Any meeting initiated by the President or one or more Federal official(s) for the purpose of obtaining advice or recommendations from one individual;

(i) Any meeting initiated by a Federal official(s) with more than one individual for the purpose of obtaining the advice of individual attendees and not for the purpose of utilizing the group to obtain consensus advice or recommendations. However, agencies should be aware that such a group would be covered by the Act when an agency accepts the group's deliberations as a source of consensus advice or recommendations;

(j) Any meeting initiated by a group with the President or one or more Federal official(s) for the purpose of expressing the group's view, provided that the President or Federal official(s) does not use the group recurrently as a preferred source of advice or recommendations;

(k) Meetings of two or more advisory committee or subcommittee members convened solely to gather information or conduct research for a chartered advisory committee, to analyze relevant issues and facts, or to draft proposed position papers for deliberation by the advisory committee or a subcommittee of the advisory committee; or

(l) Any meeting with a group initiated by the President or one or more Federal official(s) for the purpose of exchanging facts or information.

§ 101-6.1005 Authorities for establishment of advisory committees.

An advisory committee may be established in one of four ways:

(a) By law where the Congress specifically directs the President or an agency to establish it;

(b) By law where the Congress authorizes but does not direct the President or an agency to establish it. In this instance, the responsible agency head shall follow the procedures provided in § 101-6.1007;

(c) By the President by Executive Order; or

(d) By an agency under general agency authority in Title 5 of the United States Code or under other general agency-authorizing law. In this instance, an agency head shall follow the procedures provided in § 101-6.1007.

§ 101-6.1006 [Reserved]

§ 101-6.1007 Agency procedures for establishing advisory committees.

(a) When an agency head decides that it is necessary to establish a committee, the agency must consider the functions of similar committees in the same agency before submitting a consultation to GSA to ensure that no duplication of effort will occur.

(b) In establishing or utilizing an advisory committee, the head of an agency or designee shall comply with the Act and this subpart, and shall:

(1) Prepare a proposed charter for the committee which includes the information listed in section 9(c) of the Act; and

(2) Submit a letter and the proposed charter to the Secretariat proposing to establish or use, reestablish, or renew an advisory committee. The letter shall include the following information:

(i) An explanation of why the committee is essential to the conduct of agency business and in the public interest;

(ii) An explanation of why the committee's functions cannot be performed by the agency, another existing advisory committee of the agency, or other means such as a public hearing; and

(iii) A description of the agency's plan to attain balanced membership. For purposes of attaining balance, agencies shall consider for membership interested persons and groups with professional or personal qualifications or experience to contribute to the functions and tasks to be performed. This should be construed neither to limit the participation, nor compel the selection of any particular individual or group to obtain divergent points of view that are relevant to the business of the advisory committee.

(3) Subcommittees that do not function independently of the full or parent advisory committee need not follow the requirements of paragraphs (b)(1) and (b)(2) of this section. However, they are subject to all other requirements of the Act.

(4) The requirements of paragraphs (b)(1) and (b)(2) of this section shall apply for any subcommittee of a chartered advisory committee, whether its members are drawn in whole or in part from the full or parent advisory committee, which functions independently of the parent advisory committee such as by making recommendations directly to the agency rather than for consideration by the chartered advisory committee.

(c) The Secretariat will review the proposal and notify the agency of GSA's views within 15 calendar days of receipt, if possible. The agency head retains final authority for establishing a particular advisory committee.

(d) The agency shall notify the Secretariat in writing that either:

(1) The advisory committee is being established. The filing of the advisory committee charter as specified in § 101-6.1013 shall be considered appropriate written notification in this instance. The date of filing constitutes the date of establishment or renewal. The agency head shall then comply with the provisions of § 101-6.1009 for an established advisory committee; or

(2) The advisory committee is not being established. In this instance, the agency shall also advise the Secretariat if the agency head intends to take any further action with respect to the proposed advisory committee.

§ 101-6.1008 The role of GSA.

(a) The functions under section 7 of the Act will be performed for the Administrator by the Secretariat. The Secretariat assists the Administrator in prescribing administrative guidelines and management controls for advisory committees, and assists other agencies in implementing and interpreting these guidelines. In exercising internal controls over the management and supervision of the oper-

ations and procedures vested in each agency by section 8(b) of the Act and by § 101-6.1009 and § 101-6.1017 of this rule, agencies shall conform to the guidelines prescribed by GSA.

(b) The Secretariat may request comments from agencies on management guidelines and policy issues of broad interagency interest or application to the Federal advisory committee program.

(c) In advance of issuing informal guidelines, nonstatutory reporting requirements, and administrative procedures such as report formats or automation, the Secretariat shall request formal or informal comments from agency Committee Management Officers.

§ 101-6.1009 Responsibilities of an agency head.

The head of each agency that uses one or more advisory committees shall ensure:

(a) Compliance with the Act and this subpart;

(b) Issuance of administrative guidelines and management controls which apply to all advisory committees established or used by the agency;

(c) Designation of a Committee Management Officer who shall carry out the functions specified in section 8(b) of the Act;

(d) Provision of a written determination stating the reasons for closing any advisory committee meeting to the public;

(e) A review, at least annually, of the need to continue each existing advisory committees, consistent with the public interest and the purpose of functions of each committee;

(f) Rates of pay are justified and levels of agency support are adequate;

(g) The appointment of a Designated Federal Officer for each advisory committee and its subcommittees;

(h) The opportunity for reasonable public participation in advisory committee activities; and

(i) That the number of committee members is limited to the fewest necessary to accomplish committee objectives.

§ 101-6.1010 [Reserved]

§ 101-6.1011 Responsibilities of the chairperson of an independent Presidential advisory committee.

The chairperson of an independent Presidential advisory committee shall comply with the Act and this subpart and shall:

(a) Consult with the Administrator concerning the role of the Designated Federal Officer and Committee Management Officer; and

(b) Fulfill the responsibilities of an agency head as specified in paragraphs (d) and (h) of § 101-6.1009.

§ 101-6.1012 [Reserved]

§ 101-6.1013 Charter filing requirements.

No advisory committee may operate, meet, or take any action until its charter has been filed as follows:

(a) *Advisory committee established, used, reestablished, or renewed by an agency.* The agency head shall file—

(1) The charter with the standing committees of the Senate and the House of Representatives having legislative jurisdiction of the agency;

(2) A copy of the filed charter with the Library of Congress, Exchange and Gift Division, Federal Documents Section, Federal Advisory Committee Desk, Washington, DC 20540; and

(3) A copy of the charter indicating the Congressional filing date, with the Secretariat.

(b) *Advisory committee specifically directed by law or authorized by law.* Procedures are the same as in paragraph (a) of this section.

(c) *Presidential advisory committee.* When either the President or the Congress establishes an advisory committee that advises the President, the responsible agency head or, in the case of an independent Presidential advisory committee, the President's designee shall file—

(1) The charter with the Secretariat;

(2) A copy of the filed charter with the Library of Congress; and

(3) If specifically directed by law, a copy of the charter indicating its date of filing with the Secretariat, with the standing committees on the Senate and the House of Representatives having legislative jurisdiction of the agency or the independent Presidential advisory committee.

§ 101-6.1014 [Reserved]

§ 101-6.1015 Advisory committee information which must be published in the Federal Register.

(a) *Committee establishment, reestablishment, or renewal.* (1) A notice in the FEDERAL REGISTER is required when an advisory committee, except a committee specifically directed by law or established by the President by Executive Order, is established, used, reestablished, or renewed. Upon receiving notification of the completed review from the Secretariat in accordance with paragraph (c) of § 101-6.1007, the agency shall publish a notice in the FEDERAL REGISTER that the committee is being established, used, reestablished, or renewed. For a new committee, such notice shall also include statements describing the nature and purpose of the committee and that the committee is necessary and in the public interest.

(2) Establishment and reestablishment notices shall appear at least 15 calendar days before the committee charter is filed, except that the Secretariat may approve less than 15 days when requested by the agency for good cause. The 15-day advance notice requirement does not apply to committee renewals, notices of which may be published concurrently with the filing of the charter.

(b) *Committee meetings.* (1) The agency or an independent Presidential advisory committee shall publish at least 15 calendar days prior to an advisory committee meeting a notice in the FEDERAL REGISTER, which includes:

(i) The exact name of the advisory committee as chartered;

(ii) The time, date, place, and purpose of the meeting;

(iii) A summary of the agenda; and

(iv) A statement whether all or part of the meeting is open to the public or closed, and if closed, the reasons why, citing the specific exemptions of the Government in the Sunshine Act (5 U.S.C. 552(b)) as the basis for closure.

(2) In exceptional circumstances, the agency or an independent Presidential advisory committee may give less than 15 days notice, provided that the reasons for doing so are included in the committee meeting notice published in the FEDERAL REGISTER.

§ 101-6.1016 [Reserved]

§ 101-6.1017 Responsibilities of the agency Committee Management Officer.

In addition to implementing the provisions of section 8(b) of the Act, the Committee Management Officer will carry out all responsibilities delegated by the agency head. The Committee Management Officer should also ensure that section 10(b), 12(a) and 13 of the Act are implemented by the agency to provide for appropriate recordkeeping. Records include, but are not limited to:

(a) A set of approved charters and membership lists for each advisory committee;

(b) Copies of the agency's portion of the Annual Report of Federal Advisory Committees required by paragraph (b) of § 101 6.1035;

(c) Agency guidelines on committee management operations and procedures as maintained and updated; and

(d) Agency determinations to close advisory committee meetings as required by paragraph (c) of § 101-6.1023.

§ 101-6.1018 [Reserved]

§ 101-6.1019 Duties of the Designated Federal Officer.

The agency head or, in the case of an independent Presidential advisory committee, the Administrator shall designate a Federal officer or employee, who may be either full-time or permanent part-time, to be the Designated Federal Officer for each advisory committee and its subcommittees, who:

(a) Must approve or call the meeting of the advisory committee;

(b) Must approve the agenda;

(c) Must attend the meetings;

(d) Shall adjourn the meetings when such adjournment is in the public interest; and

(e) Chairs the meeting when so directed by the agency head.

(f) The requirement in paragraph (b) of this section does not apply to a Presidential advisory committee.

§ 101-6.1020 [Reserved]

§ 101-6.1021 Public participation in advisory committee meetings.

The agency head, or the chairperson of an independent Presidential advisory committee, shall ensure that—

(a) Each advisory committee meeting is held at a reasonable time and in a place reasonably accessible to the public;

(b) The meeting room size is sufficient to accommodate advisory committee members, committee or agency staff, and interested members of the public;

(c) Any member of the public is permitted to file a written statement with the advisory committee; and

(d) Any member of the public may speak at the advisory committee meeting if the agency's guidelines so permit.

§ 101-6.1022 [Reserved]

§ 101-6.1023 Procedures for closing an advisory committee meeting.

(a) To close all or part of a meeting, an advisory committee shall submit a request to the agency head or, in the case of an independent Presidential advisory committee, the Administrator, citing the specific provisions of the Government in the Sunshine Act (5 U.S.C. 552(b)) which justify the closure. The request shall provide the agency head or the Administrator sufficient time to review the matter in order to make a determination prior to publication of the meeting notice required by § 101-6.1015(b).

(b) The general counsel of the agency or, in the case of an independent Presidential advisory committee, the general counsel of the General Services Administration should review all requests to close meetings.

(c) If the agency head or, in the case of an independent Presidential advisory committee, the Administrator agrees that the request is consistent with the provisions in the Government in the Sunshine Act and the Federal Advisory Committee Act, he or she shall issue a determination that all or part of the meeting be closed.

(d) The agency head, or the chairperson of an independent Presidential advisory committee, shall:

(1) Make a copy of the determination available to the public upon request; and

(2) State the reasons why all or part of the meeting is closed, citing the specific exemptions used from the Government in the Sunshine Act in the meeting notice published in the FEDERAL REGISTER.

§ 101-6.1024 [Reserved]

§ 101-6.1025 Requirement for maintaining minutes of advisory committee meetings.

(a) The agency head or, in the case of an independent Presidential advisory committee, the chairperson shall ensure that detailed minutes of each advisory committee meeting are kept. The minutes must include:

(1) Time, date, and place;

(2) A list of the following persons who were present:

(i) Advisory committee members and staff;

(ii) Agency employees; and

(iii) Members of the public who presented oral or written statements;

(3) An estimated number of other members of the public present;

(4) An accurate description of each matter discussed and the resolution, if any, made by the committee of such matter; and

(5) Copies of each report or other document received, issued, or approved by the committee.

(b) The chairperson of each advisory committee shall certify to the accuracy of all minutes of advisory committee meetings.

§ 101-6.1026 [Reserved]

§ 101-6.1027 Termination of advisory committees.

(a) Any advisory committee shall automatically terminate not later than 2 years after it is established, reestablished, or renewed, unless:

(1) Its duration is otherwise provided for by law;

(2) The President or agency head renews it prior to the end of such period; or

(3) The President or agency head terminates it before that time by revoking or abolishing its establishment authority.

(b) If an agency head terminates an advisory committee, the agency shall notify the Secretariat of the effective date of termination.

§ 101-6.1028 [Reserved]

§ 101-6.1029 Renewal and rechartering of advisory committees.

(a) Advisory committees specifically directed by law:

(1) Whose duration extends beyond 2 years shall require rechartering by the filing of a new charter every 2 years after the date of enactment of the law establishing the committee. If a new charter is not filed, the committee is not terminated, but may not meet or take any action.

(2) Which would terminate under the provisions of section 14 of the Act, and for which renewal would require reauthorization by law, may be reestablished by an agency provided that the agency complies under general agency authority with the provisions of § 101-6.1007.

(b) Advisory committees established by the President may be renewed by appropriate action of the President and the filing of a new charter.

(c) Advisory committees authorized by law or established or used by an agency may be renewed, provided that at least 30 but not more than 60 days before the committee terminates, an agency head who intends to renew a committee complies with the provisions of § 101-6.1007.

§ 101-6.1030 [Reserved]

§ 101-6.1031 Amendments to advisory committee charters.

(a) *Committees specifically directed by law or authorized by law; or established by the President.* The agency head shall be responsible for ensuring that any minor technical changes made to current charters are consistent with the relevant statute or Executive Order. When the Congress by law, or the President by Executive Order, changes the authorizing language which has been the basis for establishing an advisory committee, the agency head, or the chairperson of an independent Presidential advisory committee, shall:

(1) Amend those sections of the current charter affected by the new law or Executive Order; and

(2) File the amended charter as specified in § 101-6.1013.

(b) *Committees established or used by an agency.* The charter of an advisory committee established under general agency authority may be amended when an agency head determines that the existing charter no longer accurately reflects the objectives or functions of the committee. Changes may be minor, such as revising the name of the advisory committee, or modifying the estimated number or frequency of meetings. Changes may also be major such as those dealing with the objectives or composition of the committee. The agency head retains final authority for amending the charter of an advisory committee. Amending any existing advisory committee charter does not constitute renewal of the committee under § 101-6.1029.

(1) To make a minor amendment to a committee charter, an agency shall:

(i) Amend the charter language as necessary, and

(ii) File the amended charter as specified in § 101-6.1013.

(2) To make a major amendment to a committee charter, an agency shall:

(i) Amend the charter language as necessary;

(ii) Submit the proposed amended charter with a letter to the Secretariat requesting GSA's views on the amended language, along with an explanation of the purpose of the changes and why they are necessary. The Secretariat will review the proposed changes and notify the agency of GSA's views within 15 calendar days of the request, if possible; and

(iii) File the amended charter as specified in § 101-6.1013.

§ 101-6.1032 [Reserved]

§ 101-6.1033 Compensation and expense reimbursement of advisory committee members, staffs and consultants.

(a) *Uniform pay guidelines for members of an advisory committee.* Nothing in this subpart shall require an agency head to provide compensation, unless otherwise provided by law, to a member of an advisory committee. However, when compensation is deemed appropriate by an agency, it shall fix the pay of the members of an advisory committee to the daily equivalent of a rate of the General Schedule in 5 U.S.C. 5332 unless the members are appointed as consultants and compensated under 5 U.S.C. 3109. In determining an appropriate rate of pay for the members, an agency shall give consideration to the significance, scope, and technical complexity of the matters with which the advisory committee is concerned and the qualifications required of the members of the advisory committee. An agency may not fix the pay of the members of an advisory committee at a rate higher than the daily equivalent of the maximum rate for a GS-15 under the General Schedule, unless a higher rate is mandated by statute, or the head of the agency has personally determined that a higher rate of pay under the General Schedule is justified and necessary. Such a determination must be reviewed by the head of the agency annually. Under this subpart, an agency may not fix the pay of the members of an advisory committee at a rate of pay higher than the daily equivalent of a rate for a GS-18, as provided in 5 U.S.C. 5332.

(b) *Pay for staff members of an advisory committee.* An agency may fix the pay of each advisory committee staff member at a rate of the General Schedule in which the Staff member's position would appropriately be placed (5 U.S.C. Chapter 51). An agency may not fix the pay of a staff member at a rate higher than the daily equivalent of the maximum rate for GS-15, unless the agency head has determined that under the General Schedule the staff member's position would appropriately be placed at a grade higher than GS-15. This determination must be reviewed annually by the agency head.

(1) In establishing rates of compensation, the agency head shall comply with any applicable statutes, regulations, Executive Orders, and administrative guidelines.

(2) A staff member who is a Federal employee shall serve with the knowledge of the Designated Federal Officer and the approval of the employee's direct supervisor. If a non-Federal employee, the staff member shall be appointed in accordance with applicable agency procedures, following consultation with the advisory committee.

(c) *Pay for consultants to an advisory committee.* An agency shall fix the pay of a consultant to an advisory committee after giving consideration to the qualifications required of the consultant and the significance, scope, and technical complexity of the work. The compensation may not exceed the maximum rate of pay authorized by 5 U.S.C. 3109, and shall be in accordance with any applicable statutes, regulations, Executive Orders and administrative guidelines.

(d) *Gratuitous services.* In the absence of any special limitations applicable to a specific agency, nothing in this subpart shall prevent an agency from accepting the gratuitous services of an advisory committee member, staff member, or consultant who agrees in advance to serve without compensation.

(e) *Travel expenses.* Advisory committee members and staff members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, United States Code, for persons employed intermittently in the Government service.

(f) *Services for handicapped members.* While performing advisory committee duties, an advisory committee member who is blind or deaf or who qualifies as a handicapped individual may be provided services by a personal assistant for handicapped employees if the member:

(1) Qualifies as a handicapped individual as defined by section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

(2) Does not otherwise qualify for assistance under 5 U.S.C. 3102 by reason of being an employee of an agency.

(g) *Exclusions.* (1) Nothing in this section shall prevent any person who (without regard to his or her service with an advisory committee) is a full-time Federal employee from receiving compensation at a rate which he or she otherwise would be compensated as a full-time Federal employee.

(2) Nothing in this section shall prevent any person who immediately before his or her service with an advisory committee was a full-time Federal employee from receiving compensation at the rate at which he or she was compensated as a full-time Federal employee.

(3) Nothing in this section shall affect a rate of pay or a limitation on a rate of pay that is specifically established by law or a rate of pay established under the General Schedule classification and pay system in chapter 51 and chapter 53 of Title 5, United States Code.

§ 101-6.1034 [Reserved]

§ 101-6.1035 Reports required for advisory committees.

(a) Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate will prepare a follow-up report to the Congress detailing the disposition of the committee's recommendations in accordance with section 6(b) of the Act;

(b) The President's annual report to the Congress shall be prepared by GSA based on reports filed on a fiscal year basis by each agency consistent with the information specified in section 6(c) of the Act. Reports from agencies shall be consistent with instructions provided annually by the Secretariat. This report has been cleared in accordance with FIRMR 201-45.6 in 41 CFR Chapter 201 and assigned interagency report control number 0304-GSA-XX.

(c) In accordance with section 10(d) of the Act, advisory committees holding closed meetings shall issue reports at least annually, setting forth a summary of activities consistent with the policy of Section 552(b) of Title 5, United States Code.

(d) Subject to section 552 of Title 5, United States Code, eight copies of each report made by an advisory committee, including any report on closed meetings as specified in paragraph (c) of this section, and, where appropriate, background papers prepared by consultants, shall be filed with the Library of Congress as required by section 13 of the Act, for public inspection and use at the location specified in paragraph (a)(2) of § 101-6.1013.

Subparts 101-6.11—101-6.20 [Reserved]

Subpart 101-6.21—Intergovernmental Review of General Services Administration Programs and Activities

AUTHORITY: E.O. 12372, July 14, 1982 (47 FR 30959), as amended Apr. 8, 1983 (48 FR 15887); sec. 401 of the Intergovernmental Cooperation Act of 1968 as amended (31 U.S.C. 6506).

SOURCE: 48 FR 29329, June 24, 1983, unless otherwise noted.

EDITORIAL NOTE: For additional information, see related documents published at 47 FR 57369, Dec. 23, 1982, 48 FR 17101, Apr. 21, 1983, and 48 FR 29096, June 24, 1983.

§ 101-6.2100 Scope of subpart.

This subpart implements Executive Order 12372, "Intergovernmental Review of Federal Programs", for Federal financial assistance and direct Federal development programs of the General Services Administration (GSA).

§ 101-6.2101 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, "Intergovernmental Review of Federal Programs," issued July 14, 1982, and amended on April 8, 1983. These regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968.

(b) These regulations are intended to foster an intergovernmental partner-

title 5 should be applied to the information practices of those organizations, and that it make other legislative recommendations to protect the privacy of individuals while meeting the legitimate informational needs of government and society, ceased to exist on September 30, 1977, pursuant to section 5(g) of Pub. L. 93-579.

GUIDELINES AND REGULATIONS FOR MAINTENANCE OF PRIVACY AND PROTECTION OF RECORDS OF INDIVIDUALS

Section 6 of Pub. L. 93-579, which provided that the Office of Management and Budget shall develop guidelines and regulations for use of agencies in implementing provisions of this section and provide continuing assistance to and oversight of the implementation of the provisions of such section by agencies, was repealed by Pub. L. 100-503, § 6(c), Oct. 18, 1988, 102 Stat. 2513.

DISCLOSURE OF SOCIAL SECURITY NUMBER

Section 7 of Pub. L. 93-579 provided that:

"(a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

"(2) The provisions of paragraph (1) of this subsection shall not apply with respect to—

"(A) any disclosure which is required by Federal statute, or

"(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

"(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."

AUTHORIZATION OF APPROPRIATIONS TO PRIVACY PROTECTION STUDY COMMISSION

Section 9 of Pub. L. 93-579, as amended by Pub. L. 94-394, Sept. 3, 1976, 90 Stat. 1198, authorized appropriations for the period beginning July 1, 1975, and ending on September 30, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 552b, 3111, 7133 of this title; title 7 section 2204b; title 10 sections 424, 1102; title 15 section 278g-3; title 16 sections 410cc-35, 1536; title 20 sections 1080a, 1221e-1; title 26 sections 6103, 7852; title 31 sections 3701, 3711, 3718, 3729, 3733; title 38 section 3301; title 39 section 410; title 42 sections 300aa-25, 402, 405, 1306, 9660; title 44 sections 2906, 3501, 3504; title 46 sections 7702, 9303.

§ 552b. Open meetings

(a) For purposes of this section—

(1) the term "agency" means any agency, as defined in section 552(e)[3] of this title, headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

(2) the term "meeting" means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted by subsection (d) or (e); and

(3) the term "member" means an individual who belongs to a collegial body heading an agency.

(b) Members shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in subsection (c), every portion of every meeting of an agency shall be open to public observation.

(c) Except in a case where the agency finds that the public interest requires otherwise, the second sentence of subsection (b) shall not apply to any portion of an agency meeting, and the requirements of subsections (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

(1) disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

(2) relate solely to the internal personnel rules and practices of an agency;

(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) involve accusing any person of a crime, or formally censuring any person;

(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) disclose information contained in or related to examination, operating, or condition

[3] See References in Text note below.

reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) disclose information the premature disclosure of which would—

(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action,

except that subparagraph (B) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

(d)(1) Action under subsection (c) shall be taken only when a majority of the entire membership of the agency (as defined in subsection (a)(1)) votes to take such action. A separate vote of the agency members shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to subsection (c), or with respect to any information which is proposed to be withheld under subsection (c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each agency member participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the agency close such portion to the public for any of the reasons referred to in paragraph (5), (6), or (7) of subsection (c), the agency, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(3) Within one day of any vote taken pursuant to paragraph (1) or (2), the agency shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the agency shall, within one day of the vote taken pursuant to paragraph (1) or (2) of this subsection, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(4) Any agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9)(A), or (10) of subsection (c), or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof in the event that a majority of the members of the agency votes by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each member on the question, is made available to the public. The provisions of paragraphs (1), (2), and (3) of this subsection and subsection (e) shall not apply to any portion of a meeting to which such regulations apply: *Provided*, That the agency shall, except to the extent that such information is exempt from disclosure under the provisions of subsection (c), provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof at the earliest practicable time.

(e)(1) In the case of each meeting, the agency shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the agency determines by a recorded vote that agency business requires that such meeting be called at an earlier date, in which case the agency shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(2) The time or place of a meeting may be changed following the public announcement required by paragraph (1) only if the agency publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the agency to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if (A) a majority of the entire membership of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible, and (B) the agency publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(3) Immediately following each public announcement required by this subsection, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting, shall also be submitted for publication in the Federal Register.

(f)(1) For every meeting closed pursuant to paragraphs (1) through (10) of subsection (c),

the General Counsel or chief legal officer of the agency shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the agency. The agency shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (8), (9)(A), or (10) of subsection (c), the agency shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(2) The agency shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes (as required by paragraph (1)) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the agency determines to contain information which may be withheld under subsection (c). Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting or portion was held, whichever occurs later.

(g) Each agency subject to the requirements of this section shall, within 180 days after the date of enactment of this section, following consultation with the Office of the Chairman of the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment by any person, promulgate regulations to implement the requirements of subsections (b) through (f) of this section. Any person may bring a proceeding in the United States District Court for the District of Columbia to require an agency to promulgate such regulations if such agency has not promulgated such regulations within the time period specified herein. Subject to any limitations of time provided by law, any person may bring a proceeding in the United States Court of Appeals for the District of Columbia to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of subsections (b) through (f) of this section and to require the promulgation of regulations that are in accord with such subsections.

(h)(1) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (b) through (f) of this section by declaratory judgment, injunctive relief, or other relief as may be appropriate. Such actions may be brought by any person against an agency prior to, or within sixty days after, the meeting out of which the violation of this section arises, except that if public announcement of such meeting is not initially provided by the agency in accordance with the requirements of this section, such action may be instituted pursuant to this section at any time prior to sixty days after any public announcement of such meeting. Such actions may be brought in the district court of the United States for the district in which the agency meeting is held or in which the agency in question has its headquarters, or in the District Court for the District of Columbia. In such actions a defendant shall serve his answer within thirty days after the service of the complaint. The burden is on the defendant to sustain his action. In deciding such cases the court may examine in camera any portion of the transcript, electronic recording, or minutes of a meeting closed to the public, and may take such additional evidence as it deems necessary. The court, having due regard for orderly administration and the public interest, as well as the interests of the parties, may grant such equitable relief as it deems appropriate, including granting an injunction against future violations of this section or ordering the agency to make available to the public such portion of the transcript, recording, or minutes of a meeting as is not authorized to be withheld under subsection (c) of this section.

(2) Any Federal court otherwise authorized by law to review agency action may, at the application of any person properly participating in the proceeding pursuant to other applicable law, inquire into violations by the agency of the requirements of this section and afford such relief as it deems appropriate. Nothing in this section authorizes any Federal court having jurisdiction solely on the basis of paragraph (1) to set aside, enjoin, or invalidate any agency action (other than an action to close a meeting or to withhold information under this section) taken or discussed at any agency meeting out of which the violation of this section arose.

(i) The court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with the provisions of subsection (g) or (h) of this section, except that costs may be assessed against the plaintiff only where the court finds that the suit was initiated by the plaintiff primarily for frivolous or dilatory purposes. In the case of assessment of costs against an agency, the costs may be assessed by the court against the United States.

(j) Each agency subject to the requirements of this section shall annually report to Congress regarding its compliance with such requirements, including a tabulation of the total

number of agency meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section, including any costs assessed against the agency in such litigation (whether or not paid by the agency).

(k) Nothing herein expands or limits the present rights of any person under section 552 of this title, except that the exemptions set forth in subsection (c) of this section shall govern in the case of any request made pursuant to section 552 to copy or inspect the transcripts, recordings, or minutes described in subsection (f) of this section. The requirements of chapter 33 of title 44, United States Code, shall not apply to the transcripts, recordings, and minutes described in subsection (f) of this section.

(*l*) This section does not constitute authority to withhold any information from Congress, and does not authorize the closing of any agency meeting or portion thereof required by any other provision of law to be open.

(m) Nothing in this section authorizes any agency to withhold from any individual any record, including transcripts, recordings, or minutes required by this section, which is otherwise accessible to such individual under section 552a of this title.

(Added Pub. L. 94–409, § 3(a), Sept. 13, 1976, 90 Stat. 1241.)

REFERENCES IN TEXT

Section 552(e) of this title, referred to in subsec. (a)(1), was redesignated section 552(f) of this title by section 1802(b) of Pub. L. 99–570.

180 days after the date of enactment of this section, referred to in subsec. (g), means 180 days after the date of enactment of Pub. L. 94–409, which was approved Sept. 13, 1976.

EFFECTIVE DATE

Section 6 of Pub. L. 94–409 provided that:

"(a) Except as provided in subsection (b) of this section, the provisions of this Act [see Short Title note set out below] shall take effect 180 days after the date of its enactment [Sept. 13, 1976].

"(b) Subsection (g) of section 552b of title 5, United States Code, as added by section 3(a) of this Act [subsec. (g) of this section], shall take effect upon enactment [Sept. 13, 1976]."

SHORT TITLE

Section 1 of Pub. L. 94–409 provided: "That this Act [enacting this section, amending sections 551, 552, 556 and 557 of this title, section 10 of Appendix to this title, and section 410 of Title 39, and enacting provisions set out as notes under this section] may be cited as the 'Government in the Sunshine Act'."

DECLARATION OF POLICY AND STATEMENT OF PURPOSE

Section 2 of Pub. L. 94–409 provided that: "It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. It is the purpose of this Act [see Short Title note set out above] to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 552 of this title; title 12 section 3502; title 19 section 2347; title 22 section 4605, 4833; title 39 section 410; title 42 sections 2996c, 7171, 7234, 8103, 10703; title 44 section 2204; title 45 sections 1116, 1212; title 46 sections 7702, 9303.

§ 553. Rule making

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) a military or foreign affairs function of the United States; or

(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

(1) a statement of the time, place, and nature of public rule making proceedings;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—

(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;

(2) interpretative rules and statements of policy; or

(3) as otherwise provided by the agency for good cause found and published with the rule.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 383.)

Tom Welch
X5101
Rm 5002 NEOB

July 30, 1990

D R A F T

The FCCSET - PCAST Interface

Introduction

- We cannot afford anything less than the fullest permissible interchange between FCCSET and PCAST.

- We must comply with the Federal Advisory Committee Act (FACA), Conflict of Interest and other laws; we must be beyond reproach.

- Some guidelines on the FCCSET-PCAST relationship will therefore be helpful.

Guidelines

- The PCAST can request and receive FCCSET briefings. Such briefings can include past budget trends and data but cannot include ongoing budget deliberations. The FCCSET briefings can be progress reports on a FCCSET Committee's draft report on the plans and programs for science, engineering and technology area. PCAST members who believe they may find themselves in a conflict of interest situation by attending part of a FCCSET briefing should recuse themselves and ask that the record show they did so.

- The PCAST can freely comment on any FCCSET briefing or information it receives. The PCAST can ask the FCCSET to provide more information. However, the PCAST is chartered to advise, through the PCAST Chairman, the President. It is <u>not</u> chartered to advise the FCCSET. The PCAST can, however, offer opinion - individually or collectively on the FCCSET information presented.

- The PCAST cannot get involved in planning, programming or budgeting; only full-time, Federal employees with that mission, e.g., FCCSET, can do that.

- Meetings of two or more PCAST members or of PCAST panel members convened solely to gather information or conduct research for the PCAST, to analyze relevant issues and facts, or to draft proposed position papers for deliberation by the PCAST or a PCAST panel, do not come under the FACA. Thus, no announcement in the Federal Register is needed, etc. Many, if not most, FCCSET briefings to the PCAST may satisfy this condition.

- The FCCSET or a FCCSET Committee or committee subelement may request and receive information briefings from the PCAST or a PCAST member(s). Again, the PCAST cannot get involved in planning, programming or budgeting.

Note:

① papers subject to FACA

② Mtgs between PCAST & FCCSET — not clear

a) mtg of 2+ ~~FCCSET~~ PCAST members is not necessarily

b) mtg between PCAST & fed officials

~~DSA~~ ⇒ ok

JSB ⇒ ???

Dy 14 Jane Welch - OSTP

FCCSET

full-time, federal employees only (principals or deputy)
math, sci educ - Bromley Task
not subj of FACA

PCAST

Bromley tasked PCAST w some pvt. - math, sci educ - private sector view

Bromley is a member of each
Coord between FCCSET + PCAST

High Performance Computing -
PCAST subpanel
Computer Links
possible conflicts per subpanel members, consultants
- fiber optics, technology
possibility of users + losers

Q: Is FCCSET subject to FOIA?

Document Originally Attached to Following Page

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20506

August 14, 1990

Jay,

Attached are: the legislation establishing FCCSET and FCCSET's charter, and a related memo from the Att. Gen.

Your counsel on FCCSET and FOIA would be greatly appreciated.

Looking forward to more meetings with you.

Tom Welch

FCCSET is subject to FOIA

Document Originally Attached to Following Page

FCCSET → TITLE IV

Public Law 94-282
94th Congress

An Act

To establish a science and technology policy for the United States, to provide for scientific and technological advice and assistance to the President, to provide a comprehensive survey of ways and means for improving the Federal effort in scientific research and information handling, and in the use thereof, to amend the National Science Foundation Act of 1950, and for other purposes.

May 11, 1976
[H.R. 10230]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science and Technology Policy, Organization, and Priorities Act of 1976".

National Science and Technology Policy, Organization, and Priorities Act of 1976.
42 USC 6601 note.

TITLE I—NATIONAL SCIENCE, ENGINEERING, AND TECHNOLOGY POLICY AND PRIORITIES

FINDINGS

SEC. 101. (a) The Congress, recognizing the profound impact of science and technology on society, and the interrelations of scientific, technological, economic, social, political, and institutional factors, hereby finds and declares that— 42 USC 6601.

(1) the general welfare, the security, the economic health and stability of the Nation, the conservation and efficient utilization of its natural and human resources, and the effective functioning of government and society require vigorous, perceptive support and employment of science and technology in achieving national objectives;

(2) the many large and complex scientific and technological factors which increasingly influence the course of national and international events require appropriate provision, involving long-range, inclusive planning as well as more immediate program development, to incorporate scientific and technological knowledge in the national decisionmaking process;

(3) the scientific and technological capabilities of the United States, when properly fostered, applied, and directed, can effectively assist in improving the quality of life, in anticipating and resolving critical and emerging international, national, and local problems, in strengthening the Nation's international economic position, and in furthering its foreign policy objectives;

(4) Federal funding for science and technology represents an investment in the future which is indispensable to sustained national progress and human betterment, and there should be a continuing national investment in science, engineering, and technology which is commensurate with national needs and opportunities and the prevalent economic situation;

(5) the manpower pool of scientists, engineers, and technicians, constitutes an invaluable national resource which should be utilized to the fullest extent possible; and

(6) the Nation's capabilities for technology assessment and for technological planning and policy formulation must be strengthened at both Federal and State levels.

Priority goals.

(b) As a consequence, the Congress finds and declares that science and technology should contribute to the following priority goals without being limited thereto:

(1) fostering leadership in the quest for international peace and progress toward human freedom, dignity, and well-being by enlarging the contributions of American scientists and engineers to the knowledge of man and his universe, by making discoveries of basic science widely available at home and abroad, and by utilizing technology in support of United States national and foreign policy goals;

(2) increasing the efficient use of essential materials and products, and generally contributing to economic opportunity, stability, and appropriate growth;

(3) assuring an adequate supply of food, materials, and energy for the Nation's needs;

(4) contributing to the national security;

(5) improving the quality of health care available to all residents of the United States;

(6) preserving, fostering, and restoring a healthful and esthetic natural environment;

(7) providing for the protection of the oceans and coastal zones, and the polar regions, and the efficient utilization of their resources;

(8) strengthening the economy and promoting full employment through useful scientific and technological innovations;

(9) increasing the quality of educational opportunities available to all residents of the United States;

(10) promoting the conservation and efficient utilization of the Nation's natural and human resources;

(11) improving the Nation's housing, transportation, and communication systems, and assuring the provision of effective public services throughout urban, suburban, and rural areas;

(12) eliminating air and water pollution, and unnecessary, unhealthful, or ineffective drugs and food additives; and

(13) advancing the exploration and peaceful uses of outer space.

DECLARATION OF POLICY

42 USC 6602.

SEC. 102. (a) PRINCIPLES.—In view of the foregoing, the Congress declares that the United States shall adhere to a national policy for science and technology which includes the following principles:

(1) The continuing development and implementation of strategies for determining and achieving the appropriate scope, level, direction, and extent of scientific and technological efforts based upon a continuous appraisal of the role of science and technology in achieving goals and formulating policies of the United States, and reflecting the views of State and local governments and representative public groups.

(2) The enlistment of science and technology to foster a healthy economy in which the directions of growth and innovation are compatible with the prudent and frugal use of resources and with the preservation of a benign environment.

(3) The conduct of science and technology operations so as to serve domestic needs while promoting foreign policy objectives.

(4) The recruitment, education, training, retraining, and beneficial use of adequate numbers of scientists, engineers, and tech-

nologists, and the promotion by the Federal Government of the effective and efficient utilization in the national interest of the Nation's human resources in science, engineering, and technology.

(5) The development and maintenance of a solid base for science and technology in the United States, including: (A) strong participation of and cooperative relationships with State and local governments and the private sector; (B) the maintenance and strengthening of diversified scientific and technological capabilities in government, industry, and the universities, and the encouragement of independent initiatives based on such capabilities, together with elimination of needless barriers to scientific and technological innovation; (C) effective management and dissemination of scientific and technological information; (D) establishment of essential scientific, technical and industrial standards and measurement and test methods; and (E) promotion of increased public understanding of science and technology.

(6) The recognition that, as changing circumstances require periodic revision and adaptation of title I of this Act, the Federal Government is responsible for identifying and interpreting the changes in those circumstances as they occur, and for effecting subsequent changes in title I as appropriate.

(b) IMPLEMENTATION.—To implement the policy enunciated in subsection (a) of this section, the Congress declares that:

(1) The Federal Government should maintain central policy planning elements in the executive branch which assist Federal agencies in (A) identifying public problems and objectives, (B) mobilizing scientific and technological resources for essential national programs, (C) securing appropriate funding for programs so identified, (D) anticipating future concerns to which science and technology can contribute and devising strategies for the conduct of science and technology for such purposes, (E) reviewing systematically Federal science policy and programs and recommending legislative amendment thereof when needed. Such elements should include an advisory mechanism within the Executive Office of the President so that the Chief Executive may have available independent, expert judgment and assistance on policy matters which require accurate assessments of the complex scientific and technological features involved.

(2) It is a responsibility of the Federal Government to promote prompt, effective, reliable, and systematic transfer of scientific and technological information by such appropriate methods as programs conducted by nongovernmental organizations, including industrial groups and technical societies. In particular, it is recognized as a responsibility of the Federal Government not only to coordinate and unify its own science and technology information systems, but to facilitate the close coupling of institutional scientific research with commercial application of the useful findings of science.

(3) It is further an appropriate Federal function to support scientific and technological efforts which are expected to provide results beneficial to the public but which the private sector may be unwilling or unable to support.

(4) Scientific and technological activities which may be properly supported exclusively by the Federal Government should be distinguished from those in which interests are shared with State and local governments and the private sector. Among these enti-

ties, cooperative relationships should be established which encourage the appropriate sharing of science and technology decisionmaking, funding support, and program planning and execution.

(5) The Federal Government should support and utilize engineering and its various disciplines and make maximum use of the engineering community, whenever appropriate, as an essential element in the Federal policymaking process.

(6) Comprehensive legislative support for the national science and technology effort requires that the Congress be regularly informed of the condition, health and vitality, and funding requirements of science and technology, the relation of science and technology to changing national goals, and the need for legislative modification of the Federal endeavor and structure at all levels as it relates to science and technology.

(c) PROCEDURES.—The Congress declares that, in order to expedite and facilitate the implementation of the policy enunciated in subsection (a) of this section, the following coordinate procedures are of paramount importance:

(1) Federal procurement policy should encourage the use of science and technology to foster frugal use of materials, energy, and appropriated funds; to assure quality environment; and to enhance product performance.

(2) Explicit criteria, including cost-benefit principles where practicable, should be developed to identify the kinds of applied research and technology programs that are appropriate for Federal funding support and to determine the extent of such support. Particular attention should be given to scientific and technological problems and opportunities offering promise of social advantage that are so long range, geographically widespread, or economically diffused that the Federal Government constitutes the appropriate source for undertaking their support.

(3) Federal promotion of science and technology should emphasize quality of research, recognize the singular importance of stability in scientific and technological institutions, and for urgent tasks, seek to assure timeliness of results. With particular reference to Federal support for basic research, funds should be allocated to encourage education in needed disciplines, to provide a base of scientific knowledge from which future essential technological development can be launched, and to add to the cultural heritage of the Nation.

(4) Federal patent policies should be developed, based on uniform principles, which have as their objective the preservation of incentives for technological innovation and the application of procedures which will continue to assure the full use of beneficial technology to serve the public.

(5) Closer relationships should be encouraged among practitioners of different scientific and technological disciplines, including the physical, social, and biomedical fields.

(6) Federal departments, agencies, and instrumentalities should assure efficient management of laboratory facilities and equipment in their custody, including acquisition of effective equipment, disposal of inferior and obsolete properties, and cross-servicing to maximize the productivity of costly property of all kinds. Disposal policies should include attention to possibilities for further productive use.

(7) The full use of the contributions of science and technology to support State and local government goals should be encouraged.

(8) Formal recognition should be accorded those persons whose scientific and technological achievements have contributed significantly to the national welfare.

(9) The Federal Government should support applied scientific research, when appropriate, in proportion to the probability of its usefulness, insofar as this probability can be determined; but while maximizing the beneficial consequences of technology, the Government should act to minimize foreseeable injurious consequences.

(10) Federal departments, agencies, and instrumentalities should establish procedures to insure among them the systematic interchange of scientific data and technological findings developed under their programs.

TITLE II—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Presidential Science and Technology Advisory Organization Act of 1976.
42 USC 6611 note.

SHORT TITLE

SEC. 201. This title may be cited as the "Presidential Science and Technology Advisory Organization Act of 1976".

ESTABLISHMENT

SEC. 202. There is established in the Executive Office of the President an Office of Science and Technology Policy (hereinafter referred to in this title as the "Office"). 42 USC 6611.

DIRECTOR; ASSOCIATE DIRECTORS

SEC. 203. There shall be at the head of the Office a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level II of the Executive Schedule in section 5313 of title 5, United States Code. The President is authorized to appoint not more than four Associate Directors, by and with the advice and consent of the Senate, who shall be compensated at a rate not to exceed that provided for level III of the Executive Schedule in section 5314 of such title. Associate Directors shall perform such functions as the Director may prescribe.

Appointment.
Compensation.
42 USC 6612.
5 USC 5314.

FUNCTIONS

SEC. 204. (a) The primary function of the Director is to provide, within the Executive Office of the President, advice on the scientific, engineering, and technological aspects of issues that require attention at the highest levels of Government. 42 USC 6613.

(b) In addition to such other functions and activities as the President may assign, the Director shall—

(1) advise the President of scientific and technological considerations involved in areas of national concern including, but not limited to, the economy, national security, health, foreign relations, the environment, and the technological recovery and use of resources;

(2) evaluate the scale, quality, and effectiveness of the Federal effort in science and technology and advise on appropriate actions;

(3) advise the President on scientific and technological considerations with regard to Federal budgets, assist the Office of Management and Budget with an annual review and analysis of funding proposed for research and development in budgets of all Federal agencies, and aid the Office of Management and Budget and the agencies throughout the budget development process; and

(4) assist the President in providing general leadership and coordination of the research and development programs of the Federal Government.

POLICY PLANNING, ANALYSIS, AND ADVICE

42 USC 6614.

SEC. 205. (a) The Office shall serve as a source of scientific and technological analysis and judgment for the President with respect to major policies, plans, and programs of the Federal Government. In carrying out the provisions of this section, the Director shall—

(1) seek to define coherent approaches for applying science and technology to critical and emerging national and international problems and for promoting coordination of the scientific and technological responsibilities and programs of the Federal departments and agencies in the resolution of such problems;

Science and Technology Report.

(2) assist and advise the President in the preparation of the Science and Technology Report, in accordance with section 209 of this Act;

(3) gather timely and authoritative information concerning significant developments and trends in science, technology, and in national priorities, both current and prospective, to analyze and interpret such information for the purpose of determining whether such developments and trends are likely to affect achievement of the priority goals of the Nation as set forth in section 101(b) of this Act;

Data base.

(4) encourage the development and maintenance of an adequate data base for human resources in science, engineering, and technology, including the development of appropriate models to forecast future manpower requirements, and assess the impact of major governmental and public programs on human resources and their utilization;

Studies and analyses.

(5) initiate studies and analyses, including systems analyses and technology assessments, of alternatives available for the resolution of critical and emerging national and international problems amenable to the contributions of science and technology and, insofar as possible, determine and compare probable costs, benefits, and impacts of such alternatives;

(6) advise the President on the extent to which the various scientific and technological programs, policies, and activities of the Federal Government are likely to affect the achievement of the priority goals of the Nation as set forth in section 101(b) of this Act;

(7) provide the President with periodic reviews of Federal statutes and administrative regulations of the various departments and agencies which affect research and development activities, both internally and in relation to the private sector, or which may interfere with desirable technological innovation, together with

recommendations for their elimination, reform, or updating as appropriate;

(8) develop, review, revise, and recommend criteria for determining scientific and technological activities warranting Federal support, and recommend Federal policies designed to advance (A) the development and maintenance of broadly based scientific and technological capabilities, including human resources, at all levels of government, academia, and industry, and (B) the effective application of such capabilities to national needs;

(9) assess and advise on policies for international cooperation in science and technology which will advance the national and international objectives of the United States;

(10) identify and assess emerging and future areas in which science and technology can be used effectively in addressing national and international problems;

(11) report at least once each year to the President on the overall activities and accomplishments of the Office, pursuant to section 209 of this Act; Report to President.

(12) periodically survey the nature and needs of national science and technology policy and make recommendations to the President, for review and transmission to the Congress, for the timely and appropriate revision of such policy in accordance with section 102(a)(6) of this Act; and

(13) perform such other duties and functions and make and furnish such studies and reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

(b)(1) The Director shall establish an Intergovernmental Science, Engineering, and Technology Advisory Panel (hereinafter referred to as the "Panel"), whose purpose shall be to (A) identify and define civilian problems at State, regional, and local levels which science, engineering, and technology may assist in resolving or ameliorating; (B) recommend priorities for addressing such problems; and (C) advise and assist the Director in identifying and fostering policies to facilitate the transfer and utilization of research and development results so as to maximize their application to civilian needs. Intergovernmental Science, Engineering, and Technology Advisory Panel. Establishment.

(2) The Panel shall be composed of (A) the Director of the Office, or his representative; (B) at least ten members representing the interests of the States, appointed by the Director of the Office after consultation with State officials; and (C) the Director of the National Science Foundation, or his representative. Membership.

(3)(A) The Director of the Office, or his representative, shall serve as Chairman of the Panel. Chairman.

(B) The Panel shall perform such functions as the Chairman may prescribe, and shall meet at the call of the Chairman.

(4) Each member of the Panel shall, while serving on business of the Panel, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, and, while so serving away from his home or regular place of business, he may be allowed travel expenses, including per diem in lieu of subsistence in the same manner as the expenses authorized by section 5703 (b) of title 5, United States Code, for persons in government service employed intermittently. Compensation. 5 USC 5332 note.

FIVE-YEAR OUTLOOK

42 USC 6615.

SEC. 206. (a) Within its first year of operation, the Office shall, to the extent practicable, within the limitations of available knowledge and resources, and with appropriate assistance from the departments and agencies and such consultants and contractors as the Director deems necessary, identify and describe situations and conditions which warrant special attention within the next five years, involving—

(1) current and emerging problems of national significance that are identified through scientific research, or in which scientific or technical considerations are of major significance; and

(2) opportunities for, and constraints on, the use of new and existing scientific and technological capabilities which can make a significant contribution to the resolution of problems identified under paragraph (1) of this subsection or to the achievement of Federal program objectives or national goals, including those set forth in section 101(b) of this Act.

Annual revision.

(b) The Office shall annually revise the five-year outlook developed under subsection (a) of this section so that it takes account of new problems, constraints and opportunities and changing national goals and circumstances, and shall extend the outlook so that it always extends five years into the future.

Consultation.

(c) The Director of the Office shall consult as necessary with officials of the departments and agencies having programs and responsibilities relating to the problems, constraints, and opportunities identified under subsections (a) and (b) of this section, in order to—

(1) identify and evaluate alternative actions that might be taken by the Federal Government, State and local governments, or the private sector to deal with such problems, constraints, or opportunities; and

(2) ensure that alternative actions identified under paragraph (1) of this subsection are fully considered by departments and agencies in formulating their budget, program, and legislative proposals.

Consultation.

(d) The Director of the Office shall consult as necessary with officials of the Office of Management and Budget and other appropriate elements of the Executive Office of the President to ensure that the problems, constraints, opportunities, and alternative actions identified under subsections (a), (b), and (c) of this section are fully considered in the development of the President's Budgets and legislative programs.

ADDITIONAL FUNCTIONS OF THE DIRECTOR; ADMINISTRATIVE PROVISIONS

42 USC 6616.

SEC. 207. (a) The Director shall, in addition to the other duties and functions set forth in this title—

(1) serve as Chairman of the Federal Coordinating Council for Science, Engineering, and Technology established under title IV; and

(2) serve as a member of the Domestic Council.

(b) For the purpose of assuring the optimum contribution of science and technology to the national security, the Director, at the request of the National Security Council, shall advise the National Security Council in such matters concerning science and technology as relate to national security.

(c) In carrying out his functions under this Act, the Director is authorized to—

(1) appoint such officers and employees as he may deem necessary to perform the functions now or hereafter vested in him and to prescribe their duties;

(2) obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5 of the United States Code; and 5 USC 5332 note.

(3) enter into contracts and other arrangements for studies, analyses, and other services with public agencies and with private persons, organizations, or institutions, and make such payments as he deems necessary to carry out the provisions of this Act without legal consideration, without performance bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

COORDINATION WITH OTHER ORGANIZATIONS

SEC. 208. (a) In exercising his functions under this Act, the Director shall— 42 USC 6617.

(1) work in close consultation and cooperation with the Domestic Council, the National Security Council, the Council on Environmental Quality, the Council of Economic Advisers, the Office of Management and Budget, the National Science Board, and the Federal departments and agencies;

(2) utilize the services of consultants, establish such advisory panels, and, to the extent practicable, consult with State and local governmental agencies, with appropriate professional groups, and with such representatives of industry, the universities, agriculture, labor, consumers, conservation organizations, and such other public interest groups, organizations, and individuals as he deems advisable;

(3) hold such hearings in various parts of the Nation as he deems necessary, to determine the views of the agencies, groups, and organizations referred to in paragraph (2) of this subsection and of the general public, concerning national needs and trends in science and technology; and Hearings.

(4) utilize with their consent to the fullest extent possible the services, personnel, equipment, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order to avoid duplication of effort and expense, and may transfer funds made available pursuant to this Act to other Federal agencies as reimbursement for the utilization of such personnel, services, facilities, equipment, and information.

(b) Each department, agency, and instrumentality of the Executive Branch of the Government, including any independent agency, is authorized to furnish the Director such information as the Director deems necessary to carry out his functions under this Act.

(c) Upon request, the Administrator of the National Aeronautics and Space Administration is authorized to assist the Director with respect to carrying out his activities conducted under paragraph (5) of section 205(a) of this Act.

SCIENCE AND TECHNOLOGY REPORT

Transmittal to Congress.
42 USC 6618.

SEC. 209. (a) The President shall transmit annually to the Congress, beginning February 15, 1978, a Science and Technology Report (hereinafter referred to as the "Report") which shall be prepared by the Office, with appropriate assistance from Federal departments and agencies and such consultants and contractors as the Director deems necessary. The report shall draw upon the information prepared by the Director pursuant to section 206 of this Act, and to the extent practicable, within the limitations of available knowledge and resources, discuss such issues as—

(1) a review of developments of national significance in science and technology;

(2) the significant effects of current and projected trends in science and technology on the social, economic, and other requirements of the Nation;

(3) a review and appraisal of selected science- and technology-related programs, policies, and activities of the Federal Government;

(4) an inventory and forecast of critical and emerging national problems the resolution of which might be substantially assisted by the application of science and technology;

(5) the identification and assessment of scientific and technological measures that can contribute to the resolution of such problems, in light of the related social, economic, political, and institutional considerations;

(6) the existing and projected scientific and technological resources, including specialized manpower, that could contribute to the resolution of such problems; and

(7) recommendations for legislation on science- and technology-related programs and policies that will contribute to the resolution of such problems.

(b) In preparing the Report under subsection (a) of this section, the Office shall make maximum use of relevant data available from the National Science Foundation and other Government departments and agencies.

Public document.

(c) The Director shall insure that the Report, in the form approved by the President, is printed and made available as a public document.

TITLE III—PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY

ESTABLISHMENT

42 USC 6631.

SEC. 301. The President shall establish within the Executive Office of the President a President's Committee on Science and Technology (hereinafter referred to as the "Committee").

MEMBERSHIP

42 USC 6632.

SEC. 302. (a) The Committee shall consist of—

(1) the Director of the Office of Science and Technology Policy established under title II of this Act; and

(2) not less than eight nor more than fourteen other members appointed by the President not more than sixty days after the Director has assumed office (as provided in section 203 of this Act).

(b) Members of the Committee appointed by the President pursuant to subsection (a)(2) of this section shall—

(1) be qualified and distinguished in one or more of the following areas: science, engineering, technology, information dissemination, education, management, labor, or public affairs;

(2) be capable of critically assessing the policies, priorities, programs, and activities of the Nation, with respect to the findings, policies, and purposes set forth in title I; and

(3) shall collectively constitute a balanced composition with respect to (A) fields of science and engineering, (B) academic, industrial, and government experience, and (C) business, labor, consumer, and public interest points of view.

(c) The President shall appoint one member of the Committee to serve as Chairman and another member to serve as Vice Chairman for such periods as the President may determine. Chairman.

(d) Each member of the Committee who is not an officer of the Federal Government shall, while serving on business of the Committee, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, and while so serving away from his home or regular place of business he may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in Government service employed intermittently. Compensation. 5 USC 5332 note.

FEDERAL SCIENCE, ENGINEERING, AND TECHNOLOGY SURVEY

SEC. 303. (a) The Committee shall survey, examine, and analyze the overall context of the Federal science, engineering, and technology effort including missions, goals, personnel, funding, organization, facilities, and activities in general, taking adequate account of the interests of individuals and groups that may be affected by Federal scientific, engineering, and technical programs, including, as appropriate, consultation with such individuals and groups. In carrying out its functions under this section, the Committee shall, among other things, consider needs for— 42 USC 6633.

(1) organizational reform, including institutional realinement designed to place Federal agencies whose missions are primarily or solely devoted to scientific and technological research and development, and those agencies primarily or solely concerned with fuels, energy, and materials, within a single cabinet-level department;

(2) improvements in existing systems for handling scientific and technical information on a Government-wide basis, including consideration of the appropriate role to be played by the private sector in the dissemination of such information;

(3) improved technology assessment in the executive branch of the Federal Government;

(4) improved methods for effecting technology innovation, transfer, and use;

(5) stimulating more effective Federal-State and Federal-industry liaison and cooperation in science and technology, including the formation of Federal-State mechanisms for the mutual pursuit of this goal;

(6) reduction and simplification of Federal regulations and administrative practices and procedures which may have the effect of retarding technological innovation or opportunities for its utilization;

(7) a broader base for support of basic research;

(8) ways of strengthening the Nation's academic institutions' capabilities for research and education in science and technology;

(9) ways and means of effectively integrating scientific and technological factors into our national and international policies;

(10) technology designed to meet community and individual needs;

(11) maintenance of adequate scientific and technological manpower with regard to both quality and quantity;

(12) improved systems for planning and analysis of the Federal science and technology programs; and

(13) long-range study, analysis, and planning in regard to the application of science and technology to major national problems or concerns.

Interim report.

(b)(1) Within twelve months from the time the Committee is activated in accordance with section 302(a) of this Act, the Committee shall issue an interim report of its activities and operations to date. Not more than twenty-four months from the time the Committee is activated, the Committee shall submit a final report of its activities, findings, conclusions, and recommendations, including such supporting data and material as may be necessary, to the President.

Report to President.

Transmittal to Congress.

(2) The President, within sixty days of receipt thereof, shall transmit each such report to each House of Congress together with such comments, observations, and recommendations thereon as he deems appropriate.

CONTINUATION OF COMMITTEE

42 USC 6634.

SEC. 304. (a) Ninety days after submission of the final report prepared under section 303 of this Act, the Committee shall cease to exist, unless the President, before the expiration of the ninety-day period, makes a determination that it is advantageous for the Committee to continue in being.

(b) If the President determines that it is advantageous for the Committee to continue in being, (1) the Committee shall exercise such functions as are prescribed by the President; and (2) the members of the Committee shall serve at the pleasure of the President.

STAFF AND CONSULTANT SUPPORT

42 USC 6635.

SEC. 305. (a) In the performance of its functions under sections 303 and 304 of this Act, the Committee is authorized—

(1) to select, appoint, employ, and fix the compensation of such specialists and other experts as may be necessary for the carrying out of its duties and functions, and to select, appoint, and employ, subject to the civil service laws, such other officers and employees as may be necessary for carrying out its duties and functions; and

(2) to provide for participation of such civilian and military personnel as may be detailed to the Committee pursuant to subsection (b) of this section for carrying out the functions of the Committee.

(b) Upon request of the Committee, the head of any Federal department, agency, or instrumentality is authorized (1) to furnish to

the Committee such information as may be necessary for carrying out its functions and as may be available to or procurable by such department, agency, or instrumentality, and (2) to detail to temporary duty with the Committee on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions. Each such detail shall be without loss of seniority, pay, or other employee status, to civilian employees so detailed, and without loss of status, rank, office, or grade, or of any emolument, perquisite, right, privilege, or benefit incident thereto to military personnel so detailed. Each such detail shall be made pursuant to an agreement between the Chairman and the head of the relevant department, agency, or instrumentality, and shall be in accordance with the provisions of subchapter III of chapter 33, title 5, United States Code. 5 USC 3341.

TITLE IV—FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY

ESTABLISHMENT AND FUNCTIONS

SEC. 401. (a) There is established the Federal Coordinating Council for Science, Engineering, and Technology (hereinafter referred to as the "Council"). 42 USC 6651.

(b) The Council shall be composed of the Director of the Office of Science and Technology Policy and one representative of each of the following Federal agencies: Department of Agriculture, Department of Commerce, Department of Defense, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of State, Department of Transportation, Veterans' Administration, National Aeronautics and Space Administration, National Science Foundation, Environmental Protection Agency, and Energy Research and Development Administration. Each such representative shall be an official of policy rank designated by the head of the Federal agency concerned. Membership.

(c) The Director of the Office of Science and Technology Policy shall serve as Chairman of the Council. The Chairman may designate another member of the Council to act temporarily in the Chairman's absence as Chairman. Chairman.

(d) The Chairman may (1) request the head of any Federal agency not named in subsection (b) of this section to designate a representative to participate in meetings or parts of meetings of the Council concerned with matters of substantial interest to such agency, and (2) invite other persons to attend meetings of the Council.

(e) The Council shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to—

(1) provide more effective planning and administration of Federal scientific, engineering, and technological programs,

(2) identify research needs including areas requiring additional emphasis,

(3) achieve more effective utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication, and

(4) further international cooperation in science, engineering, and technology.

(f) The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman.

(g) For the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman may assign to them, and

(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the functions herein assigned.

Subcommittees and panels, establishment.

(h) For the purpose of conducting studies and making reports as directed by the Chairman, standing subcommittees and panels of the Council may be established.

ABOLITION OF FEDERAL COUNCIL FOR SCIENCE AND TECHNOLOGY

42 USC 1862 note.

SEC. 402. The Federal Council for Science and Technology, established pursuant to Executive Order 10807, issued March 13, 1959, as amended by Executive Order 11381, issued November 8, 1967, is hereby abolished.

42 USC 1862 note.

TITLE V—GENERAL PROVISIONS

AUTHORIZATION

42 USC 6671.

SEC. 501. (a) For the purpose of carrying out title II of this Act, there are authorized to be appropriated—

(1) $750,000 for the fiscal year ending June 30, 1976;

(2) $500,000 for the period beginning July 1, 1976, and ending September 30, 1976;

(3) $3,000,000 for the fiscal year ending September 30, 1977; and

(4) such sums as may be necessary for each of the succeeding fiscal years.

(b) For the purpose of carrying out title III of this Act, there are authorized to be appropriated—

(1) $750,000 for the fiscal year ending June 30, 1976;

(2) $500,000 for the period beginning July 1, 1976, and ending September 30, 1976;

(3) $1,000,000 for the fiscal year ending September 30, 1977; and

(4) such sums as may be necessary for each of the succeeding fiscal years.

STATUTORY REPEAL

5 USC app. II; 42 USC 1861 note.

SEC. 502. Sections 1, 2, 3, and 4 of Reorganization Plan Numbered 2 of 1962 (76 Stat. 1253) and section 2 of Reorganization Plan Numbered 1 of 1973 (87 Stat. 1089) are repealed.

5 USC app.; 50 USC app. 2271 note.

AMENDMENT

SEC. 503. Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by striking out subsection (g) and by redesignating subsections (h), (i), and (j), and all references thereto, as subsections (g), (h), and (i), respectively.

Approved May 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-595 (Comm. on Science and Technology) and No. 94-1046 (Comm. of Conference).

SENATE REPORTS: No. 94-622 accompanying S. 32 (Committees on Labor and Public Welfare, Commerce, and Aeronautical and Space Sciences) and No. 94-765 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 6, considered and passed House.

Vol. 122 (1976): Feb. 4, considered and passed Senate, amended, in lieu of S. 32.
Apr. 27, Senate agreed to conference report.
Apr. 29, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 20 (1976): May 11, Presidential statement.

CHARTER

FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY

The Federal Coordinating Council for Science, Engineering, and Technology (FCCSET) is established pursuant to Public Law 94-282, Title V of the "National Science and Technology Policy Organization and Priorities Act of 1976" to consider cross-cutting science, engineering and technology issues. Specifically,

The Council shall consider problems and developments in the fields of science, engineering, technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to:

(1) provide more effective planning and administration or Federal scientific, engineering, and technological programs,

(2) identify research needs including areas requiring additional emphasis,

(3) achieve more effective utilization of the scientific, engineering and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication, and

(4) further international cooperation in science, engineering, and technology.

OBJECTIVES

In fulfilling this mandate, the FCCSET's two major objectives are:

- to coordinate science, engineering and technology activities affecting more than one Federal agency and surface and resolve science, engineering and technology policy issues with respect to those activities.

- to develop authoritative scientific, engineering and technological expertise and advice for the Executive Branch.

FUNCTIONS

To accomplish these two objectives the FCCSET will:

- o serve as a forum for coordinating science, engineering and technology programs affecting more than one Federal agency, sharing information, reviewing and implementing national and international policy objectives and developing consensuses with respect to science, engineering and technology activities;

- o identify research and development needs and priorities;

- o issue reports, studies and assessments of current scientific, engineering and technological capabilities in fields of research and development of concern to the Executive Branch;

- o inform other policy making bodies of review, studies and analyses underway;

- o identify science, engineering and technology issues and concerns of importance to the nation and give expertise and advice to policy bodies;

- o work closely with the Office of Management and Budget in developing and reviewing annual and long-range Federal budget plans in selected cross-cutting areas of science, engineering and technology;

- o improve planning, coordination and communication among Federal agencies engaged in science, engineering and technology.

ADMINISTRATIVE PROVISIONS

To accomplish these functions the FCCSET is authorized to:

- o detail employees to the Council to perform such functions, consistent with the purposes of the FCCSET, as the Chairman may assign to them;

- o establish committees for the purposes of conducting studies, making reports, coordinating Federal science, technology and engineering activities that involve more than one Federal agency, and making recommendations to the FCCSET;

- o develop, review on an annual basis, charters for committees, and assign high priority agenda items as necessary;

- o Council meetings shall be called by the Chairman as deemed appropriate and such agency member shall attend at a senior policy level;

- o Council proceedings, studies and reports, either preliminary or final, shall be printed and distributed only with the Chairman's authorization.

MEMBERSHIP

The Council shall be chaired by the Director of the Office of Science and Technology Policy and shall be composed of one senior policy level representative of each of the following Federal agencies:

Department of State
Department of Defense
Department of the Interior
Department of Agriculture
Department of Commerce
Department of Health and Human Services
Department of Housing and Urban Development
Department of Transportation
Department of Energy
Department of Education
Department of Veterans Affairs
Office of Management and Budget
National Security Council
National Aeronautics and Space Administration
Environmental Protection Agency
National Science Foundation

Other agencies may be requested to participate in meetings of the Council concerned with matters of substantial interest to such agency.

DETERMINATION

I hereby approve and adopt this Charter which is determined to be consistent with PL-94-282 which establishes the FCCSET.

Approved:

D. Allan Bromley
Chairman, Federal Coordinating
Council for Science, Engineering
and Technology

July 19, 1990
Date:

Office of the Attorney General

Washington, D.C. 20530

July 31, 1990

MEMORANDUM

TO: CHARLES DICKENS
SENIOR STAFF ASSOCIATE
FEDERAL COORDINATING COMMITTEE FOR SCIENCE, ENGINEERING AND TECHNOLOGY

FROM: BILL MYERS WSM
ASSISTANT TO THE ATTORNEY GENERAL

DATE: JULY 30, 1990

SUBJECT: CONFIDENTIALITY

At the first meeting of the FCCSET Committee on Education and Human Resources, I raised the possibility of including a paragraph on confidentiality in the committee charter. Subsequently, I reviewed that issue with the Acting Assistant Attorney General for the Office of Legal Counsel in the Department of Justice. I provided him with a copy of the draft charter and the FCCSET charter.

It is the conclusion of the Acting Assistant Attorney General that, while it would be useful to remind CEHR members and staff of the confidentiality of the process, it may be counterproductive to include specific statements to that effect in the charter documents. The conclusion is that such statements act as "lightening rods" for Congressional attention and inquiry and thus may create more problems than are solved by inclusion. Consequently, I withdraw my suggestion for the inclusion of any such paragraph in either the FCCSET charter or the CEHR charter.