

TITLE 5—APPENDIX

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FEDERAL ADVISORY COMMITTEE ACT

Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended by Pub. L. 94–409, §5(c), Sept. 13, 1976, 90 Stat. 1247; 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; Pub. L. 105–153, §2(a), (b), Dec. 17, 1997, 111 Stat. 2689

§ 1. Short title

This Act may be cited as the “Federal Advisory Committee Act”.

(Pub. L. 92–463, §1, Oct. 6, 1972, 86 Stat. 770.)

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–153, §1, Dec. 17, 1997, 111 Stat. 2689, provided that: “This Act [enacting section 15 of Pub. L. 92–463, set out in this Appendix, amending section 3 of Pub. L. 92–463, set out in this Appendix, renumbering former section 15 of Pub. L. 92–463, set out in this Appendix, as section 16, and enacting provisions set out as notes under sections 3 and 15 of Pub. L. 92–463, set out in this Appendix] may be cited as the ‘Federal Advisory Committee Act Amendments of 1997’.”

§ 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.

(Pub. L. 92–463, §2, Oct. 6, 1972, 86 Stat. 770.)

EXECUTIVE ORDER NO. 11686

Ex. Ord. No. 11686, Oct. 7, 1972, 37 F.R. 21421, which related to committee management, was superseded by Ex. Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, formerly set out below.

EXECUTIVE ORDER NO. 11769

Ex. Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, which related to committee management, was revoked by Ex. Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, set out below.

EX. ORD. NO. 12024. TRANSFER OF CERTAIN ADVISORY COMMITTEE FUNCTIONS

Ex. Ord. No. 12024, Dec. 1, 1977, 42 F.R. 61445, provided: 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.), Section 301 of Title 3 of the United States Code, Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], and Section 7 of Reorganization Plan No. 1 of 1977 (42 F.R. 56101 (October 21, 1977)) [set out in this Appendix], 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, it is hereby ordered as follows:

SECTION 1. The transfer, provided by Section 5F of Reorganization Plan No. 1 of 1977 (42 F.R. 56101) [set out in this Appendix], of certain functions under the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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 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 excludes (i) any committee that is composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government, and (ii) any committee that is created by the National Academy of Sciences or the National Academy of Public Administration.

(3) The term “agency” has the same meaning as in section 551(1) of title 5, United States Code.

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

(Pub. L. 92–463, §3, Oct. 6, 1972, 86 Stat. 770; 1977 Reorg. Plan No. 1, §5F, eff. Nov. 20, 1977, 42 F.R. 56101, 91 Stat. 1634; Pub. L. 105–153, §2(a), Dec. 17, 1997, 111 Stat. 2689.)

AMENDMENTS

1997—Par. (2). Pub. L. 105–153, in closing provisions, substituted “such term excludes (i) any committee that is composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government, and (ii) any committee that is created by the National Academy of Sciences or the National Academy of Public Administration.” for “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.”

EFFECTIVE DATE OF 1997 AMENDMENT

Section 2(c) of Pub. L. 105–153 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), this section [enacting section 15 of Pub. L. 92–463, set out in this Appendix, amending this section, and redesignating former section 15 of Pub. L. 92–463, set out in this Appendix, as section 16] and the amendments made by this section shall take effect on the date of the enactment of this Act [Dec. 17, 1997].

“(2) RETROACTIVE EFFECT.—Subsection (a) [amending this section] and the amendments made by subsection

(a) shall be effective as of October 6, 1972, except that they shall not apply with respect to or otherwise affect any particular advice or recommendations that are subject to any judicial action filed before the date of the enactment of this Act.”

TRANSFER OF FUNCTIONS

“Administrator” means the Administrator of General Services” substituted for “Director” means the 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 this Appendix, which transferred functions of Office of Management and Budget and Director thereof relating to Committee Management Secretariat to 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.

COMMISSION ON GOVERNMENT PROCUREMENT

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.

§ 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 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.

(Pub. L. 92–463, §4, Oct. 6, 1972, 86 Stat. 771.)

§ 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.

(Pub. L. 92–463, § 5, Oct. 6, 1972, 86 Stat. 771.)

§ 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.

(Pub. L. 92–463, § 6, Oct. 6, 1972, 86 Stat. 772; Pub. L. 97–375, title II, § 201(c), Dec. 21, 1982, 96 Stat. 1822.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (c) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 173 of House Document No. 103–7.

AMENDMENTS

1982—Subsec. (c). Pub. L. 97–375 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 210(c) of Pub. L. 97–375 provided that the amendment made by that 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 it 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, United States Code, 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.

(Pub. L. 92-463, § 7, Oct. 6, 1972, 86 Stat. 772; 1977 Reorg. Plan No. 1, § 5F, eff. Nov. 20, 1977, 42 F.R. 56101, 91 Stat. 1634; 1978 Reorg. Plan No. 2, § 102,

eff. Jan. 1, 1979, 43 F.R. 36067, 92 Stat. 3783; Pub. L. 96-523, § 2, Dec. 12, 1980, 94 Stat. 3040.)

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.

AMENDMENTS

1980—Subsec. (d)(1)(C). Pub. L. 96-523 added subparagraph (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

“Director of the Office of Personnel Management” 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 functions vested by statute in United States Civil Service Commission to Director of 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.

“Administrator”, “Administrator’s”, “Administrator of General Services”, and “General Services Administration” substituted for “Director”, “Director’s”, “Director, Office of Management and Budget”, and “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 this Appendix, which transferred functions of Office of Management and Budget and Director thereof relating to Committee Management Secretariat to 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.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of this title, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of this title.

§ 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.

(Pub. L. 92-463, §8, Oct. 6, 1972, 86 Stat. 773; 1977 Reorg. Plan No. 1, §5F, eff. Nov. 20, 1977, 42 F.R. 56101, 91 Stat. 1634.)

TRANSFER OF FUNCTIONS

“Administrator”, meaning Administrator of General Services, substituted for “Director”, meaning Director of 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 this Appendix, which transferred functions of Office of Management and Budget and Director thereof relating to Committee Management Secretariat to 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.

(Pub. L. 92-463, §9, Oct. 6, 1972, 86 Stat. 773; 1977 Reorg. Plan No. 1, §5F, eff. Nov. 20, 1977, 42 F.R. 56101, 91 Stat. 1634.)

TRANSFER OF FUNCTIONS

“Administrator”, meaning Administrator of General Services, substituted for “Director”, meaning Director of Office of Management and Budget, in subsecs. (a)(2) and (c) pursuant to Reorg. Plan No. 1 of 1977, §5F, 42 F.R. 56101, 91 Stat. 1634, set out in this Appendix, which transferred functions of Office of Management and Budget and Director thereof relating to Committee Management Secretariat to 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.

§ 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 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 mat-

ters 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.

(Pub. L. 92-463, § 10, Oct. 6, 1972, 86 Stat. 774; Pub. L. 94-409, § 5(c), Sept. 13, 1976, 90 Stat. 1247; 1977 Reorg. Plan No. 1, § 5F, eff. Nov. 20, 1977, 42 F.R. 56101, 91 Stat. 1634.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-409 inserted “portion of an” after “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 an Effective Date note under section 552b of this title.

TRANSFER OF FUNCTIONS

“Administrator”, meaning Administrator of General Services, substituted for “Director”, meaning Director of Office of Management and Budget, in subsec. (a)(2), (3) pursuant to Reorg. Plan No. 1 of 1977, § 5F, 42 F.R. 56101, 91 Stat. 1634, set out in this Appendix, which transferred functions of Office of Management and Budget and Director thereof relating to Committee Management Secretariat to 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.

§ 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.

(Pub. L. 92-463, § 11, Oct. 6, 1972, 86 Stat. 775.)

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.

§ 12. Fiscal and administrative provisions; record-keeping; audit; agency support services

(a) Each agency shall keep records as willfully 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.

(Pub. L. 92-463, § 12, Oct. 6, 1972, 86 Stat. 775.)

§ 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.

(Pub. L. 92-463, § 13, Oct. 6, 1972, 86 Stat. 775; 1977 Reorg. Plan No. 1, § 5F, eff. Nov. 20, 1977, 42 F.R. 56101, 91 Stat. 1634.)

TRANSFER OF FUNCTIONS

“Administrator”, meaning Administrator of General Services, substituted in text for “Director”, meaning Director of Office of Management and Budget, pursuant to Reorg. Plan No. 1 of 1977, § 5F, 42 F.R. 56101, 91 Stat. 1634, set out in this Appendix, which transferred functions of Office of Management and Budget and Director thereof relating to Committee Management Secretariat to 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.

(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.

(Pub. L. 92-463, §14, Oct. 6, 1972, 86 Stat. 776.)

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 by Ex. Ord. No. 11915, May 10, 1976, 41 F.R. 19195, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 11948, Dec. 20, 1976, 41 F.R. 55705, formerly set out below.

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, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, formerly set out below.

EX. ORD. NO. 12007. TERMINATION OF CERTAIN PRESIDENTIAL ADVISORY COMMITTEES

Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, provided:

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.), 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 [42 U.S.C. 2000e note], 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 [42 U.S.C. 4321 note], 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 [15 U.S.C. 631 note], is revoked.

SEC. 4. (a) The Consumer Advisory Council is terminated.

(b) Executive Order No. 11583 of February 24, 1971 [20 U.S.C. 2982 note], 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 [22 U.S.C. 3107 note], is revoked.

SEC. 6. Subsections (a), (g), (i), and (j) of Section 1 of Executive Order No. 11948 of December 20, 1976 [formerly set out as a note under this section], which extended the above advisory committees until December 31, 1978, is superseded.

JIMMY CARTER.

EX. ORD. NO. 12029. TERMINATION OF A PRESIDENTIAL ADVISORY COMMITTEE

Ex. Ord. No. 12029, Dec. 14, 1977, 42 F.R. 63631, provided:

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 committee in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), 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 [formerly set out as a note under this section], 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, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 12258, Dec. 31, 1981, 46 F.R. 1251, as amended, formerly set out below.

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, formerly set out below.

EX. ORD. NO. 12305. TERMINATION OF CERTAIN FEDERAL ADVISORY COMMITTEES

Ex. Ord. No. 12305, May 5, 1981, 46 F.R. 25421, provided:

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.], 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 [28 U.S.C. 44 note], establishing the United States Circuit Judge Nominating Commission;

(b) Executive Order No. 11992 of May 24, 1977 [28 U.S.C. note prec. chapter 1], 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 [28 U.S.C. 133 note], establishing the Judicial Nominating Commission for the District of Puerto Rico; and

(d) Executive Order No. 12064 of June 5, 1978 [26 U.S.C. 7443 note], establishing the United States Tax Court Nominating Commission.

Subsections (g), (i), (j) and (k) of Section 1–101 of Executive Order No. 12258 [formerly set out as a note under this section], extending these committees, are also revoked.

RONALD REAGAN.

**EX. ORD. NO. 12379. TERMINATION OF BOARDS,
COMMITTEES, AND COMMISSIONS**

Ex. Ord. No. 12379, Aug. 17, 1982, 47 F.R. 36099, provided:

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 [29 U.S.C. 1001 note], establishing the President's Commission on Pension Policy, is revoked.

SEC. 2. Executive Order No. 12042, 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, 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, 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, creating an Emergency Board to Investigate a Dispute Between Wien Air Alaska, Inc., and Certain Individuals, is revoked.

SEC. 6. Executive Order No. 12159, 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, 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, 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 [29 U.S.C. 1001 note], establishing an Interagency Employee Benefit Council, is revoked.

SEC. 10. Executive Order No. 12275 [20 U.S.C. 951 note], establishing the Design Liaison Council, is revoked.

SEC. 11. Executive Order No. 11829, as amended [25 U.S.C. 640d note], establishing the Hopi-Navajo Land Settlement Interagency Committee, is revoked.

SEC. 12. Executive Order No. 11022, as amended [42 U.S.C. 3001 note], establishing the President's Council on Aging, is revoked.

SEC. 13. Executive Order No. 12192 [42 U.S.C. 2021 note], establishing the State Planing [Planning] Council on Radioactive Waste Management, is revoked.

SEC. 14. Executive Order No. 12075, as amended [42 U.S.C. 1450 note], establishing the Interagency Coordinating Council, is revoked.

SEC. 15. Executive Order No. 11782 [12 U.S.C. 2281 note], establishing the Federal Financing Bank Advisory Council, is revoked.

SEC. 16. Executive Order No. 12089, as amended [15 U.S.C. 2401 note], establishing the National Productivity Council, is revoked.

SEC. 17. Executive Order No. 11330, as amended [42 U.S.C. note prec. 2711], establishing the President's Council on Youth Opportunity, is revoked.

SEC. 18. Executive Order No. 11256, 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 [15 U.S.C. 278f note], continuing the Federal Fire Council, is revoked.

SEC. 20. Executive Order No. 12083, as amended [42 U.S.C. 7101 note], establishing the Energy Coordinating Committee, is revoked.

SEC. 21. Executive Order No. 12285, as amended and ratified [50 U.S.C. 1701 note], establishing the President's Commission on Hostage Compensation, is revoked.

SEC. 22. Executive Order No. 12202, as amended [42 U.S.C. 5848 note], establishing the Nuclear Safety Oversight Committee, is revoked.

SEC. 23. Executive Order No. 12194 [42 U.S.C. 1321 note], 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) 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) is terminated.

RONALD REAGAN.

EXECUTIVE ORDER NO. 12399

Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, formerly set out below.

EXECUTIVE ORDER NO. 12489

Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, formerly set out below.

EXECUTIVE ORDER NO. 12534

Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, formerly set out below.

EXECUTIVE ORDER NO. 12610

Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, formerly set out below.

EXECUTIVE ORDER NO. 12692

Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, as amended by Ex. Ord. No. 12704, Feb. 26, 1990, 55 F.R. 6969, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 12774, §4, Sept. 27, 1991, 56 F.R. 49835, formerly set out below.

EXECUTIVE ORDER NO. 12774

Ex. Ord. No. 12774, Sept. 27, 1991, 56 F.R. 49835, which provided for the continuance of certain Federal advi-

sory committees, was superseded by Ex. Ord. No. 12869, § 5, Sept. 30, 1993, 58 F.R. 51751, formerly set out below.

EX. ORD. NO. 12838. TERMINATION AND LIMITATION OF FEDERAL ADVISORY COMMITTEES

Ex. Ord. No. 12838, Feb. 10, 1993, 58 F.R. 8207, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act (“FACA”), as amended (5 U.S.C. App.), it is hereby ordered as follows:

SECTION 1. Each executive department and agency shall terminate not less than one-third of the advisory committees subject to FACA (and not required by statute) that are sponsored by the department or agency by no later than the end of fiscal year 1993.

SEC. 2. Within 90 days, the head of each executive department and agency shall submit to the Director of the Office of Management and Budget, for each advisory committee subject to FACA sponsored by that department or agency: (a) a detailed justification for the continued existence, or a brief description in support of the termination, of any advisory committee not required by statute; and (b) a detailed recommendation for submission to the Congress to continue or to terminate any advisory committee required by statute. The Administrator of General Services shall prepare such justifications and recommendations for each advisory committee subject to FACA and not sponsored by a department or agency.

SEC. 3. Effective immediately, executive departments and agencies shall not create or sponsor a new advisory committee subject to FACA unless the committee is required by statute or the agency head (a) finds that compelling considerations necessitate creation of such a committee, and (b) receives the approval of the Director of the Office of Management and Budget. Such approval shall be granted only sparingly and only if compelled by considerations of national security, health or safety, or similar national interests. These requirements shall apply in addition to the notice and other approval requirements of FACA.

SEC. 4. The Director of the Office of Management and Budget shall issue detailed instructions regarding the implementation of this order, including exemptions necessary for the delivery of essential services and compliance with applicable law.

SEC. 5. All independent regulatory commissions and agencies are requested to comply with the provisions of this order.

WILLIAM J. CLINTON.

EXECUTIVE ORDER No. 12869

Ex. Ord. No. 12869, Sept. 30, 1993, 58 F.R. 51751, as amended by Ex. Ord. No. 12882, § 4(c), Nov. 23, 1993, 58 F.R. 62493, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out below.

EXECUTIVE ORDER No. 12974

Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 13062, Sept. 29, 1997, 62 F.R. 51755, formerly set out below.

EXECUTIVE ORDER No. 13062

Ex. Ord. No. 13062, Sept. 29, 1997, 62 F.R. 51755, which provided for the continuance of certain Federal advisory committees, was partially superseded by Ex. Ord. No. 13138, § 4, Sept. 30, 1999, 64 F.R. 53880, formerly set out below.

EXECUTIVE ORDER No. 13138

Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, as amended by Ex. Ord. No. 13226, § 4(c), Sept. 30, 2001, 66 F.R. 50524, which provided for the continuance of certain Federal advisory committees, was partially super-

seded by Ex. Ord. No. 13225, § 4, Sept. 28, 2001, 66 F.R. 50292, formerly set out below.

EXECUTIVE ORDER No. 13225

Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, which provided for the continuance of certain Federal advisory committees, was superseded by Ex. Ord. No. 13316, § 4, Sept. 17, 2003, 68 F.R. 55256, formerly set out below.

EXECUTIVE ORDER No. 13316

Ex. Ord. No. 13316, Sept. 17, 2003, 68 F.R. 55255, which provided for the continuance of certain Federal advisory committees, was partially superseded by Ex. Ord. No. 13385, § 4, Sept. 29, 2005, 70 F.R. 57990, set out below.

EX. ORD. NO. 13385. CONTINUANCE OF CERTAIN FEDERAL ADVISORY COMMITTEES AND AMENDMENTS TO AND REVOCATION OF OTHER EXECUTIVE ORDERS

Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and consistent 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, 2007.

(a) Committee for the Preservation of the White House; Executive Order 11145, as amended (Department of the Interior) [3 U.S.C. 110 note].

(b) National Infrastructure Advisory Council; section 3 of Executive Order 13231, as amended (Department of Homeland Security) [6 U.S.C. 121 note].

(c) Federal Advisory Council on Occupational Safety and Health; Executive Order 12196, as amended (Department of Labor) [5 U.S.C. 7902 note].

(d) President's Board of Advisors on Historically Black Colleges and Universities; Executive Order 13256 (Department of Education) [20 U.S.C. 1060 note].

(e) President's Board of Advisors on Tribal Colleges and Universities; Executive Order 13270 (Department of Education) [25 U.S.C. 1801 note].

(f) President's Commission on White House Fellowships; Executive Order 11183, as amended (Office of Personnel Management).

(g) President's Committee for People with Intellectual Disabilities; Executive Order 12994, as amended (Department of Health and Human Services) [42 U.S.C. 15001 note].

(h) President's Committee on the Arts and the Humanities; Executive Order 12367, as amended (National Endowment for the Arts).

(i) President's Committee on the International Labor Organization; Executive Order 12216, as amended (Department of Labor) [22 U.S.C. 271 note].

(j) President's Committee on the National Medal of Science; Executive Order 11287, as amended (National Science Foundation) [42 U.S.C. 1881 note].

(k) President's Council of Advisors on Science and Technology; Executive Order 13226, as amended (Office of Science and Technology Policy) [42 U.S.C. 6601 note].

(l) President's Council on Bioethics; Executive Order 13237 (Department of Health and Human Services) [42 U.S.C. 6601 note].

(m) President's Council on Physical Fitness and Sports; Executive Order 13265 (Department of Health and Human Services) [42 U.S.C. 300u note].

(n) President's Export Council; Executive Order 12131, as amended (Department of Commerce) [50 U.S.C. App. 2401 note].

(o) President's National Security Telecommunications Advisory Committee; Executive Order 12382, as amended (Department of Homeland Security) [47 U.S.C. 901 note].

(p) Trade and Environment Policy Advisory Committee; Executive Order 12905 (Office of the United States Trade Representative) [19 U.S.C. 2155 note].

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 shall be performed by the head of the department or agency designated after each committee, in accordance with the guidelines and procedures established by the Administrator of General Services.

SEC. 3. The following Executive Orders that established committees that have terminated or whose work is completed are revoked:

(a) Executive Order 13328 [formerly 50 U.S.C. 2301 note], establishing the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction; and

(b) Executive Order 13326, establishing the President's Commission on Implementation of United States Space Exploration Policy.

SEC. 4. Sections 1 and 2 of Executive Order 13316 [formerly set out above] are superseded by sections 1 and 2 of this order.

SEC. 5. Section 3 of Executive Order 13231, as amended [6 U.S.C. 121 note], is further amended by striking section 3, except subsection (c) thereof, and inserting immediately preceding subsection (c), the following:

“SEC. 3. The National Infrastructure Advisory Council. The National Infrastructure Advisory Council (NIAC), established on October 16, 2001, shall provide the President through the Secretary of Homeland Security with advice on the security of the critical infrastructure sectors and their information systems.

“(a) Membership. The NIAC shall be composed of not more than 30 members appointed by the President, taking appropriate account of the benefits of having members (i) from the private sector, including but not limited to banking and finance, transportation, energy, communications, and emergency services organizations and institutions of higher learning, and State, local, and tribal governments, (ii) with senior leadership responsibilities for the reliability and availability, which include security, of the critical infrastructure and key resource sectors, (iii) with expertise relevant to the functions of the NIAC, and (iv) with experience equivalent to that of a chief executive of an organization. Unless otherwise determined by the President, no full-time officer or employee of the executive branch shall be appointed to serve as a member of the NIAC. The President shall designate from among the members of the NIAC a Chair and a Vice Chair, who shall perform the functions of the Chair if the Chair is absent, disabled, or in the instance of a vacancy in the Chair.

“(b) Functions of the NIAC. The NIAC shall meet periodically to:

“(i) enhance the partnership of the public and private sectors in protecting critical infrastructures and their information systems and provide reports on this issue to the President through the Secretary of Homeland Security, as appropriate;

“(ii) propose and develop ways to encourage private industry to perform periodic risk assessments;

“(iii) monitor the development and operations of private sector coordinating councils and their information sharing mechanisms and provide recommendations to the President through the Secretary of Homeland Security on how these organizations can best foster improved cooperation among the sectors, the Department of Homeland Security, and other Federal Government entities;

“(iv) report to the President through the Secretary of Homeland Security, who shall ensure appropriate coordination with the Assistant to the President for Homeland Security and Counterterrorism, the Assistant to the President for Economic Policy, and the Assistant to the President for National Security Affairs under the terms of this order; and

“(v) advise sector specific agencies with critical infrastructure responsibilities to include issues pertaining to sector and government coordinating councils and their information sharing mechanisms.”

In implementing this order, the NIAC shall not advise or otherwise act on matters pertaining to National Security and Emergency Preparedness (NS/EP) Commu-

nications and, with respect to any matters to which the NIAC is authorized by this order to provide advice or otherwise act on that may depend upon or affect NS/EP Communications, shall coordinate with the National Security and Telecommunications Advisory Committee established by Executive Order 12382, as amended [47 U.S.C. 901 note].

SEC. 6. [Amended Ex. Ord. No. 12367, not set out in the Code.]

SEC. 7. [Amended Ex. Ord. No. 12216, 22 U.S.C. 271 note.]

SEC. 8. [Amended Ex. Ord. No. 13226, 42 U.S.C. 6601 note.]

SEC. 9. Executive Order 13283 [formerly 3 U.S.C. note prec. 101] is revoked.

SEC. 10. This order shall be effective September 30, 2005.

GEORGE W. BUSH.

§ 15. Requirements relating to the National Academy of Sciences and the National Academy of Public Administration

(a) IN GENERAL.—An agency may not use any advice or recommendation provided by the National Academy of Sciences or National Academy of Public Administration that was developed by use of a committee created by that academy under an agreement with an agency, unless—

(1) the committee was not subject to any actual management or control by an agency or an officer of the Federal Government;

(2) in the case of a committee created after the date of the enactment of the Federal Advisory Committee Act Amendments of 1997, the membership of the committee was appointed in accordance with the requirements described in subsection (b)(1); and

(3) in developing the advice or recommendation, the academy complied with—

(A) subsection (b)(2) through (6), in the case of any advice or recommendation provided by the National Academy of Sciences; or

(B) subsection (b)(2) and (5), in the case of any advice or recommendation provided by the National Academy of Public Administration.

(b) REQUIREMENTS.—The requirements referred to in subsection (a) are as follows:

(1) The Academy shall determine and provide public notice of the names and brief biographies of individuals that the Academy appoints or intends to appoint to serve on the committee. The Academy shall determine and provide a reasonable opportunity for the public to comment on such appointments before they are made or, if the Academy determines such prior comment is not practicable, in the period immediately following the appointments. The Academy shall make its best efforts to ensure that (A) no individual appointed to serve on the committee has a conflict of interest that is relevant to the functions to be performed, unless such conflict is promptly and publicly disclosed and the Academy determines that the conflict is unavoidable, (B) the committee membership is fairly balanced as determined by the Academy to be appropriate for the functions to be performed, and (C) the final report of the Academy will be the result of the Academy's independent judg-

ment. The Academy shall require that individuals that the Academy appoints or intends to appoint to serve on the committee inform the Academy of the individual's conflicts of interest that are relevant to the functions to be performed.

(2) The Academy shall determine and provide public notice of committee meetings that will be open to the public.

(3) The Academy shall ensure that meetings of the committee to gather data from individuals who are not officials, agents, or employees of the Academy are open to the public, unless the Academy determines that a meeting would disclose matters described in section 552(b) of title 5, United States Code. The Academy shall make available to the public, at reasonable charge if appropriate, written materials presented to the committee by individuals who are not officials, agents, or employees of the Academy, unless the Academy determines that making material available would disclose matters described in that section.

(4) The Academy shall make available to the public as soon as practicable, at reasonable charge if appropriate, a brief summary of any committee meeting that is not a data gathering meeting, unless the Academy determines that the summary would disclose matters described in section 552(b) of title 5, United States Code. The summary shall identify the committee members present, the topics discussed, materials made available to the committee, and such other matters that the Academy determines should be included.

(5) The Academy shall make available to the public its final report, at reasonable charge if appropriate, unless the Academy determines that the report would disclose matters described in section 552(b) of title 5, United States Code. If the Academy determines that the report would disclose matters described in

that section, the Academy shall make public an abbreviated version of the report that does not disclose those matters.

(6) After publication of the final report, the Academy shall make publicly available the names of the principal reviewers who reviewed the report in draft form and who are not officials, agents, or employees of the Academy.

(c) REGULATIONS.—The Administrator of General Services may issue regulations implementing this section.

(Pub. L. 92–463, § 15, as added Pub. L. 105–153, § 2(b), Dec. 17, 1997, 111 Stat. 2689.)

REFERENCES IN TEXT

The date of the enactment of the Federal Advisory Committee Act Amendments of 1997, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 105–153, which was approved Dec. 17, 1997.

PRIOR PROVISIONS

A prior section 15 of the Federal Advisory Committee Act was renumbered section 16 by Pub. L. 105–153.

REPORT

Section 3 of Pub. L. 105–153 provided that: “Not later than 1 year after the date of the enactment of this Act [Dec. 17, 1997], the Administrator of General Services shall submit a report to the Congress on the implementation of and compliance with the amendments made by this Act [enacting this section, amending section 3 of Pub. L. 92–463, set out in this Appendix, and redesignating former section 15 of Pub. L. 92–463, set out in this Appendix, as section 16].”

§ 16. Effective date

Except as provided in section 7(b), this Act shall become effective upon the expiration of ninety days following October 6, 1972.

(Pub. L. 92–463, § 16, formerly § 15, Oct. 6, 1972, 86 Stat. 776; renumbered § 16, Pub. L. 105–153, § 2(b), Dec. 17, 1997, 111 Stat. 2689.)