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ADVISORY COMMITTEE MANAGEMENT PROGRAM



U.S. DEPARTMENT OF ENERGY Office of Human Resources and Administration Office of Organization and Management

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All Departmental Elements

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Management

FOREWORD

This Manual supplements the General Services Administration's Final Rule, "Federal Advisory Committee Management" and amendments of 10-5-89 (title 41, Code of Federal Regulations (CFR), Part 101-6.10), which establishes the policies and minimum requirements for Federal agencies to manage and administer advisory committees, and the Federal Advisory Committee Act, title 5 United States Code (U.S.C.), appendix 2 and amendments of 9-13-76, 12-12-80, and 12-21-82. The Manual provides detailed Department of Energy (DOE) requirements, responsibilities, processes, and procedures for the establishment, operation, and management of advisory committees.

The seven chapters of this Manual describe the DOE Advisory Committee Management Program. The chapters are organized to provide comprehensive sources of information related to the establishment, utilization, and duration of Departmental advisory committees. Chapter I provides general information relating to the Department's program. Chapters II through IV describe the processes and procedures for establishing, renewing, and terminating committees and appointing members. Chapter V provides information relating to advisory committee meetings, and chapters VI and VII address travel procedures for members and committee record keeping.

Questions concerning this Manual and requests for additional information should be referred to Rachel Samuel, Corporate Management Practices Group, Office of Organization and Management, at 202-586-3279.

BY ORDER OF THE SECRETARY OF ENERGY:



ARCHER L. DURHAM
Assistant Secretary for
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CHAPTER I

OVERVIEW

1. **PURPOSE.** This Manual supplements 41 Code of Federal Regulations (CFR) Subpart 101-6.10, "Federal Advisory Committee Management," and amendments of 10-5-89, and the Federal Advisory Committee Act (FACA), title 5, United States Code (U.S.C.) Appendix 2, and amendments of 9-13-76, 12-12-80, and 12-21-82. It establishes and implements the Department of Energy's Advisory Committee Management Program.
2. **OBJECTIVES.** This Manual provides the requirements, responsibilities, processes, procedures, and controls for the management and operation of Departmental advisory committees. Objectives include:
 - a. efficient and effective implementation of DOE's advisory committee management responsibilities through teamwork;
 - b. early involvement of DOE organizations in the development and establishment of Departmental advisory committees;
 - c. minimization of the time required to develop and process advisory committee packages and related documents;
 - d. more effective program direction, accountability, and performance assurance; and
 - e. control of time and costs of the advisory committee management process while maintaining its quality.
3. **APPLICABILITY.** The provisions of 41 CFR Subpart 101-6.10 and amendments, FACA and amendments, this Manual, and related documents issued by the General Services Administration (GSA) and the Office of Management and Budget (OMB) shall apply to all Departmental Elements and employees and to each advisory committee established or utilized by the Department.
4. **EXCLUSIONS.** This Manual does not apply to contractors and the types of committees listed in 5 U.S.C. App. 2, § 4, and 41 CFR 101-6.1004.
5. **REQUIREMENTS.**
 - a. In accordance with 41 CFR 101-6.1009(b) an Advisory Committee Management Program shall be established to govern the establishment, operation, administration, membership, meetings, and duration of advisory committees.

- b. Advisory committees shall be established only when it has been demonstrated that a need exists in the conduct of Departmental business and in the public interest in connection with the performance of duties imposed on DOE by law.
- c. Advisory committees shall not be established or retained for the intent of possible future use by the Department.
- d. Departmental resources for committees shall be carefully managed and controlled.
- e. Committee members shall not be:
 - (1) Contractors that provide goods or services to any program under the supervision or control of a Secretarial Officer. A memorandum of exception may be submitted with the membership package providing a concise justification that appointment of such an individual(s) in question will not result in a conflict of interest.
 - (2) An individual who is a member of another DOE advisory committee unless overlapping membership provides continuity or facilitates the coordination of committee activities.
 - (3) Federal Government employees. They may serve in an ex officio capacity or be invited as guests whenever their participation is necessary in advisory committee deliberations.
 - (4) Compensated unless approved by the Secretary of Energy or directed by law.
- f. Advisory committees shall be terminated when they are no longer relevant to the Department's mission or no longer carrying out the functions for which they were established.
- g. DOE shall provide to the public and the news media accurate and timely information on all DOE advisory committee activities.

6. RESPONSIBILITIES.

- a. Secretary of Energy. Agency Head responsibilities are delineated at 41 CFR 101-6.1007 (also see amendments of 10-5-89); 101-6.1009 (also see amendments of 10-5-89); 101-6.1013; 101-6.1021; 101-6.1023; 101-6.1027; 101-6.1031; 101-6.1033; and section 8 of FACA. In addition to these responsibilities, the Secretary:
 - (1) Approves the selection and appointment of members to DOE advisory committees, except those members who are appointed by the President. The Secretary may delegate this responsibility, in writing, to the cognizant Secretarial Officer responsible for the advisory committee.
 - (2) Requires advisory committee members of each committee established by DOE, before participation in any committee meeting or work.
 - (a) If they are special Government employees, disclose in writing any financial or other interest that may be affected by the work of the committee or that may create the appearance of a conflict of interest.
 - (b) Address with the Office of General Counsel (GC), the Federal ethics rules, conflict of interest statutes, and any possible ethical problem that may arise from serving on a DOE advisory committee.
 - (3) Designates a person or persons within the immediate office of the Secretary, if desired, to:
 - (a) review materials requiring the decision or action of the Secretary, in order to provide policy direction and oversight on advisory committee management;
 - (b) represent the Secretary in dealings with officials within and outside the Department on advisory committee management matters; and
 - (c) act as a liaison between the Secretary and the Advisory Committee Management Officer or others on advisory committee matters.
- b. Assistant Secretary for Human Resources and Administration. Oversees the Department's Advisory Committee Management Program.

- c. Director of Organization and Management. Designated as the Department's Advisory Committee Management Officer (ACMO), who is responsible for administering and directing DOE's advisory committee management program. Advisory Committee Management Officer responsibilities are delineated in 41 CFR 101-6.1017 and sections 8(b), 10(b), 12(a), and 13 of FACA. In addition to these responsibilities, the ACMO:
- (1) Designates a Deputy Advisory Committee Management Officer (DACMO), who has authority to act for the ACMO, to assist in administering and managing the advisory committee management program.
 - (2) Monitors the implementation of this Manual and ensures compliance with 41 CFR 101-6 and amendments, FACA and amendments, and all other documents governing advisory committee management.
 - (3) Reviews and concurs on all advisory committee packages and appraises the need for or the continuation of the advisory committee(s).
 - (4) Signs all advisory committee charters and Federal Register documents pertaining to committee matters and ensures publication in the Federal Register.
 - (5) Ensures all charters are filed with the standing committees of Congress, the Library of Congress, and the GSA's Committee Management Secretariat (Secretariat).
 - (6) In coordination with Heads of Departmental Elements, ensures that advisory committees are fairly balanced in membership in terms of points of view represented and the functions to be performed by the committees. Approves requests for exceptions to DOE policy in the following areas.
 - (a) Membership of DOE contractors that provide goods or services to any program under the supervision or control of a Secretarial Officer.
 - (b) Membership of an individual(s) on more than one DOE advisory committee if overlapping membership would provide continuity or facilitate the coordination of committee activities.
 - (c) Membership of a Federal Government employee(s) on a DOE advisory committee.
 - (7) Coordinates with GC, Heads of Departmental Elements, and Designated

Federal Officers (DFOs) to ensure DOE ethics and conflicts of interest requirements are carried out for members of each DOE advisory committee under their responsibility.

- (8) Prepares and submits to the Secretariat, the President's annual report on DOE advisory committees required by the Congress.
- (9) Reviews and concurs on all requests for closing part of or all of an advisory committee meeting to the public in accordance with the criteria provided in section 624 of Pub. L. 95-91 and in 5 U.S.C. 552b(c)(4). Prepares DOE's annual report on closed meetings and publishes a notice announcing the availability of this report in the Federal Register.

d. Deputy Assistant Secretary for Human Resources.

- (1) Responsible for the appointment of advisory committee members as "special Government employees" in accordance with 41 CFR 101-6.1033, 5 U.S.C. 3109, and DOE 3304.1, EMPLOYMENT OF EXPERTS AND CONSULTANTS.
- (2) Provides assistance to Departmental Elements in obtaining required security clearances in accordance with DOE 3731.1, SUITABILITY, POSITION SENSITIVITY DESIGNATIONS, AND RELATED PERSONNEL MATTERS.

e. Office of Chief Financial Officer keeps accounts that fully disclose costs incurred by DOE for each advisory committee sponsored by DOE organizations.

f. Office of Congressional, Public, and Intergovernmental Affairs.

- (1) Issues press releases on matters of interest to the public concerning advisory committees, such as the establishment of new committees and the dates of committee meetings.
- (2) Coordinates advisory committee press releases on matters other than routine meeting schedules with appropriate program personnel as well as with the ACO.

g. Office of General Counsel.(1) Assistant General Counsel for General Law.

- (a) Provides legal assistance and advice concerning applicability of and compliance with 41 CFR 101-6 and amendments, FACA and amendments, and this Manual.
- (b) Provides advice, as necessary, to the ACMO and Departmental Elements concerning their responsibilities and the organization and operation of advisory committees.
- (c) Reviews and concurs on advisory committee packages proposing the establishment or renewal of DOE advisory committees, amendments to advisory committee charters, memberships of DOE advisory committees, and determinations to close all or part of an advisory committee meeting.
- (d) Coordinates with the ACMO, Heads of Departmental Elements, and Designated Federal Officers to ensure Departmental ethics and conflicts of interest requirements are carried out for members of each DOE advisory committee under their responsibility.
- (e) Provides legal assistance and advice on advisory committee management matters arising under the Freedom of Information Act.
- (f) Coordinates with the ACMO in the drafting of any regulations on advisory committees for publication in the Code of Federal Regulations and any revisions thereto; concurs in such regulations and internal procedures on advisory committees.

- (2) Office of Rulemaking Support. Concurs on and transmits for publication all Federal Register notices of advisory committee meetings.

h. Heads of Departmental Elements.

- (1) Implement the requirements contained in 41 CFR 101-6.10 and amendments, FACA and amendments, and this Manual for all advisory committees sponsored by their organization.
- (2) Sign and transmit to the Secretary for approval, through the ACMO and the Office of General Counsel, justifications and recommendations for:

- (a) establishment or renewal of an advisory committee and its charter; and
 - (b) individuals to serve as members on DOE advisory committees sponsored by their organization.
- (3) Establish written internal procedures and controls, as necessary, for the operation of all advisory committees under their jurisdiction. Prior to implementation, a copy of such procedures shall be forwarded to the ACMO for review and concurrence.
 - (4) Sign and transmit to the Secretary for approval, through the ACMO, recommendations of individuals to serve as the Designated Federal Officer for each advisory committee sponsored by their organization.
 - (5) Review annually, in coordination with the responsible Designated Federal Officer, the activities and accomplishments of the advisory committees sponsored by their organization. Submit recommendations and rationales for termination of such advisory committees through the ACMO to the Secretary for approval.
 - (6) Ensure administrative and staff support services are provided for each advisory committee sponsored by their organization.
 - (7) In coordination with the responsible Designated Federal Officer:
 - (a) Require advisory committee members of each DOE advisory committee sponsored by their organization, before participation in any committee meeting or work.
 - 1 If they are special Government employees, disclose in writing any financial or other interest that may be affected by the work of the committee, or that may create the appearance of a conflict of interest.
 - 2 Address with GC the Federal ethics rules, conflict of interest statutes, and any possible ethical problem that may arise from serving on a DOE advisory committee.

- (b) Monitor the attendance and participation of advisory committee members and consider replacing any member who has missed a substantial number of scheduled committee meetings and/or who does not show an interest in the committee.
- (8) Sign and transmit to the Secretary for approval, through the ACMO and GC, written determinations to close all or part of an advisory committee meeting to the public.
- (9) Designate for each advisory committee a central location for the assembling and maintenance of advisory committee documents and records for public inspection and copying.
- i. Designated Federal Officer. Designated Federal Official responsibilities are delineated in paragraph 41 CFR 101-6.1019. In addition, the Designated Federal Officer shall:
 - (1) Be fully knowledgeable of all the activities and developments concerning the advisory committee(s) under his/her responsibility.
 - (2) If unable to attend or chair a meeting, designates, in writing, another DOE officer or employee to act as the Designated Federal Officer.
 - (3) Prepares all Notices of Open and/or Closed Meetings for publication in the Federal Register and forwards them, through the Office of General Counsel, to the ACMO for signature.
 - (4) Ensures compliance with 41 CFR 101-6 and amendments, FACA and amendments, and this Manual in the conduct of advisory committee meetings.
 - (5) Prepares written determinations for closing part of or all of an advisory committee meeting to the public in accordance with the criteria provided in 5 U.S.C. 552b(c)(4) and in section 624 of Pub. L. 95-91. Prepares and submits an annual report to the ACMO summarizing advisory committee activities and related matters when committees have held closed meetings.
 - (6) Prepares all proposal packages presenting the required justifications and recommendations for:
 - (a) renewal of an advisory committee; in the case of a new committee, the proposed Designated Federal Officer would prepare the establishment package;

- (b) the appointment, reappointment, and/or rotation/retirement of individuals to serve or who have served on DOE advisory committees.
- (7) In coordination with the Head of his/her Departmental Element:
 - (a) Requires advisory committee members of each DOE advisory committee under his/her responsibility, before participation in any committee meeting or work.
 - 1 If they are special Government employees, disclosing, in writing, any financial or other interest that may be affected by the work of the committee, or create the appearance of a conflict of interest.
 - 2 Address with GC the Federal ethics rules, conflict of interest statutes, and any possible ethical problem that may arise from serving on a DOE advisory committee.
 - (b) Monitors the attendance and participation of advisory committee members and consider replacing any member who has missed a substantial number of scheduled committee meetings and/or who does not show an interest in the committee.
- (8) Ensures that detailed minutes of meetings are prepared and the information specified in 41 CFR 101-6.1025 is included.
- (9) Forwards ten copies of any final report submitted by each advisory committee to the ACMO for transmittal to the DOE Public Reading Room and the Library of Congress.
- (10) Reviews on an annual basis, in coordination with the Head of his/her Departmental Element, the activities and accomplishments of each advisory committee under his/her responsibility. Prepares recommendations and rationales for termination if it is determined that such committees no longer serve their original purpose.
- (11) Maintains for each advisory committee, in a designated central location, all records, reports, and other papers required by 41 CFR 101-6 and amendments, FACA and amendments, and this Manual.

- (12) Provides all administrative and staff support services for each advisory committee under his/her responsibility and keep records concerning costs incurred for providing these services.
- (13) Prepares and submits information for:
 - (a) the preparation of DOE's section of the President's annual report to Congress;
 - (b) the Secretariat's annual comprehensive review of Federal advisory committees and their activities; and
 - (c) other special reports that may be requested by the ACMO, the Secretariat, or OMB.

REFERENCES

1. Title 5, United States Code (U.S.C.), App. 2, (Pub. L. 92-463), Federal Advisory Committee Act (FACA), and amendments: Pub. L. 94-409, and Pub. L. 97-375.
2. 42 U.S.C. 7234 (Pub. L. 95-91, section 624), DOE Organization Act.
3. 5 U.S.C. 552b (Pub. L. 94-409), Government in the Sunshine Act.
4. 41, Code of Federal Regulations (CFR), Subpart 101-6.10, General Services Administration's (GSA) Revised Final Rule on Federal Advisory Committee Management, of 10-5-89.
5. 41 CFR Subpart 101-6.10, GSA's Final Rule on Advisory Committee Management, of 12-2-87.
6. 10 CFR Part 1010, "Conduct of Employees."
7. DOE 1500.2A, TRAVEL POLICY AND PROCEDURES, of 6-7-89, Chapter VII, "Special Travel and Transportation."
8. DOE 3304.1A, EMPLOYMENT OF EXPERTS AND CONSULTANTS, of 6-23-92.
9. DOE 1324.5B, RECORDS MANAGEMENT PROGRAM, of 1-12-95.
10. DOE 3731.1, SUITABILITY, POSITION SENSITIVITY DESIGNATIONS, AND RELATED PERSONNEL MATTERS, of 12-19-89.
11. Executive Order 12838, "Termination and Limitation of Federal Advisory Committees," of 2-10-93.
12. OMB Memorandum for Heads of Executive Departments and Agencies, of 6-23-94, "Management of Federal Advisory Committees."
13. Vice President's Memorandum to Heads of Executive Departments and Agencies, of 6-28-94, "Management of Federal Advisory Committees."
14. 22 U.S.C., §§ 611-621, known as the "Foreign Agents Registration Act of 1938".

DEFINITIONS

1. AD HOC ADVISORY COMMITTEE. A non-continuing committee created to serve less than 2 years.
2. ADVISORY COMMITTEE. See 41 CFR 101-6.1003.
3. ADVISORY COMMITTEE MANAGEMENT OFFICER (ACMO). The designated official who is responsible for advisory committee management within the Department.
4. COMMITTEE MANAGEMENT SECRETARIAT (Secretariat). See 41 CFR 101-6.1003.
5. COMMITTEE MEMBER. See 41 CFR 101-6.1003.
6. CONFLICT OF INTEREST. Use of the committee office by a member that appears to be or is motivated by a private gain for him/herself or other person(s), particularly those with whom he or she has family, business, or financial ties.
7. CONSULTANT. An individual who serves as an advisor, giving views or opinions on problems presented to him but who neither performs nor supervises operating functions.
8. DESIGNATED FEDERAL OFFICER (DFO). An individual, who may be either full-time or permanent part-time, designated by the head of the sponsoring organization and approved by the Secretary, to provide staff support to an advisory committee.
9. EX OFFICIO MEMBER. An individual who holds membership on an advisory committee by virtue of his/her office in the private sector (serves only while an incumbent of such a position) or other Government agency or is a member of another advisory committee; such an individual and has full right and obligation to participate in the activities of the committee and has voice to comment on committee recommendations, but does not have voting rights.
10. MEETING. Any interaction among a majority (quorum) of the members of an advisory committee.
11. NON-STATUTORY ADVISORY COMMITTEE. Any advisory committee established or utilized by the President or a Federal official, including an advisory committee that is authorized, but not specifically directed, by an Act of Congress.
12. QUORUM. A majority (one more than one-half) of the committee's authorized membership.

13. SPECIAL GOVERNMENT EMPLOYEE (SGE). An officer or employee retained, designated, appointed, or employed with or without compensation, to perform temporary duties either on a full time, part-time, or intermittent basis. The term includes experts and consultants.
14. STAFF MEMBER. See 41 CFR 101-6.1003.
15. STATUTORY ADVISORY COMMITTEE. An advisory committee specifically directed by law to be established.
16. SUBCOMMITTEE. Any subgroup that advises a duly established advisory committee, and whose existence is incorporated within the charter. If its membership is composed solely of members outside the parent committee, consideration should be given to separately chartering the subgroup.
17. UTILIZED (OR USED) COMMITTEE. See 41 CFR 101-6.1003.

CHAPTER II

ESTABLISHMENT OF AN ADVISORY COMMITTEE

1. **INTRODUCTION.** The establishment of an advisory committee must be in accordance with 41 CFR 101-6.1005, 101-6.1007, 101-6.1013, 101-6.1015, and section 9 of FACA. In addition to these requirements, this chapter describes the DOE requirements, procedures, and processes that shall be followed to establish an advisory committee.
2. **CRITERIA FOR ESTABLISHMENT.**
 - a. Executive Order 12838 established ceilings for agency advisory committees. It further stated that an agency cannot create or sponsor a new advisory committee unless the committee is required by statute or the agency head finds that compelling considerations necessitate creation of such a committee and receives approval from the Director of the Office of Management and Budget. By memorandum of 6-28-93, the Vice President ordered that any proposals to establish new committees must include plans to terminate or merge existing committees.
 - b. In addition to paragraph 2a, above, the following shall also be considered prior to the establishment of an advisory committee.
 - (1) The decision criteria stated in 41 CFR 101-6.1002(a).
 - (2) Would it be feasible to conduct DOE-sponsored symposia, public meetings, or conferences in lieu of establishing the new advisory committee?
 - (3) Would the solicitation of advice and information from the general public or constituent public, satisfy the need for public input, through a variety of channels such as notices in the Federal Register or news releases to appropriate professional journals and industry publications?
3. **PROPOSING ESTABLISHMENT.**
 - a. The Head of a Departmental Element, after careful consideration of the criteria set forth in paragraph 2, above, may propose the establishment of an advisory committee. Prior to submitting a formal request, however, he/she shall consult with the ACMO for advice and assistance in making determinations regarding the various factors involved in committee establishment and assistance on how to prepare the formal request.

- b. All of the documentation and actions discussed in this chapter must be approved and completed before an advisory committee is considered officially established. Generally, it will take a minimum of 90 calendar days from the time the committee is proposed until it is formally chartered. No advisory committee may operate, meet, or take any action until the Secretary has approved the committee and its charter, and the charter has been filed.

4. ESTABLISHMENT BY SECRETARIAL AUTHORITY (NONSTATUTORY) OR ESTABLISHMENT AUTHORIZED BY STATUTE.

- a. Proposal Package for Establishment. The proposal package requesting establishment of a nonstatutory advisory committee or an advisory committee authorized by statute shall include the following documents.
 - (1) An ACTION Memorandum addressed to the Secretary, through the Deputy Secretary, requesting approval of the establishment of the committee. The memorandum shall include the following information.
 - (a) If the Department has reached its ceiling of advisory committees, a proposal for a specific advisory committee to be terminated or merged with the new committee. Coordination with the Head of the Departmental Element sponsoring the committee proposed for termination shall be done before submission of the ACTION Memorandum.
 - (b) A description of the purpose and scope of the proposed advisory committee and why the committee is in the public interest.
 - (c) An explanation of why the proposed committee's functions cannot be performed by an existing DOE or other Federal advisory committee, another DOE component, or through the use of consultants, public hearings, or other alternative means.
 - (d) A description of the plan for ensuring a fairly balanced committee membership in terms of viewpoints represented and the functions to be performed.
 - (e) An estimate of the budget required for committee operations, the sources of such funds, and an estimate of Federal work effort in staff-years.

- (f) The organization and official responsible for the committee.
 - (g) An explanation of whether the committee members shall receive compensation, if the determination has been made, and whether their travel expenses and per diem are to be provided.
 - (h) Designation, by position title, of the DOE official who shall serve as the Designated Federal Officer.
 - (2) A proposed charter for the advisory committee containing the information required by 41 CFR 101-6.1007(b)(1), which refers to section 9(c) of FACA.
 - (3) A proposed Federal Register "Notice of Intent to Establish" the advisory committee containing the information required in 41 CFR 101-6.1015(a) (also see amendment to 41 CFR 101-6, of 10-5-89) and an additional statement providing the name and phone number of the individual to contact for more information on the committee.
 - (4) A letter of consultation, with two copies of the proposed charter and a copy of the Federal Register notice, to the Director, Committee Management Secretariat (Secretariat), GSA, and the Director of OMB, if required, containing the information required by 41 CFR 101-6.1007(2) (also see amendment to 41 CFR 101-6, of 10-5-89).
- b. Concurrence and Approval Procedures. The concurrence and approval procedures for the proposal package are as follows.
- (1) The Head of the Departmental Element proposing establishment approves and signs the proposal package after ensuring that all required information and documentation is included and all required intra-office concurrences have been obtained.
 - (2) The proposal package is forwarded to the ACMO for review and concurrence, and to the Secretary through the following required concurrence and approval chain. (Advisory committee packages are not concurrently concurred on; all concurrences appear on the official yellow file copy.)
 - (a) Assistant Secretary for Human Resource and Administration.
 - (b) Assistant General Counsel for General Law.
 - (c) General Counsel.

- (d) Office of the Executive Secretariat, for correspondence control through the Office of the Secretary.
 - (e) Office of the Secretary.
 - (3) Following approval by the Secretary, the approved proposal package is returned to the ACMO through DOE's Executive Secretariat. The ACMO forwards the letter of consultation, with enclosures, to the Secretariat. The Secretariat will review the proposal and notify the Secretary of its views within 15 calendar days of receipt, if possible.
- c. Notifying the Public.
- (1) If the Secretariat concurs with the establishment of the advisory committee, the ACMO forwards the "Notice of Intent to Establish" to the Federal Register for publication in accordance with 41 CFR 101-6.1015 (a) and (b). (Also see amendment to 41 CFR 101-6, of 10-5-89.)
 - (2) If the Secretariat nonconcurs with the establishment of the advisory committee, the ACMO will inform the requesting Head of the Departmental Element of the reasons why and return the proposal package. If there is agreement that the reasons are valid, and changes are made to correct identified problems, then the package will be resubmitted to the Secretariat for concurrence. If there is nonagreement with the reasons, the Secretary of Energy will have final decision authority for establishing the committee. If the Secretary decides to establish, the ACMO will carry out the actions in subparagraph c(1) above and subparagraph d below.
- d. Charter Filing Requirements. At the end of the 15-day public notice period, the ACMO will sign and date the charter, and a copy of the charter will be filed in accordance with 41 CFR 101-6.1013(a). A copy of the charter will be sent to the Designated Federal Officer who will be responsible for sponsoring the advisory committee.
- e. Establishing and Chartering Subcommittees. The requirements for establishing and chartering subcommittees are delineated in 41 CFR 101-6.1007 (3) and (4).

5. ESTABLISHMENT DIRECTED BY STATUTE (STATUTORY).

- a. Proposal Package for Establishment. The proposal package requesting establishment of a statutory advisory committee shall include the following documents.
 - (1) An ACTION Memorandum addressed to the Secretary, through the Deputy Secretary, requesting approval of the establishment of the committee. The memorandum shall include:
 - (a) a description of the purpose and scope of the proposed advisory committee as outlined in the statute;
 - (b) a description of the plan for ensuring a fairly balanced committee membership in terms of viewpoints represented and the functions to be performed, including the requirements outlined in the statute;
 - (c) an estimate of the budget required for committee operations, the sources of such funds, and an estimate of Federal work effort in person-years;
 - (d) the organization and official to be responsible for the committee;
 - (e) an explanation of whether the committee members shall receive compensation, if the determination has been made (or is statutorily mandated), and whether their travel expenses and per diem are to be provided; and
 - (f) designation, by position title, of the DOE official who shall serve as the Designated Federal Officer.
 - (2) A proposed committee charter containing the information required by 41 CFR 101-6.1007(b)(1), which refers to section 9(c) of FACA.
 - (3) The Federal Register "Notice of Intent to Establish" and the letter of consultation to the Secretariat are not required for statutory committees.
- b. Concurrence and Approval Procedures. The concurrence and approval procedures for the proposal package are the same as those set forth in paragraph 4b of this chapter. Consultation with the Secretariat is not required.

- c. Charter Filing Requirements. After the establishment package has been approved by the Secretary and received by the ACMO, the ACMO will sign and date the charter, and a copy of the charter will be filed in accordance with 41 CFR 101-6.1013(a). A copy of the charter will be sent to the Designated Federal Officer who will be responsible for sponsoring the advisory committee.

6. UTILIZED ADVISORY COMMITTEE.

- a. General. The use of a previously existing external entity to provide advice to the Department may be considered a "utilized committee" covered by FACA. Prior to sponsorship of a utilized group, the Head of the Departmental Element shall coordinate with the Assistant General Counsel for General Law to determine whether FACA is applicable. Neither the committee nor a sponsoring organization shall be officially contacted until the establishment procedures delineated in 41 CFR 101-6.1007 are completed. If available, a list of the names and affiliations of the group members shall be attached to the establishment package.
- b. Committee's Charter. The charter for a utilized advisory committee contains the same information delineated in 41 CFR 101-6.1007(b)(1), which refers to section 9(c) of FACA, with the following modifications.
 - (1) The membership and chairperson provisions shall reflect established characteristics and size of the group.
 - (2) The provisions regarding appointment and tenure of members is excluded.
 - (3) The charter shall clearly reflect that the group shall:
 - (a) be considered an advisory committee only during the period or for the unique purpose that it is being utilized by DOE; and
 - (b) comply with the provisions of 41 CFR 101-6 and amendments, FACA and amendments, and this Manual when it is being used by DOE.
- c. Notification of Group. Following approval by the Secretary and consultation with the Secretariat, a letter to the group or its sponsoring organization, with a copy of the charter, can be transmitted to the Secretary for signature. If the group agrees to the charter without any substantive changes, public notice in the Federal

Register can take place and the charter will be signed and dated by the ACMO and filed in accordance with 41 CFR 101-6.1013(a). A copy of the charter is sent to the Designated Federal Officer who is responsible for the advisory committee.

7. REESTABLISHMENT OF AN ADVISORY COMMITTEE. Any advisory committee whose charter expires must be reestablished if its continued existence is desired. The procedures for reestablishment are the same as those for establishment.
8. AMENDMENTS TO ADVISORY COMMITTEE CHARTERS. An advisory committee charter shall be amended when the existing charter no longer accurately reflects the objectives or functions of the advisory committee or any other information concerning the makeup or status of the committee. Charter amendments shall be prepared in accordance with 41 CFR 101-6.1031 and as follows.
 - a. Minor Amendments. Minor amendments to a charter include changes to the name of the committee, the estimated number or frequency of meetings, number of members, or a slight increase (10% or less) in operating costs.
 - (1) Amendment Package. The amendment package shall contain the following documents.
 - (a) An ACTION Memorandum from the Head of the Departmental Element sponsoring the advisory committee to the Secretary, through the Deputy Secretary, requesting an amendment to a committee's charter and describing the necessary changes to and reasons why the amendment is being requested.
 - (b) The amended charter.
 - (2) Concurrence and Approval Procedures. The amendment package follows the same procedures set forth for an establishment package in paragraph 4b of this chapter. Consultation with the Secretariat is not required for minor amendments.
 - (3) After approval by the Secretary, the amended charter is signed and dated by the ACMO and filed in accordance with 41 CFR 101-6.1013(a). A copy of the charter is sent to the Designated Federal Officer who is responsible for the advisory committee.
 - b. Major Amendments. Major amendments to a charter include changes to the objectives or scope of the committee, the composition of the committee, or a substantial increase in operating costs.

- (1) Amendment Package. The amendment package shall contain the following documents.
 - (a) An ACTION Memorandum from the Head of the Departmental Element sponsoring the advisory committee to the Secretary, through the Deputy Secretary, requesting an amendment to a committee's charter and describing the necessary changes to and reasons why the amendment is being requested.
 - (b) The amended charter.
 - (c) A letter of consultation to the Secretariat containing the information required in 41 CFR 101-6.1031(b)(2) and two copies of the amended charter.
 - (2) Concurrence and Approval Procedures. The amendment package follows the same procedures set forth for an establishment package in paragraph 4b of this chapter.
 - (3) After concurrence by the Secretariat, the charter is signed and dated by the ACOM and filed in accordance with 41 CFR 101-6.1013(a). A copy of the charter is sent to the Designated Federal Officer who is responsible for the advisory committee.
- c. Statutory Committees. Minor amendments may be made to the charters of statutory committees as long as they are consistent with the relevant statute. Major amendments cannot be made unless Congress, by statute, changes the authorizing language that was the basis for establishing the advisory committee. The procedures in paragraphs 8a and 8b, above, shall be followed when requesting an amendment to a charter for a statutory committee.

ADVISORY COMMITTEE COST

An estimate, or report, of the costs of an advisory committee shall include the following information.

1. Direct obligations for the following items:

- a. Personnel compensation of committee members, consultants to the committee, permanent and temporary or part-time (GS, WB, or other) positions that are a part of or supportive to the committee, and all overtime related to committee functions.

NOTE: Personnel compensation should reflect all (actual or estimated) person years, or parts thereof, of Federal positions devoted to a particular committee's activities. It should also include the compensation of Federal employees assigned to committees, on a reimbursable or nonreimbursable basis, from agencies or departments other than that to which the committee reports.

- b. Personnel benefits associated with the above compensation.
- c. Travel costs (including per diem) of committee members, consultants, all permanent positions, and all temporary or part-time positions that are part of, or supportive to, the committee.
- d. Transportation of things, communications, and printing and reproduction.
- e. Rent for additional space acquired for committee use.
- f. Other services required by the committee, including data processing services, management studies and evaluations, contractual services, and reimbursable services.
- g. Supplies, materials, and equipment acquired for committee use.

2. Costs not to be included:

- a. Indirect, or overhead, costs should not be included.
- b. The costs of the committee management system (agency Committee Management Officers, etc.) should not be ascribed to, or allocated among, individual committees.

CHAPTER III

RENEWAL AND TERMINATION OF AN ADVISORY COMMITTEE

1. **INTRODUCTION.** The renewal or termination of an advisory committee must be in accordance with 41 CFR 101-6.1027, 101-6.1029, and Section 14 of FACA. The renewal of an advisory committee is similar to the establishment of an advisory committee and, therefore, shall also be in accordance with the requirements in 41 CFR 101-6.1007, 101-6.1013, 101-6.1015, and section 9 of FACA. In addition to these requirements, this chapter describes the DOE requirements, procedures, and processes that shall be followed to renew or terminate an advisory committee.
2. **CRITERIA FOR RENEWAL.** Prior to renewal of an advisory committee, the following shall be considered.
 - a. The decision criteria stated in 41 CFR 101-6.1002(a).
 - b. The feasibility of conducting DOE-sponsored symposia, public meetings, or conferences.
 - c. Satisfaction of the need for public input through the solicitation of advice and information from the general public or constituent public through a variety of channels such as notices in the Federal Register or news releases to appropriate professional journals and industry publications.
3. **PROPOSING RENEWAL.**
 - a. The Head of a Departmental Element that sponsors an advisory committee, after careful consideration of the criteria set forth in paragraph 2, above, may propose the renewal of the advisory committee. Prior to submitting a formal request, however, he/she shall consult with the ACMO for advice and recommendations.
 - b. All of the documentation and actions discussed in this chapter must be approved and completed before an advisory committee is considered officially renewed. The proposal package shall be submitted to the ACMO at least 120 calendar days prior to expiration of the committee's charter. This time frame includes the requirement of a minimum of 30 calendar days prior to expiration of the advisory committee's charter for submittal of renewals to the Secretariat for consultation. No advisory committee may operate, meet, or take any action after expiration of the charter.

4. RENEWAL OF A NONSTATUTORY COMMITTEE OR A COMMITTEE AUTHORIZED BY STATUTE.

- a. Proposal Package for Renewal. The proposal package requesting renewal of a nonstatutory advisory committee or an advisory committee authorized by statute shall include the following documents.
- (1) An ACTION Memorandum addressed to the Secretary, through the Deputy Secretary, requesting approval to renew the committee. The memorandum shall include the following information.
 - (a) A description of the continuing need for and purpose and scope of the proposed advisory committee and why the committee is in the public interest.
 - (b) An explanation of why the committee's functions cannot be performed by an existing DOE or other Federal advisory committee, another DOE component, or through the use of consultants, public hearings, or similar means and an estimated target date for completion of the committee's functions.
 - (c) A summary of the committee's accomplishments and activities for the period covered by the expiring charter, including the number of meetings held, titles and dates of any reports issued, and a description of the committee's advice and recommendations rendered and DOE's use of such advice.
 - (d) A description of the plan for maintaining (or attaining) a fairly balanced committee membership in terms of viewpoints represented and the functions to be performed.
 - (e) An estimate of the budget required for committee operations, the sources of such funds, and an estimate of Federal work effort in staff-years.
 - (f) The organization and official responsible for the committee.
 - (g) An explanation of whether the committee members shall receive compensation, if the determination has been made, and whether their travel expenses and per diem are to be provided.

- (h) Designation, by position title, of the DOE official who will serve as the Designated Federal Officer.
 - (2) A proposed charter for the advisory committee containing the information required by 41 CFR 101-6.1007(b)(1), which refers to section 9(c) of FACA.
 - (3) A proposed Federal Register "Notice of Intent to Renew" the advisory committee containing the information required in 41 CFR 101-6.1015(a) (also see amendment to 41 CFR 101-6, of 10-5-89) and an additional statement providing the name and phone number of the individual to contact for more information on the committee.
 - (4) A letter of consultation, with two copies of the proposed charter and a copy of the Federal Register notice, to the Director, Committee Management Secretariat (Secretariat), GSA, containing the information required by 41 CFR 101-6.1007(2) (also see amendment to 41 CFR 101-6 of 10-5-89).
- b. Concurrence and Approval Procedures. The concurrence and approval procedures for the proposal package are as follows.
- (1) The Head of the Departmental Element proposing renewal approves and signs the proposal package after ensuring that all required information and documentation is included and all required intra-office concurrences have been obtained.
 - (2) The proposal package is forwarded to the ACMO for review and concurrence and forwarded to the Secretary through the following required concurrence and approval chain. (Advisory committee packages are not concurrently concurred on; all concurrences appear on the official yellow file copy.)
 - (a) Assistant Secretary for Human Resources and Administration.
 - (b) Assistant General Counsel for General Law.
 - (c) General Counsel.
 - (d) Office of the Executive Secretariat for correspondence control through the Office of the Secretary.
 - (e) Office of the Secretary.
 - (3) Following approval by the Secretary , the approved proposal package is

returned to the ACMO through DOE's Executive Secretariat. The ACMO forwards the letter of consultation with enclosures to the Secretariat. The Secretariat will review the proposal and notify the Secretary of its views within 15 calendar days of receipt, if possible.

c. Notifying the Public.

- (1) If the Secretariat concurs with the renewal of the advisory committee, the ACMO forwards the "Notice of Intent to Renew" to the Federal Register for publication in accordance with 41 CFR 101-6.1015 (a) and (b) (also see amendment to 41 CFR 101-6 of 10-5-89). The 15-day requirement does not apply for committee renewals; therefore, publication of the Notice and the filing of the committee's charter can be done concurrently.
- (2) If the Secretariat nonconcurs with the renewal of the advisory committee, the ACMO will inform the requesting Head of the Departmental Element of the reasons why and return the proposal package. If there is agreement that the reasons are valid, and changes are made to correct identified problems, then the package will be resubmitted to the Secretariat for concurrence. If there is nonagreement with the reasons, the Secretary of Energy has the final decision authority for renewing the committee. If the Secretary decides to renew, the ACMO will carry out the actions in subparagraph c(1) above and subparagraph d below.

d. Charter Filing Requirements. After the ACMO receives concurrence from the Secretariat, the he/she will sign and date the charter, and a copy of the charter will be filed in accordance with 41 CFR 101-6.1013(a) and section 14(b) of FACA. A copy of the filed charter will be sent to the Designated Federal Officer who will be responsible for sponsoring the advisory committee.

e. Renewing and Chartering Subcommittees.

- (1) Subcommittees do not need to be formally renewed or chartered if the parent advisory committee's charter authorizes establishment of subcommittees and the subcommittees will not be functioning independently of the parent committee. Subcommittees shall:

- (a) act under the policies that have been established by the parent committee and comply with the requirements of 41 CFR 101-6 and amendments, FACA and amendments, and this Manual;
 - (b) present all advice and recommendations to the parent committee for review and approval prior to presentation or issuance by the parent committee to DOE Officials.
 - (2) Subcommittees that will function independently of the parent advisory committee must be renewed and chartered as separate advisory committees in accordance with the procedures outlined in chapter II, paragraph 4b.
- 5. RENEWAL OF A STATUTORY COMMITTEE. Each statutory advisory committee whose termination, as provided for by law, is in excess of 2 years, shall be renewed in accordance with 41 CFR 101-6.1029.
 - a. Proposal Package for Renewal. The proposal package for requesting renewal of a statutory advisory committee shall include the following documents.
 - (1) An ACTION Memorandum addressed to the Secretary, through the Deputy Secretary, requesting approval to renew the committee. The memorandum shall include the following information.
 - (a) A description of the continuing purpose and scope of the proposed advisory committee as outlined in the statute.
 - (b) A description of the plan for maintaining (or attaining) a fairly balanced committee membership in terms of viewpoints represented and the functions to be performed, including the requirements outlined in the statute.
 - (c) An estimate of the budget required for committee operations, the sources of such funds, and an estimate of Federal work effort in person-years.
 - (d) Identification of the organization and official to be responsible for the committee.
 - (e) An explanation of whether the committee members shall receive compensation, if the determination has been made (or is statutorily mandated), and whether their travel expenses and per diem are to be provided.

- (f) Designation, by position title, of the DOE official who will serve as the Designated Federal Officer.
 - (2) A proposed charter for the committee containing the information required by 41 CFR 101-6.1007(b)(1), which refers to section 9(c) of FACA.
 - (3) The Federal Register "Notice of Intent to Renew" and the letter of consultation to the Secretariat are not required for statutory committees.
 - b. Concurrence and Approval Procedures. The concurrence and approval procedures for the renewal package are the same as those set forth for an establishment package in chapter II, paragraph 4b. Consultation with the Secretariat is not required.
 - c. Charter Filing Requirements. After the renewal package has been approved by the Secretary and received by the ACMO, the ACMO will sign and date the charter, and a copy of the charter will be filed in accordance with 41 CFR 101-6.1013 (a) and (b). A copy of the filed charter will be sent to the Designated Federal Officer who will be responsible for sponsoring the advisory committee.
6. RENEWAL OF A UTILIZED ADVISORY COMMITTEE.
- a. General. The continuing use of a non-Government formed group as a DOE advisory committee must be approved by the Secretary. Neither the committee nor the sponsoring organization shall be officially contacted until the renewal procedures set forth in paragraphs 4a and b of this chapter, are completed. If available, a listing of the names and affiliations of the existing group members shall be attached to the renewal package.
 - b. Committee's Charter. The renewal charter for a utilized advisory committee contains the same information required by 41 CFR 101-6.1007(b)(1), which refers to section 9(c) of FACA and the same exceptions outlined in chapter II, paragraph 2b.
 - c. Notification of Group. Following approval by the Secretary and consultation with the Secretariat, a letter to the group or its sponsoring organization, with a copy of the charter, can be transmitted to the Secretary for signature. If the group agrees to the charter without any substantive changes, public notice in the Federal Register can take place and the charter filed in accordance with 41 CFR 101-6.1013(a).

7. AMENDMENTS TO ADVISORY COMMITTEE CHARTERS. Procedures for amending the charter of an advisory committee are delineated in 41 CFR 101-6.1031 and chapter II, paragraph 8 of this Manual..
8. TERMINATION OF AN ADVISORY COMMITTEE.
 - a. Criteria for Termination. Termination of an advisory committee shall be based on one of the following situations.
 - (1) The criteria in 41 CFR 101-6.1002(b), 101-6.1027, and section 14(a) of FACA.
 - (2) It has been determined that the advice of the committee is no longer essential to DOE and the committee is no longer in the public interest.
 - (3) The committee has not been staffed for a period of 1 year.
 - (4) The committee has not met within a 2-year period.
 - b. Termination of a Nonstatutory Committee, a Utilized Committee, or a Committee Authorized by Statute.
 - (1) Proposal Package for Termination. The proposal package for requesting termination of a nonstatutory advisory committee, a utilized committee, or an advisory committee authorized by statute shall include the following documents.
 - (a) The Head of the Departmental Element sponsoring the advisory committee will prepare an ACTION Memorandum to the Secretary, through the Deputy Secretary, proposing the termination of the advisory committee. The memorandum shall:
 - 1 describe the reasons why the committee should be terminated; and
 - 2 provide information as to the availability of any final reports or recommendations prepared by the committee.
 - (b) Letters of appreciation to the committee members for services rendered for signature by the Secretary.
 - (2) Concurrence and Approval Procedures. The termination package will be sent to the ACOM and the Assistant Secretary for Human Resources and Administration for review and concurrence, and transmittal to the Secretary for approval.

- (3) Notice of Termination. After receiving approval from the Secretary, the ACMO will notify the Secretariat, the Congressional standing committees, and the Library of Congress of the termination date of the advisory committee. For an advisory committee authorized by statute, the ACMO, in coordination with the responsible Head of the Departmental Element, will work with the Office of General Counsel to develop legislation to abolish the statute that authorized the advisory committee.

c. Termination of a Statutory Committee.

- (1) A committee directly established by a statute, which also provides for its duration or continuity, can be terminated early only by legislation. If the Head of the Departmental Element sponsoring a statutory committee has determined that the committee should be terminated, he/she shall obtain the Secretary's approval following the procedures in paragraphs 8b(1) and (2) of this chapter, and then work with the Office of General Counsel to develop the necessary legislative action to abolish the statute that established the committee.
- (2) A committee directly established by a statute, which does not provide for its continuity, shall be terminated 2 years after its establishment or renewal in the absence of an expressed Congressional intent to continue the committee.
- (a) The Head of the Departmental Element sponsoring the committee shall notify the Secretary, through the ACMO, that the committee is being terminated.
- 1 The memorandum shall contain the information in subparagraph 8b(1)(a) of this chapter; and
- 2 letters of appreciation to the committee members for services rendered shall be prepared for the Secretary's signature and transmitted with the memorandum.
- (b) After receiving the Secretary's approval, the ACMO shall notify the Secretariat, the Congressional standing committees, and the Library of Congress. The ACMO, in coordination with the responsible Head of the Departmental Element, will work with the Office of General Counsel to develop legislation to abolish the statute that directed establishment of the committee.

CHAPTER IV

MEMBERSHIP OF AN ADVISORY COMMITTEE

1. **INTRODUCTION.** Selection and appointment of individuals to serve as members on an advisory committee and decisions on compensation of members shall be in accordance with 41 CFR 101-6.1002(c) (also see amendment to 41 CFR 101-6 of 10-5-89); 101-6.1007(b)(2)(iii) (also see amendment to 41 CFR 101-6 of 10-5-89); 101-6.1033; sections 5(b)(2) and (3) and section 7(d) of FACA; section 624 of the DOE Organization Act; and the Foreign Agents Registration Act of 1938, sections 611-621, title 22, United States Code (U.S.C.). In addition to these requirements, this chapter describes the requirements, procedures, and processes that shall be followed when selecting and appointing members to and compensating members of an advisory committee.
2. **GOVERNING PRINCIPLES.**
 - a. The Secretary, Deputy Secretary, or a designated Head of a Departmental Element, unless otherwise provided by statute or regulation, shall select and approve the appointment of all advisory committee members, except those of utilized committees.
 - b. All Heads of Departmental Elements, in coordination with the ACMO, shall ensure that the membership of DOE advisory committees represents a fair balance of interests.
 - c. Individuals shall be nominated, selected, and appointed based on their qualifications, including any statutory requirements, to contribute to the accomplishment of the committee's objectives.
 - d. Members shall serve without compensation, unless approval has been obtained from the Secretary to compensate members.
 - e. Members shall be appointed for up-to 2-year or 3-year terms based on the requirements set forth in the committee's charter except when other terms are provided by statute.
 - (1) Membership terms shall be staggered so that at least one-third of the membership is retained for continuity. Appointment of new members shall provide for rotation to the extent feasible and practicable, but reappointments may be made.
 - (2) A member appointed to fill a vacancy shall serve for the remainder of the term for which his/her predecessor was appointed.

- f. Membership shall be limited to the fewest necessary to accomplish the committee's objectives.
- g. Members serve at the discretion of the Secretary and may be removed without cause.

3. CRITERIA FOR MEMBERSHIP.

- a. Balanced Membership. Advisory committees shall be fairly balanced in accordance with 41 CFR 101.6-1007(b)(2)(iii); sections 5(b)(2) and (3) of FACA; and section 624 of the DOE Organization Act. In addition to these requirements, consideration shall also be given to such interests as the geographic regions of the country; minority groups; women's organizations; public and private academic institutions, including Black Colleges and Universities; physically challenged individuals and groups; and the public at large.
- b. Individuals Ineligible for Membership Requiring Exception.
 - (1) Employees of DOE contractors that provide goods or services to any program under the supervision or control of a Secretarial Officer are not eligible for membership on any advisory committee.
 - (2) Federal Government employees shall not be appointed to DOE advisory committees. They may be invited as guests whenever their participation is necessary in advisory committee deliberations.
 - (3) Generally, not more than one officer or employee of any corporation or other entity, including all subsidiaries and affiliates thereof, should serve on the same advisory committee at any one time.
- c. Waivers. The ACMO has the authority to approve exceptions to the criteria set forth in subparagraphs 3b(1) through 3b(3) above. The request for an exception must be in writing, present a justification to support the request, and include a statement that appointment of the individuals in question will not result in a conflict of interest must be included in the formal appointment package.

4. PRELIMINARY APPOINTMENT PROCEDURES.

- a. Nominating Members. The Heads of Departmental Elements who proposed the establishment, reestablishment, or renewal of an advisory committee shall recommend its members, unless the committee's charter prescribes otherwise.
- b. Nominations by Outside Organizations. On occasion it may be desirable to have a professional society, association, or other organization nominate one or more of its members to serve on a DOE advisory committee. Approval of the Office of the Secretary is required prior to any official contact with the organization. Unless the committee's charter prescribes otherwise, arrangements shall be worked out with the outside organization to enable the Secretary to accept or reject the nominee(s) without embarrassment to the Department, the organization, or the individual(s). Administrative clearance of the nominee(s) is required before he or she shall be invited to serve.
- c. Security Clearance. An appropriate level security clearance is required for any person who accepts an invitation to serve on a DOE advisory committee that is chartered to advise on classified matters or that will be dealing with classified materials. The Program Official responsible for nominating members shall be responsible for requesting and obtaining security clearances in accordance with the requirements set forth in DOE 3731.1, SUITABILITY, POSITION SENSITIVITY DESIGNATIONS, AND RELATED PERSONNEL MATTERS, of 12-19-89. The submission of the formal nomination package and the security clearance process can be done concurrently, but no member shall be officially appointed until the security clearance process has been completed, and the member has been assigned the appropriate security clearance.
- d. Compensation of Members.
 - (1) When extending invitations to individuals to serve as members of DOE advisory committees, it shall be explained that the Department does not pay members for their services (unless the provisions below apply). The invitation represents an opportunity for the addressee to render a public service in an advisory capacity on a matter in which the individual is considered to be knowledgeable.
 - (2) Pay shall be provided to members if required by the statute mandating or authorizing the establishment of an advisory committee, authorized by an Executive order, or the determination to compensate members is written into the committee's charter and approved by the Secretary.

- (3) If the Head of the Departmental Element decides to request compensation for members of an advisory committee, the criteria in 41 CFR 101-6.1033 and section 7(d) of FACA must be followed.
 - (a) A memorandum shall be prepared to the Secretary, through the Deputy Secretary:
 - 1 requesting approval to compensate the committee members and presenting the reasons and justifications to support the request; and,
 - 2 recommending the appropriate rate of pay based on the requirements criteria.
 - (b) The memorandum shall be transmitted with the formal appointment package (see paragraph 5a(6) below) to obtain the concurrences of the ACMO and the Director of Personnel and the approval of the Office of the Secretary. After receipt of approval, the Head of the Departmental Element works with the Director of Personnel to complete the required personnel actions.

5. PROCEDURES FOR APPOINTMENT. The Head of the Departmental Element shall prepare a formal appointment package for submittal to the Secretary for signature. The following procedures apply to all membership appointments regardless of whether the advisory committee is newly established, reestablished, or renewed. Membership on utilized committees is discussed in paragraph 5d below.

- a. Proposal Package for Appointment of Members. The proposal package for membership appointments for advisory committees shall include the following information and documents.
 - (1) An ACTION Memorandum addressed to the Secretary, through the Deputy Secretary, requesting the appointment of members to the advisory committee. The memorandum shall include the following information.
 - (a) A background narrative discussing the advisory committee and its purpose and objectives.
 - (b) A discussion on the selected disciplines that are required for the committee to carry out its functions, a concise discussion of how the nominees were selected and how a fairly balanced membership on the committee was achieved based on the required disciplines, and a discussion of why representation from interests and other areas

required for consideration by statute or this Manual were not considered.

- (c) The number of members on the advisory committee and their tenure, and identification of who will Chair the committee.
 - (d) If the package covers various types of appointments, then each type of appointment should be identified and a list of affected individuals and the action requested should be included.
 - (e) If members are to be compensated, a summary justification and request for compensation at a specific level, and a statement that a memorandum requesting approval for compensation (see subparagraph (7) below) is included in the package for approval by the Secretary.
 - (f) A statement that a memorandum requesting approval for exceptions to subparagraphs 3b(1) through (3) is included in the package for approval by the ACMO.
- (2) A copy of the current charter for the committee.
 - (3) A proposed membership list.
 - (4) Biography of each proposed member.
 - (5) A Balance Criteria (Matrix/Table) that lays out the members' attributes; i.e., geographic location, residential, industrial, or commercial consumer, etc.
 - (6) A memorandum, if necessary, addressed to the Secretary requesting approval to compensate members for their services and presenting a clear justification of why they should be compensated and at what level of pay the members should be compensated.
 - (7) A memorandum, if necessary, addressed to the ACMO requesting exceptions from one or all of the provisions set forth in subparagraph 2b and presenting supporting justifications as to why the exception(s) are needed.
 - (8) Letters of invitation to each member, for signature by the Secretary. The letters shall be tailored to correspond to the type of appointment for each member; the appointment as Chairperson of the committee shall be stated in the letter going to that particular member. A copy of the committee's charter

shall be included with the letters, and all of the letters shall contain the following information.

- (a) A description of the committee and its scope and objectives.
- (b) A description of the member's role and responsibilities.
- (c) The name of the Chairperson of the committee, if known.
- (d) Frequency of meetings.
- (e) A statement concerning service without compensation, or service with compensation if approved by the Secretary, and information on payment of travel expenses.
- (f) Language required in the membership appointment letters for the private sector and Federal employees concerning recusal due to conflict-of-interest; the Foreign Agents Registration Act of 1938, sections 611-621, title 22, U.S.C.; and travel and per diem, which shall appear exactly as follows.

1 Private Sector.

- a Members of the committee are required to recuse themselves from participation in any meeting, study, recommendation, or other committee activity that could have a direct and predictable effect on the companies, organizations, or agencies with which they are associated or in which they have a financial interest.
- b You should also be aware that section 219(a), title 18, United States Code, makes it a criminal offense for a "public official" to be, or to act, as a agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938. For this purpose the term "public official" has been interpreted to include members of Federal advisory committees.

- c The members of the committee serve without compensation. Travel and per diem expenses will be covered by the Department of Energy.

2 Federal Employees.

- a As a Federal advisory committee member, you are subject to the same standards of conduct applicable to you as a full-time Federal employee. In this regard, section 208(a), title 18, United States Code, prohibits you from personally and substantially participating as a committee member in any particular matter in which to your knowledge you, your spouse, minor child, general partner, organization in which you serve as officer, director, trustee, general partner, or employee, or any organization with whom you are negotiating or have any arrangement concerning prospective employment, has a financial interest.
 - b Further, please note that section 219(a), title 18, U.S.C., makes it a criminal offense for a "public official" to be, or to act, as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938.
 - c As a full-time Federal employee, please make arrangements with your employing agency for reimbursement of authorized travel and per diem expenses which you include while serving on the committee.

- (9) Appointment packages for renewals or reestablishments of advisory committee memberships shall contain not only letters of invitation, but also letters of appreciation for signature by the Secretary to members whose terms have expired or who have decided to retire from service on the committee.

- b. Concurrence and Approval Procedures. The appointment package follows the same procedures set forth for an establishment package in chapter II, paragraph 4b, except:

- (1) appointment packages that contain a memorandum requesting compensation for committee members must go through the Director of Personnel for

approval, and

- (2) the Office of the Executive Secretariat mails the signed letters to the proposed members and sends a copy of the approved package to the Advisory Committee Management Officer for his/her files.

c. Acceptance of Appointment.

- (1) Acceptance of the invitation by the proposed member constitutes the person's appointment to the committee and the effective date of the member's term is the date of the letter, unless another date is specified.
- (2) Members who will receive compensation must be appointed to an official position as a Special Government Employee in accordance with the policies and procedures in 41 CFR 101-6.1033, section 7(d) of FACA, and DOE 3304.1A, EMPLOYMENT OF EXPERTS AND CONSULTANTS, of 6-23-92. The responsible Head of the Departmental Element shall work with the Office of Personnel to ensure that the necessary documents and personnel actions are completed.
- (3) Members shall not participate in any committee business dealing with classified information until receipt of their security clearance.

- d. Membership on Utilized Committees. No formal membership package is required for utilized committees because the membership is determined by the Head of the non-Government organization or Federal agency responsible for the committee.

6. ETHICS AND CONFLICT OF INTEREST.

- a. Advisory committee members, in coordination with the Designated Federal Officer and the responsible Head of the Departmental Element, shall comply with the following.
 - (1) If he/she is a Federal employee, including a special Government employee, disclose in writing (by filing either a SF-278 or OGE-450 with the Office of the Assistant General Counsel for General Law) any financial or other interest that may be affected by the work of the committee, or create the appearance of a conflict of interest.
 - (2) Address with the Office of the Assistant General Counsel for General Law, the Federal ethics rules and conflict of interest statutes and any possible ethical problem that may arise from serving on a DOE advisory committee.
- b. Advisory committee members shall not participate in committee business—in

particular matters, such as grants or contracts—that might have a direct and predictable impact on the companies, organizations, or agencies with which they are associated or in which they have a financial interest. Program personnel should plan meeting agendas to avoid consideration of particular matters involving entities with which members are associated, or should take care that members are informed of potential impacts of specific matters on such entities so that they can disqualify themselves from participation in these matters.

- c. Advisory committee members shall be aware of, and take care to abide by, the following general conflicts of interest regulations.
 - (1) Members shall refrain from any use of their membership that is, or gives the appearance of being, motivated by the desire for private gain.
 - (2) Members shall not use for private gain, either directly or indirectly, any inside information obtained as a result of advisory committee service.
 - (3) Members shall not use their positions in any way to coerce, or give the appearance of coercing, another person to provide a financial benefit to the member or any person with whom he or she has family, business, or financial ties.
 - (4) Members shall follow the prohibitions on accepting gifts contained in 5 CFR 2635.201 *et sig.*

CHAPTER V

MEETINGS OF ADVISORY COMMITTEES

1. INTRODUCTION. The preparation for and conduct of advisory committee meetings shall be in accordance with 41 CFR 101-6.1002(d); 101-6.1015(b); 101-6.1019; 101-6.1021; 101-6.1023; 101-6.1025; and sections 10 and 11 of FACA (also see amendment to section 10 in Pub. L. 94-409, section 5(c), of 12-13-76). In addition to these requirements, this chapter describes the DOE requirements, procedures, and processes that shall be followed in the preparation for and conduct of advisory committee meetings.
2. SUPPLEMENTAL DOE REQUIREMENTS.
 - a. Departmental advisory committees shall not hold any meeting in the absence of a quorum. Unless otherwise set forth in the charter of the committee, a quorum shall consist of a majority (one more than one-half) of the committee's authorized membership.
 - b. Departmental advisory committees shall not hold any meeting in the absence of the Designated Federal Officer. If the Designated Federal Officer is responsible for more than one advisory committee, and both committees have meetings scheduled for the same day, the Designated Federal Officer must designate, in writing, a DOE employee who shall attend the meeting the Designated Federal Officer will not attend.
 - c. Departmental advisory committees shall not make recommendations or give advice with respect to matters not considered by the committee in regular sessions or not within the scope of its functions as set forth in the committee's charter.
3. OPEN MEETINGS.
 - a. Public Participation.
 - (1) The criteria for public participation in 41 CFR 101-6.1021 shall be considered when scheduling, preparing for, and conducting an advisory committee meeting.
 - (2) Public attendance at open meetings shall not be constrained in an unreasonable manner. Attendance shall be on a first-come, first-served basis in so far as seating is concerned, up to the reasonable and safe capacity of the meeting room. Public participation shall be allowed as follows.

- (a) Written Statements. The submission of written statements shall be in accordance with 41 CFR 101-6.1021(c) and section 10(3) of FACA and shall not be administratively hampered by arbitrary conditions of length, format, number of copies, typography, etc. Persons who desire to submit statements should be advised to address them to the Designated Federal Officer of the advisory committee.
 - (b) Oral Statements. Oral statements shall be in accordance with 41 CFR 101-6.1021(d), section 10(3) of FACA, and this subparagraph. A minimum of 15 minutes shall be allotted at the conclusion of each open meeting for the presentation of oral statements or comments may be taken throughout the meeting. A statement must be included in the Federal Register notice announcing how comments from the public will be taken during the meeting. A committee may establish procedures requiring interested persons to obtain advance approval for such participation.
- (3) Questioning of committee members or participants by the public is not permitted except with the approval of the Designated Federal Officer and Chairperson. Any public participation shall be subject to reasonable rules or procedures as may be established by the Designated Federal Officer and the advisory committee.
- (4) For the benefit of attendees from the general public and media, rosters that list the names and affiliations of the committee members and copies of any other documents that may be distributed at the meeting shall be available at the door to the meeting room.
- (5) News Media Coverage of Meetings. The DOE will allow the news media direct access to qualified news sources within DOE and will allow as free a flow of information as possible within orderly administrative limits.
 - (a) Media representatives attending and reporting on open (and the open portion of partially closed) committee meetings are at liberty to use tape recorders, cameras, and electronic equipment for broadcast purposes. The use of such equipment, however, shall not interfere with the orderly conduct of the meeting. To preclude any disruption, news media personnel shall be encouraged to position all equipment before the meeting is scheduled to commence and to defer removal until the adjournment of the meeting or any ample intermission period.

- (b) Contacts with the media concerning coverage of meetings shall be coordinated with the Office of Congressional, Public and Intergovernmental Affairs. A public information specialist shall assist and facilitate the coverage arrangements.

b. Public Notification.

- (1) A "Notice of Open Meeting" for each advisory committee meeting must be published in the Federal Register in accordance with 41 CFR 101-6.1015(b)(1). Whenever possible, 30 days notice shall be given.
- (2) If approved by the General Counsel, or designee, less than 15 calendar days notice may be given, in accordance with 41 CFR 101-6.1015(b)(2).
- (3) Meetings may also be announced by press releases, direct mailing, publication in trade and professional journals, or by notice to special interest and community groups affected by the committee's deliberations. This procedure, however, will not be a substitute for Federal Register publication.

c. Preparation of Notice.

- (1) No later than 30 calendar days prior to the scheduled meeting date, the Designated Federal Officer shall prepare a "Notice of Open Meeting" containing the information required in 41 CFR 101-6.1015(b)(1)—if partially or fully closed, the information in 41 CFR 101-6.1023(d)(2)—and the following information.
 - (a) If the Notice announces the meeting of a subcommittee of an advisory committee, the name of the parent committee should also be given.
 - (b) Name, address, and telephone number of the individual to be contacted by persons who desire to make oral presentations before the committee or submit written statements.
 - (c) Purpose of the committee (or subcommittee). In the case of subcommittee, the purpose of the parent committee should also be given.

- (d) Information on public participation and availability of minutes of the meeting (or of open portion, if partially closed) within 30 days of the meeting or availability of transcripts and other documents in accordance with sections 10 and 11 of FACA.
- (2) The notice shall be forwarded to the Office of Rulemaking Support for review and concurrence and then submitted to the ACMO for signature and processing to the Federal Register.
- (3) If the meeting is canceled, or the date, time, or location of a meeting changes from that previously announced in the Federal Register, an appropriate notice must be published promptly. The amended notice should reference the volume, page number, and date of the previous Federal Register notice.

4. CLOSED MEETINGS.

- a. Criteria for Closure. The decision and procedures to close an advisory committee meeting to the public shall be based on the criteria and procedures in 41 CFR 101-6.1002(d); 101-6.1015(b); 101-6.1023; section 10(d) of FACA; section 624 of the DOE Organization Act; and 5 U.S.C. 552b(c), Government in the Sunshine Act. The exemptions listed in the Government in the Sunshine Act are available exemptions for use by Federal agencies; they are not mandatory. As such, they should be waived whenever practicable in order to satisfy the basic intent of the law, which is openness in Government.

Requests to close meetings to the public shall be prepared and reviewed on a case-by-case basis; however, if a committee has a legitimate need for frequent closed meetings, the committee may submit a request for one Notice of Determination to cover a series of meetings. As a general rule, the series of meetings shall cover the same topic(s), be closed on the same statutory basis(es), and not extend over the charter's duration.

- b. Procedures for Requesting Closure.

- (1) Request for Closure. Requesting closure shall be in accordance with the procedures in 41 CFR 101-6.1023 (a), (b), and (c), and section 10(d) of FACA. The closure of a meeting or portion of a meeting requires early planning, formal documentation, and specific concurrences and approval. No later than 45 calendar days prior to the scheduled meeting, an ACTION Memorandum addressed to the Secretary, through the Deputy Secretary, shall be prepared by the Designated Federal Officer of the advisory committee, for signature by the Head of the Departmental Element sponsoring the committee,

presenting a concise explanation of the facts and reasons why the meeting should be closed. Attached to the memorandum shall be:

- (a) a formal Notice of Determination, for signature by the Secretary, which provides a statement of the reasons for the closing or partial closing of the meeting and identification of the pertinent exemption(s);
- (b) the agenda or tentative agenda for the meeting showing when the meeting shall be partially closed or closed, either the first or the last agenda item; and,
- (c) a copy of the "Notice of Closed Meeting," or "Notice of Open Meeting/Partially Closed Meeting," prepared in accordance with subparagraph 3c above.

- (2) Concurrence and Approval Procedures. The request package shall be submitted to the ACMO for review and concurrence and then transmitted to the Office of General Counsel for review and concurrence prior to submission to the Secretary for approval. When the closure has been approved by the Secretary and the Notice of Determination signed, the original request package shall be returned to the ACMO for signature and processing of the Federal Register notice.

c. Conduct of Closed Meetings.

- (1) When a meeting is closed, members shall not discuss or disclose the matters discussed, except with other members and committee staff personnel.
- (2) If only part of a meeting is closed, the agenda items shall be arranged to facilitate public attendance at the open portion.
- (3) When a meeting is partially closed, the agenda shall be structure to minimize the amount of time needed for the closed session.
- (4) When a meeting (or portion of a meeting) is closed, only members of the committee, its staff, and specified Federal employees shall be permitted to attend.

5. MINUTES AND TRANSCRIPTS OF ADVISORY COMMITTEE MEETINGS.

- a. Detailed minutes of each advisory committee meeting shall be kept in accordance with 41 CFR 101-6.1025. In addition to the information required by this paragraph, the following items shall also be included in the minutes.
 - (1) Name of the committee (or subcommittee and its parent committee).
 - (2) Names of any members who recused themselves from the meeting and the reason(s), and a statement that they did not participate and were not present during the discussion.
 - (3) A description of public participation and a description of the extent to which the meeting was open to the public.
- b. Verbatim transcripts may be taken and must contain the same information shown in subparagraph a above; however, verbatim transcripts are not a substitute for the minutes. If a verbatim transcript will be prepared, arrangements shall be made for a court reporter to be present to record the meeting proceedings.
- c. The chairperson of the committee shall certify the contents of the minutes or transcript. The certification should indicate that the contents are accurate and complete.
- d. The minutes shall be transmitted to the ACMO within 60 days after the meeting. An original and two copies of the minutes and transcript (if recorded) shall be forwarded to the ACMO for transmittal to the DOE's Public Reading Room, where they shall be available to the public for inspection and copying. The Designated Federal Officer shall forward copies of the minutes and/or transcript to appropriate DOE Officials and committee members.

6. MEETING RESPONSIBILITIES FOR THE DESIGNATED FEDERAL OFFICER AND CHAIRPERSON OF THE ADVISORY COMMITTEE.

- a. Designated Federal Officer.
 - (1) Before the Meeting.
 - (a) Invites the guest speaker(s) to the meeting and makes necessary arrangement(s) for the speaker(s). A guest speaker is expected to have special or preeminent professional, technical, or scientific information relative to the matters under consideration by the committee.

- (b) Prepares a discussion agenda, which includes:
 - 1 concise descriptions of each major subject or problem listed in the agenda; and
 - 2 all previous decisions or actions related to each agenda item.
- (c) Sends the agenda and copies of all information relating to it to the members in advance of the meeting.
- (d) Arranges for resource persons and supplementary materials to aid the committee in dealing with agenda items.
- (e) Determines whether any members have a conflict of interest in conjunction with the topics to be discussed; if so, those members are required to recuse themselves. Any recusals must be announced at the beginning of the meeting.
- (f) Makes logistical arrangements for the meeting, including, when necessary, arranging for overnight accommodations for members.
- (g) Performs the following duties related to meeting notices.
 - 1 Maintains a list of persons and organizations who have requested notification and notifies them in advance of the meeting.
 - 2 Ensures that the meeting notice was published in the Federal Register prior to the meeting.
 - 3 Ensures that other forms of notice, such as press releases and notices in professional journals, are used to the extent practicable.
 - 4 Notifies members as to the date(s), time, and place of each meeting and arranges for the preparation of the necessary travel documents.

(2) During the Meeting.

- (a) Sits next to the Chair so they may confer during the meeting.

- (b) Ensures that the committee conducts its business in accordance with all applicable regulations, policies, and procedures.
 - (c) Ensures that accurate records are kept of the committee's deliberations. If a closed portion of a meeting is recorded, the Designated Federal Officer ensures that only an official transcriber for the organization performs the recording.
 - (d) Records motions and votes on each item of business; takes notes on discussions and proceedings as necessary to prepare the minutes.
 - (e) Authorizes the adjournment of any committee meeting if adjournment is determined to be in the public interest or in the event of unwarranted departure from the agenda of the meeting.
- (3) After the Meeting.
- (a) Prepares minutes and makes copies available promptly to members and the general public.
 - (b) Arranges for the preparation of pay, if required, and travel vouchers so that members may be reimbursed.
- (4) General Responsibilities.
- (a) Works closely with the program and/or the ACMO to ensure that appropriate deadlines are met and that the committee is meeting the objectives of the organization.
 - (b) Maintains the records, reports, transcripts, minutes, working papers, drafts, studies, agenda, or other documents, which are made available to or are prepared by the advisory committee.
 - (c) Initiates all personnel actions for new members, if required.
 - (d) Initiates letters of invitation, welcome, and appreciation, and certificates of appreciation, when appropriate.
 - (e) Serves as the main resource person available to the program and the organization regarding the renewal/reestablishment/rechartering of committee, and initiates all requests for a committee's continuance.

b. Chairperson.

- (1) Presides at all committee meetings. The agenda should be as closely adhered to as possible. If it is necessary for the Chairperson to leave due to a conflict of interest, he/she shall appoint another committee member to preside.
- (2) Ensures that all rules of order and conduct are maintained during each session. When a committee member(s) is disqualified from participation in committee discussion, the Chairperson ensures that the disqualified member or members do not participate and physically leave the room. Also, ensures that the minutes and transcript clearly indicate that the member or members did not participate and were not present during the discussion.
- (3) Calls on individuals for opinions and comments and terminates any unnecessary discussion. Calls for a vote, if required.
- (4) Controls public participation during the open portion of a meeting.
- (5) Certifies the accuracy of the minutes and/or transcripts of each committee meeting prior to their distribution.

CHAPTER VI

TRAVEL COSTS

1. INTRODUCTION. Travel costs for advisory committees shall be allowed in accordance with 41 CFR 101-6.1033(e); section 7(d)(1)(B) of FACA, section 624 of the DOE Organization Act. In addition to these requirements, this chapter describes the DOE requirements, procedures, and processes that shall be followed when requesting and approving travel costs for travel related to advisory committees.
2. DEPARTMENTAL CRITERIA.
 - a. The Department shall allow travel expenses for advisory committees in accordance with DOE 1500.2A, TRAVEL POLICY AND PROCEDURES, chapter VII, paragraph 1b.
 - b. The Department of Energy will reimburse advisory committee members for the travel expenses incurred in connection with attending meetings or carrying out other committee functions at DOE's request. At this time, DOE is only authorized to reimburse members for travel expenses only, and not for other committee- related expenses such as long-distance telephone calls, postage, and informational material duplication.
3. TRAVEL EXPENSE RULES AND LIMITS.
 - a. Coverage. Advisory committee members will be reimbursed for travel expenses only when they are on committee business while away from their residence or regular places of business.
 - b. Tickets. Generally, the Department will provide advisory committee members with a Government fare common carrier ticket. If DOE is unable to provide a member with a common carrier ticket, the member may use personal means to purchase transportation. When transportation costs exceeds \$100, a senior DOE official is required to review the circumstances of the purchase before reimbursement, which may not exceed the Government-authorized fare. Unused tickets should be returned promptly to the DOE Program Office.
 - c. Major Travel: To and From Meetings. The most usual travel mode is by common carrier (air or train, with air being the most common mode). Members may also use their privately owned vehicles to travel to meetings. The applicable rules are as follows.

(1) Air Travel.

- (a.) Airfare is limited to the regular, round trip, coach-class fare or, when available, Government contract airlines between the member's resident or regular place of business and the meeting site. When travel is between certain cities (city-pairs) served by a Government contract airline, that airline must be used for official DOE travel. A noncontract airline may be used only under certain conditions.
- (b) DOE will mail to each member traveling by air an open, round trip, coach-class or contract fare (if available) ticket. Since different airlines may now charge different fares for travel between identical locations, DOE will try to find the air fare most advantageous to the Government. If the travel is between cities served under the Government contract airline program, DOE will issue a ticket for transportation on the contract airline. Use of a non-contract airline must be justified if service is provided by a contract airline. Members must make their own airline reservations.
 - 1 If a member wishes to make any changes in his/her travel itinerary (different from direct, round trip travel between his/her residence and the meeting site), the member should consult with the Departmental Element that sponsors the committee about procedures. Members can upgrade their accommodations (e.g., to first class) by contacting the carrier directly and paying any fare increase. Likewise, members may reroute their travel provided they pay any resultant additional costs directly.
 - 2 International travel by air must adhere to the provisions of the Fly America Act. (Members should check with the Departmental Element to find out if this regulation applies.)

- (2) Train Travel. A member may also travel to and from a meeting by train. Travel by train will be authorized when it is advantageous to the Government. If it is not advantageous to the Government, reimbursement for travel by train will be limited to the actual fare or the regular, round trip, coach-class air fare between the two traveling points, whichever is less.
- (3) Privately Owned Vehicle. A member may also travel to and from the meeting by his/her privately owned vehicle. DOE will reimburse the member at the mileage allowance rate and for actual bridge, turnpike, ferry, and parking fees. (Total travel expenses by privately owned vehicle generally shall not exceed the usual cost by common carrier.) DOE will not reimburse a member

for rental car charges unless justified and the member has received specific, advance approval for using a rental car.

d. Incidental Transportation: To and From Airports, and To and From Hotels and Meeting Sites. DOE will reimburse members for:

- (1) charges for buses, limousines, and subways;
- (2) charges for taxis (when they are the most appropriate means of transportation);
- (3) use of a privately owned vehicle with a mileage allowance, plus tolls and parking fees; and
- (4) charges for rental car when authorized in advance and properly justified.

e. Lodging, Meals, and Incidental Subsistence Expenses.

- (1) DOE will reimburse members for these expenses using a per diem allowance. The per diem allowance is a daily payment instead of actual reimbursement for these expenses. The per diem allowances paid for official travel within the continental United States are computed under the lodgings-plus basis per diem system and services. The maximum per diem rates include a maximum amount for lodging expenses. A member will be reimbursed for actual lodging costs up to this amount supported by receipts. A fixed allowance for meals and incidental subsistence expenses is also included in the maximum per diem rate. The meals and incidental subsistence rate is payable without itemization of expenses or receipts. Meals and incidental subsistence are also prorated for partial days of official travel.
- (2) If a member is authorized to travel on an actual expense basis rather than a per diem basis, DOE will reimburse him/her for actual lodging and subsistence expenses not to exceed the maximum daily amounts allowed for these expenses. For travel within the continental United States, the maximum shall not exceed 150 percent of the applicable maximum per diem rate prescribed for the area. Receipts are required for lodging and when meals and incidental subsistence expenses are reimbursed on an actual basis for any individual expenditure over \$25. When travel is outside the continental United States, other rates specified within the travel regulations for the specific locality apply.

- (3) With respect to lodging, a member is responsible for:
 - (a) making, confirming, changing, or guaranteeing his/her own hotel reservations; and
 - (b) paying his/her own hotel bills. (DOE will reimburse actual cost not to exceed the maximum daily rate specified for lodging.)
 - (4) DOE cannot make or guarantee hotel reservations for members (because DOE cannot be liable for hotel expenses); however, it frequently locates appropriate lodging for members and arranges for a number of rooms to be "blocked" until a certain date to permit members to make their reservations. A member must personally contact the hotel to make or guarantee the reservation. A member must submit a legible copy of the hotel bill with the travel reimbursement voucher in order to be reimbursed for this expense within the maximum amount allowed for lodging.
 - (5) Receipts are required for all cash expenditures over \$25 and for certain types of expenses, such as excess baggage, passenger transportation services, and rental cars, regardless of amount.
- f. Travel Expense Reimbursement Voucher. Information for completion of a travel expense reimbursement voucher is in DOE 1500.2A, TRAVEL POLICY AND PROCEDURES. Members who have questions about the travel rules or how to claim reimbursement can consult with the Departmental Element sponsoring his/her committee before traveling or before submitting the reimbursement voucher. Incomplete or incorrectly completed vouchers are a major cause of delay in reimbursing members.

CHAPTER VII

RECORDS AND REPORTS

1. **INTRODUCTION.** All records, reports, reviews, and other documents prepared by and related to advisory committees shall be kept, maintained, and distributed in accordance with 41 CFR 101-6.1009(e); 101-6.1017; 101-6.1035 (also see amendment to 41 CFR 101-6, of 10-5-89); and sections 6(c), 7(b), 8(b), 10(b), 12(a), and 13 of FACA. In addition to these requirements, this chapter describes the DOE requirements, procedures, and processes for keeping, maintaining, and distributing the records, reports, reviews, and other documents relating to advisory committees.
2. **RECORDS.**
 - a. **Departmental Committee Record System.** The ACMO shall maintain a Departmental Committee Record System, in accordance with 41 CFR 101-6.1017. In addition to the required records the following records for each DOE advisory committee shall be included.
 - (1) The original establishment proposal and any original renewal proposals.
 - (2) Copies of letters that were used to file the charter with the Congressional standing committees, as well as any that were used to file amendments or revisions.
 - (3) Copies of Notices of Establishment published in the Federal Register for committees established by Secretarial authority.
 - (4) The original written approval for the establishment of any subcommittee.
 - (5) Copies of the committee's membership proposal packages.
 - (6) Original Notice(s) of Determination with copy of the Notice(s) of Closed/Partially Closed Meeting to be published in the Federal Register and related documents.
 - (7) Copies of all notices of open meetings, as published in the Federal Register.
 - (8) Copies of detailed minutes and transcripts of all meetings.
 - (9) A copy of each report issued by the committee.

- b. Designated Federal Officer File. The Designated Federal Officer shall maintain the following records and reports.
- (1) Copies of all records required in paragraph a, above.
 - (2) Copies of all records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents that were made available to or prepared for or by the committee.
 - (3) Data or documents to prepare the major items of the annual report on the committee, the annual comprehensive review of advisory committees, and the closed meeting report.

3. REPORTS.

- a. Committee Issued Reports. Whatever their form or substance, ten copies of each advisory committee report and related background papers shall be forwarded to the ACMO for transmittal to the Library of Congress, in accordance with 41 CFR 101-6.1035(d) and section 13 of FACA, and DOE's Public Reading Room. The Designated Federal Officer shall submit these copies to the ACMO within 10 days of the date the original is delivered to the appropriate DOE official. This requirement does not pertain to minutes of meetings or to any of the other reports that are discussed below.
- b. Annual Report on Federal Advisory Committees and Comprehensive Review of Advisory Committees.
- (1) The Annual Report on Federal Advisory Committees shall be prepared in accordance with 41 CFR 101-6.1035(b) and section 6(c) of FACA, and the Comprehensive Review of Advisory Committees shall be conducted in accordance with 41 CFR 101-6.1009(e) and section 7(b) of FACA. To comply with the Comprehensive Review requirement, the Secretariat will request additional information in the annual report.
 - (2) The Secretariat shall issue instructions to agencies regarding reporting requirements, procedures, and submission dates. The ACMO shall serve as the central point for coordination of the annual report and shall be responsible for informing Designated Federal Officers of the Secretariat's requirements. Designated Federal Officers shall be responsible for accurately and completely filling out the individual committee reports by the due date established by the ACMO for submission. The ACMO shall submit the Department's consolidated report to the Secretariat.

- (3) The annual report and comprehensive review will entail an in-depth examination of all advisory committees and any advisory committee(s) determined to be no longer needed will be terminated. Advisory committees established by statute will also be reviewed and, if appropriate, their termination recommended. The annual report and comprehensive review shall contain the information required in sections 6(c) and 7(b) of FACA and the following information.
 - (a) A description of how the membership is balanced in terms of points of view represented and functions performed.
 - (b) An explanation of why the advice or information cannot be obtained from other sources.
 - (c) An explanation of any duplication of effort with other committees, within the Department or with other Federal agencies.
 - (d) A description of how the committee's reports, recommendations, or advice has been used in Departmental policy formulation, program planning, decisionmaking, achieving economies, etc.
- (4) The annual report shall contain a justification for each advisory committee the Secretary decides should be continued. The justification shall describe what the committee does, why there is a compelling need for its continuance, and how it has a fairly balanced membership.

c. Report of Closed Meetings.

- (1) Each advisory committee, whether they held a closed or partially closed meeting or not during the year, shall prepare and issue an annual closed meeting report in accordance with 41 CFR 101-6.1035(c) and section 10(d) of FACA. The report sets forth a summary of activities during the closed sessions and such related matters as would be informative to the public consistent with the Freedom of Information Act. Questions involving interpretation of policy under the Freedom of Information Act shall be directed to the Office of the General Counsel.
- (2) Heads of Departmental Elements who sponsor advisory committees shall submit the annual report (original and nine copies) with a transmittal memo addressed to the ACMO by February 28 of the following calendar year. Each report shall be prepared using the following format.

- (a) **HEADER** - U.S. DEPARTMENT OF ENERGY
(Name of Sponsoring Departmental Element)
19XX Report of Closed Meeting(s) of the (Official title
of advisory committee)
under Section 10(d) of the Federal Advisory Committee
Act
- (b) **REPORTING PERIOD** - Dates (Calendar Year)
- (c) **REPORTING ORGANIZATION** - Name of sponsoring
Departmental Element
- (d) **RESPONSIBILITY** - Account for each closed or partially closed
meeting held by their advisory committee(s) during the previous
calendar year. If no closed meetings were held, a negative report shall
be submitted.
- (e) **SUBSTANCE** - The report shall consist of a separate narrative
summary for each advisory committee that held one or more closed or
partially closed meeting. Each summary must account for all
meetings held, and shall include the following data for each meeting.
 - 1 Date and place of meeting.
 - 2 Portion of the meeting (by time and agenda item) that was
closed to the public, and the provision(s) of 5 U.S.C. 552b(c)
which premised the determination to close the meeting.
 - 3 Titles or topics of all reports, records, or other information
(written or oral), presented to the committee during the closed
portion of the meeting, or provided in advance to its members
in preparation for the meeting.
 - 4 Description of the discussion of each agenda item during the
closed session.
 - 5 Description of any actions taken at the closed session; e.g., a
report or recommendation on agency item X was issued. If
possible, indicate the ultimate disposition of the report or
recommendation, as of the end of the calendar year.

- (f) **SIGNATURE** - Each report must be signed by the committee's chairperson and the Designated Federal Officer.
 - (g) **CAUTIONS** - If the passage of time or some particular event has effectively negated the exemption that premised the closure of the meeting(s), the minutes of the meetings(s) shall be submitted in lieu of the report.
- (3) The ACMO will file eight copies of the report with the Library of Congress and one copy with DOE's Public Reading Room and publish a notice of availability of the report in the Federal Register by March 30 of each year.
- 4. **PUBLIC ACCESS.** All of the records and reports listed in this chapter and all other documents that were made available to, or prepared for or by, each advisory committee shall be made available, subject to the exemptions contained in 5 U.S.C. 552b, for public inspection and copying at a single location in the Designated Federal Official's Office and the DOE Public Reading Room. One copy of the records and reports in this chapter shall be forwarded to the Public Reading Room. If the documents are unwieldy (i.e., maps, drawings) and their duplication would be excessively costly, the Designated Federal Official shall instead file a description of the documents and specify the location at which the documents will be available for public inspection.
- 5. **DISPOSITION OF ADVISORY COMMITTEE DOCUMENTS.** All advisory committee records and documents shall be disposed of in accordance with the requirements of DOE 1324.5B, RECORDS MANAGEMENT PROGRAM, of 1-12-95.