PUBLIC LAW 92-463—OCT. 6, 1972
[86 Stat. 670]

Public Law 92-463

AN ACT

To authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Advisory Committee Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

(b) The Congress further finds and declares that—

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

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

(3) advisory committees should be terminated when they are no longer utilized for the purposes for which they were established;

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

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

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

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) the term "Director" means the Director of the Office of Management and Budget;

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

(A) established by statute or reorganization plan, or

(B) established or utilized by the President, or

(C) established or utilized by an appointing authority, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) the Advisory Committee on Intergovernmental Relations, (ii) the Commission on Government Procurement, and (iii) any committee which is composed wholly of full-time officers or employees of the Federal Government.

SEC. 4. (a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishes any such advisory committee specifically provides otherwise.

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

(1) the Central Intelligence Agency;

(2) the Federal Reserve System.

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

RESPONSIBILITIES OF CONGRESSIONAL COMMITTEES

SEC. 5. (a) In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such committee should be abolished, or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.

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

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

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

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

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

(d) Subsections (a) (1) and (a) (3) of this section shall not apply to any advisory committee meeting which the President, or the head of the agency to which the advisory committee reports, determines is concerned with matters listed in section 552 (b) of title 5, United States Code. Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552 (1) of title 5, United States Code.

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

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

AVAILABILITY OF TRANSCRIPTS

Sec. 11. (a) Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall maintain available to any person, at actual cost of duplication, copies of transcripts of agency proceedings or advisory committee meetings.

(b) As used in this section "agency proceedings" means any proceeding as defined in section 554 (12) of title 5, United States Code.

FISCAL AND ADMINISTRATIVE PROVISIONS

Sec. 12. (a) Each agency shall keep records as will fully disclose the disposition of any funds which may be at the disposal of its advisory committees and the nature and extent of their activities. The General Services Administration, or such other agency as the President may designate, shall maintain financial records with respect to Presidential advisory committees. The Comptroller General of the United States, or any of his authorized representatives, shall have access, for the purpose of audit and examination, to any such records.

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

RESPONSIBILITIES OF LIBRARY OF CONGRESS

Sec. 13. Subject to section 552 of title 5, United States Code, the Director shall provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants. The Library of Congress shall establish a repository for such reports and papers where they shall be available to public inspection and use.
meeting is open to the public, the total number of meetings held to the general public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section, including any
1. Section 552(a) of title 5, United States Code, is amended by adding the following subsection:

"(d) Nothing herein expands or limits the present rights of any person under section 552 of this title, except that the exemptions set forth in subsection (c) of this section shall govern in the case of any request made pursuant to section 552 to copy or inspect the transcripts, recordings, or minutes described in subsection (f) of this section. The requirements of chapter 33 of title 5, United States Code, shall not apply to the transcripts, recordings, and minutes described in subsection (f) of this section.

(1) This section does not constitute authority to withhold any information from Congress, and does not authorize the closing of any agency meeting or portion thereof required by any other provision of law to be open.

(2) Nothing in this section authorizes any agency to withhold from any other person any record, including transcripts, recordings, or minutes required by this section, which is otherwise accessible to such individual under section 552(a) of this title.

(b) The chapter division of chapter 5 of title 5, United States Code, is amended by inserting:

"552a. Open meetings.
Immediately below:

"552a. Records about individuals."
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"(1) describing the actions of the Director of the Office of Management and Budget pursuant to section 6 of the Privacy Act of 1974 during the preceding year;

"(2) describing the exercise of individual rights of access and amendment under this section during such year;

"(3) identifying changes in or additions to systems of records;

"(4) containing such other information concerning administration of this section as may be necessary or useful to the Congress in reviewing the effectiveness of this section in carrying out the purposes of the Privacy Act of 1974.;

"(c) Effective July 1, 1983, section 6(e) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by striking out the first sentence and inserting in lieu thereof the following: "The President shall, not later than December 31 of each year, make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding fiscal year."

REPORTS BY THE DEPARTMENT OF COMMERCE

Sec. 202. (a) Section 302(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(d)) is amended to read as follows:

"(d) The Secretary shall submit a biennial report to the Congress, on or before March 1 of every other year beginning in 1984, setting forth a comprehensive review of his actions during the previous two fiscal years undertaken pursuant to the authority of this section, together with appropriate recommendation for legislation considered necessary for the designation and protection of marine sanctuaries."

(b) Section 7 of the National Climatic Program Act of 1978 (15 U.S.C. 290b) is amended by striking out "not later than January 30 of each year" and inserting in lieu thereof "not later than March 31 of each year."

(c) Section 4(a) of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 (33 U.S.C. 1703(a)) is amended by striking out "and a revision of the plan shall be prepared and submitted to the Secretary by March 31 of each year as provided in paragraph (1) and by submitting the report of the Department in each succeeding year for submission to the Congress."

(d) Section 8 of the Fair Packaging and Labeling Act (15 U.S.C. 1457) is amended by striking out the following: "or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5(e) of this Act."

REPORTS BY THE DEPARTMENT OF DEFENSE

Sec. 203. (a)(1) Section 808(a) of the Department of Defense Appropriation Authorization Act, 1978 (60 U.S.C. 1230(a); 91 Stat. 334) is amended by striking out clause (1) and by striking out "(2)."

(2) Section 490(a) of the Act of November 19, 1969 (60 U.S.C. 1511(a); 83 Stat. 209), is amended by adding the following at the end thereof: "The report shall include a full accounting of all experiments and studies conducted by the Department of Defense in the preceding year, whether directed or entered into contract, which involve the use of human subjects for the testing of chemical or biological agents.""

(b) Section 201 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973c; 79 Stat. 665) is amended by striking out "odd-numbered years" and inserting in place thereof "the first odd-numbered year following the year in which the Presidential election is held."

(c) Section 345(b) of title 10, United States Code, is amended by striking out "odd-numbered year" and inserting in lieu thereof "even-numbered year."

REPORT BY THE DEPARTMENT OF EDUCATION

Sec. 204. Section 605(b) of the Higher Education Act of 1965 (20 U.S.C. 105b; 79 Stat. 1224) is amended by striking out "which shall include an index and analysis" and inserting in lieu thereof "listing."

REPORT BY THE DEPARTMENT OF ENERGY

Sec. 205. (a) Section 208(c) of the Department of Energy Organization Act (42 U.S.C. 7188(c); 91 Stat. 575) is amended to read as follows:

"(c) The Secretary shall, not later than May 31 and November 30 of each year, submit to the Secretary and the Congress semiannual reports summarizing the activities of the offices of the Department during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to:

"(A) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities during the reporting period;

"(B) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to subparagraph (A); and

"(C) an identification of each significant recommendation described in previous reports under this subsection on which corrective action has not been completed;

"(D) a summary of matters referred to prosecutorial authorities and the prosecutions and convictions which have resulted; and

"(E) a summary of the number of reports submitted during the reporting period, including the number reports submitted by the Secretary to the Congress and the report of the Secretary to the public available at no cost."

(b) Section 208(d) of such Act is amended by striking out "thirty days" and inserting in lieu thereof "seven days."

REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 206. (a) Section 532(a) of the Public Health Service Act (42 U.S.C. 254) is amended in the last preceding paragraph (1) by striking out "on May 1 of each year."

(b) Section 8 of the Fair Packaging and Labeling Act (15 U.S.C. 1457) is amended by striking out the last two sentences and insert-