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AUTHORITY: 29 U.S.C. 653, 655, 656, 657; 5 U.S.C. 553; 5 U.S.C. App. 2; 40 U.S.C. 333; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 3-2000 (65 FR 50017), or 8-2020 (85 FR 58393), as applicable.

SOURCE: 38 FR 28035, Oct. 11, 1973, unless otherwise noted.

§ 1912.1 Purpose and scope.

(a) This part prescribes the policies and procedures governing the composition and functions of advisory committees which have been, or may be, appointed under section 7(b) of the Occupational Safety and Health Act of 1970 (the Act) to assist the Assistant Secretary in carrying out the standards-setting duties of the Secretary of Labor under section 6 of the Act. Such committees are specifically authorized by section 7(b). This part also pre-

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scribes the policies and procedures governing the composition and functions of the:

(1) Advisory Committee on Construction Safety and Health; and

(2) Maritime Advisory Committee on Occupational Safety and Health.

(b) The policies and practices herein are intended to reflect those expressed in the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) and will be applied in a manner consistent with the Act, Office of Management and Budget Circular A-63, "Committee Management", and the Department of Labor's general rules under that Act which are published in part 15 of this title.

[38 FR 28035, Oct. 11, 1973, as amended at 85 FR 73423, Nov. 18, 2020]

ORGANIZATIONAL MATTERS

§ 1912.2 Types of standards advisory committees.

The Assistant Secretary establishes two types of advisory committees under section 7(b) of the Act to assist him in his standards-setting duties. These are:

(a) Continuing committees which have been, or may be established from time to time, to assist in the development of standards in areas where there is frequent rulemaking and the use of ad hoc committees is impractical; and

(b) Ad hoc committees which are established to render advice in particular rulemaking proceedings.

§ 1912.3 Advisory Committee on Construction Safety and Health.

(a) This part applies to the Advisory Committee on Construction Safety and Health which has been established under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333), commonly known as the Construction Safety Act. The aforesaid section 107 requires the Secretary of Labor to seek the advice of the Advisory Committee in formulating construction standards thereunder. The standards which have been issued under section 107 are published in part 1926 of this chapter. In view of the far-reaching coverage of the Construction Safety Act, the myriad of standards which may be issued thereunder, and

the fact that the Construction Safety Act would also apply to much of the work which is covered by the Williams-Steiger Occupational Safety and Health Act of 1970, whenever occupational safety or health standards for construction activities are proposed, the Assistant Secretary shall consult the Advisory Committee. The composition of the Advisory Committee is consistent with that of advisory committees which may be appointed under section 7(b) of the Act. See paragraph (c) of this section. An additional advisory committee will not normally be established under section 7(b) of the Act, unless the issue or issues involved include, but extend beyond construction activity. See §1912.4 concerning the general policy against duplication of activity by advisory committees.

(b) The Advisory Committee is a continuing advisory body. It is composed of 15 members appointed by the Assistant Secretary, one of whom is appointed by him as Chairman. The composition of the Advisory Committee is as follows:

(1) One member who is a designee of the Secretary of Health, Education, and Welfare;

(2) Five members who are qualified by experience and affiliation to present the viewpoint of the employers involved, and five members who are similarly qualified to present the viewpoint of the employees involved;

(3) Two representatives of State safety and health agencies; and

(4) Two members who are qualified by knowledge and experience to make a useful contribution to the work of the Committee.

(c) As originally constituted, the Advisory Committee was composed of nine members. However, pursuant to section 105 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 331), it has been found necessary and proper in the public interest and in order to prevent possible injustice, to vary the composition of the Advisory Committee:

(1) By having its membership and representation conform to the provisions of section 7(b) of the Williams-Steiger Occupational Safety and Health Act, and

(2) By increasing its membership to 15 members as permitted under the aforementioned section 7(b).

Greater membership and greater representation serve the public interest and avoids possible injustice by permitting for the most part the use of one advisory committee, rather than possibly several advisory committees, in situations where both the Contract Work Hours and Safety Standards Act and the Williams-Steiger Occupational Safety and Health Act may be expected to apply to construction activity and by affording a greater opportunity for representation on the Advisory Committee within the construction industry.

(d) See paragraph (c) of §1912.5 regarding the general policy role of the Advisory Committee.

(e) Except as provided in paragraphs (f) through (j) of this section, each member of the Advisory Committee shall serve for a period of 2 years. Appointment of a member to the Committee for a fixed time period shall not affect the authority of the Secretary to remove, in his or her discretion, any member at any time. If a member resigns or is removed before his or her term expires, the Secretary of Labor may appoint for the remainder of the unexpired term a new member who shall represent the same interest as his or her predecessor.

(f) The designee of the Secretary of Health, Education, and Welfare shall have no fixed term.

(g) To provide for continuity in the membership of the Committee, the terms of the members may be appropriately staggered.

(h) Members may be appointed to successive terms.

(i) A member who is otherwise qualified may continue to serve until a successor is appointed.

(j) There shall be filed on behalf of the Advisory Committee on Construction Safety and Health, an advisory committee established by the Construction Safety Act, a charter in accordance with section 9(c) of the Federal Advisory Committee Act upon the expiration of each successive 2-year period following the date of enactment of

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the Construction Safety Act (i.e., August 9, 1969).

[38 FR 28035, Oct. 11, 1973, as amended at 67 FR 659, Jan. 7, 2002]

§ 1912.4 Avoidance of duplication.

No standards advisory committee shall be created if its duties are being, or could be, performed by an existing advisory committee established under section 7(b) of the Act.

§ 1912.5 National Advisory Committee on Occupational Safety and Health.

(a) Section 7(a) of the Act established a National Advisory Committee on Occupational Safety and Health. The Committee is to advise, consult with, and make recommendations to the Secretary and the Secretary of Health, Education, and Welfare on matters relating to general administration of the Act.

(b) Advisory committees appointed under section 7(b) of the Act, which are the subject of this part, have a more limited role. Such advisory committees are concerned exclusively with assisting the Assistant Secretary in his standards-setting functions under section 6 of the Act.

(c) On the other hand, the Advisory Committee on Construction Safety and Health, established under the Construction Safety Act, provides assistance in both the setting of standards thereunder and policy matters arising in the administration of the Construction Safety Act. To the extent that the Advisory Committee on Construction Safety and Health renders advice to the Assistant Secretary on general policy matters, its activities should be coordinated with those of the National Advisory Committee on Occupational Safety and Health.

§ 1912.6 Conflict of interest.

No members of any advisory committee other than members representing employers or employees shall have an economic interest in any proposed rule.

§ 1912.7 Reports.

The Assistant Secretary shall prepare, or cause to be prepared, for the Department of Labor's Committee Management Officer reports describing

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the committee's membership, functions, and actions as may be necessary for the performance of the duties of the Committee Management officer.

§ 1912.8 Committee charters.

(a) *Filing.* No advisory committee shall take any action or conduct any business subsequent to January 5, 1973, until a committee charter has been filed with the Secretary of Labor, the standing committees of the Congress having legislative jurisdiction of the Department of Labor and the Library of Congress.

(b) *Committee charter information.* Each Advisory committee charter shall contain the following information:

(1) The committee's official designation;

(2) The committee's objectives and scope of activity; i.e., the standard or standards to be developed;

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

(4) The agency to whom the advisory committee reports (i.e., the Assistant Secretary);

(5) The agency responsible for providing support (i.e., the Occupational Safety and Health Administration);

(6) Description of the committee's duties;

(7) The estimated number and frequency of committee meetings;

(8) The estimated annual operating costs in dollars and man-years;

(9) The committee's termination date or other fixed period of termination, if less than 2 years (see § 1912.3(j) concerning the Advisory Committee on Construction Safety and Health); and

(10) The date the charter is filed with the Department of Labor's Committee Management Officer.

(c) *Applicability of this section to subgroups* The applicability of this section to subgroups of an advisory committee depends upon the nature of the subgroup. With regard to formal subgroups, such as a formal subcommittee of an advisory committee, the requisite information should be set forth either in the charter of the parent committee or in a separate charter. Informal subgroups of an advisory committee, particularly those temporary in nature,