

## Occupational Safety and Health Admin., Labor

## § 1912.1

specific and detailed findings and conclusions of the kind customarily associated with formal proceedings. However, the statement will show the significant issues which have been faced, and will articulate the rationale for their solution.

(c) Where an advisory committee has been consulted in the formulation of a proposed rule, the Assistant Secretary may seek the advice of the advisory committee as to the disposition of the proceeding. In giving advice to the Assistant Secretary, an advisory committee shall consider all matter presented to the Assistant Secretary. The advice of an advisory committee shall take the form of written recommendations to be submitted to the Assistant Secretary within a period to be prescribed by him. When the recommendations are contained in the transcript of the meeting of an advisory committee, they shall be summary in form. See §§ 1912.33 and 1912.34 of this chapter.

(d) A rule promulgating, modifying, or revoking a standard, or a determination that a rule should not be promulgated, shall be considered issued at the time when the rule or determination is officially filed in the Office of the Federal Register. The time of official filing in the Office of the Federal Register is established for the purpose of determining the prematurity, timeliness, or lateness of petitions for judicial review.

[37 FR 8665, Apr. 29, 1972, as amended at 42 FR 65166, Dec. 30, 1977]

### PART 1912—ADVISORY COMMITTEES ON STANDARDS

Sec.

1912.1 Purpose and scope.

#### ORGANIZATIONAL MATTERS

1912.2 Types of standards advisory committees.

1912.3 [Reserved]

1912.4 Avoidance of duplication.

1912.5 National Advisory Committee on Occupational Safety and Health.

1912.6 Conflict of interest.

1912.7 Reports.

1912.8 Committee charters.

1912.9 Representation on section 7(b) committees.

1912.10 Terms of continuing committee members.

1912.11 Terms of ad hoc committee members.

1912.12 Termination of advisory committees; renewal.

1912.13 Maritime Advisory Committee on Occupational Safety and Health.

#### OPERATION OF ADVISORY COMMITTEES

1912.25 Call of meetings.

1912.26 Approval of agenda.

1912.27 Notice of meetings.

1912.28 Contents of notice.

1912.29 Attendance by members.

1912.30 Quorum; committee procedure.

1912.31 Experts and consultants.

1912.32 Presence of OSHA officer or employee.

1912.33 Minutes.

1912.34 Freedom of Information Act.

1912.35 Availability and cost of transcripts.

1912.36 Advice of advisory committees.

#### MISCELLANEOUS

1912.40 General services.

1912.41 Legal services.

1912.42 Reservation.

1912.43 Petitions for changes in the rules; complaints.

1912.44 Definitions.

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 prescribes 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

## § 1912.2

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 [Reserved]

#### § 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

## 29 CFR Ch. XVII (7-1-25 Edition)

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 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; 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, need not be reflected expressly in a charter.

(d) The Assistant Secretary shall file each charter with the Department's Committee Management Officer.

[38 FR 28035, Oct. 11, 1973, as amended at 90 FR 27999, July 1, 2025]

#### **§ 1912.9 Representation on section 7(b) committees.**

(a) Any advisory committee appointed by the Assistant Secretary under section 7(b) of the Act shall contain the following:

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

(2) At least one member who is qualified by experience and affiliation to present the viewpoint of the employers involved, and at least one member who is similarly qualified to present the viewpoint of the employees involved. There shall be an equal number of representatives of employers and employees involved; and

(3) At least one representative of State health and safety agencies.

(b) The advisory committee may include such other persons as the Assistant Secretary may appoint who are qualified by knowledge and experience to make a useful contribution to the work of the committee, including one or more representatives of professional

organizations of technicians or professionals specializing in occupational safety or health and one or more persons of nationally recognized standards-producing organizations, but the number of persons so appointed shall not exceed the number of persons appointed as representatives of Federal and State agencies.

(c) Each committee shall consist of not more than 15 members.

[38 FR 28035, Oct. 11, 1973, as amended at 90 FR 27999, July 1, 2025]

#### **§ 1912.10 Terms of continuing committee members.**

(a) Each member of a continuing committee established under section 7(b) of the Act, other than those appointed to a committee when it is formed initially 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.

(b) To provide for continuity in the membership of continuing committees the initial appointments of its members may be varied. For example, in the case of a 15-member committee, the Assistant Secretary could appoint two members representing Federal and State agencies, two members representing employers, two members representing employees, and two members representing other interests to one year terms. He could appoint two members representing Federal and State agencies, two members representing employers, two members representing employees, and one member representing other interests for two year terms. Thereafter, at the expiration of such terms, members would be appointed or reappointed for regular terms of two years. The initial appointments to committees with fewer than 15 members could be similarly varied.

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

## § 1912.11

### § 1912.11 Terms of ad hoc committee members.

Each member of an ad hoc advisory committee shall serve for such period as the Assistant Secretary may prescribe in his notice of appointment. 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 a new member to serve for the remaining portion of the period prescribed in the notice appointing the original member of the committee.

[67 FR 659, Jan. 7, 2002]

### § 1912.12 Termination of advisory committees; renewal.

(a) Every standards advisory committee established under section 7(b) of the Act shall terminate not later than 2 years after its charter has been filed, unless its charter is renewed by appropriate action for a successive period of not more than 2 years. The procedure for renewal shall be the same as that specified in paragraph (b) of this section.

(b) Each advisory committee established under section 7(b) of the Act which is in existence on January 5, 1973, shall terminate by January 5, 1975, unless it is renewed before the latter date. Before any advisory committee can be renewed, the Assistant Secretary must determine that such renewal is necessary, and so inform the Department of Labor's Committee Management Officer. The OMB Secretariat must be informed of this determination and the reasons for it. Such determination shall be made not more than 60 days before the scheduled date of termination. If the OMB Secretariat concurs, a new charter shall be filed renewing the advisory committee and a notice of the renewal shall be published in the FEDERAL REGISTER.

(c) Unless provided otherwise by the Assistant Secretary, the duration of a subgroup of a committee shall not be longer than that of the parent committee.

(d) No advisory committee required to file a new charter under this section

## 29 CFR Ch. XVII (7-1-25 Edition)

shall take any action (other than the preparation and filing of charter) before the date on which the charter is filed.

### § 1912.13 Maritime Advisory Committee on Occupational Safety and Health.

(a) This section applies to the Maritime Advisory Committee on Occupational Safety and Health, which has been established under section 3510 of the National Defense Authorization Act (Pub. L. 116-92, December 20, 2019) to advise the Secretary of Labor in formulating maritime industry standards and regarding matters pertaining to the administration of this Act related to the maritime industry. The composition of the Maritime Advisory Committee on Occupational Safety and Health 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 covering these duties will not normally be established under section 7(b) of the Act, unless the issue or issues involved extend beyond maritime activity. See § 1912.4 concerning the general policy against duplication of activity by advisory committees.

(b) The Maritime Advisory Committee on Occupational Safety and Health is a continuing advisory body. It is composed of 15 members appointed by the Secretary, one of whom is appointed as Chair. The composition of the Advisory Committee is as follows:

(1) One member who is a designee of the Secretary of Health and Human Services;

(2) At least one member who is qualified by experience and affiliation to present the viewpoint of the employers involved, and at least one member who is similarly qualified to present the viewpoint of the employees involved. There shall be an equal number of representatives of employers and employees involved; and

(3) At least one representative of state health and safety agencies.

(4) The Maritime Advisory Committee on Occupational Safety and Health may include such other persons as the Secretary may appoint who are qualified by knowledge and experience

to make a useful contribution to the work of the committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health and one or more persons of nationally recognized standards-producing organizations, but the number of persons so appointed shall not exceed the number of persons appointed as representatives of Federal and state agencies.

(c) Each member of the Maritime Advisory Committee on Occupational Safety and Health shall serve for a period of two 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.

(d) Members may be appointed to successive terms.

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

(f) There shall be filed on behalf of the Maritime Advisory Committee on Occupational Safety and Health a charter in accordance with the Federal Advisory Committee Act upon the expiration of each successive two-year period.

[85 FR 73423, Nov. 18, 2020]

#### OPERATION OF ADVISORY COMMITTEES

##### § 1912.25 Call of meetings.

No advisory committee shall hold any meeting except at the call of, or with the advance approval, of the Assistant Secretary or his representative designated for this purpose. The Department of Labor's Committee Management Officer shall be promptly informed of any meeting that is called.

##### § 1912.26 Approval of agenda.

Each meeting of an advisory committee shall be conducted in accordance with an agenda approved by the Assistant Secretary or his representative designated for this purpose. No particular form for the agenda is prescribed.

##### § 1912.27 Notice of meetings.

Public notice of any meeting of an advisory committee shall be given by the officer or employee calling the meeting at least fifteen (15) days in advance of the meeting; except when it is impractical to do so, or in an emergency situation, in which event shorter advance notice may be given to the extent that any advance notice is practical. It shall, however, be a general policy to publish notices as far in advance of the meeting as circumstances will permit. Such notice shall be given by publication in the FEDERAL REGISTER. In addition, notice may be given by such other means as press releases.

[48 FR 23185, May 24, 1983]

##### § 1912.28 Contents of notice.

(a) The notice shall give the name of the committee, and the time and place of the meeting.

(b) The notice shall describe fully or summarize adequately the agenda.

(c) The notice shall announce that the meeting is open to the public.

(d) The notice shall indicate that interested persons have an opportunity to file statements in written form with the committee. The notice may specify whether the statements are to be filed before or during the meeting.

(1) The chairman may permit oral statements before the committee by interested persons. In exercising his discretion in this regard, the chairman shall take into consideration the number of persons in attendance, the nature and extent of their proposed individual participation, the extent to which presentations would anticipate presentations which may be made in any rulemaking proceeding under section 6 of the Act subsequent to the recommendations of the committee, and the time, resources, and facilities available to the committee. When counsel is made available to the committee, the chairman shall consult counsel before making a decision on whether to permit oral statements. In his discretion, the chairman, upon consultation with counsel if made available to the committee, may allow or preclude the questioning of committee members or other participants.

## **§ 1912.29**

(2) The person calling the meeting may provide in the notice of the meeting that summaries of any proposed oral presentations be filed in advance of the meeting, and may allow or preclude the questioning of committee members or other participants.

### **§ 1912.29 Attendance by members.**

Any person appointed by the Assistant Secretary to an advisory committee has a right to be present at any duly called meeting. If any person representing the interests of employers, employees, or the States is unable to be present at a duly called meeting, he may notify the Assistant Secretary or his designee, and request that another member of the Committee representing the same interests be permitted to vote in his place on any matters coming before the advisory committee in the particular meeting. The request may be oral or in writing, and shall be accompanied by a statement of reasons for the anticipated absence. The Assistant Secretary or his designee shall grant the request whenever he is convinced that the reasons for absence are valid and that number of requested proxies for any particular meeting will not be so numerous as to impede materially the deliberations of the advisory committee.

### **§ 1912.30 Quorum; committee procedure.**

(a) A majority of the members of any advisory committee, including the Construction Safety Advisory Committee, shall constitute a quorum, so long as there are present at least one member who is a representative of employees and one member who is a representative of employers.

(b) In the absence of its chairman, the committee may designate a member to preside at any meeting thereof.

### **§ 1912.31 Experts and consultants.**

At the request of an advisory committee or the person calling a meeting of an advisory committee, the Assistant Secretary may make available to the committee any experts or consultants in the field involved. Any expert or consultant so made available may participate in the deliberations of the

## **29 CFR Ch. XVII (7–1–25 Edition)**

committee with the consent of the committee.

### **§ 1912.32 Presence of OSHA officer or employee.**

The meetings of all advisory committees shall be in the presence of an OSHA officer or employee designated for this purpose. Such officer or employee shall be empowered to adjourn any meeting whenever he determines adjournment to be in the public interest.

### **§ 1912.33 Minutes.**

(a) Detailed minutes of advisory committee meetings shall be prepared, as directed, and certified as accurate, by the Chairman of the committee. In addition to the minutes there shall be kept verbatim transcripts of all advisory committee meetings.

(b) The minutes shall include at least the following:

(1) A list of the advisory committee members and agency employees who were present at the meeting;

(2) Any significant conclusions reached which are not recommendations;

(3) Any written information made available for consideration by the committee, including copies of all reports received, issued, or approved by the committee;

(4) Any recommendations made by the committee to the Assistant Secretary and the reasons therefor;

(5) An explanation of the extent, if any, of public participation, including a list of interested persons who presented oral or written statements; and an estimate of the number of the members of the public who attended the meeting.

### **§ 1912.34 Freedom of Information Act.**

Subject to the Freedom of Information Act (5 U.S.C. 552) and part 70 of this title and part 1913 of this chapter, there shall be available for public inspection and copying in the Office of Standards, Occupational Safety and Health Administration, documents which were made available to or prepared for or by each advisory committee.

**§ 1912.35 Availability and cost of transcripts.**

Except where prohibited by contractual agreements entered into before the effective date of the Federal Advisory Committee Act (January 5, 1973), any transcripts of advisory committee meetings are to be made available to any person at the actual cost of duplication.

**§ 1912.36 Advice of advisory committees.**

(a) Approval by a majority of all members of an advisory committee is encouraged for rendering advice or making recommendations. However, a failure to marshal a majority of all members of an advisory committee shall not be a reason for not giving advice to the Assistant Secretary. The Assistant Secretary shall be informed of any concurring or dissenting views.

(b) An advisory committee shall submit to the Assistant Secretary its recommendations within 90 days from the date of its commencement of its assigned tasks, or within such longer or shorter period otherwise prescribed by the Assistant Secretary or one of his representatives. If a committee believes that it cannot submit its recommendations within the applicable period, its chairman may make a written request for an extension of time to the Director of the Office of Standards, before the expiration of the period. The Director of the Office of Standards may grant such a request, provided that the period of the extension or extensions, together with the original period for the submission of recommendations, is not longer than 270 days from the date the advisory committee commenced its assigned tasks.

(c) In a case where an advisory committee has not submitted its recommendations by the end of the applicable period therefor, the Assistant Secretary may dissolve the committee and direct the immediate transmittal to him of any materials submitted to, or prepared by, the advisory committee.

## MISCELLANEOUS

**§ 1912.40 General services.**

The Assistant Secretary shall provide supporting services to advisory committees. Such services shall include clerical, stenographic, and other forms of technical assistance.

**§ 1912.41 Legal services.**

The Solicitor of Labor shall provide such legal assistance as may be necessary or appropriate for advisory committees to carry out their functions in accordance with the requirements of this part.

**§ 1912.42 Reservation.**

The policies and procedures set forth in this part are intended for general application. In specific situations where the Assistant Secretary determines that different policies or procedures would better serve the objectives of the Act, such policies or procedures may be modified upon appropriate notice to any persons affected by the modification to the extent that such policies or procedures are consistent with the Federal Advisory Committee Act and OMB Circular A-63, and are approved by the Solicitor under part 15 of this title.

**§ 1912.43 Petitions for changes in the rules; complaints.**

(a) Each interested person shall have the right to petition for the issuance, amendment, or repeal of rules published in this part. Any such petition will be considered in a reasonable time. Prompt notice shall be given of the denial in whole or in part of any petition. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the reasons therefor.

(b) Any advisory committee member or any other aggrieved person may file a written complaint with the Assistant Secretary alleging noncompliance with the rules in this part. Any complaint must be timely filed, but in no case shall any complaint be filed later than thirty (30) days following the act of alleged noncompliance. Any complaint shall be acted upon promptly and a written notice of the disposition of the complaint shall be provided to the complainant.

## § 1912.44

### § 1912.44 Definitions.

As used in this part 1912, unless the context clearly requires otherwise:

(a) *Act* means the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590; 29 U.S.C. 650).

(b)(1) For purposes of implementing the Federal Advisory Committee Act, the term *Advisory Committee* has the same meaning as set forth in section 3 (2) thereof. Hence, the term includes subcommittees to the extent that the conduct of their meetings relates to matters regulated by the Federal Advisory Committee Act. Consistent with that definition as interpreted in Office of Management and Budget (OMB) Circular A-63, the term does not include informal subgroups having few characteristics of formal advisory committees.

(2)(i) For purposes of the Act, the term means any committee appointed under section 7(b) thereof to provide advice to the Assistant Secretary in the development of occupational safety and health standards under the Act.

(ii) The term also includes the Advisory Committee on Construction Safety and Health established under the Construction Safety Act.

(c) *Assistant Secretary* means the Assistant Secretary of Labor for Occupational Safety and Health.

(d) *Committee charter* means an order, statement or proclamation of the Assistant Secretary establishing, continuing, or using an advisory committee, as the case may be.

(e) *Construction Safety Act* means section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96; 40 U.S.C. 333).

## PART 1912a—NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Sec.

1912a.1 Purpose and scope.

1912a.2 Membership.

1912a.3 Terms of membership.

1912a.4 Meetings.

1912a.5 Advice and recommendations.

1912a.6 Quorum.

1912a.7 Notice of meetings.

1912a.8 Contents of notice.

1912a.9 Assistance to the committee.

1912a.10 Presence of OSHA officer or employee.

## 29 CFR Ch. XVII (7–1–25 Edition)

1912a.11 Minutes; transcript.

1912a.12 Charter.

1912a.13 Subcommittees and subgroups.

1912a.14 Petitions for changes in the rules; complaints.

AUTHORITY: Secs. 4, 6, 7, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 656, 657); 5 U.S.C. 553; Federal Advisory Committee Act (5 U.S.C. App. 2); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), or 3-2000 (65 FR 50017), as applicable.

SOURCE: 38 FR 28934, Oct. 18, 1973, unless otherwise noted.

### § 1912a.1 Purpose and scope.

(a) Section 7(a) of the Williams-Steiger Occupational Safety and Health Act of 1970 establishes a National Advisory Committee on Occupational Safety and Health (hereinafter referred to as the Committee), to advise, consult with, and make recommendations to the Secretary of Labor and the Secretary of Health, Education, and Welfare, on matters relating to the administration of the Act.

(b) This part 1912a sets forth the procedures used by the Committee in fulfilling its responsibilities. They are intended to comply with the requirements of the Federal Advisory Committee Act (Pub. L. 92-463), which obligates advisory committees used by federal agencies to adhere to certain basic methods of operation and administration.

### § 1912a.2 Membership.

The Committee is a continuing advisory body of 12 members. Two members will represent management, two members will represent labor, two members will represent the occupational health professions, two members will represent the occupational safety professions, and four members will represent the public. The Secretary of Health, Education, and Welfare will designate the two members representative of the occupational health professions and two of the members representative of the public. All the members will be selected upon the basis of their experience and competence in the field of occupational safety and health. All the members will be appointed by the Secretary of Labor, who will designate one of the public members as Chairman.