

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

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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.

§ 1912a.3 Terms of membership.

Commencing on July 1, 1973, the terms of membership shall be divided into two classes, each consisting of six members. Members of the first class shall be appointed for a term of one year. Members of the second class shall be appointed for a term of two years. Thereafter, members shall be appointed for regular terms of two years. At all times the Committee shall be composed of representatives of management, labor, and occupational safety and health professions, and of the

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public. 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.

[67 FR 660, Jan. 7, 2002]

§ 1912a.4 Meetings.

(a) The Committee shall hold no fewer than two meetings during each calendar year and, it is contemplated that no more than six meetings a year will be held. No meeting shall be held except at the call of or with the advance approval of:

(1) The Secretary of Labor, or his duly authorized representative; or

(2) The Secretary of Health, Education, and Welfare, or his duly authorized representative.

(b) An agenda shall be approved in advance by the person calling or approving the meeting, in consultation with the Chairman or his delegate. No particular form for the agenda is prescribed. Members of the Committee may propose items for the agenda to the Chairman.

§ 1912a.5 Advice and recommendations.

Any advice or recommendations of the Committee shall be given or made with approval of a majority of all Committee members present. The Chairman shall include in any report of such advice or recommendations any concurring or dissenting views as well as abstentions and absences. Any member may submit his own advice and recommendations in the form of individual views with respect to any matter which has been considered by the Committee.

§ 1912a.6 Quorum.

(a) A majority of the members of the Committee shall constitute a quorum.

(b) In an absence of brief duration of its Chairman, the Committee may designate a public member to preside at any meeting thereof. In case of an extended absence, the Secretary of Labor

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or his delegate shall appoint a public member to preside.

[38 FR 28934, Oct. 18, 1973, as amended at 48 FR 23185, May 24, 1983]

§ 1912a.7 Notice of meetings.

Public notice of any meeting of the Committee shall be given by the person calling the meeting in accordance with § 1912a.4 or at his direction 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. Such notice shall be given by publication in the FEDERAL REGISTER as much in advance of the meeting as circumstances will permit. In addition, notice may be given by such other means as press releases.

[48 FR 23185, May 24, 1983]

§ 1912a.8 Contents of notice.

(a) Notices of meetings shall describe fully or summarize adequately the agenda.

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

(c) The notice shall indicate that interested persons have an opportunity to file statements in written form with the Committee. The notice shall specify when the statements are to be filed with the Committee.

(d) In the discretion of the Chairman of the meeting, oral statements may be made before the Committee by interested persons after taking into consideration the number of persons in attendance, the nature and extent of their proposed individual participation, and the time, resources, and facilities available to the Committee. As a general policy, time for such presentations will be made available only at subcommittee meetings. The time for a meeting of the full committee does not normally permit the reception of such presentations without substantially intruding upon the frequently limited time that the members may be able to devote to the meeting. 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.

§ 1912a.9 Assistance to the committee.

(a) At the request of the Committee or the person calling a meeting, the Assistant Secretary of Labor for Occupational Safety and Health may make available to the Committee any needed experts or consultants. Any expert or consultant so made available may participate in the deliberations of the Committee with the consent of the Committee.

(b) The Assistant Secretary shall furnish the Committee an executive secretary. He shall also furnish such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

(c) The Solicitor of Labor shall provide such legal assistance as may be necessary or appropriate for the Committee to carry out its functions in accordance with the requirements of this part.

§ 1912a.10 Presence of OSHA officer or employee.

The meetings of all advisory committees shall be in the presence of an officer or employee of the Federal Government referred to in § 1912a.4. Such officer or employee shall be empowered to adjourn any meeting whenever he determines adjournment to be in the public interest.

§ 1912a.11 Minutes; transcript.

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

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

(1) A list of the 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 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.

§ 1912a.12 Charter.

The Committee shall operate in accordance with its charter. In accordance with section 14(b)(2) of the Federal Advisory Committee Act, there shall be filed on behalf of the Committee a charter in accordance with section 9(c) thereof upon the expiration of each successive two-year period following December 28, 1970, the date of enactment of the Occupational Safety and Health Act.

§ 1912a.13 Subcommittees and subgroups.

(a) The Chairman may appoint from among the members of the Committee any number of subcommittees for the purpose of assisting the Committee in carrying out its functions. All the provisions of this part regarding the conduct of Committee meetings are applicable to the conduct of subcommittee meetings. For example, any meeting of subcommittees shall be open to the public, and notice of subcommittee meetings shall be published in the FEDERAL REGISTER.

(b) The purpose of any subcommittee is to give advice and make recommendations solely to the full Committee and under no circumstances may any subcommittee act outside this purpose. The Chairman may appoint any member of a Subcommittee to act as Chairman.

(c) Subcommittee shall operate in accordance with the Committee's charter and the procedures set forth in this part.

(d) The Chairman may appoint temporary informal subgroups from among the members to perform such services as assisting the Committee or the Chairman by gathering technical information or for suggesting schedules, plans, agenda, terms or methods of operation.

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

(a) Any 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 day on which the act of alleged noncompliance occurred. Any complaint shall be acted upon promptly and a written notice of the disposition of the complaint shall be provided to the complainant.

(c) Complaints and petitions should make reference to this § 1912a.14 and be filed and addressed as follows:

Assistant Secretary of Labor for Occupational Safety and Health
United States Department of Labor
Washington, D.C. 20210.

PART 1913—RULES OF AGENCY PRACTICE AND PROCEDURE CONCERNING OSHA ACCESS TO EMPLOYEE MEDICAL RECORDS

AUTHORITY: Sec. 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 657); Sec. e, Privacy Act (5 U.S.C. 552a(e); 5 U.S.C. 301); Secretary of Labor's Order No. 8-76 (41 FR 25059), or 5-2002 (67 FR 65008) as applicable.

§ 1913.10 Rules of agency practice and procedure concerning OSHA access to employee medical records.

(a) *General policy.* OSHA access to employee medical records will in certain circumstances be important to the agency's performance of its statutory functions. Medical records, however, contain personal details concerning the lives of employees. Due to the substantial personal privacy interests involved, OSHA authority to gain access to personally identifiable employee

medical information will be exercised only after the agency has made a careful determination of its need for this information, and only with appropriate safeguards to protect individual privacy. Once this information is obtained, OSHA examination and use of it will be limited to only that information needed to accomplish the purpose for access. Personally identifiable employee medical information will be retained by OSHA only for so long as needed to accomplish the purpose for access, will be kept secure while being used, and will not be disclosed to other agencies or members of the public except in narrowly defined circumstances. This section establishes procedures to implement these policies.

(b) *Scope and application.* (1) Except as provided in paragraphs (b) (3) through (6) below, this section applies to all requests by OSHA personnel to obtain access to records in order to examine or copy personally identifiable employee medical information, whether or not pursuant to the access provisions of 29 CFR 1910.1020(e).

(2) For the purposes of this section, "personally identifiable employee medical information" means employee medical information accompanied by either direct identifiers (name, address, social security number, payroll number, etc.) or by information which could reasonably be used in the particular circumstances indirectly to identify specific employees (e.g., exact age, height, weight, race, sex, date of initial employment, job title, etc.).

(3) This section does not apply to OSHA access to, or the use of, aggregate employee medical information or medical records on individual employees which is not in a personally identifiable form. This section does not apply to records required by 29 CFR part 1904, to death certificates, or to employee exposure records, including biological monitoring records treated by 29 CFR 1910.1020(c)(5) or by specific occupational safety and health standards as exposure records.

(4) This section does not apply where OSHA compliance personnel conduct an examination of employee medical records solely to verify employer compliance with the medical surveillance