

**FISH AND WILDLIFE SERVICE
COMMITTEES AND ADVISORY BOARDS**

Committees and Advisory Boards

Part 107 Advisory Committees

Chapter 5 Meetings, Recordkeeping, and Reporting

107 FW 5

5.1 What is the purpose of this chapter? This chapter provides guidance on conducting meetings, keeping records, and reporting for Federal Advisory Committee Act (FACA) committees.

5.2 What are the authorities and responsibilities for this chapter? See 107 FW 1 for the authorities and responsibilities for all the chapters in Part 107.

5.3 What policies apply to advisory committee meetings?

A. The Designated Federal Officer (DFO) must attend all advisory committee and subcommittee meetings. If the DFO cannot attend a meeting, he or she may designate another full-time or part-time employee to serve as an alternate. If the DFO is absent and no suitable substitute is available, the meeting must not take place.

B. Each advisory committee meeting must be held at a reasonable time and in a place reasonably available and accessible to the public, including those with disabilities.

C. Meeting rooms or other venues must accommodate advisory committee members, advisory committee staff, and members of the public.

D. Any member of the public may:

(1) File a written statement with the advisory committee, and

(2) Speak to or otherwise address the advisory committee in accordance with the committee's meeting guidelines.

E. Meetings conducted in whole or in part by a teleconference, video conference, Internet, or other electronic medium must meet the requirements of FACA, 41 CFR 102-3, and this chapter.

5.4 Can an advisory committee close their meetings to the public?

A. FACA requires that all committee meetings be open to the public, unless the Secretary determines in advance that the information to be discussed falls under one of the exemptions listed in the Sunshine Act (Public Law 94-409). If you believe a meeting should be closed to the public, contact the Group Federal Officer, Division of Policy and Directives Management, for guidance on how to proceed.

B. All meetings are subject to FACA's openness requirements, regardless of the form of the meeting (in person or via teleconference, e-mail, or Internet). E-mail exchanges among half or more of the committee members relating to substantive work of the committee fall under the definition of a FACA meeting, so they must be conducted in a manner open to the public (e.g., by posting the email exchange on the committee's Web site).

C. Some advisory committee activities are not subject to the FACA public notice and open meeting requirements. These include meetings of two or more advisory committee members convened solely to:

(1) Conduct preparatory work, such as gathering information, conducting research, analyzing relevant issues and facts in preparation for a meeting, or drafting position papers for deliberation by the advisory committee.

(2) Discuss administrative matters of the committee, such as committee organization, bylaws, or procedural issues.

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(3) Receive administrative information from a Federal officer or agency, such as orientation, travel and per diem requirements, or ethics training.

5.5 Does the meeting have to be announced in the *Federal Register*? Yes. We must publish a *Federal Register* notice announcing the advisory committee meeting (both open and closed) at least 15 calendar days before the meeting date.

A. The notice must include:

(1) Name of advisory committee or subcommittee;

(2) Date, time, and place of meeting;

(3) Purpose of meeting;

(4) Summary of agenda;

(5) Information about participation by the public and submission of written statements;

(6) Name and telephone number of the DFO or other official that the public can contact for additional information; and

(7) For closed meetings (total or partial), the reason for the closure.

B. Visit our FACA committee Web site for a sample *Federal Register* notice.

5.6 Is a meeting agenda required? Yes. FACA requires the preparation of an agenda for each meeting. The agenda must identify the topics of discussion and the time allowed for each topic. FACA also requires that the DFO approve the agenda before convening the meeting.

5.7 Who is responsible for documenting committee activities and keeping records? It is important that committee deliberations and determinations are documented and that all reports and records are properly filed and maintained. The DFO has overall responsibility for:

A. Documenting the committee's meetings and activities, deliberations, and determinations;

B. Maintaining committee records and ensuring compliance with public access requirements;

C. Disclosing budget information and the distribution of funds to the committee;

D. Filing advisory committee reports with the Library of Congress; and

E. Ensuring the proper disposition of committee records.

5.8 Are meeting minutes required? Yes.

A. The DFO must ensure that detailed minutes are kept of each committee and subcommittee meeting. FACA does not require verbatim transcripts. At a minimum, official minutes must include:

(1) Time, date, and place of meeting;

(2) List of advisory committee members, staff, and agency employees present;

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- (3) List of members of the public who presented oral or written statements (does not apply to subcommittees);
 - (4) Description of matters discussed and the resolution, if any; and
 - (5) Copies of each report or other documents received, issued, or approved by the committee.
- B.** The DFO must ensure that the Committee Chair certifies the minutes within 90 days after the meeting.
- C.** DFOs must ensure that detailed meeting minutes of closed meetings (or portions of meetings that are closed) are kept in the same manner as open meetings. However, the minutes of a closed meeting (or portion) can be withheld from the public in accordance with the Freedom of Information Act.
- D.** With the Chair's certification, the DFO must upload a copy of the minutes for all open meetings to the FACA database. This helps to ensure that the committee's business is transparent to the public.

5.9 What are requirements for committee reports?

- A.** Committee reports are the formal summary of the findings of the advisory committee and include the advice the committee provides to the Agency and the findings or decisions made during committee meetings.
- B.** Committee reports and other work products are not products of the Service or the Department of the Interior. It is important that all meeting products or reports that an advisory committee generates, as well as any Web site set up for the committee:
- (1) Include a disclaimer that the document is a product of the advisory committee, does not reflect the views and policies of the Service or Department, and does not represent information disseminated by the Service or Department.
 - (2) Does not use the Service or Department logo.

5.10 What records must be kept?

- A.** FACA requires that the DFO keep records that fully disclose the disposition of funds to the committee and the nature and extent of the committee's activities related to those funds. The DFO must handle records of the committee and subcommittees in accordance with General Records Schedule 26, Item 2, and the Service Records Disposition Schedule (see 283 FW 2). These records must be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.
- B.** Records include, but are not limited to:
- (1) Establishment materials, including renewals and reestablishments, such as charters, memorandums to the Secretary, justification statements, membership balance plans, *Federal Register* notices, charter filing letters, etc.;
 - (2) Membership lists and appointment letters;
 - (3) Meeting materials, such as premeeting materials, agendas, minutes, and transcripts;
 - (4) Public comments and submitted materials;

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- (5) Background material/handouts;
- (6) Correspondence;
- (7) Advice/response;
- (8) FACA administrative reports;
- (9) Committee vote records; and
- (10) Committee final reports.

5.11 What administrative reports are required?

A. Annual Comprehensive Review of Federal Advisory Committees. Under FACA, the General Services Administration (GSA) must conduct an annual review of all advisory committees with filed charters or that have been in existence during the fiscal year. At the end of each fiscal year, we transmit the information GSA needs electronically using the FACA database. The database includes information on the committee and its activities, performance measures, members, and costs of running the committee during the fiscal year. This review results in a report to Congress.

(1) The DFO must:

(a) Keep the database up-to-date throughout the fiscal year by entering information on committee meetings, costs, reports, membership changes, etc., as they occur.

(b) At the end of the fiscal year, complete the report in accordance with instructions from the Department and the Service's Group Federal Officer.

(c) Verify the accuracy of report by the due date established by the Department and the Group Federal Officer.

(2) The Group Federal Officer reviews the report, works with the DFO to make any necessary revisions, and verifies the report by the Department's due date.

B. Annual Report of Closed or Partially Closed Meetings. In accordance with section 10(d) of FACA, each committee that held a closed or partially closed meeting must issue a report at least annually. The DFO must prepare the report, including a summary of activities, and send the report to the Group Federal Officer.

/sgd/ Rowan W. Gould
DEPUTY DIRECTOR

Date: May 14, 2012