

US academy warns of disaster if required to open up panels

[WASHINGTON] An appeal court ruling expected as early as next week will help to decide whether the US National Academy of Sciences (NAS) and its associated organizations, which provide advice to the US government on scientific and technical matters, is subject to public access rules known as the 'sunshine laws'.

The rules are known officially as the Federal Advisory Committee Act (FACA), passed in 1988, and are intended to open up the government advisory system to closer public scrutiny. But officials in the various organizations are concerned that applying FACA to their work would undermine their independence, allow the government to exert direct control over committees, and wreck a carefully constructed peer-review process.

"This is a very serious issue for us," says William Colglazier, executive director of the academy. Under FACA, he says, government officials would have to approve the membership of committees — which must include non-experts. And the review process would be disallowed, because its oversight of the public committees would be illegal. "The key thing for us is our independence," he says.

The academy complex, which includes the National Academy of Engineering and the Institute of Medicine and their operating arm, the National Research Council (NRC), prides itself on its independence from the government agencies that request and pay for its reports.

But this way of operating came under legal threat in January, when three judges at the US Court of Appeals for the District of Columbia accepted the argument of the Animal Legal Defense Fund (ALDF) that the academy is a 'quasi-public organization' and therefore subject to FACA.

The court based its judgement on a Supreme Court case in 1989 which determined the status of the American Bar Association under FACA. In its ruling, the Supreme Court cited the NAS as an example of a non-government group that should be subject to FACA. NAS was not involved in the case, and chose not to appeal against the ruling.

Last week, after a separate court case, the academy was obliged to release a report on the proposed National Ignition Facility under unusual, court-imposed conditions that preclude its sponsor, the Department of Energy, from making use of its findings (see *Nature* 385, 755 & 386, 210; 1997).

In a statement accompanying the report, Bruce Alberts, president of the academy, said: "We strongly maintain that committees of the academy and its sister organizations do not fall subject to FACA. Were we to fall subject to FACA, we would be compromised severely in our ability to provide independent advice — as we have done, in the national interest, for more than 100 years."

While the academy appeals against the January ruling, officials at the 1,500-staff complex are closely studying its possible consequences. "We're looking at how we



could operate within FACA," says Colglazier. That could mean asking individuals to produce reports as 'principal investigators', consulting whoever they see fit, he says. Colglazier also confirms that bemused NRC staff have been asked to stop using the word 'committee' in their communications with sponsoring agencies.

Tom Grumbly, under-secretary for energy, alluded to the severity of the crisis at the complex in testimony last week before an appropriations subcommittee of the House of Representatives. "The issue of the role of the NRC and whether it is subject to FACA is a big deal right across the government," he said. "I know the academy has a very strong view that [compliance] will make the role of the NRC very difficult."

Environmental groups which have sued the academy complex believe that it is insufficiently independent of government and that its mode of operation is élitist and exclusive. But a spokeswoman for the academy says that the NRC was set up partly to ensure that the process was inclusive, and that four-fifths of its panel members are now drawn from outside the élite academies themselves.

The ALDF last week filed documents with the full US Court of Appeals for the District of Columbia in response to NAS's request for an appeal hearing. Its move has raised expectations at the academy that the court could announce as early as next week if it is prepared to hear the academy's appeal on the January case — and if it will rule that the January decision is void while an appeal is heard.

If the court rejects the appeal, the academy faces a period of upheaval while it goes either to the Supreme Court for a final ruling or to Congress for a change in the law to exempt it from FACA.

Colin MacLachlan

Russian science minister faces challenge

[MOSCOW] Science has been given back a seat at the cabinet table of Russian President Boris Yeltsin in a series of ministerial reforms announced last week. But the incoming science minister faces an unusual challenge — he will have to work with a new deputy prime minister charged with reviewing Russia's science.

The new science ministry replaces the old State Committee for Science and Technology, and Vladimir Fortov, the committee's chairman, has been given the job of science minister.

But controversy surrounds the responsibilities that accompany Fortov's new job. The task of reorganizing Russian science has been given to Vladimir Bulgak, the former communications minister, who has been made a new deputy prime minister.

There is also uncertainty about Fortov's new ministerial status. Although he has



Fortov: minister, but demoted?

been promoted from chairman of the state committee to full cabinet minister, Yeltsin's decision to relieve Fortov of his post as one of eight deputy prime ministers is being interpreted by some as a demotion.

Some observers believe that Bulgak has been brought in to curb Fortov's enthusiasm for the Russian Academy of Sciences. Throughout his tenure as chairman of the state science committee, Fortov had tried to raise the academy's influence over policy-making, to the dismay of some seeking broad structural reforms of Russian science.

Bulgak's former communications ministry has been reconstituted and named as the State Committee for Communications and Information. □