

113TH CONGRESS
1ST SESSION

H. R. 1422

To amend the Environmental Research, Development, and Demonstration Authorization Act of 1978 to provide for Scientific Advisory Board member qualifications, public participation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2013

Mr. STEWART (for himself, Mr. SMITH of Texas, Mr. HALL, Mr. ROHR-ABACHER, Mr. HARRIS, and Mr. BENISHEK) introduced the following bill; which was referred to the Committee on Science, Space, and Technology

A BILL

To amend the Environmental Research, Development, and Demonstration Authorization Act of 1978 to provide for Scientific Advisory Board member qualifications, public participation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “EPA Science Advisory
5 Board Reform Act of 2013”.

6 **SEC. 2. SCIENCE ADVISORY BOARD.**

7 (a) MEMBERSHIP.—Section 8(b) of the Environ-
8 mental Research, Development, and Demonstration Au-

1 thORIZATION Act of 1978 (42 U.S.C. 4365(b)) is amended
2 to read as follows:

3 “(b)(1) The Board shall be composed of at least nine
4 members, one of whom shall be designated Chairman, and
5 shall meet at such times and places as may be designated
6 by the Chairman in consultation with the Administrator.

7 “(2) Each member of the Board shall be qualified by
8 education, training, and experience to evaluate scientific
9 and technical information on matters referred to the
10 Board under this section. The Administrator shall select
11 Board members from nominations received as described
12 in paragraph (3) and shall ensure that—

13 “(A) the scientific and technical points of view
14 represented on and the functions to be performed by
15 the Board are fairly balanced among the members of
16 the Board;

17 “(B) at least ten percent of the membership of
18 the Board are from State, local, or tribal govern-
19 ments;

20 “(C) persons with substantial and relevant ex-
21 pertise are not excluded from the Board due to af-
22 filiation with or representation of entities that may
23 have a potential interest in the Board’s advisory ac-
24 tivities, so long as that interest is fully disclosed to
25 the Administrator and the public and appointment

1 to the Board complies with section 208 of title 18,
2 United States Code;

3 “(D) in the case of a Board advisory activity on
4 a particular matter involving a specific party, no
5 Board member having an interest in the specific
6 party shall participate in that activity;

7 “(E) Board members may not participate in ad-
8 visory activities that directly or indirectly involve re-
9 view and evaluation of their own work; and

10 “(F) Board members shall be designated as
11 special Government employees.

12 “(3) The Administrator shall—

13 “(A) solicit public nominations for the Board by
14 publishing a notification in the Federal Register;

15 “(B) solicit nominations from relevant Federal
16 agencies, including the Departments of Agriculture,
17 Defense, Energy, and Health and Human Services;

18 “(C) make public the list of nominees, including
19 the identity of the entities that nominated them, and
20 shall accept public comment on the nominees;

21 “(D) require that, upon their provisional nomi-
22 nation, nominees shall file a written report disclosing
23 financial relationships and interests, including Envi-
24 ronmental Protection Agency grants, contracts, co-
25 operative agreements, or other financial assistance,

1 that are relevant to the Board’s advisory activities
2 for the three-year period prior to the date of their
3 nomination, and relevant professional activities and
4 public statements for the five-year period prior to
5 the date of their nomination; and

6 “(E) make such reports public, with the excep-
7 tion of specific dollar amounts, for each member of
8 the Board upon such member’s selection.

9 “(4) The terms of the members of the Board shall
10 be three years and shall be staggered so that the terms
11 of no more than one-third of the total membership of the
12 Board shall expire within a single fiscal year. No member
13 shall serve more than two terms over a ten-year period.”.

14 (b) RECORD.—Section 8(c) of such Act (42 U.S.C.
15 4365(c)) is amended—

16 (1) in paragraph (1)—

17 (A) by inserting “risk or hazard assess-
18 ment,” after “at the time any proposed”; and

19 (B) by inserting “risk or hazard assess-
20 ment,” after “to the Board such proposed”;

21 and

22 (2) in paragraph (2)—

23 (A) by inserting “risk or hazard assess-
24 ment,” after “the scientific and technical basis

25 of the proposed”; and

1 (B) by adding at the end the following:
2 “The Board’s advice and comments, including
3 dissenting views of Board members, and the re-
4 sponse of the Administrator shall be included in
5 the record with respect to any proposed risk or
6 hazard assessment, criteria document, standard,
7 limitation, or regulation and published in the
8 Federal Register.”.

9 (c) MEMBER COMMITTEES AND INVESTIGATIVE PAN-
10 ELS.—Section 8(e) of such Act (42 U.S.C. 4365(e)) is
11 amended by adding at the end the following:

12 “These member committees and investigative panels—

13 “(1) shall be constituted and operate in accord-
14 ance with the provisions set forth in paragraphs (2)
15 and (3) of subsection (b), in subsection (h), and in
16 subsection (i);

17 “(2) do not have authority to make decisions on
18 behalf of the Board; and

19 “(3) may not report directly to the Environ-
20 mental Protection Agency.”.

21 (d) PUBLIC PARTICIPATION.—Section 8 of such Act
22 (42 U.S.C. 4365) is amended by adding after subsection
23 (g) the following:

24 “(h)(1) To facilitate public participation in the advi-
25 sory activities of the Board, the Administrator and the

1 Board shall make public all reports and relevant scientific
2 information and shall provide materials to the public at
3 the same time as received by members of the Board.

4 “(2) Prior to conducting major advisory activities, the
5 Board shall hold a public information-gathering session to
6 discuss the state of the science related to the advisory ac-
7 tivity.

8 “(3) Prior to convening a member committee or in-
9 vestigative panel under subsection (e) or requesting sci-
10 entific advice from the Board, the Administrator shall ac-
11 cept, consider, and address public comments on questions
12 to be asked of the Board. The Board, member committees,
13 and investigative panels shall accept, consider, and ad-
14 dress public comments on such questions and shall not ac-
15 cept a question that unduly narrows the scope of an advi-
16 sory activity.

17 “(4) The Administrator and the Board shall encour-
18 age public comments, including oral comments and discus-
19 sion during the proceedings, that shall not be limited by
20 an insufficient or arbitrary time restriction. Public com-
21 ments shall be provided to the Board when received. The
22 Board’s reports shall include written responses to signifi-
23 cant comments offered by members of the public to the
24 Board.

1 “(5) Following Board meetings, the public shall be
2 given 15 calendar days to provide additional comments for
3 consideration by the Board.”.

4 (e) OPERATIONS.—Section 8 of such Act (42 U.S.C.
5 4365) is further amended by adding after subsection (h),
6 as added by subsection (d) of this section, the following:

7 “(i)(1) In carrying out its advisory activities, the
8 Board shall strive to avoid making policy determinations
9 or recommendations, and, in the event the Board feels
10 compelled to offer policy advice, shall explicitly distinguish
11 between scientific determinations and policy advice.

12 “(2) The Board shall clearly communicate uncertain-
13 ties associated with the scientific advice provided to the
14 Administrator.

15 “(3) The Board shall ensure that advice and com-
16 ments reflect the views of the members and shall encour-
17 age dissenting members to make their views known to the
18 public and the Administrator.

19 “(4) The Board shall conduct periodic reviews to en-
20 sure that its advisory activities are addressing the most
21 important scientific issues affecting the Environmental
22 Protection Agency.”.

○