

115TH CONGRESS
1ST SESSION

H. R. 1431

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

MARCH 8, 2017

Mr. LUCAS (for himself, Mr. PETERSON, Mr. SMITH of Texas, Mr. BIGGS, Mr. BANKS of Indiana, Mr. ROHRABACHER, Mr. POSEY, Mr. BROOKS of Alabama, Mr. WEBER of Texas, Mr. BABIN, Mr. HIGGINS of Louisiana, Mr. HULTGREN, Mr. BRIDENSTINE, Mr. ABRAHAM, Mr. LAHOOD, Mr. WEBSTER of Florida, Mr. MARSHALL, Mr. DUNN, Mr. SESSIONS, Mr. CHAFFETZ, Mr. SCHWEIKERT, Mr. PALAZZO, Mr. YOUNG of Alaska, Mr. BARTON, Mr. PEARCE, Mr. FARENTHOLD, Mr. GOSAR, Mr. TIPTON, and Mr. GOODLATTE) 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 2017”.

1 **SEC. 2. SCIENCE ADVISORY BOARD.**

2 (a) INDEPENDENT ADVICE.—Section 8(a) of the En-
3 vironmental Research, Development, and Demonstration
4 Authorization Act of 1978 (42 U.S.C. 4365(a)) is amend-
5 ed by inserting “independently” after “Advisory Board
6 which shall”.

7 (b) MEMBERSHIP.—Section 8(b) of the Environ-
8 mental Research, Development, and Demonstration Au-
9 thorization Act of 1978 (42 U.S.C. 4365(b)) is amended
10 to read as follows:

11 “(b)(1) The Board shall be composed of at least nine
12 members, one of whom shall be designated Chairman, and
13 shall meet at such times and places as may be designated
14 by the Chairman.

15 “(2) Each member of the Board shall be qualified by
16 education, training, and experience to evaluate scientific
17 and technical information on matters referred to the
18 Board under this section. The Administrator shall ensure
19 that—

20 “(A) the scientific and technical points of view
21 represented on and the functions to be performed by
22 the Board are fairly balanced among the members of
23 the Board;

24 “(B) at least ten percent of the membership of
25 the Board are from State, local, or tribal govern-
26 ments;

1 “(C) persons with substantial and relevant ex-
2 pertise are not excluded from the Board due to af-
3 filiation with or representation of entities that may
4 have a potential interest in the Board’s advisory ac-
5 tivities, so long as that interest is fully disclosed to
6 the Administrator and the public and appointment
7 to the Board complies with section 208 of title 18,
8 United States Code;

9 “(D) in the case of a Board advisory activity on
10 a particular matter involving, or for which the Board
11 has evidence that it may involve, a specific party, no
12 Board member having an interest in the specific
13 party shall participate in that activity;

14 “(E) Board members may not participate in ad-
15 visory activities that directly or indirectly involve re-
16 view or evaluation of their own work, unless fully
17 disclosed to the public and the work has been exter-
18 nally peer-reviewed;

19 “(F) Board members shall be designated as
20 special Government employees;

21 “(G) no registered lobbyist is appointed to the
22 Board; and

23 “(H) a Board member shall have no current
24 grants or contracts from the Environmental Protec-
25 tion Agency and shall not apply for a grant or con-

1 tract for 3 years following the end of that member’s
2 service on the Board.

3 “(3) The Administrator shall—

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

6 “(B) solicit nominations from relevant Federal
7 agencies, including the Departments of Agriculture,
8 Defense, Energy, the Interior, and Health and
9 Human Services;

10 “(C) solicit nominations from—

11 “(i) institutions of higher education (as de-
12 fined in section 101(a) of the Higher Education
13 Act of 1965 (20 U.S.C. 1001(a))); and

14 “(ii) scientific and research institutions
15 based in work relevant to that of the Board;

16 “(D) make public the list of nominees, includ-
17 ing the identity of the entities that nominated each,
18 and shall accept public comment on the nominees;

19 “(E) require that, upon their provisional nomi-
20 nation, nominees shall file a written report disclosing
21 financial relationships and interests, including Envi-
22 ronmental Protection Agency grants, contracts, co-
23 operative agreements, or other financial assistance,
24 that are relevant to the Board’s advisory activities
25 for the three-year period prior to the date of their

1 nomination, and relevant professional activities and
2 public statements for the five-year period prior to
3 the date of their nomination; and

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

7 “(4) Disclosure of relevant professional activities
8 under paragraph (3)(E) shall include all representational
9 work, expert testimony, and contract work as well as iden-
10 tifying the party for which the work was done.

11 “(5) Except when specifically prohibited by law, the
12 Agency shall make all conflict of interest waivers granted
13 to members of the Board, member committees, or inves-
14 tigative panels publicly available.

15 “(6) Any recusal agreement made by a member of
16 the Board, a member committee, or an investigative panel,
17 or any recusal known to the Agency that occurs during
18 the course of a meeting or other work of the Board, mem-
19 ber committee, or investigative panel shall promptly be
20 made public by the Administrator.

21 “(7) The terms of the members of the Board shall
22 be three years and shall be staggered so that the terms
23 of no more than one-third of the total membership of the
24 Board shall expire within a single fiscal year. No member
25 shall serve more than two terms over a ten-year period.”.

1 (c) RECORD.—Section 8(c) of such Act (42 U.S.C.
2 4365(c)) is amended—

3 (1) in paragraph (1)—

4 (A) by inserting “or draft risk or hazard
5 assessment,” after “at the time any proposed”;

6 (B) by striking “formal”; and

7 (C) by inserting “or draft risk or hazard
8 assessment,” after “to the Board such pro-
9 posed”; and

10 (2) in paragraph (2)—

11 (A) by inserting “or draft risk or hazard
12 assessment,” after “the scientific and technical
13 basis of the proposed”; and

14 (B) by adding at the end the following:
15 “The Board’s advice and comments, including
16 dissenting views of Board members, and the re-
17 sponse of the Administrator shall be included in
18 the record with respect to any proposed risk or
19 hazard assessment, criteria document, standard,
20 limitation, or regulation and published in the
21 Federal Register.”.

22 (d) MEMBER COMMITTEES AND INVESTIGATIVE PAN-
23 ELS.—Section 8(e)(1)(A) of such Act (42 U.S.C.
24 4365(e)(1)(A)) is amended by adding at the end the fol-

1 lowing: “These member committees and investigative pan-
2 els—

3 “(i) shall be constituted and operate
4 in accordance with the provisions set forth
5 in paragraphs (2) and (3) of subsection
6 (b), in subsection (h), and in subsection
7 (i);

8 “(ii) do not have authority to make
9 decisions on behalf of the Board; and

10 “(iii) may not report directly to the
11 Environmental Protection Agency.”.

12 (e) PUBLIC PARTICIPATION.—Section 8 of such Act
13 (42 U.S.C. 4365) is amended by amending subsection (h)
14 to read as follows:

15 “(h)(1) To facilitate public participation in the advi-
16 sory activities of the Board, the Administrator and the
17 Board shall make public all reports and relevant scientific
18 information and shall provide materials to the public at
19 the same time as received by members of the Board.

20 “(2) Prior to conducting major advisory activities, the
21 Board shall hold a public information-gathering session to
22 discuss the state of the science related to the advisory ac-
23 tivity.

24 “(3) Prior to convening a member committee or in-
25 vestigative panel under subsection (e) or requesting sci-

1 entific advice from the Board, the Administrator shall ac-
2 cept, consider, and address public comments on questions
3 to be asked of the Board. The Board, member committees,
4 and investigative panels shall accept, consider, and ad-
5 dress public comments on such questions and shall not ac-
6 cept a question that unduly narrows the scope of an advi-
7 sory activity.

8 “(4) The Administrator and the Board shall encour-
9 age public comments, including oral comments and discus-
10 sion during the proceedings, that shall not be limited by
11 an insufficient or arbitrary time restriction. Public com-
12 ments shall be provided to the Board when received, and
13 shall be published in the Federal Register grouped by com-
14 mon themes. If multiple repetitious comments are re-
15 ceived, only one such comment shall be published along
16 with the number of such repetitious comments received.
17 Any report made public by the Board shall include written
18 responses to significant comments, including those that
19 present an alternative hypothesis-based scientific point of
20 view, offered by members of the public to the Board.

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

1 (f) OPERATIONS.—Section 8 of such Act (42 U.S.C.
2 4365) is further amended by amending subsection (i) to
3 read as follows:

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

9 “(2) The Board shall clearly communicate uncertain-
10 ties associated with the scientific advice provided to the
11 Administrator or Congress.

12 “(3) The Board shall ensure that advice and com-
13 ments reflect the views of the members and shall encour-
14 age dissenting members to make their views known to the
15 public, the Administrator, and Congress.

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

20 “(5) The Board shall be fully and timely responsive
21 to Congress.”.

1 **SEC. 3. RELATION TO THE FEDERAL ADVISORY COM-**
2 **MITTEE ACT.**

3 Nothing in this Act or the amendments made by this
4 Act shall be construed as supplanting the requirements of
5 the Federal Advisory Committee Act (5 U.S.C. App.).

6 **SEC. 4. RELATION TO THE ETHICS IN GOVERNMENT ACT OF**
7 **1978.**

8 Nothing in this Act or the amendments made by this
9 Act shall be construed as supplanting the requirements of
10 the Ethics in Government Act of 1978 (5 U.S.C. App.).

