

115TH CONGRESS
1ST SESSION

H. R. 1431

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2017

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “EPA Science Advisory
3 Board Reform Act of 2017”.

4 **SEC. 2. SCIENCE ADVISORY BOARD.**

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

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

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

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

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

1 “(B) at least ten percent of the membership of
2 the Board are from State, local, or tribal govern-
3 ments;

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

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

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

22 “(F) Board members shall be designated as
23 special Government employees;

24 “(G) no registered lobbyist is appointed to the
25 Board; and

1 “(H) a Board member shall have no current
2 grants or contracts from the Environmental Protec-
3 tion Agency and shall not apply for a grant or con-
4 tract for 3 years following the end of that member’s
5 service on the Board.

6 “(3) The Administrator shall—

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

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

13 “(C) solicit nominations from—

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

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

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

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

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

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

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

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

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

24 “(7) The terms of the members of the Board shall
25 be three years and shall be staggered so that the terms

1 of no more than one-third of the total membership of the
2 Board shall expire within a single fiscal year. No member
3 shall serve more than two terms over a ten-year period.”.

4 (c) RECORD.—Section 8(c) of such Act (42 U.S.C.
5 4365(c)) is amended—

6 (1) in paragraph (1)—

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

9 (B) by striking “formal”; and

10 (C) by inserting “or draft risk or hazard
11 assessment,” after “to the Board such pro-
12 posed”; and

13 (2) in paragraph (2)—

14 (A) by inserting “or draft risk or hazard
15 assessment,” after “the scientific and technical
16 basis of the proposed”; and

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

1 (d) MEMBER COMMITTEES AND INVESTIGATIVE PAN-
2 ELS.—Section 8(e)(1)(A) of such Act (42 U.S.C.
3 4365(e)(1)(A)) is amended by adding at the end the fol-
4 lowing: “These member committees and investigative pan-
5 els—

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

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

13 “(iii) may not report directly to the
14 Environmental Protection Agency.”.

15 (e) PUBLIC PARTICIPATION.—Section 8 of such Act
16 (42 U.S.C. 4365) is amended by amending subsection (h)
17 to read as follows:

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

23 “(2) Prior to conducting major advisory activities, the
24 Board shall hold a public information-gathering session to

1 discuss the state of the science related to the advisory ac-
2 tivity.

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

12 “(4) The Administrator and the Board shall encour-
13 age public comments, including oral comments and discus-
14 sion during the proceedings, that shall not be limited by
15 an insufficient or arbitrary time restriction. Public com-
16 ments shall be provided to the Board when received, and
17 shall be published in the Federal Register grouped by com-
18 mon themes. If multiple repetitious comments are re-
19 ceived, only one such comment shall be published along
20 with the number of such repetitious comments received.
21 Any report made public by the Board shall include written
22 responses to significant comments, including those that
23 present an alternative hypothesis-based scientific point of
24 view, offered by members of the public to the 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 (f) OPERATIONS.—Section 8 of such Act (42 U.S.C.
5 4365) is further amended by amending subsection (i) to
6 read as follows:

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 or Congress.

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, the Administrator, and Congress.

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.

23 “(5) The Board shall be fully and timely responsive
24 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.).

Passed the House of Representatives March 30,
2017.

Attest:

KAREN L. HAAS,
Clerk.