

112TH CONGRESS
2D SESSION

H. R. 6564

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

SEPTEMBER 28, 2012

Mr. HALL (for himself, Mr. ROHRABACHER, 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 2012”.

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 representatives of State, local, or trib-
19 al governments;

20 “(C) not more than ten percent of the member-
21 ship of the Board are current recipients of Environ-
22 mental Protection Agency grants, contracts, coopera-
23 tive agreements, or other financial assistance;

24 “(D) persons with substantial and relevant ex-
25 pertise are not excluded from the Board due to af-

1 filiation with or representation of entities that may
2 have a potential interest in the Board’s advisory ac-
3 tivities, so long as that interest is fully disclosed to
4 the Administrator and the public;

5 “(E) in the case of a Board advisory activity
6 that may affect a single entity, no Board member
7 representing such entity shall participate in that ac-
8 tivity; and

9 “(F) Board members may not participate in ad-
10 visory activities that directly or indirectly involve re-
11 view and evaluation of their own work.

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 nomination, nominees
22 shall file a written report disclosing financial rela-
23 tionships and professional activities, 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 five-year period prior to the date of their
3 nomination; and

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

12 (b) RECORD.—Section 8(c) of such Act (42 U.S.C.
13 4365(c)) is amended—

14 (1) in paragraph (1), by inserting “risk or haz-
15 ard assessment,” after “at the time any proposed”;
16 and

17 (2) in paragraph (2), by adding at the end the
18 following: “The Board’s advice and comments, in-
19 cluding dissenting views of Board members, and the
20 response of the Administrator shall be included in
21 the record with respect to any proposed risk or haz-
22 ard assessment, criteria document, standard, limita-
23 tion, or regulation and published in the Federal Reg-
24 ister.”.

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

4 “These member committees and investigative panels—

5 “(1) shall be constituted and operate in accord-
6 ance with the provisions set forth in paragraphs (2)
7 and (3) of subsection (b), in subsection (h), and in
8 subsection (i);

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

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

13 (d) PUBLIC PARTICIPATION.—Section 8 of such Act
14 (42 U.S.C. 4365) is amended by adding after subsection
15 (g) the following:

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

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

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

10 “(4) The Administrator and the Board shall encour-
11 age public comments, including oral comments and discus-
12 sion during the proceedings, that shall not be limited by
13 an insufficient or arbitrary time restriction. Public com-
14 ments shall be provided to the Board when received. The
15 Board shall respond in writing to substantive comments
16 offered by members of the public.

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

20 (e) OPERATIONS.—Section 8 of such Act (42 U.S.C.
21 4365) is further amended by adding after subsection (h),
22 as added by subsection (d) of this section, the following:

23 “(i)(1) In carrying out its advisory activities, the
24 Board shall strive to avoid making policy determinations
25 or recommendations, and, in the event the Board feels

1 compelled to offer policy advice, shall explicitly distinguish
2 between scientific advice and policy advice.

3 “(2) The Board shall clearly communicate uncertain-
4 ties associated with the scientific advice provided to the
5 Administrator.

6 “(3) The Board shall ensure that advice and com-
7 ments reflect the views of the members and shall encour-
8 age dissenting members to make their views known to the
9 public and the Administrator.

10 “(4) The Board shall conduct periodic reviews to en-
11 sure that its advisory activities are addressing the most
12 important scientific issues affecting the Environmental
13 Protection Agency.”.

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