

113TH CONGRESS
1ST SESSION

S. 1853

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 SENATE OF THE UNITED STATES

DECEMBER 18, 2013

Mr. BOOZMAN (for himself, Mr. MANCHIN, Mr. CRAPO, Mr. VITTER, Mr. SESSIONS, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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;

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

12 “(G) no federally registered lobbyist is ap-
13 pointed to the Board.

14 “(3) The Administrator shall—

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

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

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

23 “(D) require that, upon their provisional nomi-
24 nation, nominees shall file a written report disclosing
25 financial relationships and interests, including Envi-

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

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

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

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

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

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

6 (b) RECORD.—Section 8(c) of such Act (42 U.S.C.
7 4365(c)) is amended—

8 (1) in paragraph (1)—

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

11 (B) by inserting “risk or hazard assess-
12 ment,” after “to the Board such proposed”;
13 and

14 (2) in paragraph (2)—

15 (A) by inserting “risk or hazard assess-
16 ment,” after “the scientific and technical basis
17 of the proposed”; and

18 (B) by adding at the end the following:

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

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: “These mem-
 4 ber 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’s reports shall include written responses to signifi-
16 cant comments offered by members of the public to the
17 Board.

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

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

24 “(i)(1) In carrying out its advisory activities, the
25 Board shall strive to avoid making policy determinations

1 or recommendations, and, in the event the Board feels
 2 compelled to offer policy advice, shall explicitly distinguish
 3 between scientific determinations and policy advice.

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

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

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

15 **SEC. 3. RELATION TO THE FEDERAL ADVISORY COMMIT-**
 16 **TEE ACT.**

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

20 **SEC. 4. RELATION TO THE ETHICS IN GOVERNMENT ACT OF**
 21 **1978.**

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

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