[~114H1029]

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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. _____

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

Mr. LUCAS introduced the following bill; which was referred to the Committee on _____

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''EPA Science Advisory Board Reform Act of 2017''.

SEC. 2. SCIENCE ADVISORY BOARD.

(a) INDEPENDENT ADVICE.—Section 8(a) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(a)) is amended by inserting ''independently'' after ''Advisory Board which shall''.

(b) MEMBERSHIP.—Section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(b)) is amended to read as follows:

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

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

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

''(B) at least ten percent of the membership of the Board are from State, local, or tribal governments;

"(C) persons with substantial and relevant expertise are not excluded from the Board due to affiliation with or representation of entities that may have a potential interest in the Board's advisory activities, so long as that interest is fully disclosed to the Administrator and the public and appointment to the Board complies with section 208 of title 18, United States Code;

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

"(E) Board members may not participate in advisory activities that directly or indirectly involve review or evaluation of their own work, unless fully disclosed to the public and the work has been externally peer-reviewed;

"(F) Board members shall be designated as special Government employees;

"(G) no registered lobbyist is appointed to the Board; and

"(H) a Board member shall have no current grants or contracts from the Environmental Protection Agency and shall not apply for a grant or con-

tract for 3 years following the end of that member's service on the Board.

''(3) The Administrator shall—

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

''(B) solicit nominations from relevant Federal agencies, including the Departments of Agriculture, Defense, Energy, the Interior, and Health and Human Services;

''(C) solicit nominations from—

''(i) institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))); and

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

''(D) make public the list of nominees, including the identity of the entities that nominated each, and shall accept public comment on the nominees;

''(E) require that, upon their provisional nomination, nominees shall file a written report disclosing financial relationships and interests, including Environmental Protection Agency grants, contracts, cooperative agreements, or other financial assistance, that are relevant to the Board's advisory activities for the three-year period prior to the date of their

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

''(F) make such reports public, with the exception of specific dollar amounts, for each member of the Board upon such member's selection.

''(4) Disclosure of relevant professional activities under paragraph (3)(E) shall include all representational work, expert testimony, and contract work as well as identifying the party for which the work was done.

''(5) Except when specifically prohibited by law, the Agency shall make all conflict of interest waivers granted to members of the Board, member committees, or investigative panels publicly available.

''(6) Any recusal agreement made by a member of the Board, a member committee, or an investigative panel, or any recusal known to the Agency that occurs during the course of a meeting or other work of the Board, member committee, or investigative panel shall promptly be made public by the Administrator.

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

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

(1) in paragraph (1)—

(A) by inserting ''or draft risk or hazard assessment,'' after ''at the time any proposed'';

(B) by striking ''formal''; and

(C) by inserting ''or draft risk or hazard assessment,'' after ''to the Board such proposed''; and

(2) in paragraph (2)—

(A) by inserting ''or draft risk or hazard assessment,'' after ''the scientific and technical basis of the proposed''; and

(B) by adding at the end the following: ''The Board's advice and comments, including dissenting views of Board members, and the response of the Administrator shall be included in the record with respect to any proposed risk or hazard assessment, criteria document, standard, limitation, or regulation and published in the Federal Register.''.

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

lowing: ''These member committees and investigative panels—

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

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

''(iii) may not report directly to the Environmental Protection Agency.''.

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

''(h)(1) To facilitate public participation in the advisory activities of the Board, the Administrator and the Board shall make public all reports and relevant scientific information and shall provide materials to the public at the same time as received by members of the Board.

''(2) Prior to conducting major advisory activities, the Board shall hold a public information-gathering session to discuss the state of the science related to the advisory activity.

''(3) Prior to convening a member committee or investigative panel under subsection (e) or requesting sci-

entific advice from the Board, the Administrator shall accept, consider, and address public comments on questions to be asked of the Board. The Board, member committees, and investigative panels shall accept, consider, and address public comments on such questions and shall not accept a question that unduly narrows the scope of an advisory activity.

''(4) The Administrator and the Board shall encourage public comments, including oral comments and discussion during the proceedings, that shall not be limited by an insufficient or arbitrary time restriction. Public comments shall be provided to the Board when received, and shall be published in the Federal Register grouped by common themes. If multiple repetitious comments are received, only one such comment shall be published along with the number of such repetitious comments received. Any report made public by the Board shall include written responses to significant comments, including those that present an alternative hypothesis-based scientific point of view, offered by members of the public to the Board.

''(5) Following Board meetings, the public shall be given 15 calendar days to provide additional comments for consideration by the Board.''.

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

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

''(2) The Board shall clearly communicate uncertainties associated with the scientific advice provided to the Administrator or Congress.

''(3) The Board shall ensure that advice and comments reflect the views of the members and shall encourage dissenting members to make their views known to the public, the Administrator, and Congress.

''(4) The Board shall conduct periodic reviews to ensure that its advisory activities are addressing the most important scientific issues affecting the Environmental Protection Agency.

''(5) The Board shall be fully and timely responsive to Congress.''.

SEC. 3. RELATION TO THE FEDERAL ADVISORY COMMITTEE ACT.

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

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

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