

Oral Statement to the  
Science Advisory Board  
U.S. Environmental Protection Agency

## EPA Has a Statutory Responsibility to Use Properly Developed and Reviewed Science

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I served on the EPA Science Advisory Board from 2012 to 2018. For most of that time, I served on the SAB's Work Group on EPA Planned Actions.

Under ERDDA, the administrator must make scientific information upon which proposed actions are based available to the SAB.<sup>1</sup> The SAB may provide its advice on the scientific adequacy of the proposed action. The Administrator is supposed to specify a time frame for this input. In response to three June 2018 letters from the SAB advising that scientific review is needed for several planned actions, the Administrator waited 10 months to respond with largely a non-response.<sup>2,3,4,5</sup>

The EPA failed to notify the SAB of the planned action for the so-called "Transparency" rule, which is a violation of ERDDA. The Transparency proposal should receive a thorough SAB review before EPA revises its proposal.

The SAB requested a year ago that EPA be forthcoming with information regarding planned actions. It seems that little has changed.

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<sup>1</sup> <https://www.law.cornell.edu/uscode/text/42/4365>

<sup>2</sup> Science Advisory Board (SAB) Consideration of EPA Planned Actions in the Spring 2017 Unified Agenda of Regulatory and Deregulatory Actions and their Supporting Science, EPA-SAB-18-001, Letter from M. Honeycutt to E.S. Pruitt, June 21, 2018.

<sup>3</sup> Science Advisory Board (SAB) Consideration of EPA Planned Actions in the Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions and their Supporting Science, EPA-SAB-18-002, Letter from M. Honeycutt to E.S. Pruitt, June 21, 2018

<sup>4</sup> Science Advisory Board (SAB) Consideration of EPA Proposed Rule: Strengthening Transparency in Regulatory Science, EPA-SAB-18-003, Letter from M. Honeycutt to E.S. Pruitt, June 28, 2018.

<sup>5</sup> Letter from EPA Administrator A. Wheeler to SAB Chair M. Honeycutt, April 19, 2019.

EPA should provide advance notice to the SAB well before a rule is proposed so that influential scientific information underlying the proposal is properly reviewed before the proposal is made.

While the Administrator may seek advice from other EPA advisory committees, this does not relieve the Administrator of the statutory requirement under ERDDA to provide SAB with information so that the SAB may determine whether a planned action merits SAB review.

For example, the Clean Air Act Advisory Committee is a stakeholder, not scientific, committee. The CAAAC member nomination criteria do not include scientific expertise.<sup>6</sup> As such, CAAAC is not the appropriate forum for review of scientific issues.

With regard to EPA's announced intention to update the 2005 Guidelines for Carcinogenic Risk Assessment, the SAB should undertake an assessment of changes in the state of science before changes to the Guidelines are proposed. Furthermore, for a matter with such broad scientific and policy implications, it is also common to commission the National Research Council to frame the key scientific issues and provide recommendations. In any case, this is not a matter that can be rushed to meet arbitrary deadlines if it is to be done in a scientifically appropriate manner and in good faith.

Recent efforts by EPA to redefine how benefits assessment is conducted should be subject to expert review by a properly constituted review panel. As a matter of basic objectivity and fairness, such assessments should account for all benefits and all costs, to the extent practicable given available data and inference methods.

The SAB should be an advocate for the use of science in the EPA, - for example, by calling out the censoring of science on EPA webpages and infringement by political leadership on the scientific work of career staff.<sup>7,8</sup>

Finally, recent changes to the criteria for appointing members to the SAB undermine the credibility of the SAB itself. An October 31, 2017 memo by Pruitt requires that priority should be given to "geographic diversity", not scientific expertise.

The memorandum states that "no member of an EPA federal advisory committee currently receive EPA grants," This is illogical for many reasons as detailed in my written comments. Moreover, the memorandum does not acknowledge that persons with financial or professional ties to regulated industries or ideological organizations have, at the very least, the appearance of conflict of interest.

EPA leadership's lack of commitment to science is evident not only with the recent changes to the SAB but based on its interference with the proper function of the CASAC and its expert

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<sup>6</sup> [https://www.epa.gov/sites/production/files/2016-09/documents/nomination\\_form\\_2017.pdf](https://www.epa.gov/sites/production/files/2016-09/documents/nomination_form_2017.pdf)

<sup>7</sup> The website [www.epa.gov/climatechange](http://www.epa.gov/climatechange) no longer exists.

<sup>8</sup> For example, under "Climate Change Research Fact Sheets, the Air and Energy Research Overview Fact Sheet omits any work related to climate change, whereas this program used to be the Air, Climate, and Energy research program. [https://www.epa.gov/sites/production/files/2018-05/documents/air\\_and\\_energy\\_research\\_program\\_fact\\_sheet\\_-\\_may\\_2018.pdf](https://www.epa.gov/sites/production/files/2018-05/documents/air_and_energy_research_program_fact_sheet_-_may_2018.pdf)

panels.<sup>9,10,11</sup> The Administrator is apparently misinformed regarding the causes of delays in the NAAQS Review Process. The CAA is clear regarding the scope and depth of scientific review needed. However, the average amount of time for CASAC's role in NAAQS review from the first draft of an integrated science assessment to its final advice has been about 2 years. The review panels work in parallel with the chartered CASAC and do not increase the timeframe for CASAC review. In fact, they provide the required breadth and depth of expertise without which CASAC cannot do its job in compliance with the CAA.

The SAB should be constituted based on scientific expertise, should include active researchers, should not exclude research grant recipients, and should include members with previous SAB experience to ensure continuity.

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<sup>9</sup> Frey, H.C., J.M. Samet, A.V. Diez Roux, G. Allen, E.L. Avol, J. Brain, D.P. Chock, D.A. Grantz, J.R. Harkema, D.J. Jacob, D.M. Kenski, S.R. Kleeberger, F.J. Miller, H.S. Neufeld, A.G. Russell, H.H. Suh, J.S. Ultman, P.B. Woodbury, and R. Wyzga, "CASAC Advice on the EPA's Integrated Review Plan for the Ozone National Ambient Air Quality Standards (External Review Draft)," 24 page letter with 42 pages of attachments, submitted to Chair, Clean Air Scientific Advisory Committee, U.S. Environmental Protection Agency and to Docket EPA-HQ-OAR-2018-0279, November 26, 2018.

<sup>10</sup> Frey, H.C., A.V. Diez Roux, J. Balmes, J.C. Chow, D.W. Dockery, J.R. Harkema, J. Kaufman, D.M. Kenski, M. Kleinman, R.L. Poirot, J.A. Sarnat, E.A. Sheppard, B. Turpin, and S. Vedal, "CASAC Review of EPA's Integrated Science Assessment (ISA) for Particulate Matter (External Review Draft – October 2018)," 34 page letter and 100 pages of attachments submitted to Chair, Clean Air Scientific Advisory Committee, U.S. Environmental Protection Agency and to Docket EPA-HQ-ORD-2014-0859, December 10, 2018.

<sup>11</sup> Frey, H.C., A.V. Diez Roux, P. Adams, G. Allen, J. Balmes, J.C. Chow, D.W. Dockery, J.R. Harkema, J. Kaufman, D.M. Kenski, M. Kleinman, R. McConnell, R.L. Poirot, J.A. Sarnat, E.A. Sheppard, B. Turpin, and S. Vedal, "03-07-19 Draft CASAC Review of EPA's Integrated Science Assessment (ISA) for Particulate Matter (External Review Draft – October 2018)," 19 page letter submitted to Chair, Clean Air Scientific Advisory Committee, U.S. Environmental Protection Agency, Washington, DC, March 27, 2019