

June 5, 2019

Statement of John Bachmann for the Public Meeting of the EPA Chartered Science Advisory Board (SAB), Re: June 5-6 SAB Discussions about EPA Planned Actions and Their Supporting Science

This is John Bachmann. I'm former associate director for Science/Policy in EPA's air office in Research Triangle Park. My comments focus on the need for SAB to recognize and push back on the continuing attempts by EPA management to diminish the importance of science and external science advice, particularly where science and peer reviews might affect their policy and regulatory agenda.

We've seen this evidenced by a number of actions over the last two years:

- Shortening SAB and CASAC terms, eliminating scientists who have EPA funding, but not industry consultants or employees;
- Cutting EPA's research budget;
- Making fundamental changes to the NAAQS review process including dissolving the expert panels long used in such reviews without consulting CASAC;
- Challenging the modeling and scenarios used in EPA and interagency assessments of the effects of climate change;
- And most pertinent to this meeting, the Administrator's much delayed response to past SAB requests, which obviously limits SAB's role in reviewing the science underlying regulations and guidance.

By contrast, I want to commend the effort and thought -- as well as the specific recommendations -- made by the last two SAB work groups chaired by Dr. Alison Cullen in identifying actions requiring SAB involvement. The unfortunate reality, however, is that too many of the actions had already been proposed before such involvement was possible.

The Administrator's April letter to the SAB overlooks an important detail in the 1978 Environmental Research, Development and Demonstration Authorization (ERDDAA) legislation; that law requires EPA to provide the SAB with the opportunity to examine any proposal and its underlying science at the same time it is provided to the Office of Management and Budget (OMB) for interagency review. This means BEFORE it is actually proposed for public review.

Thus, in not providing any information on the Transparency Rule to SAB ahead of proposal last year, EPA not only broke the spirit of established procedures to comply with ERDDAA, but also actually violated the law. In your process discussions with EPA, I hope the SAB will focus on going back to an approach that addresses the ERDDAA requirements well before proposal, and not accept the Administrator's suggestion to brief you on rules only after they are proposed.

With respect to the Transparency Rule itself, SAB should not accept the Administrator's unreasonable attempt to limit the scope of your examination of the many important issues and questions raised in the 2018 SAB Workgroup report. This rule merits a full peer review by the SAB, not a one-off consultation of limited scope. The fact that Mr. Wheeler waited 10 months to respond to your well written request regarding this rule, as well as several others raised in the May 2018 meeting, speaks for itself.

I want to clear up another point in the Administrator's letter. The Clean Air Act Advisory Committee is a valuable and important stakeholder group for reviewing regulatory approaches, but it was never intended to be nor has it served as a scientific peer review committee. It is not a substitute for cases where an SAB peer review is warranted. This includes the mobile source subcommittee that the Wheeler letter suggests may review the issues the SAB identified last year for the Glider rule. If EPA actually does ask that subcommittee for a review, SAB should be fully briefed on the results.

In addition to the Transparency Rule, I strongly recommend that SAB adopt the 2019 workgroup conclusions and rationale regarding the need for SAB review of the update to the mercury and air toxics rule for power plants (MATS), and the "SAFE" rule, that weakens future light duty vehicle greenhouse gas standards.

Both of these rules raise issues with respect to methodology and practice for cost-benefit analysis, as detailed in written comments by representatives of the Institute for Policy Integrity. EPA has also just announced a new rule addressing this topic, titled "Clean Air Act Benefit-Cost Reforms," which they plan to propose by the end of this year. Some background is provided by the Administrator's May 13th memo, available on the meeting website. Given the recent SAB proposal for addressing co-benefits, an initial consultation and peer review of relevant aspects

of this new EPA proposal should be high on the SAB agenda for this year. In so doing, SAB should consider reinstating the recently dissolved Economics Panel, which should be constituted to provide both the appropriate expertise as well as the balance of perspectives needed for a review of the proposal. With respect to the proposed SAB project on co-benefits, I commend to your consideration the comments provided by Dr. Alan Krupnick of RFF.

Thank you.