

**COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
SUBCOMMITTEE ON INVESTIGATIONS & OVERSIGHT
SUBCOMMITTEE ON ENVIRONMENT
U.S. HOUSE OF REPRESENTATIVES**

HEARING CHARTER

EPA Advisory Committees: How Science Should Inform Decisions

Tuesday, July 16, 2019
2:00 p.m.
2318 Rayburn House Office Building

PURPOSE

The purpose of this hearing is to discuss the current state of federal advisory committees at the EPA in light of the findings published in the July 2019 Government Accountability Office (GAO) report, *EPA's Advisory Committees: Improvements Needed for the Member Appointment Process*. The hearing will provide an opportunity to discuss how the appointment process for EPA's science advisory committees has changed in recent years. The Committee will also examine how three key boards at EPA – the Clean Air Scientific Advisory Committee, the Board of Scientific Counselors, and the Science Advisory Board – are utilized to ensure EPA decision making is grounded in the best available science.

WITNESSES

- **Mr. J. Alfredo Gomez**, Director, Natural Resources and Environment, U.S. Government Accountability Office
- **Dr. Thomas A. Burke**, PhD, MPH, Jacob I. and Irene B. Fabrikant Professor and Chair in Health Risk and Society, Bloomberg School of Public Health, Johns Hopkins University
- **Dr. Deborah Swackhamer (Swack-hammer)**, Professor Emerita, Humphrey School of Public Affairs, University of Minnesota
- **Dr. Jonathan Samet (Sah-met)**, MD, MS, Dean, Colorado School of Public Health

OVERARCHING QUESTIONS

- What is the role of federal advisory committees at EPA?
- How has EPA historically populated its scientific advisory committees, specifically the Clean Air Scientific Advisory Committee, the EPA Science Advisory Board, and the EPA Board of Scientific Counselors?
- What are the findings of GAO's report *EPA's Advisory Committees: Improvements Needed for Member Appointment Process*?

BACKGROUND

Federal Advisory Committees

Federal Advisory Committees (FACs) play an important role across the federal government as an opportunity to receive advice and recommendations from non-federal experts on a wide array of topics. FACs can be established through statute, by presidential directive, or at the discretion of a federal agency. The Federal Advisory Committee Act (FACA) lays out a standard set of requirements and processes as well as mechanisms for formal oversight for all FACs. FACA requires all FAC meetings be open to the public, (unless excepted) and generally requires that all records from meetings be made publicly available.¹ Each agency is also required to have a Designated Federal Officer (DFO) for each FAC to help coordinate the committee activities. The General Services Administration's Committee Management Secretariat was established to ensure compliance of FACs with the FACA and handles all administrative issues related to FACs.²

On June 14, 2019 the President issued an Executive Order on *Evaluating and Improving the Utility of Federal Advisory Committees*,³ which would require each agency to terminate at least one third of all non-statutorily required FACs and sets a government-wide maximum of 350 FACA committees to be met by September 1, 2019. Currently there are over 1,000 FACs across the federal government.⁴

Federal Advisory Committees at the EPA

EPA currently has 22 FACs that provide external expert advice and recommendations on a variety of topics ranging from chemicals,⁵ to drinking water,⁶ to children's health protection.⁷ Three advisory committees that provide feedback on scientific decisions throughout the agency include the Clean Air Scientific Advisory Committee (CASAC), the EPA Science Advisory Board (SAB), and the EPA Board of Scientific Counselors (BOSC).

Clean Air Scientific Advisory Committee - The CASAC was established in the Clean Air Act Amendments of 1977 to provide advice to the Administrator on National Ambient Air Quality Standards (NAAQS) for the six criteria air pollutants, among other things.⁸ The membership of the seven-member panel is set in statute to include one physician, one state air pollution control agency representative, and one member of the National Academy of Sciences. Historically, the seven-member panel has been supported by pollutant-specific subcommittees and panels to provide additional expert review for each criteria pollutant. The Chair of the CASAC also serves

¹ FACA; 5 U.S.C. Appendix—Federal Advisory Committee Act; as amended

² GSA, Committee Management Secretariat, accessed here: <https://www.gsa.gov/about-us/organization/office-of-governmentwide-policy/office-of-asset-and-transportation-management/committee-management-secretariat>

³ Executive Order 13875, "Evaluating and Improving the Utility of Federal Advisory Committees," June 14, 2019, accessed here: <https://www.federalregister.gov/documents/2019/06/19/2019-13175/evaluating-and-improving-the-utility-of-federal-advisory-committees>

⁴ GSA, "FACA 101," April 4, 2018, accessed here: <https://www.gsa.gov/policy-regulations/policy/federal-advisory-committee-management/finding-information-on-faca-committees/faca-101>

⁵ U.S. EPA, Science Advisory Committee on Chemicals (SACC), accessed here: <https://www.epa.gov/tsca-peer-review>

⁶ U.S. EPA, National Drinking Water Advisory Council (NDWAC), accessed here: <https://www.epa.gov/ndwac>

⁷ U.S. EPA, Children's Health Protection Advisory Committee (CHPAC), accessed here: <https://www.epa.gov/children/chpac>

⁸ The six criteria pollutants for which EPA sets NAAQS are: carbon monoxide, lead, ground-level ozone, nitrogen dioxide, particulate matter, and sulfur dioxide.

as a member of the chartered SAB.⁹ The CASAC is managed out of the SAB Staff Office within the Office of the Administrator.¹⁰

EPA Science Advisory Board – the SAB was established in the 1978 Environmental Research, Development and Demonstration Authorization Act (ERDDAA) to provide scientific advice to the Administrator and designated Congressional Committees as requested. The SAB consists of its chartered board, standing and ad hoc committees, and panels and workgroups.¹¹ The chartered SAB is one of the largest FACs at the agency and is to be composed of about 45 members. The SAB provides independent advice to the Administrator on scientific and technical aspects of environmental issues. The SAB is managed out of the SAB Staff Office within the Office of the Administrator.

EPA Board of Scientific Counselors – the BOSC provides advice and feedback on all aspects (technical and management) of the research programs for EPA’s Office of Research and Development (ORD) and coordinates with the SAB accordingly. ORD requested the establishment of the BOSC in 1996 under FACA to advise the Assistant Administrator for Research and Development.¹² Though not a part of the SAB, BOSC consults and coordinates with the SAB accordingly. Recommendations from the BOSC are made to the EPA Administrator through the Assistant Administrator for Research and Development. The BOSC is to be composed of approximately 20 members.¹³

Actions affecting FACs at EPA

On October 31, 2017, former Administrator Scott Pruitt issued an agency memorandum that laid out new requirements for participation in EPA’s advisory committees.¹⁴ The new requirements included: barring recipients of EPA grants from participating on any EPA FAC; increasing participation of state, tribal, and local government officials on EPA FACs; enhancing geographic diversity amongst EPA FAC membership; and increasing rotation of FAC members to provide new perspectives.

Additionally, former Administrator Pruitt took the unusual step of dismissing members who were eligible to be renewed for a second consecutive term. This was despite EPA’s previous commitment to members who were eligible that they could expect to have their membership renewed. This decision also went against years of precedent.¹⁵

⁹ U.S. EPA, “Charter: Clean Air Scientific Advisory Committee,” Date Filed with Congress: June 5, 2019, accessed here: [https://yosemite.epa.gov/sab/sabproduct.nsf/WebCASAC/2019casaccharter/\\$File/CASAC%202019%20Renewal%20Charter%203.21.19%20-%20final.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/WebCASAC/2019casaccharter/$File/CASAC%202019%20Renewal%20Charter%203.21.19%20-%20final.pdf)

¹⁰ U.S. EPA, “About the Science Advisory Board (SAB) and the SAB Staff Office,” Accessed here: <https://www.epa.gov/aboutepa/about-science-advisory-board-sab-and-sab-staff-office>

¹¹ U.S. EPA, “Charter: EPA Science Advisory Board.” Date Filed with Congress: September 12, 2017, accessed here, [https://yosemite.epa.gov/sab/sabproduct.nsf/Web/2017SABcharter/\\$File/SABCharterSept2017.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/Web/2017SABcharter/$File/SABCharterSept2017.pdf)

¹² National Academies of Sciences, Engineering, and Medicine, “Strengthening Science at the U.S. Environmental Protection Agency: Research-Management and Peer-Review Practices,” 2000, National Academies Press, accessed here: <https://www.nap.edu/read/9882/chapter/3#31>

¹³ U.S. EPA, “Charter: EPA Board of Scientific Counselors,” Date Filed with Congress, May 9, 2018, accessed here: https://www.epa.gov/sites/production/files/2018-05/documents/epa_bosc_2018_renewal_charter_5-9-18.pdf

¹⁴ E. Scott Pruitt, “Strengthening and Improving Membership on EPA Federal Advisory Committees,” U.S. EPA, October 31, 2017, accessed here: <https://www.epa.gov/faca/strengthening-and-improving-membership-epa-federal-advisory-committees>

¹⁵ Eilperin, Juliet and Dennis, Brady, “EPA dismisses half of key board’s scientific advisers; Interior suspends more than 200 advisory panels,” The Washington Post, May 8, 2017, accessed here: <https://www.washingtonpost.com/news/energy->

In October 2018, then-Acting Administrator Andrew Wheeler disbanded the 20-person CASAC Particulate Matter Review Panel and never empaneled experts for a similar panel on ozone.¹⁶ CASAC pollutant-specific panels are not required under the Clean Air Act but have historically provided specialized expert review for individual criteria pollutants.¹⁷ In a letter to Administrator Wheeler in April 2019 following a review of the Integrated Science Assessment (ISA) for particulate matter (PM), the CASAC acknowledged that “[a]dditional expertise is needed for the Clean Air Scientific Advisory Committee (CASAC) to provide a thorough review of the particulate matter (PM) National Ambient Air Quality Standard documents” and that the “breadth and diversity of evidence to be considered exceeds the expertise of the statutory CASAC members... The CASAC recommend[ed] that the EPA reappoint the previous CASAC PM panel or appoint a panel with similar expertise.”¹⁸ Administrator Wheeler has yet to respond to CASAC’s recommendation to reappoint a PM panel.

Findings of July 2019 GAO Report on Appointment Process for EPA Advisory Committees

In July 2019, the GAO finished work on report on the appointment process of advisory committees at the EPA.¹⁹ GAO’s audit specifically looked at EPA’s process for appointing FAC members, how well EPA abided by that process, and whether or not any characteristics of the EPA FACs changed after January 2017. The full report will be made public on Monday, July 15. Upon its publication, the Committee will issue an addendum to this charter with the report’s findings and recommendations.

Additional Reading

Stuessy, Meghan M. *Federal Advisory Committees: An Introduction and Overview*. Congressional Research Service. October 27, 2016. <https://www.crs.gov/reports/pdf/R44253>

Stuessy, Meghan M. CRS Insight. June 27, 2019. Executive Order to Reduce the Number of Federal Advisory Committees. <https://www.crs.gov/Reports/IN11139?source=search&guid=ba8c15d7c2c44919a2d42bfc87b03c4f&index=3#>

U.S. Government Accountability Office, *EPA’s Science Advisory Board: Improved Procedures Needed to Process Congressional Requests for Scientific Advice*, GAO-15-500, June 2015. <https://www.gao.gov/products/GAO-15-500>

[environment/wp/2017/05/07/epa-dismisses-half-of-its-scientific-advisers-on-key-board-citing-clean-break-with-obama-administration/?utm_term=.b4e3a3ff4834](https://www.environment/wp/2017/05/07/epa-dismisses-half-of-its-scientific-advisers-on-key-board-citing-clean-break-with-obama-administration/?utm_term=.b4e3a3ff4834)

¹⁶ Reilly, Sean, “EPA scraps science panel: ‘Your service... has concluded,’” E&E News, October 12, 2018, accessed here: <https://www.eenews.net/stories/1060102455>

¹⁷ Friedman, Lisa, “E.P.A. to Disband a Key Scientific Review Panel on Air Pollution,” The New York Times, October 11, 2018, accessed here: <https://www.nytimes.com/2018/10/11/climate/epa-disbands-pollution-science-panel.html>

¹⁸ Louis Anthony Cox et al, “CASAC Review of the EPA’s *Integrated Science Assessment for Particulate Matter (External Review Draft – October 2018)*,” U.S. EPA, April 11, 2019, accessed here:

<https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebReportsLastMonthCASAC/6CBCBBC3025E13B4852583D90047B352/%24File/EPA-CASAC-19-002+.pdf>

¹⁹ U.S. Government Accountability Office. “EPA Advisory Committees: Improvements Needed for the Member Appointment Process,” July, 2019, GAO-19-280.