March 29, 2017

Dear Chairman Smith and Ranking Member Johnson:

We are writing to express our strong opposition to the draft legislation, the "EPA Science Advisory Board Reform Act of 2017" (H.R.1431). The bill, which would amend the Environmental Research, Development, and Demonstration Authorization Act of 1978, would hinder the ability of the Environmental Protection Agency's Science Advisory Board (EPA SAB) to reach timely, independent, objective, credible conclusions that can form the basis of policy. While the bill is not identical to previous versions of this legislation, the bill would still weaken longstanding conflict-of-interest considerations for industry scientists while imposing unprecedented and unnecessary limitations on government-funded scientists, and complicating the SAB review process, with no discernible benefit to EPA or the public.

Our most serious specific concerns with the bill are described below, in the order in which the provisions appear:

P.3, lines 1-8, creating Section 8(b)(2)(C) in the underlying Act, **promotes inclusion of panelists with financial conflicts, as long as they disclose their conflicts and obtain a waiver.**

As with previous versions of this legislation, the bill shifts the current presumption against including people with financial conflicts on the SAB. The bill appears to effectively mandate the inclusion of scientists with financial conflicts, as long as the conflicts are disclosed, notwithstanding the reference to one portion of existing ethics law. Disclosure does not eliminate the problems that can occur when someone with a conflict influences policy guidance.

Policies and practices to identify and eliminate persons with financial conflicts, interests, and undue biases from independent scientific advisory committees have been implemented by all the federal agencies, the National Academy of Sciences, and international scientific bodies such as the International Agency for Research on Cancer of the World Health Organization. The bill's provisions are inconsistent with a set of nearly universally accepted scientific principles to eliminate or limit financial conflicts. Following these principles is the way agencies, the public, and Congress should ensure their scientific advice is credible and independent.

Moreover, EPA already grants exemptions as needed to allow scientists to participate if their expertise is required despite their potential conflicts.

P. 3, line 23 to P.4, line 2, creating a Section 8(b)(2)(H) in the underlying Act, **establishes an arbitrary and unwarranted bar on non-industry scientists who are receiving grants or contracts from EPA, or who may do so in the future.**

This provision would bar participation by any academic or government scientist who is currently receiving a grant or under contract from EPA, and bar any Board member from seeking any grant or contract from EPA for three years after the end of their term on the Board. This arbitrary and unwarranted limitation on current or future recipients of government funding would severely limit the

ability of EPA to get the best, most independent scientists on its premier advisory board – as well as any committees or panels of the board – without any evidence that no-strings government funding, such as research grants, constitute a conflict of interest.

P.6, lines 1-21, amending Section 8(c) of the underlying act, e**xpands the scope of the SAB's work, and increases the burden.**

This provision broadens the scope of documents that must be submitted to the SAB for review to include every risk or hazard assessment proposed by the agency, a dramatic and unnecessary expansion. The expansion would provide an expanded platform for the new industry-stacked panels envisioned by this bill to challenge proposed actions by EPA, including hazard and risk assessments.

P. 8, lines 8-23, creating a Section 8(h)(4) in the underlying Act, e**nsures endless delay, burden and red tape under the guise of "transparency."**

This provision would give industry unlimited time to present its arguments to the SAB. Industry representatives already dominate proceedings because of their greater numbers and resources. In addition, the requirement for the SAB to respond in writing to "significant" public comments is vague (e.g., who defines what is "significant," and how?) and would tie down the SAB with needless and burdensome process. It also misconstrues the nature of both the SAB's role and the role of public comment in the SAB process. The role of the SAB is to provide its expert advice to the Agency. The role of the public comments during this phase is to provide informative input to the SAB as it deliberates, but the final product of the SAB deliberation is advice from the panel members, not an agency proposal or decision that requires response to public comment. Members of the public, including stakeholders, have multiple opportunities to provide input directly to the agency.

In short, the "EPA Science Advisory Board Reform Act of 2017" would alter the nature of the SAB, which has been largely successful in providing the EPA expert review of key scientific and technical questions and would encourage industry conflicts in the review of scientific materials. It would also pile new and burdensome requirements on the Board, severely hampering its work and effectiveness. The result would be to further stall and undermine important public health, safety and environmental measures.

We urge you to abandon plans to advance this legislation. We would be happy to discuss our concerns with you further.

Sincerely,

Clean Water Action
Earthjustice
League of Conservation Voters (LCV)
Natural Resources Defense Council