

May 22, 2018

Written Statement for the Public Meeting of the Executive Committee of the EPA Science Advisory Board, 5/31 to 6/1

On behalf of the Union of Concerned Scientists (UCS), I submit this comment to the Environmental Protection Agency (EPA) Science Advisory Board in anticipation of its meeting to discuss the agency's semiannual regulatory agenda and other matters. UCS is a science-based nonprofit working for a healthy environment and a safer world. Our organization combines independent scientific research and citizen action to support innovative, practical solutions and secure responsible changes in government policy, corporate practices, and consumer choices.

First, I would like to commend the SAB workgroup on its review of the Spring 2017 and Fall 2017 regulatory agendas and its suggestions to review proposed changes to the clean power plan, standards of performance for greenhouse gas emissions for new, reconstructed, and modified sources, greenhouse gas emissions standards for light-duty vehicles, and emission requirements for glider vehicles. These original regulations set historically strong standards to limit methane emissions that have disastrous impacts on the climate and to reduce carbon emissions from power plants and automobiles. EPA's move to cancel the information request from the oil and gas industry for performance standards for oil and gas emissions has meant that there is even less information on which to base a deregulatory decision, and the SAB must have a chance to review these EPA actions that could have dramatic environmental and public health implications.

On the emission requirements for glider vehicles, it is critical that the EPA not move forward with its repeal for the reasons outlined by the SAB. As noted in the workgroup's memo, the scientific basis of the repeal was an emissions study from Tennessee Tech University funded by Fitzgerald Company, one of the primary manufacturers of glider trucks, and has since been withdrawn by the university because of the unscientific nature of the article.¹ The rule this new proposed rule would seek to repeal was a huge public health victory and EPA's own analysis expected that the particulate matter emissions released over the lifetime of glider trucks sold in just one year will result in as many as 1,600 premature deaths.² We encourage SAB's review of the scientific justification of this proposed repeal.

In addition to the three actions flagged by the workgroup for further review, the workgroup noted that there was a general lack of supporting evidence for the SAB to even judge the merits of scientific review for the other items on the list provided to the committee, specifically on the

¹ Lipton, E. 2018. University Pulls Back on Pollution Study That Supported Its Benefactor. *New York Times*, February 21. Online at <https://www.nytimes.com/2018/02/21/admin/trucking-pollution-study.html>, Accessed May 18, 2018.

²U.S. Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration. 2016. Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium-and Heavy-Duty Engines and Vehicles-Phase 2, Response to Comments for Joint Rulemaking, August. Online at <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100P8IS.PDF?Dockey=P100P8IS.PDF>, Accessed May 18, 2018.

Waters of the United States Rule and on TSCA regulation. There is certainly an opportunity for the SAB to advise the administrator to provide specific information on the peer review associated with the science basis for actions and more description of the bases for its actions.

We would also like to support the SAB workgroup's recommendation that the SAB review the agency's April proposed rulemaking, "Strengthening Transparency in Regulatory Science." In the SAB workgroup's memo, it recommends that the SAB review the merits of the rule because "it deals with a myriad of scientific issues for which the Agency should seek expert advice from the Science Advisory Board." Some of the areas flagged by the memo include the lack of assessment of the impact of data restrictions on current or future rulemaking, the fact that the EPA did not solicit input from the scientific community, and that the rule does not acknowledge the strides in transparency that have already been made by epidemiologic science community. For the reasons that the SAB laid out in its May 12th memo, and more that we will be articulating in an upcoming comment, this proposed rule would effectively change the way the EPA uses science in its rulemaking and thus how EPA SAB can review agency actions. It is crucial that the SAB communicate to the EPA the necessity of its review before any further actions are taken by the administration.

We would also urge the SAB to consider reviewing a recent EPA guidance³ that would dramatically alter how science informs the National Ambient Air Quality Standards (NAAQS) process which has effectively and drastically reduced ambient air pollution in this country for decades. According to statute, the SAB can provide advice on the "adequacy of the scientific and technical basis" of proposed criteria documents, standards, limitations, or regulations⁴ which should include this particular guidance which along with a presidential memo issued last month⁵ would chip away at the long-standing science-based process that has effectively and substantially reduced ambient pollution in this country for decades. Under the proposal, the EPA and its science advisors must not solely consider public health (as the law requires) but must elevate consideration of potential adverse impacts from setting a health-based standard, such as economic impacts. While the EPA guidance claims to "differentiate science and policy judgments," it in fact does the opposite. The process would be removed from EPA's Office of Research and Development and the comprehensive document outlining the state of the science on pollutants and health that the administration relies on to make science-based decisions may be combined with a regulatory impact assessment, blurring the distinction between scientific and political judgments. This builds on a presidential memo that limited the kinds of scientific analyses the EPA can use when determining whether states are meeting the standard. As former CASAC chair Barry Goldstein wrote in a recent op-ed, "this new approach to setting primary air quality standards should be judged in conjunction with other major decisions about the

³ Pruitt, E.S. 2018. Memorandum: Back-to-Basics Process for Reviewing National Ambient Air Quality Standards, May 9. Online at <https://www.epa.gov/sites/production/files/2018-05/documents/image2018-05-09-173219.pdf>, Accessed May 18, 2018.

⁴ 42 USC § 4635(c)

⁵ Trump, D.J. 2018. Presidential Memorandum for the Administrator of the Environmental Protection Agency, April 12. Online at <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-administrator-environmental-protection-agency/>, Accessed May 18, 2018.

incorporation of science into EPA.”⁶ We urge the SAB to heed his call and to inform the EPA that this is another regulatory action that the SAB should have a chance to weigh in before the agency moves forward with implementation.

Additionally, on June 1st, the SAB will hear from EPA staff on its approaches on perfluoroalkyl substances (PFAS). As UCS FOIA documents revealed earlier this month that the White House has possibly slowed the release of U.S. Department of Health and Human Services (HHS) Agency for Toxic Substances and Disease Registry (ATSDR’s) toxicological profile of PFAS,⁷ we would encourage the SAB to ensure that the science staff at EPA is coordinating with HHS and not obstructing the release of a report that will help communities impacted firsthand by PFAS and PFOA contamination of their water to understand what levels are safe and hold military bases and industrial facilities accountable for swiftly remediating sites that are public health hazards.

Finally, I want to communicate how important it is that the SAB continue to meet regularly. Public access to information is at the heart of the Federal Advisory Committee Act by which the SAB is governed. We are glad to see that the SAB is meeting in person after a hiatus and welcome new members of the SAB. We want to remind the Board of the important role it serves in making sure the Administrator has access to strong, objective scientific advice as he endeavors to take on a variety of science-based tasks. The SAB has a long history of serving a critical role to the agency and the public relies on this body to hold the agency accountable. Thus, it is also important that the SAB does everything it can to remain objective including continuing to hold members to conflicts of interest reviews and recusals when deemed necessary to ensure that science, not politics, informs the advice given to the administrator and the best available science is able to inform the public health protections for which EPA is responsible.

Sincerely,

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⁶ Goldstein, B.D. 2018. Pruitt’s EPA disregards the science behind the Clean Air Act. *The Hill*, May 16. Online at <http://thehill.com/opinion/energy-environment/387381-pruitts-epa-disregards-the-science-behind-the-clean-air-act>, Accessed May 18, 2018.

⁷ Snider, A. 2018. White House, EPA headed off chemical pollution study. *Politico*, May 14. Online at <https://www.politico.com/story/2018/05/14/emails-white-house-interfered-with-science-study-536950>, Accessed May 18, 2018.