United States Senate
WASHINGTON, DC 20510

November 15, 2018

The Honorable Andrew Wheeler
Acting Administrator
Environmental Protection Agency
1301 Constitution Ave. NW
Washington, DC 20460

Dear Acting Administrator Wheeler:

We write to request information about the Environmental Protection Agency's (EPA's) recent dismissal and appointment of members to its Clean Air Scientific Advisory Committee (CASAC), its decision to disband two key scientific air pollution advisory panels, and its invitation for public comment on the nomination of 174 scientists to EPA's Science Advisory Board.[1] These actions, taken together with past similar actions, could have the effect of jeopardizing the environment and human health, because they are likely to result in the replacement of renowned scientists who can provide EPA with advice on how to best protect people from the effects of environmental pollution with less qualified, industry representatives who may also have conflicts of interest.

There have been frequent efforts to understand the manner in which EPA is removing and appointing scientists on its federal advisory committees:

- In letters sent to then-Administrator Pruitt in May 2017, Senators Carper[2], Shaheen, and Hassan[3] expressed deep concern about EPA's abrupt dismissal of twelve scientists from EPA's Board of Scientific Counselors, and Senator Carper requested all documents "related to any EPA plans or consideration of plans not to renew the terms of any member of any of EPA's other boards or panels."
- In July 2017, the Government Accountability Office (GAO) accepted a request from 10 Senators[4] to review EPA's process for selecting federal advisory committee members.
- After EPA announced[5] on October 31, 2017 that it would ban scientists from serving on federal advisory committees if they received research funding from EPA, 10 Senators

---

[1] https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentBOARD/593858E2F8E40BB8852582BA006B57E5/$File/LOCpostSABFY2019.pdf
[2] https://www.epw.senate.gov/public/index.cfm/2017/5/carper-questions-epa-s-abrupt-dismissal-of-scientists-from-agency-board
[3] https://www.shaheen.senate.gov/imo/media/doc/5-18-17%20Letter%20Dismissal%20of%20EPA%20BOSC%20members.pdf
[4] https://www.whitehouse.senate.gov/news/release/senators-call-on-government-watchdog-to-examine-independence-of-epa-advisory-committees
[5] https://www.epa.gov/sites/production/files/2017-10/documents/final_draft_fac_directive-10.31.2017.pdf

asked[6] GAO to expand its probe in order to consider several questions concerning the impact of that policy on EPA's 22 federal advisory committees.

- On January 9, 2018, Senators Carper and Whitehouse sent a letter[7] to EPA asking about the appointment of two scientists—Drs. Louis Anthony (Tony) Cox, Jr., a researcher for the petroleum industry, and S. Stanley Young, a researcher for the pharmaceutical and petroleum industry—to the CASAC and Scientific Advisory Board.[8] According to internal EPA documents, EPA career staff believed that Drs. Cox and Young may have financial conflicts of interest, may risk an appearance of a lack of impartiality, and may lack the scientific expertise necessary to serve on one or more Federal Advisory Committees.
- On February 14, 2018, Senators Carper and Whitehouse sent[9] GAO information about Dr. Cox and Dr. Larry Wolk, who, according to internal EPA documents released by the Senators, was criticized for having "no direct experience in health effects of air pollution," among other things.

There have also been more recent changes to CASAC's membership. On October 10, 2018, EPA announced the appointment of five new members to its CASAC, and the unusual dismissal of three qualified scientists from that committee. Specifically, you removed Judith Chow, Ivan Fernandez, Elizabeth Sheppard from CASAC—all of whom were eligible to serve for another three years—and additionally removed Larry Wolk.

In their place, you appointed Dr. Sabine Lange from the Texas Commission on Environmental Quality and Dr. Steven Packham from the Utah Department of Environmental Quality.[10] Both appointments raise serious concerns related to whether Drs. Lange and Packham should be serving on this Committee. According to documents obtained by the Senate Committee on Environment and Public Works[11], EPA career staff warned that Dr. Lange has "no direct experience serving on national scientific committees" and may have a "possible issue with an appearance of a lack of impartiality" given her publications and presentation on standards for criteria pollutants and her employer's well-established views and positions on various National Ambient Air Quality Standards. Dr. Lange has said that lowering the smog health standard from

---

[6] https://www.whitehouse.senate.gov/news/release/senators-to-gao-examine-pruitts-science-advisory-board-double-standard

[7] https://www.carper.senate.gov/public/index.cfm/2018/1/after-pruitt-bars-scientists-with-epa-grants-from-advisory-committees-carper-and-whitehouse-highlight-concerns-with-new-epa-appointees-conflicts-of-interest

[8] https://yosemite.epa.gov/sab/sabpeople.nsf/webcommittees/CASAC

[9] https://www.epw.senate.gov/public/_cache/files/9/2/92393cc8-538a-4631-ad4c-0a57f8b8e676/3BC9F5D8E67D5EA1329CFE774AAA5228.carper-whitehouse-send-new-internal-epa-documents-to-gao.pdf

[10] https://www.epa.gov/newsreleases/acting-administrator-wheeler-announces-science-advisors-key-clean-air-act-committee

[11] https://www.epw.senate.gov/public/_cache/files/9/2/92393cc8-538a-4631-ad4c-0a57f8b8e676/3BC9F5D8E67D5EA1329CFE774AAA5228.carper-whitehouse-send-new-internal-epa-documents-to-gao.pdf

75 parts per billion (ppb) to 70 ppb "will not measurably impact public health,"[12] has disputed that short-term exposure to smog pollution was linked to respiratory mortality and total mortality,[13] and is considered by some to have "extreme" views regarding the harmfulness of ozone (smog) pollution and the need for protective health standards.[14]

Dr. Packham holds similarly troubling views. In 2014, he presented a poster about air quality and outdoor exercise with the conclusion being that positive effects of exercise outweigh risks of exposure to air pollution—minimizing the impact that air pollution can have on the healthiest and unhealthiest among us. He has also said that individuals can generally deal with increased air pollution, and that while such pollution "can take years off your life" you "don't drop dead." He has also downplayed spikes in formaldehyde presence in Utah.

The appointment of these two scientists (and removal of highly qualified scientists) is particularly concerning in light of EPA's October 10, 2018 announcement[15] that it would disband its Particulate Matter Review Panel and the Ozone Review Panel, which are comprised of outside scientists that have assisted EPA with its statutory obligation under the Clean Air Act to review the adequacy of EPA's standards for six common air pollutants, including particulate matter and ozone. Instead, EPA announced that CASAC – which is now populated with scientists who are generally in favor of lower pollution standards – will serve that function instead.[16] Importantly, Dr. Cox remains the Chair of CASAC, despite a recent investigative report finding that just this year Dr. Cox made claims along the lines "that researchers are overstating the dangers of air pollution," that "his own statistical modeling of health data found no connection between dirty air and respiratory problems or heart attacks," that "there is no proof that cleaning air saves lives," that "there's no link between fine particle pollution and human health," and that "the health benefits from reducing ozone are '"exaggerated."'"[17]

Most recently, EPA also announced the nomination of 174 scientists to EPA's Science Advisory Board, which provides independent scientific and technical advice to the EPA Administrator on EPA's major programs.[18] This list includes several problematic nominees, including: Dr. James Enstrom, who has served as a policy adviser for the Koch-funded Heartland Institute and "has received funding from the tobacco industry to produce research that downplays the risks of secondhand smoke," and has determined that the PM2.5 NAAQS is "scientifically unjustified"[19];

---

[12] https://www.energyindepth.org/wp-content/uploads/2015/06/Shaw-Lange-and-Honeycutt-EM-2015-Ozone-Health-Benefits.pdf

[13] https://www.energyindepth.org/wp-content/uploads/2015/06/Shaw-Lange-and-Honeycutt-EM-2015-Ozone-Health-Benefits.pdf

[14] https://twitter.com/jwalkenrdc/status/1050456077970657287

[15] https://www.epa.gov/newsreleases/acting-administrator-wheeler-announces-science-advisors-key-clean-air-act-committee

[16] https://www.eenews.net/stories/1060102455

[17] https://www.revealnews.org/article/trumps-air-pollution-adviser-clean-air-saves-no-lives/

[18]https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentBOARD/593858E2F8E40BB8852582BA006B57E5/$File/LOCpostSABFY2019.pdf

[19]https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentBOARD/593858E2F8E40BB8852582BA006B57E5/$File/LOCpostSABFY2019.pdf

Dr. William Happer, who helped former EPA Administrator Scott Pruitt develop the red-team concept and heads the CO2 Coalition, which has received funding to argue that "[m]ore carbon dioxide levels will help everyone, including future generations of our families"[20]; and Dr. Richard Belzer, whose recent clients include Exxon Mobil, the American Chemistry Council and Fitzgerald Glider Kits, which is pushing EPA to roll back air pollution protections on heavy trucks.[21]

At least one academic analysis of EPA since the beginning of the Trump administration has concluded that EPA is already demonstrating signs of being influenced by the industries it regulates.[22] By turning to industry-funded scientists and lobbyists to staff the agency and provide it scientific advice, EPA does little to enhance its credibility as an independent government agency acting to protect the environment and public health. And it is hard to see how the agency will be entitled to deference in court when it seeks to defend rules that show signs of being written and endorsed by industry.

So that we can understand EPA's decision-making process with regard to its federal advisory committees, we ask that you provide us with responses to the following questions and requests for information no later than close of business on December 17, 2018:

1. Please provide us with all documents that are related to EPA's decisions to appoint or not to reappoint any members of any of its federal advisory committees, including but not limited to documents relevant to EPA's assessment of advisory committee nominees' potential conflicts of interest or lack of impartiality. Please provide us with updated responses to this request on a quarterly basis.
2. Please provide a detailed description of the internal process EPA uses to select members for its federal advisory committees, including the manner in which the input of EPA's career staff is solicited and utilized. Please provide us with a copy of all documents that memorialize all or part of this internal selection process.
3. Please provide a detailed explanation as to why EPA has determined to eliminate the Particulate Matter Review Panel and the Ozone Review Panel. Please provide us with all documents that are related to any plan to eliminate either panel. Going forward, for any analogous panel EPA determines to eliminate, please provide us with documents related to that decision.

For purposes of this letter, "documents" includes, but is not limited to, comments, notes, emails, legal and other memoranda, white papers, scientific references, letters, telephone logs, meeting minutes and calendars, photographs, slides and presentations sent or received by or within EPA (including documents sent or received by members of EPA's beach-head and transition teams).

---

[20] https://co2coalition.org/frequently-asked-questions/#1465245604826-64586917-ba84

[21] https://www.eenews.net/climatewire/2018/10/18/stories/1060103611

[22] Lindsey Dillon, *et al.*, "The Environmental Protection Agency in the Early Trump Administration: Prelude to Regulatory Capture," *American Journal of Public Health* (April 2018)

Thank you very much for your attention to this important matter. If you have any questions or concerns, please contact or have your staff contact Michal Freedhoff of the Environment and Public Works Committee staff, at 202-224-8832.

Sincerely,

Tom Carper
United States Senate

Sheldon Whitehouse
United States Senate

Edward J. Markey
United States Senate

Margaret Wood Hassan
United States Senate

Elizabeth Warren
United States Senate

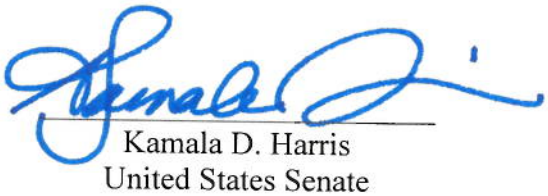
Jeffrey A. Merkley
United States Senate

Kirsten Gillibrand
United States Senate

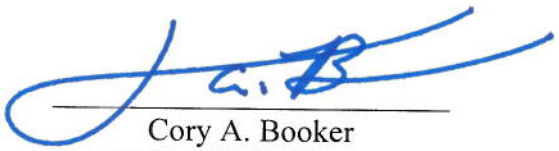
Chris Van Hollen
United States Senate

Ron Wyden
United States Senate

Richard Blumenthal
United States Senate



Kamala D. Harris
United States Senate



Cory A. Booker
United States Senate



Jeanne Shaheen
United States Senate



Mazie K. Hirono
United States Senate



Tammy Duckworth
United States Senate



Tina Smith
United States Senator