



June 15, 2012

**Board of Directors**

John Applegate  
Robert Glicksman  
David Hunter  
Thomas McGarity  
Catherine O'Neill  
Amy Sinden  
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Rena Steinzor

Hon. Lisa P. Jackson, Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., N.W.  
Mail Code 1101A  
Washington, D.C. 20460

**Re: Nominees to the Chemical Assessment Advisory Committee**

**Advisory Council**

Patricia Bauman  
Frances Beinecke  
W. Thompson Comerford, Jr.  
Robert Kuttner  
John Podesta  
James E. Tierney  
Henry Waxman

Dear Administrator Jackson:

As you know, the Integrated Risk Information System (IRIS) is under relentless attack by representatives of the chemical industry and their allies in Congress. We are concerned that the recent establishment of the SAB Chemical Assessment Advisory Committee (CAAC) institutionalizes yet another opportunity for potentially regulated parties to disrupt the smooth development of new IRIS profiles. We are writing to encourage you to pay special attention to the nominees' actual and perceived conflicts of interest as you sign off on the final membership list for the subcommittee.

Of the 116 nominees, we count only four individuals who work for environmental NGOs. By contrast, five individuals from the Dow Chemical Company alone have been nominated, as have five other people employed by potentially regulated parties and 21 individuals whose consultancy firms stand to gain or lose significant business depending on the outcome of CAAC deliberations. We urge you to make your final selections with consideration of the following issues:

- Individuals whose employers (or employers' direct competitors) are potentially regulated parties should not be invited to be committee members. It is important to recognize that IRIS profiles are not regulations. Yet, many chemical manufacturers and users see the documents as so fundamental to future regulatory action that their employees should not be put into a position where their expert advice could be tainted by a conflict of interest arising out of a duty – be it real or perceived – to the employer's bottom line. These experts can participate through the public review and comment process, so they need not be given special opportunities to participate through the CAAC.



- Consultants and individuals who work for consulting firms should also be excluded from CAAC membership when their clients are potentially regulated parties. This restriction should apply to academics, too, if they have consulting or funding relationships with potentially regulated parties. In the past, EPA has noted that reasonable apprehension of a lack of impartiality exists where nominees have a “pending grant, cooperative agreement, or contract whose funds could be directly received from organizations that could be considered specific parties to conduct scientific work related to the potential human health effects of [a chemical].” We encourage you to look not only at *pending* financial relationships, but also past and reasonably foreseeable future financial relationships. And we encourage you to use the IRIS agenda (77 Fed. Reg. 26,751) as a starting point for questioning potential committee members.
- In addition to reviewing financial conflicts, please also consider potential committee members’ biases and viewpoints based on past public statements. Potential committee members should be asked to disclose all legislative testimony, comments to regulatory agencies, and testimony before courts on relevant issues.

As GAO has noted, “the perception of bias that can harm the reputation of advisory committees is independent of the legal definition of a conflict of interest.”<sup>1</sup> The CAAC could play a vital role in buffering attacks on the IRIS program if it is viewed as being free of significant biases.

We would also like to call your attention to a related issue arising out of the establishment of the CAAC. For years, we have argued that the draft toxicological profiles produced by IRIS staff are subject to an excessive number of external reviews. The documents can be highly influential, but they are merely the starting point for future regulatory decisions. As such, the process for completing the documents should be geared to efficiency, not perfection, since stakeholders will have numerous other opportunities during the regulatory process to provide their viewpoints on the relevance of the IRIS profile to any final agency action. Under the current IRIS process, draft profiles are subject to at least seven reviews by people outside the IRIS office:

- Internal agency review of draft assessment;
- Science consultation with the White House and other federal agencies on the draft;
- Independent expert peer review of the draft;
- Public review and comment on the draft;
- Listening session on the draft;
- Internal agency review of the final assessment; and
- Interagency science discussion of the final assessment.

How the CAAC’s work will fit into this process is an important question. Given the Federal Advisory Committee Act’s requirements about transparency and public participation, we believe that the CAAC review of draft IRIS profiles should replace the independent expert peer review and be melded with the listening session and public review and comment period. At the same time the CAAC is reviewing a draft assessment, the document could be released to the public for review and comment. And assuming that the CAAC will meet to discuss recommendations

before submitting them to IRIS staff, a listening session could be scheduled with the CAAC meeting.

Finally, we urge you to please decide on the CAAC quickly, so that the IRIS program can get to the important work of publishing new toxicological assessments. As GAO recently noted, the IRIS program has been unable to reduce its ongoing workload or the backlog of demand for new IRIS assessments, even under the streamlined process you introduced in May 2009.<sup>2</sup> IRIS assessments are the gold-standard for environmental toxins. They are used by government agencies, private industry, and researchers from around the world. Eliminating barriers to the completion of new assessments will help ensure communities are adequately protected from toxic chemicals in the air, water, and soil.

Thank you for considering these important issues.

Sincerely,



Rena I. Steinzor  
President, Center for Progressive Reform  
Professor, Univ. of Maryland Carey School of  
Law



Matthew Shudtz  
Senior Policy Analyst, Center for Progressive  
Reform

cc: Vanessa Vu, Sue Shallal, Becki Clark, Vince Cogliano

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<sup>1</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, *Federal Advisory Committees: Additional Guidance Could Help Agencies Better Ensure Independence and Bias* (GAO-04-328) (Apr. 2004).

<sup>2</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, *Chemical Assessments: Challenges Remain with EPA's Integrated Risk Information System Program* (GAO-12-42) (Dec. 2011).