



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C. 20460

OFFICE OF THE ADMINISTRATOR
SCIENCE ADVISORY BOARD

Mr. Ross Eisenberg
Vice President
Energy and Resources Policy
National Association of Manufacturers
733 10th Street, NW, Suite 700,
Washington, DC 2000

June 18, 2013

Dear Mr. Eisenberg,

As Acting Director of the Science Advisory Board (SAB) Staff Office, I am responding in lieu of Dr. Shallal to your concerns as outlined in your letter dated June 11, 2013 about the meeting of the EPA Science Advisory Board (SAB) Environmental Justice Technical Guidance (EJTG) Review Panel. In this letter, I will address your request to postpone the June 19-20, 2013 meeting of the SAB EJTG Review Panel, your concern regarding the selection of members to serve on the panel, and the consideration of public comments by this panel. Assistant Administrator Michael Goo will be responding to your letter separately.

In your letter you requested that the meeting of the SAB EJTG Review Panel be postponed. The EPA SAB is a federal advisory committee that operates under the requirements of the Federal Advisory Committee Act (FACA). In accordance with FACA, the meeting of this panel was announced in the *Federal Register* on June 4, 2013, 15 days in advance of the meeting date. As you know, this meeting is scheduled to take place on June 19-20, 2013; at this late date, the SAB has decided to proceed with the meeting as planned. This will allow panel members to learn about the development of the guidance document, to ask questions of the Agency representatives and to provide their preliminary impressions before their deliberations on the charge questions which will occur at a subsequent meeting.

With regard to your concerns about the panel membership, the SAB was established to provide independent scientific and technical advice to the Administrator on the technical basis for agency positions and regulations. Members of the SAB and its committees are selected based on their technical expertise and do not represent the interests of a particular sector. Dr. Sue Briggum, Vice President of Federal Public Affairs with Waste Management, had been invited to serve on this panel during the panel formation process. Although she had indicated that she will not be able to participate in person at the first meeting of this panel, the SAB Staff Office is expecting her participation in subsequent meetings of the panel pending an evaluation of her confidential financial disclosure form.

To address your concerns about submitting public comments to the SAB panel, you are correct to point out that the *Federal Register* notice requested comments to be submitted by June 12, 2013 for this meeting. Consistent with our operating practices, your comments and all additional comments will be sent to panel members for their consideration throughout the advisory process and until a final report is approved by the Chartered SAB. You will note that the *Federal Register* notice also states:

“Interested members of the public may submit relevant written or oral information on the topic of this advisory activity, and/or the group conducting the activity, for the SAB to consider during the advisory process. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB committees to consider or if it relates to the clarity or accuracy of the technical information.”

You also state that,

“The BNEJ also is concerned that the EJTG will not have the opportunity to review all public comments before it meets and begins to reach conclusions about the Guidance.This is not the way the SAB usually operates, and it should not do so here. As the EPA explained in a public booklet on the role of public comment in the SAB process, “Members of the [SAB] committee, sub-committee, or panel (including the chair) consider Agency presentations, public comments, and background material on the subject and then deliberate and provide advice.”

The SAB is not deviating from its normal process which is outlined in the booklet you cited above. The public comments that are mentioned in the booklet are public comments received by the SAB and not those that are submitted to EPA during their public comment period. The *Federal Register* notice makes clear that there is a different purpose for the public comments submitted to SAB versus those submitted to the EPA and the process by which these comments are collected and distributed is also different. Please feel free to send your comments to Dr. Shallal, the Designated Federal Officer for the SAB EJTG Review Panel, as soon as they are available so that they can be distributed to the members of the panel for their consideration. In addition, the panel will be briefed on the comments submitted to the EPA and will have the opportunity to consider those comments in their deliberations and in their findings.

In summary, we will be scheduling an additional meeting(s) for this panel. This will allow panel members an opportunity to discuss and deliberate on the responses to the charge questions after considering any public comments submitted to the SAB in addition to those already received. Furthermore, this meeting(s) will be scheduled at least 3 to 4 weeks after the EPA’s comment period closes so as to allow panel members time to be briefed on and to consider comments that were submitted to EPA as well. As is standard SAB protocol, any subsequent meeting(s) will be announced via a *Federal Register* notice and the public will be offered the opportunity to provide oral comments in addition to the written comments that can be submitted at any time.

Should you have any further questions or concerns, please do not hesitate to contact me. Thank you for your interest in this SAB advisory activity.

Sincerely,

/s/

Christopher Zarba
Acting Director SAB Staff Office

cc: Suhair Shallal, PhD