



July 2019

EPA ADVISORY COMMITTEES

Improvements Needed for the Member Appointment Process

Why GAO Did This Study

Federal advisory committees provide advice to federal agencies on many topics. As of March 31, 2018, EPA managed 22 such committees. They advise the agency on such issues as developing regulations and managing research programs. Questions have been raised about EPA's process for appointing committee members after recent policy changes affecting who serves on the advisory committees.

GAO was asked to review issues related to how EPA appoints advisory committee members. This report examines: (1) EPA's process for appointing advisory committee members, (2) the extent to which EPA followed its process for selecting members from October 2016 through March 2018, and (3) how, if at all, selected characteristics of EPA advisory committees changed after January 2017. GAO reviewed relevant federal laws, regulations, and guidance; reviewed documents from committees that appointed members over this period; analyzed information from the GSA's FACA database; and interviewed agency officials.

What GAO Recommends

GAO is recommending that EPA direct (1) officials responsible for appointing committee members to follow a key step in its appointment process to document staff rationales for proposed membership and (2) EPA's Ethics Office to evaluate the quality of financial disclosure reviews of SGEs appointed to advisory committees. EPA disagreed with the first and agreed with the second recommendation. GAO continues to believe that both are valid, as discussed in the report.

View [GAO-19-280](#). For more information, contact J. Alfredo Gomez at (202) 512-3841 or gomezj@gao.gov

EPA ADVISORY COMMITTEES

Improvements Needed for the Member Appointment Process

What GAO Found

Based on GAO's review of U.S. Environmental Protection Agency's (EPA) guidance, the agency's established process for appointing advisory committee members involves three main phases: soliciting nominations, evaluating candidates, and obtaining approvals. Each phase involves several steps. For example, a key step for evaluating candidates involves EPA staff's preparing documents that reflect staff recommendations on the best qualified and most appropriate candidates for achieving balanced committee membership, according to EPA guidance.

EPA generally followed its established process for most of its 22 advisory committees; however, in fiscal year 2018, EPA did not follow a key step for appointing 20 committee members to two committees GAO reviewed: the EPA Science Advisory Board and Clean Air Scientific Advisory Committee, which advise the agency on environmental regulatory matters, among other things. The 2018 appointment packets for these two committees did not contain documents reflecting EPA staff rationales for proposed membership, as called for by EPA's established process. EPA developed guidance to implement the Federal Advisory Committee Act (FACA). By directing officials responsible for appointing committee members to follow a key step in its process to document staff rationales for proposed membership, the agency would have better assurance that it will (1) consistently meet FACA's purpose of encouraging uniform appointment procedures and (2) show how it made appointment decisions to achieve the best qualified and most appropriate candidates for balanced committee membership. EPA also did not consistently ensure that members appointed as special government employees (SGE)—who are expected to provide their best judgment free from conflicts of interest and are required by federal regulations to disclose their financial interests—met federal ethics requirements. For about 23 percent, or 17 of the 74 financial disclosure forms GAO reviewed, an ethics official had not signed and dated that the SGE filing the form was in compliance with federal ethics rules. EPA also did not periodically review its ethics program, as called for by federal regulations, such as through audits or spot-checks, to evaluate the quality of financial disclosure reviews for SGEs. Until EPA's Ethics Office evaluates the quality of financial disclosure reviews of SGEs as part of its periodic review of its ethics program, it will not have reasonable assurance that it will address noncompliance with federal ethics requirements and prevent conflicts of interest on its advisory committees.

Based on GAO's review of the U.S. General Services Administration's (GSA) FACA database, there were notable changes to selected characteristics of EPA advisory committees (i.e. at least a 20 percentage point difference in the change to a characteristic after January 2017 compared to the period after January 2009). Of the four characteristics GAO reviewed—committee composition, regional affiliation, membership turnover, and number of meetings committees held—one or more of the first three changed notably for four of 18 EPA advisory committees after January 2017.

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Abbreviations

BOSC	EPA Board of Scientific Counselors
CASAC	Clean Air Scientific Advisory Committee
EPA	U.S. Environmental Protection Agency
FACA	Federal Advisory Committee Act
GSA	U.S. General Services Administration
NGO	Non-government organizations
OGE	U.S. Office of Government Ethics
SAB	EPA Science Advisory Board
SGE	Special government employee

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July 8, 2019

Congressional Requesters

Federal advisory committees play an important role in shaping public policy by providing advice on a wide array of topics, such as stem cell research, drinking water standards, space exploration, drug approvals, and federal land management. The Federal Advisory Committee Act (FACA) authorizes federal agencies to establish advisory committees to provide the agencies with advice and recommendations.¹ As of March 31, 2018, the U.S. Environmental Protection Agency (EPA) managed 22 advisory committees under FACA. These committees play an important role at EPA by providing advice that helps the agency develop regulations, accredit laboratories, and manage research programs, among other activities. The topics addressed by these committees span EPA's portfolio and include pesticides, drinking water quality, air quality, rural community welfare, and children's health. For example, the committee at EPA with the largest number of committee members, the EPA Science Advisory Board (SAB), advises EPA on the adequacy and scientific basis of standards and regulations under the Clean Water Act, Safe Drinking Water Act, and other federal environmental laws. Another committee, the Clean Air Scientific Advisory Committee (CASAC), is responsible for reviewing national ambient air-quality standards,² among other topics.

Questions have been raised about EPA's process for appointing committee members following recent policy changes affecting who serves on EPA advisory committees. Specifically, EPA issued a policy in October 2017 that restricts recipients of EPA grants from serving on advisory

¹Pub. L. No. 92-463, 86 Stat. 770 (1972), codified, as amended, at 5 U.S.C. app. 2. For the purposes of this report, the term "agencies" refers to both federal agencies and departments. In addition, at any given time there are approximately 1,000 advisory committees established under FACA, (FACA advisory committees) and an unknown number of other advisory committees not subject to FACA (non-FACA advisory committees) among the miscellaneous bodies that agencies routinely use to obtain input and recommendations from diverse perspectives on a wide range of issues. In this report, we focus on FACA advisory committees.

²Under the Clean Air Act, EPA sets national ambient air quality standards for six criteria pollutants—ground level ozone, carbon monoxide, particulate matter, sulfur dioxide, nitrogen dioxide, and lead—at levels it determines are necessary to protect public health and welfare.

committees.³ The policy states that (1) members shall be independent from EPA, which shall include a requirement that no member of an EPA federal advisory committee currently receive EPA grants; (2) committee balance should reflect prominent participation from state, tribal, and local government, as appropriate for the committee's purpose and function; (3) EPA should seek to increase the geographic diversity of members by ensuring membership is balanced with individuals from different states and EPA regions; and (4) EPA should promote fresh perspectives by regularly rotating membership. Three lawsuits were filed challenging the policy; all were dismissed.⁴ Other recent EPA decisions regarding advisory committees have raised questions. For example, in October 2018, EPA disbanded a CASAC subcommittee charged with helping the agency review air quality standards for particulate matter and halted plans to form another subcommittee to help assess limits on ozone pollution.

You asked us to review issues related to how EPA appoints advisory committee members. In this report, we (1) describe EPA's established process for appointing members to serve on EPA advisory committees; (2) evaluate the extent to which EPA followed its process from fiscal year 2017 through the first two quarters of fiscal year 2018; and (3) describe how, if at all, selected characteristics of EPA's advisory committees changed after January 2017.

To describe EPA's process for appointing members to serve on EPA advisory committees, we reviewed EPA's *Federal Advisory Committee Handbook*, which documents this process.⁵ We also reviewed relevant federal laws, regulations, and policies and interviewed EPA officials. To evaluate the extent to which EPA followed its established process from fiscal year 2017 through the first two quarters of fiscal year 2018, we requested and reviewed all agency documentation used to support appointment decisions from the 17 committees that appointed or

³U.S. Environmental Protection Agency, *Strengthening and Improving Membership on EPA Federal Advisory Committees*, (Washington, D.C.: October 31, 2017).

⁴Physicians for Social Responsibility v. Wheeler, 2019 WL 569448 (D.D.C. Feb. 12, 2019). Union of Concerned Scientists v. Wheeler, No. 18-cv-10129 (D. Mass. Mar. 27, 2019). Natural Resources Defense Council v. Wheeler, 18-cv-00613, (S.D.N.Y.)(motion to dismiss and cross motions for summary judgment).

⁵U.S. Environmental Protection Agency, *Federal Advisory Committee Handbook*, (Washington, D.C.: August 2017). EPA issued an earlier version of the handbook in March 2012.

reappointed advisory committee members during this time frame.⁶ The remaining committees did not appoint any committee members during the time frame we reviewed. For the 17 committees, we reviewed all appointment packets produced during this time.⁷ Many of these packets contained appointment documents for numerous appointees or reappointees. We also reviewed portions of financial disclosure forms for 74 individuals appointed or reappointed to EPA advisory committees to determine if their forms were consistent with key federal requirements and guidance.⁸ We reviewed these forms to determine if the individuals

⁶The 17 committees that appointed or reappointed advisory committee members from fiscal year 2017 through the first two quarters of fiscal year 2018 include: EPA Board of Scientific Counselors; Chemical Data Reporting Negotiated Rulemaking Committee; Children's Health Protection Advisory Committee; Clean Air Act Advisory Committee; Clean Air Scientific Advisory Committee; Environmental Financial Advisory Board; Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Governmental Advisory Committee to the U.S. Representative to the North American Commission for Environmental Cooperation; Hazardous Waste Electronic Manifest System Advisory Board; Human Studies Review Board; Local Government Advisory Committee; National Advisory Committee to the U.S. Representative to the North American Commission for Environmental Cooperation; National Drinking Water Advisory Council; National Environmental Justice Advisory Council; Pesticide Program Dialogue Committee; EPA Science Advisory Board; and Science Advisory Committee on Chemicals. We reviewed committee appointments from fiscal year 2017 through the first two quarters of fiscal year 2018 because this time frame contained the most up-to-date and complete information available at the time we began our evaluation of the extent to which EPA followed its process for appointing members to serve on advisory committees.

⁷For the 17 committees that appointed or reappointed committee members from fiscal year 2017 through the first two quarters of fiscal year 2018, we reviewed 22 appointment packets, as some committees appointed members more than once during this time period. Appointment packets contain the documents used by EPA management to make appointment and reappointment decisions. Example of documents in these packets include: committee charters, which specify the committee's mission, scope, objectives, cost, membership, management, and recordkeeping; outreach plans, which document the agency's plan for recruiting committee members; and draft membership grid documents, which reflect EPA staff recommendations about who should be appointed to serve on advisory committees and why.

⁸We reviewed the first section (Section 1: Identifying Information and Record of Agency Review) of the Confidential Financial Disclosure Form for EPA Special Government Employees (EPA Form 3110-48) because this section contains information—such as when and who reviewed the forms—needed to evaluate EPA's implementation of relevant ethics oversight requirements. We reviewed all 74 of the forms provided by the 8 committees that appointed or reappointed special government employees (SGE) to serve on committees from fiscal year 2017 through the first two quarters of fiscal year 2018. The other 9 committees that appointed or reappointed committee members during this time period did not provide forms because they did not appoint SGEs. Additional information about our methodology can be found in appendix I.

met federal financial-disclosure-reporting requirements.⁹ Additionally, we interviewed EPA officials involved with appointing committee members to understand the steps the officials took. We then compared the steps they described taking with selected steps in EPA's established process. We focused on steps in the appointment process that were to be documented in the appointment packets, which EPA used to support appointment decisions.¹⁰ Specifically, we reviewed those aspects of the process for which EPA was to have documentary evidence, and we evaluated EPA's implementation of ethics oversight requirements relevant to EPA's process for appointing committee members.

To describe how, if at all, selected characteristics of EPA's advisory committees changed after January 2017, we analyzed information from the FACA database, a publicly available database maintained by the U.S. General Services Administration (GSA) that contains information about FACA advisory committees that agencies, including EPA, are required to provide annually. We compared four characteristics of committees before and after the two most recent changes in presidential administrations. To identify notable changes to a characteristic, we first identified any changes after January 2017 that were large relative to other changes to that characteristic by comparing the characteristics of committees on January 19, 2017, to those on March 31, 2018.¹¹ If we identified a relatively large change, we then assessed whether it was large relative to changes to the characteristic from January 19, 2009, to March 31, 2010. If it was, we identified the change as notable. To provide context, we also reviewed the characteristics of EPA's advisory committees from January 20, 2013, and April 1, 2014. The characteristics we compared were: (1) committee composition (e.g., are a committee's members affiliated with

⁹We did not evaluate whether the individuals filing these forms had potential conflicts of interest.

¹⁰We evaluated the following steps in EPA's process: develop an outreach plan; develop a membership balance plan (for discretionary committees only); prepare a draft membership grid with alternates; review financial disclosure forms; obtain approval from EPA's Federal Advisory Committee Management Division; and obtain approval from EPA's Office of General Counsel.

¹¹We did not test for statistically significant differences for reasons including the small committee sizes. In following our approach for identifying notable changes, each change identified as notable had at least a 20 percentage point difference in the change to the characteristic after January 2017 compared to after January 2009. In written comments on the draft report, EPA emphasized that committee size at any one point in time will reflect both the annual nature of the process and appointees being restricted to a pool of nominees.

academia, consulting, industry, government, a non-government organization, or other); (2) regional affiliation (i.e., with which regions of the country are committee members affiliated); (3) membership turnover (i.e., the percentage of committee members who no longer served on a committee); and (4) the number of meetings committees held. For 4 of the 22 advisory committees EPA was managing on March 31, 2018, we did not analyze any of the four characteristics because they were established after the beginning of the time frame we analyzed. To assess the reliability of information in the FACA database for the 18 EPA advisory committees within the scope of our review, we analyzed relevant documentation, tested and spot-checked data, and interviewed GSA and EPA officials. We reviewed the data for accuracy with EPA officials. We determined that the data were overall sufficiently reliable for describing changes in committee characteristics for our selected time periods. Further information about the scope and methodology of our review is presented in appendix I.

We conducted this performance audit from October 2017 to July 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

A variety of federal laws, regulations, and policies establish requirements and guidance for EPA to follow when appointing members to serve on advisory committees. For example, one purpose of FACA is to ensure that uniform procedures govern the establishment and operation of advisory committees.¹² Also under FACA, an agency establishing an advisory committee must, among other things, require the committee's membership to be balanced in terms of the points of view represented and the functions to be performed by the committee.¹³ In addition, federal

¹²5 U.S.C. App. 2 § 2(b)(4).

¹³5 U.S.C. App § 5(b)(2), (c). Courts that have reviewed challenges to advisory committee composition under these provisions have either held that the balance requirements are nonjusticiable or tendered a very high degree of deference to the agency's selection of committee members. Bull, Market Corrective Rulemaking: Drawing On EU Insights To Rationalize U.S. Regulation, 67 Admin. L. Rev. 629, 678 n.203 and accompanying text (2015).

ethics regulations establish when and how federal officials should review financial disclosure forms to identify and prevent conflicts of interest prohibited by federal law for any prospective committee members required to file these forms in connection with their appointments to advisory committees.¹⁴ GSA has provided additional guidance regarding the implementation of ethics requirements under FACA.

Various EPA offices and officials are responsible for helping the agency follow these requirements. For example, EPA's Federal Advisory Committee Management Division—which has overall responsibility for committee management and ensuring that EPA's advisory committees comply with FACA—developed the *Federal Advisory Committee Handbook* to clarify roles and responsibilities for complying with relevant requirements. The handbook was written primarily for EPA employees assigned as designated federal officers for committees. These officers are responsible for the day-to-day management of advisory committees and play a central role in identifying and recommending candidates who can help the committees meet their goals. EPA employees assigned as designated federal officers also are responsible for maintaining committee records. According to EPA's *Federal Advisory Committee Handbook*, one of the primary reasons that Congress passed FACA was to ensure public access to the records and documents of advisory committees, and that this fosters greater transparency and accountability of agencies' use of advisory committees.

EPA's Ethics Office is responsible for helping the agency follow federal ethics requirements. Housed within the agency's Office of General Counsel in headquarters, the Ethics Office oversees all aspects of the agency's ethics program, including financial disclosure reporting. The Designated Agency Ethics Official coordinates and manages the program. The Designated Agency Ethics Official delegates authority to more than 100 deputy ethics officials located throughout the agency—including in headquarters and regional offices—to carry out most elements of EPA's ethics program. For example, deputy ethics officials are to review financial disclosure reports for prospective committee

¹⁴In this report we use the term "federal ethics regulations" to refer to regulations issued by the U.S. Office of Government Ethics that apply to executive branch employees. See 5 C.F.R. Parts 2634-41. Our report focuses primarily on part 2634 (executive branch financial disclosure) and part 2638 (ethics program responsibilities), which define the mission of the executive branch ethics program and describe agencies' responsibilities for the program, respectively.

members to identify and prevent conflicts of interest. Deputy assistant administrators, deputy regional administrators, office directors, and other EPA managers may be appointed to serve as deputy ethics officials for their offices as ancillary duties to their other responsibilities.

EPA's Advisory Committees and Committee Members

EPA can establish two kinds of advisory committees—non-discretionary and discretionary committees.¹⁵ The agency establishes non-discretionary committees when required to by statute or directed to by the President. For example, the Clean Air Act requires EPA to establish an advisory committee to, among other things, help EPA review standards for national ambient air quality every 5 years.¹⁶ EPA also can establish discretionary committees at the Administrator's direction if, for example, these committees provide an important and unique perspective on EPA programs or operations.¹⁷ An example of a discretionary committee is the Pesticide Program Dialogue Committee, which was formed to help EPA perform its duties under the Federal Insecticide, Fungicide and Rodenticide Act and related laws. See appendix II for a list of EPA's 22 advisory committees as of March 31, 2018. EPA must approve the establishment of any subcommittees formed to assist committees with their work.¹⁸

EPA also can appoint different types of members to its advisory committees, depending on the needs of its committees and other considerations. For instance, EPA may appoint a committee member as a federal government employee under an appropriate hiring authority.¹⁹ If EPA expects a federal employee to serve no more than 130 days in any 365-day period, guidance from the U.S. Office of Government Ethics (OGE), which oversees the executive branch's ethics program, states that the employee should be designated as a special government employee (SGE).²⁰ If EPA decides not to appoint the committee member as a

¹⁵See 41 C.F.R. § 102-3.50.

¹⁶42 U.S.C. § 7409(d)(2).

¹⁷See 41 C.F.R. § 102-3.50(c), (d).

¹⁸See 41 C.F.R. § 102-3.35(b).

¹⁹See 5 U.S.C. § 2105 (defining employee).

²⁰OGE guidance explains the circumstances under which committee members may be designated as SGEs. See DO-05-012 and *Informal Advisory Memorandum 82 x 22*, (Washington, D.C.: July 9, 1982). See also 18 U.S.C. § 202(a).

federal employee, that committee member would be a non-employee representative. EPA decides whether to appoint committee members as federal employees.

To help federal agencies such as EPA determine whether to designate committee members as SGEs or representatives, OGE has developed guidance on factors to consider when agencies make these determinations. For example, OGE guidance states that SGEs are expected to provide independent expert advice and provide their best judgment free from conflicts of interest. They are generally subject to federal ethics regulations placed on other federal employees—including the requirement to file financial disclosure forms. In addition, OGE guidance states that representatives serve as the voice of groups or entities with a financial or other stake in a particular matter before an advisory committee.²¹ Federal ethics regulations generally do not apply to representative members on FACA committees.

GSA's FACA Database

GSA has certain government-wide responsibilities for implementing FACA, including maintaining the government-wide FACA database that tracks certain characteristics of advisory committees.²² Specifically, FACA requires GSA to comprehensively review the activities and responsibilities of each advisory committee annually, including the committees for which EPA officials are responsible. In turn, GSA requires federal agencies responsible for advisory committees to enter data about those committees into the database. GSA and the responsible agency (e.g., EPA) review the data on a fiscal year basis for accuracy and completeness. These reviews are typically completed by February or March of the following year.

GSA's database is accessible by the general public. It includes data on committee members and committee activities from more than 50 agencies going back to 1997. The information on EPA committees includes:

- whether a committee member is designated as an SGE or representative;

²¹DO-05-012.

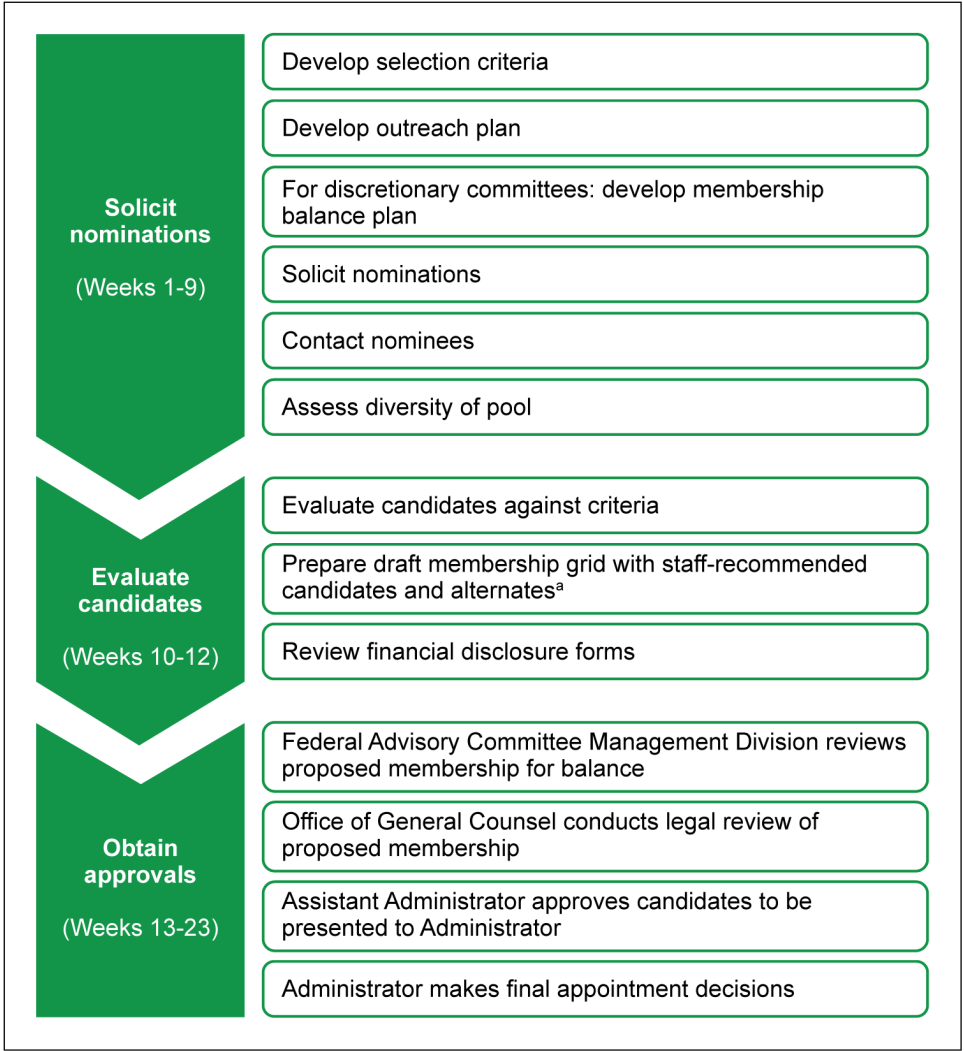
²²41 C.F.R. § 102-3.100(b)(4); 41 C.F.R. § 102-3.175(b).

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- the occupation or affiliation of a committee member;
 - state or other geographic information associated with a committee member's occupation or affiliation;
 - the appointment's start and end date for each committee member; and
 - the dates that committees held meetings.
-

EPA's Established Process for Appointing Members to Serve on Advisory Committees Includes Soliciting Nominations, Evaluating Candidates, and Obtaining Approvals

Based on our review of EPA's *Federal Advisory Committee Handbook*, the agency's established process for appointing advisory committee members includes three main phases. These phases are soliciting nominations, evaluating candidates, and obtaining approvals from relevant EPA offices, such as the Federal Advisory Committee Management Division, before the Administrator or Deputy Administrator makes final appointment decisions. As shown in figure 1, each of the three main phases in EPA's process involves several smaller steps. Unless noted otherwise, explanations of these steps can be found in the handbook, which documents the agency's established process.

Figure 1: U.S. Environmental Protection Agency’s (EPA) Established Process for Appointing Advisory Committee Members



Source: GAO analysis of EPA’s *Federal Advisory Committee Handbook* (Washington, D.C.: August 2017). | GAO-19-280

Note: This figure provides a summary of steps identified in EPA’s *Federal Advisory Committee Handbook* but does not include all steps in EPA’s process. The handbook includes information about other steps in EPA’s process and estimates how long soliciting nominations, evaluating candidates, and obtaining approvals should take.

^aThe draft membership grid is a document that is to reflect EPA staff recommendations on the best qualified and most appropriate candidates for achieving balanced committee membership.

Soliciting Nominations

Soliciting nominations involves six basic steps, which are carried out by a committee’s designated federal officer. The steps are as follows:

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- **Develop selection criteria.** This step involves identifying the specific perspectives or points of view that should be represented by members on the committee, such as specific scientific perspectives or understandings of environmental justice. This step applies to both discretionary and non-discretionary committees. In addition, federal laws establish membership requirements for the agency's non-discretionary committees that designated federal officers must consider when developing selection criteria. For example, the Clean Air Act requires EPA to appoint seven members—including at least one member of the National Academy of Sciences, one physician, and one person representing state air-pollution control agencies—to an independent scientific advisory committee, known as CASAC.²³ The selection criteria developed in this step should be reflected in the notice soliciting nominations.
 - **Develop an outreach plan.** This plan should: (1) describe in detail how committees intend to solicit a diverse set of nominees and (2) discuss the specific forms of solicitation. For example, one outreach plan we reviewed specified that EPA staff would solicit nominations from the American Academy of Pediatrics, American Chemical Society, and other organizations that can help EPA review the quality, relevance, and performance of its research programs.
 - **Develop membership balance plans for discretionary committees.**²⁴ GSA guidance states that membership balance plans for discretionary committees should describe the process used to ensure that committee membership is balanced in terms of the points of view represented and functions to be performed by the committee.²⁵ For example, one membership balance plan we reviewed stated that EPA staff would consider candidates from farm worker organizations; pesticide industry and trade associations; state, local and tribal governments; and public health and other organizations. According to that membership balance plan, EPA staff also would consider prospective committee members' geographic location to help achieve balanced membership.

²³42 U.S.C. § 7409(d)(2)(A).

²⁴GSA regulations require federal agencies to describe the agency's plan to attain fairly balanced membership when establishing, renewing, or reestablishing discretionary committees. 41 C.F.R. § 102-3.60(b)(3).

²⁵GSA Committee Management Secretariat, *Federal Advisory Committee Membership Balance Plan*, (Washington, D.C.: January 2011).

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- **Solicit nominations.** During this step, the designated federal officer can solicit nominations via *Federal Register* notices and other means, such as emails to professional associations and specific EPA email distribution lists. In response to these notices, organizations can nominate individuals, or individuals can nominate themselves or other individuals.
 - **Contact nominees after receiving nominations.** During this step, the designated federal officer confirms nominees' qualifications and experience as well as their interest in and availability to serve on the committee.
 - **Assess the diversity of the pool** of nominees and conduct additional outreach, if needed, to increase the diversity of the pool. EPA's *Federal Advisory Committee Handbook* provides illustrative examples of how to follow this step. In one example, the handbook explains that a committee needs a representative from local government. For the past several years, the position has been filled by someone from an affluent suburban county. To increase diversity, the handbook recommends that the designated federal officer broaden outreach to other parts of the country, especially local governments that serve low-income, rural, urban, medically underserved, or vulnerable populations.

Evaluating Candidates

Evaluating candidates similarly involves several steps. The committee's designated federal officer is primarily responsible for taking these steps for his or her assigned committee. In addition, a deputy ethics official is to review financial disclosure forms for any prospective members who are required to file these forms. In general, the steps for evaluating candidates are as follows:

- **Evaluate candidates against selection criteria.** During this step, the designated federal officer identifies the specific point of view that each candidate would bring to the committee—as well as each candidate's ability to meet the selection criteria after interviewing candidates and reviewing their curriculum vitae, publications, and other relevant information. EPA's *Federal Advisory Committee Handbook* notes that having the best people who represent key interests and balanced viewpoints enables the committee to provide EPA with recommendations that the agency can rely on as collective advice representing diverse stakeholder views. Identifying the best candidates may involve reviewing many more nominees than can be appointed. For example, EPA received approximately 100

nominations for 18 positions on the Science Advisory Committee on Chemicals in fiscal year 2017.

- **Prepare a draft membership grid document with staff-recommended candidates and alternates.** After evaluating individual candidates, the handbook directs the designated federal officer to recommend at least one primary and alternate candidate for each point of view and consolidate his or her short-list of recommended candidates into a draft membership grid document. The handbook indicates that this is a key step in the agency's appointment process. It is intended to help designated federal officers identify gaps as they seek to meet FACA requirements for balanced committee membership. The handbook also directs the designated federal officer to submit the draft membership grid to EPA's Federal Advisory Committee Management Division, EPA's Office of General Counsel, and the Assistant Administrator for review and approval before submitting final recommendations to the Administrator. Therefore, the draft membership grid, which documents EPA staff's rationale for recommending specific candidates, is intended to serve as the basis for discussions with EPA management as final decisions about the committee's composition are made, according to EPA's *Federal Advisory Committee Handbook*. Recommending at least one alternate for each point of view is intended to provide the EPA Administrator or Deputy Administrator—who officially selects committee members based on staff recommendations—with flexibility in appointing members, according to the handbook.
- **Review financial disclosure forms** for conformance with applicable conflict-of-interest statutes, regulations issued by OGE including any supplemental agency requirements, and other federal ethics rules, which state, among other things, that:
 - SGEs appointed to serve on federal advisory committees generally must file financial disclosure forms within 30 days of assuming their new positions and either before providing advice to the agency or before the first committee meeting if they are eligible to file confidentially.²⁶
 - The designated ethics official from each executive branch agency generally is to review financial disclosure reports within 60 days after receiving them and is to certify by signature and date that the

²⁶5 C.F.R. § 2634.903(b)(1), (3) (2018).

filer is in compliance with federal ethics rules,²⁷ and this official generally may delegate this responsibility.

Obtaining Approvals

Obtaining approvals involves several steps and numerous EPA officials. The steps for obtaining approvals generally are as follows:

- **EPA's Federal Advisory Committee Management Division reviews the proposed membership for balance.** EPA guidance states that designated federal officers are to obtain written concurrence from the division before preparing the final membership package for the Administrator to sign.
- **EPA's Office of General Counsel conducts a legal review of the proposed membership.** EPA guidance states that designated federal officers are to obtain written concurrence from the Office of General Counsel prior to appointment.
- **Assistant Administrator or Regional Administrator approves the list of recommended candidates** that will be presented to the Administrator's office.
- **Administrator or Deputy Administrator makes final appointment decisions** and signs appointment letters.

²⁷5 C.F.R. § 2634.605(a), (b)(2).

EPA Generally Followed Its Established Process but Did Not Follow a Key Step for Appointing 20 Members to Two Committees or Ensure Certain Members Met Federal Ethics Requirements

From fiscal year 2017 through the first two quarters of fiscal year 2018, EPA generally followed its established process for most advisory committees; however, in fiscal year 2018, EPA did not follow a key step in its process for appointing 20 committee members to the SAB and CASAC. SAB is the agency's largest committee and CASAC is responsible for, among other things, reviewing national ambient air-quality standards. In addition, when reviewing the step in EPA's appointment process related specifically to financial disclosure reporting, we found that EPA did not consistently ensure that SGEs appointed to advisory committees met federal financial disclosure requirements.

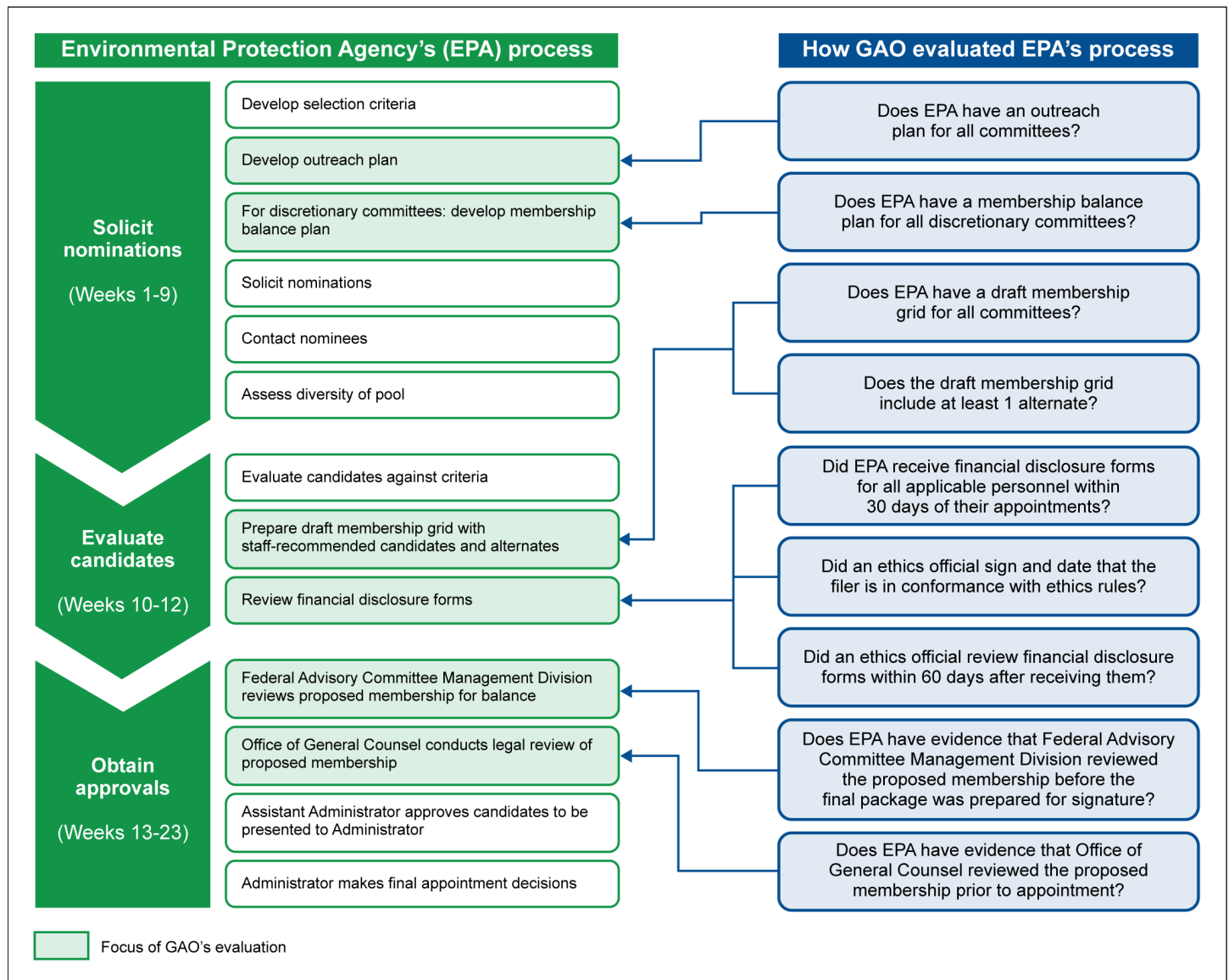
EPA Followed Most Steps but Did Not Follow a Key Step As Described in its Established Process for Appointing 20 Members to 2 Advisory Committees

Our review of agency documents that supported appointment decisions for the 17 committees that appointed or reappointed committee members from fiscal year 2017 through the first two quarters of fiscal year 2018 found that EPA generally followed its process for most committees. All 14 of the discretionary committees that appointed or reappointed members during this time period developed membership balance plans, as required by GSA's FACA regulations.²⁸ In addition, 15 committees followed the step in EPA's appointment process related to draft membership grid documents. That is, 20 of the 22 appointment packets we reviewed had draft membership grid documents reflecting EPA staff input on the best qualified and most appropriate candidates for achieving balanced committee membership. Additionally, 21 of the 22 appointment packets we reviewed contained documentation showing that EPA's Office of General Counsel reviewed the proposed membership prior to appointment, as recommended by EPA's *Federal Advisory Committee Handbook*.²⁹ Figure 2 shows EPA's established process and the steps we reviewed. For additional information about the extent to which EPA followed its process for appointing committee members, see appendix III.

²⁸41 C.F.R. § 102-3.60(b)(3).

²⁹The Children's Health Protection Advisory Committee did not provide us with evidence that EPA's Office of General Counsel had conducted this review.

Figure 2: How GAO Evaluated EPA’s Established Process for Appointing Advisory Committee Members in Fiscal Year 2017 through the Second Quarter of Fiscal Year 2018



Source: GAO analysis of EPA’s *Federal Advisory Committee Handbook* (Washington, D.C.: August 2017). | GAO-19-280

Note: We reviewed those aspects of the process for which EPA was to have documentary evidence, and we evaluated the implementation of ethics oversight requirements that are relevant to EPA’s committee member appointment process.

However, EPA did not follow a key step in its established process for appointing 20 members in fiscal year 2018 to the SAB and CASAC, which advise the agency on environmental regulatory matters, among other things.³⁰ Specifically, the fiscal year 2018 appointment packets for the SAB and CASAC did not include draft membership grid documents reflecting EPA staff rationales for recommending the candidates EPA's staff deem best qualified and most appropriate for achieving balanced committee membership. EPA officials told us in March 2019 that they did not prepare draft membership grids, as recommended by EPA's *Federal Advisory Committee Handbook*, because EPA management requested a series of briefings instead. EPA officials also told us that during these briefings, EPA staff presented options for management to consider that reflected staff evaluations and summaries of public comments on candidates. EPA management then decided whom to appoint after reviewing the entire list of personnel nominated for membership—not a short-list of staff-recommended candidates, as called for by EPA's handbook.

During previous appointment cycles, EPA documents indicate and officials told us that EPA followed its established process when appointing committee members to SAB and CASAC. Specifically, documents from SAB's and CASAC's fiscal year 2017 appointment cycles indicate that both committees prepared draft membership grids in fiscal year 2017 in accordance with EPA's established process. In addition, SAB and CASAC staff we interviewed told us that the process they used for filling vacancies prior to the fiscal year 2018 appointments involved vetting candidates before documenting in draft membership grids the candidates they deemed best qualified and most appropriate for achieving balanced committees.

EPA officials stated that the briefing process they used in fiscal year 2018 was considered better than the use of draft membership grids, as it allowed EPA management to have in-depth discussions with SAB staff, resulting in better knowledge and a greater understanding of the SAB's and CASAC's membership needs. In written comments on the draft report, EPA stated that the vetting of candidates for SAB and CASAC

³⁰The objective of the SAB is to provide independent advice and peer review to EPA's Administrator on the scientific and technical aspects of environmental issues. CASAC reviews, among other things, EPA's national primary and secondary ambient air quality standards and recommends new standards and revisions of existing standards as may be appropriate.

occurred in a different manner than in previous years with a process more robust than membership grids. In addition, EPA stated that the public comment process was more robust, going beyond what was prescribed in the traditional membership process.

There may be benefits to such discussions and solicitation of input. However, under EPA's established process, agency staff are to document in draft membership grids and include in appointment packets their rationales for recommending the candidates they deem best qualified and most appropriate for achieving balanced committees. EPA developed guidance to implement FACA, one purpose of which is to encourage the establishment of uniform committee appointment and administration procedures.³¹ In written comments on the draft report, EPA noted that agency staff documented evaluations of advisory committee candidates in briefing documents. However, EPA did not provide these documents along with its comments. Moreover, neither these evaluations nor summaries of public comments were included in the packets that EPA's *Federal Advisory Committee Handbook* indicates are to contain committee appointment information, impeding EPA's ability to ensure that it consistently meets—across all of its advisory committees—FACA's purpose of encouraging uniform committee appointment procedures.

In addition, *Federal Standards for Internal Control* call for management to design control activities to achieve objectives and respond to risks, such as by clearly documenting all transactions and other significant events in a manner that allows the documentation to be readily available for examination.³² By directing officials responsible for appointing committee members to follow a key step in EPA's appointment process—developing draft membership grids to document staff rationales for proposed membership—the agency would also have better assurance that it could show how it made appointment decisions to achieve the best qualified and most appropriate candidates for balanced membership.

³¹5 U.S.C. App. 2 § 2(b)(4).

³²GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#), (Washington, D.C.: September 2014).

EPA Did Not Consistently Ensure That Committee Members Met Federal Ethics Requirements

When reviewing the steps in EPA’s appointment process related specifically to financial disclosure reporting, we found that from fiscal year 2017 through the first two quarters of fiscal year 2018, EPA did not consistently ensure that 74 SGEs appointed or reappointed to serve on EPA advisory committees met federal financial-disclosure requirements.³³ Of the 74 disclosure forms we reviewed, an ethics official signed and dated that the filer was in compliance with federal ethics rules for 77 percent, or 57 of the forms. However, for about 23 percent, or 17 of the 74 financial disclosure forms we reviewed, an ethics official had not signed and dated that the filer was in compliance with federal ethics rules. In addition, for about 57 percent, or 42 of the 74 forms we reviewed, we were unable to determine whether an ethics official had reviewed the financial disclosure forms within 60 days after they were filed because the forms did not indicate when EPA had received them. Table 1 illustrates the extent to which EPA took steps to ensure compliance with federal financial-disclosure-reporting requirements relevant to SGEs during this time period.

Table 1: Number of Confidential Financial Disclosure Forms in Compliance with Federal Ethics Requirements for Special Government Employees, Fiscal Year 2017 Through Second Quarter Fiscal Year 2018

Federal financial-disclosure-reporting requirements	Yes	No	Data missing ^a	Total forms reviewed
Did an ethics official sign and date that the filer was in compliance with federal ethics laws and regulations? ^b	57 (77%)	17 (23%)	0 (0%)	74
Did EPA receive the financial disclosure form within 30 days after appointing or reappointing the committee member? ^c	35 (47%)	11 (15%)	28 (38%)	74
Did an ethics official review the financial disclosure form within 60 days after it was filed? ^d	29 (39%)	3 (4%)	42 (57%)	74

Source: GAO analysis of 74 confidential financial-disclosure forms for committee members appointed or reappointed to serve as special government employees on U.S. Environmental Protection Agency’s advisory committees. | GAO-19-280

^aFor certain forms, we could not evaluate whether EPA ensured compliance with OGE regulations because the forms did not indicate when EPA had received them.

^b5 C.F.R. § 2634.605(a), (b)(2), (b)(3).

^cSee 5 C.F.R. § 2634.903(b)(1).

^d5 C.F.R. § 2634.605(a).

³³Of the 17 advisory committees that appointed or reappointed committee members from fiscal year 2017 through the second quarter of fiscal year 2018, 8 committees had members who were SGEs. We reviewed financial disclosure forms for 74 SGEs appointed or reappointed to serve on these 8 committees.

In 2017, OGE found similar weaknesses in EPA's ethics program.³⁴ For example, when OGE reviewed a sample of EPA advisory committees' ethics documents from 2015, it found that none of the financial disclosure forms for one committee had been reviewed—or signed and dated—by an ethics official to indicate that filers were in conformance with federal ethics rules.³⁵ For two other committees, OGE found that EPA had not received in 2015 certain financial-disclosure forms that were due that year.

We also found that EPA's Ethics Office had not periodically evaluated, through audits or spot-checks, the quality of financial disclosure reviews conducted by its deputy ethics officials for SGEs appointed to advisory committees, as part of the periodic review of its ethics program called for by OGE regulations. An official we interviewed from EPA's Ethics Office told us that the office did not have the staffing levels necessary to audit or spot-check financial disclosure reviews for SGEs. In addition, in a June 2018 correspondence to OGE about OGE's review of EPA's ethics program, EPA's Designated Agency Ethics Official stated that EPA's Ethics Office had fewer than three full-time equivalent positions at times during 2017.³⁶ The correspondence also stated that the agency's Office of General Counsel is committed to doubling the Ethics Office's staffing levels in the future to increase oversight of its deputy ethics officials.

Federal regulations and guidance specify that EPA has certain oversight responsibilities for its programs—including its ethics program. For example, OGE regulations:

- state that designated agency ethics officials, acting directly or through other officials, are responsible for carrying out effective financial disclosure programs by, among other things, using information in

³⁴U.S. Office of Government Ethics, *Ethics Program Review: U.S. Environmental Protection Agency*, Report No. 17-16 (Washington, D.C.: March 2017).

³⁵OGE reviewed the ethics programs of the following advisory committees (including some of their subcommittees): EPA Board of Scientific Counselors; Clean Air Scientific Advisory Committee; Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Human Studies Review Board; National Environmental Education Advisory Council; and EPA Science Advisory Board.

³⁶Kevin Minoli, Principal Deputy General Counsel and Designated Agency Ethics Official, EPA, letter to David Apol, Acting Director and General Counsel, OGE, June 27, 2018.

financial disclosure reports to prevent and resolve potential conflicts of interest;³⁷

- specify actions the official must take if the reviewing official concludes that information disclosed in the report may reveal a violation of applicable laws and regulations;³⁸ and
- state that designated agency ethics officials are responsible for periodically evaluating their agencies' ethics programs.³⁹

Standards for Internal Control in the Federal Government also states that management should design control activities to achieve objectives and respond to risks, such as by comparing actual performance to planned or expected results and analyzing significant differences.

Because EPA had not periodically evaluated through audits or spot-checks the quality of financial disclosure reviews for SGEs appointed to advisory committees, the agency was not well positioned to compare the program's actual performance with planned results or address instances of noncompliance with federal ethics requirements. Until EPA's Ethics Office, as part of its periodic review of its ethics program, evaluates—for example, through audits or spot-checks—the quality of financial disclosure reviews conducted for SGEs appointed to EPA advisory committees, it will not have reasonable assurance that it is addressing noncompliance with federal ethics requirements and preventing conflicts of interest among SGEs appointed to EPA advisory committees. EPA officials acknowledged that taking this additional oversight measure could enhance the agency's ethics program.

³⁷5 C.F.R. § 2638.104(c)(8).

³⁸5 C.F.R. § 2634.605(b)(5).

³⁹5 C.F.R. § 2638.104(c)(16).

Selected Characteristics of Four EPA Advisory Committees Changed Notably after January 2017, but There Were No Notable Changes for 14 Committees

Of the four characteristics we reviewed—committee composition, regional affiliation, membership turnover, and number of committee meetings—one or more of the first three characteristics changed notably for four of 18 of EPA’s advisory committees after January 2017. There were no notable changes in the four characteristics we reviewed for the other 14 committees for which we reviewed at least one of the characteristics.⁴⁰

The Committee Composition, Regional Affiliation, or Membership Turnover of Four Committees Changed Notably after January 2017

The committee composition, regional affiliation, or membership turnover of four of EPA’s advisory committees changed notably after January 2017 compared to the period after January 2009. There was no notable change in the fourth characteristic we reviewed—that is, the number of meetings committees held. Each change identified as notable had at least a 20 percentage point difference in the change to the characteristic after January 2017 compared to the period after January 2009. See appendix I for additional information about our methodology.

Committee Composition

There was a notable decrease in the percentage of members affiliated with academic institutions on the SAB and EPA Board of Scientific Counselors (BOSC) committees after January 2017 compared to the period after January 2009. Our analysis shows that the percentage of committee members with an academic affiliation serving on the SAB decreased by 27 percentage points, or from 77 percent (36 of 47 members) on January 19, 2017, to 50 percent (22 of 44 members) about

⁴⁰Of the 22 advisory committees EPA managed on March 31, 2018, we did not analyze the four characteristics of four committees because they were established after the beginning of the time frame we analyzed. Also, we did not analyze all four characteristics for the remaining 18 committees because of data reliability issues or the nature of the characteristic. Appendix II identifies which characteristics we analyzed for which committees.

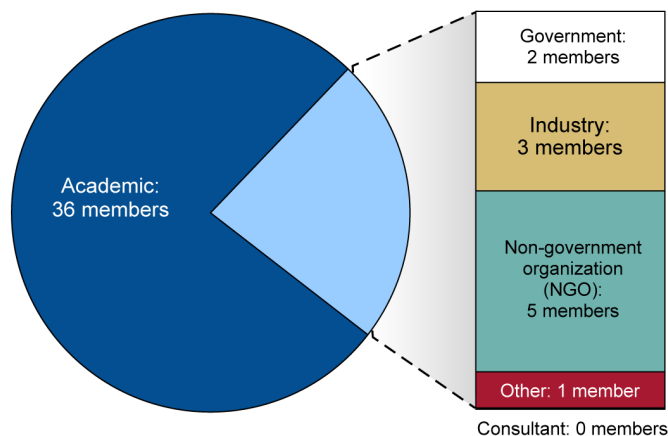
15 months later on March 31, 2018.⁴¹ There was little change in the period after January 2009, when the percentage of academic members serving on the SAB remained stable at 83 percent (33 of 40 members) on January 19, 2009, and 82 percent (32 of 39 members) about 15 months later on March 31, 2010. Regarding 2013, academic members serving on the SAB decreased from 82 percent (40 of 49 members) on January 20, 2013 to 73 percent (37 of 51 members) about 15 months later. In addition to academic members, other members serving on the SAB are (1) affiliated with government (federal, local, state, or tribal) or with industry or non-government organizations (NGO); (2) are consultants; or (3) are others we could not assign to one of the above categories.⁴² See figure 3.

⁴¹In written comments on the draft report, EPA stated that the agency believed that the SAB had become unbalanced, with 77 percent for one stakeholder group (academia) being too large. Therefore, the agency intentionally decreased representation from academia from 77 percent to 50 percent. According to EPA, this was in keeping with the requirement that federal advisory committees be balanced as to expertise and points of view represented.

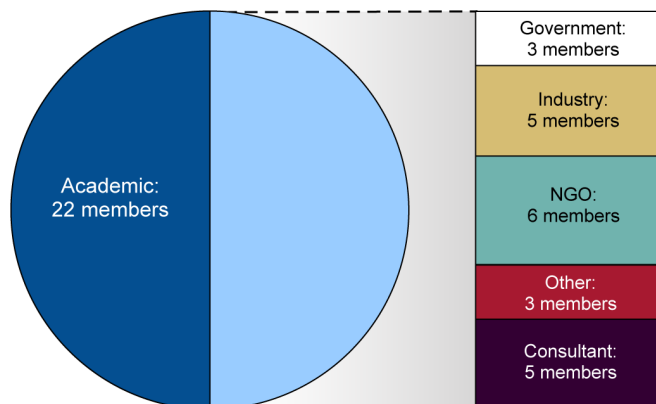
⁴²In written comments on the draft report, EPA stated that the increase in consultants and the decrease in academics illustrated in figure 3 made the SAB membership more balanced.

Figure 3: Committee Composition of EPA’s Science Advisory Board (SAB) after January 2017 and January 2009

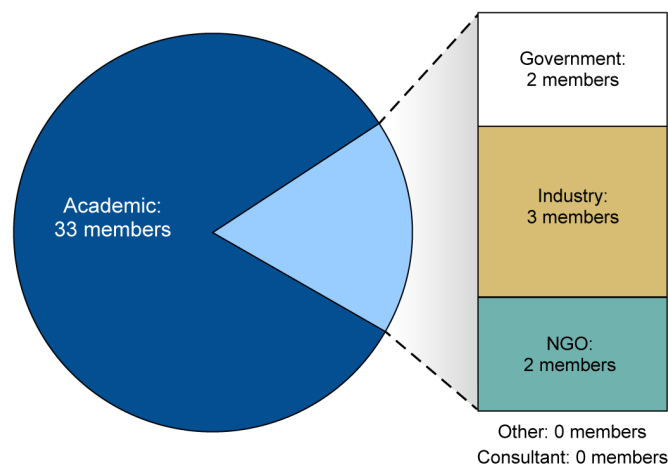
Committee composition of the SAB on January 19, 2017



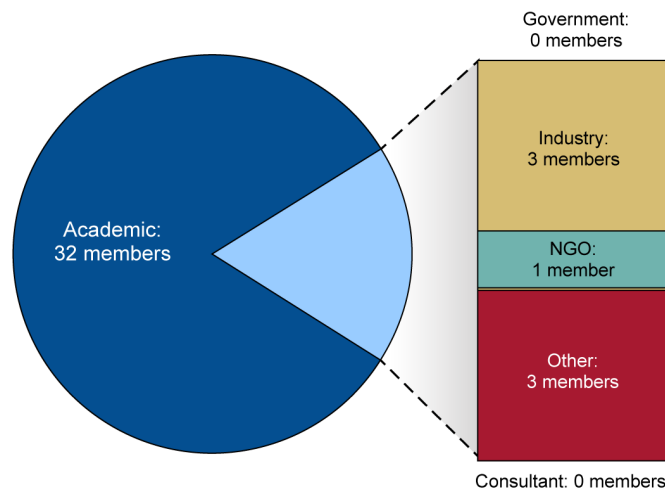
Committee composition of the SAB on March 31, 2018



Committee composition of the SAB on January 19, 2009



Committee composition of the SAB on March 31, 2010



Source: GAO analysis of data from the U.S. Environmental Protection Agency (EPA) and the U.S. General Services Administration’s Federal Advisory Committee Act database. | GAO-19-280

Note: The “other” category includes committee members: (1) affiliated with more than one category; (2) not affiliated with any of the categories; or (3) for which the Federal Advisory Committee Act (FACA) database did not provide sufficient information for us to assign a category.

BOSC also experienced a notable decrease in the percentage of members with an academic affiliation serving on the committee after January 2017 compared to the period after January 2009. Our analysis shows that the percentage of committee members with an academic affiliation serving on BOSC decreased by 45 percentage points, or from

65 percent (11 of 17 members) on January 19, 2017, to 20 percent (3 of 15 members) about 15 months later on March 31, 2018. There was little change in the percentage of academic members serving on BOSC after either January 2009 or January 2013. The percentage of members with an academic affiliation serving on BOSC was 55 percent (6 of 11 members) on January 19, 2009, and 56 percent (5 of 9 members) about 15 months later on March 31, 2010. Seven of 12 members were affiliated with academic institutions on January 20, 2013, and 5 of 9 members were similarly affiliated about 15 months later. See table 2.

Table 2: Committee Composition of the EPA’s Board of Scientific Counselors (BOSC) after January 2017 and January 2009

Types of organizations	Committee composition of BOSC			
	On January 19, 2017	On March 31, 2018	On January 19, 2009	On March 31, 2010
Academic	11 members	3 member	6 members	5 members
Government	3 members	6 members	0 members	0 members
Industry	1 member	3 members	0 members	0 members
Non-government organization	1 member	1 members	1 member	1 member
Consultant	0 members	1 member	1 member	1 member
Other ^a	1 member	1 member	3 members	2 members
Total	17 members	15 members	11 members	9 members

Source: GAO analysis of data from the U.S. Environmental Protection Agency (EPA) and the U.S. General Services Administration’s Federal Advisory Committee Act database. | GAO-19-280

Note: Numbers presented in Table 2 do not match the information found in the FACA database because, among other things, we did not evaluate certain incomplete records after completing our data reliability assessment. Further, we did not review data for BOSC subcommittees since we reviewed only full committees. More information is included in appendix 1.

^aThe “other” category includes committee members: (1) affiliated with more than one category; (2) not affiliated with any of the categories; or (3) for which the Federal Advisory Committee Act (FACA) database did not provide sufficient information for us to assign a category.

Regional Affiliation

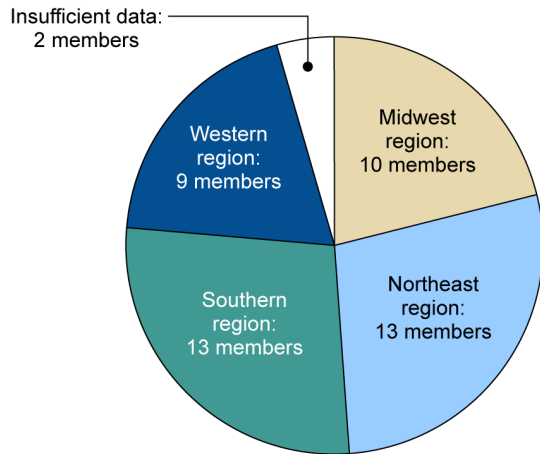
The regional affiliation of SAB committee members also changed notably after January 2017 compared to the period after January 2009. Our analysis shows that members affiliated with the southern region—which spans from Texas to Delaware—increased by about 25 percentage points, or from 28 percent (13 of 47 members) on January 19, 2017, to 52

percent (23 of 44 members) about 15 months later on March 31, 2018.⁴³ There was little change in the period after January 2009, when the percentage of members affiliated with the southern region increased from 30 percent (12 of 40 members) on January 19, 2009, to 33 percent (13 of 39 members) about 15 months later on March 31, 2009. Regarding 2013, members affiliated with the southern region decreased from 33 percent (16 of 49 members) on January 20, 2013, to 27 percent (14 of 51 members) about 15 months later. Figure 4 shows the regional affiliation of SAB members using U.S. Census regions after January 2017 and January 2009.

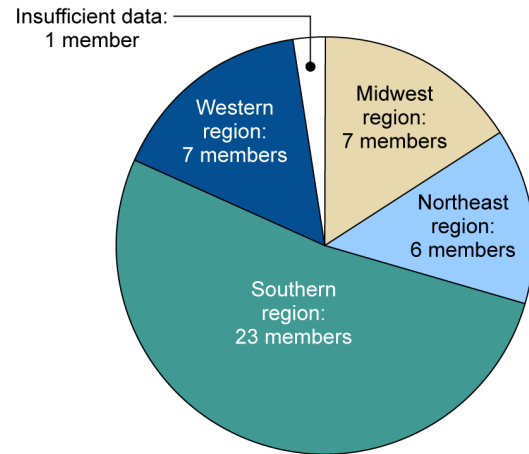
⁴³The southern region consists of Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. For this analysis, we use the four U.S. Census regions (as defined by the U.S. Census Bureau) because there were not enough committee members in our sample to divide among EPA's 10 regions.

Figure 4: Regional Affiliation of EPA’s Science Advisory Board (SAB) after January 2017 and January 2009

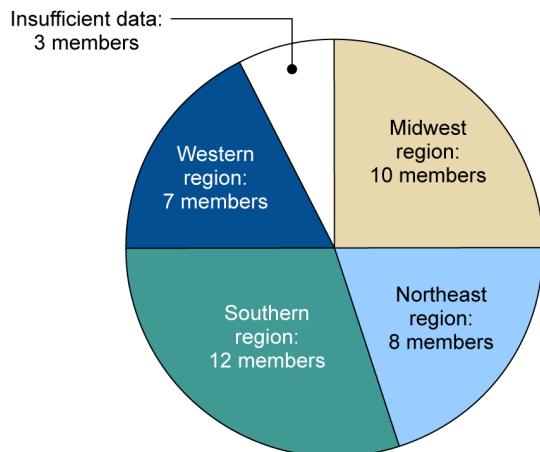
Regional affiliation of SAB members on January 19, 2017



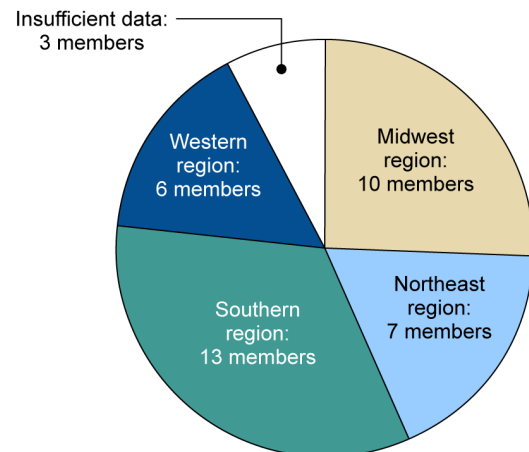
Regional affiliation of SAB members on March 31, 2018



Regional affiliation of SAB members on January 19, 2009



Regional affiliation of SAB members on March 31, 2010



Source: GAO analysis of data from the U.S. Environmental Protection Agency (EPA) and the U.S. General Services Administration’s Federal Advisory Committee Act database. | GAO-19-280

Note: Regions refer to U.S. Census regions.

Membership Turnover

There was also a notable change in the number of members who left three committees after January 2017 compared to the number of members who left those committees after January 2009. Our analysis shows that of the members serving on January 19, 2017, 71 percent (12 of 17 members) of BOSC, 62 percent (23 of 37 members) of the Clean Air Act Advisory Committee, and 63 percent (25 of 40 members) of the Pesticide Program Dialogue Committee were no longer serving about 15 months later on March 31, 2018.⁴⁴ There was little change in the period after January 2009, when 18 percent (2 of 11 members) of the members of BOSC and 3 percent (one of 35 members) of the members serving on the Clean Air Act Advisory Committee on January 19, 2009, were no longer serving on the committees about 15 months later on March 31, 2010. All of the members serving on the Pesticide Program Dialogue Committee (34 members) on January 19, 2009, were also serving about 15 months later on March 31, 2010. Regarding 2013, 25 percent (3 of 12 members) serving on BOSC on January 20, 2013, were not serving about 15 months later. All members serving on the other two committees on January 20, 2013, were also serving about 15 months later.

For Most Advisory Committees We Reviewed, the Characteristics Did Not Change Notably After January 2017

In most instances, the four characteristics that we analyzed—committee composition, regional affiliation, membership turnover, and number of committee meetings held—did not change notably for the committees we reviewed from January 2017 to about 15 months later compared to the same time frame after January 2009. In many of these instances, the characteristics we analyzed had changed, but these changes were not large enough to be considered notable based on the approach we used to identify notable changes.⁴⁵

Committee Composition

Other than the SAB and BOSC, there were no notable changes after January 2017 in the composition of the five committees for which we

⁴⁴In written comments on the draft report, EPA provided membership turnover data that included two BOSC subcommittee members. We evaluated members of the BOSC executive committee, not subcommittees. Further, EPA stated that a high turnover rate for BOSC was inevitable because one member resigned and five members active on January 19, 2017, had already served 6 years and were not eligible to continue.

⁴⁵In following our approach for identifying notable changes, each change identified as notable had at least a 20 percentage point difference in the change to the characteristic after January 2017 compared to after January 2009.

analyzed this characteristic.⁴⁶ We analyzed the committee composition of the three other committees combined because they did not have enough members to make individual analysis meaningful.⁴⁷ Our analysis shows that the largest change after January 2017 that we did not identify as notable also occurred with BOSC. The percentage of members serving on BOSC with a government affiliation increased by 22 percentage points, or from 18 percent (3 of 17 members) on January 19, 2017, to 40 percent (6 of 15 members) about 15 months later on March 31, 2018. This compares to 2009 when the percentage of members serving on BOSC with a government affiliation remained at zero percent on January 19, 2009, (11 members) and about 15 months later on March 31, 2010, (9 members).

Regional Affiliation

Other than the SAB, there were no notable changes after January 2017 in the regional affiliation of members of the 10 committees for which we analyzed this characteristic.⁴⁸ In addition to the SAB, we analyzed the regional affiliation of three other committees individually and the remaining six committees combined.⁴⁹ The largest change in regional affiliation after January 2017 that we did not identify as notable also

⁴⁶We analyzed the composition of 5 of the 22 advisory committees EPA managed on March 31, 2018. We did not analyze 4 committees because they were established after the beginning of the time frame we analyzed. We did not analyze 4 other committees because the data in the FACA database were not complete enough to analyze, and we did not analyze 9 other committees because they were not staffed primarily with SGEs.

⁴⁷For this characteristic and the other three characteristics, we analyzed committees individually and combined. We analyzed committees individually if they had at least 10 members (or 10 meetings) in the relevant time periods being measured. However in two instances we analyzed a committee individually that had 9 members on March 31, 2010. We generally analyzed committees combined if they had less than 10 members (or 10 meetings) in the relevant time periods being measured since relatively small changes in counts would have a relatively large impact on percentages.

⁴⁸We analyzed the regional affiliation of members on 10 of the 22 advisory committees EPA managed on March 31, 2018, using U.S. Census regions. We did not analyze four committees because they were established after the beginning of the time frame we analyzed. We did not analyze eight other committees because the data for these committees in the FACA database were not complete enough to analyze.

⁴⁹We analyzed these six committees combined because they did not have enough members to make individual analysis meaningful. These six committees were: Clean Air Scientific Advisory Committee; Environmental Laboratory Advisory Board; Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Governmental Advisory Committee to the United States Representative to the North American Commission for Environmental Cooperation; Human Studies Review Board; and National Advisory Committee to the United States Representative to the North American Commission for Environmental Cooperation.

occurred with the SAB. Members affiliated with the northeast region decreased by more than 14 percentage points, or from 28 percent (13 of 47 members) on January 19, 2017, to 14 percent (6 of 44 members) about 15 months later on March 31, 2018.⁵⁰ This compares to 2009 when the percentage of members affiliated with the northeast region stayed about the same, changing from 20 percent (8 of 40 members) on January 19, 2009, to 18 percent (7 of 39 members) about 15 months later on March 31, 2010.

Membership Turnover

Other than BOSC, the Clean Air Act Advisory Committee, and the Pesticide Program Dialogue Committee, there were no notable changes after January 2017 to membership turnover for the 14 committees for which we analyzed this characteristic.⁵¹ In addition to these three committees, we analyzed the membership turnover of six other committees individually and the remaining five committees combined.⁵² Our analysis shows that the largest change in membership turnover after January 2017 that we did not identify as notable occurred with the SAB. Of the members serving on this committee on January 19, 2017, 45 percent (21 of 47 members) were no longer serving about 15 months later on March 31, 2018. This compares to 2009 when 35 percent (14 of 40 members) serving on January 19, 2009, were not serving about 15 months later on March 31, 2010.

Number of Committee Meetings Held

There was no notable change in the percentage decrease of meetings held before and after January 2017 compared to a similar time frame before and after January 2009. We analyzed the number of meetings held by 18 committees.⁵³ Our analysis shows that for the 18 committees combined, the number of meetings decreased by 40 percent (from 90 to 54 meetings) from the approximately 15 month period before January

⁵⁰The northeast region consists of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

⁵¹We analyzed the membership turnover of 14 of the 22 advisory committees EPA managed on March 31, 2018. We did not analyze 4 committees because they were established after the beginning of the time frame we analyzed. We did not analyze 4 other committees because the data for these committees in the FACA database were not complete enough to analyze.

⁵²We analyzed these five committees combined because they did not have enough members to make the analysis meaningful.

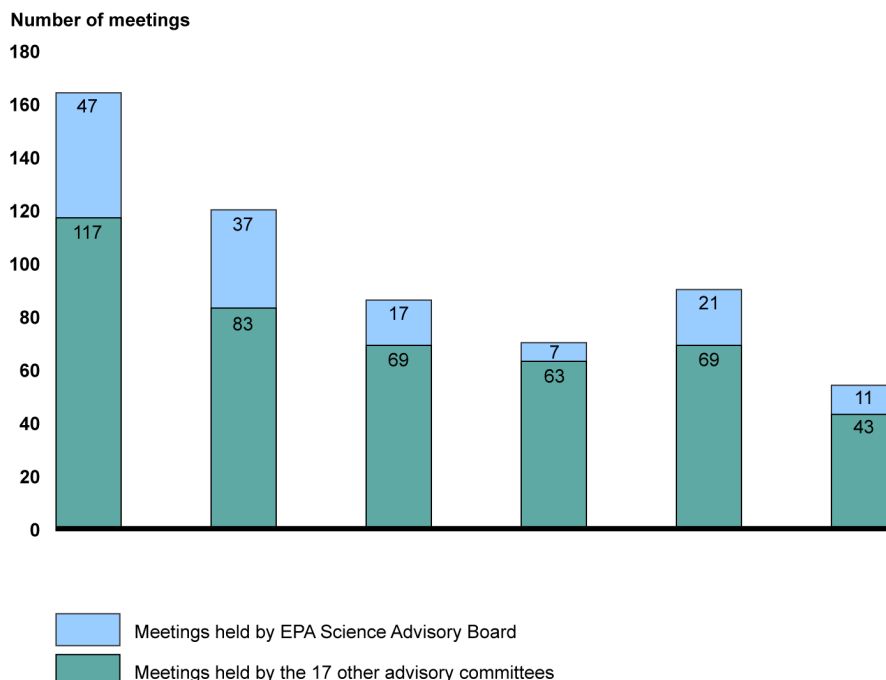
⁵³We analyzed the number of meetings held by 18 of the 22 advisory committees EPA managed on March 31, 2018. We did not analyze 4 committees because they were established after the beginning of the time frame we analyzed.

2017 to the approximately 15 month period after January 2017.⁵⁴ This compares to a 27 percent decrease in meetings (from 164 to 120 meetings) from the approximately 15-month period before January 2009 to the approximately 15-month period after January 2009. Overall, there was a decrease in the number of meetings from before January 2009 to after January 2017. The number of meetings held by the 18 committees combined decreased 67 percent (from 164 to 54 meetings) from the approximately 15-month period before January 2009 to the approximately 15-month period after January 2017. Figure 5 illustrates the decrease in the number of meetings held during this time frame. The figure shows the number of meetings held by SAB separately because of the relatively large number of meetings that it held relative to the other committees.⁵⁵

⁵⁴For this analysis, for 2009 and 2017, we calculated the number of meetings held by the committees in the approximately 15 months from November 12 to January 19 and calculated the number of meetings held in the approximately 15 months from January 21 to March 31.

⁵⁵For the approximately 15-month periods before and after January 2009 and January 2017, the SAB held 27 percent of the total meetings held by the 18 committees we analyzed. Excluding the SAB from the analysis, the number of meetings held by the remaining 17 committees decreased 38 percent (from 69 to 43 meetings) from the approximately 15-month period before January 2017 to the approximately 15-month period after January 2017. This compares to a 29 percent decrease in meetings (from 117 to 83 meetings) from the approximately 15-month period before January 2009 to the approximately 15-month period after January 2009 for the 17 committees.

Figure 5: Number of Meetings Held by 18 U.S. Environmental Protection Agency (EPA) Advisory Committees during the Approximately 15 Months before and after January 2009, 2013, and 2017



Source: GAO analysis of data from the U.S. General Services Administration's Federal Advisory Committee Act database. | GAO-19-280

Note: The figure compares the number of meetings held by 18 EPA advisory committees during the approximately 15 months before and after January 19, 2009, January 20, 2013, and January 19, 2017—that is, November 12, 2007, to March 31, 2010; November 13, 2011, to April 1, 2014; and November 12, 2015, to March 31, 2018. In this figure, the EPA Scientific Advisory Board's meetings are shown separately because of the relatively large number of meetings that it held compared to other committees.

Conclusions

EPA's federal advisory committees play an important role in advising the agency. EPA generally followed its established process for 15 of the 17 advisory committees that appointed or reappointed committee members during the time period we reviewed. However, EPA did not follow a key step in its process for appointing 20 members to two committees that advise the agency on environmental regulatory matters, among other things. The agency did not prepare draft membership grids with staff rationales for proposed membership, the documents intended to reflect EPA staff input on the best qualified and most appropriate candidates for achieving balanced committee membership before appointing these members. EPA officials told us in March 2019 that they did not prepare draft membership grids, as recommended by EPA's *Federal Advisory*

Committee Handbook, because EPA management requested a series of briefings instead.

There may be benefits to following different procedures; however, under EPA's established process, agency staff are to document in draft membership grids and include in appointment packets their rationales for recommending the candidates they deem best qualified and most appropriate for achieving balanced committees. By directing officials responsible for appointing committee members to prepare draft membership grids and include them in appointment packets for all committees, the agency would have better assurance that it could show how it made appointment decisions to achieve the best qualified and most appropriate candidates for balanced committee membership.

EPA also did not consistently ensure that committee members appointed as SGEs met federal ethics requirements, and as part of its periodic review of its ethics program, EPA did not evaluate through audits or spot-checks the quality of financial disclosure reviews conducted by deputy ethics officials for these committee members. Until EPA's Ethics Office periodically evaluates—for example, through audits or spot-checks—the quality of financial disclosure reviews conducted for SGEs appointed to EPA advisory committees, it will not have reasonable assurance that it will address noncompliance with federal ethics requirements and prevent conflicts of interest among SGEs appointed to EPA advisory committees.

Recommendations for Executive Action

We are making the following two recommendations to EPA:

The EPA Administrator should direct EPA officials responsible for appointing advisory committee members to follow a key step in its appointment process—developing and including draft membership grids in appointment packets with staff rationales for proposed membership—for all committees. (Recommendation 1)

EPA's Designated Agency Ethics Official should direct EPA's Ethics Office, as part of its periodic review of EPA's ethics program, to evaluate—for example, through audits or spot-checks—the quality of financial disclosure reviews for special government employees appointed to EPA advisory committees. (Recommendation 2)

Agency Comments and Our Evaluation

We provided a draft of this report to EPA for review and comment. In its written comments, reproduced in appendix IV, EPA disagreed with a key finding related to the first recommendation, with how we conducted some of our data analyses, and with some of the data points we presented. EPA agreed with the findings and conclusions related to the second recommendation. EPA also provided other comments, which we incorporated as appropriate.

EPA stated that it believed a key finding related to the draft report's first recommendation—that EPA follow, for all committees, the key step in its appointment process related to developing draft membership grids—was in error and should be removed from the final version of the report. EPA also stated that it followed all membership steps outlined in agency guidance with the exception of two committees, SAB and CASAC, who substituted the development of a membership grid with what the agency states was a more rigorous examination of the candidates (a series of briefings with senior management discussing the strengths and weaknesses of potential candidates). EPA stated that this is within the discretion of the EPA Administrator and that the vetting of candidates for SAB and CASAC occurred in a different manner than in previous years with a process more robust than membership grids. In addition, EPA stated that the public comment process was more robust, going beyond what was prescribed in the traditional membership process. According to EPA, for SAB and CASAC, the public was offered additional opportunity to provide input on all nominated candidates under consideration.

We agree that conducting such briefings is within the discretion of the EPA Administrator, and we did not assess the outcomes of the membership appointment process. However, it remains that for SAB and CASAC, EPA did not follow a key step in its established appointment process—as documented in its agency-wide handbook—in which agency staff are to document in draft membership grids their rationales for recommending the candidates they deem best qualified and most appropriate for achieving balanced committees. While there may be benefits to following any number of alternative processes for appointing committee members, as EPA stated in its *Federal Advisory Committee Advisory Handbook*, EPA developed the handbook to help agency officials comply with FACA requirements. For these two advisory committees, EPA did not follow its established committee appointment process, impeding EPA's ability to ensure that it consistently meets—across all of its advisory committees—FACA's purpose of encouraging uniform committee appointment procedures.

Furthermore, EPA did not provide documentation of the “more rigorous examination” of candidates it conducted in briefings. In its written comments, EPA stated that the SAB Staff Office documented staff evaluations in briefing documents and that we did not request such documents. However, we requested all appointment packets for the 17 committees that appointed or reappointed committee members from fiscal year 2017 through the first two quarters of fiscal year 2018. These appointment packets were to contain the documents used by EPA management to make appointment and reappointment decisions. EPA did not include the briefing documents in their packets for the SAB or CASAC, impeding EPA’s ability to ensure that it consistently meets—across all of its advisory committees—FACA’s purpose of encouraging uniform committee appointment procedures. Nor did the agency provide any such documentation in subsequent discussions about the extent to which the agency followed its established process. Our most recent meeting with EPA took place on March 19, 2019. As appropriate, we modified the report to further clarify our specific finding.

Moreover, EPA disagreed with how we conducted some of our data analyses and with some of the data points we presented. We took numerous steps to ensure the accuracy of the data points presented in this report. In some instances, we identified missing or inconsistent data and shared this information with EPA officials. EPA provided some corrected data for members with missing or inconsistent appointment-date data from October 1, 2015 to March 31, 2018. We also asked EPA staff to confirm that the data had been updated in the FACA database, discussing the data with individual EPA staff members, conducting logic tests and spot-checking the data to identify errors and inconsistencies, and providing EPA with an opportunity to review and correct in writing the data presented prior to preparing our draft report.

Also, in its written comments, EPA stated that we did not review data for BOSC subcommittees. Our methodology focused on the composition of committees and not their subcommittees. We continue to believe that the methodology we employed to analyze data was appropriate. We outline our rationale in appendix I, which includes the steps we took to ensure data reliability. For these reasons, we do not plan to make any further changes based on the additional data EPA provided.

Lastly, EPA did not dispute our findings and conclusions related to the second recommendation that the agency evaluate, for example, through audits or spot checks, the quality of financial disclosure reviews for

special government employees appointed to EPA advisory committees. EPA noted that at the time of our audit, its Ethics Office was understaffed. In its written comments, EPA said that it has now resolved these staffing issues and is engaged in a full and thorough review of all employees' (including special government employees serving on federal advisory committees) ethics forms to ensure they meet all ethics requirements.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Administrator of the U.S. Environmental Protection Agency, the Administrator of the U.S. General Services Administration, and the Director of the U.S. Office of Government Ethics. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-3841 or gomezj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff members who made major contributions to this report are listed in appendix V.



J. Alfredo Gómez
Director,
Natural Resources and Environment

List of Requesters

The Honorable Thomas R. Carper
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Sheldon Whitehouse
Ranking Member
Subcommittee on Clean Air and Nuclear Safety
Committee on Environment and Public Works
United States Senate

The Honorable Michael F. Bennet
The Honorable Sherrod Brown
The Honorable Mazie Hirono
The Honorable Edward J. Markey
The Honorable Gary C. Peters
The Honorable Bernard Sanders
The Honorable Brian Schatz
The Honorable Jeanne Shaheen
United States Senate

Appendix I: Objectives, Scope, and Methodology

To describe the U.S. Environmental Protection Agency's (EPA) established process for appointing members to serve on EPA advisory committees, we identified and reviewed the federal laws, regulations, and policies that are relevant to EPA's process for appointing advisory committee members. To ensure that we correctly identified all relevant laws, regulations, and guidance, we consulted with: (1) the Committee Management Secretariat at the U.S. General Services Administration (GSA), which issues regulations and guidance for Federal Advisory Committee Act (FACA) committees government-wide; (2) the U.S. Office of Government Ethics, which develops ethics-related regulations for executive branch employees; and (3) EPA. Examples of EPA guidance that we reviewed include EPA's *Federal Advisory Committee Handbook*, *Strengthening and Improving Membership on EPA Federal Advisory Committees*, and *EPA Ethics Advisory 2008-02*.¹

To evaluate the extent to which EPA followed its established process for appointing members from fiscal year 2017 through the first two quarters of fiscal year 2018, we reviewed pertinent documentation from the 17 committees that appointed or reappointed advisory committee members during this time frame. The remaining committees did not appoint any committee members during the time frame we reviewed. For the above-mentioned 17 committees, we reviewed all advisory committee appointment packets—each of which can contain appointment documents for numerous appointees or reappointees—produced during this time.² We also reviewed the first section (Section 1: Identifying Information and Record of Agency Review) of the Confidential Financial Disclosure Form for EPA Special Government Employees (EPA Form 3110-48) for 74

¹U.S. Environmental Protection Agency, *Federal Advisory Committee Handbook*, (Washington, D.C.: August 2017); U.S. Environmental Protection Agency, *Strengthening and Improving Membership on EPA Federal Advisory Committees*, (Washington, D.C.: Oct. 31, 2017); U.S. Environmental Protection Agency, *EPA Ethics Advisory 2008-02: Ethical Obligations of Special Government Employees*, (Washington, D.C.: Oct. 21, 2008).

²For the 17 committees that appointed or reappointed committee members from fiscal year 2017 through the first two quarters of fiscal year 2018, we reviewed 22 appointment packets, as some committees appointed members more than once during this time period. Appointment packets contain the documentation used by EPA management to make appointment and reappointment decisions. Example of documents in these packets include: committee charters, which specify the committee's mission, scope, objectives, cost, membership, management, and recordkeeping; outreach plans, which document the agency's plan for recruiting committee members; and draft membership grid documents, which reflect staff recommendations about who should be appointed to serve on advisory committees and why.

individuals who were required to submit them to EPA to determine if they met federal financial-disclosure-reporting requirements.³

We reviewed all 74 of the forms provided by the 8 committees that appointed or reappointed special government employees (SGE) to serve on a committee from fiscal year 2017 through the first two quarters of fiscal year 2018. Additionally, we interviewed EPA officials involved with appointing committee members to understand the steps these officials took. We then compared the steps they described taking with selected steps in EPA's established process for appointing members to evaluate the extent to which the agency followed its process. We focused on steps in the appointment process that were to be documented in the appointment packets, which EPA used to support appointment decisions.⁴ Specifically, we reviewed those aspects of the process for which EPA had documentary evidence, and we evaluated the implementation of ethics oversight requirements that are relevant to EPA's committee-member appointment process.

To determine whether the agency followed selected steps in its established process, two senior analysts reviewed the appointment packets. Specifically, one senior analyst conducted the primary analysis for about half of the 22 appointment packets we received, while the other conducted the primary analysis for the remaining packets. Afterwards, each analyst reviewed the other's conclusions and noted agreement or disagreement based on the evidence provided. In some cases, discussion was necessary to resolve differences of opinion between the two analysts. Those discussions were documented. If additional documentation was necessary to resolve differences of opinion, we obtained additional information from the agency. The two analysts reached agreement on all of the packets.

To describe how, if at all, selected characteristics of EPA's advisory committees changed after January 2017, we analyzed information from the FACA database, a publically-available database maintained by GSA.

³We did not evaluate whether the individuals filing these forms had potential conflicts of interest.

⁴We evaluated the following steps in EPA's process: develop an outreach plan; develop a membership balance plan (for discretionary committees only); prepare a draft membership grid with alternates; review financial disclosure forms; obtain approval from EPA's Federal Advisory Committee Management Division; and obtain approval from EPA's Office of General Counsel.

The database contains information about FACA advisory committees that agencies, including EPA, are required to provide.

The initial scope of our review was the 22 committees in existence on March 31, 2018. Of these 22 committees, we excluded from all of our analyses the four committees that were established after November 2007 because this is the earliest date of one of our analyses. We also excluded four other committees from the three analyses that rely on member appointment start and end dates (committee composition, membership turnover, and regional affiliation) because of missing or inconsistent data. Additionally, we excluded some other committees from some of our analyses because of other types of data reliability issues or because of the nature of the characteristic. To assess the reliability of the committee data, we reviewed database technical documentation and interviewed GSA and EPA officials to identify any potential issues with our planned analysis of the data, among other things, and determined that overall the data were sufficiently reliable for conducting analysis to describe changes in selected member and committee characteristics for our selected time periods. We discuss additional steps we took to assess the reliability of the data and data reliability issues with the FACA database at the end of this appendix. Additionally, appendix II identifies which committees we excluded from which analyses and the reasons why.

Primarily using information available in the FACA database, we compared changes in four committee characteristics across committees and changes in presidential administrations. Specifically, we measured the characteristics before and after January 20, 2017, and compared them to similar periods before and after January 20, 2009. Additionally, we also compared the characteristics to those before and after January 21, 2013, to provide context to our findings and identify any patterns over time in the data.

The four characteristics we measured and compared across committees and changes in presidential administrations were:

- Committee composition
- Regional affiliation
- Membership turnover
- Number of committee meetings

For the first two characteristics, we compared across committees the percentage of members in the characteristics' categories on either

January 19, 2017, or January 19, 2009, to a day about 15 months later (either March 31, 2010, or March 31, 2018). For membership turnover, we compared across committees the percentage of members on either January 19, 2017, or January 19, 2009, who left a committee by about 15 months later (either March 31, 2010, or March 31, 2018). We chose March 31, 2018, to allow for a period of time after January 2017 for changes to occur in committee characteristics, and the fiscal year 2018 data file we received from GSA was updated as of March 31, 2018. For the fourth characteristic, we compared across committees the number of meetings held in the 15 months before January 20, 2009 and January 20, 2017, to a similar period after those dates (November 12, 2007, to March 31, 2010, or November 12, 2015, to March 31, 2018).

To identify changes to a characteristic that were notable, we used the following methodology. First we identified any changes after January 2017 that were large relative to other changes to that characteristic after January 2017.⁵ If we identified a relatively large change, we then compared it to changes to the characteristic after January 2009 to assess whether it was large relative to those changes. If it was, we would identify the change as notable. The committees we analyzed individually had at least 10 members (or 10 meetings) in the relevant time periods being measured, with the exception of two committees which had nine members on March 31, 2010. We analyzed the other committees combined since relatively small changes in counts would have a relatively large impact on percentages.

Committee Composition

We measured the committee composition of 5 of 18 committees. We excluded 4 of the 18 committees because of data reliability issues and 9 committees because they were not staffed primarily with SGEs.⁶ We limited the committee composition analysis to SGEs because SGEs are expected to provide their best judgement free from conflicts of interest, rather than represent a particular viewpoint. We analyzed two of the five committees individually and the other three committees combined.

⁵We did not test for statistically significant differences for reasons including the small committee sizes. In following our approach for identifying notable changes, each change identified as notable had at least a 20 percentage point difference in the change to the characteristic after January 2017 compared to the period after January 2009.

⁶The total number of members from the 5 committees that were included in the committee composition analysis was 277, with a range from 69 to 90 members across the 6 days in our analysis.

To measure the composition of the five committees, we first categorized each member's occupation from the "occupation/affiliation" field in the FACA database into one of six categories. The categories were:

- academic;
- consultant;
- government;
- industry;
- non-government organization (NGO); or
- other.

To assign the categories, one GAO analyst reviewed the occupation/affiliation data for each member and assigned one of five categories (academic, consultant, government, industry, or NGO) to each member. In instances where it was unclear what category to assign, the analyst conducted online searches regarding the occupation/affiliation information to identify the type of entity and assign a category. We assigned the category "other" in 30 instances where the member was affiliated with more than one of the other categories, not affiliated with any of the other categories (for example, retired), or for which the FACA database did not provide sufficient information to assign one of the other categories. A second analyst reviewed the reasonableness of the categories assigned by the first analyst—including the additional research. The two analysts reached consensus on the categories for each member. We then applied the methodology described above to identify notable changes in committee composition after January 2017.

Regional Affiliation

We measured the regional affiliation of 10 of 18 committees. We excluded 8 committees because of data reliability issues.⁷ We analyzed 4 of the 10 committees individually and the other 6 committees combined.

To measure the regional affiliation of the 10 committees, we assigned one of four U.S. Census regions (as defined by the U.S. Census Bureau) to each committee member based on data in the "occupation/affiliation" field in the FACA database for that member—in most instances, state

⁷The total number of members from the 10 committees that were included in the regional affiliation analysis was 655, with a range from 140 to 214 members across the 6 days in our analysis.

information is included in this field.⁸ We then applied the methodology described above to identify notable changes in regional affiliation to the period after January 2017. The regions were:

- Midwest,
- Northeast,
- Southern, and
- Western.

Membership Turnover

We measured membership turnover in 14 of 18 committees. We excluded 4 committees because of data reliability issues.⁹ We analyzed 9 of the committees individually and the other 5 committees combined. To measure membership turnover of the 14 committees, we used date fields indicating when committee members began and ended their terms to determine the percentages of members on a committee on January 19, 2017, and January 19, 2009, who were not members about 15 months later. We then applied the methodology described above to identify notable changes in membership turnover after January 2017.

Number of Committee Meetings

We measured the change in the number of meetings for 18 committees.¹⁰ We analyzed two of the committees individually and the other 16 committees combined. To measure this characteristic, we used data on the date that meetings were held (we used the date that the meeting began if it was a multi-day meeting). We then applied the methodology described above to identify notable changes in the number of meetings after January 2017.

Data Reliability and Analysis Preparation

We assessed the reliability of the data provided to us by GSA and took certain steps to prepare the data for analysis. GSA provided us with data files downloaded to Excel from its FACA database from October 1, 2005, to March 31, 2018, for our analysis. GSA maintains the FACA database

⁸We used the four U.S. Census regions rather than the 10 EPA regions because the committees were generally too small in membership size to analyze by a greater number of regions.

⁹The total number of members from the 14 committees that were included in the membership turnover analysis was 1021, with a range from 239 to 327 members across the 3 days in our analysis.

¹⁰The total number of meetings included in the committee meeting analysis was 584, with a range from 54 to 164 meetings across the 6 time periods in our analysis.

on a fiscal year basis. During the fiscal year, staff in each agency, including EPA, are to enter data to reflect any changes about the agency's FACA committees. At the end of each fiscal year, GSA is to perform, in conjunction with each agency, an annual comprehensive review of the data entered into the database by the agency for that fiscal year. According to GSA officials, these reviews constitute the agency's main process for ensuring the reliability of the database. Once the review is complete, the data are locked down, meaning they can no longer be changed. We received data through the 2017 fiscal year after GSA completed the 2017 review.

Because this latest GSA review was the end of fiscal year 2017 and we wanted to include data into 2018, we requested that EPA update the database to March 31, 2018, for each committee for certain data fields relevant to our analyses. We asked that for each committee, the EPA staff member responsible for entering a committee's data in the FACA database provide confirmation to us that the data had been updated through March 31, 2018. After we received confirmation that data for the 22 committees in existence on March 31, 2018, had been updated, GSA staff provided us the data update for EPA committees from October 1, 2017, through March 31, 2018.

To further assess the reliability of these data, we reviewed the database's technical documentation and interviewed GSA and EPA officials to identify any potential issues with our planned analysis of the data. We conducted logic tests and spot-checked the data to identify errors and inconsistencies. For example, we scanned committee member's names to identify potential duplicates of the same person in the same committee and made corrections where appropriate. If a person served on more than one committee, we included that person separately for each committee on which he or she served. For each member, we also checked the appointment start and end dates indicated in each fiscal year for inconsistencies across fiscal years. In some instances, we identified missing or inconsistent data in these dates and shared this information with EPA officials. EPA was able to provide some corrected data for members with missing or inconsistent appointment-date data from October 1, 2015, to March 31, 2018.¹¹ We excluded from our analyses

¹¹We did not request corrected data prior to October 1, 2015, because changes in EPA committee management over time limits the ability of EPA officials to provide corrected data in the earlier years of our analysis' time frame. We excluded from our analysis members with inconsistent data that could not be corrected.

four committees for which over 30 percent of members had appointment date issues we were not able to resolve, as well as individual members with unresolved date issues for the committees we included in the analysis.¹² We also checked the 2018 data that GSA provided to us against the data posted to EPA's website. We determined that overall the data were sufficiently reliable for conducting analysis to describe changes in selected member and committee characteristics for our selected time periods.

Finally, we took steps to structure the data provided by GSA in the format needed for our analyses. Specifically, because GSA maintains its data on a fiscal year basis, the data we received from GSA contained a separate row in the database for each committee member for each fiscal year that he or she was a member. To facilitate our analyses, we transposed the dataset so there was one row for each member (for each committee, if a member was in more than one committee) that contained the data from all of the fiscal year records for that member.

We conducted this performance audit from October 2017 to July 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹²We excluded 146 members from the initial set of 14 committees in the member-level analysis because of data reliability issues.

Appendix II: Additional Information about U.S. Environmental Protection Agency's Advisory Committees

Table 3 provides information about each of the 22 advisory committees managed by the U.S. Environmental Protection Agency (EPA) as of March 31, 2018. For each of these committees, the table also identifies whether we included it in one or more of our analyses. If we excluded a committee from certain analyses, we also explain why.

Table 3: Information on U.S. Environmental Protection Agency (EPA) Advisory Committees as of March 31, 2018

Committee name (Date established)	Description of activities	Membership on March 31, 2018		Included in GAO's analysis			
		Number of committee members	Percentage of members who are special government employees	Committee's composition	Regional affiliation	Membership turnover	Number of committee meetings
Children's Health Protection Advisory Committee (4/21/1997)	Advises, consults with and makes recommendations to EPA on issues associated with the development of regulations to address prevention of adverse health effects to children. The Committee also carries out related functions such as collecting information and data to inform Agency decisions and serves to improve the breadth and depth of analyses related to the rules.	19	0%	No ^a	No ^a	No ^a	Yes ^b
Clean Air Act Advisory Committee (9/10/1990)	Supports EPA in performing its duties and responsibilities under the Clean Air Act amendments enacted in 1990. The Advisory Committee is consulted on economic, environmental, technical, scientific, and enforcement policy issues.	36	0	No ^c	No ^a	Yes	Yes ^b
Clean Air Scientific Advisory Committee (8/7/1977)	Reviews, among other things, EPA's national primary and secondary ambient air quality standards and recommends new standards and revisions of existing standards as may be appropriate.	7	100	Yes ^b	Yes ^b	Yes ^b	Yes ^b

**Appendix II: Additional Information about U.S.
Environmental Protection Agency's Advisory
Committees**

		Membership on March 31, 2018		Included in GAO's analysis			
Committee name (Date established)	Description of activities	Number of committee members	Percentage of members who are special government employees	Committee's composition	Regional affiliation	Membership turnover	Number of committee meetings
Environmental Financial Advisory Board (2/12/1991)	Provides advice and recommendations to EPA on (1) lowering costs by proposing ways of removing financial and programmatic barriers that raise the cost of environmental protection; (2) increasing public and private investment in environmental facilities and services; (3) proposing ways to improve the efficiency of investments; and (4) building the state and local financial capacity necessary to carry out environmental mandates.	29	10	No ^c	No ^a	Yes	Yes ^b
Environmental Laboratory Advisory Board (4/21/1995)	Provides advice and counsel to EPA and other federal agencies, as appropriate, concerning the systems and standards of accreditation for laboratories that provide services to governmental and private sector organizations, in support of activities related and in compliance with federal and state environmental statutes and regulations.	14	0	No ^c	Yes ^b	Yes ^b	Yes
EPA Board of Scientific Counselors (2/23/1996)	Provides advice, information, and recommendations concerning technical and management aspects of EPA's Office of Research and Development research programs.	15	80	Yes	No ^a	Yes	Yes ^b
EPA Science Advisory Board (1/1/1978)	Provides independent advice and peer review to EPA's Administrator on the scientific and technical aspects of environmental issues.	44	100	Yes	Yes	Yes	Yes

**Appendix II: Additional Information about U.S.
Environmental Protection Agency's Advisory
Committees**

		Membership on March 31, 2018		Included in GAO's analysis			
Committee name (Date established)	Description of activities	Number of committee members	Percentage of members who are special government employees	Committee's composition	Regional affiliation	Membership turnover	Number of committee meetings
Farm, Ranch, and Rural Communities Advisory Committee (1/22/2008)	Provides advice and recommendations to the Administrator on environmental issues and programs that impact, or are of concern to, farms, ranches, and rural communities.	8	0	No ^d	No ^d	No ^d	No ^d
Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (11/28/1975)	Provides comments, evaluations, and recommendations on pesticides and pesticide-related issues as to the impact on health and the environment of regulatory actions.	7	86	Yes ^b	Yes ^b	Yes ^b	Yes ^b
Good Neighbor Environmental Board (9/12/1994)	Provides advice to the President and the Congress on the need for environmental and infrastructure projects (including projects that affect agriculture, rural development, and human nutrition) within the states of the United States contiguous to Mexico, in order to improve the quality of life of persons residing on the United States side of the border.	32	0	No ^c	Yes	Yes	Yes ^b
Governmental Advisory Committee to the United States Representative to the North American Commission for Environmental Cooperation (5/13/1994)	Provides advice to the United States Representative (the Administrator of EPA) to the North American Commission on Environmental Cooperation on implementation and further elaboration of the North American Agreement on Environmental Cooperation (the environmental side accord to the North American Free Trade Agreement.)	13	0	No ^c	Yes ^b	Yes ^b	Yes ^b

**Appendix II: Additional Information about U.S.
Environmental Protection Agency's Advisory
Committees**

		Membership on March 31, 2018		Included in GAO's analysis			
Committee name (Date established)	Description of activities	Number of committee members	Percentage of members who are special government employees	Committee's composition	Regional affiliation	Membership turnover	Number of committee meetings
Great Lakes Advisory Board (6/15/2012)	Provides advice and recommendations on matters related to the Great Lakes Restoration Initiative. Also advises on domestic matters related to implementation of the U.S.–Canada Great Lakes Water Quality Agreement.	21	24	No ^d	No ^d	No ^d	No ^d
Hazardous Waste Electronic Manifest System Advisory Board (8/28/2015)	Provides recommendations on matters related to the operational activities, functions, policies, and regulations of the EPA under the e-Manifest Act.	9	11	No ^d	No ^d	No ^d	No ^d
Human Studies Review Board (1/20/2006)	Provides advice, information, and recommendations on issues related to scientific and ethical aspects of human subjects' research. The main objectives are to provide advice and recommendations on: (1) research proposals and protocols, (2) reports of completed research with human subjects, and (3) how to strengthen EPA's programs for protection of human subjects of research.	8	88	Yes ^b	Yes ^b	Yes	Yes ^b
Local Government Advisory Committee (10/30/1992)	Advises, consults with, and makes recommendations to EPA on matters related to the implementation of federal environmental requirements by local governments.	26	0	No ^a	No ^a	No ^a	Yes ^b

**Appendix II: Additional Information about U.S.
Environmental Protection Agency's Advisory
Committees**

		Membership on March 31, 2018		Included in GAO's analysis			
Committee name (Date established)	Description of activities	Number of committee members	Percentage of members who are special government employees	Committee's composition	Regional affiliation	Membership turnover	Number of committee meetings
National Advisory Committee to the United States Representative to the North American Commission for Environmental Cooperation (5/13/1994)	Provides advice to the United States Representative (the Administrator of EPA) to the North American Commission on Environmental Cooperation on implementation and further elaboration of the North American Agreement on Environmental Cooperation (the environmental side accord to the North American Free Trade Agreement.)	14	0	No ^c	Yes ^b	Yes ^b	Yes ^b
National Advisory Council for Environmental Policy and Technology (6/8/1988)	Advises, consults with, and makes recommendations on a continuing basis to the EPA Administrator on issues associated with environmental management generally, and on matters relating to activities, functions and policies under the federal environmental statutes, executive orders, regulations, and policies affecting environmental management responsibilities of EPA.	24	0	No ^c	Yes	Yes	Yes ^b
National Drinking Water Advisory Council (2/26/1975)	Advises, consults with, and makes recommendations to EPA on matters related to activities, functions, and policies of the Agency under the Safe Drinking Water Act as amended.	16	94	No ^a	No ^a	No ^a	Yes ^b
National Environmental Education Advisory Council (11/16/1990)	Advises, consults with, and makes recommendations to EPA on matters relating to activities, functions, and policies of EPA under the National Environmental Education Act.	11	100	No ^a	No ^a	No ^a	Yes ^b
National Environmental Justice Advisory Council (7/23/1993)	Provides independent advice and recommendations to the EPA Administrator about broad, cross-cutting issues related to environmental justice.	30	0	No ^c	No ^a	Yes	Yes ^b

**Appendix II: Additional Information about U.S.
Environmental Protection Agency's Advisory
Committees**

		Membership on March 31, 2018		Included in GAO's analysis			
Committee name (Date established)	Description of activities	Number of committee members	Percentage of members who are special government employees	Committee's composition	Regional affiliation	Membership turnover	Number of committee meetings
Pesticide Program Dialogue Committee (7/5/1995)	Provides advice and guidance to EPA on regulatory development and reform initiatives, evolving public-policy and program-implementation issues, and science issues associated with evaluating and reducing risks from use of pesticides.	38	0	No ^c	Yes	Yes	Yes ^b
Science Advisory Committee on Chemicals (12/30/2016)	Provides independent advice and expert consultation to EPA's Office of Pollution Prevention and Toxics (OPPT) with respect to the scientific and technical aspects of issues relating to the implementation of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, which amends the Toxic Substances Control Act (TSCA).	26	92	No ^d	No ^d	No ^d	No ^d

Source: EPA, GAO analysis of data from EPA, and U.S. General Services Administration's (GSA) Federal Advisory Committee Act (FACA) database. | GAO-19-280

^aExcluded from analysis because data in GSA's FACA database were not complete enough to analyze.

^bDid not analyze committee individually because it had too few members or meetings.

^cExcluded from analysis because not staffed primarily with special government employees.

^dExcluded from analysis because established after the beginning of the time frame analyzed.

Appendix III: Advisory-Committee Appointment Packets for Which the U.S. Environmental Protection Agency Followed the Steps Evaluated by GAO

Table 4 summarizes the number of advisory-committee appointment packets for which the U.S. Environmental Protection Agency (EPA) did or did not follow the steps we evaluated for appointing members to serve on EPA advisory committees.

Table 4: Number of U.S. Environmental Protection Agency (EPA) Advisory Committee Packets for Which EPA Did or Did Not Follow the Steps Evaluated by GAO, Fiscal Year 2017 Through Second Quarter of Fiscal Year 2018

Steps GAO evaluated	Yes	No	Other ^a	Not applicable ^b	Total packets reviewed
Did EPA provide an outreach plan for this appointment cycle?	17	4	1 ^c	0	22
For discretionary committees only: Did EPA develop a membership balance plan for this appointment cycle?	14	0	0	8	22
Did EPA develop a draft membership grid for this appointment cycle?	20	2	0	0	22
Did the draft membership grid include at least one alternate?	14	6	2 ^d	0	22
Did EPA provide evidence that the Federal Advisory Committee Management Division reviewed the proposed membership before the final membership package was prepared?	17	5	0	0	22
Did EPA provide evidence that EPA's General Counsel reviewed the proposed membership prior to appointment?	21	1	0	0	22

Source: GAO analysis of EPA documents related to appointments and reappointments of committee members to EPA advisory committees in fiscal year 2017 and the first two quarters of fiscal year 2018.
 | GAO-19-280

^aIn some cases, we could not make a clear determination about whether certain committees followed specific steps in EPA's established process. We reported the results of these instances in the "other" category.

^bThe regulatory requirement to develop a membership balance plan does not apply to non-discretionary committees. Therefore, we reported this requirement as Not Applicable for the packets provided by non-discretionary committees.

^cIn this instance, the committee provided an outreach plan. However, the plan appeared to have been developed for the prior appointment cycle. Therefore, we could not make a clear determination about whether this committee followed this step. Consequently, we reported this as "other."

^dIn one of these two cases, the committee had completed an appointment cycle less than 8 months before the committee chair died unexpectedly. Consequently, EPA staff recommended selecting a replacement candidate from the most recent nominations submitted by the National Institutes of Health and National Science Foundation. We concluded that this was a reasonable decision given the large number of people (34) nominated for 2 vacant positions during the previous appointment cycle. However, the committee technically did not provide evidence that it had proposed an alternate in its draft membership grid for the current appointment cycle. Therefore, we could not make a clear determination about whether this committee did or did not follow this step. In the other case, the committee also did not provide evidence that it had proposed at least one alternate in its draft membership grid. However, the committee reappointed two previously appointed committee members during this appointment cycle. Therefore, we could not make a clear determination about whether the committee did or did not follow this step.

Appendix IV: Comments from the U.S. Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUN 11 2019

OFFICE OF MISSION SUPPORT

Mr. Alfredo J. Gomez, Director
Natural Resources and Environment
United States Government Accountability Office
Washington, DC 20548

**RE: GAO Draft Report to Congressional Requesters – EPA Advisory Committees:
Improvements Needed for Member Appointment Process (GAO-19-280)**

Dear Mr. Gomez,

We are in receipt of the above captioned Draft Report by the U.S. Government Accountability Office (GAO) and have the following comments and corrections:

As to GAO's first finding:

EPA Followed Most Steps But Did Not Follow a Key Step for Appointing 20 Members to 2 Advisory Committees.

EPA believes this finding is in error and should be removed from the final version of GAO's report.

As GAO noted, EPA followed all membership steps outlined in agency guidance with the exception of 2 committees who substituted one of the steps (development of a membership grid) with a more rigorous examination of the candidates (a series of briefings with senior management discussing the strengths and weaknesses of potential candidates). This is within the discretion of the EPA Administrator.¹ In this limited instance, the then-Administrator of the EPA decided he needed additional information (more than a membership grid would supply) before making a determination as to who would serve on the federal advisory committees in question.

Since it is within the Administrator's authority to set guidance as deemed appropriate to achieve the goals of the agency, and since the membership process was followed with an enhancement to ensure only the best, most qualified applicants were chosen to serve on the federal advisory committees in question, we deem this finding to be inaccurate and possibly misleading in characterizing the state of EPA's compliance with the federal advisory committee membership process. As such, we believe this finding should be deleted from the final report generated by the

¹ The Administrative Procedure Act, 5 USC Sections 551-59, 701-06 (2000) provides a common default framework for agencies to set guidance.

U.S. Government Accountability Office on EPA's Member Appointment Process (GAO-19-280).

In the event that GAO maintains this finding in its final report, EPA requests that this response be incorporated by footnote to the section outlining this finding and that this response, *in toto*, be attached to and made a part of their final report.

As to GAO's second finding:

EPA Did Not Consistently Ensure That Members Met Federal Ethics Requirements.

EPA does not dispute GAO's findings. The Agency has dedicated significant resources to address the problems highlighted in the report. At the time of the audit, EPA's Ethics Office was understaffed. These staffing issues have been resolved and, as a result, EPA is now engaged in a full and thorough review of all employees' (including special government employees engaged to work on EPA federal advisory committees) ethics forms to ensure they meet all ethics requirements.

In addition to the comments relating to the two findings found in GAO's Draft Report, we have the following technical comments and corrections to GAO-19-280:

1. Page 2, paragraph 2, "fiscal year 2017 through the first two quarters of 2018"

Recommended Change: 6 quarters is a small sample size when considering that: 1) most FACs only appoint new members annually; and 2) the agency can only appoint from those nominated. GAO should acknowledge any constraints/uncertainties associated with an analysis based on this time period.

2. Page 4, paragraph 2, "audit from October 2017 to June 2019"

Clarification: It is unclear what this date range is referring to. Please clarify/distinguish between length of time for the audit or the sample size when considering that: 1) most FACs only appoint new members annually; and 2) the agency can only appoint from those nominated. GAO should acknowledge any constraints/uncertainties associated with an analysis based on this time period.

3. Page 4, paragraph 1, "committee composition"

Recommended Change: Suggest changing to "academic, industry, consultant, government, NGO, or other" to match the categories listed on page 21.

4. Page 4, paragraph 2, "audit from October 2017 to June 2019"

Clarification: It is unclear what this date range is referring to. Please clarify/distinguish between length of time for the audit or the time period GAO's analysis was based on.

5. Page 4, footnote 11, "statistically significant"

Recommended change: GAO notes that they did not test for statistically significant differences due to small committee sizes. EPA reemphasizes that committee size at any one point in time will reflect both the annual nature of the process and appointees being restricted to a pool of nominees.

6. Page 16, paragraph 2, "In addition, SAB and CASAC staff we interviewed..."

Correction: Report should indicate that vetting of candidates occurred in a different manner than in previous years.

7. Page 16, "The documentation of those recommendations did not take place."

Clarification: The fact is that the SABSO did document staff evaluations in the briefing documents (which GAO did not request). Therefore the statements that follow in the draft GAO report, regarding not documenting and being inconsistent with the Federal Standards for Internal Control, are not accurate and should be removed or modified as pertaining to SABSO.

8. Page 16, paragraph 4, "control activities"

Clarification: The membership process was followed for SAB and CASAC in FY18, but with a process in place more robust than membership grids. In addition, the public comment process was also more robust, resulting in a more thorough examination of potential committee members to these committees than a membership grid would allow.

This robust public involvement process went beyond what was prescribed in the traditional membership process. For SAB and CASAC, the public was offered additional opportunity to provide input on all nominated candidates under consideration. For CASAC, the public comment period ran from 8/28/17 – 9/19/17; for SAB, the public comment period ran from 10/17/17 – 11/07/17.

9. Page 19, paragraph 1, "at times during 2017"

Clarification: GAO should clarify when in 2017.

10. Page 20, paragraph 4, "36 of 47 members"

Comment: The agency believed that the SAB had become unbalanced - 77% for one stakeholder group (academia) being too large. Therefore, the agency intentionally decreased representation from academia from 77% to 50%. This is in keeping with the

requirement that federal advisory committees be balanced as to expertise and points of view represented.

11. Page 21, figure 3

Clarification: GAO should adjust the pie charts to include all member categories (and adjust member categories to reflect EPA designations) to better display the breakdown of membership across categories.

Consultants went from 0 as of 1/19/17 to 5 on 3/31/18 and academics went from 36 to 23 during this same period. Both changes made the membership more balanced.

12. Page 22, Table 2

Clarification: The numbers reflected on Table 2 (page 22) do not match the information found in FACADATABASE.gov. GAO does not state the methodology they used to arrive at these numbers for the dates at issue.

We recommend GAO reexamine this data and review/revise the text on page 22, paragraph 1 and page 25, paragraph 1 in light of this information.

13. Page 22, paragraph 1

Correction: The report provides an analysis of the academic makeup of the BOSC by comparing membership on 1/19/17 to 3/31/18. The report states that 11 of 17 were in academia on 1/19/17 (65%). However, based on the information in FACADATABASE.gov, which GAO identifies as the source of its data, the actual membership was 19 (not 17), 13 of which were from academia (68%). The report accurately states the academic membership on 3/31/18 but is inaccurate in the rest of its breakdown (3 academic, 4 government, 4 industry, 0 consultants, 0 NGO, 4 other). In fact, there were 15 members of which 3 were in academia (20%). We note that while the GAO reviewed data for the BOSC Executive Committee, they did not review data for the five subcommittees which maintained about the same percentage of members from academia for both of these periods of time.

14. Page 22, paragraph 2, "southern region – which spans from Texas to Delaware"

Recommended change: As the directive *Strengthening and Improving Membership on Federal Advisory Committees* is concerned with balanced membership across EPA regions and states, the geographic distribution should be reassessed with a more appropriate metric (i.e. EPA Regions) as opposed to U.S. Census Regions. *See also* Note 14 below.

15. Page 23, Figure 4

Recommended Change: GAO should consider plotting the membership on a map and adjust the metric for geographic distribution of members to that of EPA regions and states. This would reflect the way EPA considers geographic diversity and how the directive *Strengthening and Improving Membership on Federal Advisory Committees* directs geographic distribution be handled. *See also* Note 13 above.

16. Page 24, paragraph 1 “membership turnover”

Clarification: The report provides an analysis of membership turnover. The report states that 12 of 17 members that were on the committee on 1/19/17 were not on the committee on 3/31/18 (71%). The actual number is 13 of 19 (68%) who were not on the committee by the later date. It is important to note that two members that were on the Executive Committee on 1/19/17 were members of subcommittees on March 31, 2018. Because the GAO only evaluated the Executive Committee, these two members were not counted, even though they were still a member of the BOSC (though on subcommittees). If they were included in the analyses, the total would have been 57%. Another point not considered by GAO is that 5 of the 19 members active on 1/19/17 had already served 6 years and were therefore not eligible to continue. Additionally, 1 member resigned. Therefore, a high turnover for this committee was inevitable.

17. Page 25, paragraph 1

Correction: The report states that members with government affiliation increased by 22% between the two time periods. The report states that on 1/19/17 3 of 17 members had a government affiliation (18%). On 3/31/18 6 of 15 members had such an affiliation (40%). This is incorrect. In fact, 2 of 19 members (11%) had a government affiliation on 1/19/17 and 4 of 15 members (27%) had this affiliation on 3/31/18, for an increase of 16%.

18. Page 25, paragraph 1 “22 percentage points”

Correction: The data listed in this section is not supported by the data in FACADATABASE.com and needs to be revised. *See* Comment 16 above. This statement is also inconsistent with GAP’s metrics for “notable change” as listed in the beginning of the report on page 4, footnote 11.

19. Page 25, footnote 45

Request for Clarification: It is unclear which 6 committees are being referred to in this footnote and what was the individual breakdown of members on these committees.

20. Page 26, paragraph 2

Clarification: As stated previously, many of the members who were no longer serving on the committee had reached their 6-year term limit. Thus, they were no longer eligible to be members of the referenced committee.

21. Page 37, paragraph 2 “as defined by the U.S. Census Bureau”

Recommended change: As the directive *Strengthening and Improving Membership on EPA Federal Advisory Committees* is concerned with balanced membership across EPA regions and states, the geographic distribution should be reassessed with a more appropriate metric (i.e. EPA Regions). The committee size should not impact the decision to use an appropriate metric for this report.

22. Page 39, paragraph 2 “sufficiently reliable”

Clarification: GAO should clarify what “sufficiently reliable” means. This term in and of itself is too ambiguous to be an accurate indicator for use in this report. GAO should also clarify instance of discrepancies between systems.

23. Page 44, National Advisory Committee to the United States Representative to the North American Commission for Environmental Cooperation

Correction: The establishment date for this committee is 5/13/94.

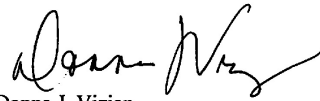
24. Page 45, National Environmental Education Advisory Committee (NEEAC) membership

Correction: There are 11 members on the NEEAC.

EPA requests that this response *in toto* be incorporated into the record of this review and be attached to the final report published by GAO.

I thank you for your attention in this matter.

Sincerely,



Donna J. Vizian
Principal Deputy Assistant Administrator

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

In addition to the individuals named above, Joseph Thompson (Assistant Director), John Delicath, Charles Egan, Chad Gorman, Richard Johnson, Yvonne Jones, Mary Koenen, James Lager, Amber Sinclair, and Kiki Theodoropoulos made important contributions to this report.

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