

Public comments will be accepted for 21 calendar days on the Short List. During this comment period, the public will be requested to provide information, analysis or other documentation on nominees that the SAB Staff should consider in evaluating candidates for Panel.

For the EPA SAB, a balanced advisory panel is characterized by inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. Public responses to the Short List candidates will be considered in the selection of the panel, along with information provided by candidates and information gathered by EPA SAB Staff independently on the background of each candidate (e.g., financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluating an individual subcommittee member include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) absence of financial conflicts of interest; (c) scientific credibility and impartiality; (d) availability and willingness to serve; and (e) ability to work constructively and effectively in committees.

Short List candidates will also be required to fill-out the "Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency" (EPA Form 3110-48). This confidential form, which is submitted by EPA SAB Members and Consultants, allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following URL address: (<http://www.epa.gov/sab/pdf/epaform3110-48.pdf>). Panel members will likely be asked to attend a least one public face-to-face meeting and several public conference call meetings over the anticipated course of the review.

Dated: July 31, 2003.

**Vanessa T. Vu,**

*Director, EPA Science Advisory Board Staff Office.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7540-5]

### Science Advisory Board Staff Office; Request for Nominations for an Ad Hoc Science Advisory Board Panel on Illegal Competitive Advantage Economic Benefits

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.0

**SUMMARY:** The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces the formation of a new SAB advisory panel to provide advice to the Agency regarding economic benefit recapture issues, to be referred to as the "Illegal Competitive Advantage (ICA) Economic Benefit (EB) Advisory Panel" (ICA EB Advisory Panel) and is soliciting nominations for members of the panel.

**DATES:** Nominations should be submitted no later than August 27, 2003.

**ADDRESSES:** Nominations should be submitted in electronic format through the Form for Nominating Individuals to Panels of the EPA Science Advisory Board provided on the SAB website. The form can be accessed through a link on the blue navigational bar on the SAB Website, <http://www.epa.gov/sab>. To be considered, all nominations must include the information required on that form. Anyone who is unable to submit nominations via this form any contact Dr. K Jack Kooyoomijan, Designated Federal Office (DFO), as indicated below.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information regarding this Request for Nomination may contact Dr. K. Jack Kooyoomijan, (DFO), U.S. EPA Science Advisory Board, 1200 Pennsylvania Ave., NW., (1400A), Washington DC, 20460, by telephone/voice mail at (202) 564-4557, by fax at (202) 501-0582; or via e-mail at [kooyoomijan.jack@epa.gov](mailto:kooyoomijan.jack@epa.gov).

For technical information pertaining to the Agency's White Paper and the supporting background documents, please contact Mr. Jonathan Libber the U.S. EPA, Office of Enforcement and Compliance Assurance (Mail Code 2248A), by telephone/voice mail at

(202) 564-6102, by fax at (202) 564-9001; or via e-mail at [libber.jonathan@epa.gov](mailto:libber.jonathan@epa.gov).

## SUPPLEMENTARY INFORMATION:

### Summary

The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office is announcing the formation of a new Advisory Panel to review and provide advice to the Agency concerning the White Paper addressing the "illegal competitive advantage" (ICA) issues related to EPA's policy of recapturing violator's economic benefit from environmental noncompliance. Most of the Agency's cases involving economic focus on the financial gain that arises from relatively straightforward delayed and/or avoided pollution control costs, and the Agency's "BEN" (Benefits) computer model calculates the economic benefit in those situations. Where ICA issues arise, the economic benefit derived from scenarios that do not fit the BEN model's simplified paradigm of avoided and/or delayed expenditures may or may not apply. The SAB is soliciting nominations to establish the members of the new Panel to be known as the Illegal Competitive Advantage (ICA) Economic Benefit (EB) Advisory Panel (ICA EB Advisory Panel).

The ICA EB Advisory Panel is being formed to provide advice to the Agency, as part of the EPA SAB's mission, established by 42 U.S.C. 4365, to provide independent scientific and technical advice, and recommendations to the EPA Administrator on the technical bases for EPA decision making. The Board is a chartered Federal Advisory Committee, which reports directly to the Administrator.

### Background

A cornerstone of EPA's Office of Enforcement and Compliance Assurance (OECA) civil penalty program is recapture of the economic benefit that a violator may have gained from illegal activity, whenever EPA can effectively measure that gain. Recapture helps level the economic playing field, discouraging and preventing visitors from obtaining an unfair financial advantage over their competitors who made timely and necessary investments in environmental compliance. Since 1984, EPA's policy has been to recapture a violator's economic benefit from violating the law (See document entitled "Policy on Civil Penalties," specifically at page 3 and its companion document, A Framework for Statute-Specific Approaches to Penalty Assessments at pages 6-11. EPA's Office