



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C. 20460

OFFICE OF THE ADMINISTRATOR
SCIENCE ADVISORY BOARD

August 1, 2006

MEMORANDUM

SUBJECT: SAB Scientific and Technological Achievement Awards Committee (2006-2009) –
Determination of Committee Membership

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EPA's Scientific and Technological Achievement Award (STAA) program is a long-standing partnership between the Agency and the EPA Science Advisory Board (SAB). Each year since 1980, Agency scientists and engineers have submitted their scientific and technical publications through an internal Agency review process managed by the Office of Research and Development (ORD). In response to ORD's annual request, the SAB convenes an independent expert committee consisting of outside scientists and engineers to evaluate the nominations and make recommendations to the EPA Administrator regarding the merit and degree of recognition for award. The purpose of this memo is to document the steps taken by the SAB Staff Office to convene a new committee to review the STAA nominations over the next three years (2006-2009).

Identification of Candidates

The SAB Staff Office published a *Federal Register Notice* (FRN) on October 17, 2005 soliciting nominations for experts (in the areas of control systems and technology; monitoring and measurement methods for all environmental media; health effects and human risk assessment; ecological effects and ecological risk assessment; ecosystem restoration; chemical fate, transport and exposure assessment; risk management; integrated risk assessment; social sciences; and environmental futures) to serve on the STAA Committee for FY 2006 - 2009. On May 8, 2006, the SAB Staff Office published a "short list" of 13 candidates on the SAB web-site for a 3-week public comment period. The SAB Staff Office received no comments from the public. Each candidate was then evaluated for ethics requirements.

Identification of parties who are potentially interested in or may be affected by the activities of the SAB STAA Panel:

Parties interested in this advisory activity include scientists and engineers inside and outside the EPA who author the nominated scientific papers. Other interested groups may include, but are not limited to: other Federal government agencies, state, local and tribal governments and the scientific community-at-large.

Whether the overall charge involves a Particular Matter and how conflict of interest regulations apply to members of the committee:

A “particular matter” refers to matters that “...will involve deliberation, decision, or action that is focused upon the interests of specific people, or a discrete and identifiable class of people.” It does not refer to “...consideration or adoption of broad policy options directed to the interests of a large and diverse group of people.” [5 C.F.R. 2640.103 (a)(1)].

18 U.S.C. 208 provision states that:

*“An employee is prohibited from participating **personally and substantially** in an official capacity in any **particular matter** in which he, to his knowledge, or any person whose interests are imputed to him under this statute has a financial interest, if the particular matter will have a **direct and predictable effect** on that interest [emphasis added].”*

The SAB Director/Deputy Ethics Official, in consultation with the SAB Ethics and FACA Policy officer have determined that the work that this committee will perform to be a particular matter affecting specific parties, specifically the authors of the papers to be reviewed.

For a conflict of interest to be present, all elements in the above provision must be present. If an element is missing, the issue does not involve a formal conflict of interest. However, the general provisions in the “appearance of a lack of impartiality guidelines” still apply and need to be considered.

Personal and Substantial Participation:

Participating personally means participating directly. Participating substantially refers to involvement that is of significance to the matter. [5C.F.R. 2640.103(a)(2)]. Panel members will be participating personally in matters presented to them through attendance at meetings, teleconferences and other means.

Direct and Predictable Effect:

A direct effect on a participant’s financial interest exists if. “... a close causal link exists between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest...A particular matter does not have a direct effect...if the chain of causation is attenuated or is contingent upon the occurrence of events that are speculative or that are independent of, and unrelated to, the matter. A particular matter that has an effect on a financial interest only as a consequence of its effects on the general economy is not considered to have a direct effect.” [5 C.F.R. 2640.103(a)(i)]. A predictable effect exists if, “...there is an actual, as opposed to a speculative, possibility that the matter will affect the financial interest.” [5 C.F.R. 2640.103(a) (ii)].

Appearance of a Lack of Impartiality Considerations:

The Code of Federal Regulations [5 C.F.R. 2635.502(a)] states that:

“Where an employee knows that a *particular matter* involving specific parties is likely to have a *direct and predictable effect* on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the person determines that the circumstances would cause a *reasonable person* with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee.”

Further, 5 C.F.R. 2635.502(a)(2) states that:

“An employee who is concerned that circumstances other than those specifically described in this section would raise a question regarding his impartiality should use the process described in this section to determine whether he should or should not participate in a particular matter.”

Each potential committee member was evaluated against the 5 C.F.R. 2635(a)(2) general requirements for considering an appearance of a lack of impartiality. Information used in this evaluation is from information provided by potential committee members (including, but not limited to, EPA 3110-48 confidential financial disclosure forms).

To further evaluate any potential appearance of a lack of impartiality, committee members will be asked to recuse themselves from the review of any papers should they find a conflict of interest once they receive the papers for review.

Conflict of Interest and Appearance of a Lack of Impartiality Determination for Committee Members

Prospective committee members were required to submit a confidential financial disclosure form (EPA Form 3110-48, “Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency”).

Since none of the committee members reviewing the papers are authors of the papers, it has been determined by the SAB Director/Deputy Ethics Official, in consultation with the SAB Ethics and FACA Policy Officer, that there is no direct and predictable effect on any of the committee members’ financial interests. Therefore, it has been determined that there are no conflicts of interest nor appearances of a lack of impartiality for any of the committee members.

How individuals were selected for the final committee

The SAB Staff Office Director determined that all thirteen candidates should serve on the FY 2006 - 2009 STAA Committee. For the EPA SAB Staff Office, a balanced committee 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. Specific criteria to be used in evaluating an individual committee member include: (a) scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of

financial conflicts of interest; (d) absence of an appearance of a lack of impartiality; (e) skills working in committees, subcommittees and advisory panels; and, for the committee as a whole, (f) diversity of, and balance among, scientific expertise, viewpoints, etc. Below is the membership of the FY 2006-2009 STAA Committee.

Dr. G. Allen Burton, Professor and Director, Institute for Environmental Quality, Wright State University, Dayton, OH

Dr. James Bus, Director of External Technology, Toxicology and Environmental Research and Consulting, The Dow Chemical Company, Midland, MI

Dr. Stanley B. Grant, Professor, Department of Chemical Engineering, School of Engineering, University of California, Irvine, Irvine, CA

Dr. Dale Hattis, Research Professor, Center for Technology, Environment, and Development, George Perkins Marsh Institute, Clark University, Worcester, MA

Dr. Byung Kim, Technical Leader, Ford Research and Advanced Engineering, Ford Motor Company, Dearborn, MI

Dr. Michael T. Kleinman, Professor, Department of Community & Environmental Medicine, University of California, Irvine, Irvine, CA

Dr. Joseph Landolph, Associate Professor, Cancer Research Laboratory, Keck School of Medicine, University of Southern California, Los Angeles, CA

Dr. Igor Linkov, Senior Scientist, Cambridge Environmental, Inc., Cambridge, MA

Dr. Randy Maddalena, Scientist, Environmental Energy Technologies Division, Indoor Environment Department, Lawrence Berkeley National Laboratory, Berkeley, CA

Dr. Paulette Middleton, President, Panorama Pathways, Boulder, CO

Dr. Michael C. Newman, Professor of Marine Science, School of Marine Sciences, Virginia Institute of Marine Science, College of William & Mary, Gloucester Point, VA

Dr. Thomas L. Theis, Professor and Director, Institute for Environmental Science and Policy, University of Illinois at Chicago, Chicago, IL

Dr. Barbara Zielinska, Research Professor, Division of Atmospheric Sciences, Desert Research Institute, Reno, NV

Concurred,

/Signed/

August 1, 2006

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Date