

of Enforcement and Compliance Assurance (OECA) has taken lead to develop these approaches to capture the economic benefits. Both of the above documents, which describe such policies, can be found at the following URL <http://www.indecon.com>.

In some, but not all ways, the analysis is similar to the field of commercial damages, comparing a hypothetical "but-for" scenario to the actual state of the world. Often the violations involve the failure to install pollution control equipment in a timely fashion and the consequent failure to incur operational and maintenance costs during the period of noncompliance. In most of these cases, a safe assumption is that all other aspects of the company's operations are identical in both the compliance (*i.e.*, "but for") and noncompliance (*i.e.*, "actual") scenarios. Based on this assumption, the analysis becomes a relatively straightforward net present value calculation, focusing on the cost savings from delayed installation and avoided operation of the pollution control equipment. In the mid-1980s, EPA developed the "BEN" computer model to allow lay persons to perform the necessary present value calculations in these cases. In other situations that may involve deliberations in a courtroom setting, the Agency may rely for its economic benefit calculations upon an expert witness, who employs whatever analytical tool the expert deems most suitable for application to that particular case. That tool may sometimes be the BEN model, but the expert would be using BEN only if its analytical framework fit the expert's approach for that particular case. BEN's application in such a courtroom setting would therefore be similar to using a straightforward spreadsheet application similar to the use of expert testimony for the basis of the expert's calculations. As a practical matter since 1995, the Agency has been mitigating civil penalties when violators agree to perform supplemental environmental projects (SEPs).

Proposed Charge to the Panel

The Agency is asking the SAB's ICA EB Advisory Panel to review and provide advice on a White Paper entitled "Identifying and Calculating Economic Benefit That Goes Beyond Avoided and/or Delayed Costs." Specific charge questions include the following:

(a) Are there any categories of cases that would be useful for the Agency to consider in calculating the ICA economic benefit, other than those that are identified in the White Paper?

Should any of these categories be combined?

(b) How can the Agency more accurately characterize the types of cases that are described in the White Paper? Have any of the examples and counter-examples in the White paper been misidentified with regard to whether they are amenable to the BEN model's simplifying paradigm?

(c) Are there any suggestions for modifying the described analytical approach to calculate the economic benefits and;

(d) The Agency's proposed approach strives to avoid any double-counting of the benefit by laying out all the relevant cash flows stemming from the violations, as opposed to simply adding on the additional calculations to a BEN run. What additional measures (if any) should the Agency put in place to avoid such potential double-counting?

Document Availability

The White Paper entitled "Identifying and Calculating Economic Benefit That Goes Beyond Avoided and/or Delayed Costs" to be reviewed by the Panel can be obtained from the EPA Web site at: <http://www.epa.gov/Compliance/civil/programs/econmodels/index.html>. For further information regarding the White Paper, please contact Mr. Jonathan Libber at the address provided earlier in this notice. The following informational background documents are also provided under <http://www.indecon.com>, and include the following: BEN Computer Model Version 2.0; BEN Users Manual dated September 1999, Policy on Civil Penalties; and A Framework for Statute-Specific Approaches to Penalty Assessments.

It is the Peer Review White Paper entitled "Identifying and Calculating Economic Benefit That Goes Beyond Avoided and/or Delayed Costs" that is the focal point of this upcoming advisory. The other documents serve as background information for the ICA EB Advisory Panel and the interested public. Additional information will be made available at the SAB Web site at: <http://www.epa.gov/sab> where the SAB will post notices when it develops the narrow cast list of candidates, lists the biosketches of the shortlist candidates, receives comments on the shortlist candidates, makes the final selection of the ICA EB Advisory Panel, posts copies of the **Federal Register** notices of upcoming meetings, posts agendas of the ICA EB Advisory Panel, and posts any other related information specific to the SAB Advisory on this topic.

SAB Staff Office Request for Nominations

Any interested person or organization may nominate qualified individuals for membership on the Panel. Individuals should have expertise in one or more of the following areas: (a) *Financial Economics*, which includes Corporate Finance, (b) *Economic Benefit Recapture Issues*, (c) *Business/Commercial Damages*, which includes Anti-Trust Law, Torts and Economics, (d) *Business Economics and Competitive Strategy*, which includes aspects of Statistical Decision-Making and Game Theory, as well as Competitive Effects of Vertical Integration, and Quantitative Economics, and (e) *Industrial Organization*, in the context of environmental regulations and their enforcement, as well as Environmental and Regulatory Economics, Environmental Ethics and Sustainability in this context.

Process and Deadline for Submitting Nominations

Any interested person or organization may nominate qualified individuals to add expertise in the above areas for the Panel. 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 Web site, <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 using this form may contact Dr. K. Jack Kooyoomjian at the mailing address in the section above entitled, **FOR FURTHER INFORMATION CONTACT**: Nominations should be submitted in time to arrive no later than August 27, 2003. Any questions concerning either this process or any other aspects of the notice should be directed to Dr. Kooyoomjian.

The EPA Science Advisory Board Staff Office will acknowledge receipt of the nomination and inform nominators of the panel selected. From the nominees identified by respondents to this **Federal Register** notice (termed the "Widecast"), SAB Staff will develop a smaller subset (known as the "Short List") for more detailed consideration. In addition to the expertise listed above in Item #5, criteria used by the SAB Staff in developing this Short List are given at the end of the following paragraph. The Short List will be posted on the SAB on the SAB Web site at: