

**Minutes from the
US Environmental Protection Agency Science Advisory Board
Quality Review Committee for the Draft ICA Report
Public Teleconference Meeting
1:00 pm - 3:00 pm (Eastern Time)
April 29, 2005**

Meeting Location: Room 3700 USEPA Woodies Building,
1025 F Street NW, Washington, DC 20004

Participation was by telephone call in only

PURPOSE: The EPA Science Advisory Board Quality Review Committee (QRC) met by telephone conference call to review the draft SAB Panel report, *Identifying and Calculating Economic Benefit That Goes Beyond Avoided and/or Delayed Costs: An SAB Draft Advisory* on April 29, 2005. Attachment A is the Federal Register notice announcing the meeting (70 FR 17688, April 7, 2005). A meeting agenda is included as Attachment B, a QRC Roster as Attachment C, the draft review report is Attachment D, and the reviewed document and other materials from the review panel are in Attachment E. The charge to the QRC is given in Attachment F. Written comments by QRC members are in Attachment G.

LOCATION: Participation in the teleconference was via phone for all.

PARTICIPANTS: The Members listed in the meeting roster (Attachment C) participated in this meeting. Agency representatives noting their presence included: Mr. Jonathan Libber, OECA and John Scheff, IEC (EPA Contractor) and Dr. K. Jack Kooyoomjian, Panel DFO. Dr. A. Myrick Freeman participated as the review panel Chair. Members of the public identifying themselves included: Ms. Nina Shaw, Ms. Amanda Lee (OMB), and Ms. Amy Flynn (OMB).

MEETING SUMMARY: The Teleconference followed the agenda (Attachment B). A summary of the Teleconference follows.

Convening the Meeting: Mr. Thomas Miller, Designated Federal Officer (DFO) for the Board opened the meeting at 1:00 pm and took a roll-call of the members, followed by an introduction of others. Mr. Miller gave an overview of teleconference procedures and then outlined the purpose of the meeting. Mr. Miller noted that the meeting was being conducted consistent with FACA requirements.

Review of the Draft Report: Dr. Robert Stavins, QRC-ICA Chair, welcomed participants and observers and noted the activity for consideration during the meeting and the possible outcomes. He then introduced Dr. Freeman who chaired the SAB ICA review. Dr. Freeman had nothing to add beyond the information in the document.

Dr. Stavins then asked QRC members to comment on the draft report. Comments of Members are summarized below:

a) Dr. Trudy Cameron highlighted several of her comments that were provided in writing in more detail (see Attachment G for her detailed comments). Issues highlighted by Dr. Cameron included:

- i) Acknowledge that there could be broader, general equilibrium consequences from a firm's activities falling under this issue.
- ii) On the issue of grossly disproportionate penalties relative to harm done by the illegal activity—legal requirements might make the ideas on page 7 line 4 not possible.
- iii) Data deficiencies may create the possibility of regulatory discretion being used.

b) Dr. Lawrence Goulder: Dr. Goulder understands that the core issue is how, if at all, the BEN model can be altered to determine penalties for non-compliance. He believes that the report is not clear on the exact relationship between ICA and BEN. Is it an extension of BEN or is it an optional approach to BEN?

c) Dr. Robert Stavins highlighted several of his comments (see written comments in Attachment G). He congratulated the Staff Office on the panel that was assembled to conduct the ICA review. It had the right skill set and the quality of the panel is reflected in the final excellent advice given. He stated that the draft report does adequately respond to the charge and that the charge is more than answered in full – which he viewed as appropriate. He did not repeat his detailed comments. Rather he deferred to their content on the SAB website.

Dr. Stavins invited Dr. Freeman to respond to the QRC members statements.

Dr. Freeman thanked the QRC, and stated that the comments will get incorporated into the draft report. His responses focused on the following:

- a) The panel discussed the general equilibrium effects issue and chose not to comment on it in the report. An acknowledgement of the possibility will be added.
- b) The disproportionate penalty issues was discussed by the panel and they decided to ask EPA to explore the issue more fully. We can add your point.
- c) We will modify the diagram on page 20
- d) We will need to further discuss the issue on discretion in establishing probabilities in penalty setting.
- e) We will do a footnote on the capture-recapture issue.

f) Regarding BEN vs. ICA, ICA was reviewed separately and not in association with BEN. There were many possibilities to investigate in ICA and they did not all fit nicely into EPA's four categories. We suggest that where there is a change, EPA should look at the change with relevant economic models in order to predict gains to the non-complying firm.

g) Most of Dr. Stavins' questions are straight forward and will be incorporated. Regarding the market power comment, the panel thought it unlikely to imagine a scenario where gains to a firm would increase their market power sufficiently to drive other firms out of the market. We could note this in a footnote.

h) We can revise the footnote on the court damage award issue relative to measures of economic damage.

i) We will exercise care regarding Dr. Stavins' note on policy advice.

Dr. Stavins noted the possible outcomes of the QRC advice to the Board on this report. A motion was made to accept the report subject to the Panel Chair's edits reflecting the spirit of this meeting and that the report be forwarded to the Board recommending approval and transmittal to the Administrator. All QRC members concurred with the motion. A full Board meeting will be scheduled as soon as possible for final review of the draft report.

Dr. Stavins adjourned the meeting at 1:45 p.m.

Respectfully submitted

Certified as True

/ Signed /

/ Signed /

Thomas O. Miller
Designated Federal Officer

Dr. Robert Stavins, Chair
EPA Science Advisory Board
QRC-ICA

Attachments

Attachments

Attachment G - Comments:

Trudy Cameron, "*Illegal Competitive Advantage*" Draft Advisory of March 23, 2005

Robert Stavins, "*Identifying and Calculating Economic Benefit that goes Beyond Avoided and/or Delayed Costs: An SAB Draft Advisory*" dated March 23, 2005