

A FULL COMPLEMENT OF EXPERTISE

Superior economic analysis can play a critical role in environmental litigation, regulatory proceedings, and strategic decision making. Litigation raises issues such as the valuation of environmental damages, the financial benefits and risks of non-compliance, and the economic implications of environmental regulations. In finalizing regulations or permits, regulators often consider costs and the relationship between costs and benefits. In corporate settings, as environmental laws and regulations increasingly employ market-based mechanisms, attention focuses on the economic implications of alternative regulatory structures.

Analysis Group provides clients with a full range of economic analyses. We draw on a network of leading academic affiliates that includes nationally recognized environmental economists. Our firm is structured to foster collaboration, enabling us to complement our expertise in environmental economics with skills in areas such as energy, finance, industrial organization, and health care. This collaborative model is especially useful in environmental matters, as successful analyses often rely on analytical tools and economic expertise beyond the traditional scope of environmental economics. Finally, our staff and affiliates bring extensive prior experience with state and federal regulatory agencies, providing a unique perspective on how economic analysis can influence the outcome of the regulatory process.

CAPABILITIES AND ANALYSES

For law firms, corporations, non-governmental organizations, and government agencies, we conduct analyses in many different contexts, including expert reports and testimony in litigation; filings in regulatory proceedings; white papers developed to inform policy debates; and consulting support for settlement negotiations and strategic decision making.

Specific analytical capabilities include:

- Assessment of environmental damages, and resource valuation, using hedonic estimation, contingent valuation, and other valuation methods
- Assessment of the full economic cost of compliance with regulations or permits
- Analysis of the effectiveness of, implications of, and incentives introduced by, environmental policies, including market-based policies such as tradable permits
- Evaluation of environmental health risks and future health care costs
- Allocation of liabilities among potentially responsible parties and insurers
- Evaluation of the environmental benefits and costs associated with gas and electric industry infrastructure alternatives, including system production cost modeling

In addition to our analytical expertise within the traditional scope of environmental economics, we often leverage our firm's broader expertise in other fields. For example, our finance expertise allows us to more rigorously estimate present values of future environmental liabilities or benefits. Our combined experience in policy, economics, finance, and the energy industry gives us particular strengths in evaluating the corporate risks associated with environmental regulation, including policies to control greenhouse gas emissions. We also have deep analytic and policy experience in the siting of numerous energy infrastructure projects, including strategic analysis and testimony before environmental and siting agencies.

For example, we have provided expert testimony in litigation engagements involving Superfund (CERCLA), the Clean Water and Clean Air Acts, toxic torts, insurance coverage disputes, and contract disputes over permitting and environmental liabilities. Our experience includes analysis of specific contaminants, such as PCBs, asbestos, lead paint, radon, underground storage tanks, indoor microbes, and formaldehyde. In both regulatory and litigation matters, we have evaluated the effectiveness, as well as the economic effects, of federal and state regulations designed to protect the environment.

Thought Leadership

Analysis Group often undertakes research and economic analysis to develop ideas that can be essential to the formulation of environmental regulations. For example, correct interpretation of the effects of proposed regulations often relies on an understanding of uncertainty in estimating benefits and costs. Assessments of uncertainty in federal regulatory analyses, however, are often inadequate. Analysis Group employed a Monte Carlo analysis to develop a comprehensive quantitative assessment of uncertainty regarding the benefits and costs of a certain 2004 EPA regulation. We then compared the results of our work to the more limited analysis of uncertainty presented in EPA's Regulatory Impact Analysis to highlight how formal quantitative uncertainty assessments can significantly affect perceptions of a regulation's benefits and costs. The results of our work were published by the AEI-Brookings Joint Center for Regulatory Studies, and have been used to promote use of such assessments in regulatory analysis.

SELECTED EXAMPLES OF OUR WORK:

Expert Testimony in Litigation

Commerce Clause Litigation Regarding Solid Waste Flow Control

In 1990, New York's Oneida and Herkimer Counties enacted flow control laws regulating solid waste processing. Years later, a suit was brought against the counties alleging that the laws placed an unconstitutional burden on interstate commerce. In this case, the appropriate criterion for evaluating the laws was the Pike balancing test, whereby a law will be upheld unless its incidental burden on interstate commerce is "clearly excessive in relation to the putative local benefits." Professor Robert Stavins of Harvard University, an Analysis Group academic affiliate, performed an analysis for the counties demonstrating that the laws placed no burden on interstate commerce and yielded significant local benefits. Drawing on this analysis, the Court granted the counties' motion for summary judgment, dismissing the plaintiffs' complaint.

Analyses in Support of Regulatory Proceedings

Clean Water Act Section 316(b)

Analysis Group has been involved in numerous engagements related to the permitting of cooling-water intake and discharge at power plants. Conducted on behalf of individual companies and industry groups, these engagements have included developing original cost-effectiveness and benefit-cost analyses; assessing benefit-cost analyses by regional EPA offices; and commenting on EPA's nationwide Clean Water Act Section 316(b) Phase II rulemaking for cooling-water intake at existing power plants. Several of our analyses and comments focused on EPA's estimation of the benefits of reducing cooling-water intake at these plants. Subsequent to the submission of our comments, EPA substantially revised its benefits estimation in the context of both the individual permitting process in which our team was engaged and EPA's nationwide rulemaking.

Economic Impact of Public Sewer Investments

Analysis Group was retained by the Massachusetts Water Resources Authority (MWRA) to evaluate the economic impact of additional investments to control sewer overflows into area surface waters. EPA regulatory guidance requires investments in sewer controls to meet designated surface water uses, unless those investments would cause “substantial and widespread economic and social impact.” Standard EPA economic criteria suggested that additional investments could be made without such an impact. However, our analysis found that these criteria did not adequately account for important local economic conditions. We demonstrated that the economic impact of additional investments in our client’s service area would significantly exceed impacts that typically would be found in municipalities meeting the EPA’s standard criteria for a “substantial and widespread economic and social impact.”

Economic and Environmental Impacts of Energy Infrastructure

Analysis Group has supported the proposal and development of numerous large-scale energy infrastructure projects. For example, we have conducted analyses of the economic and environmental impacts of project alternatives, using various forms of system production cost modeling, emissions, and need analyses; facilitated community and regulatory interactions; developed comprehensive analytic/policy reports for use in regulatory proceedings; and offered expert testimony. Our analyses have led to published reports related to the difficulties and best practices in energy infrastructure siting, and the role of infrastructure growth in the pursuit of energy reliability, security, and environmental and market development goals.

Negotiations Regarding Insurance Coverage of Environmental Liabilities

Analysis Group was retained by an insurer to provide support in settlement negotiations with an insured. These negotiations focused on the coverage of future environmental remediation costs at former manufactured-gas plant sites. As a significant portion of the remediation was expected to occur several years in the future, the discount rate applied to future remediation costs would be an important determinant of their present value, and hence of appropriate settlement amounts. Analysis Group showed that the discount rate proposed by the insured was significantly lower than could be supported by available data and sound empirical practices, and thereby overstated appropriate settlement values. In addition, we worked with our client’s counsel to develop a model for allocating remediation costs among the insurer and various other insurers providing coverage for the affected sites.

PROFESSIONAL STAFF AND ACADEMIC EXPERTS

In addition to our diverse professional staff, Analysis Group draws upon a network of prominent academic affiliates from leading universities nationwide. By working closely with environmental economics leaders, such as Professor Robert Stavins of Harvard University, we are able to offer our clients state-of-the-art approaches to the challenges they face in complex environmental matters.

Mark H. Eglund, Managing Principal

M.B.A., finance, UCLA Anderson School of Management; CFA charterholder

Mr. Eglund specializes in finance and in environmental issues pertaining to litigation. He has conducted numerous analyses of the impact of environmental hazards—including lead, asbestos, and chemicals—on the market value of real property, and is experienced in directing economic analysis for large-scale, complex litigation. Mr. Eglund has written many articles on the economic impact of environmental hazards in such publications as *NAC Journal*, *Real Estate Finance Journal*, and *Litigation Services Handbook*.

Andrew Parece, Managing Principal

MBA, Johnson School of Management, Cornell University

Mr. Parece has extensive experience in energy, with specific expertise in demand-side management (DSM). He has published articles on energy conservation measures and reducing carbon emissions through DSM programs. Assignments he has managed include analyzing customers' choices of fuels and providers; evaluating the impacts of DSM and real-time pricing programs; developing long-range integrated resource planning; and modeling the impact of rate changes on investments in energy-efficient equipment.

Susan F. Tierney, Managing Principal

Ph.D. and M.A., regional planning, public policy, Cornell University

Dr. Tierney has consulted on economic and environmental regulation and strategy as well as on energy markets. She has served as Assistant Secretary for Policy at the U.S. Department of Energy, as Massachusetts Secretary of Environmental Affairs, and as head of the Massachusetts Energy Facilities Siting Council. Dr. Tierney serves on the boards of a number of corporate and non-governmental organizations involved with clean energy production and use, and is also a member of the National Commission on Energy Policy, which has recommended an innovative market-based policy for controlling greenhouse gas emissions.

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A LEADING PROVIDER OF ECONOMIC ANALYSIS

Analysis Group provides economic, financial, and business strategy consulting to leading law firms, *Fortune* 500 companies, and government agencies. Founded in 1981, with over 500 professional staff, we assist law firms with all aspects of litigation and advise corporations and government clients on business issues that require expert analysis and interpretation of economic and financial data. We also help organizations create strategies for innovation and growth.



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