

August 1, 2016

U.S. Department of Transportation
Docket Management Facility
1200 New Jersey Avenue SE
West Building, Ground Floor, Room W12-140
Washington, DC 20590

RE: Docket No. FRA-2016-0040: Notice and Request for Comment on Benefit-Cost Analysis Guidance for Rail Projects

On behalf of the more than 6,000 members of the American Road and Transportation Builders Association (ARTBA), I respectfully offer comments on the Federal Railroad Administration's (FRA) proposed benefit-cost analysis guidance for rail projects (BCA Guidance).

ARTBA's membership includes private and public sector members that are integral to the planning, designing, construction and maintenance of the nation's roadways, waterways, bridges, ports, airports, rail and transit systems. Our industry generates more than \$380 billion annually in U.S. economic activity and sustains more than 3.3 million American jobs.

The FRA has developed its proposed BCA Guidance pursuant to the "Fixing America's Surface Transportation" (FAST) Act surface transportation reauthorization law. Section 11313(b) of the FAST Act states:

Benefit-Cost Analysis.--Not later than 180 days after the date of enactment of this Act, the Secretary shall enhance the usefulness of assessments of benefits and costs for intercity passenger rail and freight rail projects by--

- (1) providing ongoing guidance and training on developing benefit and cost information for rail projects;
- (2) providing more direct and consistent requirements for assessing benefits and costs across transportation funding programs, including the appropriate use of discount rates;
- (3) requiring applicants to clearly communicate the methodology used to calculate the project benefits and costs, including non-proprietary information on--
 - (A) assumptions underlying calculations;
 - (B) strengths and limitations of data used; and
 - (C) the level of uncertainty in estimates of project benefits and costs; and

- (4) ensuring that applicants receive clear and consistent guidance on values to apply for key assumptions used to estimate potential project benefits and costs.

Specifically, ARTBA is concerned with the “Environmental Benefits” portion of the BCA Guidance. On page 25, the BCA Guidance states: “[t]he economic benefits from reducing emissions of greenhouse gasses (GHG) and local air pollutants are important to quantify.” As part of this quantification, the BCA guidance uses a theory called the “Social Cost of Carbon” (SCC). The SCC, which was developed in 2010 by a group of 13 federal agencies including the United States Department of Transportation (DOT), is “an estimate of the monetized damages associated with an incremental increase in carbon in any given year.”

The inclusion of GHG reduction in the BCA Guidance exceeds both the authority of the FRA and the intent of the FAST Act. Nowhere in the FAST Act is the FRA (or DOT) instructed to analyze whether or not GHG emissions equate to any type of cost or benefit for rail projects (or any other transportation projects). Congress had a chance to include GHG related measures in the FAST Act when it was deliberated in both the House and Senate and chose not to do so. In addition, the Office of Management and Budget released a November 2, 2015 Statement of Administration Policy during FAST Act negotiations which also failed to convey an Administration recommendation that GHG analysis should be a part of the legislation’s implementation.

Beyond our concerns about FRA’s authority to include GHG analysis in the BCA guidance, ARTBA also has serious concerns about the SCC as an analytical tool. Various organizations have raised concerns over the methods used in calculating SCC and whether or not SCC has undergone an adequate notice and comment process in prior agency rulemakings. While FRA may disagree with these concerns it is important that such issues be fully resolved before SCC is used in the BCA Guidance (or any other guidance or regulation).

To illustrate this point, the BCA guidance notes that the monetary values for carbon emissions reduction “were constructed by discounting the damages caused by its contribution to changes in the global climate from that year through the distant future.” While opinions on climate change may differ amongst parties, this is hardly the type of definitive measurement that should be used in assessing the cost and/or benefits of any transportation project. The SCC as a measurement needs to be further defined before it is used in this (or any other) guidance and/or regulation. This could be accomplished by further study and additional opportunities for participation and comment by the regulated community.

In conclusion, rather than attempting to force an Administration priority into a carefully balanced and meaningful compromise between congressional Republicans and Democrats, ARTBA urges FRA to withdraw the portions of the BCA guidance relying on SCC. Further, if such authority is given to DOT, the SCC should not be used as an analytical tool until it undergoes further study involving participation by the regulated community.

Sincerely,



T. Peter Ruane
President & C.E.O