

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration Policy and Final Guidance Regarding Benefit Cost Analysis (BCA) on Airport Capacity Projects for FAA Decisions on Airport Improvement Program (AIP) Discretionary Grants and Letters of Intent (LOI)**

AGENCY: Federal Aviation Administration; Department of Transportation.

ACTION: Notice of Modification of Policy; Comments and Responses, Final Guidance.

SUMMARY: On June 24, 1997, the FAA issued an interim policy notice requiring airport sponsors to submit BCAs when requesting AIP grants or LOIs to be awarded for capacity projects at the discretion of the Secretary of Transportation. The FAA now is (1) Providing a more precise definition of airport capacity projects, (2) Issuing the final policy, and (3) Responding to comments requested on June 24, 1997, on (a) Dollar thresholds for requiring BCA, (b) The interim guidance for preparing BCAs, and (c) Preparation of FAA forecasts of operations and enplanements.

Definition of airport capacity projects. For the purpose of this BCA policy, airport capacity projects are those projects that (1) Preserve an infrastructure, (2) Improve upon an existing infrastructure, or (3) Create new infrastructure. Capacity projects include airside projects such as runways, taxiways, and aprons but may also include terminal buildings, ground transportation, and other landside projects. Normally, airport capacity projects are located at large air carrier airports where there is existing or projected airfield capacity delay. However, there are also cases they will be located at smaller airports. For the purpose of this BCA policy, airport capacity projects include those projects that significantly change the character of a runway such that the runway is capable of being used by larger or heavier aircraft or such that approach minima are lowered. The BCA policy also covers those projects which will upgrade airport facilities to meet higher design standards and which will allow new classes or aircraft to use the airport. The BCA policy is not applicable to those projects undertaken solely for the objective of safety, security, conformance with FAA standards, or environmental mitigation.

Modification of Policy. The policy for AIP grants, issued on June 24, 1997, was that, for all capacity projects for which

an airport sponsor seeks \$5 million or more in AIP discretionary funds, commencing in Fiscal Year 1998, a completed BCA must accompany the grant application. The policy for LOIs was that a BCA must be completed for any request for a LOI to be issued in Fiscal Year 1997 and thereafter.

FAA, in the modifications of policy issued in this **Federal Register** Notice, has modified the previous policy to: (1) Exempt certain reconstruction projects, (2) Provide supporting guidance that will assist sponsors in identifying exempt projects, and (3) Clarify the applicability of the BCA guidance to general aviation airports.

Responses to Comments Requested on June 24, 1997. On June 24, 1997, the FAA established a docket and invited airport sponsors and other interested parties to comment on: (1) The dollar threshold for AIP grants and LOIs above which a BCA must be performed, (2) The interim BCA guidance issued on June 24, 1997, and (3) Generation of FAA forecasts of enplanements and operations. The docket was open for one year and closed on June 24, 1998. The comments and FAA's responses can be found below under the heading "Supplemental Information." The FAA has modified its interim guidance based on comments received and is now issuing its final guidance for conducting AIP BCAs.

DATE: Effective date of the modified policy is December 15, 1999

ADDRESSES: Copies of the final guidance for conducting BCAs can be obtained from two offices in the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. These are the Office of Airport Planning and Programming, Airports Financial Assistance Division (AAP-500); or the Office of Aviation Policy and Plans, Systems and Policy Analysis Division (APO-200). An electronic copy of the guidance will be posed on the FAA's Airport Division website at <http://www.faa.gov/arp/arphon.htm> as well as the Office of Aviation Policy and Plan's website at http://api/hq.faa.gov/apo_home.htm within 14 days of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Barry Molar, Manager, Financial Assistance Division (APP-500), Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, SW., Washington DC 20591, (202) 267-3831; or Ward Keech, Manager, Policy and Systems Analysis Division (APO-200), Office of Aviation Policy and Plans, Federal Aviation Administration, 800

Independence Avenue, SW., Washington, DC 20591, (202) 267-3312.

SUPPLEMENTARY INFORMATION: The Secretary of Transportation and the Administrator of the FAA are charged with maintaining a national aviation system that operates safely and efficiently. The Federal Government pursues this objective in part by investing Federal funds, via AIP grants-in-aid, in modern airport facilities sufficient to handle current and future air traffic, and by facilitating local investment in such facilities.

A. Background to the Policy

AIP was first authorized in the Airport and Airway Improvement Act of 1982 (the AIAA) and was recodified as Title 49, United States Code, chapter 471, subchapter 1, sections 47101 *et seq.*, (Recodification), in 1994. The Recodification provides authority and direction for the award of formula and discretionary grants-in-aid for airport improvement and planning by the Secretary. Section 47115 of the Recodification authorizes the Secretary to make AIP discretionary funds available in a manner that the Secretary considers most appropriate for carrying out the purposes of chapter 471, subchapter 1, of the Codification (i.e., airport improvement). Section 47110(e) establishes authority for the Secretary to issue LOIs. Section 47115(d) specifies that, in selecting projects for discretionary grants or LOIs to preserve and enhance capacity at airports, the Secretary must consider the benefits and costs of the projects.

The FAA revised the prior award process in 1994 to include the preparation of a BCA for capacity projects that were expected to exceed \$10 million in AIP discretionary spending. Those analyses were frequently prepared by FAA staff in consultation with project sponsors. Factors leading to the requirement for BCA included: the need to improve the effectiveness of Federal airport infrastructure investments in light of a decline in Federal AIP budgets; issuance of Executive Order 12893, "Principles for Federal Infrastructure Investments" (January 26, 1994); and guidance from Congress citing the need for economic airport investment criteria.

Under the 1994 criteria, the FAA required the application of BCA to projects intended to preserve or enhance capacity for which sponsors sought large amounts of AIP discretionary funds. Projects to add new capacity or reconstruct existing capacity were included under the policy. LOIs and discretionary grant awards over \$10 million became contingent on

demonstrating that a project's benefits exceeded its costs.

In the **Federal Register**, Vol. 59, No. 209, October 31, 1994, the FAA issued two notices of policy. The first, "Policy for Letter of Intent Approvals Under the Airport Improvement Program" [59 FR 54482], clarified the FAA's policies on reviewing and analyzing requests for LOIs under the AIP or successor programs. The notice stated that the FAA will consider three factors in reviewing requests for LOIs: the project's effect on overall national air transportation system capacity, project benefit and cost, and the airport sponsor's financial commitment to the project. The notice further stated that the project must have present value benefits that exceed present value costs for LOI consideration. The policy was applicable to any request for LOI under AIP at primary or reliever airports for airside development projects with significant capacity benefits. It was intended to maximize the system-wide impact of capacity projects.

The other notice, "Policy Regarding Revision of Selection Criteria for Discretionary Airport Improvement Program Grant Awards" [59 FR 54484], stated that a BCA would be required for any discretionary grant application for a capacity project which was expected to equal or exceed \$10 million over the life of the project. The policy was undertaken to implement Executive Order 12893, "Principles for Federal Infrastructure Investments," [59 FR 4233] and guidance provided in Congressional hearings regarding the use of economic analysis in evaluating Federal investment in airport infrastructure. The new policy was applicable to all new projects to be considered for AIP discretionary grant awards in FY 1995 and subsequent years.

Application of a BCA for discretionary AIP grants was limited to those capacity projects for which the total value of requested discretionary capacity grants was expected to equal or exceed \$10 million over the life of the project. This limit was intended to assure that costs likely to be incurred in preparing a BCA were reasonable with respect to the value of the applications being evaluated. The \$10 million threshold was also the same value at which the FAA must notify Congress prior to the issuance of LOI awards.

In the **Federal Register**, Vol. 62, No. 121, June 24, 1997, the FAA issued a notice of policy, "Policy and Guidance Regarding Benefit Cost Analysis for Airport Capacity Projects Requesting Discretionary Airport Improvement Program Grant Awards and Letters of

Intent" (62 FR 34108). This policy lowered the dollar threshold requirement to \$5 million for AIP discretionary grants and continued the existing policy of subjecting all LOIs to the BCA regardless of dollar value.

The policy also transferred responsibility for performing the BCA from the FAA to the sponsor. Initially, FAA staff conducted the BCA to ensure the consistent application of BCA methodologies among different projects, but experience with airport capacity project BCAs since October 31, 1994, showed that the BCA is most effective if accomplished early in the airport planning process by the airport sponsor. This change in timing and responsibility enables the airport sponsor to use the BCA in the alternatives selection process at a time when the BCA still has value. If the BCA is delayed until just before the airport sponsor requests discretionary AIP funds, many alternatives may not be considered because the planning process will have progressed to the point of excluding previously feasible options.

The policy left the time at which a BCA is prepared to the discretion of the sponsor, but encouraged preparation during master planning, in conjunction with environmental studies, or during project formulation. Costs attributable to preparing the BCA were identified as allowable costs in airport planning (including environmental analysis) projects and, like other project formulation costs such as for engineering and design, may be reimbursed in conjunction with a grant for the airport development project in which the costs were incurred.

When not feasible to include BCA during these activities, airport sponsors are responsible for conducting a BCA on a supplemental basis and submitting it to the FAA. The FAA is responsible for reviewing the BCA as part of the evaluation process of the AIP request; the FAA may request further detail on the BCA; and/or the FAA may perform an independent BCA of the project.

The interim "FAA Airport Benefit-Cost Analysis Guidance" was designed to enable airport sponsors to apply uniform standards in their analysis of capacity projects. Also, the shift of responsibility for the BCA to the sponsor was intended to increase the airport sponsor's acceptance of the BCA as one of several useful tools, not merely as a requirement imposed from outside.

This interim BCA guidance followed the standard structure of all benefit cost analyses. Steps including the following: (1) Defining the project objective, (2) Specifying assumptions, (3) Identifying a base case and its alternatives, (4)

Determining the evaluation period, (5) Determining the effort to be expended in the analysis, (6) Assessing benefits and costs, (7) Comparing results of alternatives performing sensitivity analyses, and (8) Making an informed recommendation.

The FAA requested that airport sponsors and other interested parties comment on the interim guidance so that the final guidance will be as useful as possible to airport sponsors in performing BCA. The FAA solicited comments on the guidance itself: selection of alternatives, proposed methodology, use of sensitivity analysis, and similar technical issues in the guidance. The FAA also invited comments on the new dollar threshold for the BCA requirement for the project cost above which a BCA must be performed and comments on FAA forecasts on enplanements and operations.

The policy stated that there are certain BCA items on which the FAA is not allowed discretion and, therefore, on which the FAA did not invite comments, namely, (1) The discount rate, (2) The value of life, (3) The value of injury, and (4) The value of time.

The revised procedures described in the June 24, 1997, policy applied to any request for an LOI to be issued in Fiscal Year 1997 and thereafter and to all new airport capacity projects requesting discretionary AIP grant awards in excess of \$5 million beginning in Fiscal Year 1998.

B. Modifications of Policy

As a result of experience gained reviewing airport sponsor BCAs, effective on December 15, 1999, the FAA has modified its policy as follows:

1. *Exemption of Reconstruction Projects at Large and Medium Hub Airports*

Large and medium hub airports are those airports which enplane at least 0.25% of the national enplanements each year. Reconstruction projects are defined as projects which preserve, repair, or restore the functional integrity of airfield pavement areas. The FAA's AIP BCA policy required BCAs for all airport capacity projects, including reconstruction projects, for which a sponsor was seeking \$5 million or more in AIP discretionary funds. However, the FAA has determined that reconstruction or rehabilitation of critical airfield structures, i.e., runways and associated facilities, such as taxiways and aprons serving the runways at large and medium hub airports, is cost-beneficial and does not require the quantification of benefits (associated with continued operation of

existing critical structures) to aid in AIP project selection. Therefore, the BCA policy is modified to exempt reconstruction projects at large and medium hub size airports, except as may be required by paragraph B.3. below. This exemption applies to sponsors requesting a discretionary grant in excess of \$5 million and/or LOI.

The above exemption does not apply to a reconstruction project that is linked to other capacity projects and which would not have been undertaken in the absence of the other capacity projects. For example, a project to construct a new runway or a project to convert an existing taxiway into a temporary runway would not be exempt if it would not have been proposed based on its own merits. If the above new runway or taxiway project meets the AIP discretionary threshold of \$5 million, it will require a BCA. On the other hand, a reconstruction of an associated taxiway, being done for that reason alone, is strictly a reconstruction project and is exempt from the BCA requirement.

2. Exemption of Reconstruction Projects at Small Airports

Small airports (small-hub, non-hub, commercial service, and general aviation) are those airports which enplane less than 0.25% of the national enplanements each year. At small airports, the AIP BCA policy is modified to exempt reconstruction projects for primary runways and associated facilities, such as taxiways and aprons serving the primary runway. The FAA has determined that reconstruction or rehabilitation of these critical airfield structures is cost-beneficial and does not require the quantification of benefits (associated with continued operation of existing critical structures) to aid AIP project selection. This exemption applies to sponsors requesting discretionary AIP funds in excess of \$5 million and/or LOIs.

FAA may require a BCA for reconstruction projects for little used facilities at small airports, e.g., crosswind runways serving less than 20% of operations. This type of project generally costs much less than \$5 million and, therefore, would not trigger the BCA requirement. However, in those cases that exceed \$5 million, FAA may require that the sponsor demonstrate in a BCA that the avoidance of loss of air service for that particular runway generates net benefits relative to the base case. In determining the \$5 million threshold at which a BCA is required, the airport sponsor would include the AIP-funded costs of the total project, including paving, drainage, grading,

marking, etc. The base case would assume escalating operating and maintenance costs for the aged facility followed by the cost of closing the facility at some point when additional maintenance is no longer cost-effective.

3. Application of the Policy to a Costly or Extraordinary Reconstruction Project

Notwithstanding paragraphs B.1. and B.2. above, FAA may in some cases require a BCA on an especially costly or extraordinary reconstruction project. For instance, if a proposed project's estimated costs are distinctly high as compared to other typical reconstruction projects for that area, the FAA may require the sponsor to conduct a formal BCA for the purposes of establishing that the reconstruction project is a cost-beneficial means of retaining the capacity benefits of the facility proposed for reconstruction.

4. Application of the Policy to Facility Upgrade Projects and the Distinction Between Reconstruction Projects and a Facility Upgrade

Exemption of a reconstruction project from the requirement for a BCA does not exempt other projects that are associated with the reconstruction, such as upgrades for runway strengthening or widening. The following guidelines apply:

a. An upgrade of a runway is defined as any strengthening of the runway that significantly changes the character of the runway and results in a 1.5 Day-Night Average Sound Level (DNL) or greater increase in noise over any noise sensitive area located within the 65 DNL contour. [DNL is the energy-averaged sound level metric used by the aviation industry to determine the impact of noise.] The definition of upgrade above is consistent with the National Environmental Policy Act (NEPA) requirements for an environmental analysis pursuant to FAA Order 5050.4A, Airport Environmental Handbook, para. 22 (1985).

b. Upgrade projects also include capacity projects, such as runway lengthening or widening, undertaken to bring airport facilities up to higher design standards which will permit new classes of aircraft to use the airport.

c. FAA has determined that the AIP portion of total project cost, not just the AIP cost attributed only to the upgrade portion of the project, establishes the threshold, above which a BCA is required for a discretionary grant. Total project cost is defined, in this instance, as reconstruction cost plus upgrade cost. A BCA is required for an upgrade project if AIP discretionary funds exceed \$5 M for the total project even

if AIP discretionary for the upgrade on a "stand-alone" basis is less than \$5 M.

5. Clarification of Which Costs Trigger a BCA Requirement

The BCA requirement is triggered when the total AIP request for discretionary funds for a capacity project is greater than \$5 million. Total costs attributable to the project include, but are not limited to, land acquisition, site preparation, environmental mitigation requirements, noise mitigation costs, engineering, and construction.

6. Application of the Policy to General Aviation (GA) Airports

FAA has determined that the BCA has proven useful in assessing the investment potential of a capacity project at commercial service airports. FAA has also determined that the BCA is effective in the evaluation of the potential establishment of commercial service and/or cargo operations at a GA airport.

However, the FAA has had no experience yet in evaluating the BCA guidance document's applicability where an airport will continue to serve only GA operations and where an airport sponsor is seeking \$5 million or more for a capacity project. Until and unless experience shows BCA not to be useful or the BCA guidance document not to be applicable at airports with only GA operations, FAA will require the sponsor to fully demonstrate its direct aviation related benefits and will review them on a case-by-case basis. Benefits must be attributable to direct aviation-related factors. Benefits must be quantified based on data that can be easily obtained and certified and that can be consistently applied, e.g., a reliever airport's contribution to delay reduction at a primary airport, where delay reduction can be demonstrated and measured. Benefits that can be ascribed to local economic improvements, but are not aviation-related benefits, will not be considered as allowable benefits.

FAA is considering developing standard guidance for the application of the BCA requirement to GA airports. In order to do this, we need to be able to quantify the benefits of GA activity. Accordingly, the FAA is willing to receive input on developing methodology to identify and measure these benefits.

C. Responses to Comments Requested on June 24, 1997

The June 24, 1997, policy requested comments on (1) the dollar threshold for AIP grants above which a BCA must be

performed; (2) the interim BCA guidance issued on that same date; and (3) preparation of FAA forecasts of enplanements and operations. Although the final guidance is not part of this **Federal Register** Notice, information pertaining to obtaining this document is listed under the **ADDRESSES** Section mentioned earlier in this notice.

1. A Summary of Changes to the BCA Guidance Based on Comments Received by FAA

a. The comments requested on the June 24, 1997, policy were mixed regarding the threshold values for requiring BCA for discretionary funds. The FAA made no changes to the threshold values based on the comments received. [As part of its own internal review, as discussed in B.1. through B.6. above, certain exemptions to the BCA policy were made.] The FAA also received several comments on aspects of the policy other than the dollar threshold.

b. Although there were few comments on the interim guidance itself, the FAA has made changes to its final guidance as a result of the comments and FAA's further experience. The most substantive two changes are:

i. "Section 12. Adjustments of Benefits and Costs for Induced Demand" has been made an optional analysis. If an airport sponsor believes that it can credibly accomplish this analysis and doing so will help its case, then the airport sponsor is encouraged to do the induced demand analysis. The FAA has moved the section on Induced Demand from Section 12 to Appendix C in the final guidance.

ii. In "Section 10.4.1.3. Demand Adjustment for Exponential Delay Growth," the cap on average delay has been increased from 15 minutes to 20 minutes.

c. There were no comments regarding FAA forecasting of enplanements and operations.

2. More Detailed Information on Comments Received on the June 24, 1997, Policy

a. Comments on the Dollar Threshold Above Which BCA Is Required and on Other Aspects of the Policy

i. *One commentor wrote that the BCA policy will improve financial discipline and should be extended to cover additional projects, particularly those funded by Passenger Facility Charges (PFCs).*

The FAA partially concurs. The FAA agrees that the BCA policy will improve financial discipline and that a BCA is an effective tool for assessing those projects

currently covered by the policy, i.e., discretionary grants for capacity projects and LOIs. While the FAA does not plan on expanding the use of the BCA to other AIP projects, we will continue to refine, and as necessary, expand our use of investment tools.

However, the FAA does not foresee that the policy will be extended to PFCs. Executive Order 12893 is the principal basis for applying the BCA requirement. The principles to which the Executive Order refers apply only to Federal spending for infrastructure programs, i.e., direct spending and grants. PFCs are not considered Federal direct spending or grants, and are therefore not covered under the Executive Order to the policy. For a project to be funded by PFC revenues, the project must be an eligible airport-related project, must accomplish the PFC objectives established under 49 USC 40117(d)(2), and must be supported with adequate justification. However, a public agency is not precluded from submitting a BCA to support its case for adequate justification.

There is not at this time, nor does the FAA foresee, a regulatory requirement for the FAA or an applicant to conduct BCA as part of the PFC application and review process. Consequently, the FAA has not issued, and does not foresee issuing, a policy requiring BCA for PFC projects. Such a policy would, most probably, require an amendment to the PFC regulation including a formal notice and comment period in the **Federal Register**.

ii. *One commentor indicated that BCA ought to be made a work element in each new master plan.*

The FAA concurs with this concept. The FAA currently recommends use of a BCA during the alternatives analysis of planning studies for planned development, the scope and time of which is suitable for BCA. This will help ensure that all project requirements are completed concurrently so as to facilitate timely project approvals. The FAA is looking at ways to institutionalize BCA in master planning, including making the BCA a required work item in any appropriate master plan funded with AIP grants.

iii. *Three commentors wrote that the BCA policy is, or could be construed to be, inappropriate, too extensive, or will not, or may not, return value at least equal to the effort involved.*

The FAA non-concurs.

There were several aspects to this comment.

(1) BCA should be limited to short term projects. BCA should be applied to any capacity project that exceeds the dollar thresholds, whether that project

is short term or long term. The FAA agrees that there are more unknowns associated with long term projects just because of the longer time horizon. However, this uncertainty potentially enhances the value of applying an analytical tools such as a BCA to help in making decisions.

Furthermore, the FAA believes that a BCA should be done early enough in the alternatives selection process so that no feasible alternative has been included or excluded without considering its economic impact. However, the FAA also believes that it does not make sense to complete a BCA on projects for which there is no serious commitment for implementation. As stated in FAA's response to Comment C.2.a.ii. above, the FAA is examining ways to institutionalize early BCA within the master planning process, and currently is recommending early BCA for projects that are within five years of requesting AIP discretionary funds from FAA.

The FAA also believes that, even if the project falls within this five year window, the farther away it is from the implementation date, the less precise and detailed the BCA has to be. The BCA guidance document makes provision for BCAs of different levels of generality in "Section 9: Level of Effort." However, the FAA notes that, when a project is submitted to the FAA for AIP discretionary funding, it must be accompanied by a valid BCA that has addressed a full range of alternatives.

(2) The required scope of the BCA implied by the interim guidance document is excessive. The interim guidance document has an extensive list of possible work elements and these should be honed to a practical minimum in specific airport BCAs.

The FAA believes that "Section 9: Level of Effort" in the guidance already provides that the BCA scope should be consistent with factors such as the complexity of project, its projected timing, and the consequences of an incorrect decision.

(3) The policy itself is excessive and inappropriate. The FAA believes a BCA prepared in conjunction with a master plan or environmental analysis is neither excessive nor inappropriate because it provides the FAA with the information necessary to justify and defend allocating limited AIP discretionary funds on capacity projects.

The FAA has designed the policy to apply only to AIP discretionary funding for capacity projects over which FAA has discretion as to whether it will or will not fund the projects. The FAA believes that it requires knowledge of a project's alternatives and its benefits and costs before AIP discretionary funds

are awarded for a project. Given that no specific airport is entitled to these funds, it is entirely reasonable that airport sponsors, if they wish to request these funds, provide FAA with the information it needs to assure itself that it has made a good decision.

Additionally, the selection criteria for capacity projects requesting AIP discretionary funding require a project level BCA per Executive Order 12893, Sec. 2(a)(2) which states "Benefits and costs should be measured and appropriately discounted over the full life cycle of each project."

(4) The dollar threshold for discretionary grants for capacity projects and LOIs is too low. The FAA disagrees. The dollar threshold has been examined and set to capture those projects that are likely to be capacity enhancing. The dollar threshold is consistent with the types of projects that raised the greatest congressional concerns over how FAA selected projects for AIP funding, which led to the BCA requirement. The FAA has already refined the requirement to exempt projects undertaken solely for the objective of safety, security, conformance with FAA standards, or environmental mitigation. FAA has further narrowed the application to exempt certain reconstruction projects. The FAA notes that no dollar value was established in Executive Order 12893 for the project level requirements. At present, the FAA is satisfied with the threshold and has no intention to raise or lower the level.

(5) The policy is burdensome. There is no reason the policy will be burdensome if the airport sponsor tailors the scope of the BCA to the project. The FAA expects airport sponsors to make only that case which is necessary to convince the FAA that an FAA decision to fund a specific capacity project at an airport will produce aviation benefits greater than the costs invested in the project and that the manner used to achieve the development objective is the most economically efficient. We encourage sponsors to contact FAA in advance of initiating a BCA to obtain guidance and assistance, if necessary, in applying the appropriate level of effort to this guidance.

(6) The policy constitutes the promulgation of a regulation. The BCA requirement applies only to capacity projects, and only for those capacity projects for which discretionary funds or LOIs are sought from the FAA. The only mandatory requirement is that the BCA adequately convinces the FAA that awarding an AIP discretionary grant or LOI is a good investment, i.e., is a cost effective investment for achieving the

project objectives. Because the decisions to award AIP discretionary grants or LOIs are matters for FAA discretion, the FAA may establish criteria for their award as policies, and need not follow the procedures for rulemaking in the Administration Procedures Act.

(7) The policy creates an additional basis for objection to capacity projects. The FAA believes that most capacity related projects that meet the criteria for a BCA are likely to generate opposition from at least one stakeholder or stakeholder group. Therefore, the BCA, master plan, and environmental documentation must be consistent and defensible. As discussed above, it is appropriate that the BCA be prepared in conjunction with other airport planning or environmental studies. While the BCA data and conclusions may provide project opponents with additional material on which to comment, the FAA has not experienced this result since the first BCA requirements were established in 1994. However, the FAA will track any such activity resulting from the BCA process and will consider an appropriate response at that time. See also our response to the comments in C.2.a.iv. immediately below.

iv. *Two commentors indicated that the BCA review process should be made more visible to the public.*

The FAA non-concurs.

There were two aspects to this comment:

(1) There should be public comment on BCAs as part of the funding approval process. The FAA does not wish to extend the existing review and evaluation period for awarding project grants and LOIs and is concerned that a separate public comment process, outside the planning and environmental process, would do so. The FAA recognizes that there is merit in evaluating input from knowledgeable groups other than airport sponsors, but BCA is only one of several requirements which FAA must consider which are not announced separately for public review and comment. Inasmuch as there are other opportunities for interested parties to provide input on the value of projects, including user consultation on AIP applications, the FAA does not believe it necessary to require public comment on a sponsor's BCA.

(2) The BCA review process should be identified in the BCA guidance document. The BCA document should identify whether BCA projects at different airports will be ranked on the basis of BCA results, whether BCA results are treated as "pass-fail" and what other factors are taken into account in the FAA review and prioritizing process. Based on more than

five years experience preparing and reviewing BCAs, the FAA has found that each BCA has to be treated on a case-by-case basis, often with several rounds of consultation between airport sponsors, their consultants, and several different FAA offices. These reviews can extend over several years, or be accomplished within a few weeks, depending on project complexity and the experience of the airport sponsor and its consultants with BCA. Thus, except in the broadest generalities, the FAA is not able to identify a specific review process.

Nevertheless, the FAA can state that it has no present intention of ranking different airports' projects on the basis of their benefit-cost ratios or net present values. However, the FAA will not limit BCA to "pass-fail" among alternative projects at a given airport. The FAA is interested in knowing that AIP discretionary funds are being used in an optimal way at a given airport, not just that a specific project proves to have benefits greater than its costs.

The other factors used in deciding LOIs have already been identified in **Federal Register**, Vol. 62, No. 121, June 24, 1997 [62 FR 34108]. They are the project's effect on overall national air transportation system capacity and the airport sponsor's financial commitment to the project. The FAA prefers not to include in the BCA guidance these other factors which are used to decide whether a project seeking an LOI is funded or not because they are not part of the BCA. Further information on FAA's Priority System describing how FAA ranks its allocation of AIP funding can be found in four **Federal Register** Notices. Two were issued in Vol. 59, No. 209, October 31, 1994, "Policy for Letter of Intent Approvals Under the Airport Improvement Program" (59 FR 54482) and "Policy Regarding Revision of Selection Criteria for Discretionary Airport Improvement Program Grant Awards" (59 FR 54484). The third was issued in Vol. 61, No. 104, May 29, 1996, "Notice of Airport Capital Improvement Program National Priority System; Opportunity to Comment" (61 FR 26947). The fourth was in Vol. 62, No. 164, August 25, 1997, "Airport Capital Improvement Program; National Priority System" (62 FR 45007).

v. *One commentor indicated that the docket for comments on the BCA guidance should be reopened and the policy reviewed in three years.*

The FAA partially concurs. The FAA will take under consideration the advisability of reopening the docket and reviewing FAA BCA implementation in the future.

b. Comments on the Guidance Itself

i. *Two commentors made specific recommendations on methodology in the BCA guidance regarding the structure of the base case, increasing the cap on average delay, estimation of landside delay, and explicitly identifying in the BCA guidance those items which cannot be revised (i.e., discount rate, values of live, injury, and time)*

The FAA partially concurs.

There are four aspects to this comment:

(1) The base case should be realistic and meet project objectives. The FAA believes that the interim BCA guidance on the role of the base case should not be changed. The base case represents best practices at the airport short of a major initiative. As such, the base case may not accomplish, or fully accomplish, the specific objective(s) of a major initiative (project), such as to reduce delay from current levels. Rather, the base case may at best hold average delay at a constant level per operation or cause it not to worsen as severely as it would in a "do nothing" approach. Similarly, an objective such as accommodating larger and more efficient aircraft at the airport may not be possible short of a major pavement initiative. Thus, the base case should not be held to the standard of "meeting" objectives of a major initiative.

To prevent future confusion, the second sentence of Section 6 in the interim guidance will be replaced with the following: "Ideally, the reference point should be the optimal cause of action compatible with the specified project objectives that would be pursued in the absence of a major initiative. However, in most instances, the base case will not fully meet the objectives specified for the potential project."

(2) The cap on average delay should be increased from 15 minutes to 20 minutes and methods should be discussed to assess additional benefits for those alternatives which do accommodate demand. The FAA has reviewed actual delay data at one of the nation's largest and most delayed airports. Based on that data, the FAA agrees that the cap on average delay should be increased from 15 minutes to 20 minutes and has changed the BCA guidance to reflect this. Capping delay applies to all alternatives under consideration which otherwise would exceed the cap.

The BCA guidance is very extensive and considers all benefits for which the FAA has identified a credible method for measurement. However, if there are benefits that the BCA guidance does not

cover, the airport sponsor has wide latitude in including them in its BCA. The FAA is willing to consider any credible methods for assessing additional aviation related benefits and is willing to consider modifying the BCA guidance to include these methods.

(3) Methods of estimating landslide delay may lead to suboptimal decisions. The FAA is willing to consider any reasonable approach for quantifying landside delay issues, including passenger convenience, and modifying the BCA guidance to include these methods.

Typically, discretionary funding for terminal buildings is limited to non-hub primary and non-primary commercial service airports. In all likelihood, a BCA for a terminal building project at such an airport would not cover work items such as people-mover systems, consequently passenger transit time versus passenger walking distances would not be evaluated. However, in some cases, particularly where an airside facility such as an apron or taxiway is an integral part of a terminal improvement, a BCA of integrated terminal facility may be a necessary component of the BCA to support AIP funding of the apron or taxiway. In this case, the FAA would be willing to consider any reasonable approach to quantifying passenger convenience associated with a moving sidewalk or other facilities to enhance passenger flows.

(4) Those items which cannot be revised (i.e., discount rate, values of life, injury, and time) should be explicitly identified in the BCA guidance. A paragraph has been added to "Section 5: Assumptions" identifying those items which cannot be revised.

ii. *Two commentors indicated that treatment of "induced demand" should be dropped from the guidance or its inclusion made optional.*

The FAA concurs. "Section 12: Adjustment of Benefits and Costs for Induced Demand" has been made optional and moved to Appendix C of the BCA guidance.

c. Comments on FAA Forecasts of Enplanements and Operations

The FAA received no comments on FAA forecasts of enplanements and operations. However, the FAA notes that sponsors must use consistent forecast data in all planning and environmental studies of the project, including the BCA.

Issued in Washington, DC, on November 24, 1999.

Catherine M. Lang,

Director, Office of Airport Planning and Programming.

John M. Rodgers,

Director, Office of Aviation Policy and Plans.

[FR Doc. 99-32172 Filed 12-14-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Canadian Pacific Railway (Waiver Petition Docket Number FRA-1999-5894)

Canadian Pacific Railway (CP) seeks a permanent waiver of compliance with certain provisions of the Locomotive Safety Standards, 49 CFR 229.29(a), concerning the time interval requirements of the periodic cleaning, repairing and testing of locomotive air brake components for all of its locomotives operating in the United States equipped with 26L type brake equipment. FRA currently permits railroads to operate locomotives equipped with 26L type brakes for periods not to exceed 1,104 days before performing the testing and inspection required by 49 CFR 229.29(a).

CP has been testing this 48 month extended cleaning interval in a joint effort with Transport Canada under FRA waiver LI-88-4A. CP has published the final test results, which CP claims indicate that 26L type brakes can be safely operated on a 48 month schedule provided there is a maintenance program in place to prevent moisture and contaminants from entering the brake valves. CP further claims that the test results are supported by records which indicate that since 1992, CP has not experienced a train accident as the result of a malfunction of the 26L brake system or its sub components.

A report issued in April 1997 by the Rail Safety Directorate, Transport Canada, indicated that the overall test was successful, however, four