



ASSOCIATION OF AMERICAN RAILROADS
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December 29, 2017

Dr. Jean Rogers
Executive Director
Sustainability Accounting Standards Board
75 Broadway, Suite 202
San Francisco, CA 94111

Via Online Submission

Dear Dr. Rogers:

The Association of American Railroads (“AAR”) provides these comments on the Proposed Changes to Provisional Standards Exposure Draft (“Revised Draft”) issued by the Sustainability Accounting Standards Board (“SASB”) in October, 2017. The AAR is a trade association whose membership includes freight railroads that operate 83 percent of the line haul mileage, employ 95 percent of the workers, and account for 97% of the freight revenues of all railroads in the United States, and passenger railroads (including Amtrak) that operate intercity passenger trains and provide commuter rail service.

In 2014, the AAR commented on a previous iteration of SASB’s proposal to establish voluntary, industry-specific disclosure requirements for sustainability issues contained in the Provisional Standards Exposure Draft (“Provisional Standards”). The AAR expressed concern at that time that industry-wide requirements for railroads would create the potential for overemphasis on immaterial matters in public disclosures. The AAR letter also argued that industry-wide SASB standards for the railroad industry would be burdensome, unnecessary, and redundant with existing reporting. The AAR letter explained that the railroad industry publicly reports the information at issue to various federal entities, including the Securities and Exchange Commission (“SEC”), modal administrations of the Department of Transportation including the Federal Railroad Administration, the Surface Transportation Board, and the National Response Center. The AAR also pointed out illustrative problems with the proposed standards at that time, but did not exhaustively comment on the proposal. In short, the AAR urged SASB to refrain from recommending industry-wide metrics.

The AAR continues to believe that the current regulatory framework for identifying required disclosures based upon materiality is sufficiently defined and robust to encompass the information investors need for evaluating railroads, including issues related to sustainability.

Though the Revised Draft addresses some of the specific concerns raised in the AAR's 2014 letter, nothing in the Revised Draft changes the basic conclusion of that letter: that industry-specific reporting requirement would be redundant, burdensome, unnecessary, and potentially confusing because it may lead to overemphasis on immaterial matters.

Consistent with the view that industry-specific sustainability disclosure requirements are unnecessary, recent Congressional and SEC efforts have been aimed at streamlining and modernizing disclosure requirements and not at creating an additional voluntary regime of disclosure that would complicate and muddle the materiality picture. In the Fixing America's Surface Transportation Act of 2015, Congress directed the SEC to conduct a study to develop "specific and detailed recommendations on modernizing and simplifying the requirements in regulation S-K in a manner that reduces the costs and burdens on companies while still providing all material information;" and "specific and detailed recommendations on ways to improve the readability and navigability of disclosure documents and to discourage repetition and the disclosure of immaterial information."¹ On October 11, 2017 the SEC began a rulemaking to implement that report, consistent with Section 72003(d) of the FAST Act, and did not address specific sustainability disclosures.²

The creation of voluntary standards for required disclosures, independent of the regulatory regime, creates uncertainty and increases the risk that companies will increasingly disclose immaterial information. Moreover, the existence of competing voluntary standards promulgated by SASB, the Global Reporting Initiative I ("GRI") and the International Integrated Reporting Council ("IIRC") further complicate the matter.

The AAR believes that the proposed requirements in the Revised Draft would not result in additional meaningful information being disclosed to investors, and may result in confusion and inconsistency. Accordingly, SASB should refrain from adopting these metrics for the railroad industry. For its part, the AAR would strongly object to any suggestion that it, or its member railroads, endorsed the SASB standards or otherwise approved of the effort.

Respectfully submitted,



Kathryn D. Karmayer
Timothy J. Strafford

Attached: 2014 AAR Letter

¹ Pub. L. No. 114-94.

² Compare FAST Act Modernization and Simplification of Regulation, 82 Fed. Reg. 50988 (Nov. 2, 2017) with Business and Financial Disclosure Required by Regulation S-K, Concept Release, 81 Fed. Reg. 23916 (April 22, 2016).



ASSOCIATION OF AMERICAN RAILROADS

July 16, 2014

Dr. Jean Rogers
Executive Director
Sustainability Accounting Standards Board
75 Broadway, Suite 202
San Francisco, California 94111

Dear Dr. Rogers:

The Association of American Railroads ("AAR") provides these comments on the Rail Transportation Exposure Draft issued by the Sustainability Accounting Standards Board ("SASB") in April 2014 (hereinafter referred to as the "Exposure Draft").

AAR is a trade association whose membership includes freight railroads that operate 83 percent of the line-haul mileage, employ 95 percent of the workers, and account for 97 percent of the freight revenues of all railroads in the United States; and passenger railroads that operate intercity passenger trains and provide commuter rail service.

As discussed further below, industry-wide SASB standards for the railroad industry are burdensome and unnecessary. These proposed accounting metrics are redundant with existing reporting. The railroads already report the information at issue to various federal entities, including the Securities and Exchange Commission ("SEC"), the agencies of the Department of Transportation ("DOT"), the Surface Transportation Board ("STB") and the National Response Center ("NRC"), which make this information available to the public. Accordingly, AAR urges SASB to refrain from recommending these metrics.

Governance professionals and even some at the SEC have expressed serious concerns about SASB's efforts to develop standards that conflict with those of the SEC, and AAR shares these concerns. In comments submitted to SASB on September 16, 2013, the Society of Corporate Secretaries & Governance Officials explained that requiring additional, immaterial disclosures creates burden without benefit and is inconsistent with principles under U.S. securities laws, noting also that the concept of industry materiality is based on erroneous assumptions. In addition, while speaking at the American Institute of CPA's conference on December 9, 2013, SEC staff highlighted the importance of avoiding overemphasis of immaterial matters in public disclosures in

Accident and Safety Management (TR0401-05-09)

- The vast majority of the metrics in the Accident and Safety Management area are again redundant, burdensome, and unnecessary since such data are publicly available elsewhere. Information regarding train accidents, personal injuries, accidental releases and non-accidental releases is already reported to the DOT and/or NRC. Information regarding "violation defects" is available in the Federal Railroad Administration's Annual Enforcement Report that is publicly available on the web. Moreover, many of these proposed metrics (e.g., number of FRA-reportable incidents, which can include minor derailments, number of FRA recommended "violation defects", frequency of integrity inspections, etc.) require substantial context and technical understanding to be meaningful to investors, and such context and technical information is not provided. Thus, such information would be meaningless, confusing, and distracting for investors without the addition of even more burdensome, redundant, and unnecessary reporting requirements. For example, information on railway integrity inspections would distract from data on train accidents, which is a more meaningful, uniform and comprehensible standard, and which is already reported to the DOT.
- Reporting of near miss data as proposed by SASB should not be required for several reasons. First, publishing such information could dissuade some employees from self-reporting near miss incidents. Second, each railroad has its own process and standards for tracking near miss incidents. Although the proposed standard would require each railroad to disclose its process for classifying, identifying and reporting these incidents, the resulting data would not be consistent or comparable among railroads. Lastly, the proposed definition for near miss incident ("an incident where no property or environmental damage or property damage occurred but where damage or personal injury easily could have occurred but for a slight circumstantial shift") is vague and would result in varied and inconsistent interpretation of "slight circumstantial shift".

Conclusion

Reporting requirements such as those proposed by SASB for the railroad industry would be redundant, burdensome, and unnecessary and would not result in additional meaningful information for investors. Accordingly, SASB should refrain from recommending these metrics for the railroad industry.

Respectfully submitted,



Louis P. Warchot
Janet L. Bartelmay

Counsel for Association of American Railroads