

United States. This determination indicates that Skanska/Traylor JV certified non-compliance in error.

Notwithstanding the above interpretation and Skanska/Traylor JV's willingness and ability to comply with Buy America, the procedural portion of FTA's Buy America regulations prohibit Skanska/Traylor JV from modifying its Buy America certificate unless it submitted an incorrect certificate based on inadvertent or clerical error. 49 CFR 661.13(a)(1). In the case of a sealed bid procurement, a bidder or offeror is bound by its original certification. 49 CFR 661.13(c).

In this instance, FTA proposes to waive the restrictions of 49 CFR 661.13 to allow Skanska/Traylor JV to certify compliance with Buy America. Unlike other requests for public interest waivers, the granting of which enable an otherwise non-compliant bidder to purchase foreign products that the Buy America provisions would otherwise require to be produced in the United States, in this circumstance a waiver would allow MTA to award a contract to a low bidder that will perform wholly in compliance with the substantive Buy America requirements. Without a waiver, MTA may spend an additional \$32.9 million for the Second Avenue Subway project without furthering the goals of Buy America.

FTA may waive its rules if applying the Buy America requirements "would be inconsistent with the public interest." 49 U.S.C. 5323(j)(2)(A). Before granting such waiver, FTA must issue a detailed written statement justifying why the waiver is in the public interest, and must publish this justification in the **Federal Register**, providing the public with a reasonable time for notice and comment of not more than seven calendar days. 49 CFR 661.7(b). This notice satisfies the aforementioned requirement.

Before deciding whether to grant MTA's request, FTA seeks comment from all interested parties. In the interest of transparency, FTA has published copies of MTA's request to the docket. Interested parties may access

these materials by visiting the docket site at <http://www.regulations.gov>, docket number FTA-2011-0031. Please submit comments by July 15, 2011. Late-filed comments will be considered to the extent practicable.

Issued this 1st day of July 2011.

Dorval R. Carter, Jr.,
Chief Counsel.

[FR Doc. 2011-17182 Filed 7-7-11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 682 (Sub-No. 2)]

2010 Tax Information for Use in the Revenue Shortfall Allocation Method

AGENCY: Surface Transportation Board.

ACTION: Notice.

SUMMARY: The Board is publishing, and providing the public an opportunity to comment on, the 2010 weighted average state tax rates for each Class I railroad, as calculated by the Association of American Railroads (AAR), for use in the Revenue Shortfall Allocation Method (RSAM).

DATES: Comments are due by August 8, 2011. If any comment opposing AAR's calculations is filed, AAR's reply will be due August 29, 2011. If no comments are filed by the due date, AAR's calculation of the 2010 weighted average state tax rates will be automatically adopted by the Board, effective August 9, 2011.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies referring to Docket No. EP 682 (Sub-No. 2) to: Surface Transportation Board, 395

E Street, SW., Washington, DC 20423-0001.

FOR FURTHER INFORMATION CONTACT:

Valerie O. Quinn (202) 245-0382. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION: The RSAM figure is one of three benchmarks that together are used to determine the reasonableness of a challenged rate under the Board's *Simplified Standards for Rail Rate Cases*, EP 646 (Sub-No. 1) (STB served Sept. 5, 2007),¹ as further revised in *Simplified Standards for Rail Rate Cases—Taxes in Revenue Shortfall Allocation Method*, EP 646 (Sub-No. 2) (STB served Nov. 21, 2008). RSAM is intended to measure the average markup that the railroad would need to collect from all of its "potentially captive traffic" (traffic with a revenue-to-variable-cost ratio above 180%) to earn adequate revenues as measured by the Board under 49 U.S.C. § 10704(a)(2) (*i.e.*, earn a return on investment equal to the railroad industry cost of capital). *Simplified Standards—Taxes in RSAM*, slip op. at 1. In *Simplified Standards—Taxes in RSAM*, slip op. at 3, 5, the Board modified its RSAM formula to account for taxes, as the prior formula mistakenly compared pre-tax and after-tax revenues. In that decision, the Board stated that it would institute a separate proceeding in which Class I railroads would be required to submit the annual tax information necessary for the Board's annual RSAM calculation. *Id.* at 5-6.

In *Annual Submission of Tax Information for Use in the Revenue Shortfall Allocation Method*, EP 682 (STB served Feb. 26, 2010), the Board adopted rules to require AAR—a national trade association—to annually calculate and submit to the Board the weighted average state tax rate for each Class I railroad. *See* 49 CFR 1135.2(a). On May 27, 2011, AAR filed its calculation of the weighted average state tax rates for 2010, listed below for each Class I railroad:

WEIGHTED AVERAGE STATE TAX RATES

[In percent]

Railroad	2010	2009	% Change
BNSF Railway Company	5.572	5.665	-0.093
CSX Transportation, Inc.	5.575	5.578	-0.003
Grand Trunk Corporation	7.634	7.590	0.044
The Kansas City Southern Railway	6.070	6.434	-0.364
Norfolk Southern Combined	5.819	5.803	0.016
Soo Line Corporation	7.305	8.651	-1.346

¹ *Aff'd sub nom. CSX Transp., Inc. v. STB*, 588 F.3d 236 (DC Cir. 2009), and vacated in part on

reh'g, CSX Transp., Inc. v. STB, 584 F.3d 1076 (DC Cir. 2009).

WEIGHTED AVERAGE STATE TAX RATES—Continued
[In percent]

Railroad	2010	2009	% Change
Union Pacific Railroad Company	5.922	6.051	- 0.129

Any party wishing to comment on AAR's calculation of the 2010 weighted average state tax rates should file a comment by August 8, 2011. See 49 CFR 1135.2(c). If any comment opposing AAR's calculations is filed, AAR's reply will be due by August 29, 2011. *Id.* If any comments are filed, the Board will review AAR's submission, together with the comments, and serve a decision within 60 days of the close of the record that either accepts, rejects, or modifies AAR's railroad-specific tax information. *Id.* If no comments are filed by August 8, 2011, AAR's submitted weighted average state tax rates will be automatically adopted by the Board, effective August 9, 2011. *Id.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: July 5, 2011.

Joseph H. Dettmar,

Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011-17238 Filed 7-7-11; 8:45 am]

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DATES: Written comments should be received on or before September 6, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of Evelyn J. Mack, at (202) 622-7381, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at Evelyn.J.Mack@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Qualified Lessee Construction Allowances for Short-Term Leases.

OMB Number: 1545-1661.

Regulation Project Number: REG-106010-98, (TD 8901).

Abstract: The regulations provide guidance with respect to § 110, which provides a safe harbor whereby it will be assumed that a construction allowance provided by a lessor to a lessee is used to construct or improve lessor property when long-term property is constructed or improved and used pursuant to a short-term lease. The regulations ensure that both the lessee and the lessor consistently treat the property subject to construction allowance as nonresidential real property owned by the lessor.

Current Actions: There is no change to these existing regulations.

Type of review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Average Time per

Respondent: 1 hour.

Estimated Total Annual Reporting

Burden Hours: 10,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 28, 2011.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2011-17129 Filed 7-7-11; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG-106010-98]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning information collection requirements related to qualified lessee construction allowances for short-term.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 12339, 12339-B, and 13775

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms 12339, Internal Revenue Service Advisory Council Membership Application; 12339-B, Information Reporting Program Advisory Committee