

was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: September 19, 2017.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2017-21455 Filed 10-4-17; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

[Docket No. FRA-2012-0033]

**Notice of Intent To Grant a Buy America Waiver to the City of Raleigh To Use Certain Non-Domestic Components of a Fire Alarm System**

**AGENCY:** Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

**ACTION:** Notice of intent to grant Buy America waiver.

**SUMMARY:** FRA is issuing this notice to advise the public it intends to grant the City of Raleigh (City) a waiver from FRA's Buy America requirement to use certain non-domestic components of a fire alarm system Code Electric, Inc. provided for the Raleigh Union Station project, in partnership with the North Carolina Department of Transportation (NCDOT). Code Electric, Inc. is an electrical contractor for the Raleigh Union Station project.

**DATES:** Written comments on FRA's determination to grant a Buy America waiver to the City should be provided to the FRA on or before October 12, 2017.

**ADDRESSES:** Please submit your comments by one of the following means, identifying your submissions by docket number FRA-2012-0033. All electronic submissions must be made to the U.S. Government electronic site at <http://www.regulations.gov>.

Commenters should follow the instructions below for mailed and hand-delivered comments:

(1) *Web site:* <http://www.regulations.gov>. Follow the instructions for submitting comments on the U.S. Government electronic docket site;

(2) *Fax:* (202) 493-2251;

(3) *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M-30, Room W12-140, Washington, DC 20590-0001; or

(4) *Hand Delivery:* Room W12-140 on the first floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must reference the "Federal Railroad Administration" and include docket number FRA-2012-0033. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting responses to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or visit <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Johnson, Attorney-Advisor, FRA Office of Chief Counsel, 1200 New Jersey Avenue SE., Mail Stop 10, Washington, DC 20590, (202) 493-0078, [John.Johnson@dot.gov](mailto:John.Johnson@dot.gov).

**SUPPLEMENTARY INFORMATION:** FRA provided information on its reasons for granting this waiver in a letter to the City of Raleigh, quoted below:

Mr. Richard L. Kelly

Engineering Services Director  
City of Raleigh  
One Exchange Plaza  
219 Fayetteville Street, Suite 801  
Raleigh, NC 27601

Re: Request for Waiver of Buy America Requirement

Dear Mr. Kelly:

On September 23, 2016, Code Electric, Inc. requested a waiver from the Federal Railroad Administration's (FRA) Buy America requirement (49 U.S.C. 24405(a)) to use certain components of a fire alarm system, which cannot be sourced in the United States, in the Raleigh Union Station project (Project). The Project is for construction of a passenger train station in downtown Raleigh that will replace the existing Amtrak station. The City of Raleigh (City), through its contractor, awarded Code Electric, Inc. the electrical construction sub-contract for the Project. The \$90 million project is funded in part by two Transportation Infrastructure Generating Economic Recovery grants of \$26.5 million from Fiscal Year (FY) 2012 and \$11.5 million from FY 2013 to the City, and \$15 million from a \$520 million American Recovery and Reinvestment Act of 2009 grant to the North Carolina Department of Transportation. FRA is providing its decision on the waiver to the City as the FRA grant recipient for this Project.

The Project is subject to 49 U.S.C. 24405(a)(1). Section 24405(a)(1) requires the steel, iron, and manufactured goods used in a project to be produced in the United States. FRA may waive the Buy America requirements if FRA finds that: (1) Applying the requirements would be inconsistent with the public interest; (2) the steel, iron, and goods manufactured in the United States are not produced in sufficient and reasonably available amounts or are not of a satisfactory quality; (3) rolling stock or power train equipment cannot be bought or delivered to the United States within a reasonable time; or (4) including domestic material will increase the cost of the overall project by more than 25 percent.

For the reasons stated in this letter, FRA grants a "non-availability" Buy America waiver. This waiver applies only to this Project.

Code Electric seeks a waiver for the following components (Components) for use in the Project:

Description	Quantity	Description	Quantity
Addressable Pull Station .....	15	Addressable Module Flush Cover .....	22
Duct Sensor Housing .....	6	Overvoltage Suppressor .....	1
Remote Test Station .....	6	Relay IAM .....	13
Sampling Tube 73", Plastic .....	6	Addressable Module Flush Cover .....	13
Relay IAM .....	6	Relay Id NET 2 IAM W/T Sense .....	1
Addressable Module Flush Cover .....	6	10 AH Battery .....	2
Indoor/Outdoor Surface Back Box .....	8	Address Module Isolator .....	10
Speaker Low Profile Ceiling Mount .....	9	Addressable Module Flush Cover .....	10
Supervised IAM .....	22	50 AH Battery .....	4
IAM Bracket .....	22	Laptop .....	1

The total cost of the fire alarm system is less than \$30,000, and the total cost of the

non-U.S. manufactured components is less than \$10,000.

Code Electric asserts the following facts in support of the waiver request:

- Code Electric received several bids for the fire alarm system from suppliers Honeywell, Tyco Simplex Grinnell, and Edwards (United Technologies). Although these suppliers source many fire alarm system components from U.S. manufacturers, none of the suppliers offered a one hundred percent Buy America-compliant system. All fire alarm system suppliers use a mix of foreign and US-made components; and

- The foreign components used by suppliers vary. However, due to programming, interoperability, and certification issues, the components are not interchangeable among systems. Therefore, suppliers cannot swap out components to meet Buy America.

FRA independently verified these assertions with its Monitoring and Technical Assistance Contractor (MTAC), TranSystems. An electrical engineer from FRA's MTAC explained that large international suppliers source or manufacture pieces of the fire alarm system in different countries. Further, many portions of the system are addressable (individually programmable), which means the software and hardware must be compatible and tested. In addition, fire alarm components and systems are UL® listed. UL® is a third-party, independent company that certifies safety compliance of many systems and their components, including fire alarm systems. Attempting to swap pieces of a fire alarm system would jeopardize its UL® listing and could cause product warranty and liability issues.

FRA concludes a waiver is appropriate under 49 U.S.C. 24405(a)(2)(B) for the Components because domestically-produced Components are not currently "produced in sufficient and reasonably available amounts." 49 U.S.C. 24405(a)(2)(B). FRA bases this determination on the following:

- For competitively bid, commercial products for buildings, such as fire alarm systems, FRA views receiving no Buy America-compliant bids as presumptive evidence the conditions exist to grant a non-availability waiver;

- On October 28, 2016, FRA provided public notice of this waiver request and a 15-day opportunity for comment on its Web site. FRA also emailed notice to over 6,000 recipients that requested Buy America notices through "GovDelivery." FRA received one comment. However, the commenter did not provide any information about a domestic source for a fully Buy America-compliant fire alarm system; and

- FRA's MTAC concurred with Code Electric that due to programming, interoperability, and certification issues, components are not interchangeable among systems. Therefore, fire alarm system suppliers cannot swap out components to meet Buy America.

This waiver applies only to this Project for these specific components.

Under 49 U.S.C. 24405(a)(4), FRA will publish this letter granting the Buy America waiver to the City in the **Federal Register** and provide notice of such finding and an opportunity for public comment after which this waiver will become effective.

Questions about this letter can be directed to, John Johnson, Attorney-Advisor, at [John.Johnson@dot.gov](mailto:John.Johnson@dot.gov) or (202) 493-0078.

Sincerely,  
Heath Hall  
Acting Administrator  
cc: Code Electric, Inc.

**Brett A. Jortland**,  
*Acting Deputy Chief Counsel.*

[FR Doc. 2017-21441 Filed 10-4-17; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2017-0130; Notice No. 2017-11]

#### Hazardous Materials: Emergency Waiver No. 5

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice of emergency waiver order.

**SUMMARY:** The Pipeline and Hazardous Materials Safety Administration is issuing an emergency waiver order to persons conducting operations under the direction of the Puerto Rico Public Service Commission within the Hurricane Maria emergency and disaster areas of Puerto Rico. This Waiver Order is effective September 28, 2017, and shall remain in effect for 7 days from the date of issuance.

**FOR FURTHER INFORMATION CONTACT:** Adam Horsley, Deputy Assistant Chief Counsel for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, telephone: (202) 366-4400.

**SUPPLEMENTARY INFORMATION:** In accordance with the provisions of 49 U.S.C. 5103(c), the Acting Administrator for the Pipeline and Hazardous Materials Safety Administration (PHMSA), hereby declares that an emergency exists that warrants issuance of a Waiver of the Hazardous Materials Regulations (HMR, 49 CFR parts 171-180) to persons conducting operations under the direction of the Puerto Rico Public Service Commission (Carr. 8838 Km. 8.3, Sector El Cinco, San Juan, PR 00926) within the Hurricane Maria emergency and disaster areas of Puerto Rico. The Waiver is granted to support the government of Puerto Rico in facilitating the transport of essential fuel.

On September 18, 2017, the President issued an Emergency Declaration for Hurricane Maria for the Commonwealth of Puerto Rico (EM-3391). On September 20, 2017, the President issued a Major Disaster Declaration for

the Commonwealth of Puerto Rico (DR-4340).

This Waiver Order covers all areas identified in the Declarations. Pursuant to 49 U.S.C. 5103(c), PHMSA has authority delegated by the Secretary (49 CFR 1.97(b)(3)) to waive compliance with any part of the HMR provided that the grant of the waiver is: (1) In the public interest; (2) not inconsistent with the safety of transporting hazardous materials; and (3) necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

Given the continuing impacts caused by Hurricane Maria, PHMSA's Acting Administrator has determined that regulatory relief is in the public interest and necessary to ensure the safe transportation in commerce of hazardous materials while the Puerto Rican government executes its recovery and cleanup efforts. Specifically, PHMSA's Acting Administrator finds that issuing this Waiver Order will allow for the safe transportation of fuel. By execution of this Waiver Order, the hazardous materials training, testing, and certification requirements in 49 CFR part 172 subpart H and part 177 are waived except as specified below for persons conducting operations under the direction of the Puerto Rico Public Service Commission within the Hurricane Maria emergency and disaster areas of Puerto Rico. Such persons are authorized to offer and transport fuel provided that the following conditions are met:

(1) The transport of the fuel must be accompanied by a law enforcement or military escort;

(2) The escort vehicle must have a copy of the Emergency Response Guidebook, Response Guide 128;

(3) Drivers must have three years of professional driving experience and otherwise be licensed to operate the vehicle based on its size and weight; and

(4) Unloading procedures must be overseen by a qualified person as defined in 49 CFR 177.834(i)(4) or a driver who has received training (testing and certification is not required) that includes, at a minimum, these items:

(a) Bonding the cargo tank;  
(b) Preventing overfilling of tanks at point of delivery;

(c) Controlling the flow of product;

(d) Using emergency cut-off equipment; and

(e) Securing unloading equipment for transport.