

2. As discussed above, the trackage rights in Docket No. FD 36377 (Sub-No. 4) are permitted to expire at midnight on December 31, 2022, subject to the employee protective conditions set forth in *Oregon Short Line*.

3. Notice of this decision will be published in the **Federal Register**.

4. This decision is effective on March 9, 2022. Petitions for stay must be filed by February 17, 2022. Petitions for reconsideration must be filed by February 28, 2022.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

**Aretha Laws-Byrum,**

*Clearance Clerk.*

[FR Doc. 2022-02479 Filed 2-4-22; 8:45 am]

**BILLING CODE 4915-01-P**

## SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 4)]

### Railroad Cost Recovery Procedures—Productivity Adjustment

**AGENCY:** Surface Transportation Board.

**ACTION:** Presentation of the Board's calculation for the change in railroad productivity for the 2016–2020 averaging period.

**SUMMARY:** In a decision served on February 3, 2022, the Board proposed to adopt 1.025 (2.5% per year) as the measure of average (geometric mean) change in railroad productivity for the 2016–2020 (five-year) period. The Board's February 3, 2022 decision stated that comments may be filed addressing any perceived data and computational errors in the Board's calculation. The decision also stated that, unless a further order is issued postponing the effective date, the decision will take effect on March 1, 2022.

**DATES:** Comments are due by February 24, 2022.

**ADDRESSES:** Comments may be e-filed on the Board's website at [www.stb.gov](http://www.stb.gov). Comments must be served on all parties appearing on the service list.

**FOR FURTHER INFORMATION CONTACT:** Pedro Ramirez at (202) 245-0333.

Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board's decision, which is available at [www.stb.gov](http://www.stb.gov).

Decided: February 2, 2022.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

**Kenyatta Clay,**

*Clearance Clerk.*

[FR Doc. 2022-02508 Filed 2-4-22; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Buy America Waiver Notification

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** This notice provides information regarding FHWA's finding that it is appropriate to grant a Buy America waiver to the Golden Gate Bridge, Highway & Transportation District (District) for procurement of foreign iron and steel components for the maintenance traveler system, which is needed to allow continued inspections and routine maintenance operations after the Golden Gate Bridge Physical Suicide Deterrent System Project (Project) is constructed. The non-domestic parts include: (i) Electric motors; (ii) speed reducers; (iii) wheel chocks; (iv) a chain stopper; (v) rail clamps with hydraulic power units; (vi) pneumatic brakes; (vii) air compressors; (viii) gas cylinder stands; (ix) bearings (of various types specified in the request); (x) electric cabinet switches and handles; (xi) electrical cabinet shafts; (xii) grounding shoes; and (xiii) scissor lifts.

**DATES:** The effective date of the waiver is February 8, 2022.

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, please contact Mr. Brian Hogge, FHWA Office of Infrastructure, 202-366-1562, or via email at [Brian.Hogge@dot.gov](mailto:Brian.Hogge@dot.gov). For legal questions, please contact Mr. Patrick C. Smith, FHWA Office of the Chief Counsel, 202-366-1345, or via email at [Patrick.C.Smith@dot.gov](mailto:Patrick.C.Smith@dot.gov). Office hours for FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register's** home page at: [www.FederalRegister.gov](http://www.FederalRegister.gov) and the Government Publishing Office's database at: [www.GovInfo.gov](http://www.GovInfo.gov).

## Background

FHWA's Buy America regulation in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not produced in the United States in sufficient and reasonably available quantities. This notice provides information regarding FHWA's finding that it is appropriate to grant the District a Buy America waiver for procurement of foreign iron and steel components for the maintenance traveler system, which is needed to allow continued inspections and routine maintenance operations after the Project is constructed. The non-domestic parts include: (i) Electric motors; (ii) speed reducers; (iii) wheel chocks; (iv) a chain stopper; (v) rail clamps with hydraulic power units; (vi) pneumatic brakes; (vii) air compressors; (viii) gas cylinder stands; (ix) bearings (of various types specified in the request); (x) electric cabinet switches and handles; (xi) electrical cabinet shafts; (xii) grounding shoes; and (xiii) scissor lifts.

*Background on the Project:* On average, 30 people die from suicide at the Golden Gate Bridge each year. Hundreds more are stopped by the District, the California Highway Patrol, or other intervention. The District determined that a physical barrier was needed to stop suicides from the bridge. The Project, Federal Aid Project No. BHLS-6003(051), involves the construction of a horizontal stainless-steel net supported by steel net supports for the full length of the bridge, except for a tall vertical railing installed in one location. The horizontal steel net system uses all American steel. The Project also includes the replacement of the bridge maintenance travelers with new travelers because the installation of the net will block the movement of the existing travelers. In this context, a "traveler" means a moveable inspection and maintenance platform, which travels on steel rails and trolley beams and is designed to provide access to the bridge. A new replacement traveler access system is necessary to allow continued inspections and routine maintenance operations after the Suicide Deterrent System is constructed. Some of the traveler equipment is not available with the required Buy America certification because it is not

manufactured in America or manufactured in America with some non-domestic parts.

The contract for the Project also encompasses the Golden Gate Bridge Wind Retrofit Project, Federal Aid Project No. BHLS-6003(052). The current construction contract amount for both projects is approximately \$142.1 million (with \$132.6 million for the Suicide Deterrent System Project and \$9.5 million for the Wind Retrofit Project). The estimated value of the components under the requested waiver is approximately \$2.6 million (or less than two percent of the total contract amount). The construction contract specifies that the Project is partially funded with Federal funds and that the FHWA Buy America provisions apply. For the Suicide Deterrent System Project, approximately 65 percent of the total Project cost is Federal, 4 percent is from the State, and 31 percent is local. Under 23 U.S.C. 313(g), FHWA's Buy America requirement applies to the entire scope of the project, as defined in the NEPA document, when Federal funds are used in any part of the project regardless of whether Federal funds are used in the actual component that is subject to the waiver.

The traveler system is a "contractor-designed" element of this low-bid construction contract. As such, the fact that some of the requisite traveler equipment is not available with Buy America certifications was not identified until after the contract was awarded and the contractor completed the traveler design. Specifically, the new travelers will be propelled by electric drive systems that include some manufactured mechanical and electrical control components that are not available with the Buy America certification. The travelers must also be equipped with electric scissor lifts that are similarly not available with the Buy America certification.

*Background on Waiver Request:* The District originally submitted a Buy America waiver request letter to FHWA on June 24, 2020. Prior to requesting a waiver, the District unsuccessfully attempted to identify domestic manufacturers for these products. The District reported to FHWA in the waiver request letter that the District, its contractor, and consultants contacted numerous manufacturers and distributors to identify products that complied with Buy America but were not successful in locating any domestic manufacturers or fabricators of the relevant products. Attachment 1 to the request letter provided a record of the District's efforts. The waiver request included the following non-domestic

parts: (i) Electric motors; (ii) speed reducers; (iii) wheel chocks; (iv) a chain stopper; (v) rail clamps with hydraulic power units; (vi) pneumatic brakes; (vii) air compressors; (viii) gas cylinder stands; (ix) bearings (of various types specified in the request); (x) electric cabinet switches and handles; (xi) electrical cabinet shafts; (xii) grounding shoes; and (xiii) scissor lifts. Attachment 1 to the request letter provided further information on these parts.

In accordance with the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), FHWA published a notice seeking comment on whether a waiver was appropriate on its website, <https://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=157>, on September 27, 2021.

The FHWA received 14 comments in response to the publication. Eight commenters opposed the waiver, two supported it, and four of the comments documented the District's efforts to follow-up with one of the commenters opposing the waiver. Seven of the comments opposing the waiver did not offer any specific information on the availability of compliant products, nor did they suggest specific, additional actions that the District could take to maximize its use of goods, products, and materials produced in the United States. One commenter opposing the waiver indicated that he believed the parts were available from domestic suppliers but also did not name a specific manufacturer. This comment was submitted on September 28, 2021, and invited the District to contact the commenter for additional information on his statement. On October 4, 2021, the District responded to this commenter on the website requesting the names of United States manufacturers able to provide the relevant parts. On October 13, 2021, the District emailed this commenter at the email address he used to submit the comment asking the same. On October 25, 2021, the District posted a new comment to the website explaining that it had received no reply, either by email or phone, to its questions for this commenter. Thus, the District did not receive any new information indicating that the subject parts could be produced by domestic manufacturers from any of the commenters opposing the waiver.

Although the District did not identify compliant components for the maintenance travelers, it provided information to FHWA supporting its waiver request, including information:

- Supporting the necessity of these specific maintenance travelers for allowing continued access to the bridge

for performing inspections and maintenance operations after the suicide prevention nets are installed;

- Documenting efforts to locate compliant manufactured products;
- Demonstrating that alternative designs were infeasible; and
- Describing the effects of denying the request.

Although ultimately unsuccessful, the District made substantial efforts to find suitable Buy America compliant components for the maintenance travelers.

*Timing and Need for a Waiver.* The District maintains that approval of a Buy America waiver for the relevant components of the maintenance travelers is now critical to maintain the schedule of ongoing construction on the Project. The District explained in early 2021 that it was already at a juncture where delays in the approval of the Buy America waiver may delay completion of construction with commensurate additional payments to the contractor.

*Executive Order 14005.* Executive Order 14005, "Ensuring the Future is Made in All of America by All of America's Workers," provides that agencies should, consistent with applicable law, maximize the use of goods, products, and materials produced in, and services offered in, the United States. 86 FR 7475 (Jan. 28, 2021). Based on the information contained in the waiver request from the District and the lack of responsive comments following publication of a notice seeking comment on September 28, 2021, regarding available domestic manufacturers for the subject parts, FHWA concludes that issuing a waiver is consistent with Executive Order 14005.

#### **Finding and Request for Comments**

Based on all the information available to the Agency, FHWA concludes that there are no Buy America-compliant relevant components for the maintenance travelers for the Project, specifically including: (i) Electric motors; (ii) speed reducers; (iii) wheel chocks; (iv) a chain stopper; (v) rail clamps with hydraulic power units; (vi) pneumatic brakes; (vii) air compressors; (viii) gas cylinder stands; (ix) bearings (of various types specified in the request); (x) electric cabinet switches and handles; (xi) electrical cabinet shafts; (xii) grounding shoes; and (xiii) scissor lifts. This finding only includes components identified in the waiver request and supporting documents included on FHWA's website.

The District and its contractors and subcontractors involved in the procurement of the relevant components

are reminded of the need to comply with the Cargo Preference Act in 46 CFR part 38, if applicable.

In accordance with the provisions of Section 117 of the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110-244, 122 stat. 1572), FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. FHWA invites public comment on this finding for an additional five (5) days following the effective date of the finding. Comments may be submitted to FHWA's website via the link provided to the waiver page noted above.

*Authority:* 23 U.S.C. 313; Pub. L. 110-244; Pub. L. 116-260; 23 CFR 635.410.

**Stephanie Pollack,**

*Deputy Administrator, Federal Highway Administration.*

[FR Doc. 2022-02449 Filed 2-4-22; 8:45 am]

**BILLING CODE 4910-22-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

[Docket No. FRA-2010-0033]

**New Jersey Transit's Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System**

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

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This document provides the public with notice that, on January 14, 2022, New Jersey Transit (NJT) submitted a request for amendment (RFA) to its FRA-approved Positive Train Control Safety Plan (PTCSP). As this RFA may involve a request for FRA's approval of proposed material modifications to an FRA-certified positive train control (PTC) system, FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTCSP.

**DATES:** FRA will consider comments received by February 28, 2022. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

**ADDRESSES:**

*Comments:* Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and the

applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA-2010-0033. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

**FOR FURTHER INFORMATION CONTACT:**

Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816-516-7168, email: [Gabe.Neal@dot.gov](mailto:Gabe.Neal@dot.gov).

**SUPPLEMENTARY INFORMATION:** In general, Title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system complies with 49 CFR part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under Title 49 Code of Federal Regulations (CFR) Section 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system. Accordingly, this notice informs the public that on January 14, 2022, NJT submitted an RFA to its PTCSP for its Advanced Speed Enforcement System II (ASES II) and that RFA is available in Docket No. FRA-2010-0033.

Interested parties are invited to comment on NJT's RFA to its PTCSP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. See 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

**Privacy Act Notice**

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in

the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov). To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

**Carolyn R. Hayward-Williams,**

*Director, Office of Railroad Systems and Technology.*

[FR Doc. 2022-02512 Filed 2-4-22; 8:45 am]

**BILLING CODE 4910-06-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

[Docket No. FRA-2022-0006]

**Request for Information for the Corridor Identification and Development Program**

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

**ACTION:** Request for information (RFI).

**SUMMARY:** On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL). The BIL provides historic appropriations for railroad transportation grant programs administered by the Federal Railroad Administration (FRA), and also authorizes new programs to enhance rail safety and to repair, restore, improve, and expand the nation's rail network. Among those new programs is the Corridor Identification and Development Program (the Program), which creates a new framework to facilitate the development of new, enhanced, and restored intercity passenger rail corridors throughout the country. The BIL requires the Secretary of Transportation to establish the Program within 180 days of enactment (*i.e.*, May 14, 2022). This responsibility is delegated to FRA. In this request for information (RFI), FRA is seeking comments on the Program and how it can best serve stakeholders and the public in facilitating the development of intercity passenger rail corridors.

**DATES:** Written comments on this RFI must be received on or before March 9,