

States is highly integrated. However, as discussed above, Congress and the Executive Branch have indicated, via several legislative and regulatory initiatives, that streamlining small purchases is in the public interest. They have not yet indicated through legislative or regulatory initiatives that streamlining all transit purchases is in the public interest.

*Concern About Unfairly Priced or Shoddy Foreign Goods*

A few commenters (U.S. manufacturers) expressed concern that waiver of Buy America requirements for small purchases would result in a flood of unfairly priced or shoddily made foreign goods into the U.S. market. These concerns are better addressed by solutions other than the imposition of Buy America requirements. Determination of whether goods conform to the standards set out in individual contracts and enforcement of those contract provisions are best left to FTA grantees. Problems involving unfair trade practices or foreign government subsidies are addressed by import laws such as Title VII of the Tariff Act of 1930, as amended (19 U.S.C. §§ 1671 and 1673 (Imposition of Countervailing Duties and Antidumping Duties, respectively)). These problems are beyond the scope of what Buy America was intended to accomplish.

**Impact Analysis**

Executive Order 12866 requires that a regulatory impact analysis be prepared for significant rules, which are defined in the Order as rules that have an annual effect on the national economy of \$100 million or more, or certain other specified effects.

FTA does not believe that this action will have an annual impact of \$100 million or more or the other effects listed in the Order. For this reason, FTA has determined that this waiver would not create a major rule within the meaning of this order.

**Regulatory Flexibility Act of 1980**

The Regulatory Flexibility Act (5 U.S.C. § 605(b)) requires that, for each rule with a "significant economic impact on a substantial number of small entities," an analysis must be prepared describing the impact of the rule on small entities and identifying any significant alternatives to the rule that would minimize the economic impact on small entities.

FTA certifies that this waiver will not have a significant economic impact on a substantial number of small entities. Instead, it modifies and updates an administrative and procedural requirement in order to reduce burden on small entities.

**Paperwork Reduction Act**

FTA certifies that this action does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35; in fact, it should reduce the paperwork required to procure goods.

**Public Interest Waiver**

In light of these considerations, FTA believes that application of its Buy America rule to small purchases is not consistent with the public interest; accordingly, FTA hereby issues a general public interest waiver under 49 U.S.C. § 5323(j)(2)(A) and 49 CFR 661.7(b) to exempt from its Buy America requirements all "small purchases," as

defined in the common grant rule, 49 CFR 18.36(d), made by its grantees with FTA financial assistance, including capital, planning, or operating assistance.

**List of Subjects in 49 CFR Part 661**

Buy America, Grant programs—transportation, Mass Transportation, Reporting and recordkeeping requirements.

**Amendment to 49 CFR Part 661**

Accordingly, for the reasons described above, title 49, Code of Federal Regulations, part 661, is amended as follows:

**PART 661—BUY AMERICA REQUIREMENTS—SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982, AS AMENDED**

1. The authority citation for part 661 continues to read as follows:

**Authority:** 49 U.S.C. 5323(j) (Pub. L. No. 103–272); 49 CFR 1.51.

2. Appendix A to § 661.7 is amended by revising paragraph (e) to read as follows:

**Appendix A to § 661.7—General Waivers**

\* \* \* \* \*

(e) Under the provisions of § 661.7(b) of this part, a general public interest waiver from the Buy America requirements for "small purchases" (as defined in the "common grant rule," at 49 CFR 18.36(d)) made by FTA grantees with capital, planning, or operating assistance.

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**Gordon J. Linton,**  
*Administrator.*

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