

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****[Docket Number FRA–2013–0123]****Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated November 19, 2013, Mr. Benny McCune of Cass Scenic Railroad State Park (CASS) of the West Virginia Division of Natural Resources has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 215, Railroad Freight Car Safety Standards. FRA assigned the petition Docket Number FRA–2013–0123.

Specifically, CASS seeks an exemption from the requirements for stenciling of restricted cars for three cabooses, identified as Car Numbers 50, 51, and 311. The three cabooses are more than 50 years of age and, therefore, are restricted in accordance with 49 CFR 215.203(a). Specifically, 215.303, *Stenciling of restricted cars*, requires that cars restricted by 215.203(a) shall be stenciled in a certain way.

In support of its petition, CASS states that due to the historical importance of these cabooses and the fact that CASS is based on the historical facts surrounding the log camps of the early 1900s, CASS would like to keep the cabooses as historically accurate as possible.

CASS is a steam-powered tourist railroad operating on a main track of approximately 11 miles. There are additional sidings and a track connecting CASS with another State-owned and operated railroad, the West Virginia Central Railroad. The total track mileage is approximately 18 miles. CASS has been operating since June 1963.

CASS states that it operates from Memorial Day weekend through the end of October. CASS does not interchange passenger cars or passengers. One trip is a 1.5-hour round trip covering a total of 8 track miles. The other trip is a 4.5-hour round trip covering a total of 22 track miles. The trains travel at a speed of 6 to 8 mph.

CASS also states that these three cabooses are primarily used for overnight rentals and will be used for special charter trains for photographic purposes from one to five times per year. Apart from these photographic trips, the cabooses will only be moved for maintenance reasons, and at no time

will they exceed a speed of 10 mph or carry any passengers.

CASS further states that these cabooses are well maintained and in good condition. The slow speed, short-trip length, and the fact that CASS will not be carrying any passengers on these cabooses make the cabooses safe to be operated in the limited capacity on CASS track.

In addition, CASS also requests a Special Approval to continue these cars in service in accordance with 49 CFR 205.203(c).

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- **Web site:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202–493–2251.
- **Mail:** Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- **Hand Delivery:** 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by April 4, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See <http://www.regulations.gov#!/privacyNotice>

for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

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DEPARTMENT OF TRANSPORTATION**Federal Transit Administration****[Docket No. FTA–2014–0002]****Notice of Proposed Buy America Waiver for the Cross-Connect Cabinet**

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of proposed Buy America waiver and request for comment.

SUMMARY: The City of Cincinnati (Cincinnati) has requested a Buy America waiver based upon non-availability for a cross-connect cabinet. The cross-connect cabinet is needed for Cincinnati Bell's utility relocation work associated with the Cincinnati Streetcar Project. This notice is to inform the public of the waiver request and to seek public comment to inform the Federal Transit Administration's (FTA) decision whether to grant the request.

DATES: Comments must be received by March 4, 2014. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FTA–2014–0002:

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, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
4. **Hand Delivery:** U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the “Federal Transit Administration” and include docket number FTA–2014–0002. Due to the security procedures in effect since October 2011, mail received through the

U.S. Postal Service may be subject to delays. Parties making submissions responsive 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 April 11, 2000 (65 FR 19477), or you may visit <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Mary J. Lee, FTA Attorney-Advisor, at (202) 366-0985 or mary.j.lee@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to provide notice and to seek comment on whether FTA should grant a non-availability waiver for the procurement of a cross-connect cabinet that will be used in a utility relocation performed by Cincinnati Bell. This utility relocation will be performed in connection with the Cincinnati Streetcar Project, which is an FTA-funded project.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) all of the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that "the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality," then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

On September 30, 2013, the City of Cincinnati (Cincinnati) formally requested a non-availability waiver for the procurement of one cross-connect cabinet.¹ In its request, Cincinnati stated

that the only known cross-connect cabinet that complies with Cincinnati Bell's network specifications and service protocols is the Tyco Electronics (TE) NGXC pad mount cross-connect cabinet. At this time, deviations from the use of this particular cross-connect cabinet would result in impacts that would cascade down from the installation, maintenance, and emergency repair aspects, to operational impacts due to hardware incompatibility.

On October 17, 2013, Cincinnati alerted FTA that Cincinnati Bell had installed the cross-connect cabinet in order to comply with its scheduling demands. Unfortunately, because almost all FTA employees were furloughed during this time due to a partial government shutdown, Cincinnati was unable to consult with FTA on how to proceed.

The purpose of this notice is to publish the request and seek public comment from all interested parties in accordance with 49 U.S.C. 5323(j)(3)(A). Comments will help FTA understand completely the facts surrounding the request, including the effects of a potential waiver and the merits of the request. If granted, the waiver would apply to one procurement and FTA would expect that Cincinnati Bell work towards finding a domestically manufactured cross-connect cabinet that meets its network specifications for future FTA-funded projects. A full copy of the request has been placed in docket number FTA-2014-0002.

Dana Nifosi,
Deputy Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2013-0034]

Notice of Proposed Buy America Waiver for a Variable Refrigerant Flow HVAC System

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of proposed Buy America waiver and request for comment.

SUMMARY: The Federal Transit Administration (FTA) received a request for a waiver to permit the purchase of a Variable Refrigerant Flow (VRF) HVAC system that is non-compliant with Buy America requirements using FTA funding. The request is from the Rock Island County Metropolitan Mass

Transit District (MetroLINK) for its Rock Island Transfer Station. In accordance with 49 U.S.C. 5323(j)(3)(A), FTA is providing notice of the waiver request and seeks public comment before deciding whether to grant the request. If granted, the waiver would apply only to the FTA-funded procurement of a VRF HVAC system by MetroLINK.

DATES: Comments must be received by March 4, 2014. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FTA-2013-0034:

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, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the "Federal Transit Administration" and include docket number FTA-2013-0034. Due to the security procedures in effect since October 2011, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive 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 April 11, 2000 (65 FR 19477), or you may visit <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Mary J. Lee, FTA Attorney-Advisor, at (202) 366-0985 or mary.j.lee@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to provide notice and seek comment on whether the Federal Transit Administration (FTA) should grant a non-availability waiver for the Rock Island County Metropolitan Mass Transit District's (MetroLINK) procurement of a Variable Refrigerant Flow (VRF) HVAC system

¹ This request was the result of several informal communications between FTA, Cincinnati, and Cincinnati Bell to work through all of the Buy America issues. The availability of a domestic cross-connect cabinet that meets Cincinnati Bell's specifications in order to conform to its telecommunications network is the only remaining issue.