



DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA- 2024–0151]

Pipeline Safety: Project-Specific Waiver of the Build America, Buy America Act Requirements for City Utilities of Springfield, Missouri for Certain Products under the Natural Gas Distribution Infrastructure Safety and Modernization Grant Program

AGENCY: Pipeline and Hazardous Materials Transportation, Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) is waiving the Build America, Buy America (BABA) Act’s domestic preference requirements for certain products that City Utilities of Springfield, Missouri, (City Utilities) will use in its Natural Gas Distribution Infrastructure Safety and Modernization (NGDISM) grant project, due to unavailability, project cost, or public good. The waiver would exempt the following products used in City Utilities’ project from BABA requirements on the basis of nonavailability: locator markers; meter stops with insulated unions; magnesium anodes; 1A meter swivels, nuts, and washers; and direct bury lugs.

DATES: The effective date of the waiver is **[INSERT DATE 1 DAY AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]**

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Louis Cardenas, Office of Pipeline Safety, by phone at 832-208-0132, or by e-mail at Louis.Cardenas@dot.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of this notice and all background material may be viewed online at <https://www.regulations.gov> using the docket number listed above. Electronic retrieval help and guidelines are also available at <https://www.regulations.gov>. An electronic copy of this document also may be downloaded from the Office of the Federal Register's website at www.FederalRegister.gov or the Government Publishing Office's website at www.GovInfo.gov.

Background

The NGDISM grant program was authorized by the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58). The program provides federal funding to municipal- or community-owned natural gas utilities (not including for-profit entities) to repair, rehabilitate, or replace their natural gas distribution pipeline systems or portions thereof, or to acquire equipment to (1) reduce incidents and fatalities, and (2) avoid economic losses. The IIJA appropriates \$200 million per year for each of Fiscal Years (FY) 2022 through 2026 for the NGDISM grant program (\$1 billion in total). The IIJA provides that two percent of this amount shall be used to pay the administrative expenses of the NGDISM grant program. Accordingly, the total amount expected to be awarded as grant funding over the five-year period is \$980,000,000.

Congress also enacted the BABA Act, providing that “none of the funds made available for a Federal financial assistance program for infrastructure . . . may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” IIJA, Pub. L. 117-58, sec. 70914(a). Under IIJA section 70914(b), PHMSA has authority to waive the requirements of BABA (1) if a domestic product is unavailable; (2) if using a domestic product would present an unreasonable cost; or (3) if application of BABA would not be in the public interest.

In FY2022, City Utilities was awarded \$10 million in NGDISM grant funding to help fund its “Legacy Plastic Pipe Replacement Project,” which it initiated in 2010. Of the \$10 million awarded for this project the materials covered by the waiver only represent an estimated 0.72% or \$72,000. City Utilities operates approximately 500 miles of “Aldyl A” plastic

distribution pipeline within disadvantaged areas of Springfield, Missouri. The \$10 million awarded would allow City Utilities to speed up its “Legacy Plastic Pipe Replacement Project” by funding the replacement of approximately 13.7 miles of legacy Aldyl A pipe and approximately 1,409 legacy plastic gas services with modern, industry-standard polyethylene pipe. City Utilities will also use the grant funds to install a locator system on the new pipeline, allowing the pipe to be located during future excavation activities that may occur near the pipeline, thereby preventing damage to the pipeline and improving pipeline safety.

Proposed Waiver and Request for Comments

On September 27, 2024, PHMSA published a Notice of Proposed Project-Specific Waiver of the Build America, Buy America Act Requirements for City Utilities of Springfield, Missouri for Certain Products and Request for Comment (89 FR 79362) for certain products on the basis of nonavailability. The specific essential products City Utilities sought a waiver for are listed below:

- *Locator Markers*: Locator markers are small devices placed on buried pipe and valves designed to help operators locate the facilities to help prevent damage to the pipe from excavation equipment. (NAICS: 325211)
- *Meter Stops with Insulated Union*: Meter Stops are valves that are installed on a natural gas riser upstream of the meter to serve as a shut-off valve to control the flow of gas into the meter and subsequently into the building’s gas system. They are crucial for maintenance and emergencies, or when the gas service needs to be shut off. Insulated Unions are fittings attached to the above ground portion of a natural gas utility riser to electrically insulate (*i.e.*, isolate) a structure from the pipeline system to prevent corrosion. (NAICS: 332919)
- *Magnesium Anodes*: Magnesium anodes are blocks of magnesium that are attached to steel pipe to protect against corrosion damage. (NAICS: 335999)

- *1A Meter Swivels, Nuts, and Washers*: Meter swivels, nuts, and washers are fasteners used to secure a gas meter assembly. (NAICS: 33251/332722)
- *Direct Bury Lugs*: Direct Bury Lugs are waterproof connectors used for splicing low-voltage wires, like those used in tracer wire, without cutting the main line wire. They simplify installation and increase the longevity of the connection with pre-filled silicone sealant for waterproofing. (NAICS: 332999)

On December 13, 2023, City Utilities issued an Invitation for Bids (“IFB”) seeking, among other products, locator markers; meter stops with insulated union; magnesium anodes; 1A meter swivels, nuts, and washers; and direct bury lugs. The IFB remained open for more than a month, between December 13, 2023, and January 15, 2024. In response to the IFB, City Utilities received seven responsive bids. However, each of the respondents to the IFB represented that they would not be able to certify compliance with BABA requirements for the above listed products.

Additionally, prior to City Utilities requesting this waiver, PHMSA independently engaged the supplier scouting services of the National Institute of Standards and Technology Manufacturing Extension Partnership (NIST MEP) to search for domestic manufacturers of 1A meter swivels, nuts, and washers. At the conclusion of the process, NIST MEP identified several companies who stated they had the capability to manufacture these products. However, these companies declined to do so because it would be cost prohibitive for them to begin domestic manufacture of these products in the quantities that City Utilities needs to purchase for its NGDISM project. Accordingly, supplier scouting did not result in identification of any sources that could or would manufacture these products domestically.

On these bases, PHMSA has determined that locator markers; meter stops with insulated unions; magnesium anodes; 1A meter swivels, nuts, and washers; and direct bury lugs are not manufactured in the United States in sufficient and reasonably available quantities.

Discussion of Public Comments

PHMSA has reviewed the single supportive comment received in the initial 15-day comment period during our consideration of the proposed waiver, as required by Section 70914(c)(2) of the IIJA. The public comment regarding the City Utilities project specific NGDISM waiver was received by October 15, 2024. The commenter noted its potential need for the same products and they “fully support the granting of this waiver to City Utilities of Springfield, MO.”

Summary of Changes in the Final Waiver

There are no changes to the proposed waiver. As there was a single public comment in support of this waiver, there are no public comments that require changes to the proposed waiver.

Final Waiver

Based on its review of the waiver request, and in consideration of supportive comment received on the proposed waiver, PHMSA is waiving the requirements of BABA for the above listed products for City Utilities’ “Legacy Plastic Pipe Replacement” project funded by NGDISM grant funds. The waiver is applicable only to City Utilities’ project; it is not applicable to any other NGDISM grant recipient’s projects. The waiver is effective from the date of the final waiver through the period of performance and closeout of PHMSA’s financial assistance for the project, which is estimated to be June 30, 2029.

Issued in Washington, DC, on January 15, 2025, under authority delegated in 49 CFR 1.97.

Tristan H. Brown,
Deputy Administrator.