

Authority: 49 U.S.C. 1354(a) and 1432; 49 U.S.C. Section 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

§ 139.311 [Amended]

2. In § 139.311, paragraph (f) is added to read as follows:

* * * * *

(f) Notwithstanding paragraphs (a) and (b) of this section, a certificate holder is not required to provide the identified marking systems or lighting systems until January 1, 1991. Each certificate holder shall maintain each marking system and lighting system that

meets paragraphs (a) and (b) of this section.

§ 139.319 [Amended]

3. In § 139.319, the first sentence of paragraph (j)(4) is revised to read as follows:

* * * * *

(j) * * *

(4) After January 1, 1989, at least one of the required personnel on duty during air carrier operations has been trained and is current in basic emergency medical care. * * *

§ 139.321 [Amended]

4. In § 139.321, paragraph (b)(6) is revised to read as follows:

* * * * *

(b) * * *

(6) After January 1, 1989, training of fueling personnel in fire safety in accordance with paragraph (e) of this section.

Issued in Washington, DC on October 12, 1988.

T. Allan McArtor,
Administrator.

[FR Doc. 88-23951 Filed 10-17-88; 8:45 am]

BILLING CODE 4910-13-M

Faint, illegible text, likely bleed-through from the reverse side of the page. The text is arranged in several columns and appears to be a formal document or report.

Federal Register

Tuesday
October 18, 1988

Part IV

Department of Agriculture

Agricultural Marketing Service

**Public Hearing Regarding the Madison
and Live Oak, Florida Tobacco Markets;
Notice**

**Public Hearing Regarding the Madison
and Stoneville, North Carolina Tobacco
Markets; Notice**

**Public Hearing Regarding the Williamston
and Robersonville, North Carolina,
Tobacco Markets; Notice**

Tuesday
October 15, 1935

Part IV

Department of
Agriculture

Agricultural Marketing Service

Public Hearing Regarding the Madison
and East Oak Florida Tobacco Markets;
Holtz

Public Hearing Regarding the Madison
and Stoneville North Carolina Tobacco
Markets; Holtz

Public Hearing Regarding the Williamson
and Robertsonville North Carolina
Tobacco Markets; Holtz

Journal of Agricultural Economics

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB-88-109]

Public Hearing Regarding the Madison and Live Oak, Florida Tobacco Markets

Notice is hereby given of a public hearing regarding the Madison and Live Oak, Florida tobacco markets.

Date: November 7, 1988.

Time: 10 a.m. local time.

Place: Madison County Courthouse, Main Street, Madison, Florida.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Madison and Live Oak, Florida. The application was made by Paul Ragans, President, Madison County Tobacco Warehouse, Inc., Madison, Florida, Ralph Duncan, Operator, Freeman Brothers Tobacco Market, Madison, Florida, and Edwin and R.C. Freeman, Owners, Freeman Brothers Tobacco Market, Madison, Florida.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3).

Dated: October 12, 1988.

Robert Melland,

Acting Deputy Secretary for Marketing and Inspection Services.

[FR Doc. 88-23958 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-02-M

[TB-88-107]

Public Hearing Regarding the Madison and Stoneville, North Carolina Tobacco Markets

Notice is hereby given of a public hearing regarding the Madison and Stoneville, North Carolina, tobacco markets.

Date: November 10, 1988.

Time: 10 a.m. local time.

Place: Courtroom of the Municipal Building, Route 220 N. (Business) Madison, North Carolina.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Madison and Stoneville, North Carolina. The application was made by Garland Rakestraw, Piedmont Warehouse, Stoneville, North Carolina; Ray White, New Madison Tobacco Warehouse, Madison, North Carolina, and Keith Stovall, Sharpe and Smith Warehouse, Madison, North Carolina.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3).

Dated: October 12, 1988.

Robert Melland,

Acting Deputy Secretary for Marketing and Inspection Services.

[FR Doc. 88-23958 Filed 10-17-88; 8:45 am]

BILLING CODE 3410-02-M

[TB-88-108]

Public Hearing Regarding the Williamston and Robersonville, North Carolina, Tobacco Markets

Notice is hereby given of a public hearing regarding the Williamston and Robersonville, North Carolina, tobacco markets.

Date: November 9, 1988.

Time: 10 a.m. local time.

Place: Superior Court Courtroom, Martin County Governmental Center, Main Street, Williamston, North Carolina.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Williamston and Robersonville, North Carolina. The application was made by John M. Rogers, Rogers Warehouse, Williamston, North Carolina; William C. Lilley, New Dixie Warehouse, Williamston, North Carolina; Harry T. Gray, Gray's Red Front and Central Warehouse, Robersonville, North Carolina and H. Edwin Lee, Hardee Warehouse, Robersonville, North Carolina.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3).

Dated: October 12, 1988.

Robert Melland,

Acting Deputy Secretary for Marketing and Inspection Services.

[FR Doc. 88-23957 Filed 10-17-88; 8:45 am]

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Tuesday
October 18, 1988

Part V

Department of Transportation

**Urban Mass Transportation
Administration**

49 CFR Part 663

**Pre-award and Post-delivery Audits of
Rolling Stock Purchases; Notice of
Proposed Rulemaking**

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation
Administration

49 CFR Part 663

[Docket No. 88-H]
RIN 2132-AA29Pre-award and Post-delivery Audits of
Rolling Stock PurchasesAGENCY: Urban Mass Transportation
Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 319 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, directs the Urban Mass Transportation Administration (UMTA), by delegation from the Secretary of Transportation, to issue regulations requiring pre-award and post-delivery audits of rolling stock purchases made with Federal financial assistance under the Urban Mass Transportation Act of 1964, as amended. The audits are for the purpose of assuring compliance with Federal motor vehicle safety standards, Federal "Buy America" requirements, and bid specifications. Accordingly, this notice of proposed rulemaking seeks comment on this proposed regulation which would require pre-award and post-delivery audits of rolling stock purchases.

DATE: Comments should be received by December 19, 1988.

ADDRESS: Comments should be addressed to: Department of Transportation, Urban Mass Transportation Administration, Office of Chief Counsel, Docket No. 88-H, 400 Seventh Street SW., Room 9316, Washington, DC 20590. Comments will be available for review by the public at this address from 9:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Daniel Duff, Assistant Chief Counsel, Office of the Chief Counsel, (202) 366-4063, or Albert L. Neumann, Senior Mechanical Engineer, Office of Grants Management, (202) 366-1638.

SUPPLEMENTARY INFORMATION:**I. Discussion***A. Background*

The quality of mass transportation service depends in large part on the quality of the equipment used. Inspection of equipment at the time of its purchase for compliance with the buyer's requirements is essential to ensuring quality mass transportation. Such inspection also assists in ensuring the proper use of Federal financial assistance. UMTA requires a recipient

of Federal financial assistance to provide adequate technical inspection and supervision of all work in progress when it purchases equipment. UMTA permits this inspection and supervision to be done directly by the recipient or through technical consultants. The cost of the technical inspection and supervision has always been eligible for UMTA funding. Additionally, UMTA requires that recipients comply with all the terms of their grant agreements, applicable statutes, codes, ordinances and safety standards.

Because Congress was concerned about the quality of mass transportation equipment purchased with Federal financial assistance, and the inspection and verification procedures used in the procurement process, the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, mandated pre-award and post-delivery audits with respect to any UMTA grant for the purchase of buses or other rolling stock. Specifically, section 319 of that Act directs UMTA, by delegation from the Secretary, to require pre-award and post-delivery audits to ensure compliance with Federal motor vehicle safety requirements, the Buy America requirements of section 165 of the Surface Transportation Assistance Act of 1982, as amended, and the recipient's own specified bid requirements. Additionally, section 319 provides that UMTA must require independent inspection and audits, noting that a manufacturer's certification of compliance with certain requirements is not sufficient. This notice of proposed rulemaking is issued to implement section 319.

B. The Proposed Regulation

The provisions of section 319 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 require a recipient of Federal financial assistance to take steps to ensure the quality of the equipment it purchases with that assistance. While section 319 applies to funds made available under the Urban Mass Transportation Act of 1964, as amended, UMTA intends to extend the coverage of the proposed regulation to purchases of revenue-producing rolling stock with funds available under 23 U.S.C. 103(e)(4) and section 14 of the National Capital Transportation Act of 1969, as amended (Stark-Harris legislation; Pub. L. 96-184). UMTA does this under the general authority available to the Secretary provided in the UMT Act and under the other two laws. UMTA believes that this consistency in approach will enhance the Federal oversight of the transit program.

The audits required by section 319 are to function as a double check for compliance with existing requirements. While Congress made it clear that a certification from a manufacturer would not meet the requirements of section 319, language in the bill's conference report also provides that "[i]t is the intent of the Conferees that any paperwork requirements imposed by this provision will not create a significant cost burden." (House Report 100-27, p. 231.) In an effort to limit the cost burden on grantees, the proposed regulation would allow the use of certifications by the grantee with independent support documentation wherever possible. These certifications would be similar to other self-certifications UMTA currently uses under the section 9 program, and would be maintained as part of a grantee's files and subject to UMTA verification during the triennial review process or other UMTA audit or grant oversight review.

Consistent with the provision's legislative history, the proposed regulation's application is limited to rolling stock which carries passengers in revenue service (House Report 99-665, p. 74). The proposed regulation would affect the procurement of transit vehicles generally considered to be revenue rolling stock, including buses, vans, cars, railcars, locomotives, trolley cars and buses, ferry boats, and vehicles for fixed guideways and incline planes. The proposed regulation would not affect the procurement of vehicles used for maintenance purposes, or other rolling stock which does not carry passengers in revenue service. UMTA recognizes that cars and vans are certified for safety by the manufacturer and that such certification is routinely accepted for other government purposes. UMTA requests comment on whether cars and vans should be treated differently than other rolling stock for purposes of safety certification.

C. Section-By-Section Analysis

The proposed regulation is divided into three subparts. Subpart A sets out general information on the audit requirements. Subpart B describes the pre-award audit and Subpart C describes the post-delivery audit.

Subpart A has general information about the audit requirements. Sections 663.1 and 663.3 set out the purpose and scope of the regulation. Section 663.5 defines the terms used in the regulation, including "revenue service" and "rolling stock". Section 663.7 sets out the pre-award and post-delivery requirement of section 319 of the Surface Transportation and Uniform Relocation

Assistance Act of 1987. Section 663.9 reflects the language of section 319 of the Act and lists the three components of the required audits. The audits are to verify compliance with (1) applicable Federal safety requirements, (2) Buy America requirements, and (3) bid specifications. This section also states that these audits are separate from the single annual audit required by the Office of Management and Budget. In order to be consistent with the law, the proposed regulation uses the term "audit" to refer to the reviews mandated by the law. However, UMTA does not intend that the standards used for financial audits should be used on audits under this proposed regulation. Section 663.11 reflects UMTA's position that the costs of testing and auditing a rolling stock purchase are eligible costs of an UMTA grant. Section 663.13 provides that this regulation does not change the compliance or verification of compliance provisions of the Buy America regulation in 49 CFR Part 661, but is in addition to them.

Subpart B sets out the specifics of the pre-award audits. Section 663.21 specifies that a pre-award audit must be complete before a recipient enters into a formal contract to purchase the rolling stock.

Section 663.23 explains that a pre-award audit consists of a report with three separate certifications regarding each of the three items listed in section 319: A safety certification, a Buy America certification, and a purchaser's requirements certification.

Section 663.25 describes the safety certification. The safety certification must be made by a person who is not an agent or employee of the manufacturer and it must state that the rolling stock the recipient is purchasing has been tested by an independent laboratory and found to comply with all applicable Federal motor vehicle safety standards. In some cases, the National Highway Traffic Safety Administration (NHTSA) may have tested a vehicle for compliance. If this is so, a certification from NHTSA may be substituted for that of the independent laboratory. UMTA recognizes that not all rolling stock which would be audited under this part is subject to the Federal motor vehicle safety standards and the regulation provides for certification of non-applicability. In order to avoid duplication of effort, this section also provides that a laboratory or NHTSA may reissue a safety certification it issued for one recipient if another recipient is purchasing the same rolling stock. It was of particular concern to Congress that transit agencies be able to

share this information. (House Report 99-665, p. 74.) This provision attempts to address that concern.

Section 663.27 describes the pre-award Buy America certification. The pre-award Buy America certification must be made by a person who is not an agent or employee of the manufacturer and it must state that there is a letter from UMTA which determines that the rolling stock to be purchased has received a waiver under the Buy America requirements or that the person making the certification is satisfied that the rolling stock to be purchased meets the Buy America requirements of 49 CFR Part 661. Before a person can make this certification, the person must have reviewed documentation provided by the manufacturer as to the cost of the components and subcomponents of the rolling stock, their country of origin and the location of final assembly and the activities that will take place at that location. UMTA anticipates that the review required by this section will be performed by an independent contractor in most instances since the information that must be reviewed is generally considered proprietary. However, a recipient may perform the review required by this section if the manufacturer will provide the recipient with the information necessary.

Section 663.29 describes the pre-award purchaser's requirements certification. The pre-award purchaser's requirements certification must be made by a person who is not an agent or employee of the manufacturer and it must state that the rolling stock to be purchased meets the purchaser's requirements as set out in the bid specifications or request for proposals.

Subpart C sets out the specifics of a post-delivery audit. Section 663.31 specifies the time period for the post-delivery audit. This post-delivery audit is in addition to the in-plant inspections which are done throughout the manufacturing process.

Section 663.33 describes the post-delivery audit, which consists of a post-delivery Buy America certification and a post-delivery purchaser's requirements certification. The regulation does not require a post-delivery safety certification because the pre-award safety certification is based on documentation regarding the particular model purchased. However, the post-delivery purchaser's requirements certification must be based on visual inspection and operational testing of the rolling stock. It is UMTA's position that the pre-award audit of safety standards combined with the purchaser's visual inspection and operational testing

should adequately ensure compliance with Federal motor vehicle safety requirements.

Section 663.35 describes the post-delivery Buy America certification. The post-delivery Buy America certification must be made by a person who is not an agent or employee of the manufacturer and, like the pre-award Buy America certification, must state that there is a letter from UMTA which determines that the rolling stock to be purchased has received a waiver under the Buy America requirements or that the person making the certification is satisfied that the rolling stock to be purchased meets the Buy America requirements of 49 CFR Part 661. Before a person can make this certification, the person must have reviewed documentation provided by the manufacturer as to the cost of the components and subcomponents of the rolling stock, their country of origin and the location of final assembly and the activities that took place at that location.

Section 663.37 describes the post-delivery purchaser's requirements certification. The post-delivery purchaser's requirements certification must be made by a person who is not an agent or employee of the manufacturer and it must state that the rolling stock received has been visually inspected and operationally tested and determined to meet the terms of the contract. Visual inspection would include verifying design features and could even include looking at the label on the seats to see if they are marked with their country of origin and that the country of origin matches the documentation supplied for the post-delivery Buy America certification. Operational inspection would include making sure the various systems and ancillary equipment all work at the time of delivery.

Section 663.39 prohibits the recipient from finally accepting the rolling stock if it cannot certify that the rolling stock meets applicable Buy America requirements. The section also states that the recipient does not have to accept the rolling stock if the recipient cannot certify that the rolling stock meets the terms of the contract.

D. Request for Comments

Accordingly, this notice of proposed rulemaking seeks comment on this proposed regulation requiring pre-award and post-delivery audits of rolling stock purchases. Because Congress was concerned that this regulation not impose a significant cost burden, UMTA particularly seeks comment on the anticipated cost of compliance with the proposed regulation, as published today.

Commenters wishing acknowledgement of their comments should include a self-addressed, stamped postcard with their comments. The Docket Clerk will stamp the card with the date and time the comments are received and return the card to the commenter.

II. Regulatory Impacts

A. Executive Order 12291

This action has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule. It will not result in an annual effect on the economy of \$100 million or more.

B. Regulatory Evaluation

This regulation is not significant under the Department's Regulatory Policies and Procedures. UMTA has prepared a preliminary regulatory evaluation in support of this rulemaking. This preliminary regulatory evaluation is on file as part of the docket to this rulemaking. A final regulatory evaluation will be prepared before this proposed rule becomes final.

C. Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, UMTA certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Act.

D. Paperwork Reduction Act

The collection of information requirements in this rule are subject to the Paperwork Reduction Act, Pub. L. 96-511, 44 U.S.C. Chapter 35. Section 319 of the Surface Transportation and Uniform Relocation Assistance Act specifically requires a grantee to perform pre-award and post-delivery audits. These required audits are reflected in this rule and are being submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for approval.

E. Federalism—Executive Order 12612

UMTA has reviewed this proposed rule in light of the Federalism considerations set forth in Executive Order 12612. Although this rule would have definite Federalism implications because it would impose additional requirements on States, local governments, and public transit operators receiving Federal financial assistance from UMTA, this rulemaking is required by statute. UMTA considered the Federalism implications of this rulemaking in formulating this proposal, and has designed it to provide recipients with as much flexibility as

possible under the law. UMTA does not expect that this proposed rule will have a substantial direct effect on the relationship between the Federal Government and the States or the distribution of power and responsibilities among the various levels of government. In addition, UMTA has considered the Federalism implications of this rulemaking on public transit operators which are quasi-governmental or instrumentalities of States and local governments, and UMTA does not expect that this proposed rule will have a substantial direct effect on the relationship between those public operators and the governmental entities with which they are associated. Accordingly, UMTA has determined that the preparation of a Federalism Assessment under Executive Order 12612 is not warranted.

List of Subjects in 49 CFR Part 663

Government contracts, Grant programs—transportation, Mass transportation.

III. New 49 CFR Part 663

Accordingly, for the reasons described in the preamble, 49 CFR Chapter VI would be amended by adding new Part 663 to read as follows:

PART 663—PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

Subpart A—General

- Sec.
663.1 Purpose.
663.3 Scope.
663.5 Definitions.
663.7 Audit requirement.
663.9 Audit limitations.
663.11 Audit financing.
663.13 Buy America Requirements.

Subpart B—Pre-award Audits

- 663.21 Pre-award audit requirement.
663.23 Description of pre-award audit.
663.25 Safety Certification.
663.27 Pre-award Buy America Certification.
663.29 Pre-award Purchaser's Requirements Certification.

Subpart C—Post-delivery Audits

- 663.31 Post-delivery audit requirement.
663.33 Description of post-delivery audit.
663.35 Post-delivery Buy America Certification.
663.37 Post-delivery Purchaser's Requirements Certification.
663.35 Post-delivery audit review.

Authority: Sec. 319, Pub. L. 100-17 (49 U.S.C. 1608(j)); 23 U.S.C. 103(e)(4); Sec. 14 of the National Capital Transportation Act of 1969, as amended; 49 CFR 1.51.

Subpart A—General

§ 663.1 Purpose.

This Part implements section 12(j) of the Urban Mass Transportation Act of 1964, as amended, which was added by section 319 of the Surface Transportation and Uniform Relocation Assistance Act (Pub. L. 100-17). Section 12(j) requires the Urban Mass Transportation Administration, by delegation from the Secretary of Transportation, to issue regulations requiring pre-award and post-delivery audits when a recipient of Federal financial assistance purchases rolling stock with funds made available under the Urban Mass Transportation Act of 1964, as amended.

§ 663.3 Scope.

This Part applies to a recipient purchasing rolling stock to carry passengers in revenue service with funds from the UMTA under the Urban Mass Transportation Act of 1964, as amended; 23 U.S.C. 103(e)(4); and section 14 of the National Capital Transportation Act of 1969, as amended.

§ 663.5 Definitions.

As used in this Part—

(a) "Pre-award" means the time period in the procurement process after a supplier is selected but before the recipient enters into a formal contract with the supplier.

(b) "Post-delivery" means the time period in the procurement process from when the rolling stock is delivered to the recipient until title to the rolling stock is transferred to the recipient or the rolling stock is put into revenue service, whichever is first.

(c) "Recipient" means a person who receives Federal financial assistance from UMTA, including a person who receives Federal financial assistance from UMTA through a State or other public body.

(d) "Revenue service" means operation of rolling stock for the transportation of passengers as anticipated by the recipient.

(e) "Rolling stock" means buses, vans, cars, railcars, locomotives, trolley cars and buses, ferry boats, and vehicles used for guideways and incline planes.

(f) "UMTA" means the Urban Mass Transportation Administration.

§ 663.7 Audit requirement.

A recipient purchasing revenue service rolling stock with UMTA funds must conduct, or cause to be conducted, pre-award and post-delivery audits as prescribed in this Part.

§ 663.9 Audit limitations.

(a) An audit conducted under this Part is limited to verifying compliance with:

- (1) Applicable Federal motor vehicle safety requirements;
- (2) Applicable Buy America requirements (section 165 of the Surface Transportation Assistance Act of 1982, as amended); and
- (3) Bid specification requirements of the recipient.

(b) An audit conducted under this Part is separate from the single annual audit requirement established by Office of Management and Budget Circular A-128, "Audits of State and Local Governments," dated May 16, 1985.

§ 663.11 Audit financing.

A recipient purchasing revenue service rolling stock with UMTA funds may charge the cost of activities required by this Part to the grant which UMTA made for the purchase.

§ 663.13 Buy America requirements.

A Buy America certification under this Part is in addition to any certification which may be required by Part 661 of this title. Nothing in this Part precludes UMTA from conducting a Buy America investigation under Part 661 of this title.

Subpart B—Pre-award Audits**§ 663.21 Pre-award audit requirement.**

A recipient purchasing revenue service rolling stock with UMTA funds must ensure that a pre-award audit under this Part is complete before the recipient enters into a formal contract for the purchase.

§ 663.23 Description of pre-award audit.

A pre-award audit under this Part is a report which contains—

- (a) A safety certification as described in § 663.25 of this Part;
- (b) A Buy America certification as described in § 663.27 of this Part; and
- (c) A purchaser's requirements certification as described in § 663.29 of this Part.

§ 663.25 Safety certification.

(a) For purposes of this Part, a safety certification is a certification from a person, except an employee or agent of the manufacturer, that—

- (1) There is documentation from a source other than the manufacturer that the rolling stock to be purchased has

been tested and found to comply with all applicable Federal motor vehicle safety standards as issued by the National Highway Traffic Safety Administration in Part 571 of this title; or

(2) The rolling stock to be purchased is not subject to the Federal motor vehicle standards issued by the National Highway Traffic Safety Administration in Part 571 of this title.

(b) For purposes of a safety certification under this Part, an independent laboratory or the National Highway Traffic Safety Administration may reissue a report as to whether a vehicle the laboratory has tested meets the Federal motor vehicle safety standards, if it certifies that to the best of its knowledge neither the standards nor the vehicle have been changed since the vehicle was tested.

§ 663.27 Pre-award Buy America Certification.

For purposes of this Part, a pre-award Buy America certification is a certification from any person, except an employee or agent of the manufacturer, that—

(a) There is a letter from UMTA which grants a waiver to the rolling stock to be purchased from the Buy America requirements under section 165 (b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or

(b) The person is satisfied that the rolling stock to be purchased meets the requirements of section 165(a) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed documentation provided by the manufacturer which lists—

- (1) Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and cost; and
- (2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

§ 663.29 Pre-award purchaser's requirements certification.

For purposes of this Part, a pre-award purchaser's requirements certification is a certification from a person, except an employee or agent of the manufacturer, that the rolling stock the recipient is agreeing to purchase is the same item set out in the purchaser's bid specification or request for proposal.

Subpart C—Post-delivery Audits**§ 663.31 Post-delivery audit requirement.**

A recipient purchasing revenue service rolling stock with UMTA funds must ensure that a post-delivery audit under this Part is complete before title to the rolling stock is transferred to the recipient or before the rolling stock is introduced into revenue service.

§ 663.33 Description of post-delivery audit.

A post-delivery audit under this Part is a report which contains—

- (a) A post-delivery Buy America certification as described in § 663.35 of this Part; and
- (b) A post-delivery Purchaser's requirements certification as described in § 663.37 of this Part.

§ 663.35 Post-delivery Buy America certification.

For purposes of this Part, a post-delivery Buy America certification is a certification from any person, except an employee or agent of the manufacturer, that—

(a) There is a letter from UMTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or

(b) The person is satisfied that the rolling stock received meets the requirements of section 165(a) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed documentation provided by the manufacturer which lists—

- (1) Component and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and cost; and
- (2) The actual location of the final assembly point for the rolling stock, including a description of the activities which took place at the final assembly point and the cost of final assembly.

§ 663.37 Post-delivery purchaser's requirements certification.

For purposes of this Part, a post-delivery purchaser's requirements certification is a certification from a person, except an employee or agent of the manufacturer, that the rolling stock received has been visually inspected and operationally tested and determined to meet the terms of the contract.

§ 663.39 Post-delivery audit review.

(a) If a recipient cannot complete a post-delivery audit because it cannot certify that the rolling stock is exempt from or complies with the Buy America requirements, the recipient may not finally accept the vehicle.

(b) If a recipient cannot complete a post-delivery audit because it cannot certify that the rolling stock meets the terms of the contract, the recipient is not required to finally accept the rolling stock and may exercise any legal rights under the contract.

Issued on October 13, 1988.

Alfred A. DelliBovi,

Administrator.

[FR Doc. 88-24000 Filed 10-17-88; 8:45 am]

BILLING CODE 4910-57-M