

the single provider could result in noncompliance, loss of use of a basic utility, and public exposure to safety risks from failing equipment. In addition, the limited selection could force various operators to install risers or regulators that are unfamiliar to their technicians or not compatible with their existing operating equipment. This would increase the grantee's costs by requiring the purchase of new associated compatible equipment and additional training, and increase the risk of operator error on new and unfamiliar equipment.

One commenter noted concerns regarding the domestic availability of additional products (transition fittings, electro-fusion tapping tees, lockwing valves, magnesium anodes, service adapters, curb valves, caps, couplings, and stiffeners) and suggested increasing the waiver duration from three to five years. Additional materials may be considered in future waivers.

The proposed waiver facilitated a broad range of interest and input from the public and other stakeholders, and PHMSA greatly appreciates the robust feedback from members of the public. The comments are available on the docket at <https://www.regulations.gov>, Docket (PHMSA–2024–0131).

#### Summary of Changes in the Final Waiver

PHMSA is making two changes from the proposed waiver in response to the information received during the public comment period. First, PHMSA is clarifying that all types of risers are included in the waiver. This directly addresses concerns regarding the availability of BABA compliant gas service risers. Secondly, PHMSA is including gas service regulators in this waiver. Based on responses to questions that PHMSA posed regarding the availability of sufficient quantities of compliant gas service regulators, PHMSA finds that the availability and appropriate selection of gas service regulators that are BABA compliant are not available in timely and sufficient quantities to meet NGDISM grantees' operating conditions and project schedule requirements. Therefore, PHMSA has added gas service regulators. The waiver for meters is unchanged from the proposed waiver. Public comments to the proposed waiver supported including meters and no changes for meters have been made in the final waiver.

#### Final Waiver

Based on its review of the waiver request, and in consideration of comments received on the proposed

waiver, PHMSA has determined that gas service risers, gas meters, and gas service regulators are not manufactured in the United States in sufficient and reasonably available quantities. PHMSA is waiving BABA requirements for gas service risers, gas meters, and gas service regulators. The waiver will apply to obligations made on or after the effective date of the final waiver for recipients of funding under the NGDISM Grant Program and, in the case of awards obligated prior to the effective date, all expenditures for covered products incurred after the effective date and will expire after three years.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

**Tristan H. Brown,**

*Deputy Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2024–0152]

#### Pipeline Safety: Project-Specific Waiver of the Build America, Buy America Act Requirements for Certain Products Used by Philadelphia Gas Works Under the Natural Gas Distribution Infrastructure Safety and Modernization Grant Program

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), 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 Philadelphia Gas Works (PGW) needs for its Natural Gas Distribution Infrastructure Safety and Modernization (NGDISM) grant project due to lack of availability, unreasonable cost, or public good. The waiver would exempt the following products used in PGW's project from BABA requirements on the basis of nonavailability: electro-fusion tapping tees, anodeless risers, transition fittings, lockwing valves, magnesium anodes, service adapters, curb valves, caps, couplings, and stiffeners.

**DATES:** The effective date of the waiver is January 22, 2025.

**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 email at [Louis.Cardenas@dot.gov](mailto: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](http://www.FederalRegister.gov) or the Government Publishing Office's website at [www.GovInfo.gov](http://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, Public Law 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.

Across three fiscal years (FY2022, FY2023, and FY2024) PGW has been awarded \$125 million in NGDISM grant funding to help fund the replacement of “at-risk” natural gas cast iron pipe within the city of Philadelphia as part

of its “Citywide Neighborhood Safety and Modernization” project. Of the \$125 million awarded for this project the materials covered by the waiver only represent an estimated 0.11% or \$140,201. The project, which will be located entirely within Philadelphia’s historically disadvantaged neighborhoods, will replace approximately 67 miles of aging cast iron, ductile iron, and unprotected steel pipelines with modern polyethylene plastic pipe that is less susceptible to breakage due to earth movement—the biggest threat to PGW’s existing cast iron pipelines, especially during the winter months.

### Proposed Waiver and Request for Comments

On September 27, 2024, PHMSA published a Notice of Proposed Project-Specific Waiver of the BABA Act Requirements for Certain Products Used by Philadelphia Gas Works and Request for Comment (89 FR 79360) for certain products on the basis of nonavailability. The specific essential products PGW sought a waiver for are listed below:

- *Electro-fusion tapping tees*: Electro-fusion tapping tees are rigid sections of polyethylene pipe that are fused to the top of an existing polyethylene pipeline. They are used to provide a branch outlet from a gas main to a service line. (NAICS: 326122)

- *Anodeless risers*: Anodeless risers are sections of pipe that provide a 90-degree connection between underground gas service lines and aboveground meter assemblies. Risers are typically made of steel but may also include polyethylene components and may include a protective sleeve over the polyethylene components. Anodeless risers are manufactured in a variety of sizes and may be rigid or flexible. (NAICS: 33296)

- *Transition fittings*: Transition fittings are adapters that facilitate below-grade transition from polyethylene pipe to steel pipe before it exits the ground. The steel section of the fitting is epoxy-coated for corrosion resistance. Transition fittings incorporate both steel and polyethylene components. (NAICS: 332919)

- *Lockwing valves*: Lockwing valves are installed at the “head” of a service line, upstream of a meter assembly, and are used to stop or start the flow of gas. They are lockable to resist tampering or accidental opening of the valve. They are typically made of brass. (NAICS: 332919)

- *Magnesium anodes*: Magnesium anodes are blocks of magnesium that are attached to steel pipe in order to protect

against corrosion damage. (NAICS: 335999)

- *Service adapters*: Service adapters are threaded fittings used on a meter set assembly above ground. They are typically made of steel and are used to connect two pieces of steel pipe in a meter assembly. (NAICS: 332919)

- *Curb valves*: Curb valves are shut-off valves installed in a readily accessible outside location (such as in the footway). They are used to control the gas upstream of a gas meter, but downstream of the main service tee in the street. Curb valves can be made of either polyethylene or steel. PGW requires the use of polyethylene curb valves in its system. Accordingly, PHMSA proposes to waive BABA requirements for polyethylene curb valves. (NAICS: 326122)

- *Caps*: Caps are added to a pipeline in order to close off sections of the pipeline or to cap off dead-end lines. Caps can be made of either polyethylene or steel, depending on the material of the pipe capped off. PGW is not able to find a BABA-compliant source for steel caps. Accordingly, PHMSA proposes to waive BABA requirements for steel caps. (NAICS: 332919)

- *Couplings*: Couplings can be used to connect two sections of pipe made from either polyethylene, steel, ductile iron, or cast iron. PGW requires the use of steel couplings on its distribution system. Accordingly, PHMSA proposes to waive BABA requirements for couplings made of steel. (NAICS: 332919)

- *Stiffeners*: Stiffeners are inserted into plastic pipe alongside couplings to support the pipe, mitigate stress, and provide a long-lasting seal. (NAICS: 326122)

To conduct market research, PGW initially engaged with its normal suppliers of gas distribution pipeline parts. Eight of PGW’s normal suppliers indicated that they could provide BABA-compliant products but were not willing to certify to BABA compliance. One of PGW’s alternate suppliers indicated it could provide BABA-compliant caps, couplings, and stiffeners, albeit at an increased cost and a long lead time, causing an estimated 36-week delay in PGW’s construction schedule that is untenable for this project. PGW also reached out to neighboring gas utilities to inquire about their sources but was likewise unable to locate a domestic source.

On April 10, 2024, in an effort to locate additional alternative suppliers, PGW issued a Request for Quotation (“RFQ”) titled “One Time Purchase of BABA Compliant Alternatives.” The RFQ was publicly posted to PGW’s

Procurement website, and was open from April 10, 2024, until April 29, 2024. PGW invited 80 suppliers and manufacturers to submit bids. As a result of the RFQ, PGW identified BABA-compliant alternatives for eight products for which PGW was not previously able to find domestic sources. However, PGW still was not able to find suitable or readily available alternatives for the 10 products proposed to be waived herein.

### 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 IJA. The public comment regarding the PGW project specific NGDISM waiver was received by October 15, 2024. The commenter noted the potential need for the same products and that the commentor “fully support[s] the granting of this waiver to Philadelphia Gas Works.”

### Summary of Changes in the Proposed 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 in the proposed waiver.

### Final Waiver

Based on its review of the waiver request, and in consideration of the supportive comment received on the proposed waiver, PHMSA is waiving the requirements of BABA for the above listed products for PGW’s “Citywide Neighborhood Safety and Modernization” project funded by NGDISM grant funds. The waiver is applicable only to PGW’s 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, under authority delegated in 49 CFR 1.97.

**Tristan H. Brown,**  
Deputy Administrator.

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