

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION
FACT SHEET
CHINESE ROLLING STOCK PROCUREMENT PROHIBITION IN THE
CONFERENCE REPORT TO ACCOMPANY S. 1790,
THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2020
December 10, 2019

Several APTA members have asked questions about the Chinese rolling stock procurement prohibitions included in the Senate and House National Defense Authorization Act (NDAA) bills. Our members have expressed both support and opposition to these provisions.

The purpose of this updated Fact Sheet is to summarize a provision limiting Chinese rolling stock procurements contained in the Conference Report to Accompany S.1790, the “National Defense Authorization Act for Fiscal Year 2020” (NDAA).

Limitations on Chinese Rolling Stock Procurements

Section 7613 prohibits federal public transit funding to procure bus and rail rolling stock from an entity that is incorporated in or has manufacturing facilities in the United States and “is owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in” China. The bill provides a three-part test to determine the application of the provision. Currently, only the People’s Republic of China meets this three-part test.

In addition, section 7613 prohibits a grant recipient of 49 U.S.C. § 5337 State of Good Repair funding that operates a rail fixed guideway service from using non-federal funds to procure rail rolling stock from such an entity supported by China. Specifically, section 7613 requires grant recipients of § 5337 funds to certify on an annual basis that the recipient will not “award any contract or subcontract for the procurement of rail rolling stock for use in public transportation” with an entity supported by China. The provision applies this requirement to “any contract”, not only contracts funded by federal grants. Failure to comply with the certification requirement will result in the loss of § 5337 funding in that fiscal year.

Section 7613 also provides authority to the Secretary of Transportation to require additional certification to ensure compliance.

These bus and rail rolling stock procurement provisions do not apply to existing contracts. The prohibition takes effect two years after the date of enactment of the NDAA. However, for the Washington Metropolitan Area Transit Authority, the prohibition and certification requirements apply on the date of enactment of the NDAA.

Cybersecurity Certification for Rail Rolling Stock and Operations

Section 7613 also requires any federal public transportation funding recipients that operate a rail fixed guideway public transportation system to certify that the recipient has “established a process to develop, maintain, and execute a written plan for identifying and reducing

cybersecurity risks.” If the recipient fails to make the certification, all federal public transportation funding may be withheld.