

products are not available. Fourteen commenters opposed the waiver and some provided names of potential domestic manufacturers of the components. Potential domestic manufacturers suggested were Oregon Works, Steward Machine, Hardie-Tynes, Timken Steel Corporation, Philadelphia Gear, and JC Machine.

The Maine DOT made contact with the companies to verify domestic availability and possible supply of the items. Based on information received from those companies, Jeff Folsom of Maine DOT provided comments on April 2 stating that Maine DOT was withdrawing the waiver request for the counterweight sheave bearings, deflector sheave bearings, operating drum bearings, and span lock bearings. There were no domestic manufacturers of motor and machinery brakes identified. During the 15-day comment period, the FHWA conducted an additional nationwide review to locate potential domestic manufacturers of the motor and machinery brakes. Maine DOT also made additional contact with Philadelphia Gear, Hardie-Tynes, New Jersey DOT, and JC Machine. On April 4 Hardie-Tynes responded to Maine DOT that it cannot furnish machinery brakes. On April 17 Philadelphia Gear responded that it only manufactures gear boxes and large gears for moveable structures. The New Jersey DOT could not provide specific information on domestic manufacturers of moveable bridge components that it used in the past. Based on all the information available to the Agency, the FHWA concludes that there are no domestic manufacturers of the motor and machinery brakes.

In accordance with the provisions of section 117 of the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572), the FHWA is providing this notice of its finding that a waiver of Buy America requirements is appropriate because the products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality (23 U.S.C. 313(b)(2); 23 CFR 635.410(c)(1)(ii)). The FHWA invites public comment for an additional 15 days following the effective date of the finding. Comments may be submitted via the above link to the FHWA Web site.

(Authority: 23 U.S.C. 313; Pub. L. 110-161; 23 CFR 635.410).

Dated: June 2, 2014.

Gregory G. Nadeau,
Deputy Administrator, Federal Highway Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for the obligation of Federal-aid funds for 73 State projects involving the purchase or retrofit of vehicles or vehicle components on the condition that they be assembled in the U.S.

DATES: The effective date of the waiver is June 12, 2014.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, 202-366-1562, or via email at gerald.yakowenko@dot.gov. For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, 202-366-1373, or via email at jomar.maldonado@dot.gov. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register's** home page at <http://www.archives.gov> and the Government Printing Office's database at <http://www.access.gpo.gov/nara>.

Background

This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for the obligation of Federal-aid funds for 73 State projects involving the purchase or retrofit of vehicles (including sedans, vans, pickups, SUVs, trucks, buses, street sweepers) or vehicle components (such as exhaust controls and auxiliary power units) on the condition that they be assembled in the U.S. The waiver would apply to approximately 810 vehicles. The requests, available at <http://www.fhwa.dot.gov/construction/contracts/cmaq140211.cfm>, are

incorporated by reference into this notice. The purposes of these projects include the improvement of air quality (Congestion Mitigation and Air Quality Improvement Program projects), implementation of the National Bridge and Tunnel Inventory and Inspection Program, and the implementation of the FHWA's Recreational Trails Program.

Title 23, Code of Federal Regulations, section 635.410 requires that any steel or iron materials (including protective coatings) that will be permanently incorporated in a Federal-aid project must be manufactured in the U.S. For FHWA, this means that all the processes that modified the chemical content, physical shape or size, or final finish of the material (from initial melting and mixing, continuing through the bending and coating) occurred in the U.S. The statute and regulations create a process for granting waivers from the Buy America requirements when its application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. In 1983, the FHWA determined that it was both in the public interest and consistent with the legislative intent to waive Buy America for manufactured products other than steel manufactured products. However, FHWA's national waiver for manufactured products does not apply to the requests in this notice because they involve predominately steel and iron manufactured products. The FHWA's Buy America requirements do not have special provisions for applying Buy America to "rolling stock" such as vehicles or vehicle components (see title 49, United States Code, section 5323(j)(2)(C) (49 U.S.C. 5323(j)(2)(C)), 49 CFR 661.11, and 49 U.S.C. 24405(a)(2)(C) for examples of Buy America rolling stock provisions for other DOT agencies).

Based on all the information available to the agency, FHWA concludes that there are no domestic manufacturers that produce the vehicles and vehicle components identified in this notice in such a way that all their steel and iron elements are manufactured domestically. The FHWA's Buy America requirements were tailored to the types of products that are typically used in highway construction, which generally meet the requirement that all the steel and iron be manufactured domestically. Vehicles were not the types of products that were initially envisioned to meet FHWA Buy America requirements. In today's global industry, vehicles are assembled with iron and steel components that are manufactured all over the world. The FHWA is not aware of any domestically produced vehicle

on the market that meets the FHWA's Buy America requirement to have all its iron and steel be manufactured exclusively in the U.S. For example, the Chevrolet Volt, which was identified by many commenters in a November 21, 2011, **Federal Register** Notice (76 FR 72027) as a car that is made in the U.S., is comprised of only 45 percent of U.S. and Canadian content according to the National Highway Traffic Safety Administration's Part 583 American Automobile Labeling Act Report Web page ([http://www.nhtsa.gov/Laws+&+Regulations/Part+583+American+Automobile+Labeling+Act+\(AALA\)+Reports](http://www.nhtsa.gov/Laws+&+Regulations/Part+583+American+Automobile+Labeling+Act+(AALA)+Reports)). Moreover, there is no indication of how much of this 45 percent content is U.S.-manufactured (from initial melting and mixing) iron and steel content.

In accordance with Division A, section 122 of the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law (Pub. L.) 112-284), FHWA published a notice of intent to issue a waiver on its Web site at (<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=95>) on March 3. The FHWA received 16 comments in response to the publication. Eight commenters supported granting a waiver. Two supported the waiver only when certain conditions are met: One suggested that a maximum 15 percent of the components should be allowed and the other stated that at least 60 percent of the contents should be domestic. Two other commenters provided general statements that U.S. tax dollars should go toward domestic labor and materials that help create jobs. Four commenters objected to the waiver.

Based on FHWA's conclusion that there are no domestic manufacturers that can produce the vehicles and vehicle components identified in this notice in such a way that all its steel and iron elements are manufactured domestically, and after consideration of the comments received, FHWA finds that application of the FHWA's Buy America requirements to these products is inconsistent with the public interest (23 U.S.C. 313(b)(1) and 23 CFR 635.410(c)(2)(i)). However, FHWA believes that it is in the public interest and consistent with the Buy America requirements to impose the condition that the vehicles and the vehicle components be assembled in the U.S. Requiring final assembly to be performed in the U.S. is consistent with past guidance to the FHWA Division Offices on manufactured products (see Memorandum on Buy America Policy Response, Dec. 22, 1997, (<http://www.fhwa.dot.gov/programadmin/contracts/122297.cfm>)). A waiver of the

Buy America requirement without any regard to where the vehicle is assembled would diminish the purpose of the Buy America requirement. Moreover, in today's economic environment, the Buy America requirement is especially significant in that it will ensure that Federal Highway Trust Fund dollars are used to support and create jobs in the U.S. This approach is similar to the partial waivers previously given for various vehicle projects. Thus, so long as the final assembly of the 73 vehicle projects (including sedans, vans, pickups, SUVs, trucks, buses, street sweepers, and tractors) and vehicle components (such as exhaust controls and auxiliary power units) occurs in the U.S., applicants to this waiver request may proceed to purchase these vehicles and equipment consistent with the Buy America requirement.

In accordance with the provisions of section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Technical Corrections Act of 2008 (Pub. L. 110-244), FHWA is providing this notice of its finding that a public interest waiver of Buy America requirements is appropriate on the condition that the vehicles and vehicle components identified in the notice be assembled in the U.S. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to FHWA's Web site via the link provided to the waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110-161, 23 CFR 635.410.

Dated: June 3, 2014.

Gregory G. Nadeau,
Deputy Administrator, Federal Highway Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0283]

Hours of Service of Drivers: National Pork Producers Council; Granting of Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces the granting of a limited one-year exemption from the 30-minute rest

break provision of the Agency's hours-of-service (HOS) regulations for commercial motor vehicle (CMV) drivers transporting livestock. FMCSA has analyzed the exemption application submitted by the National Pork Producers Council (NPPC) on behalf of all livestock transporters and the public comments received in response to the Agency's August 12, 2013, notice announcing the application and requesting public comment. The Agency has determined that it is appropriate to grant a limited one-year exemption to ensure the well-being of Nation's livestock during interstate transportation by CMV. The exemption, subject to the terms and conditions imposed, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. This conclusion is supported by the real-world experience of the industry's operations under the limited 90-day waiver FMCSA granted in 2013. This exemption preempts inconsistent State and local requirements.

DATES: This exemption is effective June 11, 2014 and expires on June 11, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver, and Vehicle Safety Standards; Telephone: 202-366-4325. Email: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Legal Basis

Section 4007(a) of the Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107, 401, June 9, 1998) provided the Secretary of Transportation (the Secretary) the authority to grant exemptions from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under chapter 313 or section 31136 of title 49 of the United States Code, to a person(s) seeking regulatory relief (49 U.S.C. 31136, 31135(b)). Prior to granting an exemption, the Secretary must request public comment and make a determination that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. Exemptions may be granted for a period of up to 2 years and may be renewed.

The FMCSA Administrator has been delegated authority under 49 CFR 1.87(e)(1) and (f) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313 and subchapters I and III of chapter 311, relating, respectively, to the commercial driver's license program and to commercial