

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 as its finding that a waiver of Buy America requirements is appropriate. 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 the FHWA's Web site via the link provided to the California waiver page noted above.

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

Issued on: November 18, 2013.

**Victor M. Mendez,**  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Buy America Waiver Notification

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice provides information regarding the FHWA's finding that a partial Buy America waiver is appropriate for the obligation of Federal-aid Congestion Mitigation and Air Quality (CMAQ) Improvement Program funds for the purchase of 378—light, medium, and heavy duty plug-in battery electric and compressed natural gas vehicles by Chicago DOT.

**DATES:** The effective date of the waiver is November 26, 2013.

**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](mailto:gerald.yakowenko@dot.gov). For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366-4928, or via email at [michael.harkins@dot.gov](mailto:michael.harkins@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

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a partial Buy America waiver is appropriate for the obligation of Federal-aid CMAQ program funds for the purchase of 378—light, medium, and heavy duty plug-in battery electric and compressed natural gas vehicles by Chicago DOT.

In accordance with Division A, section 122 of the "Consolidated and Further Continuing Appropriations Act, 2012" (Pub. L. 112-55), the FHWA published a notice of intent to issue a waiver on its Web site for the 378—light, medium, and heavy duty plug-in battery electric and compressed natural gas vehicles (<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=92>) on September 5, 2013. The FHWA received no comments in response to the publication.

During the 15-day comment period, the FHWA conducted additional review but was unable to locate a domestic manufacturer that could meet a 100 percent domestic steel and iron content requirement. Based on all the information available to the Agency, the FHWA concludes that there are no domestic manufacturers that could meet a 100 percent domestic steel and iron content for light, medium, and heavy duty plug-in battery electric and compressed natural gas vehicles.

The FHWA has reevaluated the applicability of the Buy America requirement as it may apply to the purchase of the vehicles. The FHWA's Buy America requirement was initially established in 1983 when the acquisition of vehicles was not eligible for assistance under the Federal-aid highway program. As such, the FHWA's Buy America requirements were tailored to the types of products that are typically used in highway construction, which generally meet a 100 percent domestic steel and iron content requirement.

Vehicles, however, are not the types of products that were initially envisioned as being purchased with Federal-aid highway funds when Buy America was first enacted. In today's

global industry, vehicles are assembled with components that are made all over the world. The FHWA is not aware of any vehicle on the market that can claim to incorporate 100 percent domestic steel and iron content. For instance, the Chevy Volt, which was identified by many commenters in a November 21, 2011, **Federal Register** notice as being a car that is made in the United States, comprises only 40 percent United States and Canada content according to the window sticker ([http://www.cheersandgears.com/uploads/1298005091/med\\_gallery\\_51\\_113\\_449569.png](http://www.cheersandgears.com/uploads/1298005091/med_gallery_51_113_449569.png)). There is no indication of how much of this 40 percent United States/Canadian content is United States-made content. Thus, the FHWA does not believe that application of a domestic content standard should be applied to the purchase of vehicles. However, the FHWA believes that the vehicles should be assembled in the United States. Whenever a person discusses the manufacture of vehicles, the discussion typically refers to where the final assembly takes place. For instance, under a previous proposed waiver notification and comment process, several commenters urged that the waiver be denied because the Chevy Volt is made in the United States, the FHWA interprets these comments as referring to the assembly of the vehicle in Detroit since the Volt window sticker says that the United States/Canada parts content of the vehicle is only 40 percent. While the manufacture of steel and iron products that are typically used in highway construction (such as pipe, rebar, struts, and beams) generally refers to the various processes that go into actually making the entire product, the manufacture of vehicles typically refers to where the vehicle is assembled. Thus, given the inherent differences in the type of products that are typically used in highway construction and vehicles, we feel that simply waiving the Buy America requirement, which is based on the domestic content of the product, without any regard to where the vehicle is assembled would diminish the purpose of the Buy America requirement.

Therefore, while the FHWA has not located a vehicle that meets a 100 percent domestic iron and steel content requirement, the FHWA does not find that a complete waiver based on non-availability pursuant to 23 U.S.C. 313(b)(2) is appropriate. However, the FHWA also recognizes that at least a partial waiver is necessary in order to permit Chicago DOT to proceed with its project. The FHWA believes that a partial waiver that allows the Chicago

DOT to purchase the vehicles so long as the final assembly of the vehicle as the end product occurs in the United States is appropriate. This approach is similar to the conditional waivers given to Alameda County, San Francisco County, and Merced County, CA, for vehicle purchases on November 21, 2011 (76 FR 72027 and 76 FR 72028) and March 30, 2012 (77 FR 19410) as well as one provided for a group of similar purchases in multiple States on June 17, 2013 (78 FR 36296).

In conclusion, and in light of the above, pursuant to 23 U.S.C. 313(b)(1), the FHWA finds that it is in the public interest to grant a partial waiver from the general 100 percent domestic content requirement that applies to Federal-aid highway projects under Buy America. Under this partial waiver, however, the final assembly of any vehicles purchased with CMAQ funds must occur in the United States. Thus, so long as the final assembly of the light, medium, and heavy duty plug-in battery electric and compressed natural gas vehicles occurs in the United States, Chicago DOT may proceed to purchase these vehicles consistent with the Buy America requirement.

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 as its finding that a waiver of Buy America requirements is appropriate. 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 the FHWA's Web site via the link provided to the Chicago DOT waiver page noted above.

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

Issued on: November 18, 2013.

**Victor M. Mendez,**  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2010-0166]

#### Parts and Accessories Necessary for Safe Operation; Renewal of Exemption for Con-Way Freight, TK Holdings, Inc., and Bendix

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

**ACTION:** Notice of renewal of exemption; request for comments.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) renews an exemption which enables motor carriers to mount lane departure warning system sensors lower in the windshield of a commercial motor vehicle (CMV) than is currently permitted by the Agency's regulations. The Agency has concluded that granting this renewed exemption will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. However, the Agency requests comments on this issue, especially from anyone who believes this standard will not be maintained.

**DATES:** This decision is effective November 18, 2013. Comments must be received on or before December 26, 2013.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) number FMCSA-by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.
- *Hand Delivery:* Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.
- *Fax:* 1-202-493-2251.

*Instructions:* Each submission must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the "Public Participation" heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the "Privacy Act" heading for further information.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12-140, DOT Building, New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement

page that appears after submitting comments on-line.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the FDMS published in the **Federal Register** published on December 29, 2010 (73 FR 82132) or you may visit [http://edocket/access.gpo.gov/2008/pdf/E8-785.pdf](http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf).

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC-PSV, (202) 366-0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the prohibition on obstructions to the driver's field of view requirements in 49 CFR 393.60(e) for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved absent such exemption" (49 CFR 381.305(a)).

##### Applications for Exemptions

On November 11, 2009, Con-way applied for an exemption from 49 CFR 393.60(e)(1) to allow it to install lane departure warning system sensors on 1,272 of its newly purchased power units. Takata and Iteris submitted nearly identical exemption applications for their lane departure warning system sensors on December 15, 2009 and on February 25, 2010, respectively. On June 14, 2010, FMCSA published a notice of these applications, and asked for public comment (75 FR 33666).

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices (collectively, devices) must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals.

Con-way, Takata, and Iteris stated that over the last several years, truck manufacturers have increased the windshield area to maximize driver visibility. As a result, manufacturers