

compliance with the Buy America requirements. This action permits the use of pig iron and processed, pelletized, and reduced iron ore manufactured outside of the United States to be used in the domestic manufacturing process for steel and/or iron materials used in Federal-aid highway construction projects.

**EFFECTIVE DATE:** March 24, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gerald L. Eller, Office of Engineering, (202) 366-0392 or Mr. Wilbert Baccus, Office of the Chief Counsel, (202) 366-0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** In accordance with 23 CFR 635.410(c)(6), the FHWA hereby provides notice that it is granting a nationwide waiver of the requirements of 23 CFR 635.410, Buy America requirements, for pig iron and processed, pelletized, and reduced iron ore. Pig iron is made from molten iron which has been cast in the shape of "pigs" as it comes from a blast furnace. Processing, pelletizing, and reducing iron ore are methods by which raw iron ore is improved to produce enriched ore.

Section 635.410 provides, with exceptions, that no Federal-aid highway construction project using steel or iron materials is authorized to proceed unless all manufacturing processes for these materials, including the application of coatings for such materials, occur in the United States. Because the domestic supply of pig iron and processed, pelletized, and reduced iron ore is not adequate, a nationwide waiver of these requirements is being granted for these specific iron components. Items not specifically included in the waiver remain subject to the Buy America requirements.

The basis for the nationwide waiver is that pig iron and processed, pelletized, and reduced iron ore are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality. Therefore, imposing Buy America requirements on these materials is not in the public interest.

On August 23, 1994, the FHWA published a notice (59 FR 43376) and requested comments on the proposed nationwide waiver and the availability of a domestic supply of the components included in the waiver. Ten comments were received to FHWA Docket No. 94-18. All 10 commentors were supportive of the waiver, although some questioned the need for waiver.

Several commentors concluded that domestic supplies of pig iron and processed, pelletized, and reduced iron ore are either inadequate or nonexistent in their region of the United States. Supplies were believed to be inadequate now and in the future. One commentor offered analysis of the current domestic pig iron supply, performed by an outside consultant. Its analysis showed that the volume of available domestic pig iron is insufficient to supply the electric furnace steel producers in the United States. Of the 23 blast furnace sites in the United States the analysis showed that only four currently sell pig iron. No commentor stated that the domestic supply of pig iron and processed, pelletized, and reduced iron ore is adequate. The FHWA concludes that the waiver is substantiated due to the unavailability of pig iron.

Although supportive of the waiver several commentors questioned the need for a waiver, since they believed that pig iron and processed, pelletized, and reduced iron ore were already exempt from the Buy America requirements. Their belief was based on the idea that the Buy America requirements apply only to products further along in the manufacturing process of steel and iron. The FHWA has previously stated that products of a manufacturing process are not exempt from the Buy America requirements. On November 25, 1983, the FHWA published a final rule (48 FR 53099) of the Buy America requirements to implement procedures required by § 165 of the Surface Transportation Assistance Act (STAA) of 1982 (Pub. L. 97-424). The final rule's discussion of manufactured materials stated that "Raw materials used in the steel \* \* \* product may be imported. All manufacturing processes to produce steel \* \* \* products must occur domestically. Raw materials are materials such as iron ore \* \* \* [and] waste products \* \* \* which are used in the manufacturing process to produce the steel \* \* \* products" (48 FR 53099, 53103). Consistent with this interpretation, pig iron and processed, pelletized, and reduced iron ore are products of a manufacturing process and thus subject to the Buy America requirements.

At least one commentor questioned whether the FHWA's Buy America regulation applies to certain alloys required in the production of steel and/or iron materials. Even though most of these alloys are unavailable from domestic sources, alloys were not addressed in the 1983 final rule. Similar to the treatment of raw iron ore, alloys in their raw state may be imported for

use in the domestic manufacturing process of steel and/or iron materials. Furthermore, processed alloys, alone, are not considered to be steel or iron materials under the Buy America regulation. Thus, unless alloys have been processed or refined to include substantial amounts of steel and/or iron materials, they are not subject to the Buy America requirements.

(Pub. L. 97-424, § 165, 96 Stat. 2097, 2136, as amended by Pub. L. 98-229, § 10, 98 Stat. 55, 57, and Pub. L. 102-240, §§ 1041, 1048, 105 Stat. 1914, 1993, 1999; 23 U.S.C. 315; 49 CFR 1.48; 23 CFR 635.410)

Issued on: March 20, 1995.

**Rodney E. Slater,**

*Federal Highway Administrator.*

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## National Highway Traffic Safety Administration

### 23 CFR Part 1313

[Docket No. 89-02; Notice 7]

RIN 2127-AD01

### Incentive Grant Criteria for Drunk Driving Prevention Programs

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Interim final rule; reopening of comment period.

**SUMMARY:** On August 9, 1994, (59 FR 40471) NHTSA published an interim final rule, amending the criterion in part 1313 for a supplemental grant for States that deem persons under age 21 who operate a motor vehicle with a BAC of 0.02 or greater to be driving while intoxicated. The interim final rule requested comments on the amendment. Today's notice reopens the comment period to provide States, national organizations and other interested persons an additional opportunity to comment on the amendment.

**DATES:** The comment period for NHTSA Docket No. 89-02; Notice 6 is reopened so that it closes May 23, 1995.

**ADDRESSES:** Written comments should refer to the docket number and the number of this notice and be submitted (preferably in ten copies) to: Docket Section, National Highway Traffic Safety Administration, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

**FOR FURTHER INFORMATION CONTACT:** Ms. Marlene Markison, Chief, Program Support Staff, NSC-10, National Highway Traffic Safety Administration,