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## DEPARTMENT OF TRANSPORTATION

[4910-22-P]

### 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 Buy America waiver is appropriate for the use of non-domestic 35', 45', and 55' Pre-stressed Spun Concrete Transmission and Distribution Power Poles in the Territory of Guam for synchronization of the existing system. This waiver is a general standing waiver that is applicable to the Territory of Guam.

**DATES:** The effective date of the waiver is [insert date one day after publication in Federal Register].

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366-1562, or via e-mail 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 e-mail 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 Buy America waiver is appropriate to use non-domestic 35', 45', and 55' Pre-stressed Spun Concrete Transmission and Distribution Power Poles in Territory of Guam.

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 35', 45', and 55' Pre-stressed Spun Concrete Transmission and Distribution Power Poles in the Territory of Guam and April 4, 2012, (<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=72>) and on and March 5, 2012, (<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=66>). The FHWA received three comments in response to the publication for the 35' poles. One commenter (Allen Ackland) supported the waiver by reference to a comment submitted in response to the publication regarding the 45' and 55' poles. Another commenter (Pratip Lahiri) stated that he did not see the actual request to review and therefore could not make a definite statement about the waiver. The third commenter (Robin Shishido) stated that the documentation is same with that of 45' and 55' pre-stressed spun concrete transmission and distribution power poles. Also, the FHWA received two comments in

response to the publication for the 45' and 55' poles. One commenter (Anthony Charfauros) supported the waiver while the other commenter (replica sunglasses outlet) did not submit a relevant comment. During the 15-day comment periods for these publications, the FHWA conducted additional nationwide review to locate potential domestic manufacturers of 35', 45', and 55' Pre-stressed Spun Concrete Transmission and Distribution Power Poles in the Territory of Guam. Based on all the information available to the agency, the FHWA concludes that there are no domestic manufacturers of 35', 45', and 55' Pre-stressed Spun Concrete Transmission and Distribution Power Poles and therefore the application of Buy America is waived for such products in the Territory of Guam.

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 links provided to Territory of Guam waiver pages noted above. (Authority: 23 U.S.C. 313; Pub. L. 110-161, 23 CFR 635.410)

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Federal Highway Administrator

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