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## Federal Highway Administration

[Docket No. FHWA-2025-0070]

### Notice of Proposed Modification of the Waiver of Buy America Requirements for Electric Vehicle Chargers

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

**ACTION:** Notice; request for comments

**SUMMARY:** The Federal Highway Administration (FHWA) is seeking comments on its February 21, 2023 Waiver of Buy America Requirements for Electric Vehicle (EV) Chargers. FHWA is specifically seeking comment on whether it should modify the waiver to increase the cost threshold of components manufactured in the United States for EV Chargers used in Federal-aid highway projects from 55 percent to up to 100 percent of the cost of all components. Following review and consideration of comments, FHWA will determine whether it should continue the waiver, modify the waiver, or discontinue the waiver.

**DATES:** Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Please submit your comments to the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov), Docket: FHWA-2025-0070, and follow the online instructions for submitting comments.

*Instructions:* You must include the agency name and docket number at the beginning of your comments. Except as described below under the heading “Confidential Business Information,” all submissions received, including any personal information provided, will be posted without change or alteration to <http://www.regulations.gov>. For more

information, you may review the U.S. Department of Transportation's complete Privacy Act Statement published in the Federal Register on April 11, 2000 (65 FR 19477).

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, please contact Robert Mooney, FHWA Office of Infrastructure, 202-366-2221, or via email at Robert.Mooney@dot.gov. For legal questions, please contact Michael Harkins, FHWA Office of the Chief Counsel, 202-366-1523, or via email at Michael.Harkins@dot.gov. Office hours for FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access and Filing**

A copy of this notice, all comments received on this notice, and all background material may be viewed online at [www.regulations.gov](http://www.regulations.gov) using the docket number listed above. Electronic retrieval help and guidelines are also available at [www.regulations.gov](http://www.regulations.gov). An electronic copy of this document also may be downloaded from the Office of the Federal Register's Website at: [www.FederalRegister.gov](http://www.FederalRegister.gov) and the U.S. Government Publishing Office's Website at: [www.GovInfo.gov](http://www.GovInfo.gov).

**Confidential Business Information**

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. You may ask FHWA to give confidential treatment to information you give to the Agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as "Confidential;" (2) send FHWA, along with the

original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, FHWA will treat such marked submissions as confidential under FOIA, and they will not be placed in the public docket of this Request for Information (RFI).

Submissions containing CBI should be sent to: Mr. Robert Mooney, FHWA, 1200 New Jersey Avenue S.E., HICP-20, Washington, D.C. 20590. Any comment submissions that FHWA receives that are not specifically designated as CBI will be placed in the public docket for this matter.

## **Background**

On November 24, 2021, FHWA published a Request for Information (RFI) to determine the state of the existing and future domestic manufacturing capacity of EV Chargers. Based on the information received in response to the November 24, 2021 RFI, FHWA issued a notice of a proposed waiver of Buy America requirements for EV chargers on August 31, 2022, at 87 FR 53539 (“Proposed Waiver”), requesting comments on the conditions of a proposed waiver for EV Chargers. After reviewing the comments received, on February 21, 2023, FHWA established a final EV Charger waiver for EV charging equipment through a temporary public interest waiver of Buy America requirements for steel, iron, and manufactured products, in EV chargers under 23 U.S.C. 313 and for construction materials under section 70914 of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. No. 117-58), at 88 FR 10619 (“Final Waiver”).

The Final Waiver became effective on March 23, 2023 (the effective date) and applied to all EV chargers manufactured before July 1, 2024 whose final assembly occurred in the United States and whose installation was begun by October 1, 2024 (“the Final Assembly Phase”). As for EV chargers manufactured on or after July 1, 2024, the Final Waiver applies to all such whose final assembly occurs in the United States and for which the cost of components manufactured in the United States is at least 55 percent of

the cost of all components (“the 55 percent phase”). Further, under the Final Waiver, if an EV charger’s housing is predominantly iron or steel, such housing is not covered by the Final Waiver at any time; instead, such housing must comply with FHWA’s existing Buy America requirements for iron and steel. In the Final Waiver, FHWA reserved the right to modify the waiver in the event FHWA determines that the terms of the waiver are no longer in the public interest (see 88 FR 10634). FHWA published another RFI on November 28, 2023, at 88 FR 77140, requesting additional information on the domestic EV Charging capacity in the United States. A summary of the comments received in response to that RFI is included in the docket.

Subsequently, on January 14, 2025, FHWA published a final rule (90 FR 2932) establishing Buy America requirements for all manufactured products used in the Federal-aid highway program. Under this rule, for projects obligated on or after October 1, 2025, all such manufactured products must be manufactured in the United States (*i.e.*, final assembly) and, for projects obligated on or after October 1, 2026, the total cost of all components mined, produced, or manufactured in the United States of all manufactured products used in the project must also comprise at least 55 percent. FHWA explained in the preamble of this final rule that the EV Charger waiver would continue to apply to EV Chargers instead of the generally applicable Buy America requirements for manufactured products (90 FR 2943).

On April 18, 2017, President Trump issued Executive Order (E.O.) 13788 requiring every Executive Branch agency to monitor, enforce, and comply with existing “Buy American Laws” and minimize the use of waivers. In addition, E.O. 13788 set forth a policy “to maximize, consistent with law, . . . the use of goods, products, and materials produced in the United States.” E.O. 13788 was superseded by E.O. 14005, which was issued on January 25, 2021. E.O. 14005 establishes the policy of the Federal Government that agencies should, when consistent with applicable law, use terms and conditions in

Federal financial assistance awards and Federal procurements to maximize the use of goods, products, and materials produced in, and services offered in, the United States. President Trump continues to believe that Buy American remains the epitome of common-sense public policy for the use of Federal taxpayer funds (see, *e.g.*, April 3, 2025, Report to the President on the America First Trade Policy Executive Summary<sup>1</sup>).

In reviewing the comments received in response to the Proposed Waiver, which are summarized in the Final Waiver, we are currently well-beyond the timeframe industry predicted would be needed to ramp-up capacity and domestically manufacture EV Chargers. The supply chain variability of 2023 levels, as articulated by commenters, has leveled off. Comments received from manufacturers in response to the November 28, 2023 RFI suggested that manufacturers have capabilities to manufacture EV Chargers wholly within their facilities located within the United States. In addition, FHWA believes there is a Federal interest in having domestically manufactured EV chargers maximize the use of domestically sourced and produced components due to national security concerns associated with dependency on foreign-produced electronic components, and FHWA seeks comment on this issue as well.

On November 15, 2021, the Build America Buy America Act (BABA) was enacted as title IX of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. No. 117-58, div. G §§ 70901-27). BABA requires Federal agencies periodically to review existing general applicability waivers of Buy America requirements by publishing in the Federal Register a notice that: (i) describes the justification for a general applicability waiver; and (ii) requests public comments for a period of not less than 30 days on the continued need for the general applicability waiver. BABA § 70914(d).

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<sup>1</sup> <https://www.whitehouse.gov/fact-sheets/2025/04/report-to-the-president-on-the-america-first-trade-policy-executive-summary/>.

For all of the above reasons, and in accordance with the President's priority to maximize the domestic content of products purchased with Federal taxpayer funds, FHWA is seeking comments on modifying the Final Waiver applicable to EV Chargers. Under the proposed modification, all such EV chargers would have to undergo final assembly in the United States, and the domestic content requirement that the cost of all components of an EV Charger that are purchased or installed with funds made available or administered by FHWA would be raised from 55 percent to up to 100 percent of the cost of components of the EV Charger. FHWA is specifically seeking comments on the higher level at which this domestic content threshold should be set along with supporting information.

If finalized, this proposed modification of the February 21, 2023 waiver would be immediately applicable to projects for EV Charger acquisition or installation that are obligated after publication of a final notice.

This proposal is designed to provide a strong incentive for manufacturers to shift more rapidly toward domestic manufacturing processes. FHWA believes this approach will be effective in fulfilling President Trump's strong commitment to help American businesses and workers compete and thrive in the global marketplace.

#### **Comment Period for Proposed Modification of Waiver**

Obtaining information through this notice and request for comment is consistent with the BABA section 70914(d) requirement to review waivers of general applicability periodically and will help FHWA determine the current state of domestic production of EV chargers and identify national security concerns associated with the use of non-U.S. components. Following the initial notice and review of comments received, FHWA will publish in the Federal Register a determination on whether to continue, modify, or discontinue the general applicability waiver.

FHWA will consider comments received in the 30-day comment period during our evaluation of the waiver request. Comments received after this period, but before notice of our finding is published in the Federal Register, may be considered to the extent practicable. Section 117 of the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. No. 110-244, 122 Stat. 1572) requires an additional 5-day, comment period after FHWA publishes a waiver finding notice. Comments received during that period will be reviewed, but the finding will continue to remain valid. Those comments may influence FHWA's decision to terminate or modify a finding as well as other potential administrative actions, such as regulatory modifications.

Issued in Washington, D.C., under authority delegated in 49 CFR 1.85.

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Sean McMaster  
Administrator  
Federal Highway Administration

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