

**STATEMENT OF THE
MANUFACTURERS OF EMISSION CONTROLS ASSOCIATION
ON THE DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY
ADMINISTRATION'S REQUEST FOR COMMENTS ON BUY AMERICA POLICY
REQUIREMENTS**

FHWA Docket No. FHWA-2013-0041

August 20, 2013

The Manufacturers of Emission Controls Association (MECA) is pleased to respond to the Department of Transportation Federal Highway Administration's (FHWA) request for comments on the continued need for the general waivers for manufactured products, more specifically diesel vehicle exhaust retrofit devices, from Buy America requirements.

MECA represents 44 North American companies that manufacture emission control technologies for mobile sources including the majority of diesel retrofit manufacturers. MECA member companies provide the advanced emission control devices that are used by air pollution non-attainment areas to achieve the goals of the Congestion Mitigation and Air Quality Improvement (CMAQ) program. MECA believes that the waiver from Buy America for manufactured products continues to be necessary.

MECA would like to comment on the following specific questions the FHWA had requested comments on in the July 10, 2013 Federal Register:

3. Are there specific or general types of manufactured products that should be covered by a public interest waiver and why?

MECA believes that vehicle retrofit should be covered by a public interest waiver. The FHWA's Moving Ahead for Progress in the 21st Century (MAP-21) requires that PM_{2.5} nonattainment and maintenance areas give priority to diesel emission reduction projects, including diesel retrofits, and that a portion of CMAQ funds in these areas be spent on projects that reduce PM_{2.5}. During this 2013 federal fiscal year, over \$326 million is set aside for projects that reduce PM_{2.5} under the CMAQ MAP-21 program with a similar amount of funding to be set aside next fiscal year. Because of the case-by-case Buy America waiver requirements and the time and effort required with processing these waivers, some metropolitan areas and even entire states are considering not accepting applications for any CMAQ-funding projects that may require a Buy America waiver. The waiver requirements cause significant delay in implementing emission reduction projects and as agencies look to programs to fund with CMAQ funds, they are currently discouraged from selecting these most cost-effective emission reduction projects due to the delays imposed by Buy America waiver processing. Because of public health issues associated with diesel emissions in particular, and the complex technical nature of these devices, it is not in the public interest to apply the Buy America requirements to all manufactured vehicle, equipment and emissions control diesel retrofit products under the CMAQ program.

6. Should vehicle retrofits be subject to Buy America? If so, what standard should be applied? Should the standard differ from that of a whole vehicle (i.e., if final assembly is the standard for a vehicle, should the FHWA be concerned about Buy America when an engine is purchased on its own for incorporation into a vehicle)?

Emission control retrofit devices such as Verified Diesel Emission Control Systems (VDECS) are highly specialized and complex technologies made up of components that are often sourced from a single supplier. These include advanced catalysts and particulate filters as well as sophisticated electronic controls. In some of these devices a steel rather than ceramic is required to support the catalyst that is the functional component within the VDECS. These verified products are required under EPA and CARB verification to employ specific components, which are sourced from key suppliers in the global automotive parts industry. Manufacturers have no method to determine where all the subcomponents, including the steel and iron in the subcomponents of a VDECS, were manufactured. Furthermore, because they may only be offered by a single supplier, a manufacturer may not be able to change suppliers as limited by the provisions of the EPA or CARB verification.

The steel employed in some components (i.e., electronic controls, catalyst substrates, switches, housings, etc.) are manufactured where specific expertise exists. Certain Buy America requirements fail to recognize the U.S. origin of employed steel if any fabrication occurs outside the U.S. Retrofit devices represent manufactured products composed of multiple components and subcomponents. It is not possible to trace their origin or guarantee that all steel components and steel related processes will be performed in the United States for such specialized advanced technology devices.

8. Do the minimal use threshold provisions of 23 CFR 635.410(b)(4) represent reasonable criteria for expressing the public interest exclusion limitations for the Federal-aid highway program, and present an appropriate balance between an undue administrative burden in accounting for every steel and iron item in a project versus giving effect to the intent of Buy America?

Under the regulations at 23 CFR 635.410(b)(4), MECA believes that FHWA, at a minimum, should increase the current threshold of 1/10th of one percent or \$2,500, whichever is greater, of the total contract cost for permitting the incorporation of foreign steel or iron items into a project. If FHWA were to keep this provision, MECA recommends a threshold of \$50,000 per each diesel retrofit unit to be purchased under the Federal-aid program. These projects tend to be standalone projects and thus the 1/10th of the project cost provision is irrelevant and should not apply. Again, we believe the public interest is not served by applying the Buy America provisions to diesel retrofit devices; however, if FHWA were to retain the provisions of the minimal use threshold, the threshold should be considerably increased.

Conclusion

All of the manufactured products and components sourced by the emission control industry create value that supports U.S. based manufacturing wages. Our industry supports over 65,000 U.S. manufacturing and service jobs in the U.S. Failure to provide waivers for these

technologically advanced manufactured products will result in employment losses in the green technology companies such as diesel retrofit manufacturers and their U.S. based suppliers. Furthermore, it will hinder the clean air objectives of the CMAQ program resulting in continued poor air quality for Americans.

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