

economic injury to a small business concern as a result of a proposed award. Although these regulations were originally established for awards made during fiscal years 1989-93, they have remained in effect and will generally apply to awards made in fiscal year 1995.

However, Sections 121.2004 and 121.2005 are now being revised to incorporate the current title and address of the SBA official responsible for deciding protests concerning the eligibility of a handicapped organization and appeal of awards based on severe economic impact on small business. An internal reorganization of the SBA included the renaming of the "Office of Procurement Assistance" to the "Office of Government Contracting." The responsibilities of the Office of Government Contracting, however, include those of the former Office of Procurement.

The SBA is publishing this regulation as a final rule without notice and opportunity for public comment since the SBA is merely adopting the statutory language into its regulations to recognize the eligibility granted to public or private handicapped organizations to participate in small business set-aside contracts during fiscal year 1995. In addition, the change to the title of the Agency official responsible for deciding protests and appeals concerning small business set-aside awards to handicapped organizations is a matter of Agency management and personnel and is, therefore, published without notice and comment pursuant to 5 U.S.C. 553(a)(2).

Compliance With Executive Orders 12612, 12788 and 12866, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and the Paperwork Reduction Act (44 U.S.C. Chapter 3501 et seq.)

The SBA certifies that this rule is not a significant rule within the meaning of Executive Order 12866 and will not have a significant economic impact on a substantial number of entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. This rule does not impose costs upon the businesses which might be affected by it. Because the rule will have no effect on the amount or dollar value of any contract requirement or the number of requirements reserved for the small business set-aside program, it will not have an annual economic effect of \$100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA

certifies that this rule contains no new reporting or recordkeeping requirements. For purposes of Executive Order 12612, SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12778, the SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of this order.

For the reasons set forth above, Title 13, Code of Federal Regulations (CFR), is amended as set forth below.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

PART 121—[AMENDED]

1. The authority citation for 13 CFR Part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), and 644(c); and Pub. L. 102-486, 106 Stat. 2776, 3133.

2. Section 121.2001 is revised to read as follows:

§ 121.2001 Statutory basis.

(a) The Small Business Act, as amended by Public Law 103-403, provides that public or private organizations for the handicapped shall be eligible to participate in small business set-aside contracts for fiscal year 1995 in an aggregate amount not to exceed \$40,000,000. See 15 U.S.C. 644(c)(2)(A).

(b) Agencies awarding one or more contracts to such a handicapped organization may use multi-year contracts, if appropriate. See 15 U.S.C. 644(c)(7).

(c) Awards to public or private organizations for the handicapped may be appealed to SBA when a small business experiences or is likely to experience severe economic injury as a result of the proposed award to an organization for the handicapped. Any eligible concern wishing to appeal must file its appeal with the SBA within 10 days after the announcement of the proposed award to which the appeal relates. The SBA is afforded 30 days from the date the appeal is filed to consult with the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped.

3. Section 121.2004 is amended by revising paragraphs (c)(1) and (c)(5) to read as follows:

§ 121.2004 Protest of eligibility.

* * * * *

(c) *Procedure for protest.* (1) Protests shall be submitted to the contracting officer who shall promptly forward them to the Associate Administrator for Government Contracting, Small Business Administration, 409 Third Street SW., Washington, DC 20416. The Associate Administrator shall be the deciding official for purposes of protests under this section.

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(5) The Associate Administrator for Government Contracting shall consult with the Executive Director of the Committee for Purchases from the Blind and Other Severely Handicapped before rendering a determination.

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4. Section 121.2005 is amended by revising paragraph (c)(1) to read as follows:

§ 121.2005 Appeal of economic impact.

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(c) *Procedure for appeal.* (1) Appeals shall be submitted to the contracting officer who shall promptly forward them to the Associate Administrator for Government Contracting, Small Business Administration, 409 Third Street SW., Washington, DC 20416. The Associate Administrator shall be the deciding official for purposes of appeals under this section.

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Dated: February 15, 1995.

Philip Lader,
Administrator.

[FR Doc. 95-6978 Filed 3-23-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

General Material Requirements; Buy America Requirements

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of nationwide waiver of Buy America for pig iron and processed, pelletized, and reduced iron ore.

SUMMARY: The FHWA is hereby granting a nationwide waiver of the Buy America requirements for certain iron components used in the manufacture of steel and/or iron materials. Based on the findings of a nationwide review, and after analyzing the comments submitted in response to the waiver proposal, the FHWA believes that the supply from domestic sources of pig iron and processed, pelletized, and reduced iron ore is not adequate to permit full

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,