

FRA will publish the results of this study. A summary of the results may also be presented at technical meetings, such as the annual meeting of the Transportation Research Board, or at conferences/talks with professional associations such as the Women's Transportation Seminar and the American Public Transportation Association.

*Type of Request:* Approval of a new collection of information.

*Affected Public:* Rail stakeholders including those in labor positions, carrier management, research/academia, professional association staff, HR personnel, regulators, executive level staff, etc.

*Form(s):* FRA F 6180.278 and FRA F 6180.279.

*Respondent Universe:* Rail stakeholders including those in labor positions, carrier management, research/academia, professional association staff, human resources (HR) personnel, regulators, executive level staff, etc.

*Frequency of Submission:* On occasion.

*Total Estimated Annual Responses:* 95.

*Total Estimated Annual Burden:* 25 hours.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

*Authority:* 44 U.S.C. 3501–3520.

**Christopher S. Van Nostrand,**

*Deputy Chief Counsel.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket No. FTA–2024–0007]

#### Notice of FTA's Review of Its Partial Waiver of Buy America Requirements for Vans and Minivans and Request for Comment

**AGENCY:** Federal Transit Administration, Department of Transportation.

**ACTION:** Notice; request for comment.

**SUMMARY:** The Federal Transit Administration (FTA) is seeking comment on an extension of its existing partial general nonavailability waiver for mass-produced, unmodified, non-ADA accessible vans and minivans. Following review and consideration of comments, FTA will determine whether to extend the waiver, modify the waiver, or allow the waiver to lapse.

**DATES:** Comments must be received by September 23, 2024. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** Please submit all comments electronically to the Federal eRulemaking Portal. Go to <https://www.regulations.gov> and follow the instructions for submitting comments.

*Instructions:* All submissions must refer to the Federal Transit Administration and the docket number at the top of this notice. Note that all submissions received, including any personal information provided, will be posted without change and will be available to the public at <https://www.regulations.gov>. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or at <https://www.transportation.gov/privacy>. Confidential Business Information may be protected following the procedures outlined at the end of this notice.

**FOR FURTHER INFORMATION CONTACT:** Jason Luebbers, FTA Attorney-Advisor, at (202) 366–8864 or [jason.luebbers@dot.gov](mailto:jason.luebbers@dot.gov).

**SUPPLEMENTARY INFORMATION:** The purpose of this notice is to seek public comment on whether FTA should grant an extension to its October 25, 2022, partial general nonavailability waiver for mass-produced, unmodified vans and minivans (87 FR 64534). If not extended, the waiver will expire after October 24, 2024.

#### Background

On November 15, 2021, President Biden signed into law the Build America Buy America Act (BABA), enacted as Title IX of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58, div. G, sections 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 section 70914(d).

Obtaining information through this notice and request for comment is consistent with the BABA requirement to review waivers of general applicability and will help FTA determine the current state of domestic production of vans and minivans prior to expiration of the partial general nonavailability waiver. Following the review of comments received, FTA will publish in the **Federal Register** a

determination on whether it will renew the general applicability waiver, modify the waiver, or allow it to lapse. Through this notice, FTA describes the original justification for its partial general nonavailability waiver for mass-produced unmodified non-ADA-accessible vans and minivans and seeks public comment on whether it continues to be justified.

#### Partial General Buy America Waiver for Vans and Minivans

Under FTA's Buy America statute (49 U.S.C. 5323(j)), FTA may obligate funds for a project to procure rolling stock only if the cost of components and subcomponents produced in the United States is more than 70 percent of the cost of all components of the rolling stock, and final assembly of the rolling stock occurs in the United States. 49 U.S.C. 5323(j)(2)(C). A manufacturer of rolling stock must submit to pre-award and post-delivery audits and independent inspections to verify its compliance with Buy America. 49 U.S.C. 5323(m).

On October 25, 2022, following multiple individual requests for a Buy America waiver for non-ADA-accessible vans or minivans that can be used in federally funded vanpool programs, FTA issued a partial, time-limited, general nonavailability waiver from the Buy America requirements. FTA issued a partial waiver to maximize the use of materials produced in the United States, consistent with Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers (86 FR 7475). Specifically, FTA waived the Buy America requirements for mass-produced, unmodified, non-ADA-accessible vans and minivans with seating capacity for at least six adults, not including the driver. Eligible vehicles, in lieu of applying the general Buy America standards for rolling stock, must meet the following qualifications:

- (1) Final assembly must occur in the United States, as reported to the National Traffic Safety Administration (NHTSA) under the American Automobile Labeling Act (AALA); and
- (2) The country of origin of the engine or motor must be the United States, as reported to NHTSA under the AALA. See 49 U.S.C. 32304 and 49 CFR part 583.

FTA planned for the waiver to expire two years after the date of issuance, or upon FTA's publication of a **Federal Register** notice rescinding the waiver after determining that a fully Buy America-compliant vehicle has become available, whichever occurred first. Unless FTA extends the waiver, the

waiver will expire after October 24, 2024.

### Original Justification for General Waiver for Vans and Minivans

In issuing its partial waiver, FTA struck a balance between making vanpool-capable vehicles available to public transportation providers and at the same time maximizing U.S. manufacturing activity in accordance with E.O. 14005. For example, although forty-nine commenters requested that FTA not require U.S.-manufactured engines or motors, FTA noted that a number of van and minivan models available at the time met the U.S. manufacturing requirement for engines or motors, and therefore maintained this requirement in the October 2022 waiver.

Since FTA issued the waiver, FTA has received no new information suggesting that unmodified vans and minivans that comply with Buy America are produced in the United States in a sufficient and reasonably available amount. While a number of manufacturers continue to produce commercial vehicles meeting the domestic manufacturing requirements of FTA's waiver—that is, U.S. final assembly and U.S. manufacture of the engine or motor—no manufacturer has notified FTA of such a vehicle fully meeting the Buy America requirements. Further, no manufacturer has submitted a vehicle model for a Buy America pre-award audit.

### Requests From the Public To Extend the Waiver

On November 13, 2023, the Association for Commuter Transportation (ACT) requested that FTA extend the current van and minivan waiver in order to avoid a significant disruption to vanpool services. ACT (on behalf of its government, metropolitan planning organization, higher education institution, and service provider members) requested that FTA engage stakeholders to identify a path forward that avoids a disruption of vanpool programs while also upholding the spirit and intent of the Buy America rules. In addition to the ACT request, FTA has received numerous, less formal requests from transit operators in the form of emails, phone calls, and in-person contacts during meetings or conferences to maintain the waiver.

### Questions on FTA's General Waiver for Vans and Minivans

FTA is soliciting comments from the public, including public and private stakeholders, regarding whether it should extend, modify, or allow the partial van and minivan waiver to lapse.

In answering the questions below, please also explain the likely impacts of your suggested course of action for FTA on administering and delivering FTA-funded projects and on supporting domestic manufacturing and jobs.

### General Considerations

1. Are there any unmodified non-ADA-accessible vans or minivans with seating capacity for at least six adults, not including the driver, for which the cost of components and subcomponents produced in the United States is more than 70 percent of the cost of all components, and final assembly of the vehicle occurs in the United States?

- a. If so, which vehicles?
- b. If so, in what quantity are they available?

2. Do the market conditions that led to FTA's decision to issue the partial van and minivan waiver still exist and, if so, do they warrant continuing the waiver?

3. What actions could FTA take, if any, to promote the domestic production of Buy America-compliant vans and minivans?

4. Is there a publicly available source better suited than AALA reports (<https://www.nhtsa.gov/part-583-american-automobile-labeling-act-reports>) to determine the domestic content and country of final assembly for vans and minivans? If so, please specify the data source and explain why it is preferred.

### Considerations for Modifying the Waiver

5. If FTA were to modify the van and minivan waiver, what would be the likely impact on administering and delivering Federal transit projects? In what ways could modifications to the waiver promote or hinder the effective and efficient delivery of Federal transit projects across the United States? As examples, commenters may wish to consider the following modifications to the van and minivan waiver, specifying the likely impact of each and explaining why that impact is likely to occur:

- a. In addition to engines and motors, require U.S.-manufactured transmissions as reported to NHTSA under the AALA.
- b. Add a requirement that a vehicle contain some minimum percentage of "Content US/Canada," as defined by and reported to NHTSA under the AALA.

6. FTA is also interested in any other proposals to modify the waiver not listed here that would meet the goals of promoting the efficient delivery of Federal transit projects and supporting domestic manufacturing and jobs. For

each proposal, please explain how the waiver modification proposed achieves both goals and provide supporting information or documentation, where applicable.

### 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 FTA 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 FTA, 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. FTA will protect confidential information complying with these requirements to the extent required by applicable law. If DOT receives a FOIA request for information that the submitter has marked in accordance with this notice, DOT will follow the procedures described in DOT's FOIA regulations at 49 CFR 7.29. Any information that is marked in accordance with this notice and ultimately determined to be exempt from disclosure under FOIA and § 7.29 will not be released to a requester or placed in the public docket of this notice. Submissions containing CBI should be sent to [jason.luebbers@dot.gov](mailto:jason.luebbers@dot.gov). Any comment submissions that FTA receives that are not specifically designated as CBI will be placed in the public docket for this matter.

FTA encourages commenters to share all information responsive to the questions below, including confidential information. Doing so will allow FTA to have a complete picture of the effects of continuing, discontinuing, or modifying the existing partial general applicability waiver for vans and minivans.

**Veronica Vanterpool,**  
*Acting Administrator.*

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