

Request

Action: Notice, request for comments.

Web posting date: 07/03/2013

Federal Register Notice of Finding Publication Date: to be determined

Effective Date of Federal Register: to be determined

Close of public comment period: 15 days following the effective date

Summary: FHWA invites comments in response to a request by the California Department of Transportation's (Caltrans) request for a waiver of Buy America requirements for various components related to the relocation of Pacific Gas and Electric's (PG&E) natural gas service facilities on the Cordelia I-80/I-680/SR 12 project in Solano County, California. The proposed waiver would cover approximately 167 material items (valves and related items, steel pipe products, regulators, and miscellaneous other products. See the exhibit to June 27, 2013, PG&E letter. Caltrans asserts that this waiver would be in the public interest and consistent with 23 USC 313.

All utilities involved in relocation work as a result of a Federally funded highway project are required to comply with Buy America by virtue of Section 1518 of MAP-21, which became effective on October 1, 2012. Caltrans asserts that a limited waiver is in the public interest because the timely relocation of the PG&E's natural gas service facilities is critical to ensure that the San Francisco metro area has an adequate gas supply for the winter. At the current time, PG&E cannot certify that all iron and steel in the valves and related materials complies with Buy America. The non-Buy America compliant materials to be used represent:

- 0.04 of the utility relocation project cost, and
- 0.0013 of the interchange project cost.

Finally, Caltrans represents that a public interest waiver is justified because of safety concerns expressed by the PG&E that it must ensure the safe operation of the gas pipeline system by using only materials certified to meet existing standards and requirements.

FHWA will consider a Buy America waiver only when the conditions of 23 CFR 635.410(c) have been met, i.e., (1) when the application of the provision would be inconsistent with the public interest; or (2) when steel and iron products are not produced in the United States in sufficient and reasonably available quantities, which are of a satisfactory quality.

In considering waiver requests, there are two separate and distinct comments periods. There is an initial 15-day comment period that opens upon the posting of this notice to the Internet prior to the final decision and a subsequent 15-day comment period after the publication of the final decision in the Federal Register. In our evaluation of the Caltrans' waiver request, FHWA will consider all comments received during the initial 15-day comment period. Comments received after this period, but before notice of our finding is published in the Federal Register, will be considered to the extent practical. Follow-up coordination on the comments received may result in a delay in the publication of our waiver finding in the Federal Register. Comments received during the 15-day comment period after notice of our finding is published in the Federal Register will be reviewed, but the finding will continue to remain valid. Comments received during

the comment period after the effective date of the finding will be reviewed, and may influence the FHWA's decision to terminate or modify its finding.