



ZERO EMISSION
TRANSPORTATION
ASSOCIATION

June 7, 2022

Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

Re: Notice of public interest adjustment period waiver for 2022 Clean School Bus Rebate Program; 2022 DERA State Grants; and 2022 DERA Tribal and Insular Area Request for Applications.

Background:

The Zero Emission Transportation Association (ZETA) is a federal coalition advocating for 100% electric vehicle (EV) sales by 2030. Our diverse membership represents the full breadth of the EV sector and has a deep understanding of the domestic supply chain. We appreciate the opportunity to comment on the waiver review process for instrumental programs such as the Clean School Bus (CSB) Program and the Diesel Emissions Reduction Act (DERA).

Electrifying the heavy-duty vehicle (HDV) segment represents a prime and outsized opportunity to improve public health, minimize greenhouse gas (GHG) emissions, and reduce the country's fossil fuel reliance and net energy consumption. As ZETA detailed in our white paper, "Medium- and Heavy-Duty Electrification: Weighing the Opportunities and Barriers to Zero-Emission Fleets," HDVs comprise 4% of vehicles on the road. Yet, they disproportionately contribute to U.S. fuel consumption, air pollution, and climate repercussions. Buses and freight trucks alone represent 10% of all vehicle miles traveled (VMT), but they are responsible for 22% of all fuel used. Likewise, HDVs produce 24.4% of all transportation sector emissions, making them the single most significant contributors to the presence of particulate matter (PM_{2.5}), NO_x, volatile organic compounds (VOC), and carbon dioxide (CO₂) in the air. These elements are linked to long-term respiratory, cognitive, and autoimmune impairment. HDVs' emissions are getting worse: between 1990 and 2019, GHG emissions from heavy-duty trucks and buses grew by 93% and 162%, respectively.

The Infrastructure Investment and Jobs Act (IIJA) allocates \$5 billion over the next five years (FY22-26) through competitive grants and rebates to replace existing school buses with clean and zero-emission (ZE) models. The rebate program is comprised of \$500 million (\$250 million for ZE and \$250 million for low-emission vehicles). In addition, the DERA program funds grants and rebates that protect human health and improve air quality by providing funding to upgrade older, polluting diesel equipment with modern, fuel-efficient replacement technologies.

The Build America, Buy America Act (BABA Act) will improve domestic manufacturing, increase national security, and encourage job creation. Under this Act, "none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States" (P.L. 117-58).

Pursuant to Section 70914(c) of the BABA Act, the Environmental Protection Agency (EPA or “the Agency”) may waive Buy America preference where EPA finds that:

- Applying the domestic content procurement preference would be inconsistent with the public interest (a “public interest waiver”);
- Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a “nonavailability waiver”); or
- The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (an “unreasonable cost waiver”).

While many manufacturers aim to fully assemble EVs or EVSE domestically, the current supply chain is still developing. It is unlikely that manufacturers will meet full compliance in time to meet our collective goals for electric vehicle sales and adoption. If applied strictly, without allowing time to meet the standards gradually, domestic content requirements have the potential to delay the transition to widespread ZE transit and clean school buses and potentially even inhibit our ability to scale and reshore manufacturing as a whole.

Since 2012, the Department of Transportation (DOT) has interpreted the 1983 manufactured products exemption created under its Buy America authority to cover goods not made predominantly of steel and/or iron. As a manufactured good that does not rely heavily on either of those metals, EV chargers have historically qualified for this waiver. At this time, ZETA’s member companies indicate that they cannot readily manufacture EVSE that can both comply with the IIJA’s domestic content requirements and provide the capabilities Congress anticipated when it created the bill’s EVSE funding programs. However, with a longer adjustment period and with clear guidance, the EV industry can make progress towards meeting the IIJA’s Buy America standard and onshore more of the materials and jobs needed to build and install EVSE.

As EPA moves forward with Buy America implementation, we request that the Agency do the following:

- Ensure that the market can secure an American supply chain by establishing a minimum domestic content standard and assuring final assembly requirements are a part of the program;
- Provide regulatory certainty with a predictable, well-defined timeline for when new domestic preference regulations are implemented;
- Ensure that these requirements are implemented with a complete understanding of the zero-emission or low-emission supply chain;
- Coordinate with the Department of Energy and the Department of Transportation, particularly when assets purchased by EPA grantees with federal funds are also the same assets purchased by grantees of the Federal Transit Administration, the Federal Highway Administration, Federal Aviation Administration, and other federal agencies.

ZETA supports the appropriate use of waivers to bolster BABA compliance. However, assuring compliance with achievable standards needs to be a process that is not overly burdensome on manufacturers, EPA, or school districts. In addition, federal oversight for Buy America compliance should not be excessively onerous, as self-certification processes currently are.

Conclusion:

As EV adoption continues to grow in the U.S., EVSE deployment will present economic growth and public service opportunity for communities across the country. Buy America requirements can encourage domestic EVSE production and incentivize the development of a domestic supplier ecosystem and workforce. However, if implemented prematurely—before the industry can establish or scale up local production—it can halt EV deployment. Doing so would have severe negative consequences for the general public, resulting in more emissions, worse public health, and higher costs for consumers. ZETA and its members stand ready to help EPA design a path forward, in coordination with the Departments of Energy and Transportation, that addresses the public health concerns related to inefficient, polluting school buses and transit.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Britton', with a stylized flourish at the end.

Joseph Britton
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