

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****Buy America Waiver Notification**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for certain steel products used in Federal-aid construction projects in New York and Rhode Island.

**DATES:** The effective date of the waiver is October 7, 2008.

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366-1562, [gerald.yakowenko@dot.gov](mailto:gerald.yakowenko@dot.gov). For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366-4928, [michael.harkins@dot.gov](mailto:michael.harkins@dot.gov). Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., *e.t.*, Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:****Electronic Access**

An electronic copy of this document may be downloaded from the **Federal Register's** home page at: <http://www.archives.gov> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

**Background**

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for two specific cases.

In accordance with section 130 of Division K of the "Consolidated Appropriations Act, 2008" (Pub. L. 110-161), the FHWA published on its Web site a notice of intent to issue a waiver for Center Pivot Bearing Assembly in New York <http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=14> on July 14, and stainless steel clad reinforcing bars (for experimental research) in Rhode Island

<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=18> on August 12. The FHWA received a comment in response to Center Pivot Bearing Assembly which suggested that the Center Pivot Bearing may be available domestically. Further investigation and inquiry revealed that the product is not available domestically. Some comments received in response to stainless steel clad rebars suggested that solid stainless rebar should be used, and that stainless clad rebar may be more expensive than solid stainless rebar. Other commenters disagreed with this position. The Rhode Island DOT's waiver request is to evaluate the stainless clad reinforcing bars under an experimental project. During the 15-day comment period, the FHWA conducted additional nationwide review to locate potential domestic manufacturers for the products. Based on all the information available to the Agency including the responses received to the notices as well as the Agency's nationwide review, the FHWA concludes that there are no domestic manufacturers for these products and a Buy America waiver is appropriate as provided by 23 CFR 635.410(c)(1).

In accordance with the provisions of section 117 of the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat.1572), the FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the links above to the New York and Rhode Island waiver pages noted above.

(Authority: 23 U.S.C. 313; Pub. L. 110-161, 23 CFR 635.410)

Issued on: September 29, 2008.

**Thomas J. Madison, Jr.**

*Federal Highway Administrator.*

[FR Doc. E8-23574 Filed 10-3-08; 8:45 am]

**BILLING CODE 4910-22-P**

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; CHRYSLER**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the Chrysler LLC, (Chrysler) petition for exemption of the Dodge Journey vehicle line in accordance with 49 CFR Part 543, *Exemption from the Theft Prevention Standard*. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541).

**DATES:** The exemption granted by this notice is effective beginning with the 2010 Model Year (MY).

**FOR FURTHER INFORMATION CONTACT:** Ms. Carlita Ballard, International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366-0846. Her fax number is (202) 493-2990.

**SUPPLEMENTARY INFORMATION:** In a petition dated July 15, 2008, Chrysler requested an exemption from the parts-marking requirements of the theft prevention standard (49 CFR Part 541) for the Dodge Journey vehicle line, beginning with MY 2010. The petition requested an exemption from parts-marking requirements pursuant to 49 CFR 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under Section § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one of its vehicle lines per year. Chrysler has petitioned the agency to grant an exemption for its Dodge Journey vehicle line beginning with MY 2010. In its petition, Chrysler provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. Chrysler will install the Sentry Key Immobilizer System (SKIS) antitheft device as standard equipment on the vehicle line. The major components of the SKIS device consists of a powertrain control module, integrated power module, sentry key remote entry module (SKREEM), fob with integrated key (FOBIK) and an electromechanical instrument cluster which controls the telltale function only. All of these components work collectively to perform the immobilizer function.

Chrysler stated that the SKIS provides passive vehicle protection by preventing the engine from operating unless a valid electronically encoded key is detected in the ignition lock cylinder. The immobilizer feature is activated when

the key is removed from the ignition lock cylinder. Once activated, only a valid key inserted into the ignition lock cylinder will disable immobilization and allow the vehicle to start and continue to run.

The SKREEM/Wireless Ignition Node (WIN), an integral component of the SKIS anti-theft device contains a radio frequency transceiver and microprocessor that receives signals from the Sentry key transponder and communicates to the FOBK. The SKREEM/WIN determines whether a valid key is present in the ignition switch based on the signal received from the transponder, and also serves as the receiver for the Tire Pressure Monitoring System if the vehicle is equipped with one. To avoid any perceived delay when starting the vehicle with a valid key and to prevent unburned fuel from entering the exhaust, the engine is permitted to run for no more than 2 seconds if an invalid key is used. If the response identifies the key as invalid, or if no response is received from the key transponder, the SKREEM sends an invalid key message to the Powertrain Control Module (PCM). The PCM will disable engine operation (after the initial 2-second run) based upon the status of the SKREEM messages. Chrysler stated that only six consecutive invalid vehicle start attempts would be permitted and all other attempts would be locked out by preventing the fuel injectors from firing and disabling the starter.

Chrysler stated that it has incorporated an unauthorized vehicle start telltale light into the device. The telltale feature operates as a security indicator in the ElectroMechanical Instrument Cluster (EMIC). The telltale alerts the owner that an unauthorized vehicle start attempt has been made. Upon an unauthorized start attempt, the telltale will flash on and off when the ignition switch is turned to the "ON" position. Besides acting as a security indicator, the telltale acts as a diagnostic indicator. If the SKREEM detects a system malfunction and/or the SKIS has become inoperative, the security indicator will stay on. If the SKREEM detects an invalid key or if a key transponder-related fault exists, the security indicator will flash.

Each ignition key used in the SKIS has an integral transponder chip included on the circuit board beneath the cover of the integral Remote Keyless Entry (RKE) transmitter. In addition to having to be cut to match the mechanical coding of the ignition lock cylinder and programmed for operation of the RKE system, each new Sentry Key has a unique transponder identification

code that is permanently programmed into it by the manufacturer, and which must be programmed into the SKREEM to be recognized by the SKIS as a valid key. Chrysler stated that once a Sentry Key has been programmed to a particular vehicle, it cannot be used on any other vehicle.

Chrysler stated that the SKIS device does not provide any visible or audible indication of unauthorized entry but that the theft data has indicated a decline in theft rates for vehicle lines that have been equipped with anti-theft devices similar to that which it proposes to install on the Dodge Journey vehicle line. The agency has previously concluded that the lack of a visual or audible alarm has not prevented these anti-theft devices from being effective protection against theft.

In addressing the specific content requirements of 543.6, Chrysler provided information on the reliability and durability of the device. Chrysler conducted tests based on its own specified standards and stated its belief that the device meets the stringent performance standards prescribed. Specifically, Chrysler stated that its device must demonstrate a minimum of 95 percent reliability with 90 percent confidence. In addition to the design and production validation test criteria, Chrysler stated that the SKIS also undergoes a daily short term durability test. Chrysler also stated that 100% of its systems undergo a series of three functional tests for durability prior to being shipped from the supplier to the vehicle assembly plant for installation in its vehicles.

Chrysler also stated that while there is no theft data available for the Dodge Journey because it's a new vehicle line introduction, experience with the Chrysler Pacifica, a similar 5-door, front wheel drive/AWD crossover vehicle indicates that the Dodge Journey is projected to have a theft rate lower than the median theft rate. The average theft rate for the Chrysler Pacifica using 3 Model Years (MY's) data is 1.9677.

Chrysler also stated that experience with the Jeep Grand Cherokee, which was subject to the parts marking requirements and subsequently equipped with ignition immobilizer systems as standard equipment, indicate that even lower theft rates can be expected from a vehicle equipped with standard ignition immobilizer systems. Chrysler has offered the SKIS vehicle immobilizer system as standard equipment on all Jeep Grand Cherokee vehicles since MY 1999. Chrysler indicated that based on NHTSA's theft rate data, the average theft rate for Jeep Grand Cherokee vehicles (1995–1998)

before an immobilizer was offered as standard equipment on the Jeep Grand Cherokee vehicles was 5.3574, significantly above the median theft rate of 3.5826. However, the average theft rate for the six model years (1999–2005) after installation of the standard immobilizer device is 2.5492, significantly lower than the median. The Jeep Grand Cherokee vehicle line was granted an exemption from the parts-marking requirements beginning with MY 2004. Chrysler further stated that NHTSA's theft data for the Jeep Grand Cherokee indicates that the inclusion of a standard immobilizer system has resulted in a 52.3% net average reduction in vehicle thefts. On the basis of the previous comparisons, Chrysler has concluded that the proposed anti-theft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the information Chrysler has provided about its device, the agency concludes that the anti-theft device for the Dodge Journey vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541). The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR Part 543.6(a)(4) and (5), the agency finds that Chrysler has provided adequate reasons for its belief that the anti-theft device will reduce and deter theft. This conclusion is based on the information Chrysler provided about its anti-theft device.

For the foregoing reasons, the agency hereby grants in full Chrysler's petition for an exemption for the MY 2010 Dodge Journey vehicle line from the parts-marking requirements of 49 CFR Part 541. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the anti-theft device is necessary in order to notify

law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Chrysler decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Chrysler wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: September 30, 2008.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E8-23598 Filed 10-3-08; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-369 (Sub-No. 7X)]

#### Buffalo & Pittsburgh Railroad, Inc.— Abandonment Exemption—in Erie and Cattaraugus Counties, NY

Buffalo & Pittsburgh Railroad, Inc. (BPRR) has filed a verified notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon a 27.6-mile line of railroad extending from milepost 8.4 in Orchard Park, in Erie County, NY, to milepost 36 in Ashford, in Cattaraugus County, NY.

The line traverses United States Postal Service Zip Codes 14127, 14025, 14033, and 14141.

BPRR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) all overhead traffic has been rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.*—

*Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 5, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 16, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 27, 2008, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.<sup>3</sup>

<sup>1</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>2</sup> Effective July 18, 2008, the filing fee for an OFA increased to \$1,500. See *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2008 update*, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

<sup>3</sup> On September 22, 2008, the New York State Office of Parks, Recreation and Historic Preservation filed a request for the issuance of a notice of interim trail use and for imposition of a public use condition for the 27.6-mile rail line. On

A copy of any petition filed with the Board should be sent to BPRR's representative: Eric M. Hocky, Thorp Reed & Armstrong, LLP, One Commerce Square, 2005 Market Street, Suite 1910, Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

BPRR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by October 10, 2008. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BPRR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BPRR's filing of a notice of consummation by October 6, 2009, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: September 29, 2008.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Anne K. Quinlan,**

*Acting Secretary.*

[FR Doc. E8-23422 Filed 10-3-08; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

September 30, 2008.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995,

September 26, 2008, BPRR agreed to negotiate for interim trail use/rail banking.