

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration**

[Docket No. NHTSA–2014–0101]

Notice of Buy America Waiver

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

ACTION: Notice of Buy America waiver.

SUMMARY: This Notice provides NHTSA's finding with respect to a request from the Idaho Department of Transportation (IDOT) to waive the requirements of Buy America for the purchase of Child Passenger Safety (CPS) training dolls. NHTSA finds that a non-availability waiver of the Buy America requirements is appropriate for the purchase of the CPS training dolls using Federal highway safety grant funds because there are no suitable products produced in the United States.

DATES: The effective date of this waiver is September 29, 2014. Written comments regarding this notice may be submitted to NHTSA and must be received on or before: October 8, 2014.

ADDRESSES: Written comments may be submitted using any one of the following methods:

- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Fax:* Written comments may be faxed to (202) 493–2251.
- *Internet:* To submit comments electronically, go to the Federal regulations Web site at <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Instructions: All comments submitted in relation to this waiver must include the agency name and docket number. Please note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. You may also call the Docket at 202–366–9324.

FOR FURTHER INFORMATION CONTACT: For program issues, contact Barbara Sauers, Office of Regional Operations and Program Delivery, NHTSA (phone: 202–366–0144). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202–366–5263). You may send mail to these

officials at National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This Notice provides NHTSA's finding that a waiver of the Buy America requirements, 23 U.S.C. 313, is appropriate for IDOT to purchase CPS training dolls using grant funds authorized under 23 U.S.C. 402 (section 402) and 23 U.S.C. 405(b) (section 405) to train safety professionals, police officers, fire and emergency medical personnel, educators, and parents on the use of child restraints and occupant protection. Section 402 funds are available for use by State Highway Safety Programs to reduce traffic accidents and deaths, injuries and property damage and to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles. 23 U.S.C. 402(a). Section 405(b) funds are available for use by State Highway Safety Programs to implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles that, among other things, includes supporting resources and training in all aspects of the use of child restraints. See 23 U.S.C. 405(b)(4)(A)(ii).

Buy America provides that NHTSA “shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or [Title 23 U.S.C.] and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.” 23 U.S.C. 313. However, NHTSA may waive those requirements if (1) their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent. 23 U.S.C. 313(b).

IDOT seeks a waiver to purchase CPS training dolls because there are no sufficient products produced domestically that meet the needs identified by IDOT. IDOT aims to use the CPS training dolls to educate caregivers and CPS technicians how to properly restrain infants and children in child restraints and how to select the correct restraint for each child based on the child's age, height, and weight, and/or physical disability. Idaho notes

that regular play dolls are inadequate for the purpose of CPS training because such dolls do not accurately replicate an infant's or child's physical build, such as, height, weight, and structural proportions (e.g., an infant's head is 25% of the infant's total body weight). In contrast, CPS training dolls are designed to model the typical physique of a child at a certain age.

Idaho seeks to purchase CPS training dolls from Huggable Images, which offers for sale CPS training dolls that are manufactured in China. This company provides CPS training dolls that simulate newborns (including premature newborns), infants, toddlers and children of varying heights and weights.

However, IDOT is unable to identify other CPS training dolls manufactured in the United States. IDOT states that it worked closely with the Idaho Chapter of the American Academy of Pediatrics to research the availability of CPS training dolls manufactured or assembled in the United States. Its research included Internet research, research through a supplier network, Thomasnet.com and an email request to over 1400 child passenger safety professionals. Despite Idaho's efforts, it was unable to find any American made CPS training dolls. NHTSA conducted similar assessments and is not aware of any CPS training dolls produced in the United States.¹ Since these items are unavailable from a domestic manufacturer, the Buy America waiver is appropriate. NHTSA invites public comment on this conclusion.

In light of the above discussion, and pursuant to 23 U.S.C. 313(b)(2), NHTSA finds that it is appropriate to grant a waiver from the Buy America requirements to IDOT in order to purchase the CPS training dolls. This waiver applies to Idaho and all other States seeking to use section 402 and 405 funds to purchase these items for the purposes mentioned herein. These waivers will continue through fiscal year 2015 and will allow the purchase of these items as required for IDOT and its training programs. Accordingly, this waiver will expire at the conclusion of fiscal year 2015 (September 30, 2015). In accordance with the provisions of Section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical

¹ One company, Nasco, offers one day old infant dolls that are life-like to train expecting parents the basics of baby care. See <http://www.nasco.com/c/fcs/Child+Development+Family+Life/Newborn+Baby+Dolls/>. While these training dolls are anatomically correct, they are not necessarily accurate for height and weight that would be appropriate for CPS training.

Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), NHTSA is providing this Notice as its finding that a waiver of the Buy America requirements is appropriate for the CPS training dolls. Written comments on this finding may be submitted through any of the methods discussed above.

Authority: 23 U.S.C. 313; Public Law 110–161.

Issued in Washington, DC, under authority delegated in 49 CFR part 1.95.

O. Kevin Vincent,

Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0098; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 2002 BMW Z3 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that nonconforming 2002 BMW Z3 passenger cars that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the same 2002 BMW Z3 passenger cars) and they are capable of being readily altered to conform to the standards.

DATE: The closing date for comments on the petition is October 23, 2014.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- *Fax:* 202–493–2251.

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below. **Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

How to Read Comments Submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as

the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (Registered Importer R–90–005) (WETL) has petitioned NHTSA to decide whether nonconforming 2002 BMW Z3 passenger cars are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are 2002 BMW Z3 passenger cars that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified 2002 BMW Z3 passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 2002 BMW Z3 passenger cars, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards. Specifically, the petitioner claims that non-U.S. certified 2002 BMW Z3 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*, 103 *Windshield Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch System*, 116 *Motor Vehicle Brake Fluids*, 124 *Accelerator Control Systems*, 135 *Light Vehicle Brake Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly*