



May 13, 2022

The Honorable Polly E. Trottenberg
Deputy Secretary
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

RE: Docket No.: DOT-OST-2022-0047, Temporary Waiver of Buy America Requirements
for Construction Materials

Dear Deputy Secretary Trottenberg:

The National Asphalt Pavement Association (NAPA) strongly supports the proposed temporary public interest waiver of Buy America for construction materials.

The Build America, Buy America Act ("the Act"), enacted as part of the Infrastructure Investment and Jobs Act (IIJA), directs the Office of Management and Budget (OMB) to issue guidance that will assist agencies as they apply the new Buy America requirements.

On April 21, 2022, OMB issued a Request for Information (Docket OMB_FRDOC_0001) from the public concerning the Act's requirement that infrastructure projects funded with Federal financial assistance use only construction materials "produced in the United States." With comments due May 23, 2022, over 2,000 comments have been received to date. OMB must review and process the comments, and then prepare and issue guidance to assist the U.S. Department of Transportation in applying the guidance to construction materials.

IIJA provides that the preferences under Section 70914 apply only to the extent that a domestic content procurement preference does not apply for "cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives" (Section 70917(c)). NAPA, along with other construction materials partners, is currently working with OMB to provide input and help ensure that any guidance issued is clear and direct.

Given the consequences involved in applying Buy America preferences to construction materials in the middle of the highway and roadway construction season without additional guidance, the prudent course would be for the US Department of Transportation to issue the temporary waiver to allow OMB the time it needs to prepare the guidance and avoid confusion from state and local transportation agencies trying to comply with the law.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink that reads "Audrey Copeland". The signature is fluid and cursive, with the first name being the most prominent.

Audrey Copeland, Ph.D., P.E.
President & CEO