



U.S. Department
of Transportation
**Federal Transit
Administration**

Memorandum

Subject: Determination as to whether the process by which the Braun Corporation converts incomplete Chrysler minivans into Braun Entervans satisfies FTA's Buy America requirements for final assembly.

Date: JUN 28 2013

From: Dorval R. Carter, Jr., Chief Counsel

Reply to
Attn. of: Mary J. Lee, Attorney-Advisor

To: Peter Rogoff, Administrator

The purpose of this memorandum is to document FTA's determination that the processes by which the Braun Corporation (Braun) converts incomplete Chrysler minivans into Braun Entervans satisfies FTA's Buy America requirements for final assembly.

I. Background

a. *Rescission of Buy America Waiver for Minivans and Minivan Chassis*

On June 21, 2010, FTA issued a non-availability waiver of the Buy America final assembly requirement for all minivans and minivan chassis. *Notice of Buy America Waiver for Minivans and Minivan Chassis*, 75 Fed. Reg. 35,123. At that time, FTA determined that there was no manufacturer that was willing and able to perform final assembly on these types of vehicles in the United States. *Id.*

On August 3, 2012, FTA published a notice of a request to rescind the non-availability waiver for minivans and minivan chassis. 77 Fed. Reg. 46556. After reviewing and carefully considering all of the comments submitted pursuant to the request, FTA found that a domestic vehicle—the Vehicle Production Group's MV-1—is available that meets the Buy America final assembly requirements. Therefore, FTA determined that the waiver was no longer necessary and rescinded the waiver. *Decision to Rescind Buy America Waiver for Minivans and Minivan Chassis*, 77 Fed. Reg. 71,673 (Dec. 3, 2012).

Subsequently, in an undated letter sent in January 2013, Braun made a formal request to FTA to determine whether its processes were sufficient to meet the final assembly requirement under 49 C.F.R. § 661.11. Braun followed its request with a May 7, 2013 request to meet with FTA to discuss its processes, and a May 14, 2013 letter containing various certification documents citing that, among other things, Braun is the final stage manufacturer. In a May 16, 2013 letter, Braun requested that FTA provide Braun with any follow-up questions FTA had concerning Braun's processes. On June 4, 2013, Braun presented its manufacturing and conversion processes to FTA in person.

b. *Braun's Manufacturing Process for the Commercial Entervan*

Braun's manufacturing and conversion processes to the incomplete Chrysler minivans take place in Winamac, Indiana. According to Braun, it is a "final stage manufacturer" per the National Highway Traffic Safety Administration's (NHTSA) regulations at 49 C.F.R. Parts 567 and 568 that recertifies the Chrysler vehicles, which includes the child restraint anchorages, tires and rims, seating system, occupant crash protection, seat belt anchorages, side impact protection, fuel system integrity, and flammability. As a "final stage manufacturer," Braun receives incomplete vehicles from Chrysler and makes additions and alterations to the vehicle in order to complete or convert the vehicle. Braun provides that, at a minimum, the incomplete Chrysler vehicles do not include the "Stow'n Go center row seats, the center row seat fastener, the center row load floor, the load floor ISO panel, the center row seat tub liners and the seat tub lids, and the third row seat flipper panels."

Braun's manufacturing processes consists of the following:

- (a) "Strip-Out": consists of "removal of the front and rear seating components . . . , interior wall and door panels, and all carpeting."
- (b) "Seat Re-Engineering & Modifications": consists of "remanufactured [front seats] to be easily removable for wheelchair access" and rear seats are "modified to permit forward folding for access to a kneeling system linear actuator and a proprietary vehicle slide door/ramp controller."
- (c) "Subsystem Re-Engineering & Modifications": installing new, longer, reconfigured rear brake, fuel, heat, and air conditioning and fuel lines.
- (d) "Fuel Tank System Re-Engineering & Modifications": removal of the original fuel tank and charcoal canister from its mid-vehicle location, rotated, relocated, and reinstalled to aft of the rear axle location. The original fuel fill pipe assembly is removed and discarded and a "new, reconfigured fuel pipe assembly is installed to meet the relocated and rotated fuel tank."
- (e) "Fabrication of Lowered Floor Unit Body": fabrication of a new low floor unit body.
- (f) "Floor Re-Engineering & Modifications": removal of the Original Equipment Manufacturer (OEM) floor and undercarriage from the toe pan to the rear axle, adding of a new aft rear axle fuel tank support structure, a new kneeling system actuator housing and structure, a new spare tire/storage tub, and a new lowered floor structure, and various body work to accommodate the new lowered floor structure.
- (g) "Exhaust Re-Engineering & Modifications": removal of the heat shields, and installing a new reconfigured exhaust pipe, hanger brackets, and muffler.
- (h) "Engine/Transmission/Front Suspension Assembly Modifications": disconnection from the vehicle and removed, but with the engine lines and hoses left attached. Modifications are made to the engine/transmission/front suspension assembly, such as adding various types of spacing brackets, custom steering shaft extension, and two engine cradle safety bracket tube extensions. The engine/transmission/front suspension assembly is then

reinstalled. In addition, a CARB compliant fuel system is installed, and the exhaust system and heat shields are installed as well.

- (i) “Slide Door Re-Engineering & Modifications”: removal of the slide doors and modifications made to accommodate a lowered floor/wheelchair ramp entrance. The doors are then reinstalled.
- (j) “Rear Axle & Suspension Re-Engineering & Modifications”: removal, modifications done to the sway bar mounting, and coil spring mounts, addition of a kneel chain bracket, and reinstallation of the rear axle.
- (k) “Flooring & Walls”: installation of a marine grade flooring substrate and covering and carpet or plastic panels with carpeted inserts. Walls are covered with new interior panels and trims.
- (l) “Rear Bumper Re-Engineering & Modifications”: involves removal of the rear bumper, reinforcing the rear bumper, and reinstalling it.
- (m) “Wiring Re-Engineering & Modifications”: reconfiguration of the seating systems and airbag systems, and modifications to accommodate the wheelchair ramp system, slide door operation, kneel function, and other accessibility modifications.
- (n) “Ramp”: installation of the manual or power wheelchair ramps.
- (o) “Paint & Undercoat”: newly installed components are painted and the entire floor is undercoated.
- (p) “Miscellaneous”: Among other things, the vehicle is inspected, weighed, and recertified by Braun.

Braun states that the above-described processes require approximately thirty employees and approximately fifty hours to complete the processes per one vehicle. Braun employs approximately 150 employees for these conversion processes.

Because Braun is a final stage manufacturer under NHTSA’s regulations and its conversion activities on the Chrysler vehicles are significant, Braun believes that it also meets the final assembly requirement under FTA’s Buy America regulations at 49 C.F.R. § 661.11 and is requesting confirmation by FTA.

II. Buy America

a. *Buy America Requirements for Buses and Rail Cars*

Under 49 U.S.C. § 5323(j)(1), FTA may not obligate funds for a project unless the steel, iron, and manufactured goods used in a project are produced in the United States. For rolling stock procurements, this requirement does not apply if the cost of the components produced in the United States is more than 60 percent of the cost of all components and final assembly takes place in the United States. 49 U.S.C. § 5323(j)(2)(C); 49 C.F.R. § 661.11(a). Final assembly is defined as “the

creation of the end product from individual elements brought together for that purpose through application of manufacturing processes.” 49 C.F.R. § 661.11(r).

The typical minimum final assembly requirements for rolling stock are further provided in Appendix D to § 661.11 and distinguished between minimum final assembly requirements for rail cars and buses. FTA provided guidance on the final assembly requirement for buses in a March 18, 1997 Dear Colleague Letter on Buy America: Pre-Award and Post-Delivery Audits, which has been added to FTA’s existing regulation and is still applicable today:

In the case of a new bus, final assembly would typically include, at a minimum, the installation and interconnection of the engine, transmission, axles, including the cooling and braking systems; the installation and interconnection of the heating and air conditioning equipment; the installation of pneumatic and electrical systems, door systems, passenger seats, passenger grab rails, destination signs, wheelchair lifts; and road testing, final inspection, repairs and preparation of the vehicles for delivery.

See also 49 C.F.R. § 661.11 app. D, para. b.

If a manufacturer’s assembly processes do not include all of the activities typically considered final assembly, the manufacturer may request an FTA determination of compliance. FTA Dear Colleague Letter, March 18, 1997; 49 C.F.R. § 661.11 app. D, para. c. FTA reviews these requests for compliance case by case, based upon the information provided by the manufacturer. 49 C.F.R. § 661.11 app. D, para. c.

b. *Final Assembly Requirements for Minivans*

While FTA addresses the typical final assembly requirements for rolling stock such as buses and rail cars in its regulations and guidance documents, FTA has not specifically addressed the final assembly requirements for minivans and minivan chassis. Moreover, because the minivans at issue here are converted for wheelchair accessibility, the typical final assembly requirements for buses, and even other minivans that are not wheelchair accessible, may not apply because of the significant amount of manufacturing that takes place to the vehicle during the conversion processes. Thus, in order to show that wheelchair accessible minivans meet the Buy America requirement for final assembly, Braun must show that the wheelchair accessible minivans it manufactures is a different vehicle from the incomplete minivan that it receives from Chrysler and that those processes include assembling the various components in the United States in order to produce a wheelchair-accessible minivan.

III. Discussion

Upon careful review of Braun’s manufacturing processes in consultation with FTA engineers, I find that Braun’s processes meets the final assembly requirement for rolling stock under 49 C.F.R. § 661.11(a) and (r). As stated above, in order to show that wheelchair accessible minivans meet the Buy America requirement for final assembly, a converted minivan that allows for wheelchair accessibility must be a different vehicle from the original Chrysler minivan and those processes must include assembling the various components in the United States in order to produce a wheelchair accessible minivan. Here, once all of Braun’s conversion and manufacturing processes in the United States are complete, Braun’s vehicle is no longer a “Chrysler” minivan. Instead, it becomes a “Braun Entervan” with different door, height, floor length, and seating dimensions, is wheelchair

accessible with a wheelchair ramp, and has different seating arrangements to accommodate one or more wheelchairs. Moreover, in order to accommodate the wheelchair accessibility features, Braun makes substantial changes to the interior and exterior of the minivan, including, among other things, the fuel system, exhaust system, body, doors, floors, and wiring. Finally, Braun is responsible for inspecting, testing, and certifying the vehicle. Thus, Braun's activities in the United States are sufficient to rise to the level of final assembly for minivans that are converted for wheelchair accessibility.

IV. Conclusion

Based upon the foregoing, I find that Braun's manufacturing activities meet the minimum final assembly requirements under 49 C.F.R. § 661.11. This decision is limited solely to minivans that are converted for wheelchair accessibility by Braun, as the final assembly processes are described in this memorandum. Deviations from these described processes may result in a different conclusion.