

they prefer and at the lowest cost to them.

The Exchange offers data via multiple extranet providers, thereby helping to reduce network and total cost for its data products. Despite these enhancements and a dramatic increase in message traffic, to date the Exchange has been able to offer most of its market data without charge. Moreover, platform competition has intensified as new entrants have emerged, constraining prices for both executions and for data.

The Exchange has witnessed competitors creating new products and innovative pricing in this space over the last few years. In all cases, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with the Exchange or other exchanges. Of course, the explicit data fees are but one factor in a total platform analysis. Some competitors have lower transactions fees and higher data fees, and others are vice versa. The market for the proposed data is highly competitive and continually evolves as products develop and change.

In establishing the fees for the Data Feeds, the Exchange considered the competitiveness of the market for the type of data being offered and all of the implications of that competition. The Exchange believes that it has considered all relevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Data Feeds, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, without losing business to these alternatives.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>25</sup> and Rule

19b-4(f)(2) thereunder,<sup>26</sup> because it establishes a due, fee, or other charge imposed by BATS.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BATS-2013-39 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BATS-2013-39. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of BATS. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BATS-2013-39 and should be submitted on or before July 31, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2013-16535 Filed 7-9-13; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-69928; File No. SR-NASDAQ-2013-094]

**Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness to Conform Rule 5705 Governing Exchange Traded Funds to the Listing Requirements of Another Market**

July 3, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on June 27, 2013, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change**

NASDAQ is filing with the Commission a proposal to amend Rule 5705 (Exchange Traded Funds: Portfolio Depository Receipts and Index Fund Shares) regarding the definition of Derivative Securities Products, weight of component stocks of an index or portfolio, averaging minimum notional value traded per month, and minimum number of component stocks. The Exchange is making these changes to

<sup>27</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>25</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>26</sup> 17 CFR 240.19b-4(f)(2).

conform its rules with those of another market.

The text of the proposed rule change is available from NASDAQ's Web site at <http://nasdaq.cchwallstreet.com>, at NASDAQ's principal office, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The purpose of this proposed rule change is to amend Rule 5705(b)(3) and (b)(4) regarding the definition of Derivative Securities Products, weight of component stocks of an index or portfolio,<sup>3</sup> averaging minimum notional value traded per month, and minimum number of component stocks.

The Exchange is making the proposed changes to conform its Rule 5705(b) with the rule of another market, namely NYSE Arca ("Arca"). The proposed changes are all based on, and virtually identical to, equivalent provisions in Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A) and Commentary .02(a)(5) (the "Arca rule").<sup>4</sup>

By way of background, the Exchange has ETF listing provisions in Rule 5705 for different types of ETFs, including domestic and international Portfolio Depository Receipts ("PDRs")<sup>5</sup> in

subsection (a) and Index Fund Shares ("IFSs")<sup>6</sup> in subsection (b). Subsection (a) and (b) include listing provisions pursuant to Rule 19b-4(e) under the Act<sup>7</sup> indicating that the component stocks of (i) an index or portfolio of U.S. Component Stocks<sup>8</sup> underlying a series of PDRs or IFSs shall meet five criteria;<sup>9</sup> and (ii) regarding global indexes or portfolios,<sup>10</sup> underlying a series of PDRs or IFSs shall meet five criteria.<sup>11</sup> Rule 5705(a) and (b) are like the Arca rule, except that Rule 5705(b) lacks certain language regarding listing IFSs. This proposal simply adds language to

income securities and/or a cash amount and/or a combination of the above; (iii) that, when aggregated in the same specified minimum number, may be redeemed from the Trust which will pay to the redeeming holder the stock and/or cash, fixed income securities and/or cash and/or a combination thereof then comprising the "Portfolio Deposit"; and (iv) that pays holders a periodic cash payment corresponding to the regular cash dividends or distributions declared with respect to the component securities of the securities index or portfolio of securities underlying the Portfolio Depository Receipts, less certain expenses and other charges as set forth in the Trust prospectus. Rule 5705(a)(1)(A).

<sup>6</sup> The term "Index Fund Share" means a security: (i) That is issued by an open-end management investment company based on a portfolio of stocks or fixed income securities or a combination thereof, that seeks to provide investment results that correspond generally to the price and yield performance or total return performance of a specified foreign or domestic stock index, fixed income securities index or combination thereof; (ii) that is issued by such an open-end management investment company in a specified aggregate minimum number in return for a deposit of specified numbers of shares of stock and/or a cash amount, a specified portfolio of fixed income securities and/or a cash amount and/or a combination of the above, with a value equal to the next determined net asset value; and (iii) that, when aggregated in the same specified minimum number, may be redeemed at a holder's request by such open-end investment company which will pay to the redeeming holder the stock and/or cash, fixed income securities and/or cash and/or a combination thereof, with a value equal to the next determined net asset value. Rule 5705(b)(1)(A).

<sup>7</sup> 17 CFR 240.19b-4(e).

<sup>8</sup> The term "U.S. Component Stock" means an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depository Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act. Rule 5705(b)(1)(D).

<sup>9</sup> Rule 5705(a)(3)(A)(i) a. through e. and (b)(3)(A)(i) a. through e.

<sup>10</sup> The components of a global (aka international) index or portfolio consists of either only Non-U.S. Component Stocks or both U.S. Component Stocks and Non-U.S. Component Stocks. The term "Non-U.S. Component Stock" means an equity security that (a) is not registered under Sections 12(b) or 12(g) of the Act, (b) is issued by an entity that is not organized, domiciled or incorporated in the United States, and (c) is issued by an entity that is an operating company (including Real Estate Investment Trusts (REITs) and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives). Rule 5705(a)(1)(D) and (b)(1)(E).

<sup>11</sup> Rule 5705(a)(3)(A)(ii) a. through e and (b)(3)(A)(ii) a. through e.

subsections (b)(3) and (b)(4) of Rule 5705 to make it similar to the Arca rule.

#### The Proposed Rule Changes

First, the Exchange proposes to exclude "Derivative Securities Products" from Rule 5705(b)(3)(A)(i) a., b., and c. for U.S. Indexes or portfolios, and from Rule 5705(b)(3)(A)(ii) a., b., and c. for international or global indexes or portfolios. "Derivative Securities Products" include the following types of products: ETFs consisting of PDRs and IFSs (Rule 5705); Trust Issued Receipts (Rule 5720); Managed Fund Shares (Rule 5735); and Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Shares, (Rule 5711).<sup>12</sup> Arca's definition of Derivative Securities Products<sup>13</sup> includes one product (Paired Trust Shares) that is not included in the Exchange's definition of Derivative Securities Products. As such, the Exchange and Arca definitions of Derivative Securities Products as proposed are therefore similar. In addition, the Exchange proposes in Rule 5705(b) to exclude Derivative Securities Products in exactly the same places, and in same manner, as the equivalent sections of the Arca rule.

Second, the Exchange proposes to modify Rule 5705(b)(3)(A)(i)(b) and 5705(b)(3)(A)(ii)(b) to indicate the appropriate value or weight of the index and the averaged minimum notional value traded per month. Specifically, these proposed sections would indicate that component stocks (excluding Derivative Securities Products) that in the aggregate account for at least 70% of the weight of the index or portfolio (excluding Derivative Securities Products) each shall have a minimum monthly trading volume of 250,000 shares or minimum notional volume traded per month of \$25,000,000, averaged over the last six months.<sup>14</sup> The proposed changes would make Rule 5705(b)(3)(A)(i)(b) and 5705(b)(3)(A)(ii)(b) exactly like the equivalent sections of the Arca rule. The proposed changes allow setting the weight of the index or portfolio at 70%

<sup>12</sup> Definitions of or discussions regarding the noted products can be found in the specified Exchange rules.

<sup>13</sup> Arca states in Equities Rule 5.2(j)(3), Commentary .01(a)(A) that Derivative Securities Products include Units (known as ETFs on the Exchange) and securities defined in Section 2 of Arca Equity Rule 8.

<sup>14</sup> Rule 5705(b)(3)(A)(ii)(b), which deals with global (international) indexes or portfolios is, however, written in terms of worldwide monthly trading volume and global notional volume.

<sup>3</sup> "Index or portfolio" is discussed in Rule 5705(b)(3)(A)(i).

<sup>4</sup> While in all instances the rule changes proposed by the Exchange are done to conform Exchange Rule 5705(b) with Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A), and in all instances are based on Arca rule language, the rule changes proposed by the Exchange are tailored to work within the existing structure of Exchange Rule 5705(b).

<sup>5</sup> The term "Portfolio Depository Receipt" means a security: (i) That is based on a unit investment trust ("Trust") which holds the securities which comprise an index or portfolio underlying a series of Portfolio Depository Receipts; (ii) that is issued by the Trust in a specified aggregate minimum number in return for a "Portfolio Deposit" consisting of specified numbers of shares of stock and/or a cash amount, a specified portfolio of fixed

and averaging trading volume over six months, as allowed by the Arca rule.

Third, the Exchange proposes to modify Rule 5705(b)(3)(A)(i)(d) and 5705(b)(3)(A)(ii)(d) to indicate how many component stocks an index or portfolio must have at a minimum. Specifically, the proposed sections would indicate that the index or portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if either one or more series of IFSs or PDRs constitute, at least in part, components underlying a series of IFSs, or one or more series of Derivative Securities Products account for 100% of the weight of the index or portfolio.<sup>15</sup> This change would indicate that the Exchange, like Arca, does not require a set minimum number of component stocks if, for example, IFSs or PDRs (which must each meet specified Exchange listing standards in their own right) underlie a series of IFSs. Again, the proposed changes would make Rule 5705(b)(3)(A)(i)(d) and 5705(b)(3)(A)(ii)(d) exactly like the equivalent sections of the Arca rule.

Fourth, the Exchange proposes to modify Rule 5705(b)(3)(A)(i)(c) and 5705(b)(3)(A)(ii)(c) to clarify that, to the extent applicable, the five most heavily weighted component stocks would not exceed a given weight. Specifically, these proposed sections would, like the Arca rule, indicate that, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products) shall not exceed 65% of the weight of the index or portfolio.<sup>16</sup>

Fifth, the Exchange proposes to modify Rule 5705(b)(4)(A)(v) to insert "one consisting entirely of" into the existing rule text. The proposed rule text would state that an underlying index or portfolio (excluding one consisting entirely of exempted securities) must include securities from a minimum of 13 non-affiliated issuers. As with all other proposed rule changes, this is done to conform Rule 5705(b)(4)(A)(v) to the Arca rule.

All of the rule changes proposed are done solely to align Exchange Rule 5705 and the Arca rule. The Exchange believes that by conforming the rules, and allowing listing opportunities on the Exchange that are already allowed by rule on another market, the proposal would offer another venue for listing

and trading Index Fund Shares on equivalent terms, and thereby promote competition.<sup>17</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>18</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>19</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. For the reasons noted in the filing, the Exchange proposes to amend Rule 5705 regarding the definition of Derivative Securities Products, weight of component stocks of an index or portfolio, averaging minimum notional value traded per month, and minimum number of component stocks. The proposed changes do nothing more than match Exchange rules with what is currently available on other exchanges. The Exchange believes that by conforming its rules and allowing listing opportunities on the Exchange that are already allowed by rule on another market, the proposal would offer another venue for listing and trading Index Fund Shares products and thereby promote broader competition among exchanges.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, where the current variance in the rules of the exchanges limits competition, the proposal will allow listing equivalent products on the Exchange, thereby promoting increased competition for listings among markets.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) Significantly affect the protection of investors or the public

interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>20</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>21</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it may enable the Exchange to compete more effectively for listings, and this competition could inure to the benefit of issuers and market participants generally. For this reason, the Commission waives the operative delay and designates the proposed rule change to be operative upon filing.<sup>22</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2013-094 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2013-094. This file number should be included on the subject line if email is used. To help the Commission process and review your

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f)(6)(iii). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>22</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>15</sup> Rule 5705(b)(3)(A)(ii)(d), however, which deals with global (international) indexes or portfolios, requires a minimum of 20 component stocks.

<sup>16</sup> Rule 5705(b)(3)(A)(ii)(c), however, which deals with global (international) indexes or portfolios, is written in terms of 60% of the weight of the index or portfolio.

<sup>17</sup> No other changes are made or intended by this filing and existing listing and trading rules continue to be applicable to Index Fund Shares.

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2013-094, and should be submitted on or before July 31, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2013-16529 Filed 7-9-13; 8:45 am]

BILLING CODE 8011-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[FHWA Docket No. FHWA-2013-0041]

### Buy America Policy

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The FHWA is seeking comments regarding the continued need, in whole or in part, for the general waivers from Buy America for manufactured products; for ferry boat equipment; and for pig iron and processed, pelletized, and reduced iron ores. These waivers have been in effect since 1983, 1994, and 1995, respectively. The FHWA is also seeking comment on the continuing need for the FHWA's minimal use threshold

(currently established at \$2,500 or 1/10 of 1 percent of the total contract value, whichever is greater).

**DATES:** Comments must be received on or before August 9, 2013. Late comments will be considered to the extent practicable.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, or submit electronically at <http://www.regulations.gov> or fax comments to (202) 493-2251. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification or receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Page 19477-78).

**FOR FURTHER INFORMATION CONTACT:** Mr. Gerald Yakowenko, Contract Administration Team Leader, Office of Program Administration, (202) 366-1562, or Mr. Michael Harkins, Office of the Chief Counsel, (202) 366-4928, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

### SUPPLEMENTARY INFORMATION:

#### Electronic Access and Filing

This document and all comments received may be viewed online through the Federal eRulemaking portal at: <http://www.regulations.gov>. Regulations.gov is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: <http://www.archives.gov/federal-register/>, or the Government Printing Office's Web page at: <http://www.gpo.gov/fdsys>.

#### Regulatory 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 into a Federal-aid highway construction project. The regulation is based on the statutory authority in 23 U.S.C. 313(a) which states:

"Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States."

The statute provides for the application of the Buy America requirements to any project using Title 23 funding; however, exceptions are provided where the Secretary finds that: (1) The application of the requirement would be inconsistent with the public interest, (2) where materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

Based on the Secretary's authority to grant waivers from Buy America, the FHWA has issued three general waivers from Buy America. These waivers pertain to manufactured products, ferry boat equipment, and pig iron and processed, pelletized, and reduced iron ores, and have been in effect since 1983, 1994, and 1995, respectively. With this notice, the FHWA is seeking comment regarding whether these waivers continue to be necessary, in whole or in part, and, if so, what limits should be placed on these waivers. Additionally, FHWA's regulations at 23 CFR 635.410(b)(4) permit the incorporation of foreign steel and iron into a project if the cost of such items does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. The FHWA is also seeking comment on the continuing need for the provision and, if so, whether the threshold is appropriate.

### Manufactured Products

#### General Manufactured Products

Section 165 of the Surface Transportation Assistance Act (STAA) of 1982, Public Law 97-424 (1983), is the source legislation for FHWA's Buy America requirements.<sup>1</sup> This statute

<sup>1</sup> Congress codified Section 165 of the STAA of 1982, as amended, at 23 U.S.C. 313 with the enactment of Section 1903 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A

<sup>23</sup> 17 CFR 200.30-3(a)(12).