

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked on or before June 28, 2010. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. EPA's existing stocks policy (56 FR 29362) provides that: "If a registrant requests to voluntarily cancel a registration where the Agency has identified no particular risk concerns, the registrant has complied with all applicable conditions of reregistration, conditional registration, and data call ins, and the registration is not subject to a Registration Standard, Label Improvement Program, or reregistration decision, the Agency will generally permit a registrant to sell or distribute existing stocks for 1 year after the cancellation request was received. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted."

Upon cancellation of the pesticides identified in Table 1, EPA anticipates allowing sale, distribution and use as described above. Exception to this general policy will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a special review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: December 16, 2009.

Richard P. Keigwin, Jr.,

*Director, Pesticide Re-evaluation Division,
Office of Pesticide Programs.*

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-9097-9]

Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Massachusetts Water Resources Authority (MWRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a waiver of the Buy America requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the Massachusetts Water Resources Authority ("MWRA") for the purchase of a foreign manufactured hydroelectric generator for the Loring Road Hydroelectric Project in Weston, Massachusetts. This is a project specific waiver and only applies to the use of the specified product for the ARRA project being proposed. Any other ARRA recipient that wishes to use the same product must apply for a separate waiver based on project specific circumstances. Based upon information submitted by the MWRA and its consulting engineer, it has been determined that there are currently no domestic manufactured hydroelectric generators available to meet its proposed project and performance specifications. The Regional Administrator is making this determination based on the review and recommendations of the Municipal Assistance Unit. The Assistant Administrator of the Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605 of ARRA. This action permits the purchase of a foreign manufactured hydroelectric generator by the MWRA, as specified in its October 23, 2009 request.

DATES: *Effective Date:* December 16, 2009.

FOR FURTHER INFORMATION CONTACT: David Chin, Environmental Engineer,

(617) 918-1764, or Katie Connors, Environmental Engineer, (617) 918-1658, Municipal Assistance Unit (CMU), Office of Ecosystem Protection (OEP), U.S. EPA, 5 Post Office Square, Suite 100, Boston, MA 02109-3912.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c), the EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(b)(2) of Public Law 111-5, Buy American requirements, to the MWRA for the purchase of a non-domestic manufactured hydroelectric generator to meet the MWRA's design and performance specifications as part of its proposed Loring Road Hydroelectric Project in Weston, MA.

Section 1605 of the ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or a public works project unless all of the iron, steel, and manufactured goods used in the project is produced in the United States, or unless a waiver is provided to the recipient by the head of the appropriate agency, here the EPA. A waiver may be provided if EPA determines that (1) applying these requirements would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

The MWRA is proposing a renewable energy project consisting of a hydraulic turbine, a hydroelectric generator, associated piping, and controls to be located in an existing valve chamber within the MWRA's drinking water transmission system at Loring Road in Weston, MA. Currently, the MWRA is reducing water pressure in a section of the water transmission system to properly serve certain areas of low elevation within the City of Boston. Pressure is dissipated across valves located in the chamber on a continuous process. Instead of losing this potential energy, the MWRA plans to install a hydraulic turbine and hydroelectric generator to recover 1,200,000 kilowatt hours (kWh) of electricity annually, an amount that will meet MWRA's on-site electrical needs and allow excess recovered energy to be delivered to the regional electric grid.

The proposed project has been reviewed by the Federal Energy

Regulatory Commission and has been granted a Small Conduit Exemption from Licensing. The MWRA is receiving Massachusetts State Drinking Water Revolving funds, as well as a construction grant from the Massachusetts Technology Collaborative. Design plans and specifications have been completed and include the ARRA's Buy American terms. The estimated total cost of the proposed construction project is \$1.8M.

The MWRA is requesting a waiver for a foreign manufactured hydroelectric generator to generate electrical power from the available hydraulic potential energy in the MWRA's drinking water transmission system. It is estimated that the hydroelectric generator will account for approximately 15% of the entire project construction cost of \$1.8M. The MWRA has researched foreign and domestic manufacturers of hydroelectric generators and has determined that domestic manufacturers are not able to manufacture a hydroelectric turbine generator that meets the capacity requirements as specified for the proposed project. The waiver request has been submitted prior to the MWRA's bid solicitation. Any bid proposals are not expected to include any domestic manufacturers based on the research conducted and documentation provided by the MWRA.

The project specifications and other supporting documentation state that the hydroelectric generator must produce 200 kilowatts, 250 kVA of 3 phase electrical energy at 60 Hz from an available head at the turbine inlet of 70 to 75 feet and an average daily flow of 20 million gallons of water per day. The project design and specifications require that the hydraulic turbine and hydroelectric generator be installed within the confines of the facility's existing pressure reducing valve station vault/chamber.

An evaluation of all of the submitted documentation by EPA's technical review team supports and confirms the MWRA's claim that there are currently no domestic manufacturers that can provide a suitable hydroelectric generator to meet project specifications. The consulting engineer for the MWRA identified four domestic manufacturers in the United States. None of the four companies manufacture generators smaller than 500 kilowatts in size, with the project specifications requiring 200 kilowatts in size. The supporting information for this proposed project also includes contacts with hydro turbine manufacturers who work with generator manufacturers, internet research conducted at sales websites, telephone calls, and e-mail

correspondence with generator manufacturers and visits to their websites. An independent review of the submitted documentation by EPA's national contractor confirmed this evidence.

The supporting documentation (*i.e.* results of research and communications with manufacturers of hydroelectric turbine generators) and independent research and communication with selected manufacturers of hydroelectric turbine generator technology conducted by EPA's national contractor demonstrate that U.S. manufacturers do not currently produce hydroelectric turbine generators capable of generating the requisite power output and having the physical dimensions required for installation in the utility's existing pressure reducing station valve vault/chamber located at the Loring Road facility in Weston, MA. In addition, the evaluation of the supporting documentation also demonstrates that foreign manufactured hydroelectric generators are available and will be able to meet the proposed project design and specifications.

Furthermore, the purpose of the ARRA is to stimulate economic recovery by funding current infrastructure construction, not to delay or curtail entirely projects that are "shovel ready" by requiring potential SRF eligible recipients, such as the MWRA, to revise their design standards and specifications. The imposition of ARRA Buy American requirements in this case would not be workable within the absolute constraints and dimensions of the project within the existing facility. To curtail entirely this construction would directly conflict with a fundamental economic purpose of ARRA, which is to create or retain jobs.

The April 28, 2009 EPA HQ Memorandum, "Implementation of Buy American provisions of Public Law 111-5, the 'American Recovery and Reinvestment Act of 2009' " ("Memorandum"), defines *reasonably available quantity* as "the quantity of iron, steel, or relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design." The same Memorandum defines "satisfactory quality" as "the quality of steel, iron or manufactured good specified in the project plans and designs."

The Municipal Assistance Unit (CMU) has reviewed this waiver request and has determined that the supporting documentation provided by the MWRA establishes both a proper basis to specify a particular manufactured good,

and that the domestic manufactured good that is currently available does not meet the design specifications for the proposed project. The information provided is sufficient to meet the following criteria listed under Section 1605(b) of the ARRA and in the April 28, 2009 Memorandum: Iron, steel, and the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

The March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the temporary authority to issue exceptions to Section 1605 of the ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients.

Having established both a proper basis to specify the particular good required for this project and that this manufactured good was not available from a producer in the United States, the MWRA is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5. This waiver permits use of ARRA funds for the purchase of a non-domestic manufactured hydroelectric generator documented in MWRA's waiver request submittal dated October 23, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

Authority: Public Law 111-5, section 1605.

Dated: December 16, 2009.

H. Curtis Spalding,

Regional Administrator, EPA Region 1—New England.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-9098-1]

Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the North Conway, NH Water Precinct

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a waiver of the Buy America requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a