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 WMTMUA is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5 for the purchase of a Kubota MBR unit that incorporates flat-plate MBR membrane cartridges using ARRA funds, as specified in the WMTMUA 's request of June 5, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers "based on a finding under subsection (b)."

Authority: Pub. L. 111–5, section 1605.

Dated: January 19, 2010.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2010–2252 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9109–3]

Notice of a Regional Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the City of Richland (the City), WA for the Purchase of Aerostrip® Fine Pore [Bubble] Diffusers Manufactured Outside of the United States Under the Section 1605 Waiver Authority Based on the Conclusion That 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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Acting Regional Administrator of EPA Region 10, 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 City for the purchase of Aerostrip® Fine Pore Diffusers supplied by Treatment Equipment Company in Bellevue, Washington and manufactured in Austria. 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. The applicant indicates that Aerostrip® Fine Pore Diffusers are the only feasible equipment to retrofit Richland's existing Waste Water Treatment Facility aeration basins. The Aerostrip® Fine Pore Diffusers are only manufactured in Austria. No other fine pore diffusers are available or capable of meeting the aeration process design requirements. The Acting Regional Administrator is making this determination based on the review and recommendations of the Grants & Strategic Planning Unit. The City has provided sufficient documentation to support their request.

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

FOR FURTHER INFORMATION CONTACT: Bryan Fiedorczyk, CWSRF ARRA Program Analyst, Grants & Strategic Planning Unit, Office of Water & Watersheds (OWW), (206) 553–0506, U.S. EPA Region 10 (OWW–137), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

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 City for the acquisition of Aerostrip® Fine Pore Diffusers supplied by Treatment Equipment Company in Bellevue, Washington and manufactured in Austria. The applicant indicates that Aerostrip® Fine Pore Diffusers are the only feasible equipment to retrofit Richland's existing Waste Water Treatment Facility aeration basins. The Aerostrip® Fine Pore Diffusers are only manufactured in Austria. No other fine pore diffusers are available or capable of meeting the aeration process design requirements. 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 public work unless all of the iron, steel, and manufactured goods used in the project is produced in the United States unless a waiver is provided to the recipient by EPA. A waiver may be provided if EPA determines that (1) Applying these requirements would be inconsistent with 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.

This ARRA-funded project involves upgrading the aeration system in one of the Waste Water Treatment Facility's existing aeration basins, AB2 (replacement of an existing mechanical aeration system with a fine bubble strip membrane diffuser aeration system) and installation of additional fine bubble strip membrane aeration diffusers in the facility's other existing aeration basin, AB1. This project will thus complete the facility's aeration system upgrade originally designed (using proprietary strip membrane diffusers) to replace the mechanical aeration systems in the facility's two aeration basins. Important objectives of the project's improvements are to reduce energy consumption by more than 70% and reduce the discharge of suspended solids, biochemical oxygen demand and nitrogen into the Columbia River. Further requirements of the project dictated by the constraints of the existing facility include (1) Retrofit installation in the existing sloped wall basins, (2) compatibility with the aeration diffusers installed in a previous system upgrade, and (3) limiting the size of the associated aeration system blower upgrade to the available capacity of the facility's existing electrical system infrastructure. The objectives described above reflect appropriate and desirable performance upgrades central to the function of the facility, and are a justifiable basis for specifications to achieve those objectives. Similarly, the requirements for compatibility with various features of the existing facility are justified as appropriate and necessary specifications for a retrofit project.

The applicant states that the engineer for the original project design evaluated fine bubble diffusers available from four manufacturers, and concluded that the Aerostrip® diffusers were the best selection for the project because:

□ The project would require smaller aeration blowers since the Aerostrip® diffusers:

○ Generate smaller bubbles (creating a higher oxygen transfer surface area and efficiency).

○ Operate at lower air flow per surface area to provide the required dissolved oxygen concentration to the wastewater under aeration.

○ Use lower minimum air flow to open the pores of the diffuser.

□ The smaller aeration blower requirement resulting from the use of the Aerostrip® diffusers allows the blower equipment to be implemented without requiring an upgrade to the facility's electrical power system.

□ The strip configuration of the Aerostrip® diffusers (available in several dimensional configurations) is compatible with physical retrofit requirements of the project (i.e., some diffusers require installation on sloped walls of the existing aeration basins).

Information provided by the applicant also indicates that the Aerostrip® diffuser is preferable for the project because:

□ It is compatible with the aeration diffuser upgrade previously implemented in AB1 (which will allow for symmetrical flow/Biochemical Oxygen Demand (BOD) loading to the two aeration basins, simplifying the operation of the treatment plant).

□ It will provide the requisite aeration capacity for the upgrade project within the facility's existing two aeration basins (i.e., use of an alternate fine bubble diffuser would require the design and construction of a third aeration basin to provide the required aeration capacity for the design BOD loading).

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", 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 City has incorporated specific technical design features for the proposed project based on the performance characteristics of the Aerostrip® diffusers to meet the highest flow and loading demands of the Richland Waste Water Treatment Facility and the appropriate constraints of a retrofit project in an existing facility while minimizing energy consumption, operating costs and future capital improvements.

The City has provided information to the EPA representing that there are currently no fine pore diffusers of comparable quality available from a domestic manufacturer to meet its specifications.

Based on additional research by EPA's consulting contractor (Cadmus), and to the best of the Region's knowledge at this time, there does not appear to be other fine pore diffusers available to meet the City's specifications.

Furthermore, the purpose of the ARRA provisions was to stimulate economic recovery by funding current infrastructure construction, not to delay projects that are already shovel ready by requiring entities, like the City, to revise their design and potentially choose a more costly and less efficient project. The imposition of ARRA Buy American requirements on such projects eligible for CWSRF assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay construction is in direct conflict with the most fundamental economic purposes of ARRA; to create or retain jobs.

The Grants & Strategic Planning Unit has reviewed this waiver request and has determined that the supporting documentation provided by the City is sufficient to meet the following criteria listed under Section 1605(b), 2 CFR 176.60–176.170, and in the April 28, 2009, Implementation of Buy American provisions of Public Law 111–5, the "American Recovery and Reinvestment Act of 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 basis for this project waiver is the authorization provided in Section 1605(b)(2), due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the City's design specifications. The March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of 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 City is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5 for the purchase of Aerostrip® Fine Pore Diffusers supplied by Treatment Equipment Company in Bellevue, Washington and manufactured in Austria as specified in the City's request of November 6, 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 21, 2009.

Michelle L. Pirzadeh,

Acting Regional Administrator, EPA, Region 10.

[FR Doc. 2010–2255 Filed 2–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9109–1]

Science Advisory Board Staff Office; Request for Public Nominations of Experts To Conduct a Peer Review of EPA's Draft Document "An Advisory Value for Conductivity Using Field Data: An Adaptation of the U.S. EPA's Standard Methodology for Deriving Water Quality Criteria"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for additional public nominations.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office is seeking public nomination of experts to conduct a peer review of EPA's draft document "An Advisory Value for Conductivity using Field Data: An Adaptation of the U.S. EPA's Standard Methodology for Deriving Water Quality Criteria"

DATES: Nominations should be submitted by February 17, 2010 per the instructions below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this request for nominations may contact Mr. Edward Hanlon, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 343–9946; by fax at (202) 233–0643 or via email at *hanlon.edward@epa.gov.* General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at: *http://www.epa.gov/sab.* Any inquiry regarding EPA's Office of Research and Development (ORD) draft document entitled "An Advisory Value for Conductivity using Field Data: An Adaptation of the U.S. EPA's Standard Methodology for Deriving Water Quality Criteria" should be directed to Dr. Michael Slimak, ORD's Associate Director of Ecology, National Center for Environmental Assessment (NCEA), who may be contacted via telephone at (703) 347–8524 or by e-mail at *slimak.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: Recent published scientific information indicates that discharges from mountaintop mining and valley-fill operations in Southern Appalachia may be linked to degraded water quality and adverse impacts on in-stream biota. Discharges from surface coal mining, valley-fills and associated operations are regulated under the Clean Water Act (CWA) and under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Under the CWA, discharges from mountaintop mining