

and reflects consideration of potential economic benefit gained by Respondent, attributable to its delayed compliance with the CWA, EPCRA, and CAA regulations, and the potential for harm that could have resulted from the violations.

The total civil penalty assessed for settlement purposes is four hundred sixty-eight thousand and six hundred dollars (\$468,600). Respondent has agreed to pay this amount. EPA and Respondent negotiated and signed an administrative consent agreement, following the Consolidated Rules of Practice, 40 CFR 22.13(b), on May 14, 2009 (*In Re: Cellco Partnership doing business as Verizon Wireless*. Docket Nos. CWA-HQ-2008-8002, EPCRA-HQ-2008-8002, CAA-HQ-2008-8002). This consent agreement is subject to public notice and comment under CWA Section 311(b)(6), 33 U.S.C. 1321(b)(6). The full consent agreement is available for public review and comment at <http://www.regulations.gov>, Docket ID No. EPA-HQ-OECA-2008-0804.

Under CWA Section 311(b)(6)(A), 33 U.S.C. 1321(b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of CWA Section 311(b)(3), 33 U.S.C. 1321(b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA Section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to \$177,500 by EPA. Class II proceedings under CWA Section 311(b)(6), 33 U.S.C. 1321(b)(6), are conducted in accordance with 40 CFR Part 22.

Under EPCRA Section 325, 42 U.S.C. 11045, the Administrator may issue an administrative order assessing a civil penalty against any person who has violated applicable emergency planning or right-to-know requirements, or any other requirement of EPCRA. Proceedings under EPCRA Section 325, 42 U.S.C. 11045, are conducted in accordance with 40 CFR part 22.

Under CAA Section 113, 42 U.S.C. 7413, the Administrator may issue an administrative penalty order to any person who has violated or is in violation of any requirement or prohibition of an applicable implementation plan or permit. Proceedings under CAA Section 113, 42 U.S.C. 7413, are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a CWA Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order July 22, 2009. All

comments will be transferred to the Environmental Appeals Board (EAB) of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.4(a).

Pursuant to CWA Section 311(b)(6)(C), 33 U.S.C. 1321(b)(6), EPA will not issue an order in this proceeding prior to the close of the public comment period.

Dated: June 10, 2009.

**Bernadette Rappold,**

*Director, Special Litigation and Projects Division, Office of Enforcement and Compliance Assurance.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8921-1]

### Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Auburn, ME Sewerage District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The EPA is hereby granting a project waiver of the Buy American 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 Auburn, Maine Sewerage District for the purchase of specialized ductile iron spring loaded hinged 24" diameter sanitary manhole covers and frames (*i.e.*, "REXUS #62114 24S or equal"). These manhole covers and frames are manufactured outside of the United States by Saint-Gobain, a company based in France, and meet the District's technical specifications, which have been in use for at least the past five years. The Acting Regional Administrator is making this determination based on the review and recommendations of the Municipal Assistance Unit. The Auburn, Maine Sewerage District has provided sufficient documentation to support its request. 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 specific ductile iron manhole covers and frames for the proposed project being implemented by the Auburn, Maine Sewerage District.

**DATES:** *Effective Date:* May 13, 2009.

**FOR FURTHER INFORMATION CONTACT:** Katie Connors, Environmental Engineer, (617) 918-1658, or David Chin, Environmental Engineer, (617) 918-1764, Municipal Assistance Unit (CMU), Office of Ecosystem Protection (OEP), U.S. EPA, One Congress Street, CMU, Boston, MA 02114.

#### SUPPLEMENTARY INFORMATION:

In accordance with ARRA Section 1605(c) and pursuant to Section 1605(b)(2) of Public Law 111-5, Buy American requirements, EPA hereby provides notice that it is granting a project waiver to the Auburn, Maine Sewerage District for the acquisition of specialized ductile iron spring loaded hinged 24" diameter sanitary manhole covers and frames (*i.e.*, "REXUS #62114 24S or equal") manufactured outside of the United States by Saint-Gobain, a company based in France.

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 are 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.

The Auburn, Maine Sewerage District has stated that for at least the past five years it has standardized its manhole cover procurement on ductile iron covers and integrated frames. The District has utilized specialized 24" diameter spring loaded hinged ductile iron sanitary manhole covers and frames (*i.e.*, "REXUS #62114 24S or equal") within its collection system. The reasons for the District's standard include:

(1) The product is more durable in a colder climate than comparable cast iron products; and (2) a spring loaded hinged and locking cover is much more secure and safer (*e.g.* the cover will not flip off when hit by a larger vehicle and will automatically lock in the vertical position to avoid inadvertent closure).

The District's submission clearly articulates entirely functional reasons for its technical specifications, and has

provided sufficient documentation that the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantity and of a satisfactory quality to meet its technical specifications.

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". Based on conversations with the District, the technical design specifications for the manhole cover and frame were provided separately to all of the interested contractors prior to bid to ensure that materials would meet the District's standard specifications.

The District has provided information to the EPA representing that there are currently no ductile iron manhole frames and covers manufactured in the United States that have the exact same product specifications in place. The District has also provided certification from its supplier representing that there are no other ductile iron manhole covers and frames from a domestic manufacturer to meet the District's exact specifications.

Based on additional research (*i.e.* Internet product literature search and follow-up telephone calls) conducted by the Municipal Assistance Unit and to the best of the Region's knowledge at the time of the review, there do not appear to be other manhole covers and frames available to meet the District's exact technical specifications. There is one domestic manufacturer that has a product that appears to have most of the same attributes (*e.g.* ductile iron cover and frame, hinged cover, and a locking capability). However, based on information provided to the EPA at the time of the review, it did not have the spring loaded feature for its 24" diameter manhole cover.

Furthermore, the purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are "shovel ready" by requiring utilities, such as the Auburn, Maine Sewerage District, to revise their standards and specifications and to start the bidding process again. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund 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 a fundamental economic purpose of the ARRA, which is to create or retain jobs.

The Municipal Assistance Unit (CMU) has reviewed this waiver request and has determined that the supporting documentation provided by the Auburn, Maine Sewerage District is sufficient to meet the criteria listed under Section 1605(b) 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 District's technical specifications, a waiver from the Buy American requirement is justified.

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 Auburn, Maine Sewerage District is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5 for the purchase of ductile iron manhole covers and frames using ARRA funds as specified in the District's request of April 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.

June 8, 2009.

**Ira W. Leighton,**

*Acting Regional Administrator, Region I, New England.*

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## EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 119]

### Agency Information Collection Activities: Final Collection; Comment Request

**AGENCY:** Export-Import Bank of the U.S.

**ACTION:** Submission for OMB review and comments request.

*Form Title:* Payment Default Report (EIB 09-01).

**SUMMARY:** The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

This collection allows insured/guaranteed parties and insurance brokers to report overdue payments from the borrower and/or guarantor. Ex-Im Bank customers will submit this form electronically through Ex-Im Online, replacing paper reporting. Ex-Im Bank has simplified reporting of payment defaults in this form by including checkboxes and providing for many fields to be self-populated. Ex-Im Bank provides insurance, loans, and guarantees for the financing of exports of goods and services.

**DATES:** Comments should be received on or before July 22, 2009 to be assured of consideration.

**ADDRESSES:** Direct all comments to Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20038.

#### SUPPLEMENTARY INFORMATION:

*Titles and Form Number:* EIB 09-01 Payment Default Report.

*OMB Number:* None.

*Type of Review:* Regular.

*Need and Use:* The information requested enables insured/guaranteed parties and insurance brokers to report overdue payments from the borrower and/or guarantor.

*Affected Public:* Insured/guaranteed parties and brokers.

*Annual Number of Respondents:* 200.

*Estimated Time per Respondent:* 15 minutes.

*Government Annual Burden Hours:* 16.67.

**Sharon A. Whitt,**

*Agency Clearance Officer.*

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