

**ENVIRONMENTAL PROTECTION  
AGENCY**

[FRL-8951-2]

**Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Bristol Family Center Water System in Bristol, VT, the Kids in the Country School Water System in Dover, VT, and the Otter Valley Union High School Water System in Brandon, VT**

**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 Bristol Family Center Water System in Bristol, Vermont, the Kids in the Country Water System in Dover, Vermont, and the Otter Valley Union High School in Brandon, Vermont (the "Systems") for the purchase of NSF-55 Class A certified Ultra Violet (UV) disinfection equipment. This is a project specific waiver and only applies to the use of the specified product for the ARRA funded projects being proposed. Any other ARRA project that may wish to use the same product must apply for a separate waiver based on project specific circumstances. The UV disinfection equipment under consideration is manufactured outside of the United States by a company based in Canada and meets the water systems' technical specifications and requirements. The Acting Regional Administrator is making this determination based on the review and recommendations of the Municipal Assistance Unit. The Systems have provided sufficient documentation to support each individual 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 the ARRA. This action permits the purchase of specific UV disinfection equipment for the proposed projects being implemented by the Bristol Family Center Water System in Bristol, Vermont, Kids in the Country Water System in Dover, Vermont, and Otter Valley Union High School Water System in Brandon, Vermont.

**DATES:** *Effective Date:* August 19, 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 Bristol Family Center Water System in Bristol, Vermont, the Kids in the Country Water System in Dover, Vermont, and the Otter Valley Union High School Water System in Brandon, Vermont (the "Systems") for the acquisition of NSF-55 Class A certified Ultra Violet (UV) disinfection equipment manufactured outside of the United States.

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, or unless a waiver is provided to the recipient by the head of the appropriate agency, here 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 State of Vermont requires that water supply installations must comply with the Vermont Standards for Water System Design, Construction and Protection (Vermont Water Supply Rule—Chapter 21). In order to meet these standards the State of Vermont requires public water systems using UV disinfection to use National Sanitation Foundation (NSF) Standard 55 (Ultraviolet Microbial Water Treatment Systems) Class A certified UV equipment. The State of Vermont, Agency of Natural Resources, Water Supply Division (VTANR) has identified several lines of UV disinfection systems with NSF-55 Class A certification, all manufactured in Canada. The Water Systems are proposing to use the UV Pure Hallett 15xs and 30 ultraviolet disinfection water systems. The design

engineer and the VTANR have conducted research and determined that there are no domestic manufacturers that have NSF-55 Class A certification at the time of these waiver requests.

The design engineers for the Bristol Family Center Water System indicated that they intend to use two Hallett 30 (30 gpm) UV units for the school buildings. The estimated cost for all of the UV equipment for Bristol Family Center Water System in Bristol, Vermont is \$4,000. For the Kids in the Country Water System, the engineers intend to use two Hallett 15xs (15 gpm) The estimated cost for all of the UV equipment for the Kids in the Country Water System in Dover, Vermont is \$3,400. For the Otter Valley Union High School Water System, the design engineers intend to use four Hallett 30 (30 gpm) UV units for the school buildings. The estimated cost for all of the UV equipment for the Otter Valley Union High School Water System in Brandon, Vermont is \$8,000.

The designs for all three Systems took into account the limited space available for retrofitting the water supply and distribution systems, as well as the attributes of the specific equipment. The Systems' submissions clearly articulated functional reasons for their technical specifications and requirements, and have 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 design specifications and requirements.

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". After extensive research by the design engineers and the VTANR, information has been provided to the EPA documenting that there is currently no other UV disinfection equipment from a domestic manufacturer available to meet the Systems' exact design specifications and requirements.

EPA's national contractor has prepared a technical assessment report for these Systems dated June 25, 2009 based on the waiver requests submitted. The report determined that the waiver request submittal was complete, that adequate technical information was provided, and that there were no

significant weaknesses in the justification provided. The report confirmed the waiver applicants' claim that NSF Standard 55 Class A UV disinfection equipment of the size specified are not available from a domestic manufacturer.

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 these Water Systems, 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 construction must be completed prior to September 1, 2009 when the students return for the new school year.

The Municipal Assistance Unit (CMU) has reviewed these waiver requests and has determined that the supporting documentation provided by the Bristol Family Center in Bristol, Vermont, the Kids in the Country School in Dover, Vermont, and the Otter Valley Union High School in Brandon, Vermont is sufficient to meet the criteria listed under Section 1605(b) of the ARRA 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 these project waivers is the authorization provided in Section 1605(b)(2) of the ARRA. 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 Systems' technical specifications and requirements, 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 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 these projects, and that this manufactured good was not available

from a producer in the United States, the Bristol Family Center Water System, Kids in the Country Water System, and Otter Valley Union High School Water System are hereby granted waivers from the Buy American requirements of Section 1605(a) of Public Law 111-5 for the purchase of the specified UV disinfection equipment using ARRA funds as documented in the Systems' requests of June 18, 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: August 19, 2009.

**Ira W. Leighton,**

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

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## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-8950-7]**

### **Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Plymouth Village Water & Sewer District, New Hampshire**

**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 Plymouth Village Water & Sewer District, New Hampshire ("District") for the purchase of a foreign manufactured rotary sludge dewatering press. 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 District's proposed wastewater treatment facility improvements will include a replacement of the existing belt filter press for sludge generated at the plant. Based upon information submitted by the District and its consultants, it was determined that a 6 channel rotary press sludge dewatering unit, manufactured

by Fournier Industries of Quebec, Canada, will meet the District's design and performance specifications. The Acting Regional Administrator is making this determination based on the review and recommendations of the Municipal Assistance Unit. The District through its design engineer, has provided sufficient documentation to support their 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 a 6 channel rotary press sludge dewatering unit, manufactured by Fournier Industries, by the District, as specified in its June 26, 2009 waiver request, as part of the improvements to the wastewater treatment facility.

**DATES:** *Effective Date:* August 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mark Spinale, Environmental Engineer, (617) 918-1547, or Katie Connors, Environmental Engineer, (617) 918-1658, 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), the EPA hereby provides notice that it is granting a project waiver of the requirements of Sections 1605(b)(2) of Public Law 111-5, Buy American requirements, to the Plymouth Village Water & Sewer District ("District"), New Hampshire for the purchase of a 6 channel rotary press sludge dewatering unit, manufactured by Fournier Industries of Quebec, Canada. It has been determined that this rotary press meets the District's technical specifications for design and performance of a sludge dewatering unit as part of its wastewater treatment plant improvement project. Based on the information provided by the applicant, there are no domestically manufactured rotary sludge presses at this time that meet the specific design criteria established for this unit in the District's project.

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, 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