

Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 19, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-8979-1]

Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the City of Washburn, ND

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) 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 to the City of Washburn, ND for the Zenon ZeeWeed 1000 membrane filter manufactured by General Electric Water & Process Technologies for a capacity of 1.7 MGD. This is a project-specific waiver and only applies to the use of the specified product for the ARRA-funded project 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. These membrane filters are manufactured in Canada, and meet the City of Washburn's performance specifications and requirements. The Acting Regional Administrator is making this determination based on the review and recommendation of EPA Region 8's Technical & Financial Services Unit. The City of Washburn 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 the Zenon ZeeWeed 1000 membrane filter for the Surface Water Treatment Plant upgrades being implemented by the City of Washburn that may otherwise be prohibited under Section 1605(a) of the ARRA.

DATES: *Effective Date:* October 23, 2009.

FOR FURTHER INFORMATION CONTACT: Jody Ostendorf, ARRA Coordinator, (303) 312-7814, or Brian Friel, SRF Coordinator, (303) 312-6277, Technical & Financial Services Unit, Water Program, Office of Partnerships & Regulatory Assistance, U.S. EPA Region 8, 1595 Wynkoop St., Denver, CO 80202.

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 City of Washburn for the Zenon ZeeWeed 1000 model of submerged membranes which are manufactured in Canada.

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, in this case 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.

This manufactured good will be used as part of the City of Washburn's Surface Water Treatment Plant renovation. The City of Washburn states that only ZeeWeed 1000 submerged membranes meet the specific needs of this project. Because this is a renovation of an existing facility, the specifications appropriately require a technology that can be retrofitted to the existing filter basin. The City provided a copy of the contractor's specifications that state the product must be manufactured by Zenon Environmental, Inc. or equivalent because this reflects the parameters of the existing filter basin as to the technology being replaced, and the product must also meet certain performance standards for pH, turbidity, temperature, alkalinity, hardness, sodium, sulfate, chloride, iron and manganese.

The City also provided a letter from an engineer with the State of North Dakota asserting a lack of domestic alternatives to the Zenon ZeeWeed 1000 submerged membranes. The letter states, "that the Zenon ZeeWeed 1000 membrane filter will be required to be used in Washburn and Valley City water treatment plant renovations because:

1. The Washburn and Valley City water treatment plant renovation projects will be using the existing infrastructure (existing filter bays) which require using the compact

immersed vacuum membrane filters. Membrane filters for this waiver are as defined in the *EPA Membrane Filter Guidance Manual* for compliance under the LT2ESWTR. Zenon is the only manufacturer of immersed vacuum membranes that meets the required specifications. The Zenon ZeeWeed 1000 membrane cartridges are manufactured in Canada, but all the piping, pumps, etc. will be manufactured and assembled in America.

2. The Zenon ZeeWeed 1000 membrane meets the requirements of the LT2ESWTR of 3.5 log removal of *Giardia* and 4.0 log removal of *Cryptosporidium*.

3. To the best of our knowledge, there are no current domestic membrane manufacturers that meet the specifications of the ZeeWeed 1000 membrane. Any domestic alternative membrane process would require extensive renovation and/or building addition resulting in substantial cost increases."

A requirement by the primary regulatory enforcement agency of a State for a public water system to use a particular technology in order to comply with a National Primary Drinking Water Regulation (NPDWR), and/or the approval by that State agency of a particular compliance technology for a specific NPDWR, is a crucial prerequisite to initiation of a drinking water infrastructure project to bring that public water system into compliance with that NPDWR. Given this requirement by the State and in light of the reasonableness of the retrofit specification, Washburn did not have a basis to use an alternative compliance technology within the ARRA time requirements for SRF projects to be under contract or construction by February 17, 2010.

The April 28, 2009 EPA HQ Memorandum ("EPA April memo"), "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." It further defines *satisfactory quality* as "the quality of iron, steel, or the relevant manufactured good as specified in the project plans and designs."

The applicant met the procedures specified for the availability inquiry as appropriate to the circumstances by

conducting on-line research and contacting suppliers. All sources indicated that submerged ultrafiltration membrane treatment systems are only manufactured outside of the U.S. Therefore, based on the information provided to EPA, and to the best of our knowledge at this time, Zenon ZeeWeed 1000 submerged membranes are not manufactured in the United States, and no other U.S. manufactured product can meet the City Washburn's performance specifications and requirements.

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 cities such as Washburn 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 ARRA State Revolving Fund assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay project implementation is in direct conflict with a fundamental economic purpose of the ARRA, which is to create or retain jobs.

EPA's national contractor prepared a technical assessment report dated September 25, 2009 based on the submitted waiver request. 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 applicant's claim that there are no comparable domestic products that can meet the project specifications.

The Technical & Financial Services Unit has reviewed this waiver request and has determined that the supporting documentation provided by the City of Washburn is sufficient to meet the criteria listed under Section 1605(b) of the ARRA and in the EPA April memo: 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) 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 City of Washburn's performance 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 this project, and that this manufactured good was not available from a producer in the United States, the City of Washburn is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5 for the purchase of Zenon ZeeWeed 1000 submerged membranes using ARRA funds as specified in the City's request of September 22, 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: October 23, 2009.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-8979-4]

Control of Emissions From New Highway Vehicles and Engines: Approval of New Scheduled Maintenance for Selective Catalyst Reduction Technologies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA has granted certain manufacturers new and limited variations in emission-related scheduled maintenance intervals for the replenishment of the nitrogen containing reducing agent for Selective Catalyst Reduction (SCR) technologies used in light-duty and chassis certified diesel vehicles for model years 2009-2010, and used in heavy-duty diesel vehicles and heavy-duty diesel engines for model years 2009-2011. SCR replenishment is considered critical emission-related maintenance.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Compliance and Innovative Strategies Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW. (6405J), Washington, DC 20460. Telephone: (202) 343-9256. E-mail Address: dickinson.david@epa.gov.

SUPPLEMENTARY INFORMATION: EPA adopted new emission standards for