

guidance on estimating project emissions using EPA's MOVES model, California's EMFAC model, and other methods; and outlines how to apply air quality dispersion models for quantitative PM hot-spot analyses. The guidance also discusses how to calculate design values for comparison to each PM NAAQS, as well as how to determine which air quality modeling receptors may or may not be appropriate for PM hot-spot analyses.<sup>15</sup> The guidance also describes how the interagency consultation process should be used to develop quantitative hot-spot analyses in PM nonattainment and maintenance areas. In addition, the guidance includes other resources and examples to assist in conducting quantitative PM hot-spot modeling analyses. However, the guidance does not change transportation conformity rule requirements for PM hot-spot analyses, such as what types of projects are subject to these analyses. EPA notes that this guidance helps implement existing CAA and transportation conformity requirements and is not a regulation. In addition, certain sections of this guidance may be applicable when completing air quality analyses for transportation projects for purposes other than transportation conformity. EPA has coordinated with the DOT in developing this final guidance.

A draft of this guidance was made available for public comment on May 26, 2010, with a closing date of July 19, 2010 (75 FR 29537–29538). EPA received 15 sets of comments on the draft guidance and considered these comments when developing the final document.

As discussed in Section I, the conformity rule requires EPA to release guidance on how to conduct quantitative PM hot-spot analyses prior to announcing that the requirement to conduct such analyses is in effect (40 CFR 93.123(b)(4)). This regulatory requirement is met with today's release of this final quantitative PM hot-spot modeling guidance, as described in this notice. The qualitative PM hot-spot requirements under 40 CFR 93.123(b)(2) will no longer apply in any PM<sub>2.5</sub> and PM<sub>10</sub> nonattainment and maintenance areas once the grace period is over and quantitative requirements are in effect. At that time, the 2006 EPA/FHWA qualitative PM hot-spot guidance will be

superseded by EPA's quantitative PM hot-spot guidance for these analyses.

#### *B. Guidance for Using MOVES in Project-Level CO Analyses*

EPA is also releasing today the final guidance document: "Using MOVES in Project-Level Carbon Monoxide Analyses" (EPA-420-B-10-041). The purpose of this guidance is to describe how to use MOVES to estimate CO emissions from highway and transit projects in States other than California. This guidance is available online at the EPA Web site: <http://www.epa.gov/otaq/stateresources/transconf/policy.htm>. EPA coordinated with DOT in developing this guidance.

This guidance can be applied when using MOVES to complete any quantitative CO project-level analysis, including: CO hot-spot analyses for transportation conformity determinations, localized SIP modeling, and CO project-level analyses completed pursuant to the National Environmental Policy Act. EPA and DOT will provide outreach and training for using this guidance.

Dated: December 14, 2010.

**Margo Tsirigotis Oge,**

*Director, Office of Transportation and Air Quality.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-9241-2]**

### **Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Woodlake Tax District in Woodbury, CT**

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

**ACTION:** Notice.

**SUMMARY:** The EPA is hereby granting a 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 Woodlake Tax District ("District") in Woodbury, Connecticut for the purchase of a submersible well pump as part of the construction of a new bedrock well field and raw water transmission line. 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 District and its consulting engineer, it has been determined that there are currently no domestically manufactured submersible well pumps available to meet its proposed project 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 3 inch diameter submersible well pump by the District, as specified in its October 19, 2010 request.

**DATES:** *Effective Date:* December 10, 2010.

#### **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, 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(a) of Public Law 111-5, Buy American requirements, to the District for the purchase of a non-domestically manufactured 3 inch diameter submersible well pump to meet the District's specifications as part of the construction of a new bedrock well field and raw water transmission line.

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

<sup>15</sup> EPA stated in the March 2006 final rule that the PM hot-spot modeling guidance would "consider how projects of air quality concern are predicted to impact air quality at existing and potential PM<sub>2.5</sub> monitor locations which are appropriate to allow the comparison of predicted PM<sub>2.5</sub> concentrations to the current PM<sub>2.5</sub> standards, based on PM<sub>2.5</sub> monitor siting requirements (40 CFR Part 58)." (71 FR 12471)

the overall project by more than 25 percent.

Consistent with the direction of the OMB Guidance at 2 CFR 176.120, EPA has evaluated the District's request to determine if the request constitutes a late request. EPA will generally regard waiver requests with respect to components that were specified in the bid solicitation or in a general/primary construction contract as "late" if submitted after the contract date. However, in this case EPA has determined that the District's request, though made after the date that the contract was signed, can be evaluated as timely because the need for a waiver was not reasonably foreseeable. During construction, one of the three bedrock wells became unstable and required additional PVC casing to be installed the length of the well. Due to the additional PVC casing in the well, the 4 inch diameter well pump specified during design could no longer be utilized and a smaller 3 inch diameter submersible well pump was needed. The recipient could not reasonably have foreseen the need for a waiver prior to the changed circumstances which developed during construction. Accordingly, EPA will evaluate the request as a timely request.

The District is requesting a waiver from the Buy American provision of ARRA for one 3 inch diameter, 1 horsepower, single phase submersible well pump manufactured by Grundfos Pump Corporation. The unit is scheduled for installation by the end of November 2010. During drilling and pump testing of one of the three bedrock wells within the well field, a soft rock layer was discovered in the formation and the well appeared to be unstable. An additional 4 inch PVC casing was installed the length of the well to help prevent caving and allow flexibility to install the pump below the soft rock layer. With the additional casing in place, the original 4 inch diameter well pump that was specified during design could no longer be used as it exceeded the diameter of the modified well.

The District has researched foreign and domestic manufacturers of 3 inch diameter submersible well pumps and has determined that domestic manufacturers are not able to manufacture a well pump that meets the necessary 3 inch diameter. The District was only able to identify Grundfos Pump Corporation that manufactures a

3 inch diameter, 1 horsepower, single phase submersible well pump.

An evaluation of all of the submitted documentation by EPA's technical review team supports and confirms the District's claim that there are currently no domestic manufacturers that can provide a submersible well pump that meets the necessary size constraints. The consulting engineer for the District identified three domestic manufacturers in the United States. None of the companies currently manufacture 3 inch diameter submersible well pumps. An independent review of the submitted documentation by EPA's national contractor found four additional possible domestic manufacturers. However, none of the manufacturers contacted currently provides a product that meets the size constraints. In addition, the evaluation of the supporting documentation demonstrated that foreign manufactured 3 inch diameter submersible well pumps are available and will be able to meet the proposed 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 Woodlake Tax District, to revise their design standards and specifications. 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 District establishes both a proper basis to specify a particular manufactured good,

and that the domestically manufactured good that is currently available does not meet the 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 Woodlake Tax District 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-domestically manufactured 3 inch diameter submersible well pump documented in District's waiver request submittal dated October 19, 2010. 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 10, 2010.

**Ira W. Leighton,**  
Acting Regional Administrator, EPA Region 1—New England.

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**FEDERAL COMMUNICATIONS COMMISSION**

**Sunshine Act Meeting**

**FCC to Hold Open Commission Meeting Tuesday, December 21, 2010**

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, December 21, 2010, which is scheduled to commence at 10:30 a.m. in Room TW-C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1 .....	Public Safety and Homeland Security .....	Title: Framework for Next Generation 911 Deployment.