

B. Disposition of Existing Stocks for All Table 1B Products

Wellmark International is prohibited from using, selling, or distributing propetamphos technical (EPA Reg. No. 2724–313), except for (i) Export consistent with FIFRA section 17, (ii) for proper disposal or (iii) to formulate existing stocks of propetamphos technical (EPA Reg. No. 2724–313) into its propetamphos end-use product (EPA Reg. No. 2724–450) effective immediately. After March 30, 2012, Wellmark International is prohibited from using, as well as continuing to be prohibited from selling or distributing, its propetamphos technical (EPA Reg. No. 2724–313), except for export consistent with FIFRA section 17 or for proper disposal.

The cancellation of the propetamphos end-use product (EPA Reg. No. 2724–450) is effective March 30, 2012. Wellmark International is permitted to sell or distribute existing stocks of the canceled end-use product (EPA Reg. No. 2724–450) until such stocks are exhausted. Persons other than Wellmark International are allowed to sell, distribute, and use existing stocks of the canceled propetamphos end-use product (EPA Reg. No. 2724–450) until supplies are exhausted, provided that such sale, distribution, and use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled product. The existing stocks provisions outlined in this notice are intended to allow depletion of the amount of technical propetamphos (EPA Reg. No. 2724–313) that Wellmark International currently has on-hand from purchases made prior to its decision to request voluntary cancellation. Use until depletion will preclude environmental disposal concerns of quantities of undiluted propetamphos that cannot be formulated or used.

List of Subjects

Environmental protection, Pesticides, Pests.

Dated: December 14, 2010.

Richard P. Keigwin, Jr.,

*Director, Pesticide Re-Evaluation Division,
Office of Pesticide Programs.*

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–9245–7]

Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Buffalo Island Regional Water District, Monette, AR

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Regional Administrator of EPA Region 6 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 Buffalo Island Regional Water District (“District”) for the purchase of a 15 horsepower (HP) vertical hollow shaft electric motor, for use in a water supply well. The 15 HP vertical hollow shaft electric motor is manufactured by foreign manufacturers and no United States manufacturer produces an alternative that meets the District’s technical specifications. 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 the specific project circumstances. The Regional Administrator is making this determination based on the review and recommendations of the EPA Region 6, Water Quality Protection Division. The District has provided sufficient documentation to support its request.

The Assistant Administrator of the EPA’s 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 15 HP vertical hollow shaft electric motor not manufactured in America, for the proposed project being implemented by the District.

DATES: *Effective Date:* December 17, 2010.

FOR FURTHER INFORMATION CONTACT: Nasim Jahan, Buy American Coordinator, (214) 665–7522, SRF & Projects Section, Water Quality Protection Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

SUPPLEMENTARY INFORMATION:

In accordance with ARRA Section 1605(c) and 1605(b)(2), 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 acquisition of a 15 HP vertical hollow shaft electric motor. The District has been unable to find an American made electric motor to meet its specific requirements of cross correlation functionality for pinpointing leaks throughout its water distribution system.

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 District’s water system improvement project includes the development of a new water supply well serviced by a new vertical turbine well pump. The District has conducted a pumping test after the development of the new well and has determined that a 15 HP vertical hollow shaft electric motor is sufficient to provide the required production flow rate of 500 gallon per minute (gpm) at 87 feet Total Dynamic Head (TDH).

The District is requesting a waiver for the use of a 15 HP vertical hollow shaft electric motor on the basis that there are no domestic manufacturers of the electric motors that will meet the District’s product specifications. The District contacted seventeen manufacturers and of the seventeen (17) listed manufacturers, only three (3) electric motor manufacturers were reported to make the 15 HP vertical hollow shaft electric motor, but none are manufactured in the United States.

Based on additional research conducted by EPA Region 6, there does not appear to be any domestic electric motor manufacturers that would meet the District’s technical specifications. EPA’s national contractor prepared a technical assessment report based on the waiver request submittal. The report

confirmed the waiver applicant's claim that there is no American-made 15 HP vertical hollow shaft electric motor available for use in a water supply well. Therefore, EPA Region 6 concludes that the District meets the "specifications in project plans and design."

EPA has determined that the District's waiver request is timely even though the request was made after the construction contract was signed. 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 contract date, may be treated as timely. This request is submitted after the contract date because the District was unable to specify the exact size of the motor until after the development of the new well and the completion of the pumping test. The need for a waiver was not determined until after the well contractor confirmed that there was no domestically made 15 HP vertical hollow shaft electric motor available to meet the project specifications. Accordingly, EPA will evaluate the request as a timely request.

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 District has incorporated specific technical design requirements for installation of electric motor in its water supply well. Therefore, it meets the requirements of the "satisfactory quality" criterion for requesting a waiver from the Buy American provisions of Public Law 111-5.

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 District, to revise their standards and specifications, institute a new bidding process, and potentially choose a more costly, less efficient project. 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 Region 6 Water Quality Protection Division has reviewed this waiver request, and has determined that the supporting documentation provided by the District is sufficient to meet the criteria listed under ARRA, Section 1605(b), Office of Management and Budget (OMB) regulations at 2 CFR 176.60-176.170, and in the April 28, 2009, memorandum, "Implementation of Buy American provisions of Public Law 111-5, the American Recovery and Reinvestment Act of 2009. The basis for this project waiver is the authorization provided in ARRA, 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.

EPA headquarters' 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 District is hereby granted a waiver from the Buy American requirements of ARRA, Section 1605(a) of Public Law 111-5 for the purchase of a 15 HP vertical hollow shaft electric motor, using ARRA funds, as specified in the District's request. This supplementary information constitutes the detailed written justification required by ARRA, Section 1605(c), for waivers "based on a finding under subsection (b)."

Authority: Public Law 111-5, section 1605.

Dated: December 17, 2010.

Al Armendariz,

Regional Administrator, U.S. Environmental Protection Agency, Region 6.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-9246-2]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to address lawsuits filed by the following groups of Petitioners: (1) The States of New York, California, Connecticut, Delaware, Maine, New Hampshire, New Mexico, Oregon, Rhode Island, Vermont, and Washington, the Commonwealth of Massachusetts, the District of Columbia, and the City of New York (collectively "State Petitioners"); and (2) Natural Resources Defense Council, Sierra Club, and Environmental Integrity Project (collectively "Environmental Petitioners"). State and Environmental Petitioners filed their lawsuits in the United States Court of Appeals for the District of Columbia Circuit, which were consolidated under the lead case *American Petroleum Institute, et al. v. EPA*, No. 08-1277 (DC Cir.). Petitioners filed petitions for review of EPA's final rule entitled "Standards of Performance for Petroleum Refineries," published at 73 FR 35838 (June 24, 2008). The proposed settlement agreement establishes deadlines for EPA's proposed and final actions for meeting its obligations in the agreement.

DATES: Written comments on the proposed settlement agreement must be received by *January 31, 2011*.

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2010-1045, online at <http://www.regulations.gov> (EPA's preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.