aspects of the method should be
directed to the applicant.

Jewel F. Morris,
Acting Director, National Exposure Research
Laboratory.

[FR Doc. 2011–26092 Filed 10–6–11; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION
AGENCY

[FRL–9476–9]
Notice of a Regional Waiver of Section
1605 (Buy American Requirement) of
the American Recovery and
Reinvestment Act of 2009 (ARRA) to
the City of Airway Heights (the City),
Washington

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: The Regional Administrator
of EPA Region 10 is hereby granting a
waiver from the Buy American
requirements of ARRA Section 1605(a)
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 City for the purchase of six
Carrier split ductless air conditioning
(AC) units, manufactured in Mexico and
South Korea. This is a project specific
waiver and only applies to the use of the
specified products 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 waiver applicant
states that AC systems are required to
provide a constant temperature for the
electrical control room as part of the
City’s project to upgrade of the
wastewater treatment plant. The City’s
consulting engineer requested the
Carrier AC system products based on
specifications on the project plans for
six Carrier split ductless AC units. The
City has provided sufficient
documentation to support their request.
This action allows the installation of the
six specified ductless AC units as noted
in the City’s June 22, 2011, request and
additional follow up documentation.

DATES: Effective Date: September 21,
2011.

FOR FURTHER INFORMATION CONTACT:
Michelle Tucker, CWSRF Coordinator,
Grants and Strategic Planning Unit,
Office of Water & Watersheds (OWW),
(206) 553–1414, U.S. EPA Region 10
(OWW–137), 1200 Sixth Avenue, Suite
900, Seattle, WA 98101.

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 City for purchase of
six non-domestic manufactured Carrier
split ductless (AC) units. The City
requires the AC systems to provide a
constant temperature for the electrical
control room as part of the City’s project
to upgrade of the wastewater treatment
plant. The City planned to purchase and
install the identified six ductless split
AC units and one ducted unit from
Carrier. The units are needed to keep the
motor starters, control equipment,
power transformers, circuit breakers,
and other electronic controlling
equipment at the wastewater treatment
plant from overheating. The City’s
consultant conducted due diligence and
research with five product suppliers of
AC systems in the Eastern Washington
area. The City’s consultant concluded
that there are no domestically
produced ductless AC systems that could meet the
product specifications.

EPA has also evaluated the City’s
request to determine if its submission is
considered late or if it could be
considered timely, as per OMB
regulations at 2 CFR 176.120. 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, EPA could also
determine that the request be evaluated as
timely, though made after the date that
the contract was signed, if the need for
a waiver was not reasonably foreseeable.

If the need for a waiver is reasonably
foreseeable, then EPA could still apply
discretion in these late cases as per the
OMB regulation, which says “the award
official may deny the request.” For
those waiver requests that do not have a
reasonably unforeseeable basis for
lateness, but for which the waiver basis is
valid and there is no apparent gain by
the ARRA recipient or loss on behalf of
the government, then EPA will still
consider granting a waiver.

In this case, there are no U.S.
manufacturers that meet the City’s
requirement for ductless split AC units.
The waiver request was submitted after
contract signing; however, it was
reasonably unforeseeable. ARRA Buy
American documentation for the AC
units was not supplied with the initial
submittal in January 2010. Pending re-
submittal of the documentation, the City
discovered the units had a plate stamped “Made in Mexico” in
September 2010. The City checked with
the Department of Ecology and EPA to
determine if the units were eligible
under the Section 1605(d) trade
agreement exception; EPA confirmed
the units were not eligible for that
exception. The City spent several
months coordinating back and forth
with the manufacturer and the
contractor to explain that they were not
covered by any international trade
agreements and that an alternate means
of compliance was necessary. The
drafting of the project-specific
availability waiver began in March
2011. The City delayed submitting the
waiver request to investigate a potential
domestic manufacturer (Enviromaster
International) lead, which ultimately
did not work out. Since the City was
investigating various means of Buy
American compliance through gathering
adequate documentation, coordinating
with the manufacturer and contractor,
and researching potential domestic
manufacturers, the circumstance of
applying for a waiver after the start of
construction was not foreseen. EPA has
evaluated this information and will
consider the City’s waiver request as a
timely request since it was reasonably
unforeseeable.

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
“satisfactory quality” as the quality of
iron, steel or the relevant manufactured
good as specified in the project plans
and design. The City provided
documentation to the EPA representing
there are no current domestic
manufacturers of the six ductless split
air conditioning units. EPA’s contractor
reviewed the information provided by
the City and determined that City’s
claim that no domestically
manufactured air conditioner units exist
that meets the project specifications for
the six split ductless AC units is
supported by the available information.
Furthermore, the purpose of the
ARRA provisions was to stimulate
economic recovery by funding current
infrastructure construction, not to delay
projects that are already shovel ready by
requiring entities, like the City, to revise
their design and potentially choose a
more costly and less effective project.
The implementation of ARRA Buy
American requirements on such projects
eligible for CWSRF 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
the most fundamental economic
purposes of ARRA, to create or retain
jobs.
The Grants and Strategic Planning Unit has reviewed this waiver request and has determined that the supporting documentation provided by the City is sufficient to establish a proper basis. 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 City’s design specifications.

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 assistance 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 manufacturer in the United States, the City is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5 for the purchase of six Carrier split ductless AC units, manufactured in Mexico and South Korea, for a wastewater treatment plant project specified in the City’s waiver request of June 22, 2011. 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: September 21, 2011.

Dennis J. McLerran,
Regional Administrator, EPA, Region 10.

[FR Doc. 2011–26091 Filed 10–6–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9477–2]

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 West Monroe, LA

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 City of West Monroe (“the City”) for the purchase of the selected carbon steel pipe fittings and appurtenances (elbows, tees and flanges) to be incorporated in the Sparta Reuse Project—Waste Water Treatment Facility. The required carbon steel pipe fittings and appurtenances are manufactured by foreign manufacturers and no United States manufacturer produces an alternative that meets the City’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 City 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 the selected carbon steel pipe fittings and appurtenances not manufactured in America, for the proposed project being implemented by the City.

DATES: Effective Date: September 26, 2011.

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 City for the acquisition of selected carbon steel pipe fittings and appurtenances (elbows, tees and flanges). The City has been unable to find American made carbon steel pipe fittings and appurtenances to meet its specific water requirements.

Section 1605 of 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 City has provided information to the EPA demonstrating that there are no carbon steel pipe fittings and appurtenances manufactured in the United States in sufficient and reasonable quantity and of a satisfactory quality to meet the required technical specification. The City indicated that of the ten US companies contacted, seven could not meet the requirement to provide the fittings and flanges manufactured from carbon steel sourced from steel mills in the United States. The remaining three companies contacted did not respond to requests for information regarding the sources of metals used in the fabrication of their products.

The project specifications include requirements for the following pipe fittings and flanges:

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Material</th>
<th>Code standard</th>
<th>Connection type</th>
</tr>
</thead>
<tbody>
<tr>
<td>16-in. STD LR 90o elbow</td>
<td>6</td>
<td>Carbon Steel</td>
<td>ANSI A234 WPB</td>
<td>Butt weld.</td>
</tr>
<tr>
<td>20-in. STD LR 90o elbow</td>
<td>3</td>
<td>Carbon Steel</td>
<td>ANSI A234 WPB</td>
<td>Butt weld.</td>
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<tr>
<td>24-in. STD LR 90o elbow</td>
<td>16</td>
<td>Carbon Steel</td>
<td>ANSI A234 WPB</td>
<td>Butt weld.</td>
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<tr>
<td>20-in. STD LR 45o elbow</td>
<td>1</td>
<td>Carbon Steel</td>
<td>ANSI A234 WPB</td>
<td>Butt weld.</td>
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<tr>
<td>8-in. STD TEE</td>
<td>42</td>
<td>Carbon Steel</td>
<td>ANSI A234 WPB</td>
<td>Butt weld.</td>
</tr>
<tr>
<td>24-in. STD Raised Face Blind Flange</td>
<td>2</td>
<td>Carbon Steel</td>
<td>150# ANSI A105</td>
<td>Not applicable.</td>
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</tbody>
</table>