

U.S. EPA Region 10 offices, located at 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed settlement may be obtained from Carol Kennedy, Regional Hearing Clerk, U.S. EPA Region 10, Mail Stop ORC-158, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101; (206) 553-0242. Comments should reference the Anderson-Calhoun Mine and Mill Site in Leadpoint, Washington, EPA Docket No. CERCLA-10-2010-0105 and should be addressed to Alexander Fidis, Assistant Regional Counsel, U.S. EPA Region 10, Mail Stop ORC-158, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Alexander Fidis, Assistant Regional Counsel, U.S. EPA Region 10, Mail Stop ORC-158, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101; (206) 553-4710.

**SUPPLEMENTARY INFORMATION:** The Anderson-Calhoun Mine and Mill Site (Site) is located in Leadpoint, Stevens County, Washington. Site operations conducted between 1910 and the early 1980s included the mining and milling of lead-zinc ore, and the milling of barite ore. Waste-rock and mill tailings produced by these operations were disposed of at the Site in a raised tailings impoundment and at areas around the mill building. Waste-rock and tailings at the Site contain hazardous substances including barium, cadmium, copper, lead, selenium and zinc at concentrations that exceed applicable cleanup levels. The Agency has selected a removal action to address potential or actual threats that these substances may present to public health, welfare, or the environment.

The settling party is one of three parties that together spent approximately \$660,000 to investigate and study the Site, assess cleanup alternatives, and to develop an Engineering Evaluation and Cost Analysis that formed the basis for the selection of the removal action. The Agency entered into a settlement agreement with the other two parties, Docket Number CERCLA-10-2009-0195, for \$357,000, which was deposited in a site-specific account. Under the proposed agreement, the settling party will pay \$1,362,800 to the site-specific account to cover the remaining estimated costs of the removal action. The settling party will also conduct all future post-removal site control as described in a finalized maintenance and repair plan. The proposed settlement will provide the settling party with a covenant not to sue or take administrative action, subject to

a reservation of certain rights, for recovery past response costs and for the performance of the selected removal action.

Dated: February 16, 2010.

**Linda Anderson-Carnahan,**  
*Acting Director, Office of Environmental Cleanup.*

[FR Doc. 2010-3681 Filed 2-23-10; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL -9117-3]**

### **Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to Mecklenburg County, NC, Land Use and Environmental Services Agency**

**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 of a satisfactory quality] to the Mecklenburg County Land Use and Environmental Services Agency, for the purchase of coconut fiber (coir) woven mats. 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 coconut fiber woven mats, which are supplied by HD Supply in Charlotte, NC, are manufactured in India and Sri Lanka, and meet Mecklenburg County's performance specifications and requirements. The Acting Regional Administrator is making this determination based on the review and recommendations of EPA Region 4. The County 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 coconut fiber woven mats for the Torrence Creek Stream Restoration Project being implemented by the Mecklenburg County Land Use and Environmental Services Agency that may otherwise be prohibited under Section 1605(a) of the ARRA.

**DATES:** *Effective Date:* January 28, 2010.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Y. Edwards, Project Officer, Grants and SRF Section, Water Protection Division (WPD), (404) 562-9340, USEPA Region 4, 61 Forsyth St., SW., Atlanta, GA 30303.

**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 Mecklenburg County Land Use and Environmental Services Agency, Mecklenburg County, North Carolina, for the purchase of coconut fiber woven mats manufactured in India and Sri Lanka.

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, herein 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 "Torrence Creek Stream Restoration Project," a stream stabilization project in North Carolina. The County states that only coconut fiber woven mats meet the specific needs of this project, which are durability, mat size and biodegradability. They indicate that the key characteristics that set coconut fiber woven mats apart from other alternatives are a 3+ year in-stream life expectancy followed by 100% biodegradation, and visually unobtrusive properties. The County states that coconut fibers are more durable than straw and other materials used in alternative mat products, and they do not require the incorporation of polypropylene and/or other synthetic products that are not 100% biodegradable.

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 OMB ARRA Buy American Guidance cites the Federal Acquisition Regulation (FAR) as an appropriate reference for availability waiver inquiries. Specifically, the OMB Guidance at section 176.80(a)(1) states (at 77 FR 18452) that "The determinations of nonavailability of the articles listed at 48 CFR 25.104(a) and the procedures at 48 CFR 25.103(b)(1) also apply if any of those articles are manufactured goods needed in the project. The FAR's list of nonavailable articles includes "Fibers of the following types: \* \* \* coir," thereby establishing a presumption of lack of U.S. availability. The FAR procedures at 48 CFR 25.103(b)(1) specified as required in the OMB Guidance state that: (1)(i) A nonavailability determination has been made for the articles listed in 25.104. This determination does not necessarily mean that there is no domestic source for the listed items, but that domestic sources can only meet 50 percent or less of total U.S. government and nongovernment demand. (ii) Before acquisition of an article on the list, the procuring agency is responsible to conduct market research appropriate to the circumstances, including seeking of domestic sources.

The applicant met the procedures specified for the availability inquiry as appropriate to the circumstances by conducting on-line research and contacting suppliers, and all sources indicated that coconut fiber woven mats 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, coconut fiber woven mats are not manufactured in the United States, and no other U.S. manufactured product can meet Mecklenburg County's performance specifications and requirements for this project.

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 agencies such as Mecklenburg County Land Use and Environmental Services Agency, to revise their standards and specifications. 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 December 22, 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 specific durability, size and biodegradation needs of this project.

The information and supporting documentation provided by Mecklenburg County 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 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 County'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, Mecklenburg County Land Use and Environmental Services Agency, is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5 for the purchase of coconut fiber woven mats using ARRA funds as specified in the Mecklenburg County Land and Environmental Services Agency request of December 16, 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: January 28, 2010.

**J. Scott Gordon,**

*Acting Regional Administrator, Region 4.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9117-6]

### Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Massachusetts Water Resources Authority (MWRA)

**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 Massachusetts Water Resources Authority ("MWRA") for the purchase of a 1.5 megawatt (MW) foreign manufactured wind turbine for the DeLauri Pump Station Renewable Energy Project in Charlestown, Massachusetts. 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 MWRA, it has been determined that there is currently no domestically manufactured wind turbine available or one that can be supplied 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 foreign manufactured 1.5 MW wind turbine by the MWRA, as specified in its November 19, 2009 request.