

for revision of its EPA-authorized program under title 40 CFR. EPA reviewed NC DENR's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve North Carolina's request for revision to its authorized program is being published in the **Federal Register**.

Specifically, EPA has approved the State of North Carolina's request to revise its Part 52—Approval and Promulgation of Implementation Plans authorized program for electronic reporting of air emissions information under 40 CFR part 51, for electronic submissions that do not include an electronic signature, but instead provide for a handwritten signature on a separate paper submission report.

NC DENR was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Dated: January 7, 2010.

**Lisa Schlosser,**

*Director, Office of Information Collection.*

[FR Doc. 2010-1103 Filed 1-20-10; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9104-8]

### **Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to Gwinnett County Department of Water Resources, Gwinnett County, GA**

**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)(1) [inconsistent with the public interest] to Gwinnett County Department of Water Resources, Gwinnett County, Georgia ("County") for the purchase of a foreign manufactured submersible pump. 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. The County's tunnel and tunnel lift station project

will include installation of two submersible pumps as well as the purchase of one spare pump. The project was originally designed between 2003 and 2006, and bids were taken on March 1, 2007. The County standardized ITT Flygt Corporation as the sole manufacturer of submersible pumps in 2003, when design of the project started. At the time of design, the County already had in operation 88 Flygt pumps out of the 106 pumps in the system. The County has submitted a detailed memorandum dated October 17, 2003, explaining the rationale for standardization. According to the memorandum, the County desired to, "standardize on a single brand of submersible pumps for wastewater pump stations in order to provide greater reliability in the operation of pump stations and avoid the increased costs of inventory, service, maintenance, and engineering associated with using several different brands." This is a project whose earlier phases began prior the enactment of ARRA and was undertaken for the principal purpose of Clean Water Act compliance. The procurement for those prior phases standardized on a particular manufactured good that is subject to ARRA section 1605 requirements for its ARRA-funded phase but the performance from and operation and maintenance of such good in the performance of the facility would be detrimentally affected by a requirement to use a non-standardized good(s). Based on the review of the information provided, EPA has concluded that a waiver of the Buy American provisions is justified. 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 County to purchase Flygt submersible pumps, manufactured by ITT Flygt Corporation, as specified in its September 1, 2009, request.

**DATES:** *Effective Date:* December 18, 2009.

**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(a) of Public Law 111-5, Buy American requirements, to Gwinnett County Department of Water Resources, Gwinnett County, Georgia, for the

purchase of Flygt submersible pumps, manufactured by ITT Flygt Corporation of Sweden. EPA has evaluated the County's basis for standardizing to the Flygt submersible pumps. Based on the information provided by the applicant, EPA has determined that it is inconsistent with the public interest for the County to pursue the purchase of a domestically manufactured submersible pump.

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, here the EPA. A waiver may be provided if EPA determines that (1) applying these requirements would be inconsistent with public the 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 County has requested a waiver from the Buy American Provision for the purchase of the foreign made submersible pumps as part of its tunnel and tunnel lift station project. The purchase of the submersible pumps is part of a project that, according to the County, "consists of a wastewater conveyance and linear storage tunnel from the existing Jack's Creek wastewater treatment facility to the existing No Business Creek pump station to convey wastewater flows from the tunnel to the pump station and a lift station to lift the flow from the tunnel invert to the pump station. The tunnel is an approximate 16,000 linear feet, 12-foot diameter hard rock bore. The lift station is constructed inside an approximate 180 feet deep shaft constructed through hard rock and lined with concrete and shotcrete. The completed project will have a design flow capacity of 7.5 million gallons per day (mgd) and overflow storage capacity in excess of 13 million gallons of raw sewage."

The project requires the installation of two submersible pumps, plus an additional spare submersible pump. The pumps are specified at a maximum 335 hp and 5.5 mgd pumping capacity at a total head of 207 feet. The project specification provided prospective bidders with one acceptable

manufacturer of submersible pumps: ITT Flygt Corporation. ITT Flygt was specified as the sole acceptable manufacturer of submersible pumps because the County had standardized on such pumps in 2003, when the project started. At the time, 88 out of 106 pump systems in the County were equipped with Flygt submersible pumps. The County standardized to these pumps, according to the standardization agreement with ITT Flygt Corporation, to provide greater reliability in the operation of pump stations and avoid the increased costs of inventory, service, maintenance, and engineering associated with using several different brands of pumps. Additionally, according to the County, standardization would allow the County to further its efforts to avoid sanitary sewer overflows by allowing maximum flexibility to interchange pumps during emergencies. Due to the difference in the design of pumps, guide rail systems, and electrical control systems, pumps from one manufacturer cannot be installed in a pump station outfitted for a different manufacturer's pumps. If there is a catastrophic failure or concurrent failure of pumps at a given station, interchangeability allows the immediate replacement of the failed pumps in one station with little-used pumps removed from other comparably sized stations. This ability is, according to the County, critically important in the event of a catastrophic failure or concurrent pump failures. This minimizes the downtime of the failed pump station and mitigates the risks of a major wastewater overflow. It also eliminates the necessity of maintaining spare pumps as a contingency measure

against such situations. EPA has determined that the County has provided ample cause for standardization. Furthermore, standardization took place well before ARRA funding was available, so such a decision by the County was clearly not an attempt to avoid application of the Buy American provisions of ARRA.

The purpose of the ARRA is to stimulate economic recovery by funding current infrastructure construction, not to delay projects that are already "shovel ready" by requiring SRF eligible recipients such as the County to revise their design standards and specifications. The imposition of ARRA Buy American requirements in this case would result in unreasonable delay for this project, and an unnecessary burden to the County, in the form of increased maintenance costs in the future, as well as decreased performance of its system due to incompatible pumps. To delay this construction would directly conflict with a fundamental economic purpose of ARRA, which is to create or retain jobs.

The information provided is sufficient to meet the following criteria listed under Section 1605(b) of the ARRA, OMB's regulations at 2 CFR 176.60-176.170, and in the April 28, 2009, EPA Memorandum: Applying the Buy American requirements of ARRA would be inconsistent with the public interest.

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 grant recipients.

Having established both a proper basis to specify the particular good required for this project and that application of the Buy American requirements would be inconsistent with the public interest, the County 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 the specified ITT Flygt Corporation submersible pumps documented in the County's waiver request submittal dated September 1, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b)(1).

**Authority:** Public Law 111-5, section 1605.

Dated: December 18, 2009.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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## FEDERAL COMMUNICATIONS COMMISSION

### Sunshine Act Meeting; Deletion of Agenda Item from January 20, 2010, Open Meeting

Date: January 15, 2010.

The following item has been deleted from the list of Agenda items scheduled for consideration at the January 20, 2010, Open Meeting and previously listed in the Commission's Notice of January 13, 2010. This item has been adopted by the Commission.

ITEM NO.	BUREAU	SUBJECT
2	WIRELESS TELE- COMMUNICATIONS .....	TITLE: Amendment of Parts 15, 74 and 90 of the Commission's Rules Regarding Low Power Auxiliary Stations, Including Wireless Microphones (WT Docket No. 08-166) SUMMARY: The Commission will consider an Order and Further Notice of Proposed Rulemaking to complete an important component of the DTV transition by prohibiting the further distribution and sale of devices that operate in the 700 MHz frequency and setting a date by which existing devices must clear the band to enable the rollout of public safety services and accelerate the deployment of next generation wireless networks.