

evaluating the temporality of toxic effects as it conducts this reevaluation of atrazine and at the April SAP will also discuss proposed statistical approaches to determine the appropriate monitoring frequency for different durations of interest.

The Agency will consider the advice and recommendations received from the SAP at the April 2010 meeting as it develops the WOE analysis integrating experimental toxicology and epidemiology studies with statistical analysis for determining the frequency of water monitoring scheduled for review by the SAP in September.

#### *C. FIFRA SAP Documents and Meeting Minutes*

EPA's background paper, related supporting materials, charge/questions to FIFRA SAP, FIFRA SAP composition (i.e., members and ad hoc members for this meeting), and the meeting agenda will be available by mid-March. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, at <http://www.regulations.gov> and the FIFRA SAP homepage at <http://www.epa.gov/scipoly/sap>.

FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90-days after the meeting. The meeting minutes will be posted on the FIFRA SAP website or may be obtained from the OPP Regulatory Public Docket at <http://www.regulations.gov>.

#### **List of Subjects**

Environmental protection, Pesticides and pests.

Dated: February 17, 2010.

**Frank Sanders,**

*Director, Office of Science Coordination and Policy.*

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**BILLING CODE 6560-50-S**

## **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9118-9]

### **Notice of a Project Waiver of Section 1605: (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Inland Empire Utilities 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(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 Inland Empire Utilities Agency (IEUA), a Clean Water State Revolving Fund/ARRA loan recipient, for the purchase of Air Release Vacuum (ARV) Valves manufactured by A.R.I. in Israel, for Project# C-06-5176-110 and C-06-5176-130 funded by the California CWSRF ARRA Loan# 08-835-550-1 and 08-850-550-1. The IEUA indicates that the design for the pipeline project at issue includes A.R.I. valves, which are the standard air relief structures used within the regional pipeline system, and that currently there is not a comparable domestic equivalent that meets the IEUA 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 project-specific circumstances. The Assistant Administrator of the Office of Administration and Resources Management has concurred with this decision to make an exception under section 1605(b)(2) of ARRA.

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

#### **FOR FURTHER INFORMATION CONTACT:**

Abimbola Odusoga, Environmental Engineer, Water Division, Infrastructure Office (WTR-4), (415) 972-3437, U.S. EPA Region 9, 75 Hawthorne, San Francisco, CA 94105 or Joshua Amaris, Life Scientist, Water Division, Infrastructure Office (WTR-4), (415) 972-3597, U.S. EPA Region 9, 75 Hawthorne, San Francisco, CA 94105.

**SUPPLEMENTARY INFORMATION:** In accordance with ARRA Sections 1605(c) and 1605(b)(2), EPA hereby provides notice it is granting a project waiver of the requirements of Section 1605(a) of Public Law 111-5, Buy American requirements, to the IEUA for the acquisition of the ARV valves manufactured in Israel by A.R.I. The head of each federal agency is authorized to issue project waivers pursuant to Section 1605(b) of ARRA. Section 1605(a) of the ARRA requires that none of the funds appropriated or otherwise made available by the ARRA 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. Pursuant to Section 1605(b), a waiver from this requirement may be provided if EPA determines: (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.

A Delegation of Authority Memorandum was issued by the EPA Administrator on March 31, 2009 which provided EPA Regional Administrators with the authority to issue waivers to Section 1605(a) of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual recipients of ARRA financial assistance.

The IEUA operates to provide drinking water and waste water treatment services to municipalities in the Chino Basin. The IEUA is installing the ARV valves as the air relief structures for the 1630 E. Recycled Water Pipeline and the 1299 E. Recycled Water Pipeline (project #5176-110), which consists of approximately 13,000 linear feet of 36-inch diameter pipeline. The project specifications provided by the applicant state that acceptable products are A.R.I. Flow Control Accessories, Ltd. (Model D-060) or an approved equal. The functional justification for these specifications advanced by the IEUA was that the IEUA had, in years prior to the enactment of ARRA, made the ARI valves their standard air relief structures used within the regional pipeline system based on the IEUA's determination that these valves had a superior design, functionality, and ease of maintenance. Specifically:

- ARI combination valves (D-060's) have the air release on the top of the valve, whereas alternative valves have the air release on the side. A side release creates an internal air pocket on the valve, which allows the rubber seal for the vacuum component to dry out and leak over time.
- The 316SS float for the ARI vacuum component stops against a 316SS ring. The alternative valves have a float that stops against a flat rubber seal on the top of the valve, and constant pounding during closure tends to crack the seal and cause leaks.
- The ARI valves are half the weight and size of the alternative valves, which

makes installation and maintenance easier. Also, as the valves are smaller, the enclosures for the valves are less expensive.

The consequences of finding the IEUA's specifications not justified would include the following:

- Additional design costs would be incurred to change all ARV valves, including re-calculating the size of the valves based on the competitor's design criteria, modifying valve and enclosure details, and modifying the pipeline profiles to accommodate larger valves. Alternative ARV valves that must be buried would require lowering the pipeline depth several feet on each side of the valves to accommodate a deeper valve vault.

- Construction costs would be higher due to the increase in valve sizes, larger enclosures, and a deeper pipeline. The pricing through the change order process would be significantly higher than prices for a competitive bid. The cost for the material and installation of the valves is approximately \$198,708. If the ARI valves are replaced with alternative valves, the estimated cost for the material and installation would be approximately \$100,000 more.

- IEUA staff would have to be trained on the different types of valves installed and additional spare parts would need to be ordered and stocked. Since the IEUA has moved forward with implementing the ARI valves as the standard air relief structure, all valves that do not meet this standard would need to be replaced.

Use of alternative valves that do not meet the IEUA's specifications would thus require a substantial redesign of, delay in, and higher costs for the project. Because of the IEUA's current, extensive installations of ARI valves, the use of alternative, incompatible valves would impose continuing high costs into the future to change spare parts and staff training in operations and maintenance, as well as in inferior performance of the alternative valves. Procurement of alternative valves would be inconsistent with basic principles of sustainable infrastructure and effective asset management that EPA has consistently promoted. For all these reasons, EPA finds that the IEUA's specifications for these ARV valves were justified.

EPA also evaluated the project specifications to assess the IEUA's claim there are no known American manufacturers who can provide ARV valves of satisfactory quality to meet its technical specifications. Five domestic manufacturers of ARV valves were identified by the applicant. EPA's national contractor contacted the

domestic manufacturers and inquired as to whether their products could meet the IEUA's specifications. Four of the five manufacturers responded. All four manufacturers indicated that they could provide similar products, but could not meet all of the IEUA's specifications, particularly with regard to manufacturing materials and product design.

Based on these findings, EPA concludes the IEUA's claim that there are no known American manufacturers of ARV valves meeting the IEUA's specifications is supported by the available information.

The April 28, 2009 EPA Memorandum for implementation of the ARRA Buy American provisions of P.L. 111-5, states the quantity of iron, steel, or relevant manufactured good is "reasonably available" if it is available at the time and place needed, and in the proper form or specification as specified in the project plans and design. The IEUA's waiver request articulates a reasonable and appropriate basis for choosing the type of technology it chose for this project in environmental objectives and performance specifications. Further, it provides sufficient documentation to conclude the relevant manufactured goods are not produced in the United States of a satisfactory quality to meet its technical specifications. The IEUA has incorporated specific technical design specifications for the proposed project based on their needs and provided information to the EPA indicating there are currently no ARV valves manufactured in the United States that have equivalent product specifications. The IEUA has also provided certification indicating there are no systems of comparable quality available from a domestic manufacturer to meet its specifications. Based on additional inquiry by EPA's national contractor, there do not appear to be other ARV valves available to meet the IEUA's specifications.

Furthermore, the purpose of the ARRA is to stimulate economic recovery by funding current infrastructure construction, not to delay shovel ready projects by requiring entities, like the IEUA, to revise their design and potentially choose a more costly and less efficient project. The imposition 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. Further delay of this project would contravene the most fundamental economic purposes of the ARRA: To create or preserve jobs in the United States.

The EPA Region 9 Water Division, Office of Regional Counsel, EPA's Buy American consultant, and EPA's Office of Administration and Resource Management have reviewed this waiver request and have determined the supporting documentation provided by the IEUA is sufficient to meet the criteria listed under ARRA Section 1605(b)(2) and the EPA April 28, 2009, memorandum for implementation of ARRA Buy American provisions of P.L. 111-5.

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 IEUA is hereby granted a waiver from the Buy American requirements of Sections 1605(a) of Public Law 111-5, for the purchase of the A.R.I. valves, specified in the IEUA's request of January 21, 2010. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under Section 1605(b)(2).

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

Dated: February 10, 2010.

**Jared Blumenfeld,**

*Regional Administrator, EPA Pacific Southwest Region.*

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2010-0097; FRL-8811-8]

### Pesticide Products; Registration Applications

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

**ACTION:** Notice.

**SUMMARY:** EPA has received applications to register new uses for pesticide products containing previously registered active ingredients. Pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

**DATES:** Comments must be received on or before April 5, 2010.

**ADDRESSES:** Submit your comments, identified by the docket identification (ID) number specified in Unit II. of the **SUPPLEMENTARY INFORMATION**, by one of the following methods: