



Department of Energy
Washington, DC 20585

ASSISTANT SECRETARY OF ENERGY
FOR ENERGY EFFICIENCY AND RENEWABLE ENERGY

MEMORANDUM OF DECISION

SUBJECT: Amended waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) in EERE-funded projects for LED tube lights to replace T8/ other 4 foot fluorescents.

This amendment withdraws the nonavailability waiver issued on September 30, 2010 for LED tube lights to replace T8/ other 4 foot fluorescents.

Under the authority of Recovery Act, Pub. L. 111-5, section 1605(b)(2), the head of a Federal department or agency may issue a "determination of inapplicability" (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality ("nonavailability"). The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelelegation Order No. 00-002.01E, dated April 25, 2011.

On September 30, 2010, The Assistant Secretary issued a nonavailability waiver for LED tube lights to replace T8/ other 4 foot fluorescents.

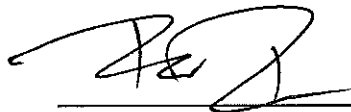
As with all waivers, the Assistant Secretary reserved the right to revisit and amend this determination based on any changes in the manufacturing landscape, such as the entry into the market of new domestic manufacturers. In this case, domestic manufacturers have moved manufacturing capacity to the United States, broadening the scope of domestically manufactured LED lamps available for purchase.

The remaining items covered by the September 30, 2010 Waiver (motorized automatic two (2) wing revolving doors; self-contained photovoltaic LED area lighting systems; ultrasonic directional sensors and DC300 facility controllers for a parking guidance system; load management ripple control receivers for an existing load management system) continue to be covered by the September 30, 2010 waiver and remain subject to the specifications and conditions of that waiver.

In order for the withdrawn waivers to continue to apply substantial steps to commit funds for the purchase of the formerly waived items must have been made on or before November 30, 2012.

Substantial steps to commit funds would include, but are not limited to, (1) issuing a Request for Proposals (RFP) on or before November 30, 2012 (applicable only where the grantee accepts a proposal received under that RFP); (2) in the case of a sole source selection: placing an order for the goods on or before November 30, 2012; (3) commencing a bidding process on or before November 30, 2012; (4) in circumstances where the grantee solicited quotes without an RFP: the grantee purchases the goods based on a quote dated on or before November 30, 2012 and the order for the goods is placed on or before November 30, 2012; or (5) grantee has executed a contract or purchase agreement with a supplier to acquire affected goods on or before November 30, 2012.

This amended waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of his responsibility.



Dr. David T. Danielson
Assistant Secretary
Energy Efficiency and Renewable Energy
U.S. Department of Energy

Date:

11/20/12



Department of Energy
Washington, DC 20585

[6450-01-P]

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

**Nationwide Categorical Waivers under Section 1605 (Buy American) of the
American Recovery and Reinvestment Act of 2009 (Recovery Act)**

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice of Amended Limited Waivers

SUMMARY: The U.S. Department of Energy (DOE) is hereby granting an Amended Waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) in EERE-funded projects for LED tube lights to replace T8/ other 4 foot fluorescents.

DATES: Effective Date: 11/06/2012

FOR FURTHER INFORMATION CONTACT: Christine Platt-Patrick, Office of Energy Efficiency and Renewable Energy (EERE), (202) 586-7691, Department of Energy, 1000 Independence Avenue SW., Mailstop EE-2K, Washington, DC 20585.



SUPPLEMENTARY INFORMATION: Under the authority of Recovery Act, Pub. L. 111-5, section 1605(b)(2), the head of a Federal department or agency may issue a “determination of inapplicability” (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality (“nonavailability”). The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelegation Order No. 00-002.01E, dated April 25, 2011.

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EERE hereby provides notice that on November 6, 2012, an Amended Waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) in EERE-funded projects for LED tube lights to replace T8/ other 4 foot fluorescents..

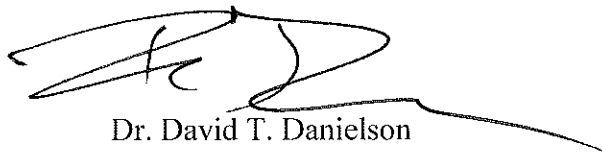
This amendment withdraws the nonavailability waiver issued on September 30, 2010 for LED tube lights to replace T8/ other 4 foot fluorescents. This notice constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with

respect to expenditures within the purview of his responsibility. Consequently, this waiver applies to all EERE projects carried out under the Recovery Act.

Authority: Pub. L. 111-5, section 1605.

Issued in Washington, DC on 11/20/2012.

A handwritten signature in black ink, appearing to read 'D. Danielson', with a long horizontal flourish extending to the right.

Dr. David T. Danielson
Assistant Secretary
Energy Efficiency and Renewable Energy
U.S. Department of Energy



Department of Energy
Washington, DC 20585

November 6, 2012

MEMORANDUM FOR: DAVID T. DANIELSON, PH.D.
ASSISTANT SECRETARY
ENERGY EFFICIENCY AND RENEWABLE ENERGY

THROUGH: STEVEN G. CHALK
ACTING DEPUTY ASSISTANT SECRETARY FOR
RENEWABLE ENERGY
OFFICE OF TECHNOLOGY DEVELOPMENT
ENERGY EFFICIENCY AND RENEWABLE ENERGY

FROM: CHRISTINE PLATT-PATRICK
WEATHERIZATION AND INTERGOVERNMENTAL PROGRAM
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY

SUBJECT: **ACTIONS:**
1) Approval of determination of inapplicability ("nonavailability" waiver) of section 1605 of the Recovery Act of 2009 (the Buy American provision) for listed technologies specified *infra*.
2) Approval to publish determinations in the *Federal Register*.

ISSUES:

- 1) Whether to approve Amended determination of inapplicability ("nonavailability" waiver) of section 1605 of the Recovery Act of 2009 (the Buy American provision) in EERE-funded projects for (1) LED tube lights to replace T8/ other 4 foot fluorescents.
- 2) Whether to publish the above in the *Federal Register*.

BACKGROUND:

Under the authority of Recovery Act, Pub. L. 111-5, section 1605(b)(2), the head of a Federal department or agency may issue a "determination of inapplicability" (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality ("nonavailability"). The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelegation Order No. 00-002.01E, dated April 25, 2011.



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OPTIONS:

Details on why the Buy American Coordinator recommends withdrawing the waiver are detailed above.

RECOMMENDATIONS:

- 1) The EERE Buy American Coordinator recommends that the Assistant Secretary sign the attached Amended determination of inapplicability (“nonavailability” waiver) of section 1605 of the Recovery Act of 2009 (the Buy American provision) in EERE-funded projects for LED tube lights to replace T8/ other 4 foot fluorescents..
- 2) The EERE Buy American Coordinator further recommends that the Assistant Secretary sign the attached *Federal Register* Notices such that the waivers can be published in the *Federal Register* as required by statute.

Approve:  Disapproved: _____ Date: 11/20/12

CONCURRENCE: GC 61- Beth Kelly