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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Nationwide Categorical Waivers under 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 Limited Waivers

SUMMARY: The U.S. Department of Energy (DOE) is hereby granting a nationwide limited waiver of the Buy American requirements of section 1605 of the Recovery Act under the authority of Section 1605(b)(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), with respect to small-horsepower (HP) vertical hollow shaft (VHS) electric motors (less than 40 HP) to be utilized in Recovery Act projects funded by EERE.

DATES: Effective Date: 6/14/2013

FOR FURTHER INFORMATION CONTACT: Christine Platt-Patrick, Office of Energy Efficiency and Renewable Energy (EERE), (202) 287-1553, Department of Energy, 1000 Independence Avenue, SW., Mailstop EE-2K, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: Under the authority of American Recovery and Reinvestment Act of 2009 (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 Redlegation Order No. 00-002.01F, dated October 31, 2012. Pursuant to this delegation the Acting Assistant Secretary, EERE, has concluded that: small-horsepower (HP) vertical hollow shaft (VHS) electric motors (less than 40 HP) are not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality. The above items, utilized in Recovery Act projects funded by EERE, qualify for the “nonavailability” waiver determination at this time.

EERE has developed a robust process to ascertain in a systematic and expedient manner whether or not there is domestic manufacturing capacity for items submitted for a waiver of the Recovery Act Buy American provision. This process involves a close

collaboration with the United States Department of Commerce National Institute of Standards and Technology (NIST) Manufacturing Extension Partnership (MEP), in order to scour the domestic manufacturing landscape in search of producers before making any nonavailability determinations.

In addition to the MEP collaboration outlined above, the EERE Buy American Coordinator worked with other manufacturing stakeholders to scout for domestic manufacturing capacity or an equivalent product for each item contained in this waiver.

The nonavailability determination is also informed by the inquiries and petitions to EERE from recipients of EERE Recovery Act funds, and from suppliers, distributors, retailers and trade associations—all stating that their individual efforts to locate domestic manufacturers for these items have been unsuccessful.

Having established a proper justification based on domestic nonavailability, EERE hereby provides notice that on February 15, 2013, a nationwide categorical waiver of section 1605 of the Recovery Act was issued for small-horsepower (HP) vertical hollow shaft (VHS) electric motors (less than 40 HP) to be utilized in Recovery Act projects funded by EERE. 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 June 14, 2013.

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

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