



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project-Specific Nonavailability Waiver of Build America, Buy America Act Manufactured Product Requirements to the City of Fond du Lac in Wisconsin, for a Biogas and Renewable Natural Gas Upgrading System

FROM: Andrew Sawyers, Director

Decision

The U.S. Environmental Protection Agency (EPA) is hereby issuing a project waiver pursuant to the Buy America Preference set forth in section 70914 of the Build America, Buy America Act (BABA) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), under the authority of section 70914(b), to the City of Fond du Lac in Wisconsin (Applicant) for a biogas and renewable natural gas (RNG) upgrading system. This waiver permits the use of this manufactured product, which was not produced in the United States, as defined by 2 CFR 184.3, in the Applicant's Biosolids Drying and RNG Addition Project, funded through the Clean Water State Revolving Fund, because no domestic manufacturers produce alternatives that meet the technical specifications of the project. This waiver is applicable to expenditures made for a biogas and renewable natural gas upgrading system on or after the effective date of the final waiver until project completion, estimated to be December 31, 2030.

This is a project-specific waiver. Any other projects that wish to use the same product must apply for a separate waiver. If you have any questions concerning the contents of this memorandum, please contact the Office of Water Domestic Preference Team at BABA-OW@epa.gov.

Background

The Buy America Preference set forth in section 70914 of the BABA included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), requires that all iron, steel, manufactured products, and construction materials used for infrastructure projects under Federal financial assistance awards be produced in the United States.

Under section 70914(b), the EPA may waive the application of the Buy America Preference, in any case in which it finds that: applying the domestic content procurement preference would be inconsistent with the public interest; types of iron, steel, manufactured products, or construction materials are not produced in the U.S. in sufficient and reasonably available quantities or of a satisfactory quality; or the inclusion of iron, steel, manufactured products, or construction materials produced in the U.S. will increase the cost of the overall project by more than 25 percent. Procedurally, all proposed waivers must: (1) have a written explanation for the proposed determination; (2) provide a period of not less than fifteen (15) calendar days for public comment; and (3) be submitted to the Office of Management

and Budget's (OMB) Made in America Office for review to determine consistency with policy.

Summary

Waiver Type: Nonavailability of a BABA-compliant product in sufficient and reasonably available quantities or of a satisfactory quality.

Waiver Level and Scope: Project-level waiver for a single manufactured product for a single project. No other project will utilize this waiver.

Waiver Description: Project-specific nonavailability waiver of BABA manufactured product requirements to the Applicant in Fond du Lac, Wisconsin for a biogas and RNG upgrading system for the Biosolids Drying and RNG Addition Project.

Project Summary: The primary purpose of this project in Fond du Lac, Wisconsin is to install a biosolids drying system and storage silo. This work will include a building addition; heating, ventilation, and air conditioning (HVAC) updates; new interior plumbing connections; new electrical room and lighting; rerouting of utility lines; replacement of pavement; and miscellaneous related work to accommodate the installation of a biosolids drying system. The project will also include installation of gas conditioning membranes and high-pressure compression, including the replacement of existing gas conditioning equipment, replacement of existing digester gas pipe updated HVAC, a new RNG line to connect to the utility, and miscellaneous related work. This project will enable the Applicant to reduce the volume of biosolids in need of disposal and eliminate or greatly reduce the need to landfill biosolids. Regarding the biogas conditioning equipment, the Applicant currently has a combined heat and power system to manage the biogas generated onsite. However, this technology is now obsolete for this facility and is only capable of using about 50 percent of the biogas produced onsite. The replacement of the existing system with the biogas and RNG upgrading system will allow the Applicant to inject energy into the grid and maintain sewer rates for residents.

Length of the waiver: From the effective date of this final waiver until project completion, estimated to be December 31, 2030.

Summary of Items Covered in the Waiver (including NAICS): The Applicant sought a waiver of the BABA manufactured product requirements for the biogas and RNG upgrading system (NAICS code 333248; PSC 4250), which includes process equipment for the removal of hydrogen sulfide, volatile organic compounds/siloxane, particulates, and carbon dioxide; as well as gas conditioning, moisture removal, and heat exchange. No BABA-compliant alternative products meeting the technical specifications of the project were identified by the Applicant, through the EPA's market research completed in July 2025, or through the public comment period in January 2026. The specified product must be designed for the treatment of municipal anaerobic digester gas for the removal of particulates, moisture, volatile organic compounds, hydrogen sulfide, carbon dioxide, and siloxanes, and must include biogas conditioning equipment, gas conditioning membranes, and high-pressure compression.

Description of Efforts Made to Avoid the Need for a Waiver

The Applicant made a good faith effort to identify alternative compliant products that meet project specifications. No BABA-compliant alternatives meeting the technical specifications of the project were identified through those efforts.

The EPA conducted market research for biogas and RNG upgrading systems in July 2025. The market research process included thorough review of the waiver request submission, examination of domestic

manufacturer catalogs and other technical data and marketing materials, and communication with domestic manufacturers.

The EPA researched and contacted ten (10) biogas and RNG upgrading system manufacturers and suppliers. The manufacturers were asked whether they manufacture a BABA-compliant product that meets the project's specifications, and if so, what the estimated lead time would be. There were no (zero) manufacturers who indicated they could provide a BABA-compliant alternative meeting the technical specifications of the project. One (1) manufacturer indicated that they are able to produce a BABA-compliant oxygen generator, but this product is not required by the project. One (1) additional manufacturer indicated that they are able to provide a product that removes hydrogen sulfide but cannot manufacture a product that also removes volatile organic compounds and siloxane. Neither of these manufacturers could meet the technical specifications of the project.

Assessment of Cost Advantage of a Foreign-Sourced Product

Under OMB M-24-02, agencies are expected to assess "whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products" as appropriate before granting a public interest waiver. The EPA's analysis has concluded that this assessment is not applicable to this waiver as this waiver is not based on the cost of foreign-sourced products.

Summary of Public Comments

A memorandum soliciting public comments and the Applicant's waiver request were posted on the EPA's public facing webpage and a notice of the waiver request was also posted to the Made in America website on January 14, 2026, to satisfy the requirement to publish any proposed project-specific waiver and provide the public with fifteen (15) days to submit comments. The EPA sought public and industry comment from all interested parties and encouraged potential manufacturers of the product in question to submit comments regarding anticipated timeframes for shifting manufacturing to a domestic market. The comment period for the proposed waiver closed on January 29, 2026. The EPA received no (zero) public comments to the waiver request.

Description of Award

Recipient Name and/or Unique Entity Identifier (UEI): JLV4TBLDNM64

Federal Financial Assistance Identification Number (FAIN): N/A

Common Government-wide Accounting Classification Agency Code: 068

Federal Financial Assistance Listing Name: Clean Water State Revolving Fund

Federal Financial Assistance Listing Number: 66.458

Federal Financial Assistance Funding Amount: \$16.9M

Total Project Cost: \$30.5M