



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 Snoqualmie Pass Utility District in
Washington, for Multiple Products

FROM: Andrew Sawyers, Director

Decision

The U.S. Environmental Protection Agency 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 Snoqualmie Pass Utility District in Snoqualmie Pass, Washington (Applicant) for multiple manufactured products: a membrane bioreactor (MBR) system, instrumentation, control systems, and equalization tank mixers. This waiver permits the use of these manufactured products produced outside the United States, in the Applicant's Membrane Bioreactor Wastewater Treatment Upgrade Project, funded through the 2024 Consolidated Appropriations Act, because no manufacturers produce BABA-compliant alternatives that meet the technical specifications of the project. The waiver is applicable to expenditures made on or after the effective date of the final waiver until project completion, estimated to be November 30, 2030.

This is a project-specific waiver. Any other projects that wish to use the same products must apply for a separate waiver. If you have any questions concerning the contents of this memorandum, please contact the 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 all iron, steel, manufactured products, and construction materials used for infrastructure projects under Federal financial assistance awards be produced in the US.

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. All waivers must have a written explanation for the proposed determination; provide a period of not less than fifteen (15) calendar days for public comment on the proposed waiver; and submit the proposed waiver to the Office of Management and Budget's (OMB) Made in America Office for review to determine if the waiver is consistent with policy.

Summary

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

Waiver Level and Scope: Project level waiver for multiple manufactured products for a single project. No other project will utilize the waiver.

Waiver Description: Project-specific nonavailability waiver of BABA manufactured product requirements to the Applicant in Snoqualmie Pass, Washington for MBR systems, instrumentation, control systems, and equalization tank mixers for the MBR Wastewater Treatment System Upgrade project.

Project Summary:

The project will replace the existing wastewater lagoon treatment system and effluent spray field with an MBR treatment system for the Snoqualmie Pass Utility District in Snoqualmie Pass, Washington.

In the current system, the effluent is applied to a spray field on U.S. Forest Service (USFS) land. However, in 2009, the USFS special use permit for the spray field expired. The USFS chose not to renew the special use permit, so the Applicant had to develop a different method for wastewater treatment. In addition to the permit expiration, the Washington State Department of Ecology (Ecology) had expressed concerns with the treatment effectiveness of the spray field during the winter, when effluent is applied to snow instead of vegetation. Ecology indicated that nitrogen and phosphorous may wash into Lake Keechelus and contribute to harmful environmental conditions. This created additional necessity for the Applicant to choose a different wastewater treatment method.

The Applicant initiated project design in February 2020. In 2021, the Applicant began a pilot study involving a skid-mounted MBR system. The pilot study aimed to confirm that the MBR process could provide adequate treatment at low temperatures typically experienced at the project site. The pilot study occurred between December 2021 and July 2023.

The Applicant intends to complete the treatment system upgrades based on the success of the pilot study. This will include installing the MBR treatment system, equalization tank mixers, digester blowers, drainage pumps, dewatering equipment, and controls systems for the facility.

Length of the waiver: From the effective date of the final waiver until project completion, which is estimated to be November 30, 2030.

Summary of Items Covered in the Waiver (including NAICS): The Applicant is seeking a waiver for the following products:

MBR system
PSC: 4630
NAICS: 333310
BABA Category: Manufactured Product

Instrumentation
PSC: 6630
NAICS: 334516
BABA Category: Manufactured Product

Control systems
PSC: 6110
NAICS: 335314
BABA Category: Manufactured Product

Equalization tank mixers
PSC: 4630
NAICS: 333310
BABA Category: Manufactured Product

The Applicant proposes to procure the products above which are not BABA-compliant. No compliant alternative products meeting the technical specifications of the project were identified by the Applicant, through the EPA's market research, or through the public comment period. Of note, positive displacement blowers were included in the Applicant's original waiver request. Through ongoing due diligence by the EPA and the Applicant, BABA-compliant positive displacement blowers meeting the project's technical specifications were identified during the waiver process and are not included in this waiver.

Description of Efforts Made to Avoid the Need for a Waiver

The EPA conducted market research for MBR systems, instrumentation, control systems, and equalization tank mixers in February 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, personal communication with domestic manufacturers, inquiries of regional project officers, and outreach to contractors and engineers with expertise and familiarity with the project. The EPA's market research identified possible domestic alternatives for all products except instrumentation. Upon further review, none of the identified BABA-compliant products met

the specifications of the project. A summary of the research is included below.

The EPA contacted fourteen (14) manufacturers and suppliers of MBR systems. The research identified one (1) BABA-compliant MBR system. However, this system has not been demonstrated to perform in the specific cold climate like the MBR system used in the Applicant's pilot study. The time required to redesign the project, including a new pilot study, coupled with the lead time on this product would cause significant delays to the project. The Applicant has a limited construction season due to winter weather conditions. Delays from long lead times or from redesign would significantly impact project completion.

The EPA contacted thirteen (13) manufacturers and suppliers of instrumentation. No (zero) BABA-compliant alternatives were identified during market research.

The EPA contacted nine (9) manufacturers and suppliers of control systems. The research identified one (1) BABA-compliant control system. The identified BABA-compliant control systems are not typically provided with the MBR system the Applicant used during the pilot study. The BABA-compliant control system has not been tested to meet the critical performance requirements in the project specifications that the Applicant identified from the pilot study, which poses performance and reliability risks and concerns.

The EPA contacted eleven (11) manufacturers and suppliers of equalization tank hyperbolic mixers. One (1) domestic alternative equalization tank hyperbolic mixer was identified during market research. The Applicant indicated that the identified pulse-type mixers would not perform adequately at shallow depths. The Applicant's specifications include slow-moving hyperbolic mixers to meet the varying tank levels and shallow depths of the equalization tank.

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 November 17, 2025, 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 products to submit comments. The comment period for the proposed waiver closed on December 2, 2025.

The EPA received two (2) public comments to the proposed waiver. The first comment was from a manufacturer in support of the waiver for instrumentation. Instrumentation required for the project includes electromagnetic flow meters, as documented in the project specifications. The manufacturer specified that there are no suppliers of electromagnetic flow meters which meet BABA requirements.

The second public comment related to the original inclusion of positive displacement blowers in the waiver request. The comment was from a manufacturer stating that they are able to produce BABA-compliant centrifugal blowers. The Applicant assessed this comment and determined that centrifugal blowers could not be used in the project. However, the Applicant was subsequently able to find suitable BABA-compliant positive displacement blowers, thus negating the need for a waiver for this product.

Description of Award

Recipient Name and/or Unique Entity Identifier (UEI): Q6WFAWEBTYP3

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

Federal Financial Assistance Listing Number: 66.202

Common Government-wide Accounting Classification Agency Code: 068

Federal Financial Assistance Funding Amount \$5,000,000

Total Cost of Infrastructure Expenditures: \$18,832,000