



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 (1) Enphase microinverters and (2) pre-insulated district heating pipe systems.

This amendment withdraws the nonavailability waiver issued on August 11, 2010 for Enphase micro-inverters, and the nonavailability waiver issued March 27, 2012 for pre-insulated district heating pipe systems.

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 Redefinition Order No. 00-002.01E, dated April 25, 2011.

On August 11, 2010, The Assistant Secretary issued a nonavailability waiver for Enphase micro-inverters. On March 27, 2012 the Assistant Secretary issued a nonavailability waiver for pre-insulated district heating pipe systems consisting of thin wall thickness steel pipe meeting the EN13941 standard, bonded to polyurethane foam insulation, bonded to an HDPE jacket, such that all the components operate as a single pipe (including two 1.5 mm squared area copper wires embedded in the insulation for leak detection and location); pre-insulated steel fittings with the same characteristics as the pre-insulated pipe; and pre-insulated maintenance free ball valves with an all welded valve body and a stainless steel valve ball in a spring loaded teflon seat, having the same insulation and jacket characteristics as the pipe.

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 expanded capacity and attained the necessary certifications to meet the needs of grant recipients.

The remaining items covered by the February 11, 2010 Waiver (24-leaf, motorized DMX iris units, induction lamps and ballasts, commercial-scale high efficiency condensing boilers with indirect water heaters, large-format solar thermal collectors for integrated district heating systems, and turbochargers for Mitsubishi/Man 52/55B diesel generator engines) continue to be covered by the August 11, 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 October 31, 2012.

Substantial steps to commit funds would include, but are not limited to, (1) issuing a Request for Proposals (RFP) on or before October 31, 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 October 31, 2012; (3) commencing a bidding process on or before October 31, 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 October 31, 2012 and the order for the goods is placed on or before October 31, 2012; or (5) grantee has executed a contract or purchase agreement with a supplier to acquire affected goods on or before October 31, 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
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Energy Efficiency and Renewable Energy
U.S. Department of Energy

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