



Department of Energy
Washington, DC 20585

ASSISTANT SECRETARY OF ENERGY
FOR ENERGY EFFICIENCY AND RENEWABLE ENERGY

MEMORANDUM OF DECISION

SUBJECT: Determination of inapplicability (waiver) of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) for for small-horsepower (HP) vertical hollow shaft (VHS) electric motors (less than 40 HP). This nationwide waiver applies to the use of the specified products and is applicable only for their purchase and installation for one-year subsequent to the effective date of the waiver.

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.

EERE has developed a robust process to ascertain in a systematic and expedient manner whether or not there is domestic manufacturing capacity for the 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.

Finally, in 2011 the US EPA issued a waiver for this item, and EPA's extensive research in the fall of 2010 failed to identify any domestic manufacturers of VHS electric motors less than 40 HP.

EERE's research efforts confirmed that the goods included in this waiver are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

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.

In light of the foregoing, and under the authority of section 1605(b)(2) of Public Law 111-5 and Redesignation Order 00-002-01F, with respect to Recovery Act projects funded by EERE, I hereby issue a "determination of inapplicability" (a waiver under the Recovery Act Buy American provision) for small-horsepower (HP) vertical hollow shaft (VHS) electric motors (less than 40 HP).

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 only to EERE projects carried out under the Recovery Act.

Furthermore, I reserve the right to revisit and amend this determination based on new developments or changes in the domestic manufacturing capacity for these four product types.



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

Date: