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**Instructions:** Direct your comments to Docket ID No. EPA-HQ-ORD-2009-0605. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked "late" and may only be considered if time permits. EPA's policy is that all comments received will be included in the public docket without change. These may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected by statute through <http://www.regulations.gov> or e-mail.

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**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy.

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DC), Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the ORD Docket is (202) 566-1752.

**FOR FURTHER INFORMATION CONTACT:** Seema Schappelle, Risk Assessment Forum, Mail Code 8105R, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564-3372; fax number: (202) 564-2070, E-mail: [schappelle.seema@epa.gov](mailto:schappelle.seema@epa.gov).

**SUPPLEMENTARY INFORMATION:** Dioxin and dioxin like compounds (DLCs), including polychlorinated dibenzodioxins (PCDDs), polychlorinated dibenzofurans (PCDFs), and polychlorinated biphenyls (PCBs), are structurally and toxicologically related halogenated dicyclic aromatic hydrocarbons. Dioxins and DLCs are released into the environment from several industrial sources, including chemical manufacturing, combustion, and metal processing. There is global contamination of air, soil and water with trace levels of these compounds that typically occur in the environment as chemical mixtures. Dioxins and DLCs do not readily degrade; therefore, levels persist in the environment, build up in the food chain and accumulate in the tissues of animals. Human exposures to these compounds occur primarily through eating contaminated foods. The health effects from exposures to dioxins and DLCs have been documented extensively in toxicological and epidemiological studies.

Risk assessments have relied on the dioxin toxicity equivalence factors (TEFs) approach. Various stakeholders, inside and outside the Agency, have called for a more comprehensive characterization of risks; therefore, EPA's Risk Assessment Forum (RAF), located in the Office of the Science Advisor, identified a need to examine the recommended approach for application of the toxicity equivalence methodology in human health risk assessments. An RAF Technical Panel developed the draft guidance document, "Recommended Toxicity Equivalency Factors (TEFs) for Human Health Risk Assessments of Dioxin and Dioxin-Like Compounds," to assist EPA scientists in using this methodology to assess health risks from dioxins and dioxin-like compounds, as well as inform EPA decision makers, other agencies, and the

public about this methodology. EPA is currently addressing several issues related to dioxins and dioxin-like chemicals in the environment. More information on these activities is located at: <http://cfpub.epa.gov/ncea/CFM/nceaQFind.cfm?keyword=Dioxin>.

Dated: August 26, 2009.

**Kevin Teichman,**

*Acting EPA Science Advisor.*

[FR Doc. E9-21194 Filed 9-1-09; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8951-1]

### Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Utah Division of Wildlife Resources (UDWR)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The EPA is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States of a satisfactory quality] to the UDWR for the purchase of coconut fiber (coir) woven mats. This is a project-specific waiver and only applies to the use of the specified product for the ARRA funded project being proposed. Any other ARRA project that may wish to use the same product must apply for a separate waiver based on project-specific circumstances. These coconut fiber woven mats, which are supplied by Geo Dynamics in Ogden, UT, are manufactured in India and Sri Lanka, and meet the UDWR's performance specifications and requirements. The Acting Regional Administrator is making this determination based on the review and recommendations of EPA Region 8's Technical & Financial Services Unit. The UDWR has provided sufficient documentation to support its request. The Assistant Administrator of the Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605 of ARRA. This action permits the purchase of coconut fiber woven mats for the Strawberry River Restoration Project being implemented by the UDWR that may otherwise be prohibited under Section 1605(a) of the ARRA.

**DATES:** *Effective Date:* July 25, 2009.

**FOR FURTHER INFORMATION CONTACT:** Jody Ostendorf, ARRA Coordinator, (303) 312-7814, or Brian Friel, SRF Coordinator, (303) 312-6277, Technical & Financial Services Unit, Water Program, Office of Partnerships & Regulatory Assistance, U.S. EPA Region 8, 1595 Wynkoop St., Denver, CO 80202.

**SUPPLEMENTARY INFORMATION:**

In accordance with ARRA Section 1605(c) and pursuant to Section 1605(b)(2) of Public Law 111-5, Buy American requirements, EPA hereby provides notice that it is granting a project waiver to the UDWR for the acquisition of coconut fiber woven mats which are manufactured in India and Sri Lanka.

Section 1605 of the ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States, or unless a waiver is provided to the recipient by the head of the appropriate agency, here EPA. A waiver may be provided if EPA determines that (1) applying these requirements would be inconsistent with the public interest; (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; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

This manufactured good will be used as part of the "Strawberry River Restoration Project," a stream stabilization project in Utah. The UDWR states that only coconut fiber woven mats meet the specific needs of this project, which are durability, mat size and biodegradability. They indicate that the key characteristics that set coconut fiber woven mats apart from other alternatives are a 4-5 year in-stream life expectancy followed by 100% biodegradation, and visually unobtrusive properties. UDWR states that coconut fibers are more durable than straw and other materials used in alternative mat products, and they do not require the incorporation of polypropylene and/or other synthetic products that are not 100% biodegradable.

The April 28, 2009 EPA HQ Memorandum, "Implementation of Buy American provisions of Public Law 111-5, the 'American Recovery and Reinvestment Act of 2009,'" defines

*reasonably available quantity* as "the quantity of iron, steel, or relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design."

The OMB ARRA Buy American Guidance cites the Federal Acquisition Regulation (FAR) as an appropriate reference for availability waiver inquiries. Specifically, the OMB Guidance at section 176.80(a)(1) states (at 77 FR 18452) that "The determinations of nonavailability of the articles listed at 48 CFR 25.104(a) and the procedures at 48 CFR 25.103(b)(1) also apply if any of those articles are manufactured goods needed in the project. The FAR's list of nonavailable articles includes "Fibers of the following types: \* \* \* coir," thereby establishing a presumption of lack of U.S. availability. The FAR procedures at 48 CFR 25.103(b)(1) specified as required in the OMB Guidance state that:

(1)(i) A nonavailability determination has been made for the articles listed in 25.104. This determination does not necessarily mean that there is no domestic source for the listed items, but that domestic sources can only meet 50 percent or less of total U.S. government and nongovernment demand. (ii) Before acquisition of an article on the list, the procuring agency is responsible to conduct market research appropriate to the circumstances, including seeking of domestic sources.

The applicant met the procedures specified for the availability inquiry as appropriate to the circumstances by conducting on-line research and contacting suppliers, and all sources indicated that coconut fiber woven mats are only manufactured outside of the U.S. Therefore, based on the information provided to EPA and to the best of our knowledge at this time, coconut fiber woven mats are not manufactured in the United States, and no other U.S. manufactured product can meet UDWR's performance specifications and requirements.

The purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are "shovel ready" by requiring agencies such as UDWR to revise their standards and specifications and to start the bidding process again. The imposition of ARRA Buy American requirements on such projects otherwise eligible for ARRA State Revolving Fund assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay project implementation is in direct conflict

with a fundamental economic purpose of the ARRA, which is to create or retain jobs.

EPA's national contractor prepared a technical assessment report dated July 21, 2009 based on the submitted waiver request. The report determined that the waiver request submittal was complete, that adequate technical information was provided, and that there were no significant weaknesses in the justification provided. The report confirmed the waiver applicant's claim that there are no comparable domestic products that can meet the specific durability, size and biodegradation needs of this project.

The Technical & Financial Services Unit has reviewed this waiver request and has determined that the supporting documentation provided by the UDWR is sufficient to meet the criteria listed under Section 1605(b) of the ARRA and in the April 28, 2009, "Implementation of Buy American provisions of Public Law 111-5, the 'American Recovery and Reinvestment Act of 2009' Memorandum": Iron, steel, and the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. The basis for this project waiver is the authorization provided in Section 1605(b)(2) of the ARRA. Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the UDWR's performance specifications and requirements, a waiver from the Buy American requirement is justified.

The March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of the ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, the UDWR is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5 for the purchase of coconut fiber woven mats using ARRA funds as specified in the UDWR's request of July 8, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers "based on a finding under subsection (b)."

**Authority:** Public Law 111-5, section 1605.

Dated: August 20, 2009.

**Andrew M. Gaydosh,**

*Acting Regional Administrator, Region 8.*

[FR Doc. E9-20801 Filed 9-1-09; 8:45 am]

BILLING CODE 6560-50-P

## FARM CREDIT ADMINISTRATION

### Farm Credit Administration Board; Regular Meeting

**AGENCY:** Farm Credit Administration.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

*Date and Time:* The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 10, 2009, from 9 a.m. until such time as the Board concludes its business.

**FOR FURTHER INFORMATION CONTACT:** Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883-4009, TTY (703) 883-4056.

**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

**SUPPLEMENTARY INFORMATION:** Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

#### Open Session

##### A. Approval of Minutes

- August 13, 2009.

##### B. New Business

- Fall 2009 Abstract of the Unified Agenda of Federal Regulatory and Deregulatory Actions and Fall 2009 Regulatory Performance Plan.

#### Closed Session\*

##### A. Reports

- Office of Secondary Market Oversight Quarterly Report.

##### B. New Business

- Supervisory Actions.

Dated: August 28, 2009.

**Roland E. Smith,**

*Secretary, Farm Credit Administration Board.*

\*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

[FR Doc. E9-21291 Filed 8-31-09; 4:15 pm]

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## FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064-AD47

### Final Statement of Policy on Qualifications for Failed Bank Acquisitions

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final statement of policy.

**SUMMARY:** The FDIC is issuing a Final Statement of Policy on Qualifications for Failed Bank Acquisitions (Final Statement). This Final Statement provides guidance to private capital investors interested in acquiring or investing in failed insured depository institutions regarding the terms and conditions for such investments or acquisitions.

**DATES:** *Effective Date:* August 26, 2009.

**FOR FURTHER INFORMATION CONTACT:** Catherine Topping, Counsel, Legal Division, (202) 898-3975 or [ctopping@fdic.gov](mailto:ctopping@fdic.gov), Charles A. Fulton, Counsel, Legal Division, (703) 562-2424 or [chfulton@fdic.gov](mailto:chfulton@fdic.gov), Lisa Arquette, Associate Director, (202) 898-8633 or [larquette@fdic.gov](mailto:larquette@fdic.gov), or Mindy West, Chief, Policy and Program Development, Division of Supervision and Consumer Protection, (202) 898-7221 or [miwest@fdic.gov](mailto:miwest@fdic.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 9, 2009, the FDIC published for comment a Proposed Statement of Policy on Qualifications for Failed Bank Acquisitions (Proposed Policy Statement) with a 30-day comment period to provide guidance to private capital investors interested in acquiring the deposit liabilities, or both such liabilities and assets, of failed insured depository institutions regarding the terms and conditions for such investments or acquisitions.<sup>1</sup> After carefully reviewing and considering all comments, the FDIC has adopted certain revisions and clarifications to the Proposed Policy Statement (as discussed in Part III) in the Final Statement.

The FDIC is aware of the need for additional capital in the banking system and the contribution that private equity capital could make to meeting this need provided this contribution is consistent with basic concepts applicable to the ownership of insured depository institutions that are contained in the established banking laws and regulations. The preamble to the Proposed Policy Statement explained

that in view of the increased number of bank and thrift failures and the increase in interest by private capital investors in acquiring insured depository institutions in receivership, the FDIC determined to issue, in proposed form, guidance to potential acquirers. In developing the Proposed Policy Statement, the FDIC sought to establish the proper balance in a number of important areas including the level of capital required for these de novo institutions and whether these owners would be a source of strength to the banks and thrifts in which they have invested. The FDIC also considered the important policy issues raised by the structure of investments in insured depository institutions, particularly with respect to their compliance with the requirements applied by the FDIC in its decision on the granting of deposit insurance and with the statutes and regulations aimed at assuring the safety and soundness of insured depository institutions and protecting the Deposit Insurance Fund (“DIF”).

In the Introduction to the Proposed Policy Statement, the FDIC set forth its reasons for adopting a policy on private capital participating in the acquisition of or investment in failed insured depository institutions. In part, the Introduction stated:

Capital investments by individuals and limited liability companies acting through holding companies operating within a well developed prudential framework has long been the dominant form of ownership of insured depository institutions. From the perspective of the FDIC’s interest as insurer and supervisor of insured depository institutions, this framework has included, in particular, measures aimed at maintaining well capitalized bank and thrift institutions, support for these banks when they face difficulties, and protections against insider transactions. The ability of the owners to provide financial support to depository institutions with adequate capital and management expertise are essential safeguards. These safeguards are particularly appropriate for owners of insured depository institutions given the important benefits conferred on depository institutions by deposit insurance.

\* \* \* The FDIC is also aware that new banks, regardless of their investor composition, pose an elevated risk to the deposit insurance fund since they generally lack a core base of business, a proven track record in the banking industry, and are vulnerable to significant losses in the early years of incorporation.

The FDIC is of the view that private capital participation in the acquisition of the deposit liabilities, or both such liabilities and assets, from a failed depository institution in receivership should be consistent with the foregoing basic elements of insured depository institution ownership. \* \* \*

<sup>1</sup> 74 FR 32931 (Jul. 9, 2009)