

p.m. and March 20, 2012 from 1 p.m. to 4 p.m.

**ADDRESSES:** The teleconferences will take place by phone only.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information regarding these teleconferences may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564-2073 or via email at [stallworth.holly@epa.gov](mailto:stallworth.holly@epa.gov). General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at <http://www.epa.gov/sab>.

**SUPPLEMENTARY INFORMATION:**

**Background:** The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA) codified at 42 U.S.C. 4365, to provide independent scientific and technical peer review, advice, consultation, and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Biogenic Carbon Emissions Panel will hold two public teleconferences to discuss draft responses to charge questions on EPA's draft *Accounting Framework for Biogenic CO<sub>2</sub> Emissions from Stationary Sources* (September 2011). The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

EPA's Office of Atmospheric Programs (OAP) in EPA's Office of Air and Radiation requested SAB review of the draft report and accounting framework. As noticed in 76 FR 61100-61101, the SAB Biogenic Carbon Emissions Panel held a public meeting on October 25-27, 2011, to review and discuss its advice on EPA's draft *Accounting Framework for Biogenic CO<sub>2</sub> Emissions from Stationary Sources* (September 2011). The panel will discuss its draft report during the teleconferences to be held on January 27, 2012 and March 20, 2012.

**Availability of the meeting materials:** An agenda and draft responses to charge questions will be posted on the SAB Web site ([http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr\\_activites/Accounting%20for%20biogenic%20CO2?OpenDocument](http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Accounting%20for%20biogenic%20CO2?OpenDocument)) prior to each teleconference. EPA's review document, charge to the Panel and other background materials are also available at the URL above. For questions

concerning EPA's draft *Accounting Framework for Biogenic CO<sub>2</sub> Emissions from Stationary Sources* (September 2011), please contact Dr. Jennifer Jenkins, Climate Change Division, at [jenkins.jennifer@epa.gov](mailto:jenkins.jennifer@epa.gov) or (202) 343-9361 or Sara Ohrel at [ohrel.sara@epa.gov](mailto:ohrel.sara@epa.gov) or (202) 343-9712.

**Procedures for Providing Public Input:** Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments for a federal advisory committee to consider pertaining to charge to the panel, EPA review documents, or this advisory activity. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for the SAB panel to consider or if it relates to the clarity or accuracy of the technical information.

**Oral Statements:** In general, individuals or groups requesting an oral presentation at these teleconferences will be limited to three minutes per speaker. Interested parties should contact Dr. Holly Stallworth, DFO, in writing (preferably via email), at the contact information noted above, by January 25, 2012 to be placed on the list of public speakers for the January 27, 2012 teleconference and by March 16, 2012 to be placed on the list of speakers for the March 20, 2012 teleconference. **Written Statements:** Written statements should be received in the SAB Staff Office by January 25, 2012 to be considered for the January 27, 2012 teleconference and by March 16, 2012 to be considered for the March 20, 2012 teleconference. Written statements should be supplied to the DFO in electronic format via email (acceptable file formats: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format). It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any

written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

**Accessibility:** For information on access or services for individuals with disabilities, please contact Dr. Holly Stallworth at the phone number or email address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: December 16, 2011.

**Vanessa T. Vu,**  
Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011-33003 Filed 12-22-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9609-6]

### Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Sussex County, DE

**SUMMARY:** The EPA is hereby granting a 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 in sufficient and reasonably available quantities and of a satisfactory quality] to Sussex County, DE ("County"), for the purchase of one ductless split heating/air conditioning (HVAC) system, manufactured in Japan by Fujitsu General American, Inc. This is a project specific waiver and only applies to the use of the specified product for the ARRA project being proposed. Any other ARRA recipient that wishes to use the same product must apply for a separate waiver based on project specific circumstances. The County evaluated two different manufacturers of the specified ductless split air conditioning and heat pump systems. The ARRA funded project is for construction of the Town of Millsboro, Oak Orchard Sanitary Sewer District Expansion Area 1, Pump Station No. 326 with a ductless split HVAC system. Based upon information submitted by the County and its consulting engineer, EPA has concluded that there are no HVAC systems manufactured in the United States in sufficient and reasonable quantity and of a satisfactory quality to meet the technical specifications and that a waiver of the Buy American provisions is justified. The Regional Administrator is making

this determination based on the review and recommendations of the EPA Region III, Water Protection Division, Office of Infrastructure and Assistance.

The Assistant Administrator of the Office of Administration and Resources Management has concurred on this decision to make an exception to the requirements of Section 1605(a) of ARRA. This action permits the purchase of a ductless split HVAC system for the proposed project being implemented by Sussex County.

**DATES:** *Effective Date:* December 23, 2011.

**FOR FURTHER INFORMATION CONTACT:** Robert Chominski, Deputy Associate Director, (215) 814-2162, or David McAdams, Environmental Engineer, (215) 814-5764, Office of Infrastructure & Assistance (OIA), Water Protection Division, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

**SUPPLEMENTARY INFORMATION:** In accordance with ARRA Section 1605(c), the EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(a) of Public Law 111-5, Buy American requirements, to Sussex County, Delaware for the purchase of one ductless split heating/air conditioning system (HVAC) for Pump Station No. 326. EPA has evaluated the County's basis for procuring the HVAC system for the pump station. The ARRA funded project is for a pump station (PS No. 326) with a HVAC system. The construction of the pump station number 326 includes a heat pump system for the electrical room. The system includes an indoor wall mounted evaporator-fan unit and an outdoor aired cooled compressor-condenser. The new HVAC split system will provide benefits to the County due to the product's reliability with the electronics controlling critical infrastructure, cost effectiveness, energy efficiency, and ease of maintenance. The HVAC system is specifically designed for this project to provide heat and cooling in the pump station's electrical room. Based upon information submitted by the County and its consulting engineer, EPA has concluded that there are no HVAC systems manufactured in the United States in sufficient and reasonable quantity and of a satisfactory quality to meet the technical specifications for the County to pursue the purchase of domestically manufactured HVAC systems.

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 a public works project unless all of the iron, steel, and manufactured goods used in the project is produced in the United States, or unless a waiver is provided to the recipient by the head of the appropriate agency, here the EPA. A waiver may be provided under Section 1605(b) 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.

EPA has also evaluated the County's request to determine if its submission is considered late or if it could be considered as if it was timely filed, as per the OMB Guidance at 2 CFR 176.120. EPA will generally regard waiver requests with respect to components that were specified in the bid solicitation or in a general/primary construction contract as "late" if submitted after the contract date. However EPA could also determine that a request be evaluated as timely, though made after the date that the contract was signed, if the need for a waiver was not reasonably foreseeable. If the need for a waiver is reasonably foreseeable, then EPA could still apply discretion in these late cases as per the OMB guidance, which says "the award official may deny the request". For those waiver requests that do not have a reasonably unforeseeable basis for lateness, but for which the waiver basis is valid and there is no apparent gain by the ARRA recipient or loss on behalf of the government, then EPA will still consider granting a waiver.

In this case, there are no U.S. manufacturers that meet the County's project specifications for the HVAC system. The waiver request was submitted after the contract date because the County was not notified that a Buy American waiver was needed, and that there are no American manufacturers of the HVAC system that could meet the project specifications, until their contractor submitted their shop drawings on August 1, 2011. Therefore, the County did not submit a waiver request until September 22, 2011. There is no indication that the County failed to request a waiver to avoid the requirements of the ARRA, particularly since there are no domestically manufactured products that meet the project specifications. EPA will consider the County's waiver

request, a foreseeable late request, as though it had been timely made since there is no gain by the County and no loss by the government due to the late request.

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 County has provided information to the EPA representing that there are currently no domestic manufacturers of the HVAC systems that meet the project specification requirements. Based on additional research by EPA's consulting contractor and to the best of the Region's knowledge at this time, there does not appear to be any other manufacturer capable of meeting the County's specifications.

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 utilities, such as the County, to revise their standards and specifications, institute a new bidding process, and potentially choose a more costly, less efficient project. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund assistance would result in unreasonable delay and thus displace the "shovel ready" status for this project. To further delay construction is in direct conflict with a fundamental economic purpose of the ARRA, which is to create or retain jobs. The OIA has reviewed this waiver request and to the best of our knowledge at the time of review has determined that the supporting documentation provided by the County is sufficient to meet the criteria listed under Section 1605(b) 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). Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality to meet the County's technical specifications, 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 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, Sussex County is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5 for the purchase of a ductless split HVAC system using ARRA funds as specified in Sussex County's request of September 22, 2011. 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.

Issued on: December 13, 2011.

**James W. Newsom,**

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 2011-33015 Filed 12-22-11; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later January 6, 2012.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Mark W. Jaindl, Allentown, Pennsylvania; to acquire voting shares

of South Street Financial Corp., and thereby indirectly acquire Home Savings Bank of Albermarle, INC., SSB, both in Albermarle, North Carolina.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. Meredith Williams, Omaha, Nebraska; Luke and Julie Rickertsen, Gothenburg, Nebraska; Matthew H. Williams Family Irrevocable Trust #1; and Matthew H. Williams Family Irrevocable Trust #2; to become part of the family group acting in concert; and Robert M. Williams, Omaha, Nebraska, individually and as Trustee of the Matthew H. Williams Family Irrevocable Trust #1; and Matthew H. Williams Family Irrevocable Trust #2; to acquire control of Williams Financial Corp., and thereby indirectly acquire The Gothenburg State Bank and Trust Company, both in Gothenburg, Nebraska.

December 19, 2011.

Board of Governors of the Federal Reserve System.

**Robert deV. Frierson,**

Deputy Secretary of the Board.

[FR Doc. 2011-32872 Filed 12-22-11; 8:45 am]

**BILLING CODE 6210-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Findings of Research Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

*Gerald Lushington, Ph.D., Kansas University:* Based on an inquiry conducted and written admission obtained by Kansas University (KU) and additional analysis conducted by ORI in its oversight review, ORI found that Dr. Gerald Lushington, Director of the K-INBRE<sup>1</sup> Bioinformatics Core Facility, KU, and Director of the Molecular Graphics and Modeling Lab, KU, engaged in research misconduct in research supported by National Center for Research Resources (NCRR), National Institutes of Health (NIH), grant P20 RR016475.

Specifically, ORI found that Respondent engaged in research

<sup>1</sup> K-INBRE: The KansasIDeA Network of Biomedical Research Excellence, which is a consortium of a number of schools and centers in Kansas.

misconduct by approving publication of three articles and one abstract he knew contained significant amounts of plagiarized text without attribution or citation from other writers' published papers. The specific published documents as well as the relevant source documents are:

- Visvanathan, M., Adagarla, B., Lushington, G., Sittampalam, S., *Proceedings of the 2009 International Joint Conference on Bioinformatics, Systems, Biology and Intelligent Computing*, 2009, 494-497. Greater than half (50%) of the total text was obtained from (1) Yang, C.-S., Chuang, L.-Y., Ke, C.-H., Yang, C.-H., *International Journal of Computer Science, International Association of Engineers*, August 2008 35(3),

- (2) Goffard, N. and Weiller, G., *Nucleic Acids Research*, 2007, 35L:W176-W181, and (3) Chuang, L.-Y., Yang, C.-H., Tu, C.-J., Yang, C.-H., *Proceedings of the Joint Conference on Information Sciences*, Atlantis Press, October 2006.

*Retracted:* Retracted administratively by IEEE on Jan 5, 2011 [http://ieeexplore.ieee.org/xpl/freeabs\\_all.jsp?arnumber=5260432](http://ieeexplore.ieee.org/xpl/freeabs_all.jsp?arnumber=5260432)

- Vijayan, A.; Skariah, B. E., Nair, B.; Lushington, G., Subramanian, S., Visvanathan, M., *Proceedings of the IEEE International Conference on Bioinformatics and Biomedicine Workshop*, 2009, BIBMW2009, 267-271. Approximately 15% of the text was plagiarized from Goffard, N. and Weiller, G., *Nucleic Acids Research*, 2007, 35L:W176-W181.

*Retracted:* Retracted administratively by IEEE on Jan 5, 2011 <http://www.computer.org/portal/web/csdl/doi/10.1109/BIBMW.2009.5332106>

- Visvanathan, M., Netzer, M., Seger, M., Adagarla, B. S., Baumgartner, C., Sittampalam, S., Lushington, G., *International Journal of Computational Biology and Drug Design*, 2009, 2,236-251. A complete paragraph of the text was plagiarized from Goffard, N. and Weiller, G., *Nucleic Acids Research*, 2007, 35L:W176-W181.

- Adagarla, B., Lushington, G., Visvanathan, M., ISMB International Conference, January 2009; the entire abstract for this poster was obtained by plagiarizing text from Pihur, V., Datta, S., Datta S., *Genomics*, 2003, 92:400-403.

Dr. Lushington has entered into a Voluntary Settlement Agreement (Agreement) and has voluntarily agreed for a period of two (2) years, beginning on December 6, 2011:

(1) To have any U.S. Public Health Service (PHS)-supported research supervised; ORI acknowledges that