



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 dimmable fluorescent electronic ballasts.

This amendment withdraws the nonavailability waiver issued on February 10, 2010 for dimmable florescent ballasts.

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 Redlegation Order No. 00-002.01F, dated October 31, 2012.

On February 11, 2010, The Assistant Secretary issued a nonavailability waiver for fluorescent electronic ballasts.

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 retooled manufacturing lines and increased manufacturing capacity in the United States. This has reduced the costs associated with producing dimmable fluorescent electronic ballasts and complete dimming systems that include controls; decreasing the price and broadening the scope of domestically manufactured systems available for purchase.

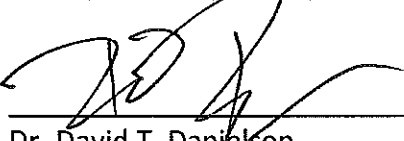
The remaining items covered by the February 2010 Waiver (Plug in CFLs of 10 inches or less and fluorescent electronic ballasts not capable of dimming) continue to be covered

by the February 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In order for the withdrawn waivers to continue to apply substantial steps to commit funds for the purchase of the formerly waived items must have been made on or before March 31, 2013.

Substantial steps to commit funds would include, but are not limited to, (1) issuing a Request for Proposals (RFP) on or before March 31, 2013 (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 March 31, 2013; (3) commencing a bidding process on or before March 31, 2013; (4) in circumstances where the grantee solicited quotes without an RFP: the grantee purchases the goods based on a quote dated on or before March 31, 2013 and the order for the goods is placed on or before March 31, 2013; or (5) grantee has executed a contract or purchase agreement with a supplier to acquire affected goods on or before March 31, 2013.

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
Assistant Secretary
Energy Efficiency and Renewable Energy
U.S. Department of Energy

Date: 2/1/2013