



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

June 29, 2022

Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Made in America Office
Office of Management and Budget
725 17th Street, N.W.
Washington, D.C. 20503

RE: Proposed Program Waiver of Section 70914 of P.L. 117-58, Buy America, Build America Act, 2021 for State Revolving Fund Projects with Submitted Engineering Plans and Specifications

Dear Sirs and/or Madams:

The New Hampshire Department of Environmental Services (NHDES) Clean Water and Drinking Water State Revolving Funds (SRFs) write **in support** of the [proposed waiver of Section 70914 of P.L. 117-58 Build America, Buy America Act \(BABA\) for SRF Projects with Submitted Engineering Plans and Specifications](#) **with amendments**. We respectfully request that the waiver effective date be amended to include a six-month adjustment period from the publication of comprehensive implementation guidance for SRF funding recipients.

The lack of implementation guidance specific to SRF programs has created confusion and uncertainty amongst our programs and borrowers with projects in process that fall short of the deadline proposed in the current draft waiver. A six-month adjustment period following the issuance of EPA's final implementation guidance materials will provide sufficient time for our programs to inform our borrowers of the new requirements and ensure the new mandates and requirements are incorporated into financial assistance agreements and contractual documents. The adjustment period will also allow crucial water infrastructure projects to proceed without additional delays or requirements for borrowers to modify design, re-issue bid documents, contracts, or re-solicit materials difficult to obtain due to current supply chain issues.

Water infrastructure and construction projects within the United States are currently faced with constrained supply chain issues delaying project schedules under stringent time frames to spend down BIL funds. Supporting an adjustment period for implementing BABA requirements will afford domestic manufacturers ample opportunity to ramp up production in the United States allowing for supply chain delays to subside and helping to avoid catastrophic impacts to construction schedules.

A six-month adjustment period is consistent with the recommendations included in the [Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure](#) issued by The White House Office of Management and Budget (OMB) on April 18, 2022. An adjustment period following implementing guidance specific to SRF programs is also in line with other waivers adopted or proposed by many federal agencies subject to BABA and will ensure and promote cross program consistency.

Thank you for your consideration and the opportunity to comment on this proposed waiver. NHDES appreciates Biden-Harris Administration's and EPA's commitment to promoting domestic manufacturing while sustaining our water infrastructure and ensuring citizen's access to clean, affordable, and reliable drinking water and wastewater services.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a long horizontal flourish extending to the right.

Robert R. Scott
Commissioner

cc: Rene Pelletier, Water Division Director, NHDES
Tracy Wood, Wastewater Engineering Bureau Administrator, NHDES
Brandon Kernen, Drinking Water and Groundwater Bureau Administrator, NHDES
Beth Malcolm, CWSRF Program Administrator, NHDES
Johnna McKenna, DWSRF Program Administrator, NHDES