

Issued: July 14, 2026
Expires: December 7, 2027

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**Build America Buy America Act Final Non-Availability Waiver for the Freeport Sewer District, Freeport, PA FY 23 WWTF and Pump Station Upgrades
Variable Refrigerant Flow HVAC System**

Freeport Sewer District –FY23 WWTF and Pump Station Upgrades

1. Summary

Agency: United States Department of Agriculture (USDA), Rural Development (RD), Rural Utilities Service (RUS)

Waiver: The U.S. Department of Agriculture is issuing a project non-availability waiver of the manufactured products domestic preference requirements of Section 70914 of the Build America, Buy America Act (BABA) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) as applied to one federal financial assistance award for the Freeport Sewer District (Freeport), Maine. This proposed limited non-availability waiver allows Freeport to purchase a non-domestic variable refrigerant flow HVAC system.

Applicability: This waiver permits the use of a non-domestic variable refrigerant flow HVAC system on the Wastewater Treatment Facility (WWTF) and Pump Station Upgrades project in Freeport, ME. This product will be obtained by Freeport and incorporated into the subject project prior to the expiration date of the waiver.

Waiver Type: Non-availability waiver of the BABA manufactured product requirements for a variable refrigerant flow HVAC system.

Summary of Items Covered in Waiver: Variable refrigerant flow HVAC system.

Waiver Justification Summary: Variable refrigerant flow HVAC systems are manufactured products not produced in the United States of a satisfactory quantity or quality.

Length of the Waiver: The effective date of this waiver is from the date of issue and the waiver will remain in effect until the project is completed, which is currently estimated to be on December 7, 2027.

2. Background

The Buy America Preference set forth in Section 70914 of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), requires all iron, steel, manufactured products, and construction materials used for

infrastructure projects under Federal financial assistance awards be produced in the United States. Under Section 70914(b), the Agency may waive the application of the Buy America Preference, in any case in which it finds that: applying the domestic content procurement preference would be inconsistent with the public interest; types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25%. All waivers must have a written explanation for the proposed determination; provide a period of not less than 15 days for public comment on the waiver; and submit the waiver to the Office of Management and Budget Made in America Office for review to determine if the waiver is consistent with policy.

Variable refrigerant flow (ductless) HVAC system consists of an outdoor unit, branch controller and multiple indoor units. The system must be capable of 96,000 BTU/hr cooling and 108,000 BTU/hr heating.

3. Description of Award

Title of Project: FY 23 WWTF and Pump Station Upgrades

Infrastructure Description and Location: Freeport owns and operates a wastewater collection and treatment system in rural coastal Maine. The wastewater treatment facility is located at 43 S Freeport Rd, Freeport, ME 04032.

Description of Project: This project includes various upgrades at the existing municipal wastewater treatment facility. The work will be performed under three separate construction contracts. This first contract, for which this waiver applies, consists of construction of a new Administration Building.

Recipient Name: Freeport Sewer District, Freeport, PA

Unique Entry Identifier (UEI): CDURPXC4FGZ5

Federal Financial Assistance Program: 10.766 Water & Waste Disposal Loan and Grant Program

Federal Financial Assistance Funding Amount: \$20,132,000

4. Description of Covered Items

Manufactured Products: The waiver seeks an exception to the Build America, Buy America Act (BABA) requirements for the following manufactured product:

Variable refrigerant flow (ductless) HVAC system consists of an outdoor unit, branch controller and multiple indoor units. The system must be capable of 96,000 BTU/hr cooling and 108,000 BTU/hr heating.

- NAICS: 238220
- PSC: 45

5. Waiver Justification Summary

Anticipated Impact if No Waiver is Issued:

Absent this waiver, the project could not be completed given that heating and cooling are necessary for a functioning administration building, including laboratory facilities. In addition to personnel safety, excessive temperatures can cause malfunction of lab equipment and key controls such as SCADA and electrical panels, which could lead to loss of plant operations and permit violations.

The applicant and USDA conducted market research and were unable to identify any manufacturers that can provide variable refrigerant flow HVAC systems that meet the project requirements and that are BABA compliant. This outcome was not unexpected, as all known market research to date on HVAC products has yielded the same results.

A waiver of BABA requirements is required to allow the project to purchase the needed equipment and complete the construction project in a timely manner.

Description of Efforts Made to Identify Domestic Products:

USDA conducted market research from March 2026 to April 2026 to determine if there are domestic manufacturers that can produce or supply variable refrigerant flow HVAC systems. USDA contacted 12 manufacturers for product availability. Eleven of these manufacturers confirmed that they cannot manufacture a BABA compliant product to meet the project specifications. One did not respond to inquiries. Thus, there are no viable options for this project.

Assessment of Cost Advantage of a Foreign-Sourced Product: Under OMB M-24-02, agencies are expected to assess “whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products” as appropriate before granting a Non-availability waiver. USDA’s analysis has concluded that this assessment is not applicable to this waiver as this waiver is not based on the cost of foreign-sourced products.

Solicitation for Comments: The proposed waiver was posted on USDA’s public facing webpage during the period of June 23 – July 8, 2026, and a notice of the proposed waiver was posted to the Made in America website, to satisfy the requirement to publish any Build America, Buy America Act Project Waiver and provide the public with fifteen (15) days to submit comments. No comments were received from the public, and therefore no substantive changes were made in response.

For more information on the Build America, Buy America Preference, please reference <https://www.usda.gov/about-usda/general-information/staff-offices/office-chief-financial-officer/federal-financial-assistance-policy/usda-buy-america-waivers-federal-financial-assistance>