

**DEPARTMENT OF THE INTERIOR**

**TITLE:**

**Buy America Project Waiver: Molded Grating for  
North Dakota Fishing Area and Boating Access Program**

**1. Summary**

The Department of the Interior (DOI), U.S. Fish and Wildlife Services (FWS) is proposing a project waiver of the requirements of section 70914 of the Build America, Buy America Act (Buy America Preference) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) for Molded Grating used in an infrastructure project funded through Award Number F23AF00429. This waiver is being requested due to non-availability of a qualifying domestic item. This waiver is to be in effect through the end of the award's period of performance, December 31, 2023.

**2. Background Information**

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 DOI 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 U.S. 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 U.S. will increase the cost of the overall project by more than 25 percent. All waivers must have a written explanation for the proposed determination; provide a period of not less than fifteen (15) calendar days for public comment on the proposed waiver; and submit the proposed waiver to the Office of Management and Budget's (OMB) Made in America Office for review to determine if the waiver is consistent with policy.

Type of Waiver: Nonavailability of a domestic product

Recipient Name: North Dakota Game & Fish Department

Recipient Unique Entity Identifier (UEI): C975NCKFBCQ3

Federal Awarding Agency Name: Department of the Interior, US Fish & Wildlife Service

Awarding Agency Common Governmentwide Accounting Classification (CGAC) Code: 014

Federal Assistance Listing Name: Sport Fish Restoration

Financial Assistance Listing Number: 15.605

Financial Assistance Program Name: North Dakota Fishing Area and Boating Access Program

Federal Award Identification Number: F23AF00429

Federal Financial Assistance Federal Funding Amount: \$500,750.00

Total cost of infrastructure expenditures: Estimated Approximately \$ 1,000,000 for all infrastructure for entire project

Infrastructure project description and location: North Dakota Fishing Area and Motorboat Access projects Statewide throughout North Dakota

### **3. Items Being Waived**

North Dakota Game & Fish Department is seeking a waiver from Buy America requirements for molded grating used to build courtesy docks and fishing piers.

Item: Molded Grating - 3/4" x 3/4" micro-mesh Ortho Resin Concave Top Surface (color Gray). Sheets must be Molded in the Exact Sizes below to assure Panels have a Full Depth Edge for Proper Support:

- 4' x 12' x 1"
- 4' x 8' x 1"
- 4' x 6' x 1"
- 5' x 10' x 1.5"
- 5' x 5' x 1.5"
- 4' x 10' x 1.5"
- 4' x 5' x 1.5"

Cost: Sheets range in price from \$242.05 to \$639.20 per sheet plus shipping based upon size.

Country of Origin: The required sizes utilized in this project are made in China, Mexico, or other overseas countries.

NAICS: 332323

PSC: Y1PA

### **4. Justification for the Waiver**

This waiver is being requested because the molded grating sizes necessary for this project are not produced in the United States in sufficient or reasonable available quantities. North Dakota Game & Fish Department conducted market research which included calling the 12 known molded grating vendors in February 2023. Only one vendor could be located that manufactures some molded grating in the USA. This vendor stated that they are the only molded grating made exclusively in the U.S.A. The remaining manufacturers contacted stated their molded grating

was manufactured from China, Mexico, or overseas. One of the twelve vendors was unresponsive after multiple attempts.

The one vendor that manufactures molded grating in the United States was only able to offer one size in the 3/4" micro mesh style needed for this project. The domestic size this vendor offered, (4' x 12' x 1.5" sheets) is not utilized for any of the project pier or dock designs (wheel or skid). No other vendors have been located who can provide the needed molded grating domestically. For this reason, a waiver from Buy America requirements is needed to allow the project to move forward with building courtesy docks and piers for public use.

#### **5. Impact if No Waiver is Issued:**

If no waiver is issued, the recipient will be unable to continue to build courtesy docks and fishing piers within the state of North Dakota. The boating and angling public will have less quality access to recreational waters, taking away from their angling and recreational experience. They may need to launch boats without having a courtesy dock available which would be extremely difficult for many anglers, including the elderly and disabled. In addition, fishing opportunities would be lost as fishing piers would not be available for the youth, elderly, disabled. This would lead to less quality fishing in North Dakota and take away from the other programs and services in North Dakota, such as fish stocking or fish studies.

#### **6. Certification of Good Faith Effort**

North Dakota Game & Fish Department has certified they have made a good faith effort to find suppliers that could provide domestic molded grating that meets our requirements for building courtesy docks and fishing piers.

#### **7. Assessment of Cost Advantage of a Foreign-Sourced Product**

Under OMB M-22-11, 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 public interest waiver. DOI'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.

#### **8. Summary of Comments**

The proposed Waiver was posted on [DOI's public facing webpage](#) and a notice of the waiver was also posted to the [Made in America website](#) on June 2, 2023, to satisfy the requirement to publish any proposed Buy America Project Waiver and provide the public with fifteen (15) days to submit comments. The Department of the Interior sought public and industry comment from all interested parties and encouraged current manufacturers of the product in question to submit comments regarding anticipated timeframes for shifting manufacturing to a domestic market. The comment period for this proposed waiver closed on June 17, 2023. No comments were received in response to the public posting of the waiver.