UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to the City of Post Falls in Idaho for Backflow Preventers

FROM: Andrew Sawyers, Director
Office of Wastewater Management

Sawyers, Andrew
Digitally signed by Sawyers, Andrew
Date: 2021.09.27 12:42:36 -04'00'

Decision: The U.S. Environmental Protection Agency (EPA) is hereby granting a project waiver pursuant to the "American Iron and Steel" (AIS) requirements of the Clean Water Act Section 608 under the authority of Section 608(c)(2) to the City of Post Falls, Idaho (Applicant) for ¾-inch and 3-inch backflow preventers. This waiver permits the use of these backflow preventers, manufactured outside of the United States, in the City of Post Fall's Tertiary Treatment improvement project for its Water Reclamation Facility, because no domestic manufacturers produce alternatives that meet the project's technical specifications.

This waiver applies only to the proposed project funded by the Clean Water State Revolving Fund (CWSRF). Any other jurisdiction with projects funded by either the CWSRF, the Drinking Water State Revolving Fund, or the Water Infrastructure Finance and Innovation Act that wishes to use the same products must apply for a separate waiver.

Rationale: Section 608 of the Clean Water Act requires CWSRF assistance recipients for treatment works projects to use specific iron and steel products that are produced in the United States. EPA has the authority to determine whether it is necessary to waive this requirement based on certain circumstances set forth in Section 608(c) of the Clean Water Act. The provision states that, "[the requirements] shall not apply in any case or category of cases in which the Administrator [of EPA] finds that – . . . (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality."

Background of Waiver Request: The Applicant provided information to EPA asserting that there are no domestic manufacturers producing ¾-inch and 3-inch backflow preventers in sufficient and reasonably available quantities and of a satisfactory quality.

The project will improve their tertiary treatment to achieve compliance with the final effluent limitations for total phosphorus and $CBOD_5$. The backflow preventers are required to withstand a maximum of 12 psig (83 kPa) pressure loss. They shall contain ball valves with threaded ends for NPS (nominal pipe size) 2 or smaller and ASME A112.1.2 air-filling gaps.

Assessment of Waiver Request: EPA conducted market research and a public comment period on the supply and availability of ¾-inch and 3-inch backflow preventers. The basis of evaluation included thorough review of the waiver request submission, examination of domestic manufacturer catalogs or other technical data and marketing materials, personal communication with domestic manufacturers, inquiries of state staff, and outreach to contractors and engineers with expertise and familiarity with the project. EPA received no public comments to the waiver request. During market research, EPA contacted twenty-one (21) manufacturers and suppliers of valves. None (zero) indicated that they could domestically produce the specified backflow preventers. Therefore, EPA agrees with the assessment that no domestic manufacturers produce available products meeting the project's performance-based specifications.

Finding: Since the Applicant established a proper basis to specify particular products required for this project, and because EPA substantiated the Applicant's claim through market research that these products are not available from a manufacturer in the United States, the City of Post Falls in Idaho is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of ¾-inch and 3-inch backflow preventers, as documented in the State of Idaho's waiver request submittal on behalf of the Applicant dated August 6, 2021.

If you have any questions concerning the contents of this memorandum, please contact Timothy Connor, Chemical Engineer, Water Infrastructure Division, at connor.timothy@epa.gov or (202) 566-1059.