



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

OFFICE OF WATER

**DECISION MEMORANDUM**

**SUBJECT:** Availability-Based Project Waiver of American Iron and Steel Requirements for a Swing Check Valve in the Kearns Improvement District Zone D 5MG Tank Project  
Waiver Number 08-DW-0022

**FROM:** Jennifer L. McLain, Director  
Office of Ground Water and Drinking Water

Decision: The U.S. Environmental Protection Agency (EPA) is hereby granting an availability-based project-specific waiver pursuant to the American Iron and Steel (AIS) requirements to the Kearns Improvement District (the District), Utah, for the purchase of one check valve for the Zone D 5 Million Gallon (MG) Tank Project. This waiver permits the use of one (1) 24-inch non-domestic check valve because no known domestic manufacturers produce a product that meets the project's schedule and technical specifications. This project-specific waiver applies only to the use of the specified product for the referenced project funded by the Drinking Water State Revolving Fund (DWSRF). Any other project funded by the DWSRF, Clean Water State Revolving Fund, or the Water Infrastructure Finance and Innovation Act that wishes to use the same product must request a separate waiver based on the specific project circumstances.

Rationale: The AIS provision requires DWSRF assistance recipients to use specific domestic iron and steel products if the project is funded through an SRF assistance agreement unless EPA determines that it is necessary to waive this requirement. EPA has the authority to issue waivers in accordance with section 1452(a)(4)(C)(ii) of the Safe Drinking Water Act. The provision states in part: "[the requirements] shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency...finds that...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: In Pressure Zone D, the existing 2 MG tank does not currently have adequate capacity due to unprecedented growth in the past several years, especially during higher demand in summer or during power outages, which are also common in summer.

Therefore, a new, larger tank is needed to be in operation before this summer. The new 5 MG tank would immediately provide additional emergency storage to help meet the needs of residents within this pressure zone in the event of a power outage. This additional tank will be parallel to the existing tank, therefore it will provide redundancy, should the District need to take one or the other tank out of service. Construction of the Zone D 5 MG Tank is nearing completion.

The tank includes two swing check valves, one located on the tank inlet pipeline, and one located on the tank outlet pipeline to provide adequate circulation in the tank. The contractor acquired and installed two domestic valves as specified by the project. After pressure testing, one valve broke and must now be replaced. Time is of the essence for the tank to be operational by summer. The District contacted domestic manufacturers to find AIS-compliant swing check valves and provided information to EPA demonstrating that no domestic manufacturers of swing check valves meet this schedule and the project's technical specifications.

Assessment of Waiver Request: EPA conducted market research on the supply and availability of swing check valves and concluded that there are no domestic manufacturers of these products that meet the project's schedule and technical specifications. Per statutory requirement, the waiver request was posted on EPA's AIS website for the mandatory 15-day public comment period. EPA received no public comments.

Finding: EPA is granting an availability-based waiver from the AIS requirements to the Kearns Improvement District, Utah, for the Zone D 5MG Tank Project with respect to one swing check valve. This waiver permits the purchase of one (1) 24-inch swing check valve using DWSRF funds as documented in the State of Utah's waiver request submittal on behalf of the assistance recipient, dated February 15, 2022.

Legal Authority: Legal authority for the AIS requirements for DWSRF projects is included under the Safe Drinking Water Act, under the authority of section 1452(a)(4).

If you have questions concerning the contents of this memorandum, please contact Jorge Medrano, Environmental Engineer, Drinking Water Protection Division, at medrano.jorge@epa.gov or (202) 564-1968.