



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 Swing Check Valves in the City of Defiance, OH Water Treatment Plant Granular Activated Carbon Facility Improvements Project  
Waiver Number 05-DW-0017

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

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**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 City of Defiance, Ohio, for the purchase of swing check valves for the Water Treatment Plant Granular Activated Carbon Facility Improvements Project. This waiver permits the use of 10-inch and 14-inch swing check valves 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 be waived 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:** The City is under a Final Findings and Orders from the State of Ohio for exceeding the maximum contaminant level for total trihalomethanes, a disinfection byproduct (DBP). To address this Findings and Orders, the City is constructing a new granular

activated carbon (GAC) filtration facility within a new building at the existing water treatment plant. The City anticipates that the GAC filters will also aid with total organic carbon removal for additional control of DBPs in the City's distribution system and the adjacent satellite communities' distribution systems. The swing check valves are required as part of the GAC facility. The City ordered domestic swing check valves, but they are delayed by several months and other domestic options have lead times of several weeks. Under the Final Findings and Orders, the City was originally required to complete this project by February 2022. However, due to supply chain issues for other products and delayed shipments, the City received an extension until May 31, 2022; the State indicated that no further extension would be possible.

The City contacted manufacturers to find AIS-compliant swing check valves and provided information to EPA demonstrating that no domestic manufacturers of swing check valves meet the project's schedule and 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 City of Defiance, Ohio, for the Water Treatment Plant Granular Activated Carbon Facility Improvements Project with respect to 10-inch and 14-inch swing check valves. This waiver permits the purchase of swing check valves using DWSRF funds as documented in the State of Ohio's waiver request submittal on behalf of the assistance recipient, dated April 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 Dallas Shattuck, Physical Scientist, Drinking Water Protection Division, at [shattuck.dallas@epa.gov](mailto:shattuck.dallas@epa.gov) or (202) 564-0972.