



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

OFFICE OF WATER

DECISION MEMORANDUM

SUBJECT: Project-Specific Availability Waiver of American Iron and Steel Requirements to the City of Buffalo, New York for Butterfly Valves and Ductile Iron Pipe and Fittings

FROM: Andrew Sawyers, Director
Office of Wastewater Management

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 Buffalo, New York (Applicant) for butterfly valves and ductile iron pipe and fittings. This waiver permits the use of these valves, pipe, and fittings, manufactured outside of the United States, in the Secondary System Rehabilitation and Upgrades Project, because no domestic manufacturers produce alternatives that meet the technical specifications of the project.

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 these 24-inch, 36-inch, and 42-inch butterfly valves and 16-inch to 42-inch ductile iron pipe and fittings in sufficient and reasonably available quantities and of a satisfactory quality. The valves, pipe, and fittings

are essential to the first phase of the project, which will restore the capacity of the secondary system by removing accumulated grit and debris from the aeration system, as well as replacing crucial infrastructure. These valves, pipe, and fittings will specifically be used to replace the failing return activated sludge piping system.

Assessment of Waiver Request: EPA conducted market research and a public comment period on the supply and availability of these butterfly valves and ductile iron pipe and fittings. 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. During market research, EPA contacted twenty-five (25) manufacturers and suppliers of butterfly valves and ductile iron pipe and fittings. None (zero) of the manufacturers stated the products could be produced domestically to meet the project specifications and schedule. EPA received two (2) public comments to the waiver request. The first manufacturer claimed to be able to make domestic butterfly valves, but the lead times would significantly delay the project. The second manufacturer claimed to be able to make some of the AIS compliant butterfly valves, ductile iron pipe, and fittings in a reasonable time frame without causing project delays. The Applicant confirmed the timing and technical specifications with the manufacturer, removed the domestically sourced products from the waiver request, and resubmitted the waiver request.

Finding: Since the Applicant established a proper basis to specify the 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 Buffalo, New York is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of these butterfly valves and ductile iron pipe and fittings, as documented in the State of New York's waiver request submittal on behalf of the Applicant dated November 17, 2022.

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.