



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 Fairbury, Nebraska for 2-Inch Backflow Preventers

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 Fairbury, Nebraska (Applicant) for 2-inch stainless-steel backflow preventers. This waiver permits the use of these backflow preventers, manufactured outside of the United States, in the Water Resource Recovery Facility Improvements – Phase 1 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 product 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 2-inch backflow preventers in sufficient and reasonably available quantities and of a satisfactory quality. These stainless-steel backflow preventers prevent a cross-connection, and, subsequently, a cross-

contamination, between the bar screen's washer/compacter and the municipal drinking water system by allowing water to flow in only one direction and not the opposite. These backflow preventers will be used in the grit building and the bar screen room.

Assessment of Waiver Request: EPA conducted market research and a public comment period on the supply and availability of these 2-inch stainless-steel 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. During market research, EPA contacted twelve (12) manufacturers and suppliers of these backflow preventers. One of the manufacturers initially stated they could make the AIS-compliant backflow preventers. Upon further communications between the Applicant and manufacturer in July 2023, the manufacturer stated they are unable to make AIS-compliant backflow preventers. EPA received no (zero) public comments to the waiver request.

Finding: Since the Applicant established a reasonable basis to specify the product required for this project, and because EPA substantiated the Applicant's claim through market research that this product is not available from a manufacturer in the United States, the City of Fairbury, Nebraska is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of 2-inch stainless-steel backflow preventers, as documented in the State of Nebraska's waiver request submittal on behalf of the Applicant dated August 9, 2023.

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.