



OFFICE OF WASTEWATER MANAGEMENT  
WASHINGTON, D.C. 20460

**DECISION MEMORANDUM**

**SUBJECT:** Project Waiver of American Iron and Steel Requirements to Florida Keys Aqueduct Authority in Key West, FL for Stainless Steel #300 90 Degree Bends

**FROM:** Andrew D. 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” requirements of 33 U.S.C. §3914 under the authority of §3914(c)(2) to the Florida Keys Aqueduct Authority in Key West, FL (Applicant) for Stainless Steel #300 90 Degree Bends. This waiver permits the use of this product, produced outside the United States, and in the specific size requested, at the Islamorada 36” Transmission Main Replacement Project because no AIS-compliant manufacturers could be identified.

This is a product-specific waiver and only applies to the use of the specified products for the proposed project funded by the Water Infrastructure Finance and Innovation Act (WIFIA). Any other jurisdiction with projects funded by either WIFIA or the State Revolving Funds (SRFs) that wishes to use the same products must apply for a separate waiver.

Rationale: According to 33 U.S.C. §3914, WIFIA loan recipients must use specific domestic iron and steel products that are produced in the United States if the project is funded through WIFIA. EPA has the authority to determine whether it is necessary to waive this requirement based on certain circumstances set forth in 33 U.S.C. §3914(c)(2). The provision states that, “[the requirements] shall not apply in any case or category of cases in which the Administrator [of the Environmental Protection Agency] 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 manufacturers producing Stainless Steel #316 Fittings and Flanges in sufficient and reasonably available quantities. These specific parts are necessary for the project because they are designed to withstand the corrosivity associated with desalination.

Assessment of Waiver Request: EPA conducted market research and a public comment period on the supply and availability of Stainless Steel #316 Fittings and Flanges. 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 conducted market research that affirmed a lack of AIS-compliant project parts. EPA

contacted twelve manufacturers, and six responded. None of the manufacturers that responded produced the necessary Stainless Steel #316 Fittings and Flanges. However, EPA received one public comment on the waiver request indicating availability from an AIS-compliant manufacturer. The commenter was able to provide all of the required parts except for Stainless Steel #300 90 Degree Bends. Since the prior market research was inclusive of the Stainless Steel #300 90 Degree Bends, no further market research or public comments were conducted.

Finding: Since the Applicant established a proper basis to specify the Stainless Steel #300 90 Degree Bends required for this project, and because EPA substantiated the Applicant's claim that these products are not produced or readily available from a manufacturer in the United States, the Florida Keys Aqueduct Authority in Key West, FL is hereby granted a waiver from the AIS requirements for the Islamorada 36" Transmission Main Replacement Project. This waiver permits the purchase of the specified products as documented in the Applicant's waiver request submittal to WIFIA, dated August 18, 2023.

If you have any questions concerning the contents of this memorandum, please contact Kavita Mak, Environmental Engineer, WIFIA Program, at Mak.Kavita@epa.gov or 202-566-2999.