



## OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

### **DECISION MEMORANDUM**

**SUBJECT:** Project Waiver of American Iron and Steel Requirements to the City of San Diego in San Diego, California for Stainless Steel #150 Tubing

**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” (AIS) requirements of 33 U.S.C. § 3914 and 33 U.S.C. § 1388 under the authority of 33 U.S.C. § 3914(c)(2) and 33 U.S.C. § 1388(c)(2) to the City of San Diego (Applicant) in San Diego, California for Stainless Steel #150 Tubing. This waiver permits the use of this product, produced outside the United States, and in the specific size requested, at the Pure Water San Diego Program Phase 1: North City because no known domestic manufacturers produce AIS-compliant Stainless Steel #150 Tubing.

This is a product-specific waiver and only applies to the use of the specified products for the proposed project co-funded by the Water Infrastructure Finance and Innovation Act (WIFIA) and the Clean Water State Revolving Fund (CWSRF). 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 WIFIA at 33 U.S.C. § 3914 and the Clean Water Act at 33 U.S.C. § 1388, WIFIA loan recipients and CWSRF assistance recipients for treatment works must use specific domestic iron and steel products that are produced in the United States. The EPA has the authority to determine whether it is necessary to waive these requirements based on certain circumstances set forth in 33 U.S.C. § 3914(c)(2) and 33 U.S.C. § 1388(c)(2). The applicable provisions state 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 the EPA asserting that there are no domestic manufacturers producing Stainless Steel #150 Tubing in sufficient and reasonably available quantities and of a satisfactory quality. The Applicant submitted evidence demonstrating they contacted five manufacturers, each of whom responded indicating they did not produce the required product. Stainless Steel #150 Tubing is required to complete the project’s scum lines, utility water high pressure lines, aeration air lines, and other project elements.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of Stainless Steel #150 Tubing. 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. For market research, the EPA contacted ten domestic manufacturers or suppliers. Only one manufacturer responded and stated that they do not offer AIS parts. The EPA also posted the waiver request for a 15-day public comment period. The EPA received zero public comments. Therefore, the EPA agrees with the assessment that no domestic manufacturers produce Stainless Steel #150 Tubing meeting the project's specifications.

Finding: Since the Applicant established a proper basis to specify the Stainless Steel #150 Tubing required for this project, and because the EPA substantiated the Applicant's claim that these products are not produced or readily available from a manufacturer in the United States, the City of San Diego in San Diego, California is hereby granted a waiver from the AIS requirements for the Pure Water San Diego Program Phase 1: North City project. This waiver permits the purchase of the specified products as documented in the Applicant's waiver request submittal to WIFIA, dated October 13, 2023.

If you have any questions concerning the contents of this memorandum, please contact Forrest Petrich, Environmental Engineer, WIFIA Program, at [Petrich.Forrest@Epa.gov](mailto:Petrich.Forrest@Epa.gov).