



OFFICE OF GROUND WATER AND DRINKING WATER

WASHINGTON, D.C. 20460

April 29, 2024

MEMORANDUM

SUBJECT: Availability-Based Project Waiver of American Iron and Steel Requirements for Steel Cargo Containers for Pomerene Domestic Water Improvement District, Arizona Waterline Replacement and Well Connection Project
Waiver Number 09-DW-0022

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

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 of the Safe Drinking Water Act (SDWA) to the Pomerene Domestic Water Improvement District, AZ, for the purchase of steel cargo containers for the Waterline Replacement and Well Connection Project. This waiver permits the use of steel cargo containers because no known domestic manufacturers produce a product that meets the project's 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. The EPA has the authority to issue waivers in accordance with section 1452(a)(4)(C)(ii) of the SDWA. 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Background of Waiver Request: This project consists of replacing Pomerene’s outdated and deteriorating waterlines to mitigate water loss and connect an existing well site. Construction activities include a new building by modifying cargo containers to store the water company’s tools, extra parts, and equipment in a secure, lockable, and weather proof container.

The District conducted research to find a domestic manufacturer of AIS-compliant steel cargo containers and provided information to EPA demonstrating that no domestic manufacturers of steel cargo containers meet the project's technical specifications.

Assessment of Waiver Request: The EPA conducted market research on the supply and availability of steel cargo containers and reached out to 15 known steel cargo containers manufacturers, suppliers, and distributors. Four of them responded and indicated they could not provide domestic steel cargo containers that meet the project's technical specifications. Per statutory requirement, the waiver request was posted on the EPA's AIS website for the mandatory 15-day public comment period. The EPA received no public comments.

Finding: The EPA is granting an availability-based waiver from the AIS requirements to the Pomerene Domestic Water Improvement District, for the Waterline Replacement and Well Connection Project with respect to steel cargo containers. This waiver permits the purchase of steel cargo containers using DWSRF funds as documented in the State of Arizona's waiver request submittal on behalf of the assistance recipient, dated March 1, 2024.

Legal Authority: Legal authority for the AIS requirements for DWSRF projects, including waiver authority, is included in the Safe Drinking Water Act section 1452(a)(4).

If you have questions concerning the contents of this memorandum, please contact Jorge Medrano, Environmental Engineer, Drinking Water Infrastructure Development Division, at medrano.jorge@epa.gov or (202) 564-1968.