



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project-Specific Availability Waiver of American Iron and Steel Requirements to the Hampton Roads Sanitation District, Virginia for 10-Inch Reduced Pressure Backflow Preventers

FROM: Andrew Sawyers, Director

Decision: The U.S. Environmental Protection Agency is hereby granting a project-specific 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 Hampton Roads Sanitation District, Virginia (Applicant) for 10-inch reduced pressure backflow preventers. This waiver permits the use of these backflow preventers, manufactured outside of the United States, in the James River SWIFT Treatment Plant Advanced Nutrient Reduction Improvements project, because no domestic manufacturers produce alternatives in sufficient and reasonably available quantities.

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 product 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. . . 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 10-inch reduced pressure backflow preventers in sufficient and reasonably available quantities and of a satisfactory quality. The backflow preventers will be used in the Applicant’s project which aims to add advanced wastewater treatment processes that result in effluent meeting drinking water standards which will be suitable for recharge of the Potomac Aquifer.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of these 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, the EPA contacted eight (8) manufacturers and suppliers of these backflow preventers. There were no manufacturers who indicated they could provide backflow preventers that meet the technical specifications of the project and are AIS compliant. The EPA received one (1) public comment to the waiver request, in which the commenter, a valve manufacturer, confirmed that it could not provide an AIS-compliant backflow preventer meeting the technical specifications of the project.

Finding: Since the Applicant established a reasonable basis to specify the product required for this project, and because the EPA substantiated the Applicant's claim through market research that this product is not available from a manufacturer in the United States, the Hampton Roads Sanitation District, Virginia is hereby granted a waiver from the AIS requirements. This waiver permits the use of 10-inch reduced pressure backflow preventers, as documented in the State of Virginia's waiver request submittal on behalf of the Applicant dated October 2, 2024.

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.