



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to City of Sunnyvale in Sunnyvale, California for Carbon Steel Preformed Concrete Channel Inserts

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 under the authority of 33 U.S.C. § 3914(c)(2) to the City of Sunnyvale in Sunnyvale, California (Applicant) for carbon steel preformed concrete channel inserts. This waiver permits the use of this product, produced outside the United States, and in the specific size requested, at the Sunnyvale Cleanwater Program Phase 2 Project because no known domestic manufacturers produce AIS-compliant carbon steel preformed concrete channel inserts in sufficient and reasonably available quantities to meet the project’s technical specifications and schedule.

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 WIFIA at 33 U.S.C. § 3914, WIFIA loan recipients 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 this requirement based on certain circumstances set forth in 33 U.S.C. § 3914(c)(2). The applicable 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 . . . 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 carbon steel preformed concrete channel inserts in sufficient and reasonably available quantities and of a satisfactory quality. The Applicant has indicated that they need 2,400 feet of carbon steel preformed concrete channel inserts by December 2025. These inserts are integral for the Sunnyvale Cleanwater Program Phase 2 Project’s thickening and dewatering building as part of the pipe support system to provide structural anchorage and alignment for piping installations. The applicant contacted three manufacturers or suppliers for carbon steel preformed concrete channel inserts prior to requesting a waiver. None of the contacted domestic manufacturers or suppliers could provide any domestic products that would meet the project’s specifications.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of carbon steel preformed concrete channel inserts. 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 (10) manufacturers or suppliers. Six (6) of the manufacturers or suppliers responded. Among them, only one (1) initially responded as having a potential AIS-compliant source for carbon steel preformed concrete channel inserts and indicated they could confirm compliance once the specific part number was provided by the Applicant. The City of Sunnyvale followed up with the manufacturer; however, after further communication, the manufacturer stated they could not meet the project specifications. EPA reviewed the websites of the four (4) non-responsive manufacturers or suppliers and did not find clear indication that they produce carbon steel preformed concrete channel inserts that comply with AIS requirements. The EPA also posted the waiver request for a 15-day public comment period and did not receive any public comments. Therefore, the EPA agrees with the assessment that no domestic manufacturers produce carbon steel preformed concrete channel inserts meeting the project's technical specifications.

Finding: Since the Applicant established a proper basis to specify the carbon steel preformed concrete channel inserts 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 Sunnyvale in Sunnyvale, California is hereby granted a waiver from the AIS requirements for the Sunnyvale Cleanwater Program Phase 2 Project. This waiver permits the purchase of the specified products as documented in the Applicant's waiver request submittal to WIFIA, dated April 14, 2025.

If you have any questions concerning the contents of this memorandum, please Dan-Tam Nguyen, Environmental Engineer, WIFIA Program, at nguyen.dan-tam@epa.gov.