



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project-Specific Availability Waiver of American Iron and Steel Requirements for Metropolitan St. Louis Sewer District, MO for 10-inch and 12-inch Trunnion-Mounted Ball Valves — Not Approved

FROM: Raffael Stein, Director
Water Infrastructure Division

Decision: The U.S. Environmental Protection Agency (EPA) does not approve the Metropolitan St. Louis Sewer District's request for waiver pursuant to the American Iron and Steel (AIS) requirements of the Clean Water Act Section 608 for the Metropolitan St. Louis Sewer District in Missouri (Applicant) for 10-inch and 12-inch trunnion ball valves. Product research and public comments indicated that manufacturers could supply domestic products that meet the project's technical specifications. Therefore, the EPA does not approve this waiver request.

Rationale: Section 608 of the Clean Water Act requires CWSRF assistance recipients for treatment works projects to use specific 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 Section 608(c) of the Clean Water Act. The provision states that, "[the requirements] shall not apply in any case or category of cases in which the Administrator [of the EPA] 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 10-inch and 12-inch trunnion ball valves in sufficient and reasonably available quantities and of a satisfactory quality. The trunnion ball valves are needed for sludge cake conveyance in a new sludge feed system to be constructed for the Bissell Point and Lemay Wastewater Treatment Facilities Fluidized Bed Incinerators project (project). The full-port high-pressure trunnion-mounted ball valves must be ANSI Class 600 with a maximum working pressure of 1440 psi. Up to sixty-eight (68) valves are needed for the project across the two plants. According to the project schedule, installation of the trunnion mounted ball valves needs to begin by November 2026. In addition to these summarized

performance-based specifications for the valves, the technical specifications for this project were revised over time as the design progressed and in 2024, experience requirements for the manufacturer were added, including the following:

1. “Manufacturer shall have a minimum of five years of experience producing substantially similar valves using the same materials and equipment to that required and be able to provide evidence of at least five installations in satisfactory operation with the same service, size, and pressure class for at least five years;
2. A manufacturer’s qualifications must be applicable to process valves produced directly by the manufacturer or by a company acquired by the manufacturer. Manufacturer shall not claim experience for valves not directly produced by the company of record;
3. For valves in sludge cake service (dewatered sludge), manufacturer experience must be applicable to municipal wastewater sludge cake with a minimum of 20 percent total solids content.”

In addition to the experience qualifications above, an alternative to provide a bond in lieu of experience was required to be added by the State of Missouri, due to a requirement in the Missouri Code of State Regulations. The technical specifications for the project were updated to include the following alternative:

4. “If qualifications cannot be met, supplier can alternatively provide a bond or deposit in the amount of not less than 100% of the contract price, which will be held for not less than the specified experience period.”

The Applicant asserted in its waiver request submission that no manufacturers could provide AIS-compliant valves that meet the project requirements.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of these trunnion ball valves. 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 ten (10) manufacturers and suppliers of these trunnion ball valves. Two (2) of the manufacturers stated they could make the AIS-compliant trunnion ball valves meeting the projects specifications and requirements. The EPA provided the information from these two (2) manufacturers identified through market research to the State of Missouri. In April 2025, the Applicant asserted to the EPA that no AIS-compliant products were able to meet the project requirements, and they would require the waiver.

The EPA published the waiver request for public comment and received two (2) lengthy public comments, from the same entities identified in the market research effort, (Manufacturer A and Manufacturer B). Comments from both manufacturers asserted that the conditions upon which their products were deemed unsuitable were outside the specifications for the project.

From the public comments and subsequent discussion with the State of Missouri and the Applicant, the EPA learned that the Applicant requested the domestic manufacturers provide either a “surety bond” to cover potential product failure or evidence of recent “similar” demonstrated installations for high pressure “cake sludge” applications, based on the experience requirements above. Documentation provided by Manufacturer A illustrated the manufacturer’s willingness to provide such a bond, working in good faith with the Applicant’s representatives between September and December 2024. However, the requirements for the bond appeared to change over time. In September 2024, requirements were described to Manufacturer A and its supplier as a bond or deposit in the amount of 100% of the quoted price to be held for not less than five years. The Applicant later indicated in October 2024, that the bond needed to cover material and replacement of the valves, guarantee valve performance, and cover the entire scope of supply such that if one valve failed, then all supplied valves would be replaced. The manufacturer’s supplier provided a letter on December 2, 2024, indicating its willingness to provide a payment and performance bond to guarantee the valves and replace any failed valve, though replacement of all valves following failure of a single valve was declined. The Applicant’s representative continued requesting changes and suggesting specific edits to the letter, which were accepted by Manufacturer A’s supplier. In the initial waiver request, the Applicant indicated that the bond offered by Manufacturer A would only cover the material replacement cost of a damaged valve and would not include the full labor and material costs to replace malfunctioning or defective valves. The Applicant went on to indicate that Manufacturer A’s bond would not cover the replacement of the aggregate of the valves if excessive maintenance or repair is necessary. The documented correspondence between the Applicant and Manufacturer A that was provided to the EPA did not indicate that the Applicant only expected that the aggregate of valves to be replaced in the event of excessive maintenance or repair. In addition, requiring the manufacturer’s bond to cover labor for valve replacement appears outside the scope of the project specifications, given that manufacturer installation is not a requirement for these valves.

Manufacturer B provided comments to the EPA indicating that they were not contacted to negotiate a bond or deposit until February 2025, well after the Applicant submitted its waiver request. While this manufacturer indicated that it was advised by its counsel not to provide a surety bond, it offered a performance and/or bid bond to guarantee its valves. No documentation was provided to the EPA indicating a response from the Applicant. In the original waiver request, the Applicant indicated that Manufacturer B declined to provide a bond to guarantee the performance of its offering.

The EPA learned that the preferred non-domestic manufacturer was not held to the same requirements as these domestic manufacturers. Based on documentation provided to the EPA, two of the nondomestic manufacturers did not provide enough detail to confirm that they did in fact meet the experience requirements, documenting either fewer than five installations or not providing a timeline for installations in order to confirm at least five years of experience. While the Applicant attested that it would require a bond of the same nature in lieu of the experience requirements if needed upon placing an order from a non-domestic manufacturer, the domestic manufactures were required to show documentation of their ability to provide a bond before

being allowed to bid.

Further, Manufacturer A asserted that the Applicant's preferred non-domestic manufacturer could not claim recent similar demonstrated installations because at the time of their claimed installations, their parent company was one of the domestic manufacturers. The EPA communicated this claim to the Applicant. In response, the Applicant indicated that it did not have information related to the ownership history of the non-domestic valve brand nor related to whether the experience that the manufacturer claimed was acquired while the company was under ownership of one of the domestic manufacturers. Because the Applicant included, "A manufacturer's qualifications must be applicable to process valves produced directly by the manufacturer or by a company acquired by the manufacturer," and a "Manufacturer shall not claim experience for valves not directly produced by the company of record," in the specifications for the project, it is the EPA's view that the timeline of company ownership is relevant to determining whether a manufacturer meets the specified experience requirements and is a matter of due diligence for the Applicant.

In addition, Manufacturer A included documented correspondence received from the Applicant's contractor in 2024 indicating that the offering was rejected due to "cost." Individual product costs are not a factor that can be considered as a basis for an availability waiver of the AIS requirements.

Finding: The EPA does not grant an availability-based waiver from the AIS requirements for Metropolitan St. Louis Sewer District (Applicant) for 10-inch and 12-inch trunnion ball valves as documented in the State of Missouri's waiver request submittal on behalf of the assistant recipient, dated January 10, 2025. The EPA finds that waiving the requirement based on circumstances set forth in Section 608(c) of the Clean Water Act is not warranted in this case.