



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
OFFICE OF DRINKING WATER
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July 17, 2015

Jordan Dorfman, Attorney-Advisor
Kiri Anderer, Environmental Protection Specialist
U.S. Environmental Protection Agency
Office of Ground Water & Drinking Water
1200 Pennsylvania Ave., NW Room 2145L, MC-4606M
Washington, DC 20460

SUBJECT: PUBLIC INTEREST WAIVER REQUEST FROM USE OF AMERICAN IRON AND STEEL REQUIREMENT IN H.R. 3547

Dear Mr. Dorfman & Ms. Anderer:

On behalf of the Public Water Systems in Washington State, the Washington State Department of Health, Office of Drinking Water is respectfully submitting a public interest waiver under H.R. 3547 Division G Title IV Section 436(b)(1) from the Use of American Iron and Steel requirements.

Washington is in the midst of an unprecedented drought and fire season. In response, Governor Jay Inslee declared a statewide drought on May 15, 2015. As of April of this year, the U.S. Geological Survey observed 78 percent of the streams in Washington were below normal and some were already at historic low flows. We anticipate some water systems in these areas will have an emergency event, such as a depleted water source that will result in an unreliable drinking water supply, or a loss of pressure that could allow contaminants to enter the distribution system. We learned from past emergency events, such as the 2014 Carlton Complex wildfire that affected 45 water systems, that there is immediate need to prepare for unanticipated events like drought or wildfire.

In order to adequately respond to this type of event, the Washington State Department of Health has established an emergency loan program to assist eligible communities experiencing the loss of critical drinking water services or facilities due to an emergency. Our primary goal is to respond to and recover from public health threats. The emergency loan program ensures we are ready and able to award loans to water systems experiencing an emergency, so they can restore water service as quickly as possible. The emergency loan program will assist water systems that lose critical drinking water services or facilities during an emergency and demonstrate substantial financial need according to DWSRF criteria. For purposes of this program, emergency refers to an event like a natural disaster that causes damage or disrupts normal public water system operations and requires immediate action to protect public health and safety.

A failure to maintain, replace, reconstruct, upgrade, or make necessary infrastructure improvement does not constitute an emergency. When we determine an emergency exists and emergency funding is available, we may award an emergency loan to an eligible public water system. These funds will be available for the construction, reconstruction, replacement, rehabilitation, temporary repair, or improvement necessary to continue or restore operation of a public water system that is in violation of health and safety standards due to an emergency as defined by Washington Administrative Code 246-296-020. The Emergency Loan Program guidelines and emergency rulemaking are enclosed for your consideration.

Washington is currently receiving requests for emergency funds from public water systems where the drought has caused water outages or where outages are imminent; likely to occur within the next 90 days. We have assembled a drought response team to work with water systems to develop and implement solutions to problems associated with drought, wildfires, and other natural disasters. We are requesting a nationwide waiver for short-term emergency projects that are necessary to address or prevent outages caused by drought or to restore water services where outages have occurred as a result of other natural disasters such as; earthquakes, landslides, forest fires, hard freezes, etc. This request is further limited to assisting small public water systems that serve less than 10,000 people. These include many very small communities that often rely upon a single well as their sole source of drinking water. Many of these are also disadvantaged communities with significant minority populations, so this is also an environmental justice issue.

Washington is not requesting a waiver for long term projects that might require significant design, engineering and environmental studies before they are undertaken. The types of projects this waiver request is intended to address, include but are not limited to; deepening an existing well where the drought has caused water levels to drop dangerously low, drilling a replacement well for one that has gone dry or collapsed, providing a storage tank and booster pump so that trucked-in water can be put into the distribution system to supplement supplies where well yields have declined, extending an intake line, constructing a relatively short intertie to connect to another water system to supply water, or to replace infrastructure damaged by fire or other natural disaster. All of these are intended to either restore or prevent water outages and ensure an adequate supply of safe drinking water for the preservation of public health.

Protecting Public Health

Washington wishes to highlight the critical nature of these emergency response projects in protecting public health. Without a water supply, public health is immediately and severely impacted. Bottle water can sometimes be provided as an interim solution for consumption, but this is not adequate to address basic sanitation needs; toilet flushing, bathing, etc. It is absolutely essential for public health, in these situations where outages have occurred, that potable water services be restored as quickly as possible. In practical terms, this means that a local pump company will use the most readily available well casing to deepen a well or to replace one that has collapsed or gone dry. In other situations, it may mean that another water system will use on-hand pipe to construct an emergency intertie to the impacted smaller system. The benefits of seeking American made iron and steel for the well casing or pipes for interties are outweighed by the human health impacts associated with delaying construction to find and document origins of construction materials.

Protecting the Public Interest

Another example that Washington and others have experienced, is wild fires that destroy the above ground portions of a well. These situations typically impact small rural communities. People want to get back to their homes as quickly as possible once the fire is out. However, they cannot resume living in their homes until water service is restored. Again, the benefits of buying American iron and steel are outweighed by the human suffering and public health issues associated with a lack of sufficient potable water for consumption and sanitation.

We note Section 436(b) provides for waivers where the Administrator of the Environmental Protection Agency finds that applying the Buy America provisions "would be inconsistent with the public interest." As clearly indicated in the examples above, delaying the restoration of public water supplies that have been impacted by drought or other natural disasters is inconsistent with public interest.

Washington requests that USEPA promptly review this request and provide formal feedback timely. Drought related requests for assistance are already coming in to the State and these types of requests are expected to increase as we move into the dryer summer months. In addition, Washington's forest fire season has started early, and hot, dry conditions have already spawned more blazes this year than the entire last summer.

Thank you for your consideration of this request. If you have any questions or need further clarifications please feel free to contact Joe Crossland, Office of Drinking Water Finance Director, at (360) 236-3166.

Sincerely,



Clark Halvorson, Director
Department of Health, Office of Drinking Water

Attachments

Cc: Region 10 EPA