



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAR - 9 2016

OFFICE OF WATER

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to the Winston-Salem and Forsyth County City/County Utilities Commission for Long Radius Reducing Bends

FROM: Andrew D. Sawyers, Director
Office of Wastewater Management

A handwritten signature in black ink, appearing to read "A. Sawyers", written over the printed name and title.

The U.S. Environmental Protection Agency is hereby granting a project waiver pursuant to the "American Iron and Steel" requirements of the Clean Water Act Section 608 under the authority of Section 608(c)(2) to the Winston-Salem and Forsyth County City/County Utilities Commission in North Carolina for the purchase of three 24-inch by 36-inch ductile iron flanged long radius reducing 90 degree pipe bends. This waiver permits the use of these reducing bends manufactured outside of the United States in the Utilities Commission's Muddy Creek Wastewater Treatment Plant Improvements project because no domestic manufacturers produce alternatives that meet the project's technical specifications. This is a project specific waiver and only applies to the use of the specified products for the proposed project funded by the Clean Water State Revolving Fund. Any other project funded by either the Clean Water or Drinking Water State Revolving Fund that wishes to use the same products must apply for a separate waiver based on the specific project circumstances.

Rationale: According to Section 608 of the Clean Water Act, CWSRF assistance recipients must use specific domestic iron and steel products that are produced in the United States if the project is funded through the SRFs. 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)(2) 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 Environmental Protection Agency... 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."

The contractor for the Winston-Salem and Forsyth County City/County Utilities Commission provided information to the Agency claiming there are no manufacturers producing 24-inch by 36-inch ductile iron flanged long radius reducing bends in the United States in sufficient and reasonably available quantities that can be delivered to avoid significant delays in the project schedule. The project contractor attempted to find domestic manufacturers of the long radius reducing bends by contacting vendors, but was unable to find a domestic source for the reducing bends.

The EPA solicited public comments and conducted market research on the supply and availability of 24-inch by 36-inch long radius reducing bends and concluded that the Utilities Commission's claim, that there are no domestic manufacturers of these products that meet the technical specifications of the project and can be delivered on time to avoid delays in the project schedule, is supported by available evidence. The Agency's market research identified one manufacturer that claimed to manufacture domestic 24-inch by 36-inch long radius reducing bends that can meet the project specifications, but the item is not typically carried in stock. The manufacturer reported that there would be an eight to ten week lead time on delivery, which would significantly delay the project schedule.

The EPA received one public comment from a manufacturer that claimed they had developed tooling at one of their plants for domestic 24 inch by 36 inch long radius reducing bends. The manufacturer claimed that starting February 2016, they can deliver the long radius reducing bends with a four week lead time. Since the applicant requested a waiver in December 2015, even with the reduced lead time there would still be a minimum 12 week delay for delivery because the tooling was not in place until February 2016. This delay would significantly impact the applicant's project schedule.

Since the applicant established a proper basis to specify a particular product required for this project and EPA substantiated the applicant's claim through market research that this product is not available from a manufacturer in the United States, the Winston-Salem and Forsyth County City/County Utilities Commission is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of the specified long radius reducing bends documented in the state of North Carolina's waiver request submittal on behalf of the applicant dated December 15, 2015.

If you have any questions concerning the contents of this memorandum, please contact Timothy Connor, Chemical Engineer, Municipal Support Division, at connor.timothy@epa.gov or (202) 566-1059.