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July 28, 2017

Kiri Anderer, P.E.
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: EMERGENCY PROJECT PUBLIC INTEREST WAIVER REQUEST FROM USE OF AMERICAN IRON AND STEEL REQUIREMENT PURSUANT TO SECTION 425 OF THE CONSOLIDATED APPROPRIATIONS ACT, 2017 (P.L. 115-31)

Dear Ms. Anderer:

On behalf of the public water systems in the State of Oregon, the Oregon Health Authority, Drinking Water Services is respectfully submitting an emergency project public interest waiver pursuant to Section 425 of the Consolidated Appropriations Act, 2017 from the use of American Iron and Steel requirements.

Oregon has recent, persistent flood and drought emergency history including the 2015 Drought, December 2015 Pacific Storm and Severe Winter Storm, and 2017 flooding. These events have resulted in Governor and Presidential emergency declarations and authorization of State and Federal funds to address damages. Financing for water systems during an emergency event requires expedited project management and delivery to return the system to production within a short period of time.

In 2015, Oregon began offering an Emergency Loan Program as a feature of the Drinking Water State Revolving Fund (DWSRF). Eligibility for the Emergency Loan Program requires that the emergency represent a threat to public health and require immediate attention pursuant to 40 CFR Part 35.3555(c)(2)(iii).

For emergency related projects to be eligible for the American Iron and Steel waiver, eligible public water systems must meet all five Emergency Loan Program characteristics as outlined below.

1. Represents a threat to public health.
2. Entails an immediate lack of available potable drinking water from the system for a community over an extended period of time.
3. Has arisen from a reasonably unexpected and unpreventable occurrence of disaster or catastrophe such as droughts, earthquakes, tsunamis, and floods. A situation arising from negligence such as preventable mechanical failure will not qualify.
4. Includes assessment, design, and/or construction activities that will return the water system operations and production capacity within the shortest possible recovery timeframe.

5. Designation by the state, county, or local authorities or a Governor's Declaration of an Emergency has occurred within 180 days before application is submitted.

For more information, please visit Section 2.6.5.4, "Emergencies," (p. 11, 04/2017) of the [Program Guidelines and Handbook](#).

We are requesting a public interest waiver for emergency projects necessary to address or prevent outages that arise from a reasonably unexpected disaster or catastrophe such as droughts, earthquakes, tsunamis, and floods. A situation arising from negligence such as preventable mechanical failure will not qualify. This request is further limited to assisting small public water systems that serve less than 10,000 people, or public water systems at schools. These include many very small communities with limited capacity to respond to emergencies. Small systems are historically the primary recipients of Oregon's DWSRF financing assistance.

Oregon requests that USEPA promptly review this request and provide formal feedback timely. Section 425 provides for waivers where the Administrator of the Environmental Protection Agency finds that applying the American Iron & Steel provisions "would be inconsistent with the public interest." Delaying the restoration of public water supplies that have been impacted by flood, drought, or other natural disasters is inconsistent with public interest. The response time to water system emergencies by the Oregon's DWSRF Emergency Loan Program will be improved by approval of this waiver.

Thank you for your consideration of this request. If you have any questions or need further clarifications please feel free to contact me at (971) 673-0415.

Sincerely,



David Emme, Manager
Oregon Health Authority, Drinking Water Services

Attachments

Cc: Region 10 EPA,
Business Oregon