



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to City-County Utilities, Winston-Salem, North Carolina, for Flanged Check Valves

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

The U.S. Environmental Protection Agency (EPA) is hereby granting a project waiver pursuant to the “American Iron and Steel” (AIS) requirements of the Clean Water Act Section 608 under the authority of Section 608(c)(2) to City-County Utilities of Winston-Salem, North Carolina (Applicant), for flanged, 12-inch check valves. This waiver permits the use of the flanged check valves manufactured outside of the United States in the Applicant’s Idols Road Lift Station Project, because no domestic manufacturers produce alternatives that meet the project’s technical specifications.

This is a product specific waiver and only applies to the use of the specified products for the proposed project funded by the Clean Water State Revolving Fund (CWSRF). Any other jurisdiction with projects 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.

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 Applicant provided information to the Agency asserting that there are no manufacturers producing flanged, 12-inch check valves that meet its required specifications in the United States, in sufficient and reasonably available quantities. The Applicant originally placed a purchase order for domestically produced flanged, 12-inch check valves. After a lead time of 28 weeks, the Applicant was informed by the manufacturer that delivery would be extended another 20 to 22 weeks. The extended lead time for delivery of the domestic products places an undue, multiple month delay on the project. The Idols Road project requires three flanged, 12-inch check valves.

The EPA conducted market research on the supply and availability of flanged, 12-inch check 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. After conducting market research, EPA staff and contractors were also unable to find an AIS-compliant product that met the project's technical specifications. During public comment solicitation, EPA received no (zero) comments from manufacturers, suppliers, distributors or other entities.

The Agency was unable to find any domestic manufacturer of the specified valves and concluded that the Applicant's claim is supported by available evidence. The Applicant established a proper basis to specify particular products required for this project. Because the Agency substantiated the applicant's claim, through market research, that these products are not available from a manufacturer in the United States, the City-County Utilities of Winston-Salem, North Carolina is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of the three flanged, 12-inch check valves documented in the State of North Carolina's waiver request submittal on behalf of the Applicant dated March 31, 2020.

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