



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

OFFICE OF WATER

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to the Passaic Valley Sewerage Commission in New Jersey, for a Double-Disc Check Valve

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 the Passaic Valley Sewerage Commission, Newark, New Jersey (the Commission) for one 16-inch double-disc check valve. This waiver permits the use of this double-disc check valve, manufactured outside of the United States, in the Standby Power Generation Facility project in Newark, 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 product 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 product 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. 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 Commission provided information to EPA asserting that there are no domestic manufacturers producing 16-inch double-disc check valves in sufficient and reasonably available quantities. The Standby Power Generation Facility project is being constructed in Newark to provide the Commission reliable backup emergency power when there is a loss of utility power. The project requires a double-disc check valve with specification per the requirement of the Gas Utility for a high-pressure gas service.

EPA conducted market research and a public comment period on the supply and availability of a 16-inch double-disc check valve. 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. EPA contacted twelve manufacturers, and eleven responded. Ten of the eleven respondents stipulated that they could not produce AIS-compliant double-disc check valves that meet project specifications. One respondent can produce a double-disc check valve to the specifications of the project, but it is not produced in the United States. There were no (zero) public comments during the public comment period. Therefore, EPA agrees with the assessment that no domestic manufacturers can produce an available domestic product meeting the project specifications.

Since the applicant established a proper basis to specify a particular product required for this project, and because EPA substantiated the applicant's claim through market research, that this product is not available from a manufacturer in the United States, the Passaic Valley Sewerage Commission is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of the specified 16-inch double-disc check valve, documented in the State of New Jersey's waiver request submittal on behalf of the applicant dated August 20, 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.