



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 Washington Suburban Sewer Commission in Maryland for Seamless Stainless Steel Pipe

FROM: Andrew Sawyers, Director
Office of Wastewater Management

Decision: 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 Washington Suburban Sewer Commission (WSSC or Applicant) for 3-inch, 4-inch, and 5-inch seamless stainless steel pipe. This waiver permits the use of this pipe, manufactured outside of the United States, in the Piscataway Bio-energy project in Accokeek, MD, because no domestic manufacturers produce alternatives that meet the project’s technical specifications.

This waiver applies only to the proposed project funded by the Clean Water State Revolving Fund (CWSRF). Any other jurisdiction with projects funded by either the CWSRF, the Drinking Water State Revolving Fund, or the Water Infrastructure Finance and Innovation Act that wishes to use the same products must apply for a separate waiver.

Rationale: Section 608 of the Clean Water Act requires CWSRF assistance recipients for treatment works projects to use specific iron and steel products that are produced in the United States. EPA has the authority to determine whether it is necessary to waive this requirement based on certain circumstances set forth in Section 608(c) 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 EPA] 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.”

Background of Waiver Request: The Applicant provided information to EPA asserting that there are no domestic manufacturers producing 3, 4, and 5-inch seamless stainless steel pipe in sufficient and reasonably available quantities and of a satisfactory quality.

This pipe will be installed for construction of the bio-energy plant. The project specification requires schedule 40S, ASTM A312/A312M, Type 316 seamless, pickled, and passivated pipe.

Assessment of Waiver Request: EPA conducted market research and a public comment period on the supply and availability of the seamless stainless steel pipe. 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 of the project. In total, EPA contacted 10 known stainless steel pipe manufactures and suppliers. EPA received no public comments to the waiver request. After conducting market research and public comment solicitation, EPA staff and contractors were unable to find domestic seamless stainless steel pipe that met the project's technical specifications and that could be affirmatively certified as AIS compliant. Therefore, EPA agrees with the assessment that no domestic manufacturers produce available products meeting the project's specifications.

Finding: Since the Applicant established a proper basis to specify particular products required for this project, and because EPA substantiated the Applicant's claim through market research that these products are not available from a manufacturer in the United States, WSSC, is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of 3, 4, and 5-inch seamless stainless steel pipe, documented in the State of Maryland's waiver request submittal on behalf of the Applicant dated December 14, 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.