



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project-Specific Availability Waiver of American Iron and Steel Requirements to the Massachusetts Water Resources Authority in Massachusetts for 3-Inch Diameter, Stainless Steel, Double Offset Butterfly Valves

FROM: Andrew Sawyers, Director

Decision: The U.S. Environmental Protection Agency 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 Massachusetts Water Resources Authority in Massachusetts (Applicant) for 3-inch diameter, stainless steel, double offset butterfly valves. This waiver permits the use of these butterfly valves, manufactured outside of the United States, in the Applicant’s Clarifier Rehabilitation Phase II project, because no domestic manufacturers produce alternatives that meet the technical specifications of the project.

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 product 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. 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) 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 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 the EPA asserting that there are no domestic manufacturers producing 3-inch diameter, stainless steel, double offset butterfly valves in sufficient and reasonably available quantities and of a satisfactory quality. The applicant requires these butterfly valves in its Clarifier Rehabilitation Phase II project for the delivery and regulation of low pressure compressed air in the facility’s primary clarifier influent channels.

Assessment of Waiver Request: The EPA conducted market research and a public comment

period on the supply and availability of these butterfly 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. During market research, the EPA contacted twelve (12) manufacturers and suppliers of these butterfly valves. There were no manufacturers who indicated they could provide valves that meet the technical specifications of the project and are AIS-compliant. The EPA received one (1) public comment to the waiver request, in which a manufacturer confirmed it could not produce a domestically manufactured product meeting the project's technical specifications.

Finding: Since the Applicant established a reasonable basis to specify the product required for this project, and because the EPA substantiated the Applicant's claim through market research that this product is not available from a manufacturer in the United States, the Massachusetts Water Resources Authority in Massachusetts is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of 3-inch diameter, stainless steel, double offset butterfly valves, as documented in the Commonwealth of Massachusetts' waiver request submittal on behalf of the Applicant dated December 21, 2023.

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.