



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to City of Sunnyvale in California for 12-Inch Couplings

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

Decision: The U.S. Environmental Protection Agency is hereby granting a project waiver pursuant to the American Iron and Steel requirements of 33 U.S.C. § 3914 under the authority of 33 U.S.C. § 3914(c)(2) to the City of Sunnyvale in California (Applicant) for 12-Inch Victaulic-Like Couplings (couplings). This waiver permits the use of this product, produced outside the United States, and in the specific size requested, at Sunnyvale's Cleanwater Program Phase 2 project because no known domestic manufacturers produce AIS-compliant couplings that either meet the project's schedule or the project's technical specifications.

This is a product-specific waiver and only applies to the use of the specified products for the project funded by the Water Infrastructure Finance and Innovation Act (WIFIA). Any other jurisdiction with projects funded by either WIFIA or the State Revolving Funds (SRFs) that wishes to use the same products must apply for a separate waiver.

Rationale: WIFIA loan recipients must use specific domestic iron and steel products that are produced in the United States. 33 U.S.C. § 3914. The EPA has the authority to determine whether it is necessary to waive this requirement based on certain circumstances set forth in 33 U.S.C. § 3914(c)(2). The applicable 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 . . . 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 couplings in sufficient and reasonably available quantities and of a satisfactory quality. These couplings are necessary to prolong the longevity of the City of Sunnyvale's existing Water Pollution Control Plant until later phases of their rehabilitation and replacement project.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of couplings. 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. For market research, the EPA contacted eleven manufacturers or suppliers. Five manufacturers or suppliers responded, of which three indicated that they could provide the necessary couplings. Two of the manufacturers or suppliers were not able to meet the project's specifications. The final manufacturer or supplier could not provide the necessary couplings without a 24-week lead time, which does not meet the project's timeline and will cause undue delays to the project. The EPA also posted the waiver request for a 15-day public comment period. The EPA received zero public comments. Therefore, the EPA agrees with the assessment that no domestic manufacturers produce couplings meeting the project's technical specifications and schedule.

Finding: Since the Applicant established a proper basis to specify the couplings required for this project, and because the EPA substantiated the Applicant's claim that these products are not produced or readily available from a manufacturer in the United States, the City of Sunnyvale in California is hereby granted a waiver from the AIS requirements for the Cleanwater Program Phase 2 project. This waiver permits the purchase of the specified products as documented in the Applicant's waiver request submittal to WIFIA, dated June 6, 2024.

If you have any questions concerning the contents of this memorandum, please contact Kavita Mak, Environmental Engineer, WIFIA Program, at Mak.Kavita@epa.gov.