



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to City of Hillsboro and Tualatin Valley Water District in Oregon for 4, 8, and 12-inch Reduced Pressure Zone Backflow Prevention Assemblies

FROM: Andrew D. 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” requirements of 33 U.S.C. § 3914 under the authority of § 3914(c)(2) to the City of Hillsboro and Tualatin Valley Water District in Oregon (Applicant) for 4, 8, and 12-inch reduced pressure zone backflow prevention assemblies (backflow preventers). This waiver permits the use of this product, produced outside the United States, and in the specific size requested, at the Willamette Water Supply System project because no AIS-compliant manufacturers could be identified by the EPA or the Applicant.

This is a product-specific waiver and only applies to the use of the specified products for the proposed 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: According to 33 U.S.C. § 3914, WIFIA loan recipients must use specific domestic iron and steel products that are produced in the United States if the project is funded through WIFIA. 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 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.”

Background of Waiver Request: The Applicant provided information to the EPA asserting that there are no manufacturers producing backflow preventers in sufficient and reasonably available quantities and of a satisfactory quality. The Applicant received a waiver in 2021 for 10-Inch and in 2023, for 6-in backflow preventers. The Applicant was unable to identify a manufacturer who produced AIS-compliant backflow preventers. None of the manufacturers the Applicant contacted were aware of another manufacturer who could do so. The Applicant requires this product to adhere to state laws requiring the use of backflow preventers to mitigate the risk of sewage backflowing into the City’s freshwater system.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of backflow preventers. 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 11 manufacturers and suppliers, of which six responded. None of the manufacturers or suppliers who responded could provide AIS-compliant backflow preventers that met the project's specifications. The EPA received no public comments on the waiver request. Therefore, the EPA agrees with the assessment that no domestic manufacturers produce backflow preventers meeting the project's specifications.

Finding: Since the Applicant established a proper basis to specify the backflow preventers 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 Hillsboro and Tualatin Valley Water District in Oregon is hereby granted a waiver from the AIS requirements for the Willamette Water Supply System project. This waiver permits the purchase of the specified products as documented in the Applicant's waiver request submittal to WIFIA, dated June 20, 2024.

If you have any questions concerning the contents of this memorandum, please contact Dan-Tam Nguyen, Environmental Engineer, WIFIA Program, at Nguyen.Dan-Tam@epa.gov.