



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

OFFICE OF WATER

DECISION MEMORANDUM

SUBJECT: Public Interest Waiver of American Iron and Steel Requirements for Projects Funded Through the Texas Emergency Relief Program or Urgent Need Program
Waiver Number 06-DW-0003

FROM: Andrew Sawyers, Director
Office of Wastewater Management

Two handwritten signatures are present. The top signature is in blue ink and appears to be "Andrew Sawyers". The bottom signature is in black ink and appears to be "Peter Grevatt".

Peter Grevatt, Director
Office of Ground Water and Drinking Water

The U.S. Environmental Protection Agency is not approving the request received from the Texas Water Development Board (TWDB) for a public interest waiver of the American Iron and Steel requirements, pursuant to Clean Water Act Section 608 and Public Law 115-141, the "Consolidated Appropriations Act, 2018." TWDB submitted a statewide public interest waiver request for projects funded through the Texas Clean Water State Revolving Fund (CWSRF) Emergency Relief Program and Texas Drinking Water State Revolving Fund (DWSRF) Urgent Need Program addressing natural disaster-related projects for water and wastewater projects serving 10,000 persons or fewer. The request sought to allow projects funded by the Emergency Relief or Urgent Need Programs to use non-domestic iron and steel products that they would otherwise be prohibited to use under the American Iron and Steel requirements in P.L. 115-141 and Clean Water Act Section 608.

Rationale: The agency fully supports the critically important response by the TWDB in cases of natural disaster response to losses in water supply, reductions in water availability, uncontrolled sewage discharges, and wastewater treatment plant failures. However, based on the analysis of the waiver request and in response to overwhelming opposition from public comments, the agency cannot approve the waiver requested.

The agency does not have information to support that any shortage of domestic products may affect the projects of concern. The agency has observed, and public comments support, that domestic supply of the majority of iron and steel products are readily available for potentially affected SRF projects.

EPA received many public comments opposed to the public interest waiver request, several of which came from domestic manufacturers in affected areas. These comments expressed concern that granting the blanket waiver would alleviate economic stimulus that would otherwise benefit the immediate areas in need. Additional public comments expressed concern for the prospective, broad nature of the waiver request, asserting that it could potentially apply to areas well outside those in need and for activities not related to Hurricane Harvey recovery.

In cases where the procurement of compliant products may be unavailable for a TWDB Emergency Relief or Urgent Need program project, the agency will provide its full support to assist in the rapid identification of alternative compliant products. In the likely rare cases where no alternatives are readily available, individual assistance recipients can apply for product specific waivers. Please contact Timothy Connor (202.566.1059) or Kiri Anderer (202.564.3134) of our staff for any assistance that you might need.