



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

OFFICE OF WATER

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to Tualatin Valley Water District in Hillsboro, Oregon for Backflow Preventers

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” (AIS) requirements of 33 U.S.C. §3914 under the authority of §3914(c)(2) to the Tualatin Valley Water district in Hillsboro, Oregon (Applicant) for 10-inch backflow preventers. This waiver permits the use of these backflow preventers, produced outside the United States, and in the specific size requested, at the Willamette Water Supply System project because no domestic manufacturers produce alternatives that meet the project’s technical specifications for the backflow preventers.

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. 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 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 manufacturers producing 10-inch reduced pressure zone backflow preventers or 10-inch double check valve backflow preventers in sufficient and reasonably available quantities and of a satisfactory quality. The reduced pressure zone backflow preventers are needed at the reservoir site downstream of the Tualatin Valley Water District (TVWD) potable water supply meter vault to prevent cross contamination between the connection to the TVWD water supply system and the potable water supply points. The double check valve backflow preventers are needed on the reservoir project to prevent cross contamination with the connections to the City of Sherwood water supply system as well as with connections within the water treatment plant.

Assessment of Waiver Request: 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, EPA contacted nineteen (19) potential manufacturers and suppliers of backflow preventers. No manufactures responded indicating they had potential domestic alternatives. EPA received no (zero) public comments to the waiver request. 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 the backflow preventers required for this project, and because EPA substantiated the Applicant's claim that these products are not produced or readily available from a manufacturer in the United States, the Tualatin Valley Water District in Hillsboro, 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 backflow preventers as documented in the Applicant's waiver request submittal to WIFIA, dated January 11, 2022.

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.