



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

OFFICE OF WATER

## **DECISION MEMORANDUM**

**SUBJECT:** Availability-Based Project Waiver of American Iron and Steel Requirements for butterfly valves and swing check valves for the City of Pearland, TX Surface Water Treatment Plant Project  
Waiver Number 06-DW-0008

**FROM:** Jennifer L. McLain, Director  
Office of Ground Water and Drinking Water

**Decision:** The U.S. Environmental Protection Agency (EPA) is hereby granting an availability-based project-specific waiver pursuant to the American Iron and Steel (AIS) requirements to the City of Pearland, Texas, for the purchase of 36-inch butterfly valves and swing check valves 4 inches and larger for the Surface Water Treatment Plant Project. This waiver permits the use of butterfly valves and swing check valves because no known domestic manufacturers produce a product that meets the project's schedule and technical specifications. This project-specific waiver applies only to the use of the specified product for the referenced project funded by the Drinking Water State Revolving Fund (DWSRF). Any other project funded by the DWSRF, Clean Water State Revolving Fund, or the Water Infrastructure Finance and Innovation Act that wishes to use the same product must request a separate waiver based on the specific project circumstances.

**Rationale:** The AIS provision requires DWSRF assistance recipients to use specific domestic iron and steel products if the project is funded through an SRF assistance agreement unless EPA determines that it is necessary to waive this requirement. EPA has the authority to issue waivers in accordance with section 1452(a)(4)(C)(ii) of the Safe Drinking Water Act. The provision states in part: “[the requirements] shall be waived 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 City of Pearland is currently constructing a 10 million gallon per day surface water treatment plant to serve the needs of its already growing population. The project began construction in April 2020 and was originally scheduled for substantial completion in December 2022 but has been slowed because of difficulty obtaining valves in compliance with the AIS requirements. Currently, plant start-up and testing is scheduled to begin in February 2023. The butterfly valves and swing check valves are critical to plant testing and start-up and will cause significant delays to project completion. The 36-inch butterfly valves are needed to control finished water discharged into the distribution system and are critical to plant operation. The swing check valves are located throughout the plant and ensure that the flow direction is controlled and does not backflow when pressure increases

on either end of the pipe. Significant delivery lead times of these critical valves will delay the plant start-up schedule and prohibit the City from meeting Summer 2023 peak demands.

The City contacted domestic manufacturers to find AIS-compliant valves and provided information to EPA demonstrating that no domestic manufacturers of butterfly valves or swing check valves meet the project's schedule and technical specifications.

Assessment of Waiver Request: EPA conducted market research on the supply and availability of Butterfly valves and swing check valves and concluded that there are no domestic manufacturers of these products that meet the project's schedule and technical specifications. Per statutory requirement, the waiver request was posted on EPA's AIS website for the mandatory 15-day public comment period. EPA received no public comments.

Finding: EPA is granting an availability-based waiver from the AIS requirements to the City of Pearland, Texas, for the Surface Water Treatment Plant Project with respect to the butterfly valves and swing check valves. This waiver permits the purchase of 36-inch butterfly valves and swing check valves 4 inches and larger using DWSRF funds as documented in the State of Texas's waiver request submittal on behalf of the assistance recipient, dated December 15, 2022.

Legal Authority: Legal authority for the AIS requirements for DWSRF projects, including waiver authority, is included in the Safe Drinking Water Act section 1452(a)(4).

If you have questions concerning the contents of this memorandum, please contact Zachary Hunt, Physical Scientist, Drinking Water Infrastructure Development Division, at [hunt.zachary@epa.gov](mailto:hunt.zachary@epa.gov) or (202) 564-8949.