



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

OFFICE OF WATER

**DECISION MEMORANDUM**

**SUBJECT:** Project-Specific Availability Waiver of American Iron and Steel Requirements to the Passaic Valley Sewerage Commission in Newark, New Jersey for Stainless Steel Butterfly Valves

**FROM:** Andrew 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 the Clean Water Act Section 608 under the authority of Section 608(c)(2) to the Passaic Valley Sewerage Commission in Newark, New Jersey (Applicant) for 20-inch stainless steel butterfly valves. This waiver permits the use of these valves in the Applicant’s Decant Facility Rehabilitation project because no domestic manufacturers produce alternatives that meet the technical specifications of the project.

This waiver applies only to the proposed project funded by the Clean Water State Revolving Fund (CWSRF). Any other jurisdiction with projects funded by either the CWSRF, the Drinking Water State Revolving Fund, or the Water Infrastructure Finance and Innovation Act that wishes to use the same products must apply for a separate waiver.

Rationale: Section 608 of the Clean Water Act requires CWSRF assistance recipients for treatment works projects to use specific iron and steel products that are produced in the United States. EPA has the authority to determine whether it is necessary to waive this requirement based on certain circumstances set forth in Section 608(c) of the Clean Water Act. 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 domestic manufacturers producing 20-inch stainless steel butterfly valves in sufficient and reasonably available quantities and of a satisfactory quality. These valves will be installed to isolate and throttle process air vapor in six decant tanks. The butterfly

valves are specified to be resilient-seated, comprised of Type 316 Stainless Steel valve bodies, discs and shafts that are suitable for continuous operation at temperatures up to 120°F.

Assessment of Waiver Request: EPA conducted market research and a public comment period on the supply and availability of these stainless steel butterfly valves. 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. During market research, EPA contacted twelve (12) manufacturers and suppliers of valves. None (zero) of the manufacturers stated the products could be produced domestically to meet the technical specifications of the project and the project schedule. EPA received no (zero) public comments to the waiver request.

Finding: Since the Applicant established a proper basis to specify the products required for this project, and because EPA substantiated the Applicant's claim through market research that these products are not available from a manufacturer in the United States, Passaic Valley Sewerage Commission in Newark, New Jersey is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of these stainless steel butterfly valves, as documented in the New Jersey Department of Environmental Protection's waiver request submittal on behalf of the Applicant dated January 23, 2023.

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](mailto:connor.timothy@epa.gov) or (202) 566-1059.