



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 Stainless Steel Pipe and Fittings for the City of Wichita, KS Northwest Wichita Water Treatment Facility Project
Waiver Number 07-DW-0009

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

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Date: 2023.06.28
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Andrew D. Sawyers, Director
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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 Wichita, KS, for the purchase of stainless steel pipe and fittings for the Northwest Wichita Water Treatment Facility Project. This waiver permits the use of stainless steel pipe and fittings because no known domestic manufacturers produce a product that meets the project's 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) and Water Infrastructure Finance and Innovation Act (WIFIA). Any other project funded by the DWSRF, Clean Water State Revolving Fund, or WIFIA that wishes to use the same product must request a separate waiver based on the specific project circumstances.

Rationale: The AIS provision requires DWSRF and WIFIA assistance recipients to use specific domestic iron and steel products if the project is funded through an SRF or WIFIA 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 and the Water Infrastructure Finance and Innovation Act at 33 U.S.C. § 3914(c)(2). 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: This project will replace the existing Main Water Treatment Plant that is approaching the end of its useful life. The plant will fall short of meeting quality and quantity challenges, which results in a level of risk that has been deemed unacceptable due to potential impacts on public health and safety. The project consists of constructing a new water treatment facility and includes the installation of pipe and fittings as part of the carbon dioxide gas fill line, which connects the

fill station to the bulk storage tanks. The original project specifications included copper pipe but was replaced with stainless steel pipe and fittings, because the copper pipe could not withstand the required testing pressure of 500 pounds per square inch (psi).

The City conducted research to find a domestic manufacturer of AIS-compliant stainless steel pipe and fittings and provided information to EPA demonstrating that no domestic manufacturers stainless steel pipe and fittings meet the project's technical specifications.

Assessment of Waiver Request: EPA conducted market research on the supply and availability of stainless steel pipe and fittings and concluded that there are no domestic manufacturers of these products that meet the project's 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 Wichita, for the Northwest Wichita Water Treatment Facility Project with respect to stainless steel pipe and fittings. This waiver permits the purchase of stainless steel pipe and fittings using DWSRF and WIFIA funds as documented in the State of Kansas's waiver request submittal on behalf of the assistance recipient, dated May 15, 2023.

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). Legal authority for the AIS requirements for WIFIA projects, including waiver authority, is included in the Water Infrastructure Finance and Innovation Act at 33 U.S.C. § 3914(c).

If you have questions concerning the contents of this memorandum, please contact Dallas Shattuck (DWSRF), Physical Scientist, Drinking Water Infrastructure Development Division, at shattuck.dallas@epa.gov or (202) 564-0972; or Forrest Petrich (WIFIA), Environmental Engineer, WIFIA Management Division, at petrich.forrest@epa.gov or (202) 564-6134.