



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 Nelson County Service Authority, Virginia for Small Diameter Stainless Steel Fittings

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 Nelson County Service Authority, Virginia (Applicant) for small diameter stainless steel fittings. This waiver permits the use of these fittings, manufactured outside of the United States, in the Wintergreen Wastewater Treatment Plant Replacement project, because no domestic manufacturers produce alternatives that meet the technical specifications of the project.

This waiver applies only to this 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 product 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 small diameter stainless steel fittings in sufficient and reasonably available quantities and of a satisfactory quality. The 316L small diameter stainless steel fittings will be used to help replace the package plant that

has served the Wintergreen community since 1973. This will increase the level of treatment to help achieve compliance with the reduced ammonia permit limit and be proactive with the Chesapeake Bay Protection Program.

Assessment of Waiver Request: EPA conducted market research and a public comment period on the supply and availability of these small diameter stainless steel fittings. Of note, the original waiver request also included small diameter stainless steel pipes, which were identified domestically through market research. 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 fifteen (15) manufacturers and suppliers of these small diameter stainless steel fittings. One of the manufacturers initially stated they could make the AIS compliant stainless steel fittings. Upon further communications between the Applicant and manufacturers in July 2023, the manufacturer showed they were unable to provide AIS compliant stainless steel fittings. EPA received no (zero) public comments to the waiver request.

Finding: Since the Applicant established a reasonable basis to specify the product required for this project, and because EPA substantiated the Applicant's claim through market research that this product is not available from a manufacturer in the United States, Nelson County Service Authority in Arrington, Virginia is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of small diameter stainless steel fittings, as documented in the Commonwealth of Virginia's waiver request submittal on behalf of the Applicant dated May 25, 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 or (202) 566-1059.