



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to City of Portland Water Bureau in Portland, Oregon for Plunger Valves & Triple-Offset Butterfly Valves

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(a) under the authority of 33 U.S.C. § 3914(d) to the City of Portland Water Bureau in Portland, Oregon (Applicant) for Plunger Valves & Triple-Offset Butterfly Valves. This waiver permits the use of these products, produced outside the United States, and in the specific size requested, at the Bull Run Treatment Program project because no known manufacturers or suppliers can provide sufficient and reasonably available quantities of the Plunger or Triple-Offset Butterfly Valves.

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 WIFIA at 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. The 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 applicable WIFIA provision states that, “[the requirements] shall not apply in any case or category of cases in which the Administrator [of the Environmental Protection Agency] 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 the EPA asserting that there are no domestic manufacturers producing Plunger Valves & Triple-Offset Butterfly Valves in sufficient and reasonably available quantities and of a satisfactory quality. Both valve types are needed for the project during the start-up and commissioning process to safely ensure a proper watertight seal that meets the high-pressure specifications of the project.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of Plunger Valves & Triple-Offset 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. For market research on the Triple-Offset Butterfly Valves, the EPA contacted 10 manufacturers or suppliers. Three did not respond. Of the seven who responded, none offered AIS-compliant Triple-Offset Butterfly Valves. For market research on Plunger Valves, the EPA contacted five manufacturers or suppliers. Four of the companies indicated an inability to provide AIS-compliant Plunger Valves. One manufacturer indicated a previous ability to make Plunger Valves. However, that company was in a re-design process for the product, and they were not currently able to offer the part. Finally, the EPA posted the waiver request for a 15-day public comment period. The EPA received zero public comments. Therefore, the EPA agrees with the assessment that no domestic manufacturers produce Plunger Valves & Triple-Offset Butterfly Valves meeting the project's specifications.

Finding: Since the Applicant established a proper basis to specify the Plunger Valves & Triple-Offset Butterfly Valves required for this project, and because the EPA substantiated the Applicant's claim that these products are not produced or readily available from a manufacturer in the United States, the City of Portland Water Bureau in Portland, Oregon is hereby granted a waiver from the AIS requirements for the Bull Run Treatment Program project. This waiver permits the purchase of the specified products as documented in the Applicant's waiver request submittal to WIFIA, dated September 1, 2023.

If you have any questions concerning the contents of this memorandum, please contact Forrest Petrich, Environmental Engineer, WIFIA Program, at Petrich.Forrerst@epa.gov.