



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project-Specific Availability Waiver of American Iron and Steel Requirements to the Village of Dexter, New York for Structural Steel Tubing

FROM: Andrew Sawyers, Director

Decision: The U.S. Environmental Protection Agency 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 Village of Dexter, New York (Applicant) for structural steel tubing. This waiver permits the use of this tubing, manufactured outside of the United States, in the Dexter Riverbank Stabilization 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 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. The 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 the 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 the EPA asserting that there are no domestic manufacturers producing structural steel tubing in sufficient and reasonably available quantities and of a satisfactory quality. The structural steel tubing will be used in the Dexter Riverbank Stabilization project that includes the construction of a new disinfection system to meet regulatory requirements and a new retaining wall system to address riverbank erosion. The tubing will have a 7.5 inch outer diameter and 0.375 inch wall thickness to be used in the fabrication of the pile cap assemblies required for the retaining wall system.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of the structural steel tubing. 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, the EPA contacted nine (9) manufacturers and suppliers of the structural steel tubing. There were no manufacturers who indicated they could provide domestic structural steel tubing that met the technical specifications of the project and were AIS compliant. The EPA received one (1) public comment pertaining to the structural steel tubing. Upon further communications between the Applicant and manufacturer in October 2023, the manufacturer showed they were unable to meet the technical specifications of the steel tubing required for the project.

Finding: Since the Applicant established a reasonable basis to specify the product required for this project, and because the EPA substantiated the Applicant's claim through market research that this product was not available from a manufacturer in the United States, the Village of Dexter, New York is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of structural steel tubing, as documented in the State of New York's waiver request submittal on behalf of the Applicant dated August 9, 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.