



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project-Specific Availability Waiver of American Iron and Steel Requirements to Johnston County, North Carolina for 4-inch to 6-inch Double Check Valve Backflow Prevention Assemblies and 4-inch to 6-inch Reduced Pressure Backflow Prevention Assemblies

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 Johnston County, North Carolina (Applicant) for 4-inch to 6-inch double check valve backflow prevention assemblies and 4-inch to 6-inch reduced pressure backflow prevention assemblies. This waiver permits the use of these backflow prevention assemblies, manufactured outside of the United States, in the Johnston County Dewatering and Solids Improvements 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. 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 4-inch to 6-inch double check valve backflow prevention assemblies and 4-inch to 6-inch reduced pressure backflow prevention assemblies in sufficient and reasonably available quantities and of a satisfactory quality. The backflow prevention assemblies are required to prevent cross contamination of the potable water supply

system and reclaimed water supply system. In addition, backflow prevention is required by North Carolina State Plumbing Code.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of these backflow prevention assemblies. 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 ten (10) manufacturers and suppliers of these backflow prevention assemblies. There were no manufacturers who indicated they could provide either of the backflow prevention assemblies that meet the technical specifications of the project and are AIS compliant. The EPA received no (zero) public comments to the waiver request.

Finding: Since the Applicant established a reasonable basis to specify the products required for this project, and because the EPA substantiated the Applicant's claim through market research that these products are not available from a manufacturer in the United States, Johnston County, North Carolina is hereby granted a waiver from the AIS requirements. This waiver permits the purchase of 4-inch to 6-inch double check valve backflow prevention assemblies and 4-inch to 6-inch reduced pressure backflow prevention assemblies, as documented in the State of North Carolina's waiver request submittal on behalf of the Applicant dated December 2, 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.