



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to the City of Baltimore's Department of Public Works in Maryland for 8-Inch 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 under the authority of 33 U.S.C. § 3914(c)(2) to the City of Baltimore's Department of Public Works in Baltimore, Maryland (Applicant) for 8-Inch Butterfly Valves (butterfly valves). This waiver permits the use of this product, produced outside the United States, and in the specific size and quantities requested, at the Wastewater Rehabilitation Program 2020 project because AIS-compliant butterfly valves are not produced in sufficient and reasonably available quantities to meet the project's technical specifications and schedule.

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. 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 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 . . . 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 butterfly valves in sufficient and reasonably available quantities and of a satisfactory quality. The Applicant requires twenty-four (24) 8-Inch Butterfly Valves for use in their egg-shaped digester rehabilitation improvement at the Back River Wastewater Treatment Plant. Of the twenty-four butterfly valves needed, twelve of the valves are required by the Applicant no later than August 2024 and the other twelve are needed after this date. Delayed delivery is likely to impair the timely commissioning of the Applicant's digester.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of 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, the EPA contacted twelve (12) manufacturers or suppliers. Of the five manufacturers or suppliers who responded, only one reported being able to provide AIS-compliant butterfly valves. The Applicant determined that they could procure twelve of the necessary valves using the AIS-compliant source without impacting the project schedule. For the other twelve valves, procuring AIS-compliant butterfly valves would result in an anticipated project delay of ten to fourteen weeks, and such an undue delay would impact the commissioning of the project's digester. The EPA posted the waiver request for a 15-day public comment period. The EPA received public zero comments on the waiver request. Therefore, the EPA agrees with the assessment that no domestic manufacturers produce butterfly valves meeting the project's technical specifications and schedule in sufficient and reasonably available quantities.

Finding: Since the Applicant established a proper basis to specify the butterfly valves required for this project, and because the EPA substantiated the Applicant's claim that these products are not produced in sufficient and reasonably available quantities from a manufacturer in the United States, the City of Baltimore's Department of Public Works in Maryland is hereby granted a waiver from the AIS requirements for the Wastewater Rehabilitation Program 2020 project for twelve of the twenty-four butterfly valves. This waiver permits the purchase of the specified products as documented in the Applicant's waiver request submittal to WIFIA, dated February 13, 2024.

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