



OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements to the City of Sunnyvale in Sunnyvale, CA for Strainers, Globe/Needle Valves, and Threaded Fittings

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 Sunnyvale in Sunnyvale, CA (Applicant) for strainers, globe/needle valves, and threaded fittings. This waiver permits the use of this product, produced outside the United States, and in the specific size requested, at the Sunnyvale Cleanwater Program Phase 2 project because no known domestic manufacturers product AIS-compliant strainers, globe/needle valves, and threaded fittings that meet the project’s technical specifications.

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 the following products in sufficient and reasonably available quantities and of a satisfactory quality: ½-inch stainless steel strainers, ½-inch and ¼-inch stainless steel globe/needle valves, ½ - 2-inch 150# threaded 90-degree elbows, ½ - 2-inch 150# threaded tees, ½ - 2-inch 150# threaded bushings, and ½ - 2-inch 150# threaded unions. The Applicant requires the products for upgrades to its Water Pollution Control Plant to maintain permit compliance and reliability. Upgrades to the City’s Water Pollution Control Plant are a major component of the Sunnyvale Cleanwater Program Phase 2 project.

The Applicant's general contractor attempted to find domestic manufacturers for the products listed in the waiver request, however, none of the manufacturers contacted were able to provide AIS-compliant products.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of strainers, globe/needle valves, and threaded fittings. 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 11 manufacturers of strainers, 12 manufacturers of globe and needle valves, and 12 manufacturers of stainless steel threaded fittings. The EPA's market research verified the Applicant's claim that AIS-compliant strainers and threaded fittings that meet the project's technical specifications are not available. None of manufacturers contacted claimed to be able to produce AIS-compliant products that met the project's technical specifications. One manufacturer of needle valves claimed to be able to produce an AIS-compliant valve that could meet the project's technical specifications. However, when the Applicant contacted the manufacturer, the manufacturer denied their earlier claim and stated that they could not produce AIS-compliant needle valves.

The EPA also posted the waiver request for a 15-day public comment period. The EPA received no public comments on the waiver request. Therefore, the EPA agrees with the assessment that no domestic manufacturers produce strainers, globe/needle valves, and threaded fittings meeting the project's specifications.

Finding: Since the Applicant established a proper basis to specify the strainers, globe/needle valves, and threaded fittings 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 Sunnyvale in Sunnyvale, CA is hereby granted a waiver from the AIS requirements for the Sunnyvale Cleanwater Program Phase 2 project. This waiver permits the purchase of the specified products as documented in the Applicant's waiver request submittal to WIFIA, dated April 24, 2024.

If you have any questions concerning the contents of this memorandum, please contact Kavita Mak, Environmental Engineer, WIFIA Program, at mak.kavita@epa.gov.