



OFFICE OF GROUND WATER AND DRINKING WATER

WASHINGTON, D.C. 20460

DECISION MEMORANDUM

SUBJECT: Project-Specific Public Interest Waiver of American Iron and Steel Requirements for a Manually Operated Rollup Door in the Town of Thayne, WY, East Booster Pump Improvements Project
Waiver Number 08-DWA-0030

FROM: Jennifer L. McLain, Director

Decision: The U.S. Environmental Protection Agency (EPA) is hereby granting a project-specific public interest waiver pursuant to the American Iron and Steel (AIS) requirements to the Town of Thayne, Wyoming (the Town), for the purchase of a manually operated rollup door at its East Booster Pump Improvements Project. This waiver permits the use of one manually operated rollup door at the project. This project-specific waiver applies only to the use of the specified product for the referenced project funded by the Drinking Water State Revolving Fund (DWSRF). Any other project funded by the DWSRF, Clean Water State Revolving Fund, or the Water Infrastructure Finance and Innovation Act that wishes to use the same product must request a separate waiver based on the specific project circumstances.

Rationale: The AIS provision requires DWSRF assistance recipients to use specific domestic iron and steel products if the project is funded through an SRF assistance agreement unless EPA determines that it is necessary to waive this requirement. EPA has the authority to issue waivers in accordance with section 1452(a)(4)(C)(ii) of the Safe Drinking Water Act. The provision states in part: “[the requirements] shall be waived in any case or category of cases in which the Administrator finds that... applying [the requirements] would be inconsistent with the public interest.”

Background of Waiver Request: Prior to and during construction, the Town, their consulting engineers, and construction contractors made every effort to comply with AIS through planning, design, agreements, and procurement. The project required one manually operated rollup door at the pump station.

The construction contractor communicated the AIS requirements to the door supplier who provided one manually operated rollup door and included a “certificate of compliance”. Subsequently, the door was installed in August 2023, and the compliance document filed with the project paperwork. In September, during a project inspection, Wyoming DWSRF staff reviewed the compliance certification letters and deemed the specific certification document for the door as deficient. The Town, working with the state, made several additional documented efforts to obtain proper certification for the rollup door.

In February 2024, the state reached out to EPA for assistance resolving the issue since the project was complete. EPA reached out to the door manufacturer in order to directly outline the AIS requirements. After several attempts, EPA was informed that the previous employee who issued the questionable certification letter was no longer responsible for the manufacturer’s certification letters. During the meeting, EPA gave guidance to the new staff on how to properly comply with the AIS requirements. It was made obvious to EPA during this meeting that the installed manually operated rollup door does not meet the AIS requirements, and that obtaining a compliant certification letter would not be a viable path towards the project being in compliance.

Assessment of Waiver Request: Per statutory requirement, the waiver request was posted on EPA’s AIS website for the mandatory 15-day public comment period. EPA received no public comments.

Finding: Because the Town and the state made every effort to comply with AIS, EPA is granting a project-specific public interest waiver from the AIS requirements to the Town of Thayne, Wyoming. The waiver allows use of a non-domestic manually operated rollup door in its East Booster Pump Improvements project, using DWSRF funds, as documented in the State of Wyoming’s waiver request, on behalf of the assistance recipient, dated June 18, 2024.

Legal Authority: Legal authority for the AIS requirements for DWSRF projects, including waiver authority, is included in the Safe Drinking Water Act 1452(a)(4).

If you have questions concerning the contents of this memorandum, please contact Daniel La Bella, Environmental Engineer, Drinking Water Infrastructure Development Division, at labella.daniel@epa.gov.