



Rural Development

Rural Utilities Service

Water & Environmental
Programs

1400 Independence Ave SW
Washington, DC 20250

DECISION MEMORANDUM

DATE: December 08, 2022

SUBJECT: Availability-Based Project Waiver of American Iron and Steel Requirements for combination curb stop /check valve assemblies for the Eastern Iowa Regional Utility Service Systems' Petersburg Collection System project in Dubuque County, IA

Waiver Number: 22-008

FROM: for Charles D. Stephens
Assistant Administrator
Water and Environmental Programs

Decision: The U.S. Department of Agriculture (USDA) is hereby granting an availability-based project-specific waiver of American Iron and Steel (AIS) requirements to the Eastern Iowa Regional Utility Service Systems for the purchase of combination curb stop and check valve assemblies in Dubuque County, IA. This waiver permits the use of non-domestic combination curb stop / check valve assemblies because no known domestic manufacturers can deliver a product that meets the project's technical specifications.

This is a project-specific waiver which applies only to the use of the specified product for the referenced project funded by the USDA Rural Development (RD) Rural Utilities Service (RUS) Water and Waste Disposal (WWD) Loan and Grant program under the Water and Environmental Programs (WEP). Any other project that wishes to use the same product must submit a separate waiver request based on the specific project circumstances.

Rationale: The AIS provision of the Consolidated Appropriations Act of 2017 (Public Law 115-31) and subsequent statutes require WEP assistance recipients to use domestic iron and steel products unless RD determines that it is necessary to waive this requirement. USDA has the authority to issue waivers in accordance with section 746 (b)(2) of P.L.115-31, which states in part: "[the requirements] shall not apply in any case or category of cases in which the Secretary of Agriculture ... or the designee of the Secretary finds that ...iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality." As per the delegation memo of July 2017, approval of project specific waivers has been delegated to the Engineering and Environmental Staff Director.

Background of Waiver Request: The Eastern Iowa Regional Utility Service Systems' Petersburg Wastewater Treatment Facility and Collection System

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project in Dubuque County, IA, includes installation of combination curb stop / check valve assemblies in their collection system. The contractor stated that he could not find a manufacturer to furnish an assembly that adhered to AIS requirements, and furnished letters from three suppliers corroborating this. USDA's AIS contractor then contacted nine manufacturers and suppliers, including those contacted by the applicant. Of the companies that responded, only three reported that they could supply the assemblies, and none of these were able to source the items domestically. The others reported that they do not manufacture assemblies meeting project specifications.

The US Environmental Protection Agency (USEPA) had previously researched the same product and was unable to find a domestic supplier, issuing a project-specific waiver to the Independence-Cross Creek Joint Sewer Authority on February 27, 2018. RD similarly researched and failed to find domestic supplies in 2021, issuing a waiver granting use of non-domestic assemblies to the Town of Bridgton, ME, on July 26, 2021.

Eastern Iowa Regional Utility Service Systems submitted to RD a formal request to waive AIS requirements for the assemblies on November 16, 2022. Per statutory requirement, the waiver request was posted on RD's AIS website for a 15-day public comment period, and the Agency received no comments.

Finding: USDA is granting an availability-based waiver from the AIS requirements to the Eastern Iowa Regional Utility Service Systems, for combination curb stop and check valve assemblies. This waiver permits the purchase of these assemblies using WEP funds for the Petersburg Collection System project as documented in the city's waiver request submittal.

Legal Authority: Legal authority for the AIS requirements for WEP projects is included under the Consolidated Appropriations Act of 2017 and subsequent statutes, under the authority of section 746 (b)(2) of P.L.115-31.

If you have questions concerning the contents of this memorandum, please contact WEP Engineering at WEPEngineering@usda.gov.