



**Rural Development**

Rural Utilities Service

Water & Environmental  
Programs

1400 Independence Ave SW  
Washington, DC 20250

**DECISION MEMORANDUM**

**DATE:** May 26, 2023

**SUBJECT:** Availability-Based Project Waiver of American Iron and Steel Requirements for three-inch reduced pressure zone backflow prevention valve assemblies for the Camden's Wastewater Treatment Facility Improvements Project in Knox County, ME

Waiver Number: 23-003

**FROM:** Steven Polacek  
Acting 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 Town of Camden's Wastewater Treatment Facility Improvements Project for the purchase of one (1x) three-inch reduced pressure zone backflow prevention valve assembly in Knox County, ME. This waiver permits the use of non-domestic RPZ backflow prevention 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.

"USDA is an equal opportunity provider, employer, and lender."

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

Background of Waiver Request: The Town of Camden's Wastewater Treatment Facility Improvements Project in Knox County, ME, includes installation of reduced pressure zone backflow prevention valve assemblies in their wastewater system. The contractor stated that they could not find a manufacturer to furnish an assembly that adhered to AIS requirements and contacted six suppliers who corroborated this.

USDA RD had earlier been made aware of the lack of AIS-compliant backflow preventers regarding projects in Edgar, NE and Bartholomew, IN. In both cases, the applicants reached out to multiple manufacturers or distributors, who all stated that they cannot supply backflow preventers meeting domestic preference requirements. USDA's AIS contractor then contacted twelve manufacturers and suppliers, including those contacted by the applicants. Of the companies that responded, none of them manufacture backflow preventer assemblies meeting both the project specifications and domestic preference requirements. Based on this research, USDA granted the Edgar, NE, project and the Bartholomew County, IN, project a waiver of AIS for the backflow preventers on April 14, 2022 (# 22-004) and August 23, 2022 (22-007).

The Town of Camden submitted to RD a formal request to waive AIS requirements for the assemblies on May 8, 2023. 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 Town of Camden, ME for one (1x) three-inch reduced pressure zone backflow prevention valve assembly. This waiver permits the purchase of this assembly using WEP funds for the Town of Camden's Wastewater Treatment Facility Improvements Project as documented in the town'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](mailto:WEPEngineering@usda.gov).