



Rural Development

Rural Utilities Service

Water & Environmental
Programs

1400 Independence Ave SW
Washington, DC 20250

DECISION MEMORANDUM

DATE: March 20, 2023

SUBJECT: Availability-Based Project Waiver of American Iron and Steel Requirements for Ductile Iron Back-Up rings for 2” to 18” pipe sizes for the City of Rigby (ID) WWTP Improvements Project

Waiver Number: 23-001

FROM: Steve 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 City of Rigby, ID, on its wastewater treatment plant (WWTP) improvements project. This waiver allows the purchase and installation of non-domestic ductile iron back-up rings to be used to strengthen flanged connections in 2” - 18” HDPE pipe at locations where HDPE is joined by another material. The AIS requirements are being waived for the back-up rings because no known domestic manufacturers can deliver a product meeting 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. 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 Water and Environmental Programs (WEP) assistance recipients to use domestic iron and steel products unless USDA 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 WEP Engineering and Environmental Staff Director.

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Background of Waiver Request: The City of Rigby's WWTP improvements project includes installation of ductile iron back-up rings for its WWTP improvements project. The contractor contacted six manufacturers and suppliers to source backup rings that adhered to AIS requirements, but was unsuccessful in locating AIS-compliant products. USDA's AIS contractor then contacted eleven manufacturers and suppliers, including five of the six contacted by the applicant. None of the companies contacted indicated that they could supply AIS-compliant ductile iron back-up rings meeting project specifications.

The US Environmental Protection Agency (USEPA) had previously researched the same product and was unable to find a domestic supplier, issuing project-specific waiver to the Winston-Salem and Forsyth County City/County Utilities Commission on August 6, 2015.

RD received a formal request from the City of Rigby to waive AIS requirements for the back-up rings on March 1, 2023. Per statutory requirement, the waiver request was posted on RD's AIS website for a 15-day public comment period. One response to the public comment was received from a manufacturer that offered a similar product; however, the project engineer determined that it did not meet the project's specifications.

Finding: USDA is granting an availability-based waiver from the AIS requirements to the City of Rigby, ID, for ductile iron back-up rings. This waiver permits the purchase of these items using WEP funds for the City's WWTP improvement 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.