



Rural Development

Rural Utilities Service

Water & Environmental Programs

1400 Independence Ave SW
Washington, DC 20250

DECISION MEMORANDUM

DATE: April 14, 2022

SUBJECT: Availability-Based Project Waiver of American Iron and Steel Requirements for a lead-free 6” reduced pressure zone (RPZ) backflow preventer for the 2020 Water System Improvements project for the City of Edgar, NE.

Waiver Number: 22-004

FROM: Charles D. Stephens
Assistant Administrator
Acting Director, Environmental and Historic Preservation Staff
Water and Environmental Programs

Decision: The U.S. Department of Agriculture (USDA) is hereby granting an availability-based project-specific waiver of the American Iron and Steel (AIS) requirements to the City of Edgar, NE, for purchase of one lead-free 6” reduced pressure zone (RPZ) assembly for use on its 2020 Water System Improvement project. This waiver is to permit the use of a non-domestic product because no domestic source could be found that could provide this item and meet 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.” Approval of project specific waivers of the American Iron and Steel requirement is delegated to the Engineering and Environmental Staff Director in the delegation memo dated July 2017.

Background of Waiver Request: This project includes the installation of about 9 miles of water main from Fairfield, Nebraska to Edgar, Nebraska, to provide Edgar with a new drinking water supply. The project is under construction with an estimated completion date of July 31, 2022. Part of the project requires installation of a backflow preventer that is a lead Free 6” Reduced Pressure Zone (RPZ) assembly, specified as Colt 400 Series C400 or equal.

The city reached out to six different manufacturers or distributors, who all stated that they cannot supply 6” backflow preventers meeting AIS requirements. USDA’s AIS contractor then contacted twelve manufacturers and suppliers, including those contacted by the applicant. Of the ten companies that responded, only three reported that they could provide 6-inch RPZ backflow preventer assemblies; however, they all stated their product is manufactured in foreign countries. The others reported that they do not manufacture RPZ backflow preventer assemblies meeting project specifications.

The City of Edgar submitted a formal request to RD to waive the AIS requirements for the RPZ assembly on March 25, 2022. Per statutory requirement, the waiver request was posted on RD’s AIS website for the mandatory 15-day public comment period, and received no comments.

Finding: USDA is granting an availability-based waiver from the AIS requirements to the Edgar, NE, for their 2020 Water System Improvements project for one 6” lead-free reduced pressure zone (RPZ) assembly. This waiver permits the item to be purchased and installed on the project, which is funded wholly or in part using WEP funds.

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.