



Rural Development

Rural Utilities Service

Water & Environmental Programs

1400 Independence Ave SW  
Washington, DC 20250

**DECISION MEMORANDUM**

**DATE:** August 23, 2022

**SUBJECT:** Availability-Based Project Waiver of American Iron and Steel Requirements for two 6” Backflow Preventers to the Southwestern Bartholomew Water Corporation, for its Backflow Prevention Project in Bartholomew County, IN

Waiver Number: 22-007

**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 American Iron and Steel (AIS) requirements to the Southwestern Bartholomew Water Corporation (SWBWC) for the purchase of two 6” Backflow Preventers for SWBWC’s Backflow Prevention Project in Bartholomew County, IN. This waiver permits the use of non-domestic backflow preventers 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.

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Background of Waiver Request: The Southwestern Bartholomew Water Corporation Backflow Prevention Project in Bartholomew County, IN, involves adding two 6” diameter backflow preventors, one at each of SWBWC’s two Water Treatment Plants. The contractor stated that he could not find a manufacturer to furnish a backflow preventor that adhered to AIS standards and furnished letters from two suppliers corroborating this. One letter stated that there are only two manufacturers that make this product or an equivalent and neither can produce an AIS compliant product.

USDA RD had earlier been made aware of the lack of AIS-compliant 6” backflow preventers regarding a project in Edgar, NE. In that case, the applicant 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 backflow preventer assemblies; however, they all stated their product is manufactured in foreign countries. The others reported that they do not manufacture backflow preventer assemblies meeting project specifications. Based on this research, USDA granted the Edgar, NE, project a waiver of AIS for the backflow preventers (# 22-004) on April 14, 2022.

SWBWC submitted to RD a formal request to waive AIS requirements for the reducers on August 4, 2022. Per statutory requirement, the waiver request was posted on RD’s AIS website for the mandatory 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 Southwestern Bartholomew Water Corporation, for its Backflow Prevention Project in Bartholomew County, IN, with respect to 6” Backflow Preventers. This waiver permits the purchase of two such backflow preventers using WEP funds 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](mailto:WEPEngineering@usda.gov).