



Rural Development

Rural Utilities Service

Water & Environmental Programs

1400 Independence Ave SW  
Washington, DC 20250

**DECISION MEMORANDUM**

**DATE:** October 25, 2021

**SUBJECT:** Availability-Based Project Waiver of American Iron and Steel Requirements for 16-inch butterfly valves, 16-inch check valves and 12-inch check valves for the Milford City Culinary Water Improvement Project 2020, Milford, Utah

Waiver Number: 22-001

**FROM:** Barbara Britton  
Director, Engineering and Environmental Staff  
Water and Environmental Programs

Decision: The U.S. Department of Agriculture (USDA) is hereby granting an availability-based project-specific waiver pursuant to the American Iron and Steel (AIS) requirements to the City of Milford, Utah, for the purchase of one 16-inch check valve, one 12-inch check valve and six 16-inch butterfly valves for the Milford City Culinary Water Improvement Project 2020. This waiver permits the use of these valves because no known domestic manufacturers can deliver a product that meets the project’s technical specifications in a timely manner.

This is a project-specific waiver which applies only to the use of the specified products 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 products 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: Milford City is undertaking a drinking water improvement project that includes building a water storage tank and booster pump station, and replacing several sections of 10-inch, 12-inch, and 16-inch pipelines including the necessary valves and meters. The design for this project requires the installation and use of one 16-inch check valve, one 12-inch check valve and six 16-inch butterfly valves. Project specifications require that swing check valves should conform to ANSI/AWWA C-508 standards and the butterfly valves must be Class 150 seated tight closing valves with mechanical or flanged joints and should be AWWA C-504 compliant.

The project is currently stalled, awaiting the check valves and butterfly valves. These items are needed by November 1, 2021 in order to complete this portion of the project before the arrival of winter. While the project has identified several manufacturers that can provide AIS compliant valves meeting the project's specifications, the lead times for all are 12 weeks or longer, and delivery dates provided by suppliers have repeatedly slipped since the project first inquired.

Assessment of Waiver Request: RD conducted market research on the supply and availability of 16-inch butterfly valves, 16-inch check valves and 12-inch check valves that could meet the project's specifications. RD's contractor contacted seven manufacturers and five distributors in addition to the six that were contacted by the project. All of the respondents indicated that their lead times for AIS compliant butterfly valves and swing check valves meeting project specifications were at least 12 weeks.

The City of Milford submitted to RD a formal request to waive AIS requirements for the butterfly valves and swing check valves on October 7, 2021. 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 one request for more information. This respondent then indicated they would not be able to provide AIS compliant valves for the project within the project's time constraints.

Finding: USDA is granting an availability-based waiver from the AIS requirements to the City of Milford, Utah, for their Milford City Culinary Water Improvement Project 2020 with respect to 12-inch and 16-inch check valves and 16-inch butterfly valves. This waiver permits the purchase of these eight valves 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 EES Engineering at [EESEngineering@usda.gov](mailto:EESEngineering@usda.gov).