



Rural Development

Rural Utilities Service

Water & Environmental
Programs

1400 Independence Ave SW
Washington, DC 20250

DECISION MEMORANDUM

DATE: 09 May 2024

SUBJECT: Cost-Based Project-Specific Waiver of American Iron and Steel Requirements for Steel Piles and Steel Guardrail Cribbing for the Ozark Mountain Regional PWA's Water Main Replacement Project in Boone County, AR

Waiver Number: 24-001

FROM: Steven Polacek
Director Water Programs
Water and Environmental Programs

**STEVEN
POLACEK**

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STEVEN POLACEK
Date: 2024.05.13
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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 Ozark Mountain Regional PWA's Water Main Replacement Project for the reuse of recycled steel piles and steel guardrail cribbing in Boone County, AR. This waiver permits the use of non-domestic piles and cribbing because use of new, AIS-compliant piles and cribbing would significantly increase the cost of the project.

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 produced in the United States will increase the cost of the overall project by more than 25 percent." Approval of project specific waivers has been delegated to the Engineering and Environmental Staff Director.

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Background of Waiver Request: The Ozark Mountain Regional PWA's Water Main Replacement Project in Boone County, AR, includes installation of steel piles and steel guardrail cribbing in their water system. The contractor has proposed using recycled piles and cribbing for the system at a significant savings to Ozark Mountain Regional.

The Ozark Mountain Regional PWA submitted to RD a formal request to waive AIS requirements for the piles and cribbing on April 18, 2024; the project cost using the recycled products is \$927,924. The project cost using new AIS compliant products would be \$1,386,800; an increase of forty-nine percent (49%). 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 a cost-based waiver from the AIS requirements to the Ozark Mountain Regional PWA for all recycled steel piles and steel guardrail cribbing utilized on the project. This waiver permits the purchase of these piles and cribbing using WEP funds for the Water Main Replacement Project as documented in the 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.