



American Iron and Steel (AIS) Requirements for State Revolving Funds

Refresher Webinar: Focus on States and Borrowers

March 12, 2019
2:00 PM

Presented by
U.S. EPA



Training Logistics

- Presentation by EPA staff including:
 - Office of Wastewater Management
 - Leslie Corcelli
 - Office of Ground Water and Drinking Water
 - Jorge Medrano
- Q&As will be addressed **AFTER** the presentation.
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Training Objectives

- Background
- AIS Requirements
 - Roles and Responsibilities
 - Project Coverage
 - Product Coverage
- Waivers and Waiver Process
- Documenting Compliance
- Informal Site Visits
- AIS Resources





Background – What is AIS?

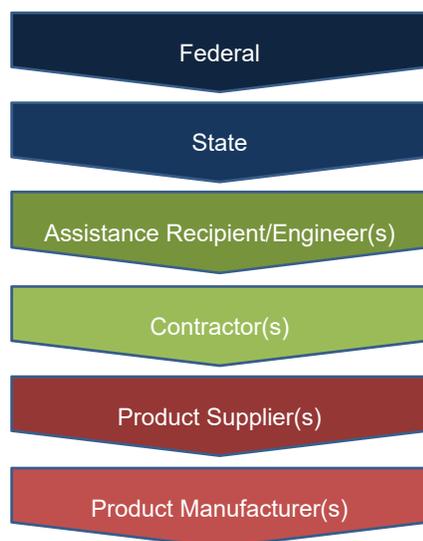
- The "American Iron and Steel" provision requires assistance recipients to use iron and steel products that are produced in the United States for the construction, alteration, maintenance, or repair of a public water system or treatment works (Consolidated Appropriations Act of 2014 P.L. 113-76)
- On **June 10 2014**, Resources Reform and Development Act made AIS permanent for CWSRF
- On **October 23, 2018**, Section 1452(a)(4)(A) of the Safe Drinking Water Act (SDWA) extended the AIS requirement for the DWSRF through September 2023



WHO IS RESPONSIBLE FOR AIS COMPLIANCE?



Roles and Responsibilities: Who is Responsible for AIS Compliance?



Roles and Responsibilities – Federal

- ◉ Communicate AIS requirements
- ◉ Assist in the proper implementation of the requirements
- ◉ Activities include:
 - Informal AIS site visits
 - State-sponsored training and outreach
 - Waiver request review and decision
 - Technical assistance through SRF_AIS@epa.gov



Roles and Responsibilities – State

- Reinforce AIS requirements
- Oversee AIS implementation
- Activities include:
 - Ensuring AIS language in assistance agreements
 - Technical assistance and training
 - Waiver request assistance
 - Project inspections
 - Addressing project non-compliance



Roles and Responsibilities – Assistance Recipient/Consulting Engineer

- Communicate AIS requirements to all engineers and contractors
- Document AIS compliance for project
- Activities include:
 - Ensuring AIS language in construction contracts
 - Requesting and maintaining proper AIS documentation
 - Submitting waiver requests to the state
 - Maintain de minimis list of products
 - Design project with AIS requirements in mind



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DOES THE PROJECT HAVE
TO COMPLY WITH AIS?



What Projects Are Covered By AIS?

- All treatment works projects funded by a CWSRF assistance agreement
- All public water system projects funded by a DWSRF assistance agreement
- Projects with an assistance agreement signed on or after January 17, 2014





Phased Projects

- ◉ Intentional splitting of projects into separate and smaller contracts or assistance agreements will not avoid AIS coverage on a portion of a larger project.
- ◉ Multi-phased projects are considered a single project if they are closely related in **purpose, place and time**.
- ◉ If a project receives any SRF funding, the entire project has to comply with AIS.



AIS is Not Required For:

- ◉ Tribes that receive grants from the State and Tribal Assistance Grant (STAG) program
 - However, tribes that receive a loan from one of the 51 state SRF program (50 states + Puerto Rico) must comply with AIS
- ◉ DC and Territories
- ◉ DWSRF set-aside activities



WHAT IS AN IRON AND STEEL PRODUCT UNDER THE AIS REQUIREMENT?



What is an Iron and Steel Product Under the AIS Requirement?

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graph TD; Q1[Is the product primarily iron or steel?] -- NO --> R1[This is not an iron and steel product under the AIS requirement.]; Q1 -- YES --> Q2[Is the product a listed product?]; Q2 -- NO --> R1; Q2 -- YES --> Q3[Is the product permanently incorporated in the project?]; Q3 -- NO --> R1; Q3 -- YES --> R2[This is an iron and steel product under the AIS requirement.]; R2 --> R3[The product must be produced in the U.S. or otherwise be covered by a waiver.];
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Is the Product “Primarily” Iron or Steel?



- ◎ What is “Primarily” Iron or Steel?
 - Products greater than 50% iron or steel, measured by material costs only (not labor, overhead, shipping, etc.).
- ◎ Who determines if a product is primarily iron and steel?
 - Product manufacturers certify that their product is AIS compliant or does not need to meet AIS requirements.
- ◎ How do I calculate material cost?
 - Fire hydrant example:
 - Iron or steel components – bonnet, body and shoe
 - Other material costs – stem, coupling, valve, seals, and other non-iron or steel internal workings
 - Assembly of the internal workings into the hydrant body would not be included in cost calculation



Is the Product a Listed Product?



- | | |
|--------------------------------------|--------------------------------|
| ▪ Lined or unlined pipes or fittings | ▪ Pipe clamps and restraints |
| ▪ Manhole Covers | ▪ Valves |
| ▪ Municipal Castings* | ▪ Structural steel * |
| ▪ Hydrants | ▪ Reinforced precast concrete* |
| ▪ Tanks | ▪ Construction materials* |
| ▪ Flanges | |

*Several “listed products” are actually categories of products

Listed Products: Structural Steel

- Rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in construction of buildings (such as treatment plants, pump stations, etc.)



- Such shapes are designated as:
 - Wide-flange shapes
 - Standard I-beams, channels, angles, tees and zees
 - H-piles
 - Sheet piling
 - Tie plates
 - Cross ties
 - Other special purpose

Listed Products: Municipal Castings

- Access Hatches
- Ballast Screen
- Benches (Iron or Steel)
- Bollards
- Cast Bases
- Cast Iron Hinged Hatches, Square and Rectangular
- Cast Iron Riser Rings
- Catch Basin Inlet
- Cleanout/Monument Boxes
- Construction Covers and Frames
- Curb and Corner Guards
- Curb Openings
- Detectable Warning Plates
- Downspout Shoes (Boot, Inlet)
- Drainage Grates, Frames and Curb Inlets
- Inlets
- Junction Boxes
- Lampposts
- Manhole Covers, Rings and Frames, Risers
- Meter Boxes
- Service Boxes
- Steel Hinged Hatches, Square and Rectangular
- Steel Riser Rings
- Trash receptacles
- Tree Grates
- Tree Guards
- Trench Grates
- Valve Boxes, Covers and Risers

Listed Products:

- Municipal Castings
- Manhole Covers



Listed Products:

Reinforced Precast Concrete

- ◉ Typically not primarily iron and steel, but is a listed product
- ◉ Reinforcing bar and wire must be domestic
- ◉ Casting of concrete must occur domestically
- ◉ Raw materials (e.g., cement, additives) do not need to be domestic.



Listed Products:

Construction Materials

- Articles, materials, or supplies, not including mechanical and/or electrical components, equipment and systems
- Examples:
 - Concrete reinforcing bar, rebar, wire rod
 - Fasteners
 - Framing, joists, trusses
 - Decking, grating, railings, stairs, ladders
 - Fencing, doors



Listed Products:

Construction Materials





Is the Product Permanently Incorporated in the Project?

- Products that are intended to be permanently installed at the project site, including:
 - Spare parts
 - Materials left in place or buried
 - Examples: sheet piling, bypass valves



What is an Iron and Steel Product Under the AIS Requirement?

- Is the product primarily iron or steel?
- Is the product a listed product?
- Is the product permanently incorporated in the project?

If the product meets all the criteria above  then it is an iron and steel product under the AIS requirement and must be produced in the United States (or otherwise be covered by a waiver).



What is “Produced in the United States?”

- Manufacturing and processing of iron or steel must occur in the U.S, including:
 - Melting
 - Drawing
 - Refining
 - Finishing
 - Forming
 - Fabricating
 - Rolling
 - Assembly
- All processes must take place in the U.S., except:
 - Steel additives refining
 - External coating surface of iron/steel components

Exceptions: Which Products Do Not Have to be Produced in the U.S.?

- Raw materials, such as iron ore, limestone and iron and steel scrap
- Non-iron or non-steel components of a primarily iron and steel product
- Products that do not fall under any of the listed products
- Mechanical/electrical equipment (if not a listed product)
- Appurtenances of assemblies where the primary component is a non-covered product



Which Products Do Not Have to be Produced in the U.S.?

Non-Construction Materials

- Materials that are not considered construction materials for the purpose of the AIS requirement, including mechanical and electrical components, equipment and systems
- Examples:
 - Pumps, motors, VFDs, valve actuators
 - Flow meters, sensors, SCADA
 - Disinfection systems, membrane filtration systems



Which Products Do Not Have to be Produced in the U.S.?

Assemblies if not a listed product

- AIS requirements only apply to final products, as delivered to the work site and incorporated into the project
- Assemblies, such as a pumping assembly or a reverse osmosis packaged plant, are products with a distinct purpose.
- Assemblies with primary components that are not listed as covered iron and steel products do not need to be made in the U.S. or composed of all U.S. parts.

Which Products Do Not Have to be Produced in the U.S.?

Appurtenances of non-listed products

- Appurtenances are items that are used for re-assembling after shipping and connecting the assembly to the rest of the treatment system.
- If an assembly is exempt from AIS requirements, those appurtenances shipped as part of the assembly are also exempt.
- Items that are not purchased as part of the assembly (i.e., purchased separately), are not considered appurtenances to an assembly that may be subject to this exemption.



WHAT IS AIS CERTIFICATION?





What is AIS Certification?

- A letter asserting that all manufacturing processes for the purchased product occurred in the U.S.
- Can be a Step Certification if there are multiple parties involved in the manufacturing processes.
 - Step Certification means each handler (supplier, fabricator, manufacturer, processor, etc.) certifies their individual step(s) in the process occurred in the U.S.



Who is responsible for AIS Certification?

- Product manufacturer should provide the AIS certification letter for each AIS-compliant product
- Supplier collects and provides AIS certification letters for products that they sell to customers
- Assistance recipient (either through engineer or construction contractor) maintain documentation for all iron and steel products that require AIS certification and are used on the SRF-funded project.



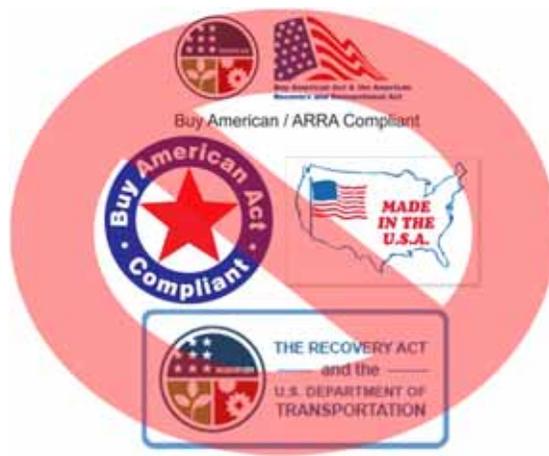
Certification Letter – Key Elements

- ◉ What is the product? Letter should list specific product(s) delivered to project site.
- ◉ Where was it made? Letter should include location(s) of foundry/mill/factory where product was manufactured (City and State).
- ◉ To whom was it delivered? Letter should include name of project and/or jurisdiction where product was delivered.
- ◉ Signature of company representative. On company letterhead.
- ◉ Reference AIS requirements. Especially if reference other domestic preference laws.



Do Other 'Buy American' Letters Work for EPA's AIS Requirement?

- ◉ Short answer: No!



Sample Step Certification Letter

The following information is provided as a sample letter of **step** certification for AIS compliance. Documentation must be provided on company letterhead.

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Step Certification for Project (XXXXXXXXXX)

I, (company representative), certify that the (melting, bending, coating, galvanizing, cutting, etc.) process for (manufacturing or fabricating) the following products and/or materials shipped or provided for the subject project is in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. Xxxx
2. Xxxx
3. Xxxx

Such process took place at the following location:

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative



WHAT IS AN AIS WAIVER?





First and Foremost...

- ◉ Assistance recipients should procure domestic iron and steel products.
- ◉ A state or assistance recipient can contact EPA if they are having trouble finding a product and EPA can provide product research.



Waiver Authority

- ◉ The statute permits EPA to issue waivers for a case or category of cases where EPA finds:
 - That applying these requirements would be inconsistent with the public interest
OR
 - Iron and steel products are not produced in the U.S. in sufficient and reasonably available quantities and of a satisfactory quality
OR
 - Inclusion of iron and steel products produced in the U.S. will increase the cost of the overall project by more than 25%.



National Waivers

- EPA has the authority to issue waivers that are national in scope
- National waivers may be for availability of specific products or in the public's interest
- Five national waivers approved to date
 - De Minimis
 - Minor Components
 - Stainless Steel Nuts/Bolts in Pipe Restraint Type Products
 - Pig Iron
 - Plans and Specs

** These national waivers are immediately available for project use. You do not need EPA approval to use these waivers.



National Waivers:

De Minimis

- Allows SRF project a small percentage of incidental products of unknown or non-domestic origin
 - 5% total material cost
 - 1% max for any single item
- Users of the de minimis waiver should maintain documentation of all the de minimis items in a project

Minor Components

- Allows the product manufacturer to include non-domestic, minor components in AIS-compliant products (up to 5% of material cost of the product)
 - Example: a valve with stainless steel pins and springs could make use of the waiver.

National Waivers:



Plans and Specifications

- ◎ AIS requirements waived for eligible projects with engineering plans and specs:
 - Submitted to state agency by January 17, 2014
 - Approved by state agency before April 15, 2014

Pig Iron

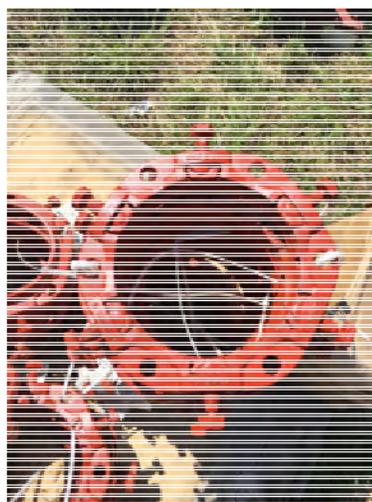
- ◎ Allows product manufacturer the use of pig iron and direct reduced iron manufactured outside the U.S. to be used in the manufacturing process for iron and steel products

National Waivers:



Stainless Steel Nuts and Bolts in Pipe Restraint Type Products

- ◎ Allows product manufacturer the use of non-domestic stainless steel nuts and bolts in certain specified products commonly used in SRF projects
- ◎ Final extension is retroactive and sunsets February 2020





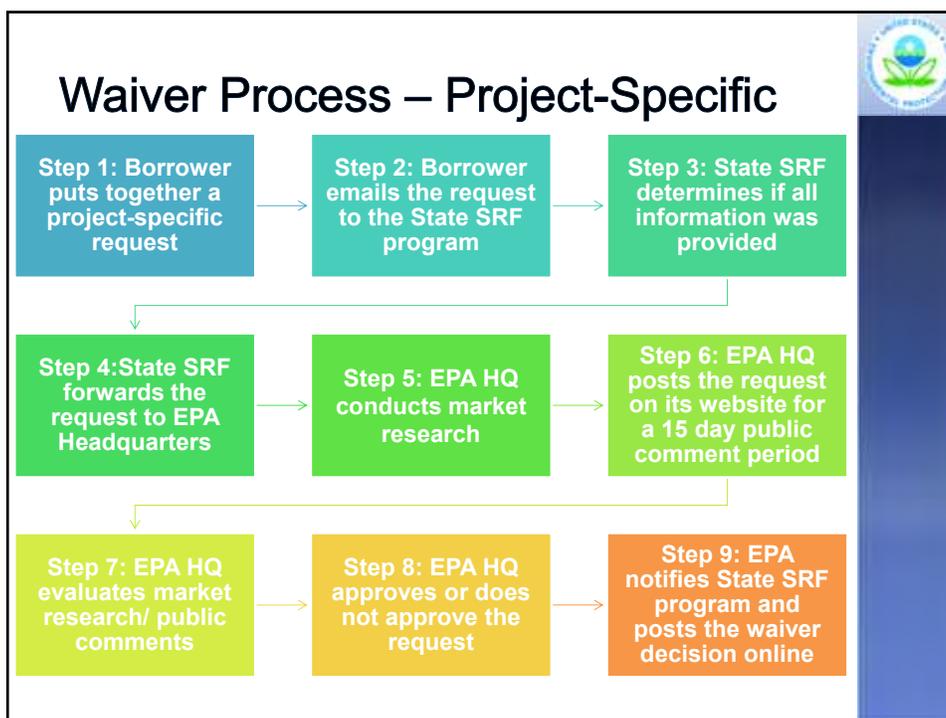
Project/Product-Specific Waivers

- ◉ A recipient may apply (through the state) for a project-specific waiver
- ◉ These waivers request the use of a specified non-domestic product for a specific project.
- ◉ Other CWSRF- or DWSRF-funded projects that wish to use the same non-domestic product must apply for a separate waiver.



Project/Product-Specific Waivers

- ◉ Availability Waiver
 - Most common
 - The quantity of products is not available or will not be available in time needed as specified by the project
- ◉ Public Interest Waiver
 - Higher bar after, Executive Order 18788 (April 2017)
 - Evaluation more complicated, longer decision time
- ◉ Cost Waiver
 - Increases the total project cost more than 25%
 - To date, no cost waivers have been approved



Assistance Recipients are Strongly Encouraged to:

- Hold pre-bid conferences with potential bidders.
 - The need for a waiver request can be identified at any point before, during, or after the bid process.
- Identify iron and steel products needed to complete the project
- Identify the need to seek a waiver early
- Provide proper and sufficient documentation in the waiver request, including:
 - Timeline for product need
 - Product specifications (very important!)



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WHAT ARE INFORMAL SITE VISITS?



Informal Site Visits

- Goals:
 - To visit at least one project in every state every three years
 - To discuss AIS with involved parties on a project-specific level
 - To observe AIS implementation at various stages of project construction
- To date, our EPA AIS Team has visited more than 300 Clean Water and Drinking Water SRF projects in 50 states





What is Non-Compliance?

- Intentional or unintentional use of a non-domestic iron or steel product that is covered under the AIS requirement
- Non-domestic iron or steel items may be used **temporarily**, but must be removed before project completion
 - Example: Installing a non-domestic butterfly valve as a placeholder until the domestic valve is delivered and installed in its place.



How to Address Non-Compliance?

- Steps to take if a non-compliant product is permanently installed on a project site:
 - State should notify assistance recipient of potential non-compliance
 - Evaluate alternatives – i.e., can the product be covered by a waiver?
 - If assistance recipient does not take corrective action, State should issue a non-compliance letter and notify EPA
 - EPA is available to assist the State in developing non-compliance letters and can provide example letters



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WHERE CAN I FIND EPA AIS RESOURCES?



Protect Our Health from Sources of Lead
Water State Revolving Fund



Where Can I Find EPA AIS Resources?

- Website: <http://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement> (Or just search “SRF AIS”)
- Website Contents
 - Guidance: Implementation memorandum and subsequent Q&A documents to assist SRF recipients in complying with AIS requirements
 - Training Materials
 - Waivers: Information about project-specific and national waivers, and the waiver process



Where Can I Find EPA AIS Resources?

- Email: SRF_AIS@epa.gov
- Typical inquiries received:
 - What is AIS and what do I need to do?
 - Does this product need to be AIS-compliant?
 - Is this certification letter appropriate to use?
 - What is the waiver request process?



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American Iron and Steel (AIS)
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THANK YOU!

AIS Questions:

- SRF_AIS@epa.gov

EPA AIS website:

<http://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement>