



Clean Water
State Revolving Fund

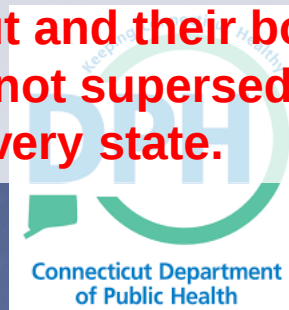


American Iron and Steel Requirements for State Revolving Fund Programs

Connecticut State Training

Monday, June 13, 2016

DISCLAIMER: This training was provided specifically for the State of Connecticut and their borrowers. Information contained herein does not supersede any guidance nor does all of it apply to every state.



U.S. EPA

Office of Wastewater Management
Office of Ground Water and Drinking Water

Connecticut Departments of Public Health &
Energy and Environmental Protection

Purpose of Training

- Review AIS background (history and current policy)
- Discuss details of the requirements
- Walk through waiver process and site visits
- Answer any State SRF or site-specific questions
- Provide any additional state specific requirements and information

Webcast Logistics

- ◉ Presentation via PowerPoint:
 - Eliot Sherman, Physical Scientist, CWSRF
 - Kavita Mak, Environmental Engineer, CWSRF
 - Jorge Medrano, Environmental Engineer, DWSRF

- ◉ Q&As will be addressed at several points.
 - Please submit questions via Q&A chat pod.
Questions can be submitted at any time.

- ◉ Slides will be provided to the state for dissemination after the webcast.

Agenda

- ◉ AIS Background
- ◉ Website Demo
- ◉ Project Coverage
- ◉ Product Coverage

BREAK

- ◉ Documenting Compliance
- ◉ Waivers & Waiver Process
 - National Waivers
 - Project Specific Waivers
- ◉ Informal Site Visits
- ◉ Final Q&A



Background – What is AIS?

- EPA's "American Iron and Steel" provision requires Clean Water State Revolving Fund and Drinking Water State Revolving Fund assistance recipients to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, or repair of a public water system or treatment works

Background – History of AIS



Clean Water & Drinking Water SRF's

On **January 17, 2014** the Consolidated Appropriations Act of 2014 (P.L. 113-76) was enacted and included an American Iron and Steel (AIS) requirement for the DWSRF and the CWSRF programs through the end of fiscal year 2014

Clean Water SRF

- On **June 10 2014**, the Water Resources Reform and Development Act amended the Clean Water Act (CWA) to include permanent requirements for the use of American Iron and Steel (AIS) in CWSRF projects.
- Section 608 of the CWA now contains requirements for AIS that repeat those of the Consolidated Appropriations Act of FY 2014
- All CWSRF projects must comply with Section 608 of the CWA for implementation of the permanent AIS requirements

Drinking Water SRF

- On **December 16, 2014**, the President signed Public Law 113-235, the "Consolidated and Further Continuing Appropriations Act 2015," which provides fiscal year 2015 full-year appropriations through September 30, 2015. This law continues the requirement for the use of American Iron and Steel products in DWSRF projects.
- On **December 18, 2015**, the President signed a continuing resolution (P.L. 114-113) which extends the AIS requirements through September 30, 2016.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



OFFICE OF
WATER

FEB 3 2016

MEMORANDUM

SUBJECT: Application of American Iron and Steel Requirements to Fiscal Year 2016 Drinking Water State Revolving Funds under the Consolidated Appropriations Act, 2016

FROM: Anita Maria Thompkins, Director
Drinking Water Protection Division *Anita Maria Thompkins*

TO: Water Management Division Directors
Regions I-X

On December 18, 2015, the President signed Public Law 114-113, the "Consolidated Appropriations Act, 2016," which provides fiscal year 2016 full-year appropriations through September 30, 2016, including funding for the Environmental Protection Agency. Section 424 of this law contains the same requirement for American Iron and Steel products that was included in the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235) and the Consolidated Appropriations Act, 2014 (P.L. 113-76).

As you are aware, the previous ~~two~~ appropriations acts included the "American Iron and Steel" requirement that recipients of DWSRF assistance are to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, or repair of a public water system if the project is funded through an assistance agreement executed starting January 17, 2014 through September 30, 2015.

All assistance agreements starting October 1, 2015, through September 30, 2016, must include the AIS requirements. All AIS guidance issued for FY 2014 and FY 2015 will continue to be applicable throughout the same time period. This memo will remain in place for the time period of October 1, 2015, through September 30, 2016, and will continue in force under any continuing resolutions that use similar language as Section 424 of the "Consolidated Appropriations Act, 2016."

If you have any questions, please contact Kiri Anderer (202-564-3134 or anderer.kirsten@epa.gov).

Attachments

cc: Ronald Bergman, Deputy Director, Drinking Water Protection Division
Kirsten Anderer, Environmental Engineer, DWSRF
Jorge Medrano, Environmental Engineer, DWSRF

Background (Continued)

- ◉ The provision identifies certain circumstances under which EPA may waive the AIS requirement *(discussed later in this presentation)*
 - There are exemptions based on when engineering plans and specifications were approved by the State, which are different for CWSRF and DWSRF

- ◉ EPA released an implementation memorandum on March 20, 2014 that establishes the approach to complying with the Act
 - Subsequent Q&A documents have been published on our AIS website

Further Information

- ◉ EPA's AIS website:
 - <http://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement>

- ◉ General AIS Questions:
 - SRF_AIS@epa.gov

AIS Website Demo

[Learn the Issues](#)[Science & Technology](#)[Laws & Regulations](#)[About EPA](#)**Related Topics:** [Clean Water State Revolving Fund](#)[Contact Us](#)[Share](#)

State Revolving Fund American Iron and Steel (AIS) Requirement

The American Iron and Steel (AIS) provision requires Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) assistance recipients to use iron and steel products that are produced in the United States. This requirement applies to projects for the construction, alteration, maintenance, or repair of a public water system or treatment works.

The AIS provision is a permanent requirement for all CWSRF projects. The Consolidated and Further Continuing Appropriations Act of 2015 requires the use of AIS products in DWSRF projects through September 30, 2015. For details, see [Legal Authority](#) below.

The appropriation language sets forth certain circumstances under which EPA may waive American Iron and Steel requirements. For details, see [Waiver Process](#).

AIS Guidance, Questions and Answers, and Training

- [AIS Guidance and Questions and Answers](#) describe how EPA implements the AIS requirement. The guidance addresses the types of projects that must comply with the AIS requirement, the types of products covered by the AIS requirement, and compliance. The guidance provides a step-by-step process for requesting waivers and the circumstances under which waivers may be granted.
- [AIS Training Materials](#) discuss how to implement the requirement, project coverage, the waiver request process, and the national waivers.

► AIS Overview and Guidance

[► Waiver Requests Received by EPA](#)[► Approved National Waivers](#)[► Approved Project Waivers](#)[► Draft National Waivers](#)[► Denied Waivers](#)[► Waiver Process](#)

Inquiries and Comments

General inquiries and concerns regarding the American Iron and Steel requirement may be sent to: SRF_AIS@epa.gov. This includes specific questions and comments about products, projects, and availability.



Clean Water
State Revolving Fund

PROJECT COVERAGE



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
- ◉ Additionally, the AIS requirement applies to all parts of the project, no matter the source of funding.

Phased Projects

- Multi-phase projects will be considered a single project if all construction necessary to complete the phases, regardless of the number of assistance agreement involved, are closely related in purpose, place and time.
- Therefore, if considered a single project and the plans and specifications for the first phase of that project were approved prior to the AIS exemption dates, then all phases are exempt from the AIS requirements.

Split Funding

- ◉ Intentional splitting of SRF projects into separate and smaller contracts or assistance agreements will not avoid AIS coverage on a portion of a larger project
- ◉ If there are distinct phases (different in purpose, time or place) that can be considered different projects, have separate contracts or have separate assistance agreements with different funding, then they would carry separate requirements

CWSRF Refinancing

- ◉ If a project began construction, financed from a non-CWSRF source prior to June 10, 2014, but is refinanced through a CWSRF assistance agreement executed on or after October 1, 2014, AIS requirements will apply to all construction that occurs on or after June 10, 2014, through completion of construction, unless engineering plans and specifications were approved by the responsible state agency prior to June 10, 2014.
- ◉ There is no retroactive application of the AIS requirements where a CWSRF refinancing occurs for a project that has completed construction prior to June 10, 2014.

DWSRF Refinancing

- ◉ If a project began construction, financed from a non-DWSRF source prior to December 18, 2015, but is refinanced through a DWSRF assistance agreement executed on or after December 18, 2015, AIS requirements will apply to all construction that occurs on or after December 18, 2015, through completion of construction
- ◉ There is no retroactive application of the AIS requirements where a DWSRF refinancing occurs for a project that has completed construction prior to December 18, 2015.

AIS is Not Required For:

- ⦿ Tribes and territories
- ⦿ DWSRF set aside activities



Clean Water
State Revolving Fund

PROJECT COVERAGE QUESTIONS AND ANSWERS





Clean Water
State Revolving Fund

PRODUCT COVERAGE



What Is An Iron Or Steel Product?

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



**discussed in more detail later in this presentation*

What Is An Iron Or Steel Product? (Continued)

⦿ “Primarily” Iron or Steel

- Listed products must be made of greater than 50% iron or steel, measured by cost.
- The cost should be based on the material costs only (not labor, overhead, shipping, etc).
- If one of the listed products is not made primarily of iron or steel, United States (U.S.) provenance is not required.



What Is An Iron Or Steel Product? (Continued)

◉ Cost Calculation Example: Fire Hydrant

- The iron portion of a fire hydrant would likely be the bonnet, body and shoe, and the cost then would include the pouring and casting of those parts
- The other material costs would likely include non-iron and steel internal workings of the fire hydrant (i.e., stem, coupling, valve, seals, etc).
 - ◉ The assembly of the internal workings into the hydrant body would not be included in this cost calculation.



What Is An Iron Or Steel Product? (Continued)

◉ Non-Listed Products

- If a product is not listed in the statute but is composed of more than 50% iron or steel it does not have to be produced in the U.S.

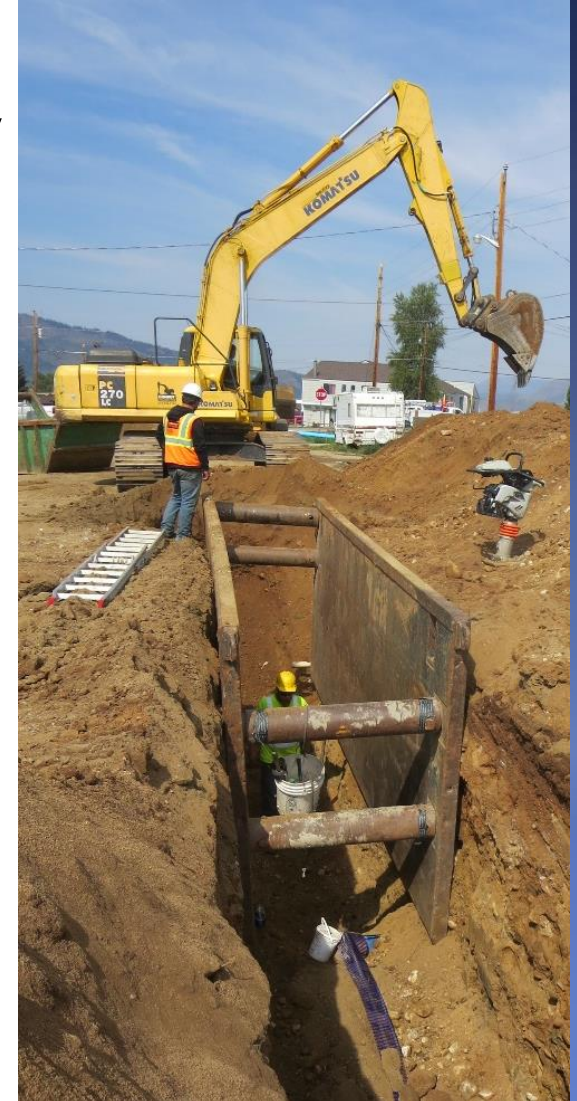
What Is An Iron Or Steel Product? (Continued)

◉ What is steel?

- Steel is an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements
- The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel and other specialty steels
- Coiled steel is an Intermediate product used in the production of steel products and must come from a U.S. source (or otherwise subject to a waiver)

What Is An Iron Or Steel Product? (Continued)

- ⦿ Only the listed products made primarily of iron or steel, **permanently incorporated** into the project must be produced in the U.S.
- ⦿ Example:
 - trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.
- ⦿ If only used for construction purposes, but left in place, then the product still has to be domestic



What Does “Produced In The United States” Mean?

- ◉ All manufacturing processes must take place in the U.S., with the exception of:
 - metallurgical processes involving refinement of steel additives, and;
 - Coating process applied to external surface of iron/steel components
- ◉ All manufacturing processes includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating
- ◉ Non-iron or steel components of an iron and steel product do not have to come from the U.S.

What Does “Produced In The United States” Mean? (Continued)

◉ Raw materials

- Raw materials, such as iron ore, limestone and iron and steel scrap, do not have to come from the U.S.
- National waiver for pig iron and direct reduced iron excludes products made from non-domestic pig iron and direct reduced iron from the requirements *(discussed later in this presentation)*

International Trade Agreements

- ◉ Assistance recipients must comply with international trade agreements which they are a party to.
- ◉ The vast majority of assistance recipients are not party to any international trade agreements.
- ◉ Claims by manufacturers that their products are AIS compliant because of 'trade agreements' should be met with skepticism.

Definition: 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; and
- ◉ Valve Boxes, Covers and Risers.

Definition: Structural Steel

- ◉ Rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in construction such as ships and buildings

- Such shapes are designated as:
 - ◉ Wide-flange shapes, standard I-beams, channels, angles, tees and zees
 - ◉ Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.



Definition: Construction Materials

- ◉ Articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, 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

Definition: Non Construction Materials

- ◉ Mechanical and electrical components, equipment and systems
 - Mechanical equipment is typically that which has motorized parts and/or is powered by a motor
 - Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system

- ◉ Examples:
 - Pumps, motors, VFDs, valve actuators
 - Flow meters, sensors, SCADA
 - Disinfection systems, membrane filtration systems

Definition: Reinforced Precast Concrete

- While reinforced precast concrete may not be at least 50% iron or steel, in this particular case, the reinforcing bar and wire must be produced in the U.S.
- The casting of the concrete product must take place in the U.S. The cement and other raw materials used in concrete production are not required to be of domestic origin
- If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the U.S.
- PCCP and other similar concrete cylinder pipes fall into this category



Clean Water
State Revolving Fund

PRODUCT COVERAGE QUESTIONS AND ANSWERS





Clean Water
State Revolving Fund

DOCUMENTING COMPLIANCE



Documenting Compliance

⦿ Certification Letter

- Final manufacturer that delivers the iron or steel product to the worksite, vendor, or contractor provides a certification asserting that all manufacturing processes occurred in the U.S.

⦿ Step Certification Process

- Each handler (supplier, fabricator, manufacturer, processor, etc) of the iron and steel products certifies that their step in the process was performed domestically

Documenting Compliance (Continued)

- ◉ The following items should be kept in the project files:
 - Certification letters, which should be provided prior to product purchase or be supplied with the delivery of the product
 - A list of any incidental iron and steel products and cost of these products, that are exempted under the de minimus waiver *(discussed later in this presentation)*
 - A copy of any approved project or product specific waiver requests

Documenting Compliance (Continued)

- ◉ Five items in a certification letter:
 - **What is the product?** The letter should list the specific product(s) delivered to the project site.
 - **Where was it made?** The letter should include the location of the foundry/mill/factory where the product was manufactured.
 - **To whom was it delivered?** The letter should include the name of the project and jurisdiction where the product was delivered.
 - **Signature** of company representative.
 - **Reference AIS requirements**

Cert letter review & help by EPA

- Please submit an email to the EPA AIS team with the subject line 'Cert Letter Review'
- *SRF_AIS@epa.gov*

Certification Letter Example 1



633 Chestnut Street Suite 1200
Chattanooga, TN 37450

Certification of Compliance with American Iron and Steel (AIS) Provisions

November 12, 2014

Subject: [REDACTED] Construction, Custer Avenue, Lyons, IL

I, [REDACTED] certify that the following gate valves provided to the [REDACTED] project in Lyons, IL are in compliance with the American Iron and Steel requirement as mandated in the Environmental Protection Agency's State Revolving Fund Programs and as interpreted by the EPA.

Items, Products and/or Materials:

1. A-2360-19, FL x MJ Resilient Wedge Gate Valve, 6" qty. 1, 8" qty. 1
2. A-2360-23, MJ x MJ Resilient Wedge Gate Valve, 8" qty. 5

The products that are the subject of this certificate were manufactured in Chattanooga, TN.

All gate valve components are cast, machined, assembled and tested in the United States with the exception of fasteners, stem material and two small castings (stuffing box/op nut) which account for less than 10% of the manufacturing cost.

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

[REDACTED]
VP Product Management & Marketing

Project
name/location

Specific items for
project

Reference to AIS
requirements

Where the items
were manufactured

Signature



Notarized By:

My Commission Expires:

Amy E. Allen
5/27/18

Certification Letter Example 2



[Redacted]

11-13-14

3421 LAKE ST
MELROSE PARK, IL 60160

SOUTH WESTWOOD
STORM SEWER

Gentleman:
THIS LETTER WILL CERTIFY THAT THE FOLLOWING LISTED CASTINGS
MANUFACTURED AND FURNISHED BY [Redacted] COMPANY DO
CONFORM TO A.A.S.H.T.O. M-105, FOR CLASS 35 OR BETTER GRAY IRON. THESE
MATERIALS ALSO MEET THE ILLINOIS DEPT. OF TRANSPORTATION (I.D.O.T.)
STANDARDS FOR CONSTRUCTION CASTINGS ALONG WITH THE CITY OF
CHICAGO DEPARTMENT OF TRANSPORTATION (C. D. O. T.) STANDARDS.
ALL CASTINGS ARE MADE IN THE USA. NEENAH WIS, 54956

QUANTITY	ITEM	DESCRIPTION
29	R-1713	FRAMES
29	R-1772	LIDS
6	R-3278-A	FRAMES & GRATES

[Redacted]

CAROL STREAM, IL 60188

Project
name/location

Where the items
were manufactured

Specific items for
project

Signature

SALES OFFICES AND DISTRIBUTION YARDS IN PRINCIPAL CITIES THROUGHOUT THE U.S.A.



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 (XXXXXXXXXXXX)

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.

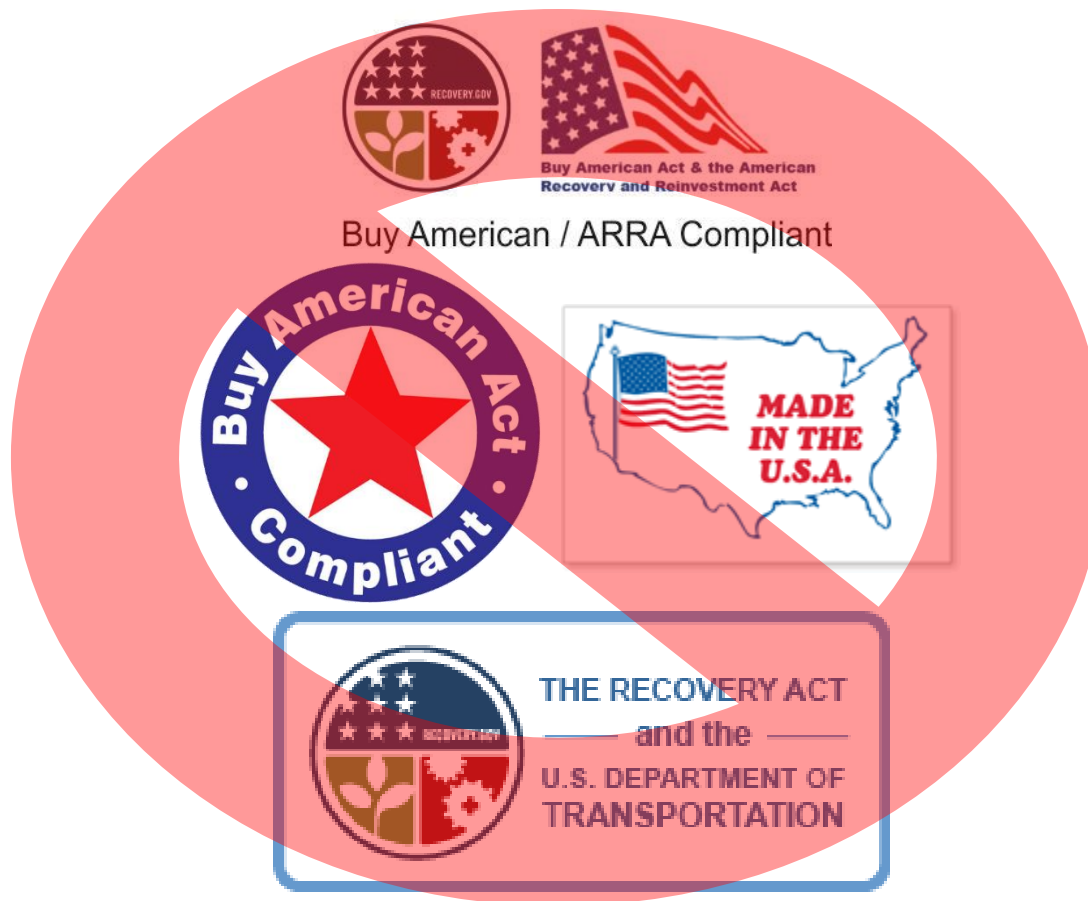
Signed by company representative



WILEY-INTERSCIENCE, A JOHN WILEY & SONS, INC., PUBLICATION

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

- Short answer: No!



Roles and Responsibilities

- ◉ Manufacturer – provides product certifications to assistance recipient
- ◉ Contractor – procures U.S. made products and obtains certifications from manufacturers
- ◉ Assistance Recipient – obtains certifications and maintains documents in project files
- ◉ State – conducts inspections and examines documentation for incorporated products

Non-Compliance

- ◉ Steps to take if a non-compliant product is permanently installed on a project site:
 - The State should notify the assistance recipient
 - If the assistance recipient does not take a corrective action, the State should notify EPA
 - State and EPA should work collaboratively to determine non-compliance remedy

Remedies for Non-Compliance

- ⦿ Removal of non-compliant item
- ⦿ Non-compliance letter
- ⦿ Withholding of funds



Clean Water
State Revolving Fund

DOCUMENTING COMPLIANCE QUESTIONS AND ANSWERS





Clean Water
State Revolving Fund

WAIVERS



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%.

Waiver Process

Borrower feels a waiver is needed and puts together a request

Borrower emails the request to the State SRF program

State SRF reviews request for waiver & determines if all information was provided

State SRF forwards the application to EPA Headquarters

EPA Headquarters posts the request on its website for 15 days

EPA Headquarters evaluates request and public comments

EPA Headquarters will approve or disapprove the request

EPA will notify the State SRF program and post the waiver decision online.

Waiver Requests

1. Assistance recipient may receive a waiver at any point before, during, or after the bid process if 1 of the 3 conditions are met.
2. Proper and sufficient documentation must be provided, see Appendix 1 checklist:

APPENDIX 1: INFORMATION CHECKLIST FOR WAIVER REQUEST

Items	✓
General • Waiver request includes the following information: — Description of the foreign and domestic construction materials — Unit of measure — Quantity — Price — Time of delivery or availability — Location of the construction project — Name and address of the proposed supplier — A detailed justification for the use of foreign construction materials • Waiver request was submitted according to the instructions in the memorandum • Assistance recipient made a good faith effort to solicit bids for domestic iron and steel products, as demonstrated by language in requests for proposals, contracts, and communications with the prime contractor	
Cost • Waiver request includes the following information: — Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products — Relevant excerpts from the bid documents used by the contractors to complete the comparison — Supporting documentation indicating that the contractor made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers	
Availability • Waiver request includes the following supporting documentation necessary to demonstrate the availability, quantity, and/or quality of the materials for which the waiver is requested: — Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials — Documentation of the assistance recipient's efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers. — Project schedule — Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials • Waiver request includes a statement from the prime contractor confirming the non-availability of the domestic construction materials for which the waiver is sought • Has the State received other waiver requests for the materials described in this waiver request, for comparable projects?	

Waiver Requests (Continued)

- ◉ Assistance recipients are strongly encouraged to hold pre-bid conferences with potential bidders. A pre-bid conference can help to:
 - Identify iron and steel products needed to complete the project
 - Identify the need to seek a waiver prior to bid, and can help to inform the recipient on compliance actions.

Waiver Requests (Continued)

- ◉ The need for a waiver may come up at different times in the project.
- ◉ Feel free to consult with your state department if it appears that a waiver will be needed.
- ◉ The state will work with you to discuss options and what information will be needed.
- ◉ To apply for a waiver, the assistance recipient should email the request in the form of a Word document to the State SRF program.

Waiver Requests (Continued)

- ◉ After receiving the request for waiver by email, the State SRF will review the application for the waiver and determine whether the necessary information has been included.
- ◉ Once the waiver application is complete, the State designee will forward the application to EPA.

Waiver Requests (Continued)

- ◉ State Instructions for Assistance Recipients

- Email information to:

- ◉ **DWSRF:**

Cameron Walden

Department of Public Health, Drinking Water Section

(860) 509-7333

Cameron.Walden@ct.gov

- ◉ **CWSRF:**

George Hicks

Department of Energy and Environmental Protection

(860) 424-3752

george.hicks@ct.gov

Waiver Requests (Continued)

- ◉ Evaluation by EPA: The 3-Step Process
 1. **Posting** – Once the application for waiver of AIS requirements has been received, EPA HQ will publish the request on its website for 15 days to receive informal comment.
 2. **Evaluation** – EPA HQ will then determine whether the application properly documents and justifies the statutory basis for the waiver – *that it is quantitatively and qualitatively sufficient* – and determine whether or not to grant the waiver.
 3. **Signature** – Signature of waiver approval by the Administrator or another agency official with delegated authority
- ◉ As soon as the waiver is signed (or denied), EPA will notify the SRF State program, and post the signed waiver (or waiver outcome) on the website.

Types of Waivers Granted by EPA

- ◉ Public Interest
- ◉ Project or Product Specific
 - Availability
 - Cost
- ◉ National Waivers

Public Interest Waivers

- EPA has the authority to issue public interest waivers.
- Evaluation of public interest waiver request are often more complicated so it may take more time for a decision to be made.

Public Interest Waiver Example

- ⦿ County of Maui, Hawaii
 - Air Release/Vacuum Valves
 - safety/environmental concerns

Project/Product Specific Waivers

- A recipient may apply (through the state) for a project specific waiver, which applies to a particular product.
- These waivers apply for the use of the specified product for the proposed project.
- Any other project funded by either the DWSRF or CWSRF that wishes to use the same product must apply for a separate waiver.

Project/Product Specific Waivers (Continued)

- ◉ If a jurisdiction has standardized on a particular product, the EPA may issue a product waiver to the jurisdiction for the use of the product in several projects.
- ◉ Any other jurisdiction wishing to use the same product would need apply for a separate waiver.

Project/Product Specific Waivers (Continued)

◉ Cost-Based Waivers:

- Community must show that a project cost increased more than 25%
- This is a very high threshold to meet
- Under ARRA, no cost waivers were approved

Project/Product Specific Waivers (Continued)

◉ Availability Waivers:

- “Sufficient and reasonably available quantities and of a satisfactory quality”
- Available Quantity
 - The quantity of iron or steel products is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design
- Satisfactory Quality
 - The quality of iron or steel products, as specified in the project plans and design

Project/Product Specific Waivers Examples

- ◉ Metropolitan District, Connecticut
 - Mechanical Joint Adapter Bells
- ◉ Winston-Salem and Forsyth County City/County Utilities Commission, North Carolina
 - TR Flex ductile iron fittings
- ◉ City of Belton, Missouri
 - TR Flex ductile iron fittings

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

Approved National Waivers

- ◉ Plans and Specifications Waiver
 - Public Interest
 - Exempts projects with plans and specifications approved by a state agency prior to January 17, 2014 and between January 17 and April 15, 2014 (the date the waiver was signed).

Approved National Waivers

- ◉ National Product Waiver for Minor Components in Iron and Steel Products (with Cost Ceiling)
 - Public Interest
 - For products, not projects (different than national de minimis)

Approved National Waivers (Continued)

◉ De Minimis Waiver

- Public Interest
- For projects, not products
- Allows 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

Approved National Waivers (Continued)

- ◉ More on De Minimis:
 - Can include items on “Iron and Steel Product” list
 - Items that are not incidental include “significant” fittings, valves, pipes, etc
 - Could be calculated based on total projects materials cost, or could be calculated on a contract by contract basis

Approved National Waivers (Continued)

- ◉ Product Waiver for Pig Iron and Direct Reduced Iron
 - Availability
 - Permits 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

Approved National Waivers (Continued)

- ◉ Short-Term Product Waiver for Stainless Steel Nuts and Bolts Used in Pipe Couplings, Restraints, Joints, Flanges, and Saddles
 - Availability
 - Recently Extended - Expires February 18, 2017



Clean Water
State Revolving Fund

WAIVERS QUESTIONS AND ANSWERS





Clean Water
State Revolving Fund

INFORMAL SITE VISITS



Informal Site Visits

Overview

- EPA is aiming to visit at least one project in every state.
- To date, EPA has visited over 80 projects in more than 20 states.
- Projects have varied in size and scope, and have been both DWSRF and CWSRF.
- Visits have been helpful even to projects early in construction.
- Feedback from states and municipalities has been very positive.



Informal Site Visits

Overview (Continued)

- Generally, the visits consist of an educational portion where EPA explains the AIS requirements.
- Issues specific to the state and project are addressed and EPA will review project documents.
- Compliance is discussed, and certification letters (if any are on file) will be reviewed.



Informal Site Visits

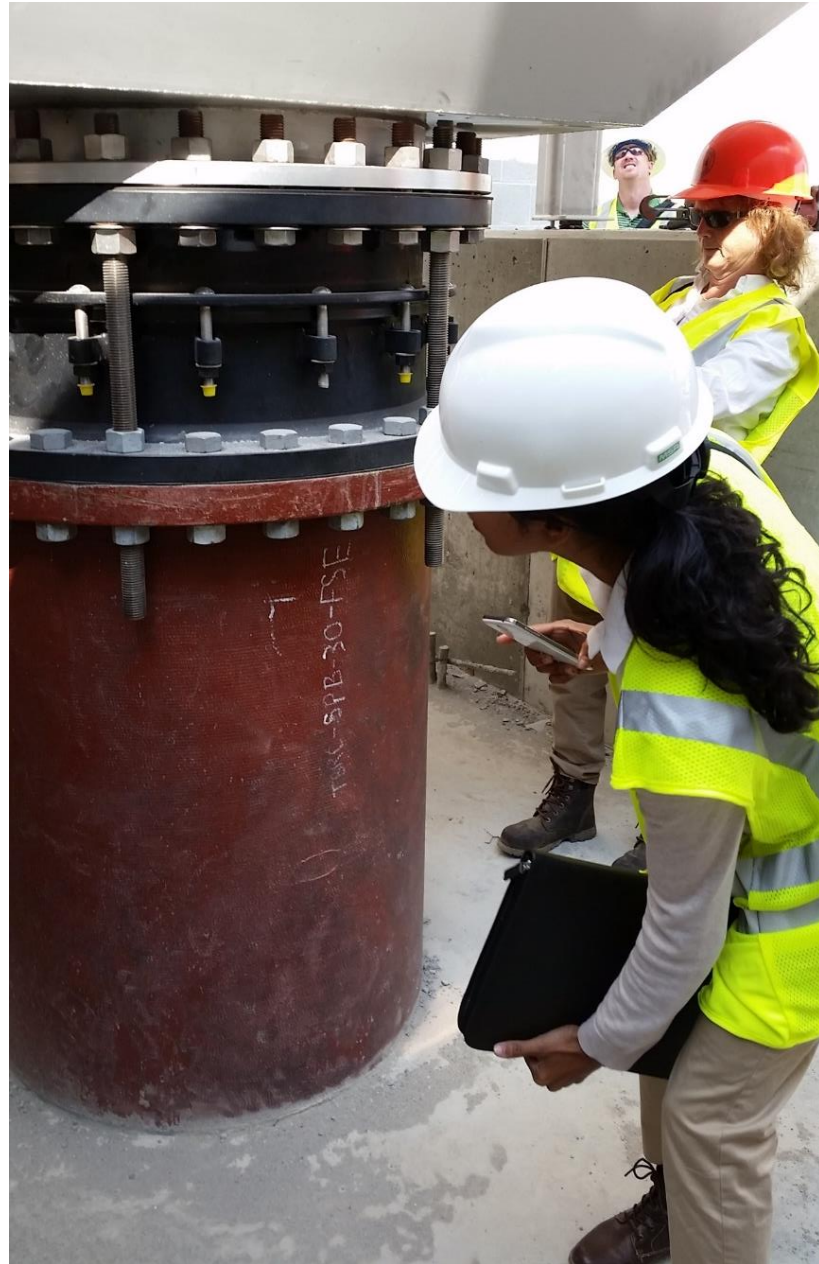
Overview (Continued)

- If possible, EPA staff will view any active construction or stockpiled materials and take photos of iron and steel products discussed.
- A draft report will be compiled and sent to the state after the visit.



Informal Site Visits

- ◉ Most Common Observations:
 - Inadequate certification letters
 - Missing letters
 - Not using national de minimis waiver





State Inspections



Clean Water
State Revolving Fund

INFORMAL SITE VISITS QUESTIONS AND ANSWERS



Further Information

- ◉ EPA's AIS website:
 - <http://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement>

- ◉ General AIS Questions:
 - SRF_AIS@epa.gov

For Questions or Help

AIS Email Box: SRF_AIS@epa.gov

You may also contact:

- ◉ **Eliot Sherman, Physical Scientist, CWSRF**
 - sherman.eliot@epa.gov or (202) 564-7381
- ◉ **Kavita Mak, Environmental Engineer, CWSRF**
 - mak.kavita@epa.gov or (202) 564-5572
- ◉ **Jorge Medrano, Environmental Engineer, DWSRF**
 - medrano.jorge@epa.gov or (202) 564-1968

CT SRF Contacts:

Drinking Water: Cam Walden Cameron.Walden@ct.gov

Clean Water: George Hicks george.hicks@ct.gov

EXTRA SLIDES

What Projects Are Covered By AIS?

- Plans and Specifications exclusion:
 - **Any project**, whether a treatment works project or a public water system project, for which engineering plans and specifications were approved by the responsible state agency **prior to January 17, 2014**, is excluded from the AIS requirements
 - **Clean Water** projects for which plans and specifications were approved **prior to June 10th 2014** (the enactment of WRRDA) and a loan agreement signed **on or after October 1, 2014** are excluded from the AIS requirements
 - **Drinking Water** projects for which plans and specifications were approved **prior to December 16, 2015** (the enactment of Consolidated and Further Continuing Appropriations Act, 2015) and a loan agreement was signed **on or after December 16, 2015** are excluded from AIS requirements

DWSRF AIS Project Exemption Based on Plans and Specifications Approval Date

<u>Assistance Agreement Signed:</u>	<u>Exempt from AIS if Plans and Specifications Were Approved Before:</u>	<u>Basis for Exemption:</u>
1/17/2014 through 9/30/2014	4/15/2014	- Consolidated Appropriations Act 2014 - National waiver signed 4/15/2014*
10/1/2014 through 12/15/2014	4/15/2014	- Continuing Appropriations Resolution 2015 (continued CAA 2014 requirements)** - National waiver signed 4/15/2014*
12/16/2014 through 9/30/2015	12/16/2014	Consolidated and Further Continuing Appropriations Act 2015

* To be covered by the national waiver, the plans and specifications had to be submitted to the state prior to 1/17/2014

** Following the first continuing resolution, there were two additional CRs to fill the gap between 12/11/2014 and 12/16/2014

CWSRF AIS Project Exemption Based on Plans and Specifications Approval Date

<u>Assistance Agreement Signed:</u>	<u>Exempt from AIS if Plans and Specifications Were Approved Before:</u>	<u>Basis for Exemption:</u>
1/17/2014 through 9/30/2014	4/15/2014	- Consolidated Appropriations Act 2014 - National waiver signed 4/15/2014*
On or after 10/1/2014	6/10/2014	Clean Water Act Section 608

** To be covered by the national waiver, the plans and specifications had to be submitted to the state prior to 1/17/2014*