



Clean Water
State Revolving Fund



American Iron and Steel Requirements in State Revolving Fund Programs

Presented by:

Office of Wastewater Management &
Office of Ground Water and Drinking Water

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Webcast Logistics

- Presentation via PowerPoint:
 - Kiri Anderer, Environmental Engineer, DWSRF Program
 - Tim Connor, Chemical Engineer, CWSRF Program
- Questions during webcast – submit via the Q&A pod below, questions can be submitted at anytime
- Q&As will be addressed at several points during the Webcast
- Both webcasts will provide similar information

Agenda

- ◉ Background
- ◉ Project coverage
- ◉ Product coverage
- ◉ Product certification
- ◉ Waiver process
- ◉ Informal Site Visits

Further Information

- EPA's AIS website:
http://water.epa.gov/grants_funding/aisrequirement.cfm

- General AIS Questions:
 - SRF_AIS@epa.gov

- Waiver requests (and comments) email addresses:
 - CWSRF: cwsrfwaiver@epa.gov
 - DWSRF: dwsrfwaiver@epa.gov

Background – What is AIS?

- The "American Iron and Steel (AIS)" provision requires CWSRF and DWSRF 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 CWA to include **permanent** requirements for the use of 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 AIS products in DWSRF projects.

Background – Continued

- The Act identifies certain circumstances under which EPA may waive the AIS requirement (*discussed later in this presentation*)
- In addition, the Act exempts certain projects based when engineering plans and specifications were approved by the State (*discussed later in this presentation*)
- EPA released an implementation memorandum on March 20, 2014 that establishes the approach to complying with the Act



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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
- ◉ AIS requirement applies to the entirety of the project, no matter when construction begins or ends
- ◉ Additionally, the AIS requirement applies to all parts of the project, no matter the source of funding

What Projects Are Covered By AIS? (Continued)

○ Plans and Specifications exclusion for CWSRF:

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	<ul style="list-style-type: none"> Consolidated Appropriations Act 2014 National waiver signed 4/15/2014*
On or after 10/1/2014	6/10/2014	<ul style="list-style-type: none"> 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

What Projects Are Covered By AIS? (Continued)

○ Plans and Specifications exclusion for DWSRF:

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	<ul style="list-style-type: none"> Consolidated Appropriations Act 2014 National waiver signed 4/15/2014*
10/1/2014 through 12/15/2014	4/15/2014	<ul style="list-style-type: none"> Continuing Appropriations Resolution 2015 (continued CAA 2014 requirements)** National waiver signed 4/15/2014*
12/16/2014 through 9/30/2015	12/16/2014	<ul style="list-style-type: none"> 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

AIS Requirement Not Applicable

- ⦿ Tribes and territories
- ⦿ DWSRF set aside activities



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PROJECT COVERAGE QUESTIONS AND ANSWERS





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COVERED IRON AND STEEL



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

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
- ◉ 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 US

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 US
- ⦿ 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 US Iron or Steel

What Does “Produced In The United States” Mean?

- All manufacturing processes must take place in the US, 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
- Raw materials, such as iron ore, limestone and iron and steel scrap, do not have to come from the US
- Non-iron or steel components of an iron and steel product do not have to come from the US

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.



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COVERED IRON AND STEEL QUESTIONS AND ANSWERS





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PRODUCT CERTIFICATION



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 US

⦿ 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)

- Four 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 (i.e., city and state) 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.

Certification Letter Example 1



[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

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

[Redacted]

Project name/location

Where the items were manufactured

Specific items for project

Signature

Certification Letter Example 2



633 Chestnut Street Suite 1200
Chattanooga, TN 37450

[Redacted]

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

Where the items were manufactured

Signature



Notarized By: 
My Commission Expires: 5/22/18



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

Documenting Compliance Roles and Responsibilities

- ◉ Assistance Recipient – obtains documentation and maintains certifications in project files.
- ◉ State – conducts inspections and examines documentation for incorporated products.
- ◉ Manufacturer – provides product certifications to assistance recipient.



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PRODUCT CERTIFICATION QUESTIONS AND ANSWERS





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WAIVER PROCESS



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 US in sufficient and reasonably available quantities and of a satisfactory quality
 - OR
 - Inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25%.

Waiver Process

Assistance recipient feels a waiver is needed and puts together a request



Assistance recipient 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 Request

- 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 either:
 - cwsrfwaiver@epa.gov
 - dwsrfwaiver@epa.gov

Public Interest Waivers

- ⦿ EPA has the authority to issue public interest waivers.
- ⦿ Evaluation of a public interest waiver request may be more complicated than that of other waiver requests so they may take more time than other waiver requests for a decision to be made.

Project Waivers

- ⦿ An assistance 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.

National Waivers

- ⦿ EPA has the authority to issue waivers that are national in scope
- ⦿ National waivers may be for specific products or in the public's interest
- ⦿ Approved national waivers:
 - De minimis waiver – allows a small percentage of incidental products of unknown or non-domestic origin to be incorporated. Users of the de minimis waiver should maintain documentation of all the de minimis items in a project.
 - Plans and Specifications Waiver – exempts projects with plans and specifications approved by a state agency prior to January 17, 2014 and between and including January 17 and April 15, 2014 (the date the waiver was signed).

Approved National Waivers (Continued)

- Product waiver for pig iron and direct reduced iron – permits the use of pig iron and direct reduced iron manufactured outside the US to be used in the manufacturing process for iron and steel products
- Short-term waiver for stainless steel nuts and bolts used in pipe couplings, restraints, joints, flanges, and saddles



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WAIVER PROCESS QUESTIONS AND ANSWERS





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INFORMAL SITE VISITS



Informal Site Visits

- ◎ Part of EPA oversight
 - In past efforts, EPA was strongly encouraged by
OIG to provide more assistance recipient
oversight
- ◎ Benefit to assistance recipient
 - Receive EPA support and assistance in
determining covered products and required
documentation
- ◎ Informational training visits focused on
improving documentation and understanding
of new requirements

Informal Site Visits (Continued)

- EPA visited 5 States and 10 projects last year
- In general found that communities and States were very aware and providing full effort to implement new requirements
- Most manufacturers of common products are providing useful and sufficient documentation
 - Some manufacturers still relying on Recovery Act interpretations of compliance or references
 - All sites were surprised at how simple the documentation recommendations are from EPA

2015 Site Visits

- ◉ Goal is to visit projects in every State
- ◉ EPA staff will attend all site visits, along with our professional engineering contractor
- ◉ Draft site visit summary reports will be provided for State review
 - EPA will not finalize reports without concurrence from State
 - Reports strongly emphasize the ‘snap-shot’ in time nature of the visit, avoiding findings or determinations where possible

Further Information

- ◎ EPA's AIS website:
 - http://water.epa.gov/grants_funding/aisrequirement.cfm

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

- ◎ Waiver requests (and comments) email addresses:
 - CWSRF: cwsrfwaiver@epa.gov
 - DWSRF: dwsrfwaiver@epa.gov

For Questions or Help

You may contact:

- Tim Connor, Chemical Engineer, Office of Wastewater Management, Municipal Support Division
 - connor.timothy@epa.gov or (202) 566-1059
- Kiri Anderer, Environmental Engineer, Office of Ground Water and Drinking Water, Drinking Water Protection Division
 - anderer.kirsten@epa.gov or (202) 564-3134