



Clean Water
State Revolving Fund



LUNCH AND LEARN

AMERICAN IRON AND STEEL (AIS) REQUIREMENTS FOR STATE REVOLVING FUNDS

National De Minimis Waiver for Incidental Products

Presented by U.S. EPA

June 24, 2020



Training Logistics

- Presentation by EPA staff and Contractors including:
 - Office of Wastewater Management
 - Timothy Connor, Jessica Glenn, and Leslie Corcelli
 - Office of Ground Water and Drinking Water
 - Kirsten Anderer, Brandon Mediate, Jorge Medrano, and Dallas Shattuck
 - Cadmus Group
 - Derek Sullivan

- Questions will be addressed at the end of the presentation.

- Slides from today's presentation will be posted on EPA's website.

Webcast Logistics

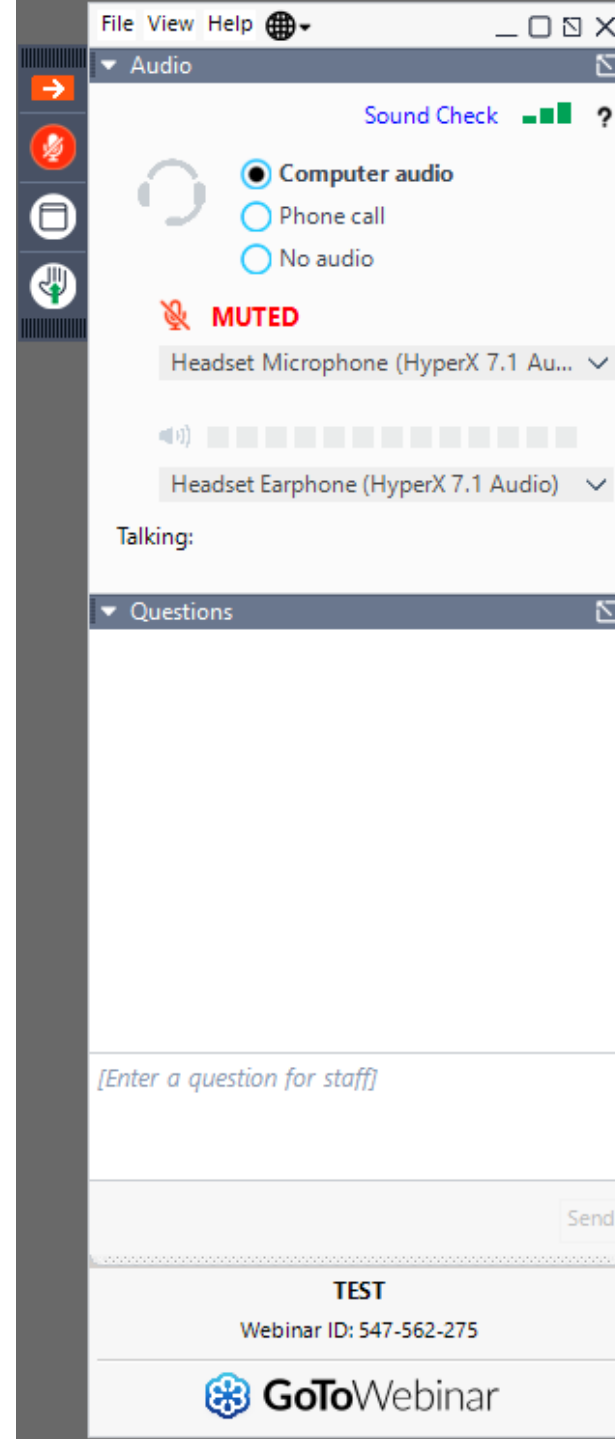
Your Participation

Join audio:

- Choose **Computer Audio** to join via computer, OR
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Submit questions and comments via the **Questions** panel.

We will answer questions at the end of today's presentation.



The screenshot displays a webcast control panel. At the top, there are menu options: 'File', 'View', and 'Help'. Below this is a 'Sound Check' indicator with a green bar and a question mark. The 'Audio' section is expanded, showing three options: 'Computer audio' (selected with a black dot), 'Phone call' (unselected), and 'No audio' (unselected). A red 'MUTED' indicator is visible. Below the audio options, there are two dropdown menus for 'Headset Microphone (HyperX 7.1 Au...)' and 'Headset Earphone (HyperX 7.1 Audio)'. A volume slider is positioned between these two dropdowns. The 'Talking:' status is shown below the volume control. The 'Questions' panel is also expanded, showing a text input field with the placeholder text '[Enter a question for staff]'. A 'Send' button is located to the right of the input field. At the bottom of the interface, the text 'TEST' is displayed, followed by 'Webinar ID: 547-562-275'. The 'GoToWebinar' logo and name are at the very bottom.



Training Objectives

- ◉ AIS Background
- ◉ Complying with AIS
- ◉ National De Minimis Waiver
 - What is the National De Minimis Waiver?
 - How does EPA define “Incidental”?
 - Examples of “Incidental”
 - De Minimis Cost Limitations
 - Documenting Compliance
 - De Minimis Waiver vs. Minor Components Waiver

- ◉ Answer Questions and Solicit Feedback from Community

Background – What is AIS?

- ◉ The "American Iron and Steel" provision requires SRF loan 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).
- ◉ The AIS requirement applies to listed products greater than 50% iron or steel by materials cost.
- ◉ As a reminder, the AIS requirement is permanent for Clean Water State Revolving Fund (SRF) projects and extended through 2023 for Drinking Water SRF projects.
- ◉ For any project that uses SRF money, the entire project must comply with AIS.

Complying with AIS Requirements

- ◉ All permanently installed, listed products greater than 50% iron or steel by materials cost must comply with AIS.
 - Listed products are iron and steel products identified in the Consolidated Appropriations Act of 2014.

- ◉ 2 ways to comply with AIS:
 - Certification Letters
 - Waivers (National and Project-specific)
 - National waivers are available for anyone to use at any time, no application necessary.
 - Project-specific waivers are for a specific product at a specific project, must be applied for from EPA. Contact EPA at SRF_AIS@epa.gov for more information.

What is the National De Minimis Waiver?

- ◉ The National De Minimis Waiver permits the use of nondomestic, incidental, iron or steel products in a project that otherwise must comply with the AIS requirements.

- ◉ Products are generally miscellaneous and low-cost, often purchased in bulk.
 - Common examples: small washers, screws, fasteners, rebar tie wire, etc.

- ◉ The country of manufacture may not be readily or reasonably available.

- ◉ De Minimis is intended to reduce the burden of complying with AIS.



How does EPA define “Incidental”?

- ◉ If the project can function as intended without the product, or the product is not integral to the project purpose, it could be considered incidental.
- ◉ Determining whether a product is considered incidental is a decision that should be made by the loan recipient in accordance with any guidance from your state SRF program.
- ◉ Questions can be addressed to state SRF staff or EPA at SRF_AIS@epa.gov.

Examples of “Incidental”

Example 1: Construction of a new water treatment plant.

- ◉ Major AIS products in this project could include piping, valves, tanks, rebar, precast concrete, and structural steel.
 - None of these would generally be considered incidental.

- ◉ Incidental items may include: fasteners, doors, tie wire, and fencing.

- ◉ The water treatment plant could still operate as intended without the incidental items.

Examples of “Incidental”

Example 2: Security upgrades at water treatment plant.

- ◉ Major AIS products in this project could include fencing and new doors.
- ◉ The fencing and doors in this example are critical to the intent of the project (security upgrades) and therefore would not be considered incidental.

De Minimis Cost Limitations

- ◉ All products included in the project under the de minimis waiver must total less than 5% of the total materials cost of the project.
- ◉ Any single product cannot be more than 1% of the total materials cost of the project.

Documenting Compliance

- ◉ Projects are encouraged to track their total materials costs to know their allowable de minimis percentages.
- ◉ Projects should then record items included under de minimis on a simple spreadsheet that sums the total cost of the de minimis items.
- ◉ These de minimis costs can then be compared to the total materials costs to determine compliance with the 5% and 1% limits.
- ◉ Retain the de minimis list with the project files.

De Minimis vs. Minor Components

- ◉ The National De Minimis waiver is intended to allow loan recipients to include incidental, non-domestic, iron and steel products in the project, up to the 5% and 1% limits.
- ◉ The National Minor Components waiver is intended to allow manufacturers to certify their products as AIS-compliant even if a small portion (no more than 5%) of the materials cost of the product is from a non-domestic origin or the origin can't be determined.

Review

- ◉ The National De Minimis Waiver permits the use of nondomestic, incidental, iron or steel products in a project that otherwise must comply with the AIS requirements.
- ◉ Incidental products are generally miscellaneous and low-cost, often purchased in bulk.
- ◉ The country of manufacture may not be readily or reasonably available.
- ◉ Incidental products included under de minimis must total less than 5% of the total materials cost for the project.
- ◉ Any single de minimis item cannot be more than 1% of the total materials cost of the project.
- ◉ De Minimis products should be tracked in a simple spreadsheet and retained with project files.
- ◉ De Minimis waiver is for loan recipient use. Minor Components waiver is for manufacturer use.
- ◉ If a project has questions on de minimis contact your state SRF staff or EPA at SRF_AIS@epa.gov.



Questions?

- EPA's AIS team can be reached at SRF_AIS@epa.gov.