



Rural Development

LUNCH AND LEARN

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

EPA and USDA Rural Development Co-
Funded Projects

Presented by U.S. EPA and USDA RD

August 26, 2020



Training Logistics

- ◉ Presentation by EPA and USDA RD staff and Contractors including:
 - EPA Office of Wastewater Management
 - ◉ Timothy Connor
 - EPA Office of Ground Water and Drinking Water
 - ◉ Jorge Medrano
 - USDA RD Rural Utilities Service
 - ◉ Valdis Krumins
 - Cadmus Group
 - ◉ Glen Boyd

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

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

Webcast Logistics

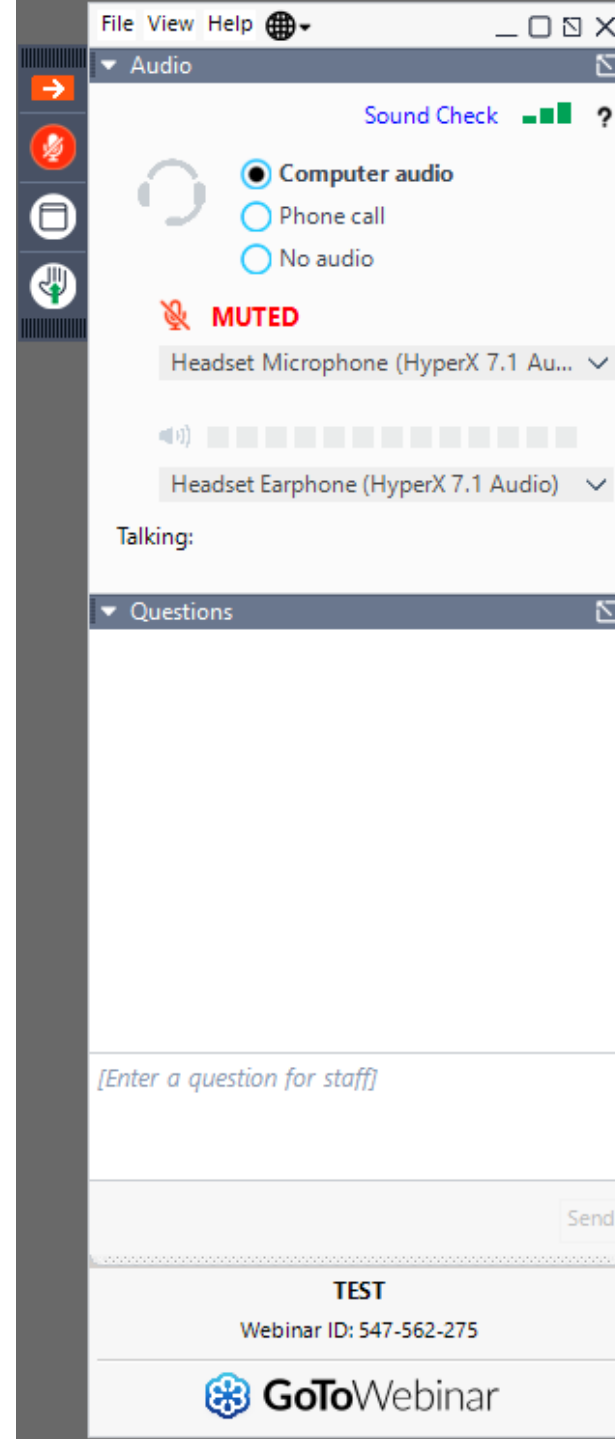
Your Participation

Join audio:

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



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Lunch and Learn Agenda

- ◉ AIS Background (EPA and USDA RD)
 - Regulatory Authority
 - Projects
 - Products
- ◉ Roles and Responsibilities (EPA and USDA RD)
 - Federal and State
 - Owner, Engineer and Contractor
 - Suppliers, Distributors and Manufacturers
- ◉ Co-Funded Projects
 - AIS Certification
 - Waivers (National and Project-Specific)
 - Project Oversight
- ◉ Summary
- ◉ Answer Questions and Solicit Feedback from Community



Background - EPA American Iron & Steel

- ◉ 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).
- ◉ **Water Resources Reform and Development Act** made AIS permanent for CWSRF June 10, 2014.
- ◉ **America's Water Infrastructure Act 2018** extended the AIS requirements for DWSRF projects through September 30, 2023 on October 23, 2018.



Background - USDA RD American Iron & Steel

- ⦿ AIS requirements effective since **May 5, 2017**.
- ⦿ **Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017:** Requires iron and steel products used in projects funded by USDA RD programs to be produced in the United States.
- ⦿ **USDA RUS Bulletin 1780-35, RD-GD-2017-88:** Instructs and informs RD State Office staff and others on how to implement USDA RD AIS requirements to ensure compliance.

What Projects are Covered by AIS?

EPA

- All treatment works projects funded by a CWSRF assistance agreement
- All public water system projects funded by a DWSRF assistance agreement
- Phased projects:
 - Multi-phased projects are considered a single project if they are closely related in **purpose, place and time**.

Any project that receives even \$1 of SRF funding is required to comply with AIS.

USDA RD

- Projects with obligated funds from:
 - Water and Waste Disposal Loan and Grant program
 - Guaranteed Loan Funds
 - Revolving Loan Funds
 - Emergency Community Water Assistance Grants
 - Section 306C Colonias and Tribal Set-Aside Grants
 - Rural Alaskan Native Village Grants
 - Household Water Well System Grants
 - Rural Economic Area Partnership Zone projects.

Only applies to projects that construct, enlarge, extend or otherwise improve rural water, sanitary sewage, solid waste disposal, and storm wastewater disposal facilities.

AIS is Not Required For:

EPA

- ◉ DC and Territories (except Puerto Rico)
 - However, they may have other domestic preference requirements they have to follow
- ◉ Tribes that receive grants from the national SRF set aside
 - However, if a tribe receives a loan from a state SRF program, then the project must comply with AIS
- ◉ DWSRF set-aside activities

USDA RD

- ◉ Puerto Rico
- ◉ Virgin Islands
- ◉ Western Pacific Territories

AIS requirements only apply to projects with an assistance agreement signed on or after January 17, 2014.

AIS requirements only apply to projects for which funds were obligated after May 5, 2017.

What Products Are Covered by AIS?

Products Required to Comply with AIS	EPA	USDA RD
Products Made Primarily of Iron or Steel: Products greater than 50% iron or steel, measured by material costs only (not labor, overhead, shipping, etc).	✓	✓
Listed Products: Lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials	✓	✓
Products permanently incorporated into the project	✓	✓
All manufacturing processes (melting, refining, forming, rolling, drawing, finishing, fabricating, assembly) must take place in the U.S. , except steel additives refining and external coating surface of components.	✓	✓
Does NOT apply to raw materials.	✓	✓
Does NOT apply to products primarily iron and/or steel (composed of more than 50 percent) if they are not listed in the Act.	✓	✓



Roles and Responsibilities – Federal and State

Responsibility	EPA/State SRF		USDA RD	
	Federal - EPA	State - SRF	Federal – National Office	State – USDA RD Engineers
Communicate AIS requirements	✓	✓	✓	✓
AIS implementation	✓	✓	✓	✓
Outreach, education, and training	✓	✓	✓	✓
Site Visits	✓	✓	✓	✓
Waiver request review and decision	✓		✓	
Submit Waiver request to national office		✓		✓
Ensure AIS language in assistance agreements		✓		✓
Address non-compliance	✓	✓	✓	

Roles and Responsibilities – Owner, Engineer, Contractor

Responsibility	EPA			USDA RD		
	Recipient/ Owner	Engineer	Contractor	Recipient/ Owner	Engineer	Contractor
Maintain AIS documents	✓			✓		
Communicate AIS requirements to all engineers and contractors	✓	✓		✓	✓	
Ensure AIS language in construction contracts and bid documents	✓	✓		✓	✓	
Request AIS certifications	✓	✓	✓	✓	✓	✓
Submit waiver requests to state	✓			✓		
Maintain list of de minimis products	✓	✓	✓	✓	✓	✓
Procure AIS-compliant products	✓	✓	✓	✓	✓	✓

Roles and Responsibilities – Suppliers, Distributors, Manufacturers



Responsibility	EPA		USDA RD	
	Suppliers/ Distributors	Manufacturers	Suppliers/ Distributors	Manufacturers
Provide accurate product information	✓	✓	✓	✓
Procure and supply AIS-compliant products	✓	✓	✓	✓
Provide AIS certification letters documenting all manufacturing processes for product occurred in the U.S.	✓	✓	✓	✓
Provide other relevant product documentation regarding AIS requirements (Example: percentage of iron and steel)		✓		✓



Co-Funded Projects

- ◉ Co-funded projects are funded by both EPA and USDA RD

- ◉ EPA's State Revolving Funds (SRF)
 - Clean Water SRF
 - Drinking Water SRF

- ◉ USDA RD's Rural Utilities Service (RUS) Water and Environmental Programs (WEP)
 - Eight funding programs

- ◉ Co-funded projects are required to comply with AIS requirements of both agencies

- ◉ AIS requirements are seamless between EPA and USDA RD



Co-Funded Projects: AIS Compliance Requirements

- ◉ **Documentation** of AIS compliance is required by EPA and USDA RD:
 - Include AIS language in assistance agreements, bid documents, construction contracts (this should be standard language)
 - Obtain AIS certification letters for all specified products
 - Specified products that are not documented with an AIS certification letter must be documented with a waiver (national or project specific)

- ◉ EPA and USDA RD have authority to waive the AIS requirement and to issue **waivers** for a case or category of cases.
 - National Waivers
 - Project-Specific Waivers

Co-Funded Projects: AIS Certification Letters

- AIS certification letters should include 5 elements:
 - **Products:** Identify specific product(s) delivered to project site.
 - **Project:** Identify the specific project for the delivered product(s)
 - **Manufacturing Location:** Identify location(s) of foundry/mill/factory where product was manufactured (City and State)
 - **Reference AIS requirements:**
 - **EPA will accept USDA RD AIS reference in** letters that cite Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017)
 - **USDA RD will accept EPA AIS reference in** letters that cite American Iron and Steel requirement as mandated in EPA's State Revolving Loan Fund Programs (e.g. Consolidated Appropriations Act of 2014 P.L. 113-76).
 - **Signature of Company Representative:** Preferably on letterhead

Co-Funded Projects: National Waivers

○ National Waivers

- National waivers are available for use immediately and do not require EPA or USDA RD approval

National Waiver	EPA	USDA RD
<i>De Minimis</i> Waiver	✓	✓
National Product Waiver for Minor Components in Iron and Steel Products (with Cost Ceiling)	✓	✓
Pig Iron and Direct Reduced Iron	✓	✓
Nationwide Plans and Specs Waiver Pursuant to Section 436 of P.L. 113-76, Consolidated Appropriations Act (CAA)	✓	

Co-Funded Projects: Project-Specific Waiver Requests

- ◉ Waiver conditions are the same for both EPA and USDA RD funded projects

- ◉ Types of project-specific waiver:
 - Availability
 - Public Interest
 - Cost

- ◉ For questions on EPA project-specific waivers:
 - <https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-waiver-request-process>
 - Email: SRF_AIS@epa.gov

- ◉ For questions on USDA RD project-specific waivers:
 - <https://www.rd.usda.gov/water-and-waste-disposal-programs-american-iron-and-steel-requirement>
 - Email: EESEngineering@wdc.usda.gov

For project specific waivers where EPA and USDA RD are co-funding, EPA and USDA RD will review said waiver for the co-funded project.

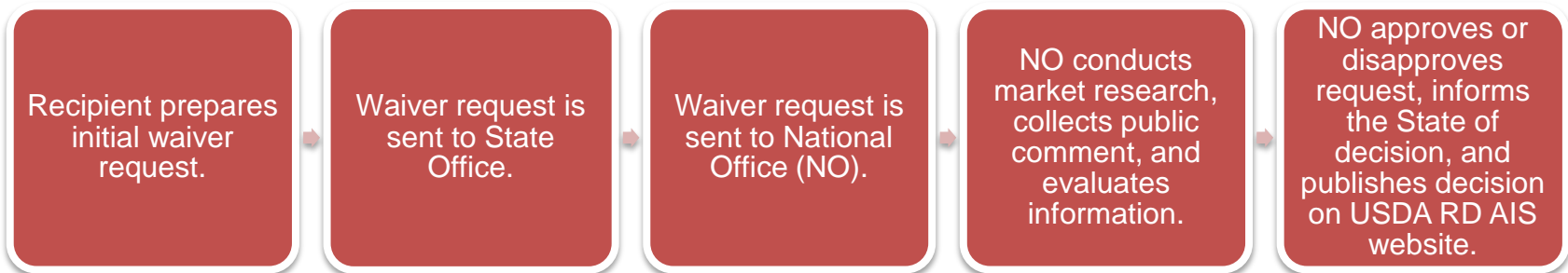
Co-Funded Projects: Project-Specific Waiver Requests



EPA Waiver Application Process



USDA RD Waiver Application Process





Co-Funded Projects: EPA and USDA RD Project Oversight

- Site Visits – Planning and Data Collection
 - Schedule site visit early in construction phase
 - Ask assistance recipient to informally list AIS materials to be purchased for the project
 - Request copies of AIS certification letters prior to site visit
 - Consider the site visit a “snapshot in time”



Co-Funded Projects: EPA and USDA RD Project Oversight

- Site Visits – On-Site Activities and Deliverable
 - Travel to project site during construction phase
 - Educate assistance recipient on AIS requirements
 - Review checklist, collect AIS documentation, and take photos at the project site
 - Determine assistance recipient's AIS compliance approach
 - Are they collecting certification letters with shop drawings? With pay requests?
 - Evaluate assistance recipient's compliance with AIS requirements – especially documentation
 - Identify un-certified products before they are installed
 - Prepare and submit summary report



Summary

- AIS requirements apply to:
 - Any EPA project that receives SRF funding
 - Any USDA RD RUS WEP project that construct, enlarge, extend or otherwise improve rural water, sanitary sewage, solid waste disposal, and storm wastewater disposal facilities.
- Co-Funded projects are required to comply with AIS requirements of both agencies
- AIS requirements for USDA RD projects are essentially the same as EPA projects
- Compliance is easy for borrowers relying on project funding in both USDA RD and EPA programs

Where Can I Find EPA American Iron and Steel (AIS) Resources?

- ◉ EPA's AIS team can be reached at SRF_AIS@epa.gov.
- ◉ Website: <http://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement> (or search "SRF AIS")
- ◉ Website Contents
 - Guidance: March 2014 Implementation Memorandum and subsequent Question & Answer 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 USDA RD American Iron and Steel (AIS) Resources?

- ◉ USDA RD's AIS team can be reached at:
EESEngineering@wdc.usda.gov.
- ◉ Website <https://www.rd.usda.gov/water-and-waste-disposal-programs-american-iron-and-steel-requirement>
- ◉ Website Contents
 - Guidance: Guidance for the Implementation of American Iron and Steel (AIS) Requirements with Rural Utilities Service (RUS) Financial Assistance- [RUS Bulletin 1780-35](#)
 - AIS Legal Authority
 - Waivers: Information about project-specific and national waivers, and the waiver process



Clean Water
State Revolving Fund



United States
Department of
Agriculture

Rural Development

QUESTIONS?

AIS Program Staff can be reached at:

EPA: SRF_AIS@epa.gov

USDA RD: EESengineering@wdc.usda.gov