



LUNCH AND LEARN

AMERICAN IRON AND STEEL (AIS) REQUIREMENTS

Project/Product Specific Waivers

Presented by U.S. EPA

September 30, 2020

Training Logistics

- Presentation by EPA staff and Contractors including:
 - EPA Office of Wastewater Management
 - Leslie Corcelli
 - EPA Office of Ground Water and Drinking Water
 - Kiri Anderer
 - 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

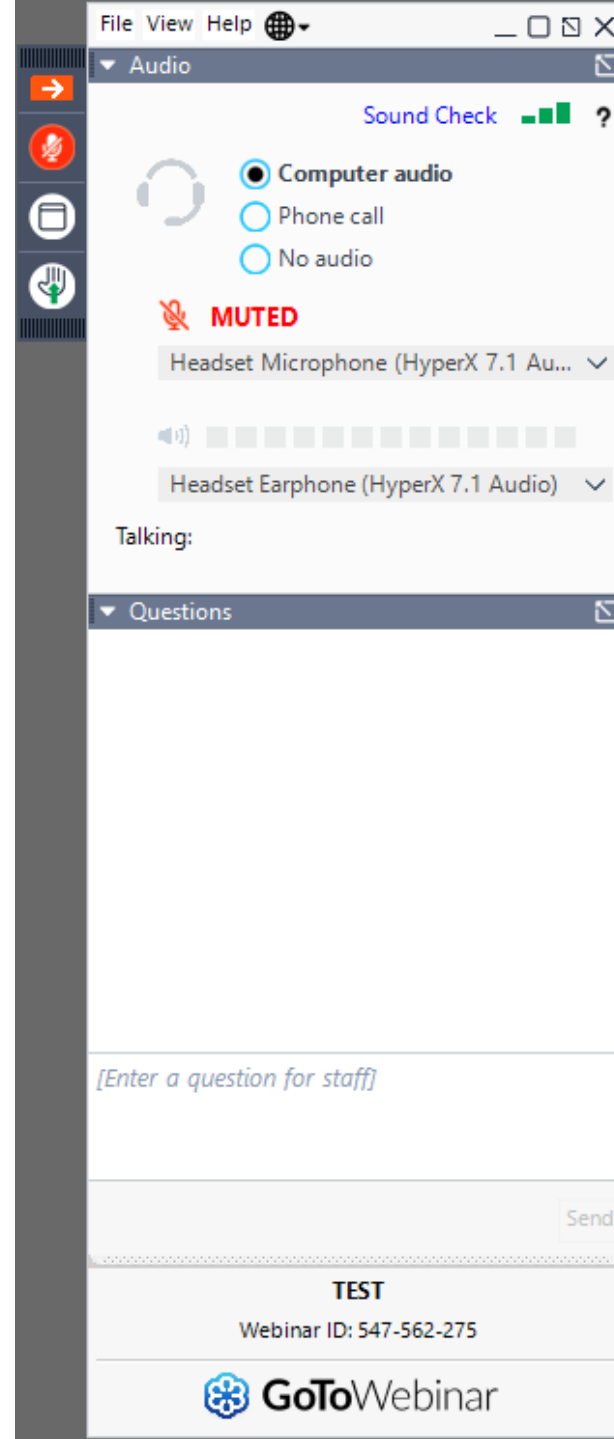
Your Participation

Join audio:

- Choose **Computer Audio** to join via computer, OR
- Choose **Telephone** and dial in using the information provided.

Submit questions and comments via the **Questions** panel.

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



The screenshot shows a webcast interface with a dark sidebar on the left containing icons for navigation, audio, and questions. The main content area is divided into two sections: 'Audio' and 'Questions'. The 'Audio' section includes a 'Sound Check' indicator, three radio button options: 'Computer audio' (selected), 'Phone call', and 'No audio', a red 'MUTED' status with a microphone icon, and two dropdown menus for 'Headset Microphone (HyperX 7.1 Au...)' and 'Headset Earphone (HyperX 7.1 Audio)'. Below the audio settings is a 'Talking:' label and a volume slider. The 'Questions' section is currently empty, with a placeholder text '[Enter a question for staff]' and a 'Send' button. At the bottom of the interface, there is a 'TEST' label, the 'Webinar ID: 547-562-275', and the 'GoToWebinar' logo.

Lunch and Learn Agenda

- ◉ AIS Background
- ◉ Project/Product Specific Waivers
 - Purpose and Applicability
 - Types of Waiver Requests
 - Availability
 - Public Interest
 - Cost
 - Process Steps
 - Information Checklist
- ◉ Summary
- ◉ Answer Questions and Solicit Feedback from Community

AIS Background – Regulatory Authority

- ◉ 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.
- ◉ AIS requirement applies to
 - Any project that receives \$1 of SRF funding
 - Multi-phased projects are considered a single project if phases are closely related in purpose, place and time

AIS Background

What is Iron or Steel Product?



Is the product a listed product?

- Products specifically listed in CAA 2014: 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



Is the product primarily iron or steel?

- Listed product must be made of greater than 50% iron or steel, measured by materials cost.



Is the product permanently incorporated in the project?

- Listed product is intended to be permanently installed at project site.

If product meets all three criteria, then it must be produced in the United States.

AIS Background

What is “Produced in the United States”?

- Manufacturing and processing of iron or steel must occur in the U.S., including:
 - Melting
 - Refining
 - Forming
 - Rolling
 - Drawing
 - Finishing
 - Fabricating
 - Assembly

- Exceptions to this AIS requirement are the following:
 - Metallurgical processes involving refinement of steel additives
 - External coating of the surface of iron/steel components

AIS Background

Compliance Requirements and Waivers

- ◉ **Documentation** of AIS compliance is required by EPA
 - AIS language in assistance agreements, bid documents, construction contracts (typically standard language*)
 - AIS certification letters for all listed products
 - Listed products that are not documented with an AIS certification letter must be documented with a waiver (national or project specific)

 - ◉ EPA has authority to waive the AIS requirement and to issue **waivers** for a case or category of cases.
 - National Waivers
 - Project/Product Specific Waivers
- <https://www.epa.gov/sites/production/files/2015-09/documents/ais-final-guidance-3-20-14.pdf>

AIS Background

National Waivers

National waivers* are available for use immediately and do not require EPA approval

- *De Minimis* 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)

Expired national waiver

- Short-Term National Product Waiver for Stainless Steel Nuts and Bolts Used in Pipe Couplings, Restraints, Joints, Flanges, and Saddles
-
- <https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-approved-national-waivers-0>

Project/Product Specific Waivers

Purpose and Applicability

- ◉ SRF loan recipient may request a waiver to use
 - Non-domestic product or products
 - Specific project

- ◉ Waiver request must be submitted
 - By the loan recipient
 - To the State

- ◉ Approved waivers only apply to the
 - Designated non-domestic product or products
 - Specific project

- ◉ Other CWSRF or DWSRF funded projects wanting to use the same non-domestic product
 - Must submit a separate waiver request
 - Must obtain separate EPA waiver approval

Project/Product Specific Waivers

Types of Waiver Requests

- ◉ Loan recipient may request a waiver if one or more of three conditions are met:
 - **Availability** – Iron and steel products are not produced in the U.S. in sufficient and reasonably available quantities and of a satisfactory quality
 - **Public Interest** – Applying AIS requirements would be inconsistent with the public interest
 - **Cost** – Inclusion of iron and steel products produced in U.S. would increase the overall project cost by more than 25 percent

Project/Product Specific Waivers

Availability Waiver Request

- ◉ Most common type of waiver request
- ◉ “Sufficient and reasonably available quantities and of a satisfactory quality”
- ◉ Available Quantity
 - The quantity of iron and steel products is not available or will not 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

Public Interest Waiver Request

Condition for Public Interest Waiver

- Applying AIS requirements would be inconsistent with the public interest

Evaluation of Public Interest Waiver request is more complicated than other waiver types

- More time needed for EPA decision
- Higher bar for approval (Executive Order 13788, April 21, 2017)

Project/Product Specific Waivers

Cost Waiver Request

Condition for Cost Waiver

- Inclusion of domestic iron and steel products will increase the overall project cost by more than 25 percent

Loan recipient must show that a project cost increased more than 25 percent

- This is a very high threshold to meet
- To date, no cost waivers have been approved

Project/Product Specific Waivers Process Steps

Step 1: Recipient puts together a request

Step 2: Recipient emails the request to the State SRF program

Step 3: State SRF determines if all information was provided

Step 4: State SRF forwards the application to EPA Headquarters

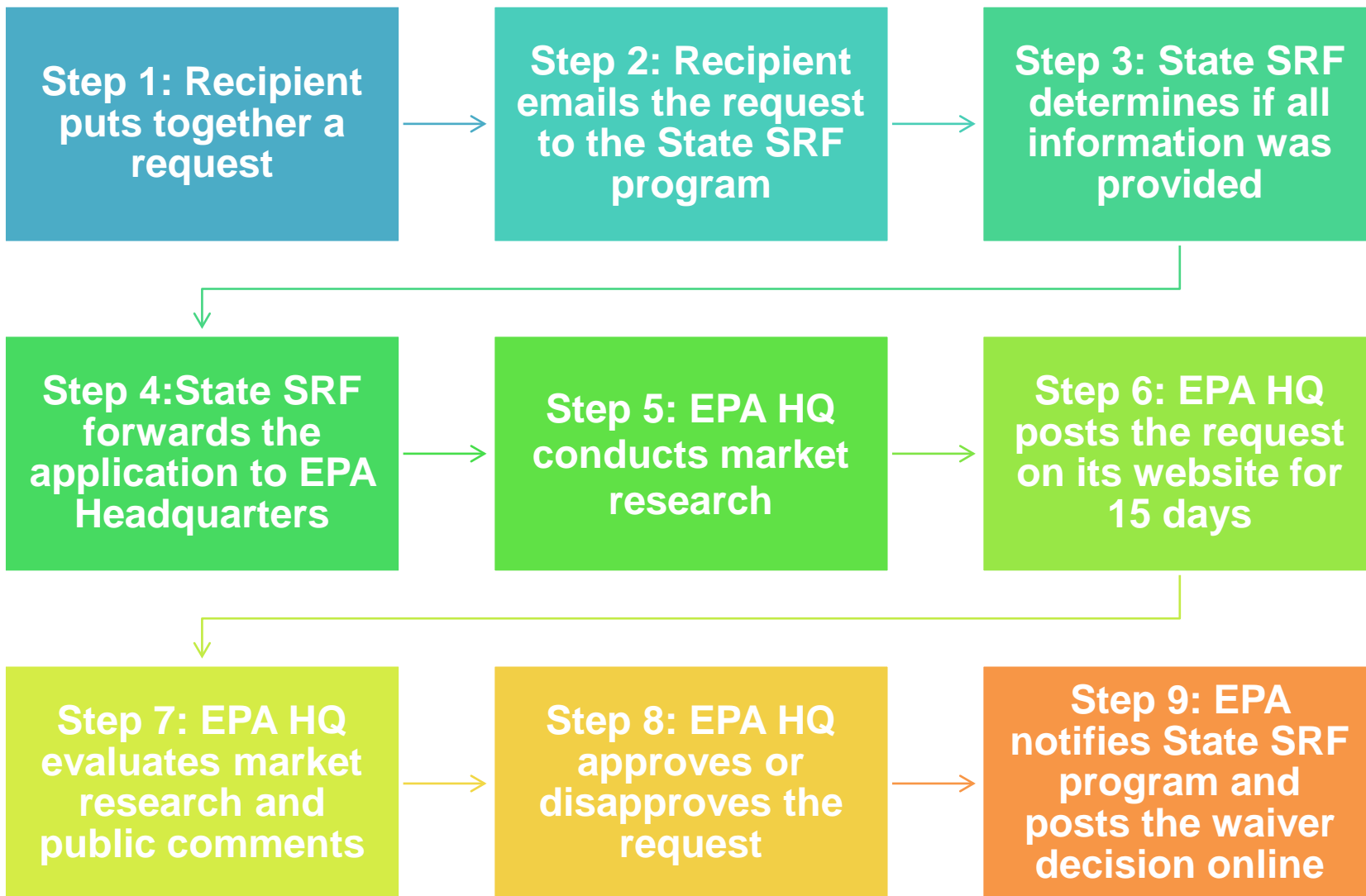
Step 5: EPA HQ conducts market research

Step 6: EPA HQ posts the request on its website for 15 days

Step 7: EPA HQ evaluates market research and public comments

Step 8: EPA HQ approves or disapproves the request

Step 9: EPA notifies State SRF program and posts the waiver decision online



Project/Product Specific Waivers Information Checklist

◎ Project Description

- Loan recipient
- Project name
- Short paragraph explaining the project
- Project schedule
- Relevant excerpts from project plans and specifications
 - **No cut sheets or pages from manufacturers' catalogs**

◎ Justification for the Use of Non-Domestic Product

- Description of non-domestic product
- Why the non-domestic product is needed
- Quantity and quality
- Cost

◎ Supporting Documentation

- Loan recipient's efforts to find available domestic sources
- Information from domestic suppliers indicating availability/delivery date for product
- Statement from contractor and/or supplier confirming non-availability of product

Summary

- ◉ AIS requirements apply to any project that receives SRF funding
- ◉ EPA has authority to waive AIS requirements
- ◉ Project/Product Specific Waivers can be granted for non-domestic products based on
 - Availability
 - Public Interest
 - Cost
- ◉ Process Steps
 - Requests must be initiated by loan recipient
 - Requests must be submitted through State SRF program
- ◉ Applicability
 - Approved waivers are **not** transferable to other projects

Where Can I Find More Information?

For questions on EPA AIS Project/Product Specific Waivers:

<https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-waiver-request-process>

<https://www.epa.gov/sites/production/files/2015-09/documents/ais-final-guidance-3-20-14.pdf>

Email: SRF_AIS@epa.gov

For general questions on EPA AIS Requirements:

<http://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement> (or search "SRF AIS")



Clean Water
State Revolving Fund



QUESTIONS?

AIS Program Staff can be reached at:

SRF_AIS@epa.gov