

American Iron and Steel Overview

The American Iron and Steel (AIS) provision requires assistance 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. AIS requirements apply to all treatment works projects and all public water system projects funded by a Congressionally Directed Spending (CDS) and Community Project Funding (CPF) items in Appropriations Acts,¹ which are also referred to as Community Grants projects. Existing guidance and additional information can be found in the following resources:

- [American Iron and Steel Requirement - Training Materials](#)
- [AIS Guidance and Questions and Answers](#)

Note: *If the Build America, Buy America Act applies to the grant, iron and steel requirement are included in those requirements, and therefore recipients do not need to address each separately.*

¹ AIS requirements apply to State Revolving Fund assistance agreements signed on or after January 17, 2014, including all treatment works projects funded by a Clean Water State Revolving Fund (CWSRF) assistance agreement and all public water system projects funded by a Drinking Water State Revolving Fund (DWSRF) assistance agreement signed on or after January 17, 2014. Based on the directive Congressional language (“Applicable Federal requirements that would apply to a Clean Water State Revolving Fund or Drinking Water State Revolving Fund project grant recipient shall apply to a grantee receiving a CPF grant under this section”), AIS requirements apply to Community Grants projects.

Complying with AIS

Include AIS Language in Construction Contracts	Contract agreements as well as any purchase agreements must include reference to the AIS requirement. See Attachment 1 for sample contract language. Even if a project does not have iron or steel products, AIS language should be included in the contract documents.
Install Only Domestic Iron and Steel Products	<p>All listed products that are primarily iron or steel products that will be permanently incorporated into the project must be domestically manufactured.</p> <ul style="list-style-type: none"> ▪ Listed products: See Attachment 2 for listed products ▪ Primarily iron and steel: Greater than 50% iron or steel measured by material cost ▪ Permanently incorporated: Products that are intended to be permanently installed at the project site including spare parts and materials left in place or buried ▪ Manufacturing processes includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating, and assembly <ul style="list-style-type: none"> • Excluded: Metallurgical processes involving refinement of steel additives and coating process applied to external surface of iron/steel components
Document Compliance	Documentation associated with AIS compliance must be collected and maintained throughout the project and for a state-specified time after the project is complete.
Certification letters	<p>A certification letter asserting that all manufacturing processes for the purchased product occurred in the United States can help document compliance. Certification letters can include step certifications where each handler, suppliers, fabricators, manufacturer, etc., certifies their individual step(s) in the process occurred in the United States. The assistance recipient should request and maintain certification letters for all iron and steel products required to comply with AIS. The following five elements should be included in certification letters:</p> <ul style="list-style-type: none"> ▪ The specific product(s) that was delivered to the project site ▪ Location(s) of the foundry/mill/factory where the product was manufactured (city and state) ▪ Name of the project and/or jurisdiction where the product was delivered ▪ Signature of company representative ▪ Reference to the AIS requirements

Waivers

EPA has authority to waive the AIS requirement at the national or project-specific level. National waivers are immediately available for project use and the project does not need EPA approval to implement. A waiver may be issued if one of the following applies:

- **Public interest:** Applying AIS requirements would be inconsistent with the public interest
- **Availability:** Iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality
- **Cost:** Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25%

Project Specific Waivers

Assistance recipients request a waiver for the use of a non-domestic product for the project under one of the three waiver types (availability, public interest, cost). During design, assistance recipients should try to identify products they may need a waiver for as early as possible. If possible, the design should be modified to allow for domestic products. An assistance recipient can contact EPA if they are having trouble finding a product and EPA can provide product research. Waivers can be applied for at any point in the project. Assistance recipients are encouraged to request a waiver as early as possible in the project. Waivers are project specific and product specific. A waiver must be approved by the EPA before a non-domestic product is purchased/installed.

If an assistance recipient determines they need a project-specific waiver they should work with their project engineer or contractor to prepare a waiver application. The applicant should provide documentation in the waiver request according to the [AIS Guidance](#). The [Information Checklist for Waiver Request](#) can also help ensure that all appropriate and necessary information is submitted to EPA.

Once the waiver application is prepared, it should be sent to the state grant administrator who will determine if the information is complete and then forward to their EPA point of contact. EPA will review it to determine if all the required information was provided, conduct market research, and post the request on its website for 15 days. After this period, EPA will review the public comments and approve or deny the waiver.

De Minimis Waiver

EPA has approved several national waivers, one of which is the de minimis waiver.

De Minimis is a public interest waiver that allows recipient to use a small percentage of incidental products of unknown or non-domestic origin. Any listed product can be covered by this waiver. The De Minimis waiver is for the recipient's use and at their sole discretion only. No other entity (supplier, distributor, manufacturer) can instruct the recipient they must use the waiver.

- Cost of all incidental items on list cannot exceed five percent of the total material costs
- No one item can exceed one percent of the total material costs

Assistance recipients should maintain a list of all the de minimis items in a project. The documentation should include:

- Items included (number of units, price, and total)
- Total material costs (can be estimated if not known)

Visit EPA's website for more information on [EPA's approved national waivers for AIS](#).

Attachment 1 – Sample Construction Contract Language

The Contractor acknowledges to and for the benefit of the City of _____ (“Purchaser”) and the _____ (the “State”) that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund that have statutory requirements commonly known as “American Iron and Steel;” that requires all of the iron and steel products used in the project to be produced in the United States (“American Iron and Steel Requirement”) including iron and steel products provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

Attachment 2 – Iron and Steel Products Lists

Listed Items

- Lined or unlined pipes
- Fittings
- Manhole Covers
- Hydrants
- Tanks
- Flanges
- Pipe clamps and restraints
- Valves
- Reinforced precast concrete
- Municipal castings (defined in more detail below)
- Structural steel (defined in more detail below)
- Construction materials (defined in more detail below)

Municipal Castings

Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples include but are not limited to:

- Access Hatches
- Ballast Screen Benches (iron or steel)
- Bollards
- Cast Bases Cast Iron Hinged Hatches
- 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 and Tree Guards
- Trench Grates
- Valve Boxes, Covers and Risers

Structural Steel

Structural steel is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees and zebs. Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

Construction Materials

Construction materials are those 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. Some of these products may overlap with what is also considered “structural steel”. Examples include but are not limited to:

- Wire rod
- Bar
- Angles
- Concrete reinforcing bar
- Wire
- Wire cloth
- Wire rope and cables
- Tubing
- Framing
- Joists, trusses, fasteners (i.e., nuts and bolts)
- Welding rods
- Decking
- Grating
- Railings
- Stairs
- Access ramps
- Fire escapes
- Ladders
- Wall panels
- Dome structures
- Roofing
- Ductwork
- Surface drains
- Cable hanging systems
- Manhole steps
- Fencing and fence tubing
- Guardrails
- Doors
- Stationary screens