



Clean Water
State Revolving Fund

DOMESTIC PREFERENCE REQUIREMENTS

AMERICAN IRON AND STEEL REQUIREMENT

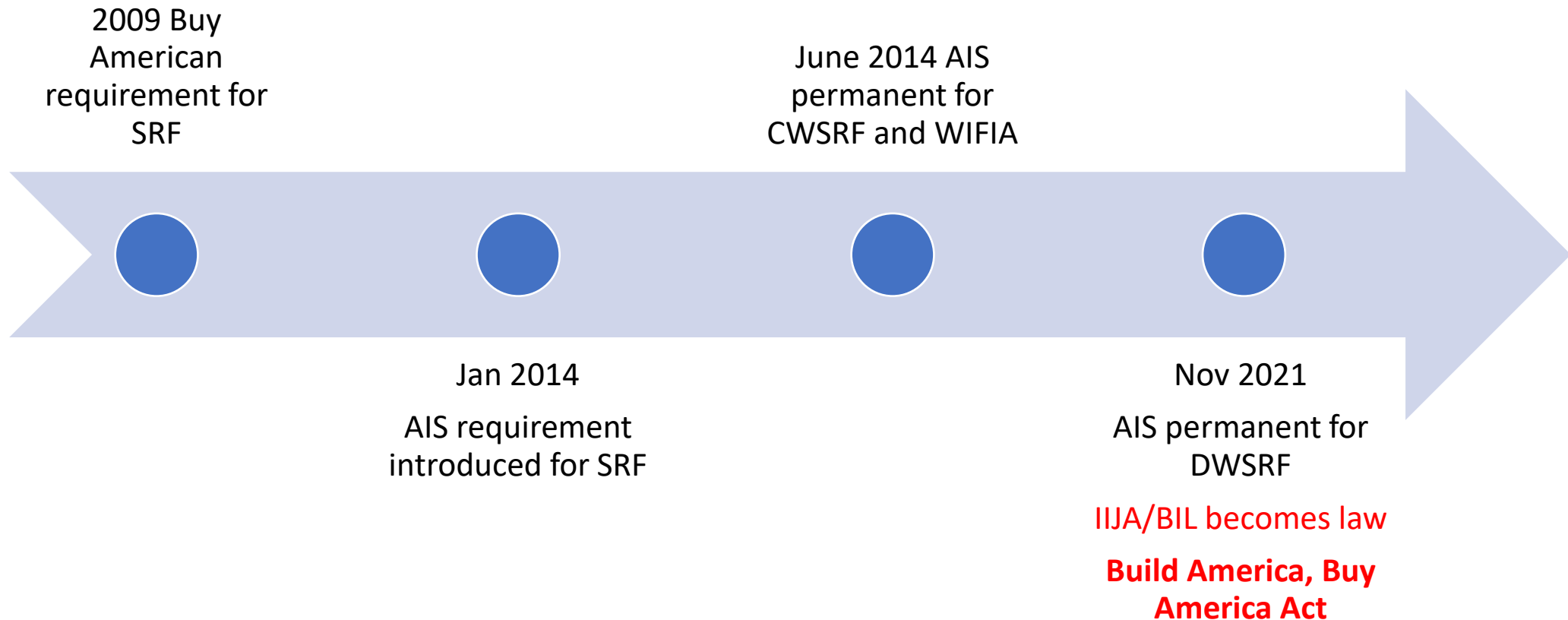
AND THE

BUILD AMERICA, BUY AMERICA ACT

WEFTEC

MONDAY, OCTOBER 10, 2022

DOMESTIC PREFERENCE HISTORY



AIS BASICS: WHAT IS AIS?

- "American Iron and Steel"(AIS) requires the use of 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
- Applies to projects for *public water systems* (DWSRF), *treatment works* (CWSRF), and all WIFIA projects
- Which products must comply?
 - Must be “primarily” iron or steel
 - Must be a “listed” product
 - Must be permanently incorporated” in the project
- To comply, products must be “produced in the United States”



AIS AND BABA



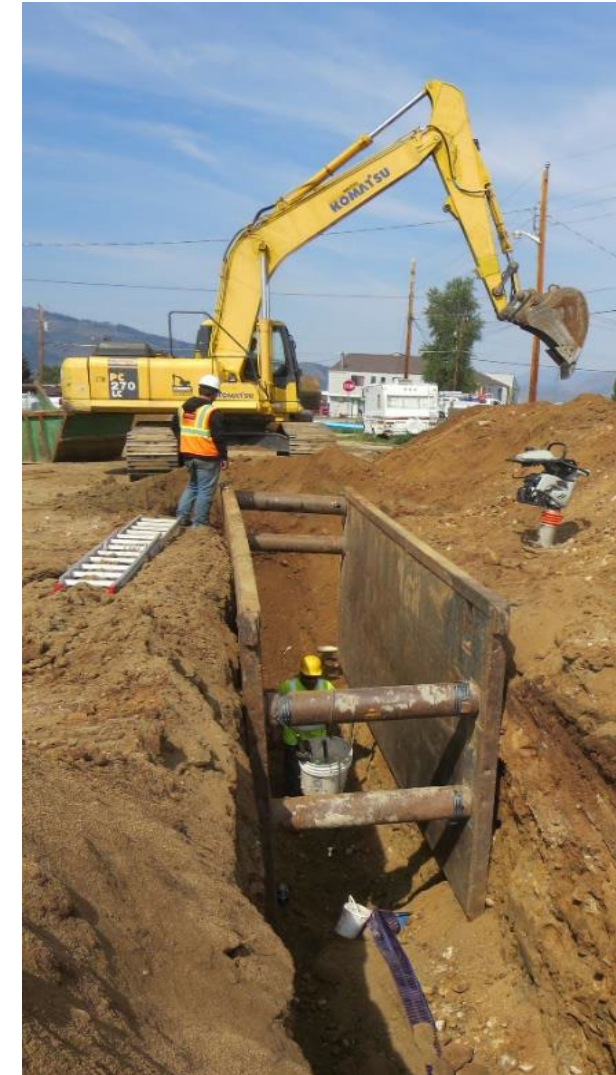
- AIS and BABA will not apply to individual projects at same time
- AIS will continue to apply to Public Water and Treatment Works projects underway and many future SRF projects
- Adjustment period waivers in place.

BUILD AMERICA, BUY AMERICA (BABA) ACT

- Included in the Infrastructure Investment and Jobs Act
 - Public Law Number 117-58, Sections 70911-70917
- Effective date: May 14, 2022
- “[N]one of the funds made available for a Federal financial assistance program for infrastructure...may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.”
- “Project” means: Any activity related to the construction, alteration, maintenance, or repair of infrastructure in the U.S.
- “Infrastructure” means anything fixed, permanent, and that serves the public interest.
- Covers many more products than AIS
 - For typical SRF and WIFIA projects, vast majority of purchased items would be covered
- Covered Programs: all federally funded infrastructure projects
 - Most SRF projects, all WIFIA projects, other programs water & wastewater infrastructure projects

BABA COVERED ITEMS

- **Iron and steel + manufactured products + construction materials** (non-ferrous)
- Items classified into only ONE of the three categories
- Applies to items consumed in, incorporated into or affixed to a project (aka permanently incorporated)
 - Similar to AIS
 - Excluded = non-permanently incorporated items (trench boxes, scaffold, and similar)



BABA: IRON AND STEEL

- Same as AIS
- Items that are primarily / predominantly iron or steel
- All manufacturing processes, from the initial melting stage through the application of coatings, must occur in the U.S.
 - Coatings change minor difference to AIS



BABA: MANUFACTURED PRODUCTS

- Final Manufacturing in the United States
- Cost of components that are mined, produced, or manufactured in the U.S. is greater than 55 percent of the total cost of all components of the manufactured product
 - Likely will not include labor, testing, and other assembly additions to final product
 - Further refinements and/or explanation of content test possible from OMB this Fall



BABA: CONSTRUCTION MATERIALS

- Includes:
 - Non-ferrous metals
 - Plastic and polymer-based products (including PVC, composite building materials, and polymers used in fiber optic cables)
 - Glass (including optic glass)
 - Lumber
 - Drywall
- Excludes:
 - Items made primarily of iron or steel
 - Manufactured products
 - Cement and cementitious materials
 - Aggregates such as stone, sand, or gravel
 - Aggregate binding agents/additives
 - Flora (plantings, landscaping)

EXISTING BABA WAIVERS

- “Adjustment Period” public interest waivers:
 - For SRF: Design Planning Waiver Final, Approved
 - For WIFIA: Design Planning Waiver Final, Approved
 - For Selected OW programs: 6-mo. Waiver Final, Approved (through Mar 1, 2023)
- Small Project/Award Threshold – projects under \$250K federal funding threshold
 - Agency-wide; Final Approved

OTHER PENDING/POTENTIAL BABA WAIVERS

- *De Minimis* public interest waiver: Pending
 - Agency-wide; Final Draft Waiver under OMB Review
- Possible future waivers:
 - Minor Components Waiver – similar to existing AIS manufacturer waiver, would only be for Iron and Steel
 - Program Priority Waivers – EPA may examine other program-level waivers
 - Short-term product-specific waivers
 - For products not currently manufactured in the U.S.
 - Research initiated for variety of complex manufactured products

EPA BABA NEXT STEPS

- Program-specific BABA implementation procedures memo (EPA guidance) – readying Final Draft
 - EPA assessed unanswered questions from MIAO guidance
 - Includes info for OW programs plus SRF-specific questions
 - Will not include details on manufactured prod. and construction materials
 - OMB considering providing clarifying information this Fall
- Assess program needs after Implementation Memo
 - Future BABA Training Needs – National? Program-specific?

RESOURCES

- EPA Websites:
 - www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement
 - www.epa.gov/cwsrf/build-america-buy-america-baba
- Email Inboxes:
 - SRF_AIS@epa.gov (underscore!)
 - BABA-OW@epa.gov (hyphen!)

QUESTIONS AND DISCUSSION