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## WIFIA AIS/BABA Waiver Request Form Instructions

The WIFIA program will process waivers for projects that are in WIFIA's application process or have executed WIFIA loans. WIFIA borrowers seeking a waiver to American Iron and Steel (AIS) or the Build America Buy America (BABA) requirements **should complete and submit this form along with a simple request on borrower letterhead and provide requested attachments to the WIFIA program.** Waivers should only be sought when all avenues of procuring AIS-compliant or BABA-compliant products have been exhausted. In many cases, a borrower may find that an availability waiver is not needed.

EPA has authority to issue project waivers to AIS and BABA requirements in specific circumstances: (1) if the requirement is inconsistent with the public interest; (2) if the products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) if the products will increase the cost of the project by 25% or more.

### Before submitting a waiver request:

- Determine the need for a waiver. Is the project subject to AIS and/or BABA requirements? Does your situation fall under any of the three circumstances listed above for which EPA can grant a waiver?
- Determine if other avenues of compliance are available. Are there readily available options that are AIS-compliant and can similarly perform? Are there readily available waivers that apply to you? For example, for product nonavailability, have you considered whether the De Minimis Waiver can be used? Is there a general applicability waiver that applies?
- Compile the necessary supporting information. If it is a product-related waiver, include product specifications, efforts to find domestic sources and relevant information on costs and lead times. If it is a cost waiver, include the detailed analysis showing the increase in costs with implementation.

Submitting the request. A waiver request is not needed for readily available and approved program waivers, national waivers or EPA agency-wide waivers. **This waiver request form applies to project-specific waiver requests only.** Answer all the questions in this form and submit supporting documentation pertaining to the type of waiver request you are submitting (i.e. public interest, product availability, or cost). The borrower's authorized representative must sign the form.

Unless otherwise directed, submit this waiver request form and supporting information via email to [WIFIA\\_portfolio@epa.gov](mailto:WIFIA_portfolio@epa.gov) with the subject line "[NAME OF BORROWER/PROSPECTIVE BORROWER] – [NAME OF PROJECT] – AIS (or BABA) Waiver Request Form". Upon receipt of the form, the WIFIA program will provide a confirmation email to the contacts listed in the form.

More information about the AIS and BABA requirements are available in the Borrower Guide to Federal Requirements.

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### **Burden**

The public reporting and recordkeeping burden for this collection of information is estimated to average 15 hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, included through the use of automated collection techniques to the Director, Regulatory Support Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

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### **Warning**

Falsification or misrepresentation of information or failure to file or report information required to be reported may be the basis for denial of financial assistance by EPA. Knowing and willful falsification of information required to be submitted and false statements to a Federal Agency may also subject you to criminal prosecution. See, for example, 18 U.S.C. §1001.

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Additional information about the WIFIA program and the letter of interest form is available at <https://epa.gov/wifia> and by contacting [wifia@epa.gov](mailto:wifia@epa.gov).



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## AIS/BABA Waiver Request Form

Provide the following information in this form and attach any relevant supporting documentation.

1. Legal name of borrower or prospective borrower and WIFIA Loan ID (if available):

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2. WIFIA Project name:

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- a. Is the WIFIA Project co-funded by another federal program?  Yes  No

- b. If so, specify (e.g., SRF, BOR Title XVI, EPA Community Grants):

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3. Waiver Request Contact List. Provide the names and email addresses of all person(s) who should be contacted in regards to this waiver request:

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4. Under which domestic preference requirements is the waiver being requested? **Select only one.** If applying for a waiver under BABA, there is no need to apply for a separate waiver under AIS.

AIS  BABA

5. Type of waiver being requested:

Public Interest  Cost  Product Availability

6. Identify the total estimated material cost of the project:

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7.  N/A. For **public interest** waiver requests, please briefly explain why compliance with AIS or BABA is not in the public’s interest. Public interest waivers may be requested for the entire project or for specific products. If the waiver is being requested for specific products, please include a list of the products in the narrative with relevant project timelines.

8.  N/A. For **cost** waiver requests, identify the total project cost with and without domestic preference requirements. Attach supporting documentation to demonstrate that the total project cost increases by more than 25 percent with the requirements, such as itemized cost estimates comparing projects costs with and without the domestic preference requirements.

9.  N/A. For **product availability** waiver requests,
- a. Complete the following table to provide information about the product(s) for which the waiver is being requested. **For each product listed, attach a copy of the relevant technical specifications of the product to this form.**

Product Name	Brief product description (include material type and size)	Unit Cost of foreign product	Unit Cost of domestic product *	Quantity Needed	Date product is needed

\*Complete this column only if domestic products are available.

- b. Describe the efforts made to source compliant products. Were AIS-compliant products identified, and if so, are there circumstances around the project that prevent their use (e.g., lead times, performance standards, quantity thresholds)? Include a list of manufacturers or suppliers contacted and responses received as an attachment.



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*Signature:* The undersigned is an authorized representative of the (prospective) borrower. By signing below, the undersigned is certifying that the borrower or prospective borrower made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.

Signature: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Organization: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_