

Waivers and Waiver Process

Assistance recipients should procure domestic iron and steel products. However, if they are having trouble finding a product, the assistance recipient can contact EPA to conduct product research.

EPA has developed an approach to allow for effective and efficient implementation of the waiver process to allow projects to proceed in a timely manner. The steps described [in this section](#) allow the State to apply for waivers of the AIS requirements on behalf of the assistance recipients, directly to EPA Headquarters. Only waiver requests received from the State will be considered.

Types of AIS Waivers

There are two (2) types of AIS Waivers:

- ❖ National Waiver – EPA has the authority to issue waivers that are national in scope. These waivers may be for availability or public interest.
- ❖ Project/Project Specific Waiver – These waivers request the use of a specified non-domestic product for a specific project.

Furthermore, each of these waivers have the following sub-category:

<u>National Waiver</u>	<u>Project/Product Specific Waiver</u>
<ul style="list-style-type: none">❖ De Minimis❖ Minor Components (for manufacturers)	<ul style="list-style-type: none">❖ Availability❖ Public Interest❖ Cost

Assistance recipients are strongly recommended to hold pre-bid conferences with potential bidders. A pre-bid conference can help to identify iron and steel products needed to complete the project as described in the plans and specifications that may not be available from domestic sources. It may also identify the need to seek a waiver prior to bid and can help inform the recipient on compliance options.

National Waiver

EPA has the authority to issue waivers that are national in scope. National waivers may be implemented if the availability of specific products is rare or if it is in the public's interest. Currently, any Approved National Waivers can be found in this [website](#).

De Minimis Waiver

This waiver allows the **SRF Project** a small percentage of incidental products of unknown or non-domestic origin:

- ❖ 5% of total material cost
- ❖ 1% max for any single item

Users of the de minimis waiver should maintain documentation of all the de minimis items in a project. Refer to the recommended documentation using a tabular list of de minimis items with units and price and summation:

AIS De Minimis List Example				
Total Materials Cost for Project			\$ 185,000	
Product	Amount	Cost	Total Cost	% of Total Materials Cost
Galvanized Conduit Strap	20	\$ 1.00	\$ 20.00	0.011%
Galvanized Screws	40	\$ 0.05	\$ 2.00	0.001%
4" Stainless Steel Tee	2	\$ 75.00	\$150.00	0.081%
		Total	\$ 172.00	0.093%

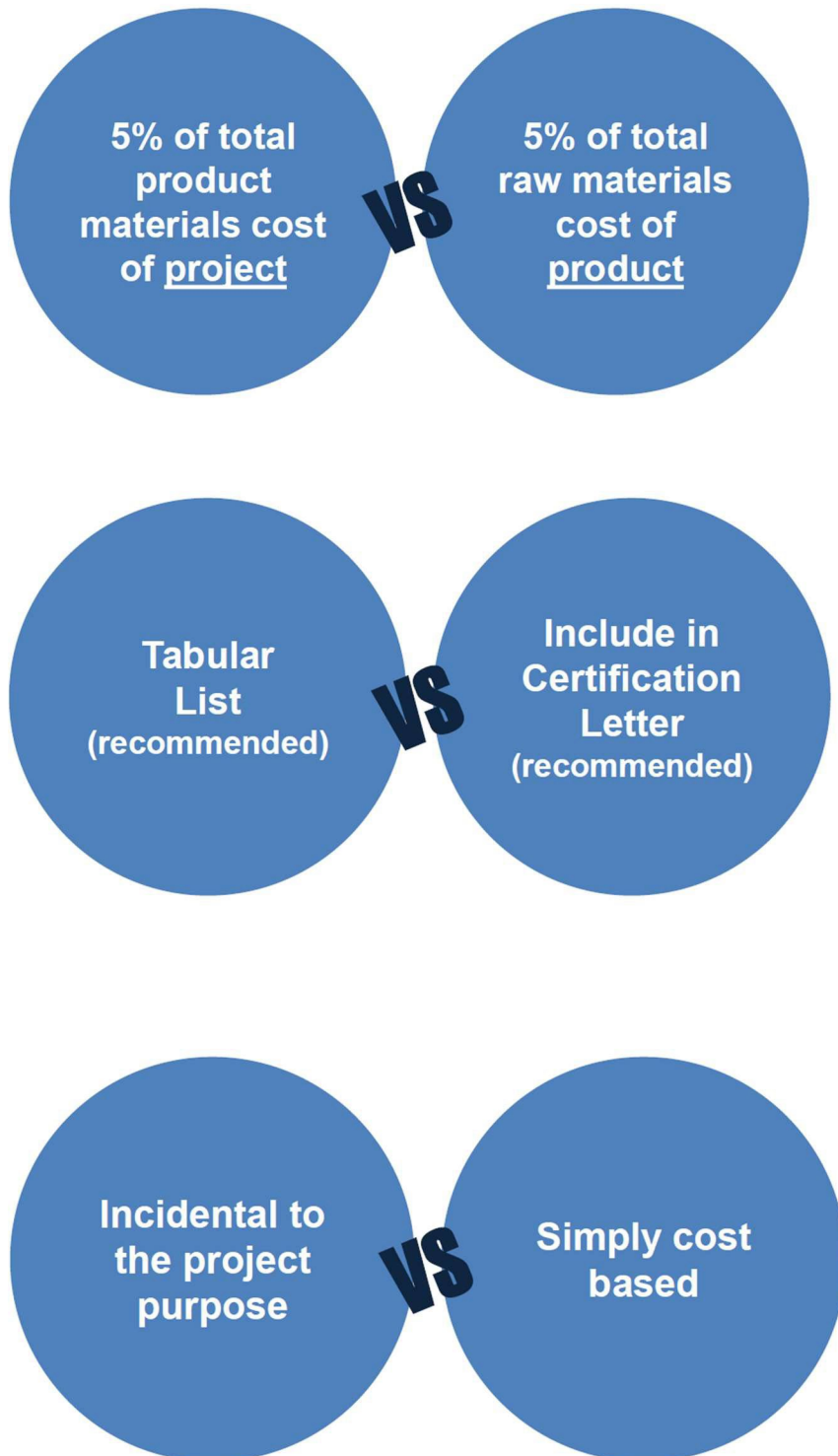
Minor Components in Iron and Steel Products (with Cost Ceiling)

This waiver allows the **Product Manufacturer** to include non-domestic, minor components in AIS-compliant products (up to 5% of material cost of the product).

- ❖ Example: a valve with stainless steel pins and springs could make use of the waiver

Manufacturers should be prepared to provide documentation when requested by recipients.

Differences between a De Minimis and Minor Components



Approved national waivers can be found in EPA's website under [American Iron and Steel Requirement - Approved National Waivers](#).

Project/Product-Specific Waiver

Assistance recipients may apply (through the State) for a project-specific waiver. These waivers request the use of a specified non-domestic product for a specific project. Other SRF of WIFIA-funded projects that wish to use the same non-domestic product must apply for a separate waiver.

Refer to the table below for each waiver type and additional information for each:

Availability Waiver	<p>Based on "Sufficient and reasonably available quantities and of a satisfactory quality"</p> <ul style="list-style-type: none">❖ Available Quantity – The quantity of iron or steel products is not available at the time needed and place needed, and in 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 <p><i>NOTE: Timing-based availability waiver requests need sufficient rationale for waiver to be considered</i></p>
Public Interest Waiver	<ul style="list-style-type: none">❖ EPA has the only authority to issue public interest waivers❖ Evaluation of a public interest waiver request is more complicated and as such, take more time for a decision to be made❖ These waiver requests have always had a high bar, but now an even higher bar after the signing of Executive order 13788 (April 2017) and subsequent waivers
Cost Waiver	<ul style="list-style-type: none">❖ Assistance recipient must show that a project cost increased more than 25%❖ This is a very high threshold to meet❖ To date, only one waiver has been approved

Waiver requests should be submitted via State SRF programs. States should then submit waiver requests to EPA at DWSRFWaivers@epa.gov or CWSRFWaivers@epa.gov.