



MDOT State Highway Administration

**Build America Buy America
(BABA)**

Materials Management Division



WHAT IS BUILD AMERICA BUY AMERICA(BABA)



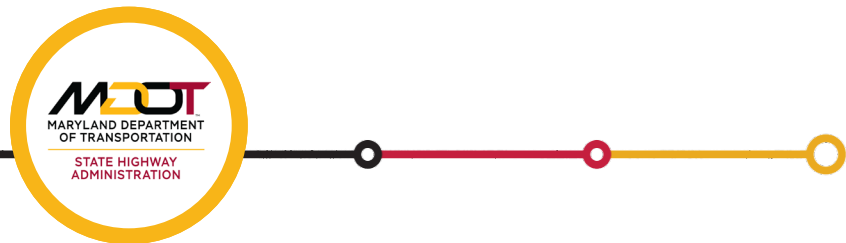
- **Requirements under the Infrastructure Investment and Jobs Act (IIJA) / Bipartisan Infrastructure Law (BIL) (Pub. Law 117-58, Nov. 15, 2021), Sec. 70914**
- Title 2 of the Code of Federal Regulation (2 CFR) part 200.322 states that Federal Agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR part 184. Articles, Materials, and Supplies are classified into one of the following categories:
 - **Iron or Steel products;**
 - **Manufactured products;**
 - **Construction materials; or**
 - **Section 70917(c) materials.**



BABA Program Notes



- ☐ BABA does not apply to temporary materials.
- ☐ Since state-only funded projects are not held to BABA requirements, no products will be removed from any Qualified Product List



BABA Program – Waivers for De Minimis Costs and Small Grants

On August 16, 2023, the USDOT published in the Federal Register a public interest [Waiver for De Minimis Costs and Small Grants](#).



- ☐ The public interest waiver is for projects funded under DOT-administered financial assistance programs (FAP) for iron, steel, manufactured products, and construction materials under a single financial assistance award
- ☐ The total amount of Federal financial assistance applied to the project, through awards or subawards, is below \$500,000. OR



Waivers for De Minimis Costs and Small Grants (Cont'd)

- The total value of the non-compliant products under the DOT-administered FAP is **no more than** the lesser of \$1,000,000 or 5% of total applicable costs for the project*

* **Not applicable to** iron and steel subject to the requirements of 23 U.S.C. 313 on FHWA-administered FAP.

The de minimis threshold in 23 CFR 635.410(b)(4) continues to apply for steel and iron.



BABA: What Is New – Manufactured Products Updates

❑ On January 14, 2025, the FHWA published a Federal Register notice of the final rule on FHWA's Buy America Requirements for Manufactured Products (<https://www.federalregister.gov/d/2024-31350>).

❖ The final rule:

- Amends FHWA's Buy America regulation to terminate FHWA's general applicability waiver for manufactured products (the "Manufactured Products General Waiver") and
- Establishes Buy America requirements for manufactured products with respect to Federal-aid highway projects.
- Establishes specific dates on which the Manufactured Products General Waiver will be terminated





MANUFACTURED PRODUCTS WAIVER TERMINATION – APPLICABLE DATES

SPECIFIC THREE (3) APPLICABLE DATES FOR TERMINATION OF WAIVER:

- ❑ **March 17, 2025 (effective date):** For [all Federal-aid projects](#) obligated on or after March 17, 2025
 - ❖ All iron or steel products, as defined in § 635.410(c)(1)(iii), must comply with FHWA's Buy America requirements for steel and iron in § 635.410(b).
 - ❖ Articles, materials, and supplies classification per § 635.410(c)(2) remains



MANUFACTURED PRODUCTS WAIVER TERMINATION – APPLICABLE DATES (CONT'D)

❑ **October 1, 2025:** The final assembly requirement will become effective for **Federal-aid projects obligated on or after** October 1, 2025.

❑ **October 1, 2026:** The 55 percent requirement will become effective for **Federal-aid projects obligated on or after** October 1, 2026.

❖ Manufactured Products satisfy 2 Requirements:

- Final Assembly
- Minimum 55 percent cost



BABA = BUY AMERICA (23 USC 313) + 2 CFR 184



Iron/Steel

Continue using current QA acceptance requirements. Stamped MTRs/BOIs and certifications as required.

No Change - Buy America (23 USC 313)

Manufactured Products

Continue using current QA acceptance requirements.

General applicability waiver ending.
Applies to projects advertised on and after October 1, 2025

Buy America (23 USC 313)

Construction Materials

- Non-Ferrous Metals
- Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables)
- Glass (including optic glass)
- Fiber optic cable (including drop cable)
- Optical fiber
- Lumber
- Engineering wood; and
- Drywall

2 CFR 184 Compliance Required

SHA MATERIAL QUALITY ASSURANCE REQUIREMENTS

❑ Manufacturer Certifications - Manufacturer /Producer shall provide the following statements of compliance:

- ❖ Construction Materials – “All manufacturing processes occurred in the USA” or “Material complies with 2 CFR 184”
- ❖ Manufactured Products - “Manufactured in the USA”
(Compliance with 23 USC 313 and 23 CFR 635.410)
 - ✓ October 1, 2025: means **satisfy the final assembly requirement**
 - ✓ October 1, 2026: means **satisfy the final assembly requirement and the 55 percent cost requirement**
- ❖ Iron and Steel (Unchanged) – “Melted and manufactured in the USA”
(Compliance with 23 USC 313 and 23 CFR 635.410)

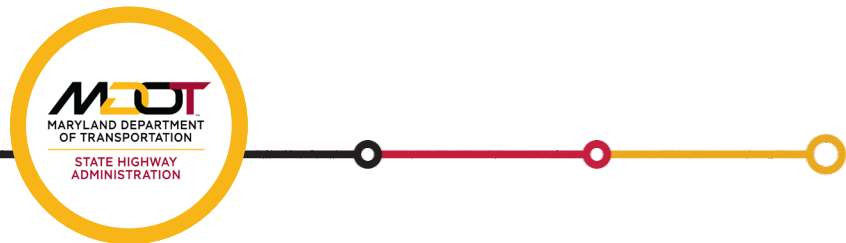


MANUFACTURED PRODUCTS

Implementation



- Outreach letters to Manufacturers/Producers, Contractors, Local Public Agencies
- Update Buy America Contract Provision in Proposal Package
- Update Quality Assurance Acceptance Requirements
- Update QA Materials Manual



HELPFUL BABA LINKS



☐ General Information

- ❖ [FHWA Buy America Construction Program Guide](#)
- ❖ [23 USC 313, Chapter 3, Buy America \(United States Code\)](#)
- ❖ [23 CFR 635.410 Buy America requirements \(Code of Federal Regulations\)](#)
- ❖ [Bipartisan Infrastructure Law - Build America, Buy America Act Q&As \(PRE October 23, 2023\)](#)
- ❖ [Bipartisan Infrastructure Law - Build America, Buy America Act Q&As \(POST October 23, 2023\)](#)

☐ Waiver

- ❖ [Waiver of Buy America Requirements for De Minimis Costs and Small Grants \(8/16/2023\)](#)
- ❖ [Waiver of Buy America Requirements for De Minimis Costs and Small Grants Q&As](#)





QUESTIONS???

THANK YOU!

