



# 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!