

Questions and Answers (Q&As) on the Federal Highway Administration (FHWA) Manufactured Products Final Rule

Updated January 5, 2026

Background

On January 14, 2025, the Federal Highway Administration (FHWA) issued a final rule terminating its general waiver on manufactured products and establishing new Buy America requirements for manufactured products used in Federal-aid highway projects (“the Manufactured Products Final Rule”). The effective date of the Manufactured Products Final Rule is March 20, 2025 (90 FR 2932; 90 FR 11139). For projects obligated before March 20, 2025, FHWA continues to apply its Buy America requirements as they existed before the final rule, including the application of the general waiver on manufactured products. More information on the requirements that apply to projects obligated before March 20, 2025 can be found here: https://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm. FHWA has modified its Buy America–Related Q&As page to reflect the effect of the Manufactured Products Final Rule on projects obligated on or after March 20, 2025. Additional Q&As on the Manufactured Products Final Rule are below.

Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind States or the public in any way. This document is intended only to provide clarity regarding existing requirements under the law or agency policies.

Q1. What changes did the Manufactured Products Final Rule make to FHWA’s Buy America requirements with respect to steel and iron?

A1. In general, FHWA’s Buy America requirements for steel and iron continue to apply as they did before the Manufactured Products Final Rule became effective. The final rule, however, does define “iron or steel products” and “manufactured products” to make clear the difference between what kinds of products are subject to FHWA’s existing Buy America requirements for steel and iron versus FHWA’s newly applied Buy America requirements for manufactured products. For projects obligated on or after March 20, 2025, recipients of funds used to carry out title 23 of the U.S. Code (“Title 23”) must classify products based on the definitions in 23 CFR 635.410(c)(1)(iii) (iron or steel products) and (iv) (manufactured products) regardless of any previous methods used to differentiate these two categories (23 CFR 635.410(c)(2)).

Q2. Are the newly applied Buy America requirements for manufactured products the same as the requirements applicable to manufactured products under the Build America, Buy America Act (BABA) (Pub. L. No. 117-58, div. G, title IX, subtitle A)?

A2. Generally, yes. However, the application of FHWA’s Buy America requirements may differ from the application of BABA’s requirements. For example, BABA applies only to infrastructure projects, meaning any activity related to the construction, alteration,

maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is also the primary purpose of the project. *See* 2 CFR 184.3, 184.4. FHWA's Buy America requirements apply to all projects funded with Title 23 funds, even those not generally considered to be infrastructure projects, such as the purchase of vehicles or equipment under certain Federal-aid highway programs. *See* 23 U.S.C. 313(a). FHWA's Buy America requirements also provide distinctions for certain manufactured products not included in the BABA requirements. *See, e.g.*, Q7.

Q3. What Buy America requirements apply to the non-iron/steel components of an iron or steel product?

A3. Buy America requirements do not apply to the non-iron/steel components of an iron or steel product. Under 23 CFR 635.410(c)(1)(iii) and (vi), a product can be classified as an iron or steel product even if it contains non-iron/steel components. In such a case, the Buy America requirements for steel and iron under 23 CFR 635.410(b) apply to such products, not the requirements for manufactured products or construction materials.

For example, a vehicle that contains steel and iron components whose cost exceeds 50 percent of the total cost of all its components would be classified as an iron or steel product under 23 CFR 635.410(c)(1)(iii) and (vi) and thus must have the iron or steel components domestically manufactured, not the entire vehicle.

In addition, for the purpose of applying the de minimis provision in 23 CFR 635.410(b)(4), the cost of the foreign iron or steel product is only the cost of the foreign iron or steel in the product. If an iron or steel product contains non-iron/steel components, recipients should not use the total cost of the product for the purpose of section 635.410(b)(4), just the cost of the individual foreign iron or steel components.

Q4. What are the transition dates for phasing-in the new standards for manufactured products?

A4. For projects obligated between March 20, 2025 and September 30, 2025, FHWA's general waiver of manufactured products continues to apply to manufactured products permanently incorporated in such projects.

For projects obligated on or after October 1, 2025, all manufactured products permanently incorporated into the project must be manufactured in the United States (known as the "final assembly requirement") (23 CFR 635.410(c)(1)(vii)(A)).

For projects obligated on or after October 1, 2026, all manufactured products permanently incorporated into the project must meet the final assembly requirement and the cost of components of the manufactured products that are mined, produced, or manufactured in the United States must be greater than 55 percent of the total cost of all components of the manufactured product (known as the "55 percent requirement") (23 CFR 635.410(c)(1)(vii)(B)).

Q5. When is a manufactured product considered to be "manufactured in the United States" for the purpose of the final assembly requirement?

A5. A product is "manufactured" when it is completed in the form in which the product was procured and the form in which it will be brought to the work site (23 CFR

635.410(c)(1)(iv) and 635.410(c)(2)). Such activity must occur in the United States for the manufactured product to be Buy America compliant for projects obligated on or after October 1, 2025 (23 CFR 635.410(c)(1)(vii)(A)).

The location of the final manufacturing step for a product will generally be the place where the product is “manufactured;” however, this final manufacturing step must involve a change to the product itself for it to meet this requirement such that it is processed into a specific form and shape or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies (23 CFR 635.410(c)(1)(iv)). For example, a product is not manufactured in the United States if it is imported and then only packaged or labelled in the United States even if a manufacturer considers these to be manufacturing steps for the product for other purposes. Similarly, a product is not manufactured in the United States if it is imported into the United States, disassembled, and then reassembled without changing the nature of the product that was imported. Nor is a product that is produced abroad, disassembled, shipped into the United States, and then reassembled to the original product manufactured in the United States. Further, any change to the product that occurs in the United States must involve creating a product with different properties than the individual articles, materials, or supplies used to produce the product (23 CFR 635.410(c)(1)(iv)). For example, importing a product and then merely painting it in the United States would not cause the product to be manufactured in the United States, as long as the form or shape of the product does not change, and the finished product does not have different properties than the unpainted product.

Q6. Can products containing a variety of different materials be classified under multiple Buy America categories?

A6. No, with two specific exceptions noted in Question 7. As provided at 23 CFR 635.410(c)(2), an article, material, or supply must be classified as an iron or steel product, a manufactured product, or other products as specified by law or in 2 CFR part 184. An iron or steel product must meet the requirements of 23 CFR 635.410(b). Except as otherwise provided at 23 CFR 635.410(c)(2)(i) and (ii), an article, material, or supply cannot be classified into multiple categories. The classification of an article, material, or supply must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project (23 CFR 635.410(c)(2)). For example, a product classified as a manufactured product may contain iron or steel components, but, except as noted in Question 7, the iron and steel components of a product classified as a manufactured product do not have to comply with the Buy America requirements for iron or steel products. If the cost of the iron and steel components of a product is more than 50 percent of the cost of the product, then the product would be classified as an iron or steel product, not a manufactured product, and the product would only need to comply with the Buy America requirements for iron or steel products. *See* Question 3.

Q7. What Buy America requirements apply to the precast concrete and intelligent transportation systems (ITS) and other electronic hardware systems products specified in 23 CFR 635.410(c)(2)(i) and (ii)?

A7. Under 23 CFR 635.410(c)(2)(i) and (ii), specific requirements apply to precast concrete products and ITS and other electronic hardware systems that are installed in the

highway right of way or other real property (“ITS products”) that are classified as manufactured products (collectively “specified manufactured products”). For such precast concrete products, components that consist “predominantly of iron or steel or a combination of both” (as defined at 23 CFR 635.410(c)(1)(vi)) must meet FHWA’s requirements for iron and steel (23 CFR 635.410(c)(2)(i)). For ITS products, the cabinets or other enclosures of such systems that consist “predominantly of iron or steel or a combination of both” must meet FHWA’s requirements for steel and iron (23 CFR 635.410(c)(2)(ii)). These iron or steel component requirements apply to all projects, regardless of when they are obligated.

For these specified manufactured products, the products must also meet the applicable requirements for manufactured products (23 CFR 635.410(c)(2)(i) and (ii)). For obligations that occur on or after October 1, 2026, the cost of components that consist “predominantly of iron or steel or a combination of both” will count toward the 55 percent requirement.

Q8. If precast concrete products and ITS products specified in 23 CFR 635.410(c)(2)(i) and (ii) are classified as iron or steel products, what Buy America requirements apply to them?

A8. Precast concrete and ITS products that are classified as iron or steel products under 23 CFR 635.410(c)(1)(iii) must be treated as iron or steel products and are only subject to FHWA’s Buy America requirements for steel and iron at 23 CFR 635.410(b) (23 CFR 635.410(c)(2)).

Q9. When must recipients classify products into different categories?

A9. Apart from kits (which are discussed in Questions 10 and 11), the classification of a product must be done based on its status at the time it is brought to the work site for incorporation into the project (23 CFR 635.410(c)(2)). This means that the same final product may be classified differently based on when its components are brought to the work site. For instance, a traffic light brought to a work site as a single product might be classified as a manufactured product. On the other hand, if a contractor procures the traffic signal head and the traffic signal lens separately from two different suppliers, brings them to the work site, and then combines them together at the work site, the signal head might be classified as a manufactured product (or an iron or steel product depending on its iron or steel content), and the glass or plastic lens might be classified as a construction material.

Q10. How should kits be classified when the components are delivered to the project site to be assembled for permanent incorporation in a Federal-aid project?

A10. A kit is a product acquired from a single manufacturer or supplier as separate components with the intent of the components being assembled or installed to form a single product at the work site that performs a unified function. Kits should be distinguished from systems, which are products consisting of interconnected individual components that contribute together to achieve a broad function, such as heating, ventilation, and air conditioning systems for an entire building.

If a kit meets the definition of manufactured product in 23 CFR 635.410(c)(1)(iv), it should be classified as a single manufactured product. Individual components of the kit

should not be classified as separate manufactured products, even though they may be brought to the work site separately.

Q11. What Buy America requirements apply to kits that are classified as manufactured products?

A11. Kits that are classified as manufactured products must apply FHWA's Buy America requirements that apply to manufactured products (23 CFR 635.410(c)). The manufacturer of a kit classified as a manufactured product should be considered the entity that performs the final manufacturing process that produces the kit, not the contractor that manufactures or assembles it on the work site. To comply with the final assembly requirement, the place at which the manufacturer of the kit brings together the kit's components must be in the United States (23 CFR 635.410(c)(1)(vii)). Note, however, that a kit may be classified as a manufactured product even if its components are brought to the site separately or at different times.

In applying the 55 percent requirement, though 23 CFR 635.410(c)(3) refers to "transportation costs to the place of incorporation into the manufactured product," the place of incorporation for kits should be considered the place at which the manufacturer of the kit brings together the kit's components. It should not be read to refer to the transportation cost of the kit's components to the work site.

Q12. What are excluded materials?

A12. As specified in 23 CFR 410(c)(1)(ii), "excluded materials" are the same as "section 70917(c) materials," which are defined in 2 CFR 184.3. These materials are cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. Excluded materials are not subject to any applicable Buy America standard (steel or iron product, manufactured product, or construction material) if delivered to the project site on their own or in combination with other excluded materials.

Q13. What are mixtures of excluded materials and what Buy America requirements apply to them?

A13. Pursuant to 23 CFR 635.410(c)(1)(iv), mixtures of excluded materials delivered to a work site without final form for incorporation into a project must not be classified as manufactured products and are not subject to FHWA's Buy America requirements for manufactured products.

To fit this exception, a mixture of excluded materials must be delivered to the work site without final form, such as with wet concrete or hot mix asphalt that has not dried or set before reaching the work site. FHWA considers such mixtures to not be manufactured products, though it may also contain minor additions of other materials.

Q14. How should excluded materials be classified when combined with other non-excluded materials (such as precast concrete)?

A14. Once an excluded material has been combined with a non-excluded material and processed into a specific shape or form, the new product is to be classified the same as any other material, regardless of the fact that one of its components is an excluded

material (23 CFR 635.410(c)(2)). For instance, precast concrete may comprise cement, water, aggregates, and steel. When delivered to the work site, the precast concrete would be considered a manufactured product, unless the cost of the steel content exceeds 50 percent of the total cost of the precast concrete's components, in which case it would be classified as an iron or steel product (23 CFR 635.410(c)(1)(iii), (vi)). The fact that precast concrete may include cement and aggregates, two excluded materials, is not relevant to this classification because those excluded materials are combined with other non-excluded materials.