

All Construction Materials listed on the QPL are required to follow 23 CFR 635.410 or The Build America, Buy America part of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. No. 117-58 which includes the Build America, Buy America Act (the Act) Pub. L. No. 117-58 70901-52. The product manufacturer must certify that their product meets these requirements.

For construction materials, the Act requires that all manufacturing processes occurs in the United States. This means that each manufacturing process required for the manufacture of the construction material and the inputs of the construction material occurs in the United States.

The IIJA finds that “construction materials” includes an article, material, or supply— other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives.

that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

To provide clarity to item, product, and material manufacturers and processors, we note that items that consist of two or more of the listed materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials. For example, a plastic framed sliding window should be treated as a manufactured product while plate glass should be treated as a construction material.

Pending the Office of Management and Budget (OMB)’s issuance of final standards on construction materials, and absent any existing applicable standard in law or regulation that meets or exceeds these preliminary standards, it should be considered “all manufacturing processes” for construction materials to include at least the final manufacturing process and the immediately preceding manufacturing stage for the construction material.

To determine if a product is a manufactured product or a construction material a company can use the following flow chart questions to help with the process:

- 1) Is material exempt via established rules/interpretations? (Iron or steel, manufactured product, cement and cementitious materials, aggregates, aggregate binding agents or additives). If “Yes” then the material is exempt.
- 2) Is material one of the “5”? (Non-ferrous metal, plastic and polymer-based product, glass, lumber, or drywall)
- 3) If “Yes”, then ask: “Is the material combined with others through a manufacturing process?”
 - If No, it’s a Construction Material.

- 4) If the material is combined with others through a process, it could be considered a Manufactured Product.

The following requirements are for recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- (1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

- (2) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project.