



Build America, Buy America (BABA)

MTD/CST/ALD Conference

Presented by: CST, ROW, ALD, FHWA





Construction Division

Buy America Implementation



Code Connection



Expanded Buy America Requirements

IIJA = Infrastructure Investment and Jobs Act



BABA = Build America, Buy America



Office of Management and Budget



2 CFR Part 184 & 200



Pre 11/2022 Buy America (Iron/Steel) Requirements

23 CFR 635.410

Transportation Code 223.045



FHWA

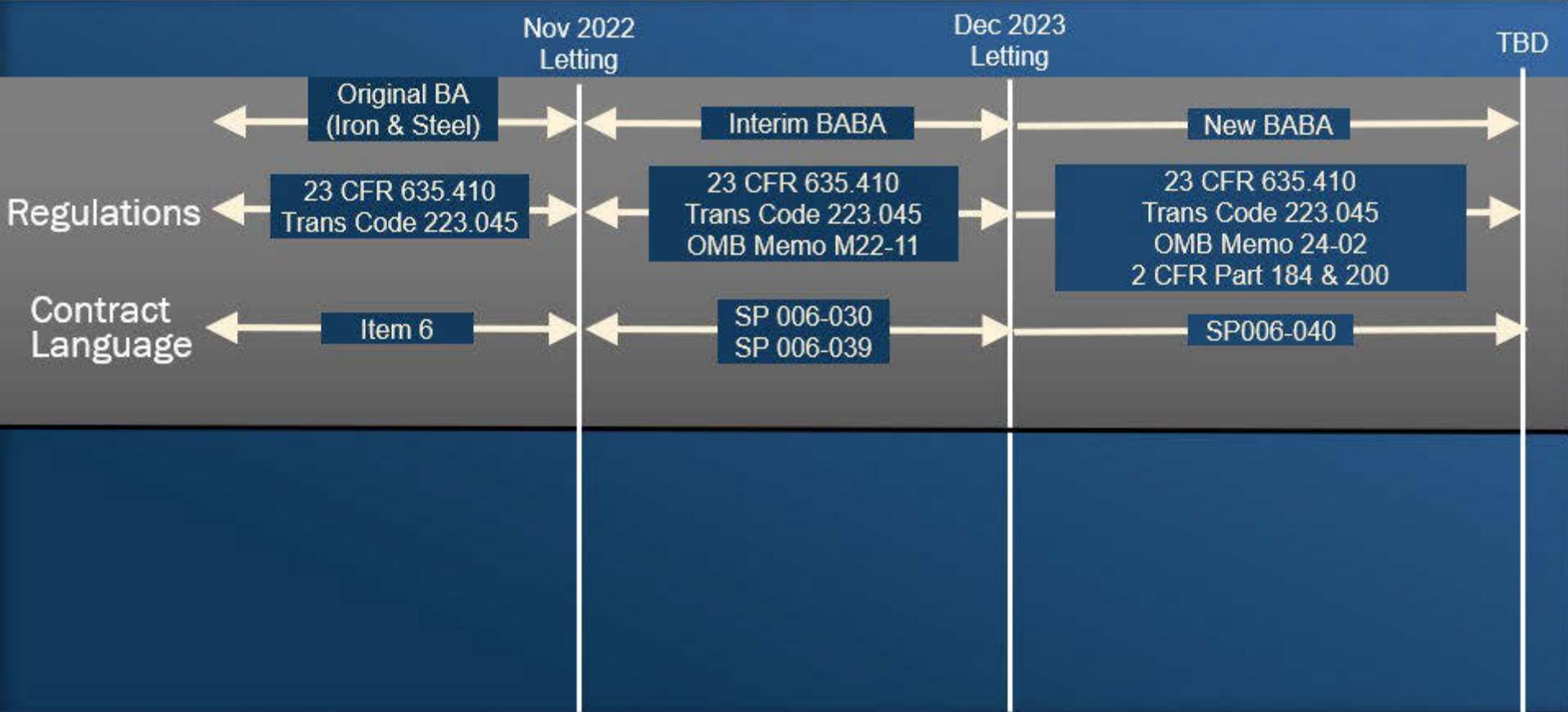


State



Contract

Compliance Timeline





Iron or steel products

- Requires Buy America Compliance



Section 70917(c) materials

- Aggregates etc; excluded from BABA



Construction materials

- Requires Buy America Compliance



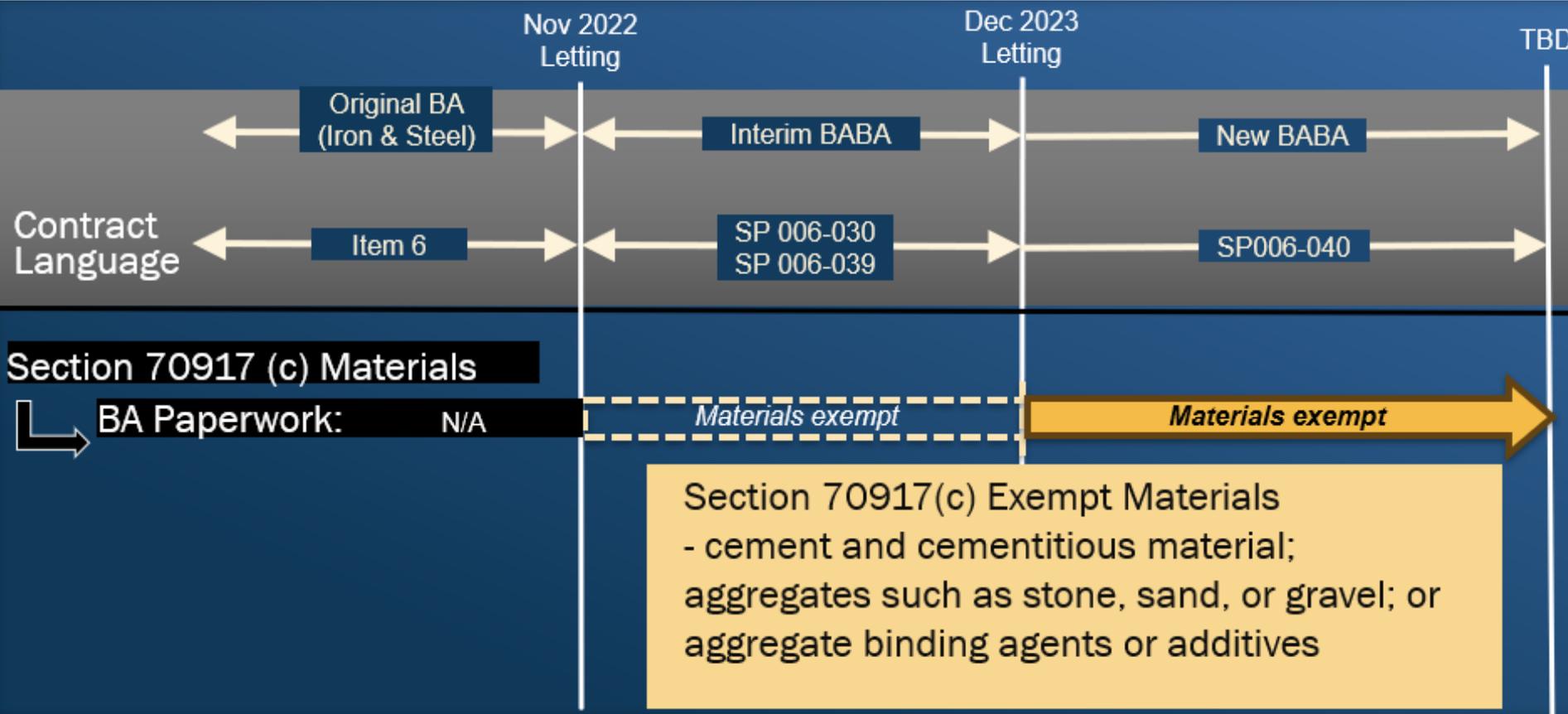
Manufactured products

- Currently waived from Buy America Compliance

- Each have regulations to aid in categorization and compliance.
- Categorization is based on the “status at the time it is brought to the work site for incorporation into an infrastructure project.”



Section 70917 (C) Materials







- Iron/Steel

NO Change - continue using current process to include Form 1818, MTRs and certifications as required.

- Manufactured Product

- Any Construction Material combined with any other item **other than minor additions as determined by the Engineer.**
- Any other material (excluding iron/steel).



Buy America Material Classification Sheet

Buy America material classification sheet

Materials

Asphalt Binder Dashboard

Asphalt supplier certifications

Materials forms

Design-build guide schedule

Design-bid-build guide schedule

Material producer list

Buy America material classification sheet

Material Specifications

Materials test procedures

Aggregate Quarry and Pit Safety Program

Technical advisories

Equipment calibration templates

Starting December 2023 letting, certification requirements for construction materials and Build America Buy America have changed. Existing contracts will continue to follow the provisions set in the contract. New Buy America Material Classification sheet and Form 2806 have been created to meet these requirements.

The Buy America material classification sheet categorizes materials as iron and steel, construction material, or manufactured product on a per-item basis. Section 70917(c) materials is added as a category starting December 2023 letting. Buy America Material Classification sheets for respective contract requirements are found below. Any material not specifically listed or called out in the contract will be covered by the definition of construction material set in the contract.

The contractor will need to submit Form 2806, "Construction Materials Buy America Certification," for all items classified as a construction material to be in compliance with the Build America, Buy America Act (BABA).

Form 2806 has two versions to reflect the new (SP006-040) and previous (SP006-030 or SP006-039) requirements.

- [Form 2806 - Version 1](#) is required for contracts let between November 2022 and November 2023 with SP006-030 or SP006-039 (File requires download to view)
- [Form 2806 - Version 2](#) is required for contracts on or after December 2023 with SP006-040. These contracts had a federal authorization date after 10/23/2023 (File requires download to view)
- [Buy America Material Classification sheet \(for on or after December 2023 letting with SP006-040\)](#)
- [Buy America Material Classification sheet \(November 2022 to November 2023 lettings with SP006-030 or SP006-039\)](#)

Resources

- [BABA Rollout Presentation for Contracts letting 11/22 to 11/23 with SP006-030 or SP006-039](#)
- [BABA Update Presentation for Contracts let on or after 12/23 with SP006-040](#)

Archived classification sheets

- As materials are added to the classification sheets, previous versions of the respective sheet will be archived here.

Stored at same location as MPL:

TxDOT.gov →

Do Business →

TxDOT Specifications →

(bottom of page under additional Resources)

Or

Search "Buy America Material Classification sheet"
@ txdot.gov

UPDATE:

- SP 006-040
- New Form 2806
- New Classification Sheet
- SP6-30, SP6-39 use Form 2806 Version 1 and Classification Sheet.

Buy America Material Classification Sheet



Iron/Steel
No Requirement Changes

2806 Version 2
Required

No 2806 Required

Version Date:	11/7/2023					
Note: List does not encompass all items in construction. Please refer to the specification or Area Office for clarification. This is to be used with SP006-040						
Item Code	Description	Iron/Steel Buy America Documents required. (Iron and Steel Requirements apply)	Construction Material Buy America Documents required. () denote Manufacturing Requirements to be met.	Manufactured Product. (no Buy America Certification Required)	Section C Materials (no Buy America Certification Required)	Notes
0423	Retaining Walls	<ul style="list-style-type: none"> Steel Earth Reinforcements Reinforcing Steel Mechanical Couplers 	<ul style="list-style-type: none"> Pipe Underdrains (plastic and polymer) Waterstop (plastic and polymer) 	<ul style="list-style-type: none"> Expansion Joint Material Evaporation Retardants Curing Compound Waterproofing if asphaltic Filter Material Filter Fabric 	<ul style="list-style-type: none"> Concrete Epoxies and Adhesives 	

Other Updates:

- Added note clarifying:
 - for SP006-040,
 - Not all items listed
- Listed additional materials.

Added: “()” to clarify certification requirement

Added Section C Materials



- **Construction Materials (CM): Not before, Are Now.**
 - Structural Glued Laminated Timber
 - Elastomeric Pads
 - HDPE pipe
 - Aluminum Signs
 - Wood Mulch
 - Waterstop (non-asphaltic)
 - Geogrid
 - Drainage Mats

- CM clarified.
 - Rebar Chairs
 - Rebar Spacers for soil nail walls.



Form 2806 Version 2 - Construction Materials Buy America Certification

 **Form 2806**
Version 2
Rev. 05/24
Page 1 of 1

Construction Materials Buy America Certification

This version of 2806 (version 2) is for applicable contracts let on or after December 2023.

Form 2806 must be completed to certify compliance with 2 CFR Part 184 and the Build America Buy America (BABA) Act. Construction materials are classified as articles, materials, or supplies that consist of only one of the items listed in bullets below. Minor additions (as determined by plans or Engineer) to any of the items listed is still a construction material.

- Non-Ferrous Metals**, certification requires all manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.
- Plastic and Polymer-Based Products** (including polyvinyl chloride, composite building materials, and polymer used in fiber optic cables), certification requires all manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.
- Glass** (including optic glass), certification requires all manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.
- Fiber Optic Cable** (including drop cable), certification requires all manufacturing processes, from the initial ribbing (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.
- Optical Fiber**, certification requires all manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.
- Lumber**, certification requires all manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.
- Engineered Wood**, certification requires all manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.
- Drywall**, certification requires all manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

CSI: Area Engineer:

Prime Contractor:

Subcontractor:

Item Code:

Manufacturer/Fabricator:

Purchase Order:

Material:

This is to certify that all quantities of the above listed material(s) for this specified project are in conformance with the governing specification(s) and certification requirements found above. Alterations to this document by any agency other than the Prime Contractor will void the certification. In the event a producer/fabricator is no longer compliant or if there is a change of the producer/fabricator, an additional Form 2806 is required. Submit documentation to support this certificate of compliance for the specified material(s), as requested by the Engineer.

Prime Contractor Representative Name:

Prime Contractor Representative Signature: Date:



Used with:

SP006-040 (projects let on or after 12/2023)

Order Number revised to Purchase Order

What is the Contractor certifying?

1. Meets specs,
2. Certification requirement per Material.
3. All Quantities for that material on the project by Purchase Order.
4. Will provide a new 2806 if change in supplier or supplier is no longer compliant.

Form 2806 Version 1 - Construction Materials Buy America Certification



 **Construction Materials Buy America Certification** Form 2806
Version 1
(Rev. 03/24)
Page 1 of 1

This version of 2806 (version 1) is for applicable contracts let November 2022 to November 2023.

Form 2806 must be completed to certify compliance with Build America, Buy America Act (BABA Act). Construction Materials are classified as 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.

CSI: Area Engineer:

Prime Contractor:

Subcontractor:

Item Code:

Producer/Fabricator:

Purchase Order:

Material:

This is to certify that all quantities of the above listed material(s) for this specified project are in conformance with the governing specification(s) and that at least the final manufacturing processes and the immediately preceding manufacturing stage for the construction material occurred in the United States of America. Alterations to this document by any agency other than the Prime Contractor will void the certification. In the event a producer/fabricator is no longer compliant or if there is a change of the producer/fabricator, an additional Form 2806 is required. Submit documentation to support this certificate of compliance for the specified material(s), as requested by the Engineer.

Prime Contractor Representative Name:

Prime Contractor Representative Signature: _____ Date:

Used with:

-SP006-030/SP006-039

(Projects let between 11/2022 and 11/2023.)

Order Number revised to Purchase Order

What is the Contractor certifying?

1. Meets specs,
2. *“The final manufacturing process and the proceeding manufactured process occurred in the United States of America.”*
3. All Quantities for that material on the project by Purchase Order.
4. Will provide a new 2806 if change in supplier or supplier is no longer compliant.



- Likely Challenge?
 - Evolution/Removal of the Manufactured Product Waiver.
- Rising to the Challenge... a Bat?
 - Buy America Taskforce, a partnership with AGC.
 - Teaming up to:
 - identify improvements,
 - adapt to change, and
 - successfully deliver a leading Buy America program.



Aggregates alone do nothing, working together they can be the foundation for anything.

TEXAS ASSEMBLE!!!

– Thanks, and Gig'Em

Eduardo Acosta Jr.

TxDOT CST's FHWA Liaison

Eduardo.Acosta@txdot.gov



TxDOT Utility Accommodation

Buy America



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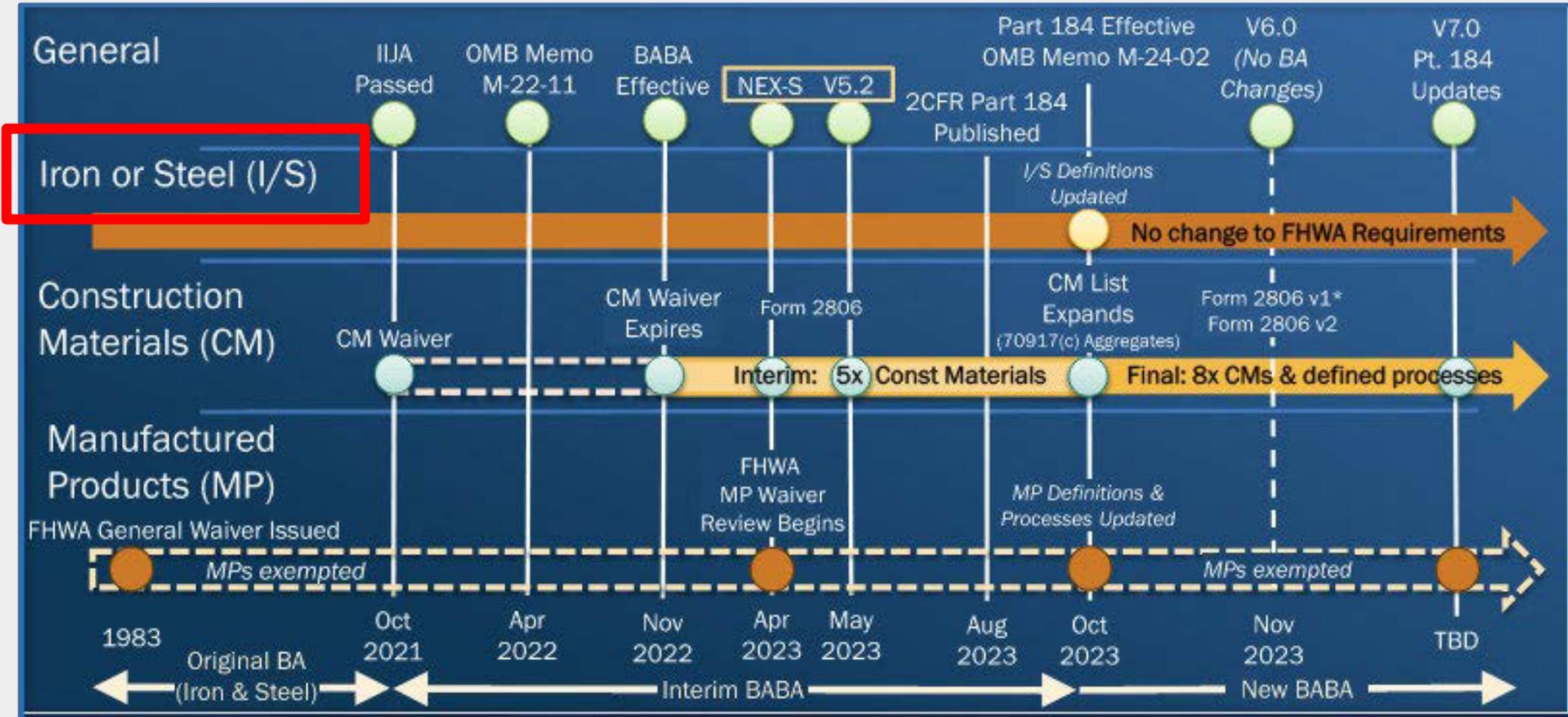
- Set forth in **23 CFR 635.410**

- The project either:

- (i) Includes no permanently incorporated steel or iron materials, or
 - (ii) if steel or iron materials are to be used, all manufacturing processes, including the application of a coating, for these materials must occur in the United States. The coating includes all processes which protect or enhance the value of the material to which the coating is applied.

- https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=df77aee403b235af5e0b8828a01d24de&mc=true&=SECTION&n=se23.1.635_1410

Buy America Compliance – Iron or Steel





- *All manufacturing processes of the steel material in a project (i.e., smelting, and any subsequent process which alters the steel material's physical form or shape or changes its chemical composition) must occur within the United States to be considered of domestic origin. This includes processes such as rolling, extruding, machining, bending, grinding, and drilling.*





- What should you document?
 - Notifications to third parties that project is Buy America / Iron and Steel Preference Provision Compliant
 - Cost estimates and plan sheets
 - Verification prior to installation
 - Form 1818
 - Mill Test Reports or Certifications
 - Inspections during installation



Buy America Documentation – Form 1818



All fields must be filled out completely to be an acceptable Form 1818.

16. Documentation: MTR or Cert. should be selected, per the documentation being submitted. The attached MTRs and Certifications are offered as proof of Domestic Origin.

16.a MTR: The Mill Test Report (MTR) issued and signed by the initial fabricator stating that the Buy America materials were melted and manufactured in the United States.

16.B Cert.: Certification (Cert.) should state that all products that are composed predominately of steel and/or iron were manufactured domestically, in compliance with the BUY AMERICA provisions of 23 CFR 635.410. Certification should be project specific.

Note: Specifications, shop drawings, catalog pages, and emails are not acceptable documentation for compliance.

The image shows a portion of the 'Material Statement' form (Form 1818). At the top right, it says 'Material Statement' and '1. Sheet ___ of ___'. Below that are fields for '5. Country:', '6. Project:', and 'Control:'. A table follows with columns: 'Material Use', 'Required Spec.', 'Documentation MTR', and 'Cert.'. The 'Required Spec.' column has '15' in red. The 'Documentation MTR' column has '16.a' in red. The 'Cert.' column has '16.b' in red. Below the table, there is a section for 'manufacturing processes for steel and iron' and a signature line with 'Official Signature' and 'Date' labels. At the bottom, there is a field for '(Firm Name)'. A large orange callout bubble is overlaid on the form, containing the text from the previous blocks.



Atlas Tube Corp. Chicago
1855 East 122nd Street
Chicago Illinois USA
60633
Tel: 773-646-4500



REF. B/L: 80877357
Date: 04/05/2019
Customer: 1561

Atlas Tube Corp. Chicago
1855 East 122nd Street
Chicago Illinois USA
60633
Tel: 773-646-4500
Fax: 773-646-6128



REF. B/L: 80877357
Date: 04/05/2019
Customer: 1561

MATERIAL TEST REPORT

Material: 18.000x250x40*0*(1x1).A2523

Material No: R180002504000-A252

Made in: USA
Melted in: USA

Sales Order: 1376198

Purchase Order: 126050

Heat No	C	Mn	P	S	Si	Al	Cu	Cb	Mo	NI	Cr	V	Ti	B	N	Ca
X1027	0.060	0.760	0.012	0.004	0.030	0.033	0.150	0.025	0.010	0.050	0.070	0.003	0.002	0.0000	0.0070	0.0021

Bundle No	PCs	Yield	Tensile	Eln. 2in	Certification	CE: 0.22
M901055131	1	062000 Psi	071300 Psi	35 %	ASTM A252-10 GR 3	
Heat	MILL	Mill Location	Method	Recycled Content	Post Consumer	Pre-Consumer (Post Industrial)
X1027	BETA	PORTAGE,IN	EAF	85.00%	50.00%	40.00%

Material Note:
Sales Or. Note:

CE calculated using the AWS G1.1 method.



Buy America Documentation – Not Acceptable MTR



Near Hapur Road Flyover, Mathura
Ghaziabad - 201001, Uttar Pradesh, India
 Phone: +91 120 4376970 - 71

Achheja, P.O. Dujana, G.T. Road
Greater Noida (Phase II) - 203207, Uttar Pradesh, India
 Phone: +91 120 4186600, Fax: +91 120 4186641

TEST CERTIFICATE

Customer Name : TDW India Ltd.
 Customer P.O. No. and Date : PP00011781-1 Date: 21-05-14
 Order Acceptance No. and Date : OA/14-15/A-192 Date: 23-05-14
 Invoice No. and Date : NA

Group No.	PO Item No.	Description	Qty	Dimension Std./Drwg.No. /Size
G163BJ	3)	DISC : 105 OD X 70 MM THK, NACE	2	AS PER SIZE
G1727D	10)	DISC : 392 OD X 79 MM THK, NACE	15	AS PER SIZE

Heat Analysis (Weight%)																				
Group No.	Steel Maker Melt/Heat No.	C	Mn	Si	P	S	Cr	Ni	Mo	Ti	As	V	Nb	Al	Cu	Sn	Pb	N	Sb	CE
G163BJ	430364S	0.200	1.250	0.240	0.014	0.005	0.012	0.008	0.001	-	-	0.002	0.001	0.031	0.005	-	-	-	-	0.412
G1727D	4309433	0.210	1.280	0.200	0.017	0.003	0.007	0.009	0.001	-	-	0.001	0.00	0.028	0.007	-	-	-	-	0.426

Mechanical Properties										
Group No.	Direction	Tensile Strength MPa	Yield Strength MPa 0.2% Offset method	Elongation in % age L = 4D	Reduction Area %age	Impact Test Charpy (10x10x55 mm) 2 mm V Notch at minus 50°C	Bend Test	Hardness BHN	Micro Test	
G163BJ	Tangential	496	310	28.4	68.63	60,56,54 AVG= 60 Joule	NA	148, 152	NA	
G1727D	Tangential	493	316	33.6	72.57	66,80,54 AVG= 66.67 Joule	NA	146, 149	NA	

Heat Treatment	
Group No.	Material Specification
G163BJ	ASTM A350 Gr. LF2 CL.1, 2013
G1727D	ASTM A350 Gr. LF2 CL.1, 2013

Product Marking/Identification Marks		
Group No.	PO Item No.	Identification Marks
G163BJ	3)	A-192-3 105 OD X 70 MM THK A350 GR LF2 CL1 N. G.No. G163BJ H.NO. 4303643 NACE
G1727D	10)	A-392-10 392 OD X 79 MM THK A350 GR LF2 CL1 N. G.No. G1727D H.NO. 4309433 NACE

Page 1 of 2 of TC. No CHW/QC/14-15/1311



CRN: 16.018



Format No. QACC/F/16 Rev. E1

Buy America Documentation – Not Acceptable MTR



Испытационный сертификат № 04466

Inspection Certificate No. 04466

№ п/п	C	Mn	Si	P	S	Cr	Ni	Mo	Al	Cu	Sn	V	Nb	C.E.	Стр.
1.144007	0.02	0.18	0.01	0.002	0.002	0.07	0.09	0.023	0.005	0.22	0.019	0.000	0.020	0.34	

Actual Weight
Repair by means of welding is 1
Country of origin Ukraine.
See welding backing

SIMEC INTERNATIONAL
SIMEC INTERNATIONAL, S.A. DE C.V.
PRODUCTOS SIDERURGICOS TLAXCALA, SA DE CV
Aseguramiento de la Calidad

CERTIFICADO DE CALIDAD N° 14-2667A
ACEROS ESPECIALES
CERTIFICATE OF QUALITY N° 14-2667A CUSTOMER ORDER:

CLIENTE	GRADO DE ACERO
CUSTOMER	STEEL GRADE
N° DE COLADA	ASTM A105
HEAT N°	MEDIDA
26670514	SECTION SIZE
IDENTIFICACION	PERFIL
COLOR CODE	SHAPE
Black	Round

ANÁLISIS QUÍMICO %
CHEMICAL ANALYSIS %

C	Mn	Si	P	S	Cr	Ni	Mo	Al	Cu	Sn	V	Nb	C.E.
0.02	0.18	0.01	0.002	0.002	0.07	0.09	0.023	0.005	0.22	0.019	0.000	0.020	0.34

METALOGRAFIA
METALLOGRAPHY

TAMANO DE GRANO	DECARBURIZACION	ESTRUCTURA	INCLUSIONES NO METALICAS
GRAIN SIZE	DECARBURIZATION	STRUCTURE	NONMETALLIC-INCLUSIONS
n/a	0.006"	Ferrite-Perlite	A B C D 0.0T 0.0T 0.0T 0.0T 0.0H 0.0H 0.0H 0.0H

PROPIEDADES MECANICAS
MECHANICALS PROPERTIES

RESISTENCIA A LA TENSION	LIMITE DE CEDENCIA	REDUCCION DE AREA	% ALARGAMIENTO	DUREZA
TENSILE STRENGTH (PSI)	YIELD STRENGTH (PSI)	REDUCTION IN AREA	ELONGATION IN 2" gage	HARDNESS
73,160	60,050	74.9	39.3	148-149 BHN

Reduction ratio= 5.81

NACE MR0103-2003
Melted and manufactured in MEXICO
NACE MR0175

30-Dic-2014 18:26

7) Vacuum Degassed
ASTM A105-11; ASME SA105-10
ASTM A350-10 LF-2 Cl. 1; ASME SA350-10 LF2 Cl. 1
ASTM A675-03(2009) Gr. 70; ASME SA675 Grade 70
ASTM A 696-00A(2009) Gr. C; ASME SA696-10 Gr. C
175 / ISO 161661-2003
Melted and manufactured in MEXICO

Arturo D: Benavides L

FECHA DATE 29-Dic-2014 18:26
ASEGURAMIENTO DE CALIDAD QUALITY ASSURANCE DEPARTMENT



TEXTUBE

Purchase Order: S7A7163371 Sales Order: S042336 P.O. BOX 55710 • HOUSTON, TEXAS 77255-5710
(713) 686-4351 x 219 PHONE
(713) 685-3641 FAX
www.ter-tube.com

Heat Number	Vendor Name	Description	Mfg Date
1711860	Ternium -MC3 Mexico Monterrey, MS, Mexico	API5L X52 8-5/8"X.322" WALL (28.58#)BARE, DRL, PEB	03/13/18 28.58 lb/ft

CHEMICAL ANALYSIS

“Coil Manufacturer: Ternium MC3-Lazaro Cardenas, Mexico”

The products manufactured from this coil will not be Buy America compliant. The creation of the coil from the iron ore is a manufacturing process, and it was accomplished in Mexico. That fact disqualifies all of the products manufactured from the coil, even if all of that later manufacturing was done domestically.

FLATTENING TEST PASSED
1.5 INCH T180 STRIP SPECIMEN
THIS MATERIAL MEETS : ASTM A53B, ASME SA53B LATEST EDITION
API 5L PSL 2 GRADE X52M
MEETS HARDNESS REQUIREMENTS OF NACE MRO 175/ISO 15156-2, CLAUSE A.2.1.1
MEETS ISO 10474 3.1 B/EN 10204: 3.1 / STANDARDS ARE LATEST REVISION
STEEL SUPPLIER: TERNIUM MC3-MONTERREY, NL, MEXICO
COIL MANUFACTURER: TERNIUM MC3-LAZARO CARDENAS, MEXICO

Buy America Documentation - Verification



Texas Department of Transportation Weekly Utility Coordination Verification Report	
Utility Verification	
Roadway: SH 11	DATE: Monday, October 28, 2019
Limits: 6.19 Miles East of FM 2653 to SH 11	ROW CSJ:
	CON CSJ: 0083-02-051, 0083-02-057
	WEATHER: Cloudy (60°F)
UTILITY OWNER	PERSONNEL
City of Sulphur Springs	Patterson Professional Services

COMMENTS

Arrived on-site approximately 11:15 AM

City of Sulphur Springs

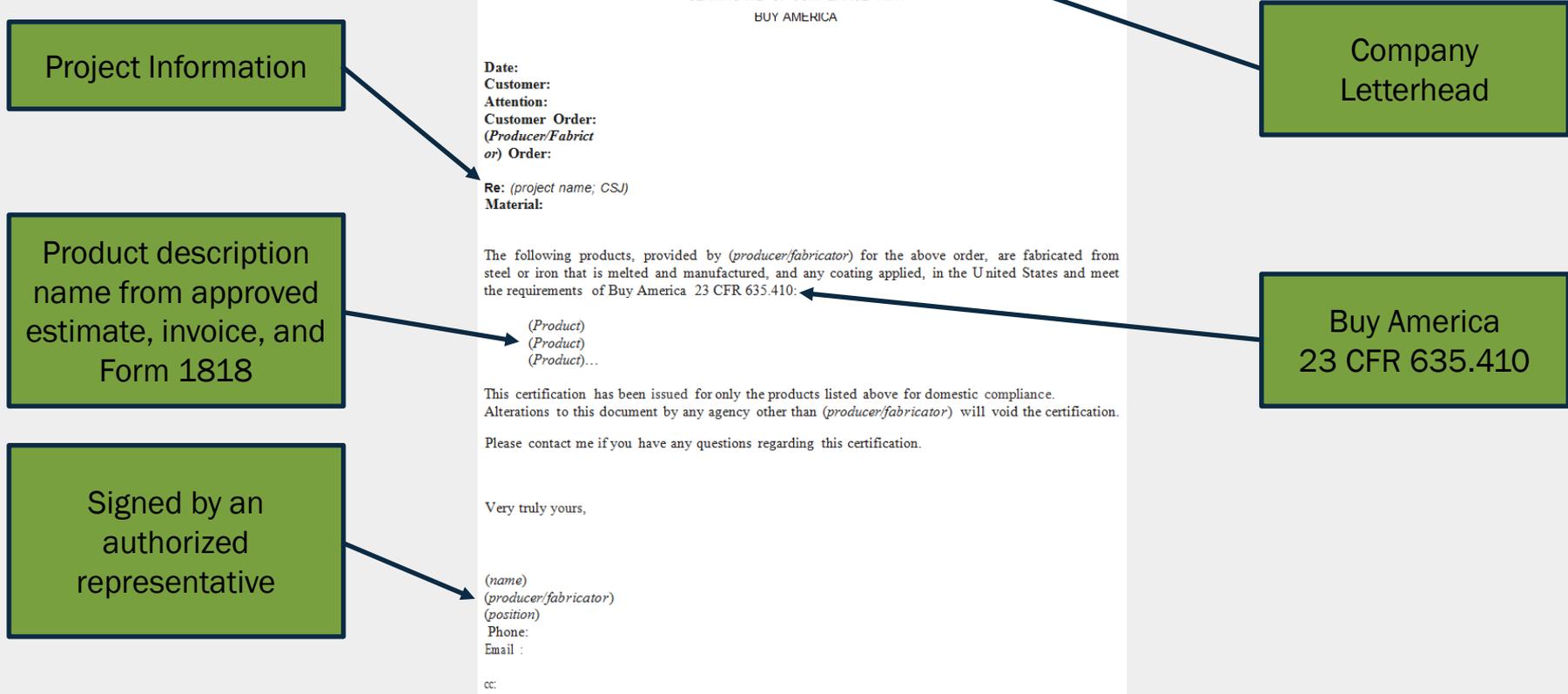
Patterson was on site welding the 18" split casing today. The split casing had been verified on site. The 30" steel casing and the 8" T valve were also present on the site and verified as well. The site was still heavily flooded, and Patterson mentioned that they did not expect any further construction this week due to the weather.

Inspector: Clint Owens Date: 10/28/19



Patterson on site welding the 18" split casing

Certificate of Compliance Letter



Certificate of Compliance Letter - Acceptable



Project Information

Product description name from approved estimate, invoice and Form 1818

Signed by an authorized representative

Company Logo

Address

Company Letterhead

Buy America 23 CFR 635.410

BUY AMERICA CERTIFICATION

January 29, 2019

Project: _____
Location: San Antonio, TX
Quote Nr.: 42749
Letter Ref. Nr.: 4250 - Buy America - DOT - Provisional Certificate

Please accept this letter as certification that the following products are manufactured in the United States: All gate valve components are cast, machined, assembled, and tested in the U.S. with the exception of fasteners, which represent a minimal amount of the manufacturing cost of the product. All hydrant components are cast, machined, painted, assembled and tested in the United States with the exception of bolts, nuts, chains and one casting (stem coupling), which represent a minimal amount of the manufacturing cost of the product. The manufacturing locations are noted below.

In accordance with the requirements contained in 23 CFR 635.410, minimal use of foreign steel and iron materials is allowed, provided the cost of such materials does not exceed 0.1 percent of the contract price or \$2500 whichever is greater.

Product	Size	Quantity	Manufacturing Location
A-2361-23RN E264, M2 x MJ Resilient Wedge Gate Valve	41", 67", 81"	1, 32, 1	Chattanooga, TN
A-2361-23RN E364, M2 x MJ Resilient Wedge Gate Valve	12"	18	Chattanooga, TN
DA-2361-23RN E364, M2 x MJ Resilient Wedge Gate Valve	16"	16	Chattanooga, TN
423-526975, Super Centurion Fire Hydrant	8" Bury	32	Albertville, AL

Sincerely,

Name and Signature

Actual Certifications will be provided after the order is placed. Please contact your Customer Service Representative with your Order Number and Letter Reference Number (noted in the header above).

GB.



2019 Buy America Guidelines

- Verify compliance prior to installation of material
- Buy America does not apply to Misc. items
- Option for Utility Owner to sign
- Language on what to include on Certificate of Compliance Letter

Buy America Documentation

- Form 1818
 - Mill Test Reports or Certificate of Compliance
- Review prior to sending to ROW Utility inbox
- Form 1818 executed and legible documentation

Certificate of Compliance Letter

- Company Letterhead
- Project Information
- 23 CFR 635.410
- Material Description from approved estimate & Form 1818
- Signature



Before the installation of products subject to Buy America compliance, the utility facility owner will submit an executed TxDOT Form 1818



Contact us if you need assistance,
we're here to help!

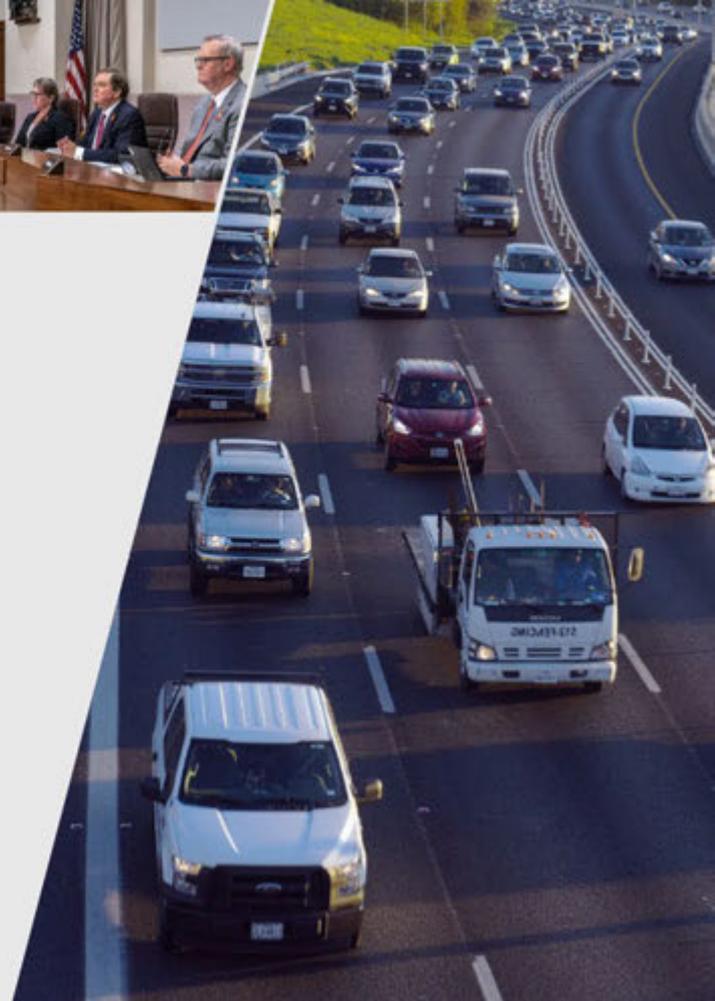
ROW_UtilityRequests@txdot.gov

- ❖ Wayne Robinson, Utility Portfolio Section Director - Wayne.Robinson@txdot.gov
- ❖ Corinna Clark, Lead Utility Specialist - Corinna.Clark@txdot.gov
- ❖ Chrissy Melder, Utility Specialist - Christina.Melder@txdot.gov
- ❖ Hazel Zepeda, Utility Specialist - Hazel.Zepeda@txdot.gov
- ❖ Juan Barron, Utility Specialist - Juan.Barron@txdot.gov
- ❖ Leo Tovar, Utility Specialist - Leonel.Tovar@txdot.gov
- ❖ Paul Fierro, Utility Specialist - Paul.Fierro@txdot.gov

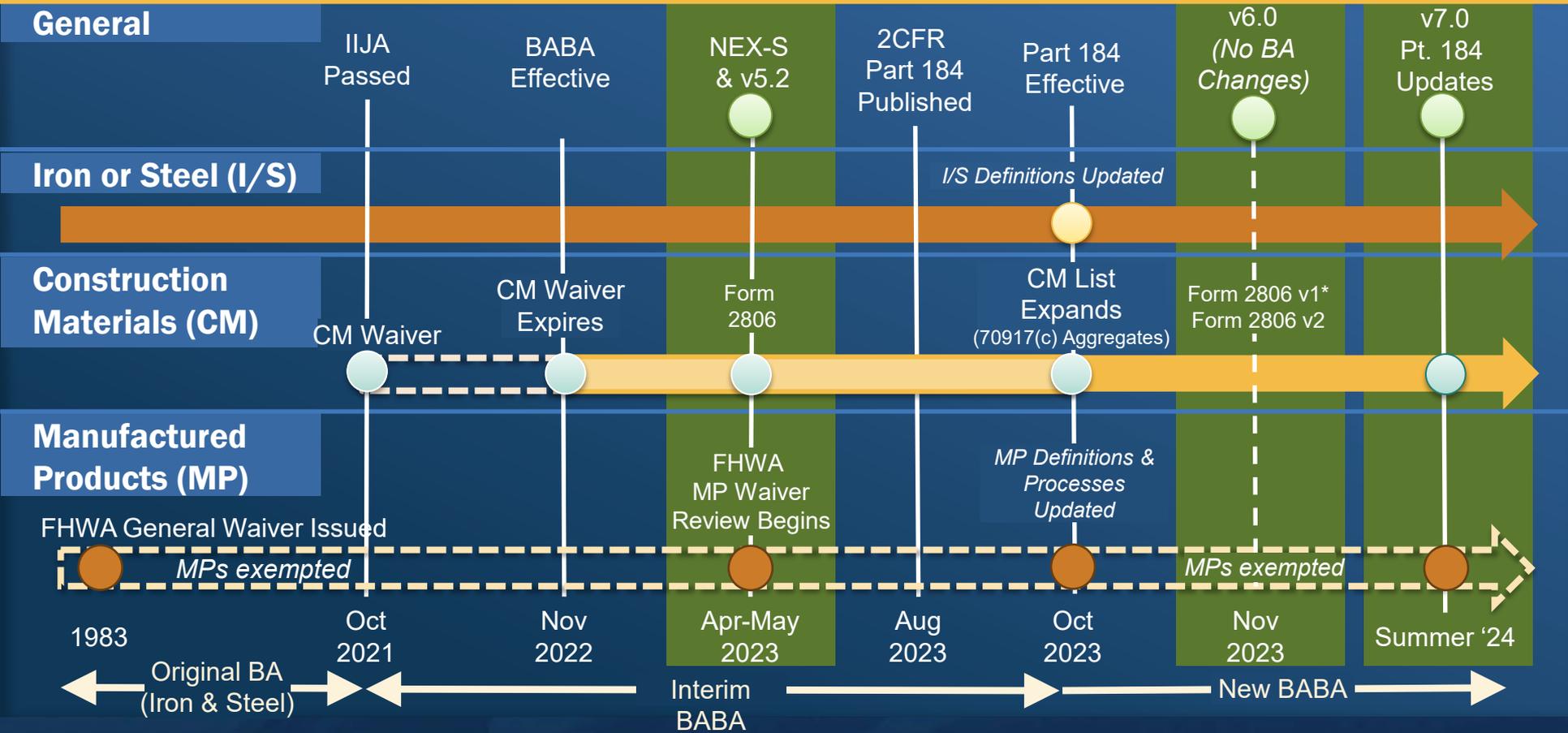


Buy America and Design-Build Projects

Alternative Delivery Program (ALD)



Buy America Evolution and Design-Build Contract Versions



Design-Build Contractor's Buy America Requirements



CONTRACT REFERENCE
DBA GC,
Attach 3-1,
Exhibit 7

Buy America Certificate

- DBA General Conditions, Attachment 3-1, Exhibit 7



CONTRACT REFERENCE
DBA GC,
Item 6

DBA GC Item 6* defines certification requirements - consistent with SP 006-040



*Initial BABA Act requirements added to v5.2 (& NEX-S); 2CFR Part 184 requirements added to v7.0
Manufactured products remain exempted under FHWA general waiver



**TxDOT.gov, Search
“Alternative Delivery Projects”**



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To join the Alternative Delivery “E-Blast” Distribution email
Send email to: Alma.Piper@txdot.gov
Subject: “ALD E-Blast”

<https://www.txdot.gov/business/road-bridge-maintenance/alternative-delivery.html>



Waivers

FHWA – Texas Division



Initiating a Buy America Waiver Request



TxDOT may request to pursue a Buy America waiver from FHWA if there are valid grounds for it, such as:



**Public
Interest
Waiver**

Inconsistency
with public
interest



**Nonavailability
Waiver**

Nonavailability of required
materials in sufficient
quantity and satisfactory
quality



**Unreasonable
Cost
Waiver**

Increase in project cost of
over 25% due by including
U.S.-produced materials

Conditional Nature of Waivers:

Waivers, if approved, are generally project-specific and limited in scope to maintain intent of the Build America, Buy America Act.



- Waiver Type
- Project /Recipient Information
- Cost of item and total cost of project
- List of waiver items type including names of product, specifications and country origin (if known).
- Description of effort made (market research, industry outreach, etc.)
- Market research should include relevant details:
 - when conducted,
 - sources used and
 - methods used to conduct
- Anticipated Impact if no waiver is approved



- Submissions from Recipient
- FHWA will review and determine the merits of the request or ask for additional information.
- If request has merits, then review waiver with Made in America Office (MIAO).
- The proposed waiver and detailed written explanation will be posted publicly for a minimum 15 calendar days
- Description of effort made (market research, industry outreach, etc.)
- FHWA will review and address comments as need.
- If waiver is still considered to have merit, then will submit to MAIO
- MIAO will determine if the waiver is consistent with applicable law and policy.



- Manufactured Products Notice of Proposed Rulemaking
 - Published March 12, 2024

- Summary:
 - Proposing to discontinue FHWA's general waiver of Buy America requirements for manufactured products.
 - Proposes standards for applying Buy America to manufactured products (should the waiver be discontinued)

- Comments must be received by May 13, 2024.

CST Buy America FAQs



QUESTIONS

ANSWER

Is there a change to existing iron/steel Buy America Requirements?



No. Changes may come in Phase IV.

Will the Material Producer List (MPL) be updated?



Yes and No, TxDOT is working at identifying Buy America Compliant Products but not all suppliers are required to be BABA compliant.

Do we need to get a new Form 2806 for additional quantity?



No, contractor is certifying all quantity on the project. Contractor responsible if supplier changes or is no longer certified.

Are the new Buy America Guidelines going to change?



Possibly, FHWA is reviewing the existing Manufactured Products waiver.

What construction material documentation are we expecting besides the Form 2806?



At this time, TxDOT is not requesting any additional documentation other than Form 2806 for Construction Materials. However, project documentation is still required to verify material source and quantities.

CST Buy America FAQs



QUESTIONS

ANSWER

Can payment be made without receipt of the Form 2806?



Form 2806 is required for payment for DBB project compliance with the CFRs.

Can a certified invoice be provided as a substitution to Form 2806?



No, only the applicable Form 2806 to the project is allowed. There are no equivalents or substitutions.

What if the material is applicable to multiple item codes?



List all item codes on Form 2806.

When is Buy America documentation due?



Prior to installation.

CST Buy America FAQs

QUESTIONS

ANSWER

What if the Material Classification Changes?



Material Classification Sheet is versioned and stored online. Contractors use the Materials Classification specific to their contract.

Will a digital copy be acceptable?



An electronic version is acceptable.

Is the Form 2806 Version 1 or 2 required to be notarized?



No.

If you have a question on how a material is classified, contact your district construction office who will coordinate with CST Division.
For general questions, contract the respective division.



Thank You!