

OEPA-DERG Program Buy America Certification Guidance

FHWA's Buy America regulations, embodied in 23 CFR 635.410, "require a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available."

To determine the necessary certification under Buy America, please follow the below steps:

1. Does the product contain any steel or iron product manufactured outside the United States? To be considered domestic, all steel and iron used and all products manufactured from steel and iron must be produced in the United States and all manufacturing processes, including application of a coating, for these materials must occur in the United States. If the product does not contain any foreign steel or iron then you may fill out the attached Buy America Certification form and submit it to ODOT. The Buy America process does not apply to your project. If there is ANY foreign steel or iron in your product then you must move to step 2.

2. The Buy America regulation does "not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project." If the minimal use clause applies to your project then please fill out the Buy America Certification form and submit it to ODOT. The Buy America process does not apply to your project. If the minimal use clause does not apply to your project then you must move to step 3.

3. FHWA policy provides for a Buy America waiver for certain manufactured products. To be eligible for the Manufactured Products waiver, the product must consist of less than 90% steel or iron content when it is delivered to the job site for installation. Please [click here](#) for the full guidance on manufactured products. If your product meets this manufactured products definition, please provide documentation of how the product is a manufactured product and submit to ODOT for approval.

If your product meets the manufactured products waiver criteria above please provide documentation of how the product is a manufactured product and submit to ODOT for approval. Information included in your documentation should include, at a minimum:

- Materials Composition of Product
- Percentage of Steel and Iron in Product by Cost
- Percentage of Steel and Iron in Product by Weight
- Manufacture Location
- National Origin of Steel and Iron Contained in Product

If your product does not meet the above criteria for the manufactured products waiver then you must move to step 4.

4. Products that have foreign steel and are not manufactured products must go through the Buy America Waiver Process. ODOT will initiate the process of obtaining a waiver from FHWA. ODOT will

request information from the project sponsor to use as part of the submission to FHWA. The waiver process can take time and the project may not move forward until a waiver is completed.