



FEDERAL-AID PROCUREMENT “BUY AMERICA” LAWS		
<p>Federal-Aid Highway Buy America</p> <p>23 U.S.C. § 313</p> <p>23 C.F.R. § 635.410</p> <p>FHWA</p>	<p>The FHWA Buy America requirement applies to the Federal-aid Highway Construction Program and prohibits the granting of Federal Aid Highway funds to states for infrastructure projects unless steel, iron, and manufactured products used in such projects are produced in the United States.</p>	<p>For iron and steel: “Produced in the United States” requires “all manufacturing processes, including the application of a coating, for these materials [occurred] in the United States.” 23 C.F.R. § 635.410(b)(1). The FHWA has characterized the requirement as follows:</p> <p>“Manufacturing begins with the initial melting and mixing, and continues through the coating stage. Any process which modifies the chemical content, the physical size or shape, or the final finish is considered a manufacturing process. These processes include rolling, extruding, machining, bending, grinding, drilling and coating. ‘Coating’ includes epoxy coating, galvanizing, painting, or any other coating that protects or enhances the value of the material.”¹</p>
<p>Federal-Aid Transit Buy America</p> <p>49 U.S.C. § 5323(j)</p> <p>49 C.F.R. Part 661</p> <p>FTA</p>	<p>The FTA Buy America requirement permits the Secretary of Transportation to release funds for a project only where the steel, iron and manufactured goods used in the project are produced in the United States.</p>	<p>For steel and iron construction materials (e.g., structural steel or iron, steel or iron beams and columns, running rail and contact rail): All manufacturing processes must take place in the United States, except metallurgical processes involving the refinement of steel additives. 49 C.F.R. § 661.5(b).</p> <p>For “manufactured products”: (1) all of the manufacturing processes for that product must take place in the United States; and (2) All of the components of that product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United</p>

¹ Federal Highway Administration, *Contract Administration Core Curriculum Participant's Manual and Reference Guide 2006*, <http://www.fhwa.dot.gov/programadmin/contracts/core02.cfm#s2B01> (2006).



		<p>States, regardless of the origin of its subcomponents. 49 C.F.R. § 661.5(d).</p> <p>For rolling stock: (1) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and (2) final assembly of the rolling stock has occurred in the United States.</p>
<p>Intercity Passenger Rail Federal-Aid Buy America</p> <p>49 U.S.C. § 24405</p> <p>FRA</p>	<p>The Secretary of DOT may only obligate amounts appropriated for the Intercity Passenger Rail Service Corridor program if the steel, iron, and manufactured goods used in the project are produced in the United States.</p>	<p>For manufactured goods, including rolling stock, to be considered produced in the United States: (1) All of the manufacturing processes for the end product must take place in the United States; and (2) All of the components of the end product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.</p> <p>For consistency sake with industry-understood FTA rules for rolling stock, FRA has determined that the “manufacturing process” applicable to end product rolling stock is “final assembly.” Final assembly is the creation of the end product from individual elements brought together for that purpose through application of manufacturing processes.</p> <p>For all other manufactured end products, including the components of rolling stock, the applicable “manufacturing process” is “manufacturing.” “Manufacturing” means the application of processes to alter the form or function of materials or of elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the</p>



		<p>elements or materials.</p> <p>A component, including a rolling stock component, is considered to be manufactured in the United States if there are sufficient activities taking place in the United States to advance the value or improve the condition of the subcomponents of that component; that is, if the subcomponents have been substantially transformed into a new and functionally different article.</p>
<p>Federal Aviation Administration</p> <p>49 U.S.C. §§ 50101-50105</p> <p>FAA</p>	<p>The Secretary of DOT is permitted to release funds for aviation facilities, safety projects and other construction projects only if steel and manufactured goods used in the project are produced in the United States.</p>	<p>For facilities and equipment: (1) the cost of components and subcomponents produced in the United States is more than 60% of the cost of all components; and (2) final assembly of the facility or equipment occurs in the United States.</p>
<p>AMTRAK Buy America</p> <p>49 USC § 24305</p> <p>FRA</p>	<p>Amtrak's domestic buying preference statute requires Amtrak to purchase manufactured articles with a value exceeding \$1 million dollars that are manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.</p>	<p>For manufactured end products: Manufacture in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.</p> <p>"Substantially" has been interpreted by Amtrak and Federal Railroad Administration (FRA) to mean that the manufactured articles in Amtrak's purchases must have domestic component content greater than fifty percent (by cost).</p>



<p>Clean Water and Drinking Water State Revolving Fund through 2014 Consolidated Appropriations Act</p> <p>Pub. L. 113-76, Division G, § 436</p> <p>Environmental Protection Agency</p>	<p>Requires use of American iron and steel products in projects receiving aid and financing through CWSRF and DWSRF.</p> <p>Iron and steel products include: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps, restraints, valves, structural steel, reinforced precast concrete and construction materials.</p>	<p>“Produced in the United States:” Applied through guidance issued by the EPA to mean “all manufacturing processes from the initial melting stage through the application of coatings.”</p>
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<p>Clean Water State Revolving Fund</p> <p>33 USC § 1388</p> <p>Recently enacted as part of the Water Resources Reform and Development Act, Pub. L. 113-121.</p>	<p>Requires use of American iron and steel products in projects receiving aid and financing through CWSRF.</p> <p>Iron and steel products include: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps, restraints, valves, structural steel, reinforced precast concrete and construction materials.</p>	<p>TBD</p>
<p>Water Infrastructure Finance Innovation Act Buy America</p> <p>33 USC § 3914</p> <p>Recently enacted as part of the Water Resources Reform and Development Act, Pub. L. 113-121.</p>	<p>Requires use of American iron and steel products in projects receiving financing through new WIFIA program.</p> <p>Iron and steel products include: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps, restraints, valves, structural steel, reinforced precast concrete and construction materials.</p>	<p>TBD</p>