

Build America Buy America(BABA) in 2024

Michael Dennee, Contract Services Group Coordinator

CLASSIFICATIONS DEFINITIONS

N/A	BABA does not apply to temporary items. The BABA preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project.
Exempt	BABA excludes asphalt products, cement and cementitious products, aggregates, or concrete additives.
Iron or Steel Products (I/S)	Articles, materials, or supplies that wholly or predominantly of iron or steel or a combination of both. Buy America requirements apply to any steel or iron component of a manufactured product regardless of the overall composition of the manufactured product (e.g., Buy America applies to the steel wire mesh or steel reinforcing components of a precast reinforced concrete pipe). Requires ODOT form No. 734-2126.
Construction Material (CM)	Construction materials means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material. Requires ODOT Form No. 734-5378. (1) Non-ferrous metals, plastic and polymer-based products, glass, fiber optic cable, lumber, engineered wood, drywall (2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.
Manufactured Product (MP)	Articles, materials, or supplies that have been processed into a specific form or shape or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. Currently, manufactured products fall under the 1983 FHWA waiver and do not need a Certificate of Materials Origin.

QUALIFIED PRODUCTS LIST

QPL	If the material is listed on the QPL, the classification of the material can be found on the QPL listing for the specific product submitted.
-----	--

MATERIAL CLASSIFICATION

Material codes and descriptions are referenced from AASHTOWare Reference Data. For some materials, there are multiple listings, as each subtype has a different material classification. Refer to notes, Material Classification descriptions, and QPL if applicable, to identify classification of the specific proposed product.

What has changed

- Implementation of the new Build America Buy America requirements will be focused on the use of Construction materials which are non-ferrous metals, plastic and polymer-based products, glass, fiber optic cable, lumber, **engineered wood**, drywall.
- *Note: Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material. (Coatings and Glue) effective for contracts with federal construction authorization after **October 23, 2023.***

What has changed

- Specific items that Build America Buy America does apply to
 - Lumber- Treated or Glued
 - Glass beads- Coating
 - PVC items- With or Without rubber gaskets
 - Galvanic Zinc Anodes
 - Engineered Wood - structural composite lumber and cross-laminated timber. * Not a complete listing of Construction Materials see the Material Classification Guide for additional information.

Implementation

- Build America Buy America does allow for de minimis amount of foreign construction material incorporated in projects
- The allowances for foreign iron or steel from Buy America still remains the same
- There will be two forms that are required (depending on the type of material)
 - Form 734-2126 – Certificate of Materials Origin
 - Form 734-5378 – Construction Materials CMO

De minimis allowance

The USDOT issued a Public Interest Waiver for De Minimis Costs and Small Grants. The final waiver can be viewed here:

<https://www.federalregister.gov/documents/2023/08/16/2023-17602/waiver-of-buy-america-requirements-for-de-minimis-costs-and-small-grants> and this waiver applies to materials covered by the Build America Buy America Act effective for contracts with federal construction authorization after **August 16, 2023**.

De minimis allowance

In order to apply the BABA de minimis amount on a project with assistance of \$500K or more, the lesser of \$1M or 5%, we will need to determine the “Total applicable project costs” for that Project.

De minimis allowance

Assuming a \$10 million paving project with over \$500K in federal assistance. The paving materials themselves, asphalt and aggregate don't count. We look at estimated material costs for things like pavement markings, delineation, and perhaps some minor signs or drainage and all those material costs for materials under BABA or Buy America add up to \$100,000 "Total applicable project costs", then the waiver would allow up to \$5,000 (5%) of the construction materials under BABA to be unknown or foreign.

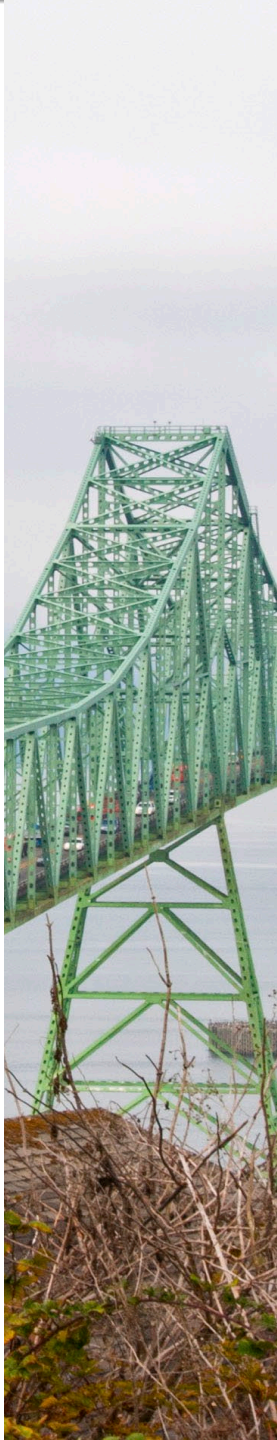
De minimis allowance

Assuming a \$10 million bridge project with over \$500K in federal assistance. The concrete and paving materials themselves, Portland cement, asphalt and aggregate don't count. We look at estimated material costs for things like reinforcement steel, bearings, bridge rail, piling, pavement markings, delineation, and perhaps some minor signs or drainage and all those material costs for materials under BABA or Buy America add up to \$1 million "Total applicable project costs", then the waiver would allow up to \$50,000 (5%) of the construction materials under BABA to be unknown or foreign.



CERTIFICATE OF MATERIALS ORIGIN

PROJECT NAME (SECTION)		CONTRACT NO.
BID ITEM NO.	BID ITEM NAME	
DOMESTIC MATERIALS SOURCE (NAME AND ADDRESS)		
DOMESTIC MATERIALS DESCRIPTION		
FOREIGN MATERIALS SOURCE INCLUDING MATERIAL OF UNKNOWN ORIGIN (NAME AND ADDRESS)		
FOREIGN MATERIALS (OR OF UNKNOWN ORIGIN) DESCRIPTION AND VALUE OF IRON OR STEEL PRODUCT AS IT IS DELIVERED TO THE PROJECT		
<p>This certification is made for the purpose of establishing materials acceptance under the Contract Special Provisions titled 00160.20(a) Buy America. All iron or steel manufacturing processes, including protective coatings, for the domestic materials described above occurred within the United States of America.</p> <p>Manufacturers' certificates verifying the origin of the above described domestic materials will be kept on file for three years following final payment. Copies will be furnished to the Engineer upon request.</p> <p>I declare under penalty of perjury or falsification under Oregon and Federal laws that the foregoing is true and correct.</p>		
AUTHORIZED REPRESENTATIVE* NAME: _____ TITLE: _____ SIGNATURE: _____ DATE: _____	COMPANY* NAME AND ADDRESS: _____ _____ _____	
Submit a new certificate for subsequent shipments if any of the above information changes. *May be Contractor, Sub-Contractor or supplier		



Construction Material Certificate of Materials Origin

Print Form

This form is for projects with federal construction authorization between 11/10/2022 and 8/15/2023 and does not allow the use of any non-domestic Construction Material.

Project Name (Section)	Contract No.
Bid Item No.	Bid Item Name

Domestic Materials Source

Name
Address
Description (maximum 1000 characters)

This certification is made for the purpose of establishing materials acceptable under the Contract Specifications titled 00160.20(d) Build America Buy America. All manufacturing processes for the domestic materials described above occurred within the United States of America.

Manufacturers' certificates verifying the origin of the above described domestic materials will be kept on file for three years following final payment. Copies will be furnished to the Engineer upon request.

I declare under penalty of perjury or falsification under Oregon and Federal laws that the foregoing is true and correct.

Authorized Representative* Name _____ Title _____ Sign _____ Date _____	Company* Name and Address Company _____ Address 1 _____ Address 2 _____ City/State/Zip _____
---	--

*May be Contractor, Subcontractor or Supplier

Submit a new certificate for subsequent shipments if any of the above information changes.

Construction Material Certificate of Materials Origin

Print Form

Project Name (Section) _____ Contract No. _____

Bid Item No. _____ Bid Item Name _____

Domestic Materials Source

Name _____

Address _____

Description (maximum 500 characters)

Foreign Materials Source (including material of unknown origin)

Name and Address	Description and Value of Construction Materials as delivered to the project.

The total value of the non-compliant products (foreign or unknown origin) is no more than the lesser of \$1,000,000 or 5% of total applicable costs for the project.

This certification is made for the purpose of establishing materials acceptable under the Contract Specifications titled 00160.20(d) Build America Buy America. All manufacturing processes for the domestic materials described above occurred within the United States of America. Manufacturers' certificates verifying the origin of the above described domestic materials will be kept on file for three years following final payment. Copies will be furnished to the Engineer upon request.

I declare under penalty of perjury or falsification under Oregon and Federal laws that the foregoing is true and correct.

Authorized Representative*	Company* Name and Address
Name _____	Company _____
Title _____	Address 1 _____
Sign _____	Address 2 _____
Date _____	City/State/Zip _____

*May be Contractor, Subcontractor or Supplier

Submit a new certificate for subsequent shipments if any of the above information changes.



Contract Administration

Construction Home

Events and Conferences

SERVICES

Contract Administration

Lab Services

Quality Assurance

Structure Services

TRAINING & CERTIFICATION

Inspector Certification Program

Technician Certification Program

PAVEMENT

Managing Pavement Conditions

Pavement Quality and Materials

REFERENCES

Qualified Products

Construction Manuals

Resources

The Contract Administration Unit is responsible for uniform administration of all Oregon Department of Transportation construction contracts including:

- Contract payments;
- Contract change orders;
- Labor compliance;
- Document compliance;
- Measurement and payment;
- Contractor's claims or disputes.



Tools

- [Claims Against Contractor Bonds](#)
- [Closure & Delay Liquidated Damages Calculator](#)
- [Common CCO Templates](#)
- [CON-CAL \(Reduction Computation\)](#)
- [Construction Manual](#)
- [Construction Materials Testing Costs](#)
- [Oil Prices for Current/Newer Projects](#)
- [Project Status Reports Index](#)
- [Region Assurance Guide](#)
- [StatSpec – Version 3.10.5](#)
- [Subcontract Requirements](#)

Resources

Build America Buy America Act

Memo from the State Construction and Materials Engineer

- [Blue Sheets](#)
- [Materials Classification Guide](#)
- [Current Qualified Products \(QPL\) List](#)

Contact the Construction Section

800 Airport Road SE
Salem, Oregon 97301

Phone:   503-986-3000

Fax: 503-986-3096

[Email the Construction Section](#)

[Contract Administration Field Personnel](#)

[Visit this page for more service resources.](#)



- New language is posted as part of the Construction Manual (Chapter 12B starting on page 11)
- This is our best reference for implementation of the Build America Buy America requirements
- Anything that we need to change as this is being implemented will be modified in the Construction Manual so that RE Offices have information to enforce the requirements
- Please contact us if the guidance in the Construction Manual does not follow the guidance that you have heard – so that we can clarify and make adjustments to the Construction Manual as necessary

Build America Buy America

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act (IIJA), which includes the BABA Act (Pub. L. No. 117 58, Sections 70901 70941). While existing Buy America requirements previously applied to iron, steel, and certain manufactured products, BABA expands requirements to include all manufactured products and construction materials in construction contracts that include Federal funding.

The Act requires that no later than May 14, 2022—180 days after the enactment of the IIJA—the head of each covered Federal agency shall ensure that “none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” A 180-day transitional waiver was approved for US-DOT to extend the implementation of BABA to November 10, 2022.

Included in BABA

- Construction materials include 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, and drywall.
- BABA does not apply to temporary items, asphalt products, cement and cementitious products, aggregates, or aggregate additives. The BABA preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project.
- Manufactured products are defined as products consisting of at least two construction materials or other constituents that are produced or assembled off the Project Site. The existing 1983 FHWA waiver for manufactured products is being reviewed at the national level, as required by BABA. For now, manufactured products fall under the 1983 FHWA waiver.

Materials Classification Guide

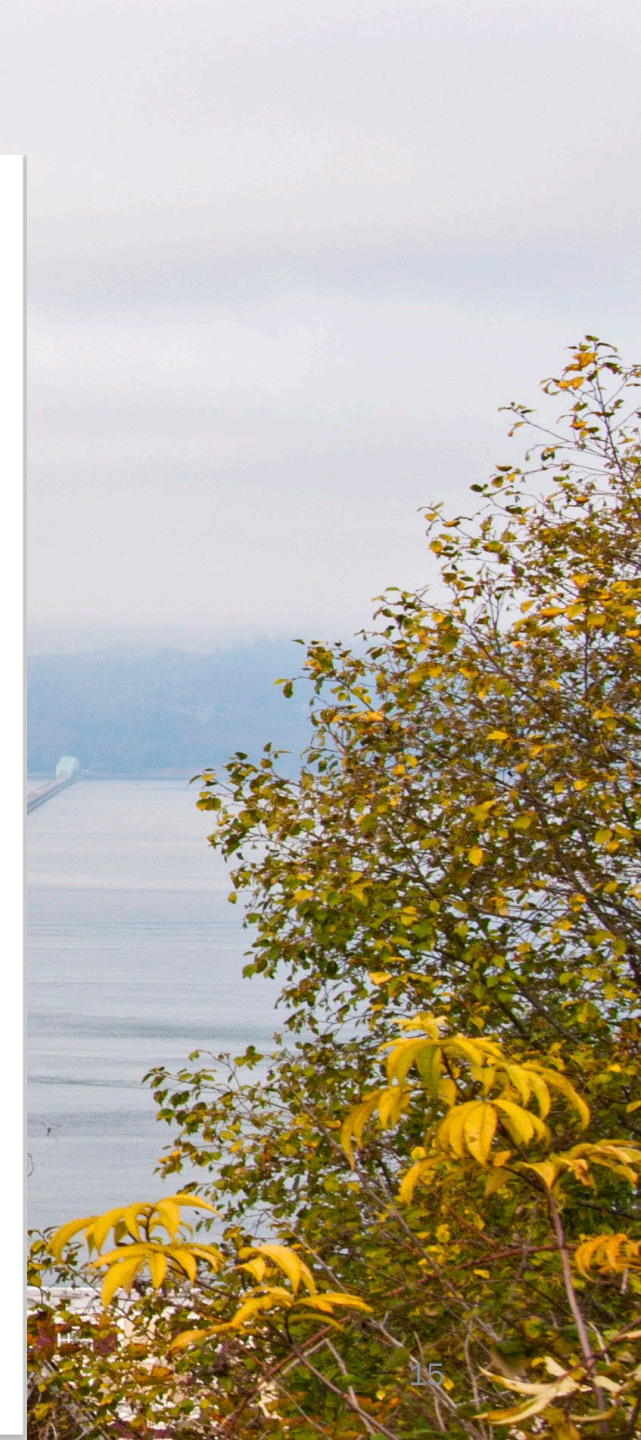
- List of most Construction Materials
- Organized by Material Codes and Specification
- 39 Pages of Material information
- Identifies how most Materials are addressed

Disclaimer: This spreadsheet is to be used as a guide to help determine the BABA classification of installed materials. The classification of the specific product installed may differ from the classification listed on this guide. Refer to the manufacturer's information to determine the proper classification of the specific product. This Guide will be updated and amended as needed. Refer to SP00160.20 Preferences for Materials for additional information.



BABA Material Classification Guide Oregon Department of Transportation

<u>MATERIAL CODE</u>	<u>MATERIAL DESCRIPTION</u>	<u>CLASSIFICATION</u>	<u>QPL</u>	<u>NOTES</u>
00470.10.00.00	Precast Vault	I/S		
00470.11.00.00	Precast Concrete Manholes	I/S		
00470.12.00.00	Manholes, Catch Basins, and Inlets, Cap Screws	I/S		
00470.13.00.00	Manholes, Catch Basins, and Inlets, Inside Drop Manhole Connectors	I/S		
00470.42.00.00	Precast Concrete Catch Basins and Inlets, Grade Adjustment Bolt System	I/S	QPL	
00475.10.00.00	Well Casing	I/S		
00510.13.00.00	Structure Excavation and Backfill, Granular Structure Backfill	Exempt		
00512.13.00.00	Steel Casing	I/S		
00512.14.a.00	Drilling Slurry, Mineral Slurry	Exempt		
00512.14.b.00	Drilling Slurry, Synthetic Slurry	Exempt	QPL	
00512.14.c.00	Drilling Slurry, Water Slurry	Exempt		
00512.15.00.00	Crosshole Sonic Log Access Tubes	I/S		
00512.18.00.00	Crosshole Sonic Log Cement Grout	Exempt		
00515.10.00.00	Micropile	I/S		
00520.43.f2.00	Steel Piles, Mechanical Splices	I/S		
00530.14.00.00	Concrete Inserts	I/S		
00535.10.00.00	Concrete Anchor, Resin High Strength	MP	QPL	
00535.10.00.01	Concrete Anchor, Resin Low Strength	MP	QPL	
00535.10.b.00	Mechanical Anchor System	I/S	QPL	
00536.11.00.00	Threaded Shear Anchors	I/S		
00538.10.00.00	Epoxy Resin	MP	QPL	
00542.10.a.00	Pumped Repair Mortar	Exempt		
00542.16.00.00	Hollow Wall Anchors	CM		Plastic/polymer
00542.18.00.00	Galvanic Zinc Anodes	CM		
00545.10.00.00	Bridge End Panel Pipe	CM		PVC pipe
00545.10.00.00	Bridge End Panel Pipe	I/S		Steel pipe
00550.00.a.00	Fabricated Precast Prestressed Members	Exempt		
00555.03.00.00	Anchorage Devices	I/S		
00556.10.a.00	Multilayer Polymer Concrete Overlay Epoxy	MP	QPL	Manufactured epoxy



Blue Sheet Materials

- Represents all materials covered by the Blue Sheets for traffic signals
- Organized by equipment categories
- 2 pages of information
- Identifies how each signal material is addressed

Blue Sheets list

Blue Sheet Materials	CMO/CCMO block on Blue Sheets	Iron/Steel CMO	BABA construction material CCMO	BABA manufactured product	Comments
Temporary features					
temporary covers		NO	NO	YES	
temporary meter base socket		NO	NO	YES	
temporary service cabinet		NO	NO	YES	
temporary terminal cabinet	YES - CMO***	***NO/YES	NO	NO	***CMO only required if used in permanent applications
temporary pre-cast 332s foundation		NO	NO	YES	
Temporary span wire equipment					
cable ties	YES - CCMO***	NO	***NO/YES	NO	***CCMO only required if used in permanent applications
messenger, tether, & stabilizer cable	YES - CMO***	***NO/YES	NO	NO	***CMO only required if used in permanent applications
eyebolt, turnbuckle, strandwise, S-hook	YES - CMO***	***NO/YES	NO	NO	***CMO only required if used in permanent applications
span wire hanger	YES - CCMO***	NO	***NO/YES	NO	***CCMO only required if used in permanent applications
tether clamps	YES - CMO***	***NO/YES	NO	NO	***CMO only required if used in permanent applications
tri-stud adaptor		NO	NO	YES	
Poles and pedestals					
chase nipple	YES - CMO	YES	NO	NO	
pipe plugs	YES - CMO	YES	NO	NO	
pedestal	YES - CCMO	NO	YES	NO	
Conduit & appurtenances					
conduit	YES - CMO/CCMO*	*YES (steel)	*YES (non-metallic)	NO	*Steel requires CMO and non-metallic requires CCMO
conduit bushings	YES - CMO/CCMO*	*YES (steel)	*YES (non-metallic)	NO	*Steel requires CMO and non-metallic requires CCMO
conduit plug	YES - CCMO	NO	YES	NO	
condulet	YES - CMO	YES	NO	NO	
conduit hub		NO	NO	YES	
expansion fitting		NO	NO	YES	
pull line	YES - CCMO	NO	YES	NO	
underground warning tape	YES - CCMO	NO	YES	NO	
Junction box					
Junction boxes		NO	NO	YES	
Cables, wires, grounding/bonding & appurtenances					
bond wire	YES - CCMO	NO	YES	NO	
ground rod and clamp		NO	NO	YES	
control cable		NO	NO	YES	
industrial ethernet cable		NO	NO	YES	
interconnect cable		NO	NO	YES	
TFFN, THWN, & XHHW wire		NO	NO	YES	
strain relief	YES - CMO	YES	NO	NO	
Misc mountings					
Radio mount		NO	NO	YES	
video detection mount		NO	NO	YES	
Pedestrian equipment					
Pedestrian signal and mount		NO	NO	YES	
LED module (pedestrian signal)		NO	NO	YES	
pushbutton and mount		NO	NO	YES	

QPL

- Identifies in the “Remarks” column which QPL items will require a CMO for either steel or construction materials

**ODOT CONSTRUCTION / MATERIALS SECTION
 QUALIFIED PRODUCTS LIST
 APPROVED LIST - NO SAMPLES OR TESTS REQUIRED*
 QUALIFIED LIST - ADDITIONAL REQUIREMENTS**
 DECEMBER 2022**

<u>STANDARD SPEC #</u>	<u>CATEGORY</u>	<u>PRODUCT NAME</u>	<u>LOCAL REPRESENTATIVE AND/OR MANUFACTURER</u>	<u>EFFECTIVE DATE</u>	<u>PRODUCT NUMBER</u>	<u>LIST</u>	<u>REMARKS</u>
00538.10	CRACK INJECTION EPOXY	SIKADUR 52	SIKA CORPORATION 800/933-7452 THAD BROWN 425/486-5916 ATLAS SUPPLY 800/806-7952 MASONS SUPPLY 800/537-3407	11/13/08	548	A	AASHTO TYPES I AND IV.
00538.10	CRACK INJECTION, EPOXY	DURAL 452 LV	EUCLID CHEMICAL COMPANY, THE 800/321-7628 DAVE DILLON 206/280-4576 MASONS SUPPLY 800/537-3407	03/17/14	4752	A	
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	CRACKBOND EPOTHANE T3	ADHESIVES TECHNOLOGY CORP. 954/789-4764	08/18/22	5404	Q	CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	EPX50-OVERLAY	E-CHEM, LLC JAMES HIGH 505/217-2121	06/04/15	4654	Q	CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	EPX50-OVERLAY FAST	E-CHEM, LLC JAMES HIGH 505/217-2121	04/18/17	5048	Q	FOR USE AT LOW TEMPERATURES FOLLOW MANUFACTURES RECOMMENDATIONS TEST DECK 2017 CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	FLEXOLITH	EUCLID CHEMICAL COMPANY, THE 800/321-7628 DAVE DILLON 206/280-4576 MASONS SUPPLY 800/537-3407	01/10/08	230	Q	WAS FLEXOLITH 216 CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	PRO-POXY TYPE III DOT	UNITEX BY DAYTON SUPERIOR STEVE HACKWORTH 253/245-0263 WILLIAMS FORM ENG 800/255-0560	06/10/10	1920	Q	CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	PRO-POXY TYPE III DOT LT	DAYTON SUPERIOR/UNITEX CLAY CHRISTIANSEN 801/671-3658	02/13/17	5017	Q	FOR USE AT LOW TEMPERATURES FOLLOW MANUFACTURES RECOMMENDATIONS TEST DECK 2017 CONSTRUCTION MATERIAL CMO REQUIRED
00556.10A	MULTI-LAYER POLYMER CONCRETE OVERLAY EPOXY	SIKADUR 22 LO MOD FS (FAST SET)	SIKA CORPORATION 800/933-7452	04/18/17	5051	Q	FOR USE AT LOW TEMPERATURES FOLLOW MANUFACTURES RECOMMENDATIONS TEST DECK 2017 CONSTRUCTION MATERIAL CMO REQUIRED

*LIST 'A' = APPROVED. MAY BE USED WITHOUT SAMPLES, TESTING, OR QUALITY COMPLIANCE CERTIFICATIONS. MAY NEED A FIELD INSPECTION REPORT.

**LIST 'Q' = QUALIFIED. USE WITH SAMPLING, TESTING, &/OR QUALITY COMPLIANCE CERTIFICATIONS AS NEEDED. NEEDS A FIELD INSPECTIONS REPORT. CHECK SPECS AND NFTMAG.

LIST PUBLISHED BY: ODOT MATERIALS LAB; 800 AIRPORT RD SE; SALEM, OR 97301-4798; (503) 986-3059. PLEASE REPORT ANY PROBLEMS USING THESE PRODUCTS.

Non-Field Tested Materials Guide

- C – Construction Materials Certificate of Materials Origin (C-CMO) Form 734-5378 - Build America Buy America (BABA) – Refer to 00160.20(d). Specification Sections that have been identified as containing Construction Materials that may require a C-CMO have been added throughout this guide. They can also be referenced on the Qualified Products List (QPL) at the following website:
<https://www.oregon.gov/odot/Construction/Pages/Qualified-Products.aspx>

The updated Non field materials acceptance guide

Oregon Department of Transportation
 Nonfield-Tested Materials Acceptance Guide
 2021 Standard Specifications

SECTION	TYPE OF CONSTRUCTION	MATERIALS	SUBSECTION	ACCEPTANCE DOCUMENTS				REMARKS
				FURNISHED BY CONTRACTOR TO		FURNISHED BY AGENCY		
				LAB	ENGR.	MATERIALS LAB	FIELD PERSONNEL	
00445 (con't)	Sanitary, Storm, Culvert, Siphon, and Irrigation Pipe (continued)	Nonreinforced Concrete Pipe	02410.10(f)				F	ODOT approved manufacturers: - Oldcastle Infrastructure, Auburn, WA - Oldcastle Infrastructure, Eugene, OR - Oldcastle Infrastructure, Keizer, OR - Oldcastle Infrastructure, Nampa, ID - Cascade Concrete Products, Scappoose, OR If pipe is not from ODOT approved manufacturer, contact Structure Services (503-986-3056) for acceptance information 21 Days prior to pipe casting. Requires Structure Services inspection.
		Reinforced Concrete Pipe	02410.10(g)		O		F	
						I		
		Polypropylene Pipe	02415.40		Q, C		F, QPL	
		Polyvinyl Chloride Pipe (PVC)	02415.50		Q, C		F	"Q" is markings on pipe. "C" is for Construction Material CMO according to 00160.20(d) "F" must document manufacturer's name, size and ASTM designation. Must be from the QPL and meet the requirements of 02415.40. "Q" is markings on pipe. "C" is for Construction Material CMO according to 00160.20(d) "F" must document manufacturer's name, size and ASTM designation.

Resources:

IIJA: <https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf>

BABA: IIJA Division G, Title IX, Sections 70901-70941

Office of Management and Budget Memo MB-22-11: <https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>

Contact Information:

General Information & Certificate of Material Origin (CMO) Forms:

Mike Dennee

Michael.J.Dennee@odot.oregon.gov

503-580-2013

Specifications:

Dan Anderson

Daniel.A.Anderson@odot.oregon.gov or ODOTSpecifications@odot.oregon.gov

503-986-3777

Qualified Products List (QPL)

Dean Chess

Dean.M.Chess@odot.oregon.gov

503-986-3059

Buy America (BA), Build America, Buy America Act (BABA) and HB3332 Updates

Effective

Waiver of Buy America and Build America, Buy America Requirements for De Minimis Costs and Small Grants - The USDOT issued a Public Interest Waiver for De Minimis Costs and Small Grants applicable to materials covered by BABA, including Buy America. First, Buy America and BABA are waived for projects with less than \$500k in federal assistance. Second, for projects with federal assistance of \$500K or more, the standard Buy America de minimis amount for steel or iron products (the greater of \$2500 or 0.1% of the Contract Amount) still applies but, a de minimis amount of the lesser of \$1M or 5% of the Total applicable project costs will also be allowed for BABA construction materials. In order to apply the BABA de minimis amount, the "Total applicable project costs" must be determined using cost of materials (not estimated or anticipated) for that Project, and is dependent upon the value of the materials chosen by the Contractor (as opposed to the fixed value of the Contract Amount). Specification language can be found in the Special Provisions 00160.20(d)

Effective for projects with federal construction authorization after 8/16/23
Projects bidding on or after 10/1/23 (PS&E on or after 8/14/23 and assumed obligation on or after 8/16/23)

The Office of Management and Budget (OMB) updates definition of Construction Materials - A change in definitions added Engineered wood and Minor additions. Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material. (Coatings, Treatments, and Glue). Specification special provisions 00160.20(d) does address the addition of Engineered wood but does not mention the added clarification of "Minor additions".

Effective for projects with federal construction authorization after 10/23/23
Projects bidding on or after 12/14/23 and a portion of Projects bidding on or after 12/7/23 (PS&E on or after 10/23/23 and assumed obligation on or after 10/23/23) Note: 3 projects bid in December that will likely be obligated before 10/23/23 and this will not apply.

<p>HB3332 request waiver - In the 2023 Oregon Legislative Session, HB3332 was passed and enacted to establish a steel and iron Buy America program for the Oregon Department of Transportation (ODOT) and Oregon Department of Administrative Services (DAS). HB3332 allows for the ODOT Director to waive HB3332 requirements that apply to a single public improvement contract or contract for public works, to a class of public improvement contracts or contracts for public works or to a class of iron or steel products, coatings, or manufactured products.</p>	<p>Effective for projects advertised after January 1, 2024.</p> <p><u>Projects at PCO bidding on or after February 1</u> must comply with the new HB3332 which equates to Projects advertised on or after January 1, 2024.</p>
<p>BABA Material Classification Guide - Bid items list is now Materials Classification Guide. Found on the CAU Webpage.</p>	<p>An E-Mail was sent out on December 8th regarding this.</p>
<p>Build America Buy America implementation of 2022 and revisions for 2023 Memo – The purpose of this memo is to provide guidance to meet expanded federal requirements requiring American made materials in construction contracts as required in the Build America Buy America (BABA) Act. Found on the CAU Webpage. Oregon Department of Transportation: Contract Administration : Construction : State of Oregon</p>	<p>An E-Mail was sent out on December 8th regarding this.</p>
<p>Materials Classification Material codes and descriptions are referenced from AASHTOWare Reference Data. For some materials, there are multiple listings, as each subtype has a different material classification. Refer to notes, Material Classification descriptions, and QPL if applicable, to identify classification of the specific proposed product.</p>	<p>From Materials Classification Guide found on Contact Administration Webpage. Oregon Department of Transportation: Contract Administration : Construction : State of Oregon</p>

Questions?