EPA Questions from Water BABA RFI

The original RFI can be found via this link.
https://www.regulations.gov/document/EPA-HQ-OW-2023-0396-0001

Important Background on the Build America, Buy America Act:

BABA requires each covered Federal agency to ensure that "none of the funds made available for a Federal financial assistance program for infrastructure. . . [are] 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" except if a waiver is granted. (Pub. L. 117–58, sec. 70914.) These requirements apply to an entire infrastructure project funded by Federal financial assistance, including those funded by the EPA water infrastructure programs, even if it is also funded by non-Federal funds.

Key Definitions:

For all predominantly iron or steel products used in infrastructure projects that involve the obligation of Federal financial assistance, all manufacturing processes of the iron and/or steel components, beginning with initial melting and including application of a coating, must occur in the United States (matching the American Iron and Steel statutory requirements). (Pub. L. 117–58, sec. 70912(6)(A).) Per the "Build America, Buy America Act Implementation Procedures for EPA Office of Water Federal Financial Assistance Programs" dated November 3, 2022, the EPA interprets a predominantly iron and steel product as ". . . made primarily (more than 50 percent) of iron and/or steel by materials cost . . .." This is consistent with the American Iron and Steel statutory requirements.

Manufactured products must be produced in the United States, meaning the final point of manufacturing must occur in the United States and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product. (Pub. L. 117–58, sec. 70912(6)(B).)

For construction materials, all manufacturing processes must occur in the United States. (Pub. L. 117–58, sec. 70912(6)(c).) Construction materials include incorporated products primarily made of non-ferrous metals, plastic and polymer-based products (including polyvinylchloride), fiber optic cable (including drop cable), optical fiber, glass, lumber, engineered wood, and drywall. (Pub. L. 117–58, sec. 70911(5) and 2 CFR 184.6.)

The EPA is specifically asking about the following product categories:

- lead service line replacement components (including but not limited to, service line, service saddle, corporation stop, curb stops, curb stop boxes and lids, service line fittings, water meters, meter setters, meter boxes, check valves and shut-off/isolation valves);
- valve actuators (electric/pneumatic/manual);
- pumps and pump motors;
- stainless steel products and domestic mills, especially small diameter pipe and fittings;
- PFAS treatment systems and media, especially granular activated carbon (GAC);
- controls and switches;

Analytical instrumentation:

- supervisory control and data acquisition (SCADA) systems;
- backup power products and systems;
- blowers and aeration equipment;
- gear reducers;
- drives (including variable frequency drives (VFDs));
- ultraviolet (UV) water treatment systems;

Membrane and other filtration systems (*e.g.,* ion exchange, membrane, and reverse osmosis);

- clarifier mechanisms;
- disinfection systems;
- conveyors;
- dewatering equipment (such as compressors and presses, including belt presses);
- floating surface aerators;
- ozone generators;
- measurement sensors;
- water meters and associated communications devices;
- automated level control gates; and
- other critical water infrastructure products, including whether they comply with applicable BABA requirements.

1. Domestic Materials Sourcing and Manufacturing:

a. For each of the products or categories of products you identified, please specify whether the product meets BABA requirements (described above) or is currently manufactured in the United States to meet a domestic final assembly condition. (Yes or no).

b. Please identify whether the products in your response fall within the iron and steel, manufactured products, or construction materials categories of BABA.

c. If you answered "Yes" to Topic 1(a), to the best of your knowledge.

i. Please identify all manufacturers that can either meet BABA requirements or can currently manufacture products or categories of products you specified in the United States. For products that meet the condition of manufactured in the United States, please identify the manufacturing location and percentage of components manufactured in the United States as calculated by cost of components (if known).

ii. What is the current production capacity of the products that can meet BABA requirements?

iii. What is the anticipated growth in BABA-compliant capacity over the next five years? Does this anticipated growth consider the more than $50 billion in increased funding described above? Please explain.

iv. For products able to meet BABA requirements, what is the estimated lead time from purchase order to delivery to the project site? Has this lead time increased or decreased in recent years?

d. If you answered "No" to Topic 1a:

i. What actions are manufacturers taking/could take to increase the manufacturing of products that will meet BABA requirements?

ii. What additional support or incentives (*e.g.,* financial, rulemaking certainty, etc.) are needed to ensure a sufficient supply of products that meet BABA requirements?

iii. How long might it take to implement the steps needed to increase or begin production of BABA compliant products?

iv. If a plan is in place to manufacture BABA compliant products, what is the volume of specific products that will follow BABA requirements and in what time frame?

v. Will the volume of BABA compliant products be ramped up over time, and, if so, at what annual growth rate?

vi. What are the limiting factors for the product's ability to meet criteria for BABA compliance? For example, are there components of these products for which it is hard to meet BABA requirements? Please describe each component separately and indicate approximately what percent of component value it represents.

2. Market Readiness:

a. For all products specified in Topic 1(a), provide your observations on the current and near-term demand expected for these products or categories of products. Does this estimate of future demand consider the more than $50 billion in increased funding described above? Please explain.

b. Provide information regarding whether the current and/or near-term manufacturing capacity would be adequate to meet the expected market demand.

Please specify any factors helping or preventing the industry from meeting the expected demand today and in the near-term and provide information on the current and expected availability or unavailability of key components or sub-components of the product or category of products you specified.

c. Are there supply chain issues that make it difficult to credibly communicate the existence of increased demand, or to credibly commit that such demand will be forthcoming? If so, please describe as specifically as possible.

3. Timing:

a. Where known, for each product/category of products specified in Topic 1, specify the current range of expected product delivery timeframes. Are any existing supply chain delays applicable or anticipated for the product(s) or critical components of the product(s)?

b. Provide information, if available, on expected delivery timeframe outlooks through the near-term future. Provide information, if known, on whether current timing delivery concerns are related to a temporary disruption.

c. Provide information on the current and expected near-term average customer delivery time.

d. Provide information regarding global supply chain constraints, local permitting, safety requirements and needs that may affect delivery timeframes or extend installation time.

4. *Other Practical Considerations:* Please specify any other considerations for the EPA regarding production, products, systems, equipment, or components of products used in water infrastructure.