



Understanding the “Buy America” Requirements for Water Infrastructure Projects



In 2014, Congress passed legislation that supports the jobs of thousands of hard-working Americans. This legislation requires that **all iron and steel products used in water infrastructure projects** funded by the State Revolving Funds, Water Resources Reform and Development Act and Water Infrastructure Finance and Innovation Act for federal Fiscal Year 2014 **must be made in the USA**. McWane stands ready to help you help our fellow Americans.

McWane is your go-to source for the high-quality domestic products that comply with these requirements.

PROJECTS COVERED:

- ALL water treatment works projects funded by a CWSRF, WRRDA and WIFIA assistance agreement signed January 17, 2014 or thereafter;
- ALL public water system projects funded by a DWSRF assistance agreement signed January 17, 2014 or thereafter;
- The ENTIRE project, not just the portion funded with SRF assistance;
- The ENTIRE project, no matter when construction begins or ends.

“IRON AND STEEL PRODUCTS” COVERED:

Products “primarily iron and steel” (must be 50% iron or steel, measured by cost); Defined to include:

- Lined or unlined pipes or fittings;
- Manhole covers;
- Municipal Castings;
- Tanks;
- Flanges and flanged pipe;
- Pipe clamps and restraints;
- Valves;
- Hydrants;
- Structural steel;
- Reinforced precast concrete; and
- Construction materials.

THE BUY AMERICA REQUIREMENT DOES NOT APPLY TO:

- “Manufactured goods” excluded from the AIS requirement are those components, equipment and systems that are mechanical and/or electrical. Examples include pumps, motors, actuators, compressors, and sensors, and systems such as membrane filtration systems, bioreactor systems and disinfectant systems.
- Coatings
- Non-iron and steel components of an iron or steel product
- Raw materials such as iron ore, limestone and iron and steel scrap
- Materials subject to waiver, such as fasteners included in valves and hydrants

IRON AND STEEL PRODUCTS MUST BE “PRODUCED IN THE UNITED STATES”

- “Produced in the United States” means that all manufacturing processes related to a product, including application of coatings, must take place in the United States, with the exception of metallurgical processes involving the refinement of steel additives.
- “All manufacturing processes” include “melting, refining, forming, rolling, drawing, finishing, fabricating, and coating.”
- Domestic iron and steel products taken abroad for additional processing and then imported into the U.S. become foreign source material.
- Raw materials such as iron ore, limestone and iron and steel scrap are not covered by the Buy America requirement.

BUY AMERICAN—SUPPORT AMERICAN INDUSTRY AND JOBS

THE DE MINIMIS WAIVER

The EPA has granted a “nationwide” waiver of the Buy American requirements for de minimis incidental components of eligible water infrastructure projects. It applies only to:

“Incidental” components that are:

- Miscellaneous, low-cost individually and in total;
- Typically procured in bulk;
- Country of manufacture not always identifiable in normal course of business;

Examples of incidental items cited by EPA: “small washers, screws, fasteners (i.e., nuts and bolts), miscellaneous wire, corner bead, ancillary tube, etc.”

Examples cited by EPA as non-incidental:

“[S]ignificant process fittings (i.e., tees, elbows, flanges, and brackets), distribution system fittings and valves, force main valves, pipes for sewer collection and/or water distribution, treatment and storage tanks, large structural support structures, etc.”

Other non-incidental components that must be made in the USA include components that are:

- High-cost;
- Described in project specific technical specifications;
- Exceed, individually, one percent (1%) of a project’s total materials costs.

Millions of American rely upon funding for water infrastructure projects to protect their jobs, their families, and their water supplies. By using tax dollars to purchase products made overseas, our government rewards those companies who moved their operations, investment dollars, and jobs to foreign countries, where they can disregard environmental and safety regulations with impunity and where inefficient energy processes are the norm. Many of those foreign plants are operated without waste, air and water pollution control systems, increasing the level of greenhouse gases and other pollutants that ultimately affect us all.

McWane remains committed to American industry, investing hundreds of millions of dollars to modernize U.S. plants and make them safe, efficient, and compliant, thus preserving thousands of well-paying American jobs and the futures of many communities.

GENERAL ISSUES

- The nationality of manufacturer is irrelevant—the location of the manufacturer determines compliance. Thus, a product made overseas by a U.S. manufacturer DOES NOT comply;
- The trade agreements exception only applies if the state or municipality receiving the SRF funding has signed NAFTA or WTO - go to www.ustr.gov/sites/default/files/REVISED%20Appendix.pdf;
- Only U.S. EPA can issue project-specific waivers, which are only applicable to specific product for a specific project.

COMPLIANCE

- Get certification letter from manufacturer documenting location of manufacture in U.S. and specific information related to the products;
- Conduct due diligence;
- Maintain documentation.



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