



**GIBSON STAINLESS®**  
& SPECIALTY INC



# Understanding The Regulations For American-Made Products

***Regulations on American-made products date back to as early as 1933; however, efforts of reshoring, the act of bringing offshored work back to the United States, are becoming increasingly prevalent. With the recent passage of new regulations, it is important to be aware of all requirements when sourcing American-made products.***

Because these regulations contain differing definitions of American-made products, compliance with the various new acts can quickly become confusing. This guide is intended to clarify those differences, making it easier to understand and comply with each act.

## Buy American Act

The Buy American Act of 1933 (BAA), codified in [Title 41 United States Code \(U.S.C.\) Chapter 83](#) and [Federal Acquisition Regulation \(FAR\) Part 25](#), especially Subparts 25.1 and 25.2, requires that “domestic construction materials” or “domestic end products” be used in all projects and public works funded by the Federal Government.

A “construction material” is considered “an article, material, or supply brought to the construction site by a contractor or subcontractor for incorporation into the building or work.” An “end product” is considered to be “those articles, materials, and supplies to be acquired for public use.”

In order for a construction material or an end product to qualify as *domestic* under this act, it must be:

- A) unmanufactured *and* mined or produced in the United States; or
- B) manufactured in the United States *and*
  - a. the cost of the components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all components; or
  - b. the construction material is a commercial-off-the-shelf (COTS) item



While the BAA does not specifically define “manufactured,” a review of other legislation, code, and guidance regarding domestically-sourced materials reveals that the term is commonly understood to mean a material or product that has been a) processed into a specific form and shape and/or b) combined with other raw materials to create a material that has different properties than the properties of the individual raw materials. The BAA does define a “component” as “an article, material, or supply incorporated directly into an end product or construction material.”

In understanding the Buy American Act, an end product or construction material is compliant with the domestic requirements of the Act if the two-part test above is satisfied.



## Buy America

The Buy American Act is not to be confused with the [Buy America provision](#) of the Surface Transportation Assistance Act of 1982, which is focused on the transportation industry (rail, highway, etc.).

Applicable to projects funded under the U.S. Department of Transportation (DOT), the Act requirements are codified in 23 U.S.C. 313 for the Federal Highway Administration (FHWA) and 49 U.S.C. 5323 (j) for the Federal Transit Administration (FTA). Additional codification in the Code of Federal Regulation (CFR) occurs for the FHWA in 23 C.F.R. 635.410 and for the FTA in 49 C.F.R. 661.

The Buy America Act requires that “all iron, steel, and manufactured products used in the project are produced in the United States” for projects funded by the DOT. In order for a product to be considered produced in the United States, “all of the manufacturing processes for the product must take place in the United States; and all of the components of the 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.”

The Act goes on to define a component as “any article, material, or supply whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location.”

In this Act, “manufacturing process” is defined as “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 elements or materials.”

To break down the Buy America provision, an end product is in compliance with the Act if it is manufactured in the United States from components manufactured in the U.S., regardless of the source of raw material.



## American Recovery and Reinvestment Act — Buy American Provision

[The American Recovery and Reinvestment Act](#) (ARRA), or Public Law 111-5, is also often referred to as The Recovery Act or The Stimulus. Enacted in 2009 in response to the Great Recession, the Act aimed to save and create jobs, as well as provide temporary relief programs by investing in infrastructure, education, health, and renewable energy.

The ARRA includes a Buy American provision, Section 1605, which pertains to projects funded by the ARRA. As outlined in this section, “none of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.” This provision is implemented in both FAR

25.6 and 2 C.F.R. 176 Subpart B, which state that in order for the iron, steel, and manufactured goods used as construction material in an ARRA-funded project to qualify as produced or manufactured in the United State, they must be:

- A) unmanufactured *and* mined or produced in the United States; or
- B) manufactured in the United States. This specifically means that while there is not a restriction on the origin of the elements of the iron or steel, all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives.

**Note:** For construction materials that do not wholly or predominantly consist of iron or steel, there are no requirements with regard to the origin of components or subcomponents, and the requirements for the iron and steel components and subcomponents are relaxed compared to the restrictions above.

In understanding the Buy American provision of the ARRA, iron, steel and manufactured goods used in construction projects must be manufactured in the United States from melt through final assembly.

**Please be advised** that in some instances exceptions may apply to the above acts and provisions, and waivers may be obtained. For example, in general, the requirements could be waived if a) domestic products are not available, b) if their use is in conflict with the public interest, c) if their use would be prohibitively expensive, d) if alternatives are available sourced from countries that receive national treatment under established trade agreements, etc. In addition, agencies and contracts may differ in their detailed interpretations of the requirements. Always consult your government contracting officer or their representative for assistance with compliance.

## Made in USA Claims

To show their dedication to U.S.-based production, many companies label their products as “Made in USA.” To ensure transparency and promote consumer confidence, the Federal Trade Commission (FTC) regulates “Made in USA” claims under the authority of Section 5 of the Federal Trade Commission Act, which prohibits “unfair or deceptive acts or practices.” In December 1997, the FTC issued an Enforcement Policy Statement compiling its standards and enforcement practices for “Made in USA” claims.

The statement explained that companies may either make qualified or unqualified “Made in USA” claims. In order to make any “Made in USA” claim, a company must have a reasonable basis, and the claim must be truthful and substantiated.

An unqualified claim (e.g., “Made in USA”) means that “all or virtually all” significant parts and processes that go into making the products are of U.S. origin, and final assembly and processing occur in the United States. Any foreign content or production is negligible.



Qualified claims (e.g., “65 percent U.S. content” or “made of imported and U.S. materials”), on the other hand, describe a product’s extent, amount, or type of domestic content or production.

According to the FTC’s statement, “in order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to prevent deception.” Reliable companies should be able to provide detailed information about the origins of their products.

At Gibson Stainless & Specialty, Inc., we make qualified claims and are very clear in terms of our products’ country of origin. We will not state “Made in USA” unless the product is 100% Made in USA (manufactured in the United States from domestic material). If there is an imported component, or a product itself is an import, we make it known.

In order to confidently state the country of origin of our products, it is our policy to contact any and all of our material suppliers to obtain a certificate stating the origin.

## Learn More

At Gibson Stainless & Specialty Inc., we are committed to providing American-made products for the electrical industry. All of the castings in our primary product lines are 100% domestic, from American foundries. Machining, finishing, inspection, assembly, and packaging are completed at Gibson Stainless by members of the Gibson Stainless team.



As an American-owned company dedicated to quality and transparency across all of our work, we are proud to stand behind the Made in USA ethos. All of our products are clearly labeled to show which are 100% Made in USA and which have foreign components.

[Click here to learn about our diverse offerings.](#)

*The above is presented as an educational and informational tool. This guide does not constitute legal advice nor is it intended to certify compliance for a specific part or product with any of the various acts. For further information and/or specific product questions or compliance/certification, [please contact Gibson Stainless.](#)*

When **Gibson Stainless & Specialty Inc.** was founded in 1995, Type 316 SS electrical fittings were very hard to find. Zinc plated, galvanized, and carbon steel fittings were the norm in the industry because they were lower in price. Reinstallation of zinc plated, galvanized, and carbon steels, however, became very expensive, and the demand began to increase for products that would withstand corrosive elements and harsh conditions, enabling the conduit system to last longer. Gibson Stainless started with a product line that consisted solely of products used as support fittings. The company had nine total products, which spanned only two product categories. As demand grew, a few strut accessories and other various support accessories were added. As time passed, the conduit, conduit bodies, device boxes, hubs, etc. were added to offer a conduit system entirely in Type 316 SS.

*“Our approach at Gibson may be a little different than most. Quality is our number one priority throughout all of the processing steps and is one thing we are never willing to sacrifice. Every product we offer is polished to achieve a bright finish. Each individual part is inspected at various stages of production and assembly and then again during packaging. All items are packaged and labeled individually. All of our conduit is shipped securely in custom-built, wooden crates. Just as important to the quality of the product we offer is the quality of the customer service we provide. We strive to give our customers fast and accurate responses. While all Gibson Stainless items are stock items, we do occasionally have less in stock than required by the customer. When this happens, we give our customers realistic and reliable lead times. We hope that doing business with Gibson Stainless is enjoyable and that we are perceived as offering a true quality package made up of both the product and our service.”*

**Contact Gibson Stainless**



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