



ITEMS

NEWSLETTER

May 2009

McWane Responds to Importer Letter Claiming Compliance with "Buy American" Provision



A Chinese importer of cast iron soil pipe and fittings, as well as waterworks fittings, has recently distributed a letter into the market that claims that their products meet the "Buy American" requirements of the Obama stimulus package (specifically, the American Recovery and Reinvestment Act (ARRA)). These products are manufactured overseas, mainly in China.

Since the introduction of the importer's letter has injected so much confusion into the market as to which products do and do not comply with the Buy American provision of the law, McWane Inc., parent company of AB&I, has issued a letter of its own rebutting the importer and making it very clear that "Buy American" means just that.

The intent of this new law was to start rebuilding American manufacturing. The law clearly states that, "None of the funds

appropriated or otherwise made available by this [ARRA] 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*** (bold italics added for emphasis)."

The importer is apparently trying to circumvent the law by citing a provision of the Act that excepts those products produced in "least developed countries." According to the World Trade Organization (WTO) of the U.N., China does not meet the definition of a "least developed country."

Another justification for claiming compliance by this errant importer is that their products are actually being shipped into the US from Mexico and, therefore, the provisions of NAFTA take priority over those of the ARRA.

It is clear to McWane, AB&I, and other leading industry groups that the Buy American provision of the ARRA means just that - that products used in public projects must be produced in the U.S.

Attempts to circumvent this law are to be expected from manufacturers outside our borders. Their attorneys and lobbyists will mount an aggressive campaign to convince the market that the new law does not mean what it says, and that distributors and contractors may safely buy from them without concern for enforcement action and penalty. This importer even offers to provide a Certificate of Compliance, stating that the products provided by the importer meet all the requirements of the ARRA. The question is, will that importer stand behind the distributors and contractors when the Fed's come calling? Based on previous experience, our guess is no.

The only way to be certain of compliance and avoid potential problems is to do what the law says - Buy American.

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