

Product Distribution and Franchise Team

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Recent Regulatory Changes Make it Easier for Manufacturers to Sell to the Federal Government

More American manufacturers can now sell their products to the federal government, due to recently-implemented changes in federal law. These changes make it significantly easier for American-manufactured products to qualify for government purchase, creating significant new sales opportunities for many domestic manufacturers.

Under the Buy American Act, federal agencies are required to prefer American-made products when purchasing goods. Certain Buy American Act rules were relaxed effective February 17, 2009, making it easier for manufacturers' products to qualify as American-made.

Previously, for a product to qualify as American-made, federal regulations required that the product be manufactured in the United States, and that more than 50 percent of the product's cost be attributable to American components. The second requirement, the so-called "components test," no longer applies to commercially available off-the-shelf (COTS) items. As a result, such items only need to be manufactured in the United States to qualify as American-made under federal law.

To be a COTS item, a product must be sold commercially in substantial quantities and be offered to the government in the same form as it is sold commercially. All COTS items manufactured in the United States now qualify as American-made under the Buy American Act, regardless of the origin of their parts. In addition to being able to sell such products to the federal government, manufacturers and sellers can market them as Buy American Act compliant to existing and prospective customers who are subject to Buy American Act rules.

If you have questions about whether your products qualify as American-made under the Buy American Act, Reinhart's Product Distribution and Franchise Team can help. Reinhart's Product Distribution and Franchise Team can also help if you have questions about the requirements for "Made in USA" labeling, which are different than those of the Buy American Act.

This *Headlines in Product Distribution and Franchise Law e-alert* provides general information about product distribution and franchise issues. It should not be construed as legal advice or a legal opinion. Readers should seek legal counsel concerning specific factual situations confronting them.