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To require certain Federal agencies to use iron, steel, wood products, cement and manufactured goods produced in the United States in public construction projects, to permanently extend the Build America Bonds program, to ensure that transportation and infrastructure projects carried out using Federal financial assistance are constructed with steel, iron, and manufactured goods that are produced in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 29, 2014

Mr. PRYOR (for himself and Mr. WALSH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require certain Federal agencies to use iron, steel, wood products, cement and manufactured goods produced in the United States in public construction projects, to permanently extend the Build America Bonds program, to ensure that transportation and infrastructure projects carried out using Federal financial assistance are constructed with steel, iron, and manufactured goods that are produced in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Made in the U.S.A.
3 Act”.

4 **SEC. 2. BUY AMERICAN.**

5 (a) **IN GENERAL.**—Notwithstanding any other provi-
6 sion of law, except for the Trade Agreements Act of 1979
7 (19 U.S.C. 2501 et seq.), the head of a Federal agency
8 may not obligate or expend funds appropriated to the
9 agency, or provide financial assistance using funds appro-
10 priated to the agency, for a project for the construction,
11 alteration, maintenance, or repair of a public building or
12 public work unless substantially all of the iron, steel, wood
13 products, cement, and manufactured goods used in the
14 project are produced in the United States.

15 (b) **WAIVER.**—The head of a Federal agency may
16 waive the provisions of subsection (a) with respect to such
17 if he or she determines that—

18 (1) the application of such provisions would be
19 inconsistent with the public interest;

20 (2) iron, steel, wood products, cement, and
21 manufactured goods are not produced in the United
22 States in sufficient and reasonably available quan-
23 tities and of a satisfactory quality; or

24 (3) inclusion of iron, steel, wood products, ce-
25 ment, and manufactured goods produced in the
26 United States will increase the project schedule or

1 total cost of the project by more than 25 percent (or
2 by more than 50 percent for Department of Defense
3 projects).

4 (c) WAIVER REQUIREMENTS.—

5 (1) DETAILED JUSTIFICATION IN FEDERAL
6 REGISTER.—If the head of a Federal agency issues
7 a waiver under subsection (b), he or she shall pub-
8 lish a detailed justification for such waiver in the
9 Federal Register.

10 (2) ANNUAL REPORT.—Not later than 2 years
11 after the date of the enactment of this Act, and an-
12 nually thereafter, in any year that the head of a
13 Federal agency issues a waiver under subsection (b),
14 the agency head shall submit a report to Congress
15 that—

16 (A) specifies each project with respect to
17 which the agency head issued a waiver under
18 subsection (b) during the preceding calendar
19 year;

20 (B) identifies the country of origin and
21 product specifications for steel, iron, wood prod-
22 ucts, cement or manufactured goods acquired
23 pursuant to each waiver issued by the agency
24 head under subsection (b) during the preceding
25 calendar year;

1 (C) summarizes the monetary value of con-
2 tracts awarded pursuant to each such waiver;

3 (D) summarizes the funds expended on—

4 (i) steel, iron, wood products, cement,
5 and manufactured goods produced in the
6 United States for projects with respect to
7 which the requirement under this section
8 applied during the preceding calendar year;
9 and

10 (ii) steel, iron, wood products, cement,
11 and manufactured goods produced outside
12 the United States for projects with respect
13 to which the agency head issued a waiver
14 under subsection (b)(1) during the pre-
15 ceding calendar year; and

16 (E) provides an employment impact anal-
17 ysis of the cumulative effect of all waivers
18 issued by the agency head under subsection (b)
19 during the preceding calendar year on manufac-
20 turing employment in the United States.

21 (d) EXCEPTED ITEMS.—This section shall not apply
22 to articles, materials, or supplies—

23 (1) for use outside the United States (as de-
24 scribed in sections 8302(a)(2)(A) and
25 8303(b)(1)(A));

1 (2) below the micro-purchase threshold under
2 section 1902 of title 41, United States Code;

3 (3) including information technology that is a
4 commercial item (as described in section 25.103(e)
5 of title 48, Code of Federal Regulations); or

6 (4) for commissary resale (as described in sec-
7 tion 25.103(d) of title 48, Code of Federal Regula-
8 tions).

9 (e) RELATIONSHIP TO STATE REQUIREMENTS.—The
10 head of a Federal agency may not impose any limitation
11 or condition on financial assistance provided using funds
12 appropriated to the agency that—

13 (1) restricts any State from imposing more
14 stringent requirements than the requirements under
15 this section on the use of iron, steel, wood products,
16 cement, and manufactured goods in foreign coun-
17 tries in projects carried out with such assistance; or

18 (2) restricts any recipient of such assistance
19 from complying with such State requirements.

20 (f) INTENTIONAL VIOLATIONS.—A person shall be in-
21 eligible to receive any contract or subcontract made with
22 funds authorized to be appropriated to a Federal agency
23 pursuant to the debarment, suspension, and ineligibility
24 procedures in subpart 9.4 of chapter 1 of title 48, Code
25 of Federal Regulations, for a 6-year period beginning on

1 the date of a determination under this subsection, if a
2 court or the Federal agency determines that the person
3 intentionally represented that any iron, steel, wood prod-
4 uct, cement, or manufactured good used in projects to
5 which this section applies, sold in or shipped to the United
6 States that was not produced in the United States, was
7 produced in the United States.

8 (g) APPLICATION OF REQUIREMENTS TO ENTIRE
9 PROJECT.—The requirement under subsection (a) and the
10 exceptions specified in subsection (b) shall apply to the
11 total of obligations and expenditures for an entire project
12 and not only to obligations and expenditures for compo-
13 nent parts of such project.

14 (h) DEFINITIONS.—In this section, the terms “public
15 building” and “public work”—

16 (1) have the meanings given such terms in sec-
17 tion 8301 of title 41, United States Code; and

18 (2) include airports, bridges, canals, dams,
19 dikes, pipelines, railroads, multiline mass transit sys-
20 tems, roads, tunnels, harbors, and piers.

21 (i) EFFECTIVE DATE.—This section shall apply to
22 amounts appropriated or otherwise made available at least
23 1 year after the date of the enactment of this Act.

1 **SEC. 3. PERMANENT EXTENSION OF BUILD AMERICA**
 2 **BONDS.**

3 (a) **REDUCTION IN BOND HOLDER CREDIT PER-**
 4 **CENTAGE.**—Section 54AA(b) of the Internal Revenue
 5 Code of 1986 is amended by striking “35 percent” and
 6 inserting “28 percent (35 percent in the case of bonds
 7 issued before January 1, 2011)”.

8 (b) **PERMANENT EXTENSION.**—Section
 9 54AA(d)(1)(B) of such Code is amended by inserting “or
 10 after the date of the enactment of the Made in the U.S.A.
 11 Act,” after “January 1, 2011,”.

12 (c) **QUALIFIED BOND DEFINED.**—Section 54AA(g)
 13 of such Code is amended by striking paragraph (2) and
 14 inserting the following:

15 “(2) **QUALIFIED BOND.**—For purposes of this
 16 section, the term ‘qualified bond’—

17 “(A) means any build America bond issued
 18 as part of an issue if—

19 “(i) 100 percent of the excess of—

20 “(I) the available project pro-
 21 ceeds (as defined in section 54A) of
 22 such issue, over

23 “(II) the amounts in a reason-
 24 ably required reserve (within the
 25 meaning of section 150(a)(3)) with re-
 26 spect to such issue, are to be used for

1 capital expenditures (including capital
2 expenditures for levees and other flood
3 control projects), and

4 “(ii) the issuer makes an irrevocable
5 election to have this subsection apply;

6 “(B) includes any bond (or series of bonds)
7 issued to refund a qualified bond if—

8 “(i) the average maturity date of the
9 issue of which the refunding bond is a part
10 is not later than the average maturity date
11 of the bonds to be refunded by such issue,

12 “(ii) the amount of the refunding
13 bond does not exceed the outstanding
14 amount of the refunded bond, and

15 “(iii) the refunded bond is redeemed
16 not later than 90 days after the date of the
17 issuance of the refunding bond,

18 “(C) includes any bond (or series of bonds)
19 that is reasonably expected to be used for the
20 issuer’s operating expenses as long as the issue
21 is limited to a maturity of 13 months or less,
22 and

23 “(D) includes any bond (or series of
24 bonds) that is a qualified 501(c)(3) bond (as
25 defined in section 145).

1 “(3) ADDITIONAL PURPOSES.—

2 “(A) In the case of a refunding bond re-
3 ferred to in paragraph (2)(B), the applicable
4 percentage with respect to such bond under sec-
5 tion 6431(b) shall be the lowest percentage
6 specified in paragraph (2) of such section.

7 “(B) For purposes of paragraph (2)(B)(i),
8 average maturity shall be determined in accord-
9 ance with section 147(b)(2)(A).

10 “(C) Subchapter IV of chapter 31 of title
11 40, United States Code, shall apply to projects
12 financed with the proceeds of any build America
13 bond issued after the date of the enactment of
14 this paragraph.”.

15 (d) PAYMENTS TO ISSUERS.—

16 (1) IN GENERAL.—Section 6431 of such Code
17 is amended—

18 (A) in subsection (a), by striking “issued
19 before January 1, 2011”; and

20 (B) in subsection (f)(1)(B), by striking
21 “before January 1, 2011” and inserting “dur-
22 ing a particular period”.

23 (2) CONFORMING AMENDMENTS.—Section
24 54AA(g) of such Code is amended—

1 (A) in the subsection heading, by striking
2 “QUALIFIED BONDS ISSUED BEFORE 2011”
3 and inserting “CERTAIN QUALIFIED BONDS”;
4 and

5 (B) in the matter preceding paragraph (1),
6 by striking “before January 1, 2011”.

7 (e) REDUCTION IN PERCENTAGE OF PAYMENTS TO
8 ISSUERS.—Section 6431(b) of such Code is amended by
9 striking “35 percent” and inserting “28 percent (35 per-
10 cent in the case of bonds issued before January 1, 2011)”.

11 **SEC. 4. FEDERAL-AID HIGHWAY BUY AMERICA PROVISIONS.**

12 (a) IN GENERAL.—Section 313 of title 23, United
13 States Code, is amended to read as follows:

14 **“§ 313. Buy America**

15 “(a) DOMESTIC SOURCE REQUIREMENT FOR STEEL,
16 IRON, AND MANUFACTURED GOODS.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of law, funds made available to carry out
19 this title may not be obligated for a project unless
20 the steel, iron, and manufactured goods used for the
21 project are produced in the United States.

22 “(2) SCOPE.—The requirements under this sec-
23 tion shall apply to all contracts for a project carried
24 out within the scope of the applicable finding, deter-
25 mination, or decision under the National Environ-

1 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
2 regardless of the funding source of such contracts,
3 if at least 1 contract for the project is funded with
4 amounts made available to carry out this title.

5 “(b) EXCEPTIONS.—

6 “(1) ISSUANCE OF WAIVERS.—The Secretary
7 may waive the requirements of subsection (a) only if
8 the Secretary determines that—

9 “(A) applying subsection (a) would be in-
10 consistent with the public interest, as deter-
11 mined in accordance with the regulations issued
12 under paragraph (2);

13 “(B) the steel, iron, or manufactured
14 goods required for a project are not produced in
15 the United States—

16 “(i) in sufficient and reasonably avail-
17 able quantities; and

18 “(ii) of a satisfactory quality; or

19 “(C) the use of steel, iron, and manufac-
20 tured goods produced in the United States for
21 a project will increase the project schedule or
22 total cost of the project by more than 25 per-
23 cent.

24 “(2) RULEMAKING.—The Secretary shall issue
25 regulations establishing the criteria that the Sec-

1 retary shall use to determine whether the application
2 of subsection (a) is inconsistent with the public in-
3 terest for purposes of paragraph (1)(A).

4 “(3) LABOR COSTS.—For purposes of this sub-
5 section, labor costs involved in final assembly shall
6 not be included in calculating the cost of compo-
7 nents.

8 “(4) REQUESTS FOR WAIVERS.—A recipient of
9 assistance under this title seeking a waiver under
10 paragraph (1) shall submit a request for such waiver
11 to the Secretary in such form and containing such
12 information as the Secretary may require.

13 “(c) WAIVER REQUIREMENTS.—

14 “(1) PUBLIC NOTIFICATION OF AND OPPOR-
15 TUNITY FOR COMMENT ON REQUEST FOR A WAIV-
16 ER.—

17 “(A) IN GENERAL.—If the Secretary re-
18 ceives a request for a waiver under subsection
19 (b), the Secretary shall provide notice of and an
20 opportunity for public comment on the request
21 at least 30 days before making a finding based
22 on the request.

23 “(B) NOTICE REQUIREMENTS.—A notice
24 provided under subparagraph (A)—

1 “(i) shall include the information
2 available to the Secretary concerning the
3 request, including whether the request is
4 being made under subparagraph (A), (B),
5 or (C) of subsection (b)(1); and

6 “(ii) shall be provided by electronic
7 means, including on the official public
8 Internet website of the Department of
9 Transportation.

10 “(2) DETAILED JUSTIFICATION IN FEDERAL
11 REGISTER.—If the Secretary issues a waiver under
12 subsection (b), the Secretary shall publish in the
13 Federal Register a detailed justification for the
14 waiver that—

15 “(A) addresses the public comments re-
16 ceived under paragraph (1)(A); and

17 “(B) is published before the waiver takes
18 effect.

19 “(d) STATE REQUIREMENTS.—The Secretary may
20 not impose a limitation or condition on assistance provided
21 under this title that restricts—

22 “(1) a State from imposing requirements that
23 are more stringent than those imposed under this
24 section with respect to limiting the use of articles,
25 materials, or supplies mined, produced, or manufac-

1 tured in foreign countries for projects carried out
2 with such assistance; or

3 “(2) any recipient of such assistance from com-
4 plying with such State requirements.

5 “(e) INTENTIONAL VIOLATIONS.—Pursuant to proce-
6 dures established under subpart 9.4 of chapter 1 of title
7 48, Code of Federal Regulations, a person shall be ineli-
8 gible to receive a contract or subcontract funded with
9 amounts made available to carry out this title if the Sec-
10 retary, the head of any department, agency, or instrumen-
11 tality of the United States, or a court determines that
12 such person intentionally—

13 “(1) affixed a label bearing a ‘Made in Amer-
14 ica’ inscription, or any inscription with the same
15 meaning, to any steel, iron, or manufactured goods
16 that—

17 “(A) were used in a project to which this
18 section applies; and

19 “(B) were not produced in the United
20 States; or

21 “(2) represented that any steel, iron, or manu-
22 factured goods were produced in the United States
23 that—

24 “(A) were used in a project to which this
25 section applies; and

1 “(B) were not produced in the United
2 States.

3 “(f) CONSISTENCY WITH INTERNATIONAL AGREE-
4 MENTS.—

5 “(1) IN GENERAL.—This section shall be ap-
6 plied in a manner that is consistent with United
7 States obligations under international agreements.

8 “(2) TREATMENT OF FOREIGN COUNTRIES IN
9 VIOLATION OF INTERNATIONAL AGREEMENTS.—The
10 Secretary shall prohibit the use of steel, iron, and
11 manufactured goods produced in a foreign country
12 in a project funded with amounts made available to
13 carry out this title, including any project for which
14 the Secretary has issued a waiver under subsection
15 (b), if the Secretary, in consultation with the United
16 States Trade Representative, determines that the
17 foreign country is in violation of the terms of an
18 agreement with the United States by discriminating
19 against steel, iron, or manufactured goods that are
20 produced in the United States and covered by the
21 agreement.”.

22 (b) REVIEW OF NATIONWIDE WAIVERS.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this Act, and at least every
25 5 years thereafter, the Secretary of Transportation

1 shall review each standing nationwide waiver issued
2 under section 313 of title 23, United States Code,
3 to determine whether continuing such waiver is nec-
4 essary.

5 (2) PUBLIC NOTIFICATION OF AND OPPOR-
6 TUNITY FOR COMMENT ON REVIEW OF STANDING
7 NATIONWIDE WAIVERS.—In conducting a review
8 under paragraph (1), the Secretary shall provide no-
9 tice of and an opportunity for public comment on
10 the review at least 30 days before completing the re-
11 view.

12 (3) NOTICE REQUIREMENT.—A notice provided
13 under paragraph (2) shall be provided by electronic
14 means, including on the official public Internet
15 website of the Department of Transportation.

16 (4) DETAILED JUSTIFICATION IN FEDERAL
17 REGISTER.—If the Secretary finds it is necessary to
18 continue a standing nationwide waiver after a review
19 under paragraph (1), the Secretary shall publish in
20 the Federal Register a detailed justification for such
21 waiver that addresses the public comments received
22 under paragraph (2).

23 (c) REPEALS.—

24 (1) WAIVER NOTIFICATION AND ANNUAL RE-
25 PORTS.—Section 117 of the SAFETEA-LU Tech-

1 nical Corrections Act of 2008 (23 U.S.C. 313 note)
2 is repealed.

3 (2) NOTICE AND PUBLIC COMMENTS.—Section
4 123 of title I of division A of the Consolidated Ap-
5 propriations Act, 2010 (23 U.S.C. 313 note) is re-
6 pealed.

7 **SEC. 5. PUBLIC TRANSPORTATION BUY AMERICA PROVI-**
8 **SIONS.**

9 (a) IN GENERAL.—Section 5323(j) of title 49, United
10 States Code, is amended to read as follows:

11 “(j) BUY AMERICA.—

12 “(1) DOMESTIC SOURCE REQUIREMENT FOR
13 STEEL, IRON, AND MANUFACTURED GOODS.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of law, and except as provided
16 in subparagraph (B), funds made available to
17 carry out this chapter may not be obligated for
18 a project unless the steel, iron, and manufac-
19 tured goods used for the project are produced
20 in the United States.

21 “(B) SPECIAL RULES FOR ROLLING
22 STOCK.—Funds made available to carry out
23 this chapter may not be obligated for the pro-
24 curement of rolling stock (including train con-

1 trol, communication, traction power equipment,
2 and rolling stock prototypes) unless—

3 “(i) the cost of components and sub-
4 components produced in the United
5 States—

6 “(I) for fiscal year 2015 is more
7 than 60 percent of the cost of all com-
8 ponents of the rolling stock;

9 “(II) for fiscal year 2016 is more
10 than 70 percent of the cost of all com-
11 ponents of the rolling stock;

12 “(III) for fiscal year 2017 is
13 more than 80 percent of the cost of
14 all components of the rolling stock;

15 “(IV) for fiscal year 2018 is
16 more than 90 percent of the cost of
17 all components of the rolling stock;
18 and

19 “(V) for fiscal year 2019, and
20 each fiscal year thereafter, is 100 per-
21 cent of the cost of all components of
22 the rolling stock; and

23 “(ii) final assembly of the rolling
24 stock, including rolling stock prototypes,
25 occurs in the United States.

1 “(C) SCOPE.—The requirements under
2 this subsection shall apply to all contracts for
3 a public transportation project carried out with-
4 in the scope of the applicable finding, deter-
5 mination, or decision under the National Envi-
6 ronmental Policy Act of 1969 (42 U.S.C. 4321
7 et seq.), regardless of the funding source of
8 such contracts, if at least one contract for the
9 public transportation project is funded with
10 amounts made available to carry out this chap-
11 ter.

12 “(2) EXCEPTIONS.—

13 “(A) ISSUANCE OF WAIVERS.—The Sec-
14 retary may waive the requirements of para-
15 graph (1) only if the Secretary finds that—

16 “(i) applying paragraph (1) would be
17 inconsistent with the public interest, as de-
18 termined in accordance with the regula-
19 tions issued under subparagraph (B);

20 “(ii) the steel, iron, or manufactured
21 goods required for a project are not pro-
22 duced in the United States—

23 “(I) in sufficient and reasonably
24 available quantities; and

25 “(II) of a satisfactory quality; or

1 “(iii) the use of steel, iron, and manu-
2 factured goods produced in the United
3 States for a project will increase the
4 project schedule or total cost of the project
5 by more than 25 percent.

6 “(B) RULEMAKING.—The Secretary shall
7 issue regulations establishing the criteria that
8 the Secretary shall use to determine whether
9 the application of paragraph (1) is inconsistent
10 with the public interest for purposes of sub-
11 paragraph (A)(i).

12 “(C) COMPONENTS OF ROLLING STOCK.—
13 If the Secretary finds that a component of roll-
14 ing stock is not produced in the United States
15 in sufficient and reasonably available quantities
16 or to a satisfactory quality, the Secretary may
17 issue a waiver under subparagraph (A) with re-
18 spect to such component.

19 “(D) LABOR COSTS.—For purposes of this
20 subsection, labor costs involved in final assem-
21 bly shall not be included in calculating the cost
22 of components.

23 “(E) REQUESTS FOR WAIVERS.—A recipi-
24 ent of assistance under this chapter seeking a
25 waiver under subparagraph (A) shall submit to

1 the Secretary a request for the waiver in such
2 form and containing such information as the
3 Secretary may require.

4 “(3) WAIVER REQUIREMENTS.—

5 “(A) PUBLIC NOTIFICATION OF AND OP-
6 PORTUNITY FOR COMMENT ON REQUEST FOR A
7 WAIVER.—

8 “(i) IN GENERAL.—If the Secretary
9 receives a request for a waiver under para-
10 graph (2), the Secretary shall provide no-
11 tice of and an opportunity for public com-
12 ment on the request at least 30 days be-
13 fore making a finding based on the re-
14 quest.

15 “(ii) NOTICE REQUIREMENTS.—A no-
16 tice provided under clause (i) shall—

17 “(I) include the information
18 available to the Secretary concerning
19 the request, including whether the re-
20 quest is being made under paragraph
21 (2)(A)(i), (2)(A)(ii), or (2)(A)(iii);
22 and

23 “(II) be provided by electronic
24 means, including on the official public

1 Internet website of the Department of
2 Transportation.

3 “(B) DETAILED JUSTIFICATION IN FED-
4 ERAL REGISTER.—If the Secretary issues a
5 waiver under paragraph (2), the Secretary shall
6 publish in the Federal Register a detailed jus-
7 tification for the waiver that—

8 “(i) addresses the public comments
9 received under subparagraph (A)(i); and

10 “(ii) is published before the waiver
11 takes effect.

12 “(4) STATE REQUIREMENTS.—The Secretary
13 may not impose a limitation or condition on assist-
14 ance provided under this chapter that restricts—

15 “(A) a State from imposing requirements
16 that are more stringent than those imposed
17 under this subsection with respect to limiting
18 the use of articles, materials, or supplies mined,
19 produced, or manufactured in foreign countries
20 for projects carried out with such assistance; or

21 “(B) any recipient of such assistance from
22 complying with such State requirements.

23 “(5) INTENTIONAL VIOLATIONS.—Pursuant to
24 procedures established under subpart 9.4 of chapter
25 1 of title 48, Code of Federal Regulations, a person

1 shall be ineligible to receive a contract or sub-
2 contract funded with amounts made available to
3 carry out this chapter or any other law providing
4 Federal public transportation assistance if the Sec-
5 retary, the head of any department, agency, or in-
6 strumentality of the United States, or a court deter-
7 mines that such person intentionally—

8 “(A) affixed a label bearing a ‘Made in
9 America’ inscription, or any inscription with the
10 same meaning, to any steel, iron, or manufac-
11 tured goods that—

12 “(i) were used in a project to which
13 this subsection applies; and

14 “(ii) were not produced in the United
15 States; or

16 “(B) represented that any steel, iron, or
17 manufactured goods were produced in the
18 United States that—

19 “(i) were used in a project to which
20 this subsection applies; and

21 “(ii) were not produced in the United
22 States.

23 “(6) CONSISTENCY WITH INTERNATIONAL
24 AGREEMENTS.—

1 “(A) IN GENERAL.—This subsection shall
2 be applied in a manner that is consistent with
3 United States obligations under international
4 agreements.

5 “(B) TREATMENT OF FOREIGN COUNTRIES
6 IN VIOLATION OF INTERNATIONAL AGREE-
7 MENTS.—The Secretary shall prohibit the use
8 of steel, iron, and manufactured goods produced
9 in a foreign country in a project funded with
10 amounts made available to carry out this chap-
11 ter or any other law providing Federal public
12 transportation assistance, including any project
13 for which the Secretary has issued a waiver
14 under paragraph (2), if the Secretary, in con-
15 sultation with the United States Trade Rep-
16 resentative, determines that the foreign country
17 is in violation of the terms of an agreement
18 with the United States by discriminating
19 against steel, iron, or manufactured goods that
20 are produced in the United States and covered
21 by the agreement.

22 “(7) OPPORTUNITY TO CORRECT INADVERTENT
23 ERROR.—The Secretary may allow a manufacturer
24 or supplier of steel, iron, or manufactured goods to
25 correct after bid opening an incomplete Buy America

1 certificate or an incorrect certificate of noncompli-
2 ance (but not a failure to sign a certificate, a sub-
3 mission of both a certificate of compliance and a cer-
4 tificate of noncompliance, or a failure to submit any
5 certificate) under this subsection if such manufac-
6 turer or supplier attests under penalty of perjury
7 that such manufacturer or supplier submitted an in-
8 complete or incorrect certificate as a result of an in-
9 advertent or clerical error. The burden of estab-
10 lishing inadvertent or clerical error is on the manu-
11 facturer or supplier.”.

12 (b) REVIEW OF GENERAL PUBLIC INTEREST WAIV-
13 ERS.—Not later than 1 year after the date of enactment
14 of this Act, and at least every 5 years thereafter, the Sec-
15 retary of Transportation shall review the general public
16 interest waivers described in subsection (b) of Appendix
17 A of section 661.7 of title 49, Code of Federal Regula-
18 tions, to determine whether continuing such waivers is in
19 the public interest.

20 **SEC. 6. AMTRAK BUY AMERICA PROVISIONS.**

21 (a) IN GENERAL.—Section 24305(f) of title 49,
22 United States Code, is amended to read as follows:

23 “(f) BUY AMERICA.—

24 “(1) DOMESTIC SOURCE REQUIREMENT FOR
25 STEEL, IRON, AND MANUFACTURED GOODS.—

1 “(A) IN GENERAL.—Notwithstanding any
2 other provision of law, amounts made available
3 to Amtrak under section 101(c) of the Pas-
4 senger Rail Investment and Improvement Act of
5 2008 (division B of Public Law 110–432; 122
6 Stat. 4908) may not be used for a capital
7 project (as defined in subparagraphs (A) and
8 (B) of section 24401(2)) to bring the Northeast
9 Corridor to a state-of-good-repair or for any
10 other capital expense of Amtrak unless the
11 steel, iron, and manufactured goods used for
12 the project or other capital expense are pro-
13 duced in the United States.

14 “(B) SCOPE.—The requirements under
15 this subsection shall apply to all contracts for
16 a project or other capital expense carried out
17 within the scope of the applicable finding, deter-
18 mination, or decision under the National Envi-
19 ronmental Policy Act of 1969 (42 U.S.C. 4321
20 et seq.), regardless of the funding source of
21 such contracts, if at least one contract with re-
22 spect to the project or other capital expense is
23 funded with amounts made available under sec-
24 tion 101(c) of the Passenger Rail Investment

1 and Improvement Act of 2008 (122 Stat.
2 4908).

3 “(C) SPECIAL RULES FOR ROLLING
4 STOCK.—Funds made available to carry out
5 this chapter may not be obligated for the pro-
6 curement of rolling stock (including train con-
7 trol, communication, traction power equipment,
8 and rolling stock prototypes) unless—

9 “(i) the cost of components and sub-
10 components produced in the United
11 States—

12 “(I) for fiscal year 2015 is more
13 than 60 percent of the cost of all com-
14 ponents of the rolling stock;

15 “(II) for fiscal year 2016 is more
16 than 70 percent of the cost of all com-
17 ponents of the rolling stock;

18 “(III) for fiscal year 2017 is
19 more than 80 percent of the cost of
20 all components of the rolling stock;

21 “(IV) for fiscal year 2018 is
22 more than 90 percent of the cost of
23 all components of the rolling stock;
24 and

1 “(V) for fiscal year 2019, and
2 each fiscal year thereafter, is 100 per-
3 cent of the cost of all components of
4 the rolling stock; and

5 “(ii) final assembly of the rolling
6 stock, including rolling stock prototypes,
7 occurs in the United States.

8 “(2) EXCEPTIONS.—

9 “(A) ISSUANCE OF WAIVERS.—The Sec-
10 retary of Transportation may waive the require-
11 ments under paragraph (1) only if the Sec-
12 retary determines that—

13 “(i) applying paragraph (1) would be
14 inconsistent with the public interest, as de-
15 termined in accordance with the regula-
16 tions issued under subparagraph (B);

17 “(ii) the steel, iron, or manufactured
18 goods required for a project or other cap-
19 ital expense are not produced in the
20 United States—

21 “(I) in sufficient and reasonably
22 available quantities; and

23 “(II) of a satisfactory quality;

24 “(iii) the use of steel, iron, and manu-
25 factured goods produced in the United

1 States for a project or other capital ex-
2 pense will increase the project schedule or
3 total cost of the project by more than 25
4 percent; or

5 “(iv) the cost of articles, material, or
6 supplies bought is not more than
7 \$1,000,000.

8 “(B) RULEMAKING.—The Secretary shall
9 issue regulations establishing the criteria that
10 the Secretary shall use to determine whether
11 the application of paragraph (1) is inconsistent
12 with the public interest for purposes of sub-
13 paragraph (A)(i).

14 “(C) COMPONENTS OF ROLLING STOCK.—
15 If the Secretary finds that a component of roll-
16 ing stock is not produced in the United States
17 in sufficient and reasonably available quantities
18 or to a satisfactory quality, the Secretary may
19 issue a waiver under subparagraph (A) with re-
20 spect to such component.

21 “(D) LABOR COSTS.—For purposes of this
22 paragraph, labor costs involved in final assem-
23 bly shall not be included in calculating the cost
24 of components.

1 “(E) REQUESTS FOR WAIVERS.—If Am-
2 trak seeks a waiver under subparagraph (A),
3 Amtrak shall submit a request for the waiver to
4 the Secretary in such form and containing such
5 information as the Secretary may require.

6 “(3) WAIVER REQUIREMENTS.—

7 “(A) PUBLIC NOTIFICATION OF AND OP-
8 PORTUNITY FOR COMMENT ON REQUEST FOR A
9 WAIVER.—

10 “(i) IN GENERAL.—If the Secretary
11 receives a request for a waiver from Am-
12 trak under paragraph (2), the Secretary
13 shall provide notice of and an opportunity
14 for public comment on the request at least
15 30 days before making a determination
16 based on the request.

17 “(ii) NOTICE REQUIREMENTS.—A no-
18 tice provided under clause (i)—

19 “(I) shall include the information
20 available to the Secretary concerning
21 the request, including whether the re-
22 quest is being made under clause (i),
23 (ii), or (iii) of paragraph (2)(A); and

24 “(II) shall be provided by elec-
25 tronic means, including on the official

1 public Internet website of the Depart-
2 ment of Transportation.

3 “(B) DETAILED JUSTIFICATION IN FED-
4 ERAL REGISTER.—If the Secretary issues a
5 waiver under paragraph (2), the Secretary shall
6 publish in the Federal Register a detailed jus-
7 tification for the waiver that—

8 “(i) addresses the public comments
9 received under subparagraph (A)(i); and

10 “(ii) is published before the waiver
11 takes effect.

12 “(4) STATE REQUIREMENTS.—The Secretary
13 may not impose a limitation or condition on assist-
14 ance provided with funds described in paragraph
15 (1)(A) that restricts—

16 “(A) a State from imposing requirements
17 that are more stringent than those imposed
18 under this subsection with respect to limiting
19 the use of articles, materials, or supplies mined,
20 produced, or manufactured in foreign countries
21 for capital projects or other capital expenses
22 carried out with such assistance; or

23 “(B) any recipient of such assistance from
24 complying with such State requirements.

1 “(5) INTENTIONAL VIOLATIONS.—Pursuant to
2 procedures established under subpart 9.4 of chapter
3 1 of title 48, Code of Federal Regulations, a person
4 shall be ineligible to receive a contract or sub-
5 contract funded with funds described in paragraph
6 (1)(A) if the Secretary, the head of any department,
7 agency, or instrumentality of the United States, or
8 a court determines that such person intentionally—

9 “(A) affixed a label bearing a ‘Made in
10 America’ inscription, or any inscription with the
11 same meaning, to any steel, iron, or manufac-
12 tured goods that—

13 “(i) were used in a capital project or
14 other capital expense to which this sub-
15 section applies; and

16 “(ii) were not produced in the United
17 States; or

18 “(B) represented that any steel, iron, or
19 manufactured goods were produced in the
20 United States that—

21 “(i) were used in a capital project or
22 other capital expense to which this sub-
23 section applies; and

24 “(ii) were not produced in the United
25 States.

1 “(6) CONSISTENCY WITH INTERNATIONAL
2 AGREEMENTS.—

3 “(A) IN GENERAL.—This subsection shall
4 be applied in a manner that is consistent with
5 United States obligations under international
6 agreements.

7 “(B) TREATMENT OF FOREIGN COUNTRIES
8 IN VIOLATION OF INTERNATIONAL AGREE-
9 MENTS.—The Secretary shall prohibit the use
10 of steel, iron, and manufactured goods produced
11 in a foreign country in a capital project or
12 other capital expense funded with funds de-
13 scribed in paragraph (1)(A), including any
14 project or capital expense for which the Sec-
15 retary has issued a waiver under paragraph (2),
16 if the Secretary, in consultation with the United
17 States Trade Representative, determines that
18 the foreign country is in violation of the terms
19 of an agreement with the United States by dis-
20 criminating against steel, iron, or manufactured
21 goods that are produced in the United States
22 and covered by the agreement.”.

23 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
24 than 1 year after the date of enactment of this Act, and
25 at least every 5 years thereafter, the Secretary of Trans-

1 portation shall review each standing nationwide waiver
2 issued under section 24305(f) of title 49, United States
3 Code, to determine whether continuing such waiver is nec-
4 essary.

5 **SEC. 7. AVIATION BUY AMERICA PROVISIONS.**

6 (a) **BUY AMERICA PREFERENCES.**—Chapter 501 of
7 title 49, United States Code, is amended by striking the
8 chapter heading and inserting “**BUY AMERICA**”.

9 (b) **ENHANCEMENTS TO BUY AMERICA REQUIRE-**
10 **MENTS.**—Section 50101 of such title is amended to read
11 as follows:

12 “**§ 50101. Buy America**

13 “(a) **DOMESTIC SOURCE REQUIREMENT FOR STEEL,**
14 **IRON, AND MANUFACTURED GOODS.**—

15 “(1) **IN GENERAL.**—Notwithstanding any other
16 provision of law, and except as provided in para-
17 graph (2), amounts made available to carry out sec-
18 tion 106(k), 44502(a)(2), or 44509, subchapter I of
19 chapter 471 (except section 47127), or chapter 481
20 (except sections 48102(e), 48106, 48107, and
21 48110) of this title may not be obligated for a
22 project unless the steel, iron, and manufactured
23 goods used for the project are produced in the
24 United States.

1 “(2) SPECIAL RULES FOR CERTAIN FACILITIES
2 AND EQUIPMENT.—With respect to a project for the
3 procurement of a facility or equipment, funds made
4 available to carry out the provisions specified in
5 paragraph (1) may not be obligated for the project
6 unless—

7 “(A) the cost of components and sub-
8 components produced in the United States—

9 “(i) for fiscal year 2015 is more than
10 60 percent of the cost of all components of
11 the facility or equipment;

12 “(ii) for fiscal year 2016 is more than
13 70 percent of the cost of all components of
14 the facility or equipment;

15 “(iii) for fiscal year 2017 is more
16 than 80 percent of the cost of all compo-
17 nents of the facility or equipment;

18 “(iv) for fiscal year 2018 is more than
19 90 percent of the cost of all components of
20 the facility or equipment; and

21 “(v) for fiscal year 2019, and each fis-
22 cal year thereafter, is 100 percent of the
23 cost of all components of the facility or
24 equipment; and

1 “(B) final assembly of the facility or equip-
2 ment occurs in the United States.

3 “(3) SCOPE.—The requirements under this sec-
4 tion shall apply to all contracts for a project carried
5 out within the scope of the applicable finding, deter-
6 mination, or decision under the National Environ-
7 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
8 regardless of the funding source of such contracts,
9 if at least one contract for the project is funded with
10 amounts made available to carry out a provision
11 specified in paragraph (1).

12 “(b) EXCEPTIONS.—

13 “(1) ISSUANCE OF WAIVERS.—The Secretary of
14 Transportation may waive the requirements of sub-
15 section (a) only if the Secretary determines that—

16 “(A) applying subsection (a) would be in-
17 consistent with the public interest, as deter-
18 mined in accordance with the regulations issued
19 under paragraph (2);

20 “(B) the steel, iron, or manufactured
21 goods required for a project are not produced in
22 the United States—

23 “(i) in sufficient and reasonably avail-
24 able quantities; and

25 “(ii) of a satisfactory quality; or

1 “(C) the use of steel, iron, and manufac-
2 tured goods produced in the United States for
3 a project will increase the project schedule or
4 total cost of the project by more than 25 per-
5 cent.

6 “(2) RULEMAKING.—The Secretary shall issue
7 regulations establishing the criteria that the Sec-
8 retary shall use to determine whether the application
9 of subsection (a) is inconsistent with the public in-
10 terest for purposes of paragraph (1)(A).

11 “(3) LABOR COSTS.—For purposes of this sec-
12 tion, labor costs involved in final assembly are not
13 included in calculating the cost of components.

14 “(4) REQUESTS FOR WAIVERS.—An entity seek-
15 ing a waiver under paragraph (1) shall submit to the
16 Secretary a request for the waiver in such form and
17 containing such information as the Secretary may
18 require.

19 “(5) PREFERENCE FOR AMERICAN-ASSEMBLED
20 FACILITIES AND EQUIPMENT.—In the procurement
21 of a facility or equipment subject to a waiver issued
22 under paragraph (1), the Secretary shall give pref-
23 erence to a facility or equipment for which final as-
24 sembly occurred in the United States.

1 “(6) LIMITATION ON WAIVER AUTHORITY.—In
2 the procurement of a facility or equipment, if the
3 Secretary determines that a component of the facil-
4 ity or equipment is not produced in the United
5 States in sufficient and reasonably available quan-
6 tities or to a satisfactory quality, the Secretary may
7 issue a waiver under paragraph (1) with respect to
8 such component.

9 “(c) WAIVER REQUIREMENTS.—

10 “(1) PUBLIC NOTIFICATION OF AND OPPOR-
11 TUNITY FOR COMMENT ON REQUEST FOR A WAIV-
12 ER.—

13 “(A) IN GENERAL.—If the Secretary re-
14 ceives a request for a waiver under subsection
15 (b), the Secretary shall provide notice of and an
16 opportunity for public comment on the request
17 at least 30 days before making a determination
18 based on the request.

19 “(B) NOTICE REQUIREMENTS.—A notice
20 provided under subparagraph (A)—

21 “(i) shall include the information
22 available to the Secretary concerning the
23 request, including whether the request is
24 being made under subparagraph (A), (B),
25 or (C) of subsection (b)(1); and

1 “(ii) shall be provided by electronic
2 means, including on the official public
3 Internet website of the Department of
4 Transportation.

5 “(2) DETAILED JUSTIFICATION IN FEDERAL
6 REGISTER.—If the Secretary issues a waiver under
7 subsection (b), the Secretary shall publish a detailed
8 justification for the waiver in the Federal Register
9 that—

10 “(A) addresses the public comments re-
11 ceived under paragraph (1)(A); and

12 “(B) is published before the waiver takes
13 effect.

14 “(d) STATE REQUIREMENTS.—The Secretary may
15 not impose a limitation or condition on assistance provided
16 with funds made available to carry out a provision speci-
17 fied in subsection (a)(1) that restricts—

18 “(1) a State from imposing requirements that
19 are more stringent than those imposed under this
20 section with respect to limiting the use of articles,
21 materials, or supplies mined, produced, or manufac-
22 tured in foreign countries for projects carried out
23 with such assistance; or

24 “(2) any recipient of such assistance from com-
25 plying with such State requirements.

1 “(e) CONSISTENCY WITH INTERNATIONAL AGREE-
2 MENTS.—

3 “(1) IN GENERAL.—This section shall be ap-
4 plied in a manner that is consistent with United
5 States obligations under international agreements.

6 “(2) TREATMENT OF FOREIGN COUNTRIES IN
7 VIOLATION OF INTERNATIONAL AGREEMENTS.—The
8 Secretary shall prohibit the use of steel, iron, and
9 manufactured goods produced in a foreign country
10 in a project funded with funds made available to
11 carry out a provision specified in subsection (a)(1),
12 including any project for which the Secretary has
13 issued a waiver under subsection (b), if the Sec-
14 retary, in consultation with the United States Trade
15 Representative, determines that the foreign country
16 is in violation of the terms of an agreement with the
17 United States by discriminating against steel, iron,
18 or manufactured goods that are produced in the
19 United States and covered by the agreement.”.

20 (c) CLERICAL AMENDMENTS.—

21 (1) SUBTITLE ANALYSIS.—The analysis for
22 subtitle VII of title 49, United States Code, is
23 amended by striking the item relating to chapter
24 501 and inserting the following:

“501. Buy America 50101”.

1 (2) CHAPTER ANALYSIS.—The analysis for
2 chapter 501 of title 49, United States Code, is
3 amended by striking the item relating to section
4 50101 and inserting the following:

“50101. Buy America.”.

5 (d) PROHIBITION ON CONTRACTING UPON FAL-
6 SIFICATION OF LABEL.—Section 50105 of such title is
7 amended by inserting “steel, iron, or manufactured” be-
8 fore “goods”.

9 (e) REVIEW OF NATIONWIDE WAIVERS.—Not later
10 than 1 year after the date of the enactment of this Act,
11 and at least every 5 years thereafter, the Secretary of
12 Transportation shall review each standing nationwide
13 waiver issued under section 50101 of title 49, United
14 States Code, to determine whether continuing such waiver
15 is necessary.

16 **SEC. 8. DEPARTMENT OF TRANSPORTATION BUY AMERICA**
17 **ANNUAL REPORT.**

18 Section 308 of title 49, United States Code, is
19 amended by adding at the end the following:

20 “(f) BUY AMERICA.—Not later than February 1 of
21 each year beginning at least 1 year after the date of the
22 enactment of this subsection, the Secretary shall submit
23 a report to Congress that—

1 “(1) specifies each project with respect to which
2 the Secretary issued a waiver from a Buy America
3 requirement during the preceding calendar year;

4 “(2) identifies the country of origin and product
5 specifications for steel, iron, or manufactured goods
6 acquired pursuant to each waiver from a Buy Amer-
7 ica requirement issued by the Secretary during the
8 preceding calendar year;

9 “(3) summarizes the monetary value of con-
10 tracts awarded pursuant to each such waiver;

11 “(4) provides the justification for each such
12 waiver, including the specific law, treaty, or inter-
13 national agreement under which the waiver was
14 granted;

15 “(5) summarizes the funds expended on—

16 “(A) steel, iron, and manufactured goods
17 produced in the United States for projects with
18 respect to which a Buy America requirement,
19 under which the Secretary has waiver authority,
20 applied during the preceding calendar year; and

21 “(B) steel, iron, and manufactured goods
22 produced outside the United States for projects
23 with respect to which the Secretary issued a
24 waiver from a Buy America requirement during
25 the preceding calendar year; and

1 “(6) provides an employment impact analysis of
2 the cumulative effect of all waivers from a Buy
3 America requirement issued by the Secretary during
4 the preceding calendar year on manufacturing em-
5 ployment in the United States.”.

○