

115TH CONGRESS  
1ST SESSION

# H. R. 904

To amend chapter 83 of title 41, United States Code, to increase the requirement for American-made content, to strengthen the waiver provisions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2017

Mr. LIPINSKI (for himself, Mr. JOYCE of Ohio, Ms. SHEA-PORTER, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. GARAMENDI, Mr. NOLAN, Ms. NORTON, Mr. RYAN of Ohio, Mrs. BUSTOS, Ms. BROWNLEY of California, Mr. CARSON of Indiana, and Mr. JONES) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on Financial Services, Transportation and Infrastructure, Energy and Commerce, Agriculture, Natural Resources, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend chapter 83 of title 41, United States Code, to increase the requirement for American-made content, to strengthen the waiver provisions, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Buy American Improvement Act of 2017”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MATTERS RELATING TO BUY AMERICAN ACT

Sec. 101. Regulations relating to Buy American Act.  
 Sec. 102. Amendments relating to Buy American Act.  
 Sec. 103. Report by Comptroller General.  
 Sec. 104. Border protection infrastructure.  
 Sec. 105. United States obligations under international agreements.  
 Sec. 106. Definitions.

TITLE II—BUY AMERICA IMPROVEMENT

Sec. 201. Annual report.  
 Sec. 202. Component requirements and verification.  
 Sec. 203. FHWA domestic content standards improvement.  
 Sec. 204. Rail Buy America modernization.  
 Sec. 205. FAA Buy America modernization.  
 Sec. 206. Application of Buy America requirements to projects financed with  
 passenger facility charges.  
 Sec. 207. Notice and comment requirement for waiver petitions.  
 Sec. 208. Drinking water state revolving funds.  
 Sec. 209. Rural Utilities Service Buy American modernization.  
 Sec. 210. Community development block grant Buy America modernization.  
 Sec. 211. Rural Water Supply Program.  
 Sec. 212. Economic development administration Buy American modernization.  
 Sec. 213. Rail loan and loan guarantee Buy America requirements.

3 **TITLE I—MATTERS RELATING**  
 4 **TO BUY AMERICAN ACT**

5 **SEC. 101. REGULATIONS RELATING TO BUY AMERICAN ACT.**

6 (a) IN GENERAL.—Not later than 1 year after the  
 7 date of the enactment of this Act, the Administrator for  
 8 Federal Procurement Policy, in consultation with the Fed-  
 9 eral Acquisition Regulatory Council, shall promulgate reg-  
 10 ulations to standardize and simplify how Federal agencies  
 11 comply with, report on, and enforce chapter 83 of title  
 12 41, United States Code (commonly known as the Buy

1 American Act). The regulations shall include, at a min-  
2 imum, the following:

3 (1) Guidelines for Federal agencies to deter-  
4 mine, for the purposes of applying sections 8302(a)  
5 and 8303(b)(3) of such title, the circumstances  
6 under which the acquisition of articles, materials, or  
7 supplies mined, produced, or manufactured in the  
8 United States is inconsistent with the public inter-  
9 est.

10 (2) Uniform procedures for each Federal agen-  
11 cy to make publicly available, in an easily identifi-  
12 able location on the website of the agency, and with-  
13 in the following time periods, the following informa-  
14 tion:

15 (A) A description of the circumstances in  
16 which the head of the agency may waive the re-  
17 quirements of chapter 83 of such title.

18 (B) Each waiver made by the head of the  
19 agency within 30 days after making such waiv-  
20 er, including a detailed justification for the  
21 waiver.

22 (3) Rules for Federal agencies to ensure that a  
23 project is not disaggregated for purposes of avoiding  
24 the applicability of the requirements under chapter  
25 83 of such title.

1           (4) Procedures to investigate occurrences when  
2           the head of a Federal agency improperly waives the  
3           requirements of chapter 83 of such title.

4           (5) Rules for the Administrator to evaluate the  
5           percentage of domestic content in a manufactured  
6           end product, including providing a definition for the  
7           term “manufactured end product”.

8           (b) GUIDELINES RELATING TO INCONSISTENCY  
9           WITH PUBLIC INTEREST.—With respect to the guidelines  
10          developed under subsection (a)(1), the Administrator shall  
11          consider any significant decrease in employment in the  
12          United States resulting from a waiver to be inconsistent  
13          with the public interest and seek to minimize waivers that  
14          would result in a decrease in employment in the United  
15          States in both the short and long term.

16          (c) RULES RELATING TO DOMESTIC CONTENT.—  
17          With respect to the rules developed under subsection  
18          (a)(5), the Administrator may not treat components of  
19          foreign origin of the same class or kind as those that are  
20          not mined, produced, or manufactured in the United  
21          States in sufficient and reasonably available commercial  
22          quantities of a satisfactory quality as domestic content.  
23          With respect to providing a definition for the term “manu-  
24          factured end product”, the Administrator shall consider  
25          previous judicial rulings on the question of—

1           (1) whether the product is completed in the  
2           final form required for use by the Federal Govern-  
3           ment; and

4           (2) whether separate manufacturing stages or  
5           continuous processes constitute “manufacturing”.

6 **SEC. 102. AMENDMENTS RELATING TO BUY AMERICAN ACT.**

7           (a) SPECIAL RULES RELATING TO AMERICAN MATE-  
8           RIALS REQUIRED FOR PUBLIC USE.—Section 8302 of title  
9           41, United States Code, is amended by adding at the end  
10          the following:

11          “(c) SPECIAL RULES.—The following rules apply in  
12          carrying out the provisions of subsection (a):

13                 “(1) CALCULATION OF DOMESTIC AND NON-DO-  
14                 MESTIC OFFERS.—

15                         “(A) EXCLUSION OF START-UP COSTS IN  
16                         CALCULATING COST OF OFFER.—When com-  
17                         paring offers between domestic entities and  
18                         non-domestic entities, costs related to the start-  
19                         up of a project shall be excluded from a domes-  
20                         tic offer.

21                         “(B) UNREASONABLE COST DETERMINA-  
22                         TION.—

23                                 “(i) IN GENERAL.—The head of a  
24                                 Federal agency may not determine the cost  
25                                 of acquiring articles, materials, or supplies

1           mined, produced, or manufactured in the  
2           United States to be unreasonable under  
3           subsection (a)(1), unless the acquisition of  
4           such articles, materials, or supplies would  
5           increase the cost of the overall project by  
6           more than 25 percent.

7           “(ii) RULE OF CONSTRUCTION.—With  
8           respect to the percentage increase required  
9           for a determination of unreasonable cost  
10          applicable to projects under Department of  
11          Defense contracts as of the date of the en-  
12          actment of the Buy American Improve-  
13          ment Act of 2017, nothing in this subpara-  
14          graph may be construed as reducing such  
15          percentage increase.

16          “(2) USE OUTSIDE THE UNITED STATES.—

17                 “(A) IN GENERAL.—Notwithstanding the  
18                 exception described in subsection (a)(2)(A),  
19                 subsection (a)(1) shall apply to articles, mate-  
20                 rials, or supplies for use outside the United  
21                 States if such articles, materials, or supplies are  
22                 not needed on an urgent basis or are acquired  
23                 on a regular basis.

24                 “(B) COST ANALYSIS.—In any case in  
25                 which articles, materials, or supplies are to be

1           acquired for use outside the United States and  
2           are not needed on an urgent basis or are ac-  
3           quired on a regular basis, before entering into  
4           a contract, an analysis shall be made of the dif-  
5           ference in the cost of acquiring such articles,  
6           materials, or supplies from a company mining,  
7           producing, or manufacturing the articles, mate-  
8           rials, or supplies in the United States (includ-  
9           ing the cost of shipping) and the cost of acquir-  
10          ing such articles, materials, or supplies from a  
11          company mining, producing, or manufacturing  
12          the articles, materials, or supplies outside the  
13          United States (including the cost of shipping).

14           “(3) DOMESTIC AVAILABILITY.—The head of a  
15          Federal agency may not determine that an article,  
16          material, or supply is not mined, produced, or manu-  
17          factured in the United States in sufficient and rea-  
18          sonably available commercial quantities and of a sat-  
19          isfactory quality under subsection (a)(1), unless the  
20          head of the agency first determines that—

21                   “(A) domestic production cannot be initi-  
22                   ated without significantly delaying the project  
23                   for which the article, material, or supply is to  
24                   be acquired; and

1           “(B) a substitutable article, material, or  
2           supply is not mined, produced, or manufactured  
3           in the United States in sufficient and reason-  
4           ably available commercial quantities and of a  
5           satisfactory quality.”.

6           (b) REPORTS.—Subsection (b) of section 8302 of title  
7 41, United States Code, is amended to read as follows:

8           “(b) REPORTS.—

9           “(1) IN GENERAL.—Not later than 180 days  
10          after the end of each of fiscal years 2018 through  
11          2022, the Director of the Office of Management and  
12          Budget, in consultation with the Administrator of  
13          General Services, shall submit to the Committee on  
14          Oversight and Government Reform of the House of  
15          Representatives and the Committee on Homeland  
16          Security and Governmental Affairs of the Senate a  
17          report on the total amount of acquisitions made by  
18          Federal agencies in the relevant fiscal year of arti-  
19          cles, materials, or supplies acquired from entities  
20          that mine, produce, or manufacture the articles, ma-  
21          terials, or supplies outside the United States.

22          “(2) ADDITIONAL CONTENT.—Each report re-  
23          quired under paragraph (1) shall separately include,  
24          for the fiscal year covered by the report—



1           “(A) the dollar value of any articles, mate-  
2           rials, or supplies that were mined, produced, or  
3           manufactured outside the United States, in the  
4           aggregate and by country;

5           “(B) an itemized list of all waivers made  
6           under this chapter with respect to articles, ma-  
7           terials, or supplies and the country where such  
8           articles, materials, or supplies were mined, pro-  
9           duced, or manufactured;

10          “(C) if any articles, materials, or supplies  
11          were acquired from entities that mine, produce,  
12          or manufacture such articles, materials, or sup-  
13          plies outside the United States due to an excep-  
14          tion (that is not the micro-purchase threshold  
15          exception described under subsection (a)(2)(C)),  
16          the specific exception that was used to purchase  
17          such articles, materials, or supplies;

18          “(D) if any articles, materials, or supplies  
19          were acquired from entities that mine, produce,  
20          or manufacture such articles, materials, or sup-  
21          plies outside the United States pursuant to a  
22          reciprocal defense procurement memorandum of  
23          understanding (as described in section 8304),  
24          or a trade agreement or least developed country  
25          designation described in subpart 25.400 of the

1 Federal Acquisition Regulation, a citation to  
2 such memorandum of understanding, trade  
3 agreement, or designation; and

4 “(E) a summary of—

5 “(i) the total procurement funds ex-  
6 pended on articles, materials, and supplies  
7 mined, produced, or manufactured inside  
8 the United States;

9 “(ii) the total procurement funds ex-  
10 pended on articles, materials, and supplies  
11 mined, produced, or manufactured outside  
12 the United States; and

13 “(iii) the total procurement funds ex-  
14 pended on articles, materials, and supplies  
15 mined, produced, or manufactured outside  
16 the United States per country that mined,  
17 produced, or manufactured such articles,  
18 materials, and supplies.

19 “(3) PUBLIC AVAILABILITY.—Not later than  
20 180 days after the end of each relevant fiscal year,  
21 the Director of the Office of Management and Budg-  
22 et shall make the relevant report required under  
23 paragraph (1) publicly available on a website.

24 “(4) EXCEPTION FOR INTELLIGENCE COMMU-  
25 NITY.—This subsection does not apply to acquisi-

1 tions made by an agency, or component of an agen-  
2 cy, that is an element of the intelligence community  
3 as specified in, or designated under, section 3 of the  
4 National Security Act of 1947 (50 U.S.C. 3003).”.

5 (c) DEFINITIONS.—Section 8301 of title 41, United  
6 States Code, is amended by adding at the end the fol-  
7 lowing:

8 “(3) FEDERAL AGENCY.—The term ‘Federal  
9 agency’ has the meaning given the term ‘executive  
10 agency’ in section 133 of title 41, United States  
11 Code.

12 “(4) SUBSTANTIALLY ALL.—The term ‘substan-  
13 tially all’, with respect to articles, materials, or sup-  
14 plies mined, produced, or manufactured in the  
15 United States, means that the cost of the domestic  
16 components of such articles, materials, or supplies  
17 exceeds 75 percent of the total cost of all compo-  
18 nents of such articles, materials, or supplies.

19 “(5) WAIVER.—The term ‘waiver’, with respect  
20 to the acquisition of an article, material, or supply  
21 for public use, means the inapplicability of this  
22 chapter to the acquisition by reason of any of the  
23 following determinations under section 8302(a)(1) or  
24 8303(b)(3):

1           “(A) A determination by the head of the  
2 Federal agency concerned that the acquisition  
3 is inconsistent with the public interest.

4           “(B) A determination by the head of the  
5 Federal agency concerned that the cost of the  
6 acquisition is unreasonable.

7           “(C) A determination by the head of the  
8 Federal agency concerned that the article, ma-  
9 terial, or supply is not mined, produced, or  
10 manufactured in the United States in sufficient  
11 and reasonably available commercial quantities  
12 of a satisfactory quality.”.

13       (d) CONFORMING AMENDMENTS.—Title 41, United  
14 States Code, is amended—

15           (1) in section 8302—

16               (A) in paragraph (1) of subsection (a)—

17                   (i) by striking “department or inde-  
18 pendent establishment” and inserting  
19 “Federal agency”; and

20                   (ii) by striking “their acquisition to be  
21 inconsistent with the public interest or  
22 their cost to be unreasonable” and insert-  
23 ing “their acquisition to be inconsistent  
24 with the public interest, their cost to be  
25 unreasonable, or that the articles, mate-

1           rials, or supplies of the class or kind to be  
2           used, or the articles, materials, or supplies  
3           from which they are manufactured, are not  
4           mined, produced, or manufactured in the  
5           United States in sufficient and reasonably  
6           available commercial quantities and of a  
7           satisfactory quality”; and

8           (B) in paragraph (2) of subsection (a)—

9                 (i) in subparagraph (A), by inserting  
10                 “subject to subsection (c)(2)(A),” before  
11                 “to articles, materials, or supplies”; and

12                 (ii) by amending subparagraph (B) to  
13                 read as follows:

14                 “(B) to any articles, materials, or supplies  
15                 procured pursuant to a reciprocal defense pro-  
16                 curement memorandum of understanding (as  
17                 described in section 8304), or a trade agree-  
18                 ment or least developed country designation de-  
19                 scribed in subpart 25.400 of the Federal Acqui-  
20                 sition Regulation; and”; and

21           (2) in section 8303—

22                 (A) in subsection (b)—

23                 (i) by striking “department or inde-  
24                 pendent establishment” each place it ap-  
25                 pears and inserting “Federal agency”;

1 (ii) by amending subparagraph (B) of  
2 paragraph (1) to read as follows:

3 “(B) to any articles, materials, or supplies  
4 procured pursuant to a reciprocal defense pro-  
5 curement memorandum of understanding (as  
6 described in section 8304), or a trade agree-  
7 ment or least developed country designation de-  
8 scribed in subpart 25.400 of the Federal Acqui-  
9 sition Regulation; and”;

10 (iii) in paragraph (3)—

11 (I) in the heading, by striking  
12 “INCONSISTENT WITH PUBLIC INTER-  
13 EST” and inserting “WAIVER AU-  
14 THORITY”; and

15 (II) by striking “their purchase  
16 to be inconsistent with the public in-  
17 terest or their cost to be unreason-  
18 able” and inserting “their acquisition  
19 to be inconsistent with the public in-  
20 terest, their cost to be unreasonable,  
21 or that the articles, materials, or sup-  
22 plies of the class or kind to be used,  
23 or the articles, materials, or supplies  
24 from which they are manufactured,  
25 are not mined, produced, or manufac-

1                   tured in the United States in suffi-  
2                   cient and reasonably available com-  
3                   mercial quantities and of a satisfac-  
4                   tory quality”; and

5                   (B) in subsection (c), by striking “depart-  
6                   ment, bureau, agency, or independent establish-  
7                   ment” each place it appears and inserting  
8                   “Federal agency”.

9                   (e) EXCLUSION FROM INFLATION ADJUSTMENT OF  
10 ACQUISITION-RELATED DOLLAR THRESHOLDS.—Sub-  
11 paragraph (A) of section 1908(b)(2) of title 41, United  
12 States Code, is amended by striking “chapter 67” and in-  
13 serting “chapters 67 and 83”.

14 **SEC. 103. REPORT BY COMPTROLLER GENERAL.**

15                   Not later than 1 year after the date of the enactment  
16 of this Act, the Comptroller General of the United States  
17 shall report to Congress on the extent to which, in each  
18 of fiscal years 2011, 2012, 2013, 2014, 2015, articles, ma-  
19 terials, or supplies acquired by the Federal Government  
20 were mined, produced, or manufactured outside the  
21 United States. Such report shall include for each Federal  
22 agency the following:

23                   (1) A summary of total procurement funds ex-  
24                   pended on articles, materials, and supplies mined,  
25                   produced, or manufactured—

1 (A) inside the United States;

2 (B) outside the United States; and

3 (C) outside the United States—

4 (i) under each category of waiver  
5 under chapter 83 of title 41, United States  
6 Code;

7 (ii) under each category of exception  
8 under such chapter; and

9 (iii) for each country that mined, pro-  
10 duced, or manufactured such articles, ma-  
11 terials, and supplies.

12 (2) An analysis of the impact of eliminating the  
13 exception for acquisitions for information technology  
14 (as defined in section 11101 of title 40, United  
15 States Code) that is a commercial item (as defined  
16 in section 103 of title 41, United States Code).

17 **SEC. 104. BORDER PROTECTION INFRASTRUCTURE.**

18 Paragraph (1) of section 604(b) of the American Re-  
19 covery and Reinvestment Act of 2009 (Public Law 111-  
20 5; 6 U.S.C. 453b(b)(1)) is amended—

21 (1) in subparagraph (C), by striking “; or” and  
22 inserting a semicolon;

23 (2) in subparagraph (D), by striking the period  
24 at the end and inserting “; or”; and

25 (3) by adding at the end the following:



1           “(E) materials and supplies used in the  
2           construction of border protection barriers and  
3           roads constructed under section 102 of the Ille-  
4           gal Immigration and Reform and Immigrant  
5           Responsibility Act of 1996 (division C of Public  
6           Law 104–208; 8 U.S.C. 1103 note).”.

7 **SEC. 105. UNITED STATES OBLIGATIONS UNDER INTER-**  
8           **NATIONAL AGREEMENTS.**

9           This Act, and the amendments made by this Act,  
10          shall be applied in a manner consistent with United States  
11          obligations under international agreements.

12 **SEC. 106. DEFINITIONS.**

13          In this title:

14           (1) **FEDERAL AGENCY.**—The term “Federal  
15           agency” has the meaning given the term “executive  
16           agency” in section 133 of title 41, United States  
17           Code.

18           (2) **WAIVER.**—The term “waiver”, with respect  
19           to the acquisition of an article, material, or supply  
20           for public use, means the inapplicability of chapter  
21           83 of title 41, United States Code, to the acquisition  
22           by reason of any of the following determinations  
23           under section 8302(a)(1) or 8303(b)(3) of such title:

1 (A) A determination by the head of the  
2 Federal agency concerned that the acquisition  
3 is inconsistent with the public interest.

4 (B) A determination by the head of the  
5 Federal agency concerned that the cost of the  
6 acquisition is unreasonable.

7 (C) A determination by the head of the  
8 Federal agency concerned that the article, ma-  
9 terial, or supply is not mined, produced, or  
10 manufactured in the United States in sufficient  
11 and reasonably available commercial quantities  
12 of a satisfactory quality.

## 13 **TITLE II—BUY AMERICA** 14 **IMPROVEMENT**

### 15 **SEC. 201. ANNUAL REPORT.**

16 Not later than 180 days after the end of each fiscal  
17 year, the Secretary of Transportation shall submit a re-  
18 port to the Committee on Transportation and Infrastruc-  
19 ture in the House of Representatives and the Committee  
20 on Commerce, Science, and Transportation in the Senate,  
21 and publish on the Department’s website, that—

22 (1) itemizes all waivers regarding domestic con-  
23 tent granted by the Department within that fiscal  
24 year and provides the justification for each waiver;

1           (2) identifies the country of origin and product  
2 specifications for goods used in construction pursu-  
3 ant to each waiver granted; and

4           (3) summarizes the total value of acquisitions  
5 made under each waiver.

6 **SEC. 202. COMPONENT REQUIREMENTS AND**  
7 **VERIFICATION.**

8           (a) **AUDITING AND CERTIFICATION MODERNIZA-**  
9 **TION.—**

10           (1) Not later than 6 months after the date of  
11 enactment of this Act, the Secretary of Transpor-  
12 tation shall—

13                   (A) initiate a rulemaking to develop audit  
14 procedures for the Federal Transit Administra-  
15 tion to review offeror and recipient compliance  
16 with domestic content provisions; and

17                   (B) issue guidance on best practices for  
18 pre-award and post-delivery audits by recipients  
19 under section 5323(m) of title 49, United  
20 States Code.

21           (2) In developing the guidance required under  
22 paragraph (1)(B), the Secretary shall consider best  
23 practices for—

24                   (A) proper and sufficient documentation  
25 requests from bidders by recipients under sec-

1           tion 5323(m) of such title to support certifi-  
2           cation of compliance;

3           (B) proper and sufficient documentation  
4           requests from bidders by recipients under sec-  
5           tion 5323(m) of such title to support pre-award  
6           and post-delivery audits;

7           (C) determining the timing and require-  
8           ments for post-delivery audit; and

9           (D) verifying the origin of supplier compo-  
10          nents and subcomponents.

11         (b) COMPONENT GUIDANCE.—Not later than 6  
12         months after the date of enactment of this Act, the Sec-  
13         retary shall initiate a rulemaking to further develop stand-  
14         ards under section 5323(j) of title 49, United States Code,  
15         for measuring the percentage value of a component rel-  
16         ative to the entire procurement.

17         **SEC. 203. FHWA DOMESTIC CONTENT STANDARDS IM-**  
18                 **PROVEMENT.**

19         (a) CMAQ LOOPHOLE.—Section 313(b) of title 23,  
20         United States Code, is amended—

21                 (1) by redesignating paragraph (3) as para-  
22                 graph (4);

23                 (2) in paragraph (2) by striking “or”; and

24                 (3) by inserting after paragraph (2) the fol-  
25                 lowing:

1           “(3) that when procuring rolling stock under  
2 this chapter—

3           “(A) the cost of components and sub-  
4 components produced in the United States is  
5 more than 60 percent of the cost of all compo-  
6 nents of the rolling stock; and

7           “(B) final assembly of the rolling stock has  
8 occurred in the United States; or”.

9       (b) **RULE REEVALUATION.**—Not later than 1 year  
10 after the date of enactment of this Act, the Secretary of  
11 Transportation shall review the regulations found in sec-  
12 tion 635.410 of title 23, Code of Federal Regulations, or  
13 any similar successor regulations, to determine whether  
14 manufactured products other than those containing steel  
15 and iron should be considered for the purposes of domestic  
16 content preferences.

17 **SEC. 204. RAIL BUY AMERICA MODERNIZATION.**

18       Section 24305(f) of title 49, United States Code, is  
19 amended by adding at the end the following:

20       “(5) Before applying for an exemption under para-  
21 graph (4), Amtrak shall enter into an arrangement with  
22 the National Institute of Standards and Technology to  
23 conduct a supplier scouting process for domestic suppliers  
24 that can provide the compliant articles, materials, or sup-  
25 plies for which an exemption will be sought. Upon conclu-

1 sion of the supplier scouting process for a particular arti-  
2 cle, material, or supply, Amtrak shall submit to the Sec-  
3 retary a scouting report along with the exemption applica-  
4 tion. The Secretary shall consider the results of the sup-  
5 plier scouting process before making a decision on Am-  
6 trak’s exemption application. If the Secretary decides to  
7 grant the exemption, the Secretary shall publish in the  
8 Federal Register a summary of the scouting report and  
9 the reasons for the Secretary’s decision.”.

10 **SEC. 205. FAA BUY AMERICA MODERNIZATION.**

11 Section 50101 of title 49, United States Code, is  
12 amended by adding at the end the following:

13 “(d) SUPPLIER SCOUTING.—Before issuing a waiver  
14 under subsection (b), the Secretary shall—

15 “(1) consult with the National Institute of  
16 Standards and Technology; and

17 “(2) begin a supplier scouting process for do-  
18 mestic suppliers that can provide for those compliant  
19 products for which a waiver will be sought.

20 “(e) PUBLICATION REQUIRED.—Upon conclusion of  
21 the supplier scouting process required under subsection  
22 (d)(2) for a particular component, material, or subcompo-  
23 nent, the Secretary shall make the results of the supplier  
24 scouting available to the public.”.

1 **SEC. 206. APPLICATION OF BUY AMERICA REQUIREMENTS**  
2 **TO PROJECTS FINANCED WITH PASSENGER**  
3 **FACILITY CHARGES.**

4 (a) IN GENERAL.—Section 50101(a) of title 49,  
5 United States Code, is amended by inserting “, and may  
6 approve a project under section 40117,” before “only if  
7 steel”.

8 (b) APPLICABILITY.—The amendment made by sub-  
9 section (a) shall apply to an application submitted pursu-  
10 ant to section 40177(c) of title 49, United States Code,  
11 after the date of enactment of this Act.

12 **SEC. 207. NOTICE AND COMMENT REQUIREMENT FOR**  
13 **WAIVER PETITIONS.**

14 (a) IN GENERAL.—The Secretary of Transportation  
15 shall require the head of a Federal agency, after receiving  
16 a request for a waiver of any applicable domestic content  
17 requirement under title 49, to publish the request for a  
18 waiver in the Federal Register within 15 days after receiv-  
19 ing such request.

20 (b) NOTICE AND COMMENT.—A waiver under this  
21 section may not be issued before the expiration of the 15-  
22 day period beginning on the date on which the request  
23 for waiver is published pursuant to subsection (a) to pro-  
24 vide the public an opportunity for notice and comment.

25 (c) PUBLICATION OF WAIVER.—If the Secretary or  
26 head of a Federal Agency issues a waiver, the Secretary

1 or head shall publish in the Federal Register not later  
2 than 15 days after issuing such a waiver a detailed jus-  
3 tification for the waiver that addresses any public com-  
4 ments received under subsection (b).

5 **SEC. 208. DRINKING WATER STATE REVOLVING FUNDS.**

6 Section 1452(a)(4) of the Safe Drinking Water Act  
7 (42 U.S.C. 300j-12(a)(4)) is amended—

8 (1) by amending subparagraph (A) to read as  
9 follows:

10 “(A) IN GENERAL.—Funds made available  
11 from a State drinking water treatment revolv-  
12 ing loan fund established under this section  
13 may not be used for a project for the construc-  
14 tion, alteration, maintenance, or repair of col-  
15 lection, treatment, storage, and distribution fa-  
16 cilities, including publicly and privately owned  
17 pipes or other constructed conveyances, unless  
18 all of the iron and steel products used in the  
19 project are produced in the United States.”;  
20 and

21 (2) by amending subparagraph (D) to read as  
22 follows:

23 “(D) PUBLIC NOTICE; WRITTEN JUS-  
24 TIFICATION.—



1           “(i) PUBLIC NOTICE.—If the Adminis-  
2           trator receives a request for a waiver under  
3           this paragraph, the Administrator shall—

4                   “(I) make available to the public  
5                   on an informal basis, including on the  
6                   public website of the Administrator—

7                           “(aa) a copy of the request;

8                           and

9                           “(bb) any information avail-  
10                          able to the Administrator regard-  
11                          ing the request; and

12                   “(II) provide notice of, and op-  
13                   portunity for public comment on, the  
14                   request for a period of not less than  
15                   15 days before making a finding  
16                   under subparagraph (C).

17           “(ii) WRITTEN JUSTIFICATION.—If,  
18           after the period provided under clause (i),  
19           the Administrator makes a finding under  
20           subparagraph (C), the Administrator shall  
21           publish in the Federal Register a written  
22           justification as to why subparagraph (A) is  
23           being waived.”.

1 **SEC. 209. RURAL UTILITIES SERVICE BUY AMERICAN MOD-**  
2 **ERNIZATION.**

3 Section 232 of the Department of Agriculture Reor-  
4 ganization Act of 1994 (7 U.S.C. 6942) is amended by  
5 adding at the end the following new subsection:

6 “(d) DOMESTIC SOURCE REQUIREMENT FOR STEEL,  
7 IRON, AND MANUFACTURED GOODS USED IN RURAL  
8 UTILITIES SERVICE SUPPORTED PROJECTS.—

9 “(1) BUY AMERICAN REQUIRED.—Notwith-  
10 standing any other provision of law, funds made  
11 available under a program carried out by the Sec-  
12 retary through the Rural Utilities Service, including  
13 a program specified in subsection (c), may not be  
14 used, in whole or in part, for a project utilizing steel,  
15 iron, or manufactured goods unless the steel, iron,  
16 and manufactured goods are produced in the United  
17 States.

18 “(2) SCOPE.—The requirement specified in  
19 paragraph (1) applies to each contract for a project  
20 referred to in such paragraph, regardless of the  
21 funding source of the contract, if at least one con-  
22 tract for the project is funded with amounts made  
23 available under a program referred to in such para-  
24 graph.

25 “(3) WAIVER AUTHORITY; CONDITIONS.—

1           “(A) IN GENERAL.—The Administrator of  
2 the Rural Utilities Service may grant a waiver  
3 from the requirements of paragraph (1) or (2)  
4 for a project referred to in paragraph (1) only  
5 if the Administrator finds that—

6                   “(i) applying the requirement in such  
7 paragraph would be inconsistent with the  
8 public interest, as determined in accord-  
9 ance with the regulations required under  
10 subparagraph (B);

11                   “(ii) the steel, iron, or manufactured  
12 goods required for the project are not pro-  
13 duced in the United States—

14                           “(I) in sufficient and reasonably  
15 available quantities; or

16                           “(II) to a satisfactory quality; or

17                   “(iii) the use of steel, iron, and manu-  
18 factured goods produced in the United  
19 States for a project will increase the total  
20 cost of the project by more than 25 per-  
21 cent.

22           “(B) PUBLIC INTEREST CRITERIA.—Not  
23 later than 1 year after the date of enactment of  
24 the Buy American Improvement Act of 2017,  
25 the Administrator shall issue regulations estab-

1           lishing the criteria that the Administrator shall  
2           use to determine whether the application of  
3           paragraph (1) or (2) is inconsistent with the  
4           public interest for purposes of subparagraph  
5           (A)(i).

6           “(C) REQUEST FOR WAIVER.—A recipient  
7           of assistance under a program referred to in  
8           paragraph (1) seeking a waiver under subpara-  
9           graph (A) shall submit to the Administrator a  
10          request for the waiver in such form and con-  
11          taining such information as the Administrator  
12          may require.

13          “(D) NOTICE AND COMMENT FOR WAIVER  
14          REQUESTS.—Within 15 days after the date on  
15          which the Administrator receives a request for  
16          a waiver under subparagraph (C), the Adminis-  
17          trator shall publish in the Federal Register no-  
18          tice of the request for a waiver. The Adminis-  
19          trator may not grant the waiver before the expi-  
20          ration of the 15-day period beginning on the  
21          date of the publication of the notice to provide  
22          the public an opportunity for notice and com-  
23          ment.

24          “(E) NOTICE OF WAIVERS.—Within 15  
25          days after granting a waiver request under this

1 paragraph, the Administrator shall publish in  
 2 the Federal Register notice of the waiver, in-  
 3 cluding—

4 “(i) the justification for the waiver;

5 “(ii) the Administrator’s response to  
 6 any public comments received under sub-  
 7 paragraph (D) with respect to the request  
 8 for that waiver; and

9 “(iii) an employment impact analysis  
 10 of the cumulative effect of the waiver, to-  
 11 gether with all other waivers previously  
 12 granted under this paragraph during the  
 13 preceding 1-year period, on manufacturing  
 14 employment in the United States.

15 “(4) MANUFACTURED GOODS DEFINED.—In  
 16 this subsection, the term ‘manufactured goods’ has  
 17 the meaning given that term pursuant to the regula-  
 18 tions required by section 106 of the Buy American  
 19 Improvement Act of 2017.”.

20 **SEC. 210. COMMUNITY DEVELOPMENT BLOCK GRANT BUY**  
 21 **AMERICA MODERNIZATION.**

22 Section 105 of the Housing and Community Develop-  
 23 ment Act of 1974 (42 U.S.C. 5305) is amended by adding  
 24 at the end the following new subsection:

25 “(i) BUY AMERICA.—

1           “(1) DOMESTIC SOURCE REQUIREMENT FOR  
2 STEEL, IRON, AND MANUFACTURED GOODS.—Not-  
3 withstanding any other provision of law, funds made  
4 available from a grant under section 106 may not be  
5 used, in whole or in part, for any project or activity  
6 unless all of the steel, iron, and manufactured goods  
7 used for the project or activity are produced in the  
8 United States.

9           “(2) SCOPE.—The requirement specified in  
10 paragraph (1) shall apply to all contracts for any  
11 project or activity carried out in whole or in part  
12 with funds made available from a grant under sec-  
13 tion 106, regardless of the funding source of such  
14 contracts, if at least one contract for such project or  
15 activity is funded with amounts made available from  
16 a grant under section 106.

17           “(3) WAIVER AUTHORITY; CONDITIONS.—

18           “(A) AUTHORITY.—The Secretary may  
19 grant a waiver from the requirements of para-  
20 graph (1) or (2) for a project or activity, but  
21 only if the Secretary finds that—

22           “(i) applying such paragraph would be  
23 inconsistent with the public interest, as de-  
24 termined in accordance with the regula-  
25 tions required under subparagraph (B);

1           “(ii) the steel, iron, or manufactured  
2 goods required for a project or activity are  
3 not produced in the United States—

4                   “(I) in sufficient and reasonably  
5 available quantities; or

6                   “(II) to a satisfactory quality; or

7           “(iii) the use of steel, iron, and manu-  
8 factured goods produced in the United  
9 States for a project or activity will increase  
10 the total cost of the project or activity by  
11 more than 25 percent.

12           “(B) PUBLIC INTEREST CRITERIA.—Not  
13 later than 1 year after the date of the enact-  
14 ment of this subsection, the Secretary shall  
15 issue regulations establishing the criteria that  
16 the Secretary shall use to determine whether  
17 the application of paragraph (1) or (2) is incon-  
18 sistent with the public interest for purposes of  
19 subparagraph (A)(i).

20           “(C) REQUESTS FOR WAIVERS.—A recipi-  
21 ent of assistance under section 106 seeking a  
22 waiver under subparagraph (A) shall submit to  
23 the Secretary a request for the waiver in such  
24 form and containing such information as the  
25 Secretary may require. The Secretary shall pub-

1           lish the request for a waiver in the Federal  
2           Register within 15 days after receiving such re-  
3           quest.

4           “(D) NOTICE AND COMMENT FOR WAIVER  
5           REQUESTS.—The Secretary may not issue a  
6           waiver before the expiration of the 15-day pe-  
7           riod beginning on the date of the publication of  
8           the notice to provide the public an opportunity  
9           for notice and comment.

10          “(E) NOTICE OF WAIVERS.—Within 15  
11          days after granting a waiver request under this  
12          paragraph, the Secretary shall publish in the  
13          Federal Register notice of the waiver, includ-  
14          ing—

15                 “(i) a detailed justification for the  
16                 waiver;

17                 “(ii) the Secretary’s response to any  
18                 public comments received under subpara-  
19                 graph (D) with respect to the request for  
20                 such waiver; and

21                 “(iii) an employment impact analysis  
22                 of the cumulative effect of the waiver, to-  
23                 gether with all other waivers previously  
24                 granted under this paragraph during the



1 preceding 1-year period, on manufacturing  
2 employment in the United States.

3 “(4) MANUFACTURED GOODS DEFINED.—In  
4 this subsection, the term ‘manufactured goods’ has  
5 the meaning given that term pursuant to the regula-  
6 tions required by section 106 of the Buy American  
7 Improvement Act of 2017.”.

8 **SEC. 211. RURAL WATER SUPPLY PROGRAM.**

9 (a) BUY AMERICA ACT REQUIREMENTS.—The Rural  
10 Water Supply Act of 2006 (43 U.S.C. 2401 et seq.) is  
11 amended by adding at the end the following:

12 **“SEC. 111. 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, funds made available under this  
17 title may not be used, in whole or in part, for a  
18 project for the construction of treatment works un-  
19 less the steel, iron, and manufactured goods used for  
20 the project are produced in the United States.

21 “(2) SCOPE.—The requirements of this section  
22 apply to all contracts for the construction of projects  
23 regardless of the funding source of such contracts,  
24 if at least one contract for the construction is fund-  
25 ed with amounts made available under this title.

1 “(b) EXCEPTIONS.—

2 “(1) ISSUANCE OF WAIVERS.—The Secretary  
3 may waive the requirements of subsection (a) only if  
4 the Secretary finds that—

5 “(A) applying subsection (a) would be in-  
6 consistent with the public interest;

7 “(B) the steel, iron, or manufactured  
8 goods required for a project are not produced in  
9 the United States—

10 “(i) in sufficient and reasonably avail-  
11 able quantities; or

12 “(ii) to a satisfactory quality; or

13 “(C) the use of steel, iron, and manufac-  
14 tured goods produced in the United States for  
15 a project will increase the total cost of the  
16 project by more than 25 percent.

17 “(2) REGULATIONS.—Not later than 1 year  
18 after the date of enactment of this section, the Sec-  
19 retary shall issue regulations establishing the criteria  
20 that the Secretary shall use to determine whether  
21 the application of subsection (a) is inconsistent with  
22 the public interest for purposes of paragraph (1)(A).

23 “(3) REQUESTS FOR WAIVERS.—A recipient of  
24 assistance under this title seeking a waiver under  
25 paragraph (1) shall submit to the Secretary a re-

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

3       “(c) NOTICE AND COMMENT FOR WAIVER PETI-  
4 TIONS.—

5             “(1) The Secretary shall publish the request for  
6       a waiver in the Federal Register not later than 15  
7       days after receiving such request.

8             “(2) A waiver may not be issued before the ex-  
9       piration of the 15-day period beginning on the date  
10      on which the request for waiver is published pursu-  
11      ant to paragraph (1) to provide the public an oppor-  
12      tunity for notice and comment.

13            “(3) If the Secretary issues a waiver, the Sec-  
14      retary shall publish in the Federal Register not later  
15      than 15 days after issuing such a waiver—

16               “(A) a detailed justification for the waiver  
17              that addresses any public comments received  
18              under subsection (a)(1); and

19               “(B) provides an employment impact anal-  
20              ysis of the cumulative effect of all waivers  
21              under subsection (b) issued by the Secretary  
22              during the preceding calendar year on manufac-  
23              turing employment in the United States.”.

24            (b) CLERICAL AMENDMENT.—The table of contents  
25      of the Rural Water Supply Act of 2006 (43 U.S.C. 2401

1 et seq.) is amended by adding after the item for section  
2 110 the following:

“Sec. 111. Buy America.”.

3 **SEC. 212. ECONOMIC DEVELOPMENT ADMINISTRATION BUY**  
4 **AMERICAN MODERNIZATION.**

5 (a) IN GENERAL.—Title VI of the Federal Water  
6 Pollution Control Act (33 U.S.C. 1381 et seq.) is amended  
7 by adding at the end the following:

8 **“SEC. 609. BUY AMERICA.**

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

11 “(1) IN GENERAL.—Notwithstanding any other  
12 provision of law, funds made available from a State  
13 water pollution control revolving fund established  
14 under this title grants and loan programs adminis-  
15 tered by the Economic Development Agency’s Public  
16 Works and Economic Development Program may  
17 not be used, in whole or in part, for a project for  
18 the construction of treatment works unless the steel,  
19 iron, and manufactured goods used for the project  
20 are produced in the United States.

21 “(2) SCOPE.—The requirements of this section  
22 apply to all contracts for the construction of treat-  
23 ment works carried out within the scope of the ap-  
24 plicable finding, determination, or decision under  
25 section 511(c)(1), regardless of the funding source

1 of such contracts, if at least one contract for the  
2 construction is funded with amounts made available  
3 to carry out this title.

4 “(b) EXCEPTIONS.—

5 “(1) ISSUANCE OF WAIVERS.—The Adminis-  
6 trator may waive the requirements of subsection (a)  
7 only if the Administrator finds that—

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

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

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

17 “(ii) to a satisfactory quality; or

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

22 “(2) REGULATIONS.—Not later than 1 year  
23 after the date of enactment of this section, the Ad-  
24 ministrator shall issue regulations establishing the  
25 criteria that the Administrator shall use to deter-

1 mine whether the application of subsection (a) is in-  
2 consistent with the public interest for purposes of  
3 paragraph (1)(A).

4 “(3) REQUESTS FOR WAIVERS.—A recipient of  
5 assistance under this title seeking a waiver under  
6 paragraph (1) shall submit to the Administrator a  
7 request for the waiver in such form and containing  
8 such information as the Administrator may require.

9 “(c) NOTICE AND COMMENT FOR WAIVER PETI-  
10 TIONS.—

11 “(1) The Administrator shall publish the re-  
12 quest for a waiver in the Federal Register within 15  
13 days after receiving such request.

14 “(2) A waiver may not be issued before the ex-  
15 piration of the 15-day period beginning on the date  
16 on which the request for waiver is published pursu-  
17 ant to paragraph (1) to provide the public an oppor-  
18 tunity for notice and comment.

19 “(3) If the Administrator issues a waiver, the  
20 Administrator shall publish in the Federal Register  
21 within 15 days of issuing such a waiver—

22 “(A) a detailed justification for the waiver  
23 that addresses any public comments received  
24 under subsection (a)(1); and

1           “(B) provides an employment impact anal-  
2           ysis of the cumulative effect of all waivers  
3           under subsection (b) issued by the Adminis-  
4           trator during the preceding calendar year on  
5           manufacturing employment in the United  
6           States.”.

7           (b) CLERICAL AMENDMENT.—The table of contents  
8           of the Federal Water Pollution Control Act (33 U.S.C.  
9           1381 et seq.) is amended by adding after the item for sec-  
10          tion 608 the following:

          “Sec. 609. Buy America.”.

11       **SEC. 213. RAIL LOAN AND LOAN GUARANTEE BUY AMERICA**  
12                               **REQUIREMENTS.**

13          Section 502(h)(3) of the Railroad Revitalization and  
14          Regulatory Reform Act of 1976 (45 U.S.C. 822(h)(3)) is  
15          amended—

16               (1) in subparagraph (A) by striking “and” at  
17          the end;

18               (2) in subparagraph (B) by striking the period  
19          at the end and inserting “; and”; and

20               (3) by adding at the end the following:

21                       “(C) the requirements of section 24405(a) of  
22          title 49, United States Code.”.

○