

117TH CONGRESS  
1ST SESSION

# S. 1094

To ensure that certain materials used in carrying out Federal infrastructure aid programs are made in the United States, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 13, 2021

Ms. BALDWIN (for herself and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To ensure that certain materials used in carrying out Federal infrastructure aid programs are made 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Made in America Act  
5 of 2021”.

6 **SEC. 2. AMERICAN-MADE INFRASTRUCTURE.**

7 (a) DEFINITIONS.—In this section:

8 (1) PRODUCED IN THE UNITED STATES.—The  
9 term “produced in the United States” means—

1 (A) in the case of iron or steel products,  
2 that all manufacturing processes for the iron or  
3 steel product, from the initial melting stage  
4 through the application of coatings, occurred in  
5 the United States;

6 (B) in the case of manufactured products,  
7 that—

8 (i) the manufactured product was  
9 manufactured in the United States; and

10 (ii) the cost of the components of the  
11 manufactured product that are mined, pro-  
12 duced, or manufactured in the United  
13 States is greater than 50 percent of the  
14 total cost of all components of the manu-  
15 factured product; and

16 (C) in the case of construction materials  
17 described in subparagraphs (D) through (I) of  
18 subsection (c)(1), that all manufacturing proc-  
19 esses for the construction material occurred in  
20 the United States.

21 (2) SECRETARY.—The term “Secretary” means  
22 the Secretary of Commerce.

23 (b) UNIFORM STANDARDS.—

24 (1) IN GENERAL.—Not later than 180 days  
25 after the date of enactment of this Act, the Sec-

1       retary shall issue uniform standards that define the  
2       term “all manufacturing processes” for the purposes  
3       of this Act—

4               (A) in the case of iron and steel, in a man-  
5               ner consistent with section 635.410(b)(1)(ii) of  
6               title 23, Code of Federal Regulations (as in ef-  
7               fect on the date of enactment of this Act); and

8               (B) in the case of construction materials  
9               described in subparagraphs (D) through (I) of  
10              subsection (c)(1), in accordance with paragraph  
11              (2).

12       (2) CONSIDERATIONS.—In issuing uniform  
13       standards under paragraph (1)(B), the Secretary  
14       shall—

15              (A) ensure that the uniform standards re-  
16              quire that each manufacturing process required  
17              for the manufacture of the construction mate-  
18              rial and the inputs of the construction material  
19              occurs in the United States, without regard to  
20              the origin of raw material inputs; and

21              (B) take into consideration and seek to  
22              maximize the direct and indirect jobs benefited  
23              or created in the production of the construction  
24              material.

1           (3) APPLICATION.—In carrying out a program  
2 described in subsection (d), the head of each Federal  
3 department or agency that administers a program  
4 described in subsection (d) shall—

5                   (A) implement this Act; and

6                   (B) adopt the uniform standards issued by  
7 the Secretary under paragraph (1) for purposes  
8 of implementing this Act.

9           (c) REQUIREMENT.—

10           (1) IN GENERAL.—Notwithstanding any other  
11 provision of law, none of the funds made available  
12 to carry out a program described in subsection (d)  
13 may be used for a project under that program unless  
14 all of the following materials used in the project are  
15 produced in the United States:

16                   (A) Steel.

17                   (B) Iron.

18                   (C) Manufactured products.

19                   (D) Non-ferrous metals.

20                   (E) Plastic and polymer-based products  
21 (including polyvinylchloride, composite building  
22 materials, and polymers used in fiber optic ca-  
23 bles).

24                   (F) Concrete and other aggregates.

25                   (G) Glass (including optic glass).

1 (H) Lumber.

2 (I) Drywall.

3 (2) EXCEPTION.—Paragraph (1) shall not  
4 apply in any case in which the head of the Federal  
5 department or agency with authority to carry out  
6 the applicable program determines that—

7 (A) applying paragraph (1) would be in-  
8 consistent with the public interest;

9 (B) the relevant material is not produced  
10 in the United States in sufficient and reason-  
11 ably available quantities and of a satisfactory  
12 quality; or

13 (C) inclusion of the relevant material pro-  
14 duced in the United States will increase the  
15 cost of the overall project by more than 25 per-  
16 cent.

17 (3) WAIVER.—If the head of the Federal de-  
18 partment or agency with authority to carry out the  
19 applicable program makes a finding under para-  
20 graph (2) to waive paragraph (1), the head of the  
21 Federal department or agency shall, before the date  
22 on which the waiver takes effect—

23 (A) publish in the Federal Register a de-  
24 tailed written justification that provides the rea-  
25 sons that the waiver is needed; and

1 (B) provide an opportunity for public com-  
2 ment on the proposed waiver for a period of not  
3 more than 60 days.

4 (4) APPLICATION.—This subsection shall be ap-  
5 plied in a manner consistent with United States obli-  
6 gations under international agreements.

7 (d) PROGRAMS DESCRIBED.—The programs referred  
8 to in subsection (c)(1) are each of the following:

9 (1) Direct and guaranteed loans and grants  
10 under section 306(a) of the Consolidated Farm and  
11 Rural Development Act (7 U.S.C. 1926(a)).

12 (2) Distance learning and telemedicine grants  
13 under section 2333 of the Food, Agriculture, Con-  
14 servation, and Trade Act of 1990 (7 U.S.C. 950aaa-  
15 2).

16 (3) Broadband loans and loan guarantees under  
17 title IV of the Rural Electrification Act of 1936 (7  
18 U.S.C. 950bb et seq.).

19 (4) The community connect grant program es-  
20 tablished under title III of the Agriculture, Rural  
21 Development, Food and Drug Administration, and  
22 Related Agencies Appropriations, 2004 (Public Law  
23 108–199; 118 Stat. 29).

1           (5) Solid waste management grants under sec-  
2           tion 310B(b) of the Consolidated Farm and Rural  
3           Development Act (7 U.S.C. 1932(b)).

4           (6) A program or project carried out under the  
5           Public Works and Economic Development Act of  
6           1965 (42 U.S.C. 3121 et seq.).

7           (7) Financial assistance for development, imple-  
8           mentation, or modification of a State energy con-  
9           servation plan under section 363 of the Energy Pol-  
10          icy and Conservation Act (42 U.S.C. 6323).

11          (8) Grants for construction of health centers  
12          provided by the Secretary of Health and Human  
13          Services.

14          (9) Grants for construction, renovation, or re-  
15          pair of non-Federal research facilities provided by  
16          the Director of the National Institutes of Health.

17          (10) The public transportation security assist-  
18          ance grant program under section 1406 of the Im-  
19          plementing Recommendations of the 9/11 Commis-  
20          sion Act of 2007 (6 U.S.C. 1135).

21          (11) Assistance provided under the Public  
22          Housing Capital Fund established under section  
23          9(d) of the United States Housing Act of 1937 (42  
24          U.S.C. 1437g(d)).

1           (12) The community development block grant  
2 program under title I of the Housing and Commu-  
3 nity Development Act of 1974 (42 U.S.C. 5301 et  
4 seq.).

5           (13) The Indian housing block grant program  
6 under section 101 of the Native American Housing  
7 Assistance and Self-Determination Act of 1996 (25  
8 U.S.C. 4111).

9           (14) The rural water supply program under  
10 section 103 of the Rural Water Supply Act of 2006  
11 (43 U.S.C. 2402).

12           (15) The National Parks and Public Land Leg-  
13 acy Restoration Fund established under chapter  
14 2004 of title 54, United States Code.

15           (16) The Western Area Power Administration  
16 borrowing authority under title III of the Hoover  
17 Power Plant Act of 1984 (42 U.S.C. 16421a).

18 **SEC. 3. FEDERAL-AID HIGHWAYS.**

19           (a) IN GENERAL.—Section 313(a) of title 23, United  
20 States Code, is amended by striking “and manufactured  
21 products” and inserting “manufactured products, and  
22 construction materials described in subparagraphs (D)  
23 through (I) of section 2(c)(1) of the Made in America Act  
24 of 2021”.



1 (b) NO EFFECT ON IRON OR STEEL.—Nothing in  
2 this section or an amendment made by this section affects  
3 section 313 of title 23, United States Code, or the imple-  
4 mentation of that section by the Secretary of Transpor-  
5 tation with respect to iron or steel under chapter 1 of title  
6 23, United States Code.

7 (c) BUY AMERICA.—Section 313(g) of title 23,  
8 United States Code, is amended—

9 (1) by striking “assistance under this chapter”  
10 and inserting “assistance under this title”; and

11 (2) by inserting “section 330 or” after “deci-  
12 sion under”.

13 (d) REPEAL OF NATIONAL WAIVER.—The Secretary  
14 of Transportation shall rescind any finding made under  
15 section 313(b)(1) of title 23, United States Code, for any  
16 manufactured product other than steel and iron manufac-  
17 tured products in the final rule entitled “Buy America Re-  
18 quirements” (48 Fed. Reg. 53099 (November 25, 1983)).

19 **SEC. 4. TRANSPORTATION INFRASTRUCTURE FINANCE AND**  
20 **INNOVATION.**

21 Section 602(c)(1) of title 23, United States Code, is  
22 amended by inserting “and section 22905(a)” after “sec-  
23 tion 5333(a)”.

1 **SEC. 5. RAILROAD REHABILITATION AND IMPROVEMENT**  
2 **FINANCING.**

3 Section 502 of the Railroad Revitalization and Regu-  
4 latory Reform Act of 1976 (45 U.S.C. 822(h)(3)) is  
5 amended by adding at the end the following:

6 “(n) BUY AMERICA.—

7 “(1) IN GENERAL.—In awarding direct loans or  
8 loan guarantees under this section, the Secretary  
9 shall require each recipient to comply with section  
10 22905(a) of title 49, United States Code.

11 “(2) SPECIFIC COMPLIANCE.—Notwithstanding  
12 paragraph (1), the Secretary shall require the Na-  
13 tional Railroad Passenger Corporation (Amtrak) to  
14 comply with section 24305(f) of title 49, United  
15 States Code.”.

16 **SEC. 6. PUBLIC TRANSPORTATION.**

17 Section 5323(j) of title 49, United States Code, is  
18 amended—

19 (1) in paragraph (1) by striking “and manufac-  
20 tured goods” and inserting “manufactured products,  
21 and construction materials described in subpara-  
22 graphs (D) through (I) of section 2(c)(1) of the  
23 Made in America Act of 2021”;

24 (2) in paragraph (2)(B) by striking “and  
25 goods” and inserting “manufactured products, and  
26 construction materials”;

1           (3) in paragraph (6)(A)(i) by striking “or man-  
2           ufactured goods” and inserting “manufactured prod-  
3           ucts, or construction materials”; and

4           (4) in paragraph (10) by striking “or manufac-  
5           tured goods” and inserting “manufactured products,  
6           or construction materials”.

7 **SEC. 7. RAIL IMPROVEMENT GRANTS.**

8           Section 22905(a) of title 49, United States Code, is  
9 amended—

10           (1) in paragraph (1) by striking “manufactured  
11           goods” and inserting “manufactured products, and  
12           construction materials described in subparagraphs  
13           (D) through (I) of section 2(c)(1) of the Made in  
14           America Act of 2021”;

15           (2) in paragraph (2)(B) by striking “and  
16           goods” and inserting “manufactured products, and  
17           construction materials”;

18           (3) in paragraph (9) by striking “or manufac-  
19           tured goods” and inserting “manufactured products,  
20           or construction materials”; and

21           (4) by adding at the end the following:

22           “(12) The requirements of this subsection apply  
23           to all contracts for a project carried out within the  
24           scope of the applicable finding, determination, or de-  
25           cisions under the National Environmental Policy Act

1 of 1969 (42 U.S.C. 4321 et seq.), regardless of the  
2 funding source for activities carried out pursuant to  
3 such contracts, if at least 1 contract for the project  
4 is funded with amounts made available to carry out  
5 a provision specified in paragraph (1).”.

6 **SEC. 8. CIVIL AVIATION FACILITY PROGRAMS.**

7 (a) IN GENERAL.—Section 50101 of title 49, United  
8 States Code, is amended—

9 (1) in subsection (a)—

10 (A) by striking “steel and manufactured  
11 goods” and inserting “steel, iron, manufactured  
12 products, and construction materials described  
13 in subparagraphs (D) through (I) of section  
14 2(e)(1) of the Made in America Act of 2021”;  
15 and

16 (B) by striking “(except section 47127)”;  
17 and

18 (2) in subsection (b)—

19 (A) in paragraph (2) by striking “steel and  
20 goods” and inserting “steel, iron, manufactured  
21 products, and construction materials”; and

22 (B) by striking “(except section 47127)”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) RESTRICTING CONTRACT AWARDS BECAUSE  
25 OF DISCRIMINATION AGAINST UNITED STATES

1       GOODS OR SERVICES.—Section 50102 of title 49,  
2       United States Code, is amended by striking “(except  
3       section 47127)”.

4               (2) RESTRICTION ON AIRPORT PROJECTS USING  
5       PRODUCTS OR SERVICES OF FOREIGN COUNTRIES  
6       DENYING FAIR MARKET OPPORTUNITIES.—Section  
7       50104(b)(1) of title 49, United States Code, is  
8       amended by striking “(except section 47127)”.

9               (3) FRAUDULENT USE OF “MADE IN AMERICA”  
10       LABEL.—Section 50105 of title 49, United States  
11       Code, is amended by striking “(except section  
12       47127)”.

13       **SEC. 9. ARMY CORPS CONSTRUCTION AND REHABILITA-**  
14               **TION CONTRACTS FOR CIVIL WORKS.**

15       (a) IN GENERAL.—With respect to all Corps of Engi-  
16       neers construction and rehabilitation contracts to be  
17       awarded after the date of enactment of this Act and any  
18       construction and rehabilitation contract carried out by a  
19       non-Federal interest under section 204 of the Water Re-  
20       sources Development Act of 1986 (33 U.S.C. 2232) or sec-  
21       tion 1043 of the Water Resources Reform and Develop-  
22       ment Act of 2014 (33 U.S.C. 2201 note; Public Law 113–  
23       121), the steel, iron, manufactured products, and con-  
24       struction materials described in subparagraphs (D)  
25       through (I) of section 2(c)(1) furnished and delivered

1 under such contracts shall be manufactured or fabricated  
2 in whole or substantial part in the United States.

3 (b) CONFORMING AMENDMENTS.—

4 (1) WRDA 1996.—Section 235 of the Water Re-  
5 sources Development Act of 1996 (33 U.S.C. 2201  
6 note; Public Law 104–303) is repealed.

7 (2) WRDA 1999.—Section 222 of the Water Re-  
8 sources Development Act of 1999 (33 U.S.C. 2201  
9 note; Public Law 104–303) is repealed.

10 **SEC. 10. WATERSHED PILOT PROJECTS; ALTERNATIVE**  
11 **WATER SOURCE PROJECTS; SEWER OVER-**  
12 **FLOW AND STORMWATER REUSE MUNICIPAL**  
13 **GRANTS.**

14 (a) WATERSHED PILOT PROJECTS.—Section 122 of  
15 the Federal Water Pollution Act (33 U.S.C. 1274) is  
16 amended by striking subsection (c) and inserting the fol-  
17 lowing:

18 “(c) REQUIREMENTS.—The requirements under sec-  
19 tion 608 shall apply to any construction, alteration, main-  
20 tenance, or repair of treatment works receiving a grant  
21 under this section.”.

22 (b) PILOT PROGRAM FOR ALTERNATIVE WATER  
23 SOURCE PROJECTS.—Section 220 of the Federal Water  
24 Pollution Control Act (33 U.S.C. 1300) is amended by  
25 adding at the end the following:

1       “(k) REQUIREMENTS.—The requirements under sec-  
 2 tion 608 shall apply to any construction of an alternative  
 3 water source project carried out using assistance made  
 4 available under this section.”.

5       (c) SEWER OVERFLOW AND STORMWATER REUSE  
 6 MUNICIPAL GRANTS.—Section 221(e) of the Federal  
 7 Water Pollution Control Act (13 U.S.C. 1301(e)) is  
 8 amended by striking “section 513” and inserting “section  
 9 513, or the requirements under section 608,”.

10       (d) GRANTS FOR CONSTRUCTION OF TREATMENT  
 11 WORKS.—Section 215 of the Federal Water Pollution  
 12 Control Act (33 U.S.C. 1295) is amended—

13           (1) in the first sentence, by striking “Notwith-  
 14 standing any other” and inserting the following:

15       “(a) IN GENERAL.—Except as provided under sub-  
 16 section (b) and notwithstanding any other”; and

17           (2) by adding at the end the following:

18       “(b) REQUIREMENTS FOR CERTAIN PROJECTS.—  
 19 Projects carried out under sections 122, 220, and 221  
 20 shall be subject to the requirements under section 608.”.

21 **SEC. 11. CLEAN WATER STATE REVOLVING FUND.**

22       Section 608 of the Federal Water Pollution Control  
 23 Act (33 U.S.C. 1388) is amended—

24           (1) in subsection (a) by inserting “, manufac-  
 25 tured products, and construction materials described

1 in subparagraphs (D) through (I) of section 2(e)(1)  
2 of the Made in America Act of 2021” after “iron  
3 and steel products”; and

4 (2) in subsection (c)—

5 (A) in paragraph (2) by inserting “, manu-  
6 factured products, and construction materials”  
7 after “iron and steel products”; and

8 (B) in paragraph (3) by inserting “, manu-  
9 factured products, and construction materials”  
10 after “iron and steel products”.

11 **SEC. 12. WATER INFRASTRUCTURE FINANCE AND INNOVA-**  
12 **TION.**

13 Section 5035 of the Water Resources Reform and De-  
14 velopment Act of 2014 (33 U.S.C. 3914) is amended—

15 (1) in subsection (a) by inserting “, manufac-  
16 tured products, and construction materials described  
17 in subparagraphs (D) through (I) of section 2(e)(1)  
18 of the Made in America Act of 2021” after “iron  
19 and steel products”; and

20 (2) in subsection (c)—

21 (A) in paragraph (2) by inserting “, manu-  
22 factured products, and construction materials”  
23 after “iron and steel products”; and



1 (B) in paragraph (3) by inserting “, manu-  
2 factured products, and construction materials”  
3 after “iron and steel products”.

4 **SEC. 13. DRINKING WATER STATE REVOLVING FUND.**

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

7 (1) in subparagraph (A)—

8 (A) by striking “During fiscal years 2019  
9 through 2023, funds” and inserting “Funds”;  
10 and

11 (B) by inserting “, manufactured products,  
12 and construction materials described in sub-  
13 paragraphs (D) through (I) of section 2(e)(1)  
14 of the Made in America Act of 2021” after  
15 “iron and steel products”; and

16 (2) in subparagraph (C) by inserting “, manu-  
17 factured products, and construction materials” after  
18 “iron and steel products” each place such phrase oc-  
19 curs.

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