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(Original Signature of Member)

112TH CONGRESS
1ST SESSION

H. R.

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 HOUSE OF REPRESENTATIVES

Mr. RAHALL (for himself and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on

A BILL

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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Invest in American Jobs Act of 2011”.

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—DEPARTMENT OF TRANSPORTATION

- Sec. 101. Federal-aid highway Buy America provisions.
- Sec. 102. Public transportation Buy America provisions.
- Sec. 103. Rail grant Buy America provisions.
- Sec. 104. Rail loan and loan guarantee Buy America provisions.
- Sec. 105. Amtrak Buy America provisions.
- Sec. 106. Aviation Buy America provisions.
- Sec. 107. Department of Transportation Buy America annual report.

TITLE II—OTHER INFRASTRUCTURE INVESTMENT

- Sec. 201. Wastewater treatment Buy America provisions.
- Sec. 202. Economic development Buy America provisions.
- Sec. 203. FEMA mitigation grant Buy America provisions.
- Sec. 204. Americanization of offshore operations in the Exclusive Economic Zone.

3 **TITLE I—DEPARTMENT OF**
4 **TRANSPORTATION**

5 **SEC. 101. FEDERAL-AID HIGHWAY BUY AMERICA PROVI-**
6 **SIONS.**

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

9 **“§ 313. Buy America**

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

12 **“(1) IN GENERAL.—**Notwithstanding any other
13 provision of law, funds made available to carry out
14 this title may not be obligated for a project unless
15 the steel, iron, and manufactured goods used for the
16 project are produced in the United States.

1 “(2) SCOPE.—The requirements of this section
2 apply to all contracts for a project carried out within
3 the scope of the applicable finding, determination, or
4 decision under the National Environmental Policy
5 Act of 1969 (42 U.S.C. 4321 et seq.), regardless of
6 the funding source of such contracts, if at least one
7 contract for the project is funded with amounts
8 made available to carry out this title.

9 “(b) EXCEPTIONS.—

10 “(1) ISSUANCE OF WAIVERS.—The Secretary
11 may waive the requirements of subsection (a) only if
12 the Secretary finds that—

13 “(A) applying subsection (a) would be in-
14 consistent with the public interest, as deter-
15 mined in accordance with the regulations re-
16 quired under paragraph (2);

17 “(B) the steel, iron, or manufactured
18 goods required for a project are not produced in
19 the United States—

20 “(i) in sufficient and reasonably avail-
21 able quantities; or

22 “(ii) to a satisfactory quality; or

23 “(C) the use of steel, iron, and manufac-
24 tured goods produced in the United States for

1 a project will increase the total cost of the
2 project by more than 25 percent.

3 “(2) REGULATIONS.—Not later than 1 year
4 after the date of enactment of the Invest in Amer-
5 ican Jobs Act of 2011, the Secretary shall issue reg-
6 ulations establishing the criteria that the Secretary
7 shall use to determine whether the application of
8 subsection (a) is inconsistent with the public interest
9 for purposes of paragraph (1)(A).

10 “(3) LABOR COSTS.—For purposes of this sub-
11 section, labor costs involved in final assembly shall
12 not be included in calculating the cost of compo-
13 nents.

14 “(4) REQUESTS FOR WAIVERS.—A recipient of
15 assistance under this title seeking a waiver under
16 paragraph (1) shall submit to the Secretary a re-
17 quest for the waiver in such form and containing
18 such information as the Secretary may require.

19 “(c) WAIVER REQUIREMENTS.—

20 “(1) PUBLIC NOTIFICATION OF AND OPPOR-
21 TUNITY FOR COMMENT ON REQUEST FOR A WAIV-
22 ER.—

23 “(A) IN GENERAL.—If the Secretary re-
24 ceives a request for a waiver under subsection
25 (b), the Secretary shall provide notice of and an

1 opportunity for public comment on the request
2 at least 30 days before making a finding based
3 on the request.

4 “(B) NOTICE REQUIREMENTS.—A notice
5 provided under subparagraph (A) shall—

6 “(i) include the information available
7 to the Secretary concerning the request, in-
8 cluding whether the request is being made
9 under subsection (b)(1)(A), (b)(1)(B), or
10 (b)(1)(C); and

11 “(ii) be provided by electronic means,
12 including on the official public Internet
13 Web site of the Department of Transpor-
14 tation.

15 “(2) DETAILED JUSTIFICATION IN FEDERAL
16 REGISTER.—If the Secretary issues a waiver under
17 subsection (b), the Secretary shall publish in the
18 Federal Register a detailed justification for the
19 waiver that—

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

22 “(B) is published before the waiver takes
23 effect.

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

4 “(1) a State from imposing requirements that
5 are more stringent than those imposed under this
6 section with respect to limiting the use of articles,
7 materials, or supplies mined, produced, or manufac-
8 tured in foreign countries for projects carried out
9 with such assistance; or

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

12 “(e) INTENTIONAL VIOLATIONS.—Pursuant to proce-
13 dures established under subpart 9.4 of chapter 1 of title
14 48, Code of Federal Regulations, a person shall be ineli-
15 gible to receive a contract or subcontract funded with
16 amounts made available to carry out this title if the Sec-
17 retary, the head of any department, agency, or instrumen-
18 tality of the United States, or a court determines that
19 such person intentionally—

20 “(1) affixed a label bearing a ‘Made in Amer-
21 ica’ inscription, or any inscription with the same
22 meaning, to any steel, iron, or manufactured goods
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; or

3 “(2) represented that any steel, iron, or manu-
4 factured goods were produced in the United States
5 that—

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

8 “(B) were not produced in the United
9 States.

10 “(f) CONSISTENCY WITH INTERNATIONAL AGREE-
11 MENTS.—

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

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

1 against steel, iron, or manufactured goods that are
2 produced in the United States and covered by the
3 agreement.”.

4 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
5 than 1 year after the date of enactment of this Act, and
6 at least every 5 years thereafter, the Secretary shall review
7 each standing nationwide waiver issued under section 313
8 of title 23, United States Code, to determine whether con-
9 tinuing such waiver is necessary.

10 (c) REPEALS.—

11 (1) WAIVER NOTIFICATION AND ANNUAL RE-
12 PORTS.—Section 117 of the SAFETEA-LU Tech-
13 nical Corrections Act of 2008 (23 U.S.C. 313 note)
14 is repealed.

15 (2) NOTICE AND PUBLIC COMMENTS.—Section
16 123 of title I of division A of the Consolidated Ap-
17 propriations Act, 2010 (23 U.S.C. 313 note) is re-
18 pealed.

19 **SEC. 102. PUBLIC TRANSPORTATION BUY AMERICA PROVI-**
20 **SIONS.**

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

23 “(j) 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, and except as provided
3 in subparagraph (B), funds made available to
4 carry out this chapter may not be obligated for
5 a project unless the steel, iron, and manufac-
6 tured goods used for the project are produced
7 in the United States.

8 “(B) SPECIAL RULES FOR ROLLING
9 STOCK.—Funds made available to carry out
10 this chapter may not be obligated for the pro-
11 curement of rolling stock (including train con-
12 trol, communication, traction power equipment,
13 and rolling stock prototypes) unless—

14 “(i) the cost of components and sub-
15 components produced in the United
16 States—

17 “(I) for fiscal year 2012 is more
18 than 60 percent of the cost of all com-
19 ponents of the rolling stock;

20 “(II) for fiscal year 2013 is more
21 than 70 percent of the cost of all com-
22 ponents of the rolling stock;

23 “(III) for fiscal year 2014 is
24 more than 80 percent of the cost of
25 all components of the rolling stock;

1 “(IV) for fiscal year 2015 is
2 more than 90 percent of the cost of
3 all components of the rolling stock;
4 and

5 “(V) for fiscal year 2016, and
6 each fiscal year thereafter, is 100 per-
7 cent of the cost of all components of
8 the rolling stock; and

9 “(ii) final assembly of the rolling
10 stock, including rolling stock prototypes,
11 occurs in the United States.

12 “(C) SCOPE.—The requirements of this
13 subsection apply to all contracts for a public
14 transportation project carried out within the
15 scope of the applicable finding, determination,
16 or decision under the National Environmental
17 Policy Act of 1969 (42 U.S.C. 4321 et seq.),
18 regardless of the funding source of such con-
19 tracts, if at least one contract for the public
20 transportation project is funded with amounts
21 made available to carry out this chapter.

22 “(2) EXCEPTIONS.—

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

1 “(i) applying paragraph (1) would be
2 inconsistent with the public interest, as de-
3 termined in accordance with the regula-
4 tions required under subparagraph (B);

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

8 “(I) in sufficient and reasonably
9 available quantities; or

10 “(II) to a satisfactory quality; or

11 “(iii) the use of steel, iron, and manu-
12 factured goods produced in the United
13 States for a project will increase the total
14 cost of the project by more than 25 per-
15 cent.

16 “(B) REGULATIONS.—Not later than 1
17 year after the date of enactment of the Invest
18 in American Jobs Act of 2011, the Secretary
19 shall issue regulations establishing the criteria
20 that the Secretary shall use to determine
21 whether the application of paragraph (1) is in-
22 consistent with the public interest for purposes
23 of subparagraph (A)(i).

24 “(C) COMPONENTS OF ROLLING STOCK.—
25 If the Secretary finds that a component of roll-

1 ing stock is not produced in the United States
2 in sufficient and reasonably available quantities
3 or to a satisfactory quality, the Secretary may
4 issue a waiver under subparagraph (A) with re-
5 spect to such component.

6 “(D) LABOR COSTS.—For purposes of this
7 subsection, labor costs involved in final assem-
8 bly shall not be included in calculating the cost
9 of components.

10 “(E) REQUESTS FOR WAIVERS.—A recipi-
11 ent of assistance under this chapter seeking a
12 waiver under subparagraph (A) shall submit to
13 the Secretary a request for the waiver in such
14 form and containing such information as the
15 Secretary may require.

16 “(3) WAIVER REQUIREMENTS.—

17 “(A) PUBLIC NOTIFICATION OF AND OP-
18 PORTUNITY FOR COMMENT ON REQUEST FOR A
19 WAIVER.—

20 “(i) IN GENERAL.—If the Secretary
21 receives a request for a waiver under para-
22 graph (2), the Secretary shall provide no-
23 tice of and an opportunity for public com-
24 ment on the request at least 30 days be-

1 fore making a finding based on the re-
2 quest.

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

5 “(I) include the information
6 available to the Secretary concerning
7 the request, including whether the re-
8 quest is being made under subpara-
9 graph (2)(A)(i), (2)(A)(ii), or
10 (2)(A)(iii); and

11 “(II) be provided by electronic
12 means, including on the official public
13 Internet Web site of the Department
14 of Transportation.

15 “(B) DETAILED JUSTIFICATION IN FED-
16 ERAL REGISTER.—If the Secretary issues a
17 waiver under paragraph (2), the Secretary shall
18 publish in the Federal Register a detailed jus-
19 tification for the waiver that—

20 “(i) addresses the public comments
21 received under subparagraph (A)(i); and

22 “(ii) is published before the waiver
23 takes effect.

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

4 “(A) a State from imposing requirements
5 that are more stringent than those imposed
6 under this subsection with respect to limiting
7 the use of articles, materials, or supplies mined,
8 produced, or manufactured in foreign countries
9 for projects carried out with such assistance; or

10 “(B) any recipient of such assistance from
11 complying with such State requirements.

12 “(5) INTENTIONAL VIOLATIONS.—Pursuant to
13 procedures established under subpart 9.4 of chapter
14 1 of title 48, Code of Federal Regulations, a person
15 shall be ineligible to receive a contract or sub-
16 contract funded with amounts made available to
17 carry out this chapter or any other law providing
18 Federal public transportation assistance if the Sec-
19 retary, the head of any department, agency, or in-
20 strumentality of the United States, or a court deter-
21 mines that such person intentionally—

22 “(A) affixed a label bearing a ‘Made in
23 America’ inscription, or any inscription with the
24 same meaning, to any steel, iron, or manufac-
25 tured goods that—

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

3 “(ii) were not produced in the United
4 States; or

5 “(B) represented that any steel, iron, or
6 manufactured goods were produced in the
7 United States that—

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

10 “(ii) were not produced in the United
11 States.

12 “(6) CONSISTENCY WITH INTERNATIONAL
13 AGREEMENTS.—

14 “(A) IN GENERAL.—This subsection shall
15 be applied in a manner that is consistent with
16 United States obligations under international
17 agreements.

18 “(B) TREATMENT OF FOREIGN COUNTRIES
19 IN VIOLATION OF INTERNATIONAL AGREE-
20 MENTS.—The Secretary shall prohibit the use
21 of steel, iron, and manufactured goods produced
22 in a foreign country in a project funded with
23 amounts made available to carry out this chap-
24 ter or any other law providing Federal public
25 transportation assistance, including any project

1 for which the Secretary has issued a waiver
2 under paragraph (2), if the Secretary, in con-
3 sultation with the United States Trade Rep-
4 resentative, determines that the foreign country
5 is in violation of the terms of an agreement
6 with the United States by discriminating
7 against steel, iron, or manufactured goods that
8 are produced in the United States and covered
9 by the agreement.

10 “(7) OPPORTUNITY TO CORRECT INADVERTENT
11 ERROR.—The Secretary may allow a manufacturer
12 or supplier of steel, iron, or manufactured goods to
13 correct after bid opening an incomplete Buy America
14 certificate or an incorrect certificate of noncompli-
15 ance (but not a failure to sign a certificate, a sub-
16 mission of both a certificate of compliance and a cer-
17 tificate of noncompliance, or a failure to submit any
18 certificate) under this subsection if such manufac-
19 turer or supplier attests under penalty of perjury
20 that such manufacturer or supplier submitted an in-
21 complete or incorrect certificate as a result of an in-
22 advertent or clerical error. The burden of estab-
23 lishing inadvertent or clerical error is on the manu-
24 facturer or supplier.”.

1 (b) REVIEW OF GENERAL PUBLIC INTEREST WAIV-
2 ERS.—Not later than 1 year after the date of enactment
3 of this Act, and at least every 5 years thereafter, the Sec-
4 retary shall review the general public interest waivers de-
5 scribed in subsection (b) of Appendix A of section 661.7
6 of title 49, Code of Federal Regulations, to determine
7 whether continuing such waivers is in the public interest.

8 **SEC. 103. RAIL GRANT BUY AMERICA PROVISIONS.**

9 (a) IN GENERAL.—Section 24405(a) of title 49,
10 United States Code, is amended to read as follows:

11 “(a) 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, funds made available to
16 carry out this chapter, chapter 223, chapter
17 261, or section 20154 or 24105 may not be ob-
18 ligated for a project unless the steel, iron, and
19 manufactured goods used for the project are
20 produced in the United States.

21 “(B) SCOPE.—The requirements of this
22 subsection apply to all contracts for a project
23 carried out within the scope of the applicable
24 finding, determination, or decision under the
25 National Environmental Policy Act of 1969 (42

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

6 “(2) EXCEPTIONS.—

7 “(A) ISSUANCE OF WAIVERS.—The Sec-
8 retary of Transportation may waive the require-
9 ments of paragraph (1) only if the Secretary
10 finds that—

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

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

18 “(I) in sufficient and reasonably
19 available quantities; or

20 “(II) to a satisfactory quality; or

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

1 “(B) REGULATIONS.—Not later than 1
2 year after the date of enactment of the Invest
3 in American Jobs Act of 2011, the Secretary
4 shall issue regulations establishing the criteria
5 that the Secretary shall use to determine
6 whether the application of paragraph (1) is in-
7 consistent with the public interest for purposes
8 of subparagraph (A)(i).

9 “(C) LABOR COSTS.—For purposes of this
10 paragraph, labor costs involved in final assem-
11 bly shall not be included in calculating the cost
12 of components.

13 “(D) REQUESTS FOR WAIVERS.—A recipi-
14 ent of assistance under this chapter, chapter
15 223, chapter 261, or section 20154 or 24105
16 seeking a waiver under subparagraph (A) shall
17 submit to the Secretary a request for the waiver
18 in such form and containing such information
19 as the Secretary may require.

20 “(3) WAIVER REQUIREMENTS.—

21 “(A) PUBLIC NOTIFICATION OF AND OP-
22 PORTUNITY FOR COMMENT ON REQUEST FOR A
23 WAIVER.—

24 “(i) IN GENERAL.—If the Secretary
25 receives a request for a waiver under para-

1 graph (2), the Secretary shall provide no-
2 tice of and an opportunity for public com-
3 ment on the request at least 30 days be-
4 fore making a finding based on the re-
5 quest.

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

8 “(I) include the information
9 available to the Secretary concerning
10 the request, including whether the re-
11 quest is being made under paragraph
12 (2)(A)(i), (2)(A)(ii), or (2)(A)(iii);
13 and

14 “(II) be provided by electronic
15 means, including on the official public
16 Internet Web site of the Department
17 of Transportation.

18 “(B) DETAILED JUSTIFICATION IN FED-
19 ERAL REGISTER.—If the Secretary issues a
20 waiver under paragraph (2), the Secretary shall
21 publish in the Federal Register a detailed jus-
22 tification for the waiver that—

23 “(i) addresses the public comments
24 received under subparagraph (A)(i); and

1 “(ii) is published before the waiver
2 takes effect.

3 “(4) STATE REQUIREMENTS.—The Secretary
4 may not impose a limitation or condition on assist-
5 ance provided under this chapter, chapter 223, chap-
6 ter 261, or section 20154 or 24105 that restricts—

7 “(A) a State from imposing requirements
8 that are more stringent than those imposed
9 under this subsection with respect to limiting
10 the use of articles, materials, or supplies mined,
11 produced, or manufactured in foreign countries
12 for projects carried out with such assistance; or

13 “(B) any recipient of such assistance from
14 complying with such State requirements.

15 “(5) INTENTIONAL VIOLATIONS.—Pursuant to
16 procedures established under subpart 9.4 of chapter
17 1 of title 48, Code of Federal Regulations, a person
18 shall be ineligible to receive a contract or sub-
19 contract funded with amounts made available to
20 carry out this chapter, chapter 223, chapter 261, or
21 section 20154 or 24105 if the Secretary, the head
22 of any department, agency, or instrumentality of the
23 United States, or a court determines that such per-
24 son intentionally—

1 “(A) affixed a label bearing a ‘Made in
2 America’ inscription, or any inscription with the
3 same meaning, to any steel, iron, or manufac-
4 tured goods that—

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

7 “(ii) were not produced in the United
8 States; or

9 “(B) represented that any steel, iron, or
10 manufactured goods were produced in the
11 United States 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.

16 “(6) CONSISTENCY WITH INTERNATIONAL
17 AGREEMENTS.—

18 “(A) IN GENERAL.—This subsection shall
19 be applied in a manner that is consistent with
20 United States obligations under international
21 agreements.

22 “(B) TREATMENT OF FOREIGN COUNTRIES
23 IN VIOLATION OF INTERNATIONAL AGREE-
24 MENTS.—The Secretary shall prohibit the use
25 of steel, iron, and manufactured goods produced

1 in a foreign country in a project funded with
2 amounts made available to carry out this chap-
3 ter, chapter 223, chapter 261, or section 20154
4 or 24105, including any project for which the
5 Secretary has issued a waiver under paragraph
6 (2), if the Secretary, in consultation with the
7 United States Trade Representative, determines
8 that the foreign country is in violation of the
9 terms of an agreement with the United States
10 by discriminating against steel, iron, or manu-
11 factured goods that are produced in the United
12 States and covered by the agreement.

13 “(7) OPPORTUNITY TO CORRECT INADVERTENT
14 ERROR.—The Secretary may allow a manufacturer
15 or supplier of steel, iron, or manufactured goods to
16 correct after bid opening an incomplete Buy America
17 certificate or an incorrect certificate of noncompli-
18 ance (but not a failure to sign a certificate, a sub-
19 mission of both a certificate of compliance and a cer-
20 tificate of noncompliance, or a failure to submit any
21 certificate) under this subsection if such manufac-
22 turer or supplier attests under penalty of perjury
23 that such manufacturer or supplier submitted an in-
24 complete or incorrect certificate as a result of an in-
25 advertent or clerical error. The burden of estab-

1 lishing inadvertent or clerical error is on the manu-
2 facturer or supplier.”.

3 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
4 than 1 year after the date of enactment of this Act, and
5 at least every 5 years thereafter, the Secretary shall review
6 each standing nationwide waiver issued under section
7 24405(a) of title 49, United States Code, to determine
8 whether continuing such waiver is necessary.

9 **SEC. 104. RAIL LOAN AND LOAN GUARANTEE BUY AMERICA**
10 **PROVISIONS.**

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

14 (1) by striking “and” at the end of subpara-
15 graph (A);

16 (2) by striking the period at the end of sub-
17 paragraph (B) and inserting “; and”; and

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

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

21 **SEC. 105. AMTRAK BUY AMERICA PROVISIONS.**

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

24 “(f) BUY AMERICA.—

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

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

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

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

3 “(C) UNITED STATES DEFINED.—In this
4 subsection, the term ‘United States’ means the
5 States, territories, and possessions of the
6 United States and the District of Columbia.

7 “(2) EXCEPTIONS.—

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

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

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

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

22 “(II) to a satisfactory quality; or

23 “(iii) the use of steel, iron, and manu-
24 factured goods produced in the United
25 States for a project or other capital ex-

1 pense will increase the total cost of the
2 project or expense by more than 25 per-
3 cent.

4 “(B) REGULATIONS.—Not later than 1
5 year after the date of enactment of the Invest
6 in American Jobs Act of 2011, the Secretary
7 shall issue regulations establishing the criteria
8 that the Secretary shall use to determine
9 whether the application of paragraph (1) is in-
10 consistent with the public interest for purposes
11 of subparagraph (A)(i).

12 “(C) LABOR COSTS.—For purposes of this
13 paragraph, labor costs involved in final assem-
14 bly shall not be included in calculating the cost
15 of components.

16 “(D) REQUESTS FOR WAIVERS.—If Am-
17 trak seeks a waiver under subparagraph (A),
18 Amtrak shall submit to the Secretary a request
19 for the waiver in such form and containing such
20 information as the Secretary may require.

21 “(3) WAIVER REQUIREMENTS.—

22 “(A) PUBLIC NOTIFICATION OF AND OP-
23 PORTUNITY FOR COMMENT ON REQUEST FOR A
24 WAIVER.—

1 “(i) IN GENERAL.—If the Secretary
2 receives a request for a waiver from Am-
3 trak under paragraph (2), the Secretary
4 shall provide notice of and an opportunity
5 for public comment on the request at least
6 30 days before making a finding based on
7 the request.

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

10 “(I) include the information
11 available to the Secretary concerning
12 the request, including whether the re-
13 quest is being made under paragraph
14 (2)(A)(i), (2)(A)(ii), or (2)(A)(iii);
15 and

16 “(II) be provided by electronic
17 means, including on the official public
18 Internet Web site of the Department
19 of Transportation.

20 “(B) DETAILED JUSTIFICATION IN FED-
21 ERAL REGISTER.—If the Secretary issues a
22 waiver under paragraph (2), the Secretary shall
23 publish in the Federal Register a detailed jus-
24 tification for the waiver that—

1 “(i) addresses the public comments
2 received under subparagraph (A)(i); and

3 “(ii) is published before the waiver
4 takes effect.

5 “(4) STATE REQUIREMENTS.—The Secretary
6 may not impose a limitation or condition on assist-
7 ance provided with funds described in paragraph
8 (1)(A) that restricts—

9 “(A) a State from imposing requirements
10 that are more stringent than those imposed
11 under this subsection with respect to limiting
12 the use of articles, materials, or supplies mined,
13 produced, or manufactured in foreign countries
14 for capital projects or other capital expenses
15 carried out with such assistance; or

16 “(B) any recipient of such assistance from
17 complying with such State requirements.

18 “(5) INTERNATIONAL VIOLATIONS.—Pursuant
19 to procedures established under subpart 9.4 of chap-
20 ter 1 of title 48, Code of Federal Regulations, a per-
21 son shall be ineligible to receive a contract or sub-
22 contract funded with funds described in paragraph
23 (1)(A) if the Secretary, the head of any department,
24 agency, or instrumentality of the United States, or
25 a court determines that such person intentionally—

1 “(A) affixed a label bearing a ‘Made in
2 America’ inscription, or any inscription with the
3 same meaning, to any steel, iron, or manufac-
4 tured goods that—

5 “(i) were used in a capital project or
6 other capital expense to which this sub-
7 section applies; and

8 “(ii) were not produced in the United
9 States; or

10 “(B) represented that any steel, iron, or
11 manufactured goods were produced in the
12 United States 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.

18 “(6) CONSISTENCY WITH INTERNATIONAL
19 AGREEMENTS.—

20 “(A) IN GENERAL.—This subsection shall
21 be applied in a manner that is consistent with
22 United States obligations under international
23 agreements.

24 “(B) TREATMENT OF FOREIGN COUNTRIES
25 IN VIOLATION OF INTERNATIONAL AGREE-

1 MENTS.—The Secretary shall prohibit the use
2 of steel, iron, and manufactured goods produced
3 in a foreign country in a capital project or
4 other capital expense funded with funds de-
5 scribed in paragraph (1)(A), including any
6 project or capital expense for which the Sec-
7 retary has issued a waiver under paragraph (2),
8 if the Secretary, in consultation with the United
9 States Trade Representative, determines that
10 the foreign country is in violation of the terms
11 of an agreement with the United States by dis-
12 criminating against steel, iron, or manufactured
13 goods that are produced in the United States
14 and covered by the agreement.”.

15 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
16 than 1 year after the date of enactment of this Act, and
17 at least every 5 years thereafter, the Secretary shall review
18 each standing nationwide waiver issued under section
19 24305(f) of title 49, United States Code, to determine
20 whether continuing such waiver is necessary.

21 **SEC. 106. AVIATION BUY AMERICA PROVISIONS.**

22 (a) BUY-AMERICAN PREFERENCES.—Chapter 501 of
23 title 49, United States Code, is amended by striking the
24 chapter heading and inserting “**BUY AMERICA**”.

1 (b) ENHANCEMENTS TO BUY AMERICA REQUIRE-
2 MENTS.—Section 50101 of such title is amended to read
3 as follows:

4 **“§ 50101. Buy America**

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

7 “(1) IN GENERAL.—Notwithstanding any other
8 provision of law, and except as provided in para-
9 graph (2), funds made available to carry out section
10 106(k), 44502(a)(2), or 44509, subchapter I of
11 chapter 471 (except section 47127), or chapter 481
12 (except sections 48102(e), 48106, 48107, and
13 48110) of this title may not be obligated for a
14 project unless the steel, iron, and manufactured
15 goods used for the project are produced in the
16 United States.

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

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

1 “(i) for fiscal year 2012 is more than
2 60 percent of the cost of all components of
3 the facility or equipment;

4 “(ii) for fiscal year 2013 is more than
5 70 percent of the cost of all components of
6 the facility or equipment;

7 “(iii) for fiscal year 2014 is more
8 than 80 percent of the cost of all compo-
9 nents of the facility or equipment;

10 “(iv) for fiscal year 2015 is more than
11 90 percent of the cost of all components of
12 the facility or equipment; and

13 “(v) for fiscal year 2016, and each fis-
14 cal year thereafter, is 100 percent of the
15 cost of all components of the facility or
16 equipment; and

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

19 “(3) SCOPE.—The requirements of this section
20 apply to all contracts for a project carried out within
21 the scope of the applicable finding, determination, or
22 decision under the National Environmental Policy
23 Act of 1969 (42 U.S.C. 4321 et seq.), regardless of
24 the funding source of such contracts, if at least one
25 contract for the project is funded with amounts

1 made available to carry out a provision specified in
2 paragraph (1).

3 “(b) EXCEPTIONS.—

4 “(1) ISSUANCE OF WAIVERS.—The Secretary of
5 Transportation may waive the requirements of sub-
6 section (a) only if the Secretary finds that—

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

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

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

16 “(ii) to a satisfactory quality; or

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

21 “(2) REGULATIONS.—Not later than 1 year
22 after the date of enactment of the Invest in Amer-
23 ican Jobs Act of 2011, the Secretary shall issue reg-
24 ulations establishing the criteria that the Secretary
25 shall use to determine whether the application of

1 subsection (a) is inconsistent with the public interest
2 for purposes of paragraph (1)(A).

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

6 “(4) REQUESTS FOR WAIVERS.—An entity seek-
7 ing a waiver under paragraph (1) shall submit to the
8 Secretary a request for the waiver in such form and
9 containing such information as the Secretary may
10 require.

11 “(5) PREFERENCE FOR AMERICAN-ASSEMBLED
12 FACILITIES AND EQUIPMENT.—In the procurement
13 of a facility or equipment subject to a waiver issued
14 under paragraph (1), the Secretary shall give pref-
15 erence to a facility or equipment for which final as-
16 sembly occurred in the United States.

17 “(6) LIMITATION ON WAIVER AUTHORITY.—In
18 the procurement of a facility or equipment, if the
19 Secretary finds that a component of the facility or
20 equipment is not produced in the United States in
21 sufficient and reasonably available quantities or to a
22 satisfactory quality, the Secretary may issue a waiv-
23 er under paragraph (1) with respect to such compo-
24 nent.

25 “(c) WAIVER REQUIREMENTS.—

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

4 “(A) IN GENERAL.—If the Secretary re-
5 ceives a request for a waiver under subsection
6 (b), the Secretary shall provide notice of and an
7 opportunity for public comment on the request
8 at least 30 days before making a finding based
9 on the request.

10 “(B) NOTICE REQUIREMENTS.—A notice
11 provided under subparagraph (A) shall—

12 “(i) include the information available
13 to the Secretary concerning the request, in-
14 cluding whether the request is being made
15 under subsection (b)(1)(A), (b)(1)(B), or
16 (b)(1)(C); and

17 “(ii) be provided by electronic means,
18 including on the official public Internet
19 Web site of the Department of Transpor-
20 tation.

21 “(2) DETAILED JUSTIFICATION IN FEDERAL
22 REGISTER.—If the Secretary issues a waiver under
23 subsection (b), the Secretary shall publish in the
24 Federal Register a detailed justification for the
25 waiver that—

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

3 “(B) is published before the waiver takes
4 effect.

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

9 “(1) a State from imposing requirements that
10 are more stringent than those imposed under this
11 section with respect to limiting the use of articles,
12 materials, or supplies mined, produced, or manufac-
13 tured in foreign countries for projects carried out
14 with such assistance; or

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

17 “(e) CONSISTENCY WITH INTERNATIONAL AGREE-
18 MENTS.—

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

22 “(2) TREATMENT OF FOREIGN COUNTRIES IN
23 VIOLATION OF INTERNATIONAL AGREEMENTS.—The
24 Secretary shall prohibit the use of steel, iron, and
25 manufactured goods produced in a foreign country

1 in a project funded with funds made available to
2 carry out a provision specified in subsection (a)(1),
3 including any project for which the Secretary has
4 issued a waiver under subsection (b), if the Sec-
5 retary, in consultation with the United States Trade
6 Representative, determines that the foreign country
7 is in violation of the terms of an agreement with the
8 United States by discriminating against steel, iron,
9 or manufactured goods that are produced in the
10 United States and covered by the agreement.”.

11 (c) PROHIBITION ON CONTRACTING UPON FAL-
12 SIFICATION OF LABEL.—Section 50105 of such title is
13 amended by inserting “steel, iron, or manufactured” be-
14 fore “goods”.

15 (d) REVIEW OF NATIONWIDE WAIVERS.—Not later
16 than 1 year after the date of enactment of this Act, and
17 at least every 5 years thereafter, the Secretary shall review
18 each standing nationwide waiver issued under section
19 50101 of title 49, United States Code, to determine
20 whether continuing such waiver is necessary.

21 **SEC. 107. DEPARTMENT OF TRANSPORTATION BUY AMER-**
22 **ICA ANNUAL REPORT.**

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

1 “(f) BUY AMERICA.—Not later than February 1 of
2 each year beginning after the date of enactment of this
3 subsection, the Secretary shall submit to Congress a re-
4 port that—

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

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

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

15 “(4) provides the justification for each such
16 waiver, including the specific law, treaty, or inter-
17 national agreement under which the waiver was
18 granted;

19 “(5) summarizes the funds expended on—

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

1 “(B) steel, iron, and manufactured goods
2 produced outside the United States for projects
3 with respect to which the Secretary issued a
4 waiver from a Buy America requirement during
5 the preceding calendar year; and

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

11 **TITLE II—OTHER**
12 **INFRASTRUCTURE INVESTMENT**

13 **SEC. 201. WASTEWATER TREATMENT BUY AMERICA PROVI-**
14 **SIONS.**

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

18 **“SEC. 608. BUY AMERICA.**

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

21 “(1) **IN GENERAL.**—Notwithstanding any other
22 provision of law, funds made available from a State
23 water pollution control revolving fund established
24 under this title may not be used, in whole or in part,
25 for a project for the construction of a publicly owned

1 treatment works unless the steel, iron, and manufac-
2 tured goods used for the project are produced in the
3 United States.

4 “(2) SCOPE.—The requirements of this section
5 apply to all contracts for the construction of a treat-
6 ment works carried out within the scope of the ap-
7 plicable finding, determination, or decision under
8 section 511(c)(1), regardless of the funding source
9 of such contracts, if at least one contract for the
10 construction is funded with amounts made available
11 to carry out this title.

12 “(b) EXCEPTIONS.—

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

16 “(A) applying subsection (a) would be in-
17 consistent with the public interest, as deter-
18 mined in accordance with the regulations re-
19 quired 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; or

25 “(ii) to 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 total cost of the
4 project by more than 25 percent.

5 “(2) REGULATIONS.—Not later than 1 year
6 after the date of enactment of this section, the Ad-
7 ministrator shall issue regulations establishing the
8 criteria that the Administrator shall use to deter-
9 mine whether the application of subsection (a) is in-
10 consistent with the public interest for purposes of
11 paragraph (1)(A).

12 “(3) REQUESTS FOR WAIVERS.—A recipient of
13 assistance under this title seeking a waiver under
14 paragraph (1) shall submit to the Administrator a
15 request for the waiver in such form and containing
16 such information as the Administrator may require.

17 “(c) WAIVER REQUIREMENTS.—

18 “(1) PUBLIC NOTIFICATION OF AND OPPOR-
19 TUNITY FOR COMMENT ON REQUEST FOR A WAIV-
20 ER.—

21 “(A) IN GENERAL.—If the Administrator
22 receives a request for a waiver under subsection
23 (b), the Administrator shall provide notice of
24 and an opportunity for public comment on the

1 request at least 30 days before making a find-
2 ing based on the request.

3 “(B) NOTICE REQUIREMENTS.—A notice
4 provided under subparagraph (A) shall—

5 “(i) include the information available
6 to the Administrator concerning the re-
7 quest, including whether the request is
8 being made under subsection (b)(1)(A),
9 (b)(1)(B), or (b)(1)(C); and

10 “(ii) be provided by electronic means,
11 including on the official public Internet
12 Web site of the Environmental Protection
13 Agency.

14 “(2) DETAILED JUSTIFICATION IN FEDERAL
15 REGISTER.—If the Administrator issues a waiver
16 under subsection (b), the Administrator shall publish
17 in the Federal Register a detailed justification for
18 the waiver that—

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

21 “(B) is published before the waiver takes
22 effect.

23 “(3) ANNUAL REPORT.—Not later than Feb-
24 ruary 1 of each year beginning after the date of en-
25 actment of this section, the Administrator shall sub-

1 mit to the Committee on Transportation and Infra-
2 structure of the House of Representatives and the
3 Committee on Environment and Public Works of the
4 Senate a report that—

5 “(A) specifies each project with respect to
6 which the Administrator issued a waiver under
7 subsection (b) during the preceding calendar
8 year;

9 “(B) identifies the country of origin and
10 product specifications for steel, iron, or manu-
11 factured goods acquired pursuant to each waiv-
12 er under subsection (b) issued by the Adminis-
13 trator during the preceding calendar year;

14 “(C) summarizes the monetary value of
15 contracts awarded pursuant to each such waiv-
16 er;

17 “(D) provides the justification for each
18 such waiver, including the specific law, treaty,
19 or international agreement under which the
20 waiver was granted;

21 “(E) summarizes the funds expended on—

22 “(i) steel, iron, and manufactured
23 goods produced in the United States for
24 projects with respect to which the Buy
25 America requirement under this section

1 applied during the preceding calendar year;
2 and

3 “(ii) steel, iron, and manufactured
4 goods produced outside the United States
5 for projects with respect to which the Ad-
6 ministrator issued a waiver under sub-
7 section (b) during the preceding calendar
8 year; and

9 “(F) provides an employment impact anal-
10 ysis of the cumulative effect of all waivers
11 under subsection (b) issued by the Adminis-
12 trator during the preceding calendar year on
13 manufacturing employment in the United
14 States.

15 “(d) STATE REQUIREMENTS.—The Administrator
16 may not impose a limitation or condition on assistance
17 provided under this title 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) INTENTIONAL VIOLATIONS.—Pursuant to proce-
2 dures established under subpart 9.4 of chapter 1 of title
3 48, Code of Federal Regulations, a person shall be ineli-
4 gible to receive a contract or subcontract funded with
5 amounts made available from a State water pollution con-
6 trol revolving fund established under this title if the Ad-
7 ministrators, the head of any department, agency, or in-
8 strumentality of the United States, or a court determines
9 that such person intentionally—

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

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

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

18 “(2) represented that any steel, iron, or manu-
19 factured goods were produced in the United States
20 that—

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

23 “(B) were not produced in the United
24 States.

1 “(f) 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 Administrator shall prohibit the use of steel, iron,
9 and manufactured goods produced in a foreign coun-
10 try in a project funded with amounts made available
11 from a State water pollution control revolving fund
12 established under this title, including any project for
13 which the Administrator has issued a waiver under
14 subsection (b), if the Administrator, in consultation
15 with the United States Trade Representative, deter-
16 mines that the foreign country is in violation of the
17 terms of an agreement with the United States by
18 discriminating against steel, iron, or manufactured
19 goods that are produced in the United States and
20 covered by the agreement.”.

21 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
22 than 1 year after the date of enactment of this Act, and
23 at least every 5 years thereafter, the Administrator shall
24 review each standing nationwide waiver issued under sec-
25 tion 608 of the Federal Water Pollution Control Act (as

1 added by this section) to determine whether continuing
2 such waiver is necessary.

3 **SEC. 202. ECONOMIC DEVELOPMENT BUY AMERICA PROVI-**
4 **SIONS.**

5 (a) IN GENERAL.—Title VI of the Public Works and
6 Economic Development Act of 1965 (42 U.S.C. 3211 et
7 seq.) is amended by adding at the end the following:

8 **“SEC. 613. 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 to carry out
13 section 201 or 209 may not be obligated for a
14 project unless the steel, iron, and manufactured
15 goods used for the project are produced in the
16 United States.

17 “(2) SCOPE.—The requirements of this section
18 apply to all contracts for a project carried out within
19 the scope of the applicable finding, determination, or
20 decision under the National Environmental Policy
21 Act of 1969 (42 U.S.C. 4321 et seq.) regardless of
22 the funding source of such contracts, if at least one
23 contract for the project is funded with amounts
24 made available to carry out section 201 or 209.

25 “(b) EXCEPTIONS.—

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

4 “(A) applying subsection (a) would be in-
5 consistent with the public interest, as deter-
6 mined in accordance with the regulations re-
7 quired under paragraph (2);

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

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

13 “(ii) to a satisfactory quality; or

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

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

24 “(3) REQUESTS FOR WAIVERS.—A recipient of
25 assistance under section 201 or 209 seeking a waiv-

1 er under paragraph (1) shall submit to the Secretary
2 a request for the waiver in such form and containing
3 such information as the Secretary may require.

4 “(c) WAIVER REQUIREMENTS.—

5 “(1) PUBLIC NOTIFICATION OF AND OPPOR-
6 TUNITY FOR COMMENT ON REQUEST FOR A WAIV-
7 ER.—

8 “(A) IN GENERAL.—If the Secretary re-
9 ceives a request for a waiver under subsection
10 (b), the Secretary shall provide notice of and an
11 opportunity for public comment on the request
12 at least 30 days before making a finding based
13 on the request.

14 “(B) NOTICE REQUIREMENTS.—A notice
15 provided under subparagraph (A) shall—

16 “(i) include the information available
17 to the Secretary concerning the request, in-
18 cluding whether the request is being made
19 under subsection (b)(1)(A), (b)(1)(B), or
20 (b)(1)(C); and

21 “(ii) be provided by electronic means,
22 including on the official public Internet
23 Web site of the Department.

24 “(2) DETAILED JUSTIFICATION IN FEDERAL
25 REGISTER.—If the Secretary issues a waiver under

1 subsection (b), the Secretary shall publish in the
2 Federal Register a detailed justification for the
3 waiver that—

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

6 “(B) is published before the waiver takes
7 effect.

8 “(3) ANNUAL REPORT.—Not later than Feb-
9 ruary 1 of each year beginning after the date of en-
10 actment of this section, the Secretary shall submit to
11 the Committee on Transportation and Infrastructure
12 of the House of Representatives and the Committee
13 on Environment and Public Works of the Senate a
14 report that—

15 “(A) specifies each project with respect to
16 which the Secretary issued a waiver under sub-
17 section (b) during the preceding calendar year;

18 “(B) identifies the country of origin and
19 product specifications for steel, iron, or manu-
20 factured goods acquired pursuant to each waiv-
21 er under subsection (b) issued by the Secretary
22 during the preceding calendar year;

23 “(C) summarizes the monetary value of
24 contracts awarded pursuant to each such waiv-
25 er;

1 “(D) provides the justification for each
2 such waiver, including the specific law, treaty,
3 or international agreement under which the
4 waiver was granted;

5 “(E) summarizes the funds expended on—

6 “(i) steel, iron, and manufactured
7 goods produced in the United States for
8 projects with respect to which the Buy
9 America requirement under this section
10 applied during the preceding calendar year;
11 and

12 “(ii) steel, iron, and manufactured
13 goods produced outside the United States
14 for projects with respect to which the Sec-
15 retary issued a waiver under subsection (b)
16 during the preceding calendar year; and

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

22 “(d) STATE REQUIREMENTS.—The Secretary may
23 not impose a limitation or condition on assistance provided
24 under section 201 or 209 that restricts—

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

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

9 “(e) INTENTIONAL VIOLATIONS.—Pursuant to proce-
10 dures established under subpart 9.4 of chapter 1 of title
11 48, Code of Federal Regulations, a person shall be ineli-
12 gible to receive a contract or subcontract funded with
13 amounts made available to carry out section 201 or 209
14 if the Secretary, the head of any department, agency, or
15 instrumentality of the United States, or a court deter-
16 mines that such person intentionally—

17 “(1) affixed a label bearing a ‘Made in Amer-
18 ica’ inscription, or any inscription with the same
19 meaning, to any steel, iron, or manufactured goods
20 that—

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

23 “(B) were not produced in the United
24 States; or

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

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

6 “(B) were not produced in the United
7 States.

8 “(f) CONSISTENCY WITH INTERNATIONAL AGREE-
9 MENTS.—

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

13 “(2) TREATMENT OF FOREIGN COUNTRIES IN
14 VIOLATION OF INTERNATIONAL AGREEMENTS.—The
15 Secretary shall prohibit the use of steel, iron, and
16 manufactured goods produced in a foreign country
17 in a project funded with amounts made available to
18 carry out section 201 or 209, including any project
19 for which the Secretary has issued a waiver under
20 subsection (b), if the Secretary, in consultation with
21 the United States Trade Representative, determines
22 that the foreign country is in violation of the terms
23 of an agreement with the United States by discrimi-
24 nating against steel, iron, or manufactured goods

1 that are produced in the United States and covered
2 by the agreement.”.

3 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
4 than 1 year after the date of enactment of this Act, and
5 at least every 5 years thereafter, the Secretary shall review
6 each standing nationwide waiver issued under section 613
7 of the Public Works and Economic Development Act of
8 1965 (as added by this section) to determine whether con-
9 tinuing such waiver is necessary.

10 **SEC. 203. FEMA MITIGATION GRANT BUY AMERICA PROVI-**
11 **SIONS.**

12 (a) IN GENERAL.—Title VII of the Robert T. Staf-
13 ford Disaster Relief and Emergency Assistance Act (42
14 U.S.C. 5201 et seq.) is amended by adding at the end
15 the following:

16 **“SEC. 707. BUY AMERICA.**

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

19 **“(1) IN GENERAL.—**Notwithstanding any other
20 provision of law, funds made available to carry out
21 section 203, 404, 406, 417, or 614 may not be obli-
22 gated for a project unless the steel, iron, and manu-
23 factured goods used for the project are produced in
24 the United States.

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

10 “(b) EXCEPTIONS.—

11 “(1) ISSUANCE OF WAIVERS.—The President
12 may waive the requirements of subsection (a) only if
13 the President finds that—

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

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

21 “(i) in sufficient and reasonably avail-
22 able quantities; or

23 “(ii) to a satisfactory quality; or

24 “(C) the use of steel, iron, and manufac-
25 tured goods produced in the United States for

1 a project will increase the total cost of the
2 project by more than 25 percent.

3 “(2) REGULATIONS.—Not later than 1 year
4 after the date of enactment of this section, the
5 President shall issue regulations establishing the cri-
6 teria that the President shall use to determine
7 whether the application of subsection (a) is incon-
8 sistent with the public interest for purposes of para-
9 graph (1)(A).

10 “(3) REQUESTS FOR WAIVERS.—A recipient of
11 assistance under a section specified in subsection
12 (a)(1) seeking a waiver under paragraph (1) shall
13 submit to the President a request for the waiver in
14 such form and containing such information as the
15 President may require.

16 “(c) WAIVER REQUIREMENTS.—

17 “(1) PUBLIC NOTIFICATION OF AND OPPOR-
18 TUNITY FOR COMMENT ON REQUEST FOR A WAIV-
19 ER.—

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

1 “(B) NOTICE REQUIREMENTS.—A notice
2 provided under subparagraph (A) shall—

3 “(i) include the information available
4 to the President concerning the request,
5 including whether the request is being
6 made under subsection (b)(1)(A),
7 (b)(1)(B), or (b)(1)(C); and

8 “(ii) be provided by electronic means,
9 including on the official public Internet
10 Web site of the President.

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

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

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

20 “(3) ANNUAL REPORT.—Not later than Feb-
21 ruary 1 of each year beginning after the date of en-
22 actment of this section, the President shall submit
23 to the Committee on Transportation and Infrastruc-
24 ture of the House of Representatives and the Com-

1 mittee on Homeland Security and Governmental Af-
2 fairs of the Senate a report that—

3 “(A) specifies each project with respect to
4 which the President issued a waiver under sub-
5 section (b) during the preceding calendar year;

6 “(B) identifies the country of origin and
7 product specifications for steel, iron, or manu-
8 factured goods acquired pursuant to each waiv-
9 er under subsection (b) issued by the President
10 during the preceding calendar year;

11 “(C) summarizes the monetary value of
12 contracts awarded pursuant to each such waiv-
13 er;

14 “(D) provides the justification for each
15 such waiver, including the specific law, treaty,
16 or international agreement under which the
17 waiver was granted;

18 “(E) summarizes the funds expended on—

19 “(i) steel, iron, and manufactured
20 goods produced in the United States for
21 projects with respect to which the Buy
22 America requirement under this section
23 applied during the preceding calendar year;
24 and

1 “(ii) steel, iron, and manufactured
2 goods produced outside the United States
3 for projects with respect to which the
4 President issued a waiver under subsection
5 (b) during the preceding calendar year;
6 and

7 “(F) provides an employment impact anal-
8 ysis of the cumulative effect of all waivers
9 under subsection (b) issued by the President
10 during the preceding calendar year on manufac-
11 turing employment in the United States.

12 “(d) STATE REQUIREMENTS.—The President may
13 not impose a limitation or condition on assistance provided
14 under a section specified in subsection (a)(1) that re-
15 stricts—

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

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

24 “(e) INTENTIONAL VIOLATIONS.—Pursuant to proce-
25 dures established under subpart 9.4 of chapter 1 of title

1 48, Code of Federal Regulations, a person shall be ineli-
2 gible to receive a contract or subcontract funded with
3 amounts made available to carry out a section specified
4 in subsection (a)(1) if the President, the head of any de-
5 partment, agency, or instrumentality of the United States,
6 or a court determines that such person intentionally—

7 “(1) affixed a label bearing a ‘Made in Amer-
8 ica’ inscription, or any inscription with the same
9 meaning, to any steel, iron, or manufactured goods
10 that—

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

13 “(B) were not produced in the United
14 States; or

15 “(2) represented that any steel, iron, or manu-
16 factured goods were produced in the United States
17 that—

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

20 “(B) were not produced in the United
21 States.

22 “(f) CONSISTENCY WITH INTERNATIONAL AGREE-
23 MENTS.—

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

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

18 “(g) EMERGENCY WAIVER.—Notwithstanding any
19 other provision of this section, the President may waive
20 the applicability of this section, in whole or in part, in
21 an emergency.”.

22 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
23 than 1 year after the date of enactment of this Act, and
24 at least every 5 years thereafter, the President shall review
25 each standing nationwide waiver issued under section 707

1 of the Robert T. Stafford Disaster Relief and Emergency
2 Assistance Act (as added by this section) to determine
3 whether continuing such waiver is necessary.

4 (c) REPEAL OF BUY AMERICA REQUIREMENTS.—
5 Section 306 of the Disaster Mitigation Act of 2000 (42
6 U.S.C. 5206) is repealed.

7 **SEC. 204. AMERICANIZATION OF OFFSHORE OPERATIONS**
8 **IN THE EXCLUSIVE ECONOMIC ZONE.**

9 (a) REGISTRY ENDORSEMENT REQUIRED.—

10 (1) IN GENERAL.—Section 12111 of title 46,
11 United States Code, is amended by adding at the
12 end the following:

13 “(e) RESOURCE ACTIVITIES IN THE EEZ.—Except
14 for activities requiring an endorsement under section
15 12112 or 12113, only a vessel for which a certificate of
16 documentation with a registry endorsement is issued and
17 that is owned by a citizen of the United States (as deter-
18 mined under section 50501(d)) may engage in support of
19 exploration, development, or production of resources in,
20 on, above, or below the exclusive economic zone or any
21 other activity in the exclusive economic zone to the extent
22 that the regulation of such activity is not prohibited under
23 customary international law.”.

24 (2) APPLICATION.—The amendment made by
25 paragraph (1) applies only with respect to explo-

1 ration, development, production, and support activi-
2 ties that commence on or after July 1, 2011.

3 (b) **LEGAL AUTHORITY.**—Section 2301 of title 46,
4 United States Code, is amended—

5 (1) by striking “chapter” and inserting “title”;
6 and

7 (2) by inserting after “1988” the following: “,
8 and the exclusive economic zone to the extent that
9 the regulation of such operation is not prohibited
10 under customary international law”.

11 (c) **TRAINING FOR COAST GUARD PERSONNEL.**—Not
12 later than 180 days after the date of enactment of this
13 Act, the Secretary of the department in which the Coast
14 Guard is operating shall establish a program to provide
15 Coast Guard personnel with the training necessary for the
16 implementation of the amendments made by this section.