

113TH CONGRESS  
2D SESSION

# S. 2682

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

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## IN THE SENATE OF THE UNITED STATES

JULY 29, 2014

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

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## A BILL

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

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

1 **SECTION 1. SHORT TITLE.**

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

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

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

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

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

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

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

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

4 (c) WAIVER REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 “(i) 100 percent of the excess of—

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

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

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

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

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

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

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

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

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

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



1 “(3) ADDITIONAL PURPOSES.—

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

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

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

15 (d) PAYMENTS TO ISSUERS.—

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

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

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

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

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

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

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

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

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

14 **“§ 313. Buy America**

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

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

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

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

5       “(b) EXCEPTIONS.—

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

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

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

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

18              “(ii) of a satisfactory quality; or

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

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

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

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

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

13      “(c) WAIVER REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22          (b) REVIEW OF NATIONWIDE WAIVERS.—

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

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

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

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

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

23 (c) REPEALS.—

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



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

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

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

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

11 “(j) BUY AMERICA.—

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

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

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

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

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

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

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

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

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

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

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

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

“(2) EXCEPTIONS.—

“(A) ISSUANCE OF WAIVERS.—The Secretary may waive the requirements of paragraph (1) only if the Secretary finds that—

“(i) applying paragraph (1) would be inconsistent with the public interest, as determined in accordance with the regulations issued under subparagraph (B);

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

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

“(II) of a satisfactory quality; or

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

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

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

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

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

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

4 “(3) WAIVER REQUIREMENTS.—

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

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

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

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

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

1 Internet website of the Department of  
2 Transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

23 “(f) BUY AMERICA.—

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

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

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

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

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

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

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

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

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

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

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

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

8 “(2) EXCEPTIONS.—

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

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

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

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

23 “(II) of a satisfactory quality;

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

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

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

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

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

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

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

6           “(3) WAIVER REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

“(A) affixed a label bearing a ‘Made in America’ inscription, or any inscription with the same meaning, to any steel, iron, or manufactured goods that—

“(i) were used in a capital project or other capital expense to which this subsection applies; and

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

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

“(i) were used in a capital project or other capital expense to which this subsection applies; and

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



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

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

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

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

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

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

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

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

12 **“§ 50101. Buy America**

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

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

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

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

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

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

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

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

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

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

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

12                  “(b) EXCEPTIONS.—

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

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

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

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

25                   “(ii) of a satisfactory quality; or

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

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

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

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

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

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

9           “(c) WAIVER REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20       (c) CLERICAL AMENDMENTS.—

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

“501. Buy America ..... 50101”.



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

“50101. Buy America.”.

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

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

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

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

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

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

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

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

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

15          “(5) summarizes the funds expended on—

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

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

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

○