

117TH CONGRESS
1ST SESSION

S. 1094

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

IN THE SENATE OF THE UNITED STATES

APRIL 13, 2021

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

7 (a) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

23 (b) UNIFORM STANDARDS.—

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

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

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

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

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

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

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

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

5 (A) implement this Act; and

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

9 (c) REQUIREMENT.—

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

16 (A) Steel.

17 (B) Iron.

18 (C) Manufactured products.

19 (D) Non-ferrous metals.

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

24 (F) Concrete and other aggregates.

25 (G) Glass (including optic glass).

1 (H) Lumber.

2 (I) Drywall.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 “(n) BUY AMERICA.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) in subsection (a)—

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

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

18 (2) in subsection (b)—

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

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

23 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

3 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (2) in subsection (c)—

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

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

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

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

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

20 (2) in subsection (c)—

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

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

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

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

7 (1) in subparagraph (A)—

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

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

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

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