

112TH CONGRESS  
1ST SESSION

# H. R. 3533

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 HOUSE OF REPRESENTATIVES

DECEMBER 1, 2011

Mr. RAHALL (for himself, Mr. DEFazio, Mr. COSTELLO, Ms. NORTON, Mr. NADLER, Ms. BROWN of Florida, Mr. FILNER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CUMMINGS, Mr. BOSWELL, Mr. HOLDEN, Mr. CAPUANO, Mr. BISHOP of New York, Mr. MICHAUD, Mr. CARNAHAN, Mrs. NAPOLITANO, Mr. LIPINSKI, Mr. ALTMIRE, Mr. WALZ of Minnesota, and Mr. COHEN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To 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; TABLE OF CONTENTS.**

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

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 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.

6 **TITLE I—DEPARTMENT OF**  
7 **TRANSPORTATION**

8 **SEC. 101. FEDERAL-AID HIGHWAY BUY AMERICA PROVI-**  
9 **SIONS.**

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

12 **“§ 313. Buy America**

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

15 **“(1) IN GENERAL.—**Notwithstanding any other  
16 provision of law, funds made available to carry out  
17 this title may not be obligated for a project unless

1 the steel, iron, and manufactured goods used for the  
2 project are produced in the United States.

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

11 “(b) EXCEPTIONS.—

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

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

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

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

24 “(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 the Invest in Amer-  
7           ican Jobs Act of 2011, the Secretary shall issue reg-  
8           ulations establishing the criteria that the Secretary  
9           shall use to determine whether the application of  
10          subsection (a) is inconsistent with the public interest  
11          for purposes of paragraph (1)(A).

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

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

21          “(c) WAIVER REQUIREMENTS.—

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

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

7           “(B) NOTICE REQUIREMENTS.—A notice  
8 provided under subparagraph (A) shall—

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

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

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

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

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

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

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

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

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

22                   “(1) affixed a label bearing a ‘Made in Amer-  
23                   ica’ inscription, or any inscription with the same  
24                   meaning, to any steel, iron, or manufactured goods  
25                   that—

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

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

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

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

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

12           “(f) CONSISTENCY WITH INTERNATIONAL AGREE-  
13           MENTS.—

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

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

1 foreign country is in violation of the terms of an  
2 agreement with the United States by discriminating  
3 against steel, iron, or manufactured goods that are  
4 produced in the United States and covered by the  
5 agreement.”.

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

12 (c) REPEALS.—

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

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

21 **SEC. 102. PUBLIC TRANSPORTATION BUY AMERICA PROVI-**  
22 **SIONS.**

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

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

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

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

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

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

1           “(III) for fiscal year 2014 is  
2           more than 80 percent of the cost of  
3           all components of the rolling stock;

4           “(IV) for fiscal year 2015 is  
5           more than 90 percent of the cost of  
6           all components of the rolling stock;  
7           and

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

12          “(ii) final assembly of the rolling  
13          stock, including rolling stock prototypes,  
14          occurs in the United States.

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

25          “(2) EXCEPTIONS.—

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

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

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

11                           “(I) in sufficient and reasonably  
12                           available quantities; or

13                           “(II) to a satisfactory quality; or

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

19           “(B) REGULATIONS.—Not later than 1  
20           year after the date of enactment of the Invest  
21           in American Jobs Act of 2011, the Secretary  
22           shall issue regulations establishing the criteria  
23           that the Secretary shall use to determine  
24           whether the application of paragraph (1) is in-

1 consistent with the public interest for purposes  
2 of subparagraph (A)(i).

3 “(C) COMPONENTS OF ROLLING STOCK.—  
4 If the Secretary finds that a component of roll-  
5 ing stock is not produced in the United States  
6 in sufficient and reasonably available quantities  
7 or to a satisfactory quality, the Secretary may  
8 issue a waiver under subparagraph (A) with re-  
9 spect to such component.

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

14 “(E) REQUESTS FOR WAIVERS.—A recipi-  
15 ent of assistance under this chapter seeking a  
16 waiver under subparagraph (A) shall submit to  
17 the Secretary a request for the waiver in such  
18 form and containing such information as the  
19 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 subpara-  
12 graph (2)(A)(i), (2)(A)(ii), or  
13 (2)(A)(iii); 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 that restricts—

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

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

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

24                  “(A) affixed a label bearing a ‘Made in  
25                  America’ inscription, or any inscription with the

1 same meaning, to any steel, iron, or manufac-  
2 tured goods that—

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

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

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

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

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

14 “(6) CONSISTENCY WITH INTERNATIONAL  
15 AGREEMENTS.—

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

20 “(B) TREATMENT OF FOREIGN COUNTRIES  
21 IN VIOLATION OF INTERNATIONAL AGREE-  
22 MENTS.—The Secretary shall prohibit the use  
23 of steel, iron, and manufactured goods produced  
24 in a foreign country in a project funded with  
25 amounts made available to carry out this chap-

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

12           “(7) OPPORTUNITY TO CORRECT INADVERTENT  
13          ERROR.—The Secretary may allow a manufacturer  
14          or supplier of steel, iron, or manufactured goods to  
15          correct after bid opening an incomplete Buy America  
16          certificate or an incorrect certificate of noncompli-  
17          ance (but not a failure to sign a certificate, a sub-  
18          mission of both a certificate of compliance and a cer-  
19          tificate of noncompliance, or a failure to submit any  
20          certificate) under this subsection if such manufac-  
21          turer or supplier attests under penalty of perjury  
22          that such manufacturer or supplier submitted an in-  
23          complete or incorrect certificate as a result of an in-  
24          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 GENERAL PUBLIC INTEREST WAIV-  
4       ERS.—Not later than 1 year after the date of enactment  
5       of this Act, and at least every 5 years thereafter, the Sec-  
6       retary shall review the general public interest waivers de-  
7       scribed in subsection (b) of Appendix A of section 661.7  
8       of title 49, Code of Federal Regulations, to determine  
9       whether continuing such waivers is in the public interest.

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

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

13       “(a) BUY AMERICA.—

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

16                       “(A) IN GENERAL.—Notwithstanding any  
17                       other provision of law, funds made available to  
18                       carry out this chapter, chapter 223, chapter  
19                       261, or section 20154 or 24105 may not be ob-  
20                       ligated for a project unless the steel, iron, and  
21                       manufactured goods used for the project are  
22                       produced in the United States.

23                       “(B) SCOPE.—The requirements of this  
24                       subsection apply to all contracts for a project  
25                       carried out within the scope of the applicable

1 finding, determination, or decision under the  
2 National Environmental Policy Act of 1969 (42  
3 U.S.C. 4321 et seq.), regardless of the funding  
4 source of such contracts, if at least one contract  
5 for the project is funded with amounts made  
6 available to carry out a provision specified in  
7 subparagraph (A).

8 “(2) EXCEPTIONS.—

9 “(A) ISSUANCE OF WAIVERS.—The Sec-  
10 retary of Transportation may waive the require-  
11 ments of paragraph (1) only if the Secretary  
12 finds 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 required under subparagraph (B);

17 “(ii) the steel, iron, or manufactured  
18 goods required for a project are not pro-  
19 duced in the 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 will increase the total

1 cost of the project by more than 25 per-  
2 cent.

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

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

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

22 “(3) WAIVER REQUIREMENTS.—

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

1           “(i) IN GENERAL.—If the Secretary  
2 receives a request for a waiver under para-  
3 graph (2), the Secretary shall provide no-  
4 tice of and an opportunity for public com-  
5 ment on the request at least 30 days be-  
6 fore making a finding based on the re-  
7 quest.

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 under this chapter, chapter 223, chap-  
8                   ter 261, or section 20154 or 24105 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 projects carried out with such assistance; or

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

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

1 United States, or a court determines that such per-  
2 son intentionally—

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

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

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

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

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

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

1 complete or incorrect certificate as a result of an in-  
2 advertent or clerical error. The burden of estab-  
3 lishing inadvertent or clerical error is on the manu-  
4 facturer or supplier.”.

5 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later  
6 than 1 year after the date of enactment of this Act, and  
7 at least every 5 years thereafter, the Secretary shall review  
8 each standing nationwide waiver issued under section  
9 24405(a) of title 49, United States Code, to determine  
10 whether continuing such waiver is necessary.

11 **SEC. 104. RAIL LOAN AND LOAN GUARANTEE BUY AMERICA**  
12 **PROVISIONS.**

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

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

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

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

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

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

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



1 “(f) BUY AMERICA.—

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

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

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

1 tion 101(c) of the Passenger Rail Investment  
2 and Improvement Act of 2008 (122 Stat.  
3 4908).

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

8 “(2) EXCEPTIONS.—

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

23 “(II) to a satisfactory quality; or

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 total cost of the  
3 project or expense by more than 25 per-  
4 cent.

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

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

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

22 “(3) WAIVER REQUIREMENTS.—

23 “(A) PUBLIC NOTIFICATION OF AND OP-  
24 PORTUNITY FOR COMMENT ON REQUEST FOR A  
25 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       committee 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.

○