

the date of this order, the Administrator of General Services shall submit to the Made in America Director recommendations for ensuring that products offered to the general public on Federal property are procured in accordance with the policy set forth in section 1 of this order.

SEC. 14. *Revocation of Certain Presidential and Regulatory Actions.* (a) Executive Order 13788 of April 18, 2017 (Buy American and Hire American) [formerly set out above], section 5 of Executive Order 13858 of January 31, 2019 (Strengthening Buy-American Preferences for Infrastructure Projects) [set out above], and Executive Order 13975 of January 14, 2021 (Encouraging Buy American Policies for the United States Postal Service) [39 U.S.C. 401 note], are hereby revoked.

(b) Executive Order 10582 of December 17, 1954 (Prescribing Uniform Procedures for Certain Determinations Under the Buy-America Act) [41 U.S.C. 8303 note], and Executive Order 13881 of July 15, 2019 (Maximizing Use of American-Made Goods, Products, and Materials) [set out above], are superseded to the extent that they are inconsistent with this order.

SEC. 15. *Severability.* If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its other provisions to any other persons or circumstances shall not be affected thereby.

SEC. 16. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

§ 8302. American materials required for public use

(a) IN GENERAL.—

(1) ALLOWABLE MATERIALS.—Only unmanufactured articles, materials, and supplies that have been mined or produced in the United States, and only manufactured articles, materials, and supplies that have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States, shall be acquired for public use unless the head of the Federal agency concerned determines their acquisition to be inconsistent with the public interest, their cost to be unreasonable, or that the articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(2) EXCEPTIONS.—This section does not apply—

(A) to articles, materials, or supplies for use outside the United States;

(B) to any articles, materials, or supplies procured pursuant to a reciprocal defense procurement memorandum of understanding

(as described in section 8304 of this title), or a trade agreement or least developed country designation described in subpart 25.400 of the Federal Acquisition Regulation; and

(C) to manufactured articles, materials, or supplies procured under any contract with an award value that is not more than the micro-purchase threshold under section 1902 of this title.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the end of the fiscal year during which the Build America, Buy America Act is enacted, and annually thereafter for 4 years, the Director of the Office of Management and Budget, in consultation with the Administrator of General Services, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives a report on the total amount of acquisitions made by Federal agencies in the relevant fiscal year of articles, materials, or supplies acquired from entities that mine, produce, or manufacture the articles, materials, or supplies outside the United States.

(2) EXCEPTION FOR INTELLIGENCE COMMUNITY.—This subsection does not apply to acquisitions made by an agency, or component of an agency, that is an element of the intelligence community as specified in, or designated under, section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(c) SPECIAL RULES.—The following rules apply in carrying out the provisions of subsection (a):

(1) IRON AND STEEL MANUFACTURED IN THE UNITED STATES.—For purposes of this section, manufactured articles, materials, and supplies of iron and steel are deemed manufactured in the United States only if all manufacturing processes involved in the production of such iron and steel, from the initial melting stage through the application of coatings, occurs in the United States.

(2) LIMITATION ON EXCEPTION FOR COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS.—Notwithstanding any law or regulation to the contrary, including section 1907 of this title and the Federal Acquisition Regulation, the requirements of this section apply to all iron and steel articles, materials, and supplies.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3831; Pub. L. 117-58, div. G, title IX, §70922(a), (c), (e)(1), Nov. 15, 2021, 135 Stat. 1303, 1304.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8302	41:10a.	Mar. 3, 1933, ch. 212, title III, §2, 47 Stat. 1520; Pub. L. 100-418, title VII, §7005(b), Aug. 23, 1988, 102 Stat. 1553; Pub. L. 103-355, title IV, §4301(b), Oct. 13, 1994, 108 Stat. 3347; Pub. L. 110-28 title VIII, §8306, May 25, 2007, 121 Stat. 211.

In subsection (a), the words “Notwithstanding any other provision of law” are omitted as unnecessary.

In subsection (b)(1), reference to fiscal years 2007 and 2008 is omitted as obsolete.

Editorial Notes

REFERENCES IN TEXT

The Build America, Buy America Act, referred to in subsec. (b)(1), is Pub. L. 117-58, div. G, title IX, subtitle A, Nov. 15, 2021, 135 Stat. 1294, which is set out in a note under section 8301 of this title. The Act was enacted in fiscal year 2022.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117-58, §70922(e)(1)(A), substituted “Federal agency” for “department or independent establishment” and “their acquisition to be inconsistent with the public interest, their cost to be unreasonable, or that the articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality” for “their acquisition to be inconsistent with the public interest or their cost to be unreasonable”.

Subsec. (a)(2)(B). Pub. L. 117-58, §70922(e)(1)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “if articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; and”.

Subsec. (b). Pub. L. 117-58, §70922(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to submission of reports no later than 180 days after the end of each of fiscal years 2009 through 2011.

Subsec. (c). Pub. L. 117-58, §70922(a), added subsec. (c).

§ 8303. Contracts for public works

(a) **IN GENERAL.**—Every contract for the construction, alteration, or repair of any public building or public work in the United States shall contain a provision that in the performance of the work the contractor, subcontractors, material men, or suppliers shall use only—

(1) unmanufactured articles, materials, and supplies that have been mined or produced in the United States; and

(2) manufactured articles, materials, and supplies that have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States.

(b) **EXCEPTIONS.**—

(1) **IN GENERAL.**—This section does not apply—

(A) to articles, materials, or supplies for use outside the United States;

(B) to any articles, materials, or supplies procured pursuant to a reciprocal defense procurement memorandum of understanding (as described in section 8304), or a trade agreement or least developed country designation described in subpart 25.400 of the Federal Acquisition Regulation; and

(C) to manufactured articles, materials, or supplies procured under any contract with an award value that is not more than the micro-purchase threshold under section 1902 of this title.

(2) **PARTICULAR ARTICLE, MATERIAL, OR SUPPLY.**—If the head of the Federal agency making the contract finds that it is impracticable to comply with subsection (a) for a particular

article, material, or supply or that it would unreasonably increase the cost, an exception shall be noted in the specifications for that article, material, or supply and a public record of the findings that justified the exception shall be made.

(3) **WAIVER AUTHORITY.**—Subsection (a) shall be regarded as requiring the purchase, for public use within the United States, of articles, materials, or supplies manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, unless the head of the Federal agency concerned determines their acquisition to be inconsistent with the public interest, their cost to be unreasonable, or that the articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(c) **SPECIAL RULES.**—

(1) **PRODUCTION OF IRON AND STEEL.**—For purposes of this section, manufactured articles, materials, and supplies of iron and steel are deemed manufactured in the United States only if all manufacturing processes involved in the production of such iron and steel, from the initial melting stage through the application of coatings, occurs in the United States.

(2) **LIMITATION ON EXCEPTION FOR COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS.**—Notwithstanding any law or regulation to the contrary, including section 1907 of this title and the Federal Acquisition Regulation, the requirements of this section apply to all iron and steel articles, materials, and supplies used in contracts described in subsection (a).

(d) **RESULTS OF FAILURE TO COMPLY.**—If the head of a Federal agency that has made a contract containing the provision required by subsection (a) finds that there has been a failure to comply with the provision in the performance of the contract, the head of the Federal agency shall make the findings public. The findings shall include the name of the contractor obligated under the contract. The contractor, and any subcontractor, material man, or supplier associated or affiliated with the contractor, shall not be awarded another contract for the construction, alteration, or repair of any public building or public work for 3 years after the findings are made public.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3832; Pub. L. 117-58, div. G, title IX, §70922(b), (e)(2), Nov. 15, 2021, 135 Stat. 1303, 1305.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
8303(a)	41:10b(a) (words before “except as provided”).	Mar. 3, 1933, ch. 212, title III, §3, 47 Stat. 1520; Pub. L. 100-418, title VII, §7005(c), Aug. 23, 1988, 102 Stat. 1553.
8303(b)(1)	41:10b(a) (“except as provided in section 10a of this title”).	
8303(b)(2)	41:10b(a) (proviso).	