

114TH CONGRESS
1ST SESSION

S. 1043

To ensure that transportation and infrastructure projects carried out using Federal financial assistance are constructed with steel, iron, and manufactured goods that are produced in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2015

Mr. MERKLEY (for himself and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To ensure that transportation and infrastructure projects carried out using Federal financial assistance are constructed with steel, iron, and manufactured goods that are produced in the United States, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Invest in American Jobs Act of 2015”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 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. Drinking water treatment Buy America provisions.
 Sec. 202. Economic development Buy America provisions.
 Sec. 203. FEMA mitigation grant Buy America provisions.
 Sec. 204. Bridges over navigable waters Buy America provisions.

1 **TITLE I—DEPARTMENT OF**
 2 **TRANSPORTATION**

3 **SEC. 101. FEDERAL-AID HIGHWAY BUY AMERICA PROVI-**
 4 **SIONS.**

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

7 **“§ 313. Buy America**

8 “(a) DEFINITION OF PRODUCED IN THE UNITED
 9 STATES.—In this section, the term ‘produced in the
 10 United States’ means, with respect to iron and steel, pro-
 11 duced in a manner in which all manufacturing processes,
 12 including the application of coatings, occurs in the United
 13 States, other than a metallurgical process involving the re-
 14 finement of steel additives.

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

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, amounts made available to carry
3 out this title may not be obligated for a project un-
4 less the steel, iron, and manufactured goods used for
5 the project are produced in the United States.

6 “(2) SCOPE.—This section applies to all con-
7 tracts for a project carried out within the scope of
8 the applicable finding, determination, or decision
9 under the National Environmental Policy Act of
10 1969 (42 U.S.C. 4321 et seq.), regardless of the
11 funding source of those contracts, if at least 1 con-
12 tract for the project is funded with amounts made
13 available to carry out this title.

14 “(c) EXCEPTIONS.—

15 “(1) ISSUANCE OF WAIVERS.—The Secretary
16 may waive subsection (b) only if the Secretary finds
17 that—

18 “(A) applying subsection (b) would be in-
19 consistent with the public interest, as deter-
20 mined in accordance with the regulations issued
21 in accordance with paragraph (2);

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

1 “(i) in sufficient and reasonably avail-
2 able quantities; or

3 “(ii) to a satisfactory quality; or

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

8 “(2) REGULATIONS.—Not later than 1 year
9 after the date of enactment of the Invest in Amer-
10 ican Jobs Act of 2015, the Secretary shall issue reg-
11 ulations establishing the criteria that the Secretary
12 shall use to determine whether the application of
13 subsection (b) is inconsistent with the public interest
14 for purposes of paragraph (1)(A).

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

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

24 “(d) 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 (c), 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 subparagraph (A), (B), or (C) of
16 subsection (c)(1); and

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

20 “(2) DETAILED JUSTIFICATION IN FEDERAL
21 REGISTER.—If the Secretary issues a waiver under
22 subsection (c), the Secretary shall publish in the
23 Federal Register a detailed justification for the
24 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 “(e) STATE REQUIREMENTS.—The Secretary may
6 not impose a limitation or condition on assistance provided
7 under this title that restricts—

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

14 “(2) any recipient of such assistance from com-
15 plying with the State requirements referred to in
16 paragraph (1).

17 “(f) INTENTIONAL VIOLATIONS.—Pursuant to proce-
18 dures established under subpart 9.4 of chapter 1 of title
19 48, Code of Federal Regulations (or successor regula-
20 tions), a person shall be ineligible to receive a contract
21 or subcontract funded with amounts made available to
22 carry out this title if the Secretary, the head of any de-
23 partment, agency, or instrumentality of the United States,
24 or a court determines that the person intentionally—

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

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

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

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

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

14 “(B) were not produced in the United
15 States.

16 “(g) CONSISTENCY WITH INTERNATIONAL AGREE-
17 MENTS.—

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

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

1 carry out this title, including any project for which
2 the Secretary has issued a waiver under subsection
3 (c), if the Secretary, in consultation with the United
4 States Trade Representative, determines that the
5 foreign country is in violation of the terms of an
6 agreement with the United States by discriminating
7 against steel, iron, or manufactured goods that are
8 produced in the United States and covered by the
9 agreement.”.

10 (b) REVIEW OF NATIONWIDE WAIVERS.—

11 (1) IN GENERAL.—Not later than 1 year after
12 the date of enactment of this Act, and at least every
13 5 years thereafter, the Secretary of Transportation
14 shall review each standing nationwide waiver issued
15 under section 313 of title 23, United States Code,
16 to determine whether continuing the waiver is nec-
17 essary.

18 (2) PUBLIC NOTIFICATION OF AND OPPOR-
19 TUNITY FOR COMMENT ON REVIEW OF STANDING
20 NATIONWIDE WAIVERS.—In conducting a review
21 under paragraph (1), the Secretary shall provide no-
22 tice of and an opportunity for public comment on
23 the review at least 30 days before completing the re-
24 view.

1 (3) NOTICE REQUIREMENT.—A notice provided
2 under paragraph (2) shall be provided by electronic
3 means, including on the official public Internet site
4 of the Department of Transportation.

5 (4) DETAILED JUSTIFICATION IN FEDERAL
6 REGISTER.—If the Secretary finds it is necessary to
7 continue a standing nationwide waiver after a review
8 under paragraph (1), the Secretary shall publish in
9 the Federal Register a detailed justification for the
10 waiver that addresses the public comments received
11 under paragraph (2).

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 Public Law 110–244) 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; Public
20 Law 111–117) is repealed.

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) DEFINITION OF PRODUCED IN THE
2 UNITED STATES.—In this subsection, the term ‘pro-
3 duced in the United States’ means, with respect to
4 iron and steel, produced in a manner in which all
5 manufacturing processes, including the application
6 of coatings, occurs in the United States, other than
7 a metallurgical process involving the refinement of
8 steel additives.

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

11 “(A) IN GENERAL.—Notwithstanding any
12 other provision of law, and except as provided
13 in subparagraph (B), amounts made available
14 to carry out this chapter may not be obligated
15 for a project unless the steel, iron, and manu-
16 factured goods used for the project are pro-
17 duced in the United States.

18 “(B) SPECIAL RULES FOR ROLLING
19 STOCK.—

20 “(i) IN GENERAL.—Amounts made
21 available to carry out this chapter may not
22 be obligated for the procurement of rolling
23 stock (including train control, communica-
24 tion, and traction power equipment, and
25 rolling stock prototypes) unless, when pro-

1 curing such rolling stock under this chap-
2 ter—

3 “(I) the cost of components and
4 subcomponents produced in the
5 United States is more than the appli-
6 cable percentage under clause (ii) of
7 the cost of all components of the roll-
8 ing stock; and

9 “(II) final assembly of the rolling
10 stock, including rolling stock proto-
11 types, occurs in the United States.

12 “(ii) APPLICABLE PERCENTAGE.—The
13 applicable percentage under this clause—

14 “(I) for fiscal year 2015 is 60
15 percent;

16 “(II) for fiscal year 2016 is 70
17 percent;

18 “(III) for fiscal year 2017 is 80
19 percent;

20 “(IV) for fiscal year 2018 is 90
21 percent; and

22 “(V) for fiscal year 2019 and
23 each fiscal year thereafter is 100 per-
24 cent.

1 “(C) SCOPE.—This subsection applies to
2 all contracts for a public transportation project
3 carried out within the scope of the applicable
4 finding, determination, or decision under the
5 National Environmental Policy Act of 1969 (42
6 U.S.C. 4321 et seq.), regardless of the funding
7 source of those contracts, if at least 1 contract
8 for the public transportation project is funded
9 with amounts made available to carry out this
10 chapter.

11 “(3) EXCEPTIONS.—

12 “(A) ISSUANCE OF WAIVERS.—The Sec-
13 retary may waive paragraph (2) only if the Sec-
14 retary finds that—

15 “(i) applying paragraph (2) would be
16 inconsistent with the public interest, as de-
17 termined in accordance with the regula-
18 tions issued in accordance with subpara-
19 graph (B);

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

23 “(I) in sufficient and reasonably
24 available quantities; or

25 “(II) to a satisfactory quality; or

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

6 “(B) REGULATIONS.—Not later than 1
7 year after the date of enactment of the Invest
8 in American Jobs Act of 2015, the Secretary
9 shall issue regulations establishing the criteria
10 that the Secretary shall use to determine
11 whether the application of paragraph (2) is in-
12 consistent with the public interest for purposes
13 of subparagraph (A)(i).

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

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

1 “(E) REQUESTS FOR WAIVERS.—A recipi-
2 ent of assistance under this chapter seeking a
3 waiver under subparagraph (A) shall submit to
4 the Secretary a request for the waiver in such
5 form and containing such information as the
6 Secretary may require.

7 “(4) WAIVER REQUIREMENTS.—

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

11 “(i) IN GENERAL.—If the Secretary
12 receives a request for a waiver under para-
13 graph (3), the Secretary shall provide no-
14 tice of and an opportunity for public com-
15 ment on the request at least 30 days be-
16 fore making a finding based on the re-
17 quest.

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

20 “(I) include the information
21 available to the Secretary concerning
22 the request, including whether the re-
23 quest is being made under clause (i),
24 (ii), or (iii) of paragraph (3)(A); and

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

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

10 “(i) addresses the public comments
11 received under subparagraph (A)(i); and

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

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

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

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

1 “(6) INTENTIONAL VIOLATIONS.—Pursuant to
2 procedures established under subpart 9.4 of chapter
3 1 of title 48, Code of Federal Regulations (or suc-
4 cessor regulations), a person shall be ineligible to re-
5 ceive a contract or subcontract funded with amounts
6 made available to carry out this chapter or any other
7 law providing Federal public transportation assist-
8 ance if the Secretary, the head of any department,
9 agency, or instrumentality of the United States, or
10 a court determines that such person intentionally—

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

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

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

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

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

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

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

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

7 “(B) TREATMENT OF FOREIGN COUNTRIES
8 IN VIOLATION OF INTERNATIONAL AGREE-
9 MENTS.—The Secretary shall prohibit the use
10 of steel, iron, and manufactured goods produced
11 in a foreign country in a project funded with
12 amounts made available to carry out this chap-
13 ter or any other law providing Federal public
14 transportation assistance, including any project
15 for which the Secretary has issued a waiver
16 under paragraph (3), if the Secretary, in con-
17 sultation with the United States Trade Rep-
18 resentative, determines that the foreign country
19 is in violation of the terms of an agreement
20 with the United States by discriminating
21 against steel, iron, or manufactured goods that
22 are produced in the United States and covered
23 by the agreement.

24 “(8) OPPORTUNITY TO CORRECT INADVERTENT
25 ERROR.—The Secretary may allow a manufacturer

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

14 (b) REVIEW OF GENERAL PUBLIC INTEREST WAIV-
15 ERS.—

16 (1) IN GENERAL.—Not later than 1 year after
17 the date of enactment of this Act, and at least every
18 5 years thereafter, the Secretary of Transportation
19 shall review the general public interest waivers de-
20 scribed in subsection (b) of Appendix A to section
21 661.7 of title 49, Code of Federal Regulations, to
22 determine whether continuing such waivers is in the
23 public interest.

24 (2) PUBLIC NOTIFICATION OF AND OPPOR-
25 TUNITY FOR COMMENT ON REVIEW OF STANDING

1 NATIONWIDE WAIVERS.—In conducting a review
2 under paragraph (1), the Secretary shall provide no-
3 tice of and an opportunity for public comment on
4 the review at least 30 days before completing the re-
5 view.

6 (3) NOTICE REQUIREMENT.—A notice provided
7 under paragraph (2) shall be provided by electronic
8 means, including on the official public Internet site
9 of the Department of Transportation.

10 (4) DETAILED JUSTIFICATION IN FEDERAL
11 REGISTER.—If the Secretary finds it is necessary to
12 continue a standing nationwide waiver after a review
13 under paragraph (1), the Secretary shall publish in
14 the Federal Register a detailed justification for such
15 waiver that addresses the public comments received
16 under paragraph (2).

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

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

20 “(a) BUY AMERICA.—

21 “(1) DEFINITION OF PRODUCED IN THE
22 UNITED STATES.—In this subsection, the term ‘pro-
23 duced in the United States’ means, with respect to
24 iron and steel, produced in a manner in which all
25 manufacturing processes, including the application

1 of coatings, occurs in the United States, other than
2 a metallurgical process involving the refinement of
3 steel additives.

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

6 “(A) IN GENERAL.—Notwithstanding any
7 other provision of law, amounts made available
8 to carry out this chapter, chapter 223, chapter
9 261, or section 20154 or 24105 may not be ob-
10 ligated for a project unless the steel, iron, and
11 manufactured goods used for the project are
12 produced in the United States.

13 “(B) SCOPE.—This subsection applies to
14 all contracts for a project carried out within the
15 scope of the applicable finding, determination,
16 or decision under the National Environmental
17 Policy Act of 1969 (42 U.S.C. 4321 et seq.),
18 regardless of the funding source of those con-
19 tracts, if at least 1 contract for the project is
20 funded with amounts made available to carry
21 out a provision described in subparagraph (A).

22 “(3) EXCEPTIONS.—

23 “(A) ISSUANCE OF WAIVERS.—The Sec-
24 retary of Transportation may waive paragraph
25 (2) if the Secretary determines that—

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

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

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

11 “(II) to a satisfactory quality; or

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

17 “(B) RULEMAKING.—Not later than 1
18 year after the date of the enactment of the In-
19 vest in American Jobs Act of 2015, the Sec-
20 retary shall issue regulations establishing the
21 criteria that the Secretary shall use to deter-
22 mine whether the application of paragraph (2)
23 is inconsistent with the public interest for pur-
24 poses of subparagraph (A)(i).

1 “(C) LABOR COSTS.—For purposes of this
2 paragraph, labor costs involved in final assem-
3 bly shall not be included in calculating the cost
4 of components.

5 “(D) REQUESTS FOR WAIVERS.—A recipi-
6 ent of assistance under this chapter, chapter
7 223, chapter 261, or section 20154 or 24105
8 seeking a waiver under subparagraph (A) shall
9 submit to the Secretary a request for the waiver
10 in such form and containing such information
11 as the Secretary may require.

12 “(4) WAIVER REQUIREMENTS.—

13 “(A) PUBLIC NOTIFICATION OF AND OP-
14 PORTUNITY FOR COMMENT ON REQUEST FOR A
15 WAIVER.—

16 “(i) IN GENERAL.—If the Secretary
17 receives a request for a waiver under para-
18 graph (3), the Secretary shall provide no-
19 tice of, and an opportunity for, public com-
20 ment on the request at least 30 days be-
21 fore making a determination based on the
22 request.

23 “(ii) NOTICE REQUIREMENTS.—A no-
24 tice under clause (i) shall—

1 “(I) include the information
2 available to the Secretary concerning
3 the request, including whether the re-
4 quest is being made under clause (i),
5 (ii), or (iii) of paragraph (3)(A); and

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

10 “(B) DETAILED JUSTIFICATION IN FED-
11 ERAL REGISTER.—If the Secretary issues a
12 waiver under paragraph (3), the Secretary shall
13 publish, in the Federal Register, a detailed jus-
14 tification for the waiver that—

15 “(i) addresses the public comments
16 received under subparagraph (A)(i); and

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

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

23 “(A) a State from imposing requirements
24 that are more stringent than those imposed
25 under this subsection with respect to limiting

1 the use of articles, materials, or supplies mined,
2 produced, or manufactured in foreign countries
3 for projects carried out with such assistance; or

4 “(B) any recipient of such assistance from
5 complying with such State requirements.

6 “(6) INTENTIONAL VIOLATIONS.—Pursuant to
7 procedures established under subpart 9.4 of chapter
8 1 of title 48, Code of Federal Regulations (or suc-
9 cessor regulations), a person shall be ineligible to re-
10 ceive a contract or subcontract funded with amounts
11 made available to carry out this chapter, chapter
12 223, chapter 261, or section 20154 or 24105 if the
13 Secretary, the head of any department, agency, or
14 instrumentality of the United States, or a court de-
15 termines that such person intentionally—

16 “(A) affixed a label bearing a ‘Made in
17 America’ inscription, or any inscription with the
18 same meaning, to any steel, iron, or manufac-
19 tured goods that—

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

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

1 “(B) represented that any steel, iron, or
2 manufactured goods were produced in the
3 United States if such items—

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

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

8 “(7) CONSISTENCY WITH INTERNATIONAL
9 AGREEMENTS.—

10 “(A) IN GENERAL.—This subsection shall
11 be applied in a manner that is consistent with
12 United States obligations under international
13 agreements.

14 “(B) TREATMENT OF FOREIGN COUNTRIES
15 IN VIOLATION OF INTERNATIONAL AGREE-
16 MENTS.—The Secretary shall prohibit the use
17 of steel, iron, and manufactured goods produced
18 in a foreign country in a project funded with
19 amounts made available to carry out this chap-
20 ter, chapter 223, chapter 261, or section 20154
21 or 24105, including any project for which the
22 Secretary has issued a waiver under paragraph
23 (3), if the Secretary, in consultation with the
24 United States Trade Representative, determines
25 that the foreign country is in violation of the

1 terms of an agreement with the United States
2 by discriminating against steel, iron, or manu-
3 factured goods that are produced in the United
4 States and covered by the agreement.

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

20 (b) REVIEW OF NATIONWIDE WAIVERS.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date of the enactment of this Act, and at least
23 every 5 years thereafter, the Secretary of Transpor-
24 tation shall review each standing nationwide waiver
25 issued under section 24405(a) of title 49, United

1 States Code, to determine whether continuing that
2 waiver is necessary.

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

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

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

21 **SEC. 104. RAIL LOAN AND LOAN GUARANTEE BUY AMERICA**
22 **PROVISIONS.**

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

1 (1) in subparagraph (A), by striking “and” at
2 the end;

3 (2) in subparagraph (B), by striking the period
4 at the end and inserting “; and”; and

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

6 “(C) the requirements under section
7 24405(a) of title 49, United States Code.”.

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

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

11 “(f) BUY AMERICA.—

12 “(1) DEFINITIONS.—In this subsection:

13 “(A) PRODUCED IN THE UNITED
14 STATES.—The term ‘produced in the United
15 States’ means, with respect to iron and steel,
16 produced in a manner in which all manufac-
17 turing processes, including the application of
18 coatings, occurs in the United States, other
19 than a metallurgical process involving the re-
20 finement of steel additives.

21 “(B) UNITED STATES.—The term ‘United
22 States’ means the States, territories, and pos-
23 sessions of the United States and the District
24 of Columbia.

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

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

16 “(B) SCOPE.—This subsection applies to
17 all contracts for a project or other capital ex-
18 pense carried out within the scope of the appli-
19 cable finding, determination, or decision under
20 the National Environmental Policy Act of 1969
21 (42 U.S.C. 4321 et seq.), regardless of the
22 funding source of such contracts, if at least 1
23 contract with respect to the project or other
24 capital expense is funded with amounts made

1 available under section 101(c) of the Passenger
2 Rail Investment and Improvement Act of 2008.

3 “(3) EXCEPTIONS.—

4 “(A) ISSUANCE OF WAIVERS.—The Sec-
5 retary of Transportation may waive paragraph
6 (2) if the Secretary determines that—

7 “(i) applying paragraph (2) would be
8 inconsistent with the public interest, as de-
9 termined in accordance with the regula-
10 tions issued in accordance with subpara-
11 graph (B);

12 “(ii) the steel, iron, or manufactured
13 goods required for a project or other cap-
14 ital expense are not produced in the
15 United States—

16 “(I) in sufficient and reasonably
17 available quantities; or

18 “(II) to a satisfactory quality; or

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

1 “(B) REGULATIONS.—Not later than 1
2 year after the date of the enactment of the In-
3 vest in American Jobs Act of 2015, the Sec-
4 retary shall issue regulations establishing the
5 criteria that the Secretary shall use to deter-
6 mine whether the application of paragraph (2)
7 is inconsistent with the public interest for pur-
8 poses of subparagraph (A)(i).

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

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

18 “(4) WAIVER REQUIREMENTS.—

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

22 “(i) IN GENERAL.—If the Secretary
23 receives a request for a waiver from Am-
24 trak under paragraph (3), the Secretary
25 shall provide notice of, and an opportunity

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

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

6 “(I) include the information
7 available to the Secretary concerning
8 the request, including whether the re-
9 quest is being made under clause (i),
10 (ii), or (iii) of paragraph (3)(A); and

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

15 “(B) DETAILED JUSTIFICATION IN FED-
16 ERAL REGISTER.—If the Secretary issues a
17 waiver under paragraph (3), the Secretary shall
18 publish, in the Federal Register, a detailed jus-
19 tification for the waiver that—

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

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

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

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

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

13 “(6) INTENTIONAL VIOLATIONS.—Pursuant to
14 procedures established under subpart 9.4 of chapter
15 1 of title 48, Code of Federal Regulations (or suc-
16 cessor regulations), a person shall be ineligible to re-
17 ceive a contract or subcontract funded with amounts
18 described in paragraph (2)(A) if the Secretary, the
19 head of any department, agency, or instrumentality
20 of the United States, or a court determines that
21 such person intentionally—

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

1 “(i) were used in a capital project or
2 other capital expense to which this sub-
3 section applies; and

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

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

9 “(i) were used in a capital project or
10 other capital expense to which this sub-
11 section applies; and

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

14 “(7) 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 capital project or
25 other capital expense funded with amounts de-

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

11 (b) REVIEW OF NATIONWIDE WAIVERS.—

12 (1) IN GENERAL.—Not later than 1 year after
13 the date of the enactment of this Act, and at least
14 every 5 years thereafter, the Secretary of Transpor-
15 tation shall review each standing nationwide waiver
16 issued under section 24305(f) of title 49, United
17 States Code, to determine whether continuing such
18 waiver is necessary.

19 (2) PUBLIC NOTIFICATION OF AND OPPOR-
20 TUNITY FOR COMMENT ON REVIEW OF STANDING
21 NATIONWIDE WAIVERS.—In conducting a review
22 under paragraph (1), the Secretary shall provide no-
23 tice of and an opportunity for public comment on
24 the review at least 30 days before completing the re-
25 view.

1 (3) NOTICE REQUIREMENT.—A notice provided
2 under paragraph (2) shall be provided by electronic
3 means, including on the official public Internet site
4 of the Department of Transportation.

5 (4) DETAILED JUSTIFICATION IN FEDERAL
6 REGISTER.—If the Secretary finds it is necessary to
7 continue a standing nationwide waiver after a review
8 under paragraph (1), the Secretary shall publish in
9 the Federal Register a detailed justification for such
10 waiver that addresses the public comments received
11 under paragraph (2).

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

13 (a) BUY-AMERICAN PREFERENCES.—Chapter 501 of
14 title 49, United States Code, is amended by striking the
15 chapter heading and inserting the following: “**BUY**
16 **AMERICA**”.

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

20 **“§ 50101. Buy America**

21 “(a) DEFINITION OF PRODUCED IN THE UNITED
22 STATES.—In this section, the term ‘produced in the
23 United States’ means, with respect to iron and steel, pro-
24 duced in a manner in which all manufacturing processes,
25 including the application of coatings, occurs in the United

1 States, other than a metallurgical process involving the re-
2 finement of steel additives.

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

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

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

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

23 “(i) for fiscal year 2016 is more than
24 60 percent of the cost of all components of
25 the facility or equipment;

1 “(ii) for fiscal year 2017 is more than
2 70 percent of the cost of all components of
3 the facility or equipment;

4 “(iii) for fiscal year 2018 is more
5 than 80 percent of the cost of all compo-
6 nents of the facility or equipment;

7 “(iv) for fiscal year 2019 is more than
8 90 percent of the cost of all components of
9 the facility or equipment; and

10 “(v) for fiscal year 2020, and each fis-
11 cal year thereafter, is 100 percent of the
12 cost of all components of the facility or
13 equipment; and

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

16 “(3) SCOPE.—The requirements of this section
17 apply to all contracts for a project carried out within
18 the scope of the applicable finding, determination, or
19 decision under the National Environmental Policy
20 Act of 1969 (42 U.S.C. 4321 et seq.), regardless of
21 the funding source of such contracts, if at least 1
22 contract for the project is funded with amounts
23 made available to carry out a provision specified in
24 paragraph (1).

25 “(c) EXCEPTIONS.—

1 “(1) ISSUANCE OF WAIVERS.—The Secretary of
2 Transportation may waive the requirements of sub-
3 section (b) only if the Secretary finds that—

4 “(A) applying subsection (b) 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 the Invest in Amer-
20 ican Jobs Act of 2015, the Secretary shall issue reg-
21 ulations establishing the criteria that the Secretary
22 shall use to determine whether the application of
23 subsection (b) is inconsistent with the public interest
24 for purposes of paragraph (1)(A).

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

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

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

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

23 “(d) 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 (c), 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 subparagraph (A), (B), or (C) of
16 subsection (c)(1); and

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

20 “(2) DETAILED JUSTIFICATION IN FEDERAL
21 REGISTER.—If the Secretary issues a waiver under
22 subsection (c), the Secretary shall publish in the
23 Federal Register a detailed justification for the
24 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 “(e) 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 (b)(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 “(f) 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 (b)(1),
 3 including any project for which the Secretary has
 4 issued a waiver under subsection (c), 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) CLERICAL AMENDMENTS.—

12 (1) SUBTITLE ANALYSIS.—The analysis for
 13 subtitle VII of title 49, United States Code, is
 14 amended by striking the item relating to chapter
 15 501 and inserting the following:

“501. Buy America 50101”.

16 (2) CHAPTER ANALYSIS.—The analysis for
 17 chapter 501 of title 49, United States Code, is
 18 amended by striking the item relating to section
 19 50101 and inserting the following:

“50101. Buy America.”.

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

24 (e) REVIEW OF NATIONWIDE WAIVERS.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this Act, and not less fre-
3 quently than every 5 years thereafter, the Secretary
4 of Transportation shall review each standing nation-
5 wide waiver issued under section 50101 of title 49,
6 United States Code, to determine whether con-
7 tinuing such waiver is necessary.

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

15 (3) NOTICE REQUIREMENT.—A notice provided
16 under paragraph (2) shall be provided by electronic
17 means, including on the official public Internet site
18 of the Department of Transportation.

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

1 **SEC. 107. DEPARTMENT OF TRANSPORTATION BUY AMER-**
2 **ICA ANNUAL REPORT.**

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

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

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

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

17 “(3) summarizes the monetary value of con-
18 tracts awarded pursuant to each waiver;

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

22 “(5) summarizes the funds expended on—

23 “(A) steel, iron, and manufactured goods
24 produced in the United States for projects with
25 respect to which a Buy America requirement,

1 under which the Secretary has waiver authority,
2 applied during the preceding calendar year; and

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

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

13 **TITLE II—OTHER**
14 **INFRASTRUCTURE INVESTMENT**

15 **SEC. 201. DRINKING WATER TREATMENT BUY AMERICA**
16 **PROVISIONS.**

17 (a) IN GENERAL.—Section 1452(a) of the Safe
18 Drinking Water Act (42 U.S.C. 300j–12(a)) is amended
19 by adding at the end the following:

20 “(4) REQUIREMENT FOR USE OF AMERICAN MA-
21 TERIALS.—

22 “(A) DEFINITION OF PRODUCED IN THE
23 UNITED STATES.—In this paragraph, the term
24 ‘produced in the United States’ means, with re-
25 spect to iron and steel, produced in a manner

1 in which all manufacturing processes, including
2 the application of coatings, occurs in the United
3 States, other than a metallurgical process in-
4 volving the refinement of steel additives.

5 “(B) REQUIREMENT.—Notwithstanding
6 any other provision of law, none of the funds
7 made available by a State loan fund, as author-
8 ized under this section, may be used for a
9 project for the construction, alteration, mainte-
10 nance, or repair of a public water system unless
11 the steel, iron, and manufactured goods used in
12 that project are produced in the United States.

13 “(C) WAIVERS.—Subparagraph (B) shall
14 not apply in any case in which the Adminis-
15 trator, in consultation with the Governor of the
16 applicable State, finds that—

17 “(i) applying subparagraph (B) would
18 be inconsistent with the public interest;

19 “(ii) the steel, iron, and manufactured
20 goods are not produced in the United
21 States in sufficient and reasonably avail-
22 able quantities and of a satisfactory qual-
23 ity; or

24 “(iii) inclusion of steel, iron, and man-
25 ufactured goods produced in the United

1 States will increase the cost of the overall
2 project by more than 25 percent.

3 “(D) PUBLIC NOTIFICATION AND WRITTEN
4 JUSTIFICATION FOR WAIVER.—If the Adminis-
5 trator determines that it is necessary to waive
6 the application of subparagraph (B) based on a
7 finding under subparagraph (C), the Adminis-
8 trator shall—

9 “(i) not less than 15 days prior to
10 waiving the application of subparagraph
11 (B), provide public notice and the oppor-
12 tunity to comment on the intent of the Ad-
13 ministrator to issue the waiver; and

14 “(ii) on issuing the waiver, publish in
15 the Federal Register a detailed written jus-
16 tification as to why the provision is being
17 waived.

18 “(E) ANNUAL REPORT.—Not later than
19 the first February 1 after the date of enact-
20 ment of this paragraph and not later than each
21 February 1 thereafter, the Administrator shall
22 submit to the Committee on Environment and
23 Public Works of the Senate and the Committee
24 on Transportation and Infrastructure of the
25 House of Representatives a report that—

1 “(i) specifies each project with respect
2 to which the Administrator issued a waiver
3 under subparagraph (C) during the pre-
4 ceding calendar year;

5 “(ii) identifies the country of origin
6 and product specifications for steel, iron,
7 or manufactured goods acquired pursuant
8 to each waiver under subparagraph (C)
9 issued by the Administrator during the
10 preceding calendar year;

11 “(iii) summarizes the monetary value
12 of contracts awarded pursuant to each
13 waiver;

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

18 “(v) summarizes the amounts ex-
19 pended on—

20 “(I) steel, iron, and manufac-
21 tured goods produced in the United
22 States for projects with respect to
23 which the Buy America requirement
24 under this paragraph applied during
25 the preceding calendar year; and

1 “(II) steel, iron, and manufac-
2 tured goods produced outside the
3 United States for projects with re-
4 spect to which the Administrator
5 issued a waiver under subparagraph
6 (C) during the preceding calendar
7 year; and

8 “(vi) provides an employment impact
9 analysis of the cumulative effect of all
10 waivers under subparagraph (C) issued by
11 the Administrator during the preceding
12 calendar year on manufacturing employ-
13 ment in the United States.

14 “(F) STATE REQUIREMENTS.—The Ad-
15 ministrator may not impose a limitation or con-
16 dition on assistance provided under this section
17 that restricts—

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

1 “(ii) any recipient of such assistance
2 from complying with the State require-
3 ments referred to in clause (i).

4 “(G) INTENTIONAL VIOLATIONS.—Pursu-
5 ant to procedures established under subpart 9.4
6 of chapter 1 of title 48, Code of Federal Regu-
7 lations (or successor regulations), a person shall
8 be ineligible to receive a contract or subcontract
9 funded with amounts made available from a
10 State loan fund if the Administrator, the head
11 of any department, agency, or instrumentality
12 of the United States, or a court determines that
13 the person intentionally—

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

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

20 “(II) were not produced in the
21 United States; or

22 “(ii) represented that any steel, iron,
23 or manufactured goods were produced in
24 the United States that—

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

3 “(II) were not produced in the
4 United States.

5 “(H) CONSISTENCY WITH INTERNATIONAL
6 AGREEMENTS.—

7 “(i) IN GENERAL.—This paragraph
8 shall be applied in a manner that is con-
9 sistent with United States obligations
10 under international agreements.

11 “(ii) TREATMENT OF FOREIGN COUN-
12 TRIES IN VIOLATION OF INTERNATIONAL
13 AGREEMENTS.—The Administrator shall
14 prohibit the use of steel, iron, and manu-
15 factured goods produced in a foreign coun-
16 try in a project funded with amounts made
17 available from a State loan fund, including
18 any project for which the Administrator
19 has issued a waiver under subparagraph
20 (C), if the Administrator, in consultation
21 with the United States Trade Representa-
22 tive, determines that the foreign country is
23 in violation of the terms of an agreement
24 with the United States by discriminating
25 against steel, iron, or manufactured goods

1 that are produced in the United States and
2 covered 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 Administrator of the
6 Environmental Protection Agency shall review each stand-
7 ing nationwide waiver issued under paragraph (4) of sec-
8 tion 1452(a) of the Safe Drinking Water Act (42 U.S.C.
9 300j–12(a)) (as added by this section) to determine
10 whether continuing the waiver is necessary.

11 **SEC. 202. ECONOMIC DEVELOPMENT BUY AMERICA PROVI-**
12 **SIONS.**

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

16 **“SEC. 613. BUY AMERICA.**

17 “(a) DEFINITION OF PRODUCED IN THE UNITED
18 STATES.—In this section, the term ‘produced in the
19 United States’ means, with respect to iron and steel, pro-
20 duced in a manner in which all manufacturing processes,
21 including the application of coatings, occurs in the United
22 States, other than a metallurgical process involving the re-
23 finement of steel additives.

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

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, amounts made available to carry
3 out section 201 or 209 may not be obligated for a
4 project unless the steel, iron, and manufactured
5 goods used for the project are produced in the
6 United States.

7 “(2) SCOPE.—This section applies to all con-
8 tracts for a project carried out within the scope of
9 the applicable finding, determination, or decision
10 under the National Environmental Policy Act of
11 1969 (42 U.S.C. 4321 et seq.) regardless of the
12 funding source of those contracts, if at least 1 con-
13 tract for the project is funded with amounts made
14 available to carry out section 201 or 209.

15 “(c) EXCEPTIONS.—

16 “(1) ISSUANCE OF WAIVERS.—The Secretary
17 may waive the requirements of subsection (b) only if
18 the Secretary finds that—

19 “(A) applying subsection (b) would be in-
20 consistent with the public interest, as deter-
21 mined in accordance with the regulations re-
22 quired under paragraph (2);

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

1 “(i) in sufficient and reasonably avail-
2 able quantities; or

3 “(ii) to a satisfactory quality; or

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

8 “(2) REGULATIONS.—Not later than 1 year
9 after the date of enactment of this section, the Sec-
10 retary shall issue regulations establishing the criteria
11 that the Secretary shall use to determine whether
12 the application of subsection (b) is inconsistent with
13 the public interest for purposes of paragraph (1)(A).

14 “(3) REQUESTS FOR WAIVERS.—A recipient of
15 assistance under section 201 or 209 seeking a waiv-
16 er under paragraph (1) shall submit to the Secretary
17 a request for the waiver in such form and containing
18 such information as the Secretary may require.

19 “(d) WAIVER REQUIREMENTS.—

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

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

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

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

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

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

14 “(2) DETAILED JUSTIFICATION IN FEDERAL
15 REGISTER.—If the Secretary issues a waiver under
16 subsection (c), the Secretary shall publish in the
17 Federal Register a detailed justification for the
18 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 the
24 first February 1 after the date of enactment of this
25 section and not later than each February 1 there-

1 after, the Secretary shall submit to the Committee
2 on Environment and Public Works of the Senate
3 and the Committee on Transportation and Infra-
4 structure of the House of Representatives a report
5 that—

6 “(A) specifies each project with respect to
7 which the Secretary issued a waiver under sub-
8 section (c) during the preceding calendar 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 (c) issued by the Secretary
13 during the preceding calendar year;

14 “(C) summarizes the monetary value of
15 contracts awarded pursuant to each waiver;

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

20 “(E) summarizes the amounts expended
21 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 Sec-
6 retary issued a waiver under subsection (c)
7 during the preceding calendar year; and

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

13 “(e) STATE REQUIREMENTS.—The Secretary may
14 not impose a limitation or condition on assistance provided
15 under section 201 or 209 that restricts—

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 the State requirements.

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

1 48, Code of Federal Regulations (or successor regula-
2 tions), a person shall be ineligible to receive a contract
3 or subcontract funded with amounts made available to
4 carry out section 201 or 209 if the Secretary, the head
5 of any department, agency, or instrumentality of the
6 United States, or a court determines that the person in-
7 tentiously—

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

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

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

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

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

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

23 “(g) CONSISTENCY WITH INTERNATIONAL AGREE-
24 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 Secretary 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 section 201 or 209, including any project
10 for which the Secretary has issued a waiver under
11 subsection (c), if the Secretary, in consultation with
12 the United States Trade Representative, determines
13 that the foreign country is in violation of the terms
14 of an agreement with the United States by discrimi-
15 nating against steel, iron, or manufactured goods
16 that are produced in the United States and covered
17 by the agreement.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 in section 1(b) of the Public Works and Economic Devel-
20 opment Act of 1965 is amended by inserting after the item
21 relating to section 612 the following:

 “613. Buy America.”.

22 (c) 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 Secretary of Com-
25 merce shall review each standing nationwide waiver issued

1 under section 613 of the Public Works and Economic De-
2 velopment Act of 1965 (as added by this section) to deter-
3 mine whether continuing the waiver is necessary.

4 **SEC. 203. FEMA MITIGATION GRANT BUY AMERICA PROVI-**
5 **SIONS.**

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

10 **“SEC. 707. BUY AMERICA.**

11 “(a) DEFINITION OF PRODUCED IN THE UNITED
12 STATES.—In this section, the term ‘produced in the
13 United States’ means, with respect to iron and steel, pro-
14 duced in a manner in which all manufacturing processes,
15 including the application of coatings, occurs in the United
16 States, other than a metallurgical process involving the re-
17 finement of steel additives.

18 “(b) DOMESTIC SOURCE REQUIREMENT FOR STEEL,
19 IRON, AND MANUFACTURED GOODS.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of law, funds made available under section
22 203, 404, 406, 417, or 614 may not be obligated for
23 a project unless the steel, iron, and manufactured
24 goods used for the project are produced in the
25 United States.

1 “(2) SCOPE.—This section applies to all con-
2 tracts for a project carried out within the scope of
3 the applicable finding, determination, or decision
4 under the National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.), regardless of the
6 funding source of those contracts, if at least 1 con-
7 tract for the project is funded with amounts made
8 available to carry out a section specified in para-
9 graph (1).

10 “(c) EXCEPTIONS.—

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

14 “(A) applying subsection (b) would be in-
15 consistent with the public interest, as deter-
16 mined in accordance with the regulations issued
17 in accordance with 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 the Invest in Amer-
5 ican Jobs Act of 2015, the President shall issue reg-
6 ulations establishing the criteria that the President
7 shall use to determine whether the application of
8 subsection (b) is inconsistent with the public interest
9 for purposes of paragraph (1)(A).

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

16 “(d) 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 (c), 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 subparagraph (A), (B), or (C)
7 of subsection (c)(1); and

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

11 “(2) DETAILED JUSTIFICATION IN FEDERAL
12 REGISTER.—If the President issues a waiver under
13 subsection (c), 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 the Invest in American Jobs Act of 2015,
23 the President, acting through the Administrator of
24 the Federal Emergency Management Agency, shall
25 submit to the Committee on Homeland Security and

1 Governmental Affairs of the Senate and the Com-
2 mittee on Transportation and Infrastructure of the
3 House of Representatives a report that—

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

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

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

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

19 “(E) summarizes the funds expended on—

20 “(i) steel, iron, and manufactured
21 goods produced in the United States for
22 projects with respect to which the Buy
23 America requirement under this section
24 applied during the preceding calendar year;
25 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 (c) during the preceding calendar year; and
6 “(F) provides an employment impact anal-
7 ysis of the cumulative effect of all waivers
8 under subsection (c) issued by the President
9 during the preceding calendar year on manufac-
10 turing employment in the United States.

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

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

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

23 “(f) INTENTIONAL VIOLATIONS.—Pursuant to proce-
24 dures established under subpart 9.4 of chapter 1 of title
25 48, Code of Federal Regulations (or successor regula-

1 tions), a person shall be ineligible to receive a contract
2 or subcontract funded with amounts made available to
3 carry out a section specified in subsection (b)(1) if the
4 President, the head of any department, agency, or instru-
5 mentality of the United States, or a court determines that
6 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 “(g) 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 (b)(1), in-
10 cluding any project for which the President has
11 issued a waiver under subsection (c), 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 “(h) 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. BRIDGES OVER NAVIGABLE WATERS BUY AMER-**
 8 **ICA PROVISIONS.**

9 (a) IN GENERAL.—The Act of June 21, 1940 (33
 10 U.S.C. 511 et seq.) (commonly known as the “Truman-
 11 Hobbs Act”), is amended by adding at the end the fol-
 12 lowing:

13 **“SEC. 14. BUY AMERICA.**

14 **“(a) DEFINITION OF PRODUCED IN THE UNITED**
 15 **STATES.—**In this section, the term ‘produced in the
 16 United States’ means, with respect to iron and steel, pro-
 17 duced in a manner in which all manufacturing processes,
 18 including the application of coatings, occurs in the United
 19 States, other than a metallurgical process involving the re-
 20 finement of steel additives.

21 **“(b) DOMESTIC SOURCE REQUIREMENT FOR STEEL,**
 22 **IRON, AND MANUFACTURED GOODS.—**

23 **“(1) IN GENERAL.—**Notwithstanding any other
 24 provision of law, amounts made available to carry
 25 out this Act may not be used, in whole or in part,

1 for a project for the alteration of a bridge unless the
2 steel, iron, and manufactured goods used for the
3 project are produced in the United States.

4 “(2) SCOPE.—This section applies to all con-
5 tracts for a project carried out within the scope of
6 the applicable finding, determination, or decision
7 under the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.), regardless of the
9 funding source of those contracts, if at least 1 con-
10 tract for the project is funded with amounts made
11 available to carry out this Act.

12 “(c) EXCEPTIONS.—

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

16 “(A) applying subsection (b) 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 Sec-
7 retary shall issue regulations establishing the criteria
8 that the Secretary shall use to determine whether
9 the application of subsection (b) is inconsistent with
10 the public interest for purposes of paragraph (1)(A).

11 “(3) REQUESTS FOR WAIVERS.—A recipient of
12 assistance under this Act seeking a waiver under
13 paragraph (1) shall submit to the Secretary a re-
14 quest for the waiver in such form and containing
15 such information as the Secretary may require.

16 “(d) 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 Secretary re-
21 ceives a request for a waiver under subsection
22 (c), the Secretary 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 Secretary concerning the request, in-
5 cluding whether the request is being made
6 under subparagraph (A), (B), or (C) of
7 subsection (c)(1); and

8 “(ii) be provided by electronic means,
9 including on the official public Internet site
10 of the department in which the Coast
11 Guard is operating.

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

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

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

21 “(3) ANNUAL REPORT.—Not later than the
22 first February 1 after the date of enactment of this
23 section and not later than each February 1 there-
24 after, the Secretary shall submit to the Committee
25 on Commerce, Science, and Transportation of the

1 Senate and the Committee on Transportation and
2 Infrastructure of the House of Representatives a re-
3 port that—

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

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

12 “(C) summarizes the monetary value of
13 contracts awarded pursuant to each waiver;

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

18 “(E) summarizes the amounts expended
19 on—

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

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

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

11 “(e) STATE REQUIREMENTS.—The Secretary may
12 not impose a limitation or condition on assistance provided
13 under this Act that restricts—

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

20 “(2) any recipient of such assistance from com-
21 plying with the State requirements referred to in
22 paragraph (1).

23 “(f) INTENTIONAL VIOLATIONS.—Pursuant to proce-
24 dures established under subpart 9.4 of chapter 1 of title
25 48, Code of Federal Regulations (or successor regula-

1 tions), a person shall be ineligible to receive a contract
2 or subcontract funded with amounts made available under
3 this Act if the Secretary, the head of any department,
4 agency, or instrumentality of the United States, or a court
5 determines that the person intentionally—

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

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

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

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

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

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

21 “(g) CONSISTENCY WITH INTERNATIONAL AGREE-
22 MENTS.—

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

1 “(2) TREATMENT OF FOREIGN COUNTRIES IN
2 VIOLATION OF INTERNATIONAL AGREEMENTS.—The
3 Secretary shall prohibit the use of steel, iron, and
4 manufactured goods produced in a foreign country
5 in a project funded with amounts made available
6 under this Act, including any project for which the
7 Secretary has issued a waiver under subsection (c),
8 if the Secretary, in consultation with the United
9 States Trade Representative, determines that the
10 foreign country is in violation of the terms of an
11 agreement with the United States by discriminating
12 against steel, iron, or manufactured goods that are
13 produced in the United States and covered by the
14 agreement.

15 “(h) EMERGENCY WAIVER.—Notwithstanding any
16 other provision of this section, the Secretary may waive
17 the applicability of this section, in whole or in part, in
18 an emergency.”.

19 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
20 than 1 year after the date of enactment of this Act, and
21 at least every 5 years thereafter, the Secretary of the de-
22 partment in which the Coast Guard is operating shall re-
23 view each standing nationwide waiver issued under section

- 1 14 of the Act of June 21, 1940 (as added by this section),
- 2 to determine whether continuing the waiver is necessary.

○