115TH CONGRESS
1ST SESSION

H. R.

To amend chapter 83 of title 41, United States Code, to increase the requirement for American-made content, to strengthen the waiver provisions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Lipinski introduced the following bill; which was referred to the Committee on ____________________________

A BILL

To amend chapter 83 of title 41, United States Code, to increase the requirement for American-made content, to strengthen the waiver provisions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Buy American Improvement Act of 2017”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—MATTERS RELATING TO BUY AMERICAN ACT

Sec. 102. Amendments relating to Buy American Act.
Sec. 103. Report by Comptroller General.
Sec. 104. Border protection infrastructure.
Sec. 105. United States obligations under international agreements.
Sec. 106. Definitions.

TITLE II—BUY AMERICA IMPROVEMENT

Sec. 201. Annual report.
Sec. 202. Component requirements and verification.
Sec. 203. FHWA domestic content standards improvement.
Sec. 204. Rail Buy America modernization.
Sec. 205. FAA Buy America modernization.
Sec. 206. Application of Buy America requirements to projects financed with passenger facility charges.
Sec. 207. Notice and comment requirement for waiver petitions.
Sec. 208. Drinking water state revolving funds.
Sec. 209. Rural Utilities Service Buy American modernization.
Sec. 211. Rural Water Supply Program.
Sec. 212. Economic development administration Buy American modernization.
Sec. 213. Rail loan and loan guarantee Buy America requirements.

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TITLE I—MATTERS RELATING TO BUY AMERICAN ACT

SEC. 101. REGULATIONS RELATING TO BUY AMERICAN ACT.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy, in consultation with the Federal Acquisition Regulatory Council, shall promulgate regulations to standardize and simplify how Federal agencies comply with, report on, and enforce chapter 83 of title 41, United States Code (commonly known as the Buy American Act). The regulations shall include, at a minimum, the following:

(1) Guidelines for Federal agencies to determine, for the purposes of applying sections 8302(a)
and 8303(b)(3) of such title, the circumstances under which the acquisition of articles, materials, or supplies mined, produced, or manufactured in the United States is inconsistent with the public interest.

(2) Uniform procedures for each Federal agency to make publicly available, in an easily identifiable location on the website of the agency, and within the following time periods, the following information:

(A) A description of the circumstances in which the head of the agency may waive the requirements of chapter 83 of such title.

(B) Each waiver made by the head of the agency within 30 days after making such waiver, including a detailed justification for the waiver.

(3) Rules for Federal agencies to ensure that a project is not disaggregated for purposes of avoiding the applicability of the requirements under chapter 83 of such title.

(4) Procedures to investigate occurrences when the head of a Federal agency improperly waives the requirements of chapter 83 of such title.
(5) Rules for the Administrator to evaluate the percentage of domestic content in a manufactured end product, including providing a definition for the term “manufactured end product”.

(b) GUIDELINES RELATING TO INCONSISTENCY WITH PUBLIC INTEREST.—With respect to the guidelines developed under subsection (a)(1), the Administrator shall consider any significant decrease in employment in the United States resulting from a waiver to be inconsistent with the public interest and seek to minimize waivers that would result in a decrease in employment in the United States in both the short and long term.

(c) RULES RELATING TO DOMESTIC CONTENT.—With respect to the rules developed under subsection (a)(5), the Administrator may not treat components of foreign origin of the same class or kind as those that are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality as domestic content. With respect to providing a definition for the term “manufactured end product”, the Administrator shall consider previous judicial rulings on the question of—

(1) whether the product is completed in the final form required for use by the Federal Government; and
whether separate manufacturing stages or continuous processes constitute “manufacturing”.

SEC. 102. AMENDMENTS RELATING TO BUY AMERICAN ACT.

(a) Special Rules Relating to American Materials Required for Public Use.—Section 8302 of title 41, United States Code, is amended by adding at the end the following:

“(c) Special Rules.—The following rules apply in carrying out the provisions of subsection (a):

“(1) Calculation of domestic and non-domestic offers.—

“(A) Exclusion of start-up costs in calculating cost of offer.—When comparing offers between domestic entities and non-domestic entities, costs related to the start-up of a project shall be excluded from a domestic offer.

“(B) Unreasonable cost determination.—

“(i) In general.—The head of a Federal agency may not determine the cost of acquiring articles, materials, or supplies mined, produced, or manufactured in the United States to be unreasonable under subsection (a)(1), unless the acquisition of
such articles, materials, or supplies would increase the cost of the overall project by more than 25 percent.

“(ii) Rule of construction.—With respect to the percentage increase required for a determination of unreasonable cost applicable to projects under Department of Defense contracts as of the date of the enactment of the Buy American Improvement Act of 2017, nothing in this subparagraph may be construed as reducing such percentage increase.

“(2) Use outside the United States.—

“(A) In general.—Notwithstanding the exception described in subsection (a)(2)(A), subsection (a)(1) shall apply to articles, materials, or supplies for use outside the United States if such articles, materials, or supplies are not needed on an urgent basis or are acquired on a regular basis.

“(B) Cost analysis.—In any case in which articles, materials, or supplies are to be acquired for use outside the United States and are not needed on an urgent basis or are acquired on a regular basis, before entering into
a contract, an analysis shall be made of the dif-
ference in the cost of acquiring such articles,
materials, or supplies from a company mining,
producing, or manufacturing the articles, mate-
rials, or supplies in the United States (includ-
ing the cost of shipping) and the cost of acquir-
ing such articles, materials, or supplies from a
company mining, producing, or manufacturing
the articles, materials, or supplies outside the
United States (including the cost of shipping).

“(3) DOMESTIC AVAILABILITY.—The head of a
Federal agency may not determine that an article,
material, or supply is not mined, produced, or manu-
factured in the United States in sufficient and rea-
sonably available commercial quantities and of a sat-
sactory quality under subsection (a)(1), unless the
head of the agency first determines that—

“(A) domestic production cannot be initi-
ated without significantly delaying the project
for which the article, material, or supply is to
be acquired; and

“(B) a substitutable article, material, or
supply is not mined, produced, or manufactured
in the United States in sufficient and reason-
ably available commercial quantities and of a satisfactory quality.”.

(b) REPORTS.—Subsection (b) of section 8302 of title 41, United States Code, is amended to read as follows:

“(b) REPORTS.—

“(1) IN GENERAL.—Not later than 180 days after the end of each of fiscal years 2018 through 2022, the Director of the Office of Management and Budget, in consultation with the Administrator of General Services, shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate 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) ADDITIONAL CONTENT.—Each report required under paragraph (1) shall separately include, for the fiscal year covered by the report—

“(A) the dollar value of any articles, materials, or supplies that were mined, produced, or manufactured outside the United States, in the aggregate and by country;
“(B) an itemized list of all waivers made under this chapter with respect to articles, materials, or supplies and the country where such articles, materials, or supplies were mined, produced, or manufactured;

“(C) if any articles, materials, or supplies were acquired from entities that mine, produce, or manufacture such articles, materials, or supplies outside the United States due to an exception (that is not the micro-purchase threshold exception described under subsection (a)(2)(C)), the specific exception that was used to purchase such articles, materials, or supplies;

“(D) if any articles, materials, or supplies were acquired from entities that mine, produce, or manufacture such articles, materials, or supplies outside the United States 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, a citation to such memorandum of understanding, trade agreement, or designation; and

“(E) a summary of—
“(i) the total procurement funds expended on articles, materials, and supplies mined, produced, or manufactured inside the United States;

“(ii) the total procurement funds expended on articles, materials, and supplies mined, produced, or manufactured outside the United States; and

“(iii) the total procurement funds expended on articles, materials, and supplies mined, produced, or manufactured outside the United States per country that mined, produced, or manufactured such articles, materials, and supplies.

“(3) PUBLIC AVAILABILITY.—Not later than 180 days after the end of each relevant fiscal year, the Director of the Office of Management and Budget shall make the relevant report required under paragraph (1) publicly available on a website.

“(4) 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) DEFINITIONS.—Section 8301 of title 41, United States Code, is amended by adding at the end the following:

“(3) FEDERAL AGENCY.—The term ‘Federal agency’ has the meaning given the term ‘executive agency’ in section 133 of title 41, United States Code.

“(4) SUBSTANTIALLY ALL.—The term ‘substantially all’, with respect to articles, materials, or supplies mined, produced, or manufactured in the United States, means that the cost of the domestic components of such articles, materials, or supplies exceeds 75 percent of the total cost of all components of such articles, materials, or supplies.

“(5) WAIVER.—The term ‘waiver’, with respect to the acquisition of an article, material, or supply for public use, means the inapplicability of this chapter to the acquisition by reason of any of the following determinations under section 8302(a)(1) or 8303(b)(3):

“(A) A determination by the head of the Federal agency concerned that the acquisition is inconsistent with the public interest.
“(B) A determination by the head of the Federal agency concerned that the cost of the acquisition is unreasonable.

“(C) A determination by the head of the Federal agency concerned that the article, material, or supply is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.”.

(d) CONFORMING AMENDMENTS.—Title 41, United States Code, is amended—

(1) in section 8302—

(A) in paragraph (1) of subsection (a)—

(i) by striking “department or independent establishment” and inserting “Federal agency”; and

(ii) by striking “their acquisition to be inconsistent with the public interest or their cost to be unreasonable” and inserting “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”; and

(B) in paragraph (2) of subsection (a)—

(i) in subparagraph (A), by inserting “subject to subsection (c)(2)(A),” before “to articles, materials, or supplies”; and

(ii) by amending subparagraph (B) to read as follows:

“(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”; and

(2) in section 8303—

(A) in subsection (b)—

(i) by striking “department or independent establishment” each place it appears and inserting “Federal agency”; and

(ii) by amending subparagraph (B) of paragraph (1) to read as follows:
“(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”; and

(iii) in paragraph (3)—

(I) in the heading, by striking “INCONSISTENT WITH PUBLIC INTEREST” and inserting “WAIVER AUTHORITY”; and

(II) by striking “their purchase to be inconsistent with the public interest or their cost to be unreasonable” and inserting “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 com-
mmercial quantities and of a satisfac-
tory quality”; and

(B) in subsection (c), by striking “depart-
ment, bureau, agency, or independent establish-
ment” each place it appears and inserting
“Federal agency”.

(e) Exclusion from Inflation Adjustment of
Acquisition-related Dollar Thresholds.—Sub-
paragraph (A) of section 1908(b)(2) of title 41, United
States Code, is amended by striking “chapter 67” and in-
serting “chapters 67 and 83”.

SEC. 103. REPORT BY COMPTROLLER GENERAL.

Not later than one year after the date of the enact-
ment of this Act, the Comptroller General of the United
States shall report to Congress on the extent to which,
in each of fiscal years 2011, 2012, 2013, 2014, 2015, arti-
cles, materials, or supplies acquired by the Federal Gov-
ernment were mined, produced, or manufactured outside
the United States. Such report shall include for each Fed-
eral agency the following:

(1) A summary of total procurement funds ex-
pended on articles, materials, and supplies mined,
produced, or manufactured—

(A) inside the United States;

(B) outside the United States; and
(C) outside the United States—

(i) under each category of waiver under chapter 83 of title 41, United States Code;

(ii) under each category of exception under such chapter; and

(iii) for each country that mined, produced, or manufactured such articles, materials, and supplies.

(2) An analysis of the impact of eliminating the exception for acquisitions for information technology (as defined in section 11101 of title 40, United States Code) that is a commercial item (as defined in section 103 of title 41, United States Code).

SEC. 104. BORDER PROTECTION INFRASTRUCTURE.

Paragraph (1) of section 604(b) of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 6 U.S.C. 453b(b)(1)) is amended—

(1) in subparagraph (C), by striking “; or” and inserting a semicolon;

(2) in subparagraph (D), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(E) materials and supplies used in the construction of border protection barriers and
roads constructed under section 102 of the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1103 note).”.

SEC. 105. UNITED STATES OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS.

This Act, and the amendments made by this Act, shall be applied in a manner consistent with United States obligations under international agreements.

SEC. 106. DEFINITIONS.

In this title:

(1) FEDERAL AGENCY.—The term “Federal agency” has the meaning given the term “executive agency” in section 133 of title 41, United States Code.

(2) WAIVER.—The term “waiver”, with respect to the acquisition of an article, material, or supply for public use, means the inapplicability of chapter 83 of title 41, United States Code, to the acquisition by reason of any of the following determinations under section 8302(a)(1) or 8303(b)(3) of such title:

(A) A determination by the head of the Federal agency concerned that the acquisition is inconsistent with the public interest.
(B) A determination by the head of the Federal agency concerned that the cost of the acquisition is unreasonable.

(C) A determination by the head of the Federal agency concerned that the article, material, or supply is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

**TITLE II—BUY AMERICA IMPROVEMENT**

**SEC. 201. ANNUAL REPORT.**

Not later than 180 days after the end of each fiscal year, the Secretary of Transportation shall submit a report to the Committee on Transportation and Infrastructure in the House of Representatives and the Committee on Commerce, Science, and Transportation in the Senate, and publish on the Department’s website, that—

(1) itemizes all waivers regarding domestic content granted by the Department within that fiscal year and provides the justification for each waiver;

(2) identifies the country of origin and product specifications for goods used in construction pursuant to each waiver granted; and
(3) summarizes the total value of acquisitions made under each waiver.

SEC. 202. COMPONENT REQUIREMENTS AND VERIFICATION.

(a) AUDITING AND CERTIFICATION MODERNIZATION.—

(1) Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall—

(A) initiate a rulemaking to develop audit procedures for the Federal Transit Administration to review offeror and recipient compliance with domestic content provisions; and

(B) issue guidance on best practices for pre-award and post-delivery audits by recipients under section 5323(m) of title 49, United States Code.

(2) In developing the guidance required under paragraph (1)(B), the Secretary shall consider best practices for—

(A) proper and sufficient documentation requests from bidders by recipients under section 5323(m) of such title to support certification of compliance;
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(B) proper and sufficient documentation
requests from bidders by recipients under section 5323(m) of such title to support pre-award
and post-delivery audits;

(C) determining the timing and requirements for post-delivery audit; and

(D) verifying the origin of supplier components and subcomponents.

(b) COMPONENT GUIDANCE.—Not later than 6 months after the date of enactment of this Act, the Secretary shall initiate a rulemaking to further develop standards under section 5323(j) of title 49, United States Code, for measuring the percentage value of a component relative to the entire procurement.

SEC. 203. FHWA DOMESTIC CONTENT STANDARDS IMPROVEMENT.

(a) CMAQ LOOPHOLE.—Section 313(b) of title 23, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) in paragraph (2) by striking “or”; and

(3) by inserting after paragraph (2) the following:

“(3) that when procuring rolling stock under this chapter—
“(A) the cost of components and sub-components produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

“(B) final assembly of the rolling stock has occurred in the United States; or”.

(b) Rule Reevaluation.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall review the regulations found in section 635.410 of title 23, Code of Federal Regulations, or any similar successor regulations, to determine whether manufactured products other than those containing steel and iron should be considered for the purposes of domestic content preferences.

SEC. 204. RAIL BUY AMERICA MODERNIZATION.

Section 24305(f) of title 49, United States Code, is amended by adding at the end the following:

“(5) Before applying for an exemption under paragraph (4), Amtrak shall enter into an arrangement with the National Institute of Standards and Technology to conduct a supplier scouting process for domestic suppliers that can provide the compliant articles, materials, or supplies for which an exemption will be sought. Upon conclusion of the supplier scouting process for a particular article, material, or supply, Amtrak shall submit to the Sec-
retary a scouting report along with the exemption applica-
tion. The Secretary shall consider the results of the sup-
plier scouting process before making a decision on Am-
trak’s exemption application. If the Secretary decides to
grant the exemption, the Secretary shall publish in the
Federal Register a summary of the scouting report and
the reasons for the Secretary’s decision.”.

SEC. 205. FAA BUY AMERICA MODERNIZATION.

Section 50101 of title 49, United States Code, is
amended by adding at the end the following:

“(d) SUPPLIER SCOUTING.—Before issuing a waiver
under subsection (b), the Secretary shall—

“(1) consult with the National Institute of
Standards and Technology; and

“(2) begin a supplier scouting process for do-
cestic suppliers that can provide for those compliant
products for which a waiver will be sought.

“(e) PUBLICATION REQUIRED.—Upon conclusion of
the supplier scouting process required under subsection
(d)(2) for a particular component, material, or subcompo-
nent, the Secretary shall make the results of the supplier
scouting available to the public.”.
SEC. 206. APPLICATION OF BUY AMERICA REQUIREMENTS TO PROJECTS FINANCED WITH PASSENGER FACILITY CHARGES.

(a) IN GENERAL.—Section 50101(a) of title 49, United States Code, is amended by inserting “, and may approve a project under section 40117,” before “only if steel”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to an application submitted pursuant to section 40177(c) of title 49, United States Code, after the date of enactment of this Act.

SEC. 207. NOTICE AND COMMENT REQUIREMENT FOR WAIVER PETITIONS.

(a) IN GENERAL.—The Secretary of Transportation shall require the head of a Federal agency, after receiving a request for a waiver of any applicable domestic content requirement under title 49, to publish the request for a waiver in the Federal Register within 15 days after receiving such request.

(b) NOTICE AND COMMENT.—A waiver under this section may not be issued before the expiration of the 15-day period beginning on the date on which the request for waiver is published pursuant to subsection (a) to provide the public an opportunity for notice and comment.

(c) PUBLICATION OF WAIVER.—If the Secretary or head of a Federal Agency issues a waiver, the Secretary
or head shall publish in the Federal Register not later than 15 days after issuing such a waiver a detailed justification for the waiver that addresses any public comments received under subsection (b).

SEC. 208. DRINKING WATER STATE REVOLVING FUNDS.

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

(1) by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—Funds made available from a State drinking water treatment revolving loan fund established under this section may not be used for a project for the construction, alteration, maintenance, or repair of collection, treatment, storage, and distribution facilities, including publicly and privately owned pipes or other constructed conveyances, unless all of the iron and steel products used in the project are produced in the United States.”;

and

(2) by amending subparagraph (D) to read as follows:

“(D) PUBLIC NOTICE; WRITTEN JUSTIFICATION.—
“(i) Public notice.—If the Administrator receives a request for a waiver under this paragraph, the Administrator shall—

“(I) make available to the public on an informal basis, including on the public website of the Administrator—

“(aa) a copy of the request; and

“(bb) any information available to the Administrator regarding the request; and

“(II) provide notice of, and opportunity for public comment on, the request for a period of not less than 15 days before making a finding under subparagraph (C).

“(ii) Written justification.—If, after the period provided under clause (i), the Administrator makes a finding under subparagraph (C), the Administrator shall publish in the Federal Register a written justification as to why subparagraph (A) is being waived.”.
SEC. 209. RURAL UTILITIES SERVICE BUY AMERICAN MODERNIZATION.

Section 232 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6942) is amended by adding at the end the following new subsection:

“(d) DOMESTIC SOURCE REQUIREMENT FOR STEEL, IRON, AND MANUFACTURED GOODS USED IN RURAL UTILITIES SERVICE SUPPORTED PROJECTS.—

“(1) BUY AMERICAN REQUIRED.—Notwithstanding any other provision of law, funds made available under a program carried out by the Secretary through the Rural Utilities Service, including a program specified in subsection (c), may not be used, in whole or in part, for a project utilizing steel, iron, or manufactured goods unless the steel, iron, and manufactured goods are produced in the United States.

“(2) SCOPE.—The requirement specified in paragraph (1) applies to each contract for a project referred to in such paragraph, regardless of the funding source of the contract, if at least one contract for the project is funded with amounts made available under a program referred to in such paragraph.

“(3) WAIVER AUTHORITY; CONDITIONS.—
“(A) IN GENERAL.—The Administrator of the Rural Utilities Service may grant a waiver from the requirements of paragraph (1) or (2) for a project referred to in paragraph (1) only if the Administrator finds that—

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

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

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

“(II) to a satisfactory quality; or

“(iii) the use of steel, iron, and manufactured goods produced in the United States for a project will increase the total cost of the project by more than 25 percent.

“(B) PUBLIC INTEREST CRITERIA.—Not later than one year after the date of enactment of the Buy American Improvement Act of 2017, the Administrator shall issue regulations estab-
lishing the criteria that the Administrator shall 
use to determine whether the application of 
paragraph (1) or (2) is inconsistent with the 
public interest for purposes of subparagraph 
(A)(i).

“(C) Request for waiver.—A recipient 
of assistance under a program referred to in 
paragraph (1) seeking a waiver under subpara-
graph (A) shall submit to the Administrator a 
request for the waiver in such form and con-
taining such information as the Administrator 
may require.

“(D) Notice and comment for waiver 
requests.—Within 15 days after the date on 
which the Administrator receives a request for 
a waiver under subparagraph (C), the Adminis-
trator shall publish in the Federal Register no-
tice of the request for a waiver. The Adminis-
trator may not grant the waiver before the expi-
ration of the 15-day period beginning on the 
date of the publication of the notice to provide 
the public an opportunity for notice and com-
ment.

“(E) Notice of waivers.—Within 15 
days after granting a waiver request under this
paragraph, the Administrator shall publish in the Federal Register notice of the waiver, including—

“(i) the justification for the waiver;

“(ii) the Administrator’s response to any public comments received under subparagraph (D) with respect to the request for that waiver; and

“(iii) an employment impact analysis of the cumulative effect of the waiver, together with all other waivers previously granted under this paragraph during the preceding one-year period, on manufacturing employment in the United States.

“(4) MANUFACTURED GOODS DEFINED.—In this subsection, the term ‘manufactured goods’ has the meaning given that term pursuant to the regulations required by section 106 of the Buy American Improvement Act of 2017.”.

SEC. 210. COMMUNITY DEVELOPMENT BLOCK GRANT BUY AMERICA MODERNIZATION.

Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by adding at the end the following new subsection:

“(i) Buy America.—
“(1) Domestic source requirement for steel, iron, and manufactured goods.—Notwithstanding any other provision of law, funds made available from a grant under section 106 may not be used, in whole or in part, for any project or activity unless all of the steel, iron, and manufactured goods used for the project or activity are produced in the United States.

“(2) Scope.—The requirement specified in paragraph (1) shall apply to all contracts for any project or activity carried out in whole or in part with funds made available from a grant under section 106, regardless of the funding source of such contracts, if at least one contract for such project or activity is funded with amounts made available from a grant under section 106.

“(3) Waiver authority; conditions.—

“(A) Authority.—The Secretary may grant a waiver from the requirements of paragraph (1) or (2) for a project or activity, but only if the Secretary finds that—

“(i) applying such paragraph would be inconsistent with the public interest, as determined in accordance with the regulations required under subparagraph (B);
“(ii) the steel, iron, or manufactured goods required for a project or activity are not produced in the United States—

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

“(II) to a satisfactory quality; or

“(iii) the use of steel, iron, and manufactured goods produced in the United States for a project or activity will increase the total cost of the project or activity by more than 25 percent.

“(B) Public Interest Criteria.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations establishing the criteria that the Secretary shall use to determine whether the application of paragraph (1) or (2) is inconsistent with the public interest for purposes of subparagraph (A)(i).

“(C) Requests for Waivers.—A recipient of assistance under section 106 seeking a waiver under subparagraph (A) shall submit to the Secretary a request for the waiver in such form and containing such information as the Secretary may require. The Secretary shall pub-
lish the request for a waiver in the Federal Register within 15 days after receiving such request.

“(D) NOTICE AND COMMENT FOR WAIVER REQUESTS.—The Secretary may not issue a waiver before the expiration of the 15-day period beginning on the date of the publication of the notice to provide the public an opportunity for notice and comment

“(E) NOTICE OF WAIVERS.—Within 15 days after granting a waiver request under this paragraph, the Secretary shall publish in the Federal Register notice of the waiver, including—

“(i) a detailed justification for the waiver;

“(ii) the Secretary’s response to any public comments received under subparagraph (D) with respect to the request for such waiver; and

“(iii) an employment impact analysis of the cumulative effect of the waiver, together with all other waivers previously granted under this paragraph during the
preceding one-year period, on manufacturing employment in the United States.

“(4) MANUFACTURED GOODS DEFINED.—In this subsection, the term ‘manufactured goods’ has the meaning given that term pursuant to the regulations required by section 106 of the Buy American Improvement Act of 2017.”.

SEC. 211. RURAL WATER SUPPLY PROGRAM.

(a) Buy America Act Requirements.—The Rural Water Supply Act of 2006 (43 U.S.C. 2401 et seq.) is amended by adding at the end the following:

“SEC. 111. BUY AMERICA.

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

“(1) IN GENERAL.—Notwithstanding any other provision of law, funds made available under this title may not be used, in whole or in part, for a project for the construction of treatment works unless the steel, iron, and manufactured goods used for the project are produced in the United States.

“(2) SCOPE.—The requirements of this section apply to all contracts for the construction of projects regardless of the funding source of such contracts, if at least one contract for the construction is funded with amounts made available under this title.
“(b) EXCEPTIONS.—

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

“(A) applying subsection (a) would be inconsistent with the public interest;

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

“(i) in sufficient and reasonably available quantities; or

“(ii) to a satisfactory quality; or

“(C) the use of steel, iron, and manufactured goods produced in the United States for a project will increase the total cost of the project by more than 25 percent.

“(2) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary shall issue regulations establishing the criteria that the Secretary shall use to determine whether the application of subsection (a) is inconsistent with the public interest for purposes of paragraph (1)(A).

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

“(c) NOTICE AND COMMENT FOR WAIVER PETITIONS.—

“(1) The Secretary shall publish the request for a waiver in the Federal Register not later than 15 days after receiving such request.

“(2) A waiver may not be issued before the expiration of the 15-day period beginning on the date on which the request for waiver is published pursuant to paragraph (1) to provide the public an opportunity for notice and comment.

“(3) If the Secretary issues a waiver, the Secretary shall publish in the Federal Register not later than 15 days after issuing such a waiver—

“(A) a detailed justification for the waiver that addresses any public comments received under paragraph (a)(1); and

“(B) provides an employment impact analysis of the cumulative effect of all waivers under subsection (b) issued by the Secretary during the preceding calendar year on manufacturing employment in the United States.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Rural Water Supply Act of 2006 (43 U.S.C. 2401
et seq.) is amended by adding after the item for section 110 the following:

“Sec. 111. Buy America.”

SEC. 212. ECONOMIC DEVELOPMENT ADMINISTRATION BUY AMERICAN MODERNIZATION.

(a) IN GENERAL.—Title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) is amended by adding at the end the following:

“SEC. 609. BUY AMERICA.

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

“(1) IN GENERAL.—Notwithstanding any other provision of law, funds made available from a State water pollution control revolving fund established under this title grants and loan programs administered by the Economic Development Agency’s Public Works and Economic Development Program may not be used, in whole or in part, for a project for the construction of treatment works unless the steel, iron, and manufactured goods used for the project are produced in the United States.

“(2) SCOPE.—The requirements of this section apply to all contracts for the construction of treatment works carried out within the scope of the applicable finding, determination, or decision under section 511(c)(1), regardless of the funding source
of such contracts, if at least one contract for the
collection is funded with amounts made available
to carry out this title.

“(b) EXCEPTIONS.—

“(1) ISSUANCE OF WAIVERS.—The Adminis-
trator may waive the requirements of subsection (a)
only if the Administrator finds that—

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

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

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

“(ii) to a satisfactory quality; or

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

“(2) REGULATIONS.—Not later than 1 year
after the date of enactment of this section, the Ad-
ministrator shall issue regulations establishing the
criteria that the Administrator shall use to deter-
mine whether the application of subsection (a) is inconsistent with the public interest for purposes of paragraph (1)(A).

“(3) REQUESTS FOR WAIVERS.—A recipient of assistance under this title seeking a waiver under paragraph (1) shall submit to the Administrator a request for the waiver in such form and containing such information as the Administrator may require.

“(c) NOTICE AND COMMENT FOR WAIVER PETITIONS.—

“(1) The Administrator shall publish the request for a waiver in the Federal Register within 15 days after receiving such request.

“(2) A waiver may not be issued before the expiration of the 15-day period beginning on the date on which the request for waiver is published pursuant to paragraph (1) to provide the public an opportunity for notice and comment.

“(3) If the Administrator issues a waiver, the Administrator shall publish in the Federal Register within 15 days of issuing such a waiver—

“(A) a detailed justification for the waiver that addresses any public comments received under paragraph (a)(1); and
“(B) provides an employment impact analysis of the cumulative effect of all waivers under subsection (b) issued by the Administrator during the preceding calendar year on manufacturing employment in the United States.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) is amended by adding after the item for section 608 the following:

“Sec. 609. Buy America.”

SEC. 213. RAIL LOAN AND LOAN GUARANTEE BUY AMERICA REQUIREMENTS.

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

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

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

(3) by adding at the end the following:

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