

AMENDMENT

OFFERED BY MR. RAHALL TO THE AMENDMENT

OFFERED BY MR. CRAVAACK

Page 1, strike line 1 and all that follows through line 11 on page 6 and insert the following:

1 **SEC. 17___ . FEDERAL-AID HIGHWAY BUY AMERICA PROVI-**
2 **SIONS.**

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

5 **“§ 313. Buy America**

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

8 **“(1) IN GENERAL.—**Notwithstanding any other
9 provision of law, funds made available to carry out
10 this title may not be obligated for a project unless
11 the steel, iron, and manufactured goods used for the
12 project are produced in the United States.

13 **“(2) SCOPE.—**The requirements of this section
14 apply to all contracts for a project carried out within
15 the scope of the applicable finding, determination, or
16 decision under the National Environmental Policy
17 Act of 1969 (42 U.S.C. 4321 et seq.), regardless of
18 the funding source of such contracts, if at least one

1 contract for the project is funded with amounts
2 made available to carry out this title.

3 “(b) EXCEPTIONS.—

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

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

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

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

16 “(ii) to a satisfactory quality; or

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

21 “(2) REGULATIONS.—Not later than 1 year
22 after the date of enactment of the American Energy
23 and Infrastructure Jobs Act of 2012, the Secretary
24 shall issue regulations establishing the criteria that
25 the Secretary shall use to determine whether the ap-

1 plication of subsection (a) is inconsistent with the
2 public interest for purposes of paragraph (1)(A).

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

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

12 “(c) WAIVER REQUIREMENTS.—

13 “(1) PUBLIC NOTIFICATION OF AND OPPOR-
14 TUNITY FOR COMMENT ON REQUEST FOR A WAIV-
15 ER.—

16 “(A) IN GENERAL.—If the Secretary re-
17 ceives a request for a waiver under subsection
18 (b), the Secretary shall provide notice of and an
19 opportunity for public comment on the request
20 at least 30 days before making a finding based
21 on the request.

22 “(B) NOTICE REQUIREMENTS.—A notice
23 provided under subparagraph (A) shall—

24 “(i) include the information available
25 to the Secretary concerning the request, in-

1 cluding whether the request is being made
2 under subsection (b)(1)(A), (b)(1)(B), or
3 (b)(1)(C); and

4 “(ii) be provided by electronic means,
5 including on the official public Internet
6 Web site of the Department of Transpor-
7 tation.

8 “(2) DETAILED JUSTIFICATION IN FEDERAL
9 REGISTER.—If the Secretary issues a waiver under
10 subsection (b), the Secretary shall publish in the
11 Federal Register a detailed justification for the
12 waiver that—

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

15 “(B) is published before the waiver takes
16 effect.

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

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

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

3 “(e) INTENTIONAL VIOLATIONS.—Pursuant to proce-
4 dures established under subpart 9.4 of chapter 1 of title
5 48, Code of Federal Regulations, a person shall be ineli-
6 gible to receive a contract or subcontract funded with
7 amounts made available to carry out this title if the Sec-
8 retary, the head of any department, agency, or instrumen-
9 tality of the United States, or a court determines that
10 such person intentionally—

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

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

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

19 “(2) represented that any steel, iron, or manu-
20 factured goods were produced in the United States
21 that—

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

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

1 “(f) CONSISTENCY WITH INTERNATIONAL AGREE-
2 MENTS.—

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

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

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

1 (c) REPEALS.—

2 (1) WAIVER NOTIFICATION AND ANNUAL RE-
3 PORTS.—Section 117 of the SAFETEA-LU Tech-
4 nical Corrections Act of 2008 (23 U.S.C. 313 note)
5 is repealed.

6 (2) NOTICE AND PUBLIC COMMENTS.—Section
7 123 of title I of division A of the Consolidated Ap-
8 propriations Act, 2010 (23 U.S.C. 313 note) is re-
9 pealed.

10 **SEC. 17 ____ . PUBLIC TRANSPORTATION BUY AMERICA PRO-**
11 **VISIONS.**

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

14 “(j) BUY AMERICA.—

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

17 “(A) IN GENERAL.—Notwithstanding any
18 other provision of law, and except as provided
19 in subparagraph (B), funds made available to
20 carry out this chapter may not be obligated for
21 a project unless the steel, iron, and manufac-
22 tured goods used for the project are produced
23 in the United States.

24 “(B) SPECIAL RULES FOR ROLLING
25 STOCK.—Funds made available to carry out

1 this chapter may not be obligated for the pro-
2 curement of rolling stock (including train con-
3 trol, communication, traction power equipment,
4 and rolling stock prototypes) unless—

5 “(i) the cost of components and sub-
6 components produced in the United
7 States—

8 “(I) for fiscal year 2012 is more
9 than 60 percent of the cost of all com-
10 ponents of the rolling stock;

11 “(II) for fiscal year 2013 is more
12 than 70 percent of the cost of all com-
13 ponents of the rolling stock;

14 “(III) for fiscal year 2014 is
15 more than 80 percent of the cost of
16 all components of the rolling stock;

17 “(IV) for fiscal year 2015 is
18 more than 90 percent of the cost of
19 all components of the rolling stock;
20 and

21 “(V) for fiscal year 2016, and
22 each fiscal year thereafter, is 100 per-
23 cent of the cost of all components of
24 the rolling stock; and

1 “(ii) final assembly of the rolling
2 stock, including rolling stock prototypes,
3 occurs in the United States.

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

14 “(2) EXCEPTIONS.—

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

18 “(i) applying paragraph (1) would be
19 inconsistent with the public interest, as de-
20 termined in accordance with the regula-
21 tions required under subparagraph (B);

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

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

3 “(II) to a satisfactory quality; or

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

9 “(B) REGULATIONS.—Not later than 1
10 year after the date of enactment of the Amer-
11 ican Energy and Infrastructure Jobs Act of
12 2012, the Secretary shall issue regulations es-
13 tablishing the criteria that the Secretary shall
14 use to determine whether the application of
15 paragraph (1) is inconsistent with the public in-
16 terest for purposes of subparagraph (A)(i).

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

24 “(D) LABOR COSTS.—For purposes of this
25 subsection, labor costs involved in final assem-

1 bly shall not be included in calculating the cost
2 of components.

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

9 “(3) WAIVER REQUIREMENTS.—

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

13 “(i) IN GENERAL.—If the Secretary
14 receives a request for a waiver under para-
15 graph (2), the Secretary shall provide no-
16 tice of and an opportunity for public com-
17 ment on the request at least 30 days be-
18 fore making a finding based on the re-
19 quest.

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

22 “(I) include the information
23 available to the Secretary concerning
24 the request, including whether the re-
25 quest is being made under subpara-

1 graph (2)(A)(i), (2)(A)(ii), or
2 (2)(A)(iii); and

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

7 “(B) DETAILED JUSTIFICATION IN FED-
8 ERAL REGISTER.—If the Secretary issues a
9 waiver under paragraph (2), the Secretary shall
10 publish in the Federal Register a detailed jus-
11 tification for the waiver that—

12 “(i) addresses the public comments
13 received under subparagraph (A)(i); and

14 “(ii) is published before the waiver
15 takes effect.

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

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

1 “(B) any recipient of such assistance from
2 complying with such State requirements.

3 “(5) INTENTIONAL VIOLATIONS.—Pursuant to
4 procedures established under subpart 9.4 of chapter
5 1 of title 48, Code of Federal Regulations, a person
6 shall be ineligible to receive a contract or sub-
7 contract funded with amounts made available to
8 carry out this chapter or any other law providing
9 Federal public transportation assistance if the Sec-
10 retary, the head of any department, agency, or in-
11 strumentality of the United States, or a court deter-
12 mines that such person intentionally—

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

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

19 “(ii) were not produced in the United
20 States; or

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

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

1 “(ii) were not produced in the United
2 States.

3 “(6) CONSISTENCY WITH INTERNATIONAL
4 AGREEMENTS.—

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

9 “(B) TREATMENT OF FOREIGN COUNTRIES
10 IN VIOLATION OF INTERNATIONAL AGREE-
11 MENTS.—The Secretary shall prohibit the use
12 of steel, iron, and manufactured goods produced
13 in a foreign country in a project funded with
14 amounts made available to carry out this chap-
15 ter or any other law providing Federal public
16 transportation assistance, including any project
17 for which the Secretary has issued a waiver
18 under paragraph (2), if the Secretary, in con-
19 sultation with the United States Trade Rep-
20 resentative, determines that the foreign country
21 is in violation of the terms of an agreement
22 with the United States by discriminating
23 against steel, iron, or manufactured goods that
24 are produced in the United States and covered
25 by the agreement.

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

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

23 **SEC. 17 ____ . RAIL GRANT BUY AMERICA PROVISIONS.**

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

1 “(a) BUY AMERICA.—

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

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

11 “(B) SCOPE.—The requirements of this
12 subsection apply to all contracts for a project
13 carried out within the scope of the applicable
14 finding, determination, or decision under the
15 National Environmental Policy Act of 1969 (42
16 U.S.C. 4321 et seq.), regardless of the funding
17 source of such contracts, if at least one contract
18 for the project is funded with amounts made
19 available to carry out a provision specified in
20 subparagraph (A).

21 “(2) EXCEPTIONS.—

22 “(A) ISSUANCE OF WAIVERS.—The Sec-
23 retary of Transportation may waive the require-
24 ments of paragraph (1) only if the Secretary
25 finds that—

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

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

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

10 “(II) to a satisfactory quality; or

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

16 “(B) REGULATIONS.—Not later than 1
17 year after the date of enactment of the Amer-
18 ican Energy and Infrastructure Jobs Act of
19 2012, the Secretary shall issue regulations es-
20 tablishing the criteria that the Secretary shall
21 use to determine whether the application of
22 paragraph (1) is inconsistent with the public in-
23 terest for purposes of subparagraph (A)(i).

24 “(C) LABOR COSTS.—For purposes of this
25 paragraph, labor costs involved in final assem-

1 bly shall not be included in calculating the cost
2 of components.

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

10 “(3) WAIVER REQUIREMENTS.—

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

14 “(i) IN GENERAL.—If the Secretary
15 receives a request for a waiver under para-
16 graph (2), the Secretary shall provide no-
17 tice of and an opportunity for public com-
18 ment on the request at least 30 days be-
19 fore making a finding based on the re-
20 quest.

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

23 “(I) include the information
24 available to the Secretary concerning
25 the request, including whether the re-

1 quest is being made under paragraph
2 (2)(A)(i), (2)(A)(ii), or (2)(A)(iii);
3 and

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

8 “(B) DETAILED JUSTIFICATION IN FED-
9 ERAL REGISTER.—If the Secretary issues a
10 waiver under paragraph (2), the Secretary shall
11 publish in the Federal Register a detailed jus-
12 tification for the waiver that—

13 “(i) addresses the public comments
14 received under subparagraph (A)(i); and

15 “(ii) is published before the waiver
16 takes effect.

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

21 “(A) a State from imposing requirements
22 that are more stringent than those imposed
23 under this subsection with respect to limiting
24 the use of articles, materials, or supplies mined,

1 produced, or manufactured in foreign countries
2 for projects carried out with such assistance; or

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

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

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

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

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

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

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

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

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

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

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

1 factured goods that are produced in the United
2 States and covered by the agreement.

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

18 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
19 than 1 year after the date of enactment of this Act, and
20 at least every 5 years thereafter, the Secretary shall review
21 each standing nationwide waiver issued under section
22 24405(a) of title 49, United States Code, to determine
23 whether continuing such waiver is necessary.

1 **SEC. 17___ . RAIL LOAN AND LOAN GUARANTEE BUY AMER-**
2 **ICA PROVISIONS.**

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

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

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

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

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

13 **SEC. 17___ . AMTRAK BUY AMERICA PROVISIONS.**

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

16 “(f) **BUY AMERICA.**—

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

19 “(A) **IN GENERAL.**—Notwithstanding any
20 other provision of law, funds made available to
21 Amtrak under section 101(c) of the Passenger
22 Rail Investment and Improvement Act of 2008
23 (122 Stat. 4908) may not be used for a capital
24 project (as defined in subparagraphs (A) and
25 (B) of section 24401(2)) to bring the Northeast
26 Corridor to a state-of-good-repair or for any

1 other capital expense of Amtrak unless the
2 steel, iron, and manufactured goods used for
3 the project or other capital expense are pro-
4 duced in the United States.

5 “(B) SCOPE.—The requirements of this
6 subsection apply to contracts for capital
7 projects or other capital expenses carried out
8 within the scope of the applicable finding, deter-
9 mination, or decision under the National Envi-
10 ronmental Policy Act of 1969 (42 U.S.C. 4321
11 et seq.), regardless of the funding source of
12 such contracts, if at least one contract with re-
13 spect to the project or other capital expense is
14 funded with amounts made available under sec-
15 tion 101(c) of the Passenger Rail Investment
16 and Improvement Act of 2008 (122 Stat.
17 4908).

18 “(C) UNITED STATES DEFINED.—In this
19 subsection, the term ‘United States’ means the
20 States, territories, and possessions of the
21 United States and the District of Columbia.

22 “(2) EXCEPTIONS.—

23 “(A) ISSUANCE OF WAIVERS.—The Sec-
24 retary of Transportation may waive the require-

1 ments of paragraph (1) only if the Secretary
2 finds that—

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

7 “(ii) the steel, iron, or manufactured
8 goods required for a project or other cap-
9 ital expense are not produced in the
10 United States—

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

13 “(II) to a satisfactory quality; or

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

20 “(B) REGULATIONS.—Not later than 1
21 year after the date of enactment of the Amer-
22 ican Energy and Infrastructure Jobs Act of
23 2012, the Secretary shall issue regulations es-
24 tablishing the criteria that the Secretary shall
25 use to determine whether the application of

1 paragraph (1) is inconsistent with the public in-
2 terest for purposes of subparagraph (A)(i).

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

7 “(D) REQUESTS FOR WAIVERS.—If Am-
8 trak seeks a waiver under subparagraph (A),
9 Amtrak shall submit to the Secretary a request
10 for the waiver in such form and containing such
11 information as the Secretary may require.

12 “(3) 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 from Am-
18 trak under paragraph (2), the Secretary
19 shall provide notice of and an opportunity
20 for public comment on the request at least
21 30 days before making a finding based on
22 the request.

23 “(ii) NOTICE REQUIREMENTS.—A no-
24 tice provided 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 paragraph
5 (2)(A)(i), (2)(A)(ii), or (2)(A)(iii);
6 and

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

11 “(B) DETAILED JUSTIFICATION IN FED-
12 ERAL REGISTER.—If the Secretary issues a
13 waiver under paragraph (2), the Secretary shall
14 publish in the Federal Register a detailed jus-
15 tification for the waiver that—

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

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

20 “(4) STATE REQUIREMENTS.—The Secretary
21 may not impose a limitation or condition on assist-
22 ance provided with funds described in paragraph
23 (1)(A) that restricts—

24 “(A) a State from imposing requirements
25 that are more stringent than those imposed

1 under this subsection with respect to limiting
2 the use of articles, materials, or supplies mined,
3 produced, or manufactured in foreign countries
4 for capital projects or other capital expenses
5 carried out with such assistance; or

6 “(B) any recipient of such assistance from
7 complying with such State requirements.

8 “(5) INTERNATIONAL VIOLATIONS.—Pursuant
9 to procedures established under subpart 9.4 of chap-
10 ter 1 of title 48, Code of Federal Regulations, a per-
11 son shall be ineligible to receive a contract or sub-
12 contract funded with funds described in paragraph
13 (1)(A) if the Secretary, the head of any department,
14 agency, or instrumentality of the United States, or
15 a court determines 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 capital project or
21 other capital expense to which this sub-
22 section applies; and

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

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

4 “(i) were used in a capital project or
5 other capital expense to which this sub-
6 section applies; and

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

9 “(6) CONSISTENCY WITH INTERNATIONAL
10 AGREEMENTS.—

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

15 “(B) TREATMENT OF FOREIGN COUNTRIES
16 IN VIOLATION OF INTERNATIONAL AGREE-
17 MENTS.—The Secretary shall prohibit the use
18 of steel, iron, and manufactured goods produced
19 in a foreign country in a capital project or
20 other capital expense funded with funds de-
21 scribed in paragraph (1)(A), including any
22 project or capital expense for which the Sec-
23 retary has issued a waiver under paragraph (2),
24 if the Secretary, in consultation with the United
25 States Trade Representative, determines that

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

6 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
7 than 1 year after the date of enactment of this Act, and
8 at least every 5 years thereafter, the Secretary shall review
9 each standing nationwide waiver issued under section
10 24305(f) of title 49, United States Code, to determine
11 whether continuing such waiver is necessary.

12 **SEC. 17__ . DEPARTMENT OF TRANSPORTATION BUY**
13 **AMERICA ANNUAL REPORT.**

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

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

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

23 “(2) identifies the country of origin and product
24 specifications for steel, iron, or manufactured goods
25 acquired pursuant to each waiver from a Buy Amer-

1 ica requirement issued by the Secretary during the
2 preceding calendar year;

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

5 “(4) provides the justification for each such
6 waiver, including the specific law, treaty, or inter-
7 national agreement under which the waiver was
8 granted;

9 “(5) summarizes the funds expended on—

10 “(A) steel, iron, and manufactured goods
11 produced in the United States for projects with
12 respect to which a Buy America requirement,
13 under which the Secretary has waiver authority,
14 applied during the preceding calendar year; and

15 “(B) steel, iron, and manufactured goods
16 produced outside the United States for projects
17 with respect to which the Secretary issued a
18 waiver from a Buy America requirement during
19 the preceding calendar year; and

20 “(6) provides an employment impact analysis of
21 the cumulative effect of all waivers from a Buy
22 America requirement issued by the Secretary during
23 the preceding calendar year on manufacturing em-
24 ployment in the United States.”.



