

117TH CONGRESS
1ST SESSION

H. R. 5059

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

AUGUST 20, 2021

Mr. GARAMENDI introduced the following bill; which was referred to the Committee on Oversight and Reform, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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.

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 “Make It in America Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. Technical assistance partnership and consultation supporting Department of Transportation Buy America requirements.
- Sec. 3. Regulations relating to Buy American Act.
- Sec. 4. Amendments relating to Buy American Act.
- Sec. 5. Made in America Office.
- Sec. 6. Hollings Manufacturing Extension Partnership activities.
- Sec. 7. United States obligations under international agreements.
- Sec. 8. Definitions.

1 **SEC. 2. TECHNICAL ASSISTANCE PARTNERSHIP AND CON-**
 2 **SULTATION SUPPORTING DEPARTMENT OF**
 3 **TRANSPORTATION BUY AMERICA REQUIRE-**
 4 **MENTS.**

5 (a) DEFINITIONS.—In this section:

6 (1) BUY AMERICA LAW.—The term “Buy Amer-
 7 ica law” means—

8 (A) section 313 of title 23, United States
 9 Code;

10 (B) section 5323(j) of title 49, United
 11 States Code;

12 (C) section 22905(a) of title 49, United
 13 States Code;

14 (D) section 50101 of title 49, United
 15 States Code; and

16 (E) any other domestic content procure-
 17 ment preference for an infrastructure project
 18 under the jurisdiction of the Secretary.

19 (2) SECRETARY.—The term “Secretary” means
 20 the Secretary of Transportation.

1 (b) TECHNICAL ASSISTANCE PARTNERSHIP.—Not
2 later than 90 days after the date of the enactment of this
3 Act, the Secretary shall enter into a technical assistance
4 partnership with the Secretary of Commerce, acting
5 through the Director of the National Institute of Stand-
6 ards and Technology—

7 (1) to ensure the development of a domestic
8 supply base to support intermodal transportation in
9 the United States, such as intercity high speed rail
10 transportation, public transportation systems, high-
11 way construction or reconstruction, airport improve-
12 ment projects, and other infrastructure projects
13 under the jurisdiction of the Secretary;

14 (2) to ensure compliance with Buy America
15 laws that apply to a project that receives assistance
16 from the Federal Highway Administration, the Fed-
17 eral Transit Administration, the Federal Railroad
18 Administration, the Federal Aviation Administra-
19 tion, or another office or modal administration of
20 the Secretary of Transportation;

21 (3) to encourage technologies developed with
22 the support of and resources from the Secretary to
23 be transitioned into commercial market and applica-
24 tions; and

1 (4) to establish procedures for consultation
2 under subsection (c).

3 (c) CONSULTATION.—Before granting a written waiv-
4 er under a Buy America law, the Secretary shall consult
5 with the Director of the Hollings Manufacturing Exten-
6 sion Partnership regarding whether there is a domestic en-
7 tity that could provide the iron, steel, manufactured prod-
8 uct, or construction material that is the subject of the pro-
9 posed waiver.

10 (d) ANNUAL REPORT.—Not later than 1 year after
11 the date of enactment of this Act, and annually thereafter,
12 the Secretary shall submit to the Committee on Com-
13 merce, Science, and Transportation, the Committee on
14 Banking, Housing, and Urban Affairs, the Committee on
15 Environment and Public Works, and the Committee on
16 Homeland Security and Governmental Affairs of the Sen-
17 ate and the Committee on Transportation and Infrastruc-
18 ture, the Committee on Oversight and Reform, and the
19 Committee on Science, Space, and Technology of the
20 House of Representatives a report that includes—

21 (1) a detailed description of the consultation
22 procedures developed under subsection (b)(4);

23 (2) a detailed description of each waiver re-
24 quested under a Buy America law in the preceding

1 year that was subject to consultation under sub-
2 section (c), and the results of the consultation;

3 (3) a detailed description of each waiver grant-
4 ed under a Buy America law in the preceding year,
5 including the type of waiver and the reasoning for
6 granting the waiver; and

7 (4) an update on challenges and gaps in the do-
8 mestic supply base identified in carrying out sub-
9 section (b)(1), including a list of actions and policy
10 changes the Secretary recommends be taken to ad-
11 dress those challenges and gaps.

12 **SEC. 3. REGULATIONS RELATING TO BUY AMERICAN ACT.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of the enactment of this Act, the Director of the Of-
15 fice of Management and Budget (hereinafter referred to
16 as “Director”), acting through the Administrator for Fed-
17 eral Procurement Policy and, in consultation with the
18 Federal Acquisition Regulatory Council, shall promulgate
19 final regulations or other policy or management guidance,
20 as appropriate, to standardize and simplify how Federal
21 agencies comply with, report on, and enforce the Buy
22 American Act. The regulations or other policy or manage-
23 ment guidance shall include, at a minimum, the following:

24 (1) Guidelines for Federal agencies to deter-
25 mine, for the purposes of applying sections 8302(a)

1 and 8303(b)(3) of title 41, United States Code, the
2 circumstances under which the acquisition of arti-
3 cles, materials, or supplies mined, produced, or man-
4 ufactured in the United States is inconsistent with
5 the public interest.

6 (2) Guidelines to ensure Federal agencies base
7 determinations of non-availability on appropriate
8 considerations, including anticipated project delays
9 and lack of substitutable articles, materials, and
10 supplies mined, produced, or manufactured in the
11 United States, when making determinations of non-
12 availability under sections 8302(a)(1) and
13 8303(b)(1)(B) of title 41, United States Code.

14 (3)(A) Uniform procedures for each Federal
15 agency to make publicly available, in an easily iden-
16 tifiable location on the website of the agency, and
17 within the following time periods, the following infor-
18 mation:

19 (i) A written description of the cir-
20 cumstances in which the head of the agency
21 may waive the requirements of the Buy Amer-
22 ican Act.

23 (ii) Each waiver made by the head of the
24 agency within 30 days after making such waiv-

1 er, including a justification with sufficient detail
2 to explain the basis for the waiver.

3 (B) The procedures established under this para-
4 graph shall ensure that the head of an agency, in
5 consultation with the head of the Made in America
6 Office established under section 5(a), may limit the
7 publication of classified information, trade secrets,
8 or other information that could damage the United
9 States.

10 (4) Guidelines for Federal agencies to ensure
11 that a project is not disaggregated for purposes of
12 avoiding the applicability of the requirements under
13 the Buy American Act.

14 (5) An increase to the price preferences for do-
15 mestic end products and domestic construction ma-
16 terials.

17 (6) Amending the definitions of “domestic end
18 product” and “domestic construction material” to
19 ensure that iron and steel products are, to the great-
20 est extent possible, made with domestic components.

21 (b) GUIDELINES RELATING TO WAIVERS.—

22 (1) INCONSISTENCY WITH PUBLIC INTEREST.—

23 (A) IN GENERAL.—With respect to the
24 guidelines developed under subsection (a)(1),
25 the Administrator shall seek to minimize waiv-

1 ers related to contract awards that result in a
2 decrease in employment in the United States,
3 including employment among entities that man-
4 ufacture the articles, materials, or supplies.

5 (B) COVERED EMPLOYMENT.—For pur-
6 poses of subparagraph (A), employment refers
7 to positions directly involved in the manufacture
8 of articles, materials, or supplies, and does not
9 include positions related to management, re-
10 search and development, or engineering and de-
11 sign.

12 (2) ASSESSMENT ON USE OF DUMPED OR SUB-
13 SIDIZED FOREIGN PRODUCTS.—

14 (A) IN GENERAL.—To the extent otherwise
15 permitted by law, before granting a waiver in
16 the public interest to the guidelines developed
17 under subsection (a)(1) with respect to a prod-
18 uct sourced from a foreign country, a Federal
19 agency shall assess whether a significant por-
20 tion of the cost advantage of the product is the
21 result of the use of dumped steel, iron, or man-
22 ufactured goods or the use of injuriously sub-
23 sidized steel, iron, or manufactured goods.

24 (B) CONSULTATION.—The Federal agency
25 conducting the assessment under subparagraph

1 (A) shall consult with the International Trade
2 Administration in making the assessment if the
3 agency considers such consultation to be help-
4 ful.

5 (C) USE OF FINDINGS.—The Federal
6 agency conducting the assessment under sub-
7 paragraph (A) shall integrate any findings from
8 the assessment into its waiver determination.

9 (c) SENSE OF CONGRESS ON INCREASING DOMESTIC
10 CONTENT REQUIREMENTS.—It is the sense of Congress
11 that the Federal Acquisition Regulatory Council should
12 amend the Federal Acquisition Regulation to increase the
13 domestic content requirements for domestic end products
14 and domestic construction material to 75 percent, or, in
15 the event of no qualifying offers, 60 percent.

16 (d) DEFINITION OF END PRODUCT MANUFACTURED
17 IN THE UNITED STATES.—Not later than 1 year after the
18 date of the enactment of this Act, the Federal Acquisition
19 Regulatory Council shall amend part 25 of the Federal
20 Acquisition Regulation to provide a definition for “end
21 product manufactured in the United States,” including
22 guidelines to ensure that manufacturing processes in-
23 volved in production of the end product occur domestically.

1 **SEC. 4. AMENDMENTS RELATING TO BUY AMERICAN ACT.**

2 (a) SPECIAL RULES RELATING TO AMERICAN MATE-
3 RIALS REQUIRED FOR PUBLIC USE.—Section 8302 of title
4 41, United States Code, is amended by adding at the end
5 the following new subsection:

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

8 “(1) IRON AND STEEL MANUFACTURED IN THE
9 UNITED STATES.—For purposes of this section,
10 manufactured articles, materials, and supplies of
11 iron and steel are deemed manufactured in the
12 United States only if all manufacturing processes in-
13 volved in the production of such iron and steel, from
14 the initial melting stage through the application of
15 coatings, occurs in the United States.

16 “(2) LIMITATION ON EXCEPTION FOR COMMER-
17 CIALLY AVAILABLE OFF-THE-SHELF ITEMS.—Not-
18 withstanding any law or regulation to the contrary,
19 including section 1907 of this title and the Federal
20 Acquisition Regulation, the requirements of this sec-
21 tion apply to all iron and steel articles, materials,
22 and supplies.”.

23 (b) PRODUCTION OF IRON AND STEEL FOR PUR-
24 POSES OF CONTRACTS FOR PUBLIC WORKS.—Section
25 8303 of title 41, United States Code, is amended—

1 (1) by redesignating subsection (c) as sub-
2 section (d); and

3 (2) by inserting after subsection (b) the fol-
4 lowing new subsection:

5 “(c) SPECIAL RULES.—

6 “(1) PRODUCTION OF IRON AND STEEL.—For
7 purposes of this section, manufactured articles, ma-
8 terials, and supplies of iron and steel are deemed
9 manufactured in the United States only if all manu-
10 facturing processes involved in the production of
11 such iron and steel, from the initial melting stage
12 through the application of coatings, occurs in the
13 United States.

14 “(2) LIMITATION ON EXCEPTION FOR COMMER-
15 CIALLY AVAILABLE OFF-THE-SHELF ITEMS.—Not-
16 withstanding any law or regulation to the contrary,
17 including section 1907 of this title and the Federal
18 Acquisition Regulation, the requirements of this sec-
19 tion apply to all iron and steel articles, materials,
20 and supplies used in contracts described in sub-
21 section (a).”.

22 (c) ANNUAL REPORT.—Subsection (b) of section
23 8302 of title 41, United States Code, is amended to read
24 as follows:

25 “(b) REPORTS.—

1 “(1) IN GENERAL.—Not later than 180 days
2 after the end of the fiscal year during which the
3 Make It in America Act is enacted, and annually
4 thereafter for 4 years, the Director of the Office of
5 Management and Budget, in consultation with the
6 Administrator of General Services, shall submit to
7 Congress a report on the total amount of acquisi-
8 tions made by Federal agencies in the relevant fiscal
9 year of articles, materials, or supplies acquired from
10 entities that mine, produce, or manufacture the arti-
11 cles, materials, or supplies outside the United
12 States.

13 “(2) EXCEPTION FOR INTELLIGENCE COMMU-
14 NITY.—This subsection does not apply to acquisi-
15 tions made by an agency, or component of an agen-
16 cy, that is an element of the intelligence community
17 as specified in, or designated under, section 3 of the
18 National Security Act of 1947 (50 U.S.C. 3003).”.

19 (d) DEFINITION.—Section 8301 of title 41, United
20 States Code, is amended by adding at the end the fol-
21 lowing new paragraph:

22 “(3) FEDERAL AGENCY.—The term ‘Federal
23 agency’ has the meaning given the term ‘executive
24 agency’ in section 133 of this title.”.

1 (e) CONFORMING AMENDMENTS.—Title 41, United
2 States Code, is amended—

3 (1) in section 8301(1) by inserting “Guam, the
4 Northern Mariana Islands,” after “Samoa,”;

5 (2) in section 8302(a)—

6 (A) in paragraph (1)—

7 (i) by striking “department or inde-
8 pendent establishment” and inserting
9 “Federal agency”; and

10 (ii) by striking “their acquisition to be
11 inconsistent with the public interest or
12 their cost to be unreasonable” and insert-
13 ing “their acquisition to be inconsistent
14 with the public interest, their cost to be
15 unreasonable, or that the articles, mate-
16 rials, or supplies of the class or kind to be
17 used, or the articles, materials, or supplies
18 from which they are manufactured, are not
19 mined, produced, or manufactured in the
20 United States in sufficient and reasonably
21 available commercial quantities and of a
22 satisfactory quality”; and

23 (B) in paragraph (2), by amending sub-
24 paragraph (B) to read as follows:

1 “(B) to any articles, materials, or supplies
2 procured pursuant to a reciprocal defense pro-
3 curement memorandum of understanding (as
4 described in section 8304 of this title), or a
5 trade agreement or least developed country des-
6 ignation described in subpart 25.400 of the
7 Federal Acquisition Regulation; and”; and
8 (3) in section 8303—

9 (A) in subsection (b)—

10 (i) by striking “department or inde-
11 pendent establishment” each place it ap-
12 pears and inserting “Federal agency”;

13 (ii) by amending subparagraph (B) of
14 paragraph (1) to read as follows:

15 “(B) to any articles, materials, or supplies
16 procured pursuant to a reciprocal defense pro-
17 curement memorandum of understanding (as
18 described in section 8304), or a trade agree-
19 ment or least developed country designation de-
20 scribed in subpart 25.400 of the Federal Acqui-
21 sition Regulation; and”; and

22 (iii) in paragraph (3)—

23 (I) in the heading, by striking

24 “INCONSISTENT WITH PUBLIC INTER-

1 EST” and inserting “WAIVER AU-
2 THORITY”; and

3 (II) by striking “their purchase
4 to be inconsistent with the public in-
5 terest or their cost to be unreason-
6 able” and inserting “their acquisition
7 to be inconsistent with the public in-
8 terest, their cost to be unreasonable,
9 or that the articles, materials, or sup-
10 plies of the class or kind to be used,
11 or the articles, materials, or supplies
12 from which they are manufactured,
13 are not mined, produced, or manufac-
14 tured in the United States in suffi-
15 cient and reasonably available com-
16 mercial quantities and of a satisfac-
17 tory quality”; and

18 (B) in subsection (d), as redesignated by
19 subsection (b)(1) of this section, by striking
20 “department, bureau, agency, or independent
21 establishment” each place it appears and insert-
22 ing “Federal agency”.

23 (f) EXCLUSION FROM INFLATION ADJUSTMENT OF
24 ACQUISITION-RELATED DOLLAR THRESHOLDS.—Section
25 1908(b)(2)(A) of title 41, United States Code, is amended

1 by striking “chapter 67” and inserting “chapters 67 and
2 83”.

3 **SEC. 5. MADE IN AMERICA OFFICE.**

4 (a) ESTABLISHMENT.—The Director of the Office of
5 Management and Budget shall establish within the Office
6 of Management and Budget an office to be known as the
7 “Made in America Office”. The head of the office shall
8 be appointed by the Director of the Office of Management
9 and Budget (in this section referred to as the “Made in
10 America Director”).

11 (b) DUTIES.—The Made in America Director shall
12 have the following duties:

13 (1) Maximize and enforce compliance with do-
14 mestic preference statutes.

15 (2) Develop and implement procedures to re-
16 view waiver requests or inapplicability requests re-
17 lated to domestic preference statutes.

18 (3) Grant approval or disapproval of any agen-
19 cy requests to issue a waiver or inapplicability deter-
20 mination related to a domestic preference statute.

21 (4) Prepare the reports required under sub-
22 sections (c) and (e).

23 (5) Ensure that Federal contracting personnel,
24 financial assistance personnel, and non-Federal re-
25 cipients are regularly trained on obligations under

1 the Buy American Act and other agency-specific do-
2 mestic preference statutes.

3 (6) Conduct the review of reciprocal defense
4 agreements required under subsection (d).

5 (7) Ensure that Federal agencies, Federal fi-
6 nancial assistance recipients, and the Hollings Man-
7 ufacturing Extension Partnership partner with each
8 other to promote compliance with domestic pref-
9 erence statutes.

10 (8) Support executive branch efforts to develop
11 and sustain a domestic supply base to meet Federal
12 procurement requirements.

13 (c) TRANSFER.—The Director of the Office of Man-
14 agement and Budget shall provide for the transfer of the
15 functions, personnel, assets, and liabilities of the Made in
16 America Office within the Office of Management and
17 Budget, as in existence on the day before the date of en-
18 actment of this Act, to the Made in America Office estab-
19 lished by subsection (a).

20 (d) OFFICE OF MANAGEMENT AND BUDGET RE-
21 PORT.—Not later than 1 year after the date of the enact-
22 ment of this Act, the Director of the Office of Manage-
23 ment and Budget, working through the Made in America
24 Director, shall report to the relevant congressional com-
25 mittees on the extent to which, in each of the three fiscal

1 years prior to the date of enactment of this Act, articles,
2 materials, or supplies acquired by the Federal Government
3 were mined, produced, or manufactured outside the
4 United States. Such report shall include for each Federal
5 agency the following:

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

9 (A) inside the United States;

10 (B) outside the United States; and

11 (C) outside the United States—

12 (i) under each category of waiver
13 under the Buy American Act;

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

16 (iii) for each country that mined, pro-
17 duced, or manufactured such articles, ma-
18 terials, and supplies.

19 (2) For each fiscal year covered by the report—

20 (A) the dollar value of any articles, mate-
21 rials, or supplies that were mined, produced, or
22 manufactured outside the United States, in the
23 aggregate and by country;

24 (B) an itemized list of all waivers made
25 under the Buy American Act with respect to ar-

1 ticles, materials, or supplies, where available,
2 and the country where such articles, materials,
3 or supplies were mined, produced, or manufac-
4 tured;

5 (C) if any articles, materials, or supplies
6 were acquired from entities that mine, produce,
7 or manufacture such articles, materials, or sup-
8 plies outside the United States due to an excep-
9 tion (that is not the micro-purchase threshold
10 exception described under section 8302(a)(2)(C)
11 of title 41, United States Code), the specific ex-
12 ception that was used to purchase such articles,
13 materials, or supplies; and

14 (D) if any articles, materials, or supplies
15 were acquired from entities that mine, produce,
16 or manufacture such articles, materials, or sup-
17 plies outside the United States pursuant to a
18 reciprocal defense procurement memorandum of
19 understanding (as described in section 8304 of
20 title 41, United States Code), or a trade agree-
21 ment or least developed country designation de-
22 scribed in subpart 25.400 of the Federal Acqui-
23 sition Regulation, a citation to such memo-
24 randum of understanding, trade agreement, or
25 designation.

1 (3) A description of the methods used by each
2 Federal agency to calculate the percentage domestic
3 content of articles, materials, and supplies mined,
4 produced, or manufactured in the United States.

5 (e) REVIEW OF RECIPROCAL DEFENSE AGREE-
6 MENTS.—

7 (1) REVIEW OF PROCESS.—Not later than 180
8 days after the date of the enactment of this Act, the
9 Made in America Director shall review the Depart-
10 ment of Defense’s use of reciprocal defense agree-
11 ments to determine if domestic entities have equal
12 and proportional access and report the findings of
13 the review to the Director of the Office of Manage-
14 ment and Budget, the Secretary of Defense, and the
15 Secretary of State.

16 (2) REVIEW OF RECIPROCAL PROCUREMENT
17 MEMORANDA OF UNDERSTANDING.—The Made in
18 America Director shall review reciprocal procure-
19 ment memoranda of understanding entered into
20 after the date of the enactment of this Act between
21 the Department of Defense and its counterparts in
22 foreign governments to assess whether domestic enti-
23 ties will have equal and proportional access under
24 the memoranda of understanding and report the
25 findings of the review to the Director of the Office

1 of Management and Budget, the Secretary of De-
2 fense, the United States Trade Representative, and
3 the Secretary of State.

4 (f) REPORT ON USE OF MADE IN AMERICA LAWS.—
5 The Made in America Director shall submit to the relevant
6 congressional committees a summary of each report on the
7 use of Made in America Laws received by the Made in
8 America Director pursuant to section 11 of Executive
9 Order 14005, dated January 25, 2021 (relating to ensur-
10 ing the future is made in all of America by all of America’s
11 workers), not later than 90 days after the date of the en-
12 actment of this Act or receipt of the reports required
13 under section 11 of such Executive order, whichever is
14 later.

15 (g) DOMESTIC PREFERENCE STATUTE DEFINED.—
16 In this section, the term “domestic preference statute”
17 means any of the following:

- 18 (1) The Buy American Act.
- 19 (2) A Buy America law (as that term is defined
20 in section 8(a)).
- 21 (3) The Berry Amendment.
- 22 (4) Section 604 of the American Recovery and
23 Reinvestment Act of 2009 (6 U.S.C. 453b) (com-
24 monly referred to as the “Kissell amendment”).

1 (5) Section 4863 of title 10 (commonly referred
2 to as the “specialty metals clause”).

3 (6) Laws requiring domestic preference for
4 maritime transport, including the Merchant Marine
5 Act, 1920 (Public Law 66–261), commonly known
6 as the “Jones Act”.

7 (7) Any other law, regulation, rule, or Execu-
8 tive order relating to Federal financial assistance
9 awards or Federal procurement, that requires, or
10 provides a preference for, the purchase or acquisi-
11 tion of goods, products, or materials produced in the
12 United States, including iron, steel, construction ma-
13 terials, and manufactured goods offered in the
14 United States.

15 **SEC. 6. HOLLINGS MANUFACTURING EXTENSION PARTNER-**
16 **SHIP ACTIVITIES.**

17 (a) USE OF HOLLINGS MANUFACTURING EXTENSION
18 PARTNERSHIP TO REFER NEW BUSINESSES TO CON-
19 TRACTING OPPORTUNITIES.—The head of each Federal
20 agency shall work with the Director of the Hollings Manu-
21 facturing Extension Partnership, as necessary, to ensure
22 businesses participating in this Partnership are aware of
23 their contracting opportunities.

24 (b) AUTOMATIC ENROLLMENT IN GSA ADVAN-
25 TAGE!.—The Administrator of the General Services Ad-

1 ministration and the Secretary of Commerce, acting
2 through the Under Secretary of Commerce for Standards
3 and Technology, shall jointly ensure that each business
4 that participates in the Hollings Manufacturing Extension
5 Partnership is automatically enrolled in General Services
6 Administration Advantage!

7 **SEC. 7. UNITED STATES OBLIGATIONS UNDER INTER-**
8 **NATIONAL AGREEMENTS.**

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

12 **SEC. 8. DEFINITIONS.**

13 In this Act:

14 (1) **BERRY AMENDMENT.**—The term “Berry
15 Amendment” means section 4862 of title 10, United
16 States Code.

17 (2) **BUY AMERICAN ACT.**—The term “Buy
18 American Act” means chapter 83 of title 41, United
19 States Code.

20 (3) **FEDERAL AGENCY.**—The term “Federal
21 agency” has the meaning given the term “executive
22 agency” in section 133 of title 41, United States
23 Code.

1 (4) RELEVANT CONGRESSIONAL COMMIT-
2 TEES.—The term “relevant congressional commit-
3 tees” means—

4 (A) the Committee on Homeland Security
5 and Governmental Affairs, the Committee on
6 Commerce, Science, and Transportation, the
7 Committee on Environment and Public Works,
8 the Committee on Banking, Housing, and
9 Urban Affairs, and the Committee on Armed
10 Services of the Senate; and

11 (B) the Committee on Oversight and Re-
12 form, the Committee on Armed Services, and
13 the Committee on Transportation and Infra-
14 structure of the House of Representatives.

15 (5) UNITED STATES.—The term “United
16 States” means each of the States, the District of Co-
17 lumbia, and any territory or possession of the
18 United States.

19 (6) WAIVER.—The term “waiver”, with respect
20 to the acquisition of an article, material, or supply
21 for public use, means the inapplicability of chapter
22 83 of title 41, United States Code, to the acquisition
23 by reason of any of the following determinations
24 under section 8302(a)(1) or 8303(b) of such title:

1 (A) A determination by the head of the
2 Federal agency concerned that the acquisition
3 is inconsistent with the public interest.

4 (B) A determination by the head of the
5 Federal agency concerned that the cost of the
6 acquisition is unreasonable.

7 (C) A determination by the head of the
8 Federal agency concerned that the article, ma-
9 terial, or supply is not mined, produced, or
10 manufactured in the United States in sufficient
11 and reasonably available commercial quantities
12 of a satisfactory quality.

○