

112TH CONGRESS
1ST SESSION

S. 2028

To amend titles 23 and 49, United States Code, to ensure that transportation and infrastructure projects carried out using Federal financial assistance are constructed with steel, iron, and manufactured goods that are produced in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2011

Mr. BROWN of Ohio (for himself, Mr. CASEY, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend titles 23 and 49, United States Code, to ensure that transportation and infrastructure projects carried out using Federal financial assistance are constructed with steel, iron, and manufactured goods that are produced in the United States, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Invest in American Jobs Act of 2011”.

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

Sec. 1. Short title; table of contents.

TITLE I—DEPARTMENT OF TRANSPORTATION

- Sec. 101. Federal-aid highway Buy America provisions.
 Sec. 102. Public transportation Buy America provisions.
 Sec. 103. Rail grant Buy America provisions.
 Sec. 104. Rail loan and loan guarantee Buy America provisions.
 Sec. 105. Amtrak Buy America provisions.
 Sec. 106. Aviation Buy America provisions.
 Sec. 107. Department of Transportation Buy America annual report.

TITLE II—OTHER INFRASTRUCTURE INVESTMENT

- Sec. 201. Wastewater treatment Buy America provisions.

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

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

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

7 **“§ 313. Buy America**

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

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

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

1 the funding source of the contracts, if at least 1 con-
2 tract for the project is funded with amounts made
3 available to carry out this title.

4 “(b) EXCEPTIONS.—

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

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

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

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

17 “(ii) to a satisfactory quality; or

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

22 “(2) REGULATIONS.—Not later than 1 year
23 after the date of enactment of the Invest in Amer-
24 ican Jobs Act of 2011, the Secretary shall promul-
25 gate regulations establishing the criteria that the

1 Secretary shall use to determine whether the appli-
2 cation of subsection (a) is inconsistent with the pub-
3 lic interest for purposes of paragraph (1)(A).

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

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

13 “(c) WAIVER REQUIREMENTS.—

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

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

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

1 “(i) include the information available
2 to the Secretary concerning the request, in-
3 cluding whether the request is being made
4 under subparagraph (A), (B), or (C) of
5 subsection (b)(1); and

6 “(ii) be provided by electronic means,
7 including on the official public website of
8 the Department of Transportation.

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

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

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

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

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

1 tured in foreign countries for projects carried out
2 with that assistance; or

3 “(2) any recipient of the assistance from com-
4 plying with those State requirements.

5 “(e) INTENTIONAL VIOLATIONS.—Pursuant to proce-
6 dures established under subpart 9.4 of chapter 1 of title
7 48, Code of Federal Regulations (or successor regula-
8 tions), a person shall be ineligible to receive a contract
9 or subcontract funded with amounts made available to
10 carry out this title if the Secretary, the head of any de-
11 partment, agency, or instrumentality of the United States,
12 or a court determines that the person intentionally—

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

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

19 “(B) not produced in the United States; or

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

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

25 “(B) not produced in the United 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 the 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;
5 122 Stat. 1607) 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; 123
9 Stat. 3048) is repealed.

10 **SEC. 102. PUBLIC TRANSPORTATION BUY AMERICA PROVI-**
11 **SIONS.**

12 (a) IN GENERAL.—Section 5323 of title 49, United
13 States Code, is amended by striking subsection (j) and in-
14 serting the following:

15 “(j) BUY AMERICA.—

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

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

1 “(B) SPECIAL RULES FOR ROLLING
2 STOCK.—Funds made available to carry out
3 this chapter may not be obligated for the pro-
4 curement of rolling stock (including train con-
5 trol, communication, traction power equipment,
6 and rolling stock prototypes) unless—

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

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

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

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

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

23 “(V) for fiscal year 2016, and
24 each fiscal year thereafter, is 100 per-

1 cent of the cost of all components of
2 the rolling stock; and

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

6 “(C) SCOPE.—The requirements of this
7 subsection apply to all contracts for a public
8 transportation project carried out within the
9 scope of the applicable finding, determination,
10 or decision under the National Environmental
11 Policy Act of 1969 (42 U.S.C. 4321 et seq.),
12 regardless of the funding source of the con-
13 tracts, if at least 1 contract for the public
14 transportation project is funded with amounts
15 made available to carry out this chapter.

16 “(2) EXCEPTIONS.—

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

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

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

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

6 “(II) to a satisfactory quality; or

7 “(iii) the use of steel, iron, and manu-
8 factured goods produced in the United
9 States for a project would increase the
10 total cost of the project by more than 25
11 percent.

12 “(B) REGULATIONS.—Not later than 1
13 year after the date of enactment of the Invest
14 in American Jobs Act of 2011, the Secretary
15 shall promulgate regulations establishing the
16 criteria that the Secretary shall use to deter-
17 mine whether the application of paragraph (1)
18 is inconsistent with the public interest for pur-
19 poses of subparagraph (A)(i).

20 “(C) COMPONENTS OF ROLLING STOCK.—
21 If the Secretary finds that a component of roll-
22 ing stock is not produced in the United States
23 in sufficient and reasonably available quantities
24 or to a satisfactory quality, the Secretary may

1 issue a waiver under subparagraph (A) with re-
2 spect to the component.

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

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

13 “(3) WAIVER REQUIREMENTS.—

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

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

24 “(ii) NOTICE REQUIREMENTS.—A no-
25 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 clause (i),
5 (ii), or (iii) of paragraph (2)(A); and

6 “(II) be provided by electronic
7 means, including on the official public
8 website of the Department of Trans-
9 portation.

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

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

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

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

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

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

3 “(B) any recipient of that assistance from
4 complying with those 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 (or suc-
8 cessor regulations), a person shall be ineligible to re-
9 ceive a contract or subcontract funded with amounts
10 made available to carry out this chapter or any other
11 law providing Federal public transportation assist-
12 ance if the Secretary, the head of any department,
13 agency, or instrumentality of the United States, or
14 a court determines that the person 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 were—

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

21 “(ii) 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 were—

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

3 “(ii) 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 or any other law providing Federal public
18 transportation assistance, including any project
19 for which the Secretary has issued a waiver
20 under paragraph (2), if the Secretary, in con-
21 sultation with the United States Trade Rep-
22 resentative, determines that the foreign country
23 is in violation of the terms of an agreement
24 with the United States by discriminating
25 against steel, iron, or manufactured goods that

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

3 “(7) OPPORTUNITY TO CORRECT INADVERTENT
4 ERROR.—

5 “(A) IN GENERAL.—The Secretary may
6 allow a manufacturer or supplier of steel, iron,
7 or manufactured goods to correct after bid
8 opening an incomplete Buy America certificate
9 or an incorrect certificate of noncompliance
10 (but not a failure to sign a certificate, a sub-
11 mission of both a certificate of compliance and
12 a certificate of noncompliance, or a failure to
13 submit any certificate) under this subsection if
14 the manufacturer or supplier attests under pen-
15 alty of perjury that the manufacturer or sup-
16 plier submitted an incomplete or incorrect cer-
17 tificate as a result of an inadvertent or clerical
18 error.

19 “(B) BURDEN.—The burden of estab-
20 lishing inadvertent or clerical error under sub-
21 paragraph (A) shall be on the manufacturer or
22 supplier.”.

23 (b) REVIEW OF GENERAL PUBLIC INTEREST WAIV-
24 ERS.—Not later than 1 year after the date of enactment
25 of this Act, and at least every 5 years thereafter, the Sec-

1 retary shall review the general public interest waivers de-
2 scribed in subsection (b) of appendix A of section 661.7
3 of title 49, Code of Federal Regulations (or successor reg-
4 ulations), to determine whether continuing the waivers is
5 in the public interest.

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

7 (a) IN GENERAL.—Section 24405 of title 49, United
8 States Code, is amended by striking subsection (a) and
9 inserting the following:

10 “(a) BUY AMERICA.—

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

13 “(A) IN GENERAL.—Notwithstanding any
14 other provision of law, funds made available to
15 carry out this chapter, chapter 223, chapter
16 261, or section 20154 or 24105 may not be ob-
17 ligated for a project unless the steel, iron, and
18 manufactured goods used for the project are
19 produced in the United States.

20 “(B) SCOPE.—The requirements of this
21 subsection apply to all contracts for a project
22 carried out within the scope of the applicable
23 finding, determination, or decision under the
24 National Environmental Policy Act of 1969 (42
25 U.S.C. 4321 et seq.), regardless of the funding

1 source of the contracts, if at least 1 contract
2 for the project is funded with amounts made
3 available to carry out a provision specified in
4 subparagraph (A).

5 “(2) EXCEPTIONS.—

6 “(A) ISSUANCE OF WAIVERS.—The Sec-
7 retary of Transportation may waive the require-
8 ments of paragraph (1) only if the Secretary
9 finds that—

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

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

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

19 “(II) to a satisfactory quality; or

20 “(iii) the use of steel, iron, and manu-
21 factured goods produced in the United
22 States for a project would increase the
23 total cost of the project by more than 25
24 percent.

1 “(B) REGULATIONS.—Not later than 1
2 year after the date of enactment of the Invest
3 in American Jobs Act of 2011, the Secretary
4 shall promulgate regulations establishing the
5 criteria that the Secretary shall use to deter-
6 mine whether the application of paragraph (1)
7 is inconsistent with the public interest for pur-
8 poses of subparagraph (A)(i).

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

13 “(D) REQUESTS FOR WAIVERS.—A recipi-
14 ent of assistance under this chapter, chapter
15 223, chapter 261, or section 20154 or 24105
16 seeking a waiver under subparagraph (A) shall
17 submit to the Secretary a request for the waiver
18 in such form and containing such information
19 as the Secretary may require.

20 “(3) WAIVER REQUIREMENTS.—

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

24 “(i) IN GENERAL.—If the Secretary
25 receives a request for a waiver under para-

1 graph (2), the Secretary shall provide no-
2 tice of and an opportunity for public com-
3 ment on the request at least 30 days be-
4 fore making a finding based on the re-
5 quest.

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

8 “(I) include the information
9 available to the Secretary concerning
10 the request, including whether the re-
11 quest is being made under clause (i),
12 (ii), or (iii) of paragraph (2)(A); and

13 “(II) be provided by electronic
14 means, including on the official public
15 website of the Department of Trans-
16 portation.

17 “(B) DETAILED JUSTIFICATION IN FED-
18 ERAL REGISTER.—If the Secretary issues a
19 waiver under paragraph (2), the Secretary shall
20 publish in the Federal Register a detailed jus-
21 tification for the waiver that—

22 “(i) addresses the public comments
23 received under subparagraph (A)(i); and

24 “(ii) is published before the waiver
25 takes effect.

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

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

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

13 “(5) INTENTIONAL VIOLATIONS.—Pursuant to
14 procedures established under subpart 9.4 of chapter
15 1 of title 48, Code of Federal Regulations, a person
16 shall be ineligible to receive a contract or sub-
17 contract funded with amounts made available to
18 carry out this chapter, chapter 223, chapter 261, or
19 section 20154 or 24105 if the Secretary, the head
20 of any department, agency, or instrumentality of the
21 United States, or a court determines that the person
22 intentionally—

23 “(A) affixed a label bearing a ‘Made in
24 America’ inscription, or any inscription with the

1 same meaning, to any steel, iron, or manufac-
2 tured goods that were—

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

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

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

10 “(i) used in a project to which this
11 subsection applies; and

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

14 “(6) CONSISTENCY WITH INTERNATIONAL
15 AGREEMENTS.—

16 “(A) IN GENERAL.—This subsection shall
17 be applied in a manner that is consistent with
18 United States obligations under international
19 agreements.

20 “(B) TREATMENT OF FOREIGN COUNTRIES
21 IN VIOLATION OF INTERNATIONAL AGREE-
22 MENTS.—The Secretary shall prohibit the use
23 of steel, iron, and manufactured goods produced
24 in a foreign country in a project funded with
25 amounts made available to carry out this chap-

1 ter, chapter 223, chapter 261, or section 20154
2 or 24105, including any project for which the
3 Secretary has issued a waiver under paragraph
4 (2), if the Secretary, in consultation with the
5 United States Trade Representative, determines
6 that the foreign country is in violation of the
7 terms of an agreement with the United States
8 by discriminating against steel, iron, or manu-
9 factured goods that are produced in the United
10 States and covered by the agreement.

11 “(7) OPPORTUNITY TO CORRECT INADVERTENT
12 ERROR.—

13 “(A) IN GENERAL.—The Secretary may
14 allow a manufacturer or supplier of steel, iron,
15 or manufactured goods to correct after bid
16 opening an incomplete Buy America certificate
17 or an incorrect certificate of noncompliance
18 (but not a failure to sign a certificate, a sub-
19 mission of both a certificate of compliance and
20 a certificate of noncompliance, or a failure to
21 submit any certificate) under this subsection if
22 the manufacturer or supplier attests under pen-
23 alty of perjury that the manufacturer or sup-
24 plier submitted an incomplete or incorrect cer-

1 tificate as a result of an inadvertent or clerical
2 error.

3 “(B) BURDEN.—The burden of estab-
4 lishing inadvertent or clerical error under sub-
5 paragraph (A) shall be on the manufacturer or
6 supplier.”.

7 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
8 than 1 year after the date of enactment of this Act, and
9 at least every 5 years thereafter, the Secretary shall review
10 each standing nationwide waiver issued under section
11 24405(a) of title 49, United States Code, to determine
12 whether continuing the waiver is necessary.

13 **SEC. 104. RAIL LOAN AND LOAN GUARANTEE BUY AMERICA**
14 **PROVISIONS.**

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

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

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

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

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

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

2 (a) IN GENERAL.—Section 24305 of title 49, United
3 States Code, is amended by striking subsection (f) and in-
4 serting the following:

5 “(f) BUY AMERICA.—

6 “(1) DEFINITION OF UNITED STATES.—In this
7 subsection, the term ‘United States’ means the
8 States, territories, and possessions of the United
9 States and the District of Columbia.

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

12 “(A) IN GENERAL.—Notwithstanding any
13 other provision of law, funds made available to
14 Amtrak under section 101(c) of the Passenger
15 Rail Investment and Improvement Act of 2008
16 (122 Stat. 4908) may not be used for a capital
17 project (as defined in subparagraphs (A) and
18 (B) of section 24401(2)) to bring the Northeast
19 Corridor to a state-of-good-repair or for any
20 other capital expense of Amtrak unless the
21 steel, iron, and manufactured goods used for
22 the capital project or other capital expense are
23 produced in the United States.

24 “(B) SCOPE.—The requirements of this
25 subsection apply to contracts for capital
26 projects or other capital expenses carried out

1 within the scope of the applicable finding, deter-
2 mination, or decision under the National Envi-
3 ronmental Policy Act of 1969 (42 U.S.C. 4321
4 et seq.), regardless of the funding source of the
5 contracts, if at least 1 contract with respect to
6 the capital project or other capital expense is
7 funded with amounts made available under sec-
8 tion 101(c) of the Passenger Rail Investment
9 and Improvement Act of 2008 (122 Stat.
10 4908).

11 “(3) EXCEPTIONS.—

12 “(A) ISSUANCE OF WAIVERS.—The Sec-
13 retary of Transportation may waive the require-
14 ments of paragraph (1) only if the Secretary
15 finds that—

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

20 “(ii) the steel, iron, or manufactured
21 goods required for a capital project or
22 other capital expense are not produced in
23 the United States—

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

1 “(II) to a satisfactory quality; or

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

8 “(B) REGULATIONS.—Not later than 1
9 year after the date of enactment of the Invest
10 in American Jobs Act of 2011, the Secretary
11 shall promulgate regulations establishing the
12 criteria that the Secretary shall use to deter-
13 mine whether the application of paragraph (1)
14 is inconsistent with the public interest for pur-
15 poses of subparagraph (A)(i).

16 “(C) LABOR COSTS.—For purposes of this
17 paragraph, labor costs involved in final assem-
18 bly shall not be included in calculating the cost
19 of components.

20 “(D) REQUESTS FOR WAIVERS.—If Am-
21 trak seeks a waiver under subparagraph (A),
22 Amtrak shall submit to the Secretary a request
23 for the waiver in such form and containing such
24 information as the Secretary may require.

25 “(4) WAIVER REQUIREMENTS.—

1 “(A) PUBLIC NOTIFICATION OF AND OP-
2 PORTUNITY FOR COMMENT ON REQUEST FOR A
3 WAIVER.—

4 “(i) IN GENERAL.—If the Secretary
5 receives a request for a waiver from Am-
6 trak under clause (i), (ii), or (iii) of para-
7 graph (3)(A), the Secretary shall provide
8 notice of and an opportunity for public
9 comment on the request at least 30 days
10 before making a finding based on the re-
11 quest.

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

14 “(I) include the information
15 available to the Secretary concerning
16 the request, including whether the re-
17 quest is being made under clause (i),
18 (ii), or (iii) of paragraph (3); and

19 “(II) be provided by electronic
20 means, including on the official public
21 website of the Department of Trans-
22 portation.

23 “(B) DETAILED JUSTIFICATION IN FED-
24 ERAL REGISTER.—If the Secretary issues a
25 waiver under paragraph (3), the Secretary shall

1 publish in the Federal Register a detailed jus-
2 tification for the waiver that—

3 “(i) addresses the public comments
4 received under subparagraph (A)(i); and

5 “(ii) is published before the waiver
6 takes effect.

7 “(5) STATE REQUIREMENTS.—The Secretary
8 may not impose a limitation or condition on assist-
9 ance provided with funds described in paragraph
10 (2)(A) that restricts—

11 “(A) a State from imposing requirements
12 that are more stringent than those imposed
13 under this subsection with respect to limiting
14 the use of articles, materials, or supplies mined,
15 produced, or manufactured in foreign countries
16 for capital projects or other capital expenses
17 carried out with the assistance; or

18 “(B) any recipient of that assistance from
19 complying with those State requirements.

20 “(6) INTERNATIONAL VIOLATIONS.—Pursuant
21 to procedures established under subpart 9.4 of chap-
22 ter 1 of title 48, Code of Federal Regulations (or
23 successor regulations), a person shall be ineligible to
24 receive a contract or subcontract funded with funds
25 described in paragraph (2)(A) if the Secretary, the

1 head of any department, agency, or instrumentality
2 of the United States, or a court determines that the
3 person intentionally—

4 “(A) affixed a label bearing a ‘Made in
5 America’ inscription, or any inscription with the
6 same meaning, to any steel, iron, or manufac-
7 tured goods that were—

8 “(i) used in a capital project or other
9 capital expense to which this subsection
10 applies; and

11 “(ii) not produced in the United
12 States; or

13 “(B) represented that any steel, iron, or
14 manufactured goods were produced in the
15 United States that were—

16 “(i) used in a capital project or other
17 capital expense to which this subsection
18 applies; and

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

21 “(7) CONSISTENCY WITH INTERNATIONAL
22 AGREEMENTS.—

23 “(A) IN GENERAL.—This subsection shall
24 be applied in a manner that is consistent with

1 United States obligations under international
2 agreements.

3 “(B) TREATMENT OF FOREIGN COUNTRIES
4 IN VIOLATION OF INTERNATIONAL AGREE-
5 MENTS.—The Secretary shall prohibit the use
6 of steel, iron, and manufactured goods produced
7 in a foreign country in a capital project or
8 other capital expense funded with funds de-
9 scribed in paragraph (2)(A), including any
10 project or capital expense for which the Sec-
11 retary has issued a waiver under paragraph (3),
12 if the Secretary, in consultation with the United
13 States Trade Representative, determines that
14 the foreign country is in violation of the terms
15 of an agreement with the United States by dis-
16 criminating against steel, iron, or manufactured
17 goods that are produced in the United States
18 and covered by the agreement.”.

19 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
20 than 1 year after the date of enactment of this Act, and
21 at least every 5 years thereafter, the Secretary shall review
22 each standing nationwide waiver issued under section
23 24305(f) of title 49, United States Code, to determine
24 whether continuing the waiver is necessary.

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

2 (a) BUY-AMERICAN PREFERENCES.—Chapter 501 of
3 title 49, United States Code, is amended by striking the
4 chapter heading and inserting “**BUY AMERICA**”.

5 (b) ENHANCEMENTS TO BUY AMERICA REQUIRE-
6 MENTS.—Section 50101 of title 49, United States Code,
7 is amended to read as follows:

8 “§ 50101. Buy America

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

11 “(1) IN GENERAL.—Notwithstanding any other
12 provision of law, and except as provided in para-
13 graph (2), funds made available to carry out section
14 106(k), 44502(a)(2), or 44509, subchapter I of
15 chapter 471 (except section 47127), or chapter 481
16 (except sections 48102(e), 48106, 48107, and
17 48110) of this title may not be obligated for a
18 project unless the steel, iron, and manufactured
19 goods used for the project are produced in the
20 United States.

21 “(2) SPECIAL RULES FOR CERTAIN FACILITIES
22 AND EQUIPMENT.—With respect to a project for the
23 procurement of a facility or equipment, funds made
24 available to carry out the provisions specified in
25 paragraph (1) may not be obligated for the project
26 unless—

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

3 “(i) for fiscal year 2012 is more than
4 60 percent of the cost of all components of
5 the facility or equipment;

6 “(ii) for fiscal year 2013 is more than
7 70 percent of the cost of all components of
8 the facility or equipment;

9 “(iii) for fiscal year 2014 is more
10 than 80 percent of the cost of all compo-
11 nents of the facility or equipment;

12 “(iv) for fiscal year 2015 is more than
13 90 percent of the cost of all components of
14 the facility or equipment; and

15 “(v) for fiscal year 2016, and each fis-
16 cal year thereafter, is 100 percent of the
17 cost of all components of the facility or
18 equipment; and

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

21 “(3) SCOPE.—The requirements of this section
22 apply to all contracts for a project carried out within
23 the scope of the applicable finding, determination, or
24 decision under the National Environmental Policy
25 Act of 1969 (42 U.S.C. 4321 et seq.), regardless of

1 the funding source of the contracts, if at least 1 con-
2 tract for the project is funded with amounts made
3 available to carry out a provision specified in para-
4 graph (1).

5 “(b) EXCEPTIONS.—

6 “(1) ISSUANCE OF WAIVERS.—The Secretary of
7 Transportation may waive the requirements of sub-
8 section (a) only if the Secretary finds that—

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

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

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

18 “(ii) to a satisfactory quality; or

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

23 “(2) REGULATIONS.—Not later than 1 year
24 after the date of enactment of the Invest in Amer-
25 ican Jobs Act of 2011, the Secretary shall promul-

1 gate regulations establishing the criteria that the
2 Secretary shall use to determine whether the appli-
3 cation of subsection (a) is inconsistent with the pub-
4 lic interest for purposes of paragraph (1)(A).

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

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

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

19 “(6) LIMITATION ON WAIVER AUTHORITY.—In
20 the procurement of a facility or equipment, if the
21 Secretary finds that a component of the facility or
22 equipment is not produced in the United States in
23 sufficient and reasonably available quantities or to a
24 satisfactory quality, the Secretary may issue a waiv-

1 er under paragraph (1) with respect to the compo-
2 nent.

3 “(c) WAIVER REQUIREMENTS.—

4 “(1) PUBLIC NOTIFICATION OF AND OPPOR-
5 TUNITY FOR COMMENT ON REQUEST FOR A WAIV-
6 ER.—

7 “(A) IN GENERAL.—If the Secretary re-
8 ceives a request for a waiver under subsection
9 (b), the Secretary shall provide notice of and an
10 opportunity for public comment on the request
11 at least 30 days before making a finding based
12 on the request.

13 “(B) NOTICE REQUIREMENTS.—A notice
14 provided under subparagraph (A) shall—

15 “(i) include the information available
16 to the Secretary concerning the request, in-
17 cluding whether the request is being made
18 under subparagraph (A), (B), or (C) of
19 subsection (b)(1); and

20 “(ii) be provided by electronic means,
21 including on the official public website of
22 the Department of Transportation.

23 “(2) DETAILED JUSTIFICATION IN FEDERAL
24 REGISTER.—If the Secretary issues a waiver under
25 subsection (b), the Secretary shall publish in the

1 Federal Register a detailed justification for the
2 waiver that—

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

5 “(B) is published before the waiver takes
6 effect.

7 “(d) STATE REQUIREMENTS.—The Secretary may
8 not impose a limitation or condition on assistance provided
9 with funds made available to carry out a provision speci-
10 fied in subsection (a)(1) that restricts—

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

17 “(2) any recipient of that assistance from com-
18 plying with those State requirements.

19 “(e) CONSISTENCY WITH INTERNATIONAL AGREE-
20 MENTS.—

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

24 “(2) TREATMENT OF FOREIGN COUNTRIES IN
25 VIOLATION OF INTERNATIONAL AGREEMENTS.—The

1 Secretary shall prohibit the use of steel, iron, and
2 manufactured goods produced in a foreign country
3 in a project funded with funds made available to
4 carry out a provision specified in subsection (a)(1),
5 including any project for which the Secretary has
6 issued a waiver under subsection (b), if the Sec-
7 retary, in consultation with the United States Trade
8 Representative, determines that the foreign country
9 is in violation of the terms of an agreement with the
10 United States by discriminating against steel, iron,
11 or manufactured goods that are produced in the
12 United States and covered by the agreement.”.

13 (c) PROHIBITION ON CONTRACTING UPON FAL-
14 SIFICATION OF LABEL.—Section 50105 of title 49, United
15 States Code, is amended in the first sentence by inserting
16 “steel, iron, or manufactured” before “goods”.

17 (d) REVIEW OF NATIONWIDE WAIVERS.—Not later
18 than 1 year after the date of enactment of this Act, and
19 at least every 5 years thereafter, the Secretary shall review
20 each standing nationwide waiver issued under section
21 50101 of title 49, United States Code, to determine
22 whether continuing the waiver is necessary.

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

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

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

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

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

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

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

23 “(5) summarizes the funds expended on—

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

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

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

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

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

15 **SEC. 201. WASTEWATER TREATMENT BUY AMERICA PROVI-**
 16 **SIONS.**

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

20 **“SEC. 608. BUY AMERICA.**

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

23 “(1) IN GENERAL.—Notwithstanding any other
 24 provision of law, funds made available from a State
 25 water pollution control revolving fund established

1 under this title may not be used, in whole or in part,
2 for a project for the construction of a publicly owned
3 treatment works unless the steel, iron, and manufac-
4 tured goods used for the project are produced in the
5 United States.

6 “(2) SCOPE.—The requirements of this section
7 apply to all contracts for the construction of a treat-
8 ment works carried out within the scope of the ap-
9 plicable finding, determination, or decision under
10 section 511(c)(1), regardless of the funding source
11 of the contracts, if at least 1 contract for the con-
12 struction is funded with amounts made available to
13 carry out this title.

14 “(b) EXCEPTIONS.—

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

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

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

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

3 “(ii) to a satisfactory quality; or

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

8 “(2) REGULATIONS.—Not later than 1 year
9 after the date of enactment of this section, the Ad-
10 ministrators shall promulgate regulations establishing
11 the criteria that the Administrator shall use to de-
12 termine whether the application of subsection (a) is
13 inconsistent with the public interest for purposes of
14 paragraph (1)(A).

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

20 “(c) WAIVER REQUIREMENTS.—

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

24 “(A) IN GENERAL.—If the Administrator
25 receives a request for a waiver under subsection

1 (b), the Administrator shall provide notice of
2 and an opportunity for public comment on the
3 request at least 30 days before making a find-
4 ing based on the request.

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

7 “(i) include the information available
8 to the Administrator concerning the re-
9 quest, including whether the request is
10 being made under subparagraph (A), (B),
11 or (C) of subsection (b)(1); and

12 “(ii) be provided by electronic means,
13 including on the official public website of
14 the Environmental Protection Agency.

15 “(2) DETAILED JUSTIFICATION IN FEDERAL
16 REGISTER.—If the Administrator issues a waiver
17 under subsection (b), the Administrator shall publish
18 in the Federal Register a detailed justification for
19 the waiver that—

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

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

24 “(3) ANNUAL REPORT.—Not later than Feb-
25 ruary 1 of each year beginning after the date of en-

1 actment of this section, the Administrator shall sub-
2 mit to the Committee on Transportation and Infra-
3 structure of the House of Representatives and the
4 Committee on Environment and Public Works of the
5 Senate a report that—

6 “(A) specifies each project with respect to
7 which the Administrator issued a waiver under
8 subsection (b) during the preceding calendar
9 year;

10 “(B) identifies the country of origin and
11 product specifications for steel, iron, or manu-
12 factured goods acquired pursuant to each waiv-
13 er under subsection (b) issued by the Adminis-
14 trator during the preceding calendar year;

15 “(C) summarizes the monetary value of
16 contracts awarded pursuant to each such waiv-
17 er;

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

22 “(E) summarizes the funds expended on—

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

1 America requirement under this section
2 applied during the preceding calendar year;
3 and

4 “(ii) steel, iron, and manufactured
5 goods produced outside the United States
6 for projects with respect to which the Ad-
7 ministrator issued a waiver under sub-
8 section (b) during the preceding calendar
9 year; and

10 “(F) provides an employment impact anal-
11 ysis of the cumulative effect of all waivers
12 under subsection (b) issued by the Adminis-
13 trator during the preceding calendar year on
14 manufacturing employment in the United
15 States.

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

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

1 “(2) any recipient of that assistance from com-
2 plying with those 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 (or successor regula-
6 tions), a person shall be ineligible to receive a contract
7 or subcontract funded with amounts made available from
8 a State water pollution control revolving fund established
9 under this title if the Administrator, the head of any de-
10 partment, agency, or instrumentality of the United States,
11 or a court determines that the person intentionally—

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

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

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

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

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

24 “(B) not produced in the United 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 Administrator shall prohibit the use of steel, iron,
9 and manufactured goods produced in a foreign coun-
10 try in a project funded with amounts made available
11 from a State water pollution control revolving fund
12 established under this title, including any project for
13 which the Administrator has issued a waiver under
14 subsection (b), if the Administrator, in consultation
15 with the United States Trade Representative, deter-
16 mines that the foreign country is in violation of the
17 terms of an agreement with the United States by
18 discriminating against steel, iron, or manufactured
19 goods that are produced in the United States and
20 covered by the agreement.”.

21 (b) REVIEW OF NATIONWIDE WAIVERS.—Not later
22 than 1 year after the date of enactment of this Act, and
23 at least every 5 years thereafter, the Administrator shall
24 review each standing nationwide waiver issued under sec-
25 tion 608 of the Federal Water Pollution Control Act (as

- 1 added by this section) to determine whether continuing the
- 2 waiver is necessary.

○