

115TH CONGRESS
1ST SESSION

S. 181

To ensure that certain Federal public works and infrastructure projects use materials produced in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 20, 2017

Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To ensure that certain Federal public works and infrastructure projects use materials 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. DEFINITIONS.**

4 In this Act:

5 (1) COMMODITY CONSTRUCTION MATERIAL.—

6 The term “commodity construction material” means
7 a building material (other than iron and steel) that
8 is used in a public work or infrastructure project, in-
9 cluding—

10 (A) non-ferrous metal-based products;

- 1 (B) pipe, including plastics and polymer-
- 2 based pipes;
- 3 (C) concrete and other aggregates;
- 4 (D) glass;
- 5 (E) lumber;
- 6 (F) drywall; and
- 7 (G) insulation.

8 (2) COMPTROLLER GENERAL.—The term
9 “Comptroller General” means the Comptroller Gen-
10 eral of the United States.

11 (3) DEFICIENT PROGRAM.—The term “deficient
12 program” means a program identified by the Comp-
13 troller General under section 2(c).

14 (4) INFRASTRUCTURE.—The term “infrastruc-
15 ture” includes, at a minimum—

- 16 (A) roads, highways, and bridges;
- 17 (B) public transportation;
- 18 (C) water systems, including drinking
- 19 water systems, wastewater systems, and dams,
- 20 ports, harbors, and other water infrastructure;
- 21 (D) railroads, including passenger and
- 22 freight rail;
- 23 (E) freight and intermodal facilities;
- 24 (F) electrical transmission facilities and
- 25 systems;

- 1 (G) utilities;
- 2 (H) broadband infrastructure; and
- 3 (I) Federal buildings and real property.

4 (5) PRODUCED IN THE UNITED STATES.—The
 5 term “produced in the United States” means—

6 (A) in the case of iron or steel products,
 7 that all manufacturing processes, from the ini-
 8 tial melting stage through the application of
 9 coatings, occurred in the United States;

10 (B) in the case of manufactured products,
 11 that—

12 (i) all manufacturing processes for the
 13 product occurred in the United States; and

14 (ii) the cost of the components of the
 15 product that are mined, produced, or man-
 16 ufactured in the United States exceeds 50
 17 of the total cost of all components of the
 18 product; and

19 (C) in the case of commodity construction
 20 materials, that all manufacturing processes oc-
 21 curred in the United States.

22 **SEC. 2. INVENTORY OF FEDERAL ASSISTANCE FOR PUBLIC**
 23 **WORKS AND INFRASTRUCTURE.**

24 (a) IN GENERAL.—Not later than 60 days after the
 25 date of enactment of this Act, the Comptroller General

1 shall publish a report that identifies all Federal assistance
 2 programs for public works and infrastructure adminis-
 3 tered by the Federal Government.

4 (b) REQUIREMENTS.—In issuing the report under
 5 subsection (a), the Comptroller General shall—

6 (1) for each program, identify whether or not a
 7 domestic content preference requirement applies, in-
 8 cluding requirements under—

9 (A) section 2533a of title 10, United
 10 States Code;

11 (B) section 313 of title 23, United States
 12 Code;

13 (C) sections 8301 through 8305 of title 41,
 14 United States Code;

15 (D) section 5323(j) of title 49, United
 16 States Code;

17 (E) section 24305(f) of title 49, United
 18 States Code;

19 (F) section 50101 of title 49, United
 20 States Code;

21 (G) section 608 of the Federal Water Pol-
 22 lution Control Act (33 U.S.C. 1388);

23 (H) section 5035 of the Water Infrastruc-
 24 ture Finance and Innovation Act of 2014 (33
 25 U.S.C. 3914); and

1 (I) any other relevant Federal law (includ-
2 ing regulations);

3 (2) for each program, if a domestic content
4 preference applies, provide details relating to the
5 preference, including a description, the scope, and
6 any exceptions; and

7 (3) for each program, include a description of
8 the type of infrastructure projects receiving funding
9 under the program, including information relating
10 to—

11 (A) the number of entities that are partici-
12 pating in the program;

13 (B) the amount of Federal funds that are
14 made available for the program for each fiscal
15 year; and

16 (C) any other information that the Comp-
17 troller General determines to be relevant.

18 (c) LIST OF DEFICIENT PROGRAMS.—In issuing the
19 report under subsection (a), the Comptroller General shall
20 include a list of programs identified under that subsection
21 for which a domestic content preference requirement de-
22 scribed in subsection (b)(1) does not apply.

23 **SEC. 3. APPLICATION OF BUY AMERICA PREFERENCE.**

24 (a) IN GENERAL.—Notwithstanding any other provi-
25 sion of law, beginning on the date on which the Comp-

1 troller General issues the report under section 2(a), funds
2 or credit assistance made available under a deficient pro-
3 gram may not be used for a project commencing after that
4 date for the construction, alteration, maintenance, repair,
5 rehabilitation, conversion, or extension of infrastructure or
6 acquisition of equipment and vehicles relating to an infra-
7 structure project unless all of the iron, steel, manufac-
8 tured goods, and commodity construction materials used
9 in the project are produced in the United States.

10 (b) EXCEPTION.—Subsection (a) shall not apply in
11 any case in which the head of the Federal department or
12 agency involved finds that—

13 (1) applying subsection (a) would be incon-
14 sistent with the public interest;

15 (2) iron, steel, the relevant manufactured
16 goods, and the relevant commodity construction ma-
17 terials are not produced in the United States in suf-
18 ficient and reasonably available quantities and of a
19 satisfactory quality; or

20 (3) inclusion of iron, steel, manufactured goods,
21 and commodity construction materials produced in
22 the United States will increase the cost of the overall
23 project by more than 25 percent.

24 (c) WRITTEN JUSTIFICATION.—If the head of the
25 Federal department or agency determines that it is nec-

1 essary to waive the application of subsection (a) based on
2 a finding under subsection (b), the head of the department
3 or agency shall publish in the Federal Register a detailed
4 written justification as to why the provision is being
5 waived.

6 (d) **CONSISTENCY WITH INTERNATIONAL AGREE-**
7 **MENTS.**—This section shall be applied in a manner con-
8 sistent with United States obligations under international
9 agreements.

10 (e) **LIMITATION.**—Nothing in this Act imposes, cre-
11 ates, or alters any requirement for a program that is not
12 a deficient program.

13 **SEC. 4. RULEMAKING.**

14 Not later than 180 days after the date of enactment
15 of this Act, the Secretary of Transportation shall issue
16 regulations for purposes of this Act that define the term
17 “all manufacturing processes” for manufactured products
18 and commodity construction materials that are used in
19 public works and infrastructure projects.

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