

BUY AMERICA

UPDATE AND NEXT STEPS

CURRENT BUY AMERICA LAW

- No Federal-aid highway construction project using steel or iron is to be authorized unless the following requirement is met:
 - All manufacturing processes, including application of a coating, for these materials must occur in the United States.
 - The State has standard contract provisions that require the use of domestic materials and products, including steel and iron materials, to the same or greater extent as the provisions set forth in USC 23, Section 313.

BUY AMERICA BILLS

S. 1260 – The U.S. Innovation and Competition Act of 2021

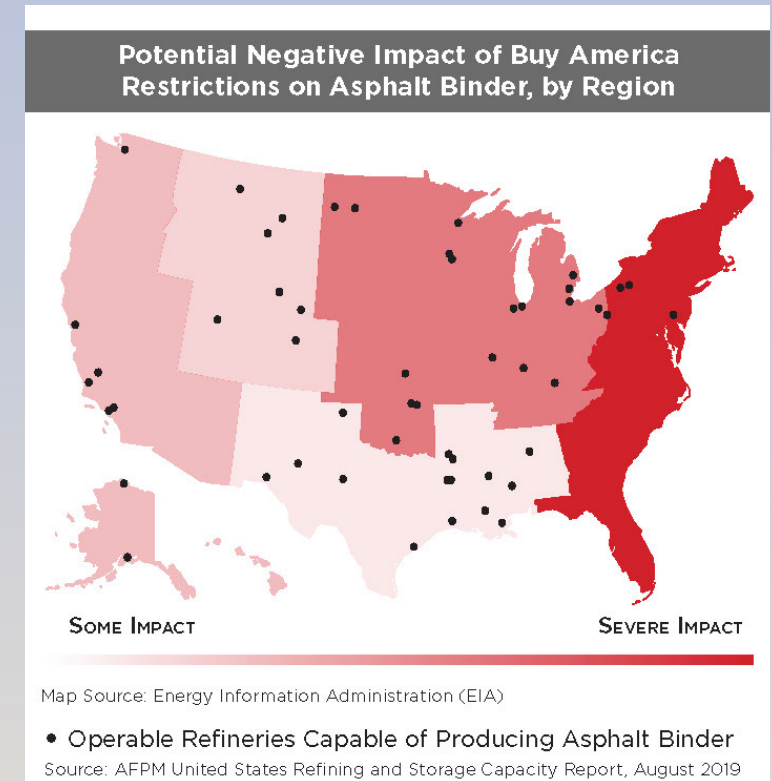
- Build America, Buy America (Section 4101)
- Passed by the U.S. Senate 6/8/21 68 yeas - 32 nays
- Pending before full House of Representatives

H.R. 3684, INVEST in America Act

- Buy America (Section 1112)
- Approved by T&I Committee 6/10/21 38 yeas – 26 nays
- Pending before full House of Representatives

BUY AMERICA IMPACTS ON ASPHALT INDUSTRY

- U.S. does not produce enough asphalt cement to meet demand.
- Majority of imported asphalt cement supplied by Canada.
- East Coast and Midwest most impacted.
- Proposed waiver process will not work.
- Supply disruption will increase project costs, delay and cancel projects, loss of jobs for American workers.



SENATE BUY AMERICA VERSION

Requires within 180 days “construction materials,” used on a highway or airport project are produced in the U.S.

Requires Office of Management & Budget (OMB) to issue guidance to ensure that manufacturing process required for the manufacture of the construction material and the inputs of the construction material occurs in the US.

U.S. DOT must comply with OMB regulation, OMB enforces.

Waivers may be granted based on non-availability or lack of substitutable construction materials.

SEN. TAMMY BALDWIN (D-WI) AMENDMENT

- In section 4117, add at the end the following:
4 (c) LIMITATION WITH RESPECT TO CERTAIN AGGREGATES.—In this part—(1) the term “construction materials” shall not include cement and cementitious materials and aggregates such as stone, sand, or gravel; and (2) the standards developed under section 4115(b)(1) shall not include cement and cementitious materials and aggregates such as stone, sand, or gravel as inputs of the construction material.
- Chairman’s amendment with Baldwin language was objected to by Sen Rand Paul (R-KY).
- Final bill approved by U.S. Senate includes Buy America with no exceptions.

HOUSE BUY AMERICA VERSION

Expands current Buy America provisions in Title 23 to include “construction materials.”

DOT may not obligate Federal funds for any project unless construction materials are produced in the U.S.

“Construction materials” means primary materials that are commonly used in highway construction, as determined by the Secretary.

In issuing waivers, the Secretary shall consider domestic availability and supply chain issues.

REP.TROY NEHLS (R-TX) AMENDMENT

- CONSTRUCTION MATERIALS DEFINED.— “(1) IN GENERAL.—In this section, the term ‘construction materials’ means primary materials that are commonly used in highway construction, as determined by the Secretary. “(2) LIMITATION.—Such term shall not include— “(A) aggregates such as stone, sand, or gravel;“(B) cement and cementitious materials; or “(C) asphalt materials, modifiers, or additives.”
- Nehls amendment not offered.
- Final bill approved by T&I Committee includes Buy America with no exceptions.

STAKEHOLDER GROUPS

- Opposed to the Aggregate, Asphalt, and Cement Exemption
 - Chairman Peter DeFazio (D-OR)
 - Rep John Garamendi (D-CA)
 - Alliance for American Manufacturing
 - Trade Unions (Steelworkers)
 - Laborers Silent
 - Operating Engineers Evaluating

NEXT STEP

- House floor vote on INVEST in America Act week of June 28th.
- Urge Laborers and Operating Engineers to support construction jobs.
- Urge AASHTO to support aggregate, asphalt, cement exemption.
- Secure exemption language in House Manager's Amendment.
- The final decision will be made in a joint House-Senate Conference Committee.

WILD CARD

- S. 1260, The U.S. Innovation and Competition Act of 2021
 - Includes Buy America
 - What will the House of Representatives do on Buy America in this legislation?
- S. 1931, Surface Transportation Reauthorization Act
 - Reported out of Environment and Public Works Committee
 - Silent on Buy America
 - What will the Senate do on Buy America in this legislation?