

106TH CONGRESS  
2D SESSION

# S. 2216

To direct the Director of the Federal Emergency Management Agency to require, as a condition of any financial assistance provided by the Agency on a nonemergency basis for a construction project, that products used in the project be produced in the United States.

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IN THE SENATE OF THE UNITED STATES

MARCH 8, 2000

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To direct the Director of the Federal Emergency Management Agency to require, as a condition of any financial assistance provided by the Agency on a nonemergency basis for a construction project, that products used in the project be produced in the United States.

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.**

4       This Act may be cited as the “Federal Emergency  
5       Management Agency Buy American Compliance Act”.

1 **SEC. 2. APPLICABILITY OF BUY AMERICAN REQUIREMENTS**  
2 **TO FEMA ASSISTANCE.**

3 (a) DEFINITIONS.—In this Act:

4 (1) AGENCY.—The term “Agency” means the  
5 Federal Emergency Management Agency.

6 (2) AGREEMENT.—The term “Agreement” has  
7 the meaning given the term in section 308 of the  
8 Trade Agreements Act of 1979 (19 U.S.C. 2518).

9 (3) DIRECTOR.—The term “Director” means  
10 the Director of the Federal Emergency Management  
11 Agency.

12 (4) DOMESTIC PRODUCT.—The term “domestic  
13 product” means a product that is mined, produced,  
14 or manufactured in the United States.

15 (5) PRODUCT.—The term “product” means—

16 (A) steel;

17 (B) iron; and

18 (C) any other article, material, or supply.

19 (b) REQUIREMENT TO USE DOMESTIC PRODUCTS.—  
20 Except as provided in subsection (c), the Director shall  
21 require, as a condition of any financial assistance provided  
22 by the Agency on a nonemergency basis for a construction  
23 project, that the construction project use only domestic  
24 products.

25 (c) WAIVERS.—

1           (1) IN GENERAL.—Except as provided in para-  
2 graph (2), the requirements of subsection (b) shall  
3 not apply in any case in which the Director deter-  
4 mines that—

5                   (A) the use of a domestic product would be  
6 inconsistent with the public interest;

7                   (B) a domestic product—

8                           (i) is not produced in a sufficient and  
9 reasonably available quantity; or

10                           (ii) is not of a satisfactory quality; or

11                   (C) the use of a domestic product would  
12 increase the overall cost of the construction  
13 project by more than 25 percent.

14           (2) LIMITATION ON APPLICABILITY OF WAIVERS  
15 WITH RESPECT TO PRODUCTS PRODUCED IN CER-  
16 TAIN FOREIGN COUNTRIES.—A product of a foreign  
17 country shall not be used in a construction project  
18 under a waiver granted under paragraph (1) if the  
19 Director, in consultation with the United States  
20 Trade Representative, determines that—

21                   (A) the foreign country is a signatory  
22 country to the Agreement under which the head  
23 of an agency of the United States waived the  
24 requirements of this section; and

1 (B) the signatory country violated the  
2 Agreement under section 305(f)(3)(A) of the  
3 Trade Agreements Act of 1979 (19 U.S.C.  
4 2515(f)(3)(A)) by discriminating against a do-  
5 mestic product that is covered by the Agree-  
6 ment.

7 (d) CALCULATION OF COSTS.—For the purposes of  
8 subsection (c)(1)(C), any labor cost involved in the final  
9 assembly of a domestic product shall not be included in  
10 the calculation of the cost of the domestic product.

11 (e) STATE REQUIREMENTS.—The Director shall not  
12 impose any limitation or condition on assistance provided  
13 by the Agency that restricts—

14 (1) any State from imposing more stringent re-  
15 quirements than this section on the use of articles,  
16 materials, and supplies mined, produced, or manu-  
17 factured in foreign countries in construction projects  
18 carried out with Agency assistance; or

19 (2) any recipient of Agency assistance from  
20 complying with a State requirement described in  
21 paragraph (1).

22 (f) REPORT ON WAIVERS.—The Director shall annu-  
23 ally submit to Congress a report on the purchases from  
24 countries other than the United States that are waived  
25 under subsection (c)(1) (including the dollar values of

1 items for which waivers are granted under subsection  
2 (c)(1).

3 (g) INTENTIONAL VIOLATIONS.—

4 (1) IN GENERAL.—A person described in para-  
5 graph (2) shall be ineligible to enter into any con-  
6 tract or subcontract carried out with financial assist-  
7 ance made available by the Agency in accordance  
8 with the debarment, suspension, and ineligibility  
9 procedures of subpart 9.4 of chapter 1 of title 48,  
10 Code of Federal Regulations (or any successor regu-  
11 lation).

12 (2) PERSONS INELIGIBLE TO RECEIVE CON-  
13 TRACT OR SUBCONTRACT.—A person referred to in  
14 paragraph (1) is any person that a court of the  
15 United States or a Federal agency determines—

16 (A) has affixed a label bearing a “Made in  
17 America” inscription (or any inscription with  
18 the same meaning) to any product that is not  
19 a domestic product that—

20 (i) was used in a construction project  
21 to which this section applies; or

22 (ii) was sold in or shipped to the  
23 United States; or

24 (B) has represented that a product that is  
25 not a domestic product, that was sold in or

1 shipped to the United States, and that was  
2 used in a construction project to which this sec-  
3 tion applies, was produced in the United States.

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