AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7548
OFFERED BY MRS. CAROLYN B. MALONEY OF
NEW YORK

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

This Act may be cited as the “Made in America: Preparation for a Pandemic Act of 2020”.

2 SEC. 2. REQUIREMENT TO MAINTAIN SUFFICIENT PERSONAL PROTECTIVE EQUIPMENT STOCKPILE AND DOMESTIC SUPPLY CHAINS FOR NATIONAL SECURITY PURPOSES.

(a) IN GENERAL.—Chapter 83 of title 41, United States Code, is amended by adding after section 8302 the following:

“§ 8302A. Personal protective equipment stockpile and domestic supply chains

“(a) DOMESTIC CONTENT REQUIREMENT.—

“(1) IN GENERAL.—To ensure strategic domestic supply chain capabilities for national security purposes, not less than 25 percent of the amount of personal protective equipment procured for the Stra-
tegic National Stockpile shall be personal protective equipment that is produced in the United States.

“(2) REQUIREMENT TO PROCURE ITEMS PRODUCED IN THE UNITED STATES.—Except as provided in paragraph (3), if the requirement under paragraph (1) is not satisfied, until such requirement is satisfied no Federal funds may be used to procure an item that is personal protective equipment for the Strategic National Stockpile unless that item is produced in the United States.

“(3) EXCEPTION.—Paragraph (2) shall not apply with respect to the procurement of an item that is personal protective equipment if the Secretary determines that—

“(A) applying such paragraph would be inconsistent with the public interest or national security interest;

“(B) such item is not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

“(C) applying paragraph (2)—

“(i) with respect to a contract, cooperative agreement, or transaction to be entered into on or before the date that is 5
years after the date of the enactment of the Made in America: Preparation for a Pandemic Act of 2020, will increase the cost of such contract, cooperative agreement, or transaction by more than 50 percent; and

“(ii) with respect to a contract, cooperative agreement, or transaction to be entered into after the date that is 5 years after the date of the enactment of the Made in America: Preparation for a Pandemic Act of 2020, will increase the cost of such contract, cooperative agreement, or transaction by more than 25 percent; or

“(D) such item is, or includes, materials determined to be nonavailable in accordance with section 25.104 of the Federal Acquisition Regulation.

“(4) Notification of noncompliance required.—If the Secretary determines that the requirement in paragraph (1) is not satisfied, the Secretary shall—

“(A) submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and
Reform of the House of Representatives quarterly—

“(i) a notification stating that such requirement has not been satisfied; and

“(ii) a report on—

“(I) the personal protective equipment in the Strategic National Stockpile;

“(II) any contract, cooperative agreement, or other transaction entered into in the prior quarter for the procurement of personal protective equipment not produced in the United States, including the exception under subsection (a)(5) applied with respect to such contract; and

“(III) any actions taken by the Secretary to ensure that the requirement under paragraph (1) is satisfied; and

“(B) post on the website maintained by the Administrator of General Services at SAM.gov (or any successor site) each notification required by subparagraph (A)(i), except for any information that is exempt from mandatory dis-
closure under section 552 of title 5, United States Code.

“(b) Sufficiency of Strategic National Stockpile.—The Director shall work with the Secretary to issue a biannual report to Congress that includes the following:

“(1) The state of personal protective equipment inventory in the Strategic National Stockpile.

“(2) The state of personal protective equipment inventory in stockpiles of other Federal agencies.

“(3) Estimates of the state of personal protective equipment inventory of non-Federal entities.

“(4) Estimates of the quantities of personal protective equipment that would be required for an array of possible emergencies, including a pandemic or other emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d) and that could last at least a year.

“(c) Website.—The Administrator of General Services shall post on the website maintained by the Administrator at SAM.gov (or any successor site) information that identifies suppliers that can provide personal protective equipment that is produced in the United States for the Strategic National Stockpile.
“(d) APPLICATION.—This section shall be applied in a manner consistent with United States obligations under international agreements.

“(e) DEFINITION.—In this section—

“(1) DIRECTOR.—The term ‘Director’ means the Director of the Office of Management and Budget.

“(2) PERSONAL PROTECTIVE EQUIPMENT.—The term ‘personal protective equipment’ means an item designed to protect the wearer or user from the spread of infection or other health hazard, or to protect other individuals from possible infection by the wearer, including a facemask, face covering, face shield, gown, coverall, glove, goggle, respirator, protective eyewear, biohazard container, shoe cover, hood, helmet, sleeve, scrub suit, surgical drape, human remains bag, towel, disinfecting wipe, triage tent, medical tent, or hand sanitizer.

“(3) PRODUCED IN THE UNITED STATES.—The term ‘produced in the United States’ means, with respect to an item—

“(A) the item that is manufactured or assembled in the United States; and

“(B) the total value of the parts or components contained in the item that are not grown,
reprocessed, reused, manufactured, or assembled in the United States does not exceed 25 percent of the total purchase price of the item.

“(4) STRATEGIC NATIONAL STOCKPILE.—The term ‘Strategic National Stockpile’ means the Strategic National Stockpile under section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b).

“(5) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the private distribution, purchase, or sale of personal protective equipment from sources other than the Strategic National Stockpile.”.

(b) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the date that is six months after the date on which this section is enacted.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 83 of title 41, United States Code, is amended by adding after the item related to section 8302 the following new item:

“8302A. Personal protective equipment stockpile and domestic supply chains.”.

SEC. 3. PANDEMIC PREPARATION TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of
1986 is amended by adding at the end the following new section:

"SEC. 45U. PANDEMIC PREPARATION TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the pandemic preparation tax credit determined under this section for the taxable year is an amount equal to 20 percent of the expenses paid or incurred by the taxpayer during such taxable year for purposes of producing personal protective equipment (including manufacturing technology upgrades, workforce training expenses, components, parts, or raw material used to make personal protective equipment) that qualifies for addition to the Strategic National Stockpile under section 8302A(a)(1) of title 41, United States Code.

"(b) DENIAL OF DOUBLE BENEFIT.—No deduction or credit shall be allowed under any other provision of this chapter with respect to any amount taken into account in determining the credit allowed to a taxpayer under this section.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary or appropriate to carry out the purpose of this section."

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking “plus” at the end of para-
graph (32), striking the period at the end of paragraph (33) and inserting “, plus”, and adding at the end the following new paragraph:

“(34) the pandemic preparation credit determined under section 45U.”.

(c) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

“Sec. 45U. Pandemic preparation tax credit.”.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.