

**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.**

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

4 **SEC. 2. REQUIREMENT TO MAINTAIN SUFFICIENT PER-**
5 **SONAL PROTECTIVE EQUIPMENT STOCKPILE**
6 **AND DOMESTIC SUPPLY CHAINS FOR NA-**
7 **TIONAL SECURITY PURPOSES.**

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

11 **“§ 8302A. Personal protective equipment stockpile**
12 **and domestic supply chains**

13 “(a) DOMESTIC CONTENT REQUIREMENT.—

14 “(1) IN GENERAL.—To ensure strategic domes-
15 tic supply chain capabilities for national security
16 purposes, not less than 25 percent of the amount of
17 personal protective equipment procured for the Stra-

1 ategic National Stockpile shall be personal protective
2 equipment that is produced in the United States.

3 “(2) REQUIREMENT TO PROCURE ITEMS PRO-
4 DUCED IN THE UNITED STATES.—Except as pro-
5 vided in paragraph (3), if the requirement under
6 paragraph (1) is not satisfied, until such require-
7 ment is satisfied no Federal funds may be used to
8 procure an item that is personal protective equip-
9 ment for the Strategic National Stockpile unless
10 that item is produced in the United States.

11 “(3) EXCEPTION.—Paragraph (2) shall not
12 apply with respect to the procurement of an item
13 that is personal protective equipment if the Sec-
14 retary determines that—

15 “(A) applying such paragraph would be in-
16 consistent with the public interest or national
17 security interest;

18 “(B) such item is not produced in the
19 United States in sufficient and reasonably
20 available quantities and of a satisfactory qual-
21 ity;

22 “(C) applying paragraph (2)—

23 “(i) with respect to a contract, cooper-
24 ative agreement, or transaction to be en-
25 tered into on or before the date that is 5

1 years after the date of the enactment of
2 the Made in America: Preparation for a
3 Pandemic Act of 2020, will increase the
4 cost of such contract, cooperative agree-
5 ment, or transaction by more than 50 per-
6 cent; and

7 “(ii) with respect to a contract, coop-
8 erative agreement, or transaction to be en-
9 tered into after the date that is 5 years
10 after the date of the enactment of the
11 Made in America: Preparation for a Pan-
12 demic Act of 2020, will increase the cost of
13 such contract, cooperative agreement, or
14 transaction by more than 25 percent; or

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

19 “(4) NOTIFICATION OF NONCOMPLIANCE RE-
20 QUIRED.—If the Secretary determines that the re-
21 quirement in paragraph (1) is not satisfied, the Sec-
22 retary shall—

23 “(A) submit to the Committee on Home-
24 land Security and Governmental Affairs of the
25 Senate and the Committee on Oversight and

1 Reform of the House of Representatives quar-
2 terly—

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

5 “(ii) a report on—

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

9 “(II) any contract, cooperative
10 agreement, or other transaction en-
11 tered into in the prior quarter for the
12 procurement of personal protective
13 equipment not produced in the United
14 States, including the exception under
15 subsection (a)(5) applied with respect
16 to such contract; and

17 “(III) any actions taken by the
18 Secretary to ensure that the require-
19 ment under paragraph (1) is satisfied;
20 and

21 “(B) post on the website maintained by the
22 Administrator of General Services at SAM.gov
23 (or any successor site) each notification re-
24 quired by subparagraph (A)(i), except for any
25 information that is exempt from mandatory dis-

1 closure under section 552 of title 5, United
2 States Code.

3 “(b) SUFFICIENCY OF STRATEGIC NATIONAL STOCK-
4 PILE.—The Director shall work with the Secretary to
5 issue a biannual report to Congress that includes the fol-
6 lowing:

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

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

11 “(3) Estimates of the state of personal protec-
12 tive equipment inventory of non-Federal entities.

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

19 “(c) WEBSITE.—The Administrator of General Serv-
20 ices shall post on the website maintained by the Adminis-
21 trator at SAM.gov (or any successor site) information that
22 identifies suppliers that can provide personal protective
23 equipment that is produced in the United States for the
24 Strategic National Stockpile.

1 “(d) APPLICATION.—This section shall be applied in
2 a manner consistent with United States obligations under
3 international agreements.

4 “(e) DEFINITION.—In this section—

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

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

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

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

24 “(B) the total value of the parts or components
25 contained in the item that are not grown,

1 reprocessed, reused, manufactured, or assem-
2 bled in the United States does not exceed 25
3 percent of the total purchase price of the item.

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

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

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

14 (b) EFFECTIVE DATE.—This section, and the amend-
15 ments made by this section, shall take effect on the date
16 that is six months after the date on which this section
17 is enacted.

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

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

22 **SEC. 3. PANDEMIC PREPARATION TAX CREDIT.**

23 (a) IN GENERAL.—Subpart D of part IV of sub-
24 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 section:

3 **“SEC. 45U. PANDEMIC PREPARATION TAX CREDIT.**

4 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
5 tion 38, the pandemic preparation tax credit determined
6 under this section for the taxable year is an amount equal
7 to 20 percent of the expenses paid or incurred by the tax-
8 payer during such taxable year for purposes of producing
9 personal protective equipment (including manufacturing
10 technology upgrades, workforce training expenses, compo-
11 nents, parts, or raw material used to make personal pro-
12 tective equipment) that qualifies for addition to the Stra-
13 tegic National Stockpile under section 8302A(a)(1) of title
14 41, United States Code.

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

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

23 (b) CREDIT MADE PART OF GENERAL BUSINESS
24 CREDIT.—Section 38(b) of the Internal Revenue Code of
25 1986 is amended by striking “plus” at the end of para-

1 graph (32), striking the period at the end of paragraph
2 (33) and inserting “, plus”, and adding at the end the
3 following new paragraph:

4 “(34) the pandemic preparation credit deter-
5 mined under section 45U.”.

6 (c) CLERICAL AMENDMENT.—The table of sections
7 for subpart D of part IV of subchapter A of chapter 1
8 of such Code is amended by adding at the end the fol-
9 lowing new item:

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

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

