

ported by a preponderance of the evidence, the findings are conclusive in any court of the United States.

(f) DECISIONS.—The Secretary or an impartial representative designated by the Secretary may make decisions, based on findings of fact, that are considered necessary to enforce this chapter. (Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3809.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6507(a) .....	41:43a(b) (1st sentence).	June 30, 1936, ch. 881, §10(b) (1st sentence), as added June 30, 1952, ch. 530, title III, §301, 66 Stat. 308; Pub. L. 104-106, div. D, title XLIII, §4321(f)(2), Feb. 10, 1996, 110 Stat. 675.
6507(b)-(f) ..	41:39.	June 30, 1936, ch. 881, § 5, 49 Stat. 2038.

In subsection (d), the word “contumacy” is omitted as included in “refuses or fails”. The words “may bring an action to enforce the order” are substituted for “upon the application by” for consistency in the revised title and with other titles of the United States Code. The words “the United States District Court for the District of Columbia” in section 5 of the Act of June 30, 1936 (which were substituted for “the Supreme Court of the District of Columbia” by section 32(b) of the Act of June 25, 1948 (ch. 646, 62 Stat. 991), as amended by section 127 of the Act of May 24, 1949 (ch. 139, 63 Stat. 107), and which were editorially omitted from 41:39) are omitted as included in “a district court of the United States” because of sections 88 and 132(a) of title 28, United States Code. The words “within the court’s judicial district” are substituted for “within the jurisdiction of which” for clarity and for consistency in the revised title and with other titles of the United States Code. The words “requiring the person to obey the order issued under subsection (c)” are substituted for “requiring such person to appear before him or representative designated by him, to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question” for clarity and to eliminate unnecessary words.

In subsection (e), the duty to make findings of fact is restated as a duty of the Secretary (or the Secretary’s representative). The grammatical structure of the last sentence of 41:39 seems to suggest that the court, rather than the Secretary (or the Secretary’s representative), serves as fact finder. However, the provision taken as a whole indicates that it is the Secretary (or the Secretary’s representative) who serves as fact finder. It is the Secretary (or the Secretary’s representative) before whom hearings are held, witnesses testify, and evidence is produced. The court’s involvement is limited to compelling recalcitrant witnesses “to appear before him [the Secretary] or representative designated by him”. The restatement clarifies the generally accepted understanding that the Secretary (or the Secretary’s representative) serves as fact finder (see, e.g., *United States v. Sweet Briar*, 92 F. Supp. 777, 780 (W.D.S.C. 1950) (“the Secretary ‘shall make findings of fact’”); *Ready-Mix Concrete Company v. United States*, 158 F. Supp. 571, 578 (Cl. Ct. 1958) (“the findings of the Department of Labor”)).

#### § 6508. Authority to make exceptions

(a) DUTY OF THE SECRETARY TO MAKE EXCEPTIONS.—When the head of an agency of the United States makes a written finding that the inclusion of representations or stipulations under section 6502 of this title in a proposal or contract will seriously impair the conduct of Federal Government business, the Secretary shall make exceptions, in specific cases or

otherwise, when justice or the public interest will be served.

(b) AUTHORITY OF THE SECRETARY TO MODIFY EXISTING CONTRACTS.—When an agency of the United States and a contractor jointly recommend, the Secretary may modify the terms of an existing contract with respect to minimum wages and maximum hours of labor as the Secretary finds necessary and proper in the public interest or to prevent injustice and undue hardship.

(c) AUTHORITY OF THE SECRETARY TO ALLOW LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS.—The Secretary may provide reasonable limitations and may prescribe regulations to allow reasonable variations, tolerances, and exemptions in the application of this chapter to contractors, including with respect to minimum wages and maximum hours of labor.

(d) RATE OF PAY FOR OVERTIME.—When the Secretary permits an increase in the maximum hours of labor stipulated in a contract, the Secretary shall set a rate of pay for overtime. The overtime rate must be at least one and one-half times the basic hourly rate.

(e) AUTHORITY OF THE PRESIDENT TO SUSPEND.—The President may suspend any of the representations and stipulations contained in section 6502 of this title whenever, in the President’s judgment, suspension is in the public interest.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3810.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6508(a) .....	41:40 (1st sentence).	June 30, 1936, ch. 881, § 6, 49 Stat. 2038; June 28, 1940, ch. 440, title I, §13, 54 Stat. 681.
6508(b) .....	41:40 (2d sentence).	
6508(c) .....	41:40 (3d sentence).	
6508(d) .....	41:40 (last sentence less proviso).	
6508(e) .....	41:40 (last sentence proviso).	

In subsection (a), the words “an agency of the United States” are substituted for “the contracting agency or department” for consistency in the chapter. Commas are inserted after “exceptions” and “otherwise” to clarify that the words “when justice or the public interest will be served” apply to exceptions in “specific cases” as well as “otherwise”. The word “thereby” is omitted as unnecessary.

In subsection (b), the words “an agency of the United States” are substituted for “the contracting agency”, and the words “minimum wages” are substituted for “minimum rates of pay”, for consistency in the chapter.

In subsection (c), the word “rules” is omitted as included in “regulations”. The words “as hereinbefore described” are omitted as unnecessary. The words “minimum wages” are substituted for “minimum rates of pay” for consistency in the chapter.

In subsection (d), the words “received by any employee affected” are omitted as unnecessary.

In subsection (e), the words “or all” are omitted as unnecessary.

#### § 6509. Other procedures

(a) APPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.—Notwithstanding section 553 of title 5, subchapter II of chapter 5 and chapter 7 of title 5 are applicable in the administration of sections 6501 to 6507 and 6511 of this title.

(b) JUDICIAL REVIEW IN GENERAL.—Notwithstanding the inclusion of representations and stipulations in a contract under section 6502 of this title, an interested person has the right of judicial review of any legal question which might otherwise be raised, including wage determinations and the interpretation of the terms “locality” and “open market”.

(c) JUDICIAL REVIEW OF WAGE DETERMINATIONS.—A person adversely affected or aggrieved by a wage determination under section 6502(1) of this title has the right of judicial review of the determination, or of the applicability of the determination, within 90 days after the determination is made, in the manner provided by chapter 7 of title 5. A person adversely affected or aggrieved by a wage determination is deemed to include a person in an industry to which the determination applies that is a supplier of materials, supplies, articles, or equipment that are purchased or intended to be purchased by the Federal Government from any source.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3810.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6509(a) .....	41:43a(a).	June 30, 1936, ch. 881, §10(a), (b) (last sentence), (c), as added June 30, 1952, ch. 530, title III, §301, 66 Stat. 308; Pub. L. 103-355, title VII, §7201(2), (3), Oct. 13, 1994, 108 Stat. 3378.
6509(b) .....	41:43a(c).	
6509(c) .....	41:43a(b) (last sentence).	

Subsection (a) is substituted for “Notwithstanding any provision of section 4 of the Administrative Procedure Act, such Act shall be applicable in the administration of sections 1 to 5 and 7 to 9 of this Act” in section 10 of the Act of June 30, 1936 (ch. 881), for consistency in the revised title and because of section 7(b) of Public Law 89-554 (5 U.S.C. note prec. 101).

In subsection (c), the words “has the right of judicial review” are substituted for “Review . . . may be had” for consistency with subsection (b) and with section 6510(b) of the revised title and because the review provided for in chapter 7 of title 5 is denominated as judicial review. The words “chapter 7 of title 5” are substituted for “section 10 of the Administrative Procedure Act” on authority of section 7(b) of Public Law 89-554 (5 U.S.C. note prec. 101).

§ 6510. Manufacturers and regular dealers

(a) PRESCRIBING STANDARDS.—The Secretary may prescribe, in regulations, standards for determining whether a contractor is a manufacturer or regular dealer with respect to materials, supplies, articles, or equipment to be manufactured or furnished under, or used in the performance of, a contract entered into by an agency of the United States.

(b) JUDICIAL REVIEW.—An interested person has the right of judicial review of any legal question relating to interpretation of the terms “regular dealer” and “manufacturer” as defined pursuant to subsection (a).

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3811.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6510 .....	41:43b.	June 30, 1936, ch. 881, §11, as added Pub. L. 103-355, title VII, §7201(4), Oct. 13, 1994, 108 Stat. 3378; Pub. L. 104-106, div. D, title XLIII, §4321(f)(1)(A), Feb. 10, 1996, 110 Stat. 675.

In subsection (a), the words “an agency of the United States” are substituted for “any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States” because of the definition in section 6501 of the revised title.

§ 6511. Effect on other law

This chapter may not be construed to modify or amend the following provisions:

- (1) Chapter 83 of this title.
- (2) Sections 3141 to 3144, 3146, and 3147 of title 40.
- (3) Chapter 307 of title 18.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3811.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6511 .....	41:42.	June 30, 1936, ch. 881, §8, 49 Stat. 2039.

Paragraph (1) is substituted for “Title III of the act entitled ‘An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes’, approved May 3, 1933 (commonly known as the Buy American Act)” for consistency in the revised title and to correct an error in the source, which incorrectly gives May 3, 1933, rather than March 3, 1933, as the date of approval.

Paragraph (2) is substituted for “the Act entitled ‘An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes’, approved March 3, 1931 (commonly known as the Bacon-Davis Act), as amended from time to time” because of section 5(c) of Public Law 107-217 (40 U.S.C. note prec. 101) and for consistency with title 40.

The words “the labor provisions of Title II of the National Industrial Recovery Act, approved June 16, 1933, as extended” are omitted as obsolete because of section 201 of the Act of June 21, 1938 (ch. 554, 52 Stat. 816), as amended by the Acts of June 27, 1940 (ch. 437, 54 Stat. 633), April 5, 1941 (ch. 40, 55 Stat. 110), and June 27, 1942 (ch. 450, 56 Stat. 410).

The words “or [the labor provisions] of section 7 of the Emergency Relief Appropriation Act, approved April 8, 1935” are omitted as obsolete. The intended reference was probably to section 7 of the Emergency Relief Appropriation Act of 1935 (49 Stat. 118). Section 7 of the Emergency Relief Appropriation Act of 1935 provided that the President shall require certain rates of pay for persons engaged in carrying out projects that were financed by amounts being appropriated in that Act.

Paragraph (3) is substituted for “the Act entitled ‘An Act to provide for the diversification of employment of Federal prisoners, for their training and schooling in trades and occupations, and for other purposes’, approved May 27, 1930, as amended and supplemented by the Act approved June 23, 1934” for consistency with title 18. The Act of May 27, 1930 (ch. 340, 46 Stat. 391) and the Act of June 23, 1934 (ch. 736, 48 Stat. 1211), which were classified to sections 744a to 744n of former title 18, were substantially repealed and were replaced