

1998—Subsec. (b). Pub. L. 105-225 substituted “retention by” for “retention of”.

Subsecs. (c), (d)(2)(B), (e). Pub. L. 105-154 substituted “Ronald Reagan Washington National Airport” for “Washington National Airport”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-225 effective Nov. 20, 1997, see section 7(c)(3) of Pub. L. 105-225, set out as a note under section 49106 of this title.

§ 49112. Separability and effect of judicial order

(a) SEPARABILITY.—If any provision of this chapter, or the application of a provision of this chapter to a person or circumstance, is held invalid, the remainder of this chapter and the application of the provision to other persons or circumstances is not affected.

(b) EFFECT OF JUDICIAL ORDER.—(1) If any provision of the Metropolitan Washington Airports Amendments Act of 1996 (title IX of Public Law 104-264; 110 Stat. 3274) or the amendments made by the Act, or the application of that provision to a person, circumstance, or venue, is held invalid by a judicial order, the Secretary of Transportation and the Metropolitan Washington Airports Authority shall be subject to section 49108¹ of this title from the day after the day the order is issued.

(2) Any action of the Airports Authority that was required to be submitted to the Board of Review under section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 (Public Law 99-500; 100 Stat. 1783-380; Public Law 99-599; 100 Stat. 3341-383) before October 9, 1996, remains in effect and may not be set aside only because of a judicial order invalidating certain functions of the Board.

(Added Pub. L. 105-102, §2(26), Nov. 20, 1997, 111 Stat. 2214.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
49112(a)	(uncodified).	Oct. 18, 1986, Pub. L. 99-500, title VI, §6011, 100 Stat. 1783-385; Oct. 9, 1996, Pub. L. 104-264, title IX, §904(c)(2), 110 Stat. 3276. Oct. 30, 1986, Pub. L. 99-591, title VI, §6011, 100 Stat. 3341-383; Oct. 9, 1996, Pub. L. 104-264, title IX, §904(c)(2), 110 Stat. 3276.
49112(b)(1) ..	(uncodified).	Oct. 18, 1986, Pub. L. 99-500, title VI, §6014, as added Oct. 9, 1996, Pub. L. 104-264, title IX, §907, 110 Stat. 3277. Oct. 30, 1986, Pub. L. 99-591, title VI, §6014, as added Oct. 9, 1996, Pub. L. 104-264, title IX, §907, 110 Stat. 3277.
49112(b)(2) ..	(uncodified).	Oct. 9, 1996, Pub. L. 104-264, title IX, §904(d), 110 Stat. 3276.

In subsection (a), the word “thereby” is omitted as surplus.

In subsection (b)(1), the words “the limitations described in” are omitted as unnecessary.

¹ See References in Text note below.

REFERENCES IN TEXT

The Metropolitan Washington Airports Amendments Act of 1996, referred to in subsec. (b)(1), is title IX of Pub. L. 104-264, Oct. 9, 1996, 110 Stat. 3274, which amended the Metropolitan Washington Airports Act of 1986, title VI of Pub. L. 99-500, Oct. 18, 1986, 100 Stat. 1783-373, and title VI of Pub. L. 99-591, Oct. 30, 1986, 100 Stat. 3341-376, as amended. The Metropolitan Washington Airports Act of 1986 was classified generally to subchapter III (§2451 et seq.) of chapter 33 of former Title 49, Transportation, and was repealed and reenacted as this chapter by Pub. L. 105-102, §§2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217.

Section 49108 of this title, referred to in subsec. (b)(1), was repealed by Pub. L. 112-95, title I, §150, Feb. 14, 2012, 126 Stat. 32.

Section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (b)(2), is section 6007(f)(4) of Pub. L. 99-500, title VI, Oct. 18, 1986, 100 Stat. 1783-379, and Pub. L. 99-591, title VI, Oct. 30, 1986, 100 Stat. 3341-382, which related to a Board of Review and was classified to section 2456(f)(4) of former Title 49, Transportation. Subsec. (f) of section 6007 was repealed and subsec. (g) redesignated (f) by Pub. L. 104-264, title IX, §904(a), Oct. 9, 1996, 110 Stat. 3276. Section 6007 was subsequently repealed and reenacted as section 49106 of Title 49, Transportation, by Pub. L. 105-102, §§2(26), 5(b), Nov. 20, 1997, 111 Stat. 2205, 2217, and does not contain provisions relating to a Board of Review.

PART E—MISCELLANEOUS

AMENDMENTS

1996—Pub. L. 104-287, §5(88)(A), Oct. 11, 1996, 110 Stat. 3398, redesignated part D of this subtitle as this part.

CHAPTER 501—BUY-AMERICAN PREFERENCES

- Sec. 50101. Buying goods produced in the United States.
- 50102. Restricting contract awards because of discrimination against United States goods or services.
- 50103. Contract preference for domestic firms.
- 50104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities.
- 50105. Fraudulent use of “Made in America” label.

AMENDMENTS

1996—Pub. L. 104-287, §5(88)(B), (C), Oct. 11, 1996, 110 Stat. 3398, redesignated chapter 491 of this title as this chapter and items 49101 to 49105 as 50101 to 50105, respectively.

§ 50101. Buying goods produced in the United States

(a) PREFERENCE.—The Secretary of Transportation may obligate an amount that may be appropriated to carry out section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title for a project only if steel and manufactured goods used in the project are produced in the United States.

(b) WAIVER.—The Secretary may waive subsection (a) of this section if the Secretary finds that—

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) the steel and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(3) when procuring a facility or equipment under section 44502(a)(2) or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title—

(A) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the facility or equipment; and

(B) final assembly of the facility or equipment has occurred in the United States; or

(4) including domestic material will increase the cost of the overall project by more than 25 percent.

(c) LABOR COSTS.—In this section, labor costs involved in final assembly are not included in calculating the cost of components.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1298, §49101; renumbered §50101 and amended Pub. L. 104–287, §5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
49101(a)	49 App.:2226a(a).	Nov. 5, 1990, Pub. L. 101–508, §9129, 104 Stat. 1388–371.
49101(b)	49 App.:2226a(b).	
49101(c)	49 App.:2226a(c).	

In this chapter, the word “goods” is substituted for “product” and “products” for consistency.

In subsection (a), the words “Notwithstanding any other provision of law” are omitted as surplus. The words “after November 5, 1990” are omitted as obsolete.

In subsection (b), before clause (1), the words “The Secretary may waive” are substituted for “shall not apply” for consistency. In clause (2), the words “steel and goods” are substituted for “materials and products” for consistency. In clause (4), the word “contract” is omitted as surplus.

PUB. L. 104–287, §5(89)

This makes a clarifying amendment to 49:50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, because 49:47106(d) was struck by section 108(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1573).

AMENDMENTS

1996—Pub. L. 104–287, §5(88)(D), renumbered section 49101 of this title as this section.

Subsecs. (a), (b)(3). Pub. L. 104–287, §5(89), substituted “section 47127” for “sections 47106(d) and 47127”.

USE OF DOMESTIC PRODUCTS

Pub. L. 103–305, title III, §305, Aug. 23, 1994, 108 Stat. 1592, provided that:

“(a) PROHIBITION AGAINST FRAUDULENT USE OF ‘MADE IN AMERICA’ LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of ‘Made in America’, or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

“(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 40101 of this title], including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of

Federal Regulations, or any successor procedures thereto.

“(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each office within the Federal Aviation Administration that conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 ([former] 41 U.S.C. 10a through 10c, popularly known as the ‘Buy American Act’ [see 41 U.S.C. 8301 et seq.]).

“(2) This subsection shall apply only to procurements made for which—

“(A) amounts are authorized by this title to be made available; and

“(B) solicitations for bids are issued after the date of the enactment of this Act [Aug. 23, 1994].

“(3) The Secretary, before January 1, 1995, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

“(c) DEFINITIONS.—For the purposes of this section, the term ‘domestic product’ means a product—

“(1) that is manufactured or produced in the United States; and

“(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.”

Similar provisions were contained in the following prior authorization act: Pub. L. 102–581, title III, §305, Oct. 31, 1992, 106 Stat. 4896.

PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS

Pub. L. 103–305, title III, §306, Aug. 23, 1994, 108 Stat. 1593, provided that:

“(a) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under this title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 40101 of this title], or under any amendment made by this title, should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

“(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this title, or under any amendment made by this title, the Secretary shall provide to each recipient a notice describing the statement made in subsection (a) by the Congress.”

§50102. Restricting contract awards because of discrimination against United States goods or services

A person or enterprise domiciled or operating under the laws of a foreign country may not make a contract or subcontract under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–353) if the government of that country unfairly maintains, in government procurement, a significant and persistent pattern of discrimination against United States goods or services that results in identifiable harm to United States businesses, that the President identifies under section 305(g)(1)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1298, §49102; renumbered §50102 and amended Pub. L. 104–287, §5(88)(D), (89), Oct. 11, 1996, 110 Stat. 3398.)