

Sec.
50105. Fraudulent use of “Made in America” label.

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).

Editorial Notes

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.

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

BUY AMERICA REQUIREMENTS

Pub. L. 115-254, div. B, title I, §167, Oct. 5, 2018, 132 Stat. 3227, provided that:

“(a) NOTICE OF WAIVERS.—If the Secretary of Transportation determines that it is necessary to waive the application of section 50101(a) of title 49, United States Code, based on a finding under section 50101(b) of that title, the Secretary, at least 10 days before the date on which the waiver takes effect, shall—

- “(1) make publicly available, in an easily identifiable location on the website of the Department of Transportation, a detailed written justification of the waiver determination; and
- “(2) provide an informal public notice and comment opportunity on the waiver determination.

“(b) ANNUAL REPORT.—For each fiscal year, the Secretary shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on waivers issued under section 50101 of title 49, United States Code, during the fiscal year.”

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.