

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.—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; amended Pub. L. 118-63, title XI, §1101(y), May 16, 2024, 138 Stat. 1415.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
49112(a)	(unmodified).	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. 3341-388; Oct. 9, 1996, Pub. L. 104-264, title IX, §904(c)(2), 110 Stat. 3276.
49112(b)(1) ..	(unmodified).	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) ..	(unmodified).	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.

Editorial Notes

REFERENCES IN TEXT

Section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986, referred to in subsec. (b), 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 (f) of section 6007 was repealed and subsec.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.

AMENDMENTS

2024—Subsec. (b). Pub. L. 118-63 struck out par. (2) designation before “Any action” and struck out par. (1) which read as follows: “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 49108 of this title from the day after the day the order is issued.”

PART E—MISCELLANEOUS

Editorial Notes

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.

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, 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, 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.

(d) LIMITATION ON CERTAIN ROLLING STOCK PROCUREMENTS.—

(1) IN GENERAL.—Financial assistance made available under the provisions described in subsection (a) shall not be used in awarding a contract or subcontract to an entity on or after the date of enactment of this subsection for the procurement of rolling stock for use in an airport-related project if the manufacturer of the rolling stock—

(A) is incorporated in or has manufacturing facilities in the United States; and

(B) is owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in a country that—

(i) is identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this subsection;

(ii) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list defined in subsection (g)(3) of that section; and

(iii) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

(2) EXCEPTION.—

(A) IN GENERAL.—For purposes of paragraph (1), the term “otherwise related legally or financially” does not include—

(i) a minority relationship or investment; or

(ii) relationship with or investment in a subsidiary, joint venture, or other entity based in a country described in paragraph (1)(B) that does not export rolling stock or components of rolling stock for use in the United States.

(B) CORPORATION BASED IN PEOPLE’S REPUBLIC OF CHINA.—Notwithstanding subparagraph (A)(i), for purposes of paragraph (1), the term “otherwise related legally or financially” includes a minority relationship or investment if the relationship or investment involves a corporation based in the People’s Republic of China.

(3) INTERNATIONAL AGREEMENTS.—This subsection shall be applied in a manner consistent with the obligations of the United States under international agreements.

(4) WAIVER.—

(A) IN GENERAL.—The Secretary may waive the limitation described in paragraph (1) using the criteria described in subsection (b).

(B) NOTIFICATION.—Not later than 10 days after issuing a waiver under subparagraph (A), the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(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;

Pub. L. 118–63, title VII, §768(a), May 16, 2024, 138 Stat. 1293.)

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).

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (d)(1), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

AMENDMENTS

2024—Subsecs. (a), (b)(3). Pub. L. 118–63, §768(a)(1), struck out “(except section 47127)” after “subchapter I of chapter 471”.

Subsec. (d). Pub. L. 118–63, §768(a)(2), added subsec. (d).

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.

“(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, as amended by Pub. L. 118-63, title II, §218(f), May 16, 2024, 138 Stat. 1056, provided that: “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.”

§ 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, 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; Pub. L. 118-63, title VII, §768(b)(1), May 16, 2024, 138 Stat. 1294.)

HISTORICAL AND REVISION NOTES PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
49102	49 App.:2226c.	Nov. 5, 1990, Pub. L. 101-508, §9131, 104 Stat. 1388-372; Oct. 31, 1992, Pub. L. 102-581, §118(b), 106 Stat. 4883.

The words “government of that country” are substituted for “that government” for consistency in the revised title and with other titles of the United States Code.

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

REFERENCES IN TEXT

Subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990, referred to in text, is subtitle B (§§9101-9131) of title IX of Pub. L. 101-508, Nov. 5, 1990, 104 Stat. 1388-353, known as the Aviation Safety and Capacity Expansion Act of 1990. Sections 9102 to 9105, 9107 to 9112(b), 9113 to 9115, 9118, 9121 to 9123, 9124 “Sec. 613(c)”, 9125, 9127, and 9129 to 9131 of title IX of Pub. L. 101-508 were repealed by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

AMENDMENTS

2024—Pub. L. 118-63 struck out “(except section 47127)” after “subchapter I of chapter 471”.

1996—Pub. L. 104-287, §5(89), substituted “section 47127” for “sections 47106(d) and 47127”.

Pub. L. 104-287, §5(88)(D), renumbered section 49102 of this title as this section.

§ 50103. Contract preference for domestic firms

(a) DEFINITIONS.—In this section—

(1) “domestic firm” means a business entity incorporated, and conducting business, in the United States.

(2) “foreign firm” means a business entity not described in clause (1) of this subsection.

(b) PREFERENCE.—Subject to subsections (c) and (d) of this section, the Administrator of the Federal Aviation Administration may make, with a domestic firm, a contract related to a grant made under section 44511, 44512, or 44513 of this title that, under competitive procedures, would be made with a foreign firm, if—

(1) the Administrator decides, and the Secretary of Commerce and the United States Trade Representative concur, that the public interest requires making the contract with