

**Editorial Notes**

## AMENDMENTS

1973—Pub. L. 93-87 substituted “Federal Highway Administration” for “Bureau of Public Roads” and “Department of Transportation” for “Department of Commerce”.

**§ 313. Buy America**

(a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.

(b) The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

(c) For purposes of this section, in calculating components’ costs, labor costs involved in final assembly shall not be included in the calculation.

(d) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

(e) INTENTIONAL VIOLATIONS.—If it has been determined by a court or Federal agency that any person intentionally—

(1) affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or

(2) represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;

that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(f) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.—If the Secretary, in consultation with the United States Trade Representative, determines that—

(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section, and

(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement,

the provisions of subsection (b) shall not apply to products produced in that foreign country.

(g) WAIVERS.—

(1) IN GENERAL.—Not less than 15 days before issuing a waiver under this section, the Secretary shall provide to the public—

(A) notice of the proposed waiver;

(B) an opportunity for comment on the proposed waiver; and

(C) the reasons for the proposed waiver.

(2) REPORT.—Not less frequently than annually, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the waivers provided under this section.

(h) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.

(Added and amended Pub. L. 109-59, title I, § 1903(a), (c), Aug. 10, 2005, 119 Stat. 1464, 1465; Pub. L. 112-141, div. A, title I, § 1518, July 6, 2012, 126 Stat. 574; Pub. L. 117-58, div. A, title I, § 11513, Nov. 15, 2021, 135 Stat. 595.)

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## REFERENCES IN TEXT

The Surface Transportation Assistance Act of 1982, referred to in subsecs. (a) and (d), is Pub. L. 97-424, Jan. 6, 1983, 96 Stat. 2097. For complete classification of this Act to the Code, see Short Title of 1983 Amendment note set out under section 101 of this title and Tables.

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (e), is Pub. L. 102-240, Dec. 18, 1991, 105 Stat. 1914. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation, and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (h), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

## CODIFICATION

Section, as added by Pub. L. 109-59, consists of text of Pub. L. 97-424, title I, § 165, Jan. 6, 1983, 96 Stat. 2136; Pub. L. 98-229, § 10, Mar. 9, 1984, 98 Stat. 57; Pub. L. 100-17, title I, §§ 133(a)(6), 337(a)(1), (b), (c), Apr. 2, 1987, 101 Stat. 171, 241; Pub. L. 102-240, title I, § 1048, title III, § 3003(b), Dec. 18, 1991, 105 Stat. 1999, 2088; Pub. L.

103-272, §4(r), July 5, 1994, 108 Stat. 1371; Pub. L. 103-429, §7(a)(3)(E), Oct. 31, 1994, 108 Stat. 4389, which was formerly set out as a note under section 101 of this title, and was repealed by Pub. L. 109-59, title I, §1903(d), Aug. 10, 2005, 119 Stat. 1465.

#### PRIOR PROVISIONS

A prior section 313, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915, authorized the Secretary to cooperate with State highway departments and other agencies in the promotion of highway safety and authorized the expenditure of \$150,000 out of the administrative funds made available in accordance with section 104(a) of this title for the purposes of this section, prior to repeal by Pub. L. 89-564, title I, §102(a), Sept. 9, 1966, 80 Stat. 734. See section 401 et seq. of this title.

#### AMENDMENTS

2021—Subsecs. (g), (h). Pub. L. 117-58 added subsec. (g) and redesignated former subsec. (g) as (h).

2012—Subsec. (g). Pub. L. 112-141 added subsec. (g).

2005—Subsec. (a). Pub. L. 109-59, §1903(c)(1), substituted “to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title” for “by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, or the Surface Transportation Assistance Act of 1978”.

Subsec. (b)(3), (4). Pub. L. 109-59, §1903(c)(2), redesignated par. (4) as (3).

Subsec. (d). Pub. L. 109-59, §1903(c)(3), substituted “the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that” for “this Act, the Surface Transportation Assistance Act of 1978 or title 23, United States Code, which”.

Subsec. (e) to (g). Pub. L. 109-59, §1903(c)(4), (5), which directed amendment of this section by striking subsec. (e) and redesignating subsecs. (f) and (g) as (e) and (f), respectively, was executed by making the redesignations and by striking out two subsecs. (e), to reflect the probable intent of Congress. The first subsec. (e) based on subsec. (e) of section 165 of Pub. L. 97-424, as originally enacted, repealed section 401 of the Surface Transportation Assistance Act of 1978, Pub. L. 95-599. The second subsec. (e) based on subsec. (e) of section 165 of Pub. L. 97-424, as added by Pub. L. 102-240, §1048(b), related to report on purchases from foreign entities waived under subsec. (b) in fiscal years 1992 and 1993.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117-58, set out as a note under section 101 of this title.

##### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

##### BUY AMERICA WAIVER NOTIFICATION AND ANNUAL REPORTS

Pub. L. 117-328, div. L, title I, §122, Dec. 29, 2022, 136 Stat. 5116, provided that: “Not less than 15 days prior to waiving, under his or her statutory authority, any Buy America requirement for Federal-aid highways projects, the Secretary of Transportation shall make an informal public notice and comment opportunity on the intent to issue such waiver and the reasons therefor: *Provided*, That the Secretary shall post on a website any waivers granted under the Buy America requirements.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 117-103, div. L, title I, §122, Mar. 15, 2022, 136 Stat. 704.

Pub. L. 116-260, div. L, title I, §122, Dec. 27, 2020, 134 Stat. 1841.

Pub. L. 116-94, div. H, title I, §122, Dec. 20, 2019, 133 Stat. 2951.

Pub. L. 116-6, div. G, title I, §122, Feb. 15, 2019, 133 Stat. 412.

Pub. L. 115-141, div. L, title I, §122, Mar. 23, 2018, 132 Stat. 986.

Pub. L. 115-31, div. K, title I, §123, May 5, 2017, 131 Stat. 741.

Pub. L. 114-113, div. L, title I, §122, Dec. 18, 2015, 129 Stat. 2847.

Pub. L. 113-235, div. K, title I, §122, Dec. 16, 2014, 128 Stat. 2708.

Pub. L. 113-76, div. L, title I, §122, Jan. 17, 2014, 128 Stat. 586.

Pub. L. 112-55, div. C, title I, §122, Nov. 18, 2011, 125 Stat. 654.

Pub. L. 111-117, div. A, title I, §123, Dec. 16, 2009, 123 Stat. 3048.

Pub. L. 111-8, div. I, title I, §126, Mar. 11, 2009, 123 Stat. 928.

Pub. L. 110-161, div. K, title I, §130, Dec. 26, 2007, 121 Stat. 2389.

Pub. L. 110-244, title I, §117, June 6, 2008, 122 Stat. 1607, provided that:

“(a) WAIVER NOTIFICATION.—

“(1) IN GENERAL.—If the Secretary of Transportation makes a finding under section 313(b) of title 23, United States Code, with respect to a project, the Secretary shall—

“(A) publish in the Federal Register, before the date on which such finding takes effect, a detailed written justification as to the reasons that such finding is needed; and

“(B) provide notice of such finding and an opportunity for public comment on such finding for a period of not to exceed 60 days.

“(2) LIMITATION ON STATUTORY CONSTRUCTION.—

Nothing in paragraph (1) shall be construed to require the effective date of a finding referred to in paragraph (1) to be delayed until after the close of the public comment period referred to in paragraph (1)(B).

“(b) ANNUAL REPORTS.—Not later than February 1 of each year beginning after the date of enactment of this Act [June 6, 2008], the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects for which the Secretary made findings under section 313(b) of title 23, United States Code, during the preceding calendar year and the justifications for such findings.”

#### § 314. Relief of employees in hazardous work

The Secretary is authorized in an emergency to use appropriations to the Department of Transportation for carrying out the provisions of this title for medical supplies, services, and other assistance necessary for the immediate relief of employees of the Federal Highway Administration engaged in hazardous work.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 93-87, title I, §152(5), (6), Aug. 13, 1973, 87 Stat. 276.)

#### Editorial Notes

##### AMENDMENTS

1973—Pub. L. 93-87 substituted “Department of Transportation” for “Department of Commerce” and “Federal Highway Administration” for “Bureau of Public Roads”.

#### § 315. Rules, regulations, and recommendations

Except as provided in sections 202(a)(5), 203(a)(3), and 205(a) of this title, the Secretary is