

§ 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.

(Added and amended Pub. L. 109-59, title I, § 1903(a), (c), Aug. 10, 2005, 119 Stat. 1464, 1465.)

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, as amended. For complete classification of this Act to the Code, see Short Title of 1983 Amendments 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, as amended. 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.

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

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.

§ 314. Relief of employees in hazardous work

The Secretary is authorized in an emergency to use appropriations to the Department of