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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

RIN 0750-AI36

Defense Federal Acquisition Regulation Supplement: Domestic Source Restrictions on Certain Naval Vessel Components (DFARS Case 2014-D022)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the statutory domestic source restrictions on acquisition of certain naval vessel components.

DATES: Comment date: Comments on the proposed rule should be submitted in writing to the address shown below on or before **[Insert date 60 days after date of publication in the FEDERAL REGISTER]**, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2014-D022, using any of the following methods:

o Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2014-D022" under the heading "Enter keyword or ID" and

selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2014-D022." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2014-D022" on your attached document.

- o E-mail: osd.dfars@mail.mil. Include DFARS Case 2014-D022 in the subject line of the message.

- o Fax: 571-372-6094.

- o Mail: Defense Acquisition Regulations System, Attn: Amy G. Williams, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise DFARS 225.7010 to implement the domestic source restrictions in 10 U.S.C. 2534 on gyrocompasses, electronic navigation chart systems, steering controls, pumps, propulsion and machinery control systems, and totally enclosed lifeboats, to the extent they are unique to marine applications.

These restrictions are currently implemented in the acquisition regulations of the Defense Logistics Agency and the Department of Navy, the two DoD components that acquire such naval vessel components. The restrictions are now being incorporated into the DFARS because they impact more than one DoD component.

10 U.S.C. 2534 prohibits acquisition of these naval vessel components, unless they are manufactured in the United States or Canada, except for acquisitions that do not exceed the simplified acquisition threshold or acquisitions of spare or repair parts needed to support components for naval vessels manufactured outside the United States.

The waiver criteria at DFARS 225.7008(a) apply to this restriction. The Under Secretary of Defense (Acquisition, Technology, and Logistics) has waived this restriction for certain defense items manufactured in the United Kingdom, including these naval vessel components (see 79 FR 11770, dated March 3, 2014).

10 U.S.C. 2534(h) prohibits the use of a contract clause or certification to implement this restriction.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because this law has been implemented in the Defense Logistics Agency and Department of Navy regulations for many years, and moving the regulations to the DFARS will have no impact on the public. Therefore, an initial regulatory

flexibility analysis has not been performed. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2014-D022), in correspondence.

IV. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 225

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 225 is proposed to be amended as follows:

PART 225--FOREIGN ACQUISITION

1. The authority citation for 48 CFR part 225 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

2. Amend section 225.7008 by revising paragraph (b) to read as follows:

225.7008 Waiver of restrictions of 10 U.S.C. 2534.

* * * * *

(b) In accordance with the provisions of paragraphs (a) (1) (i) through (iii) of this section, the USD(AT&L) has waived the restrictions of 10 U.S.C. 2534(a) for certain items manufactured in the United Kingdom, including air circuit breakers for naval vessels (see 225.7006) and the naval vessel components listed at 225.7010-1.

3. Add section 225.7010 to read as follows:

225.7010 Restriction on certain naval vessel components.

4. Add sections 225.7010-1, 225.7010-2, 225.7010-3, and 225.7010-4 to read as follows:

225.7010-1 Restriction.

In accordance with 10 U.S.C. 2534, do not acquire the following components of naval vessels, to the extent they are unique to marine applications, unless manufactured in the United States or Canada:

- (a) Gyrocompasses.
- (b) Electronic navigation chart systems.
- (c) Steering controls.
- (d) Pumps.
- (e) Propulsion and machinery control systems.

(f) Totally enclosed lifeboats.

225.7010-2 Exceptions.

This restriction does not apply to—

(a) Contracts of subcontracts that do not exceed the simplified acquisition threshold; or

(b) Acquisition of spare or repair parts needed to support components for naval vessels manufactured outside the United States. Support includes the purchase of spare gyrocompasses, electronic navigation chart systems, steering controls, pumps, propulsion and machinery control systems, or totally enclosed lifeboats, when those from alternate sources are not interchangeable.

225.7010-3 Waiver.

(a) The waiver criteria at 225.7008(a) apply to this restriction.

(b) The Under Secretary of Defense (Acquisition, Technology, and Logistics) has waived the restriction of 10 U.S.C. 2534 for certain items manufactured in the United Kingdom, including the items listed in section 225.7010-1. See 225.7008.

225.7010-4 Implementation.

(a) 10 U.S.C. 2534(h) prohibits the use of contract clauses or certifications to implement this restriction.

(b) Agencies shall accomplish implementation of this restriction through use of management and oversight techniques that

achieve the objectives of this section without imposing a significant management burden on the Government or the contractor involved.

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