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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 700

[Docket No. 150720623-5623-01]

RIN 0694-AG68

Update to List of Countries Where Persons in the United States May Request Department of Defense Assistance in Obtaining Priority Delivery of Contracts.

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Defense Priorities and Allocations System (DPAS) Regulations contain a list of countries with which the Department of Defense (DOD) has entered into security of supply arrangements. Persons in the United States may request the assistance of the DOD in seeking priority delivery from parties in those countries. This rule adds Spain to the list, reflecting DOD's recent security of supply arrangement with that country. Listing these countries in the

DPAS Regulations is purely informational and does not affect any right, duty or prohibition that applies to any person under those regulations.

DATES: The rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Liam McMenamin at (202) 482-2233, or liam.mcmenamin@bis.doc.gov

SUPPLEMENTARY INFORMATION:

Background.

The Defense Priorities and Allocations System (DPAS) Regulations implement priorities and allocations authority of the Defense Production Act of 1950, as amended. Through the regulations, certain national defense and energy programs may be supported through the prioritization of contracts, or the allocation of resources. The priorities authority applies to the prioritization of contracts to support an approved national defense and/or energy program. Once a program is approved, the Bureau of Industry and Security (BIS) (or another agency to which BIS has delegated authority) may place priority ratings on certain contracts. These ratings effectively expedite contractual performance to support the approved program.

The Department of Defense (DOD) has entered into bilateral security of supply arrangements with certain countries that allow DOD to request priority delivery of DOD contracts, subcontracts or orders from companies in those countries. Persons in the United States

who need assistance in obtaining priority delivery for such a contract, subcontract or order in those countries may request DOD to provide assistance in obtaining priority delivery. The DPAS Regulations list the countries with which DOD has entered into such arrangements to provide readers whose need for contract prioritization may extend beyond the United States with information about how to seek such prioritizations. Recently, DOD entered into a bilateral security of supply arrangement with Spain. Accordingly, this rule adds Spain to the list of countries with which DOD has such arrangements. The list is informational only and does not affect any right, duty or prohibition that applies to any person under the DPAS Regulations. DOD would be able to request priority delivery in countries with which it has security of supply arrangements and persons in the United States would be able to request assistance from DOD in obtaining priority delivery even if the list did not appear in the DPAS Regulations.

With the addition of Spain, the list will read: Australia, Finland, Italy, The Netherlands, Spain, Sweden and the United Kingdom.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 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). This rule does not impose any regulatory burden on the public and is consistent with the goals of Executive Order 13563. This rule has been determined not to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information

subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), unless that collection of information displays a currently valid Office of Management and Budget control number. This rule does not involve a collection of information that is subject to the Paperwork Reduction Act.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. BIS finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice of proposed rulemaking and the opportunity for public comment because it is unnecessary. This rule merely updates the list of countries with which the DOD has entered into security of supply arrangements and thus may seek prioritization of contracts in those countries. Persons in the United States who need such prioritization may request DOD assistance to obtain it. The lists are in the DPAS regulations to inform persons whose need for contract prioritization may extend beyond the United States of where they may be able to obtain assistance. DOD may seek such prioritization and persons in the United States may request DOD assistance regardless whether or not the countries with which DOD has entered into security of supply arrangements are identified in the DPAS Regulations. Listing these countries in the DPAS Regulations does not affect any right, duty or prohibition that applies to any person under those regulations. Because these revisions are not substantive changes, it is unnecessary to provide notice and opportunity for public comment. Because neither the Administrative Procedure Act nor any other law requires that notice and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

In addition, the 30-day delay in effectiveness otherwise required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule.

List of Subjects in 15 CFR Part 700

Administrative practice and procedure, Business and industry, Government contracts, National defense, Reporting and recordkeeping requirements, Strategic and critical materials.

For the reasons set forth in the preamble, the Defense Priorities and Allocations System Regulations (15 CFR part 700) are amended as follows:

PART 700 – [AMENDED]

1. The authority citation for 15 CFR part 700 continues to read as follows:

Authority: 50 U.S.C. App. 2061, et seq.; 42 U.S.C. 5195, et seq.; 50 U.S.C. App 468; 10 U.S.C. 2538; 50 U.S.C. 82; E.O. 12656, 53 FR 226, 3 CFR, 1988, Comp. 585; E.O. 12742, 56 FR 1079, 3 CFR, 1991 Comp. 309; E.O. 13603, 77 FR 16651, 3 CFR, 2012 Comp., p. 225.

§ 700.57 [AMENDED]

2. Section 700.57 is amended by adding “Spain” after “The Netherlands,” in:

- a. The last sentence of paragraph (a);
- b. The italicized heading of paragraph (c);
- c. Paragraph (c)(1); and
- d. The first and second sentences of paragraph (c)(2).

Dated: August 17, 2015

Kevin J. Wolf

Assistant Secretary for Export Administration

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