

## DEPARTMENT OF DEFENSE

## Defense Acquisition Regulations System

## 48 CFR Part 252

RIN 0750-AH72

## Defense Federal Acquisition Regulation Supplement: New Free Trade Agreement With Colombia (DFARS Case 2012-D032)

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

**ACTION:** Final rule.

**SUMMARY:** DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the United States-Colombia Trade Promotion Agreement. This Trade Promotion Agreement is a free trade agreement that provides for mutually non-discriminatory treatment of eligible products and services from Colombia.

**DATES:** *Effective date:* March 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Telephone 571-372-6106.

## SUPPLEMENTARY INFORMATION:

## I. Background

DoD published an interim rule in the **Federal Register** at 77 FR 31536 on May 29, 2012, to implement the United States-Colombia Trade Promotion Agreement Implementation Act (Pub. L. 112-42) (19 U.S.C. 3805 note).

No public comments were received. Therefore, DoD is adopting the interim rule as final, without change.

## 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 certifies that this final rule will not 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.* Although the rule now opens up Government procurement to the goods and services of Colombia at or above the threshold of \$77,494.00, DoD does not anticipate any significant economic impact on U.S. small businesses. DoD only applies the trade agreements to the non-defense items listed at DFARS 225.401-70, and acquisitions that are set aside or provide other forms of preference for small businesses are exempt. FAR 19.502-2 states that acquisitions that do not exceed \$150,000 (with some exceptions) are automatically reserved exclusively for small business concerns.

## IV. Paperwork Reduction Act

This rule affects the certification and information collection requirements in the provision 252.225-7035, currently approved under OMB Control Number 0704-0229, titled Defense Federal Acquisition Regulation Supplement Part 225, Foreign Acquisition, and related clauses, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). OMB Control Number 0704-0229 assessed the total burden related to part 225 at approximately 57,230 hours. The impact, however, is negligible, because it is just a question of under which category offered goods from Colombia would be listed.

## List of Subjects in 48 CFR Part 252

Government procurement.

Kortnee Stewart,

*Editor, Defense Acquisition Regulations System.*

## Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR part 252, which was published at 77 FR 31536 on May 29, 2012, is adopted as a final rule without change.

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## DEPARTMENT OF DEFENSE

## Defense Acquisition Regulations System

## 48 CFR Part 252

RIN 0750-AH78

## Defense Federal Acquisition Regulation Supplement; Specialty Metals—Definition of “Produce” (DFARS Case 2012-D041)

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

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the definition of “produce” as it applies to specialty metals. The National Defense Authorization Act for Fiscal Year 2011 directed DoD to review the definition of “produce” to ensure its compliance with the statutory restrictions on specialty metals and to determine if a revision to the current rule was necessary and appropriate.

**DATES:** *Effective Date:* March 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Telephone 571-372-6106.

## SUPPLEMENTARY INFORMATION:

## I. Background

DoD published a proposed rule in the **Federal Register** at 77 FR 43474 on July 24, 2012. DoD proposed to amend the definition of “produce” to eliminate the phrase “quenching and tempering” of armor steel plate, and to expand the application of the other listed technologies, currently restricted just to titanium and titanium alloys, to any specialty metal that could be formed by such technologies.

DoD received comments on the proposed rule from 13 respondents.

## II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments is provided, as follows:

## A. Summary of Significant Changes

The phrase “gas atomization” in the definition of “produce” has been revised to read “atomization,” in order to allow for other types of atomization (e.g., gas, water, centrifugal, plasma).