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.

[FR Doc. 2013–07108 Filed 3–27–13; 8:45 am]

BILLING CODE 5001–06–P

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).

B. Analysis of Comments

1. Definition of ''Produce''

Comment: All respondents strongly supported the proposed definition of ''produce.'' Some of the benefits of the revised definition noted by the respondents are as follows:

Provides domestic control of material vital to protection of our troops is critical to national security interests, promotes self-sufficiency of U.S. defense industry.

Helps maintain a strong domestic armor steel plate industry and strengthens our defense industrial base, as well as the overall economic strength of the United States. Incentivizes investment in the manufacturing capacity, process technology, research and development necessary to meet the needs of the U.S. military, thereby reducing the possibility of supply shortages. Adds new U.S. steelmaking jobs, as well as jobs throughout the steelmaking supply chain.

Is consistent with statutory language and legislative history.

Response: Noted.

2. Impact of Changes in Production Capacity of Domestic Producers of Steel Plate

Comment: Some respondents commented on the statement by DoD in the **Federal Register** preamble to the proposed rule, that there is now sufficient capacity to meet DoD requirements, if DoD were to remove ''quenching and tempering of steel plate'' from the definition of ''produce.'' One respondent expressed concern that by linking the regulatory definition of ''produce'' to changes in capacity, DoD is creating uncertainty and discourages potential investors from building or maintaining domestic production.

Several respondents also commented that there are already existing statutory authorities (i.e., the nonavailability and national security exceptions), which should provide sufficient flexibility and make it unnecessary to revisit the issue of the definition of ''produce.''

Response: Since these respondents are all strongly in support of the proposed rule, no change is necessary in the final rule.

3. Other Processes

Comment: One respondent expressed support for DoD's decision to amend the definition of ''produce'' to create a uniform definition for all specialty metals. Several respondents noted that the definition now only includes those technologies that make a significant contribution equivalent to melting, and allows for flexibility and future technology advances that could replace the melt stage for certain specialty metals.

Response: Noted.

Comment: One respondent stated that atomization of metal is not always achieved by using a stream of gas. Atomization may also be achieved by rotating molten metal at high speeds. Therefore, the respondent recommended deletion of the word ''gas'' from the proposed definition of ''produce.''

Response: DoD has removed the word ''gas'' from the final rule.

Comment: The same respondent stated that the final consolidation of metal powders produced through atomization would not be sufficient to confer domestic origin on the resulting article, because the atomization process uses molten metal. Therefore, the metal powder produced through atomization is a melt-derived powder, rather than a non-melt derived powder. The respondent did not request a change to the rule with regard to this issue, but requested clarification in the preamble to the final rule that articles produced from melt-derived metal powders, including metal powders produced through atomization, would have to be consolidated from domestically melted metal powders in order to be considered products of the United States.

Response: DoD has created a vertical list to improve the clarity with regard to the three processes that constitute production, and must therefore be performed in the United States: (i) Atomization; (ii); sputtering; or (iii) final consolidation of non-melt derived powders.

It is very clear that final consolidation only constitutes production with regard to metal powders that are derived by non-melt processes (such as mechanical or chemical processes). It is acceptable for non-melt processes to occur outside the United States, as long as final consolidation occurs in the United States, but any processes involving melting must occur in the United States.

III. 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.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

DoD has issued 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 10 U.S.C. 2533b and to determine if a revision to the current rule was necessary and appropriate.

The objective of the proposed rule is to revise the definition of ''produce'' as it applies to production of specialty metals, in response to comments received and consideration of current technologies for production of specialty metals other than titanium. The legal basis for the rule is 10 U.S.C. 2533b. No significant issues were raised by the public comments in response to the initial regulatory flexibility analysis. There were no comments filed by the Chief Counsel for Advocacy of the Small Business Administration.

The final rule affects primarily producers of specialty metal steel armor plate, and manufacturers that supply steel armor plate that will be incorporated into end items to be acquired by DoD. Producers of specialty metals are generally large businesses. There is a high capitalization requirement to establish a business that can melt or produce specialty metals. The small business size standard for primary metal manufacturing ranges from 500 to 1,000 employees. All the specialty metals producers reviewed had more than 500 employees. There are numerous manufacturers of products containing specialty metals, either as prime contractors or subcontractors. DoD does not have the data to determine the total number of these manufacturers, or the number that are small businesses, because the Federal Procurement Data System only collects data on prime contractors and end items, not subcontractors and components of end items.

There are no projected reporting, recordkeeping, or other compliance requirements.

DoD did not identify any significant alternatives to the rule which would minimize any impact of the rule on

small entities and still meet the requirements of the statute 10 U.S.C. 2533b.

V. 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 252

Government procurement.

Kortnee Stewart,

Editor, Defense Acquisition Regulations System.

Therefore, DoD amends 48 CFR part 252 as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for part 252 continues to read as follows:

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

252.212–7001 [Amended]

■ 2. Section 252.212–7001 is amended by—

■ a. Removing clause date ''(FEB 2013)'' and adding ''(MAR 2013)'' in its place; and

■ b. In paragraph (b)(7), by removing the clause date ''(JUL 2009)'' and adding ''(MAR 2013)'' in its place; and

■ c. In paragraph (b)(8), by removing the clause date ''(JUN 2012)'' and adding ''(MAR 2013)'' in its place.

■ 3. Section 252.225–7008 is amended by—

■ a. Removing clause date ''(JUL 2009)'' and adding ''(MAR 2013)'' in its place; and

■ b. Removing the numerical designations preceding the definition headings of ''Alloy''; ''Produce''; ''Specialty metal''; and ''Steel''.

■ c. Revising the definition of ''Produce'' in paragraph (a) to read as follows:

252.225–7008 Restriction on Acquisition of Specialty Metals.

* * * * *

(a) * * *

Produce means—

(i) Atomization;

(ii) Sputtering; or

(iii) Final consolidation of non-melt derived metal powders.

* * * * *

■ 4. Section 252.225–7009 is amended by—

■ a. Removing clause date ''(JUN 2012)'' and adding ''(MAR 2013)'' in its place; and

■ b. Removing the numerical designations preceding the definition headings of ''Alloy''; ''Assembly''; ''Commercial derivative military article''; ''Commercially available off-the-shelf item''; ''Component''; ''Electronic component''; ''End item''; ''High performance magnet''; ''Produce''; ''Qualifying country''; ''Required form''; ''Specialty metal''; ''Steel''; and ''Subsystem''.

■ c. Revising the definition of ''Produce'' in paragraph (a) to read as follows:

252.225–7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals.

* * * * *

(a) * * *

Produce means—

(i) Atomization;

(ii) Sputtering; or

(iii) Final consolidation of non-melt derived metal powders.

* * * * *

252.244–7000 [Amended]

■ 5. Section 252.244–7000 is amended by—

■ a. Removing clause date ''(JUN 2012)'' and adding ''(MAR 2013)'' in its place; and

■ b. In paragraph (b), by removing the clause date ''(JUN 2012)'' and adding ''(MAR 2013)'' in its place.

[FR Doc. 2013–07107 Filed 3–27–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 120313185–3252–01]

RIN 0648–BC01

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Trawl Rationalization Program; Reconsideration of Allocation of Whiting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This action revises several portions of the Pacific Coast Groundfish Fishery Trawl Rationalization Program (program) regulations in response to a court order requiring the National Marine Fisheries Service (NMFS) to reconsider the initial allocation of Pacific whiting (whiting) to the shorebased individual fishing quota (IFQ) fishery and the at-sea mothership fishery. Additionally, NMFS concludes after review of public comments and the record as a whole, that the Pacific Fishery Management Council's (Council's) recommendation to maintain the existing initial allocations of whiting is consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP), and other applicable law. This final rule will affect the transfer of quota share (QS) and individual bycatch quota (IBQ) between QS accounts in the shorebased IFQ fishery, and severability of catch history assignments (CHAs) in the mothership fishery, both of which will be allowed on specified dates, with the exception of widow rockfish. Widow rockfish is no longer an overfished species and transfer of QS for this species will be reinstated pending reconsideration of the allocation of widow rockfish QS in a future action. The divestiture period for widow rockfish QS in the IFQ fishery will also be delayed indefinitely.

DATES: This rule is effective April 1, 2013.

ADDRESSES: Information relevant to this final rule, which includes a final environmental assessment (EA), and a final regulatory flexibility analysis (FRFA), including a regulatory impact review (RIR), are available from William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Electronic copies of this final rule are also available at the NMFS Northwest Region Web site: *http://www.nwr.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Ariel Jacobs, 206–526–4491; (fax) 206–526–6736; *Ariel.Jacobs@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

This final rule revises several provisions of the Pacific coast trawl rationalization program and supersedes regulatory delays and/or revisions NMFS established through temporary emergency action in a final rule published on August 1, 2012 (77 FR 45508), and extended on January 17, 2013 (78 FR 3848). Specifically, this action will:

(1) Allow transfer of QS or IBQ (except for widow rockfish QS) between QS permit holders in the shorebased IFQ fishery beginning January 1, 2014;

(2) Require QS permit holders in the shorebased IFQ fishery holding QS or