

232.502-1 [Amended]

■ 13. Section 232.502-1 is amended in paragraph (b)(1) by removing "\$50,000" and adding in its place "\$55,000".

PART 237—SERVICE CONTRACTING**237.170-2 [Amended]**

■ 14. Section 237.170-2 is amended in paragraphs (a)(1) and (2) by removing "\$50,000,000" and adding in its place "\$78.5 million".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 15. Section 252.209-7004 is amended by revising the clause date and paragraph (a) to read as follows:

252.209-7004 Subcontracting with Firms That are Owned or Controlled by the Government of a Terrorist Country.

* * * * *

Subcontracting With Firms That are Owned or Controlled by the Government of a Terrorist Country (Dec 2006)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of \$30,000 with a firm, or a subsidiary of a firm, that is identified in the Excluded Parties List System as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

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252.225-7003 [Amended]

■ 16. Section 252.225-7003 is amended as follows:

■ a. By revising the clause date to read "(DEC 2006)";

■ b. In paragraph (b)(1) by removing "\$10 million" and adding in its place "\$11.5 million"; and

■ c. In paragraph (b)(2)(i) by removing "\$500,000" and adding in its place "\$550,000".

252.225-7004 [Amended]

■ 17. Section 252.225-7004 is amended as follows:

■ a. By revising the clause date to read "(DEC 2006)"; and

■ b. In paragraph (b)(1) by removing "\$500,000" and adding in its place "\$550,000".

252.225-7006 [Amended]

■ 18. Section 252.225-7006 is amended as follows:

■ a. By revising the clause date to read "(DEC 2006)"; and

■ b. In paragraph (f)(1) by removing "\$500,000" and adding in its place "\$550,000".

252.232-7009 [Amended]

■ 19. Section 252.232-7009 is amended as follows:

■ a. By revising the clause date to read "(DEC 2006)"; and

■ b. By removing "\$2,500" and adding in its place "the micro-purchase threshold in Part 2 of the Federal Acquisition Regulation,".

252.249-7002 [Amended]

■ 20. Section 252.249-7002 is amended as follows:

■ a. By revising the clause date to read "(DEC 2006)"; and

■ b. In paragraph (d)(1) by removing "\$500,000" and adding in its place "\$550,000".

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DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Parts 225 and 252**

RIN 0750-AF17

Defense Federal Acquisition Regulation Supplement; Restriction on Carbon, Alloy, and Armor Steel Plate (DFARS Case 2005-D002)

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

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the restriction on the acquisition of foreign carbon, alloy, or armor steel plate. The restriction implements provisions of annual DoD appropriations acts.

DATES: *Effective Date:* December 19, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0328; facsimile (703) 602-0350. Please cite DFARS Case 2005-D002.

SUPPLEMENTARY INFORMATION:**A. Background**

Section 8111 of the Fiscal Year 1992 DoD Appropriations Act (Pub. L. 102-172) and similar sections in subsequent

DoD Appropriations Acts (the most recent being Section 8024 of Pub. L. 109-289) contain a restriction on the acquisition of carbon, alloy, or armor steel plate, that is not melted and rolled in the United States or Canada, for use in any Government-owned facility or property under the control of the Department of Defense. This restriction is implemented in the DFARS at 225.7011-1 through 225.7011-3 and in the corresponding contract clause at 252.225-7030.

DoD published a proposed rule at 70 FR 73189 on December 9, 2005, to clarify the applicability of the restriction. Two respondents provided comments on the proposed rule. One of the respondents applauded DoD's initiative to clarify the restriction and recommended adoption of the rule as proposed. The other respondent raised two issues regarding the proposed rule. A discussion of these issues is provided below.

1. *Property under the control of DoD.* The respondent interpreted the statutory phrase "property under the control of the Department of Defense" to mean personal property as well as real property, and recommended amendment of the rule to reflect this interpretation.

DoD has not adopted this recommendation, as DoD believes that limitation of the restriction to real property is consistent with the statutory provisions; and that, if the statutory phrase "for use in any * * * property under the control of the Department of Defense" were intended to include all personal property controlled by DoD, the words of the statute "for use in any Government-owned facility" would be without added meaning. The current interpretation of the statute has been in use since 1992 without objection.

2. *Use as a raw material.* The respondent stated that the rule's limitation of the restriction to plate used as a "raw material" sets a limitation that does not appear in the statute. In addition, the respondent stated that carbon, alloy, and armor steel plate is not a "raw material"; it is a finished steel mill product that can be used "as is" in certain applications or as an intermediate material for the fabrication of other products. Therefore, the respondent recommended that the phrase "as a raw material" be removed from the rule.

DoD notes that the phrase "as a raw material" has been in the clause at 252.225-7030 since 1992 without objection. The phrase was added to the clause as a result of a public comment submitted by an industry association in response to the interim rule published

at 57 FR 14988 on April 23, 1992 (Defense Acquisition Circular 91-2, Item XI). The industry association did not believe that the statute was intended to apply to end items (hardware) delivered to the Government and used in Government facilities. The association recommended revision of the prescriptive language to require application of the clause to only those contracts for the direct acquisition of carbon, alloy, or armor steel plate. As a result, the final rule published at 57 FR 53596 on November 12, 1992 (Defense Acquisition Circular 91-4, Item XI), required application of the clause to carbon, alloy, and armor steel plate furnished as a deliverable under the contract or purchased by the contractor as a raw material. The statutory language addressing use of the plate in a Government-owned facility or property under the control of DoD expresses an intent not to apply the restriction to the manufacture of items in the plants of commercial contractors. For example, the restriction should not apply if a contractor acquires a machine tool for use in a Government-owned facility, if the machine tool is manufactured by another contractor in a facility that is not Government-owned. DoD has amended the rule to make this concept clearer, without use of the term "raw material".

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. 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.*, because the rule clarifies existing policy regarding the statutory restriction on the acquisition of foreign carbon, alloy, or armor steel plate.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,
Editor, *Defense Acquisition Regulations System.*

■ Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

■ 2. Section 225.7011-1 is revised to read as follows:

225.7011-1 Restriction.

(a) In accordance with Section 8111 of the Fiscal Year 1992 DoD Appropriations Act (Pub. L. 102-172) and similar sections in subsequent DoD appropriations acts, do not acquire any of the following types of carbon, alloy, or armor steel plate for use in a Government-owned facility or a facility under the control of (*e.g.*, leased by) DoD, unless it is melted and rolled in the United States or Canada:

(1) Carbon, alloy, or armor steel plate in Federal Supply Class 9515.

(2) Carbon, alloy, or armor steel plate described by specifications of the American Society for Testing Materials or the American Iron and Steel Institute.

(b) This restriction—

(1) Applies to the acquisition of carbon, alloy, or armor steel plate as a finished steel mill product that may be used "as is" or may be used as an intermediate material for the fabrication of an end product; and

(2) Does not apply to the acquisition of an end product (*e.g.*, a machine tool), to be used in the facility, that contains carbon, alloy, or armor steel plate as a component.

■ 3. Section 225.7011-3 is amended by revising paragraph (a) to read as follows:

225.7011-3 Contract clause.

* * * * *

(a) Require the delivery to the Government of carbon, alloy, or armor steel plate that will be used in a Government-owned facility or a facility under the control of DoD; or

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Section 252.225-7030 is revised to read as follows:

252.225-7030 Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate.

As prescribed in 225.7011-3, use the following clause:

Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate (DEC 2006)

(a) Carbon, alloy, and armor steel plate shall be melted and rolled in the

United States or Canada if the carbon, alloy, or armor steel plate—

(1) Is in Federal Supply Class 9515 or is described by specifications of the American Society for Testing Materials or the American Iron and Steel Institute; and

(2)(i) Will be delivered to the Government for use in a Government-owned facility or a facility under the control of the Department of Defense; or

(ii) Will be purchased by the Contractor for use in a Government-owned facility or a facility under the control of the Department of Defense.

(b) This restriction—

(1) Applies to the acquisition of carbon, alloy, or armor steel plate as a finished steel mill product that may be used "as is" or may be used as an intermediate material for the fabrication of an end product; and

(2) Does not apply to the acquisition of an end product (*e.g.*, a machine tool), to be used in the facility, that contains carbon, alloy, or armor steel plate as a component.

(End of clause)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990506119-9236-02; I.D. 121106C]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2006 Red Snapper Commercial Fishery

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined the fall portion of the annual commercial quota for red snapper will have been reached by December 26, 2006. This closure is necessary to protect the red snapper resource.

DATES: Closure is effective noon, local time, December 26, 2006, until 12:01 a.m., local time, on January 1, 2007.

FOR FURTHER INFORMATION CONTACT: Jason Rueter, telephone 727-824-5350,