

- 5. Amend section 252.227–7037 by—
- a. Removing the clause date “(JUN 2013)” and adding “(SEP 2016)” in its place; and
- b. Revising paragraphs (b)(1) and (2).

The revisions read as follows:

252.227–7037 Validation of restrictive markings on technical data.

* * * * *

(b) * * *

(1) *Commercial items.* (i) Except as provided in paragraph (b)(2) of this clause, the Contracting Officer will presume that the Contractor’s or a subcontractor’s asserted use or release restrictions with respect to a commercial item is justified on the basis that the item was developed exclusively at private expense.

(ii) The Contracting Officer will not challenge such assertions unless the Contracting Officer has information that demonstrates that the commercial item was not developed exclusively at private expense.

(2) *Major weapon systems.* In the case of a challenge to a use or release restriction that is asserted with respect to data of the Contractor or a subcontractor for a major weapon system or a subsystem or component thereof on the basis that the major weapon system, subsystem, or component was developed exclusively at private expense—

(i) The presumption in paragraph (b)(1) of this clause applies to—

(A) A commercial subsystem or component of a major weapon system, if the major weapon system was acquired as a commercial item in accordance with DFARS subpart 234.70 (10 U.S.C. 2379(a));

(B) A component of a subsystem, if the subsystem was acquired as a commercial item in accordance with DFARS subpart 234.70 (10 U.S.C. 2379(b)); and

(C) Any other component, if the component is a commercially available off-the-shelf item or a commercially available off-the-shelf item with modifications of a type customarily available in the commercial marketplace or minor modifications made to meet Federal Government requirements; and

(ii) In all other cases, the challenge to the use or release restriction will be sustained unless information provided by the Contractor or a subcontractor demonstrates that the item or process was developed exclusively at private expense.

* * * * *

[FR Doc. 2016–22570 Filed 9–22–16; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[Docket DARS–2016–0032]

RIN 0750–AJ07

Defense Federal Acquisition Regulation Supplement: New Designated Country—Moldova (DFARS Case 2016–D028)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add Moldova as a new designated country under the World Trade Organization Government Procurement Agreement.

DATES: Effective September 23, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, telephone 571–372–6176.

SUPPLEMENTARY INFORMATION:

I. Background

On June 29, 2016, the World Trade Organization (WTO) Committee on Government Procurement approved the accession of Moldova to the WTO Government Procurement Agreement (GPA). This rule adds Moldova to the list of WTO GPA countries wherever it appears in the DFARS, as part of the definition of “designated country”.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule only updates the list of designated countries in the DFARS by adding the newly designated country of Moldova. The definition of “designated country” is updated in each of the following clauses; however, this revision does not impact the clause prescriptions for use, or applicability at or below the simplified acquisition threshold, or applicability to commercial items. The clauses are: DFARS 252.225–7017, Photovoltaic Devices; DFARS 252.225–7021, Trade Agreements; and DFARS 252.225–7045, Balance of Payments Program—Construction Material Under Trade Agreements.

III. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41 U.S.C. 1707 entitled “Publication of Proposed Regulations.” Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it is just updating the lists of designated countries in order to reflect that Moldova is now a member of the WTO GPA. These requirements affect only the internal operating procedures of the Government.

IV. 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.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

VI. Paperwork Reduction Act

This rule affects the information collection requirements in the provisions at DFARS 252.225–7018, Photovoltaic Devices—Certificate, and 252.225–7020, Trade Agreements Certificate, currently approved under OMB Control Number 0704–0229, entitled “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). The impact, however, is negligible, because the rule only affects the response of an offeror that is offering a product of Moldova in an acquisition that exceeds \$191,000. In 252.225–7018, the offeror of a product from Moldova must now check a box at (d)(6)(i) of the provision. However, the offeror no longer needs to list a product from Moldova under “other end products” at 252.225–7020(c)(2), because Moldova is now a designated country.

List of Subjects in 48 CFR Part 252

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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

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

252.225–7017 [Amended]

- 2. Amend section 252.225–7017 by—
- a. Removing the clause date of “(AUG 2016)” and adding “(SEP 2016)” in its place; and
- b. In paragraph (a), in the definition of “designated country” in paragraph (i), adding, in alphabetical order, the country of “Moldova”.

252.225–7021 [Amended]

- 3. Amend section 252.225–7021 by—
- a. In the basic clause—
- i. Removing the clause date of “(AUG 2016)” and adding “(SEP 2016)” in its place;
- ii. In paragraph (a), in the definition of “designated country” in paragraph (i), adding, in alphabetical order, the country of “Moldova”;
- b. In the Alternate II clause—
- i. Removing the clause date of “(AUG 2016)” and adding “(SEP 2016)” in its place; and
- ii. In paragraph (a), in the definition of “designated country” in paragraph (i), adding, in alphabetical order, the country of “Moldova”.

252.225–7045 [Amended]

- 4. Amend section 252.225–7045 by—
- a. In the basic clause—
- i. Removing the clause date of “(JUN 2016)” and adding “(SEP 2016)” in its place;

- ii. In paragraph (a), in the definition of “designated country” in paragraph (i), adding, in alphabetical order, the country of “Moldova”;
- b. In the Alternate I clause—
- i. Removing the clause date of “(JUN 2016)” and adding “(SEP 2016)” in its place;
- ii. In paragraph (a), in the definition of “designated country” in paragraph (i), adding, in alphabetical order, the country of “Moldova”;
- c. In the Alternate II clause—
- i. Removing the clause date of “(JUN 2016)” and adding “(SEP 2016)” in its place;
- ii. In paragraph (a), in the definition of “designated country” in paragraph (i), adding, in alphabetical order, the country of “Moldova”;
- d. In the Alternate III clause—
- i. Removing the clause date of “(JUN 2016)” and adding “(SEP 2016)” in its place;
- ii. In paragraph (a), in the definition of “designated country” in paragraph (i), adding, in alphabetical order, the country of “Moldova”.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA–2016–0234]

RIN 2126–AB94

Parts and Accessories Necessary for Safe Operation; Windshield-Mounted Technologies

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) to allow the voluntary mounting of certain devices on the interior of the windshields of commercial motor vehicles (CMVs), including placement within the area that is swept by the windshield wipers. Section 5301 of the Fixing America’s Surface Transportation (FAST) Act directs the Agency to amend the FMCSRs to allow devices to be mounted on the windshield that utilize “vehicle safety technology,” as defined in the Act. In addition, the section 5301 states that all windshield mounted devices/ technologies with a limited 2-year exemption in effect on the date of enactment, shall be considered to meet

the equivalent-or-greater safety standard required for the initial exemption. Promulgation of this final rule is a nondiscretionary, ministerial action that does not require prior notice and public comment under the Administrative Procedure Act (APA).

DATES: This final rule is effective October 24, 2016.

Petitions for Reconsideration of this final rule must be submitted to the FMCSA Administrator no later than October 24, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions on this final rule, call or email Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, telephone: 202–366–0676; luke.loy@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone 202–366–0676.

SUPPLEMENTARY INFORMATION: This Final Rule is organized as follows:

- I. Executive Summary
- II. Abbreviations
- III. Legal Basis
- IV. Background
- V. FAST Act—Windshield Technology
- VI. Discussion of Final Rule
- VII. International Impacts
- VIII. Section-by-Section
- IX. Regulatory Analyses
 - A. E.O. 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)
 - B. Regulatory Flexibility Act (Small Entities)
 - C. Assistance for Small Entities
 - D. Unfunded Mandates Reform Act of 1995
 - E. Paperwork Reduction Act (Collection of Information)
 - F. E.O. 13132 (Federalism)
 - G. E.O. 12988 (Civil Justice Reform)
 - H. E.O. 13045 (Protection of Children)
 - I. E.O. 12630 (Taking of Private Property)
 - J. Privacy
 - K. E.O. 12372 (Intergovernmental Review)
 - L. E.O. 13211 (Energy Supply, Distribution, or Use)
 - M. E.O. 13175 (Indian Tribal Governments)
 - N. National Technology Transfer and Advancement Act (Technical Standards)
 - O. Environment (NEPA, CAA, E.O.12898 Environmental Justice)

I. Executive Summary

Section 5301 of the FAST Act, enacted on December 4, 2015, but made effective on October 1, 2015, pursuant to section 1003, directs the Secretary to revise 49 Code of Federal Regulations (CFR) 393.60(e) relating to the prohibition on obstructions to the driver’s field of view, to provide an exception for the voluntary mounting on a windshield of “vehicle safety technology” likely to achieve a level of