

What is the Berry Amendment?

The Berry Amendment USC, Title 10, Section 2533a, requires the Department of Defense to give preference in procurement to domestically produced, manufactured, or home grown products, most notably food, clothing, fabrics, and specialty metals. Congress originally passed domestic source restrictions as part of the 1941 Fifth Supplemental DOD Appropriations Act in order to protect the domestic industrial base in the time of war. The Defense Federal Acquisition Regulation Supplement DFARS was amended to include exceptions for the acquisition of food, specialty metals, and hand or measuring tools when needed to support contingency operations or when the use of other-than-competitive procedures is based on an unusual and compelling urgency. The specialty metals provision was added in 1973. This provision requires that specialty metals incorporated in products delivered under DOD contracts to be melted in the United States or a “qualifying country”. Specialty metals include certain steel, titanium, zirconium and other metal alloys that are important to the DOD.

What does DFARS stand for?

DFARS is a well-known example of an agency supplement of the FAR, Federal Acquisition Regulations. DFARS is used by the Department of Defense. DFARS 252.225-7014 Preference for Domestic Specialty Metals was issued under the office of the Secretary of Defense for Acquisition and Logistics. The basic requirements of DFARS include that in order for a US company to use Specialty Metals, the metals must be melted in the United States or a qualifying country. When DFARS is included as part of a purchase order it invokes the Berry Amendment, also known as the Preference for Domestic Specialty Metals. It requires that the material used in the manufacture of the fasteners in the United States be melted in the United States or a qualifying country.

What are Qualifying Countries?

A qualifying country, according to DFARS, means any country listed in subsection 225.872-1 of the Defense Federal Acquisition Regulation Supplement. The qualifying countries listed under DFARS are Australia, Belgium, Canada, Denmark, Egypt, Germany, France, Greece, Israel, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom and Northern Ireland.

What are Specialty Metals according to DFARS?

- A. Steel with a maximum alloy content exceeding one or more of the following limits. Manganese, 1.65%, Silicon, 0.60%, or Copper, 0.60%, or containing more than 0.25% of any of the following elements. Aluminum, Chromium, Cobalt, Columbium, Molybdenum, Nickel, Titanium, Tungsten, or Vanadium.
- B. Metal alloys consisting of Nickel, Iron-Nickel, and Cobalt base alloys containing a total of other alloying metals except Iron in excess of ten percent, or Titanium and titanium alloys or zirconium and zirconium base alloys.