



December 3, 2002

Defense Acquisition Regulations Council
Attn: Ms. Amy Williams
OUSD (AT&L) DP (DAR)
IMD 3C132
3062 Defense Pentagon
Washington, DC 20301-3062

Re: DFARS Case 2002-D009

Dear Ms. Williams,

I am writing in response to the October 7 *Federal Register* notice requesting public comments on the proposed rule to make changes to the Defense Federal Acquisition Regulation Supplement (DFARS) regarding Foreign Acquisition.

NEMA is the largest trade association representing the interests of U.S. electrical industry manufacturers. Our more than 450 member companies manufacture products used in the generation, transmission, distribution, control, and use of electricity. These products are used in utility, industrial, commercial, institutional and residential installations. Annual shipments exceed \$100 billion in value.

We offer the following comments in support of specific aspects of the Proposed Rule:

NEMA supports the changes proposed under Case 2002-D008, Trade Agreements Act – Exception for U.S.-Made End Products. The proposed exception at 225.103 (a)(1)(B) of the proposed rule would eliminate the disadvantage U.S.-made end products made with foreign components suffer against some foreign-made products that are already exempt from the Buy American Act (BAA) under the Trade Agreements Act. The prevention of such unfavorable treatment of U.S.-made products would certainly be in the “public interest,” as that term is used in the BAA. The proposed exception would also relieve companies of the burdensome record-keeping necessary to certify the origin of the components in their U.S.-made end products.

NEMA supports changing the definition of “qualifying country end product” (QCEP) to permit the qualifying country manufacturing the product to use

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components from another qualifying country. This change recognizes the multi-national realities of many manufacturing and assembly operations and removes the restriction that a qualifying country end product's components be manufactured in the same qualifying country.

NEMA supports lowering approval levels for domestic nonavailability and public interest determinations. Lowering the thresholds for consideration of nonavailability and public interest determinations also takes into account the increasingly global nature of manufacturing operations and addresses the short-supply or nonavailability situations that can result when production moves offshore.

NEMA applauds and encourages the announcement made under "Background" in the Proposed Rule that DoD is preparing an on-line training module to assist in understanding DFARS Part 225. We have previously contributed explanatory material to the Undersecretary's Office of Defense Procurement, Foreign Contracting with real-life examples of procurement situations in which the Buy American regulations were misunderstood or misinterpreted to the cost of the Department in time and funds. We look forward to providing additional assistance as needed.

Thank you for the opportunity to comment. We look forward to continuing to work with you on the Buy American Act and other procurement issues as they affect NEMA members.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy P. Feldman", with a stylized flourish at the end.

Timothy P. Feldman
Vice President, Government Affairs