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The following commercial specification is an original Parachute Industry Association specification.

REPORTING AND VERIFICATION OF BERRY COMPLIANCE AS RELATED TO TEXTILE PRODUCTS

Background: Title 10 Section 2533a of the U.S. Code, popularly known as “the Berry Amendment” requires the Department of Defense (DoD) to give preference in procurement to domestically produced, manufactured, or home grown products, notably food, clothing, fabrics, and specialty metals. Together with the regulations promulgated in The Defense Federal Acquisition Regulation Supplement (DFARS) implementing the Berry Amendment, Title 10 Section 2533a, shall hereinafter be referred to as “Berry” or the “Berry Amendment”.

The following commercial standard has been developed to provide a standardized method of reporting compliance with the requirements established by public law and related implementing regulations associated with the Berry Amendment.

1. SCOPE

1.1 Scope. This document establishes standard practice for reporting and verification of Berry Amendment compliance as related to textile products

1.2 Purpose. The purpose of this standard is to establish uniform requirements for reporting and verification of Berry compliance by vendors of textile materials and end products and their customers. This document is not intended to provide all information necessary to fully understand the requirements included in the laws and regulations associated with the Berry Amendment. It is imperative that anyone conducting business with the U.S. Military where these regulations apply obtain a full understanding of these laws and regulations to ensure all aspects are complied with in the performance of contracts.

1.3 Application. This document applies when procurement of textile items are made which includes or governed by the requirement to certify compliance with 10USC 2533a, DFAR 225.7000, and DFAR 252.225-7012, commonly known as the “Berry Amendment” as related to textile products.

2.0 APPLICABLE DOCUMENTS

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2.1 General. The documents listed in this section are specified in Sections 3 and 4 of this specification. This section does not include documents cited in other sections of this specification nor is it recommended for additional information or as examples. While every effort has been made to ensure the completeness of this list, document users are cautioned that they must meet all specified requirements of the documents cited in Sections 3 and 4 of this specification, whether or not they are listed

2.2 Government documents.

2.2.1 Specifications, standards, and handbooks. The following provisions of law, regulation, specifications, standards, and handbooks form a part of this document to the extent specified herein.

REGULATIONS

DFAR 225.7000

DFAR 252.225- 7012

(Unless otherwise indicated, copies of the above specifications and standards are available from the Standardization Documents Order Desk, 700 Robbins Avenue, Building 4D, Philadelphia, PA 19111-5094. Electronic copies of military and federal standards and specifications may be obtained from <http://astimage.daps.dla.mil/quicksearch/>.)

2.2.2 Other Government publications. The following other Government publications form a part of this document to the extent specified herein. Unless otherwise specified, the issues are those cited in the solicitation (see 6.2).

FEDERAL TRADE COMMISSION (FTC)

Title 10 Subtitle A, Part IV, Chapter 148, Subchapter V, 2533a

(Copies are available online at: www.ftc.gov or from the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580-0001.)

2.3 Non-government publications. None.

2.4 Revision levels of subsidiary documents. The documents listed in Section 2 shall be defined as subsidiary documents which are: Defense and Federal specifications and standards, other government documents, and non-government publications. Unless otherwise specified by the procuring activity, the applicable revision level of subsidiary documents shall be the latest revision level in effect as of the date of the contract that specifies the use of this document. The latest revision in effect for subsidiary documents are found in the Acquisition Streamlining and Standardization Information System (ASSIST) database located at: <http://dodssp.daps.dla.mil/assist.htm>.

2.5 Order of precedence. In the event of a conflict between the text of this document and the references cited herein, the text of this document takes precedence. Nothing in this document, however, supersedes applicable laws and regulations unless a specific exemption has been obtained.

3. DEFINITIONS

3.1 Berry Amendment. The Berry Amendment requires the Department of Defense (DoD) to procure only domestically produced, manufactured, or home grown products, except when certain exceptions apply. Specifically, in accordance with 10 USC Sec. 2533a funds appropriated or otherwise available to the Department of Defense may not be used for the procurement of the following items if the subject item was not grown, reprocessed, reused, or produced in the U.S. (unless an exception applies): (a) an article or item of clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof); (b) tents, tarpaulins, or covers; (c) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or (d) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

3.2 Exceptions. In accordance with DFAR 225.7002-2, the requirements of the Berry Amendment do not apply in the following relevant instances:

- a. Acquisition at or below the Simplified Acquisition Threshold (SAT, currently \$100,000);
- b. Acquisitions if the Secretary concerned determines that items grown, reprocessed, reused, or produced in the United States cannot be acquired as and when needed in a satisfactory quality and sufficient quantity at U.S. market prices;
- c. Acquisitions outside the United States in support of combat operations;
- d. Emergency acquisitions by activities located outside the United States for personnel of those activities;
- e. To end products incidentally incorporating cotton, other natural fibers, or wool, for which the estimated value of the cotton, other natural fibers, or wool (i) is not more than 10 percent of the total price of the end product; and (ii) does not exceed the simplified acquisition threshold;
- f. Purchases of specialty metals by subcontractors at any tier for programs other than certain end items (not including parachutes);
- g. To fibers and yarns that are for use in synthetic fabric or coated synthetic fabric (but does apply to the synthetic or coated synthetic fabric itself), if (i) the fabric is to be used as a component of an end product that is not a textile product (but parachutes are specifically included in this section as items which are textile products) or (ii) the fibers and yarns are para-aramid fibers and yarns manufactured in the Netherlands.

3.3 Availability Exception. Berry compliance may be deemed to not apply if the Secretary of Defense or the Secretary of the relevant military department determines that satisfactory quality and sufficient quantity of any such article or item specified as requiring Berry Compliance cannot be procured as and when needed at United States market prices. In this instance, non-compliant material may only be used if a Domestic Non-availability Determination (DNAD) has been approved by the Office of the Secretary of Defense.

3.4 Raw Materials. Raw materials have been defined for the purposes of Berry compliance to be as follows:

- a. Natural fibers such as cotton and wool must be grown within the U.S. and be processed into a weave-able yarn with U.S. processes;
- b. Synthetic fibers such as nylon are deemed to be Berry compliant if the resin is extruded into filament form and further processed into a weave or knit-able yarn with U.S. processes;
- c. The base raw material, such as pellet or chip, from which synthetic yarn is extruded have been determined to not be governed by the requirements of the Berry Amendment;
- d. Chemical compounds and dyes used to process from fibers to finished fabrics have been determined to not be governed by the requirements of the Berry Amendment.

3.5 Sub-contractor. The term sub-contractor applies to any company or individual who performs any process or manufacturing step to raw materials or end-items and their sub-assemblies.

4. GENERAL REQUIREMENTS

4.1 Responsibility. Prime contractors are required as delineated within public law, 10 USC 2533a and related procurement regulations to provide textile products which are manufactured from materials that are 100% manufactured in the U.S. of U.S. materials (Berry compliant). This requirement is generally included in contract language but applies with equal force in any DoD contract that is for a value of greater than \$100,000 whether by the original contract value or as altered by amendments. It is the responsibility of the prime contractor to purchase materials for the performance of contracts from sources capable of providing materials that are compliant. Prime contractors must therefore pass down to their suppliers the requirements necessary for the contract.

In the event that a contract is below the Simplified Acquisition Threshold, yet still specifies DFAR 252.225- 7012, it is within the contractors rights to request that the requirement be removed.

Material suppliers, in turn, must ensure that their materials and services are procured from sources that are also compliant with all requirements.

4.2 Acceptability. All purchase orders placed by prime contractors for materials to be used in contracts requiring Berry compliance should, at the very least, contain language

communicating that requirement. In order to clearly communicate accepted reporting requirements, this document should also be specified. When those materials are being purchased for a specific military contract, the contract number should be included in the purchasing document. It should also be communicated to material suppliers that there may be other requirements within the military contract that are applicable to the suppliers to comply with including Berry and other requirements. It is recommended that contract language be flowed down through all levels of supplier chains to ensure compliance.

In the event that materials are being purchased by prime contractors for use in producing product to be used for QPL samples, First Articles, or other samples for which a specific military contract does not apply, subcontractors shall not withhold the availability or supporting documentation due to the absence of such contract.

5. DETAIL REQUIREMENTS

5.1 Compliance Processes. Processes shall be documented and implemented at all levels of the supply chain for each material procured in support of products requiring Berry compliance. No one requirement is mandatory. Proof of Berry compliance must be auditable during a period of time that is otherwise required for the maintenance of other documents typical for procurement of items to fulfill government or contract requirements.

5.2 Acceptance Criteria. General statements by a subcontractor that verify all Berry requirements, Title 10 USC 2533a, or DFAR 225.7000 and DFAR 252.225- 7012 are sufficient to validate the appropriateness of materials or services provided up the supply chain as long as documentation exists showing such to be true. Further documentation may include such things as merge numbers, plant of origin information, or raw material source. Examples of compliance are as follows:

- a. A certificate of origin provided by the yarn producer to the weaver with each shipment. The certificate would specify the merge/s in the shipment. This document would then be forwarded on to be included with the material test and certification documents;
- b. A broad certification issued by the yarn manufacturer listing the origin (US or IMPORT) for multiple merges of multiple yarn types. This certification would be available to all who require it for verification of lot compliance. Best would be for this to be a PDF document available for download. The documents could be housed either at a central site or each manufacturer's site. The Berry Certificate of Compliance from the materials vendor would include the merge number/s used so they can be verified against the yarn certification;
- c. The origin data would be part of, or included with, a Berry Certificate of Compliance.

This compliance statement may read as follows (or equivalent):

“I CERTIFY THAT ALL TEXTILE PRODUCTS (INCLUDING SYNTHETIC FABRIC, SYNTHETIC FIBER AND YARN, COTTON AND OTHER NATURAL FIBER PRODUCTS, CANVAS, AND WOOL FIBER AND FABRICS) HAVE BEEN GROWN, REPROCESSED, REUSED, OR PRODUCED IN THE UNITED STATES AND OTHERWISE COMPLY WITH THE PROVISIONS OF DFAR 252.225-7012, PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES.”

Followed by...

“ITEMS IN THIS SHIPMENT WERE MANUFACTURED FROM THE FOLLOWING YARN MERGE NUMBERS:

WARP FILL”

5.3 Audit Requirements. Prime contractors are responsible to ensure that subcontractors have in place sufficient systems to ensure that in the event an audit was conducted by a military or government agency, sufficient evidence would be available to document compliance. This can be accomplished by the prime contractor conducting an audit, or requiring documentation of the procedures followed by subcontractors accompanied by validation that these procedures will be strictly followed.

5.4 Notice to Government Quality Assurance Representative. In addition to certification by the prime contractor that the product manufactured and presented for delivery to the government is fully Berry compliant, the government Quality Assurance Representative may request to review documentation that reflects the compliance of subcontractors.

6. NOTES (NOT APPLICABLE)

Notice: This document is being maintained as a commercial specification by the Parachute Industry Association. Orders, inquiries and comments should be addressed to PIA, Specifications Committee via e-mail at: specs@pia.com or to our website: www.pia.com.

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