

PART II—DoD Issues Final Counterfeit DFARS Rule

The final DoD DFARS rule on the “Detection and Avoidance of Counterfeit Electronic Parts” prescribes the policy that contractors that are subject to the Cost Accounting Standards (CAS) are required to establish and maintain. ECIA members should pay particular attention to the required detection and avoidance requirements placed on contractors because DoD clearly states in the comments section of the final rule: “The final rule flows down the requirements to all subcontractors of prime CAS-covered contractors, **at all tiers**, without regard to whether the subcontractor itself is subject to CAS **or is a commercial item**.” (Emphasis added)

The rule stipulates the minimum risk-based policies and procedures that contractors must have in place to detect and avoid counterfeit electronic parts:

- 1) The training of personnel.
- 2) The inspection and testing of electronic parts, including criteria for acceptance and rejection.
- 3) Processes to abolish counterfeit parts proliferation.
- 4) Processes for maintaining electronic part traceability.
- 5) Use of suppliers that are the original manufacturer, sources with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer or suppliers that obtain parts exclusively from one or more of these sources.
- 6) The reporting and quarantining of counterfeit electronic parts and suspect counterfeit electronic parts.
- 7) Methodologies to identify suspect counterfeit electronic parts and to rapidly determine if a suspect counterfeit electronic part is, in fact, counterfeit.
- 8) Design, operation, and maintenance of systems to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts.
- 9) Flow down of counterfeit detection and avoidance requirements.
- 10) Process for keeping continually informed of current counterfeiting information and trends.
- 11) Process for screening the Government-Industry Data Exchange Program (GIDEP) reports and other credible sources of counterfeiting information.
- 12) Control of obsolete electronic parts.

Due to the flow-down requirements, ECIA members can expect contractors to look for these elements in the policies of component manufacturer and authorized distributors. In particular, members should note elements: #4—traceability; #5—acceptable suppliers; #6—quarantining; #7—testing methodologies; #10—staying informed; and #12—obsolete parts.

Contractor should have processes for tracking parts (#4) back to the original manufacturer. The traceability process shall include certification and traceability documentation developed in accordance with government and industry standards. The documentation should include the name and location of all supply chain intermediaries and, where available, manufacturer’s batch identifiers such as date codes, lot codes or serial numbers.

Element #5 takes the place of the deleted definition “legally authorized source.” This criteria uses the phrases “sources with the express written authority of the original manufacturer” and “suppliers that obtain parts exclusively from one or more of these sources.”

Element #6 requires that counterfeit and suspect counterfeit electronic parts not be returned to the seller or returned to the supply chain until the parts are determined to be authentic.

DoD focused on traceability without mandating the use of a particular testing methodology (#7). However, DoD noted that existing DFARS require an item unique identification (IUID) for items with an acquisition cost of \$5,000 or more.

Element #10 is DoD's response to suggestions that industry standards be incorporated in the rule. DoD noted that industry standards could be used for the development and implementation of internal counterfeit parts detection and avoidance systems, but did not mandate the use of a particular standard.

The rule noted that detailed guidance regarding mechanisms for controlling obsolete parts was outside the scope of the DFARS. However, the supply chain is still expected to have systems in place to control obsolete parts.

DoD also announced there will be a public meeting to discuss further implementation of the "Detection and Avoidance of Counterfeit Electronic Parts." The meeting will focus on defining "trusted supplier."