

Excerpt of Section 711 of H. R. 810 “National Aeronautics and Space Administration Authorization Act of 2015.”

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114TH CONGRESS
1ST SESSION

H. R. 810

IN THE SENATE OF THE UNITED STATES

February 11, 2015

Received; read twice and referred to the Committee on Commerce, Science, and Transportation

AN ACT

To authorize the programs of the National Aeronautics and Space Administration, and for other purposes.

Section 1. Short title; table of contents

(a) Short title.—

This Act may be cited as the “National Aeronautics and Space Administration Authorization Act of 2015”.

711. Detection and avoidance of counterfeit electronic parts

(a) Regulations. —

(1) In general. —

Not later than 270 days after the date of enactment of this Act, the Administrator shall revise the National Aeronautics and Space Administration Supplement to the Federal Acquisition Regulation to address the detection and avoidance of counterfeit electronic parts.

(2) Contractor responsibilities

The revised regulations issued pursuant to paragraph (1) shall provide that—

(A) Administration contractors who supply electronic parts or products that include electronic parts are responsible for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts in such products and

for any rework or corrective action that may be required to remedy the use or inclusion of such parts; and

- (B) the cost of counterfeit electronic parts and suspect counterfeit electronic parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts are not allowable costs under Administration contracts, unless—
 - (i) the covered contractor has an operational system to detect and avoid counterfeit parts and suspect counterfeit electronic parts that has been reviewed and approved by the Administration or the Department of Defense;
 - (ii) the covered contractor provides timely notice to the Administration pursuant to paragraph (4); or
 - (iii) the counterfeit electronic parts or suspect counterfeit electronic parts were provided to the contractor as Government property in accordance with part 45 of the Federal Acquisition Regulation.

(3) Suppliers of electronic parts

The revised regulations issued pursuant to paragraph (1) shall—

- (A) require that the Administration and Administration contractors and subcontractors at all tiers—
 - (i) obtain electronic parts that are in production or currently available in stock from the original manufacturers of the parts or their authorized dealers, or from suppliers who obtain such parts exclusively from the original manufacturers of the parts or their authorized dealers; and
 - (ii) obtain electronic parts that are not in production or currently available in stock from suppliers that meet qualification requirements established pursuant to subparagraph (C);
- (B) establish documented requirements consistent with published industry standards or Government contract requirements for—
 - (i) notification of the Administration; and
 - (ii) inspection, testing, and authentication of electronic parts that the Administration or an Administration contractor or subcontractor obtains from any source other than a source described in subparagraph (A);
- (C) establish qualification requirements, consistent with the requirements of section 2319 of title 10, United States Code, pursuant to which the Administration may identify suppliers that have appropriate policies and procedures in place to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts; and

(D) authorize Administration contractors and subcontractors to identify and use additional suppliers beyond those identified pursuant to subparagraph (C) provided that—

- (i) the standards and processes for identifying such suppliers comply with established industry standards;
- (ii) the contractor or subcontractor assumes responsibility for the authenticity of parts provided by such suppliers as provided in paragraph (2); and
- (iii) the selection of such suppliers is subject to review and audit by appropriate Administration officials.

(4) Timely notification

The revised regulations issued pursuant to paragraph (1) shall require that any Administration contractor or subcontractor who becomes aware, or has reason to suspect, that any end item, component, part, or material contained in supplies purchased by the Administration, or purchased by a contractor or subcontractor for delivery to, or on behalf of, the Administration, contains counterfeit electronic parts or suspect counterfeit electronic parts, shall provide notification to the applicable Administration contracting officer within 30 calendar days.

(b) Report

Not later than 120 days after the revised regulations specified in subsection (a) have been implemented, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report updating the Administration's actions to prevent counterfeit electronic parts from entering the supply chain as described in its October 2011 report pursuant to section 1206(d) of the National Aeronautics and Space Administration Authorization Act of 2010 (42 U.S.C. 18444(d)).

(c) Definition

In this section, the term electronic part means a discrete electronic component, including a microcircuit, transistor, capacitor, resistor, or diode that is intended for use in a safety or mission critical application.