

spacecraft, subject to the EAR to its launch vehicle; and

(ii) For the spacecraft referenced in paragraph (b)(1)(i) of this section, the scheduled launch date must be within six months of when the activities are conducted.

(2) *Exempted activities.* The following activities are eligible for the exemption in this paragraph (b):

(i) The export, reexport, retransfer, or temporary import of the following defense articles:

(A) Electrical connectors described in paragraph (h)(29) of USML Category IV in part 121 of this subchapter, other than those used in ballistic missiles; and directly related interface control documents;

(B) [Reserved]

(ii) Encrypting, decrypting, relaying, or retransmitting, to or from a ground station, unmodified telemetry for the health, systems status, position, and velocity of space launch vehicles described in USML Category IV in part 121 of this subchapter;

(iii) The furnishing of assistance to a foreign person in the operation or use of an on-orbit defense article in support of fundamental research as defined at § 120.34(a)(8) of this subchapter; and

(iv) The furnishing of assistance to a foreign person in the operation or use of an on-orbit defense article to geolocate the following radiofrequency transmissions:

(A) Emergency locator transmission (ELT) frequencies 121.5, 243.0, and 406 MHz;

(B) Automatic identification system (AIS) frequencies 161.975 and 162.025 MHz;

(C) Commercial VHF maritime mobile frequencies 156 through 174 MHz; and

(D) Commercial non-satellite cellular telephone communications specified by the global system for mobile communications (GSM), universal mobile telecommunications system (UMTS), long-term evolution (LTE), or the following International Mobile Telecommunications (IMT) standards: IMT-2000 (3G), IMT-Advanced (4G), or IMT-2020 (5G).

(c) *Exemption for space tourism and research.* No license or other approval is required for the export, reexport, or temporary import of manned spacecraft, subject to all of the following restrictions:

(1) The spacecraft must be limited to suborbital trajectories;

(2) The purpose of the activity must be limited to either space tourism or supporting fundamental research as defined at § 120.34(a)(8) of this subchapter;

(3) The activity must not transfer registration, control, or ownership of the spacecraft to a foreign person; and

(4) The spacecraft's destinations, including planned diverts and contingencies, must be approved by the Federal Aviation Administration or its foreign equivalent, and must not include any proscribed destinations under § 126.1 of this subchapter.

(d) *Licensing of defense articles incorporated or integrated into EAR spacecraft.* Articles described in paragraph (c), (d), or (e) of USML Category XV in part 121 of this subchapter may be licensed for export, reexport, or retransfer by the Department of Commerce's Bureau of Industry and Security while they are incorporated in, and included as an integral part of, a spacecraft subject to the EAR. Articles do not become eligible for this licensing provision until incorporated into the spacecraft subject to the EAR. Exports, reexports, retransfers, or temporary imports of defense articles prior to incorporation, and directly related technical data and defense services, are not eligible for this licensing provision. Replacement articles, and articles subsequently unincorporated from the spacecraft, are not eligible for this licensing provision.

Bonnie D. Jenkins,

Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2024-24091 Filed 10-17-24; 4:15 pm]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 25

[FAR Case 2020-009, Docket No. FAR-2020-0009, Sequence No. 1]

RIN 9000-AO07

Federal Acquisition Regulation: List of Domestically Nonavailable Articles

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to revise the list of domestically nonavailable articles under the Buy American statute

and implement requirements related to making future changes to the list.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before December 23, 2024 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2020-009 to the Federal eRulemaking portal at <https://www.regulations.gov> by searching for "FAR Case 2020-009". Select the link "Comment Now" that corresponds with "FAR Case 2020-009". Follow the instructions provided on the "Comment Now" screen. Please include your name, company name (if any), and "FAR Case 2020-009" on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the point of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite "FAR Case 2020-009" in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at <https://www.regulations.gov/faq>). To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Zenaida Delgado, Procurement Analyst, at 202-969-7207 or by email at zenaida.delgado@gsa.gov. For information pertaining to status, publication schedules, or alternate instructions for submitting comments if <https://www.regulations.gov> cannot be used, contact the Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov. Please cite FAR Case 2020-009.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the list of domestically nonavailable articles at FAR 25.104(a) and take other actions to limit the use of regulatory nonavailability waivers consistent with section 9 of Executive Order (E.O.) 14005, Ensuring the Future Is Made in All of America by All of America's Workers (86 FR 7475, January 28, 2021). E.O. 14005 establishes policies to maximize the Federal Government's use of goods, products,

and materials produced in the United States to help American businesses compete in strategic industries and ensure America's workers thrive. A key pillar of the E.O. involves reducing the need for waivers to the Buy American statute (41 U.S.C. chapter 83), which generally requires that only domestically mined, produced, or manufactured articles be procured for public use in the United States. The Buy American statute provides an exception for articles not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Prior to issuance of E.O. 14005, FAR 25.103(b)(2)(i) authorized the head of the contracting activity to make an individual determination of nonavailability without having to publicly share the rationale for the determination or the nature of the market research conducted. The agency simply reported to the Federal Procurement Data System if a nonavailability waiver was used on a particular acquisition. In addition, a written determination of nonavailability was not required if the acquisition was conducted using full and open competition, synopsized, and no offer for a domestic source was received. This process made it challenging for an existing Government contractor or potential new entrant to become aware if its capabilities were being overlooked. Further, if the contracting officer considered that the nonavailability of an article was likely to affect future acquisitions over a period of time, FAR 25.103(b)(2)(ii) authorized the contracting officer to submit a copy of the determination and supporting documentation to the appropriate regulatory council identified in FAR 1.201-1 (*i.e.*, the Defense Acquisition Regulations Council or the Civilian Agency Acquisition Council), in accordance with agency procedures, to consider inclusion on the list of nonavailable articles at FAR 25.104(a). Inclusion of the article on the nonavailability list reduces the level of public outreach even further in light of the presumption of nonavailability.

E.O. 14005 makes a number of changes to tighten the waiver process and strengthen efforts to increase reliance on domestic sourcing. First, with respect to individual waivers (see FAR 25.103(b)(2)(i)), the E.O. updates, centralizes, and provides transparency to the process for their issuance. Section 4 of the E.O. established the Made in America Office (MIAO) in the Office of Management and Budget (OMB) to manage a centralized process for

reviewing proposed agency nonavailability waivers for individual and multiple procurements. Agencies can no longer simply rely on the absence of domestic offers in a competition to justify a nonavailability waiver. OMB Memorandum M-21-26, Increasing Opportunities for Domestic Sourcing and Reducing the Need for Waivers from Made in America Laws, and guidance issued jointly by MIAO and the Office of Federal Procurement Policy (OFPP), Improving the Transparency of Made in America Waivers (October 26, 2021), provided direction to agencies for the development, coordination, and posting of waivers. In particular, the guidance instructs agencies to describe steps the agency has taken to understand market capabilities and capacity to help potential interested sources and supply chain experts identify where opportunities might have been missed and could be pursued when future needs arise. The guidance provides that waivers will cover individual transactions but allows agencies to pursue multi-procurement waivers for repetitive needs where market research indicates that domestic capability may be lacking for a period of time, provided the waiver is time limited. The guidance states that agencies should continually study the market and reflect recent analysis in their proposed waivers and not assume that there is no qualifying product simply because one was not found in a prior year. The guidance further directs that proposed waivers must be posted on the *MadeinAmerica.gov* website so that interested sellers can have a better understanding of where agencies are having trouble finding U.S.-made products. The guidance explains that greater transparency should lead to a more responsive supplier base and help agencies build diversity by pulling new entrants into the Federal marketplace. DoD, GSA, and NASA will address regulatory changes to FAR 25.103 through a future rulemaking.

Second, section 9 of E.O. 14005 creates a new oversight mechanism to more carefully control the identification of articles eligible for inclusion at FAR 25.104(a) ("regulatory waivers", see FAR 25.103(b)(1)(i)). Section 9 requires the Director of OMB, through the Administrator of OFPP, to consult with the Secretary of Commerce and the Director of MIAO regarding any changes proposed by DoD, GSA, and NASA to the list of nonavailable articles identified at FAR 25.104(a). Section 9 of E.O. 14005 requires paying particular attention to economic analyses of

relevant markets and available market research, to determine whether there is a reasonable basis to conclude that the article, material, or supply is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

DoD, GSA, and NASA are issuing this proposed rule to implement section 9 and reduce reliance on regulatory waivers that can disincentivize domestic sourcing by signaling a lack of confidence in domestic manufacturers' capacity to meet the Federal Government's current demand or grow capacity to meet future demand. A general presumption of nonavailability discourages the type of ongoing, proactive engagement with industry to understand supply chains and market trends that is vital to strengthening domestic manufacturing.

DoD, GSA, and NASA, in partnership with MIAO and OFPP, have conducted a proactive review of each of the 109 articles on the existing nonavailable articles list. The current list of articles identified in FAR 25.104(a) is a wide-ranging mix of natural resources, compounds, materials, and other items of supply. Although some articles on the list have no known domestic production sources (*e.g.*, quartz crystals or vanilla beans), many of the articles are known to have some domestic production sources, but those sources have been determined in the past to be inadequate to meet U.S. demand. Examples of such articles range from bismuth (not more than 10 percent of U.S. Government and nongovernment demand) to spices and herbs, in bulk, (not more than 40 percent of U.S. Government and nongovernment demand). For additional discussion regarding the basis for removal of articles from the list at FAR 25.104(a), see section IV. of this proposed rule preamble.

II. Discussion and Analysis

The following summarizes the proposed changes to the FAR:

A. Proposed Revisions to the List at FAR 25.104(a)

DoD, GSA, and NASA are proposing to remove numerous articles from the nonavailability list as a general reset of the list to remove a presumption of nonavailability as a means to encourage further market research and send a signal to industry. This may mean that contracting officers will do more market research on domestic availability of the removed products. It also may encourage domestic producers to take an interest in the articles removed from the nonavailability list. Proposed

removals include the following articles: acetylene, black; agar, bulk; anise; asbestos, amosite, chrysotile, and crocidolite; bauxite; beef, corned, canned; beef extract; bethovenium hydroxynaphthoate; cadmium, ores and flue dust; calcium cyanamide; castor beans and castor oil; chalk, English; chicle; cinchona bark; cobalt, in cathodes, rondelles, or other primary ore and metal forms; colchicine alkaloid, raw; copra; crane rail (85-pound per foot); cryolite, natural; dammar gum; diamonds, industrial, stones and abrasives; emetine, bulk; ergot, crude; erythrityl tetranitrate; goat hair canvas; goat and kidskins; graphite, natural, crystalline, crucible grade; hand file sets (Swiss pattern); handsewing needles; ipecac, root; iodine, crude; kauri gum; lac; lavender oil; leather, sheepskin, hair type; manganese; menthol, natural bulk; mica; microprocessor chips (brought onto a Government construction site as separate units for incorporation into building systems during construction or repair and alteration of real property); nickel, primary, in ingots, pigs, shots, cathodes, or similar forms; nickel oxide and nickel salts; nux vomica, crude; oiticica oil; olive oil; olives (green), pitted or unpitted, or stuffed, in bulk; opium, crude; petroleum, crude oil, unfinished oils, and finished products; pine needle oil; platinum and related group metals, refined, as sponge, powder, ingots, or cast bars; pyrethrum flowers; quebracho; quinidine; quinine; rabbit fur felt; radium salts, source and special nuclear materials; rosettes; santonin, crude; secretin; shellac; sugars, raw; talc, block, steatite; tantalum; thread, metallic (gold); thyme oil; triprolidine hydrochloride; tungsten; wax, carnauba; wire glass; woods, logs, veneer, and lumber of the following species: Alaskan yellow cedar, angelique, balsa, ekki, greenheart, lignum vitae, mahogany, and teak; yarn, 50 Denier rayon; and yeast, active dry and instant active dry.

There is no substantial evidence that there is a major increase in the availability of the articles being deleted, but there is evidence that there is capacity for many of the articles being removed. Review of several publications such as periodicals from the United States Geological Survey (USGS) shows that for many of these articles there is some degree of domestic capacity. For example, according to the USGS, the United States produces 43,000 metric tons of mica per year, and the Economic Research Service of the U.S. Department of Agriculture reports that the United States is one of the world's largest

producers of raw sugar. For additional discussion regarding the basis for removal of these articles from the list, see section IV. of this proposed rule preamble.

B. Proposed Protocols To Amend the List at FAR 25.104(a)

The rule proposes adding FAR language to implement the requirements of section 9 of E.O. 14005 requiring consultation with the Secretary of Commerce and the MIAO Director prior to any changes to the list at FAR 25.104(a). The proposed rule retains the current standard for inclusion on the list, which is that domestic sources can only meet 50 percent or less of total U.S. Government and nongovernment demand. See FAR 25.103(b)(1)(i). It also retains the requirement that the procuring agency is responsible for conducting market research appropriate to the circumstances, including seeking domestic sources before acquisition of an article on the list. This applies to acquisition of an article as either an end product or a significant component (valued at more than 50 percent of the value of all the components).

Finally, the class determination for articles on the list will continue to be deemed inapplicable if the contracting officer learns at any time before the time designated for receipt of bids in sealed bidding or final offers in negotiated procurements that an article on the list is available domestically in sufficient and reasonably available commercial quantities of a satisfactory quality to meet the requirements of the solicitation. See FAR 25.103(b)(1)(iii).

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), or for Commercial Services

This rule does not create new solicitation provisions or contract clauses or impact any existing provisions or clauses.

IV. Expected Impact of the Rule

The proposed rule would substantially reduce the number of articles on the list at FAR 25.104(a) that are presumed by regulation to be nonavailable in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. Removal of an article from the list means that if such articles are acquired by the agency in the future, the agency may no longer presume the article is not available domestically. Instead, the agency must submit a proposed waiver to MIAO

explaining the basis for concluding the article is not available domestically, including the market research conducted to find domestic sources, and post the proposed waiver on *MadeinAmerica.gov*. Over time, decreased reliance on regulatory waivers and greater use of individual waivers that are reviewed centrally and posted publicly should contribute to a more dynamic, diverse, and competitive domestic industrial base. As a general matter, regulatory waivers disincentivize domestic sourcing by signaling a lack of confidence in its capacity to meet the Federal Government's current demand or grow capacity to meet future demand. Use of individualized waivers in lieu of regulatory waivers that are coordinated centrally and posted for public awareness should encourage the type of ongoing, proactive engagement with industry to understand supply chains and market trends that is vital to strengthening domestic manufacturing and reducing the need for waivers over time. As explained in OMB Memorandum M-21-26 and the joint memorandum MIAO and OFPP issued on October 26, 2021, there are a number of strategic advantages to central review and posting of waivers, including: the ability for MIAO and agencies to share market research information and insight that might lead to the identification of domestic sources in future acquisitions; the ability for agencies to send a clear demand signal to industry of the Federal Government's desire to reduce reliance on foreign-made items; the ability for potential sources to see opportunities for new domestic providers, and for existing domestic providers that may have been overlooked to see if agencies may have missed market capabilities in their market research; and the opportunity for MIAO to bring greater consistency in use of waivers across the Government through its feedback to agencies. The heightened transparency provided on individual waivers can be especially beneficial in furthering both contractor resilience by reducing transaction costs for potential sellers and diversity by lowering a barrier to entry for small businesses and new entrants to the Federal market that may struggle to find work opportunities.

There are 109 articles currently subject to regulatory waiver. In the past, DoD, GSA, and NASA have largely relied on public comment to identify articles that should be removed from the list. For example, an advance notice of proposed rulemaking was issued at 85 FR 28596 on May 13, 2020, seeking information that would assist in

identifying domestic capabilities and for evaluating whether some articles on the list at FAR 25.104(a) should be removed because they are now mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. While public input and insight remains an important part of the review process, DoD, GSA, and NASA conducted a proactive review of each article, in consultation with MIAO and OFPP, to determine if the presumption of nonavailability remains appropriate. This review will help to ensure the list more accurately reflects market conditions and to avoid overlooking domestic capabilities.

Articles were identified as suitable for removal from the list if one or more of the following criteria were met: (i) there is a demonstrated domestic capacity to source the article; (ii) more limited duration waivers with centralized management would provide important insight into Government supply chains, including critical supply chains with national or economic security implications; (iii) there is limited Government demand for the article; or (iv) the articles are believed to be obsolete.

Articles proposed for removal from the list based on an expectation of sufficient and reasonably available commercial quantities include petroleum, crude oil, unfinished oils, and finished products, as the domestic crude oil capacity of the United States makes it the world's largest producer of crude oil according to the U.S. Energy Information Administration. Similarly, according to the USGS' Mineral Commodity Summary for Cadmium in January 2024, the United States has demonstrated a domestic capacity of cadmium that has allowed it to become a net exporter of this metal. Talc, block, steatite is an additional article for which, according to Mineral Commodities Summaries for 2024, the United States domestic capacity was capable of meeting domestic demand. The report indicated that the United States' net import reliance for talc as a percentage of apparent consumption was six percent in 2023. Other articles expected to meet this criterion include: beef, corned, canned; beef extract; leather, sheepskin, hair type; sugars, raw; and yeast, active dry and instant active dry.

Articles proposed for removal from the list based on the conclusion that more limited duration waivers with centralized management would provide important insight into Government supply chains include: bauxite; cobalt, in cathodes, rondelles, or other primary

ore and metal forms; diamonds, industrial, stones and abrasives; goat hair canvas; goat and kidskins; graphite, natural, crystalline, crucible grade; iodine, crude; manganese; mica; microprocessor chips (brought onto a Government construction site as separate units for incorporation into building systems during construction or repair and alteration of real property); nickel, primary, in ingots, pigs, shots, cathodes, or similar forms, nickel oxide and nickel salts; olive oil; olives (green), pitted or unpitted, or stuffed, in bulk; platinum and related group metals, refined, as sponge, powder, ingots, or cast bars; tantalum; and tungsten. Many of these articles fall within critical supply chains that were prioritized for strengthening under E.O. 14017, America's Supply Chains, for reasons of national or economic security.

Articles proposed for removal from the list because there is limited Government demand for the article include: acetylene, black; agar, bulk; chalk, English; anise; bethovenium hydroxynaphthoate; calcium cyanamide; castor beans and castor oil; chicle; cinchona bark; colchicine alkaloid, raw; copra; crane rail (85-pound per foot); cryolite, natural; dammar gum; emetine, bulk; ergot, crude; erythrityl tetranitrate; hand file sets (Swiss pattern); handsewing needles; lac; lavender oil; menthol, natural bulk; nux vomica, crude; oiticica oil; opium, crude; pine needle oil; pyrethrum flowers; quebracho; quinidine; quinine; rabbit fur felt; radium salts, source and special nuclear materials; rosettes; secretin; shellac; thread, metallic (gold); thyme oil; triprolidine hydrochloride; wax, carnauba; wire glass; woods, logs, veneer, and lumber of the following species: Alaskan yellow cedar, angelique, balsa, ekki, greenheart, lignum vitae, mahogany, and teak; and yarn, 50 Denier rayon.

Articles proposed for removal from the list because they are believed to be obsolete include asbestos, amosite, chrysotile, and crocidolite; ipecac, root; kauri gum; and santonin, crude. The removal of asbestos from the list meets the obsolescence criteria because of the Environmental Protection Agency's ban on ongoing uses of asbestos.

In total, DoD, GSA, and NASA are proposing to remove 70 articles from the list at FAR 25.104(a). This would reduce the existing list by more than half.

The proposed rule provides these benefits at minimal cost to Federal contractors or the Government. There should be no cost to Federal contractors from the proposed reduction of articles on the regulatory waiver list, as the

transition to individual waivers should increase transparency and reduce transaction costs associated with finding domestic opportunities.

The proposed rule is expected to create only minimal additional procurement costs to the Government due to the low amount of spend and the low number of contract actions for the articles removed from the list. In fiscal year (FY) 2023, the Federal contract spend for the articles removed from the list was estimated to be under \$150 million, which represents less than 0.02 percent of the total Federal contract spend for the same year. In FY 2023, the number of Federal contract actions for the articles removed from the list was estimated to be under 10,000 Federal contract actions, which represents less than 0.02 percent of the total number of Federal contract actions for the same year. This data set excludes petroleum, crude oil, unfinished oils, and finished products. For the under 10,000 Federal contract actions estimated to be potentially impacted by the articles' removal from the list, agencies will still be able to use preexisting procedures to seek an individual waiver from MIAO. Additionally, for articles for which market research shows domestic capability may not be sufficient for a period of time and the agency has a need for repetitive purchases under an indefinite-delivery contract, the agency may pursue a time-bound multi-procurement waiver.

The potential procurement costs to the Government are reduced further when considering the nature of some of the articles to be removed. The articles removed include many items that are no longer procured in significant amounts or are obsolete. It is estimated that approximately half of the articles on the list have not been procured in significant quantities in FY 2021 through FY 2023, are obsolete or greatly reduced in their use (e.g., santonin), or are subject to regulatory changes since they were added to the nonavailable articles list (e.g., asbestos).

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 (as amended by E.O. 14094) and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting

flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this proposed rule, if finalized, to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612, because the rule is not implementing any requirements with which small entities must comply. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the FAR to revise the list of domestically nonavailable articles under the Buy American statute and the protocols to amend the list.

The objective of this rule is to revise the list of nonavailable articles at FAR 25.104(a). The rule also seeks to implement section 9 of E.O. 14005. Promulgation of the FAR is authorized by 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

The proposed rule impacts all entities that do business with the Federal Government, including the over 331,899 small business registrants in the System for Award Management. However, DoD, GSA, and NASA do not expect this proposed rule, if finalized, to have a significant economic impact on a substantial number of small entities because the rule is not implementing any requirements with which small entities must comply. It is expected that this proposed rule will encourage small businesses to take an interest in building domestic manufacturing capabilities and capacity; this would be a positive impact though not a substantial impact.

The proposed rule does not include additional, or change any existing, reporting or recordkeeping requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no available alternatives to the proposed rule to accomplish the desired objective of E.O. 14005.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested

parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2020–009), in correspondence.

VII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

List of Subjects in 48 CFR Part 25

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 25 as set forth below:

■ 1. The authority citation for 48 CFR part 25 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

PART 25—FOREIGN ACQUISITION

■ 2. Revise section 25.104 to read as follows:

25.104 Nonavailable articles.

(a) The following articles have been determined to be nonavailable in accordance with 25.103(b)(1)(i):

- Antimony, as metal or oxide.
- Bamboo shoots.
- Bananas.
- Bismuth.
- Books, trade, text, technical, or scientific; newspapers; pamphlets; magazines; periodicals; printed briefs and films; not printed in the United States and for which domestic editions are not available.
- Brazil nuts, unroasted.
- Capers.
- Cashew nuts.
- Chestnuts.
- Chrome ore or chromite.
- Cocoa beans.
- Coconut and coconut meat, unsweetened, in shredded, desiccated, or similarly prepared form.
- Coffee, raw or green bean.
- Cork, wood or bark and waste.
- Cover glass, microscope slide.
- Fair linen, altar.
- Fibers of the following types: abaca, abace, agave, coir, flax, jute, jute burlaps, palmyra, and sisal.
- Grapefruit sections, canned.
- Hemp yarn.
- Hog bristles for brushes.
- Hyoscine, bulk.
- Modacrylic fiber.

Nitroguanidine (also known as picrite).

Oranges, mandarin, canned.

Pineapple, canned.

Quartz crystals.

Rubber, crude and latex (natural).

Rutile.

Silk, raw and unmanufactured.

Spare and replacement parts for equipment of foreign manufacture, and for which domestic parts are not available.

Spices and herbs, in bulk.

Swords and scabbards.

Tapioca flour and cassava.

Tartar, crude; tartaric acid and cream of tartar in bulk.

Tea in bulk.

Tin in bars, blocks, and pigs.

Vanilla beans.

Venom, cobra.

Water chestnuts.

(b) To amend the list of nonavailable articles, an economic analysis is required of relevant markets and available market research, to determine whether there is a reasonable basis to conclude that the article, material, or supply is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. This analysis will be performed by the Director of the Office of Management and Budget (OMB), through the Administrator of the Office of Federal Procurement Policy, who will consult with the Secretary of Commerce and the Director of the OMB's Made in America Office on any proposed changes. (Executive Order 14005 of January 25, 2021, Ensuring the Future Is Made in All of America by All of America's Workers, Section 9).

(c) This list will be published in the **Federal Register** for public comment no less frequently than once every five years. Unsolicited recommendations for deletions from this list may be submitted at any time and should provide sufficient data and rationale to permit evaluation (see 1.502). An economic analysis as described in paragraph (b) of this section will be used to support changes to the list.

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