Executive Orders 12866 and 13563

E.O. 12866, Regulatory Planning and Review, and E.O. 13563, Improving Regulation and Regulatory Review, direct Federal agencies to assess all 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) for all significant regulatory actions. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). Based on our analysis, we believe the proposed rulemaking does not constitute a significant or economically significant regulatory action.

Executive Order 13132

Executive Order 13132, Federalism, requires Federal agencies to consult with State and local government officials in the development of regulatory policies and with federalism implications. We have reviewed the proposed rule as required under the Order and have determined that it will not have a significant potential negative impact on States, in the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government does not have any federalism implications. The Secretary asserts that this proposed rule will not have effect on the States or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Federal agencies to analyze regulatory options that would minimize any significant impact of the rule on small entities. For the purpose of this analysis, small entities include small business concerns as defined by the Small Business Administration (SBA), usually businesses with fewer than 500 employees. The Secretary asserts that the proposed rule will not create a significant economic impact on a substantial number of small entities, and therefore a regulatory flexibility analysis, is not required.

Unfunded Mandates Act of 1995

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires Federal agencies to prepare a written statement which includes an assessment of anticipated costs and benefits before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal organizations, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation with base year of 1995) in any one year.'' The current inflation-adjusted statutory threshold is approximately $156 million based on the Bureau of Labor Statistics inflation calculator. This rule will not result in a one-year expenditure that would meet or exceed that amount.

Paperwork Reduction Act

This proposed rule does not contain any information collection requirements which are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

List of Subjects in 45 CFR Part 3

Conduct, Federal buildings and facilities, Government property, Traffic regulations, Firearms.

For reasons presented in the preamble, it is proposed to amend title 45 of the Code of Federal Regulations by revising Part 3, as set forth below.

PART 3—CONDUCT OF PERSONS AND TRAFFIC ON THE NATIONAL INSITUTES OF HEALTH FEDERAL ENCLAVE

■ 1. The authority citation for part 3 continues to read as follows:

Authority: 40 U.S.C. 318–318d. 486; Delegation of Authority, 33 FR 604.

§ 3.4 [Amended]

■ 2. Amend § 3.4 by removing the last sentence of the paragraph.

■ 3. Amend § 3.42 by revising the last sentence in paragraph (b) and paragraph (f) to read as follows:

§ 3.42 Restricted activities.

* * * * *

(b) * * * The use of a service animal by a person with a disability to assist that person is authorized.

* * * * *

(f) *Smoking.* Except as part of an approved medical research protocol, a person may not smoke on the enclave.

* * * * *

■ 4. Amend § 3.61 by revising paragraph (a) to read as follows:

§ 3.61 Penalties.

(a) A person found guilty of violating any provision of the regulations in this part is subject to a fine or imprisonment of not more than thirty days or both, for each violation (U.S. Pub. L. 107–296, Homeland Security Act of 2002).

* * * * *

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2022–02859 Filed 2–25–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 225, and 252

[Docket DARS–2022–0003]

RIN 0750–AL18

Defense Federal Acquisition Regulation Supplement: United States-Mexico-Canada Agreement (DFARS Case 2020–D032)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the United States-Mexico-Canada Agreement Implementation Act.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before May 27, 2022, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2020–D032, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''DFARS Case 2020–D032.'' Select ''Comment'' and follow the instructions to submit a comment. Please include ''DFARS Case 2020–D032'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2020–D032 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided. 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: Ms. Kimberly Bass, telephone 571–372–6174.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is issuing a proposed rule to amend the DFARS to implement the United States-Mexico-Canada Agreement Implementation Act (Pub. L. 116–113). On November 30, 2018, the Governments of the United States, Mexico, and Canada (the parties) signed the protocol replacing the North American Free Trade Agreement (NAFTA) with the United States-Mexico-Canada Agreement (USMCA). On December 10, 2019, the parties signed the protocol of amendment to the USMCA. On January 29, 2020, the President signed into law the United States-Mexico-Canada Agreement Implementation Act, through which Congress approved the USMCA. On July 1, 2020, the USMCA entered into effect.

II. Discussion and Analysis

A. Chapter 13 of the USMCA

The USMCA supersedes the NAFTA. Chapter 13 (Government Procurement) of the USMCA applies only to the United States and Mexico. Therefore, Canada is no longer a Free Trade Agreement country, although Canada is still a designated country under the World Trade Organization Government Procurement Agreement (WTO GPA). Chapter 13 of the USMCA sets forth certain obligations between the United States and Mexico with respect to government procurement of goods and services, as specified in Annex 13–A of the USMCA.

This proposed rule is required to meet the United States trade obligations to Mexico and remove any trade benefits that no longer should accrue to Canada. Therefore, all references in the DFARS to Canada as a Free Trade Agreement country are revised to delete Canada and its associated Free Trade Agreement threshold of $25,000. The new minimum Free Trade Agreement threshold is now $92,319. Mexico thresholds remain unchanged.

B. Chapter 20 of the USMCA

Chapter 20 of the USMCA addresses intellectual property rights. The requirements of Federal Acquisition Regulation (FAR) 27.204–1, Patented technology under the NAFTA, and the associated emergency acquisition flexibility at FAR 18.120 are no longer applicable or authorized. FAR case 2020–014, United States-Mexico-Canada Agreement, is currently in process to address required changes to the FAR to implement the USMCA. DoD contracting officers should consult with legal counsel concerning questions that may arise with regard to the use of patented technology under the USMCA. Any potential impacts with regard to the USMCA to DFARS part 218, Emergency Acquisitions, and DFARS part 227, Patents, Data, and Copyrights, will be addressed with further rulemaking.

C. Implementation of the USMCA in the DFARS

Part 212

The proposed rule deletes all references to 19 U.S.C. 3301 note associated with the implementation of NAFTA in DFARS 212.301.

Part 225

The $25,000 Free Trade Agreement threshold for Canada is no longer applicable. The proposed rule deletes all references to the $25,000 threshold in its entirety in the clause prescriptions at DFARS 225.1101, Acquisition of supplies.

Part 252

All references to Free Trade Agreement countries are revised to delete Canada and remove the $25,000 threshold, replacing it with the Free Trade Agreement minimum threshold of $92,319. Contracting officers will be required to use the revised provisions and clauses as prescribed that reflect the USMCA requirements. Proposed revisions are as follows:

DFARS 252.225–7013, Duty-Free Entry. Revises the definition of ''eligible product'' to delete the reference to Canadian end products or devices.

DFARS 252.225–7017, Photovoltaic Devices, and DFARS 252.225–7018, Photovoltaic Devices—Certificate. Removes the definition of ''Canadian photovoltaic device'' as it no longer applies in both the clause and provision. Deletes Canada as a Free Trade Agreement country from the definition of ''designated country'' and from the definition of ''Free Trade Agreement country'' in DFARS 252.225–7017. Conforming changes made to remove the associated $25,000 threshold for Canada, replacing it with the Free Trade Agreement minimum threshold of $92,319 in both the clause and provision.

DFARS 252.225–7021, Trade Agreements. In the basic clause and in alternate II, removes Canada as a Free Trade Agreement country from the definition of ''designated country''. Editorial change made to redesignate paragraph numbers in paragraph (a) definitions to conform to current drafting conventions.

DFARS 252.225–7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate. In the basic provision and alternates I, II, III, IV, and V, removes all references to Canadian end products and the ''Canadian end product'' definition in alternates I and III with conforming changes.

DFARS 252.225–7036, Buy American—Free Trade Agreements—Balance of Payments Program. In the basic clause and alternates I, II, III, IV, and V, removes Canada from the definition of ''Free Trade Agreement country'' and removes the definition for ''Canadian end product'' from alternates I and II, with conforming changes. Editorial changes made to redesignate paragraph numbers in paragraph (a) definitions to conform to current drafting conventions.

DFARS 252.225–7045, Balance of Payments Program—Construction Material Under Trade Agreements. In the basic clause and alternates I, II, and III, removes references to Canada in the ''designated country'' definition as a ''Free Trade Agreement country''; removes ''NAFTA'' and replaces it with references to ''USMCA'' in alternates I and III in accordance with the implementation of the Balance of Payments Program. Editorial changes made to redesignate paragraph numbers in paragraph (a) definitions to conform to current drafting conventions.

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

This rule amends the clauses at DFARS 252.225–7013, Duty-Free Entry; DFARS 252.225–7017, Photovoltaic Devices; DFARS 252.225–7021, Trade Agreements (Basic and Alternate II); DFARS 252.225–7036, Buy American—Free Trade Agreements—Balance of Payments Program (Basic and Alternates I (with the prescription), II, III (with the prescription), IV, V); 252.225–7045, Balance of Payments Program—Construction Material Under Trade Agreements (Basic and Alternates I, II, and III); and provisions at DFARS 252.225–7018 Photovoltaic Devices—Certificate; 252.225–7035 Buy American—Free Trade Agreements—Balance of Payments Program Certificate (Basic and Alternate I, II, III (with the prescription). This rule does not impose any new requirements on contracts at or below the simplified acquisition threshold, for commercial products including commercially available off-the-shelf items, or for commercial services.

IV. Expected Impact of the Rule

The rule implements the United States-Mexico-Canada Agreement Implementation Act. The USMCA supersedes the NAFTA. Canada is still a designated country under the World Trade Organization Government Procurement Agreement; however, Canada is no longer a Free Trade Agreement country, because chapter 13 (Government Procurement) of the USMCA applies only to the United States and Mexico. References to Canada as a Free Trade Agreement country in the DFARS are deleted, including the $25,000 threshold. Canadian end products will still receive nondiscriminatory treatment with respect to the Buy American statute but starting at $183,000 rather than $25,000. Impacts are anticipated to be negligible, since Canada remains a WTO GPA designated country, and a qualifying country, with a threshold of $183,000. The Mexico thresholds remain unchanged.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all 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 not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules Under the Congressional Review Act, to the U.S. Senate, the House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not anticipated to be a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD does not expect this proposed rule 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, *et seq*. Nevertheless, an initial regulatory flexibility analysis has been performed consistent with 5 U.S.C. 603 and summarized as follows:

The proposed rule implements the United States-Mexico-Canada Agreement Implementation Act (Pub. L. 116–113). On November 30, 2018, the Governments of the United States, Mexico, and Canada (the parties) signed the protocol replacing NAFTA with the United States-Mexico-Canada Agreement (USMCA). On December 10, 2019, the parties signed the protocol of amendment to the USMCA. On January 29, 2020, the President signed into law the United States-Mexico-Canada Agreement Implementation Act, through which Congress approved the USMCA. On July 1, 2020, the USMCA entered into effect.

The objective of this rule is to implement the USMCA Implementation Act. The proposed rule includes changes in the Defense Federal Acquisition Regulation Supplement (DFARS) to conform to chapter 13 of the USMCA, which sets forth certain obligations between the United States and Mexico with respect to government procurement of goods and services, as specified in Annex 13–A of the USMCA. Chapter 13 of the USMCA applies only between Mexico and the United States and does not cover Canada.

Although Canada is still a designated country under the World Trade Organization Government Procurement Agreement (WTO GPA), Canada is no longer a Free Trade Agreement country, because chapter 13 of the USMCA applies only to the United States and Mexico. Therefore, references to Canada as a Free Trade Agreement country in the DFARS are deleted, including the $25,000 threshold. Canadian end products will still receive nondiscriminatory treatment with respect to the Buy American statute but starting at $183,000 rather than the threshold of $25,000. Mexico thresholds remain unchanged.

The proposed rule removes all references to the NAFTA, replacing them with the new USMCA language, including statutory references. All references to Canadian end products or Canadian photovoltaic devices also are removed.

The legal basis for the rule is Public Law 116–113.

This rule is not expected to have a significant economic impact on small entities. Although the rule removes Canada as a Free Trade Agreement designated country and deletes the associated $25,000 threshold, replacing it with the free trade agreement minimum threshold of $92,319, Canada remains a WTO GPA designated country, and a qualifying country, with a threshold of $183,000. The Mexico thresholds remain unchanged. Contracting officers will be required to use the revised provisions and clauses as prescribed that reflect the USMCA requirements.

Based on fiscal year 2019 data from the Federal Procurement Data System, 22,050 unique small entities were awarded DoD contracts. Impacts to small businesses are anticipated to be negligible, since Canada remains a WTO GPA designated country, and a qualifying country, with a threshold of $183,000, and the Mexico thresholds remain unchanged.

This proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small entities. The rule does not impose additional information collection requirements to the paperwork burden previously approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. chapter 35), Control Number 0704–0229, DFARS part 225, Foreign Acquisition, and Related Clauses at 252.225; DD Form 2139.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the rule that would meet the requirements of the USMCA Implementation Act.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2020–D032), in correspondence.

VIII. Paperwork Reduction Act

The rule affects information collection requirements in the provisions at 252.225–7018, Photovoltaic Devices—Certificate, and 252.225–7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate; and the clauses at 252.225–7013, Duty-Free Entry, and 252.225–7021, Alternate II, Trade Agreements, currently approved under OMB Control Number 0704–0229 in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact, however, is negligible because the rule merely removes Canada as a Free Trade Agreement country.

List of Subjects in 48 CFR Parts 212, 225, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 225, and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 225, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.301 [Amended]

■ 2. Amend section 212.301 in paragraphs (f)(ix)(M) introductory text, (f)(ix)(N) introductory text, (f)(ix)(V) introductory text, and (f)(ix)(W) introductory text by removing ''3301 note'' and adding ''4501–4732'' wherever it appears.

PART 225—FOREIGN ACQUISITION

225.1101 [AMENDED]

■ 3. Amend section 225.1101 in paragraphs (10)(i) introductory text and (10)(i)(B) and (D) by removing the term ''equals or exceeds $25,000, but''.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 252.225–7013 by—
■ a. Revising the section heading and date of the clause; and
■ b. In paragraph (a), revising the definition of ''Eligible product''.

The revisions read as follows:

252.225–7013 Duty-Free Entry.

* * * * *

Duty-Free Entry (Date)

(a) * * *

Eligible product means—

(1) *Designated country end product,* as defined in the Trade Agreements (either basic or alternate) clause of this contract;

(2) *Free Trade Agreement country end product,* other than a *Bahrainian end product,* a *Moroccan end product,* a *Panamanian end product,* or a *Peruvian end product,* as defined in the Buy American—Free Trade Agreements—Balance of Payments Program (either basic or alternate II) clause of this contract; or

(3) *Free Trade Agreement country end product* other than a *Bahrainian end product, Korean end product, Moroccan end product, Panamanian end product,* or *Peruvian end product,* as defined in the Buy American—Free Trade Agreements—Balance of Payments Program (either alternate IV or alternate V) clause of this contract.

* * * * *

■ 5. Amend section 252.225–7017 by—
■ a. Revising the date of the clause;
■ b. In paragraph (a)—
■ i. Removing the definition of ''Canadian photovoltaic device''; and
■ ii. In the definitions of ''Designated country'', paragraph (2), and ''Free Trade Agreement country'' removing ''Canada,'';
■ c. In paragraph (c)(1), removing ''$25,000'' and adding ''$92,319'' in its place;
■ d. Removing paragraph (c)(2); and
■ e. Redesignating paragraphs (c)(3), (4), and (5) as paragraphs (c)(2), (3), and (4).

The revision reads as follows:

252.225–7017 Photovoltaic Devices.

* * * * *

Photovoltaic Devices (Date)

* * * * *

252.225–7018 [Amended]

■ 6. Amend section 252.225–7018 by—
■ a. Revising the date of the provision;
■ b. In paragraph (a), removing ''Canadian photovoltaic device,'';
■ c. In paragraph (c), removing ''$25,000'' and adding ''$92,319'' in its place;
■ d. In paragraph (d)(2) introductory text, removing ''$25,000'' and adding ''$92,319'' in its place; and
■ e. Revising paragraph (d)(3).

The revisions read as follows:

252.225–7018 Photovoltaic Devices—Certificate.

* * * * *

Photovoltaic Devices—Certificate (Date)

* * * * *

(d) * * *

(3) If less than $92,319—

____(i) The offeror certifies that each photovoltaic device to be utilized in performance of the contract is a domestic photovoltaic device;

____(ii) The offeror certifies that each photovoltaic device to be utilized in performance of the contract is a qualifying country photovoltaic device *[Offeror to specify country of origin ____];* or

____(iii) The foreign photovoltaic devices to be utilized in performance of the contract are the product of ____. *[Offeror to specify country of origin, if known, and provide documentation that the cost of a domestic photovoltaic device would be unreasonable in comparison to the cost of the proposed foreign photovoltaic device, i.e. that the price of the foreign photovoltaic device plus 50 percent is less than the price of a comparable domestic photovoltaic device.]*

* * * * *

■ 7. Amend section 252.225–7021 by—
■ a. Revising the section heading and date of the clause;
■ b. In paragraph (a)—
■ i. In the definition of ''Caribbean Basin Country end product'', redesignating paragraphs (i) introductory text, (i)(A) and (B), (ii) introductory text, and (ii)(A), (B), and (C) as paragraphs (1) introductory text, (1)(i) and (ii), (2) introductory text, and (2)(i), (ii), and (iii), respectively;
■ ii. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ iii. In the definition of ''Designated country'', redesignating paragraphs (i) through (iv) as paragraphs (1) through (4), respectively; and in the newly redesignated paragraph (2), removing ''Canada,'';
■ iv. In the definitions of ''Free Trade Agreement country end product'' and ''Least developed country end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ v. In the definition of ''Qualifying country end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*), (*2*), and (*3*), and (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A), (B), and (C), and (2)(ii), respectively; and
■ vi. In the definitions of ''U.S.-made end product'' and ''WTO GPA country end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ c. In paragraph (e) introductory text, removing ''on the Internet''; and
■ d. In Alternate II—
■ i. Revising the date of the clause;
■ ii. In paragraph (a)—
■ A. In the definition of ''Caribbean Basin Country end product'', redesignating paragraphs (i) introductory text, (i)(A) and (B), (ii) introductory text, and (ii)(A), (B), and (C) as paragraphs (1) introductory text, (1)(i) and (ii), (2) introductory text, and (2)(i), (ii), and (iii), respectively;
■ B. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;

■ C. In the definition of ''Designated country'', redesignating paragraphs (i) through (iv) as paragraphs (1) through (4), respectively; and in the newly redesignated paragraph (2), removing ''Canada,'';
■ D. In the definitions of ''Free Trade Agreement country end product'' and ''Least developed country end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ E. In the definition of ''Qualifying country end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*), (*2*), and (*3*), and (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A), (B), and (C), and (2)(ii), respectively; and
■ F. In the definitions of ''South Caucasus/Central and South Asian (SC/CASA) state end product'', ''U.S.-made end product'', and ''WTO GPA country end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and
■ iii. In paragraph (f) introductory text, removing ''on the Internet''.

The revisions read as follows:

252.225–7021 Trade Agreements.

* * * * *

Trade Agreements—Basic (Date)

* * * * *

Trade Agreements–Alternate II (Date)

* * * * *

■ 8. Amend section 252.225–7035 by—
■ a. Revising the provision date;
■ b. In paragraph (b)(1), removing ''Part'' and adding ''part'' in its place;
■ c. In paragraph (c)(2)(i), removing ''or Canadian'';
■ d. In Alternate I—
■ i. Revising the introductory text and the provision date;
■ ii. In paragraph (a)—
■ A. Removing ''Canadian end product,'';
■ B. Removing ''commercially available off-the-shelf (COTS) item'' and adding ''Commercially available off-the-shelf (COTS) item'' in its place;
■ iii. In paragraph (b)(2), removing ''or Canadian end products''; and
■ iv. Revising paragraph (c)(2);
■ e. In Alternate II—
■ i. Revising the provision date; and
■ ii. In paragraph (c)(2)(i), removing ''or Canadian'';
■ f. In Alternate III—
■ i. Revising the provision date;
■ ii. In paragraph (a)—
■ A. Removing ''Canadian end product,'';
■ B. Removing ''commercially available off-the-shelf (COTS) item'' and adding ''Commercially available off-the-shelf (COTS) item'' in its place;
■ iii. In paragraph (b)(2), removing ''or Canadian end products''; and
■ iv. In paragraph (c)(2)(i), removing ''(except Canadian)'';
■ g. In Alternate IV—
■ i. Revising the provision date; and
■ ii. In paragraph (c)(2)(i), removing ''or Canadian''; and
■ h. In Alternate V—
■ i. Revising the provision date; and
■ ii. In paragraph (c)(2)(i), removing ''or Canadian''.

The revisions read as follows:

252.225–7035 Buy American—Free Trade Agreements—Balance of Payments Program Certificate.

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Basic (Date)

* * * * *

Alternate I. As prescribed in 225.1101(9) and (9)(ii), use the following provision, which does not use the phrases *Bahrainian end product, Free Trade Agreement country, Free Trade Agreement country end product, Moroccan end product, Panamanian end product,* and *Peruvian end products* in paragraph (a) of the basic provision; does not use ''Free Trade Agreement country end products other than Bahrainian end products, Moroccan end products, Panamanian end products, or Peruvian end products'' in paragraphs (b)(2) and (c)(2)(ii) of the basic provision; and does not use ''Australian or'' in paragraph (c)(2)(i):

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate I (Date)

* * * * *

(c) * * *

(2) The offeror shall identify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies are qualifying country end products:

(*Line Item Number*) (*Country of Origin*)

(ii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, *i.e.,* an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of ''domestic end product'':

(*Line Item Number*) (*Country of Origin (If known)*)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate II (Date)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate III (Date)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate IV (Date)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate V (Date)

* * * * *

■ 9. Amend section 252.225–7036 by—
■ a. Revising the clause date;
■ b. In paragraph (a)—
■ i. In the definition of ''Bahrainian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ ii. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ iii. In the definition of ''Domestic end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*) and (*2*), (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A) and (B), and (2)(ii);
■ iv. In the definition of ''Free Trade Agreement country'', removing ''Canada,'';
■ v. In the definitions of ''Free Trade Agreement country end product'', ''Moroccan end product'', ''Panamanian end product'', and ''Peruvian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and
■ vi. In the definition of ''Qualifying country end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*), (*2*), and (*3*), and (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A), (B), and (C), and (2)(ii), respectively;
■ c. In Alternate I—
■ i. Revising the introductory text and the clause date;
■ ii. In paragraph (a)—
■ A. In the definition of ''Bahrainian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;

■ B. Removing the definition of ''Canadian end product'';
■ C. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ D. In the definition of ''Domestic end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*) and (*2*), (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A) and (B), and (2)(ii);
■ E. In the definition of ''Free Trade Agreement country'', removing ''Canada,'';
■ F. In the definitions of ''Free Trade Agreement country end product'', ''Moroccan end product'', ''Panamanian end product'', and ''Peruvian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and
■ G. In the definition of ''Qualifying country end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*), (*2*), and (*3*), and (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A), (B), and (C), and (2)(ii), respectively; and iii. In paragraph (c), removing '', Canadian'', ''or a Canadian end product'', and '', a Canadian end product,'';
■ d. In Alternate II—
■ i. Revising the clause date; and
■ ii. In paragraph (a)—
■ A. In the definition of ''Bahrainian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ B. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ C. In the definition of ''Domestic end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*) and (*2*), (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A) and (B), and (2)(ii);
■ D. In the definition of ''Free Trade Agreement country'', removing ''Canada,'';
■ E. In the definitions of ''Free Trade Agreement country end product'', ''Moroccan end product'', ''Panamanian end product'', and ''Peruvian end product'' redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ F. In the definition of ''Qualifying country end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*), (*2*), and (*3*), and (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A), (B), and (C), and (2)(ii), respectively; and
■ G. In the definition of ''South Caucasus/Central and South Asian (SC/CASA) state end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ e. In Alternate III—
■ i. Revising the introductory text and the clause date;
■ ii. In paragraph (a)—
■ A. In the definition of ''Bahrainian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ B. Removing the definition of ''Canadian end product'';
■ C. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ D. In the definition of ''Domestic end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*) and (*2*), (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A) and (B), and (2)(ii);
■ E. In the definition of ''Free Trade Agreement country'', removing ''Canada,'';
■ F. In the definitions of ''Free Trade Agreement country end product'', ''Moroccan end product'', ''Panamanian end product'', and ''Peruvian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ G. In the definition of ''Qualifying country end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*), (*2*), and (*3*), and (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A), (B), and (C), and (2)(ii), respectively; and
■ H. In the definition of ''South Caucasus/Central and South Asian (SC/CASA) state end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and
■ iii. Revising paragraph (c);
■ f. In Alternate IV—
■ i. Revising the clause date; and
■ ii. In paragraph (a)—
■ A. In the definition of ''Bahrainian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ B. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ C. In the definition of ''Domestic end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*) and (*2*), (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A) and (B), and (2)(ii);
■ D. In the definition of ''Free Trade Agreement country'', removing ''Canada,'';
■ E. In the definitions of ''Free Trade Agreement country end product'', ''Korean end product'', ''Moroccan end product'', ''Panamanian end product'', and ''Peruvian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and
■ F. In the definition of ''Qualifying country end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*), (*2*), and (*3*), and (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A), (B), and (C), and (2)(ii), respectively; and
■ g. In Alternate V—
■ i. Revising the clause date; and
■ ii. In paragraph (a)—
■ A. In the definition of ''Bahrainian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ B. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ C. In the definition of ''Domestic end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*) and (*2*), and (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A) and (B), and (2)(ii), respectively;
■ D. In the definition of ''Free Trade Agreement country'', removing ''Canada,'';
■ E. In the definitions of ''Free Trade Agreement country end product'', ''Korean end product'', ''Moroccan end product'', ''Panamanian end product'', and ''Peruvian end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ F. In the definition of ''Qualifying country end product'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) introductory text, (ii)(A)(*1*), (*2*), and (*3*), and (ii)(B) as paragraphs (1), (2) introductory text, (2)(i) introductory text, (2)(i)(A), (B), and (C), and (2)(ii), respectively; and

■ G. In the definition of ''South Caucasus/Central and South Asian (SC/CASA) state end product'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively.

The revisions read as follows:

252.225–7036 Buy American—Free Trade Agreements—Balance of Payments Program.

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program—Basic (Date)

* * * * *

Alternate I. As prescribed in 225.1101(10)(i) and (10)(i)(B), use the following clause, which uses a different paragraph (c) than the basic clause:

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate I (Date)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate II (Date)

* * * * *

Alternate III. As prescribed in 225.1101(10)(i) and (10)(i)(D), use the following clause, which adds *South Caucasus/Central and South Asian (SC/CASA) state* and *South Caucasus/Central and South Asian (SC/CASA) state end product* to paragraph (a) and uses a different paragraph (c) than the basic clause:

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate III (Date)

* * * * *

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, SC/CASA state end products, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate III provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or SC/CASA state end products, the Contractor shall deliver a qualifying country end product, an SC/CASA state end product, or, at the Contractor's option, a domestic end product.

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate IV (Date)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate V (Date)

* * * * *

■ 10. Amend section 252.225–7045 by—
■ a. Revising the clause date;
■ b. In paragraph (a)—
■ i. In the definition of ''Caribbean Basin country construction material'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ ii. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ iii. In the definition of ''Cost of components'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ iv. In the definition of ''Designated country'', redesignating paragraphs (i), (ii), (iii), and (iv) as paragraphs (1), (2), (3), and (4), respectively; and in the newly redesignated paragraph (2), removing ''Canada,'';
■ iv. In the definition of ''Domestic construction material'', redesignating paragraphs (i), (ii) introductory text, and (ii)(A) and (B) as paragraphs (1), (2) introductory text, and (2)(i) and (ii), respectively; and
■ v. In the definitions of ''Free Trade Agreement country construction material'', ''Least developed country construction material'', and ''WTO GPA country construction material'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ c. In Alternate I—
■ i. Revising the clause date;
■ ii. In paragraph (a)—
■ A. In the definitions of ''Bahrainian or Mexican construction material'' and ''Caribbean Basin country construction material'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ B. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ C. In the definition of ''Cost of components'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ D. In the definition of ''Designated country'', redesignating paragraphs (i), (ii), (iii), and (iv) as paragraphs (1), (2), (3), and (4), respectively; and in the newly redesignated paragraph (2), removing ''Canada,'';
■ E. In the definition of ''Domestic construction material'', redesignating paragraphs (i), (ii) introductory text, and (ii)(A) and (B) as paragraphs (1), (2) introductory text, and (2)(i) and (ii), respectively; and
■ F. In the definitions of ''Free Trade Agreement country construction material'', ''Least developed country construction material'', and ''WTO GPA country construction material'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and
■ iii. In paragraph (b), removing ''NAFTA'' and adding ''United States-Mexico-Canada Agreement'' in its place;
■ d. In Alternate II—
■ i. Revising the clause date; and
■ ii. In paragraph (a)—
■ A. In the definition of ''Caribbean Basin country construction material'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ B. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (C), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ C. In the definition of ''Cost of components'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ D. In the definition of ''Designated country'', redesignating paragraphs (i), (ii), (iii), and (iv) as paragraphs (1), (2), (3), and (4), respectively; and in the newly redesignated paragraph (2), removing ''Canada,'';
■ E. In the definition of ''Domestic construction material'', redesignating paragraphs (i), (ii) introductory text, and (ii)(A) and (B) as paragraphs (1), (2) introductory text, and (2)(i) and (ii), respectively; and
■ F. In the definitions of ''Free Trade Agreement country construction material'', ''Least developed country construction material'', ''SC/CASA state construction material'', and ''WTO GPA country construction material'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and
■ e. In Alternate III—
■ i. Revising the clause date;
■ ii. In paragraph (a)—
■ A. In the definition of ''Caribbean Basin country construction material'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;
■ B. In the definition of ''Commercially available off-the-shelf (COTS) item'', redesignating paragraphs (i) introductory text, (i)(A), (B), and (c), and (ii) as paragraphs (1) introductory text, (1)(i), (ii), and (iii), and (2), respectively;
■ C. In the definition of ''Cost of components'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively;

■ D. In the definition of ''Designated country'', redesignating paragraphs (i), (ii), (iii), and (iv) as paragraphs (1), (2), (3), and (4), respectively; and in the newly redesignated paragraph (2), removing ''Canada,'';

■ E. In the definition of ''Domestic construction material'', redesignating paragraphs (i), (ii) introductory text, (ii)(A) and (B) as paragraphs (1), (2) introductory text, and (2)(i) and (ii), respectively; and

■ F. In the definitions of ''Free Trade Agreement country construction material'', ''Least developed country construction material'', ''SC/CASA state construction material'', and ''WTO GPA country construction material'', redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively; and

■ iii. In paragraph (b) removing ''NAFTA'' and adding ''United States-Mexico-Canada Agreement'' in its place.

The revisions read as follows:

252.225–7045 Balance of Payments Program—Construction Material Under Trade Agreements.

* * * * *

Balance of Payments Program—Construction Material Under Trade Agreements—Basic (Date)

* * * * *

Balance of Payments Program—Construction Material Under Trade Agreements—Alternate I (Date)

* * * * *

Balance of Payments Program—Construction Material Under Trade Agreements—Alternate II (Date)

* * * * *

Balance of Payments Program—Construction Material Under Trade Agreements—Alternate III (Date)

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[FR Doc. 2022–04009 Filed 2–25–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Chapter 2

[Docket DARS–2022–0002]

RIN 0750–AK96

Defense Federal Acquisition Regulation Supplement: Reauthorization and Improvement of Mentor-Protégé Program (DFARS Case 2020–D009)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2020 that reauthorizes and modifies the DoD Mentor-Protégé Program.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 29, 2022 to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS 2020–D009, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''DFARS Case 2020–D009'' in the search box and select ''Search.'' Select ''Comment'' and follow the instructions to submit a comment. Please include your name, company name (if any), and ''DFARS Case 2020–D009'' on any attached document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2020–D009 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided. 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: Ms. Jeanette Snyder, 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement section 872 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116–92). Section 872 modifies subsection (j) of section 831 of the NDAA for FY 1991 (Pub. L. 101–510; 10 U.S.C. 2302 note) to reauthorize and improve the DoD Mentor-Protégé Program. Section 872 extends the date for entering into a mentor-protégé agreement, extends the date for reimbursement of mentors, limits the term for program participation, extends the date for a mentor to receive credit toward the attainment of small business subcontracting goals, and expands eligibility for protégé firms.

II. Discussion and Analysis

This proposed rule includes changes to DFARS subpart 219.71 and DFARS appendix I to implement section 872 of the NDAA for FY 2020 to reauthorize and improve the DoD Mentor-Protégé Program (the Program). This proposed rule—

—Reauthorizes the Program by extending the date for entering into a mentor-protégé agreement from September 30, 2018, to September 30, 2024;

—Extends the date for mentor reimbursements to be paid for developmental assistance costs incurred under the Program from September 30, 2021, to September 30, 2026;

—Extends the date for a mentor to receive, for developmental assistance costs incurred under the Program, credit toward attainment of the subcontracting goals in its small business subcontracting plan from September 30, 2021, to September 30, 2026;

—Limits the program participation term to two years, unless approval is otherwise obtained for an additional period not to exceed three years;

—Expands the eligibility of a protégé by aligning its size with the size standard of its primary North American Industry Classification System (NAICS) code; and

—Adds a DoD Office of Small Business Programs cybersecurity readiness assessment that will be provided to protégés.

In addition, proposed amendments to appendix I include—

—Updated definitions to align with the statute;

—Addition of DoD's right to terminate agreements for convenience; and

—Other administrative and conforming changes.