



This document is scheduled to be published in the Federal Register on 03/24/2015 and available online at <http://federalregister.gov/a/2015-06735>, and on FDsys.gov

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 25

[FAR Case 2015-001; Docket No. 2015-0001; Sequence No. 1]

RIN: 9000-AM88

**Federal Acquisition Regulation; List of Domestically
Nonavailable Articles**

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: DoD, GSA, and NASA are considering amending the Federal Acquisition Regulation (FAR) to update the list of domestically nonavailable articles under the Buy American Act. DoD, GSA, and NASA are seeking information that will assist in identifying domestic capabilities and for evaluating whether some articles on the list of domestically nonavailable articles are now mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees

shown below on or before **[Insert 60 days after publication in the FEDERAL REGISTER]** to be considered in the formulation of a proposed rule.

ADDRESSES: Submit comments in response to FAR Case 2015-001 by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2015-001". Select the link "Comment Now" that corresponds with "FAR Case 2015-001". Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "FAR Case 2015-001" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405-0001.

Instructions: Please submit comments only and cite FAR Case 2015-001 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202-219-0202, for clarification of content. For information pertaining to status or

publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAR Case 2015-001.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Buy American statute (41 U.S.C. chapter 83) 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. FAR 25.103(b)(1) provides a determination that articles listed at FAR 25.104(a) meet the conditions of this exception. This determination does not necessarily mean that there is no domestic source for the listed items, but that domestic sources can only meet 50 percent or less of total U.S. Government and nongovernment demand.

The established list of articles identified in FAR 25.104(a) is a comprehensive and 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., 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 goat and kidskins (negligible domestic production), to crude iodine (5 percent of U.S. Government and nongovernment demand), to bismuth (not in excess of 50 percent of U.S. Government and nongovernment demand).

The list is reviewed every five years, as required by FAR 25.104(b). DoD, GSA, and NASA last published in the Federal Register a request for public comment on the list on August 7, 2009 (74 FR 39597).

The Councils are seeking information to determine whether some articles should be removed from the list because they are now mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. Specific information with regard to domestic production capacity in relation to U.S. Government and nongovernment demand and the quality of domestically produced items would be most helpful in determining whether articles should remain on or be removed from the list. A sources-sought notice will be published in FedBizOpps in an effort to increase the awareness of this request and to receive greater responses from interested parties on the nonavailable articles listing.

B. The current domestically nonavailable listing at FAR 25.104 is as follow:

- Acetylene, black.

- Agar, bulk.
- Anise.
- Antimony, as metal or oxide.
- Asbestos, amosite, chrysotile, and crocidolite.
- Bamboo shoots.
- Bananas.
- Bauxite.
- Beef, corned, canned.
- Beef extract.
- Bephenium hydroxynapthoate.
- 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.
- Cadmium, ores and flue dust.
- Calcium cyanamide.
- Capers.
- Cashew nuts.
- Castor beans and castor oil.
- Chalk, English.

- Chestnuts.
- Chicle.
- Chrome ore or chromite.
- Cinchona bark.
- Cobalt, in cathodes, rondelles, or other primary ore and metal forms.
- Cocoa beans.
- Coconut and coconut meat, unsweetened, in shredded, desiccated, or similarly prepared form.
- Coffee, raw or green bean.
- Colchicine alkaloid, raw.
- Copra.
- Cork, wood or bark and waste.
- Cover glass, microscope slide.
- Crane rail (85-pound per foot).
- Cryolite, natural.
- Dammar gum.
- Diamonds, industrial, stones and abrasives.
- Emetine, bulk.
- Ergot, crude.
- Erythrityl tetranitrate.
- Fair linen, altar.

- Fibers of the following types: abaca, abace, agave, coir, flax, jute, jute burlaps, palmyra, and sisal.
- Goat and kidskins.
- Goat hair canvas.
- Grapefruit sections, canned.
- Graphite, natural, crystalline, crucible grade.
- Hand file sets (Swiss pattern).
- Handsewing needles.
- Hemp yarn.
- Hog bristles for brushes.
- Hyoscine, bulk.
- Ipecac, root.
- Iodine, crude.
- Kaurigum.
- Lac.
- Leather, sheepskin, hair type.
- Lavender oil.
- 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).

- Modacrylic fiber.
- Nickel, primary, in ingots, pigs, shots, cathodes, or similar forms; nickel oxide and nickel salts.
- Nitroguanidine (also known as picrite).
- Nux vomica, crude.
- Oiticica oil.
- Olive oil.
- Olives (green), pitted or unpitted, or stuffed, in bulk.
- Opium, crude.
- Oranges, mandarin, canned.
- Petroleum, crude oil, unfinished oils, and finished products.
- Pine needle oil.
- Pineapple, canned.
- Platinum and related group metals, refined, as sponge, powder, ingots, or cast bars.
- Pyrethrum flowers.
- Quartz crystals.
- Quebracho.
- Quinidine.
- Quinine.

- Rabbit fur felt.
- Radium salts, source and special nuclear materials.
- Rosettes.
- Rubber, crude and latex.
- Rutile.
- Santonin, crude.
- Secretin.
- Shellac.
- 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.
- Sugars, raw.
- Swords and scabbards.
- Talc, block, steatite.
- Tantalum.
- Tapioca flour and cassava.
- Tartar, crude; tartaric acid and cream of tartar in bulk.
- Tea in bulk.
- Thread, metallic (gold).
- Thyme oil.

- Tin in bars, blocks, and pigs.
- Triprolidine hydrochloride.
- Tungsten.
- Vanilla beans.
- Venom, cobra.
- Water chestnuts.
- 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.
- Yeast, active dry and instant active dry.

B. Executive Order 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. This rule is not a major rule under 5 U.S.C. 804.

List of Subject in 48 CFR Part 25

Government procurement.

Dated: March 19, 2015

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

[BILLING CODE 6820-EP]

[FR Doc. 2015-06735 Filed: 3/23/2015 08:45 am; Publication Date:
3/24/2015]