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11 September 2018

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**Reference: Section 871 of the FY19 NDAA - Comments on 10 U.S.C § 2533c**

The National Defense Authorization Act for Fiscal Year 2019 creates a new statutory restriction on the sourcing of rare earth magnets at section 2533c of title 10, United States code. As an American rare earth technology company, Ucore is pleased that Congress has restricted the sourcing of rare earth magnets from certain non-allied foreign countries and urges the Department of Defense to move quickly to implement all necessary regulations to carry out the policy behind the new legislation.

Despite years of warnings about the situation, the United States military remains dependent on China for its rare earth requirements, including for the high-performance magnets used in advanced guidance and electronic systems. This supply chain bottleneck creates a vulnerability that, in an emergency or war, could render the United States unable to produce many of the components that enable key warfighting capabilities.

Similar concerns about the availability of critical materials previously led Congress to pass other sourcing restrictions, including the sister statute at 10 U.S.C. § 2533b, governing specialty metals. Given the similar history and concerns between the statutes, Ucore urges the Department to use existing DFARS provisions, especially those at 252.225-7009 (defining “produced”) and 252.225-15 (defining “high-performance magnet”), as guides for implementation of the new section. Though the operation of the laws are slightly different (reducing vulnerabilities to certain countries as opposed to domestic sourcing), the overall effect should be similar, especially in a global market where one of the “covered countries” listed in § 2533c is the global monopoly producer.

The Department should further take steps to carefully oversee the distributor fabricator model that has led to continued vulnerabilities in the rare earth magnet supply chain, even for high-performance magnets that are covered by § 2533b. Many of these distributor fabricators buy magnets that were sintered (or “produced”) in China and then “wash” them through countries that have reciprocal defense procurement agreements with the United States. This is allowed through § 2533b, but should not be allowed under § 2533c. § 2533c specifically prohibits the procurement of “any end item that contains a covered material manufacturing in a covered nation...”, which should follow all the way back to the melting, smelting, production, or sintering process. This will still allow for primary production in allied and other countries, but it will eliminate the dangerous dependency that remains as a result of allowing continued sintering within China.

This new provision of law offers the Department a chance to take strong action to reduce its dependence on China for critical materials. The Department should act quickly to implement regulations that direct its

contractors and subcontractors to carry out this policy. Ucore stands ready to assist the Department find secure, non-Chinese sources of rare earth materials and technologies to continue producing needed military capabilities, as with our innovative molecular recognition technology for the separation of rare earth elements and our forthcoming Strategic Materials Complex in Ketchikan, Alaska.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randy MacGillivray', written in a cursive style.

Randy MacGillivray  
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