

Congress of the United States

Washington, DC 20515

August 5, 2011

The Honorable Leon E. Panetta
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Panetta:

Under Section 843 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383), "Assessment and Plan for Critical Rare Earth Materials in Defense Applications," you were legally obligated to submit a rare earths-related report to the key congressional committees by July 6, 2011. While I am concerned that you failed to meet the deadline for this important report, I am even more disturbed that Department of Defense officials are providing conflicting reasons for this report's tardiness, offering no insight into the report's substantive content, and setting no firm alternative date for delivery.

In the last year, the global market has raised serious questions about the availability of certain rare earth materials, which many of our nation's most important military systems – such as precision-guided munitions, satellite wave tubes, range-finding lasers, and electric drive ship programs – rely upon. The report required by Section 843 must set forth both a fairly comprehensive supply-chain assessment of defense-critical rare earth materials and a risk mitigation plan to ensure long-term availability of these materials. It must also include a survey of first-line processors of rare earths and identification of demand, by element, for specific compounds. Thus, compliance with the law is the critical first step in identifying our rare earth requirements for defense applications and reducing our nation's unacceptable dependency on unreliable foreign suppliers for these materials.

When queried about the status of this report, Department of Defense officials have provided a variety of responses. Some attempts to excuse the lateness of the report hint at gaps in data. Others point to an additional requirement for a rare earth inventory plan in the House-passed version of the National Defense Authorization Act for Fiscal Year 2012 and suggest that the section 843 report must be delayed, pending resolution of this additional requirement later this year. None of these excuses are acceptable.

Congressional intent underlying this reporting requirement is simple: Members of Congress need to understand defense demand for, and the supply-chain of, rare earth materials in order to help ensure availability of needed materials. In the on-going absence of a final report, we expect your Department to submit an interim report by August 19 (six weeks after the report deadline) that, at a minimum, provides:

- An estimate of both supply and demand, by element;

- A discussion of value-added capacities along the end-to-end supply chain of defense-related rare earth materials. This discussion may include a range of data from multiple sources; and
- Draft recommendations that can better enable conferees and staffs to engage in thoughtful, pragmatic dialogue on rare earth topics in the context of the defense authorization bill.

We recognize that the Section 843 report requires significant effort to gather and analyze data and develop useful recommendations and a risk mitigation plan. However, we find it unacceptable that Defense Department officials have failed to offer a reasonable explanation for the report's lateness and, given that tardiness, any interim or draft description of the report's substance. We look forward to receiving insights into the key areas we've outlined above.

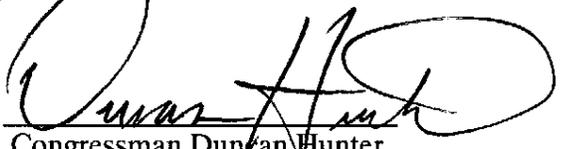
Sincerely,

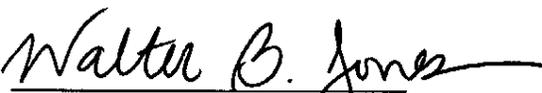

Congressman Mike Coffman

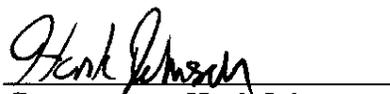

Congressman Doug Lamborn


Congressman Joe Heck

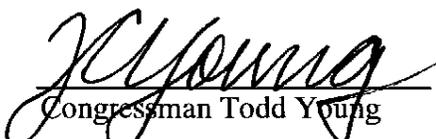

Congressman Mark S. Critz


Congressman Duncan Hunter


Congressman Walter B. Jones


Congressman Hank Johnson


Congressman Trent Franks


Congressman Todd Young

SEC. 843. ASSESSMENT AND PLAN FOR CRITICAL RARE EARTH MATERIALS IN DEFENSE APPLICATIONS.

(a) Assessment Required.--

(1) In general.--The Secretary of Defense shall undertake an assessment of the supply and demand for rare earth materials in defense applications and identify which, if any, rare earth material meets both of the following criteria:

(A) The rare earth material is critical to the production, sustainment, or operation of significant United States military equipment.

(B) The rare earth material is subject to interruption of supply, based on actions or events outside the control of the Government of the United States.

(2) Evaluation of supply.--The assessment shall include a comprehensive evaluation of the long-term security and availability of all aspects of the supply chain for rare earth materials in defense applications, particularly the location and number of sources at each step of the supply chain, including--

(A) mining of rare earth ores;

(B) separation of rare earth oxides;

(C) refining and reduction of rare earth metals;

(D) creation of rare earth alloys;

(E) manufacturing of components and systems containing rare earth materials; and

(F) recycling of components and systems to reclaim and reuse rare earth materials.

(3) Evaluation of demand.--The assessment shall include a comprehensive evaluation of the demand for and usage of rare earth materials in all defense applications, including--

(A) approximations of the total amounts of individual rare earth materials used in defense applications;

(B) determinations of which, if any, defense applications are dependent upon rare earth materials for proper operation and functioning; and

(C) assessments of the feasibility of alternatives to usage of rare earth materials in defense applications.

(4) Other studies and agencies.--Any applicable studies conducted by the Department of Defense, the Comptroller General of the United States, or other Federal agencies during fiscal year 2010 may be considered as partial fulfillment of the requirements of this section. The Secretary may consider the views of other Federal agencies, as appropriate.

(5) Specific material included.--At a minimum, the Secretary shall identify sintered neodymium iron boron magnets as meeting the criteria specified in paragraph (1).

(b) Plan.--For each rare earth material pursuant to subsection (a)(1), the Secretary shall develop a to ensure the long-term availability of such rare earth material, a goal of establishing an assured source of supply of such material critical defense applications by December 31, 2015. In developing the, the Secretary shall consider all aspects of the material's supply chain, as described in subsection (a)(2). The plan shall include consideration of numerous risk mitigation methods with respect to the material, including--

(1) an assessment of including the material in the National Defense Stockpile;

(2) in consultation with the United States Trade Representative, the identification of any trade practices known to the Secretary that limit the Secretary's ability to ensure the long-term

availability of such material or the ability to meet the goal of establishing an assured source of supply of such material by December 31, 2015;

(3) an assessment of the availability of financing to industry, academic institutions, or not-for-profit entities to provide the capacity required to ensure the availability of the material, as well as potential mechanisms to increase the availability of such financing;

(4) an assessment of the benefits, if any, of Defense Production Act funding to support the establishment of an assured source of supply for military components;

(5) an assessment of funding for research and development related to any aspect of the rare earth material supply chain or research on alternatives and substitutes;

(6) any other risk mitigation method determined appropriate by the Secretary that is consistent with the goal of establishing an assured source of supply by December 31, 2015; and

(7) for steps of the rare earth material supply chain for which no other risk mitigation method, as described in paragraphs (1) through (6), will ensure an assured source of supply by December 31, 2015, a specific plan to eliminate supply chain vulnerability by the earliest date practicable.

(c) Report.--

(1) Requirement.--Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional committees described in paragraph (2) a report containing the findings of the assessment required under subsection (a) and the plan developed under subsection (b).

(2) Congressional committees.--The congressional committees described in this paragraph are as follows:

(A) The congressional defense committees.

(B) The Committee on Science and Technology, the Committee on Financial Services, and the Committee on Ways and Means of the House of Representatives.

(C) The Committee on Energy and Natural Resources, the Committee on Finance, and the Committee on Banking, Housing, and Urban Affairs of the Senate.