**DFARS Case 2021-D015**

**Restriction on Certain Metal Products**

**Final Rule**

**PART 225—FOREIGN ACQUISITION**

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**SUBPART 225.70—AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITION**

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**225.7018 Restriction on acquisition of certain magnets, tantalum, and tungsten.**

**[225.7018-0 Scope.**

**This section implements 10 U.S.C. 4872.]**

**225.7018-1 Definitions.**

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“Covered material” means—

(1) Samarium-cobalt magnets;

(2) Neodymium-iron-boron magnets;

(3) Tantalum metals and alloys;

(4) Tungsten metal powder; and

(5) Tungsten heavy alloy or any finished or semi-finished component containing tungsten heavy alloy.

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**225.7018-2 Restriction.**

(a) **[*General.*]** Except as provided in 225.7018-3 and 225.7018-4~~,~~**[—**

**(1) Effective through December 31, 2026,]** do not acquire any covered material melted or produced in any covered country, or any end item, manufactured in any covered country, that contains a covered material ~~(10 U.S.C. 4872).~~**[; and**

**(2) Effective January 1, 2027, do not acquire any covered material mined, refined, separated, melted, or produced in any covered country, or any end item, manufactured in any covered country, that contains a covered material. (Section 854, Pub. L. 118-31; 10 U.S.C. 4872.)]**

(b) **[*Samarium-cobalt magnets and neodymium-iron-boron magnets.*]**

(1) **[Effective through December 31, 2026,** **f]**~~F~~or samarium-cobalt magnets and neodymium**[-]**iron-boron magnets, this restriction includes~~—~~

(i) Melting samarium with cobalt to produce the samarium-cobalt alloy or melting neodymium with iron and boron to produce the neodymium-iron-boron alloy; and

(ii) All subsequent phases of production of the magnets, such as powder formation, pressing, sintering or bonding, and magnetization.

**[ (2) Effective January 1, 2027, for samarium-cobalt magnets this restriction includes the entire supply chain from mining or production of a cobalt and samarium ore or feedstock, including recycled material, through production of finished magnets, except as provided at 225.7018-3.]**

(~~2~~**[3]**) The restriction on melting and producing of samarium-cobalt magnets is in addition to any applicable restrictions on melting of specialty metals at 225.7003 and the clause at 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals.

[(4) Effective January 1, 2027, for neodymium-iron-boron magnets, this restriction includes the entire supply chain from mining of neodymium, iron, and boron through production of finished magnets, except as provided at 225.7018-3.]

(c) [*Tantalum metals and alloys.*

(1) Effective through December 31, 2026, f]~~F~~or production of tantalum metals of any kind and alloys, this restriction includes the reduction or melting of any form of tantalum to create tantalum metal including unwrought, powder, mill products, and alloys. The restriction also covers all subsequent phases of production of tantalum metals and alloys.

[(2) Effective January 1, 2027, for production of tantalum metals of any kind and alloys, this restriction includes mining or production of a tantalum ore or feedstock, including recycled material, through production of metals of any kind and alloys, except as provided at 225.7018-3.]

(d) [*Tungsten metal powder and tungsten heavy alloy.*

(1) Effective through December 31, 2026, f]~~F~~or production of tungsten metal powder and tungsten heavy alloy, this restriction includes—

(~~1~~[i]) Atomization;

(~~2~~[ii]) Calcination and reduction into powder;

(~~3~~[iii]) Final consolidation of non-melt derived metal powders; and

(~~4~~[iv]) All subsequent phases of production of tungsten metal powder, tungsten heavy alloy, or any finished or semi-finished component containing tungsten heavy alloy.

[(2) Effective January 1, 2027, for production of tungsten metal powder, tungsten heavy alloy, or any finished or semi-finished component containing tungsten heavy alloy, this restriction includes mining or production of a tungsten ore or feedstock, including recycled material, through production of tungsten metal powders, except as provided at 225.7018-3.]

**225.7018-3 Exceptions.**

The restriction in section 225.7018-2 does not apply to an acquisition—

(a) At or below the simplified acquisition threshold;

(b) Outside the United States of an item for use outside the United States; or

(c) Of an end item containing a covered material that is—

(1) A commercially available off-the-shelf item (but see PGI 225.7018-3(c)(1)with regard to commercially available samarium-cobalt magnets), other than—

(i) A commercially available off-the-shelf item that is**[—**

**(A)]** 50 percent or more tungsten by weight **[effective through December 31, 2026]**; or

[(B) 50 percent or more covered material by weight effective January 1, 2027;]

(ii) **[Effective through December 31, 2026, a]**~~A~~ tantalum metal, tantalum alloy, or tungsten heavy alloy mill product, such as bar, billet, slab, wire, cube, sphere, block, blank, plate, or sheet, that has not been incorporated into an end item, subsystem, assembly, or component; **[or**

**(iii) Effective January 1, 2027, a covered material that is a mill product, such as bar, billet, slab, wire, cube, sphere, block, blank, plate, or sheet, that has not been incorporated into an end item, subsystem, assembly, or component;]**

(2) An electronic device, unless the Secretary of Defense, upon the recommendation of the Strategic Materials Protection Board pursuant to 10 U.S.C. 187 determines that the domestic availability of a particular electronic device is critical to national security (but see PGI 225.7018-3(c)(2) with regard to samarium-cobalt magnets used in electronic components); or

(3) A neodymium-iron-boron magnet manufactured from recycled material if the milling of the recycled material and sintering of the final magnet takes place in the United States.

(d) If the authorized agency official concerned, as specified in 225.7018-4, determines that compliant covered materials of satisfactory quality and quantity, in the required form, cannot be procured as and when needed at a reasonable price.

(1) For tantalum metal, tantalum alloy, or tungsten heavy alloy, the term “required form” refers to the form of the mill product, such as bar, billet, wire, slab, plate, or sheet, in the grade appropriate for the production of a finished end item to be delivered to the Government under ~~this~~**[the]** contract; or a finished component assembled into an end item to be delivered to the Government under the contract.

(2) For samarium-cobalt magnets or neodymium-iron-boron magnets, the term “required form” refers to the form and properties of the magnets.

**225.7018-4 Nonavailability determination.**

(a) *\* \* \**

(2) The supporting documentation for the determination shall include an analysis and written certification by the requiring activity that describes, with specificity, why alternatives that would not require a nonavailability determinationare unacceptable. The template for an individual nonavailability determination is available at PGI 225.7018-4(a)(2).

(3) \* \* \*

(ii) Notification when individual nonavailability determinations are requested, but denied.

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**225.7018-5 Contract clause.**

Unless acquiring items outside the United States for use outside the United States or a nonavailability determination has been made in accordance with 225.7018-4, use the clause at 252.225-7052, Restriction on Acquisition of Certain Magnets, Tantalum, and Tungsten, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that exceed the simplified acquisition threshold.

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**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

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**SUBPART 252.2—TEXT OF PROVISIONS AND CLAUSES**

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252.225-7052 Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten.

As prescribed in 225.7018-5, use the following clause:

RESTRICTION ON THE ACQUISITION OF CERTAIN MAGNETS, TANTALUM, AND TUNGSTEN (~~JAN 2023~~[MAY 2024])

(a) *Definitions.* \* \* \*

“Covered material” means—

(1) Samarium-cobalt magnets;

(2) Neodymium-iron-boron magnets;

(3) Tantalum metals and alloys;

(4) Tungsten metal powder; and

(5) Tungsten heavy alloy or any finished or semi-finished component containing tungsten heavy alloy.

\* \* \* \* \*

(b) *Restriction*.

(1) Except as provided in paragraph (c) of this clause~~,~~**[—**

**(i) Effective through December 31, 2026,]** the Contractor shall not deliver under this contract any covered material melted or produced in any covered country, or any end item, manufactured in any covered country, that contains a covered material ~~(10 U.S.C. 4872).~~**[; and**

**(ii) Effective January 1, 2027, the Contractor shall not deliver under this contract any covered material mined, refined, separated, melted, or produced in any covered country, or any end item, manufactured in any covered country, that contains a covered material** **(section 854, Pub. L. 118-31; 10 U.S.C. 4872).]**

(2)(i)[(A) Effective through December 31, 2026, f]~~F~~or samarium-cobalt magnets and neodymium[-]iron-boron magnets, this restriction includes~~—~~

(~~A~~[*1*]) Melting samarium with cobalt to produce the samarium-cobalt alloy or melting neodymium with iron and boron to produce the neodymium-iron-boron alloy; and

(~~B~~[*2*]) All subsequent phases of production of the magnets, such as powder formation, pressing, sintering or bonding, and magnetization.

[(B) Effective January 1, 2027, for samarium-cobalt magnets this restriction includes the entire supply chain from mining or production of a cobalt and samarium ore or feedstock, including recycled material, through production of finished magnets.]

(ii) The restriction on melting and producing of samarium-cobalt magnets is in addition to any applicable restrictions on melting of specialty metals if the clause at 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals, is included in the contract.

(3)[ Effective January 1, 2027, for neodymium-iron-boron magnets, this restriction includes the entire supply chain from mining of neodymium, iron, and boron through production of finished magnets.

(4)(i) Effective through December 31, 2026, ]~~F~~[f]or production of tantalum metals of any kind and alloys, this restriction includes the reduction or melting of any form of tantalum to create tantalum metal including unwrought, powder, mill products, and alloys. The restriction also covers all subsequent phases of production of tantalum metals and alloys.

**[(ii) Effective January 1, 2027, for production of tantalum metals of any kind and alloys, this restriction includes mining or production of a tantalum ore or feedstock, including recycled material, through production of metals of any kind and alloys.]**

(~~4~~[5)(i]) [Effective through December 31, 2026, f]~~F~~or production of tungsten metal powder and tungsten heavy alloy, this restriction includes–

(~~i~~[A]) Atomization;

(~~ii~~[B]) Calcination and reduction into powder;

(~~iii~~[C]) Final consolidation of non-melt derived metal powders; and

(~~iv~~**[D]**) All subsequent phases of production of tungsten metal powder, tungsten heavy alloy, or any finished or semi-finished component containing tungsten heavy alloy.

**[(ii) Effective January 1, 2027, for production of tungsten metal powder,** **tungsten heavy alloy, or any finished or semi-finished component containing tungsten heavy alloy, this restriction includes mining or production of a tungsten ore or feedstock, including recycled material, through production of tungsten metal powders, tungsten heavy alloy, or any finished or semi-finished component containing tungsten heavy alloy.]**

(c) *Exceptions*. This clause does not apply—

(1) To an end item containing a covered material that is—

(i) A commercially available off-the-shelf item, other than—

(A) A commercially available off-the-shelf item that is[—

(*1*)] 50 percent or more tungsten by weight [effective through December 31, 2026]; or

[(*2*) 50 percent or more covered material by weight effective January 1, 2027;]

(B) **[Effective through December 31, 2026, a]**~~A~~ tantalum metal, tantalum alloy, or tungsten heavy alloy mill product, such as bar, billet, slab, wire, cube, sphere, block, blank, plate, or sheet, that has not been incorporated into an end item, subsystem, assembly, or component;

(ii) [Effective January 1, 2027, a covered material that is a mill product, such as bar, billet, slab, wire, cube, sphere, block, blank, plate, or sheet, that has not been incorporated into an end item, subsystem, assembly, or component;

(iii)] An electronic device, unless otherwise specified in the contract; or

(~~iii~~[iv]) A neodymium-iron-boron magnet manufactured from recycled material if the milling of the recycled material and sintering of the final magnet takes place in the United States.

(2) If the authorized agency official concerned has made a nonavailability determination, in accordance with section 225.7018-4 of the Defense Federal Acquisition Regulation Supplement, that compliant covered materials of satisfactory quality and quantity, in the required form, cannot be procured as and when needed at a reasonable price.

(i) For tantalum metal, tantalum alloy, or tungsten heavy alloy, the term “required form” refers to the form of the mill product, such as bar, billet, wire, slab, plate, or sheet, in the grade appropriate for the production of a finished end item to be delivered to the Government under this contract; or a finished component assembled into an end item to be delivered to the Government under the contract.

(ii) For samarium-cobalt magnets or neodymium-iron-boron magnets, the term “required form” refers to the form and properties of the magnets.

(d) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (d), in subcontracts and other contractual instruments that are for items containing a covered material, including subcontracts and other contractual instruments for commercial products, unless an exception in paragraph (c) of this clause applies. The Contractor shall not alter this clause other than to identify the appropriate parties.

(End of clause)

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