Comments should be filed by e-mail to *section108definitions@cpsc.gov*. Comments also may be filed by telefacsimile to (301) 504–0127 or mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; telephone (301) 504–7530. Comments should be captioned ''Notice of Availability of Draft Guidance Regarding Which Children's Products are Subject to the Requirements of CPSIA Section 108.'' Depending upon comments received in response to this notice, the Commission will consider issuing a notice of proposed rulemaking addressing these issues. All comments and submissions should be received no later than March 25, 2009.

Dated: February 17, 2009.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E9–3808 Filed 2–20–09; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Analysis of National Security Issues Associated With Specialty Metals

AGENCY: Office of the Deputy Under Secretary of Defense for Industrial Policy, Office of the Under Secretary of Defense for Acquisition, Technology and Logistics, DoD.

ACTION: Analysis of National Security Issues Associated with Specialty Metals.

SUMMARY: Specialty metals are not ''critical materials.'' There is no national security reason for the Department to take action to ensure a long term domestic supply of specialty metals.

FOR FURTHER INFORMATION CONTACT: Rick Lowden, (703) 601–5003.

SUPPLEMENTARY INFORMATION:

A. Congressional Direction

Section 843 of Public Law 109–364 required the establishment of a Strategic Materials Protection Board (SMPB) composed of representatives of the Secretary of Defense, the Under Secretaries for Intelligence and Acquisition, Technology, and Logistics, and the Secretaries of the Military Departments. The SMPB is to determine the need to provide a long-term domestic supply of strategic materials designated as critical to national security, and analyze the risk associated with each material and the effect on national defense that non-availability from a domestic source would have. 10 U.S.C. 2533b ''Requirement to buy strategic materials critical to national security from American sources'' currently lists specialty metals as strategic materials critical to national security.

In its Report to Congress of its meeting of July 17, 2007, the SMPB reported that it had formed, met, and agreed to initially focus its efforts on determining the need to take action to ensure a long term domestic supply of specialty metals as designated in 10 U.S.C. 2533b; and to direct the Board's Executive Secretary to conduct an initial analysis of national security issues associated with strategic materials (specialty metals); and to report the results of that analysis at the next SMPB meeting.

The SMPB held its second meeting on December 12, 2008 during which the SMPB agreed that the term ''Strategic Material'' shall mean—A material (1) which is essential for important defense systems, (2) which is unique in the function it performs, and (3) for which there are no viable alternatives. Strategic Materials include those specialty metals listed in 10 U.S.C. 2533b, and any other materials the Board may designate.

The SMPB also agreed that the term ''Material Critical to National Security'' (or ''Critical Material'') shall mean—A strategic material for which (1) the Department of Defense dominates the market for the material, (2) the Department's full and active involvement and support are necessary to sustain and shape the strategic direction of the market, and (3) there is significant and unacceptable risk of supply disruption due to vulnerable U.S. or qualified non-U.S. suppliers. Accordingly, the Board should initially focus its efforts on determining which strategic materials are ''materials critical to national security'' and require a long term domestic source of supply.

The SMPB also validated an *Initial Analysis of National Security Issues Associated with Strategic Materials.*

B. Initial Analysis of National Security Issues Associated With Strategic Materials

Summary

Reliable access to the materiel it needs is a bedrock requirement for the Department of Defense. However, reliable access does not always necessitate a domestic source.[1] In fact, the Department wants to take full advantage of the competitive benefits offered by access to the best global suppliers; and to promote consistency and fairness in dealing with its allies, all the while assuring that an adequate industrial base is maintained to support defense needs. Consequently, the Department uses, and sometimes may be dependent on, reliable non-U.S. suppliers. At the same time, the Department is not willing to accept foreign vulnerability which poses risks to national security. Non-U.S. suppliers represent a foreign vulnerability if their use would present an unacceptable risk that the Department would be unable to access the capabilities, products, or services that it needs, when it needs them.

The key finding of this analysis is that specialty metals, as defined in 10 U.S.C. 2533b, are not ''materials critical to national security'' for which only a U.S. source should be used; and there is no national security reason for the Department to take action to ensure a long term domestic supply of these specialty metals.[2] The ''criticality'' of a material is a function of its importance in DoD applications, the extent to which DoD actions are required to shape and sustain the market, and the impact and likelihood of supply disruption. The analysis showed that specialty metals are ''strategic materials'' which may require special monitoring and attention/action; but not, in general, a domestic source restriction.[3] Should reliable supplies/capacities be insufficient to meet potential requirements for a projected conflict, other risk mitigation options, including stockpiling, could represent an effective alternative.

High purity beryllium, however, is a critical material. Even in peacetime, defense applications dominate the market; it is essential for important defense systems and unique in the function it performs. In addition, domestic production capabilities have atrophied, and there are no reliable foreign suppliers. Accordingly, the Department should continue to take those special actions necessary to maintain a long term domestic supply of high purity beryllium. In fact, the Department has established a project

[1] For the purposes of this analysis, a domestic source is a member of the ''national technology and industrial base'' as defined in Title X of the United States Code, section 2500: ''persons and organizations that are engaged in research, development, production, or maintenance activities conducted within the United States and Canada.''

[2] Congress has placed no domestic source restrictions on the ores and other basic materials that are the precursors to specialty metals. However, for truly critical materials, reliable sources of supply for such ores and other basic materials also may be necessary.

[3] Notwithstanding this finding, the Department is complying, and will comply, with all statutory domestic source requirements.

under Title III of the Defense Production Act with U.S. supplier Brush-Wellman to build and operate a new high purity beryllium production facility.

The Strategic Materials Protection Board (SMPB) should review and validate any internal or external recommendations that identify strategic materials that are essential for a wide variety of important defense applications and for which there is a relatively high potential for supply disruption. For example, a relatively high potential for supply disruption would be represented by a situation in which reliable supplies (U.S. or non-U.S.) are projected to be insufficient to support the defense needs of the United States during peacetime and/or during a conflict. In such circumstances, DoD market intervention such as increasing or establishing reliable production capability and/or stockpiling may be an effective risk mitigation strategy.

Analysis

Specialty metals are not ''critical materials.'' There is no national security reason for the Department to take action to ensure a long term domestic supply of specialty metals.

The Specialty Steel Industry of North America (SSINA) produced a report in December 2005 entitled ''Specialty Metals and the National Defense.'' [4] In it, the SSINA asserted that ''specialty metals are vitally important to virtually every U.S. military platform'' and provided a listing of the many DoD weapons systems that contain specialty metals. While many important DoD systems do incorporate specialty metals, incorporation into a DoD system does not, by itself, make a material ''critical to national security.'' If incorporation alone was sufficient, every type of material from plastic, to rubber and glass, would be a critical material. More discriminating criteria are needed to distinguish critical materials from the larger set of strategic materials.

The designation of a strategic material should be predicated on it meeting a ''technical'' criterion: The material should be essential for important defense systems and unique in the function it performs—there are no viable material alternatives available.

Critical materials are a subset of strategic materials. The Department of Defense should designate a material as ''critical to national security'' only if it meets the ''technical'' criterion of a ''strategic'' material; *and also meets two additional criteria*:

- *''Business'' criterion:* The Department of Defense dominates the market for the material, and its active and full involvement and support is necessary to sustain and shape the strategic direction of the market; *and*
- *''Security of Supply'' criterion:* There is significant and unacceptable risk of supply disruption due to vulnerable U.S. or qualified non-U.S. suppliers.

The Department agrees that strategic materials, including specialty metals, are essential for important defense systems, and in many cases are unique in the functions they perform. Therefore specialty metals are considered strategic materials. However, specialty metals do not meet the other criteria necessary to be considered critical materials.

The Department of Defense does not dominate the market for specialty metals; its active and full involvement and support is not necessary to sustain and shape the strategic direction of the market; and the risk of supply disruption is not significant. According to the SSINA, ''defense applications account for less than 10% of revenues in specialty metals companies.'' [5] Recent Defense Contract Management Agency analysis of certain metals found that DoD consumes less than 1 percent of total U.S. steel production; about 6 percent of U.S. aluminum production; and between 8 and 10 percent of domestic titanium production. In 2007, U.S. and non-U.S. military end-use applications, including military aerospace, represented about 5 percent of worldwide titanium consumption. The health of the domestic specialty metals industry is, and will continue to be, determined by its ability to sell core commercial products to commercial customers.

Whether or not DoD applications are dominant in the specialty metals market, the Department has the ability, when necessary, to require that its orders be filled in advance of non-DoD orders. Under the Defense Priorities and Allocations System (DPAS; 15 CFR 700), U.S. suppliers must give DoD orders delivery preference over non-DoD (commercial) orders in the event of a supply constraint or delivery conflict. DPAS authorities, coupled with the size of the domestic specialty metals production capacity relative to limited DoD consumption, ensures the Department is able to purchase the quantity of specialty metals it needs from U.S. industry.

For a material to be elevated to ''critical material'' status there must also be a significant risk of supply disruption. For specialty metals, in addition to strong U.S. suppliers, there are reliable foreign suppliers. Specialty steels and metal alloys are produced globally; leading producers include Japan, South Korea, Germany, India, Brazil, Mexico, Canada, Australia, and the UK. Titanium and titanium alloys are produced in Japan, Italy, Germany, France, and the UK. Zirconium and zirconium alloys are produced in Canada, Germany, France, and Japan. Although many metals are commodities and traded throughout the global market, there are cases in which the price of a metal varies by region. Table 1 summarizes the sources and prices for a select set of metals. It highlights the extent to which such metals are imported into the United States, the largest producers world-wide and the largest importers into the Unite States, and differences in metal prices in domestic and foreign markets. (**Note** that there is no statutory domestic source restriction for titanium sponge.)

TABLE 1—SOURCES AND PRICES FOR SELECT METALS

Material	Import reliance (%)	Largest world producers (% of world production)	Largest U.S. import sources (% of U.S. imports)	Domestic source price ($/metric ton)	Foreign source price ($/metric ton)
Aluminum	26	China 32 Russia 11 Canada 8	Canada 55 Russia 17. Brazil 4.	$1,942	$1,852
Raw Steel	12	China 37 Japan 9	Canada 17 E.U. 16.	756	710

[4] SSINA is a Washington, DC-based trade association representing virtually all continental specialty metals producers. The December 2005 report is available at *http://www.ssina.com/news/releases/pdf_releases/12_06_05_Defense_Paper.pdf.*

[5] SSINA press release, June 23, 2005.

TABLE 1—SOURCES AND PRICES FOR SELECT METALS—Continued

Material	Import reliance (%)	Largest world producers (% of world production)	Largest U.S. import sources (% of U.S. imports)	Domestic source price ($/metric ton)	Foreign source price ($/metric ton)
		U.S. 7	Mexico 11.		
Cobalt	78	Congo 36	Norway 21	43,266	44,899
		Canada 13	Russia 19.		
		Zambia 11	Canada 10.		
Copper	37	Chile 37	Chile 39	3,715	3,716
		Peru 8	Canada 32.		
		U.S. 8	Peru 15.		
Nickel (metal)	21	Russia 19	Canada 41	11,248	10,698
		Canada 15	Russia 16.		
		Australia 11	Norway 11.		
Titanium (sponge)	64	Japan 28	Kazakhstan 51	18,060	7,800
		Russia 23	Japan 37.		
		China 23	Russia 7.		
Zinc (refined)	58	China 27	Canada 64	1,231	1,152
		Peru 14	Mexico 17.		
		Australia 13	Kazakhstan 9.		
High Purity Beryllium	(1)	U.S. 77	Kazakhstan 42	357,000	(2)
		China 15	Germany 24.		
		Mozambique 5	U.K. 6.		

Sources: USGS 2008 Mineral Commodities Summaries, American Metal Market, COMEX, CRU Monitor, London Metal Exchange, Metal Bulletin, New York Dealer, New York Mercantile Exchange, Platts, Purchasing Magazine.
[1] Net exporter.
[2] Not available.

In accordance with DoD Handbook 5000.60–H, ''Assessing Defense Industrial Capabilities,'' reliable foreign suppliers are usually acceptable, and in fact are encouraged to allow the Department to obtain a wider competitive cost and technology base. Foreign dependence does not necessarily mean foreign vulnerability. Therefore, the Department uses foreign sources where advantageous and within the limitations of the law. However, in some circumstances foreign suppliers are not acceptable:

- Foreign sources may pose an unacceptable risk when there is a high ''market concentration'' combined with political or geopolitical vulnerability. A sole source supplier existing only in one physical location and vulnerable to serious political instability may not be available when needed.
- Suppliers from politically unfriendly or anti-American foreign countries, as defined by statute or U.S. Government policy, are not used to meet U.S. defense needs.
- A U.S. source may be needed for technologies and products that are either classified, offer unique warfighting superiority, or could be used by foreign nations to develop countermeasures.
- Suppliers that cannot or will not provide products for military applications for political reasons are not feasible sources.
- The Department of Defense is required by law to purchase a particular product from U.S. sources only.

In some instances, the Department must pay a premium in order to maintain a domestic production capability. For ''critical'' materials and comparable ''critical'' military-unique systems, subsystems, and components, the Department is willing to pay that premium to mitigate risk and ensure national defense/security. However, in addition to a price premium, in such cases the Department also may assume risk associated with insufficient production capacity to meet rapidly increased contingency or operational requirements. ''Captive'' DoD markets frequently size themselves to meet steady-state ''peacetime'' DoD demand and may not be able to surge production as rapidly as desired.

For example, the Department recently experienced a significant shortfall in thin gauge MIL–A grade steel armor production capacity necessary to support rapid production of the Mine Resistant Ambush Protected (MRAP) vehicle and other operationally-important ground vehicles requiring protective armor. The availability of steel, generally, was not a production constraint; but the availability of the specialized thin gauge, quenched and tempered steel (a ''specialty metal'') needed for DoD armor applications was a constraint. The Department was required to waive various statutory domestic source restrictions to meet operational requirements. The primary ''beneficiary'' of the waivers was U.S.-located Evraz-Oregon Steel. Although Oregon Steel quenches and tempers its steel in the United States, it does not have a blast furnace and buys its ingot from Mittal in Mexico. The addition of Oregon Steel increased relevant domestic production capacity by about 40 percent.

Conclusions

In summary, the fact that specialty metals are essential for important defense systems does not mean that specialty metals are critical materials, nor that national security requires that only U.S.-produced specialty metals be used for DoD applications.

Beryllium

High purity beryllium is both a strategic and a critical material.

High purity beryllium is essential for important defense systems, and it is unique in the function it performs. High purity beryllium possesses unique properties that make it indispensable in many of today's critical U.S. defense systems, including sensors, missiles and satellites, avionics, and nuclear weapons.

The Department of Defense dominates the market for high purity beryllium and its active and full involvement is necessary to sustain and shape the strategic direction of the market.

There is a significant risk of supply disruption. Without DoD involvement and support, U.S. industry would not be able to provide the material for defense applications. There are no reliable foreign suppliers that could provide

high purity beryllium to the Department.

Recognizing that high purity beryllium meets all the conditions for being a critical material, the Department should take, and has taken, special action to maintain a domestic supply. The Department has used the authorities of Title III of the Defense Production Act to contract with U.S. firm Brush-Wellman, Inc. to build and operate a new high purity beryllium production plant. The new facility will produce pure beryllium capable of meeting the specifications required for myriad national security applications.

Dated: February 6, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–3708 Filed 2–20–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Health Board (DHB) Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, and in accordance with section 10(a)(2) of Public Law, the following meeting of the Defense Health Board (DHB) is announced.

DATES: March 9–10, 2009.

March 9, 2009

7 a.m.–12 p.m. (Open Session).

12 p.m.–2:15 p.m. (Administrative Working Meeting).

2:15 p.m.–5:15 p.m. (Open Session).

March 10, 2009

8 a.m.–4:30 p.m. (Administrative Working Meeting).

ADDRESSES: Flagler Ballroom, Marriott Beachside Hotel, 3841 North Roosevelt Boulevard, Key West, Florida 33040.

FOR FURTHER INFORMATION CONTACT: Commander Edmond F. Feeks, Executive Secretary, Defense Health Board, Five Skyline Place, 5111 Leesburg Pike, Suite 810, Falls Church, Virginia 22041–3206, (703) 681–8448, EXT. 1228, Fax: (703) 681–3317, *edmond.feeks@tma.osd.mil.* Additional information, agenda updates, and meeting registration are available online at the Defense Health Board Web site, *http://www.ha.osd.mil/dhb.* The public is encouraged to register for the meeting. If special accommodations are required to attend (sign language, wheelchair accessibility) please contact Ms. Lisa Jarrett at (703) 681–8448 ext. 1280 by February 27, 2009. Written statements may be mailed to the above address, e-mailed to *dhb@ha.osd.mil* or faxed to (703) 681–3317.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of the meeting is to address and deliberate pending and new Board issues and provide briefings for Board members on topics related to ongoing Board business.

Agenda: On March 9, 2009, the Board will receive briefings on military operations worldwide and in the Key West, Florida area. The following Defense Health Board Subcommittees will present updates to the Board: the Department of Defense Joint Pathology Center Work Group, the Task Force on the Review of the Department of Defense Biological Research Portfolio and Biodefense Infrastructure, the Psychological Health External Advisory Subcommittee, the Trauma and Injury Subcommittee, the Health Care Delivery External Advisory Subcommittee, the National Capital Region Base Realignment and Closure Subcommittee, and the Traumatic Brain Injury Family Caregivers Panel. The Board will also receive an informational briefing on the use of apheresis platelets and fresh whole blood in trauma situations. The Board will conduct administrative sessions in concert with the meeting on March 9, 2009 and on March 10, 2009. Pursuant to 41 Code of Federal Regulations, Part 102–3.160, the administrative working meetings are closed to the public.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject availability of space, the Defense Health Board meeting from 7 a.m. to 12 p.m. and from 2:15 p.m. to 5:15 p.m. on March 9, 2009 is open to the public. Any member of the public wishing to provide input to the Defense Health Board should submit a written statement in accordance with 41 CFR 102–3.140(C) and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice. Written statement should be not longer than two type-written pages and must address the following detail: The issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and to provide any necessary background information.

Individuals desiring to submit a written statement may do so through the Board's Designated Federal Officer at the address detailed above at any point. However, if the written statement is not received at least 10 calendar days prior to the meeting, which is subject to this notice, then it may not be provided to or considered by the Defense Health Board until the next open meeting.

The Designated Federal Officer will review all timely submissions with the Defense Health Board Chairperson, and ensure they are provided to members of the Defense Health Board before the meeting that is subject to this notice. After reviewing the written comments, the Chairperson and the Designated Federal Officer may choose to invite the submitter of the comments to orally present their issue during an open portion of this meeting or at a future meeting.

The Designated Federal Officer, in consultation with the Defense Health Board Chairperson, may, if desired, allot a specific amount of time for members of the public to present their issues for review and discussion by the Defense Health Board.

Dated: February 17, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–3767 Filed 2–20–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2009-OS–0025]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 25, 2009 unless comments are received which would result in a contrary determination.

ADDRESSES: Send comments to the Defense Finance and Accounting Service, FOIA/PA Program Manager, Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249–0150.