Articles + Publications | July 22, 2026

Carrots and Sticks: Aluminum Tariff Breaks and Tougher Defense Sourcing Rules

WRITTEN BY

Ryan Last | Daniel N. Anziska | Hilary S. Cairnie | Bryan R. Williamson

KEY POINTS

- President Trump's July 20, 2026, proclamation allows companies that commit to building or expanding U.S. primary aluminum facilities to import a matching quantity of primary aluminum at half the otherwise-applicable Section 232 duty rate.
- The aluminum onshoring incentive does not reduce Section 232 rates generally — benefits are firm-specific and quantity-limited, and construction on qualifying facilities must begin by January 20, 2029.
- A companion executive order requires the Secretary of Defense/War and military department secretaries to cease issuing most waivers under 10 U.S.C. § 4872 for covered materials from prohibited nations beginning January 1, 2027, with narrow exceptions for contractors with accepted mitigation plans.
- Defense contractors and subcontractors at every tier must prepare to map and illuminate critical supply chains — including indentured bills of materials tracing components to raw material origins — once implementing regulations are finalized within 270 days.
- Both actions carry significant liability exposure: defense contractors face False Claims Act risk and contract termination for non-compliance, while aluminum onshoring fraud may trigger retroactive rescission and collection of back duties by CBP.

On July 20, 2026, President Donald Trump signed two related but distinct actions that reshape how companies source metals and materials for U.S. production and for the defense industrial base. A proclamation modifies the existing tariff regime under Section 232 of the Trade Expansion Act of 1962 (Section 232) for aluminum to create an investment incentive: companies that commit to building, expanding, or refurbishing U.S. primary aluminum capacity can earn the right to import a matching quantity of primary aluminum at half the otherwise-applicable Section 232 duty rate. A separate executive order strengthens domestic and allied sourcing for the supply chains of the U.S. Department of Defense/War (the DoD/W) under 10 U.S.C. § 4872, phasing out most sourcing waivers beginning January 1, 2027, and imposing new supply-chain mapping, vetting, and unreliable foreign supplier exclusion requirements on contractors and subcontractors at every tier.

Together, they pair tariff incentives for domestic metals production with harder-edged sourcing mandates for the defense base, and warrant attention from metals producers and consumers, defense contractors and subcontractors at every tier, and investors weighing U.S. onshoring projects.

THE ALUMINUM 'ONSHORING PLAN' INVESTMENT INCENTIVE

The Section 232 aluminum regime originates in Proclamation 9704, which found that aluminum imports threaten U.S. national security, and has been amended repeatedly, most recently by Proclamation 11021 and Proclamation

11032. These proclamations explained that the Secretary of Commerce (the Commerce Secretary) advised the president that, although the tariffs are strengthening the domestic industry, the domestic production and supply of primary aluminum — critical to the U.S. economy and defense industrial base — remains insufficient, thus prompting this modification.

How the Program Works

The program does not lower the Section 232 aluminum rate generally; it grants approved applicants a firm-specific, quantity-limited reduction of one-half of the applicable rate under the existing regime. Its key features are:

- **Eligibility.** A company submits an onshoring plan, committing to build, refurbish, or expand a U.S. primary aluminum facility, with construction starting by January 20, 2029. The proclamation designates no application portal; the Commerce Secretary will set submission procedures by regulation, expected via *Federal Register* notice.

- **Approval Factors.** The Commerce Secretary weighs factors, including the construction start date, the commercial reasonableness of the timeline, milestones, and cost and production projections, anticipated annual output, and how the benefit is allocated among plan participants.

- **Incentive.** An approved company may annually import primary aluminum matching the facility's reasonably anticipated output at half the otherwise-applicable Section 232 rate (*e.g.*, 25% where the standard rate is 50%); for refurbishments, the benefit is capped at the value of the investment. This import allowance is the only benefit — it does not otherwise exempt the company from Section 232 or cut duties on volume beyond the matched quantity.

- **Precedent.** It builds on the tariff-reduction mechanism for certain Canadian and Mexican aluminum and steel in Proclamation 10984, and echoes the company-specific onshoring agreement approach applied to pharmaceuticals in Proclamation 11020, under which onshoring commitments earn a reduced Section 232 duty rate.

Monitoring, Reporting, and Clawback

Approved plans face U.S. Department of Commerce monitoring, including potentially externally audited compliance reports, and approval is not permanent: the Commerce Secretary may cease and rescind benefits going forward if a company substantially fails to meet its commitments. Where a company committed fraud or deliberately misled the government, rescission may be retroactive, with U.S. Customs and Border Protection collecting back duties plus fines or penalties. The Commerce Secretary will implement any needed Harmonized Tariff Schedule of the United States (HTSUS) changes via *Federal Register* notice.

DEFENSE SUPPLY CHAIN 'ILLUMINATION' AND DOMESTIC SOURCING

Section 4872 of Title 10 already restricts DoD/W acquisition of certain "covered materials" from specified countries, subject to waivers. The order finds that, despite this longstanding prohibition, defense contractors have "historically under-prioritized domestic production and resilience," and directs that the statute's requirements be strictly observed.

Restricting Waivers

Beginning January 1, 2027, the Secretary of Defense/War (the DoD/W Secretary) and the military department secretaries are required under the executive order to cease issuing waivers for the acquisition of covered materials under 10 U.S.C. § 4872(c)(1), with only certain exceptions. The DoD/W Secretary will only issue waivers under § 4872(e) in specified circumstances or following a request from a secretary of a military department to the Assistant to the President for National Security Affairs (the National Security Advisor). Key parameters include:

- **Narrow Mitigation-Plan Exception.** A waiver may still issue if the prime or subcontractor submits an accepted mitigation plan that identifies the noncompliant source, documents exhaustive efforts to obtain compliant material (or its unavailability at the time), describes steps to remove the noncompliant material, and sets a strict implementation timeline.

- **Stricter "Non-Availability" Standard.** "Non-availability" is the ground for a waiver where no compliant domestic or allied source of the covered material can be obtained. Going forward, a mere failure to qualify a domestic source will no longer count as non-availability unless the contractor demonstrates active, adequately funded, and ongoing efforts to qualify one.

- **Consequences for Bad Faith.** Fraud, deliberate misrepresentation, or knowing or willful failure to implement an approved mitigation plan authorizes the DoD/W Secretary to take all appropriate actions and exercise all available contractual remedies. Within 180 days, the DoD/W Secretary must provide the National Security Advisor a list of available remedies for noncompliance.

Supply Chain Mapping and Vetting

Within 180 days, the DoD/W Secretary must develop policy and implementation guidance requiring all prime contractors and subcontractors at any tier to map and "illuminate" critical supply chains from raw materials to end-use products for DoD/W acquisitions that support, implicate, or relate to U.S. national security. Implementing regulations will follow within 90 days of that guidance's completion and must avoid unduly burdening small, nontraditional, and new-entrant firms. Those regulations must require:

- **Indentured Bill of Materials.** Contractors must submit a complete indentured Bill of Materials tracing all components, parts, equipment, software, and materials back to the origin of raw materials.

- **Mandatory Supplier Vetting.** Contractors must screen suppliers and subcontractors for financial risk, foreign ownership, control, or influence (FOCI), and manufacturing and supply risk, then mitigate and track each risk to closure — notifying the DoD/W of significant risks within 15 days, filing a confidential corrective action plan within 45 days, and submitting a closeout report on completion.

- **Unreliable Foreign Supplier Ban.** Subject to the Section 6(a) exception, contractors will be barred from using covered material supplied by an "unreliable foreign supplier" — any person subject to FOCI by a covered nation under § 4872(f)(2), or a nation otherwise designated by the DoD/W Secretary.

Qualifying Alternative Sources

Within 180 days, the DoD/W Secretary must identify existing national-security-related acquisitions and require contractors relying on unreliable foreign suppliers to qualify and use alternative sources where available; failure to do so is grounds to suspend or terminate task orders, decline options, or terminate the contract. Separately, within 90 days the DoD/W Secretary must develop a strategy to accelerate testing and qualification of new sources —

including rescinding regulations that slow the process.

REPORTING AND PRESERVED PROGRAMS

Every six months through January 1, 2028, the DoD/W Secretary must report to the National Security Advisor on continued waiver use, accepted mitigation plans, and regulatory progress, with a classified annex where national security requires. The order preserves carve-outs, including the Strategic Critical Minerals Reserve (known as Project Vault) for which the Export-Import Bank is a lender, and critical minerals or components produced by projects financed or supported through specified U.S. financing channels. Finally, the DoD/W Secretary must review whether the DoD/W's current application of the electronic-devices exemption under § 4872(c)(3)(B) still meets national security needs.

PRACTICAL IMPLICATIONS AND NEXT STEPS

- **Aluminum producers, smelters, and downstream consumers.** Evaluate whether a new-build, expansion, or refurbishment project could qualify for an onshoring plan, and model the reduced-duty import allowance against project costs and timeline commitments, keeping in mind that construction must start by January 20, 2029.

- **Defense contractors and subcontractors at every tier.** Begin mapping supply chains now — including sub-tier suppliers — to identify covered materials, FOCI exposure, and reliance on waivers that will largely disappear after January 1, 2027. Consider auditing active and pending contracts to determine which involve DoD/W acquisitions that the DoD/W Secretary may designate as implicating national security. In doing so, consider developing a cross-functional supply chain team of legal, procurement, and engineering professionals to map and, where needed, assist with qualifying alternative sources, which can take significant time.

- **Existing waiver holders.** Prepare mitigation plans well before the January 1, 2027, cutoff; a bare failure to qualify a domestic source will no longer support a nonavailability claim absent documented, funded, and ongoing efforts.

- **Watch the regulatory calendar.** Policy and implementation guidance for supply-chain mapping is due within 180 days, with implementing regulations following within 90 days of that guidance's completion; the source-qualification strategy is due within 90 days; and aluminum-program HTSUS changes will follow via *Federal Register* notice.

- **Reassess teaming and subcontract terms.** Prime contractors should consider flow-down clauses requiring subcontractor cooperation with Bill of Materials disclosure and vetting, and build time and cost contingencies for source-qualification efforts into pricing and schedules. Additionally, review supplier contracts now to ensure they permit the information access and audit rights necessary to conduct sub-tier vetting to verify compliance — DoD/W may require primes to produce sub-tier compliance evidence. Further, ensure subcontracts address scenarios for when a subcontractor refuses to cooperate or disclose: build cure, replacement, and termination rights into subcontracts now, before you need them. Remember that your direct suppliers' supply chains are your compliance problem too, and you should take proactive measures now to assist with monitoring these requirements.

- **Mind the discretion and liability risk.** Both actions rest heavily on agency discretion that narrows the grounds for challenging individual determinations, will be implemented largely through forthcoming regulations (some potentially issued as guidance or interim rules with limited public comment), and carry real liability for misrepresentation — contractual remedies and termination for defense contractors (with False Claims Act exposure) and retroactive rescission plus collection of back duties for aluminum onshoring fraud.

- **Small and Non-Traditional Contractors.** Small businesses should monitor the forthcoming regulations carefully — the scope of any small-business accommodation will not be known until regulations are proposed and finalized. Small businesses might consider engaging through trade associations during the public comment period on the forthcoming proposed regulations to advocate for proportionate compliance burdens.

RELATED INDUSTRIES + PRACTICES

- Sanctions + Trade Controls
- Tariff + Trade Task Force
- White Collar Litigation + Investigations