

AMENDMENT TO
RULES COMMITTEE PRINT 117-31
OFFERED BY MR. BALDERSON OF OHIO

Add at the end the following:

1 **DIVISION M—COMPRESSED GAS**
2 **CYLINDER SAFETY AND**
3 **OVERSIGHT IMPROVEMENTS**

4 **SEC. 120001. DEFINITIONS.**

5 In this division, the following definitions apply:

6 (1) FOREIGN MANUFACTURER OF CYLINDERS;
7 FMOC.—The terms “foreign manufacturer of cyl-
8 inders” and “FMOC” mean an entity that manufac-
9 tures cylinders outside of the United States intended
10 to be represented, marked, certified, or sold as quali-
11 fied for use in transporting hazardous material in
12 commerce in the United States.

13 (2) IN GOOD STANDING.—The term “in good
14 standing” means an FMOC that—

15 (A) is has been authorized by the Sec-
16 retary pursuant to section 107.807 of title 49,
17 Code of Federal Regulations; and

18 (B) has demonstrated 3 years of compli-
19 ance with section 107 of title 49, United States

1 Code, and chapter 51 of title 49, United States
2 Code.

3 (3) CYLINDER.—The term “cylinder” means
4 any cylinder specified under sections 178.36 through
5 178.68 of title 49, Code of Federal Regulations.

6 (4) SECRETARY.—The term “Secretary” means
7 the Secretary of Transportation.

8 **SEC. 120002. AUTHORIZATION OF FOREIGN MANUFAC-**
9 **TURER OF CYLINDERS.**

10 (a) IN GENERAL.—The Secretary shall issue regula-
11 tions to provide that an authorization provided to an
12 FMOC pursuant to section 107.807 of title 49, Code of
13 Federal Regulations, or any similar successor regulation,
14 shall be for a period of not longer than 1 year, except
15 as provided for in subsection (b).

16 (b) 5-YEAR AUTHORIZATION.—The Secretary may
17 approve a 5-year authorization of an FMOC pursuant to
18 such section if the following requirements are met:

19 (1) The FMOC attests that none of the cyl-
20 inders made by such manufacturer are prohibited
21 from entry to the United States under section 307
22 of the Tariff Act of 1930 (19 U.S.C. 1307).

23 (2) The FMOC certifies that—

24 (A) the information provided pursuant to
25 section 120006 is accurate; and

1 (B) the FMOC has a proactive responsi-
2 bility to inform the Secretary if any such infor-
3 mation materially changes.

4 (3) The FMOC provides proof of the minimum
5 financial responsibility required under section
6 120003.

7 (4) The Secretary determines the FMOC is in
8 good standing.

9 (c) FACILITY INSPECTIONS.—

10 (1) PENALTIES.—The Secretary may suspend
11 or terminate an authorization of an FMOC de-
12 scribed in this division if such FMOC obstructs or
13 prevents the Secretary from carrying out an inspec-
14 tion under section 107.807(c) of title 49, Code of
15 Federal Regulations.

16 (2) DEFINITION OF OBSTRUCTS.—For the pur-
17 poses of this subsection, the term “obstructs” means
18 taking actions that are known, or reasonably should
19 be known, to prevent, hinder, or impede an inspec-
20 tion.

21 (d) INTERACTION WITH OTHER STATUTES, AGREE-
22 MENTS, REGULATIONS.—Nothing in this section may be
23 construed to prevent the harmonization of cylinder stand-
24 ards otherwise authorized by law or regulation.

1 (e) OTHER CAUSE FOR SUSPENSION OR TERMI-
2 NATION.—The Secretary may suspend or terminate an au-
3 thorization of an FMOC described in this division upon
4 determination that the FMOC knowingly or intentionally
5 misrepresented responses to the Secretary required by law
6 or regulation or the requirements of sections 120003 and
7 120006.

8 **SEC. 120003. PROOF OF MINIMUM FINANCIAL RESPONSI-**
9 **BILITY REQUIRED AT TIME OF APPLICATION.**

10 Not later than 180 days after the date of enactment
11 of this Act, the Secretary shall issue such regulations as
12 are necessary to establish minimum levels of financial re-
13 sponsibility required for entities to receive approval pursu-
14 ant to section 107.807 of title 49, Code of Federal Regula-
15 tions.

16 **SEC. 120004. REEVALUATION BY REQUEST FOR RELATED**
17 **VIOLATIONS.**

18 (a) IN GENERAL.—Not later than 180 days after the
19 date of enactment of this Act, the Secretary shall issue
20 such regulations as necessary to establish a process for
21 any interested party to request a reevaluation of the au-
22 thorization of FMOC cylinders under section 107.807 of
23 title 49, Code of Federal Regulations, to review the accu-
24 racy and safety of the actions of such manufacturer.

1 (b) PETITION FOR REEVALUATION.—Such regula-
2 tions shall allow an interested party to file a petition if
3 such party has evidence of inaccurate, changed, or fraudu-
4 lent attestations or responses made by an FMOC to the
5 Secretary under section 120002 or 120006.

6 **SEC. 120005. NOTICE AND COMMENT FOR APPLICATIONS BY**
7 **FOREIGN MANUFACTURERS OF CYLINDERS.**

8 Upon receipt of an application for approval under
9 section 107.807 of title 49, Code of Federal Regulations,
10 or any similar successor regulation, the Secretary shall
11 timely publish notification of such application in the Fed-
12 eral Register and provide 30 days for public comment on
13 such application prior to approval.

14 **SEC. 120006. ADDITIONAL QUESTIONS TO ENSURE SAFETY**
15 **AND COMPLIANCE WITH DOT PROCESS.**

16 (a) ADDITIONAL QUESTIONS.—The Secretary shall
17 require as part of an application for approval pursuant
18 to section 107.807 of title 49, Code of Federal Regula-
19 tions, or any similar successor regulation, that the appli-
20 cant answer the following questions:

21 (1) Whether the FMOC applying, or any entity
22 controlling more than 10 percent of such FMOC,
23 has ever been subject to a civil monetary penalty
24 under title 49, United States Code, relating to any
25 actions carried out as an authorized FMOC or dur-

1 ing the application for authorization under such sec-
2 tion.

3 (2) Whether the FMOC applying, or any entity
4 controlling more than 10 percent of such FMOC,
5 has been delinquent in the payment of any civil mon-
6 etary penalties or other fines or fees under title 49,
7 United States Code.

8 (3) Whether the FMOC applying, or any entity
9 controlling more than 10 percent of such FMOC, is
10 subject to the Do Not Pay Initiative established
11 under section 3354 of title 31, United States Code,
12 as of the date of application.

13 (4) Whether the FMOC applying, or any entity
14 controlling more than 10 percent of such FMOC, is
15 listed in the Military End User List of the Depart-
16 ment of Commerce as of the date of application.

17 (5) Whether the FMOC applying, or any entity
18 controlling more than 10 percent of such FMOC, is
19 identified by the Department of Defense as an entity
20 listed under section 1237 of the Strom Thurmond
21 National Defense Authorization Act for Fiscal Year
22 1999 (50 U.S.C. 1701 note) as of the date of appli-
23 cation.

24 (6) Does the FMOC applying certify that the
25 FMOC has the requisite minimum financial respon-

1 sibility as required in section 120004, and that such
2 financial responsibility will continue throughout en-
3 tirety of the requested authorization period.

4 (7) Whether the FMOC applying, or any entity
5 controlling more than 10 percent of such FMOC,
6 has been found guilty of a criminal penalty or as-
7 sessed a civil penalty under section 1760 John S.
8 McCain National Defense Authorization Act for Fis-
9 cal Year 2019 section (50 U.S.C. 4819).

10 (8) Whether the FMOC applying, or any entity
11 controlling more than 10 percent of such FMOC, is
12 currently subject to a final antidumping or counter-
13 vailing duty order from the Department of Com-
14 merce as of the date of application.

15 (b) DENIAL OF APPLICATION.—The Secretary may
16 deny an application for approval under section 107.807
17 of title 49, Code of Federal Regulations, based on the re-
18 sponses to the questions required under subsection (a).

19 **SEC. 120007. FOREIGN MANUFACTURERS LISTING APPROV-**
20 **ALS.**

21 Not less than 1 year after the date of enactment of
22 this Act, and annually thereafter, the Secretary shall pub-
23 lish and maintain on the website of the Department of
24 Transportation, a list of authorized FMOCs and the dura-
25 tion of such authorization.

1 **SEC. 120008. AUTHORIZING FOREIGN INSPECTIONS.**

2 Not less than 180 days after the date of enactment
3 of this Act, the Secretary shall update section 107.807(d)
4 of title 49, Code of Federal Regulations, to—

5 (1) require that in any case in which the Asso-
6 ciate Administrator determines there is good cause,
7 an inspection under such section shall be carried out
8 annually for such duration as the Associated Admin-
9 istrator determines appropriate;

10 (2) specify that a refusal of inspection under
11 such section shall result in a loss of a status of in
12 good standing;

13 (3) allow the Associate Administrator to request
14 at the discretion of the Administrator, production of
15 test and production records and random sample test-
16 ing; and

17 (4) allow for the recovery of all associated costs
18 of foreign inspections to include travel, time, and
19 other costs, as determined by the Secretary.

