AMENDMENT TO
RULES COMMITTEE PRINT 117–31
OFFERED BY MR. BALDERSN OF OHIO

Add at the end the following:

DIVISION M—COMPRESSED GAS CYLINDER SAFETY AND OVERSIGHT IMPROVEMENTS

SEC. 120001. DEFINITIONS.

In this division, the following definitions apply:

(1) FOREIGN MANUFACTURER OF CYLINDERS; FMOC.—The terms “foreign manufacturer of cylinders” and “FMOC” mean an entity that manufactures cylinders outside of the United States intended to be represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce in the United States.

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

(A) is has been authorized by the Secretary pursuant to section 107.807 of title 49, Code of Federal Regulations; and

(B) has demonstrated 3 years of compliance with section 107 of title 49, United States
Code, and chapter 51 of title 49, United States Code.

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

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

SEC. 120002. AUTHORIZATION OF FOREIGN MANUFACTURER OF CYLINDERS.

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

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

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

(2) The FMOC certifies that—

(A) the information provided pursuant to section 120006 is accurate; and
(B) the FMOC has a proactive responsibility to inform the Secretary if any such information materially changes.

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

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

(e) FACILITY INSPECTIONS.—

(1) PENALTIES.—The Secretary may suspend or terminate an authorization of an FMOC described in this division if such FMOC obstructs or prevents the Secretary from carrying out an inspection under section 107.807(c) of title 49, Code of Federal Regulations.

(2) DEFINITION OF OBSTRUCTS.—For the purposes of this subsection, the term “obstructs” means taking actions that are known, or reasonably should be known, to prevent, hinder, or impede an inspection.

(d) INTERACTION WITH OTHER STATUTES, AGREEMENTS, REGULATIONS.—Nothing in this section may be construed to prevent the harmonization of cylinder standards otherwise authorized by law or regulation.
(e) Other Cause for Suspension or Termination.—The Secretary may suspend or terminate an authorization of an FMOC described in this division upon determination that the FMOC knowingly or intentionally misrepresented responses to the Secretary required by law or regulation or the requirements of sections 120003 and 120006.

SEC. 120003. PROOF OF MINIMUM FINANCIAL RESPONSIBILITY REQUIRED AT TIME OF APPLICATION.

Not later than 180 days after the date of enactment of this Act, the Secretary shall issue such regulations as are necessary to establish minimum levels of financial responsibility required for entities to receive approval pursuant to section 107.807 of title 49, Code of Federal Regulations.

SEC. 120004. REEVALUATION BY REQUEST FOR RELATED VIOLATIONS.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue such regulations as necessary to establish a process for any interested party to request a reevaluation of the authorization of FMOC cylinders under section 107.807 of title 49, Code of Federal Regulations, to review the accuracy and safety of the actions of such manufacturer.
(b) Petition for Reevaluation.—Such regulations shall allow an interested party to file a petition if such party has evidence of inaccurate, changed, or fraudulent attestations or responses made by an FMOC to the Secretary under section 120002 or 120006.

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

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

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

(a) Additional Questions.—The Secretary shall require as part of an application for approval pursuant to section 107.807 of title 49, Code of Federal Regulations, or any similar successor regulation, that the applicant answer the following questions:

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

tion.

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

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

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

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

(6) Does the FMOC applying certify that the FMOC has the requisite minimum financial respon-
sibility as required in section 120004, and that such financial responsibility will continue throughout entirety of the requested authorization period.

(7) Whether the FMOC applying, or any entity controlling more than 10 percent of such FMOC, has been found guilty of a criminal penalty or assessed a civil penalty under section 1760 John S. McCain National Defense Authorization Act for Fiscal Year 2019 section (50 U.S.C. 4819).

(8) Whether the FMOC applying, or any entity controlling more than 10 percent of such FMOC, is currently subject to a final antidumping or countervailing duty order from the Department of Commerce as of the date of application.

(b) Denial of Application.—The Secretary may deny an application for approval under section 107.807 of title 49, Code of Federal Regulations, based on the responses to the questions required under subsection (a).

SEC. 120007. FOREIGN MANUFACTURERS LISTING APPROVALS.

Not less than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall publish and maintain on the website of the Department of Transportation, a list of authorized FMOCs and the duration of such authorization.
SEC. 120008. AUTHORIZING FOREIGN INSPECTIONS.

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

(1) require that in any case in which the Associate Administrator determines there is good cause, an inspection under such section shall be carried out annually for such duration as the Associated Administrator determines appropriate;

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

(3) allow the Associate Administrator to request at the discretion of the Administrator, production of test and production records and random sample testing; and

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