

AMENDMENT TO RULES COMMITTEE PRINT 119-

33

OFFERED BY MR. BALDERSON OF OHIO

At the end of subtitle B of title XVII, add the following new section:

1 **SEC. 17___ . REGULATION OF FOREIGN MANUFACTURERS**
2 **OF CYLINDERS USED IN TRANSPORTING HAZ-**
3 **ARDOUS MATERIALS.**

4 (a) APPROVAL OF FOREIGN MANUFACTURERS OF
5 CYLINDERS.—

6 (1) IN GENERAL.—The Secretary shall promul-
7 gate regulations to provide that an approval pro-
8 vided to an FMOC pursuant to section 107.807 of
9 title 49, Code of Federal Regulations (or a successor
10 regulation), shall be for a period of not longer than
11 1 year, except as provided under paragraph (2).

12 (2) 5-YEAR APPROVAL.—The Secretary may
13 provide a 5-year approval of an FMOC pursuant to
14 section 107.807 of title 49, Code of Federal Regula-
15 tions (or a successor regulation), if the following re-
16 quirements are met:

17 (A) The FMOC attests that none of the
18 cylinders made by the FMOC are prohibited

1 from entry to the United States under section
2 307 of the Tariff Act of 1930 (19 U.S.C.
3 1307).

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

6 (3) FACILITY INSPECTIONS.—

7 (A) DEFINITION OF OBSTRUCTS.—In this
8 paragraph, the term “obstructs” means taking
9 actions that are known, or reasonably should be
10 known, to prevent, hinder, or impede an inspec-
11 tion.

12 (B) PENALTIES.—The Secretary may sus-
13 pend or terminate an approval of an FMOC if
14 the FMOC obstructs or prevents the Secretary
15 from carrying out an inspection under section
16 107.807(c) of title 49, Code of Federal Regula-
17 tions (or a successor regulation).

18 (4) INTERACTION WITH OTHER STATUTES,
19 AGREEMENTS, REGULATIONS.—Nothing in this sec-
20 tion may be construed to prevent the harmonization
21 of cylinder standards otherwise authorized by law.

22 (5) OTHER CAUSE FOR SUSPENSION OR TERMI-
23 NATION.—The Secretary may suspend or terminate
24 an approval of an FMOC on determination that the
25 FMOC knowingly or intentionally misrepresented re-

1 sponses to the Secretary required by law, including
2 under subsection (d).

3 (b) REEVALUATION BY REQUEST FOR RELATED VIO-
4 LATIONS.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of this Act, the Secretary
7 shall promulgate such regulations as are necessary
8 to establish a process, as determined by the Sec-
9 retary, for any interested party to request a reevalu-
10 ation of the approval of FMOC cylinders under sec-
11 tion 107.807 of title 49, Code of Federal Regula-
12 tions (or a successor regulation), to review the accu-
13 racy and safety of the actions of the FMOC.

14 (2) PETITION FOR REEVALUATION.—The regu-
15 lations promulgated under paragraph (1) shall allow
16 an interested party to file a petition if that party
17 has evidence of inaccurate, changed, or fraudulent
18 attestations or responses made by an FMOC to the
19 Secretary under subsection (d).

20 (c) NOTICE AND COMMENT FOR APPLICATIONS BY
21 FOREIGN MANUFACTURERS OF CYLINDERS.—On receipt
22 of an application for approval under section 107.807 of
23 title 49, Code of Federal Regulations (or a successor regu-
24 lation), the Secretary shall—

1 (1) publish notification of the application on the
2 website of the Pipeline and Hazardous Materials
3 Safety Administration in a timely manner; and

4 (2) provide not less than 30 days for public
5 comment on the application prior to approval.

6 (d) FOREIGN MANUFACTURERS LISTING APPROV-
7 ALS.—Not later than 1 year after the date of enactment
8 of this Act, and annually thereafter, the Secretary shall
9 publish and maintain on the website of the Pipeline and
10 Hazardous Materials Safety Administration a list of ap-
11 proved foreign manufacturers of cylinders and the dura-
12 tion of those approvals.

13 (e) AUTHORIZING FOREIGN INSPECTIONS.—Not
14 later than 18 months after the date of enactment of this
15 Act, the Secretary shall revise section 107.807(d) of title
16 49, Code of Federal Regulations—

17 (1) to require that in any case in which the
18 Secretary determines there is good cause, an inspec-
19 tion under that section shall be carried out annually
20 for such duration as the Secretary determines appro-
21 priate;

22 (2) to specify that a refusal of inspection under
23 that section shall result in a loss of the status of “in
24 good standing”;

1 (3) to allow the Secretary to request, at the dis-
2 cretion of the Secretary—

3 (A) production of test and production
4 records; and

5 (B) random sample testing; and

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

9 (f) DEFINITIONS.—In this section:

10 (1) The term “cylinder” means any cylinder
11 specified under any of sections 178.36 through
12 178.68 of title 49, Code of Federal Regulations (or
13 successor regulations).

14 (2) The term “foreign manufacturer of cyl-
15 inders” or “FMOC” means an entity that manufac-
16 tures cylinders outside of the United States that are
17 intended to be represented, marked, certified, or sold
18 as qualified for use in transporting a hazardous ma-
19 terial in commerce in the United States.

20 (3) The term “in good standing”, with respect
21 to an FMOC, means that the FMOC—

22 (A) is approved by the Secretary pursuant
23 to section 107.807 of title 49, Code of Federal
24 Regulations (or a successor regulation); and

1 (B) has demonstrated 3 years of compli-
2 ance with—

3 (i) part 107 of title 49, Code of Fed-
4 eral Regulations (or successor regulations);
5 and

6 (ii) chapter 51 of title 49, United
7 States Code.

