

AMENDMENT TO
RULES COMMITTEE PRINT 119-33
OFFERED BY MR. MOOLENAAR OF MICHIGAN

Add at the end of subtitle B of title VII the following new section:

1 **SEC. __. PROCUREMENT OF AMOXICILLIN.**

2 (a) **REQUIREMENT.**—Chapter 55 of title 10, United
3 States Code, is amended by inserting after section 1107a
4 the following new section:

5 **“§ 1107b. Procurement of amoxicillin**

6 “(a) **PROHIBITION.**—The Secretary of Defense may
7 not procure amoxicillin products that consist of the fin-
8 ished dosage form, or that contain active pharmaceutical
9 ingredients or key starting materials, produced or manu-
10 factured in China or produced by a prohibited foreign enti-
11 ty.

12 “(b) **WAIVER.**—On a case-by-case basis, the Sec-
13 retary may waive the prohibition in subsection (a) if the
14 Secretary determines that the prohibition would result in
15 amoxicillin products not being available at reasonable
16 prices, in sufficient quantities, or in a timely manner to
17 meet the needs of the armed forces.

1 “(c) CONTRACT REQUIREMENTS.—In entering into a
2 contract for the procurement of amoxicillin products, the
3 Secretary shall—

4 “(1) require that offerors make a representa-
5 tion about the source of the finished dosage form of,
6 or active pharmaceutical ingredients or key starting
7 materials in, any amoxicillin products to be delivered
8 under the contract; and

9 “(2) with respect to a contract entered pursu-
10 ant to a waiver made under subsection (b), docu-
11 ment in writing as part of the award of the contract
12 the issuance of the waiver, including the justifica-
13 tions for the waiver.

14 “(d) MULTI-YEAR AUTHORITY.—To the extent prac-
15 tical, the Secretary shall enter into one or more multiyear
16 contracts that use a two- or three-year base period for the
17 procurement of amoxicillin products that comply with the
18 prohibition in subsection (a).

19 “(e) ANNUAL REPORTS.—On an annual basis, the
20 Secretary shall submit to the congressional defense com-
21 mittees a report on this section that includes—

22 “(1) the dollar amount of obligations by con-
23 tract for each contractor supplying amoxicillin prod-
24 ucts; and

1 “(2) the representation of each such contractor
2 under subsection (c)(1) with respect to that con-
3 tract.

4 “(f) DEFINITIONS.—In this section:

5 “(1) The terms “active pharmaceutical ingre-
6 dient” and ‘finished dosage form’ have the meaning
7 given those terms in section 744A of the Federal
8 Food, Drug, and Cosmetic Act (21 U.S.C. 379j–41).

9 “(2) The term ‘amoxicillin products’ means
10 drugs containing—

11 “(A) amoxicillin; or

12 “(B) amoxicillin clavulanate potassium.

13 “(3) The term “key starting material” has the
14 meaning given the term in section 2411 of the
15 Health Extenders, Improving Access to Medicare,
16 Medicaid, and CHIP, and Strengthening Public
17 Health Act of 2022 (division FF of Public Law
18 117–328; 42 U.S.C. 247d-6b note).

19 “(5) The term “prohibited foreign entity” has
20 the meaning given the term in section 7701 of the
21 Internal Revenue Code of 1986.”.

22 (b) IMPLEMENTATION.—Not later than 120 days
23 after the date of the enactment of this Act, the Secretary
24 of Defense shall revise the Defense Federal Acquisition

- 1 Regulation Supplement to carry out section 1107b of title
- 2 10, United States Code, as added by subsection (a).

