AMENDMENT TO RULES COMMITTEE PRINT 117–31

OFFERED BY MR. GIBBS OF OHIO

Strike section 20302 and insert the following:

SEC. 20302. STRATEGIC RARE EARTH METAL AND RARE EARTH METAL PRODUCTS RESERVE.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) PROCESSED OR REFINED.—The term “processed or refined” means any process by which raw rare earth metals are changed, mixed, or otherwise manipulated to render the metal usable for manufac-
turing everyday items, including computer chips or circuit boards.

(3) **RARE EARTH METALS.**—The term “rare earth metals” means beryllium, cerium, cobalt, dysprosium, erbium, europium, gadolinium, graphite, holmium, lanthanum, lithium, lutetium, manganese, neodymium, praseodymium, promethium, samarium, scandium, tantalum, terbium, thulium, tungsten, ytterbium, and yttrium.

(b) **ESTABLISHMENT OF STRATEGIC RARE EARTH METAL AND RARE EARTH METAL PRODUCTS RESERVE.**—

(1) **FINDINGS.**—Congress finds that the storage of substantial quantities of rare earth metals and rare earth metal products will—

(A) diminish the vulnerability of the United States to the effects of a severe supply chain interruption; and

(B) provide limited protection from the short-term consequences of an interruption in supplies of rare earth metal products, particularly such products required for defense manufacturing and use.

(2) **STATEMENT OF POLICY.**—It is the policy of the United States to provide for the establishment of
a strategic rare earth metals and rare earth metal products reserve.

(3) REPORT REQUIRED.—

(A) IN GENERAL.—Not later than 270 days after the date of the enactment of this section, the Secretary of the Interior and the Secretary of Defense shall jointly submit the appropriate congressional committees a report describing—

(i) the strategic requirements of the United States regarding stockpiles of rare earth metals and processed and refined rare earth metal products; and

(ii) the requirements for such metals and products to support the United States for one year in the event of a supply disruption.

(B) CONSIDERATIONS.—In developing the report required by subparagraph (A), the Secretary of the Interior and the Secretary of Defense shall take into consideration the needs of the Armed Forces of the United States, the defense industrial and technology sectors, and any places, organizations, physical infrastructure, or
digital infrastructure designated as critical to the national security of the United States.

(4) IMPLEMENTATION.—Not later than 3 years after submission of the report required by paragraph (3), the Secretary of the Interior shall take such actions as are necessary to procure all types of rare earth metals and processed and refined rare earth metal products in appropriate quantities to support the strategic requirements described in the report.

(5) REASSESSMENT OF REQUIREMENTS.—The Secretary of the Interior and the Secretary of Defense shall—

(A) jointly reassess the strategic requirements described in subparagraph (A) of paragraph (3) and the considerations described in subparagraph (B) of that paragraph; and

(B) not less frequently than annually, submit to the appropriate congressional committees a report on—

(i) that reassessment; and

(ii) describing any activities relating to the establishment or use of a strategic rare earth metals and rare earth metal products reserve during the preceding year.
(c) DISCLOSURES CONCERNING RARE EARTH METALS BY CONTRACTORS OF DEPARTMENT OF DEFENSE.—

(1) REQUIREMENT.—The Secretary of Defense shall require that any contractor that provides to the Department of Defense a system with a rare earth metal permanent magnet disclose, along with delivery of the system, the provenance of the magnet.

(2) ELEMENTS.—A disclosure under paragraph (1) shall include an identification of the country or countries in which—

(A) the rare earth metals used in the magnet were mined;

(B) the rare earth metals were refined into oxides;

(C) the rare earth metals were made into metals and alloys; and

(D) the magnet was sintered or bonded and magnetized.

(3) IMPLEMENTATION OF SUPPLY CHAIN TRACKING SYSTEM.—If a contractor cannot make the disclosure required by paragraph (1) with respect to a magnet, the Secretary shall require the contractor to establish and implement a supply chain tracking system in order to make the disclosure not
later than 180 days after providing the magnet to
the Department of Defense.

(4) REPORT REQUIRED.—Not later than De-
cember 31, 2022, and annually thereafter, the Sec-
cretary of Defense, after consultation with the Sec-
cretary of Commerce and the Secretary of the Inte-
rior, shall submit to the appropriate congressional
committees a report that includes—

(A) a summary of the disclosures made
under this section;

(B) an assessment of the extent of reliance
by the United States on foreign countries, and
especially countries that are not allies of the
United States, for rare earth metals;

(C) a determination with respect to which
systems are of the greatest concern for inter-
ruptions of rare earth metal supply chains; and

(D) any suggestions for legislation or fund-
ing that would mitigate supply chain security
gaps.

(d) RESTRICTION ON USE OF CHINESE-MADE RARE
EARTH METALS IN MILITARY TECHNOLOGIES.—

(1) IN GENERAL.—The Secretary of Defense
shall require that, for any contract entered into or
renewed on or after December 31, 2026, for the pro-
curement of a system the export of which is restricted or controlled under the Arms Export Control Act (22 U.S.C. 2751 et seq.), no rare earth metals processed or refined in the People’s Republic of China may be included in the system.

(2) WAIVER.—The Secretary may waive the restriction under paragraph (1) upon a determination that—

(A) rare earth metals of sufficient quantity and quality are not available at reasonable prices from sources outside of the People’s Republic of China; and

(B) such a waiver is in the interests of national security.

(e) COMPLIANCE WITH CONTRACTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than September 30, 2022, and every 2 years thereafter, the Comptroller General of the United States shall audit the extent of compliance or noncompliance with the requirements of subsections (c) and (d) of this section, and section 2533c of title 10, United States Code, through a random sampling of contracts entered into by the Department of Defense during the 2-year period preceding the audit.
(2) REPORT REQUIRED.—Not later than 30 days after the completion of an audit under paragraph (1), the Comptroller General shall submit to the appropriate congressional committees an assessment of—

(A) the inclusion by the Department of Defense of necessary contracting clauses in relevant contracts; and

(B) compliance by contractors of the Department with subsections (c) and (d) of this section and section 2533c of title 10, United States Code.

(3) REFERRAL.—The Comptroller General shall provide the Department of Justice with the resources and authorities needed for any enforcement actions against entities that have failed to comply with the requirements of subsection (c) or (d) of this section or section 2533c of title 10, United States Code.

(f) INVESTIGATION OF UNFAIR TRADE PRACTICES.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this section, the United States Trade Representative, in coordination with the Secretary of Commerce, shall initiate an investigation under title III of the Trade Act of 1974 (19
U.S.C. 2411 et seq.) to determine whether acts, policies, and practices of the Government of the People’s Republic of China related to technology transfer, intellectual property, or innovation with respect to rare earth metal mining, separation, metallization, alloying, or magnet manufacturing, or related processes, are acts, policies, and practices described in subsection (a) or (b) of section 301 of that Act (19 U.S.C. 2411).

(2) REPORT REQUIRED.—

(A) IN GENERAL.—Not later than 180 days after initiating the investigation required by paragraph (1), the Trade Representative shall submit to the appropriate congressional committees a report assessing the necessity of trade enforcement actions to deter the Government of the People’s Republic of China from further interference in the rare earth metals market.

(B) ELEMENTS.—The report required by subparagraph (A) shall include—

(i) a summary of actions taken by the Government of the People’s Republic of China to disrupt supply chains for rare earth metals;
(ii) a summary of the world market for rare earth metals at each stage of the supply chain, including the ability of producers in the United States and countries that are allies of the United States to meet the national security and commercial needs of the United States;

(iii) determinations with respect to whether further action under title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.), section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), or any other provision of law is necessary to deter the Government of the People’s Republic of China from further interference in the rare earth metals market; and

(iv) recommendations for such other authorities as the Secretary considers necessary to deter the Government of the People’s Republic of China from further interference in the rare earth metals market.

(g) Production in and Uses of Rare Earth Metals by United States Allies.—

(1) Policy.—It shall be the policy of the United States to encourage countries that are allies
of the United States to eliminate their dependence
on non-allied countries for rare earth metals to the
maximum extent practicable.

(2) REPORT REQUIRED.—Not later than De-
cember 31, 2022, and annually thereafter, the Sec-
retary of Defense, in coordination with the Secretary
of State, shall submit to the appropriate congress-
sional committees a report—

(A) describing in detail the discussions of
such Secretaries with countries that are allies of
the United States concerning supply chain secu-
rity for rare earth metals;

(B) assessing the likelihood of those coun-
tries discontinuing the use of rare earth metals
from the People’s Republic of China or other
countries that such Secretaries deem to be of
concern; and

(C) assessing initiatives in other countries
to increase rare earth metals production capa-
bilities.