

AMENDMENT TO RULES COMMITTEE PRINT 117-

31

OFFERED BY MR. GIBBS OF OHIO

Strike section 20302 and insert the following:

1 **SEC. 20302. STRATEGIC RARE EARTH METAL AND RARE**
2 **EARTH METAL PRODUCTS RESERVE.**

3 (a) DEFINITIONS.—In this section:

4 (1) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—The term “appropriate congressional com-
6 mittees” means—

7 (A) the Committee on Armed Services, the
8 Committee on Foreign Relations, the Com-
9 mittee on Finance, and the Select Committee
10 on Intelligence of the Senate; and

11 (B) the Committee on Armed Services, the
12 Committee on Foreign Affairs, the Committee
13 on Ways and Means, and the Permanent Select
14 Committee on Intelligence of the House of Rep-
15 resentatives.

16 (2) PROCESSED OR REFINED.—The term “proc-
17 essed or refined” means any process by which raw
18 rare earth metals are changed, mixed, or otherwise
19 manipulated to render the metal usable for manufac-

1 turing everyday items, including computer chips or
2 circuit boards.

3 (3) RARE EARTH METALS.—The term “rare
4 earth metals” means beryllium, cerium, cobalt, dys-
5 prosium, erbium, europium, gadolinium, graphite,
6 holmium, lanthanum, lithium, lutetium, manganese,
7 neodymium, praseodymium, promethium, samarium,
8 scandium, tantalum, terbium, thulium, tungsten, yt-
9 terbium, and yttrium.

10 (b) ESTABLISHMENT OF STRATEGIC RARE EARTH
11 METAL AND RARE EARTH METAL PRODUCTS RE-
12 SERVE.—

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

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

19 (B) provide limited protection from the
20 short-term consequences of an interruption in
21 supplies of rare earth metal products, particu-
22 larly such products required for defense manu-
23 facturing and use.

24 (2) STATEMENT OF POLICY.—It is the policy of
25 the United States to provide for the establishment of

1 a strategic rare earth metals and rare earth metal
2 products reserve.

3 (3) REPORT REQUIRED.—

4 (A) IN GENERAL.—Not later than 270
5 days after the date of the enactment of this sec-
6 tion, the Secretary of the Interior and the Sec-
7 retary of Defense shall jointly submit the ap-
8 propriate congressional committees a report de-
9 scribing—

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

14 (ii) the requirements for such metals
15 and products to support the United States
16 for one year in the event of a supply dis-
17 ruption.

18 (B) CONSIDERATIONS.—In developing the
19 report required by subparagraph (A), the Sec-
20 retary of the Interior and the Secretary of De-
21 fense shall take into consideration the needs of
22 the Armed Forces of the United States, the de-
23 fense industrial and technology sectors, and any
24 places, organizations, physical infrastructure, or

1 digital infrastructure designated as critical to
2 the national security of the United States.

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

10 (5) REASSESSMENT OF REQUIREMENTS.—The
11 Secretary of the Interior and the Secretary of De-
12 fense shall—

13 (A) jointly reassess the strategic require-
14 ments described in subparagraph (A) of para-
15 graph (3) and the considerations described in
16 subparagraph (B) of that paragraph; and

17 (B) not less frequently than annually, sub-
18 mit to the appropriate congressional committees
19 a report on—

20 (i) that reassessment; and

21 (ii) describing any activities relating
22 to the establishment or use of a strategic
23 rare earth metals and rare earth metal
24 products reserve during the preceding year.

1 (c) DISCLOSURES CONCERNING RARE EARTH MET-
2 ALS BY CONTRACTORS OF DEPARTMENT OF DEFENSE.—

3 (1) REQUIREMENT.—The Secretary of Defense
4 shall require that any contractor that provides to the
5 Department of Defense a system with a rare earth
6 metal permanent magnet disclose, along with deliv-
7 ery of the system, the provenance of the magnet.

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

11 (A) the rare earth metals used in the mag-
12 net were mined;

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

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

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

19 (3) IMPLEMENTATION OF SUPPLY CHAIN
20 TRACKING SYSTEM.—If a contractor cannot make
21 the disclosure required by paragraph (1) with re-
22 spect to a magnet, the Secretary shall require the
23 contractor to establish and implement a supply chain
24 tracking system in order to make the disclosure not

1 later than 180 days after providing the magnet to
2 the Department of Defense.

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

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

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

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

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

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

23 (1) IN GENERAL.—The Secretary of Defense
24 shall require that, for any contract entered into or
25 renewed on or after December 31, 2026, for the pro-

1 curement of a system the export of which is re-
2 stricted or controlled under the Arms Export Con-
3 trol Act (22 U.S.C. 2751 et seq.), no rare earth met-
4 als processed or refined in the People's Republic of
5 China may be included in the system.

6 (2) WAIVER.—The Secretary may waive the re-
7 striction under paragraph (1) upon a determination
8 that—

9 (A) rare earth metals of sufficient quantity
10 and quality are not available at reasonable
11 prices from sources outside of the People's Re-
12 public of China; and

13 (B) such a waiver is in the interests of na-
14 tional security.

15 (e) COMPLIANCE WITH CONTRACTING REQUIRE-
16 MENTS.—

17 (1) IN GENERAL.—Not later than September
18 30, 2022, and every 2 years thereafter, the Comp-
19 troller General of the United States shall audit the
20 extent of compliance or noncompliance with the re-
21 quirements of subsections (c) and (d) of this section,
22 and section 2533c of title 10, United States Code,
23 through a random sampling of contracts entered into
24 by the Department of Defense during the 2-year pe-
25 riod preceding the audit.

1 (2) REPORT REQUIRED.—Not later than 30
2 days after the completion of an audit under para-
3 graph (1), the Comptroller General shall submit to
4 the appropriate congressional committees an assess-
5 ment of—

6 (A) the inclusion by the Department of
7 Defense of necessary contracting clauses in rel-
8 evant contracts; and

9 (B) compliance by contractors of the De-
10 partment with subsections (c) and (d) of this
11 section and section 2533c of title 10, United
12 States Code.

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

20 (f) INVESTIGATION OF UNFAIR TRADE PRACTICES.—

21 (1) IN GENERAL.—Not later than 90 days after
22 the date of the enactment of this section, the United
23 States Trade Representative, in coordination with
24 the Secretary of Commerce, shall initiate an inves-
25 tigation under title III of the Trade Act of 1974 (19

1 U.S.C. 2411 et seq.) to determine whether acts, poli-
2 cies, and practices of the Government of the People's
3 Republic of China related to technology transfer, in-
4 tellectual property, or innovation with respect to rare
5 earth metal mining, separation, metallization,
6 alloying, or magnet manufacturing, or related proc-
7 esses, are acts, policies, and practices described in
8 subsection (a) or (b) of section 301 of that Act (19
9 U.S.C. 2411).

10 (2) REPORT REQUIRED.—

11 (A) IN GENERAL.—Not later than 180
12 days after initiating the investigation required
13 by paragraph (1), the Trade Representative
14 shall submit to the appropriate congressional
15 committees a report assessing the necessity of
16 trade enforcement actions to deter the Govern-
17 ment of the People's Republic of China from
18 further interference in the rare earth metals
19 market.

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

22 (i) a summary of actions taken by the
23 Government of the People's Republic of
24 China to disrupt supply chains for rare
25 earth metals;

1 (ii) a summary of the world market
2 for rare earth metals at each stage of the
3 supply chain, including the ability of pro-
4 ducers in the United States and countries
5 that are allies of the United States to meet
6 the national security and commercial needs
7 of the United States;

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

17 (iv) recommendations for such other
18 authorities as the Secretary considers nec-
19 essary to deter the Government of the Peo-
20 ple's Republic of China from further inter-
21 ference in the rare earth metals market.

22 (g) PRODUCTION IN AND USES OF RARE EARTH
23 METALS BY UNITED STATES ALLIES.—

24 (1) POLICY.—It shall be the policy of the
25 United States to encourage countries that are allies

1 of the United States to eliminate their dependence
2 on non-allied countries for rare earth metals to the
3 maximum extent practicable.

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

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

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

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

