

117TH CONGRESS  
1ST SESSION

# H. R. 2559

To require the Secretary of Transportation to issue regulations relating to the authorization of foreign manufacturers of cylinders, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2021

Mr. BALDERSON introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To require the Secretary of Transportation to issue regulations relating to the authorization of foreign manufacturers of cylinders, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Compressed Gas Cyl-  
5 nder Safety and Oversight Improvements Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions apply:

8 (1) FOREIGN MANUFACTURER OF CYLINDERS;  
9 FMOC.—The terms “foreign manufacturer of cyl-

1       inders” and “FMOC” mean an entity that manufac-  
2       tures cylinders outside of the United States intended  
3       to be represented, marked, certified, or sold as quali-  
4       fied for use in transporting hazardous material in  
5       commerce in the United States.

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

8           (A) is has been authorized by the Sec-  
9       retary pursuant to section 107.807 of title 49,  
10       Code of Federal Regulations; and

11          (B) has demonstrated 3 years of compli-  
12       ance with section 107 of title 49, United States  
13       Code, and chapter 51 of title 49, United States  
14       Code.

15          (3) CYLINDER.—The term “cylinder” means  
16       any cylinder specified under sections 178.36 through  
17       178.68 of title 49, Code of Federal Regulations.

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

20 **SEC. 3. AUTHORIZATION OF FOREIGN MANUFACTURER OF**  
21 **CYLINDERS.**

22          (a) IN GENERAL.—The Secretary shall issue regula-  
23       tions to provide that an authorization provided to an  
24       FMOC pursuant to section 107.807 of title 49, Code of  
25       Federal Regulations, or any similar successor regulation,

1 shall be for a period of not longer than 1 year, except  
2 as provided for in subsection (b).

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

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

10 (2) The FMOC certifies that—

11 (A) the information provided pursuant to  
12 section 7 is accurate; and

13 (B) the FMOC has a proactive responsi-  
14 bility to inform the Secretary if any such infor-  
15 mation materially changes.

16 (3) The FMOC provides proof of the minimum  
17 financial responsibility required under section 4.

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

20 (c) FACILITY INSPECTIONS.—

21 (1) PENALTIES.—The Secretary may suspend  
22 or terminate an authorization of an FMOC de-  
23 scribed in this Act if such FMOC obstructs or pre-  
24 vents the Secretary from carrying out an inspection

1 under section 107.807(c) of title 49, Code of Federal  
2 Regulations.

3 (2) DEFINITION OF OBSTRUCTS.—For the pur-  
4 poses of this subsection, the term “obstructs” means  
5 taking actions that are known, or reasonably should  
6 be known, to prevent, hinder, or impede an inspec-  
7 tion.

8 (d) INTERACTION WITH OTHER STATUTES, AGREE-  
9 MENTS, REGULATIONS.—Nothing in this section may be  
10 construed to prevent the harmonization of cylinder stand-  
11 ards otherwise authorized by law or regulation.

12 (e) OTHER CAUSE FOR SUSPENSION OR TERMI-  
13 NATION.—The Secretary may suspend or terminate an au-  
14 thorization of an FMOC described in this Act upon deter-  
15 mination that the FMOC knowingly or intentionally mis-  
16 represented responses to the Secretary required by law or  
17 regulation or the requirements of sections 4 and 7.

18 **SEC. 4. PROOF OF MINIMUM FINANCIAL RESPONSIBILITY**  
19 **REQUIRED AT TIME OF APPLICATION.**

20 Not later than 180 days after the date of enactment  
21 of this Act, the Secretary shall issue such regulations as  
22 are necessary to establish minimum levels of financial re-  
23 sponsibility required for entities to receive approval pursu-  
24 ant to section 107.807 of title 49, Code of Federal Regula-  
25 tions.

1 **SEC. 5. REEVALUATION BY REQUEST FOR RELATED VIOLA-**  
2 **TIONS.**

3 (a) IN GENERAL.—Not later than 180 days after the  
4 date of enactment of this Act, the Secretary shall issue  
5 such regulations as necessary to establish a process for  
6 any interested party to request a reevaluation of the au-  
7 thorization of FMOC cylinders under section 107.807 of  
8 title 49, Code of Federal Regulations, to review the accu-  
9 racy and safety of the actions of such manufacturer.

10 (b) PETITION FOR REEVALUATION.—Such regula-  
11 tions shall allow an interested party to file a petition if  
12 such party has evidence of inaccurate, changed, or fraudu-  
13 lent attestations or responses made by an FMOC to the  
14 Secretary under section 3 or 7.

15 **SEC. 6. NOTICE AND COMMENT FOR APPLICATIONS BY**  
16 **FOREIGN MANUFACTURERS OF CYLINDERS.**

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

23 **SEC. 7. ADDITIONAL QUESTIONS TO ENSURE SAFETY AND**  
24 **COMPLIANCE WITH DOT PROCESS.**

25 (a) ADDITIONAL QUESTIONS.—The Secretary shall  
26 require as part of an application for approval pursuant

1 to section 107.807 of title 49, Code of Federal Regula-  
2 tions, or any similar successor regulation, that the appli-  
3 cant answer the following questions:

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

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

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

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

1           (5) Whether the FMOC applying, or any entity  
2           controlling more than 10 percent of such FMOC, is  
3           identified by the Department of Defense as an entity  
4           listed under section 1237 of the Strom Thurmond  
5           National Defense Authorization Act for Fiscal Year  
6           1999 (50 U.S.C. 1701 note) as of the date of appli-  
7           cation.

8           (6) Does the FMOC applying certify that the  
9           FMOC has the requisite minimum financial respon-  
10          sibility as required in section 4, and that such finan-  
11          cial responsibility will continue throughout entirety  
12          of the requested authorization period.

13          (7) Whether the FMOC applying, or any entity  
14          controlling more than 10 percent of such FMOC,  
15          has been found guilty of a criminal penalty or as-  
16          sessed a civil penalty under section 1760 John S.  
17          McCain National Defense Authorization Act for Fis-  
18          cal Year 2019 section (50 U.S.C. 4819).

19          (8) Whether the FMOC applying, or any entity  
20          controlling more than 10 percent of such FMOC, is  
21          currently subject to a final antidumping or counter-  
22          vailing duty order from the Department of Com-  
23          merce as of the date of application.

24          (b) DENIAL OF APPLICATION.—The Secretary may  
25          deny an application for approval under section 107.807

1 of title 49, Code of Federal Regulations, based on the re-  
2 sponses to the questions required under subsection (a).

3 **SEC. 8. FOREIGN MANUFACTURERS LISTING APPROVALS.**

4 Not less than 1 year after the date of enactment of  
5 this Act, and annually thereafter, the Secretary shall pub-  
6 lish and maintain on the website of the Department of  
7 Transportation, a list of authorized FMOCs and the dura-  
8 tion of such authorization.

9 **SEC. 9. AUTHORIZING FOREIGN INSPECTIONS.**

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

13 (1) require that in any case in which the Asso-  
14 ciate Administrator determines there is good cause,  
15 an inspection under such section shall be carried out  
16 annually for such duration as the Associated Admin-  
17 istrator determines appropriate;

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

21 (3) allow the Associate Administrator to request  
22 at the discretion of the Administrator, production of  
23 test and production records and random sample test-  
24 ing; and



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

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