

EPA SCIENCE ADVISORY BOARD REFORM ACT OF 2013

JULY 22, 2013.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on Science, Space, and Technology, submitted the following

R E P O R T

[To accompany H.R. 1422]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, Space, and Technology, to whom was referred the bill (H.R. 1422) to amend the Environmental Research, Development, and Demonstration Authorization Act of 1978 to provide for Scientific Advisory Board member qualifications, public participation, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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I. AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “EPA Science Advisory Board Reform Act of 2013”.

SEC. 2. SCIENCE ADVISORY BOARD.

(a) MEMBERSHIP.—Section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(b)) is amended to read as follows:

“(b)(1) The Board shall be composed of at least nine members, one of whom shall be designated Chairman, and shall meet at such times and places as may be designated by the Chairman in consultation with the Administrator.

“(2) Each member of the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section. The Administrator shall select Board members from nominations received as described in paragraph (3) and shall ensure that—

“(A) the scientific and technical points of view represented on and the functions to be performed by the Board are fairly balanced among the members of the Board;

“(B) at least ten percent of the membership of the Board are from State, local, or tribal governments;

“(C) persons with substantial and relevant expertise are not excluded from the Board due to affiliation with or representation of entities that may have a potential interest in the Board’s advisory activities, so long as that interest is fully disclosed to the Administrator and the public and appointment to the Board complies with section 208 of title 18, United States Code;

“(D) in the case of a Board advisory activity on a particular matter involving a specific party, no Board member having an interest in the specific party shall participate in that activity;

“(E) Board members may not participate in advisory activities that directly or indirectly involve review and evaluation of their own work;

“(F) Board members shall be designated as special Government employees; and

“(G) no federally registered lobbyist is appointed to the Board.

“(3) The Administrator shall—

“(A) solicit public nominations for the Board by publishing a notification in the Federal Register;

“(B) solicit nominations from relevant Federal agencies, including the Departments of Agriculture, Defense, Energy, and Health and Human Services;

“(C) make public the list of nominees, including the identity of the entities that nominated them, and shall accept public comment on the nominees;

“(D) require that, upon their provisional nomination, nominees shall file a written report disclosing financial relationships and interests, including Environmental Protection Agency grants, contracts, cooperative agreements, or other financial assistance, that are relevant to the Board’s advisory activities for the three-year period prior to the date of their nomination, and relevant professional activities and public statements for the five-year period prior to the date of their nomination; and

“(E) make such reports public, with the exception of specific dollar amounts, for each member of the Board upon such member’s selection.

“(4) Disclosure of relevant professional activities under paragraph (3)(D) shall include all representational work, expert testimony, and contract work as well as identifying the party for which the work was done.

“(5) Except when specifically prohibited by law, the Agency shall make all conflict of interest waivers granted to members of the Board, member committees, or investigative panels publicly available.

“(6) Any recusal agreement made by a member of the Board, a member committee, or an investigative panel, or any recusal known to the Agency that occurs during the course of a meeting or other work of the Board, member committee, or investigative panel shall promptly be made public by the Administrator.

“(7) The terms of the members of the Board shall be three years and shall be staggered so that the terms of no more than one-third of the total membership of the Board shall expire within a single fiscal year. No member shall serve more than two terms over a ten-year period.”.

(b) RECORD.—Section 8(c) of such Act (42 U.S.C. 4365(c)) is amended—

(1) in paragraph (1)—

(A) by inserting “risk or hazard assessment,” after “at the time any proposed”; and

(B) by inserting “risk or hazard assessment,” after “to the Board such proposed”; and

(2) in paragraph (2)—

(A) by inserting “risk or hazard assessment,” after “the scientific and technical basis of the proposed”; and

(B) by adding at the end the following: “The Board’s advice and comments, including dissenting views of Board members, and the response of the Administrator shall be included in the record with respect to any proposed risk or hazard assessment, criteria document, standard, limitation, or regulation and published in the Federal Register.”.

(c) MEMBER COMMITTEES AND INVESTIGATIVE PANELS.—Section 8(e) of such Act (42 U.S.C. 4365(e)) is amended by adding at the end the following: “These member committees and investigative panels—

“(1) shall be constituted and operate in accordance with the provisions set forth in paragraphs (2) and (3) of subsection (b), in subsection (h), and in subsection (i);

“(2) do not have authority to make decisions on behalf of the Board; and

“(3) may not report directly to the Environmental Protection Agency.”.

(d) PUBLIC PARTICIPATION.—Section 8 of such Act (42 U.S.C. 4365) is amended by adding after subsection (g) the following:

“(h)(1) To facilitate public participation in the advisory activities of the Board, the Administrator and the Board shall make public all reports and relevant scientific information and shall provide materials to the public at the same time as received by members of the Board.

“(2) Prior to conducting major advisory activities, the Board shall hold a public information-gathering session to discuss the state of the science related to the advisory activity.

“(3) Prior to convening a member committee or investigative panel under subsection (e) or requesting scientific advice from the Board, the Administrator shall accept, consider, and address public comments on questions to be asked of the Board. The Board, member committees, and investigative panels shall accept, consider, and address public comments on such questions and shall not accept a question that unduly narrows the scope of an advisory activity.

“(4) The Administrator and the Board shall encourage public comments, including oral comments and discussion during the proceedings, that shall not be limited by an insufficient or arbitrary time restriction. Public comments shall be provided to the Board when received. The Board’s reports shall include written responses to significant comments offered by members of the public to the Board.

“(5) Following Board meetings, the public shall be given 15 calendar days to provide additional comments for consideration by the Board.”.

(e) OPERATIONS.—Section 8 of such Act (42 U.S.C. 4365) is further amended by adding after subsection (h), as added by subsection (d) of this section, the following:

“(i)(1) In carrying out its advisory activities, the Board shall strive to avoid making policy determinations or recommendations, and, in the event the Board feels compelled to offer policy advice, shall explicitly distinguish between scientific determinations and policy advice.

“(2) The Board shall clearly communicate uncertainties associated with the scientific advice provided to the Administrator.

“(3) The Board shall ensure that advice and comments reflect the views of the members and shall encourage dissenting members to make their views known to the public and the Administrator.

“(4) The Board shall conduct periodic reviews to ensure that its advisory activities are addressing the most important scientific issues affecting the Environmental Protection Agency.”.

SEC. 3. RELATION TO THE FEDERAL ADVISORY COMMITTEE ACT.

Nothing in this Act or the amendments made by this Act shall be construed as supplanting the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 4. RELATION TO THE ETHICS IN GOVERNMENT ACT OF 1978.

Nothing in this Act or the amendments made by this Act shall be construed as supplanting the requirements of the Ethics in Government Act of 1978 (5 U.S.C. App.).

II. PURPOSE AND SUMMARY

The purpose of H.R. 1422 is to amend the Environmental Research, Development, and Demonstration Authorization Act of 1978 to provide for Science Advisory Board member qualifications, public participation, and for other purposes.

III. BACKGROUND AND NEED FOR THE LEGISLATION

Environmental Protection Agency's (EPA) Science Advisory Board (SAB) was established by Congress in the Environmental Research, Development, and Demonstration Authorization Act of 1978 (ERDDAA)¹. Under this authorization, the SAB provides scientific advice as may be requested by the EPA Administrator and interested Congressional Committees.

Since its enactment, the size and function of the SAB has evolved. ERDDAA established a minimum number of nine members, one of which is to be the designated Chair. Members are appointed by the EPA Administrator to serve a three-year term and may be reappointed for a second three-year term. There are currently 51 members of the chartered SAB. The SAB and its subcommittees and ad hoc subpanels provide scientific advice on a wide range of issues, including stream and wetland connectivity, hydraulic fracturing, environmental justice screening, and regulatory cost estimates.² The Board has also begun providing advice on the science underlying several potential, forthcoming Agency regulatory activities.³

The SAB is operated in accordance with the Federal Advisory Committee Act of 1972, which requires that advisory panels have a charter and be "fairly balanced in terms of the points of view represented and the functions to be performed." According to EPA, SAB's mission includes:

- reviewing the quality and relevance of the scientific and technical information being used or proposed as the basis for Agency regulations;
- reviewing research programs and the technical basis of applied programs;
- reviewing generic approaches to regulatory science, including guidelines governing the use of scientific and technical information in regulatory decisions, and critiquing such analytic methods as mathematical modeling;
- advising the Agency on broad scientific matters in science, technology, social and economic issues; and
- advising the Agency on emergency and other short-notice programs.⁴

Toward those goals, the chartered SAB conducts much of its work through subcommittees or subpanels focused on specific issues. Currently, these subcommittees include: Drinking Water Committee; Ecological Processes and Effects Committee; Environmental Economics Advisory Committee; Environmental Engineering Committee; Exposure and Human Health Committee; Radi-

¹ Public Law 95-155.

² <http://yosemite.epa.gov/sab/sabproduct.nsf/WebProjectsbyTopicBOARD!OpenView>.

³ Dave Reynolds, "Advisors Narrow List Of Pending EPA Rules For Novel Scientific Scrutiny," Inside EPA, March 11, 2013, <http://insideepa.com/201303112427282/EPA-Daily-News/Daily-News/advisors-narrow-list-of-pending-epa-rules-for-novel-scientific-scrutiny/menu-id-0995.html>.

⁴ <http://yosemite.epa.gov/sab/sabpeople.nsf/Webcommittees/BOARD>.

ation Advisory Committee; and the Chemical Assessment Advisory Committee (established January 30, 2013).⁵ Under the SAB's charter,⁶ these "[c]ommittees, panels, and workgroups have no authority to make decisions on behalf of the SAB and may not report directly to the Agency."

EPA also receives advice from and manages 22 additional Federal Advisory Committees, including entities like the EPA Board of Scientific Counselors, the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel, and the Clean Air Scientific Advisory Committee (CASAC).⁷ These bodies carry out a variety of advisory functions. For example, CASAC "provides independent advice to the EPA Administrator on the technical bases for EPA's national ambient air quality standards" and "addresses research related to air quality, sources of air pollution, and the strategies to attain and maintain air quality standards and to prevent significant deterioration of air quality." The Chair of CASAC also sits on the chartered SAB.⁸

EPA staff and the chartered SAB allow for some public involvement in advisory activities through the nomination of experts for committees and panels and involvement in advisory committee meetings and report developments. In response to numerous comments during an SAB Session on Public Involvement in June 2011, the SAB Staff Office announced additional steps to enhance public involvement in advisory activities beginning in FY2012.⁹

IV. HEARING SUMMARY

In the 113th Congress, the Subcommittee on Environment held a hearing on March 20, 2013, to examine the Environmental Protection Agency's process for receiving independent scientific advice and to receive testimony on draft legislation to strengthen public participation; improve the process for selecting expert advisors; expand transparency requirements; and limit non-scientific policy advice among advisory bodies.

The Subcommittee heard from 3 witnesses:

Dr. Michael Honeycutt, Chief Toxicologist, Texas Commission on Environmental Quality

Dr. Roger McClellan, Advisor, Toxicology and Human Health Risk Analysis

Dr. Francesca Grifo, Senior Scientist and Science Policy Fellow, Union of Concerned Scientists

V. COMMITTEE CONSIDERATION

On April 9, 2013, H.R. 1422 was introduced by Rep. Chris Stewart and referred to the Committee on Science, Space, and Technology.

On April 11, 2013, the Committee on Science, Space, and Technology met in open markup session and adopted H.R. 1422, as amended, by roll call vote. Further, the Committee ordered H.R. 1422 favorably reported to the House, as amended, by roll call vote.

⁵ <http://yosemite.epa.gov/sab/sabproduct.nsf/WebBOARD/CommitteesandMembership?OpenDocument>.

⁶ <http://yosemite.epa.gov/sab/sabproduct.nsf/WebBOARD/currentcharter?OpenDocument>.

⁷ <http://www.epa.gov/ocem/faca/facacomcontacts.htm>.

⁸ <http://yosemite.epa.gov/sab/sabpeople.nsf/WebCommittees/CASAC>.

⁹ <http://yosemite.epa.gov/sab/sabproduct.nsf/WebSABSO/PublicInvolvement?OpenDocument>.

VI. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion to order H.R. 1422 favorably reported to the House, as amended, was agreed to by a recorded vote, 21 ayes, 16 nays.

During Full Committee consideration of H.R. 1422, the following amendments were considered:

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
Full Committee Markup
April 11, 2013

AMENDMENT ROSTER

H.R. 1422, the "EPA Science Advisory Board Reform Act of 2013"

| No. | Amendment | Summary | |
|------------|---|--|---|
| 1 | Amendment offered by Ms. Edwards (MD) (455) | Caps representation of for-profit entities on SAB at ten percent of membership | Not Agreed to by Voice Vote |
| 2 | Amendment offered by Ms. Edwards (MD) (460) | Strikes language prohibiting SAB members from directly or indirectly reviewing their own work. | Not Agreed to by Voice Vote |
| 3 | Amendment offered by Mr. Bera (CA) (454) | Requires that minimum of 10 percent of SAB membership come from non-governmental organizations representing public health, minority populations, women's issues, children's issues, food safety or other public interest non-governmental organizations. | Not Agreed to by a roll call vote of 16 Yeas and 21 Nays |
| 4 | Amendment offered by Mr. Grayson (FL) (066) | Prohibits registered lobbyists from service on the Science Advisory Board (SAB). | Agreed to by Voice Vote |
| 5 | Amendment offered by Mr. Swalwell (CA) (457) | Requires SAB members disclose as part of their relevant professional activities all representational work, expert testimony, and contract work including the entity for which the work was done. | Agreed to by Voice Vote |
| 6 | Amendment offered by Ms. Bonamici (OR) (010) | Requires all conflict of interest waivers granted to members of the Board, member committees or investigative panels to be made publicly available. | Agreed to by Voice Vote |
| 7 | Amendment offered by Ms. Bonamici (OR) (009) | Requires the Administrator to make public any recusal agreement for a member of the Board, member committee or investigative panel. | Agreed to by Voice Vote |
| 8 | Amendment offered by Ms. Edwards (MD) (453) | Inserts authorization for the appropriation of such sums as may be necessary for the activities of the bill. | Not Agreed to by a roll call vote of 16 Yeas and 21 Nays |
| 9 | Amendment offered by Ms. Edwards (MD) (450) | Authorizes Administrator to ignore requirements of act that are determined to incur additional costs, unless there is sufficient appropriation to cover the cost. | Not Agreed to by a roll call vote of 16 Yeas and 21 Nays |
| 10 | Amendment offered by Mr. Grayson (FL) (451) | Specifies that nothing in the bill shall be construed as supplanting the Federal Advisory Committee Act. | Agreed to by Voice Vote |
| 11 | Amendment offered by Mr. Grayson (FL) (452) | Specifies that nothing in the bill shall be construed as supplanting the Ethics in Government Act. | Agreed to by Voice Vote |

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 113th

Full Committee Roll Call

Quorum: 13 Working Quorum: 20

DATE: 4/11/2013

Bill: H.R. 1422

Amendment No. 454

Sponsor: Bera

Roll Call No. 1

Not Agreed to: 21 Noes; 16 Ayes

| MEMBER | AYE | NO | PRESENT | NOT VOTING |
|------------------------------------|-----|----|---------|------------|
| 1 Mr. SMITH, <i>Chair - TX</i> | | X | | |
| 2 Mr. ROHRBACHER - CA ** | | X | | |
| 3 Mr. HALL - TX | | X | | |
| 4 Mr. SENSENBRENNER - WI | | X | | |
| 5 Mr. LUCAS - OK | | X | | |
| 6 Mr. NEUGEBAUER - TX | | X | | |
| 7 Mr. MCCAUL - TX | | X | | |
| 8 Mr. BROUN - GA | | X | | |
| 9 Mr. PALAZZO - MS | | X | | |
| 10 Mr. BROOKS - AL | | X | | |
| 11 Mr. HULTGREN - IL | | X | | |
| 12 Mr. BUCSHON - IN | | X | | |
| 13 Mr. STOCKMAN - TX | | X | | |
| 14 Mr. POSEY - FL | | X | | |
| 15 Mrs. LUMMIS - WY | | X | | |
| 16 Mr. SCHWEIKERT - AZ | | X | | |
| 17 Mr. MASSIE - KY | | X | | |
| 18 Mr. CRAMER - ND | | X | | |
| 19 Mr. BRIDENSTINE - OK | | X | | |
| 20 Mr. WEBER - TX | | X | | |
| 21 Mr. STEWART - UT | | X | | |
| 22 Vacancy | | | | |
| 1 Ms. JOHNSON, <i>Ranking - TX</i> | X | | | |
| 2 Ms. LOFGREN - CA | | | | |
| 3 Mr. LIPINSKI - IL | X | | | |
| 4 Ms. EDWARDS - MD | X | | | |
| 5 Ms. WILSON - FL | X | | | |
| 6 Ms. BONAMICI - OR | X | | | |
| 7 Mr. SWALWELL - CA | X | | | |
| 8 Mr. MAFFEI - NY | X | | | |
| 9 Mr. GRAYSON - FL | X | | | |
| 10 Mr. KENNEDY - MA | X | | | |
| 11 Mr. PETERS - CA | X | | | |
| 12 Mr. KILMER - WA | X | | | |
| 13 Mr. BERA - CA | X | | | |
| 14 Ms. ESTY - CT | X | | | |
| 15 Mr. VEASEY - TX | X | | | |
| 16 Ms. BROWNLEY - CA | X | | | |
| 17 Mr. TAKANO - CA | X | | | |
| 18 Vacancy | | | | |
| TOTALS | 16 | 21 | | |

** Vice Chair

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 113th

Full Committee Roll Call

Quorum: 13 Working Quorum: 20

DATE: 4/11/2013

Bill: H.R. 1422

Amendment No. 453

Sponsor: Edwards

Roll Call No. 2

Not Agreed to: 21 Noes; 16 Ayes

| | MEMBER | AYE | NO | PRESENT | NOT VOTING |
|----|----------------------------------|-----------|-----------|---------|------------|
| 1 | Mr. SMITH, <i>Chair - TX</i> | | X | | |
| 2 | Mr. ROHRBACHER - <i>CA</i> ** | | X | | |
| 3 | Mr. HALL - <i>TX</i> | | X | | |
| 4 | Mr. SENSENBRENNER - <i>WI</i> | | X | | |
| 5 | Mr. LUCAS - <i>OK</i> | | X | | |
| 6 | Mr. NEUGEBAUER - <i>TX</i> | | X | | |
| 7 | Mr. MCCAUL - <i>TX</i> | | X | | |
| 8 | Mr. BROUN - <i>GA</i> | | X | | |
| 9 | Mr. PALAZZO - <i>MS</i> | | X | | |
| 10 | Mr. BROOKS - <i>AL</i> | | X | | |
| 11 | Mr. HULTGREN - <i>IL</i> | | X | | |
| 12 | Mr. BUCSHON - <i>IN</i> | | X | | |
| 13 | Mr. STOCKMAN - <i>TX</i> | | X | | |
| 14 | Mr. POSEY - <i>FL</i> | | X | | |
| 15 | Mrs. LUMMIS - <i>WY</i> | | X | | |
| 16 | Mr. SCHWEIKERT - <i>AZ</i> | | X | | |
| 17 | Mr. MASSIE - <i>KY</i> | | X | | |
| 18 | Mr. CRAMER - <i>ND</i> | | X | | |
| 19 | Mr. BRIDENSTINE - <i>OK</i> | | X | | |
| 20 | Mr. WEBER - <i>TX</i> | | X | | |
| 21 | Mr. STEWART - <i>UT</i> | | X | | |
| 22 | Vacancy | | | | |
| 1 | Ms. JOHNSON, <i>Ranking - TX</i> | X | | | |
| 2 | Ms. LOFGREN - <i>CA</i> | | | | |
| 3 | Mr. LIPINSKI - <i>IL</i> | X | | | |
| 4 | Ms. EDWARDS - <i>MD</i> | X | | | |
| 5 | Ms. WILSON - <i>FL</i> | X | | | |
| 6 | Ms. BONAMICI - <i>OR</i> | X | | | |
| 7 | Mr. SWALWELL - <i>CA</i> | X | | | |
| 8 | Mr. MAFFEI - <i>NY</i> | X | | | |
| 9 | Mr. GRAYSON - <i>FL</i> | X | | | |
| 10 | Mr. KENNEDY - <i>MA</i> | X | | | |
| 11 | Mr. PETERS - <i>CA</i> | X | | | |
| 12 | Mr. KILMER - <i>WA</i> | X | | | |
| 13 | Mr. BERA - <i>CA</i> | X | | | |
| 14 | Ms. ESTY - <i>CT</i> | X | | | |
| 15 | Mr. VEASEY - <i>TX</i> | X | | | |
| 16 | Ms. BROWNLEY - <i>CA</i> | X | | | |
| 17 | Mr. TAKANO - <i>CA</i> | X | | | |
| 18 | Vacancy | | | | |
| | TOTALS | 16 | 21 | | |

** Vice Chair

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 113th

Full Committee Roll Call

Quorum: 13 Working Quorum: 20

DATE: 4/11/2013

Bill: H.R. 1422

Amendment No. 450

Sponsor: Edwards

Roll Call No. 3

Not Agreed to: 21 Noes; 16 Ayes

| MEMBER | AYE | NO | PRESENT | NOT VOTING |
|------------------------------------|-----|----|---------|------------|
| 1 Mr. SMITH, <i>Chair - TX</i> | | X | | |
| 2 Mr. ROHRABACHER - <i>CA</i> ** | | X | | |
| 3 Mr. HALL - <i>TX</i> | | X | | |
| 4 Mr. SENSENBRENNER - <i>WI</i> | | X | | |
| 5 Mr. LUCAS - <i>OK</i> | | X | | |
| 6 Mr. NEUGEBAUER - <i>TX</i> | | X | | |
| 7 Mr. MCCAUL - <i>TX</i> | | X | | |
| 8 Mr. BROUN - <i>GA</i> | | X | | |
| 9 Mr. PALAZZO - <i>MS</i> | | X | | |
| 10 Mr. BROOKS - <i>AL</i> | | X | | |
| 11 Mr. HULTGREN - <i>IL</i> | | X | | |
| 12 Mr. BUCSHON - <i>IN</i> | | X | | |
| 13 Mr. STOCKMAN - <i>TX</i> | | X | | |
| 14 Mr. POSEY - <i>FL</i> | | X | | |
| 15 Mrs. LUMMIS - <i>WY</i> | | X | | |
| 16 Mr. SCHWEIKERT - <i>AZ</i> | | X | | |
| 17 Mr. MASSIE - <i>KY</i> | | X | | |
| 18 Mr. CRAMER - <i>ND</i> | | X | | |
| 19 Mr. BRIDENSTINE - <i>OK</i> | | X | | |
| 20 Mr. WEBER - <i>TX</i> | | X | | |
| 21 Mr. STEWART - <i>UT</i> | | X | | |
| 22 Vacancy | | | | |
| 1 Ms. JOHNSON, <i>Ranking - TX</i> | X | | | |
| 2 Ms. LOFGREN - <i>CA</i> | | | | |
| 3 Mr. LIPINSKI - <i>IL</i> | X | | | |
| 4 Ms. EDWARDS - <i>MD</i> | X | | | |
| 5 Ms. WILSON - <i>FL</i> | X | | | |
| 6 Ms. BONAMICI - <i>OR</i> | X | | | |
| 7 Mr. SWALWELL - <i>CA</i> | X | | | |
| 8 Mr. MAFFEI - <i>NY</i> | X | | | |
| 9 Mr. GRAYSON - <i>FL</i> | X | | | |
| 10 Mr. KENNEDY - <i>MA</i> | X | | | |
| 11 Mr. PETERS - <i>CA</i> | X | | | |
| 12 Mr. KILMER - <i>WA</i> | X | | | |
| 13 Mr. BERA - <i>CA</i> | X | | | |
| 14 Ms. ESTY - <i>CT</i> | X | | | |
| 15 Mr. VEASEY - <i>TX</i> | X | | | |
| 16 Ms. BROWNLEY - <i>CA</i> | X | | | |
| 17 Mr. TAKANO - <i>CA</i> | X | | | |
| 18 Vacancy | | | | |
| TOTALS | 16 | 21 | | |

** Vice Chair

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 113th

Full Committee Roll Call

Quorum: 13 Working Quorum: 20

DATE: 4/11/2013

Bill: H.R. 1422

Roll Call No. 4

Final Passage: 21 Ayes; 16 Noes

| MEMBER | AYE | NO | PRESENT | NOT VOTING |
|------------------------------------|-----|----|---------|------------|
| 1 Mr. SMITH, <i>Chair - TX</i> | X | | | |
| 2 Mr. ROHRABACHER - CA ** | X | | | |
| 3 Mr. HALL - TX | X | | | |
| 4 Mr. SENSENBRENNER - WI | X | | | |
| 5 Mr. LUCAS - OK | X | | | |
| 6 Mr. NEUGEBAUER - TX | X | | | |
| 7 Mr. MCCAUL - TX | X | | | |
| 8 Mr. BROUN - GA | X | | | |
| 9 Mr. PALAZZO - MS | X | | | |
| 10 Mr. BROOKS - AL | X | | | |
| 11 Mr. HULTGREN - IL | X | | | |
| 12 Mr. BUCSHON - IN | X | | | |
| 13 Mr. STOCKMAN - TX | X | | | |
| 14 Mr. POSEY - FL | X | | | |
| 15 Mrs. LUMMIS - WY | X | | | |
| 16 Mr. SCHWEIKERT - AZ | X | | | |
| 17 Mr. MASSIE - KY | X | | | |
| 18 Mr. CRAMER - ND | X | | | |
| 19 Mr. BRIDENSTINE - OK | X | | | |
| 20 Mr. WEBER - TX | X | | | |
| 21 Mr. STEWART - UT | X | | | |
| 22 Vacancy | | | | |
| 1 Ms. JOHNSON, <i>Ranking - TX</i> | | X | | |
| 2 Ms. LOFGREN - CA | | | | |
| 3 Mr. LIPINSKI - IL | | X | | |
| 4 Ms. EDWARDS - MD | | X | | |
| 5 Ms. WILSON - FL | | X | | |
| 6 Ms. BONAMICI - OR | | X | | |
| 7 Mr. SWALWELL - CA | | X | | |
| 8 Mr. MAFFEI - NY | | X | | |
| 9 Mr. GRAYSON - FL | | X | | |
| 10 Mr. KENNEDY - MA | | X | | |
| 11 Mr. PETERS - CA | | X | | |
| 12 Mr. KILMER - WA | | X | | |
| 13 Mr. BERA - CA | | X | | |
| 14 Ms. ESTY - CT | | X | | |
| 15 Mr. VEASEY - TX | | X | | |
| 16 Ms. BROWNLEY - CA | | X | | |
| 17 Mr. TAKANO - CA | | X | | |
| 18 Vacancy | | | | |
| TOTALS | 21 | 16 | | |

** Vice Chair

VII. SUMMARY OF MAJOR PROVISIONS OF THE BILL

H.R. 1422 reforms EPA's Science Advisory Board and its subpanels by strengthening public participation, improving the process for selecting expert advisors, expanding transparency requirements, and limiting non-scientific policy advice.

VIII. COMMITTEE VIEWS

H.R. 1422 will restore balance and independence to the scientific advisory process at EPA. The bill seeks to codify existing practices and address concerns with the Science Advisory Board (SAB) by strengthening public participation, reinforcing the need for expertise, transparency, and balance in the SAB selection process, and establishing a clearer role for the SAB in providing scientific advice to the EPA and Congress. H.R. 1422 provides needed direction to SAB and helps to fulfill President Ronald Reagan's guidance that "[t]he purpose of the Science Advisory Board is to apply the universally accepted principles of scientific peer review to the research conclusions that will form the bases for EPA regulations, a function that must remain above interest group politics."

In light of EPA's unique position as an agency that frequently provides the scientific justifications to support its regulatory decisions, it is vital that the scientific advisory and peer review process be independent and robust. This is especially true for the EPA Science Advisory Board because its members are selected by the EPA Administrator and frequently are asked to provide analysis on critical scientific matters and information from chemical assessments to EPA's research budget prioritization. If EPA science appears biased, pre-ordained toward a specific outcome, or even less than willing to consider every point of view, its credibility will suffer. The bill makes basic changes to the operations, scope, and selection process for the SAB, relying on non-controversial provisions of the Federal Advisory Committee Act, EPA's Peer Review Handbook, the National Academies' Policy on Committee Composition and Balance and Conflicts of Interest, and recommendations from Science Committee testimony.

Despite requirements in the Federal Advisory Committee Act that SAB and related panels be "fairly balanced in terms of point of view represented," the Science Committee determined that individuals with certain perspectives are overrepresented within the SAB and other viewpoints are frequently underrepresented or excluded from participation based on misinterpretation of ethics rules. Additionally, EPA often differs from the practice of other federal agencies and excludes state, local, tribal, and private sector scientists from serving as advisors. To rectify these issues, H.R. 1422 requires that all SAB members be designated as "special Government employees," prohibits the exclusion of individuals with substantial and relevant expertise, requires that at least ten percent of the Board be drawn from State, local, and tribal experts, and clarifies, in a manner consistent with existing ethics requirements, that in the case of a Board advisory activity on a particular matter involving a specific party, no Board member having an interest in the specific party shall participate in that activity. The bill also expands disclosure requirements for panelists and nomi-

nees, and requires that the EPA make reports and conflict of interest waivers available publicly.

Testimony received by the Committee demonstrated that at times Board members had been involved directly or indirectly in reviewing their own work. To address this issue, H.R. 1422 states that “Board members may not participate in advisory activities that directly or indirectly involve review and evaluation of their own work”. This language was based on the EPA’s Peer Review Handbook language that states that “An independent peer reviewer is an expert who was not associated with the generation of the specific work product whether directly by substantial contribution to its development or indirectly by significant consultation during the development of the specific product.” Additionally, the legislation requires public disclosure of Board member recusals.

H.R. 1422 makes additional changes to open up the SAB process for public participation in a manner that will improve scientific advice without unduly burdening the panel or the EPA. It encourages public comments and instructs the Board to not accept questions that narrow the scope of an advisory activity. Similarly, the bill provides additional detail to the operations of the Board, ensuring that their advice clearly distinguishes scientific and policy advice, communicates uncertainties, and offers opportunities for dissenting views to be made known to the public and the Administrator.

IX. COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held an oversight hearing and made findings that are reflected in the descriptive portions of this report.

X. STATEMENT ON GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of the Committee are reflected in the descriptive portions of this report, including the goal to address concerns with the Science Advisory Board (SAB) by strengthening public participation, reinforcing the need for expertise, transparency, and balance in the SAB selection process, and establishing a clearer role for the SAB in providing scientific advice to the EPA and Congress.

XI. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

XII. ADVISORY ON EARMARKS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 1422, the “EPA Science Advisory Board Reform Act of 2013”, contains no earmarks.

XIII. COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

XIV. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 19, 2013.

Hon. LAMAR SMITH,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1422, the EPA Science Advisory Board Reform Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1422—EPA Science Advisory Board Reform Act of 2013

H.R. 1422 would require the Environmental Protection Agency (EPA) to make various changes related to the qualifications of members serving on the Science Advisory Board (SAB) and to expand disclosure requirements for members of the board. The SAB was established in 1978 by the Congress with a broad mandate to advise EPA on technical matters related to science. Some of the proposed changes under this bill include requiring EPA to solicit nominations from the public and from relevant federal agencies, such as the Departments of Agriculture, Defense, Energy, and Health and Human Services. Nominees also would be required to file a written report disclosing certain financial relationships and interests. Additionally, the bill would require EPA to make risk or hazard assessments available to the SAB and to publish the board's advice, comments, and views in the Federal Register.

Based on information from EPA, CBO estimates that implementing the changes proposed by this legislation would cost less than \$500,000 annually or about \$2 million over the 2014–2018 period, subject to the availability of appropriated funds. That funding would provide for additional personnel and related administrative expenses.

Enacting H.R. 1422 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1422 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Susanne S. Mehlman. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

XV. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

XVI. COMPLIANCE WITH H. RES. 5

A. Directed Rule Making. This bill does not direct any executive branch official to conduct any specific rule-making proceedings.

B. Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

XVII. FEDERAL ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation; however, the bill does modify current law related to an existing advisory committee.

XVIII. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XIX. SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title

This section sets the short title as the EPA Science Advisory Board Reform Act of 2013.

Sec. 2. Science Advisory Board

Subsection (a) amends section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (ERDDAA) to include the following:

(1) Requires the Science Advisory Board be composed of at least nine members, with one designated as Chairman, and requires that these members meet at a time and place designated by the Chairman and Administrator.

(2) Requires that each member of the Board is qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board. The Administrator is required to select Board members from nominations received, and shall ensure: (A) the scientific and technical points of view represented on the Board, as well as the function to be performed, be fairly balanced among the Board members; (B) at least ten percent

of Board membership are from State, local, or tribal governments; (C) persons with substantial and relevant expertise are not excluded from the Board due to affiliation with or representation of entities that might have a potential interest in the Board's advisory activities, as long as this interest is fully disclosed to the Administrator and the public; (D) in the case of a Board advisory activity on a particular matter involving a specific party, no Board member that has an interest in that party shall participate in that activity; (E) Board members may not participate in advisory activities that involve review or application of their own work; and (F) Board members shall be designated as special Government employees.

(3) The Administrator is required to: (A) solicit public comments for the Board by publishing a notification in the Federal Register; (B) solicit nominations from relevant Federal Agencies; (C) make the list of nominees, as well as the entity that nominated them, public, and accept public comments on the nominees; (D) require that upon nomination, nominees file a written report disclosing financial relationships and interests, including EPA grants, contracts, cooperative agreements, and other financial assistance relevant to the Board's advisory activities for the three year period prior to nomination, as well as relevant professional activities and public statements for the five year period prior to nomination; and (E) make these reports public for each member of the Board upon their selection, excepting specific dollar amounts.

(4) The terms of the members of the Board shall be three years and staggered to ensure that no more than one-third of total membership shall expire within a single year, and members are limited to two terms over a ten-year period.

Subsection (b) amends Section 8(c) of ERDDAA to add a "risk or hazard assessment" to the types of proposed actions by the EPA that must be provided to the SAB by the Administrator for advice and comment.

This section further amends ERDDAA to require that the Board's advice and comments, including dissenting views of Board members, and the response of the Administrator be included in the record with respect to any proposed risk or hazard assessment, criteria document, standard, limitation, or regulation and published in the Federal Register.

Subsection (c) amends section 8(e) of ERDDAA to clarify that the member committees and investigative panels: (1) must be constituted and operate in accordance with other provisions of this Act; (2) do not have authority to make decisions on behalf of the Board; and (3) may not report directly to the Environmental Protection Agency.

Subsection (d) amends ERDDAA to (1) Require the Administrator and the Board to make public all reports and relevant scientific information and provide materials to the public at the same time they are received by the Board. (2) Require the Board to hold a public information-gathering session to discuss the state of the science relative to the advisory activity prior to conducting major advisory activities. (3) Require the Administrator to accept, consider, and address public comments on questions to be asked of the board prior to convening a member committee or panel, and the Board, member committee, or panels shall accept, consider, and address these public comments. The Board cannot accept a question

that unduly narrows the scope of an advisory activity. (4) Require the Administrator and the Board to encourage public comments and to provide the public comments to the Board when received. The Board is also required to respond in writing to significant public comments. (5) Provide the public with 15 calendar days after Board meetings to provide additional comments for consideration.

Subsection (e) amends ERDDAA to require: (1) the Board to strive to avoid making policy determinations or recommendations, and explicitly distinguish between scientific determinations and policy advice. (2) The Board clearly communicates uncertainties associated with scientific advice provided to the Administrator. (3) The Board ensures that advice and comments reflect the views of the members and encourage dissenting members to make their views known to the public and Administrator. (4) The Board conducts periodic reviews to ensure its advisory activities are addressing the most important scientific issues facing the EPA.

XX. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1978

* * * * *

SEC. 8. (a) * * *

[(b) Such Board shall be composed of at least nine members, one of whom shall be designated Chairman, and shall meet at such times and places as may be designated by the Chairman of the Board in consultation with the Administrator. Each member of the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section.]

(b)(1) The Board shall be composed of at least nine members, one of whom shall be designated Chairman, and shall meet at such times and places as may be designated by the Chairman in consultation with the Administrator.

(2) Each member of the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section. The Administrator shall select Board members from nominations received as described in paragraph (3) and shall ensure that—

(A) the scientific and technical points of view represented on and the functions to be performed by the Board are fairly balanced among the members of the Board;

(B) at least ten percent of the membership of the Board are from State, local, or tribal governments;

(C) persons with substantial and relevant expertise are not excluded from the Board due to affiliation with or representation of entities that may have a potential interest in the Board's advisory activities, so long as that interest is fully disclosed to the

Administrator and the public and appointment to the Board complies with section 208 of title 18, United States Code;

(D) in the case of a Board advisory activity on a particular matter involving a specific party, no Board member having an interest in the specific party shall participate in that activity;

(E) Board members may not participate in advisory activities that directly or indirectly involve review and evaluation of their own work;

(F) Board members shall be designated as special Government employees; and

(G) no federally registered lobbyist is appointed to the Board.

(3) The Administrator shall—

(A) solicit public nominations for the Board by publishing a notification in the Federal Register;

(B) solicit nominations from relevant Federal agencies, including the Departments of Agriculture, Defense, Energy, and Health and Human Services;

(C) make public the list of nominees, including the identity of the entities that nominated them, and shall accept public comment on the nominees;

(D) require that, upon their provisional nomination, nominees shall file a written report disclosing financial relationships and interests, including Environmental Protection Agency grants, contracts, cooperative agreements, or other financial assistance, that are relevant to the Board's advisory activities for the three-year period prior to the date of their nomination, and relevant professional activities and public statements for the five-year period prior to the date of their nomination; and

(E) make such reports public, with the exception of specific dollar amounts, for each member of the Board upon such member's selection.

(4) Disclosure of relevant professional activities under paragraph (3)(D) shall include all representational work, expert testimony, and contract work as well as identifying the party for which the work was done.

(5) Except when specifically prohibited by law, the Agency shall make all conflict of interest waivers granted to members of the Board, member committees, or investigative panels publicly available.

(6) Any recusal agreement made by a member of the Board, a member committee, or an investigative panel, or any recusal known to the Agency that occurs during the course of a meeting or other work of the Board, member committee, or investigative panel shall promptly be made public by the Administrator.

(7) The terms of the members of the Board shall be three years and shall be staggered so that the terms of no more than one-third of the total membership of the Board shall expire within a single fiscal year. No member shall serve more than two terms over a ten-year period.

(c)(1) The Administrator, at the time any proposed risk or hazard assessment, criteria document, standard, limitation, or regulation under the Clean Air Act, the Federal Water Pollution Control Act, the Resource, Conservation and Recovery Act of 1976, the Noise Control Act, the Toxic Substances Control Act, or the Safe Drinking Water Act, or under any other authority of the Administrator, is

provided to any other Federal agency for formal review and comment, shall make available to the Board such proposed *risk or hazard assessment*, criteria document, standard, limitation, or regulation, together with relevant scientific and technical information in the possession of the Environmental Protection Agency on which the proposed action is based.

(2) The Board may make available to the Administrator, within the time specified by the Administrator, its advice and comments on the adequacy of the scientific and technical basis of the proposed *risk or hazard assessment*, criteria document, standard, limitation, or regulation, together with any pertinent information in the Board's possession. *The Board's advice and comments, including dissenting views of Board members, and the response of the Administrator shall be included in the record with respect to any proposed risk or hazard assessment, criteria document, standard, limitation, or regulation and published in the Federal Register.*

* * * * *

(e) The Board is authorized to constitute such member committees and investigative panels as the Administrator and the Board find necessary to carry out this section. Each such member committee or investigative panel shall be chaired by a member of the Board. *These member committees and investigative panels—*

(1) shall be constituted and operate in accordance with the provisions set forth in paragraphs (2) and (3) of subsection (b), in subsection (h), and in subsection (i);

(2) do not have authority to make decisions on behalf of the Board; and

(3) may not report directly to the Environmental Protection Agency.

* * * * *

(h)(1) To facilitate public participation in the advisory activities of the Board, the Administrator and the Board shall make public all reports and relevant scientific information and shall provide materials to the public at the same time as received by members of the Board.

(2) Prior to conducting major advisory activities, the Board shall hold a public information-gathering session to discuss the state of the science related to the advisory activity.

(3) Prior to convening a member committee or investigative panel under subsection (e) or requesting scientific advice from the Board, the Administrator shall accept, consider, and address public comments on questions to be asked of the Board. The Board, member committees, and investigative panels shall accept, consider, and address public comments on such questions and shall not accept a question that unduly narrows the scope of an advisory activity.

(4) The Administrator and the Board shall encourage public comments, including oral comments and discussion during the proceedings, that shall not be limited by an insufficient or arbitrary time restriction. Public comments shall be provided to the Board when received. The Board's reports shall include written responses to significant comments offered by members of the public to the Board.

(5) Following Board meetings, the public shall be given 15 calendar days to provide additional comments for consideration by the Board.

(i)(1) In carrying out its advisory activities, the Board shall strive to avoid making policy determinations or recommendations, and, in the event the Board feels compelled to offer policy advice, shall explicitly distinguish between scientific determinations and policy advice.

(2) The Board shall clearly communicate uncertainties associated with the scientific advice provided to the Administrator.

(3) The Board shall ensure that advice and comments reflect the views of the members and shall encourage dissenting members to make their views known to the public and the Administrator.

(4) The Board shall conduct periodic reviews to ensure that its advisory activities are addressing the most important scientific issues affecting the Environmental Protection Agency.

* * * * *

**XXI. PROCEEDINGS OF THE FULL
COMMITTEE
MARKUP ON H.R. 1422,
THE EPA SCIENCE ADVISORY BOARD
REFORM ACT OF 2013**

THURSDAY, APRIL 11, 2013

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY,
Washington, D.C.

Chairman SMITH. Pursuant to notice, I now call up H.R. 1422, the Environmental Protection Agency's Science Advisory Board Reform Act of 2013, and the clerk will report the bill.

The CLERK. H.R. 1422, a bill to amend the Environmental Research Development and Demonstration Authorization Act of 1978, to provide for a Science Advisory Board Member qualification—

Chairman SMITH. Without objection, the bill will be considered as read.

[H.R. 1422 appears in Appendix I]

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF CHAIRMAN LAMAR SMITH

While different in their focus, the two bills we consider today share a common goal: to improve the science behind regulatory decision-making at the EPA.

I thank Mr. Sensenbrenner and Mr. Stewart for their work on these bills.

It is my hope that sound science might become a common—and potentially even bipartisan—guiding principle for the Committee's work on EPA issues.

The Committee examined both bills we consider today in hearings last month. And both bills enjoy wide and diverse support.

Mr. Sensenbrenner's E15 bill is backed by both the American Petroleum Institute and the Environmental Working Group, two organizations that do not agree often. It is also supported by the American Automobile Association (AAA), as well as groups representing everyone from snowmobilers to boaters to motorcyclists.

Similarly, Mr. Stewart's Science Advisory Board Reform legislation has garnered support from the American Farm Bureau and the American Chemistry Council.

Both of these bills improve the science that goes into EPA's regulations. This is why they have received such broad support among diverse stakeholders.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF REPRESENTATIVE EDDIE BERNICE JOHNSON

Thank you Chairman Smith.

Today, we are marking up two pieces of legislation:

H.R. 875, To provide for a comprehensive assessment of the scientific and technical research on the implications of the use of mid-level ethanol blends, and for other purposes, and, H.R. 1422, the EPA Science Advisory Board Reform Act of 2013.

Let me say at the outset that I am disappointed the Committee is not following regular order on these bills. This Committee has a good tradition of following regular order in the movement of legislation, and that tradition has served both sides of the aisle well over the years. Regular order is not an arbitrary concept. It is a time tested means to perfect legislation.

Moreover, I think it fosters bipartisanship. The last time Democrats controlled this Committee we held 25 subcommittee markups in four years, and took 45 bills through those markups. And as former Chairman Bart Gordon liked to brag, every one of those bills had at least some Republican support. I do not think that is a coincidence. I hope we can get back to that tradition sooner rather than later.

Unfortunately I cannot support the two bills we are marking up today in their current form. I'm glad to see the Democratic Members have so many amendments to improve these bills, because they need much improvement.

H.R. 875 is a retread of an almost identical bill this Committee marked up last Congress. Last year, after a contentious markup, the Committee didn't even bother reporting the bill to the House. I think it's curious that the Committee is spending time today marking up a bill that had so many flaws that we couldn't even bother to file a report on it in the last Congress.

One reason the Majority may have squashed the bill last Congress is that it represents everything the Republican Party platform says is bad about the government. I will explain in layman's terms what the bill does.

The bill forces the EPA to regulate a product out of existence rather than let free market forces dictate the success of E15. The stated justification for this is that consumers are too stupid to use this product correctly. The Majority apparently has lost all faith in both consumers and the free market system to deal with E15.

So today I will support the free market system, and oppose this bill and the Majority's attempt to expand the nanny-state. These are strange days indeed.

Next the Committee will consider H.R. 1422, which alters the EPA's Science Advisory Board process for the worse. This bill is a naked attempt to reduce legitimate scientific input at the Board, and replace it with industry funded input. If that weren't bad enough, the bill contains several provisions which appear designed to bury the Board in a mountain of work simply to keep it from getting anything accomplished.

For these reasons, it should not be surprising that groups like the Union of Concerned Scientists, Natural Resources Defense Council, Environmental Defense Fund, Clean Water Action, Physicians for Social Responsibility, Earthjustice, and the League of Conservation Voters oppose the bill.

I have two letters from these organizations stating their opposition, and I ask that they be included in the record.

Democratic Members have submitted a number of good amendments to correct the deficiencies in the bill, and I look forward to supporting them, and I look forward to a good markup, but a markup that should first have occurred at the subcommittee level.

Chairman SMITH. And I will now recognize Mr. Stewart for five minutes for an opening statement on his bill.

Mr. STEWART. Thank you, Mr. Chairman, for holding this markup.

The issues we are talking about today are important, and the decisions that we will make will matter. This is a process that is broken, and I believe we have an obligation to make it better.

Established by Congress in 1978, the EPA's Science Advisory Board, or SAB, is intended to provide meaningful, balanced and independent reviews of the science conducted and used by the Agency. Its Members are selected by the EPA Administrator, and it plays an important role in reviewing everything from the Agency's research budget to individual chemical assessments. This panel is indispensable in critically reviewing the underlying science for virtually all major EPA regulatory activities, a tall order in recent years, as the Agency has pursued an overreaching and economy-threatening agenda, creating an environment where policy and politics have taken a backseat to unbiased science.

The bill before us, the EPA Science Advisory Board Reform Act, would help address a variety of concerns with the SAB and its subpanels by expanding transparency requirements, improving the process of selecting expert advisors, strengthening the public participation, and limiting nonscientific policy advice.

The bill contains basic good-government changes and draws upon noncontroversial provisions of the Federal Advisory Committee Act. The EPA's own peer-review handbook, the National Academy's committee composition and conflict of interest policy and recommendations from Science Committee testimony and other outside groups. It has a widespread support from groups like the National Association of Manufacturers, American Farm Bureau, American Road and Transportation Builders Association, the American Chemical Council, the American Gas Association, Portland Cement Association, the American Forest and Paper Association.

And with that, Mr. Chairman, I ask unanimous consent to enter into the record a letter from these groups and 22 others in support of H.R. 1422.

Chairman SMITH. Without objection, so ordered.

[The information appears in Appendix II]

Mr. STEWART. The bill makes clarifying changes to the scope of SAB's purview and institutes commonsense changes to improve the transparency. H.R. 1422 would also facilitate meaningful public participation in the advisory process.

Just last month, I was alarmed to hear both a former SAB manager and chair of EPA's Clean Air Scientific Advisory Committee and state official testify that EPA's science advisors virtually never respond to public comments, and in many cases, they don't even read the written comments that are submitted.

This bill also provides clarity for SAB Member selection and disclosure process. Despite an existing requirement that these panels be fairly balanced in terms of point of view represented, EPA has systematically excluded state, local, tribal and private sector scientists from serving as advisors. For example, just last month, EPA announced a new hydraulic fracturing research advisory panel. Even though dozens of experts were nominated, with recent and direct experience with oil and gas technical developments, EPA excluded nearly all of them from serving on the panel. There are also other unsettling EPA trends about how EPA selects its supposedly independent advisors. For example, according to Congressional Research Service, almost 60 percent of Members in the chartered SAB and Clean Air Scientific Advisory Committee, also known as CASAC, have directly received grants from the Agency since 2000. These advisors served as principal co-investigators for EPA grants totaling roughly \$140 million. EPA frequently chooses panelists whose research is directly or indirectly under review, and as a final example, many of the panelists have clearly taken sides and made public pronouncement on issues they are advising about. For example, roughly 40 percent of the current panel reviewing the science behind upcoming EPA ozone standards have already made statements that the regulation should be made more stringent.

The issues identified in this bill may seem to be in the weeds, but credible peer review is critical to everything this Agency does. We may not be able to control all of EPA's regulatory overreach,

but guaranteeing that there is an independent check on its science is essential.

And let me conclude by making this important point. If the EPA's science process is viewed as being biased or less than willing to consider every point of view, their credibility suffers, and this serves neither the EPA nor American businesses nor America citizens.

And again, Mr. Chairman, I thank you for this opportunity and I yield back my time.

Chairman SMITH. Thank you, Mr. Stewart.

Are there other Members who wish to be heard on this bill? Any further discussion? If not, we will go to amendments, and the gentlewoman from Maryland, Ms. Edwards, is recognized for the first one.

Ms. EDWARDS. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman SMITH. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Ms. Edwards of Maryland. In section 2(a) of—

[The amendment of Ms. Edwards appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read, and the gentlewoman is recognized to explain her amendment.

Ms. EDWARDS. Thank you, Mr. Chairman.

Much of what the majority is proposing to do today in this bill appears to be designed to weaken the scientific independence and integrity of the Science Advisory Board. One of the ways that this is accomplished is to make it more difficult for academics and government scientists to serve by prohibiting scientists from serving who have worked on the issue being reviewed. At the same time, the bill makes it harder for independent researchers to serve on the board. The bill does, however, encourage greater participation by industry groups. Now, if you agree that credible peer review is important, I am not certain how that is accomplished by providing for service by industry groups but prohibiting service effectively by scientists who have specialized experience with a given issue. I think this is a really terrible trend, and I think it is clearly one that is designed to subvert the scientific review process.

Now, I am not an unreasonable person. I think industry scientists and engineers can bring relevant and unique perspectives to the table and that they should be included in this process. My amendment would allow the people to serve—allow those people to serve on the board. However, my amendment limits their participation to ten percent of the board because we don't want the industry to dominate or co-opt the review process. There is a difference between participation and domination, and my amendment ensures that the board doesn't become dominated by corporate interests.

You know, I think the American public would actually be appalled if the National Toxicology Program's Board of Scientific Counselors was dominated by scientists from the tobacco industry. It would be considered an outrage. It would no less be an outrage if we allow the EPA Science Advisory Board to become dominated by the petrochemical industries or other interested industry groups. These industries are not looking to unearth the best

science, they are looking to protect their bottom line. That is what they should do. They are corporations. But because of that, their participation on this board should also be limited.

What happened in the last century with the organized efforts of the tobacco industry to subvert the scientific process with regard to the negative health effects of smoking was a dark stain on the country. Many people died because of those efforts. How many people suffered through horrible diseases because of that?

I really am concerned that we are going to allow that process to repeat itself here if we don't try and protect the integrity of the EPA's scientific review process, and indeed to protect the science. I think my amendment is a reasonable attempt to accommodate the industry while also safeguarding the integrity of the Science Advisory Board, and I urge adoption of the amendment.

And with that, I yield back.

Chairman SMITH. Thank you, Ms. Edwards.

The gentleman from Utah, Mr. Stewart, is recognized in opposition to the amendment.

Mr. STEWART. Yes, Mr. Chairman. Thank you for the opportunity.

I will respectfully disagree with Ms. Edwards on the contention that we are restricting diversity. Indeed, I think the purpose of this bill is to increase diversity, and I think boards are much better served when we do that.

The problem with the SABs isn't that they don't have too many from industry. We recognize that there is some concerns with that, but the fact is that they in many cases have virtually none, no representation from industry in industries that are very dynamic and changing almost week to week. For example, many of the 22-Member hydraulic fracturing study panels are experts in their own groundwater public health but they had no experience in hydraulic fracturing, again, an industry that is changing rapidly. The chartered SAB despite including more than 50 Members contains virtually no private sector scientists, and that is despite many nominations. One more example. The EPA rejected five of the six industry nominees on the SAB's mercury review panel, even though his review culminated in a regulation that would cost \$11 billion.

The National Academies, and this is I think just a very important point, states that for some studies, it may be important to have industry perspective because such individuals through their participation and knowledge and expertise are often vital to achieving an informed, comprehensive and authoritative understanding and analysis of specific problems and potential solutions to be considered. Once again, we are just asking for diversity. We are asking to take advantage of the expertise that is available, and we think the boards are much stronger if we are able to do that.

Ms. EDWARDS. Will the gentleman yield?

Mr. STEWART. Yes, ma'am.

Ms. EDWARDS. I think if the gentleman would acknowledge that what my amendment does is that I acknowledge even in my statement that diversity is important, that it is important to get the expertise of the industry but not to have it dominated on these boards, and what my amendment provides for is that not more than ten percent of the board can be comprised of for-profit enti-

ties, and in that way, the SAB that you describe with 50 percent would actually have at least five industry representatives on the board. Thank you.

Mr. STEWART. Again, I recognize and respect your objective there. I just feel that there is no question that this amendment would make it far more restrictive, and in some cases, tie the hands of the SAB and not allow them the freedom and the discretion to form the panels in such a way as they may be best served.

Mr. GRAYSON. Will the gentleman yield for a question?

Mr. STEWART. Yes, sir.

Mr. GRAYSON. Is there any cap that the gentleman would accept on for-profit entities on these bodies? For instance, would the gentleman accept a cap of 99 percent?

Mr. STEWART. Is that your question?

Mr. GRAYSON. That is the question.

Mr. STEWART. Yeah. Well, I think 99 percent may be again an illustration of the other extreme.

Mr. GRAYSON. Well, then, would the gentleman accept a cap of 50 percent?

Mr. STEWART. The gentleman is objecting to any arbitrary cap.

Mr. GRAYSON. Then the gentleman would actually contemplate a situation where every single Member of these bodies would be a corporate shill?

Mr. STEWART. The gentleman—

Mr. GRAYSON. You find nothing objectionable about that?

Mr. STEWART. This gentleman believes that these selections should be made on the expertise, and that if someone can bring expertise to the panel, that individual should be able to participate in that panel.

Chairman SMITH. Does the gentleman yield back his time?

Mr. STEWART. The gentleman yields back, Mr. Chairman.

Chairman SMITH. Thank you, Mr. Stewart.

Are there other Members who wish to be heard on this amendment? The gentlewoman—

Mr. GRAYSON. Mr. Chairman, I move to strike the last word.

Ms. JOHNSON. Yes, Mr. Chairman.

Chairman SMITH. The gentlewoman from Texas, Ms. Johnson, is recognized.

Ms. JOHNSON. I move to strike the last word.

Chairman SMITH. The gentlewoman is recognized for five minutes.

Ms. JOHNSON. Thank you, Mr. Chairman. I think it is very important for this Committee to support Ms. Edwards' commonsense amendment.

The amendment ensures that the SAB cannot have employees of for-profit entities comprise more than ten percent of its Members. I am all for balance, and I believe there is a place for employees of for-profit entities to sit on the SAB. However, I am also for a balanced advisory board, and I think we all should be. By capping the number of employees from for-profit entities at ten percent, we ensure that the very important voice of industry is heard without overwhelming the other stakeholders of our society.

It is truly concerning to me that without this amendment, we could find ourselves in a situation where a single industry domi-

nates an SAB panel. If this occurs, it would be a travesty of the very nature my Republican colleagues say they are trying to prevent with this bill. If my colleagues across the aisle are serious about balance, then they will support this amendment and to ensure balance and fairness of these panels. I urge my colleagues to support this amendment. I yield back.

Chairman SMITH. Thank you, Ms. Johnson.

Are there other Members who wish to be heard on this amendment?

Mr. GRAYSON. Yes, Mr. Chairman.

Mr. ROHRABACHER. Mr. Chairman.

Chairman SMITH. The gentleman from California, Mr. Rohrabacher, is recognized.

Mr. ROHRABACHER. Just to take a look at some of the fundamentals that have been presented to us, and again, there is a distinct difference in philosophical outlook between people in Congress, and we recognize that people can legitimately disagree because they have a different approach to how they think we are going to make this a better country and a better world, and I think that part of the discussion that we are having today reflects sort of a different view, a philosophical view towards how the system should work and does work.

For example, by limiting the for-profit entities to ten percent, that is based on the assumption that for-profit entities have the same goals in mind and that they are not in somewhat having adversarial positions. In fact, the unintended consequences of this amendment would be perhaps one industry would dominate a particular advisory board because you have limited the number of interests that can be involved in the discussion at that level. In fact, there are corporate interests that are very adversarial to each other and they have experts who are advocating their positions, and if you limited it to 10, you are likely to have one of those representatives there to express what is a very well-researched position and may be correct or not correct but the likelihood of actually having more interest for the specific group that is going to make a profit, it is more likely that you are going to limit others and the group that is only interested in its own profit and not adversarial to that particular regulation that is being talked about.

Ms. JOHNSON. Would the gentleman yield?

Mr. ROHRABACHER. You are likely to have a limitation on that discussion that helps that particular industry. So I would suggest that limiting it to ten percent, I don't know what the right number is but limiting it to ten percent is certainly not going to benefit the public because it limits the discussion among people, corporate people who have competitive interests.

Ms. EDWARDS. Would the gentleman yield?

Mr. ROHRABACHER. Certainly.

Ms. EDWARDS. I just have a question. Because in the underlying bill, the limits that are then placed on scientists who have had some other interest and been funded would restrict their participation—I have another amendment to that effect—but would restrict their participation, and so at the end you are left without the kind of expertise that you need that we all agree on, and I think that what my amendment is doing is trying to strike that balance that

says yes, we have industry experts, we just don't want the SABs dominated by those industry experts or the scientists who have specialized experience limited from their participation too, and it is the combination of those things.

Mr. ROHRABACHER. Okay, but reclaiming my time, you are not limiting that particular interest, you are limiting all of the corporate input, which may present a more well-rounded picture. The fact is, because you are saying for-profit entity, okay, so if you work for a for-profit solar energy company, you can't be included more than that because you have got ten percent of the people on a particular council or something that might be representing the oil industry. Maybe you want more than that because you would like to have a for-profit entity that makes money on solar energy into the same discussion with those who provide other types of energy.

Thank you very much. I yield back.

Chairman SMITH. Thank you, Mr. Rohrabacher.

Any further discussion on the amendment? If not, the vote is on the—

Mr. GRAYSON. Mr. Chairman, please.

Chairman SMITH. Who seeks recognition? Oh, the gentleman from Florida, Mr. Grayson, is recognized.

Mr. GRAYSON. Thank you very much, Mr. Chairman. I move to strike the last word.

Let us go over this here. We are talking about the Environmental Protection Agency. The charge of the Agency is to protect the environment. Generally speaking, threats to the environment are produced in our country by private profit-making entities. I think that goes without saying. I am sorry, that is the fact of the matter here.

The Science Advisory Board that we are talking about is supposed to provide independent scientific advice to the EPA so the EPA can make its decisions properly. This Agency, like every other government agency, is threatened with the possibility of capture by the people whom it is supposed to be regulating. What this bill does in essence is facilitate that. This bill allows and encourages private industry to take over the Science Advisory Board at the EPA and therefore exercise control. The regulated will be exercising control over the regulator. That is what this bill does.

Now, I speak in support of Ms. Edwards's amendment because we need to prevent that from happening. Perhaps certain Members of the majority on this Committee believe that ten percent is not the right amount. I understand that. Maybe the right amount is 15 percent. Maybe the right amount is 20 percent. Perhaps Congresswoman Edwards would accept a secondary amendment to that effect. I can't speak for her. But the fact is that if we don't put in any limitation here, what that means is that we are encouraging and inviting industry to take over the Science Advisory Boards and therefore take over the EPA. That is a real and present threat.

I am not questioning the intent of the people who drafted this bill. I am questioning the obvious and necessary impact of this. We cannot let the EPA be populated by corporate tools and corporate shills, and that is exactly what this bill without the amendment offered by Ms. Edwards actually would do. That is the effect of this. Therefore, I support the Edwards amendment as an effort to ameliorate what will inevitably happen, which is this bill if passed will

mean that we will have all the diversity on these Science Advisory Boards so that we will have opinions ranging all the way from Exxon to Chevron and nowhere else. I yield the remainder of my time.

Chairman SMITH. Thank you, Mr. Grayson.

Mr. STEWART. Mr. Chairman.

Chairman SMITH. Who seeks recognition? The gentleman from Utah, Mr. Stewart, is recognized.

Mr. STEWART. Yes, sir, just very quickly. Having worked with the EPA for many years, I can assure you that the least of my fears is that they would become populated by corporate shells. It is absolutely not in their culture nor in their leadership to allow that to happen.

And also, I believe that the premise of this proposed amendment, it presumes that there are no shared interests between profit and not-for-profit entities when there are. I don't know of any corporate leader that doesn't have the same desire that we have, and that is, to protect our environment, to have clean air, to have clean water, and the discussions on many of these boards is simply that shared goal, the best way to do that.

And finally, let me once again just emphasize my opposition to the arbitrariness of ten percent. Whether it is ten percent of the panel or 15 percent or 20 percent, it ties the EPA's hands in selecting those people who are most qualified, and we should allow them to do that. I yield back.

Chairman SMITH. Thank you, Mr. Stewart.

The vote is on the Edwards amendment.

All in favor say aye.

Opposed, nay.

In the opinion of the Chair, the nays have it and the amendment is not agreed to.

We will now go to the second amendment offered by the gentlewoman from Oregon, Ms. Bonamici, and—

Ms. BONAMICI. Thank you, Mr. Chairman. I move to strike the last word.

Chairman SMITH. The gentlewoman is recognized for 5 minutes, but before she does that, the clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Ms. Bonamici of Oregon. In section 2(a) of the bill, in the matter to be inserted as section 8—

[The amendment of Ms. Bonamici appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read, and the gentlewoman from Oregon is recognized to explain her amendment.

Ms. BONAMICI. Thank you very much, Mr. Chairman.

Mr. Chairman, one of my significant concerns with this bill is the clause that appears to allow lawyers and lobbyists to sit on the scientific advisory boards even if they represent entities that have a potential interest, financial or otherwise, in the scientific advisory boards' advisory activities.

The language in section 2, the Membership section of H.R. 1422 that will allow for the inclusion on the scientific advisory board committees or panels of persons who represent an entity with a potential interest in the board's activities, is very likely to affect the

scientific independence and integrity of these boards and the reviews that they conduct, and I know in his opening remarks, Mr. Stewart, the chairman of the Environment Subcommittee, mentioned the importance of scientific integrity, and that is what we are trying to achieve.

Lobbyists and lawyers who represent entities who have interest in the scientific advisory boards' activities could be so clearly influenced by those interests that it is hard to imagine that they would present objective and independent perspectives on scientific questions. Lobbyists working for an entity with business before the board would have their jobs on the line if they represented a position that was not favorable to their clients.

My amendment will remove this language and seek to prevent undue private-industry influence on the scientific advisory boards. The amendment simply strikes the language that allows individuals who represent entities that have a potential interest in the scientific advisory board advisory opinions from serving on these boards. When we look at the purpose of the boards, this is a reasonable amendment meant to ensure that the opinions of the board remain independent from financial influence, and I hope that my colleagues on both sides of the aisle can see the wisdom in ensuring that lobbyists and lawyers are prevented from affecting the independence of these important scientific advisory boards. It is a commonsense amendment, and I wanted to add, Mr. Chairman, that pursuant to conversations with the chairman and with the chairman's staff, it is my understanding that this committee will not object to a similar amendment, although not quite as comprehensive, that is amendment number 5, Mr. Grayson is going to be offering, and because of that and because of an understanding that other amendments later will be adopted, I am going to withdraw this amendment. I did, Mr. Chairman, want to put on the record the importance of this issue.

Chairman SMITH. Thank you, and without objection, the amendment will be withdrawn, and I do want to say that the gentlewoman's understanding is correct, and we do expect to support Mr. Grayson's amendment, and I thank her for withdrawing this amendment.

Ms. BONAMICI. I yield back.

Chairman SMITH. The next amendment will be offered by the gentlewoman from Maryland, Ms. Edwards, and she is recognized to offer that amendment.

Ms. EDWARDS. Mr. Chairman, I do have an amendment at the desk.

Chairman SMITH. And the clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Ms. Edwards of Maryland. Page 3, line 8—

[The amendment of Ms. Edwards appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read, and the gentlewoman is recognized.

Ms. EDWARDS. Thank you, Mr. Chairman.

In the amendment that I offered previously, we rejected the idea of some kind of limitation on for-profit entities serving on the Science Advisory Board. What my amendment, this amendment, does is, it actually strikes sub paragraph E under section 2(a) and

that paragraph reads "Board Members may not participate in advisory activities that directly or indirectly involve review and evaluation of their own work." And so on the one hand, we have rejected the idea of for-profit entities being limited but we have said that people who actually have an expertise, even when it is their own work, aren't able to participate on the advisory committees, quite an irony.

I am really concerned that this underlying provision will dramatically reduce the number of qualified scientists who can serve on a board. In many cases, these are people with very specialized kind of expertise. In many fields of study, there are only a small number of qualified experts to draw upon. These experts routinely publish research with colleagues and peer-review other colleagues' work, and because of these connections between researchers, this provision has the potential to significantly affect the ability of the EPA to draw on the specialized expertise of the scientific community.

I would note that this provision would probably leave relatively unaffected many scientists drawn from industry as much of their work is private and isn't publicly published due to patent concerns nor is it peer-reviewed. However, scientists publishing in public journals would be greatly affected, the academic community, the independent scientific community, and maybe that is the intent, but I would certainly hope not.

Just to give an example of how absurd this provision is, if something similar had been applied to the Manhattan Project, the country's most eminent nuclear physicists would have been barred from advising the government. Obviously, that would have been disastrous and it would be no less disastrous for the Science Advisory Board. This is a bad provision and should be stricken from the bill.

I urge adoption of the amendment, and I yield the balance of my time.

Chairman SMITH. Thank you, Ms. Edwards.

The gentleman from Utah, Mr. Stewart, is recognized in opposition to the amendment.

Mr. STEWART. Yes. Thank you, Mr. Chairman.

Once again, with respect to Ms. Edwards, I would like to disagree and point out the reasoning for doing so.

This provision, it is important to understand that any expert can still serve on a board. We are not restricting their service at all. They simply can't review their own work, and there is a very important distinction to be made there. I believe the results of this amendment would be painfully obvious. A football team can't use their own players to referee their own games, and I believe that SAB Members should not be able to review their own work in the same way.

It is important to note as well that the EPA's own peer-review handbook, their own guidance makes it clear that this is unacceptable. Quoting from it now, "An independent peer reviewer is an expert who is not associated with the generation of the specific work product either directly by substantial contribution to its development or indirectly by significant consultation with the development of the specific product. And finally, if I could, the National Academies and OMB are clear. Once again, individuals should not serve

on advisory panels where they are reviewing their own work. There are numerous examples where regulations and ethical considerations point out the inconsistency and how troubling that would be if they were able to do that. And for those reasons, it would be impossible for me to support this amendment.

Ms. EDWARDS. Would the gentleman yield? I have a question.

Mr. STEWART. Yes, ma'am.

Ms. EDWARDS. I just have a question. If that is the case, why do you need this provision in the bill at all?

Mr. STEWART. Help me understand what you are asking.

Ms. EDWARDS. Well, if what you just read, the procedures, the protocols of the Science Advisory Board are, why would you need a provision like this to prohibit something that is already prohibited?

Mr. STEWART. Because I think it makes it uniform, it makes it standard, and I guess I could turn the question as well: if they already have that guidance, why would you want to overturn that?

Ms. EDWARDS. No, what I want to do is strike the provision that duplicates what the guidance is.

Mr. STEWART. Yeah, and I think in this case, again, it just standardizes it and makes it common throughout, and I guess probably a third consideration would be the fact that in many cases, the EPA doesn't follow its own guidance in allowing those who have participated in producing the document to review it once again.

Ms. EDWARDS. I would just ask, I mean, if your position is that the guidance exists but your position is that EPA isn't fulfilling its responsibilities, it seems to me that that is a point of oversight for this Committee or another committee but it doesn't require duplicate legislation, and the point of the provision is that participating in advisory activities directly or indirectly and not necessarily reviewing their own work.

Mr. STEWART. It is very frustrating for many people when they recognize that the EPA is not following their own guidance on this. This is an effort for us to encourage and require them to do that.

Ms. EDWARDS. Can you just give one example of that?

Mr. STEWART. Well, I think I did in my opening statement and also in my statements in not wanting to support this amendment.

Ms. EDWARDS. Perhaps I didn't hear it. Could you repeat it? Would you mind repeating it?

Mr. STEWART. You bet. During a recent CASAC review of EPA air quality science, 21 of 25 panelists had their work cited by the EPA and the chair of the CASAC panel was footnoted more than 80 times. The meeting minutes did not note a single recusal of the panelists. And one more example, the EPA's Advisory Council on Clean Air Compliance Analysis reviewed EPA's methodology for assessing human health effects on air pollution despite the fact that the chair of the panel was also the lead author of the critical study cited by the Agency. There are many—

Ms. EDWARDS. Your problem is with citation?

Mr. STEWART. No. Clearly, my examples had much more than citation. I will review that for you again if you would like me to, but it was much more than just citation, and there are many other examples. This is an effort by this Committee to encourage and to re-

quire the EPA in a more forceful way than they have in the past to adhere to their own standards.

Ms. EDWARDS. Just for a reminder, the rule is actually about EPA's work product and not simply if you were the author of the science underlying the work. That is what the rule goes to.

Chairman SMITH. All right. Does the gentleman yield back his time?

Mr. STEWART. Yes, Mr. Chairman, I yield back. Thank you.

Chairman SMITH. The gentleman yields back his time.

Is there any further discussion on the amendment?

If not, all those in favor of the Edwards amendment, say aye.

All opposed, say nay.

In the opinion of the Chair, the nays have it and the amendment is not agreed to.

We will now go to the next amendment to be offered by the gentleman from California, Dr. Bera, and he is recognized for the purpose of offering an amendment.

Mr. BERA. Mr. Chairman, I have an amendment at the desk.

Chairman SMITH. And the clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Mr. Bera of California. In section 2(a) of the bill, in the matter to be inserted as section 8—

[The amendment of Mr. Bera appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read, and the gentleman from California is recognized to explain his amendment.

Mr. BERA. Thank you Mr. Chairman.

You know, let us take a different approach to this. My amendment today is simple. It is meant to ensure that ten percent of the Environmental Protection Agency's Science Advisory Board will include individuals from public-interest non-governmental organizations. Specifically, it requires that those individuals come from non-governmental agencies that represent public health, minority populations, women's issues, children's issues, food safety and other public interest non-governmental organizations. It is meant to ensure a diversity of opinions. I think ensuring that these community-based organizations with public-interest missions have representation on the board is equally important to ensuring that ten percent of the board be comprised of individuals from state, local and tribal governments.

The benefits that individuals who work in public-interest organizations can bring to a group like the Science Advisory Board are profound. The sole purpose of these groups is to protect public citizens. To ensure that they have a seat on the board is a grave—to not ensure that they have a seat on the board is a grave injustice to the needs of our population.

As a former chief medical officer for Sacramento County, I fully appreciate how the advice and input of non-governmental organizations can offer important opinions on issues of public health. This amendment ensures that these vital voices are heard in the advice given to the EPA. This is not an expansive amendment. I am only seeking to require that these type of individuals can constitute a minimum of ten percent of the board. I think that is reasonable, given the diversity of public-interest non-governmental agencies

and the disparate issues they are involved in. Moreover, from my personal experience, I know there are many technically proficient individuals in these public interest groups who are qualified to serve on the Science Advisory Board.

I think this is a commonsense amendment, and I hope everyone can support it. Thank you, Mr. Chairman. I yield back.

Chairman SMITH. Thank you, Mr. Bera.

The gentleman from Utah is recognized.

Mr. STEWART. Yes. Thank you, Mr. Chairman.

I think that all of us here would support the idea that we want to include Membership from all walks of life, all backgrounds, but board Members should be selected for one thing and one thing only, and that is for their expertise. Their background and their expertise is what we would consider. I think it is also important to note that the amendment would remove and supersede existing requirements that the EPA advisors be selected based on once again expertise and balanced points of view, and I think my colleagues on the other side of the aisle will be pleased as I quote President Reagan, who I know is one of their heroes as well, that in 1982 when there was a near-identical effort as an amendment such as this, and it runs counter, quoting from him, "It runs counter to the basic premise of modern scientific thought as an objective undertaking in which the views of special interests have no role. The purpose of the scientific advisory board is to apply the universally accepted principles of scientific peer review to the research conclusions that will form the basis for EPA regulations, a function that remain above interest-group politics."

Mr. BERA. Can I make a comment?

Mr. STEWART. Yes, sir.

Chairman SMITH. Does the gentleman yield, or yield back his time?

Mr. STEWART. Absolutely, yes.

Chairman SMITH. Okay.

Mr. BERA. From these non-governmental public agencies, they have to be experts on the panel. There are many experts that are going to come from these agencies, and there will be just as many experts from non-governmental organizations as our friend, the corporate sector and so forth, and each individual is going to be looked at on the merits of what they are doing. Again, it is obvious that they are going to be experts on the subject matter.

Mr. STEWART. Again, I appreciate that, and we recognize that there would be many that would qualify as experts, and if that is the case, then I am sure that they would be selected for the board already.

Chairman SMITH. Okay.

Mr. BERA. Would my colleague allow me—

Chairman SMITH. Does the gentleman continue to yield?

Mr. STEWART. Yes, absolutely.

Mr. BERA. You know, again, this amendment is meant to ensure a diversity of opinions that—you know, my colleague from Florida pointed out as well as my colleague from Maryland that we don't want advice just from one perspective, whether it is the corporate sector or the academic sector or just the public sector. We want that diversity of opinions so we get the best advice that moves for-

ward to the EPA. And again, this is a commonsense amendment just to make sure we have that diversity of opinion.

Mr. STEWART. And Mr. Chairman, I yield back.

Chairman SMITH. Okay. Thank you, Mr. Stewart.

Are there other Members who wish to be heard?

Chairman SMITH. The gentlewoman from Texas, Ms. Johnson, is recognized.

Ms. JOHNSON. Thank you. I move to strike the last word.

Chairman SMITH. The gentlewoman is recognized for 5 minutes.

Ms. JOHNSON. Thank you, Mr. Chairman. I want to state my support for Mr. Bera's amendment.

This amendment really makes a lot of sense. I think that if you really want to protect the integrity of the EPA's Science Advisory Board, then having individuals from public-interest NGOs on the board would go a long way to ensuring that happens.

The type of people who work at public-interest NGOs truly have the best interests of the country at heart. These are people who spend their lives working to protect the American people. From NGOs that work on public health issues to those who work with minority populations or on women's and children's issues, these NGOs touch on every aspect of the American experience. This good, commonsense amendment ensures that individuals who selflessly serve on these organizations can present their advice and opinions on the important issues that EPA SAB addresses.

When I think of the great work that NGOs that I have dealt with to help further the goals of STEM education in this country, it reminds me of the expertise that those types of groups bring with them, and I hope the majority can see the wisdom of this amendment.

This bill seeks to change the balance of the types of individuals who serve on the SAB, and surely everyone can see the importance of including individuals from the public-interest NGOs. I encourage all of my colleagues on this Committee to support this amendment, ensuring that public-interest NGOs have a position on the SAB.

I yield back.

Chairman SMITH. Thank you, Ms. Johnson.

Mr. STEWART. Mr. Chairman.

Chairman SMITH. The gentleman from Utah, Mr. Stewart, is recognized.

Mr. STEWART. Yes, just very quickly, and again, I support and I think all of us do, the intent of this amendment. My problem with it is, as many of us on this side of the aisle have, is that the goals, although we share, we feel like this would make it actually less effective rather than more effective. The EPA already has done a commendable job in bringing in points of view from various backgrounds, and I think we should recognize that. I believe the problem I have is that the ten percent is arbitrary, it is difficult to justify, and it creates this incredibly complex matrix that they would have to comply with when you consider the NGOs, the public health, minority populations, women's issues, children's issues, food safety, public interest. Again, the list is very, very long and I think it would make it very difficult, if not impossible, for them to comply, to make sure every group has the appropriate representation, and it would lead to less effective SABs, which is the point of this

legislation to make more effective SABs, and with that, I yield back my time, Mr. Chairman.

Chairman SMITH. Thank you, Mr. Stewart.

The vote is on Mr. Bera's amendment.

All in favor, say aye.

All opposed, say nay.

Mr. BERA. Mr. Chairman.

Chairman SMITH. In the opinion of the Chair, the nays have it and the amendment is not agreed to, and the gentleman from California is recognized.

Mr. BERA. Mr. Chairman, I request a recorded vote.

Chairman SMITH. A roll call vote has been requested, and pursuant to Committee Rule 2(f) and House Rule 112(h)(4), proceedings on this vote will be postponed.

The gentleman from Florida, Mr. Grayson, is recognized for the purposes of offering an amendment.

Mr. GRAYSON. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman SMITH. And the clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Mr. Grayson of Maryland. In section 2(a) of the bill, in the matter to be inserted as section 8(b)(2)(E) of the—

[The amendment of Mr. Grayson appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read, and the gentleman from Florida is recognized to explain the amendment.

Mr. GRAYSON. Thank you, Mr. Chairman.

This amendment prohibits registered lobbyists from service on the Science Advisory Board. If there are any Members who want to extol the virtues of lobbyists and oppose this amendment, I would love to hear it. I will yield to him or her.

Chairman SMITH. It sounds to me like we are going to accept the amendment.

Mr. GRAYSON. I yield the remainder of my time.

Chairman SMITH. And the gentleman yields back the remainder of his time.

All in favor of the—

Ms. BONAMICI. Mr. Chairman, I move to strike the last word.

Chairman SMITH. Yes. The gentlewoman from Oregon is recognized.

Ms. BONAMICI. Thank you very much, Mr. Chairman.

I support Mr. Grayson's amendment and thank him for bringing it forward. As I discussed when we were considering amendment number 2, which was broader in its intent, this is an important part of making sure that we have scientific integrity on the scientific advisory boards, and even though this prohibits registered lobbyists, I still have some concerns about others, for example, paid attorneys who are representing groups, so I look forward to continuing to work with the Chair and others going forward.

That being said, I do support this amendment, and again, I thank Mr. Grayson and yield back.

Chairman SMITH. Okay. Thank you.

And the vote is on the Grayson amendment.

All in favor, say aye.

Opposed, nay.

The ayes have it, and the amendment is agreed to.

Does the gentleman from Florida have another amendment?

Mr. GRAYSON. Mr. Chairman, I have an amendment at the desk.

Chairman SMITH. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Mr. Grayson of Florida. In section 2(a) of the bill, in the matter to be inserted as section 8(b)(2)(E)——

[The amendment of Mr. Grayson appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read, and the gentleman is recognized to explain the amendment.

Mr. GRAYSON. Thank you, Mr. Chairman.

This is an amendment that prohibits an individual who has, or is or has been within the past year compensated by a for-profit entity that may have an interest in the advisory activities of the SAB from being appointed to the board. It would also prohibit the appointment of an individual who has or has had within the past year a financial interest in a for-profit entity that might have an interest in the advisory activities of the SAB from being appointed to the board.

Both of these concepts, Mr. Chairman, have to do with the danger of a conflict of interest. This is a weighty problem. I think that many of the amendments that have been introduced with regard to this bill are meant to try to figure out, to parse out exactly what role the Science Advisory Board should have when people are on the board who might or actually do have a conflict of interest.

I think that at the end of the day, this issue is going to remain unresolved. I think that if the bill moves forward beyond this Committee, it is going to have to be resolved.

I will say, though, that there were extensive discussions between my staff and your staff with regard to this concept, with regard to this issue, with regard to this problem and how to deal with it. I think that some progress was made but not to the point where your staff and my staff were comfortable with any solution. I want to thank you for the efforts that were made in that regard. Sometimes the magic works and sometimes it doesn't but I know that good-faith efforts were made on the part of your staff to try to accomplish that here, and I know that that will remain true going forward.

With that in mind, I withdraw the amendment.

Chairman SMITH. Thank you, Mr. Grayson, for those comments, and we will continue to discuss the issue at hand, and you stated it well.

Without objection, the amendment is withdrawn, and we will now go to the gentleman from California, Mr. Swalwell, for his amendment.

Mr. SWALWELL. Thank you, Mr. Chairman. I do have an amendment at the desk.

Chairman SMITH. And the clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Mr. Swalwell of California. In section 2(a) of the bill, in the matter——

[The amendment of Mr. Swalwell appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read, and the gentleman is recognized to explain his amendment.

Mr. SWALWELL. Thank you, Mr. Chairman.

My amendment strengthens the disclosure requirements of the underlying bill and improves the transparency of nominees to the EPA's Science Advisory Board. My background, Mr. Chairman, is as a former prosecutor, and I found in the courtroom just as in this Science Advisory Board or any decision the government makes, it is always best for jurors or the public to have all of the information possible, and I believe that this amendment does allow more transparency and accountability. We owe it to the public to make it known what work the nominees have done and who paid for the work that was done.

While I do have concerns about the underlying bill, I think this amendment makes an important clarification to the disclosure requirements and will keep and help ensure the Science Advisory Board is indeed fairly balanced and composed of the very best scientists this country has to offer.

Mr. Chairman, I also appreciate the work that you and your staff put in last evening to work with my staff late into the evening to have this amendment put forward and accepted, and I do appreciate your efforts so far to try and make this a bipartisan effort, and with that, I encourage all Members to support my amendment, and I yield back the balance of my time.

Chairman SMITH. Thank you, Mr. Swalwell, very much, and I recommend we accept the amendment.

All in favor of the Swalwell amendment, say aye.

Opposed, nay.

The ayes have it, and the amendment is agreed to.

Mr. SWALWELL. Mr. Chairman, I also ask unanimous consent that the reading of—that my statement be put into the record.

Chairman SMITH. And without objection, so ordered.

[The information appears in Appendix I]

Chairman SMITH. The next amendment is by the gentlewoman from Oregon, Ms. Bonamici, and she is recognized.

Ms. BONAMICI. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman SMITH. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Ms. Bonamici of Oregon. In section 2(e) of the bill, in the matter to be inserted as section 8(i) of the Environmental Research, Development and Demonstration—

[The amendment of Ms. Bonamici appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read, and the gentlewoman is recognized to explain the amendment.

Ms. BONAMICI. Thank you very much, Mr. Chairman.

This amendment today is very straightforward. It is a simple good-government principle that seeks to increase transparency and expand openness in government. EPA's science is tied to its mission to protect public health, and we are fortunate that some of the best scientific minds in our country, that our country has to offer

volunteer their expertise and time to serve on EPA's scientific advisory boards and panels.

I understand the need for greater transparency in this process, and transparency increases public confidence and public understanding of how our government works to protect our health and our environment. Therefore, I am offering the following amendment to H.R. 1422, a bill that makes changes to the EPA Science Advisory Board process.

The board has a process that addresses recusals of board Members when situations arise that make a recusal necessary. EPA follows the practice of the National Academy of Sciences, the National Institutes of Health and other Federal agencies when it comes to recusal. This amendment simply requires that when a Member recuses himself or herself from the Science Advisory Board committee or panel, that information should be made available to the public. This amendment is in line with the spirit of the bill calling for more transparency in the review process, and I encourage its inclusion in the bill.

Thank you very much, Mr. Chairman.

Chairman SMITH. Thank you, Ms. Bonamici.

Ms. BONAMICI. I yield back.

Chairman SMITH. And we are prepared to accept the amendment, and appreciate your offering it. You continue to be recognized for the next amendment as well.

Ms. BONAMICI. Thank you very much. I have an amendment at the desk.

Chairman SMITH. Oh, I am sorry. We didn't vote on that amendment.

All in favor of the amendment, say aye.

Opposed, nay.

The ayes have it, and the amendment is agreed to.

And the gentlewoman continues to be recognized.

Ms. BONAMICI. Thank you very much, Mr. Chairman. I have an amendment at the desk.

Chairman SMITH. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Ms. Bonamici of Oregon. In section 2(e) of the bill, in the matter to be inserted—

[The amendment of Ms. Bonamici appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read, and the gentlewoman is recognized.

Ms. BONAMICI. Thank you very much again, Mr. Chairman, and thank you for working with myself and other Members of this Committee on this bill.

During the legislative hearing that the Environment Subcommittee held on this bill, one witness, Dr. Francesca Grifo from the Union of Concerned Scientists, discussed with us recommendations that could improve the Science Advisory Board process, and she has a lot of expertise, having served on task forces and groups that looked at how this process could be better.

As with my previous amendment, Dr. Grifo encouraged us to search for transparency and balance on these advisory boards, and this amendment seeks to do just that. Under current law, the EPA is allowed to waive conflict-of-interest requirements for nominees to science advisory boards, committees and panels. This amendment

will require the EPA to disclose those decisions to the general public unless prohibited by other provisions of law. The disclosure requirements in this amendment will bolster public confidence in EPA's decision-making process and free academics from unfair accusations about the integrity of their perspective, and I thank the chairman for this opportunity to speak and again for working with us on these amendments, and I urge adoption of the amendment.

Thank you very much, Mr. Chairman, and with that, I yield back.

Chairman SMITH. Thank you, Ms. Bonamici. And we are prepared to accept the amendment for the reasons that the gentlewoman stated.

All in favor of the amendment, say aye.

Opposed, nay.

The ayes have it and the amendment is agreed to.

The gentlewoman from Maryland, Ms. Edwards, is recognized for the purposes of offering an amendment.

Ms. EDWARDS. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman SMITH. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Ms. Edwards of Maryland. At the end of section 2 of the bill, add the following new subsection: (f) Authorization of appropriations—

[The amendment of Ms. Edwards appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read, and the gentlewoman is recognized to explain the amendment.

Ms. EDWARDS. Thank you, Mr. Chairman. This is really a very straightforward amendment. The underlying bill requires that we add new requirements to the EPA's Science Advisory Board process. These new requirements will undoubtedly cost money. There could be some debate about how much more it will cost, but it is clear that the increased costs will be significant. In fact, during the legislative hearing, we heard from experts noting that there would be increased costs, responsibilities, and process with this language. Just the subtle changes in Section 2(b) will dramatically increase the workload of the Science Advisory Board. The Board will now have to review and comment on all risk and hazard assessments conducted by the EPA. I suspect that will multiply the amount of work the Board has to conduct.

Now just to be clear, I don't support any of these new requirements. They appear to be aimed at slowing down or corrupting EPA's risk and hazard assessment process. Nonetheless, I think if you are going to increase the workload of an agency, it is incumbent on you to give the agency the resources it needs to accomplish the work that is required, and this is exactly what my amendment does. It simply says that the EPA administrators authorize such sums as may be necessary to carry out the requirements of this Act. I think it is a pretty reasonable amendment, and I hope everyone can support it.

If you sincerely believe that the bill will make the Science Advisory Board function better, then I think you ought to be willing to pony up the cash to pay for it, and it is really that simple. I would urge adoption of the amendment and I yield back.

Chairman SMITH. Thank you, Ms. Edwards.

The gentleman from Utah, Mr. Stewart, is recognized.

Mr. STEWART. Thank you, Mr. Chairman. Before I address Ms. Edwards directly, I would like to again thank those for the opportunity to have supported many of the past amendments, and I believe that that has made—these amendments have made this bill stronger, and we appreciate that.

I believe that this bill is designed to make the EPA more efficient and more effective, but these requirements I believe would incur absolutely marginal costs to the EPA, and I believe the agency is adequately funded in order to complete these requirements. The new requirements of this Act are, in fact, fairly nominal and I would say absolutely nominal and should incur minimal expenses, particularly given that most of the new requirements are simply allowing for more public comment or post of documents to the website.

And finally, let me say this. Again, the EPA has adequate resources in order to do these minimal requirements. Just yesterday, they announced there is \$54 million that would be saved due to the termination of outdated, underperforming, and duplicative EPA programs. It would seem that the costs associated with this bill, if any, would be miniscule compared even to this \$54 million savings that the agency has acknowledged, and that would more than suffice for any additional financial requirements that this bill would entail.

And with that, Mr. Chairman, I yield back.

Chairman SMITH. Thank you, Mr. Stewart.

Is there any further discussion?

The gentlewoman from Texas, Ms. Johnson, is recognized.

Ms. JOHNSON. Thank you, Mr. Chairman. I would ask to strike the last word and yield to Ms. Edwards.

Ms. EDWARDS. Thank you, Ms. Johnson. I appreciate that.

We didn't hear any testimony—for the record, we heard no testimony about the estimated costs. In fact, we didn't even hear from the EPA about the legislation. I wonder if the gentleman even knows how many risk or hazard assessments the EPA does in a year, and what is the provision costs for the EPA to comply with the ones that are currently done?

And so I think that all of us, especially in this environment with deep fiscal constraints and concerns, should be concerned about adding requirements without having any idea at all about what those costs would be, and sort of saying well, just trust me. The fact is that there is additional work and whether it is nominal or not, there is some cost attached to that, and if we want the EPA to perform this additional work, I would think that all of us on this committee would say that it is our duty to make sure that the sums are available for them to spend on the additional work that we require. And I don't understand the reluctance to agree to a provision that simply says we are going to pay for the work that is required.

And with that, I would yield back my time to Ms. Johnson.

Chairman SMITH. Okay, thank you, Ms. Edwards and thank you, Ms. Johnson.

The vote is on the Edwards amendment. Okay, before we go there, is there anyone else who seeks recognition on this side? If not, we will go to the gentlewoman who asks to be recognized, gentlewoman from Oregon, Ms. Bonamici.

Ms. BONAMICI. I move to strike the last word. Thank you very much.

Chairman SMITH. Gentlewoman is recognized for 5 minutes.

Ms. BONAMICI. I am speaking in support of Ms. Edwards' amendment, and it is correct that we did not hear about the additional costs involved in this. But I want to point out that this bill includes a provision that the Board's report shall include written responses to significant comments offered by Members of the public to the Board. Now, there is already a public comment period and there—in these Science Advisory Board hearings, and there is already written comment that is submitted. However, this bill introduces a new requirement that the Board has to include written responses to significant comments. In addition to the fact that we don't know what significant means, this appears to be yet another way that this process could be delayed and slowed down so that this Science Advisory Board is not getting the information to the EPA. So there must be a cost associated with just this one portion, so in that regard, Mr. Chairman, I am speaking in support of Ms. Edwards' amendment, and I yield back. Thank you.

Chairman SMITH. Okay. Thank you, Ms. Bonamici.

The vote is on the Edwards amendment.

All in favor, say aye.

All opposed, nay.

In the opinion of the Chair, the nays have it and the amendment—

Ms. EDWARDS. Mr. Chairman?

Chairman SMITH. —is not agreed to—

Ms. EDWARDS. Mr. Chairman?

Chairman SMITH. —and the gentlewoman is recognized.

Ms. EDWARDS. I would ask for a recorded vote.

Chairman SMITH. Roll call vote has been requested, and pursuant to Committee Rules and House Rules, proceedings on this vote will be postponed.

The gentlewoman continues to be recognized for another amendment.

Ms. EDWARDS. Thank you, Mr. Chairman.

This amendment is really the sibling to my last amendment, although I hope this one will have a bit more support from the Majority.

As we discussed before, the underlying bill we are marking up today adds many new costly requirements—unknown costly requirements to the EPA's existing Science Advisory Board process. However, nowhere in the bill does Congress provide any additional resources to the EPA to carry out these new requirements. My last amendment was an attempt to rectify this by providing authorization to the EPA for these additional resources, and if you didn't like that amendment, you should really be fine with this one, as it adds no additional money.

The amendment simply says that Congress isn't going to pass an unfunded mandate on to the EPA. If the Congress doesn't provide

the EPA with the funds necessary to carry out the newly created and costly requirements in the bill, then the administrator doesn't have to implement those requirements. I think it is a pretty reasonable approach.

You know, we hear a lot of demagoguery about the Federal workforce. Well, a lot of these people are my constituents. They are hardworking public servants who, in many cases, are making a lot less money than their private sector counterparts for work that is vital to our country. I think it is incumbent on us as legislators to provide them with the conditions they need to succeed, and if we tell the Federal workforce to do something, we should provide them with the resources to do it. Otherwise, we just set them up for failure, and that is a real disservice, not just to the hardworking public servants of the country, but also to the public. And since the Majority has apparently decided not to provide the resources necessary to implement the Act, then we should adopt this amendment and not set the EPA up for failure by imposing upon them an unfunded mandate. I urge the adoption of the amendment and I yield back.

[The amendment of Ms. Edwards appears in Appendix I]

Mr. ROHRABACHER. Will my colleague yield for a question?

Ms. EDWARDS. Certainly. Do I have any time left?

Mr. ROHRABACHER. Thank you. The points you are making about added costs to various agencies that were based on what requirements we have, of course, those same arguments can be made for other people in our country whose jobs are important and whose companies are doing things that are important to the well-being of our people. Does the young lady also support the same principle to be acknowledged and to be put onto private sector mandates that the government does, that we should be providing the resources necessary for private companies and private individuals that we have now added responsibility for and costs for?

Ms. EDWARDS. Well, I think that—number one, I think that that is actually not our job, but our job is in authorizing the Environmental Protection Agency to do its work, to provide the resources to do that work, and to make sure that the public servants who are tasked with that have adequate resources to report back to the Congress as envisioned—

Mr. ROHRABACHER. So I take it your answer is no?

Ms. EDWARDS. I have claimed my time—and who have the ability to report back to the Congress under the expectation of work that we have set out for them. And it is simply unfair to impose a mandate on the Environmental Protection Agency to go through what may be quite an onerous process in responding to—in written comment responding to risk assessments without providing the resources and the skills and the talent that is required to do that. You know, more than anything else, certain Members of this body are very concerned about costs and very concerned that agencies meet their obligations, and I share that concern, but I also think that we should provide the resources for it.

And so I would urge adoption of this amendment. If you are not willing to allow the administrator to make a decision about going forward with the work without the resources, then at least say that it is not going to be our responsibility to impose on the adminis-

trator the responsibility of carrying out a body of activity without providing the resources to pay for that.

And with that, I yield the balance of my time.

Chairman SMITH. Thank you, Ms. Edwards.

Is there any further discussion? The gentlewoman from Texas, Ms. Johnson, is recognized.

Ms. JOHNSON. Thank you, Mr. Chairman.

This amendment really addresses one of my deepest concerns about this bill. I am very disappointed that the Majority has not provided the means to pay for the new requirements it created for the Science Advisory Board in this bill, and since the Majority does not support providing the EPA with the authorization, just to make sure that we at least understand that we are adding additional chores and responsibilities, we should at least authorize—not appropriate, but authorize for the work, at the very least support the simple and common sense amendment.

This amendment only seeks to ensure good government would allow EPA to avoid carrying out these new regulatory burdens unless the Congress provides the monies to fund them. We find this to be becoming rather common that we overload our agencies with lots of responsibility, but we do not supply them with the adequate resources to do it. There is a simple principle at work here. You should pay for what you buy. In this case, the Majority has sought to buy about additional governmental services without paying for the services. As every child is taught, it is wrong to take without paying. This amendment seeks to right that unfairness by ensuring that the EPA doesn't have to provide these additional services unless the Congress is willing to pay for them. On a simple principle of fairness, I fully support this amendment and urge my colleagues to adopt it.

I yield back.

Chairman SMITH. Thank you, Ms. Johnson.

The question is on the Edwards amendment.

All in favor, say aye.

All opposed, say nay.

In the opinion of the Chair, the nays have it and the amendment is not agreed to.

Ms. EDWARDS. Mr. Chairman?

Chairman SMITH. And the gentlewoman is recognized.

Ms. EDWARDS. I would ask for a recorded vote.

Chairman SMITH. Roll call vote has been requested and pursuant to Committee Rules and House Rules, proceedings on this vote will be postponed.

The next amendment will be offered, I believe, by the gentleman from Florida, Mr. Grayson, and he is recognized.

Mr. GRAYSON. Mr. Chairman, I have an amendment at the desk.

Chairman SMITH. And the clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Mr. Grayson of Florida. At the end of the bill—

[The amendment of Mr. Grayson appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read and the gentleman is recognized to explain the amendment.

Mr. GRAYSON. Thank you, Mr. Chairman.

There is a uniform law called the Federal Advisory Committee Act that applies to this Board and literally over 1,000 other boards throughout the Federal Government. The purpose of this amendment is to ensure that we don't balkanize the law that applies to such bodies. I say this, recognizing that this could provoke a lengthy conversation between myself and Congressman Rohrabacher about the Balkans. I hope it doesn't, because he may know more about the Balkans than I do.

Chairman SMITH. Will the gentleman yield? Will the gentleman yield to me, not to Mr. Rohrabacher?

Mr. GRAYSON. I yield.

Chairman SMITH. The gentleman offers a good amendment, and I urge my colleagues to support it.

All in favor of the amendment, say aye.

Opposed, nay.

The ayes have it and the amendment is agreed to.

The gentleman from Florida continues to be recognized.

Mr. GRAYSON. Mr. Chairman, I have an amendment at the desk.

Chairman SMITH. And the clerk will report the amendment.

The CLERK. Amendment to H.R. 1422 offered by Mr. Grayson of Florida. At the end of the bill, add the following new section, Section 3, relation to the ethics and government—

[The amendment of Mr. Grayson appears in Appendix I]

Chairman SMITH. Without objection, the amendment will be considered as read and the gentleman is recognized to explain the amendment.

Mr. GRAYSON. Mr. Chairman, this is the last amendment before us today, and my staff has prepared an amazing and scintillating justification for this amendment, and I yield the remainder of my time—

Mr. ROHRABACHER. Will the gentleman yield—

Chairman SMITH. No, no, no.

Mr. ROHRABACHER. —for a question on the Balkans?

Chairman SMITH. The gentleman from Florida continues to be recognized.

Mr. GRAYSON. And I yield the remainder of my time.

Chairman SMITH. We thank Mr. Grayson for doing that. It is a good amendment. I urge my colleagues to support it.

All in favor of the last Grayson amendment, say aye.

Opposed, nay.

The ayes have it and the amendment is agreed to.

Now, if everyone will stay in place, we are going to proceed through the roll call votes that were rolled.

Pursuant to the Chairman's previous order, we will now proceed to the postponed roll call votes. The Committee will vote on postponed matters in the order in which the roll call votes were requested.

The next item is the postponed roll call on the amendment offered by Mr. Bera of California, amendment 454 to the bill H.R. 1422, and the clerk will call the roll.

The CLERK. Mr. Smith?

Chairman SMITH. No.

The CLERK. Mr. Smith votes no.

Mr. Rohrabacher?

Mr. ROHRABACHER. No.
 The CLERK. Mr. Rohrabacher votes no.
 Mr. Hall?
 Mr. HALL. No.
 The CLERK. Mr. Hall votes no.
 Mr. Sensenbrenner?
 Mr. SENSENBRENNER. No.
 The CLERK. Mr. Sensenbrenner votes no.
 Mr. Lucas?
 Mr. LUCAS. No.
 The CLERK. Mr. Lucas votes no.
 Mr. Neugebauer?
 [No response.]
 The CLERK. Mr. McCaul?
 Mr. MCCAUL. No.
 The CLERK. Mr. McCaul votes no.
 Mr. Broun?
 Mr. BROUN. No.
 The CLERK. Mr. Broun votes no.
 Mr. Palazzo?
 Mr. PALAZZO. No.
 The CLERK. Mr. Palazzo votes no.
 Mr. Brooks?
 Mr. BROOKS. No.
 The CLERK. Mr. Brooks votes no.
 Mr. Hultgren?
 Mr. HULTGREN. No.
 The CLERK. Mr. Hultgren votes no.
 Mr. Bucshon?
 Mr. BUCSHON. No.
 The CLERK. Mr. Bucshon votes no.
 Mr. Stockman?
 [No response.]
 The CLERK. Mr. Posey?
 Mr. POSEY. No.
 The CLERK. Mr. Posey votes no.
 Mrs. Lummis?
 Mrs. LUMMIS. No.
 The CLERK. Mrs. Lummis votes no.
 Mr. Schweikert?
 [No response.]
 The CLERK. Mr. Massie?
 Mr. MASSIE. No.
 The CLERK. Mr. Massie votes no.
 Mr. Cramer?
 Mr. CRAMER. No.
 The CLERK. Mr. Cramer votes no.
 Mr. Bridenstine?
 Mr. BRIDENSTINE. No.
 The CLERK. Mr. Bridenstine votes no.
 Mr. Weber?
 Mr. WEBER. No.
 The CLERK. Mr. Weber votes no.
 Mr. Stewart?

Mr. STEWART. No.
 The CLERK. Mr. Stewart votes no.
 Ms. Johnson?
 Ms. JOHNSON. Aye.
 The CLERK. Ms. Johnson votes aye.
 Ms. Lofgren?
 [No response.]
 The CLERK. Mr. Lipinski?
 Mr. LIPINSKI. Aye.
 The CLERK. Mr. Lipinski votes aye.
 Ms. Edwards?
 Ms. EDWARDS. Aye.
 The CLERK. Ms. Edwards votes aye.
 Ms. Wilson?
 Ms. WILSON. Aye.
 The CLERK. Ms. Wilson votes aye.
 Ms. Bonamici?
 Ms. BONAMICI. Aye.
 The CLERK. Ms. Bonamici votes aye.
 Mr. Swalwell?
 Mr. SWALWELL. Aye.
 The CLERK. Mr. Swalwell votes aye.
 Mr. Maffei?
 Mr. MAFFEI. Aye.
 The CLERK. Mr. Maffei votes aye.
 Mr. Grayson?
 Mr. GRAYSON. Yes.
 The CLERK. Mr. Grayson votes aye.
 The CLERK. Mr. Kennedy?
 Mr. KENNEDY. Aye.
 The CLERK. Mr. Kennedy votes aye.
 Mr. Peters?
 Mr. PETERS. Aye.
 The CLERK. Mr. Peters votes aye.
 Mr. Kilmer?
 Mr. KILMER. Aye.
 The CLERK. Mr. Kilmer votes aye.
 Mr. Bera?
 Mr. BERA. Aye.
 The CLERK. Mr. Bera votes aye.
 Ms. Esty?
 Ms. ESTY. Aye.
 The CLERK. Ms. Esty votes aye.
 Mr. Veasey?
 Mr. VEASEY. Yes.
 The CLERK. Mr. Veasey votes aye.
 Ms. Brownley?
 Ms. BROWNLEY. Aye.
 The CLERK. Ms. Brownley votes aye.
 Mr. Takano?
 Mr. TAKANO. Aye.
 The CLERK. Mr. Takano votes aye.
 Chairman SMITH. The gentleman from Texas is recognized.
 Mr. NEUGEBAUER. No.

Chairman SMITH. Gentleman from Texas votes no.

The CLERK. Mr. Hultgren votes no. I am sorry, Mr. Neugebauer votes no.

Chairman SMITH. Okay, and the gentleman from Arizona is recognized.

Mr. SCHWEIKERT. No.

The CLERK. Mr. Schweikert votes no.

Chairman SMITH. Are there other Members who wish to cast their vote or change their vote? The gentleman from Texas, Mr. Stockman, is recognized.

Mr. STOCKMAN. No.

The CLERK. Mr. Stockman votes no.

Chairman SMITH. The clerk will call the roll.

The CLERK. Mr. Chairman, 16 Members voted aye, 21 Members voted nay.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 113th

Full Committee Roll Call

Quorum: 13 Working Quorum: 20

DATE: 4/11/2013

Bill: H.R. 1422

Amendment No. 454

Sponsor: Bera

Roll Call No. 1

Not Agreed to: 21 Noes; 16 Ayes

| MEMBER | AYE | NO | PRESENT | NOT VOTING |
|------------------------------------|-----|----|---------|------------|
| 1 Mr. SMITH, <i>Chair</i> - TX | | X | | |
| 2 Mr. ROHRABACHER - CA ** | | X | | |
| 3 Mr. HALL - TX | | X | | |
| 4 Mr. SENSENBRENNER - WI | | X | | |
| 5 Mr. LUCAS - OK | | X | | |
| 6 Mr. NEUGEBAUER - TX | | X | | |
| 7 Mr. MCCAUL - TX | | X | | |
| 8 Mr. BROUN - GA | | X | | |
| 9 Mr. PALAZZO - MS | | X | | |
| 10 Mr. BROOKS - AL | | X | | |
| 11 Mr. HULTGREN - IL | | X | | |
| 12 Mr. BUCSHON - IN | | X | | |
| 13 Mr. STOCKMAN - TX | | X | | |
| 14 Mr. POSEY - FL | | X | | |
| 15 Mrs. LUMMIS - WY | | X | | |
| 16 Mr. SCHWEIKERT - AZ | | X | | |
| 17 Mr. MASSIE - KY | | X | | |
| 18 Mr. CRAMER - ND | | X | | |
| 19 Mr. BRIDENSTINE - OK | | X | | |
| 20 Mr. WEBER - TX | | X | | |
| 21 Mr. STEWART - UT | | X | | |
| 22 Vacancy | | | | |
| 1 Ms. JOHNSON, <i>Ranking</i> - TX | X | | | |
| 2 Ms. LOFGREN - CA | | | | |
| 3 Mr. LIPINSKI - IL | X | | | |
| 4 Ms. EDWARDS - MD | X | | | |
| 5 Ms. WILSON - FL | X | | | |
| 6 Ms. BONAMICI - OR | X | | | |
| 7 Mr. SWALWELL - CA | X | | | |
| 8 Mr. MAFFEI - NY | X | | | |
| 9 Mr. GRAYSON - FL | X | | | |
| 10 Mr. KENNEDY - MA | X | | | |
| 11 Mr. PETERS - CA | X | | | |
| 12 Mr. KILMER - WA | X | | | |
| 13 Mr. BERA - CA | X | | | |
| 14 Ms. ESTY - CT | X | | | |
| 15 Mr. VEASEY - TX | X | | | |
| 16 Ms. BROWNLEY - CA | X | | | |
| 17 Mr. TAKANO - CA | X | | | |
| 18 Vacancy | | | | |
| TOTALS | 16 | 21 | | |

** Vice Chair

Chairman SMITH. The nays have it, and the amendment is not agreed to.

The other unfinished business of the Committee is the postponed roll call on the amendment offered by Ms. Edwards of Maryland, amendment number 453 to the bill H.R. 1422, and the clerk will call the roll on that amendment.

The CLERK. Mr. Smith?

Chairman SMITH. No.

The CLERK. Mr. Smith votes no.

Mr. Rohrabacher?

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrabacher votes no.

Mr. Hall?

Mr. HALL. No.

The CLERK. Mr. Hall votes no.

Mr. Sensenbrenner?

Mr. SENSENBRENNER. No.

The CLERK. Mr. Sensenbrenner votes no.

Mr. Lucas?

Mr. LUCAS. No.

The CLERK. Mr. Lucas votes no.

Mr. Neugebauer?

Mr. NEUGEBAUER. No.

The CLERK. Mr. Neugebauer votes no.

Mr. McCaul?

Mr. McCAUL. No.

The CLERK. Mr. McCaul votes no.

Mr. Broun?

Mr. BROUN. No.

The CLERK. Mr. Broun votes no.

Mr. Palazzo?

Mr. PALAZZO. No.

The CLERK. Mr. Palazzo votes no.

Mr. Brooks?

Mr. BROOKS. No.

The CLERK. Mr. Brooks votes no.

Mr. Hultgren?

Mr. HULTGREN. No.

The CLERK. Mr. Hultgren votes no.

Mr. Bucshon?

Mr. BUCSHON. No.

The CLERK. Mr. Bucshon votes no.

Mr. Stockman?

Mr. STOCKMAN. No.

The CLERK. Mr. Stockman votes no.

Mr. Posey?

Mr. POSEY. No.

The CLERK. Mr. Posey votes no.

Mrs. Lummis?

Mrs. LUMMIS. No.

The CLERK. Mrs. Lummis votes no.

Mr. Schweikert?

Mr. SCHWEIKERT. No.

The CLERK. Mr. Schweikert votes no.

Mr. Massie?
 Mr. MASSIE. No.
 The CLERK. Mr. Massie votes no.
 Mr. Cramer?
 Mr. CRAMER. No.
 The CLERK. Mr. Cramer votes no.
 Mr. Bridenstine?
 Mr. BRIDENSTINE. No.
 The CLERK. Mr. Bridenstine votes no.
 Mr. Weber?
 Mr. WEBER. No.
 The CLERK. Mr. Weber votes no.
 Mr. Stewart?
 Mr. STEWART. No.
 The CLERK. Mr. Stewart votes no.
 Ms. Johnson?
 Ms. JOHNSON. Aye.
 The CLERK. Ms. Johnson votes aye.
 Ms. Lofgren?
 [No response.]
 The CLERK. Mr. Lipinski?
 Mr. LIPINSKI. Aye.
 The CLERK. Mr. Lipinski votes aye.
 Ms. Edwards?
 Ms. EDWARDS. Aye.
 The CLERK. Ms. Edwards votes aye.
 Ms. Wilson?
 Ms. WILSON. Aye.
 The CLERK. Ms. Wilson votes aye.
 Ms. Bonamici?
 Ms. BONAMICI. Aye.
 The CLERK. Ms. Bonamici votes aye.
 Mr. Swalwell?
 Mr. SWALWELL. Aye.
 The CLERK. Mr. Swalwell votes aye.
 Mr. Maffei?
 Mr. MAFFEI. Aye.
 The CLERK. Mr. Maffei votes aye.
 Mr. Grayson?
 Mr. GRAYSON. Aye.
 The CLERK. Mr. Grayson votes aye.
 The CLERK. Mr. Kennedy?
 Mr. KENNEDY. Aye.
 The CLERK. Mr. Kennedy votes aye.
 Mr. Peters?
 Mr. PETERS. Aye.
 The CLERK. Mr. Peters votes aye.
 Mr. Kilmer?
 Mr. KILMER. Aye.
 The CLERK. Mr. Kilmer votes aye.
 Mr. Bera?
 Mr. BERA. Aye.
 The CLERK. Mr. Bera votes aye.
 Ms. Esty?

Ms. ESTY. Aye.
The CLERK. Ms. Esty votes aye.
Mr. Veasey?
Mr. VEASEY. Aye.
The CLERK. Mr. Veasey votes aye.
Ms. Brownley?
Ms. BROWNLEY. Aye.
The CLERK. Ms. Brownley votes aye.
Mr. Takano?
Mr. TAKANO. Aye.
The CLERK. Mr. Takano votes aye.
Mr. Chairman, 16 Members voted, aye, 21 Members voted nay.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 113th

Full Committee Roll Call

Quorum: 13 Working Quorum: 20

DATE: 4/11/2013

Bill: H.R. 1422

Amendment No. 450

Sponsor: Edwards

Roll Call No. 3

Not Agreed to: 21 Noes; 16 Ayes

| MEMBER | AYE | NO | PRESENT | NOT VOTING |
|------------------------------------|-----|----|---------|------------|
| 1 Mr. SMITH, <i>Chair</i> - TX | | X | | |
| 2 Mr. ROHRABACHER - CA ** | | X | | |
| 3 Mr. HALL - TX | | X | | |
| 4 Mr. SENSENBRENNER - WI | | X | | |
| 5 Mr. LUCAS - OK | | X | | |
| 6 Mr. NEUGEBAUER - TX | | X | | |
| 7 Mr. MCCAUL - TX | | X | | |
| 8 Mr. BROWN - GA | | X | | |
| 9 Mr. PALAZZO - MS | | X | | |
| 10 Mr. BROOKS - AL | | X | | |
| 11 Mr. HULTGREN - IL | | X | | |
| 12 Mr. BUCSHON - IN | | X | | |
| 13 Mr. STOCKMAN - TX | | X | | |
| 14 Mr. POSEY - FL | | X | | |
| 15 Mrs. LUMMIS - WY | | X | | |
| 16 Mr. SCHWEIKERT - AZ | | X | | |
| 17 Mr. MASSIE - KY | | X | | |
| 18 Mr. CRAMER - ND | | X | | |
| 19 Mr. BRIDENSTINE - OK | | X | | |
| 20 Mr. WEBER - TX | | X | | |
| 21 Mr. STEWART - UT | | X | | |
| 22 Vacancy | | | | |
| 1 Ms. JOHNSON, <i>Ranking</i> - TX | X | | | |
| 2 Ms. LOFGREN - CA | | | | |
| 3 Mr. LIPINSKI - IL | X | | | |
| 4 Ms. EDWARDS - MD | X | | | |
| 5 Ms. WILSON - FL | X | | | |
| 6 Ms. BONAMICI - OR | X | | | |
| 7 Mr. SWALWELL - CA | X | | | |
| 8 Mr. MAFFEI - NY | X | | | |
| 9 Mr. GRAYSON - FL | X | | | |
| 10 Mr. KENNEDY - MA | X | | | |
| 11 Mr. PETERS - CA | X | | | |
| 12 Mr. KILMER - WA | X | | | |
| 13 Mr. BERA - CA | X | | | |
| 14 Ms. ESTY - CT | X | | | |
| 15 Mr. VEASEY - TX | X | | | |
| 16 Ms. BROWNLEY - CA | X | | | |
| 17 Mr. TAKANO - CA | X | | | |
| 18 Vacancy | | | | |
| TOTALS | 16 | 21 | | |

** Vice Chair

Chairman SMITH. Okay. Majority having voted against the amendment, the amendment is not agreed to.

We have two more votes, one on an amendment and one on final passage.

The next roll call vote is on the amendment offered by Ms. Edwards of Maryland, amendment number 450 to the bill H.R. 1422, and the clerk will call the roll.

The CLERK. Mr. Smith?

Chairman SMITH. No.

The CLERK. Mr. Smith votes no.

Mr. Rohrabacher?

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrabacher votes no.

Mr. Hall?

Mr. HALL. No.

The CLERK. Mr. Hall votes no.

Mr. Sensenbrenner?

Mr. SENSENBRENNER. No.

The CLERK. Mr. Sensenbrenner votes no.

Mr. Lucas?

Mr. LUCAS. No.

The CLERK. Mr. Lucas votes no.

Mr. Neugebauer?

Mr. NEUGEBAUER. No.

The CLERK. Mr. Neugebauer votes no.

Mr. McCaul?

Mr. McCAUL. No.

The CLERK. Mr. McCaul votes no.

Mr. Broun?

[No response.]

The CLERK. Mr. Palazzo?

Mr. PALAZZO. No.

The CLERK. Mr. Palazzo votes no.

Mr. Brooks?

Mr. BROOKS. No.

The CLERK. Mr. Brooks votes no.

Mr. Hultgren?

Mr. HULTGREN. No.

The CLERK. Mr. Hultgren votes no.

Mr. Bucshon?

Mr. BUCSHON. No.

The CLERK. Mr. Bucshon votes no.

Mr. Stockman?

Mr. STOCKMAN. No.

The CLERK. Mr. Stockman votes no.

Mr. Posey?

Mr. POSEY. No.

The CLERK. Mr. Posey votes no.

Mrs. Lummis?

Mrs. LUMMIS. No.

The CLERK. Mrs. Lummis votes no.

Mr. Schweikert?

Mr. SCHWEIKERT. No.

The CLERK. Mr. Schweikert votes no.

Mr. Massie?
 Mr. MASSIE. No.
 The CLERK. Mr. Massie votes no.
 Mr. Cramer?
 Mr. CRAMER. No.
 The CLERK. Mr. Cramer votes no.
 Mr. Bridenstine?
 Mr. BRIDENSTINE. No.
 The CLERK. Mr. Bridenstine votes no.
 Mr. Weber?
 Mr. WEBER. No.
 The CLERK. Mr. Weber votes no.
 Mr. Stewart?
 Mr. STEWART. No.
 The CLERK. Mr. Stewart votes no.
 Ms. Johnson?
 Ms. JOHNSON. Aye.
 The CLERK. Ms. Johnson votes aye.
 Ms. Lofgren?
 [No response.]
 The CLERK. Mr. Lipinski?
 Mr. LIPINSKI. Aye.
 The CLERK. Mr. Lipinski votes aye.
 Ms. Edwards?
 Ms. EDWARDS. Aye.
 The CLERK. Ms. Edwards votes aye.
 Ms. Wilson?
 Ms. WILSON. Aye.
 The CLERK. Ms. Wilson votes aye.
 Ms. Bonamici?
 Ms. BONAMICI. Aye.
 The CLERK. Ms. Bonamici votes aye.
 Mr. Swalwell?
 Mr. SWALWELL. Aye.
 The CLERK. Mr. Swalwell votes aye.
 Mr. Maffei?
 Mr. MAFFEI. Aye.
 The CLERK. Mr. Maffei votes aye.
 Mr. Grayson?
 Mr. GRAYSON. Aye.
 The CLERK. Mr. Grayson votes aye.
 The CLERK. Mr. Kennedy?
 Mr. KENNEDY. Aye.
 The CLERK. Mr. Kennedy votes aye.
 Mr. Peters?
 Mr. PETERS. Aye.
 The CLERK. Mr. Peters votes aye.
 Mr. Kilmer?
 Mr. KILMER. Aye.
 The CLERK. Mr. Kilmer votes aye.
 Mr. Bera?
 Mr. BERA. Aye.
 The CLERK. Mr. Bera votes aye.
 Ms. Esty?

Ms. ESTY. Aye.
 The CLERK. Ms. Esty votes aye.
 Mr. Veasey?
 Mr. VEASEY. Aye.
 The CLERK. Mr. Veasey votes aye.
 Ms. Brownley?
 Ms. BROWNLEY. Aye.
 The CLERK. Ms. Brownley votes aye.
 Mr. Takano?
 Mr. TAKANO. Aye.
 The CLERK. Mr. Takano votes aye.
 Mr. BROWN. Mr. Chair, I am not recorded.
 Chairman SMITH. Gentleman from Georgia is recognized, and how is he recorded?
 Mr. BROWN. No.
 The CLERK. He has not been recorded.
 Mr. BROWN. No.
 Chairman SMITH. He votes no.
 The CLERK. Mr. Broun votes no.
 Chairman SMITH. Are there other Members who wish to vote or change their vote? If not, the clerk will report.
 The CLERK. Mr. Chairman, 16 Members voted aye, 21 Members voted nay.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 113th

Full Committee Roll Call

Quorum: 13 Working Quorum: 20

DATE: 4/11/2013

Bill: H.R. 1422

Amendment No. 453

Sponsor: Edwards

Roll Call No. 2

Not Agreed to: 21 Noes; 16 Ayes

| MEMBER | AYE | NO | PRESENT | NOT VOTING |
|------------------------------------|-----|----|---------|------------|
| 1 Mr. SMITH, <i>Chair</i> - TX | | X | | |
| 2 Mr. ROHRABACHER - CA ** | | X | | |
| 3 Mr. HALL - TX | | X | | |
| 4 Mr. SENSENBRENNER - WI | | X | | |
| 5 Mr. LUCAS - OK | | X | | |
| 6 Mr. NEUGEBAUER - TX | | X | | |
| 7 Mr. MCCAUL - TX | | X | | |
| 8 Mr. BROUN - GA | | X | | |
| 9 Mr. PALAZZO - MS | | X | | |
| 10 Mr. BROOKS - AL | | X | | |
| 11 Mr. HULTGREN - IL | | X | | |
| 12 Mr. BUCSHON - IN | | X | | |
| 13 Mr. STOCKMAN - TX | | X | | |
| 14 Mr. POSEY - FL | | X | | |
| 15 Mrs. LUMMIS - WY | | X | | |
| 16 Mr. SCHWEIKERT - AZ | | X | | |
| 17 Mr. MASSIE - KY | | X | | |
| 18 Mr. CRAMER - ND | | X | | |
| 19 Mr. BRIDENSTINE - OK | | X | | |
| 20 Mr. WEBER - TX | | X | | |
| 21 Mr. STEWART - UT | | X | | |
| 22 Vacancy | | | | |
| 1 Ms. JOHNSON, <i>Ranking</i> - TX | X | | | |
| 2 Ms. LOFGREN - CA | | | | |
| 3 Mr. LIPINSKI - IL | X | | | |
| 4 Ms. EDWARDS - MD | X | | | |
| 5 Ms. WILSON - FL | X | | | |
| 6 Ms. BONAMICI - OR | X | | | |
| 7 Mr. SWALWELL - CA | X | | | |
| 8 Mr. MAFFEI - NY | X | | | |
| 9 Mr. GRAYSON - FL | X | | | |
| 10 Mr. KENNEDY - MA | X | | | |
| 11 Mr. PETERS - CA | X | | | |
| 12 Mr. KILMER - WA | X | | | |
| 13 Mr. BERA - CA | X | | | |
| 14 Ms. ESTY - CT | X | | | |
| 15 Mr. VEASEY - TX | X | | | |
| 16 Ms. BROWNLEY - CA | X | | | |
| 17 Mr. TAKANO - CA | X | | | |
| 18 Vacancy | | | | |
| TOTALS | 16 | 21 | | |

** Vice Chair

Chairman SMITH. Majority having voted against the amendment, the amendment is not agreed to.

We will go to our last item of unfinished business of the Committee today, and that is the postponed roll call vote on the bill H.R. 1422, and the clerk will call the roll.

The CLERK. Mr. Smith?

Chairman SMITH. Aye.

The CLERK. Mr. Smith votes aye.

Mr. Rohrabacher?

Mr. ROHRABACHER. Aye.

The CLERK. Mr. Rohrabacher votes aye.

Mr. Hall?

Mr. HALL. Aye.

The CLERK. Mr. Hall votes aye.

Mr. Sensenbrenner?

Mr. SENSENBRENNER. Aye.

The CLERK. Mr. Sensenbrenner votes aye.

Mr. Lucas?

Mr. LUCAS. Aye.

The CLERK. Mr. Lucas votes aye.

Mr. Neugebauer?

Mr. NEUGEBAUER. Aye.

The CLERK. Mr. Neugebauer votes aye.

Mr. McCaul?

Mr. MCCAUL. Aye.

The CLERK. Mr. McCaul votes aye.

Mr. Broun?

Mr. BROUN. Aye.

The CLERK. Mr. Broun votes aye.

Mr. Palazzo?

Mr. PALAZZO. Aye.

The CLERK. Mr. Palazzo votes aye.

Mr. Brooks?

Mr. BROOKS. Aye.

The CLERK. Mr. Brooks votes aye.

Mr. Hultgren?

Mr. HULTGREN. Aye.

The CLERK. Mr. Hultgren votes aye.

Mr. Bucshon?

Mr. BUCSHON. Aye.

The CLERK. Mr. Bucshon votes aye.

Mr. Stockman?

Mr. STOCKMAN. Aye.

The CLERK. Mr. Stockman votes aye.

Mr. Posey?

Mr. POSEY. Aye.

The CLERK. Mr. Posey votes aye.

Mrs. Lummis?

Mrs. LUMMIS. Aye.

The CLERK. Mrs. Lummis votes aye.

Mr. Schweikert?

Mr. SCHWEIKERT. Yes.

The CLERK. Mr. Schweikert votes aye.

Mr. Massie?

Mr. MASSIE. Yes.
 The CLERK. Mr. Massie votes aye.
 Mr. Cramer?
 Mr. CRAMER. Aye.
 The CLERK. Mr. Cramer votes aye.
 Mr. Bridenstine?
 Mr. BRIDENSTINE. Aye.
 The CLERK. Mr. Bridenstine votes aye.
 Mr. Weber?
 Mr. WEBER. Aye.
 The CLERK. Mr. Weber votes aye.
 Mr. Stewart?
 Mr. STEWART. Aye.
 The CLERK. Mr. Stewart votes aye.
 Ms. Johnson?
 Ms. JOHNSON. No.
 The CLERK. Ms. Johnson votes no.
 Ms. Lofgren?
 [No response.]
 The CLERK. Mr. Lipinski?
 Mr. LIPINSKI. No.
 The CLERK. Mr. Lipinski votes no.
 Ms. Edwards?
 Ms. EDWARDS. No.
 The CLERK. Ms. Edwards votes no.
 Ms. Wilson?
 Ms. WILSON. No.
 The CLERK. Ms. Wilson votes no.
 Ms. Bonamici?
 Ms. BONAMICI. No.
 The CLERK. Ms. Bonamici votes no.
 Mr. Swalwell?
 Mr. SWALWELL. No.
 The CLERK. Mr. Swalwell votes no.
 Mr. Maffei?
 Mr. MAFFEI. No.
 The CLERK. Mr. Maffei votes no.
 Mr. Grayson?
 Mr. GRAYSON. No.
 The CLERK. Mr. Grayson votes no.
 The CLERK. Mr. Kennedy?
 Mr. KENNEDY. No.
 The CLERK. Mr. Kennedy votes no.
 Mr. Peters?
 Mr. PETERS. No.
 The CLERK. Mr. Peters votes no.
 Mr. Kilmer?
 Mr. KILMER. No.
 The CLERK. Mr. Kilmer votes no.
 Mr. Bera?
 Mr. BERA. No.
 The CLERK. Mr. Bera votes no.
 Ms. Esty?
 Ms. ESTY. No.

The CLERK. Ms. Esty votes no.

Mr. Veasey?

Mr. VEASEY. No.

The CLERK. Mr. Veasey votes no.

Ms. Brownley?

Ms. BROWNLEY. No.

The CLERK. Ms. Brownley votes no.

Mr. Takano?

Mr. TAKANO. No.

The CLERK. Mr. Takano votes no.

Chairman SMITH. Are there any Members who wish to vote or change their vote? If not, the clerk will report.

The CLERK. Mr. Chairman, 21 Members voted aye, 16 Members voted nay.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 113th

Full Committee Roll Call

Quorum: 13 Working Quorum: 20

DATE: 4/11/2013

Bill: H.R. 1422

Roll Call No. 4

Final Passage: 21 Ayes; 16 Noes

| MEMBER | AYE | NO | PRESENT | NOT VOTING |
|---|-----|----|---------|------------|
| ¹ Mr. SMITH, <i>Chair - TX</i> | X | | | |
| ² Mr. ROHRABACHER - <i>CA</i> ** | X | | | |
| ³ Mr. HALL - <i>TX</i> | X | | | |
| ⁴ Mr. SENSENBRENNER - <i>WI</i> | X | | | |
| ⁵ Mr. LUCAS - <i>OK</i> | X | | | |
| ⁶ Mr. NEUGEBAUER - <i>TX</i> | X | | | |
| ⁷ Mr. MCCAUL - <i>TX</i> | X | | | |
| ⁸ Mr. BROUN - <i>GA</i> | X | | | |
| ⁹ Mr. PALAZZO - <i>MS</i> | X | | | |
| ¹⁰ Mr. BROOKS - <i>AL</i> | X | | | |
| ¹¹ Mr. HULTGREN - <i>IL</i> | X | | | |
| ¹² Mr. BUCSHON - <i>IN</i> | X | | | |
| ¹³ Mr. STOCKMAN - <i>TX</i> | X | | | |
| ¹⁴ Mr. POSEY - <i>FL</i> | X | | | |
| ¹⁵ Mrs. LUMMIS - <i>WY</i> | X | | | |
| ¹⁶ Mr. SCHWEIKERT - <i>AZ</i> | X | | | |
| ¹⁷ Mr. MASSIE - <i>KY</i> | X | | | |
| ¹⁸ Mr. CRAMER - <i>ND</i> | X | | | |
| ¹⁹ Mr. BRIDENSTINE - <i>OK</i> | X | | | |
| ²⁰ Mr. WEBER - <i>TX</i> | X | | | |
| ²¹ Mr. STEWART - <i>UT</i> | X | | | |
| ²² Vacancy | | | | |
| ¹ Ms. JOHNSON, <i>Ranking - TX</i> | | X | | |
| ² Ms. LOFGREN - <i>CA</i> | | | | |
| ³ Mr. LIPINSKI - <i>IL</i> | | X | | |
| ⁴ Ms. EDWARDS - <i>MD</i> | | X | | |
| ⁵ Ms. WILSON - <i>FL</i> | | X | | |
| ⁶ Ms. BONAMICI - <i>OR</i> | | X | | |
| ⁷ Mr. SWALWELL - <i>CA</i> | | X | | |
| ⁸ Mr. MAFFEI - <i>NY</i> | | X | | |
| ⁹ Mr. GRAYSON - <i>FL</i> | | X | | |
| ¹⁰ Mr. KENNEDY - <i>MA</i> | | X | | |
| ¹¹ Mr. PETERS - <i>CA</i> | | X | | |
| ¹² Mr. KILMER - <i>WA</i> | | X | | |
| ¹³ Mr. BERA - <i>CA</i> | | X | | |
| ¹⁴ Ms. ESTY - <i>CT</i> | | X | | |
| ¹⁵ Mr. VEASEY - <i>TX</i> | | X | | |
| ¹⁶ Ms. BROWNLEY - <i>CA</i> | | X | | |
| ¹⁷ Mr. TAKANO - <i>CA</i> | | X | | |
| ¹⁸ Vacancy | | | | |
| TOTALS | 21 | 16 | | |

** Vice Chair

Chairman SMITH. Majority having voted aye, the bill is agreed to. Without objection, the motion to reconsider is laid upon the table and I move that the bill H.R. 1422 as amended be favorably reported to the House and the staff be authorized to make any necessary technical and conforming changes.

Without objection, so ordered.

Before we adjourn, I do want to thank the Members who attended today's markup. We had a great turnout, and I regret that the bills themselves were not bipartisan, but we did have a number of bipartisan amendments that I feel improved both bills, and I thank the Members for offering those.

There being no further discussion, this concludes the full Committee markup, and without objection, the Committee stands adjourned.

[Whereupon, at 11:55 a.m., the Committee was adjourned.]

Appendix:

H.R. 1422, THE EPA SCIENCE ADVISORY BOARD REFORM
ACT OF 2013,
SECTION-BY-SECTION ANALYSIS, AMENDMENTS,
AMENDMENT ROSTER

.....
(Original Signature of Member)

113TH CONGRESS
1ST SESSION

H. R. 1422

To amend the Environmental Research, Development, and Demonstration Authorization Act of 1978 to provide for Scientific Advisory Board member qualifications, public participation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. STEWART introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Environmental Research, Development, and Demonstration Authorization Act of 1978 to provide for Scientific Advisory Board member qualifications, public participation, 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 "EPA Science Advisory
5 Board Reform Act of 2013".

1 **SEC. 2. SCIENCE ADVISORY BOARD.**

2 (a) **MEMBERSHIP.**—Section 8(b) of the Environ-
3 mental Research, Development, and Demonstration Au-
4 thorization Act of 1978 (42 U.S.C. 4365(b)) is amended
5 to read as follows:

6 “(b)(1) The Board shall be composed of at least nine
7 members, one of whom shall be designated Chairman, and
8 shall meet at such times and places as may be designated
9 by the Chairman in consultation with the Administrator.

10 “(2) Each member of the Board shall be qualified by
11 education, training, and experience to evaluate scientific
12 and technical information on matters referred to the
13 Board under this section. The Administrator shall select
14 Board members from nominations received as described
15 in paragraph (3) and shall ensure that—

16 “(A) the scientific and technical points of view
17 represented on and the functions to be performed by
18 the Board are fairly balanced among the members of
19 the Board;

20 “(B) at least ten percent of the membership of
21 the Board are from State, local, or tribal govern-
22 ments;

23 “(C) persons with substantial and relevant ex-
24 pertise are not excluded from the Board due to af-
25 filiation with or representation of entities that may
26 have a potential interest in the Board’s advisory ac-

1 tivities, so long as that interest is fully disclosed to
2 the Administrator and the public and appointment
3 to the Board complies with section 208 of title 18,
4 United States Code;

5 “(D) in the case of a Board advisory activity on
6 a particular matter involving a specific party, no
7 Board member having an interest in the specific
8 party shall participate in that activity;

9 “(E) Board members may not participate in ad-
10 visory activities that directly or indirectly involve re-
11 view and evaluation of their own work; and

12 “(F) Board members shall be designated as
13 special Government employees.

14 “(3) The Administrator shall—

15 “(A) solicit public nominations for the Board by
16 publishing a notification in the Federal Register;

17 “(B) solicit nominations from relevant Federal
18 agencies, including the Departments of Agriculture,
19 Defense, Energy, and Health and Human Services;

20 “(C) make public the list of nominees, including
21 the identity of the entities that nominated them, and
22 shall accept public comment on the nominees;

23 “(D) require that, upon their provisional nomi-
24 nation, nominees shall file a written report disclosing
25 financial relationships and interests, including Envi-

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4

1 ronmental Protection Agency grants, contracts, co-
2 operative agreements, or other financial assistance,
3 that are relevant to the Board's advisory activities
4 for the three-year period prior to the date of their
5 nomination, and relevant professional activities and
6 public statements for the five-year period prior to
7 the date of their nomination; and

8 “(E) make such reports public, with the excep-
9 tion of specific dollar amounts, for each member of
10 the Board upon such member's selection.

11 “(4) The terms of the members of the Board shall
12 be three years and shall be staggered so that the terms
13 of no more than one-third of the total membership of the
14 Board shall expire within a single fiscal year. No member
15 shall serve more than two terms over a ten-year period.”.

16 (b) RECORD.—Section 8(c) of such Act (42 U.S.C.
17 4365(c)) is amended—

18 (1) in paragraph (1)—

19 (A) by inserting “risk or hazard assess-
20 ment,” after “at the time any proposed”; and

21 (B) by inserting “risk or hazard assess-
22 ment,” after “to the Board such proposed”;

23 and

24 (2) in paragraph (2)—

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5

1 (A) by inserting “risk or hazard assess-
2 ment,” after “the scientific and technical basis
3 of the proposed”; and

4 (B) by adding at the end the following:
5 “The Board’s advice and comments, including
6 dissenting views of Board members, and the re-
7 sponse of the Administrator shall be included in
8 the record with respect to any proposed risk or
9 hazard assessment, criteria document, standard,
10 limitation, or regulation and published in the
11 Federal Register.”.

12 (c) **MEMBER COMMITTEES AND INVESTIGATIVE PAN-**
13 **ELS.**—Section 8(e) of such Act (42 U.S.C. 4365(c)) is
14 amended by adding at the end the following:

15 “These member committees and investigative panels—

16 “(1) shall be constituted and operate in accord-
17 ance with the provisions set forth in paragraphs (2)
18 and (3) of subsection (b), in subsection (h), and in
19 subsection (i);

20 “(2) do not have authority to make decisions on
21 behalf of the Board; and

22 “(3) may not report directly to the Environ-
23 mental Protection Agency.”.

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1 (d) PUBLIC PARTICIPATION.—Section 8 of such Act
2 (42 U.S.C. 4365) is amended by adding after subsection
3 (g) the following:

4 “(h)(1) To facilitate public participation in the advi-
5 sory activities of the Board, the Administrator and the
6 Board shall make public all reports and relevant scientific
7 information and shall provide materials to the public at
8 the same time as received by members of the Board.

9 “(2) Prior to conducting major advisory activities, the
10 Board shall hold a public information-gathering session to
11 discuss the state of the science related to the advisory ac-
12 tivity.

13 “(3) Prior to convening a member committee or in-
14 vestigative panel under subsection (e) or requesting sci-
15 entific advice from the Board, the Administrator shall ac-
16 cept, consider, and address public comments on questions
17 to be asked of the Board. The Board, member committees,
18 and investigative panels shall accept, consider, and ad-
19 dress public comments on such questions and shall not ac-
20 cept a question that unduly narrows the scope of an advi-
21 sory activity.

22 “(4) The Administrator and the Board shall encour-
23 age public comments, including oral comments and discus-
24 sion during the proceedings, that shall not be limited by
25 an insufficient or arbitrary time restriction. Public com-

1 ments shall be provided to the Board when received. The
2 Board's reports shall include written responses to signifi-
3 cant comments offered by members of the public to the
4 Board.

5 “(5) Following Board meetings, the public shall be
6 given 15 calendar days to provide additional comments for
7 consideration by the Board.”.

8 (c) OPERATIONS.—Section 8 of such Act (42 U.S.C.
9 4365) is further amended by adding after subsection (h),
10 as added by subsection (d) of this section, the following:

11 “(i)(1) In carrying out its advisory activities, the
12 Board shall strive to avoid making policy determinations
13 or recommendations, and, in the event the Board feels
14 compelled to offer policy advice, shall explicitly distinguish
15 between scientific determinations and policy advice.

16 “(2) The Board shall clearly communicate uncertain-
17 ties associated with the scientific advice provided to the
18 Administrator.

19 “(3) The Board shall ensure that advice and com-
20 ments reflect the views of the members and shall encour-
21 age dissenting members to make their views known to the
22 public and the Administrator.

23 “(4) The Board shall conduct periodic reviews to en-
24 sure that its advisory activities are addressing the most

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- 1 important scientific issues affecting the Environmental
- 2 Protection Agency.”.

SECTION-BY-SECTION ANALYSIS OF

H.R. 1422, THE EPA SCIENCE ADVISORY BOARD REFORM ACT OF 2013

SEC. 1. SHORT TITLE

This section sets the short title as the EPA Science Advisory Board Reform Act of 2013.

SEC. 2. SCIENCE ADVISORY BOARD

Subsection (a) MEMBERSHIP amends section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (ERDDAA) to include the following:

- (b)(1) Requires the Science Advisory Board be composed of at least nine members, with one designated as Chairman, and that these members meet at a times and places designated by the Chairman and Administrator.
- (2) Requires that each member of the Board is qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board. The Administrator is required to select Board members from nominations received, and shall ensure: (A) the scientific and technical points of view represented on the Board, as well as the function to be performed, be fairly balanced among the Board members; (B) at least ten percent of Board membership are from State, local, or tribal governments; (C) persons with substantial and relevant expertise are not excluded from the Board due to affiliation with or representation of entities that might have a potential interest in the Board's advisory activities, as long as this interest is fully disclosed to the Administrator and the public; (D) in the case of a Board advisory activity on a particular matter involving a specific party, no Board member that has an interest in that party shall participate in that activity; (E) Board members may not participate in advisory activities that involve review or application of their own work; and (F) Board members shall be designated as special Government employees.
- (3) The Administrator is required to: (A) solicit public comments for the Board by publishing a notification in the Federal Register; (B) solicit nominations from relevant Federal Agencies; (C) make the list of nominees, as well as the entity that nominated them, public, and accept public comments on the nominees; (D) require that upon nomination, nominees file a written report disclosing financial relationships and interests, including EPA grants, contracts, cooperative agreements, and other financial assistance relevant to the Board's advisory activities for the three year period prior to nomination, as well as relevant professional activities and public statements for the five year period prior to nomination; and (E) these reports are made public for each member of the Board upon their selection, excepting specific dollar amounts.
- (4) The terms of the members of the Board shall be three years and staggered to ensure that no more than one-third of total membership shall expire within a single year, and members are limited to two terms over a ten-year period.

Subsection (b) RECORD amends Section 8(c) of ERDDAA in the following ways: In paragraph 1: (A) by inserting "risk or hazard assessment" after "at the time any proposed;" and (B) by inserting "risk or hazard assessment" after "to the Board such proposed."

In paragraph 2: (A) by inserting "risk or hazard assessment" after "the scientific and technical basis of the proposed;" and (B) by adding at the end "The Board's advice and comments, including dissenting views of Board members, and the response of the Administrator shall be included in the record with respect to any proposed risk or hazard assessment, criteria document, standard, limitation, or regulation and published in the Federal Register."

Subsection (c) MEMBER COMMITTEES AND INVESTIGATIVE PANELS amends section 8(e) of ERDDAA by adding requirements that the member committees and investigative panels: (1) be constituted and operate in accordance with other provisions of this Act; (2) do not have authority to make decisions on behalf of the Board; and (3) may not report directly to the Environmental Protection Agency.

Subsection (d) PUBLIC PARTICIPATION amends ERDDAA by adding subsection (h). Subsection (h): (1) requires the Administrator and the Board to make public all reports and relevant scientific information and provide materials to the public at the same time they are received by the Board. (2) Requires the Board to hold a public information-gathering session to discuss the state of the science relative to the advisory activity prior to conducting major advisory activities. (3) Requires the Adminis-

trator to accept, consider, and address public comments on questions to be asked of the board prior to convening a member committee or panel, and The Board, member committee, or panels shall accept, consider, and address these public comments. The Board cannot accept a question that unduly narrows the scope of an advisory activity. (4) Requires the Administrator and the Board to encourage public comments, and the public comments must be provided to the Board when received. The Board is also required to respond in writing to significant public comments. (5) Provides the public with 15 calendar days after Board meetings to provide additional comments for consideration.

Subsection (e) OPERATIONS amends ERDDAA by adding subsection (i) which requires: (1) the Board strive to avoid making policy determinations or recommendations, and explicitly distinguish between scientific determinations and policy advice. (2) The Board clearly communicates uncertainties associated with scientific advice provided to the Administrator. (3) The Board ensures that advice and comments reflect the views of the members and encourage dissenting members to make their views known to the public and Administrator. (4) The Board conducts periodic reviews to ensure its advisory activities are addressing the most important scientific issues facing the EPA.

AMENDMENTS

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AMENDMENT TO H.R. 1422
OFFERED BY MR. BERA

In section 2(a) of the bill, in the matter to be inserted as section 8(b)(2)(E) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(b)(2)(E)), strike “and” after the semicolon.

In section 2(a) of the bill, in the matter to be inserted as section 8(b)(2)(F) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(b)(2)(F)), strike the period at the end and insert “; and”.

In section 2(a) of the bill, in the matter to be inserted as section 8(b)(2) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(b)(2)), add at the end the following new subparagraph:

- 1 “(G) at least ten percent of the Board shall be
- 2 composed of members drawn from non-governmental
- 3 organizations that represent public health, minority
- 4 populations, women’s issues, children’s issues, food
- 5 safety, or other public interest non-governmental or-

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1 organizations that have interests in the work of the
2 Board.



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AMENDMENT TO H.R. 1422
OFFERED BY MS. Edwards

In section 2(a) of the bill, in the matter to be inserted as section 8(b)(2) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(b)(2)), insert after subparagraph (B) the following (and redesignate subsequent subparagraphs accordingly):

- 1 “(C) no more than ten percent of the Board
2 may be composed of employees of for-profit entities;



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AMENDMENT TO H.R. 1422
OFFERED BY MS. Edwards

Page 3, line 8, insert "and" after the semicolon.

Page 3, strike lines 9 through 11.

Page 3, line 12, redesignate subparagraph (F) as subparagraph (E).



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AMENDMENT TO H.R. _____
OFFERED BY MR. GRAYSON OF FLORIDA

In section 2(a) of the bill, in the matter to be inserted as section 8(b)(2)(E) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(b)(2)(E)), strike “and” after the semicolon.

In section 2(a) of the bill, in the matter to be inserted as section 8(b)(2)(F) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(b)(2)(F)), strike the period at the end and insert “; and”.

In section 2(a) of the bill, in the matter to be inserted as section 8(b)(2) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(b)(2)), add at the end the following new subparagraph:

1 “(G) no federally registered lobbyist is ap-
2 pointed to the Board.



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AMENDMENT TO H.R. 1422
OFFERED BY MR. Swagwell

In section 2(a) of the bill, in the matter to be inserted as section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(b)), insert after paragraph (3) the following new paragraph (and redesignate subsequent paragraphs accordingly):

- 1 “(4) Disclosure of relevant professional activities
- 2 under paragraph (3)(D) shall include all representational
- 3 work, expert testimony, and contract work as well as iden-
- 4 tifying the party for which the work was done.



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AMENDMENT TO H.R. _____**OFFERED BY MS. BONAMICI OF OREGON**

In section 2(e) of the bill, in the matter to be inserted as section 8(i) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(i)), insert after paragraph (3) the following new paragraph (and redesignate subsequent paragraphs accordingly):

- 1 “(4) Except when specifically prohibited by law, the
- 2 Agency shall make all conflict of interest waivers granted
- 3 to members of the Board, member committees, or inves-
- 4 tigative panels publicly available.



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AMENDMENT TO H.R. _____
OFFERED BY MS. BONAMICI OF OREGON

In section 2(e) of the bill, in the matter to be inserted as section 8(i) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365(i)), insert after paragraph (3) the following new paragraph (and redesignate subsequent paragraphs accordingly):

1 “(4) Any recusal agreement made by a member c
2 the Board, a member committee, or an investigative pane
3 or any recusal known to the Agency that occurs durin
4 the course of a meeting or other work of the Board, mem
5 ber committee, or investigative panel shall promptly b
6 made public by the Administrator.



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AMENDMENT TO H.R. 1422
OFFERED BY M.S. Edwards

At the end of section 2 of the bill, add the following
new subsection:

1 (f) AUTHORIZATION OF APPROPRIATIONS.—Such ad-
2 ditional sums as may be necessary are hereby authorized
3 to carry out the new requirements of this Act and the
4 amendments made by this Act.



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AMENDMENT TO H.R. 1422
OFFERED BY MS. Edwards

At the end of the bill, add the following new section:

1 SEC. 3. LIMITATION ON UNFUNDED MANDATES.

2 For any fiscal year that begins after the date of en-
3 actment of this Act, the Administrator shall not imple-
4 ment any requirement of this Act or the amendments
5 made by this Act which the Administrator determines
6 adds any additional costs to the existing implementation
7 of section 8 of the Environmental Research, Development,
8 and Demonstration Authorization Act of 1978 (42 U.S.C.
9 4365) unless, for that fiscal year, additional funds are ap-
10 propriated for that specific purpose.



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AMENDMENT TO H.R. 1422
OFFERED BY MR. Grayson

At the end of the bill, add the following new section:

1 **SEC. 3. RELATION TO THE FEDERAL ADVISORY COM-**
2 **MITTEE ACT.**

3 Nothing in this Act or the amendments made by this
4 Act shall be construed as supplanting the requirements of
5 the Federal Advisory Committee Act (5 U.S.C. App.).



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AMENDMENT TO H.R. 1422
OFFERED BY MR. Grayson

At the end of the bill, add the following new section:

1 SEC. 3. RELATION TO THE ETHICS IN GOVERNMENT ACT OF
2 1978.

3 Nothing in this Act or the amendments made by this
4 Act shall be construed as supplanting the requirements of
5 the Ethics in Government Act of 1978 (5 U.S.C. App.).



AMENDMENT ROSTER
 COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
 Full Committee Markup
 April 11, 2013

AMENDMENT ROSTER

H.R. 1422, the "EPA Science Advisory Board Reform Act of 2013"

| No. | Amendment | Summary | |
|-----|--|--|--|
| 1 | Amendment offered by Ms. Edwards (MD) (455) | Caps representation of for-profit entities on SAB at ten percent of membership | Not Agreed to by Voice Vote |
| 2 | Amendment offered by Ms. Edwards (MD) (460) | Strikes language prohibiting SAB members from directly or indirectly reviewing their own work. | Not Agreed to by Voice Vote |
| 3 | Amendment offered by Mr. Bera (CA) (454) | Requires that minimum of 10 percent of SAB membership come from non-governmental organizations representing public health, minority populations, women's issues, children's issues, food safety or other public interest non-governmental organizations. | Not Agreed to by a roll call vote of 16 Yeas and 21 Nays |
| 4 | Amendment offered by Mr. Grayson (FL) (066) | Prohibits registered lobbyists from service on the Science Advisory Board (SAB). | Agreed to by Voice Vote |
| 5 | Amendment offered by Mr. Swalwell (CA) (457) | Requires SAB members disclose as part of their relevant professional activities all representational work, expert testimony, and contract work including the entity for which the work was done. | Agreed to by Voice Vote |
| 6 | Amendment offered by Ms. Bonamici (OR) (010) | Requires all conflict of interest waivers granted to members of the Board, member committees or investigative panels to be made publicly available. | Agreed to by Voice Vote |
| 7 | Amendment offered by Ms. Bonamici (OR) (009) | Requires the Administrator to make public any recusal agreement for a member of the Board, member committee or investigative panel. | Agreed to by Voice Vote |
| 8 | Amendment offered by Ms. Edwards (MD) (453) | Inserts authorization for the appropriation of such sums as may be necessary for the activities of the bill. | Not Agreed to by a roll call vote of 16 Yeas and 21 Nays |
| 9 | Amendment offered by Ms. Edwards (MD) (450) | Authorizes Administrator to ignore requirements of act that are determined to incur additional costs, unless there is sufficient appropriation to cover the cost. | Not Agreed to by a roll call vote of 16 Yeas and 21 Nays |
| 10 | Amendment offered by Mr. Grayson (FL) (451) | Specifies that nothing in the bill shall be construed as supplanting the Federal Advisory Committee Act. | Agreed to by Voice Vote |
| 11 | Amendment offered by Mr. Grayson (FL) (452) | Specifies that nothing in the bill shall be construed as supplanting the Ethics in Government Act. | Agreed to by Voice Vote |

Appendix II

ADDITIONAL MATERIAL FOR THE RECORD

UNION OF CONCERNED SCIENTISTS' LETTER SUBMITTED BY
CONGRESSMAN JAMES SENSENBRENNER



Union of Concerned Scientists

April 10, 2013

The Honorable Eddie Bernice Johnson
Ranking Member
House Committee on Science, Space and Technology
394 Ford House Office Building
Washington, D.C. 20515

Via email

Dear Ranking Member Johnson,

The Union of Concerned Scientists strongly opposes the EPA Science Advisory Board Reform Act of 2013, which the House Science Committee will mark up on April 11. When he discussed his proposal last month, Rep. Chris Stewart (UT) revealed the real purpose of his bill. He attacked the Environmental Protection Agency (EPA) for "promulgating air quality regulations that could shut down large swaths of the West, undertaking thinly veiled attacks on the safety of hydraulic fracturing, or pursuing job-killing climate regulations."

In the name of fostering openness and transparency at the Science Advisory Board (SAB), this proposal will make it nearly impossible for the Board to do the important work of advising the EPA on regulatory issues. This bill opens the door for increased corporate influence on the Board, both by increasing the number of conflicted SAB panelists, and by empowering companies to delay the SAB's work for years, if not decades.

The bill also would make it nearly impossible for the EPA to exclude experts with substantial financial ties to industries affected by the Board's recommendations. Instead, this bill stipulates that "persons with substantial and relevant expertise are not excluded from the Board due to affiliation with or representation of entities that may have a potential interest in the Board's advisory



Union of Concerned Scientists

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1825 K Street NW, Suite 800 • Washington, DC 20006-1232 • TEL: 202-223-6133 • FAX: 202-223-6162
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One North LaSalle Street, Suite 1204 • Chicago, IL 60602-4064 • TEL: 312-578-1750 • FAX: 312-578-1751

activities...” The bill does provide for disclosure and for recusal on certain very narrow grounds, but it would make it very difficult for the EPA to follow the laudable goal of whenever possible, selecting non-conflicted members. This practice will increase the number of SAB members who would profit from the Board’s advice, by influencing the Board’s recommendations through the votes they cast, and/or dominating the Board’s discussion. The SAB could soon consist primarily of experts on the payroll of major polluters, whose recommendations may weaken crucial public health and environmental protections.

In addition, the bill could delay SAB recommendations for years, if not decades. The bill offers almost limitless opportunities for public comment, opportunities that only benefit moneyed special interests. For example, for each major advisory activity, the Board must convene a public information-gathering session “to discuss the state of the science” related to that activity. It is possible, under this requirement, that the Board may find itself repeatedly re-examining “the state of the science” on climate change or the harmful effects of certain toxins – each time it made a recommendation that touched on either climate change impacts or reducing air pollution. In addition, both the EPA, before it asks for the Board’s advice, and the Board itself, would be required to “accept, consider, and address” public comments on the agency’s questions to the Board. As the SAB deliberates, it must also encourage public comments “that shall not be limited by an insufficient or arbitrary time restriction.” The Board is required to respond in writing to each “significant” comment. In practice, it is difficult to see how the Board could impose any deadlines on accepting comment.

This bill would not improve the work of the Board, and would make it more difficult of for the EPA to receive the independent science advice it needs to do its work. We strongly urge your opposition.

Sincerely,

Celia Viggo Wexler

Senior Washington Representative

Union of Concerned Scientists



Union of Concerned Scientists

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 2357 Shattuck Avenue, Suite 203 • Berkeley, CA 94704-1567 • TEL: 510.843.1872 • FAX: 510.843.3785
 One North LaSalle Street, Suite 1904 • Chicago, IL 60602-4064 • TEL: 312.578.1750 • FAX: 312.578.1751

NATURAL RESOURCES DEFENSE COUNCIL, ENVIRONMENTAL DEFENSE FUND,
CLEAN WATER ACTION, PHYSICIANS FOR SOCIAL RESPONSIBILITY, EARTHJUSTICE,
LEAGUE OF CONSERVATION VOTERS' LETTER SUBMITTED BY
CONGRESSMAN JAMES SENSENBRENNER

Natural Resources Defense Council * Environmental Defense Fund * Clean Water Action *
Physicians for Social Responsibility * Earthjustice * League of Conservation Voters

April 10, 2013

The Honorable Lamar Smith
U.S. House of Representatives
2409 Rayburn House Office Building
Washington, DC 20515-4304

The Honorable Eddie Bernice Johnson
U.S. House of Representatives
2468 Rayburn House Office Building
Washington, DC 20515-4330

Dear Chairman Smith and Ranking Member Johnson:

We are writing to express our strong opposition to H.R. 1422, the "EPA Science Advisory Board Reform Act of 2013." The bill, which would amend the Environmental Research, Development, and Demonstration Authorization Act of 1978, would hinder the ability of the Environmental Protection Agency's Science Advisory Board (EPA SAB) to reach timely, independent, objective, credible conclusions that can form the basis of policy. Notwithstanding changes made to the bill relative to that introduced in the 112th Congress (H.R. 6564), H.R. 1422 would still significantly weaken and complicate the SAB review process, with no discernible benefit to EPA or the public.

Our most serious specific concerns with the bill are described below, in the order in which the provisions appear:

P. 2, line 23 to P.3 line4, creating Section 8(b)(2)(C) in the underlying Act, promotes inclusion of panelists with financial conflicts, as long as they disclose their conflicts and obtain a waiver

The bill shifts the current presumption against including people with financial conflicts on SAB panels. The bill appears to effectively mandate participation of scientists with financial conflicts, as long as the conflicts are disclosed, notwithstanding the reference to one portion of existing ethics law.

Policies and practices to identify and eliminate persons with financial conflicts, interests, and undue biases from independent scientific advisory committees have been implemented by all the federal agencies, the National Academy of Sciences, and international scientific bodies such as the International Agency for Research on Cancer of the World Health Organization. The bill's provisions are inconsistent with a set of nearly universally accepted scientific principles to eliminate or limit financial conflicts. Following these principles is the way agencies, the public, and Congress should ensure their scientific advice is credible and independent.

P. 3, lines 9-11, creating a Section 8(b)(2)(E) in the underlying Act, Intentionally creates committees of non-experts

This language will impede high-quality scientific review. If the SAB is to be made up of experts, their own work may be relevant to a question under review. That work will often be one of dozens if not hundreds of relevant studies. This language would result in committees of non-experts lacking first-hand in-depth technical knowledge of the topic under discussion.

P.4, lines 18-24 to P.5, lines 1-3, Section 2(b)(1) and 2(b)(2)(A), Expands the scope of the SAB's work, and increases the burden

This provision broadens the scope of the SAB's work to include risk or hazard assessments proposed by the agency, a dramatic and unnecessary expansion. The expansion would increase the burden on the SAB and slow the Board's ability to complete review of the criteria documents, regulations and other matters that are within the Board's current scope of work.

P. 6, lines 22-25 to P.7, lines 1-4, creating a Section 8(h)(4) in the underlying Act, Ensures endless delay, burden and red tape under the guise of "transparency"

This provision would give industry unlimited time to present its arguments to the SAB. Industry representatives already dominate proceedings because of their greater numbers and resources. In addition, the requirement for the SAB to respond in writing to "significant" public comments is vague (who defines what is "significant," and how?) and would tie down the SAB with needless and burdensome process. It also misconstrues the nature of both the SAB's role and the role of public comment in the SAB process. The role of the SAB is to provide its expert advice to the Agency. The role of the public comments during this phase is to provide informative input to the SAB as it deliberates, but the final product of the SAB deliberation is advice from the panel members, not an Agency proposal or decision that requires response to public comment. Members of the public, including stakeholders, have multiple opportunities to provide input directly to the Agency.

In short, H.R. 1422 would alter the nature of the SAB, which has been largely successful in providing the EPA expert review of key scientific and technical questions and would encourage industry conflicts in the review of scientific materials. It would also pile new and burdensome requirements on the Board, severely hampering its work and effectiveness. The result would be to further stall and undermine important public health, safety and environmental measures.

We urge you to abandon any efforts to advance this counter-productive bill. We would be happy to discuss our concerns with you further.

Sincerely,

Natural Resources Defense Council

Environmental Defense Fund

Clean Water Action

Physicians for Social Responsibility

Earthjustice

League of Conservation Voters

AMERICAN ALLIANCE FOR INNOVATION (AAI) LETTER SUBMITTED BY
CONGRESSMAN CHRIS STEWART

The Honorable Chris Stewart
Chairman, Subcommittee on Environment
Committee on Science, Space, and Technology
United States House of Representatives
Washington, DC 20515

April 10, 2013

Dear Mr. Chairman:

We are writing on behalf of the American Alliance for Innovation (AAI), a large and diverse coalition of trade associations representing a broad spectrum of the American economy.

It is paramount that chemicals and metals producers, manufacturers, distributors, importers, users, and consumers have confidence that there is a transparent federal chemical management system in place that is both grounded in sound science and will deliver timely safety decisions. Oversight of the safe production and use of chemicals affects us all, which is why we support your efforts to improve the U.S. Environmental Protection Agency's (EPA) Science Advisory Board (SAB) and its committees.

The SAB is a critical part of the EPA's quality control process that was established to ensure that the Agency produces credible information to help guide regulatory decisions at all levels of government. We all agree, therefore, that the SAB must provide meaningful, balanced, and independent reviews of the science conducted and used by EPA, and we support advancing your bill, H.R. 1422 (the "EPA Science Advisory Board Reform Act of 2013") in this Congress.

We are encouraged to see that your legislation takes into account public policy recommendations from the National Academy of Sciences and the Bipartisan Policy Council, as well as input that the Committee has received from numerous experts and stakeholder groups. H.R. 1422 will greatly enhance the current peer review process in many important ways by strengthening policies to address conflicts of interest, while at the same time ensuring that a wide range of scientific perspectives are represented on panels. The bill will also increase the utility of SAB panels by improving the process for public engagement and ensuring that scientific concerns are clearly addressed and communicated.

We are committed to working with you and the Members of the Science Committee to move this legislation forward, and we urge all members of Congress to support its passage.

Sincerely,

Adhesive and Sealant Council
Alkylphenols & Ethoxylates Research Council
American Architectural Manufacturers Association
American Chemistry Council
American Coke & Coal Chemicals Institute
American Farm Bureau Federation®
American Fiber Manufacturers Association

American Forest & Paper Association
American Gas Association
American Road & Transportation Builders Association
American Wood Council
Automotive Aftermarket Industry Association
Corn Refiners Association
CropLife America
Fashion Jewelry & Accessories Trade Association
Halogenated Solvents Industry Alliance, Inc.
Institute of Makers of Explosives
National Association of Chemical Distributors
National Association of Manufacturers
National Oilseed Processors Association
National Tank Truck Carriers, Inc.
Nickel Institute
Oregon Women In Timber
Pine Chemicals Association, Inc.
Portland Cement Association
Responsible Industry for a Sound Environment
The Fertilizer Institute
The Vinyl Institute
Treated Wood Council

cc: Members of House Science, Space, and Technology Committee

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