

MID-LEVEL ETHANOL BLENDS

DECEMBER 12, 2014.—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. 875]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, Space, and Technology, to whom was referred the bill (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, 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:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) MID-LEVEL ETHANOL BLEND.—The term “mid-level ethanol blend” means an ethanol-gasoline blend containing greater than 10 and up to and including 20 percent ethanol by volume that is intended to be used in any conventional gasoline-powered onroad, nonroad, or marine engine, or onroad or nonroad vehicle.

SEC. 2. EVALUATION.

(a) IN GENERAL.—The Administrator, acting through the Assistant Administrator of the Office of Research and Development at the Environmental Protection Agency, shall—

(1) not later than 45 days after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences to provide, within 18 months after the date of enactment of this Act, a comprehensive assessment of the scientific and technical research on the implications of the use of mid-level ethanol blends, comparing mid-level ethanol blends to gasoline blends containing 10 percent or zero percent ethanol; and

(2) not later than 30 days after receiving the results of the assessment under paragraph (1), submit a report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate on the findings of the assessment, together with the agreement or disagreement of the Administrator with each of its findings.

(b) WAIVERS.—Prior to the submission of the report under subsection (a)(2), any waiver granted under section 211(f)(4) of the Clean Air Act (42 U.S.C. 7545(f)(4)) before the date of enactment of this Act that allows the introduction into commerce of mid-level ethanol blends for use in motor vehicles shall have no force or effect. The Administrator shall grant no new waivers under such section 211(f)(4) until after the submission of the report described under subsection (a)(2).

(c) CONTENTS.—The assessment performed under subsection (a)(1) shall include the following:

(1) An evaluation of the short-term and long-term environmental, safety, durability, and performance effects of the introduction of mid-level ethanol blends on onroad, nonroad, and marine engines, onroad and nonroad vehicles, and related equipment. Such evaluation shall consider the impacts of qualifying mid-level ethanol blends or blends with higher ethanol concentrations as a certification fuel, and shall consider the effect mid-level ethanol blends have on carbon emissions, taking into account carbon emissions from their life-cycle production, as compared to gasoline blends containing 10 percent or zero percent ethanol. Such evaluation shall include a review of all available scientific evidence, including all relevant government and industry data and testing, including that relied upon by the Administrator and published at 75 Fed. Reg. 68094 et seq. (November 4, 2010), 76 Fed. Reg. 4662 et seq. (January 26, 2011), and 76 Fed. Reg. 44406 et seq. (July 25, 2011), and identify gaps in understanding and research needs related to—

- (A) tailpipe emissions;
- (B) evaporative emissions;
- (C) engine and fuel system durability;
- (D) onboard diagnostics;
- (E) emissions inventory and other modeling effects;
- (F) materials compatibility;
- (G) operability and drivability;
- (H) fuel efficiency;
- (I) fuel economy;
- (J) consumer education and satisfaction;
- (K) cost-effectiveness for the consumer;
- (L) catalyst durability; and
- (M) durability of storage tanks, piping, and dispensers for retail.

(2) An identification of areas of research, development, and testing necessary to—

(A) ensure that existing motor fuel infrastructure is not adversely impacted by mid-level ethanol blends, including an examination of potential impacts of mid-level ethanol blends on metal, plastic, rubber, or any other materials used in pipes or storage tanks; and

(B) reduce the risk of misfueling by users at various points in the distribution and supply chain, including at bulk storage, retail storage, and distribution configurations by—

- (i) assessing the best methods and practices to prevent misfueling;
- (ii) examining misfueling mitigation strategies for blender pumps, including volumetric purchase requirements and labeling requirements;
- (iii) assessing the adequacy of misfueling mitigation plans approved by the Environmental Protection Agency; and
- (iv) examining the technical standards and recommendations of the National Institute of Standards and Technology, the American National Standards Institute, and the International Organization for Standardization regarding fuel pump labeling.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

In order to carry out this Act, the Administrator shall utilize up to \$900,000 from the funds made available for science and technology, including research and development activities, at the Environmental Protection Agency.

II. PURPOSE AND SUMMARY

The purpose of 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”, is to require the National Academies of Sciences to conduct an assessment of the scientific and technical research on E15 to reflect the diversity of concerns. The legislation also invalidates the Environmental Protection Agency’s (EPA) waiver decisions for E15 and prohibits the Agency from granting further waivers until after the study is completed and submitted to the Committee.

III. BACKGROUND AND NEED FOR THE LEGISLATION

Since the 1970s, the Federal Government has supported numerous policies to increase efficiency of fuel use and reduce petroleum consumption. In 1978, EPA authorized the use of 10 percent ethanol blended gasoline (E10), which was not used on a widespread basis until the Clean Air Act Amendments of 1990. In 2005, Congress established the Renewable Fuel Standard (RFS) in the Energy Policy Act (EPAAct).¹ The RFS mandates that transportation fuels contain renewable fuels, such as biodiesel or corn-based ethanol, and required that 4 billion gallons of renewable fuels be blended into the national fuel mix by 2006 and 7.5 billion by 2012.

Congress greatly expanded the RFS requirement in the Energy Independence and Security Act of 2007 (EISA), and mandated the blending of 15.2 billion gallons of biofuels by 2012, and 36 billion gallons by 2022.² The RFS expansion, referred to as RFS II, also required the use of advanced biofuels and capped the amount of corn-based ethanol that could be used to meet the mandated volumes at 15 billion gallons.

Blending fuel at concentrations greater than E10 in order to meet the increased production volumes required by the RFS presents a challenge referred to as the “blend wall.” This refers to the upper limit of the total amount of ethanol that can be blended into

¹P.L. 109–58.

²P.L. 110–140.

the national gasoline supply using E10. In an effort to avoid the “blend wall”, on March 6, 2009, Growth Energy and 54 ethanol manufacturers petitioned EPA to grant a waiver to allow E15, a mid-level or intermediate ethanol blend, into commerce.

In order to grant such a waiver, EPA must determine that E15 would not “cause or contribute to a failure of an emission control device or system.” Additionally, Section 211 (f) of the Clean Air Act prohibits the Administrator of the EPA from granting a waiver for any fuel or fuel additive that is not “substantially similar” to the existing certification fuel (i.e. regular unleaded gasoline without added ethanol).

EPA issued a partial waiver for E15 on October 13, 2010, allowing the introduction of E15 into commerce for use in model year 2007 and newer cars, light-duty trucks, and SUV’s. On January 21, 2011, EPA granted another partial waiver for use of E15 in model year 2001 and newer vehicles. EPA did not grant a waiver for model year 2000 and older light-duty motor vehicles, heavy-duty gasoline engines and vehicles, highway and off-highway motorcycles, and other nonroad engines, vehicles, and equipment.

The waiver decision and subsequent release of E15 fuel into the marketplace has raised technical and practical concerns regarding the impact of E15 on engines and fuel supply infrastructure, focused broadly on two main issues: (1) The potential for E15 to damage vehicle engines of all model years; and (2) The potential for this bifurcated fueling system to result in widespread misfueling.

IV. HEARING SUMMARY

In the 113th Congress, the Subcommittee on Environment held a hearing on February 26, 2013, to examine the scientific, technical, and consumer impacts of the EPA’s decision to allow the introduction of mid-level ethanol blends (E15) into the marketplace. The hearing examined the impact of E15 on engines and fuel supply infrastructure and identified research gaps and areas in which policymakers and the public could benefit from more information on the fuel. The subcommittee also received testimony regarding draft legislation.

The Subcommittee heard from 3 witnesses:

Mr. Robert L. Darbelnet, President and CEO, American Automobile Association (AAA)
 The Honorable Wayne Allard, Vice President, Government Relations, American Motorcyclist Association (AMA)
 Mr. Mike Leister, Member, Board of Directors, Coordinating Research Council (CRC)

V. COMMITTEE CONSIDERATION

On February 27, 2013, H.R. 875 was introduced by Rep. F. James Sensenbrenner 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. 875, as amended, by roll call vote. Further, the Committee ordered H.R. 875 favorably reported to the House, as amended, by roll call vote.

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. 875 favorably reported to the House, as amended, was agreed to by a vote of 18–17.

During Full Committee consideration of H.R. 875, the following amendments were considered:

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

AMENDMENT ROSTER

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

No.	Amendment	Summary	
1	Amendment offered by Mr. Grayson (FL) (061)	Adds marine engine to the list of engines affected in the definition of 'mid-level ethanol blend' in Section 1	Agreed to by Voice Vote
2	Amendment offered by Mr. Grayson (FL) (065)	Requires the evaluation of the effect of mid-level ethanol blends on carbon emissions, including the effect of production, as compared to 10 percent ethanol or zero percent ethanol	Agreed to by Voice Vote
3	Amendment offered by Mr. Grayson (FL) (062)	Removes the requirement that the evaluation include an assessment of the 'ability for' misfueling mitigation plans by the EPA	Agreed to by Voice Vote

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 113th

Full Committee Roll Call

Working Quorum: 13 Reporting Quorum: 20

DATE: 4/11/2013

Bill: H.R. 875

Roll Call No. 1

Final Passage: 18 Ayes; 17 Noes

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				
14 Mr. POSEY - FL	X			
15 Mrs. LUMMIS - WY	X			
16 Mr. SCHWEIKERT - AZ				
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	18	17		

** Vice Chair

VII. SUMMARY OF MAJOR PROVISIONS OF THE BILL

H.R. 875 directs the EPA Administrator, acting through the Assistant Administrator of the Office of Research and Development, to enter into an agreement with the National Academy of Sciences to provide a comprehensive assessment of the scientific and technical research on the implications of the use of mid-level ethanol blends. The bill repeals EPA's waiver decision allowing E15 into the marketplace until the Agency submits a report to relevant Committees on the assessment and suspends the authority of the Agency to grant further waiver decisions during this period.

VIII. COMMITTEE VIEWS

H.R. 875 will provide vital information to improve understanding of the environmental, safety, durability, and performance effects of mid-level ethanol blends on engines, vehicles, and related equipment. The bill seeks to provide an objective look at the state of the science regarding mid-level ethanol blends. It is the intent of the Committee to ensure that the decision of the EPA is informed by a thorough and complete evaluation of this technical and scientific research on the use of mid-level ethanol blends before such blends are allowed in the marketplace. Thus, this bill provides that any previously granted waiver decisions shall have no force or effect and prohibits the Administrator from granting further waivers until this evaluation is completed.

It is the Committee's view that the limited scientific review that accompanied the partial waiver decisions for mid-level ethanol blends in 2010 and 2011 was insufficient to appropriately inform the Agency's decisions and ensure engines, vehicles, and related equipment are not harmed by the introduction of E15 into the motor fuel supply. H.R. 875 intends to resolve this concern by requiring the evaluation the Committee believes is necessary for the Administrator to properly make such a determination. Therefore, H.R. 875 provides that any waivers granted before such evaluation is completed shall have no force or effect, and prohibits the Administrator from granting any further waivers under Section 211(f)(4) of the Clean Air Act until this report is completed. The Administrator is required to enter into an agreement with the National Academies of Sciences to provide this thorough assessment. Upon completion of this report, the Administrator must transmit the findings to the Committee on Science, Space, and Technology, indicating the Administrator's agreement or disagreement with each finding. The list of items to be included as part of this assessment was derived from the Committee's hearing record, previous and ongoing areas of examination by governmental and nongovernmental organizations, and factors identified by the EPA when issuing the partial waivers.

The Committee recommends that this assessment incorporate all available scientific evidence that could inform and improve the understanding of the effect of mid-level ethanol blends. This should include an analysis of all relevant governmental and non-governmental data and testing, including of both newer and developing information, as well as literature available to the Administrator in making partial waiver and misfueling decisions as published in the

Federal Register on November 4, 2010, January 26, 2011, and July 25, 2011.

H.R. 875 defines mid-level ethanol as an ethanol gasoline blend containing greater than 10 and up to and including 20 percent ethanol by volume that is intended to be used in any conventional gasoline-powered motor vehicle. If resources permit, the Committee also encourages the assessment to provide insight into whether similar or related issues may be expected to accompany the introduction of higher blends of biodiesel or other biofuels.

While H.R. 875 states that the assessment should include an evaluation of the effects of mid-level ethanol blends on onroad, nonroad, and marine engines, onroad and nonroad vehicles, and related equipment, the bill does not define the specific vehicle types, engine types, or specify the related equipment to be incorporated into this assessment. Thus, the Committee encourages the assessment to employ relevant definitions in Section 216 of the Clean Air Act and interpret them broadly. Furthermore, the Committee recommends the assessment of the state of the science (including gaps in understanding and research needs) include a wide variety of vehicles, engines, and equipment that would better inform understanding of the overall implications of mid-level ethanol blends. By identifying areas of research, development, testing, and technical standards relating to misfueling and labeling, this assessment can help improve understanding of the problems associated with a bifurcated fuel system.

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 require the National Academies of Sciences to conduct an assessment of the scientific and technical research on E15 and prohibit the EPA from allowing waivers until after the study is completed.

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. 875, “To provide for a comprehensive as-

assessment of the scientific and technical research on the implications of the use of mid-level ethanol blends, and for other purposes”, 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. 875, a bill 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.

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. 875—A bill 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

H.R. 875 would require the Environmental Protection Agency (EPA) to coordinate with the National Academy of Sciences (NAS), to provide an assessment of the scientific and technical research associated with using mid-level ethanol blends (i.e., ethanol-gasoline blends containing 10 percent to 20 percent ethanol by volume) in gasoline. No later than 30 days after the assessment is completed, EPA would be required to submit a report to the Congress, indicating whether the agency agrees with the study’s findings. The NAS and EPA would have 18 months from the time of enactment to complete the study. Mid-level ethanol blends could not be sold until after EPA issues its assessment report.

Section 3 of this legislation would require EPA to use \$900,000 “from funds made available for science and technology” to cover the costs of the study. Whether the funds for this study were made available from amounts appropriated in 2013 or in future years, CBO estimates that implementing this legislation would cost about \$1 million.

Enacting H.R. 875 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 875 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 875 would impose a private-sector mandate, as defined in UMRA, on businesses that sell or plan to sell mid-level ethanol blends by suspending sales of those blends. The cost of the mandate would be the net income forgone as a result of the suspension. Because sales of mid-level ethanol blends are relatively small, CBO estimates that the cost of the mandate would fall below the annual threshold established in UMRA (\$150 million in 2013, adjusted annually for inflation).

The CBO staff contacts for this estimate are Susanne S. Mehlman (for federal costs) and Amy Petz (for the private-sector impact). 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. The Chairman does not believe that this bill directs 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.

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

Section 1. Definitions

Section 1 provides definitions, including: “Administrator” and “Mid-Level Ethanol Blend.”

Section 2. Evaluation

Section 2(a) requires the Administrator, acting through the Assistant Administrator of the Office of Research and Development at the Environmental Protection Agency to: (1) enter into an agreement with the National Academies of Sciences to provide a comprehensive assessment of the scientific and technical research on the implication of the use of mid-level ethanol blends, including a comparison of mid-level ethanol blends to gasoline containing ten percent or zero percent ethanol; and (2) transmit the report to the Committee on Science, Space and Technology and the Committee on Environment and Public Works within thirty days of receiving the results, along with the disagreement or agreement of the Administrator with the findings.

Section 2(b) invalidates any waiver granted by the Agency prior to enactment under section 211(f)(4) of the Clean Air Act that allows the introduction into commerce of mid-level ethanol blends. The Administrator is prohibited from granting new waivers under section 211(f)(4) until after the submission of the report described in section (2)(a)(2).

Section 2(c) requires the assessment performed under section (2)(a) include: (1) an evaluation of the short and long-term environmental, safety, durability, and performance effects of the introduction of mid-level ethanol blends on onroad, nonroad, and marine engines, vehicles, and related equipment; (2) consideration of the impacts of qualifying mid-level ethanol blends or blends with higher ethanol concentration as a certification fuel; (3) a review of all available scientific evidence, including all relevant government and industry data and testing, including that which was relied upon by the Administrator and published in the Federal Register; (4) identification of the gaps in understanding and research needs related to (A) tailpipe emissions; (B) evaporative systems; (C) engine and fuel system durability; (D) onboard diagnostics; (E) emissions inventory and other modeling effects; (F) materials compatibility; (G) operability and drivability; (H) fuel efficiency; (J) consumer education and satisfaction; (K) cost-effectiveness for the consumer; (L) catalyst durability; and (M) durability of storage tanks, piping, and dispensers for retail; and (5) an identification of areas of research, development, and testing necessary to (A) ensure that existing motor fuel infrastructure is not adversely impacted by mid-level ethanol blends; and (B) reduce the risk of misfueling by users at various points in the distribution and supply chain by: (i) assessing the best methods and practices to prevent misfueling, (ii) examining misfueling mitigation strategies for blender pumps, (iii) assessing the adequacy and ability of misfueling mitigations plans approved by EPA, and (iv) examining the technical standards and recommendation of the National Institute of Standards and Technology, the American National Standards Institute and the International Organization for Standardization regarding fuel pump labeling.

Section 3. Authorization of Appropriations

Section 3 requires the Administrator utilize up to \$900,000 from the funds made available for science and technology, including research and development activities, at the Environmental Protection Agency to carry out this Act.

**XX. PROCEEDINGS OF THE FULL COMMITTEE
MARKUP ON 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**

THURSDAY, APRIL 11, 2013

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

The Committee met, pursuant to call, at 10:06 a.m., in Room 2318 of the Rayburn House Office Building, Hon. Lamar Smith [Chairman of the Committee] presiding.

Chairman SMITH. The Committee on Science, Space, and Technology will come to order. Without objection, the Chair is authorized to declare recesses of the Committee at any time. Pursuant to Committee Rule 2(f) and House Rule XI 2(h)(4), the Chair announces that he may postpone roll call votes on matters in which the yeas and nays are ordered until the end of the markup.

Today, we consider two pieces of legislation: H.R. 875, introduced by Representative Sensenbrenner, providing for a comprehensive assessment of the science and technical research on the implications of the use of mid-level ethanol blends, and H.R. 1422, introduced by Representative Stewart, the Environmental Protection Agency's Science Advisory Board Reform Act of 2013. I will recognize myself for an opening statement.

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, and 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 as well as groups representing everyone from snowmobilers to boaters to motorcyclists. In fact, 37 different organizations have endorsed this bill, and without objection, those organizations' names will be made a part of the record.

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 regulations. That is why they have received such broad support among diverse stakeholders. Twenty-nine various organizations have endorsed Mr. Stewart's bill, and

without objection, the names of those organizations will be made a part of the record.

And I again thank Mr. Sensenbrenner and Mr. Stewart for their initiative on these issues, and I hope that they receive similarly broad support from Members of the Committee today.

[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.

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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.

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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.

Chairman SMITH. I will now recognize the Ranking Member, the gentlewoman from Texas, Ms. Johnson, for her opening statement.

Ms. JOHNSON. Thank you very much, Chairman.

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 had 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 these markups. And as former Chairman Bart Gordon liked to brag, every one of those bills had at least one or some Republican support. I do not believe this 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 am 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 bill didn't even bother—the Committee didn't even bother reporting the bill to the House. I think it is 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 name "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 was not 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. When we bypass that process, it makes for a more contentious full Committee markup because the Members first of all on those Subcommittees have not been able to function. I respect the Chairs and Subcommittee Ranking Members of the Committees, and I really hope that at some point we can get back to our Subcommittees functioning appropriately in this Committee.

Thank you, Mr. Chairman, and I will yield back.

[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. Thanks, Ms. Johnson, and I will respond briefly to a couple of your points.

First of all, when you see the number of Democratic amendments that I and others expect to support, I hope you will reconsider your views of these two pieces of legislation. At this point we expect to support three Democratic amendments on the first bill and I think six Democratic amendments on the second bill, so that might well change your consideration of those bills.

In regard to your other point, I certainly do expect the Subcommittees to be involved with pieces of legislation, say, on the level of the NASA reauthorization or an energy research and development bill or COMPETES bill and so forth. We have gone back as you have and checked the precedent, and there is precedent by both Republican and Democratic former chairs that about half the bills do not get marked up in Subcommittee, and bills on the level of the ones we consider today, a study and a commission, fall into that category. So I don't think we are doing anything unusual but I certainly appreciate your point, and we will make an effort on different kinds of bills to have them go through the entire process.

In the case of these bills, they did get Subcommittee hearings last month, and that was certainly involving the Subcommittees, but again, I appreciate your point.

Ms. JOHNSON. Thank you, Mr. Chairman. Let me just say that if the Subcommittees had been allowed time to function, we would not be considering these amendments right now; we would be looking at the overall bills, and I think that it is an insult to the Members of these Subcommittees not to allow them to function.

Chairman SMITH. Well, I will be more specific than in my response. In the case of the chairmen in the last couple of Congresses, 57 percent of the bills did not get consideration by the Subcommittees, and in the case of the chairman before that, a Democrat, 40 percent of the bills did not get processed in Subcommittee. So as I say, I think we are following bipartisan protocol.

Ms. JOHNSON. I do question your statistics on that. However, that is not the real baseline of it. Whatever happened in the last Congress and the Congress before that and the Congress before that and the Congress before that, we would not have Subcommittees if they didn't have a role to play, and I would like to see them play that role.

Chairman SMITH. Well, again, we involved the Subcommittees. They did have hearings so they were not left out of the process, but I take your point and I thank you for that.

Ms. JOHNSON. Thank you very much.

Chairman SMITH. Pursuant to notice, I now call up H.R. 875, introduced by Representative Sensenbrenner, providing for a comprehensive assessment of the scientific and technical research on the implications of the use of mid-level ethanol blends, and the clerk will report the bill.

The CLERK. H.R. 875, a bill to provide for a comprehensive assessment of the scientific and technical research on the implications—

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

[H.R. 875 appears in Appendix I]

Chairman SMITH. The gentleman from Wisconsin, Mr. Sensenbrenner, former chairman of this Committee, is recognized for an opening statement on his bill.

Mr. SENSENBRENNER. Thank you very much, Mr. Chairman.

Let me start out by making the point that there is no free market in ethanol when the government mandates its use. Now, after examining the basis for the EPA to grant its waiver decisions in 2010 and 2011 to allow the introduction of fuel blends containing 15 percent ethanol, or E15, it is clear to me that this decision was wrong, rushed and based upon incomplete science. H.R. 875 repeals these waivers until we can have an independent third party, the National Academy of Science, examine the science surrounding this fuel blend.

This Committee has worked extensively on this issue over the last two years. In 2011, I sent letters to 14 automakers asking for input on E15. After all, I trust the companies that actually build these engines to know how they will operate on different fuel blends. All 14 of those automakers responded that E15 will decrease fuel efficiency, damage engines, and void customer warranties. Chrysler succinctly warned: "The warranty information provided to our customers specifically notes that the use of the blends beyond E10 will void the warranty." The Committee has also had several hearings on E15. The record is clear: those without a financial stake in ethanol production are concerned about the effects of this fuel blend in their products. Autos, motorcycles, boats, chainsaws, they all have the same concern: E15 will damage our products, and it is the consumer that will be left liable for fixing the damage.

This week, I received a letter from 34 organizations citing their concerns with E15. This diverse coalition ranging from the Environmental Working Group, the American Petroleum Institute, and the Milk Producers Council voiced their support for this bill and further study of mid-level ethanol blends. The AAA, a national organization that represents nearly 53 million motorists, announced

in November of last year that the introduction of E15 should be suspended to protect motorists from voided warranties and engine damage. Robert Darbelnet, the organization's president, testified before the Environment Subcommittee earlier this year about the dangers E15 poses to American motorists. AAA has submitted a letter in support of this legislation. I ask unanimous consent that these letters be made a part of the record.

Chairman SMITH. Without objection, so ordered.

[The information appears in Appendix II]

Mr. SENSENBRENNER. H.R. 875 accomplishes the reasonable goal of knowing what our Nation's fuel supply will do to our Nation's engines. The bill requires the Administrator of the EPA to enter into an agreement with the National Academy of Sciences to provide a comprehensive assessment of the scientific and technical research on the implications of fuel with more than ten percent ethanol. The NAS is asked to examine the short- and long-term effects of mid-level ethanol blends on a variety of engines including those used in automotive, marine and non-road vehicles.

Additionally, the NAS must identify the testing required to ensure that the existing motor fuel infrastructure is not adversely affected by the mid-level ethanol blends and that concerns about misfueling in non-approved engines are addressed.

Importantly, this legislation also repeals the two waiver decisions that allowed the E15 to come on the market in the first place. It also repeals the Administrator's authority to grant such waivers until the NAS has completed its study and submitted it to Congress for our review. Without this stipulation, we will allow the EPA to continue its support of this faulty fuel blend while ignoring the scientific evidence.

I thank the chairman for scheduling this markup. We cannot responsibly allow the EPA to approve mid-level ethanol blends despite serious concerns about safety, fuel efficiency and engine damage. I thank the Chair, and I yield back the balance of my time.

Chairman SMITH. Thank you, Mr. Sensenbrenner.

Is there any further discussion on the bill before we go to amendments? The gentlewoman from Oregon, Ms. Bonamici, is recognized.

Ms. BONAMICI. Thank you very much, Mr. Chairman. I want to simply say a few words about this legislation. It is an issue I have talked with constituents and others about who represent many different interests.

As the Ranking Member of this Subcommittee of jurisdiction, I was pleased to participate—we had one hearing on this bill—because alternative fuels and renewable energy more generally are important innovations that can help us reach the goal of energy independence.

Now, many of my constituents as well as perhaps yours have concerns with using ethanol as an alternative fuel. In fact, when I was in the state legislature in Oregon, we passed legislation to grant waivers to small-engine users who were concerned about potential impacts from ethanol blends.

That being said, this legislation is not the best way to address the concerns we are hearing from our constituents. It is unfortunate that we didn't have the opportunity to consider this bill more deliberately and mark it up in the Environment Subcommittee. We

could have addressed some of these concerns while making sure not to stand in the way of the development of new and innovative fuel technologies. Because I am concerned that this legislation will further delay our pursuit for energy independence, I will be opposed to the bill.

Thank you, Mr. Chairman.

Chairman SMITH. Thank you, Ms. Bonamici.

Are there any amendments? And the gentleman from Florida, Mr. Grayson, is recognized to offer the first one.

Mr. GRAYSON. Thank you, Mr. Chairman.

The first amendment that I have offered, which is amendment designated number 61, simply clarifies that marine engines are included in the list of engines affected by the definition of midlevel ethanol blend. On one part of the bill, there is a clarity with that regard on page 3.

Chairman SMITH. Will the gentleman suspend, and will the clerk report the amendment?

Mr. GRAYSON. I apologize, Mr. Chairman.

The CLERK. Amendment to H.R. 875 offered by Mr. Grayson of Florida.

[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 his amendment.

Mr. GRAYSON. Thank you very much, Mr. Chairman.

The bill makes clear the effect of the action of the bill on marine engines with regard to page 3 but not with regard to page 2. This is a technical amendment that simply conforms page 2 to page 3.

Mr. SENSENBRENNER. Will the gentleman from Florida yield?

Mr. GRAYSON. Yes.

Mr. SENSENBRENNER. I think this is a good amendment, and I am pleased to accept it.

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

Chairman SMITH. Is there any further discussion on this amendment?

If not, all in favor, say aye.

Opposed, nay.

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

The gentleman continues to be recognized.

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

Chairman SMITH. The clerk will report the amendment.

The CLERK. Amendment H.R. 875 offered by Mr. Grayson of Florida. Page 3, lines 4 through 12, strike—

[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 his amendment.

Mr. GRAYSON. Thank you.

Mr. Chairman, this amendment moves to strike section 2(b) from the bill. Section 2(b) is a section that, among other things, purports to have the authority to reverse decisions already duly made by the Administration regarding waivers and forbid waivers in the future until the outcome of a scientific study that has not yet been begun. I think that this is legally infirm for several reasons.

The first is that I think that this might be considered to be an ex post facto law, which is unconstitutional under Article I, section 9, clause 3 of the Constitution. A decision has been made by the Administration. There is legal recourse with regard to that decision. Under the Administrative Procedures Act, anyone including the individuals who have tried to influence this legislation by means of the correspondence that Congressman Sensenbrenner has described, they have recourse in court. That is their constitutional legal recourse; this is not. For us to reverse this at this time, to reverse these at this time, is unconstitutional action on our part, I submit, and thoroughly inappropriate.

Beyond that, I think that to do so in the future, to forbid waivers like this in the future, is again legally incorrect. It is basically a stalling tactic. The Administration can easily wait for additional information in the future without being required to do so. To say that the Administration is barred from issuing such waivers is for us to interfere in the actions of the Administration and the legal authority that the Administration has under the Clean Air Act. For that reason, I will tell you that I unfortunately will find myself compelled to vote against this bill unless these concerns are addressed.

But with regard to this particular amendment, I submit, Mr. Chairman, that it is beyond the jurisdiction of this Committee. I am concerned about the idea that we would try to dictate through legislation on the Science and Technology Committee whether the Clean Air Act can be implemented by the Administration when it is clear that the jurisdiction for such action is not within our Committee but rather within the Energy and Commerce Committee. Under the rules that are promulgated by the Republican majority here in Congress, the Clean Air Act and air emissions and all laws, programs and government activities affecting such matters are not within the Science and Technology Committee jurisdiction, they are within the jurisdiction of the Energy and Commerce Committee. Therefore, I have submitted this amendment in order to strike this part of the bill as beyond our jurisdiction.

I yield the remainder of my time.

Mr. SENSENBRENNER. Mr. Chairman.

Chairman SMITH. Thank you, Mr. Grayson, and I am happy to be recognized, but does the gentleman from Wisconsin want to be recognized in response?

Mr. SENSENBRENNER. Yes, Mr. Chairman.

Chairman SMITH. The gentleman is recognized.

Mr. SENSENBRENNER. Mr. Chairman, this is a legitimate exercise of the oversight power of Congress. We believe that there was not proper scientific input into the decision that the EPA has made. The bill simply proposes a timeout to get the input from the National Academy of Sciences, which I think has a reputation of being impartial and nonpartisan. And with all the evidence that has been put on the table about the problems with E15, it is time for us to exercise legislative responsibility just as, in my opinion, the EPA's rules in issuing this waiver have the same effect as legislation.

I will be happy to yield to the chairman for his comments.

Chairman SMITH. Thank you for yielding.

I just want to say to the gentleman from Florida that I appreciate his work on this issue. The legislation as introduced was referred, as he suggested, to this Committee as well as the Energy

and Commerce Committee, and while the Science Committee has broad oversight responsibility, as Mr. Sensenbrenner just pointed out, for scientific and technical issues at EPA, we hope and expect to work with the Energy and Commerce Committee on this provision dealing with the granting of regulatory waivers.

And I will yield back to the gentleman. Are there any other Members who wish to be heard on this amendment?

Mr. SENSENBRENNER. I yield back the balance of my time.

Mr. GRAYSON. Mr. Chairman, I ask unanimous consent to respond to the chairman's statement.

Chairman SMITH. Without objection.

Mr. GRAYSON. Thank you, Mr. Chairman.

I remain concerned about both the constitutionality and the jurisdiction of this provision. I think that it is unwise in any case to try to dictate to the Administration what is in effect the Administration's responsibilities under the Clean Air Act. However, in light of the fact that the chairman has recognized legitimate concerns about the jurisdictional issue, with that in mind, I very graciously withdraw my amendment.

Chairman SMITH. The gentleman does indeed graciously withdraw his amendment without objection, and I thank him for doing so, and he is recognized for his next amendment.

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

Chairman SMITH. Without objection, the clerk will read the amendment.

The CLERK. Amendment to H.R. 875 offered by Mr. Grayson of Florida. Page 3, line 22, insert—

[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, Mr. Grayson, is recognized to explain the amendment.

Mr. GRAYSON. Yes. With regard—thank you, Mr. Chairman.

With regard to this amendment, what we are doing here is simple. The bill as currently written prescribes a scientific study. The scientific study is broken down by the bill in several respects. In my opinion, the bill omits one of the legitimate bases for scientific dispute, which is whether ethanol actually saves or increases carbon emissions over the lifecycle of the product. There is a great deal of literature that exists on this already. I think that that is a legitimate desideratum if we are going to have any scientific study at all here, and it is something that we can legitimately expect that a scientific authority might be able to opine on.

Mr. SENSENBRENNER. Will the gentleman yield?

Mr. GRAYSON. Yes.

Mr. SENSENBRENNER. This, I believe, is a very constructive amendment, and I am happy to accept it.

Mr. GRAYSON. Well, thank you very much. With that in mind, I yield the remainder of my time.

Chairman SMITH. Thank you, Mr. Grayson.

All those in favor of the amendment, say aye.

Opposed, nay.

The amendment is agreed to.

The gentleman is recognized for his fourth and last amendment.

Mr. GRAYSON. 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. 875 offered by Mr. Grayson of Florida. Page 5, lines——

[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 very much, Mr. Chairman.

This is simply a technical amendment striking the phrase “ability for” as unnecessary to the assessment of the adequacy of misfueling mitigation plans. With that, I yield the remainder of my time.

Chairman SMITH. The gentleman from Wisconsin is recognized.

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

Chairman SMITH. The gentleman is recognized for 5 minutes.

Mr. SENSENBRENNER. I am happy to accept this amendment, and I will tell Mr. Grayson, I appreciate his staff and my staff working together, and three out of four ain’t bad, and I yield back the balance of my time.

Chairman SMITH. The gentleman yields back the balance of his time, and I want to say, since Mr. Grayson actually withdrew one of those, he is three for three. I appreciate, as the gentleman from Wisconsin said, the constructive working relationship between our staffs.

Let us see. Are there any other amendments to the bill? Oh, I am sorry. We did not vote on that amendment.

All in favor of Mr. Grayson’s amendment, say aye.

All opposed, nay.

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

Are there any other amendments? If there are no further amendments, then the next item of business is reporting the bill H.R. 875. Because roll call votes on amendments to the bill are not pending. If there are no further amendments and a reporting quorum being present, the question is on the bill H.R. 875 as amended.

Those in favor, say aye.

Opposed?

The ayes have it, and the bill as amended is ordered reported favorably.

Mr. GRAYSON. Mr. Chairman, I ask for a roll call vote.

Chairman SMITH. A roll call vote has been requested, and pursuant to Committee Rule 2(f) and House Rule XI 2(h)(4), proceedings on this vote will be postponed, and we will go to H.R. 1422.

Chairman SMITH. 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.

First item of unfinished business of the Committee is the postponed roll call on the bill H.R. 875, 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?
 [No response.]
 The CLERK. Mr. Lucas?
 Mr. LUCAS. Aye.
 The CLERK. Mr. Lucas votes aye.
 Mr. Neugebauer?
 [No response.]
 The CLERK. 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?
 [No response.]
 The CLERK. Mr. Posey?
 Mr. POSEY. Aye.
 The CLERK. Mr. Posey votes aye.
 Mrs. Lummis?
 Mrs. LUMMIS. Aye.
 The CLERK. Mrs. Lummis votes aye.
 Mr. Schweikert?
 [No response.]
 The CLERK. Mr. Massie?
 Mr. MASSIE. Aye.
 The CLERK. Mr. Massie votes aye.
 Mr. Cramer?
 Mr. CRAMER. No.
 The CLERK. Mr. Cramer votes no.
 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.
 Mr. ROHRABACHER. Mr. Chair?

Chairman SMITH. Who seeks recognition? Gentleman from Texas is recognized.

The CLERK. Mr. Neugebauer?

Mr. NEUGEBAUER. Aye.

The CLERK. Mr. Neugebauer votes aye.

Chairman SMITH. Are there any other Members who wish to vote or to change their vote?

Mr. BROUN. Mr. Chairman?

Chairman SMITH. The gentleman from Georgia is recognized.

Mr. BROUN. Mr. Sensenbrenner——

Chairman SMITH. The gentleman from Wisconsin is recognized.

Mr. SENSENBRENNER. Aye.

The CLERK. Mr. Sensenbrenner votes aye.

Chairman SMITH. The clerk will report the vote.

The CLERK. Mr. Chairman, 18 Members voted aye, 16 Members voted nay.

Chairman SMITH. The ayes have it and the bill is agreed to.

Without objection, the motion to reconsider is laid upon the table and I move that the bill H.R. 875 as amended be favorably reported to the House and the staff be authorized to make any necessary technical and conforming changes.

Ms. JOHNSON. Mr. Chairman?

Chairman SMITH. And without objection, so ordered.

The gentlewoman from Texas is recognized.

Ms. JOHNSON. Would you review that vote total for Democratic side?

Chairman SMITH. I believe the vote total is 18 to 16, but we will review it.

The CLERK. Mr. Chairman, 18 Members voted aye, 17 Members voted nay.

Ms. JOHNSON. Okay.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY - 113th

Full Committee Roll Call

Quorum: 13 Working Quorum: 20

DATE: 4/11/2013

Bill: H.R. 875

Roll Call No. 1

Final Passage: 18 Ayes; 17 Noes

MEMBER	AYE	NO	PRESENT	NOT VOTING
1 Mr. SMITH, <i>Chair</i> - TX	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				
14 Mr. POSEY - FL	X			
15 Mrs. LUMMIS - WY	X			
16 Mr. SCHWEIKERT - AZ				
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	18	17		

** Vice Chair

Appendix I:

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,

SECTION-BY-SECTION ANALYSIS, AMENDMENTS,
AMENDMENT ROSTER



113TH CONGRESS
1ST SESSION

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2013

Mr. SENSENBRENNER (for himself, Mr. HALL, Mr. WESTMORELAND, Mr. BROUN of Georgia, Mr. SMITH of Texas, and Mr. GRIFFIN of Arkansas) introduced the following bill; which was referred to the Committee on Science, Space, and Technology, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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.

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. DEFINITIONS.**

4 In this Act:

5 (1) ADMINISTRATOR.—The term “Adminis-
6 trator” means the Administrator of the Environ-
7 mental Protection Agency.

1 (2) MID-LEVEL ETHANOL BLEND.—The term
2 “mid-level ethanol blend” means an ethanol-gasoline
3 blend containing greater than 10 and up to and in-
4 cluding 20 percent ethanol by volume that is in-
5 tended to be used in any conventional gasoline-pow-
6 ered motor vehicle or nonroad vehicle or engine.

7 **SEC. 2. EVALUATION.**

8 (a) IN GENERAL.—The Administrator, acting
9 through the Assistant Administrator of the Office of Re-
10 search and Development at the Environmental Protection
11 Agency, shall—

12 (1) not later than 45 days after the date of en-
13 actment of this Act, enter into an agreement with
14 the National Academy of Sciences to provide, within
15 18 months after the date of enactment of this Act,
16 a comprehensive assessment of the scientific and
17 technical research on the implications of the use of
18 mid-level ethanol blends, comparing mid-level eth-
19 anol blends to gasoline blends containing 10 percent
20 or zero percent ethanol; and

21 (2) not later than 30 days after receiving the
22 results of the assessment under paragraph (1), sub-
23 mit a report to the Committee on Science, Space,
24 and Technology of the House of Representatives and
25 the Committee on Environment and Public Works of

1 the Senate on the findings of the assessment, to-
2 gether with the agreement or disagreement of the
3 Administrator with each of its findings.

4 (b) WAIVERS.—Prior to the submission of the report
5 under subsection (a)(2), any waiver granted under section
6 211(f)(4) of the Clean Air Act (42 U.S.C. 7545 (f)(4))
7 before the date of enactment of this Act that allows the
8 introduction into commerce of mid-level ethanol blends for
9 use in motor vehicles shall have no force or effect. The
10 Administrator shall grant no new waivers under such sec-
11 tion 211(f)(4) until after the submission of the report de-
12 scribed under subsection (a)(2).

13 (c) CONTENTS.—The assessment performed under
14 subsection (a)(1) shall include the following:

15 (1) An evaluation of the short-term and long-
16 term environmental, safety, durability, and perform-
17 ance effects of the introduction of mid-level ethanol
18 blends on onroad, nonroad, and marine engines,
19 onroad and nonroad vehicles, and related equipment.
20 Such evaluation shall consider the impacts of quali-
21 fying mid-level ethanol blends or blends with higher
22 ethanol concentrations as a certification fuel. Such
23 evaluation shall include a review of all available sci-
24 entific evidence, including all relevant government
25 and industry data and testing, including that relied

1 upon by the Administrator and published at 75 Fed.
2 Reg. 68094 et seq. (November 4, 2010), 76 Fed.
3 Reg. 4662 et seq. (January 26, 2011), and 76 Fed.
4 Reg. 44406 et seq. (July 25, 2011), and identify
5 gaps in understanding and research needs related
6 to—

- 7 (A) tailpipe emissions;
- 8 (B) evaporative emissions;
- 9 (C) engine and fuel system durability;
- 10 (D) onboard diagnostics;
- 11 (E) emissions inventory and other mod-
12 eling effects;
- 13 (F) materials compatibility;
- 14 (G) operability and drivability;
- 15 (H) fuel efficiency;
- 16 (I) fuel economy;
- 17 (J) consumer education and satisfaction;
- 18 (K) cost-effectiveness for the consumer;
- 19 (L) catalyst durability; and
- 20 (M) durability of storage tanks, piping,
21 and dispensers for retail.

22 (2) An identification of areas of research, devel-
23 opment, and testing necessary to—

- 24 (A) ensure that existing motor fuel infra-
25 structure is not adversely impacted by mid-level

1 ethanol blends, including an examination of po-
2 tential impacts of mid-level ethanol blends on
3 metal, plastic, rubber, or any other materials
4 used in pipes or storage tanks; and

5 (B) reduce the risk of misfueling by users
6 at various points in the distribution and supply
7 chain, including at bulk storage, retail storage,
8 and distribution configurations by—

9 (i) assessing the best methods and
10 practices to prevent misfueling;

11 (ii) examining misfueling mitigation
12 strategies for blender pumps, including vol-
13 umetric purchase requirements and label-
14 ing requirements;

15 (iii) assessing the adequacy of and
16 ability for misfueling mitigation plans ap-
17 proved by the Environmental Protection
18 Agency; and

19 (iv) examining the technical standards
20 and recommendations of the National In-
21 stitute of Standards and Technology, the
22 American National Standards Institute,
23 and the International Organization for
24 Standardization regarding fuel pump label-
25 ing.

1 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

2 In order to carry out this Act, the Administrator shall
3 utilize up to \$900,000 from the funds made available for
4 science and technology, including research and develop-
5 ment activities, at the Environmental Protection Agency.

○

SECTION-BY-SECTION ANALYSIS OF

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

Purpose: 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.

SECTION 1. DEFINITIONS

Section 1 provides definitions, including: “Administrator” and “Mid-Level Ethanol Blend.”

SECTION 2. EVALUATION

Section 2 (a) requires the Administrator, acting through the Assistant Administrator of the Office of Research and Development at the Environmental Protection Agency to: (1) enter into an agreement with the National Academies of Sciences to provide a comprehensive assessment of the scientific and technical research on the implication of the use of mid-level ethanol blends, including a comparison of mid-level ethanol blends to gasoline containing ten percent or zero percent ethanol; and (2) transmit the report to the Committee on Science, Space and Technology and the Committee on Environment and Public Works within thirty days of receiving the results, along with the disagreement or agreement of the Administrator with the findings.

Section 2 (b) invalidates any waiver granted by the Agency prior to enactment under section 211 (f) (4) of the Clean Air Act that allows the introduction into commerce of mid-level ethanol blends. The Administrator is prohibited from granting new waivers under section 211 (f) (4) until after the submission of the report described in subsection (a) (2).

Section 2 (c) requires the assessment performed under subsection (a) include: (1) an evaluation of the short and long-term environmental, safety, durability, and performance effects of the introduction of mid-level ethanol blends on onroad, nonroad, and marine engines, vehicles, and related equipment. The evaluation shall also include consideration of the impacts of qualifying mid-level ethanol blends or blends with higher ethanol concentration as a certification fuel, and a review of all available scientific evidence, including all relevant government and industry data and testing, including that which was relied upon by the Administrator and published in the federal register. Additionally, the study shall identify gaps in understanding and research needs related to (A) tailpipe emissions; (B) evaporative systems; (C) engine and fuel system durability; (D) onboard diagnostics; (E) emissions inventory and other modeling effects; (F) materials compatibility; (G) operability and drivability; (H) fuel efficiency; (J) consumer education and satisfaction; (K) cost-effectiveness for the consumer; (L) catalyst durability; and (M) durability of storage tanks, piping, and dispensers for retail.

The study shall also include: (2) An identification of areas of research, development, and testing necessary to (A) ensure that existing motor fuel infrastructure is not adversely impacted by mid-level ethanol blends; and (B) reduce the risk of misfueling by users at various points in the distribution and supply chain by: (i) assessing the best methods and practices to prevent misfueling; (ii) examining misfueling mitigation strategies for blender pumps; (iii) assessing the adequacy and ability of misfueling mitigations plans approved by EPA; and (iv) examining the technical standards and recommendation of the National Institute of Standards and Technology, the American National Standards Institute, and the International Organization for Standardization regarding fuel pump labeling.

SECTION 3. AUTHORIZATION OF APPROPRIATIONS

Section 3 allows the Administrator to utilize up to \$900,000 from the funds made available for science and technology, including research and development activities, at the Environmental Protection Agency to carry out this Act.

AMENDMENTS

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AMENDMENT TO H.R. 875**OFFERED BY MR. GRAYSON OF FLORIDA**

Page 2, lines 4 through 6, strike “that is intended to be used in any conventional gasoline-powered motor vehicle or nonroad vehicle or engine” and insert “that is intended to be used in any conventional gasoline-powered onroad, nonroad, or marine engine, or onroad or nonroad vehicle”.



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AMENDMENT TO H.R. 875
OFFERED BY MR. GRAYSON OF FLORIDA

Page 3, lines 4 through 12, strike subsection (b).

Page 3, line 13, redesignate subsection (c) as subsection (b).



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AMENDMENT TO H.R. 875
OFFERED BY MR. GRAYSON OF FLORIDA

Page 3, line 22, insert “, and shall consider the effect mid-level ethanol blends have on carbon emissions, taking into account carbon emissions from their production, as compared to gasoline blends containing 10 percent or zero percent ethanol” after “a certification fuel”.



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AMENDMENT TO H.R. 875
OFFERED BY MR. GRAYSON OF FLORIDA

Page 5, lines 15 and 16, strike “and ability for”.



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

AMENDMENT ROSTER

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

No.	Amendment	Summary	
1	Amendment offered by Mr. Grayson (FL) (061)	Adds marine engine to the list of engines affected in the definition of 'mid-level ethanol blend' in Section 1	Agreed to by Voice Vote
2	Amendment offered by Mr. Grayson (FL) (065)	Requires the evaluation of the effect of mid-level ethanol blends on carbon emissions, including the effect of production, as compared to 10 percent ethanol or zero percent ethanol	Agreed to by Voice Vote
3	Amendment offered by Mr. Grayson (FL) (062)	Removes the requirement that the evaluation include an assessment of the 'ability for' misfueling mitigation plans by the EPA	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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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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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