

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1029) 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, AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1030) TO PROHIBIT THE ENVIRONMENTAL PROTECTION AGENCY FROM PROPOSING, FINALIZING, OR DISSEMINATING REGULATIONS OR ASSESSMENTS BASED UPON SCIENCE THAT IS NOT TRANSPARENT OR REPRODUCIBLE

MARCH 3, 2015.—Referred to the House Calendar and ordered to be printed

Mr. BURGESS, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 138]

The Committee on Rules, having had under consideration House Resolution 138, by record vote of 7 to 4, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1029, the EPA Science Advisory Board Reform Act of 2015, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Science, Space, and Technology. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 114-10 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part A of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments print-

ed in part A of this report. The rule provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H.R. 1030, the Secret Science Reform Act of 2015, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Science, Space, and Technology. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 114–11 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part B of this report. The resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 1029 includes waivers of the following:

—Clause 3(e)(1) of rule XIII (Ramseyer), requiring a committee report accompanying a bill amending or repealing statutes to show, by typographical device, parts of statute affected.

—Clause 3(c)(4) of rule XIII, requiring the inclusion of general performance goals and objectives in the committee report. It is important to note that while the report to accompany H.R. 1029 did include a statement reflecting the performance goals, the statement was incomplete.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 1029 made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against amendments printed in part A of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 1030 includes waivers of the following:

—Clause 3(e)(1) of rule XIII (Ramseyer), requiring a committee report accompanying a bill amending or repealing statutes to show, by typographical device, parts of statute affected.

—Clause 3(c)(4) of rule XIII, requiring the inclusion of general performance goals and objectives in the committee report. It is important to note that while the report to accompany H.R. 1030 did include a statement reflecting the performance goals, the statement was incomplete.

—Clause 3(d) of rule XIII, which requires the inclusion of a committee cost estimate.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 1030 made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against amendments printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waivers of clause 3(e)(1) of rule XIII (known as the “Ramseyer” rule) are provided for both measures because the submissions provided by the committee were insufficient to meet the standards established by the rule in its current form. The Committee on Rules continues to work with the House Office of Legislative Counsel and committees to determine the steps necessary to comply with the updated rule.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 31

Motion by Mr. Cole to report the rule. Adopted: 7–4

Majority Members	Vote	Minority Members	Vote
Ms. Foxx	Yea	Ms. Slaughter	Nay
Mr. Cole	Yea	Mr. McGovern	Nay
Mr. Woodall	Yea	Mr. Hastings of Florida	Nay
Mr. Burgess	Yea	Mr. Polis	Nay
Mr. Stivers	Yea		
Mr. Collins	Yea		
Mr. Sessions, Chairman	Yea		

SUMMARY OF THE AMENDMENTS TO H.R. 1029 IN PART A MADE IN ORDER

1. Grayson (FL): Prohibits an EPA Science Advisory Board member from participating in any advisory action for which there is evidence that the action may involve a specific party in which the member has an interest. (10 minutes)

2. McKinley (WV): Prohibits an individual from sitting on the Board if they are currently receiving EPA contracts or grants; and then would prohibit them from being allowed to apply for, 3 years after serving as a Board member, for any EPA contracts or grants. (10 minutes)

3. Polis (CO): Requires the Administrator of the Environmental Protection Agency to solicit nominations for Advisory Board membership from (1) Institutions of Higher Education and (2) research institutions based in work relevant to that of the Board. (10 minutes)

4. Bonamici (OR): SUBSTITUTE Improves the selection of members for EPA’s Science Advisory Board by increasing transparency and ensuring balance among board participants; Promotes public participation in the Board’s review process. (20 minutes)

SUMMARY OF THE AMENDMENTS TO H.R. 1030 IN PART B MADE IN ORDER

1. Edwards (MD): Authorizes \$250 million for each of fiscal years 2016 through 2019. (10 minutes)
2. Kennedy (MA), McGovern (MA), Clark, Katherine (MA): Allows the EPA to use all peer-reviewed scientific publications. (10 minutes)

PART A—TEXT OF AMENDMENTS TO H.R. 1029 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GRAYSON OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 2, line 22, insert “, or for which the Board has evidence that it may involve,” after “involving”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCKINLEY OF WEST VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 7, strike “and” at the end of subparagraph (F).

Page 3, line 9, strike the period and insert “; and”.

Page 3, after line 9, insert the following new subparagraph:

“(H) a Board member shall have no current grants or contracts from the Environmental Protection Agency and shall not apply for a grant or contract for 3 years following the end of that member’s service on the Board.”

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE POLIS OF COLORADO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 17, through page 4, line 5, redesignate subparagraphs (C) through (E) as subparagraphs (D) through (F), respectively.

Page 3, after line 16, insert the following new subparagraph:

“(C) solicit nominations from—

“(i) institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))); and

“(ii) scientific and research institutions based in work relevant to that of the Board;

Page 4, line 9, strike “paragraph (3)(D)” and insert “paragraph (3)(E)”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BONAMICI OF OREGON OR HER DESIGNEE, DEBATABLE FOR 20 MINUTES

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 Improvement Act of 2015”.

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, as established in subsection (a), shall be composed of at least 9 members, 1 of whom shall be designated Chair, and shall meet at such times and places as may be designated by the Chair of the Board, 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 ensure that—

“(A) the Board is fairly balanced in its membership in terms of the points of view represented and the functions to be performed;

“(B) no Board member shall participate in an advisory activity of the Board involving a particular matter or specific party which the Board member has a direct or predictable financial interest;

“(C) no Board member is a registered lobbyist, or has served as a registered lobbyist within a 4-year period prior to nomination to the Board; and

“(D) Board members shall be designated as special Government employees.

“(3) The Administrator shall—

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

“(B) make public the list of nominees, including—

“(i) the identity of the entities that nominated each nominee; and

“(ii) the professional credentials of each nominee, including relevant expertise and experience, as well as the sources of research funding and professional activities such as representational work, expert testimony, and contract work dating back 2 years;

“(C) solicit public comment on the nominees;

“(D) develop, and make publically available, a formal memorandum describing each advisory activity to be undertaken by the Board which shall include—

“(i) the charge to the Board, including an explanation of the scope of issues to be addressed by the Board and the formal statement of questions posed to the Board;

“(ii) the ethics rules, if applicable, that would apply to Board members; and

“(iii) other information relied on to support the selection of panel members; and

“(E) require that, upon their provisional nomination, nominees shall be required to complete a written form disclosing information related to financial relationships and interests that may, or could be predicted to, be relevant to the Board’s advisory activities, and relevant professional activities and public statements, for the 2-year period prior to the date of their nomination, in a manner sufficient for the Administrator to assess the independence and points of view of the candidates.”.

(b) PUBLIC PARTICIPATION AND TRANSPARENCY.—Section 8(h) of such Act (42 U.S.C. 4365(h)) is amended to read as follows:

“(h)(1) The Board shall make every effort, consistent with applicable law, including section 552 of title 5, United States Code (commonly known as the ‘Freedom of Information Act’) and section 552a

of title 5, United States Code (commonly known as the 'Privacy Act'), to maximize public participation and transparency, including making the scientific and technical advice of the Board and any committees or investigative panels of the Board publicly available in electronic form on the website of the Environmental Protection Agency.

“(2) The Administrator and the Board shall encourage and solicit public comments on the advisory activities of Board, including written and oral comments, especially comments that provide specific scientific or technical information or analysis for the Board to consider, or comments related to the clarity or accuracy of the recommendations being considered by the Board.

“(3) The Administrator shall specify the areas of expertise being sought and make every effort to solicit candidate recommendations from the public, and solicit public comments on candidates selected.”.

(c) OPERATIONS.—Section 8 of such Act (42 U.S.C. 4365) is further amended by adding at the end the following new subsection:

“(j)(1) In carrying out its advisory activities, the Board shall strive to avoid making policy determinations or recommendations, and, in the event the Board determines that it would be appropriate or useful to offer policy advice, shall explicitly distinguish between scientific determinations and policy advice.

“(2) While recognizing that consensus recommendations and conclusions are the most useful to the Administrator and Congress, the Board shall ensure the views of all Board members, including dissenting views, are adequately incorporated into reports and recommendations from the Board.”.

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.).

PART B—TEXT OF AMENDMENTS TO H.R. 1030 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE EDWARDS OF MARYLAND OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 2, lines 21 through 24, amend paragraph (4) to read as follows:

“(4) There are authorized to be appropriated to the Administrator to carry out this subsection \$250,000,000 for each of fiscal years 2016 through 2019.”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KENNEDY OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following:

SEC. 3. ENSURING THE USE OF THE BEST SCIENCE.

Nothing in this Act shall prevent the Administrator of the Environmental Protection Agency from considering or relying upon any peer-reviewed scientific publication even if such publication is based on data that is prohibited from public disclosure.

