115TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
115–455

AMERICAN SODA ASH COMPETITIVENESS ACT

DECEMBER 11, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1399]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1399) to reduce temporarily the royalty required to be paid for sodium produced on Federal lands, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 1399 is to reduce temporarily the royalty required to be made for sodium produced on Federal lands.

BACKGROUND AND NEED FOR LEGISLATION

Soda ash (sodium carbonate) is primarily used for glass-making, which consumes about half of soda ash output. Another quarter is used by the chemical industry. Other uses include soap, paper manufacturing and water treatment. In the United States, soda ash is refined from trona, a naturally occurring mineral, or from naturally occurring sodium-carbonate bearing brines. China makes a synthetic soda ash that requires more energy and uses a less environmentally-friendly process.

Soda ash is regulated by the Bureau of Land Management (BLM) under the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.), under which a royalty is assessed on refined soda ash and trona.

79–006

The Soda Ash Royalty Reduction Act of 2006 was included in the National Heritage Areas Act of 2006, Public Law 109–338. The Soda Ash Royalty Reduction Act reduced the royalty on soda ash to 2 percent, the minimum required in the Mineral Leasing Act of 1920.

Prior to the 2006 royalty relief legislation being enacted, the U.S. soda ash industry was experiencing increased pressure from state-sponsored Chinese companies operating under lax environmental standards, coupled with high domestic royalty rates that ranged between 5 and 8 percent.

Between 1997 (the year after BLM raised royalty rates on soda ash) and 2000, China overtook the United States as the world's largest exporter of soda ash. By 2003, the growth in domestic exports had grown by only a few percentage points since 1997, and approximately 1000 jobs in the domestic soda ash mining industry had been lost. Between October 2006 and September 2011, when the 2 percent royalty rate was in place, the soda ash industry was able to reverse the downward trend in exports, and was able to add jobs, including during the recession.

During fiscal years 2003–2006 when the rate was 6 percent, the federal government collected $74.4 million in royalties on soda ash and trona. In fiscal years 2007–2011 when the royalty rate was reduced to 2 percent, the federal government took in $82 million in royalties. This includes the five-month period following the 2008 market crash where demand for mineral commodities fell sharply.

In the four years prior to the October 2006 royalty rate reduction, the average sale of soda ash was 4,186,172 tons per year. During that time, the price per ton averaged $81.82. During the royalty reduction period, the average sale of soda ash was 6,713,202 tons per year, and the price per ton averaged $128.86.

Maximum sales of soda ash occurred in fiscal year 2008 and reached 7,596,799 tons. The economic downturn that began on September 29, 2008, affected commodity prices for more than a five-month period and is reflected in the sales for fiscal year 2009, which totaled 6,193,071 tons.

In October 2011, BLM reinstated the 6 percent royalty—this was a discretionary decision. In fiscal year 2012 sales of soda ash fell to 5,480,816 tons; however, with the 6 percent royalty rate and increase in the average price of the commodity to $151.04, royalty revenue doubled from the previous year. Sales increased by more than 700,000 tons in fiscal year 2013 and fell back again in fiscal year 2014. In fiscal year 2015 the U.S. industry exported 6.7 million tons of soda ash and this increase over the 2000 level of 3.9 million tons has been attributed to the lower federal royalty rate, which had allowed the soda ash industry to compete globally. The royalty rate increased to 6% in fiscal year 2016, with total tonnage mined on federal lands at approximately 4.7 million tons as compared to 6.7 million tons in the previous fiscal year. The raising of the royalty rate resulted in fewer royalties being collected on soda ash mined on federal lands.

Congress included a royalty reduction of 4 percent in the Helium Stewardship Act of 2013 (Public Law 113–40, section 10) that expired at the end of fiscal year 2015. H.R. 1399 reduces the royalty rate for soda ash from 6% to 2% for five years.

COMMITTEE ACTION

H.R. 1399 was introduced on March 7, 2017, by Congressman Paul Cook (R–CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On June 22, 2017, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Alan S. Lowenthal (D–CA) offered an amendment designated 001; it was not agreed to by voice vote. No further amendments were offered, and the bill was ordered favorably reported to the House of Representatives on June 27, 2017, by a bipartisan roll call vote of 27 ayes and 9 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 06-27-17 Recorded Vote #: 8

Meeting on / Amendment on: FC Mark Up on 22 bills: **On Favorably Reporting** H.R. 1399 (Rep. Paul Cook), *"American Soda Ash Competitiveness Act"*

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			**Mr. Cook, CA**	X		
Mr. Grijalva, AZ, Ranking Member		X		*Mr. Soto, FL*	X		
Mr. Young, AK, Chairman Emeritus	X			**Mr. Westerman, AR**	X		
Mrs. Napolitano, CA				*Mr. Panetta, CA*	X		
Mr. Gohmert, TX, Vice Chairman				**Mr. Graves, LA**	X		
Ms. Bordallo, Guam				*Mr. McEachin, VA*		X	
Mr. Lamborn, CO	X			**Mr. Hice, GA**	X		
Mr. Costa, CA	X			*Mr. Brown, MD*		X	
Mr. Wittman, VA	X			**Mrs. Radewagen, AS**	X		
Mr. Sablan, CNMI				*Mr. Clay, MO*		X	
Mr. McClintock, CA	X			**Mr. LaHood, IL**	X		
Ms. Tsongas, MA		X		**Mr. Webster, FL**	X		
Mr. Pearce, NM				**Mr. Rouzer, NC**	X		
Mr. Huffman, CA		X		**Mr. Bergman, MI**	X		
Mr. Thompson, PA	X			**Ms. Cheney, WY**	X		
Mr. Lowenthal, CA	X			**Mr. Johnson, LA**	X		
Mr. Gosar, AZ	X			**Ms. González-Colón, PR**			
Mr. Beyer, VA	X						
Mr. Labrador, ID							
Mrs. Torres, CA		X					
Mr. Tipton, CO	X						
Mr. Gallego, AZ		X					
Mr. LaMalfa, CA	X						
Ms. Hanabusa, HI		X					
Mr. Denham, CA	X						
Ms. Barragán, CA	X			**TOTAL:**	27	9	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 5, 2017.

Hon. ROB BISHOP,
Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1399, the American Soda Ash Competitiveness Act.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 1399—American Soda Ash Competitiveness Act

Summary: H.R. 1399 would require the Department of the Interior (DOI) to charge a 2 percent royalty on the value of sodium compounds and related products produced on federal lands for a five-year period following enactment.[1] Under current law, the royalty rate is about 6 percent. About half of the royalties collected by the federal government are paid to the states where the minerals are produced. Thus, enacting the bill would reduce both offsetting receipts, which would have the effect of increasing direct spending, and the subsequent payments to states stemming from those royalties.

CBO estimates that enacting H.R. 1399 would increase net direct spending by $50 million over the 2018–2027 period. Because the bill would affect direct spending pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

Enacting H.R. 1399 would not increase net direct spending or on-budget deficits by more than $2.5 billion in any of the four consecutive 10-year periods beginning in 2028.

[1] Sodium compounds and related products include soda ash, anhydrous sodium sulfite, borax-decahydrate, borax-pentahydrate, boric acid, sodium bi-carbonate, sodium bisulfite, sodium sesquicarbonate, sulfide, and trona. Over the 2012–2016 period, soda ash accounted for 87 percent of the total production of those minerals.

H.R. 1399 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1399 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

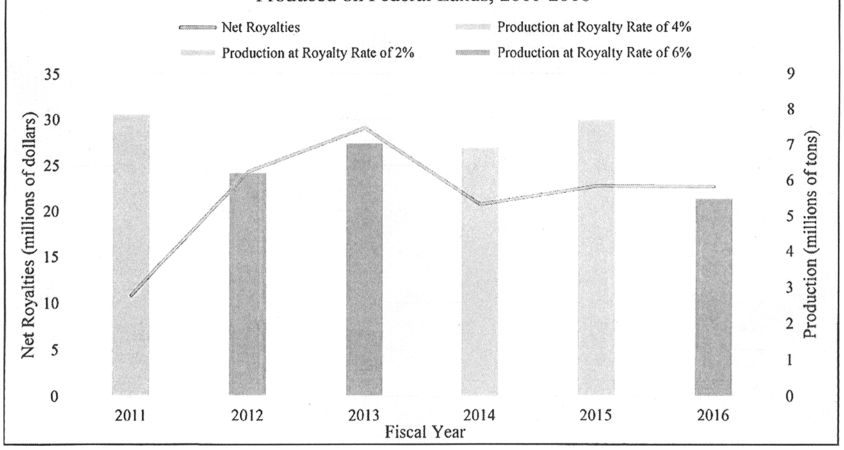
	By fiscal year, in millions of dollars—											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018–2022	2018–2027
INCREASES OR DECREASES (−) IN DIRECT SPENDING												
Estimated Budget Authority	14	13	13	12	11	−6	−1	−2	−2	−2	63	50
Estimated Outlays	14	13	13	12	11	−6	−1	−2	−2	−2	63	50

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted around the beginning of calendar year 2018.

Background

The royalty rate on sodium compounds produced on federal lands has fluctuated in recent years because of Congressional action. Legislation, which was similar to H.R. 1399, was enacted to lower the royalty rate from 6 percent to 2 percent for the five-year period from 2007 through 2011, after which the rate returned to 6 percent for 2012 and 2013. In 2014, legislation lowering the royalty rate to 4 percent for 2014 and 2015 was enacted. Beginning in 2016, the royalty rate returned to 6 percent and CBO expects that it will remain at 6 percent under current law (see Figure 1).

Figure 1: Production Rates and Royalties for Sodium Compounds Produced on Federal Lands, 2011-2016



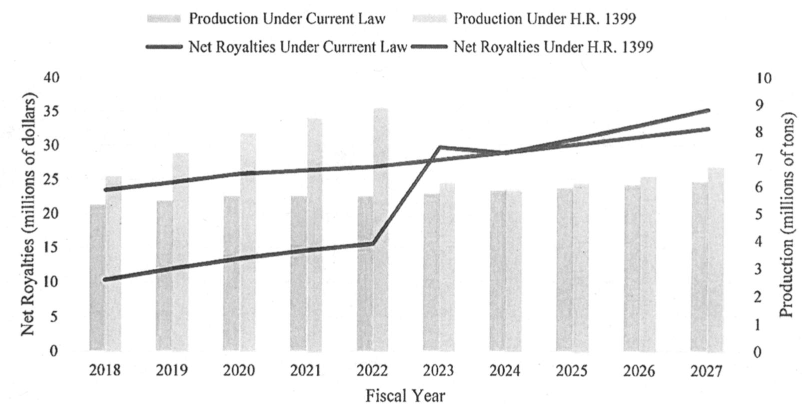
In 2011, the last year in which the royalty rate was set at 2 percent, firms produced 7.8 million tons of sodium compounds on federal lands, and the federal government received net royalties totaling $11 million. (About half of all gross federal royalties collected from the affected minerals production are paid to the states where those minerals are produced.) In 2012 and 2013, when DOI assessed a royalty of 6 percent, annual production of sodium compounds decreased to an average of 6.6 million tons; however, net royalty collections increased to an annual average of $27 million.

During 2014 and 2015, when the royalty rate on sodium compounds declined to 4 percent, production on federal lands increased to an average of 7.3 million tons while net royalty collections decreased to an average of $22 million a year. In 2016, when the royalty rate was again at 6 percent, production on federal lands fell by about 30 percent to 5.5 million tons and royalty collections declined slightly (by about $100,000) from 2015. Using information from DOI, CBO expects that the amount of those minerals produced on federal land in 2017 will be about 30 percent lower than in 2015 (the last year the royalty rate was 4 percent) but net royalties will be roughly $3 million higher because of higher mineral prices. (Actual figures for fiscal year 2017 are not yet available.)

Direct spending

CBO estimates that by reducing the royalty rate, enacting H.R. 1399 would reduce net offsetting receipts (and thus increase direct spending) by $50 million over the 2018–2027 period (see Figure 2).

Figure 2: H.R. 1399 vs. Current Law
Fiscal Years 2018-2027



Over the 2018–2022 period, CBO estimates, enacting H.R. 1399 would reduce offsetting receipts from royalties on sodium compounds by $63 million. We estimate that, under current law, production of those compounds on federal lands will increase at a slightly slower pace than the expected growth in the soda ash industry as a whole (about 2 percent a year), with annual production increasing from 5.3 million tons to 5.6 million tons and net royalty receipts increasing from $23 million to $27 million annually over that period.

Under H.R. 1399, CBO estimates that production of sodium compounds on federal lands would be significantly higher than under current law, ranging from 6.1 million tons in 2018 to 8.9 million tons in 2022. That increase would stem primarily from firms shifting operations from nonfederal lands to federal lands to take advantage of the lower royalty rate. Despite the higher production levels, net receipts would be significantly lower than under current law because of the much lower royalty rate, and would total $10 million in 2018 and $16 million in 2022, CBO estimates.

In 2023 and 2024, the first two years after the royalty rate would return to 6 percent, CBO expects that production levels would fall sharply as firms rapidly shift operations back to nonfederal lands that they would have bypassed to take advantage of reduced royalties on federal lands. After 2024, production on federal lands would increase at a higher rate than average industry growth until the federal share of production reaches about 50 percent, CBO estimates. The lower costs of production over the 2018–2022 period would prompt firms to increase production capacity, which would result in higher production and a greater share of the global market. Over the 2023–2027 period, CBO estimates that production of sodium compounds on federal lands would be about 500,000 tons higher each year, on average, and net receipts would be $13 million higher over that period than estimated receipts under current law.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1399 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON JUNE 27, 2017

	By fiscal year, in millions of dollars—											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018–2022	2018–2027
NET INCREASES OR DECREASES (−) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	14	13	13	12	11	−6	−1	−2	−2	−2	63	50

Increase in long-term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

Mandates: H.R. 1399 contains no intergovernmental or private-sector mandates as defined in UMRA. The royalty reduction required by the bill would reduce federal payments to California, Colorado, New Mexico, Utah, and Wyoming by about $60 million over the 2018–2022 period.

Estimate prepared by: Federal costs: Jeff LaFave; Mandates: Jon Sperl and Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is reduce temporarily the royalty required to be made for sodium produced on Federal lands.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of Rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

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.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

DISSENTING VIEWS

This bill is an entirely unnecessary giveaway to a healthy industry that will cost American taxpayers tens of millions, if not hundreds of millions of dollars, while doing nothing to achieve the positive benefits that the supporters of this legislation claim it will bring.

Similar royalty relief for the soda ash industry was enacted in 2006, and after five years of the lower royalty, the Department of the Interior concluded that the royalty rate reduction, "does not appear to have contributed in a significant way to the creation of new jobs within the industry, to increased exports, or to a notable increase in capital expenditures to enhance production." (Report appended to these views.)

Furthermore, in the two years after that royalty relief expired, under every relevant metric, the soda ash industry performed better than it did with that relief in place. During the royalty relief period production dropped, U.S. market share dropped, employment went down, and the average rate of export growth was 3.4 percent. In the two years after royalty relief expired, production went up, U.S. market share went up, employment increased, and the average rate of export growth was 8.8 percent. In Fiscal Years 2014 and 2015 the soda ash industry again received a royalty rate cut, yet employment, production, and exports have stayed flat from 2013 through 2016.

The Majority has claimed that the royalty relief did not cost taxpayers much because royalty collections from 2007–2011 were only $2 million below the collections from 2002–2006. However, the price of soda ash more than doubled between 2004 and 2009, which is the only reason that total collections were able to keep pace. Soda ash prices are currently at their highest levels in decades, which makes it even less necessary to provide royalty relief to this industry, and makes the potential royalty revenue loss even greater.

The official CBO score of $50 million in automatically lost revenues to the federal government is only half of the issue. Since royalties are split with states, California and Wyoming also stand to lose $50 million, at least, under this bill. Instead of $100 million that could be going to fund schools, build roads, and provide medical care, that money will go straight into the pockets of mining company CEOs.

None of the reasons the Majority provides for supporting this bill are substantiated by the facts. Vague arguments about the need to remain competitive and increase employment could be made for every extractive resource industry in the nation, yet lowering royalty rates for no reason simply cheats the American people of their fair share of revenues from the development of public resources on public land. The situation is even worse for the States: the Interior

Department found that one of the main consequences of the previous royalty relief was that companies would move their operations from state lands, where states receive all the royalties, to federal lands, where states only receive half.

While the sponsor of the bill pointed out that production of soda ash on federal land fell significantly in 2016 after the most recent royalty relief expired, this could very likely be due to companies hopping on and off federal lands based on whether they're currently receiving the royalty giveaways that Congress has been repeatedly providing. It seems like companies are gaming the system, and this bill would indicate that Congress is all too happy to play along.

H.R. 1399 has no redeeming benefits for the American public, is completely unsupported by our previous experience with soda ash royalty relief, and is nothing more than a $50 million giveaway of taxpayer money.

RAÚL M. GRIJALVA.
JARED HUFFMAN.
GRACE F. NAPOLITANO.
COLLEEN HANABUSA.

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