

SODA ASH ROYALTY EXTENSION, JOB CREATION, AND
EXPORT ENHANCEMENT ACT OF 2012

JULY 9, 2012.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1192]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1192) to extend the current royalty rate for soda ash, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Soda Ash Royalty Extension, Job Creation, and Export Enhancement Act of 2012”.

SEC. 2. EXTENSION OF ROYALTY RATE ON SODA ASH.

Section 102 of Public Law 109-338 (30 U.S.C. 262 note) is amended by striking “5-year” and inserting “10-year”.

PURPOSE OF THE BILL

The purpose of H.R. 1192, as ordered reported, is to extend the current royalty rate for soda ash.

BACKGROUND AND NEED FOR LEGISLATION

The Soda Ash Royalty Reduction Act of 2006 was included in the National Heritage Areas Act of 2006 (Public Law 109-338). This law reduced the royalty on soda ash to 2 percent, the minimum re-

quired in the Mineral Leasing Act of 1921. Uses for soda ash include glass-making which consumes about half of soda ash output. This is followed by the chemical industry, which uses about a quarter of the output. Other uses include soap, paper manufacturing, and water treatment.

Prior to the royalty relief legislation being enacted, the U.S. soda ash (sodium carbonate) industry was experiencing increased pressure from state owned Chinese companies operating under lax environmental standards, coupled with high U.S. royalty rates that ranged between 5 and 8 percent. Between 1997 (the year after the Bureau of Land Management raised the royalty rates) 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, 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 during the recession. By being able to keep more of the money they made, the soda ash companies were able to reinvest in their operations to increase production and efficiencies, allowing the industry to increase exports by more than 1 million tons.

In October 2011, Bureau of Land Management reinstated the 6 percent royalty—this was a discretionary decision. This has already had an impact on U.S. exports: those for the first two months of 2012 have fallen below the average exports for 2011.

COMMITTEE ACTION

H.R. 1192 was introduced on March 17, 2011, by Congresswoman Cynthia Lummis (R-WY). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On April 26, 2012, the Subcommittee on Energy and Mineral Resources held a hearing on the bill. On May 16, 2012, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Energy and Mineral Resources was discharged by unanimous consent. Congressman Doug Lamborn (R-CO) offered an amendment designated #1; the amendment was adopted by voice vote. Congressman Paul Tonko (D-NY) offered amendment designated .001; the amendment was not adopted by a bipartisan roll call vote of 11 to 24, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: May 16, 2012

Recorded Vote #: 20

Meeting on / Amendment: **HR 1192**- An amendment offered by Mr. Tonko.001 was NOT AGREED TO by a roll call vote of 11 yeas and 24 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>			
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL			
Mr. Duncan of TN				<i>Ms. Sutton, OH</i>	X		
<i>Mr. DeFazio, OR</i>		X		Mr. Duncan of SC		X	
Mr. Gohmert, TX				<i>Ms. Tsongas, MA</i>			
<i>Mr. Faleomavaega, AS</i>				Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Mr. Pierluisi, PR</i>			
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID			
Mr. Wittman, VA				<i>Ms. Hanabusa, HI</i>			
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Mr. Tonko, NY</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, MD		X	
Mr. Coffman, CO		X		Mr. Landry, LA			
<i>Mr. Costa, CA</i>		X		Mr. Runyan, NJ		X	
Mr. McClintock, CA		X		Mr. Johnson, OH		X	
<i>Mr. Boren, OK</i>		X		Mr. Amodei, NV		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>							
Mr. Denham, CA		X					
				TOTALS	11	24	

The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 27 to 10, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: May 16, 2011

Recorded Vote #: 21

Meeting on / Amendment: **HR 1192** – Adopted and favorably reported to the House of Representatives, as amended, by a roll call vote of 27 yeas and 10 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman	X			<i>Mr. Heinrich, NM</i>		X	
<i>Mr. Markey, MA Ranking</i>		X		Mr. Benishek, MI	X		
Mr. Young, AK	X			<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>		X		Mr. Rivera, FL			
Mr. Duncan of TN				<i>Ms. Sutton, OH</i>		X	
<i>Mr. DeFazio, OR</i>	X			Mr. Duncan of SC	X		
Mr. Gohmert, TX				<i>Ms. Tsongas, MA</i>			
<i>Mr. Faleomavaega, AS</i>				Mr. Tipton, CO	X		
Mr. Bishop, UT	X			<i>Mr. Pierluisi, PR</i>			
<i>Mr. Pallone, NJ</i>		X		Mr. Gosar, AZ	X		
Mr. Lamborn, CO	X			<i>Mr. Garamendi, CA</i>		X	
<i>Mrs. Napolitano, CA</i>		X		Mr. Labrador, ID	X		
Mr. Wittman, VA				<i>Ms. Hanabusa, HI</i>			
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD	X		
Mr. Broun, GA	X			<i>Mr. Tonko, NY</i>		X	
<i>Mr. Grijalva, AZ</i>		X		Mr. Southerland, FL	X		
Mr. Fleming, LA	X			Mr. Flores, TX	X		
<i>Ms. Bordallo, GU</i>		X		Mr. Harris, MD	X		
Mr. Coffman, CO	X			Mr. Landry, LA			
<i>Mr. Costa, CA</i>	X			Mr. Runyan, NJ	X		
Mr. McClintock, CA	X			Mr. Johnson, OH	X		
<i>Mr. Boren, OK</i>	X			Mr. Amodei, NV	X		
Mr. Thompson, PA	X						
<i>Mr. Sablan, CNMI</i>							
Mr. Denham, CA	X						
				TOTALS	27	10	

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

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1192—Soda Ash Royalty Extension, Job Creation, and Export Enhancement Act of 2012

Summary: H.R. 1192 would require the Department of the Interior (DOI) to charge a 2 percent royalty on the value of soda ash produced on federal lands through 2016. Under current law, CBO expects that the royalty rate would remain at 6 percent over that period. CBO estimates that implementing H.R. 1192 would reduce net federal offsetting receipts from soda ash royalties by \$75 million over the 2013–2016 period; therefore, pay-as-you-go procedures apply. Enacting H.R. 1192 would not affect revenues.

H.R. 1192 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. 1192 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—												2013– 2017	2013– 2022
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022				
	CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	30	15	15	15	0	0	0	0	0	0	0	0	75	75
Estimated Outlays	30	15	15	15	0	0	0	0	0	0	0	0	75	75

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the end of 2012.

H.R. 1192 would reduce the royalty rate on the value of soda ash produced on federal lands from 6 percent to 2 percent through 2016. Based on information from the Bureau of Land Management, CBO expects that, under the bill, firms that paid 6 percent in royalties during 2012 would receive refunds in 2013 of any amounts in excess of the 2 percent rate established by the bill. In addition, because CBO expects that royalty rates charged for soda ash production on state and private lands would be higher than 2 percent, we also expect that, under the bill, the amount of soda ash pro-

duced on federal lands would be higher over the next four years than it would be under current law. However, CBO estimates that any increase in production would only partially offset the loss of receipts from lowering the royalty rate through 2016.

In 2011, the last time the royalty rate was set at 2 percent, firms produced 8.8 million tons of soda ash on federal lands and paid royalties totaling \$22 million. Based on information from DOI regarding soda ash production and royalty collections through the first half of 2012 (when the royalty rate increased to 6 percent), CBO estimates that firms will produce 7.2 million tons of soda ash on federal lands in 2012 (a decline of roughly 20 percent from 2011) and will pay gross royalties totaling \$44 million (double the amount collected in 2011). Thus, under current law, we estimate that, after payments to states of half the gross proceeds, net receipts to the federal government in 2012 will total \$22 million. If H.R. 1192 is enacted, we expect that DOI would refund about \$15 million of that amount to firms in 2013. CBO also estimates that implementing the bill would reduce receipts in each year over the 2013–2016 period by a similar amount. In total, CBO estimates that enacting H.R. 1192 would reduce net offsetting receipts from soda ash royalties by \$75 million over the 2013–2016 period.

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. 1192 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON MAY 16, 2012

	By fiscal year, in millions of dollars—												
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012– 2017	2012– 2022
Statutory Pay-As-You-Go Impact												0	75
NET INCREASE OR DECREASE (–) IN THE DEFICIT	0	30	15	15	15	0	0	0	0	0	0	0	75

Intergovernmental and private-sector impact: H.R. 1192 contains no intergovernmental or private-sector mandates as defined in UMRA. The royalty reduction required by the bill would temporarily reduce federal payments to California, Colorado, New Mexico, and Wyoming by a total of \$75 million over the 2013–2016 period.

Estimate prepared by: Federal Costs: Jeff LaFave; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that implementing H.R. 1192 would reduce net federal offsetting receipts from soda ash royalties by \$75 million over the 2013–2016 period; therefore, pay-as-you-go procedures apply.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to extend the current royalty rate for soda ash.

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.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

ACT OF OCTOBER 12, 2006

(Public Law 109-338)

AN ACT To reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.

* * * * *

TITLE I—SODA ASH ROYALTY REDUCTION

* * * * *

SEC. 102. REDUCTION IN ROYALTY RATE ON SODA ASH.

Notwithstanding section 102(a)(9) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 24 of the Mineral Leasing Act (30 U.S.C. 262), and the terms of any lease under that Act, the royalty rate on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market from Federal land in the **[5-year]** *10-year* period beginning on the date of enactment of this Act shall be 2 percent.

* * * * *

DISSENTING VIEWS

H.R. 1192 would reduce the royalty paid to the American people from sodium leases on public lands from an average of 5.6 percent to 2 percent for five years. In 2006, Congress passed legislation that reduced the royalty for sodium leases to 2 percent for five years. That lowered rate expired late last year and according to a review of the impacts of the lowered royalty rate by the Department of the Interior it did not increase domestic soda ash production, capital investment or jobs in the industry. We therefore oppose extending the lowered royalty rate. The Interior Department concluded the lowered royalty rate significantly reduced revenues to the American people. The DOI report found that royalty revenues to the American people were \$150 million lower over five years as a result of the lowered royalty rate—five times the loss anticipated by Congress when it passed the reduction in 2006. Moreover, this windfall benefitted only a handful of companies—according to the Interior Department in 2010 the U.S. Soda Ash industry consisted of only five companies.

Furthermore, the Interior Department concluded that domestic soda ash production did not increase during the period—production was actually lower in 2010 than it was in 2006 before passage of the lowered royalty rate—because “the royalty rate reduction appears to have influenced a shift of production away from state leases and private lands and onto Federal leases.” The lowered royalty rate appears to have led companies to simply move their operations onto federal lands, where the royalty rate was lower. In fact, the lowered royalty rate reduced revenue to states by more than \$110 million over that period.

The Interior Department additionally concluded that “significant new employment in the soda ash industry did not occur during this [five year] period” and that domestic employment in the industry has dropped by about 10 percent since 2006, despite the lowered royalty rate. Similarly, according to DOI, the lowered royalty rate did not increase capital investment by the soda ash industry and that annual capital investments have fallen since 2006.

The Majority rejected an amendment from Representative Tonko (D-NY) that would have protected American taxpayers by only allowing the lowered royalty rate to go forward after the Secretary

certified that it would increase U.S. soda ash production, increase employment in the industry, and not reduce revenue paid to the American people by more than \$100 million over five years.

As we are seeking to reduce our federal deficit we should ensure that the American people receive a proper return on the minerals below public lands not extend failed giveaways to industry.

EDWARD J. MARKEY.
RAÚL M. GRIJALVA.
GRACE F. NAPOLITANO.
MADELEINE Z. BORDALLO.
PAUL TONKO.

