

**American Rivers * Clean Water Action * Defenders of Wildlife * Earthjustice * Environment America *
Greenpeace * League of Conservation Voters * Sierra Club * Southern Environmental Law Center *
Union of Concerned Scientists**

November 4, 2015

**OPPOSE H.R.22, the Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act, and
Amendment Recommendations**

Dear Representative,

On behalf of our millions of members and supporters nationwide, we urge you to oppose final passage of the Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act (H.R. 22). Instead of seizing the opportunity to move our transportation system into the 21st century, this bill is a missed opportunity to advance popular transportation solutions that reduce pollution, decrease our dependence on oil, and expand transit options.

Unfortunately, provisions in this bill would also continue and, in fact, expand the evisceration of meaningful public input for transportation projects as well as many others of the largest and most complex projects in the nation. Despite the fact that the provisions of MAP-21 have not yet been fully implemented, the DRIVE Act recklessly presses forward with provisions which will further erode the ability of affected communities to be informed of, and to meaningfully participate in, major decisions affecting their communities.

Moreover, the addition of S.280 (Title LXI of the Senate DRIVE Act) into the base bill by the House Rules Committee stretches the assault on public participation, transparency, meaningful environmental impact analysis, and citizens' ability to protect their communities in court regarding any federal non-transportation infrastructure project of \$200 million or greater. Furthermore, S.280 was slipped into the Transportation bill without any House or Senate legislative hearings on the measure whatsoever.

Critical infrastructure legislation must not be treated as a vehicle for provisions meant to reduce investment in cleaner public transportation options such as commuter rail or bicycle lanes, hobble basic protections for clean air and water, undermine protections for our most vulnerable species, and limit public participation in the decision making process.

Please review the list of amendments below. All organizations listed above may not work on or have expertise in every amendment included. However, the DRIVE Act is fundamentally flawed in our view and we urge you to oppose final passage regardless of whether or not amendments seeking to improve it are adopted.

We strongly encourage you to OPPOSE the following amendments:

PENDING FROM LAST NIGHT:

37. Hartzler (MO), Hudson (NC) #8 - This amendment would prevent the Secretary of Transportation from including the costs of landscape and roadside development in the construction of any federal-aid highways. The section of the bill repealed by this amendment was designed to encourage habitat for pollinators.

40. Rothfus (PA) #17 - This amendment exempts transportation projects damaged by an emergency from environmental reviews. These exemptions are unnecessary, as most of the targeted laws already provide for exemptions and/or expedited processes post-emergency. Instead of encouraging responsible rebuilding, this amendment would allow contractors to disregard basic safeguards, threatening the environment and human health.

PART A:

17. Russell (OK) #26 – This amendment would prohibit any spending to support streetcars, depriving communities around the country of a needed funding source to make their cities more convenient and vibrant while reducing traffic and harmful air pollution.

29. DeSantis (FL) #180 – This amendment expresses the sense of Congress in support of dramatically reducing the federal authority to construct and maintain our transportation system, shifting virtually all responsibilities to states.

PART B:

10. Young, David (IA) #10 – This deceptive amendment requires agencies to publicly list the data, scientific and economic studies, and cost-benefit analyses on which any rule under the act is based, and inform the public about how to access the information. It introduces ambiguity and potentially subjects agencies to court challenges, because agency rulemakings are sometimes informed by information that must be kept confidential such as private information contained in long-term health studies.

16. Mullin, Markwayne (OK) #39 – This amendment seeks to give natural gas vehicles a leg up by requiring they receive any incentives given to electric vehicles. Natural gas vehicles already receive incentives under CAFE and the GHG program, but are fundamentally different from electric vehicles in tailpipe emissions and in the mpg they get on the road. These two types of vehicles must be considered on their own merits.

17. Burgess (TX) #85 – This amendment exempts small volume vehicle manufacturers from safety and emission standards. An identical provision was included in a discussion draft heard in E&C and EPA sent comments saying that as drafted, the language could allow small manufacturers to use antiquated but certified (long ago) systems that could have very high emission rates, including carbon monoxide which could be a safety risk for vehicles in garages. Vehicles today are 90% cleaner than vehicles that were first certified under the CAA.

19. Gosar (AZ) #69 – This amendment seeks to exclude the EPA Administrator from participating in major federal project decisions that have a tremendous impact on the environment as well as

the health and safety of local communities. One of the EPA's main objectives is to protect the environment as well as the health and safety of the people within it, therefore, the EPA's perspective in federal decision-making is imperative to ensure that our infrastructure development serve, not endanger, our communities. By excluding her from project decisions, this amendment puts our communities and environment at risk.

20. Goodlatte (VA), Marino (PA) #42 – This amendment would impose limits on reasonably needed extensions to conduct crucial environmental review and receive public opinion on project development. It would undercut the Council on Environmental Quality's well established regulation allowing extensions for good cause to ensure that all important considerations like the public's health and safety are sufficiently analyzed. This amendment would also cut out the public from challenging faulty decision-making by deeming decisions made about these extensions unreviewable in a court of law.

22. Upton (MI) #82 – The amendment on resolving environmental and grid reliability undermines the existing process for resolving such conflicts and instead allows the waiver of environmental laws during DOE "must run" orders for power plants. This amendment fails to acknowledge carefully designed environmental standards that prevent reliability/compliance conflicts from arising, and is otherwise exceptionally overbroad.

We strongly encourage you to SUPPORT the following amendments; however, none of these amendments would cause our organizations to support the underlying legislation:

PART A:

5. DeSaulnier (CA) #21 – This amendment would ensure transportation projects are selected based on their merits, instead of by traditional pork barrel means. This provision moves us towards a more performance-based system, which will ensure smart transportation projects, not mindless highway expansions, are funded.

6. Grijalva (AZ) #184 – This amendment would strike provisions that further eviscerate meaningful public input, transparency, as well as environmental and judicial review for transportation projects. Despite the fact that the environmental steamrolling provisions of MAP-21 have not yet been fully implemented and their consequences remain unknown; these provisions recklessly press forward, further cutting out the public from decisions affecting their communities. This amendment would protect local communities' health and safety by ensuring proper public input and environmental review under the National Environmental Policy Act (NEPA) and not allowing deficient state regulations to rubberstamp ill-conceived and dangerous projects.

15. Comstock (VA) et al #115 – This provision ensures public transportation vehicles operating in high-occupancy toll lanes that were previously converted from high-occupancy vehicle lanes will be eligible for grants to ensure they meet a state of good repair.

28. Lipinski (IL) et al #18 – This amendment would support investing in transit-oriented development around passenger rail stations and multimodal stations that include rail, making cities more vibrant and increasing business opportunities.

42. Lipinski (IL), Nadler (NY), Dold (IL) #110 – This amendment would restore the current ability that states and metros have to shift federal Congestion Mitigation and Air Quality Improvement (CMAQ) funds toward New Starts projects — increasing the possible federal share of these projects back up to 80 percent from the reduced federal match of 50 percent in the Surface Transportation Reauthorization and Reform Act.