



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 23, 2015
(House Rules)

STATEMENT OF ADMINISTRATION POLICY
H.R. 2822 — Department of the Interior, Environment, and Related Agencies
Appropriations Act, 2016
(Rep. Rogers, R-KY)

The Administration strongly opposes House passage of H.R. 2822, making appropriations for the Department of the Interior, Environment, and related agencies for the fiscal year ending September 30, 2016, and for other purposes. The bill drastically underfunds core Department of the Interior programs as well as the Environmental Protection Agency's operating budget, which supports nationwide protection of human health and our vital air, water and land resources. Funding levels in the bill would prevent investments that reduce future costs to taxpayers by facilitating increased energy development and maintaining facilities and infrastructure in national parks, refuges, forests, public lands, and Indian Country. They would make it harder for States and businesses to plan and execute changes that would decrease carbon pollution and address the challenges the Nation faces from climate change. They would also reduce support for partnerships and effective collaboration with States, local governments and private entities on efforts to restore and conserve natural resources. Further, the bill includes numerous highly problematic ideological provisions that have no place in funding legislation. These provisions threaten to undermine the ability of States and communities to address climate change and protect a resource that is essential to America's health—clean water, as well as the most basic protections for America's special places and the people and wildlife that rely on them. If the President were presented with H.R. 2822, his senior advisors would recommend that he veto the bill.

Enacting H.R. 2822 and adhering to the congressional Republican budget's overall spending limits for fiscal year (FY) 2016 would hurt our economy and shortchange investments in middle-class priorities. Sequestration was never intended to take effect: rather, it was supposed to threaten such drastic cuts to both defense and non-defense funding that policymakers would be motivated to come to the table and reduce the deficit through smart, balanced reforms. The Republican framework would bring base discretionary funding for both non-defense and defense for FY 2016 to the lowest real levels in a decade. Compared to the President's Budget, the cuts would result in tens of thousands of the Nation's most vulnerable children losing access to Head Start, millions fewer workers receiving job training and employment services, and drastic cuts to research awards and grants, along with other impacts that would hurt the economy, the middle class, and Americans working hard to reach the middle class.

Sequestration funding levels would also put our national security at unnecessary risk, not only through pressures on defense spending, but also through pressures on State, USAID, Homeland Security, and other non-defense programs that help keep us safe. More broadly, the strength of our economy and the security of our Nation are linked. That is why the President has been clear that he is not willing to lock in sequestration going forward, nor will he accept fixes to defense without also fixing non-defense.

The President's senior advisors would recommend that he veto H.R. 2822 and any other legislation that implements the current Republican budget framework, which blocks the investments needed for our economy to compete in the future. The Administration looks forward to working with the Congress to reverse sequestration for defense and non-defense priorities and offset the cost with commonsense spending and tax expenditure cuts, as Members of Congress from both parties have urged.

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Environmental Protection Agency (EPA)

EPA Operating Budget. The Administration disagrees strongly with the bill's reduction to EPA's operating budget by \$474 million, or 13 percent, compared to the FY 2016 Budget request. This reduced level of funding would significantly undermine implementation of the Clean Power Plan and the recently finalized Clean Water Rule. The Clean Power Plan is a flexible and practical approach to addressing the risks of climate change by reducing carbon pollution from the electric power sector, the largest source of carbon pollution in the United States. Climate change is not only an environmental challenge, it is also an economic, public health, and national security challenge. Unabated climate change is projected to hamper economic growth in the United States and put the health and well-being of the Nation at risk from extreme weather events, wildland fire, poor air quality, and illnesses transmitted by food, water, and disease carriers such as mosquitos and ticks. Failing to address climate change would also exacerbate poverty and contribute to environmental degradation in developing countries, potentially resulting in resource shortages, political instability, and conflict. Meanwhile, the bill also reduces funding to implement the recently finalized Clean Water Rule that would ensure waters protected under the Clean Water Act are more precisely defined and predictably determined. By delaying implementation of this rule, business and industry face a more costly, difficult, and slower permitting process.

State Categorical Grants. The Administration opposes the \$118 million reduction to State and Tribal Categorical grants compared to the FY 2016 Budget request. Often, States and Tribes implement environmental programs through delegated authorities. However, the bill reduces these grants to States and Tribes to carry out activities such as water quality permitting, air monitoring, and hazardous waste management programs. In addition, the bill reduces funding for brownfields projects by \$35 million, or 32 percent, from the FY 2016 Budget request. This reduced level of funding severely limits opportunities for local communities to revitalize their contaminated lands to improve environmental quality and spark economic redevelopment.

State Revolving Funds (SRFs). The Administration objects to the funding levels provided for EPA's Clean Water and Drinking Water SRFs. The bill reduces SRF funding by a combined \$527 million from the FY 2016 Budget request, reducing necessary support to help communities finance water infrastructure improvements, resulting in approximately 200 fewer projects being funded nationally.

Greenhouse Gas (GHG) Limits for Power Plants. The Administration strongly objects to section 428 of the bill, which would prohibit the use of funds to propose, finalize, implement or enforce carbon pollution standards for fossil fuel-fired electric generating units that are the largest source

of carbon pollution in the United States. The bill seeks to derail Administration efforts to address under section 111 of the Clean Air Act the urgent economic, public health, and national security impacts of unabated climate change. Failure to reduce the utility sector's carbon footprint places the Nation at risk from extreme weather events, wildland fire, poor air quality, global instability, accelerated environmental degradation, and illnesses transmitted by food, water, and disease carriers such as mosquitos and ticks.

Clean Water Act (CWA). The Administration believes that the CWA provisions in the bill undermine efforts to protect America's clean water resources, which are critical to American families and businesses. The Administration strongly objects to section 422 of the bill in particular, which would disrupt the Administration's current efforts to clarify the scope of CWA, hamstringing future regulatory efforts, and create significant ambiguity regarding existing regulations and guidance.

Social Cost of Carbon (SCC). The Administration regards the SCC as an essential component of the environmental rulemaking process and opposes the Congress' interference with the Interagency Working Group's (IWG) development of the SCC. The Administration strongly objects to section 437 of the bill, which would force the IWG to revise the SCC using only the discount rates and "domestic" SCC values stated in Executive Order 12866 and Office of Management and Budget Circular A-4. This revision would ignore the trans-boundary movement of carbon, fail to capture key costs of carbon emissions, and disrupt dozens of upcoming rules that would use the SCC to monetize carbon reduction benefits.

Limitations on Significant New Alternatives Policy (SNAP) Program under the Clean Air Act (CAA). The Administration objects to section 435 of the bill, which would block the finalization, implementation, and enforcement of a rule to prohibit certain uses of climate super-pollutants known as hydrofluorocarbons (HFCs). Domestic action to reduce use of HFCs is consistent with U.S. advocacy for addressing HFCs on a global basis, such as through an amendment to the Montreal Protocol.

National Ocean Policy. The Administration objects to section 425 of the bill, which prohibits any funding provided in the bill from being used to implement the marine planning components of the National Ocean Policy. This provision would prohibit the Department of the Interior (DOI) and EPA from participating in marine and coastal planning efforts, a process to better determine how the ocean, the Nation's coasts, and the Great Lakes are managed in an efficient manner.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) Financial Assurance. The Administration objects to section 427 of the bill, which prohibits the use of funds to develop, propose, finalize, and implement financial responsibility requirements under CERCLA 108(b). On May 19, 2015, the U.S. Court of Appeals for the District of Columbia Circuit ordered EPA to develop an expedited schedule for financial responsibility rules for the hardrock mining industry and for three other industries. This provision would severely limit EPA's ability to develop these rules in a timely manner and abrogates EPA's responsibilities laid out in CERCLA 108(b).

Classification of Forest Biomass Fuels as Carbon-Neutral. The Administration objects to the bill's representation of forest biomass as categorically "carbon-neutral." This language conflicts with existing EPA policies on biogenic CO₂ and interferes with the position of States that do not

apply the same policies to forest biomass as other renewable fuels like solar or wind. This language stands in contradiction to a wide-ranging consensus on policies and best available science from EPA's own independent Science Advisory Board, numerous technical studies, many States, and various other stakeholders.

e-Manifest. The Administration objects to the elimination of funding for e-Manifest development, EPA's system for electronically tracking the transport of hazardous waste. While the Administration acknowledges the concern about the pace of development of the e-Manifest, eliminating the requested \$7 million in funding at this time would jeopardize EPA's ongoing progress to develop the system and begin operations in the coming years.

Lead Test Kits. The Administration objects to section 426 of the bill that would disrupt EPA's current activities under the 2008 Lead Renovation, Repair and Painting rule until EPA approves a commercially available "improved" lead paint test kit. This provision would undermine EPA's efforts to protect sensitive populations from exposure to lead, a known toxin to children and developing fetuses, during home renovation projects.

Department of the Interior (DOI)

Bureau of Indian Affairs (BIA) Topline. The Administration opposes the \$159 million, or 5 percent, reduction to BIA as compared to the FY 2016 Budget request. This funding level would limit DOI's ability to make key investments in education and wrap-around services to support Native youth, eliminating all increases to post-secondary scholarships and \$10 million for education program enhancement funds to allow Bureau of Indian Education to drive school improvement and reforms. The bill reduces funding for initiatives aimed at supporting tribal self-determination through the creation of a one-stop portal to facilitate access to Federal resources and funding to address data gaps in Indian Country, and the creation of an Office of Indian Affairs Policy, Program Evaluation, and Data to support effective, data-driven, tribal policy making and program implementation. In addition, this bill eliminates all increases to natural resources management on tribal lands, including funds to help tribal communities prepare for and respond to the impacts of climate change.

National Park Service (NPS) Centennial. The Administration opposes funding levels provided for the NPS Centennial. The bill fails to provide adequate funding to prepare for the Centennial in 2016, resulting in the delay of roughly 70 percent of line-item park construction projects and 36 percent of repair and rehabilitation projects, and forgoes millions in matching private donations. The bill also fails to provide funding for engaging youth and cultivating the next generation of conservation-minded individuals, including funding for transportation assistance to students from Title I schools.

Onshore Inspection Fees. The bill does not include a proposal in the FY 2016 Budget request to institute a new onshore oil and gas inspection fee program. The proposal, which is similar to the program already in place for offshore operations, would cover the cost of inspection activities and reduce the net cost to taxpayers of operating the Bureau of Land Management's (BLM) oil and gas program. Failure to adopt the new fees and associated funding would hamper the BLM's ability to protect human safety, conserve energy resources, facilitate the proper reporting of oil and gas production, and ensure environmental requirements are being followed in all phases of development.

State and Tribal Wildlife Grants. The Administration opposes the 15 percent reduction to State and Tribal Wildlife Grants compared to the FY 2016 Budget request. This important program allows States and Tribes, key partners in conservation, to strategically protect wildlife and conserve habitat in a way that complements Federal investments and yields better results for the public.

Payments in Lieu of Taxes (PILT). The bill provides \$452 million for PILT, which the Administration has proposed to fund through a separate mandatory appropriation in line with its previous congressional enactment. While the Administration appreciates the Committee's support for PILT, inclusion of these funds in the bill comes at the expense of all other programs funded by the bill.

Carcieri Land into Trust. The bill fails to include the provision in the FY 2016 Budget request to clarify and reaffirm the Secretary of the Interior's authority to acquire land in trust under the Indian Reorganization Act (IRA). In *Carcieri v. Salazar*, 555 U.S. 397 (2009), the Supreme Court held that the Secretary could acquire land in trust under the IRA only for tribes that were "under Federal jurisdiction" in 1934. A legislative solution would help achieve the goals of the IRA and tribal self-determination by clarifying that DOI's authority under the law applies to all tribes, whether recognized in 1934 or after. Such legislation would be consistent with the longstanding policy of assisting Tribes in establishing and protecting a land base sufficient to allow them to provide for the health, welfare, and safety of tribal members, and in treating all tribes equally for purposes of setting aside lands for tribal communities.

Hydraulic Fracturing: Section 439 of the bill would block DOI from implementing, administering or enforcing the Bureau of Land Management's recently-finalized Hydraulic Fracturing rule. This would leave the agency reliant on 30-year old requirements and prevent it from taking key steps to improve the safety of oil and gas drilling activities and improve opportunities for BLM to coordinate standards and processes with States and Tribes to reduce administrative costs and improve efficiency.

Stream Buffer Regulation. Section 423 would prohibit DOI's Office of Surface Mining, Reclamation, and Enforcement from updating 30-year-old stream protection regulations to reflect modern science and technology and better protect people and the environment, provide industry more certainty, and address recent court decisions.

Hunting, Fishing and Recreational Shooting. Sections 421 and 424 would substantially impair the enforcement of a longstanding ban on the use of lead ammunition in the hunting of migratory waterfowl, and would complicate in other ways the overall implementation of hunting, fishing, and recreational shooting on public lands.

Wildlife Trafficking. Section 120 would interfere with ongoing Fish and Wildlife Service (FWS) actions to combat wildlife trafficking, curb the poaching of African Elephants, and restrict trade in ivory, which would impair U.S. leadership in the global fight against ivory poaching.

Endangered Species Act Restrictions. Sections 117, 121, and 122 of the bill undercut the Endangered Species Act by limiting the ability of the FWS to properly protect, based on the best available science, a number of species, including the greater sage grouse, northern long-eared bat, and certain gray wolf populations. Language provisions, like those affecting the sage

grouse, would only create additional uncertainty and undermine unprecedented efforts to conserve the sagebrush landscape and the Western way of life.

Federal Acknowledgement of American Indian Tribes. Language under the heading "Bureau of Indian Affairs, Administrative Provisions" in the bill would block DOI from finalizing, implementing, administering, or enforcing the Administration's proposed Federal acknowledgment rule, preventing DOI's effort to improve the regulations governing the process and criteria by which the Secretary of the Interior acknowledges an Indian Tribe.

DOI and Department of Agriculture (USDA), Forest Service

Land and Water Conservation Fund (LWCF). The Administration objects to the drastic reduction of \$152 million, or 38 percent, to the requested discretionary funding for DOI and USDA LWCF programs. LWCF is a cornerstone of Federal conservation and recreation preservation efforts. This funding level would severely impede agency capacity to further protect our Nation's natural heritage. To date, the LWCF has contributed to the protection of key public lands, such as Rocky Mountain National Park, Mount Rainier National Park, and portions of the Appalachian Trail, among others, as well as State and local recreation projects and important cultural heritage sites.

Wildland Fire Suppression. The Administration's cap adjustment for wildfire suppression was not included in this bill. Continued inaction on this proposal, which has bipartisan support, would increase the likelihood of disruptive funding transfers for suppression and away from the very restoration and fire risk reduction programs that are meant to restore landscapes and reduce suppression costs and restore landscapes.

Land Management Operations. The Administration opposes the \$502 million, or 8 percent, reduction to operational funding to land management agencies, relative to the FY 2016 Budget request. This reduction would undermine support for the provision of basic public and business services that support the long-term health and resilience of national parks, forests, refuges, and other public lands.

Water Rights on Federal Land. Section 434 prohibits agencies from conditioning land use authorizations on the transfer, relinquishment, or impairment of a water right, or on the acquisition of a water right in the name of the United States. This language is unnecessary for its intended purpose, and would preclude land management agencies from protecting the public interest. The provision would eliminate the ability of land management agencies to maintain sufficient water for other congressionally-designated purposes and ensure water rights are tied to the activities for which they were developed. These restrictions would also hamper cooperative work with land users to improve land conditions, such as range improvements, or conduct habitat mitigation activities as part of land use agreements.

Department of Agriculture (USDA), Forest Service

Land Management Improvements. The bill provides \$357 million for capital improvement and maintenance of the national forest system, a 5 percent increase from the FY 2016 Budget request. While the Administration supports the capital improvement and maintenance of the Nation's public forests in order to increase its health, resilience, and accessibility, the increase in this bill comes at the expense of other needed priorities.

Department of Health and Human Services

Indian Health Service (IHS) Topline. The Administration strongly opposes the reduction to funding for Native American health care programs and facilities of the Indian Health Service (IHS) by \$300 million, or 6 percent, below the FY 2016 Budget request. This would result in inadequate funding for the provision of health care to a population that is sicker and poorer compared to national averages. For example, compared to the FY 2016 Budget request, the bill reduces funding by nearly \$50 million for Purchased and Referred Care, a program that supports health care not available in IHS and tribal facilities, which would exacerbate existing levels of denied care and waiting lists for services.

Contract Support Costs. The Administration objects to the limitation in funding for tribal Contract Support Costs (CSC) for BIA and IHS. Specifically, the bill would limit funding for CSC that could perpetuate the funding issues described in the Supreme Court's *Salazar v. Ramah Navajo Chapter* decision. The Congress should pursue a long-term solution for CSC appropriations, providing an increase in funding in FY 2016 as part of a transition to a new three-year mandatory funding stream in FY 2017, as proposed in the President's Budget.

Other Provisions

Smithsonian Institution. The bill reduces funding for the Smithsonian Institution by \$116 million, or 12 percent, below the FY 2016 Budget request—a reduction that can be expected to reduce public access to the Smithsonian as well as increase safety concerns through delays in planned renovations. With over 30 million visits to Smithsonian facilities recorded in 2014, it is important to ensure the museums, galleries, National Zoological Park, and nine research facilities that make up the world's largest museum and research complex remain open, maintained, and available to the generations of Americans who make use of this unique institution each year. Specifically, the bill reductions would delay renovation for the National Air and Space Museum, where the museum has had to establish temporary covered walkways to protect the public from potential falling debris from its facade, and would reduce operating hours for the museums, including the new National Museum of African American History and Culture.

Digital Accountability and Transparency Act of 2014 (DATA Act). The Administration urges the Congress to fully fund the FY 2016 Budget requests for DOI and EPA to implement the DATA Act. This funding would support efforts to provide more transparent Federal spending data, such as updating information technology systems, changing business processes, and employing a uniform procurement instrument identifier.

U.S. Digital Service Team. The Administration urges the Congress to fully fund the FY 2016 Budget requests for DOI and EPA to develop U.S. Digital Service teams. This funding would support managing the agency's digital services that have the greatest impact to citizens and businesses.

Constitutional Concerns

Several provisions in the bill raise separation of powers concerns.

The Administration looks forward to working with the Congress as the FY 2016 appropriations process moves forward.

* * * * *