



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

May 23, 2016  
(House Rules)

## STATEMENT OF ADMINISTRATION POLICY

### H.R. 5055 — Energy and Water Development and Related Agencies

#### Appropriations Act, 2017

(Rep. Rogers, R-KY)

The Administration strongly opposes House passage of H.R. 5055, making appropriations for energy and water development, and related agencies for the fiscal year (FY) ending September 30, 2017, and for other purposes.

While the bill increases certain energy research and development activities, it underfunds critical energy research and development activities overall. The bill does not put the Nation on a sufficiently ambitious path toward doubling clean energy research and development by FY 2021. Specifically, H.R. 5055 underfunds the Advanced Research Projects Agency-Energy and Energy Efficiency and Renewable Energy programs, with levels significantly below the FY 2017 Budget request, which would undermine critical activities that support the development and commercialization of clean energy technologies. At this funding level, the number of research, development, and demonstration projects supported in cooperation with industry, universities, and the national labs would be reduced, limiting innovation and technological advancement. The bill also eliminates funding for important restoration efforts by the Bureau of Reclamation on the San Joaquin River, which would undermine the San Joaquin River Restoration Settlement's goals to restore and maintain fish populations and reduce or avoid water supply impacts as well as efforts to help address long-term water challenges in the drought-sensitive San Joaquin region. Furthermore, the legislation includes highly problematic ideological provisions, including provisions that threaten to undermine our ability to protect a resource that is essential to America's health: clean water.

Despite these shortcomings, the Administration welcomes the bill's investments in improving resilience against current and ongoing climate impacts that threaten the economy, public health, and natural resources. The Administration also appreciates the Committee's strong support for the National Nuclear Security Administration's Weapons Activities, Defense Nuclear Nonproliferation, and Naval Reactors programs.

In October 2015, the President worked with congressional leaders from both parties to secure the Bipartisan Budget Act of 2015 (BBA), which partially reversed harmful sequestration cuts slated for FY 2017. By providing fully-paid-for equal dollar increases for defense and non-defense spending, the BBA allows for investments in FY 2017 that create jobs, support middle-class families, contribute to long-term growth, and safeguard national security. The Administration looks forward to working with the Congress to enact appropriations that are consistent with that agreement, and fully support economic growth, opportunity, and our national security priorities. However, the Administration strongly objects to the inclusion of problematic ideological provisions that are beyond the scope of funding legislation. If the President were presented with H.R. 5055, his senior advisors would recommend that he veto the bill.

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

### Department of Energy (DOE)

*Mission Innovation.* The Administration appreciates the Committee's support for certain increases in clean energy RD&D investment, including for the Advanced Research Projects Agency-Energy (ARPA-E). These increases are directionally consistent with Mission Innovation, helping move clean energy RD&D forward. Despite these gains however, the bill underfunds critical energy research and development activities overall, and does not put us on a sufficiently ambitious path toward doubling clean energy research and development by FY 2021. The bill underfunds investment in our students, scientists, engineers, and entrepreneurs; our businesses and universities; and our future economy. This would slow the pace of progress on breakthroughs in energy efficiency and clean energy; undermine America's long-standing nonpartisan support for pioneering research that seeks solutions to pressing problems; and hinder our ability to harness the power of new ideas and innovation to drive sustained economic growth in the clean energy economy of the future.

*Advanced Research Projects Agency-Energy (ARPA-E).* The Administration objects to the \$306 million provided in the bill for ARPA-E, which, while an increase relative to enacted levels, is a reduction of \$44 million or 14 percent from the discretionary request for ARPA-E in the FY 2017 Budget request. This reduction would hinder the ability to invest in transformational technologies that reduce energy-related emissions, increase energy efficiency across multiple economic sectors, and reduce energy imports.

*Office of Energy Efficiency and Renewable Energy (EERE).* The Administration strongly objects to the \$1.8 billion provided in the bill for EERE. Overall, this level is \$1.1 billion below the FY 2017 Budget request. Relative to the FY 2017 Budget request, the bill reduces funding for renewable energy by 36 percent, sustainable transportation by 37 percent, and energy efficiency by 30 percent. These reductions would significantly underfund critical activities that support the development and commercialization of clean energy technologies including wind energy, electric and other advanced vehicles, and building technologies. At this funding level, the number of research, development, and demonstration projects supported in cooperation with industry, universities, and the national labs would be reduced or cancelled, limiting innovation and technological advancement. Funding at this level also would impede the development of solutions to reduce U.S. dependency on oil and reduce energy waste, and undermines the Nation's competitiveness in the future global clean energy economy. The Administration urges the Congress to fully fund the FY 2017 Budget request of \$2.9 billion.

*Office of Science.* While the Administration appreciates the Committee's support for the Office of Science and the funding level of \$5.4 billion provided in the bill, this is \$172 million below the FY 2017 Budget request and would significantly impact basic research and development (R&D) programs, most critically in Foundational Genomics Research and Bioenergy Research Centers within Biological and Environmental Research.

*Electricity Delivery and Energy Reliability.* The Administration urges the Congress to fund important grid modernization activities at the FY 2017 Budget request level of \$262 million instead of the \$225 million provided in the bill. This funding supports important grid

modernization activities including State Distribution Level Reform and State Energy Assurance which respond to Quadrennial Energy Review recommendations.

*Yucca Mountain.* The Administration objects to the funding provided in the bill for Yucca Mountain and is disappointed with the rejection of the strategy proposed in the FY 2017 Budget request on nuclear waste. The strategy incorporates important and practical solutions for a successful waste program, such as consent-based siting, interim storage of waste, and program funding reforms that are essential to the success of a Nuclear Waste Program.

*Fossil Energy Research and Development.* The Administration urges the Congress to provide adequate funding for clean energy priorities by using or reallocating \$240 million in balances within the Fossil Energy R&D account identified in the FY 2017 Budget request as unnecessary for Fossil Energy R&D activities.

*Energy Security and Infrastructure Modernization Fund.* The Administration urges the Congress to fund the Energy Security and Infrastructure Modernization Fund, as proposed in the FY 2017 Budget request. Modernization of Strategic Petroleum Reserve infrastructure is necessary to ensure the operational readiness of the Reserve.

*Energy Information Administration (EIA).* The Administration urges the Congress to fully fund the FY 2017 Budget request of \$131 million for EIA to completely fund investments in adding regional detail to petroleum data, enhancing commercial building energy efficiency data, and expanding international analysis.

*Digital Accountability and Transparency Act of 2014 (DATA Act).* The Administration appreciates that the Committee provided full funding for DOE to implement the DATA Act within the Departmental Administration account. This funding supports efforts to provide more transparent Federal spending data, such as updating information technology systems, changing business processes, and linking financial and Federal award data with the Award ID.

*U.S. Digital Service Team.* The Administration appreciates that the Committee provided sufficient flexibility to fully fund the FY 2017 Budget request for DOE to develop a U.S. Digital Service team. This funding supports efforts to improve digital services that have the greatest impact on citizens and businesses.

*Departmental Administration.* The Administration urges the Congress to fully fund the Office of Indian Energy as a separate budget account. The Administration appreciates the Committee's increased funding for this office, especially for important project oversight efforts. However, funding the Office of Indian Energy within the Departmental Administration account without additional resources has reduced available funding for other management and program support functions which may significantly hinder DOE's ability to effectively and efficiently implement other priority management objectives.

#### National Nuclear Security Administration (NNSA)

*Nonproliferation Construction.* The Administration strongly objects to continued construction of the Mixed Oxide (MOX) Fuel Fabrication Facility. It would be irresponsible for the Congress to require continued construction of this project. The alternative disposition method is expected to be significantly faster and less expensive than the wasteful approach the bill would mandate.

Continuing to require construction would waste limited national security funds and force more pressing nuclear security needs to go unmet. A recent independent study mandated by the FY 2015 National Defense Authorization Act indicates that even at a higher level of funding (\$375 million annually) it would take another century (program completion date of 2115) and involve lifecycle costs of over \$100 billion to complete the plutonium disposition effort using MOX. Alternative disposition would free up funds for other national security priorities, dispose of the excess plutonium safely and effectively, and meet international obligations decades sooner.

*Unrequested NNSA Rescissions.* The Administration objects to section 308 of the bill which, in combination with other rescissions in the bill, would rescind more than twice the amount proposed in the FY 2017 Budget request. A rescission of this size would come at the expense of vital nuclear modernization and nonproliferation programs.

### Corps of Engineers – Civil Works (Corps)

*Overall Funding.* The bill funds the Corps civil works program at a net level of nearly \$6.1 billion. The Administration appreciates the bill's investments in helping communities reduce the risk of floods, improving commercial navigation, and the Corps' efforts to restore the Nation's aquatic ecosystems requested in the FY 2017 Budget. However, the Administration believes funding included in the bill for the Corps beyond the FY 2017 Budget request would not provide a high return on investment to the American taxpayer.

*Ecosystem Restoration.* The Administration appreciates the Committee's support for ecosystem restoration activities, such as Louisiana Coastal Area Ecosystem Restoration, Columbia River Fish Mitigation, South Florida Ecosystem Restoration, and Missouri River Fish and Wildlife Recovery, at the levels provided in the FY 2017 Budget request.

*Technical Assistance.* The Administration also appreciates the Committee's support for funding ongoing efforts that provide local communities with technical and planning assistance to enable them to reduce their flood risk, including nonstructural approaches.

*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 110 of the bill in particular, which would disrupt the Administration's current efforts to clarify the scope of the CWA, hamstring future regulatory efforts, and create significant ambiguity regarding existing regulations and guidance.

*CWA Recapture.* The Administration strongly opposes section 109 of the bill, aimed at preventing the Corps from using the funds provided to require a CWA permit for pollutant discharges that impair or destroy wetlands and other waters. Section 109 would overturn nearly 40 years of CWA implementation that exempts from permitting farming practices in the Nation's wetlands and eliminates regulatory burdens for farmers while protecting the Nation's water resources. Section 109 is inconsistent with administration efforts to provide farmers and ranchers with greater certainty and predictability under the CWA, reduce regulatory burdens, and protect human health and the environment. This is particularly troublesome for discharges that convert areas of navigable waters into new uses where the flow or circulation of navigable waters may be impaired or the reach of those waters may be reduced.

*Firearms Policy.* The Administration objects to section 111 of the bill, which prohibits the Corps from enforcing bans on firearms at water resources development projects. If enacted, this provision would prevent the Secretary of the Army from using the discretion now provided in law to enforce or revise the current Corps policy, based on considerations such as the security of critical infrastructure, public and employee safety, and the manner in which the firearm is carried (e.g., open vs. concealed). Corps rangers are not authorized to carry firearms and do not have full Federal law enforcement authority.

*National Ocean Policy.* The Administration objects to section 506 of the bill, which prohibits funding provided in the bill from being used to implement the coastal and marine spatial planning and ecosystem-based management components of the National Ocean Policy. This provision would prohibit DOE and the Corps from participating in marine and coastal planning efforts that would improve stewardship of the Nation's oceans, coasts, and Great Lakes.

*Dam Removal.* The Administration objects to section 507 of the bill, which prohibits funding provided in the bill from being used for the removal of any federally owned or operated dam. While dams can provide numerous benefits to local communities, collaboratively developed strategies to remove obsolete or unnecessary dams can be important components of broader efforts to reduce public safety risks, improve the health of our rivers, and support our local economies.

*Nationwide Flood Study.* The Administration urges the House to restore the \$1 million requested in the FY 2017 Budget for the ongoing Water Resources Priorities study, which has the potential to help save lives and billions of dollars. This study addresses a critical need to develop a baseline assessment of flood risks at a national and regional scale; evaluate the overall effectiveness of current approaches; and develop recommendations to reduce flood damages, loss of life, and recovery costs, in ways that would also promote the long-term resilience of communities and ecosystems.

*U.S. Digital Service Team.* The Administration appreciates that the Committee fully funded the FY 2017 Budget request for the Corps to develop a U.S. Digital Service team. This funding supports efforts to improve digital services that have the greatest impact on citizens and businesses.

#### Other Independent Agencies

*Nuclear Regulatory Commission, Yucca Mountain.* The Administration objects to the funding provided in the bill for the Nuclear Regulatory Commission to continue adjudication of the Yucca Mountain license application.

*POWER+ Plan.* The Administration appreciates that the Committee provided \$50 million to the Appalachian Regional Commission for the POWER+ Plan, fully funding the FY 2017 Budget request. The funding would help create jobs, attract capital investments, and strengthen workforce development for communities and workers that have been negatively affected by job losses in coal mining, coal power plant operations, and coal-related supply chain industries due to the changing economics of America's energy production.

Department of the Interior, Bureau of Reclamation and Central Utah Project

*Overall Funding.* The bill provides \$1.1 billion for the Bureau of Reclamation and \$11 million for the Central Utah Project Completion Act. The Administration appreciates the Committee's support for priorities within the Bureau of Reclamation's program, as reflected in the FY 2017 Budget request, including Indian Water Rights settlements, and the WaterSMART program.

*San Joaquin River Restoration.* The Administration strongly opposes the Committee's elimination of funding for this program, which would undermine the San Joaquin River Restoration Settlement's goals to restore and maintain fish populations and reduce or avoid water supply impacts. This restoration program is a multi-year effort that is integral to the implementation of Federal legislation that settled 18 years of litigation. The Congress has provided funding each year since authorizing, and the Administration urges the Congress to provide FY 2017 funding for this Administration priority at the level requested.

*California Water.* The Administration strongly opposes sections 204 through 208 of the bill, which include several highly problematic provisions that undercut the Endangered Species Act and limit application of court-approved biological opinions, thereby resulting in detrimental conditions for Federal- and State-listed endangered species. Furthermore, these provisions preempt California water law, fail to address critical elements of California's complex water challenges and would, if enacted, impede an effective and timely response to the continuing drought while providing no additional water to hard hit communities. These provisions could actually slow decision-making, generate significant litigation, and limit real-time operational flexibility critical to maximizing water delivery. As the Administration has stated in the past, these provisions were developed with little input from the public, the Administration, or key stakeholders affected by the drought. The urgency and seriousness of the California drought requires a balanced and flexible approach that promotes water reliability and ecosystem restoration.

*Authorizations for Continued Operations.* The Administration is disappointed that the bill did not include the language requested in the FY 2017 Budget to increase the appropriations ceiling for the Secure Water Act and to extend the California Bay-Delta Restoration authorization.

Constitutional Concerns

Section 201 of the bill raises separation of powers concerns.

The Administration looks forward to working with the Congress as the FY 2017 appropriations process moves forward.

\* \* \* \* \*