



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

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(House Rules)

STATEMENT OF ADMINISTRATION POLICY
H.R. 5538 – Department of the Interior, Environment, and Related Agencies
Appropriations Act, 2017
(Rep. Rogers, R-KY)

The Administration strongly opposes House passage of H.R. 5538, making appropriations for the Department of the Interior, Environment, and Related Agencies for the fiscal year (FY) ending September 30, 2017, and for other purposes.

The bill underfunds core Department of the Interior (DOI) programs as well as the Environmental Protection Agency's (EPA) operating budget, which supports nationwide protection of human health, and vital air, water and land resources. The funding levels in the bill would significantly hamper investments that reduce future costs to taxpayers by facilitating increased energy development, ensuring adequate levels of cybersecurity, and maintaining operations, facilities and infrastructure in national parks, refuges, forests, public lands, and Indian Country. These reductions would make it more difficult for States and businesses to plan and execute changes that would decrease carbon pollution and address the challenges facing the Nation from climate change. They would also reduce support for partnerships and effective collaboration with States, Tribes, local governments, and private entities on efforts to restore and conserve natural and cultural resources. Furthermore, the legislation includes numerous highly unacceptable provisions that have no place in funding legislation. These provisions threaten to undermine the most basic protections for America's unique natural treasures and the people and wildlife that rely on them, as well as the ability of States and communities to address climate change and protect a resource that is essential to America's health—clean water.

Despite these shortcomings, the Administration welcomes the bill's investments in EPA's water infrastructure financing programs, including the State Revolving Funds for clean water and drinking water projects and the new Water Infrastructure Finance and Innovation Act loan program. In addition, the Administration appreciates the Committee's investments in Indian Country, sagebrush ecosystem conservation, and National Park Service operations, though the Congress is encouraged to fully fund the requested increases in these areas.

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. 5538, his senior advisors would recommend 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 the Interior (DOI)

Indian Affairs Priorities. The Administration appreciates the funding level for Indian Affairs programs as a whole. However, although the bill provides full funding for Contract Support Costs, and increases for the Tiwahe Initiative and important Indian Education programs, the bill does not include funding to address fundamental needs in Indian Country. The bill fails to provide for much needed basic access to broadband and digital services in Indian schools, adequately facilitate access to Federal programs through a Native One-Stop Support Center, or strengthen data quality in Indian Country. Further, it fails to help tribal communities manage natural resources, prepare for and respond to the impacts of climate change, and support resolution of tribal land and water claims.

Oil and Gas Inspection Fees. The Administration is disappointed that the bill does not include the FY 2017 Budget request to institute a new onshore oil and gas inspection fee program. The program, which is similar to the program already in place for offshore operations, would cover the cost of onshore inspection activities and reduce by \$48 million the net cost to taxpayers of operating Bureau of Land Management's oil and gas program. Failure to adopt the new fees and associated funding would restrict 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. The bill also fails to include a proposed change to the Bureau of Safety and Environment Enforcement's inspection fee structure, which is necessary to ensure Outer Continental Shelf (OCS) operations are conducted safely and responsibly.

Payments in Lieu of Taxes (PILT). The Administration is disappointed that the bill includes \$480 million in discretionary resources for PILT, which the FY 2017 Budget request funds through a separate mandatory appropriation. Inclusion of these discretionary funds in the bill comes at the expense of all other programs funded by the bill.

Restrictions on the Endangered Species Act (ESA). The Administration strongly opposes sections 114, 118, 119, and 445 of the bill, which would undermine the ESA and limit the ability of the Fish and Wildlife Service to properly protect important species and habitats based on the best available science, including the greater sage grouse, lesser prairie chicken, delta smelt, and certain gray wolf populations. Notably, the bill would circumvent established law, Federal process, and in some cases, judicial precedent. These language provisions would create uncertainty and undermine unprecedented efforts to collaboratively conserve landscapes in concert with local ways of life. Furthermore, the Administration strongly opposes sections 447 through 451 of the bill regarding management of water flows in California which would undercut the ESA, preempt California water law, fail to address critical elements of California's complex water challenges and impede an effective and timely response to the continuing drought while providing no additional water to hard hit communities. These provisions could slow decision-making, generate significant litigation, and limit real-time operational flexibility critical to maximizing water delivery. As the Administration 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.

Stream Protection Rule. The Administration strongly opposes section 120 of the bill, which would prohibit the DOI's Office of Surface Mining, Reclamation, and Enforcement (OSMRE) from finalizing or implementing the proposed Stream Protection Rule. This rule would update 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. The current stream protection requirements governing surface mining activities rely on outdated scientific knowledge and mining and reclamation techniques. The bill's attempt to block modern, science-based regulations would significantly impair the ability of OSMRE to accomplish the mission and responsibilities the Congress laid out in the Surface Mining Control and Reclamation Act of 1977, including preserving clean water and protecting human health and the environment. In addition, the bill would undermine environmental protections, prevent the restoration of hundreds of streams, result in the deterioration of water quality for thousands of stream miles, create sustained regulatory uncertainty, and negatively impact public health for downstream communities.

Oil, Gas, and Coal Operations. The Administration strongly opposes sections 122, 127, 440, and 441 of the bill which would undermine BLM's basic administrative authority to effectively oversee onshore fossil energy production on public lands. Section 122 of the bill would prohibit BLM from regulating flaring, venting and leaks of methane from Federal onshore oil and gas operations; this effectively prevents BLM from using Mineral Leasing Act authority to reduce waste and improve fair return to the tax payer. Section 440 of the bill infringes upon BLM's authority to adjust royalty rates where appropriate. In addition, section 441 of the bill short-circuits the Administration's recently-announced comprehensive review of the Federal coal leasing program, thus impeding the Administration's ability to ensure a fair return to taxpayers from Federal coal development. Section 127 of the bill prevents the Bureau of Ocean Energy Management from finalizing a rule on the air quality impacts from OCS oil and gas operations.

Bureau of Safety and Environmental Enforcement (BSEE) Offshore Well Control Rule. The Administration strongly opposes section 124 of the bill, which prohibits BSEE from developing, adopting, implementing, administering, or enforcing requirements pertaining to drilling safety margins, which represent a key provision of the BSEE's recently finalized Well Control Rule addressing drilling safety on the U.S. Outer Continental Shelf. This prohibition would fundamentally undermine BSEE's role in overseeing OCS oil and gas operations, including efforts to reduce the risk of a catastrophic loss of well control such as the one that led to the 2010 Deepwater Horizon oil spill. In addition, the rescission of BSEE's unobligated balances would prevent BSEE from meeting its safety and environmental protection responsibilities on behalf of the American public.

National Monument Restrictions. The Administration strongly opposes section 453 of the bill, which would prohibit the President from exercising his authority under the Antiquities Act to designate national monuments in certain counties within eight States. This would debilitate a successful program that has been used to protect areas critical to the Nation's natural and cultural heritage such as Bandelier National Monument and the Statue of Liberty.

BLM Planning 2.0. The Administration strongly opposes section 443 of the bill, which would

significantly delay BLM from promulgating, implementing, or enforcing its Planning 2.0 rulemaking to improve BLM's land use planning. This delay would prevent BLM from finalizing a rule that supports Administration goals of facilitating science-based, landscape-level planning with early public involvement.

Hunting, Fishing, and Recreational Shooting. The Administration strongly opposes limits on the closure of land management areas to hunting, which infringe upon the authority of BLM's field managers and fail to provide the public sufficient time or flexibility to develop effective long-term solutions at the local level to address long-term resource conflicts, resource protection needs, and public safety issues associated with recreational target shooting.

Water Rights. The Administration strongly opposes section 433 of the bill, which would restrict the use of funds to implement water rights administration and management by the Federal Government. This language is unnecessary for its intended purpose, and would preclude land management agencies from protecting the public interest. This 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.

National Historic Preservation Act. The Administration opposes section 123 of the bill, which would allow Federal agencies to object to a designation of Federal properties for inclusion on the National Register of Historic Places. Listing a property on the National Register of Historic Places, or designating it as a National Historic Landmark, does not limit any Federal agency's decision-making authority. Decisions on how to manage the property, informed by the evaluation of its significance and integrity, remain the responsibility of the agency with jurisdiction over that property. The Administration is not aware of any specific instance where such a designation has adversely affected national security. Enactment of this section could lead to a fundamental weakening of highly successful and widely admired programs that recognize and protect the Nation's shared heritage.

Federal Acknowledgement of American Indian Tribes Rule. The Administration opposes section 125 of the bill, which would block DOI from implementing, administering, or enforcing the final Federal acknowledgment rule. The final rule makes much needed changes to the previous rules criticized by Tribes and the Congress as in need of reform. These important changes were made in consultation with and at the request of Tribes, States, local governments, and the public. Blocking this rule leaves the Federal acknowledgement program without a governing structure, effectively halting the Administration's role in the process. To uphold the principle of tribal sovereignty, it is important that the Federal Government have a clear and objective process to determine which Tribes it recognizes. Administrative recognition provides an orderly process.

Land into Trust. The Administration appreciates efforts by the Committee to address the need to clarify and reaffirm the Secretary of the Interior's authority to acquire land in trust under the Indian Reorganization Act (IRA). In *Carciere v. Salazar*, 555 U.S. 397 (2009), the Supreme Court held that the Secretary could acquire land in trust under IRA only for Tribes that were "under Federal jurisdiction" in 1934. The Administration continues to support language requested in the FY 2017 Budget to extend this authority to all Tribes, whether recognized in 1934 or later. 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. Section 128 of the bill takes a far more limited approach, however, simply reaffirming that certain land taken into trust before the *Carciari* decision shall continue to be trust land.

DOI and Department of Agriculture (USDA), Forest Service

Wildland Fire Suppression. The Administration is deeply disappointed that the Committee did not take a stronger position toward the enactment of a cap adjustment for wildfire suppression in this bill, and instead, focused on the inclusion of a provision that is potentially disruptive of the environmental analysis required under the National Environmental Policy Act. The Administration's cap adjustment proposal is a fiscally responsible strategy to provide discretionary resources for suppression of 98 percent of wildland fires with 70 percent of the 10-year average cost in base appropriations. This includes a disaster funding cap adjustment to meet suppression needs for the remaining two percent of fires that become catastrophic in size and cost and consume 30 percent of suppression resources. Continued inaction on this proposal, which has bipartisan support, would increase the likelihood of disruptive fire transfers in future years and harm all other Forest Service Programs. Passage of the proposal is of paramount concern for the Administration in order to protect programs that pre-emptively reduce fire risk and future fire costs by restoring the health of forests and watersheds.

Land and Water Conservation Fund (LWCF). The Administration objects to the drastic reduction of \$129 million, or 27 percent, from the discretionary funding requested in the FY 2017 Budget for DOI and USDA LWCF programs. LWCF is a cornerstone of Federal conservation and recreation conservation efforts. This funding level would severely impede agency capacity to further protect the Nation's natural heritage. To date, LWCF has contributed to the protection of key public lands, such as Olympic National Park, Everglades National Park, and important assets in the Chesapeake Bay watershed, among others, as well as State and local recreation projects and important cultural heritage sites.

Environmental Protection Agency (EPA)

Operating Budget. The Administration strongly opposes the \$399 million reduction of EPA's operating budget, or 11 percent, compared to the FY 2017 Budget request. This unacceptable reduction in funding would significantly undermine key actions to address climate change and improve air quality. In particular, the bill would inhibit EPA's ability to implement commonsense standards and voluntary programs, provide timely guidance and technical assistance to State and tribal air agencies, improve flexibility and enhance partnership with the States, support communities in efforts to combat localized effects of air pollution, and continue making progress toward eliminating the State implementation plan backlog. Further, this funding level would significantly reduce EPA's ability to enforce and oversee critical environmental protections for air, water, and land, including decreased capacity to find and develop civil and criminal cases against companies and individuals responsible for contaminating the environment. The funding level would also severely hinder EPA's work to strengthen environmental planning efforts, educate the public about environmental risks, and address pollution in underserved communities. These reductions would also hamper some of EPA's critical geographic program efforts, including those in the Chesapeake Bay, Puget Sound, and Southern New England Estuaries. In addition, reductions to EPA's cybersecurity funding would severely impede EPA's ability to take necessary

action to protect, defend, and sustain vital information and records, including personal information.

State Categorical Grants. The Administration opposes the \$100 million reduction to the State and Tribal Categorical Grants account compared to the FY 2017 Budget request. Often, States and Tribes implement environmental programs through delegated authorities. However, the bill reduces these grants to States and Tribes, severely limiting their ability to carry out activities such as water quality permitting, air monitoring, and hazardous waste management programs. For example, the bill reduces funding for environmental information grants by \$16 million, or 62 percent, compared to the FY 2017 Budget request. This reduction would hamper system modernizations through the E-Enterprise approach and the efficiencies and long-term cost savings they would bring for many of the tools needed by industry and the States, as well as ease of use by the public. In addition, the bill reduces funding for brownfields projects by \$10 million compared to the FY 2017 Budget request. This reduced level of funding severely restricts opportunities for communities to revitalize their contaminated lands to improve environmental quality and spark economic redevelopment.

e-Manifest. The Administration objects to the reduction 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 e-Manifest, full funding in FY 2017 is essential to finishing the system in time for a planned launch in calendar year 2018.

Oil Spill Prevention and Preparedness. The bill fails to recognize the risks associated with the increased production of domestic oil resources by failing to provide the necessary increases for inspections, training, and compliance offered through the Inland Oil Spills Programs Account.

Hazardous Substance Superfund. The Administration objects to the reductions made to the Hazardous Substance Superfund Account. These programs ensure that polluters pay for the contamination they caused before that burden is unfairly levied upon the general tax payer, fund cleanup activities where no viable responsible party has been identified, and provide oversight and assistance to Federal agencies who are actively engaged in cleaning up sites they own or operate. Robust funding within the account is necessary to protect the public and address the release of hazardous substances.

Greenhouse Gas Limits for Power Plants. The Administration strongly objects to section 431 of the bill, which would block the Clean Power Plan as well as carbon pollution standards for power plants promulgated under section 111(b) of the Clean Air Act. Although the Clean Power Plan is currently stayed pending judicial review, this provision seeks to derail this critical component of the Administration's efforts to combat climate change regardless of the outcome of judicial review. The Administration is confident the Clean Power Plan will be upheld when the courts address its merits because the Plan rests on strong scientific and legal foundations.

Clean Water Act (CWA) Jurisdiction. The Administration believes that the CWA provisions in the bill undermine efforts to protect America's water resources, which are critical to the health of American families and businesses. The Administration strongly objects to section 427 in particular, which would disrupt the Administration's current efforts, and prevent future efforts, to clarify the scope of CWA. This would result in significant ambiguity and regulatory uncertainty for the public.

National Ambient Air Quality Standards Ozone Rule. The Administration strongly objects to section 438 of the bill, which would delay and undermine implementation of the 2015 ozone health standard. Ozone pollution, also known as smog, has been linked to a range of adverse health effects that can lead to missed work and school days, increased hospital admissions, and premature deaths from respiratory and cardiovascular causes. This provision would result in people living in areas with unhealthy ozone levels for additional years, delaying health benefits worth billions of dollars for millions of Americans, including the most vulnerable—children, older adults, and people with asthma. EPA's science-based air standards, which undergo rigorous public review and comment, have a proven record of success. The standards have resulted in cleaner air which has helped all Americans live longer, healthier lives in a growing economy.

Oil and Gas Methane Emissions Standards. The Administration strongly objects to section 439 of the bill, which would block commonsense standards for sources of emissions of methane, volatile organic compounds, and toxic pollutants in the oil and natural gas industry. Methane is 25 times more potent than carbon dioxide, and is the second most prevalent greenhouse gas emitted in the United States from human activities. Not only is reducing these emissions an essential component of the Administration's efforts to combat climate change, emission reductions would also have meaningful public health benefits for Americans. This provision would also prevent EPA from providing valuable and much needed technical guidance on emissions control techniques to State, tribal, and local air agencies in moderate or above nonattainment ground-level ozone areas and the ozone transport region. It would also prevent EPA from clarifying the scope of an emissions source to provide greater certainty for the regulated community, permitting authorities, and the public.

Social Cost of Carbon (SCC). The Administration regards the SCC as an essential component of the rulemaking process and opposes the Congress's interference with the Interagency Working Group's (IWG) development of the SCC. The Administration strongly objects to section 436 of the bill, which would force the IWG to revise the SCC using only a limited set of discount rates and "domestic" SCC values. This revision ignores the trans-boundary movement of carbon and climate impacts, fails to capture key costs of carbon emissions, and disrupts upcoming rules that would use the SCC to monetize carbon reduction benefits.

Limitations on Significant New Alternatives Policy under the Clean Air Act. The Administration strongly objects to section 434 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.

Classification of Forest Biomass Fuels as Carbon-Neutral. The Administration recognizes the role that biomass can play in reducing overall net carbon emissions in the United States, including in the implementation of the Clean Power Plan. The EPA and its Science Advisory Board are assessing the net biogenic carbon emissions associated with the use of different biomass feedstocks for energy. The Administration strongly objects to language under the heading "Administrative Provisions—Environmental Protection Agency" in the bill, which would compel EPA to disregard the scientific recommendations of its own Science Advisory Board and other technical studies.

Pesticide Worker Protection Information Access. The Administration strongly objects to section 437, which would prevent implementation or enforcement of a recently published pesticide worker protection regulation, a commonsense measure that allows a worker or handler's designated representative to access required safety and hazard information for pesticides to which that worker may have been exposed. This provision unacceptably reduces at-risk individuals' access to critical job safety information.

Aquifer Exemptions. The Administration strongly opposes language in the bill under the heading "Administrative Provisions—Environmental Protection Agency," which would preclude EPA from revising its regulatory criteria for aquifer exemptions involving underground injection. This provision is in conflict with existing EPA regulations and guidance, and would cause results inconsistent with the intent of the Safe Drinking Water Act by preventing EPA from being able to protect some underground sources of drinking water.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) 108(b) Financial Assurance. The Administration objects to section 430 of the bill, which prohibits the use of funds to develop, propose, finalize, and implement financial responsibility requirements under CERCLA 108(b). This provision severely limits EPA's ability to comply with the court order, abrogates EPA's responsibilities laid out in CERCLA 108(b), and passes the cost of future cleanup activities from the polluter to the taxpayer.

Lead Test Kits. The Administration objects to section 429 of the bill, which would potentially disrupt EPA's current activities under the 2008 Lead Renovation, Repair, and Painting rule until either EPA approves a commercially available "improved" lead paint test kit or solicits public comment on alternatives to current testing options. Children and developing fetuses are especially sensitive to lead exposure, and EPA's efforts to protect vulnerable populations during home renovation projects would be undermined.

Department of Health and Human Services

Indian Health Service (IHS). The Administration strongly supports increased investment in IHS and commends the Committee for funding health care services for American Indians and Alaska Natives. However, the Administration is concerned that the funding provided for IHS is \$106 million below the FY 2017 Budget request. These additional funds are needed to provide critical program increases to help close the gap in health disparities experienced by American Indians and Alaska Natives. The Administration also is concerned that section 446 would create new improper governance structures for IHS facilities.

Contract Support Costs. The Administration opposes changes made by the bill to the IHS Contract Support Costs account that removes a proviso allowing IHS to credit a contract support cost overpayment against contract support costs due in subsequent fiscal years. Without this language, IHS would need to collect contract support cost overpayments from Tribes at the end of each fiscal year. This process would be overly burdensome for both IHS and Tribes.

Other Independent Agencies

Smithsonian Institution. The Administration urges the Congress to fully fund the Smithsonian's request. In particular, the reductions to the Salaries and Expenses account could force the Smithsonian to reduce programmatic activities and museum access for the public in order to cover

growing fixed costs.

Other Issues

Digital Accountability and Transparency Act of 2014 (DATA Act). The Administration urges the Congress to fully fund the FY 2017 Budget request for DOI and EPA to implement the DATA Act. 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 urges the Congress to fully fund the FY 2017 Budget request for DOI and EPA 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.

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

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