

A TALE OF TWO BUDGETS: House and Senate Appropriations Committees Advance Very Different Visions for EPA

The House Appropriations Committee adopted an EPA budget bill for the 2019 fiscal year on June 6, 2018 and the Senate Appropriations Committee did the same on June 14. While both rejected the massive cuts requested by the Trump Administration, their plans for EPA differ sharply.

House Appropriations Committee Chair Rep. Rodney Frelinghuysen boasted that the EPA appropriation “right-sized” EPA regulatory programs. His committee’s bill – passed on a party-line vote – reduces support for regulatory programs by \$228 million, including 11% cuts to core regulatory programs that support scientific research and activities to control air and water pollution, enforcement and other basic functions – EPA’s lifeblood. The severe overall cuts are partially masked by an increase of \$127 million for Superfund and water infrastructure, so that the “total” cut is only \$100 million. The committee’s website notes that the bill supports “the President’s proposal to reshape the Agency’s workforce by providing resources requested to offer buyouts and voluntary separation agreements to employees,” which would continue to shrink the agency’s staff to 12,250, a level not seen since 1984.

In contrast, the Senate bill, which was passed unanimously, recognizes the importance of EPA’s work by funding it at the same level as FY2018. It rejects what Committee Vice Chair Patrick Leahy describes as “the anti-science know-nothingism reflected in the skewed priorities in the Trump Administration budget proposals.” Although the Senate appropriations bill does show bipartisan support for EPA and rejects the draconian cuts the administration has twice proposed, it would still be one of the smallest EPA budgets in over 30 years.

Ongoing Concerns

Majority members of the House Appropriations Committee clearly revealed their palpable hostility to EPA and its mission in particularly troubling and ominous language announcing the bill on the committee’s website. Doubling down on the committee chair’s cavalier boast of “rightsizing regulatory programs” by cutting them, the website announcement is infested with anti-regulatory buzzwords from the Pruitt playbook, endorsing EPA efforts to “rein in” its regulatory programs and to cut “outdated, unnecessary and potentially harmful regulations at the EPA.” This uses the budget to make major policy decisions, buying into the false stereotype that EPA is too big and its regulations are useless, harmful and out of control. That is dead wrong, as shown by a recent draft report from the Trump Administration estimating that EPA regulations in the last decade have produced many times more in benefits to public health from reduced pollution than the relative pittance they have cost polluters.

The Senate bill rejects both the cuts and the rhetoric, funding EPA at last year’s level. Subcommittee Chair Lisa Murkowski reports that she is “proud” that the bill will “direct federal resources where they are needed most by investing in programs aimed to protect people and our lands,” and “will empower Americans to create healthier, safer communities across the nation.” Senator Leahy noted that the bill rejects the administration’s “dangerous and irresponsible cuts” and its “anti-science know-nothingism,” while protecting what Senators Leahy and Tom Udall have called “bedrock” environmental protections.

ENVIRONMENTAL PROTECTION NETWORK

Nonetheless, EPN is deeply concerned that EPA faces a slow death by a thousand cuts as it receives level funding to carry out increasing responsibilities, such as implementing 2016 amendments to the Toxic Substances Control Act, and that continued funding and staffing at reduced levels are being normalized. The last three years of “level” funding, along with major staff reductions from 2017 through 2019, have gradually eroded EPA’s resources, especially for the “bedrock” programs. EPN is also increasingly concerned about the tendency – also reflected in the FY2018 Omnibus Act – to increase support for infrastructure funding and other local projects without also increasing support for preserving EPA as a viable organization critical to supporting the states and protecting public health and the environment.

EPN also notes with concern that the Senate bill includes a provision rescinding more than \$180 million in cuts from three accounts in EPA’s budget and applying those funds to the entire FY2019 levels for EPA. This “sleight of hand” seems expressly intended to make the funding levels for FY2018 match exactly with FY2019’s and is just another of the “thousand cuts” inflicted on the agency.¹

Finally, an obscure but troubling provision in the Senate report directs that rescissions should be applied “to reflect routine attrition that will occur” in fiscal year 2019. This effectively ratifies the administration’s approach of shrinking EPA by encouraging staff to leave and not backfilling when they do, which is entirely at odds with the bill’s overall message. It was commendable that the Senate report rejected funding for “workforce reshaping” – a euphemism for rewarding employees for leaving the agency – but its treatment of rescissions accedes to staffing cuts.

Both the House and Senate reports express support for several voluntary programs promoting reduced greenhouse gas emissions that were on EPA’s chopping block. But neither expresses concern about the administration’s proposed rollbacks of climate-related regulations, including the Clean Power Plan, methane controls and fuel efficiency standards.

Policy Riders

Both bills contain policy riders, with the Senate including only those enacted in previous appropriations acts. The House, however, includes a new rider – certain to run into strong resistance – that would repeal what is commonly referred to as the “Waters of the United States (WOTUS) Rule.” EPA is already taking comments on a proposal to repeal that rule through rulemaking; the apparent purpose of repealing the rule legislatively is to make the repeal immediately effective and short-circuit the rulemaking process by sparing EPA the chore of responding to the numerous comments in the rulemaking record opposing the proposed repeal and depriving the many parties who oppose repeal of their day in court to challenge it.

¹ While congressional rescissions have been routine for several years, as a rule previous amounts have been small, much smaller than this year’s \$180 million.