

Omnibus skips EPA riders

By Erica Martinson

12/16/11 11:43 AM EST

Despite an almost single-minded focus on the EPA by House Republicans this year, the omnibus spending [bill](#) doesn't include many environmental riders for the agency.

The House and Senate arrived at an agreement late Thursday night to avoid a government shutdown. It would cut a relatively modest \$219 million from the EPA's \$8.68 billion enacted fiscal year 2011 budget, bringing the agency in at \$8.46 billion.

House Republican leadership said Thursday that the EPA's "unparalleled" budget has led to regulatory overreach.

This year, House Republicans voted 191 times to "weaken environmental protections," including 27 votes blocking climate change action, 77 votes on the Clean Air Act, 28 on the Clean Water Act and 47 on public lands and coastal waters, according to a [report](#) released Thursday by Rep. Henry Waxman (D-Calif.). The EPA was the focus of 114 of these votes, the report says.

Yet almost none of the language to pull back EPA's mercury emissions rules, halt Clean Water Act expansion or dramatically overhaul the regulatory process made it into the omnibus spending bill.

The bill has some compromise language, but for the most part it did not hit on the more contentious EPA requirements.

A few riders would affect EPA programs:

One rider would keep the EPA from requiring states to permit storm water runoff from logging roads for the rest of the fiscal year, though the agency is not yet doing that. The language is aimed at a federal appeals court ruling; the Supreme Court is currently considering hearing the case.

And while delays of some EPA health assessments were taken out of the bill, conference report language would require EPA to consider some of an advisory board's concerns about its assessment for formaldehyde — a longtime issue for Sen. David Vitter (R-La.).

The bill continues provisions from previous years blocking the EPA from requiring permits for emissions from livestock production and from requiring greenhouse gas reporting on manure management systems.

Senate Democrats did agree to language that would "change the responsibility for issuing air permits for the Outer Continental Shelf from the EPA to the Department of the Interior. All of the Clean Air Act and the Department of Interior's requirements for permits would remain

intact,” said the office of Norm Dicks (D-Wash.), ranking member of the House Appropriations Committee.

And one rider that made it on could be a harbinger of things to come: EPA, the Forest Service and the Interior Department must, within 60 days, provide the House and Senate appropriations committees with information on how much they spend on court settlements.

Some GOP members have regularly accused the EPA of encouraging environmentalists to sue, only to settle the cases out of court.

Though there were several regulatory riders attached to the last-minute funding bill, few of them were for EPA initiatives, and the concessions were extremely limited compared with earlier GOP efforts.

Dicks said in a statement Thursday night: “I am pleased that we were able to resolve the major disagreements that Democrats expressed regarding legislative provisions inserted by House Republicans into several of these bills. These contentious policy riders had no place in our annual appropriations bills, and it was encouraging that we were able to remove nearly all of them from the final version of this bill.”

Dicks released a long list of riders that were rejected from Appropriations late Thursday night.

Members went after greenhouse gas emissions requirements, seeking to block the EPA from regulating greenhouse gases through the Clean Air Act, from developing greenhouse gas standards for [automobiles](#) after model year 2016 and from disapproving air permitting plans in Texas, where the agency has begun implementing greenhouse gas permitting for new [power plants](#).

Other riders aimed to block mercury rules for [cement kilns](#) and regulation of particulate matter under the [Clean Air Act](#).

And House Republicans also sought to bar EPA regulation of coal ash as a [hazardous waste](#), add a slew of Endangered Species Act limitations and keep EPA’s Office of Surface Mining from regulating mountaintop removal mining by updating the stream buffer rule.

Republicans also sought to attach riders to alter the Clean Water Act, preventing EPA from creating or enforcing rules for cooling water intake structures at factories and power plants and blocking a planned expansion of the storm water discharge program. The agency would also have been prohibited from implementing strict new water quality standards in Florida — although EPA already [agreed](#) not to do that.

Other water act riders would have blocked Great Lakes funding if the states adopted strict ballast water standards and cut out statutory requirements for chemical companies and agriculture operations to get water permits for pesticides applications.

Democrats also fought back amendments that would have barred the U.S. Army Corps of Engineers from updating Clean Water Act regulatory guidance — a contentious issue on the scope of the law’s regulatory authority, stemming from two confusing Supreme Court rulings.

And in an earlier outline of the House omnibus plan, appropriators claimed a surgical cut that would carve out \$4 million in funding for EPA’s oversight of Appalachian mining permits.

But even before the final negotiations package was out, Natural Resources Defense Council senior attorney Jon Devine said the claim seemed dubious.

In a close examination of the bill, he could “find no provision that attacks EPA’s implementation of the Clean Water Act with respect to mountaintop removal coal mining. There is nothing explicit on mountaintop removal, and even though the EPA funding is cut, I see no \$4 million item ... with respect to mountaintop removal.” To that end, “we would still fully expect EPA to enforce the Clean Water Act and to closely scrutinize proposed mining projects and waste dumps,” Devine said.

So is this the House conceding? Were the Republicans not serious about how necessary it is to stop environmental regulations from weighing on the economy? Is it proof that their regulatory agenda has no legs?

Or are they just up against a wall, where congressional approval ratings are so low that a shutdown would be an even bigger political disaster than failing to complete their stated agenda?

“We’re pleased that the riders were dropped,” NRDC Director of Government Affairs David Goldston said. He said the move is the result of a strong-handed approach from the president and Democratic leaders in both houses of Congress “against loading this up with riders.”

The environmental community has long argued that “unrelated, unpopular measures ... shouldn’t be slipped through in the last minute,” Goldston said.

While he expects that the EPA-related measures will be back next year, “at some point they’ll get the sense that this is not a winning way to do business,” Goldston said.

Rep. Greg Walden (R-Ore.) said he wasn’t upset by the loss of the EPA riders. “We control, on a good day, one-third of the process when we have our votes in the House lined up,” he told POLITICO. “I think we came out of this in really good shape. There are no earmarks. There are some good policy changes. I think we got as much as we can get.

“You live to fight another day in this business,” Walden added.

While many of the EPA riders were gone, Rep. Steve Scalise (R-La.) said there were many silver linings in the omnibus when it comes to overall funding that cut the EPA and the Energy Department, which saw \$180 million sliced out for loan guarantees. “We’re not getting everything we want,” he said in an interview. “But we’re reducing spending and we’re improving our ability to keep the pressure on to rein these agencies in.”

But Scalise said language in the EPA spending bill could allow the House GOP to make more targeted cuts in the future on greenhouse gases.

“I do think there was language that was put in that requires them to identify every area in the federal government where they're spending money to do studies on greenhouse gases and global warming, because right now they've not been able to give us a list of areas where they are doing that,” Scalise said.

The bill “requires the president to submit a report to the Committees on Appropriations no later than 120 days after submission of the fiscal year 2013 budget request describing Federal agency obligations and expenditures for climate change programs in fiscal year 2011,” the Interior-EPA managers statement says.

Scalise said: “This requires them to do that. That'll give us real information to know where we need to go to eliminate that funding in the future. We didn't get everything we wanted but we got more than what's ever been obtained before.”

Darren Samuelson contributed to this report.

To read and comment online:

<https://www.politicopro.com/go/?id=8053>