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OPINION | REVIEW & OUTLOOK

Brushing Back a Lawless EPA

Congress crimps its budget and forces two Obama vetoes.



President Obama in the White House on December 18. PHOTO: JIM LO SCALZO/EUROPEAN PRESSPHOTO AGENCY

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President Obama continued to use executive agencies to exceed his constitutional power in 2015, none more so than the Environmental Protection Agency. The courts have pushed back on occasion, and now Congress is beginning to use its powers to do the same.

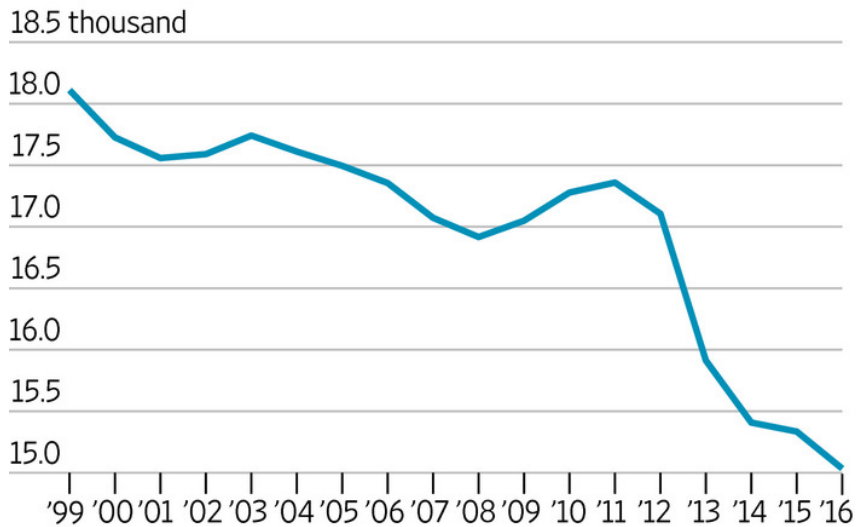
Though it didn't get much media attention, Congress used the Congressional Review Act to put two bills blocking EPA rules on Mr. Obama's desk the past two months. One would

have nullified the EPA's draconian new Clean Power Plan that will force lower emissions from existing power plants. A second measure is designed to block new coal-fired plants.

The Congressional Review Act allows a bill to pass without 60 votes in the Senate, and the GOP put together a bipartisan majority in both houses. Mr. Obama rejected both measures with rare pocket vetoes that let a President refuse to sign a bill when Congress is out of session, as it has been since Friday.

The Declining EPA Workforce

Full-time equivalent employees by federal fiscal year, 1999-2016



Sources: EPA, House Appropriations Committee

The bills were still useful in showing Mr. Obama's hand to voters in energy states and showing the courts that the legislative branch rejects Mr. Obama's regulatory interpretation of Congressional statutes. This could help in particular the 27-state legal challenge to the Clean Power Plan.

Meanwhile, Congress is also using its power of the purse to complicate the EPA's legal evasions. Conservatives are understandably frustrated that last week's budget bill

didn't include policy riders to halt new climate and water regulations—though GOP disunity didn't help. But Republicans did at least pinch the EPA's budget.

The EPA received \$8.1 billion or \$451 million less than Mr. Obama had demanded, and no increase from the year before. Congress has cut the EPA's allowance by \$2.1 billion, or 21%, since fiscal 2010. This has forced the EPA to cut more than 2,000 full-time employees over the same period, and its manpower is now at the lowest level since 1989 (see nearby chart).

Mr. Obama sought an additional \$72.1 million to turbocharge his extralegal climate rule on power plants. That request included \$8.3 million for the EPA's science and technology groups, which do the phony modeling to justify regulations. It also included

\$68.3 million for the agency's environmental programs and management department, which is where the minions draft and implement the President's climate initiatives. Congress denied every penny.

It also denied the nearly \$30 million extra that Mr. Obama wanted for the legal department that defends the agency in court. The President's budget request complained that "over the last five years, the number of lawsuits EPA counseling attorneys have handled during a year has more than doubled, increasing from approximately 240 in 2009 to well over 500 in 2013." Well, yes, that happens when you keep breaking the law. The GOP budget doesn't provide EPA the funds to hire additional attorneys.

The budget also zeroed out the nearly \$44 million increase Mr. Obama sought for his "water quality protection" initiatives. At least some of that money would have gone to ramping up the EPA's new Waters of the United States Rule that empowers the feds to regulate just about every creek and pond in the country.

Republicans were able to insert a few modest policy riders in the budget. Congress barred the EPA from attempting to regulate greenhouse gas emissions from livestock, and it added a requirement that the Administration inform Congress how much it is spending on climate initiatives across the federal bureaucracy.

More might have been possible if Democrats hadn't blocked individual spending bills in the Senate to force a giant omnibus that gave Mr. Obama more leverage by threatening to shut down the government. But the budget pressure on the EPA and the use of the Congressional Review Act show that GOP control of Congress has made a difference.

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