I've just finished plowing through H.R. 2055, the2012 Consolidated Appropriations Act, which was signed by President Obama last week. I was curious to see how many anti-environmental riders made it into the final bill. I haven't seen much news coverage of the details of the final bill, and the White House offered no comment when the President signed. So I headed over to Thomas (the Library of Congress's web page, which has among other things links to all Congressional bills) to read it.

As you know if you've ever tried to understand a spending bill, it's not easy to read these things. I surely missed a lot in the details. But on a broad overview basis, three themes emerged, none of them surprising:

1. Congress remains suspicious of, and in some cases openly hostile to, environmental regulation and citizen enforcement of environmental mandates.
2. Congress remains enthusiastic about rapid development of America's fossil fuel resources.
3. Posturing remains a popular political strategy; several anti-environmental provisions in the bill make good sound bites but won't affect policy.

Overall, the budget news is certainly bad for environmental protection, but it could have been worse. EPA is clearly still on the hot seat, but none of its major authorities have been derailed. The same is true for the natural resource management agencies.They can look forward to a string of unpleasant oversight hearings, but at least for the moment they can continue doing their legislatively-mandated jobs.

More detailed analysis of the three themes follows the jump.

1. Congress remains suspicious of, and in some cases openly hostile to, environmental regulation and citizen enforcement of environmental mandates.

The spending bill and accompanying Conference Committee report fairly ooze suspicion of environmental regulation.

Environmental agencies, including of course EPA but also the Department of Interior and U.S. Forest Service have been subjected not only to deeper cuts than other agencies, but to more intense continuing oversight. They are required by the bill to provide Congress with detailed quarterly reports on the status of appropriated funds. The Conference Report goes further for EPA, directing it to provide the House

and Senate Appropriations Committees with an operating plan for the year including a detailed breakdown of how it will allocate funds. Climate change remains a source of special suspicion.

At a government-wide level, the President is directed to report in detail on all federal spending for climate change programs, projects and activities in FY 2011. And in an indirect swipe at environmental regulation, the White House Office of Management and Budget, which oversees mandated cost-benefit analyses, among other things, and which already spends a disproportionate amount of its time and effort scrutinizing environmental regulation is told not to review certain congressionally favored programs which may not be cost effective, notably agricultural marketing orders and water resource projects.

Several riders limit implementation of particular environmental programs. The Department of Energy is forbidden to implement its energy conservation standards for incandescent light bulbs or the 2005 legislative mandate that spurred those regulations (more on that later). EPA is prohibited from regulating, or requiring states to regulate, pollution in stormwater runoff from logging roads (a topic the Supreme Court may soon take up); requiring Clean Air Act permits for emissions "from biological processes associated with livestock production;" or mandating reporting of greenhouse gas emissions from manure management systems. The Department of Interior is prohibited from implementing a Secretarial Order telling BLM to recognize and protect wilderness characteristics on its lands.

It's not just agency implementation of the law that comes in for attack. Congress is also hostile to citizen enforcement of environmental mandates. The bill requires that those wishing to challenge grazing permit decisions pursue an agency process before going to court. It extends a Forest Service "predecisional review" process originally limited to hazardous fuel reduction projects to all actions implementing land management plans. That pro and allows the Chief of the Forest Service to override even that process. The Conference Report directs EPA, Interior, and the Forest Service to provide detailed reports, within 60 days and then annually with their budget requests, on payments of attorney fees to prevailing citizen litigants under the Equal Access to Justice Act.

But there is actually some good news. Notably, there are no major Endangered Species Act riders. Indeed, although there is a rider restricting BLM's ability to restrict livestock grazing in order to protect the endangered bighorn sheep, that rider explicitly does not exempt BLM from the requirements of the ESA.

2. Congress remains enthusiastic about rapid development of America's fossil fuel resources.

By contrast to the hostility it shows to environmental regulation, the appropriations bill displays continuing enthusiasm for domestic fossil fuel development. Most notably, it amends the Clean Air Act to put the Department of Interior, rather than EPA, permanently in charge of air pollution permitting for activities on the Outer Continental Shelf off the North Slope of Alaska. The change, initiated by Alaska's congressional delegation, is presented as a matter of equity for Alaska, because Interior is already in charge off the Gulf Coast, and as necessary to speed up offshore drilling approvals. But it's curious that conservative Alaskan legislators, normally rabid about state's rights, would seek this particular amendment, which limits the reach of a Clean Air Act provision (16 USC 7627 if you're scoring at home) adopted specifically to ensure that onshore state pollution limits would also be applied to federally-approved offshore activities.

What really seems to be driving this amendment is the desire to free oil companies from Clean Air Act requirements. Interior's permitting program is more rapid because it is much less restrictive, allowing oil developers to ignore pollution from vessels and other aspects of offshore operations. It does seem to be true that operators in the Gulf are getting an advantage over Alaska operators from their exemption, but the better answer to that would seem to be to do away with that exemption, rather than to expand it.

The bill does direct the Government Accountability Office to study the processes for offshore air quality permitting, comparing Interior and EPA. Although it doesn't specifically tell GAO to look at the substantive outcomes of permitting decisions in the two agencies, hopefully that report will shine some light on the differences.

3. Posturing remains a popular political strategy; several anti-environmental provisions in the bill make good sound bites but won't affect policy.

Politics has always been more about image than reality. That's true of this spending bill, which is a vehicle for some favorite conservative punching bags that have little to do with policy on the ground.

The most visible is the prohibition on implementing existing energy conservation standards for incandescent light bulbs. As Dan has pointed out, saving the old-

fashioned 100 watt incandescent light bulb has become a favorite cause of conservative Republicans. But it’s a cause they can’t win at this point. The market is rapidly phasing out high-wattage incandescent light bulbs because other technologies now provide equivalent performance at much lower energy cost. As a result, light bulb manufacturers are planning to comply with the original legislation notwithstanding the budget rider.

Another example is the bill’s prohibition on funding for the position of Assistant to the President for Energy and Climate Change, or “climate czar.” That was the position held by Carol Browner at the start of the Obama Administration, but she left early in 2011 and the White House has not been interested in replacing her. That doesn’t mean the White House isn’t doing energy and climate work anymore, just that it’s giving that work a somewhat lower profile.