

# ISSUE BRIEF

No. 4426 | JUNE 26, 2015

## FY 2016 House Interior and Environment Appropriations Bill: Right on Regulations, Wrong on Spending

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The new Department of the Interior, Environment, and Related Agencies Appropriations Act (H.R. 2822) will be the seventh discretionary spending bill considered by the House of Representatives this year. The bill would provide \$30.17 billion in discretionary budget authority (BA) for fiscal year (FY) 2016, roughly \$246 million less than current levels. The bill largely provides funding for the Department of the Interior and the Environmental Protection Agency (EPA). The bill also includes funding for Indian Health Services (Department of Health and Human Services) and the Forest Service (Department of Agriculture). Finally, the bill provides funding for various independent agencies, such as the Smithsonian and the National Endowment for the Arts and Humanities.

A number of programs in the bill, however, should no longer receive federal funding. The National Endowment for the Arts and the National Endowment for the Humanities, for instance, should be funded privately or at the state level. Although the bill fails to cut spending adequately, it does have important policy riders, including reversal of a number of harmful EPA regulations.

### Interior and Environment Appropriations Recommendations

In March, The Heritage Foundation published “The Budget Book: 106 Ways to Reduce the Size and Scope of Government.”<sup>1</sup> It includes an analysis of the entire budget with recommendations for the programs included in this bill.

The following should be considered for elimination:

- **EPA grant programs and information exchange and outreach.** The bill provides funding to a number of grant programs, including \$1.9 billion for infrastructure assistance grants and \$1 billion for categorical grants for FY 2016. Overall, this bill provides \$2.98 billion in EPA grants.
- **Regional EPA programs.** The bill provides \$401 million for geographic and regional programs for FY 2016—\$27 million less than current funding.
- **Underused EPA space.** The bill provides \$35.5 million for EPA buildings and facilities for FY 2016—\$8 million less than current funding. Funding should be reduced by an additional \$14 million.
- **National Endowment of the Arts (NEA).** The bill provides \$146 million for the NEA for FY 2016, the same level as current funding.
- **National Endowment for the Humanities (NEH).** The bill provides \$146 million for the NEH, the same level as current funding.

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TABLE 1

## House Interior and Environment Appropriations

BY FISCAL YEAR, IN MILLIONS OF DOLLARS

	FY 2015 Enacted	FY 2016 Request	302(b) for FY 2016	FY 2016
Discretionary Budget Authority	30,416	32,208	30,170	30,170

**Note:** The congressional budget resolution passed by Congress is the mechanism for setting the overall spending caps, also known as 302(a), as required by the Budget Control Act. The Appropriations Committee is responsible for subdividing the 302(a) allocations among the 12 appropriations subcommittees through what is known as the 302(b) suballocations. The FY 2016 302(a) spending caps, consistent with the Budget Control Act, amount to \$1.017 trillion.

**Source:** News release, "Appropriations Committee Approves Fiscal Year 2016 Interior and Environment Bill," House Committee on Appropriations, June 16, 2015, <http://appropriations.house.gov/news/documentsingle.aspx?DocumentID=394275> (accessed June 25, 2015).

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Below are additional programs that have functions that should be considered for privatization or devolved back to the states:<sup>2</sup>

- **Bureau of Land Management (BLM).** The bill provides \$1.15 billion for the BLM for FY 2016, \$30.4 million more than current funding.
- **Forest Service.** The bill provides the Forest Service \$5.04 billion for FY 2016, \$12.6 million less than current funding.
- **National Park Service.** The bill provides the National Park Service \$2.7 billion for FY 2016, \$52.5 million more than current funding.

### Policy Riders

The bill would influence policy in a number of important ways. Many sections of the bill would prohibit implementation of problematic federal regulations.

- **Greenhouse gas and climate change regulations.** Sections 417, 418, and 428 of the bill would prohibit funding for climate change regulations. This summer, the Obama Administration will

finalize climate regulations for new and existing power plants under the Clean Air Act. While the regulations largely target coal-fired power plants, the costs of more expensive energy will be borne by all Americans. Higher energy bills for families, individuals, and businesses will destroy jobs and strain economic growth—and it will all be for naught. Regardless of one’s position on the climate effects of man-made greenhouse emissions, the regulations will have a negligible, if any, impact on global temperatures. Denying funding for greenhouse gas regulations will also stop unelected bureaucrats from regulating vehicles, heavy-duty trucks, airplanes, and methane from hydraulic-fracturing activities.

- **Waters of the United States rule.** Section 422 of the bill would prohibit the EPA from using funds to implement the final “waters of the United States” rule.<sup>3</sup> This controversial rule, published by both the Corps and the EPA, would greatly expand the types of waters that could be covered under the Clean Water Act (CWA)<sup>4</sup> from most ditches to so-called waters that are actually dry land most of the time.

1. The Heritage Foundation, “The Budget Book: 106 Ways to Reduce the Size and Scope of Government,” 2015, <http://budgetbook.heritage.org/>.

2. The Heritage Foundation, “Lands and Wildlife,” in *Environmental Policy Guide: 167 Recommendations for Environmental Policy Reform*, 2015, [http://thf\\_media.s3.amazonaws.com/2015/pdf/04\\_Environmental\\_Policy\\_Guide\\_Lands\\_and\\_Wildlife.pdf](http://thf_media.s3.amazonaws.com/2015/pdf/04_Environmental_Policy_Guide_Lands_and_Wildlife.pdf), and Katie Tubb and Nicolas Loris, “The Federal Lands Freedom Act: Empowering States to Control Their Own Energy Futures,” Heritage Foundation *Backgrounder* No. 2992, February 18, 2015, <http://www.heritage.org/research/reports/2015/02/the-federal-lands-freedom-act-empowering-states-to-control-their-own-energy-futures>.

3. Pre-publication version: Environmental Protection Agency and U.S. Army Corps of Engineers, “Clean Water Rule: Definition of ‘Waters of the United States,’” May 27, 2015, [http://www2.epa.gov/sites/production/files/2015-06/documents/preamble\\_rule\\_web\\_version.pdf](http://www2.epa.gov/sites/production/files/2015-06/documents/preamble_rule_web_version.pdf) (accessed June 23, 2015).

4. American Farm Bureau Federation, “Farm Bureau Releases Detailed Analysis of Waters of the U.S. Rule,” June 11, 2015, [http://www.fb.org/index.php?action=newsroom.news\\_article&id=311](http://www.fb.org/index.php?action=newsroom.news_article&id=311) (accessed June 23, 2015).

TABLE 2

## House Interior and Environment Appropriations

DISCRETIONARY BUDGET AUTHORITY IN MILLIONS OF DOLLARS	FY 2015 Enacted	FY 2016	Change in Dollars	Percentage Change
<b>Title I: Department of the Interior</b>				
Bureau of Land Management	1,086	1,116	30	2.8%
U.S. Fish and Wildlife Service	1,440	1,432	-8	-0.6%
National Park Service	2,615	2,667	52	2.0%
U.S. Geological Survey	1,045	1,045	0	0.0%
Bureau of Ocean Energy Management	73	71	-2	-2.7%
Bureau of Safety and Environmental Enforcement	81	87	6	7.4%
Office of Surface Mining and Reclamation Enforcement	150	181	31	20.7%
Bureau of Indian Affairs/Education	2,602	2,767	165	6.3%
Departmental Offices	595	1,033	438	73.6%
Wildlife and Fire Management	972	971	-1	-0.1%
<b>Total, Title I Department of Interior</b>	<b>10,659</b>	<b>11,370</b>	<b>711</b>	<b>6.7%</b>
<b>Title II: Environmental Protection Agency</b>				
Science and Technology	735	705	-30	-4.1%
Environmental Programs and Management	2,614	2,473	-141	-5.4%
Inspector General and Buildings/Facilities	84	75	-9	-10.7%
Hazardous Substance Superfund	1,089	1,089	0	0.0%
Leaking Underground Storage Tank Trust Fund	92	92	0	0.0%
Inland Oil Spill Program	18	18	0	0.0%
State and Tribal Assistance Grants	3,545	2,980	-565	-15.9%
<b>Total, Title II Environmental Protection Agency</b>	<b>8,180</b>	<b>7,430</b>	<b>-750</b>	<b>-9.2%</b>
<b>Title III: Related Agencies</b>				
Department of Agriculture–Forest Service				
Forest Research	296	278	-18	-6.1%
State and Private Forestry	233	221	-12	-5.2%
National Forest System	1,494	1,490	-4	-0.3%
Capital Improvement and Maintenance	343	341	-2	-0.6%
Land Acquisition	48	20	-28	-58.3%
Wildlife Fire Management	2,636	2,688	52	2.0%
<b>Department of Health and Human Services</b>				
Indian Health Service	4,643	4,788	145	3.1%
National Institutes of Health (Environmental Health)	75	75	0	0.0%
Smithsonian Institute	820	820	0	0.0%
National Gallery of Art	139	139	0	0.0%
JFK Center for Performing Arts	33	33	0	0.0%
National Endowment for the Arts	146	146	0	0.0%
National Endowment for the Humanities	292	292	0	0.0%
U.S. Holocaust Memorial Museum	52	52	0	0.0%
<b>Total, Title III Related Agencies</b>	<b>11,247</b>	<b>11,379</b>	<b>132</b>	<b>1.2%</b>
<b>Total Discretionary Spending</b>	<b>30,417</b>	<b>30,170</b>	<b>-247</b>	<b>-0.8%</b>
<b>Total Mandatory Spending</b>	<b>310</b>	<b>62</b>	<b>-248</b>	<b>-80.0%</b>

**Notes:** Not all programs included in this bill are listed. Some figures may not sum to totals due to rounding. The congressional budget resolution passed by Congress is the mechanism for setting the overall spending caps, also known as 302(a), as required by the Budget Control Act. The Appropriations Committee is responsible for subdividing the 302(a) allocations among the 12 appropriations subcommittees through what is known as the 302(b) suballocations. The FY 2016 302(a) spending caps, consistent with the Budget Control Act, amount to \$1.017 trillion.

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- **Stream Buffer Zone rule.** Section 423 of the bill would prohibit funding for changes to the Stream Buffer Zone rule, which regulates mining activity near streams. While the Office of Surface Mining Reclamation and Enforcement (OSMRE) is proposing reforms to the Stream Buffer Zone rule that aims to protect surface water from mining operations, there are many problems with OSMRE's draft proposals. The changes vaguely define permit requirements, monitoring, and stream classifications. They remove flexibility in how companies reclaim mine sites, for instance, by requiring reforestation even though wildlife organizations are working with the coal industry to provide grassland habitats for a wide range of species.<sup>5</sup> Furthermore, they ignore regional differences and the efficient state regulatory work that manages those differences. State and local agencies' specific knowledge often enables them to tailor regulations to promote economic activity while protecting the habitat and environment.
- **Clean Water Act and "fill material" regulation.** Section 429 of the bill would prohibit the EPA from redefining "fill material" or "discharge of fill material" under the CWA regulations. There is concern that the Corps and the EPA could redefine the terms in a manner that would require mining companies to secure Section 402 permits, as opposed to Section 404 permits, for various mining activities.<sup>6</sup> While there are certainly obstacles to securing Section 404 permits, Section 402 permits are even more stringent and industry groups have argued that requiring these permits would effectively prohibit numerous mining activities.<sup>7</sup> Existing regulations provide more than enough environmental protection without imposing unnecessary restrictions that could harm the mining industry and the communities that benefit from mining operations.
- **Social cost of carbon regulation.** Section 437 of the bill would deny the use of social cost of carbon. The EPA uses three models known as integrated-assessment models, to estimate the value of the social cost of carbon, defined as the economic damage that one ton of carbon dioxide (CO<sub>2</sub>) emitted today will cause over the next 300 years. The programs that model scientific and economic relationships are not well understood and are extremely subjective to a number of assumptions. In fact, one model is so sensitive to assumptions that at times it even suggests net economic *benefits* to CO<sub>2</sub> emissions.<sup>8</sup> By placing an arbitrary yet significant high price on a ton of CO<sub>2</sub> emitted into the atmosphere, the agency conducting the environmental review can artificially inflate the costs of new energy projects by claiming the project will emit "x" tons of CO<sub>2</sub> over its lifetime, or arbitrarily inflate the benefits by claiming that a new environmental regulation will abate "y" tons of CO<sub>2</sub>. The federal government should not be using the social cost of carbon for any cost-benefit analysis.
- **Hydraulic fracturing regulations.** Section 439 of the bill would prohibit funds to be used for implementing and enforcing the BLM's regulation of hydraulic fracturing on federal and Indian lands. Since companies obtain state permits for all wells, including federal wells, and must comply with all state regulations, federal fracking regulations are redundant. Congress should also deny funds for any studies, guidance documents, or other policies intended to restrict hydraulic fracturing.

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5. U.S. House of Representatives, Natural Resources Committee, Subcommittee on Oversight and Investigations, Oversight Hearing on "State Perspectives on the Status of Cooperating Agencies for the Office of Surface Mining's Stream Protection Rule," May 20, 2015, <http://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=398500> (accessed June 23, 2015).

6. Laura Barron-Lopez, "COP Omnibus Rider Keeps Administration from Tightening Mining Rule," *The Hill*, January 16, 2014, <http://thehill.com/policy/energy-environment/195621-gop-rider-in-omnibus-bill-would-tighten-rules-on-waste> (accessed April 28, 2015). See also Kate Sheppard, "Appropriations Bill Would Block New Mountain Removal Fill Rules," *The Huffington Post*, January 14, 2014, [http://www.huffingtonpost.com/2014/01/14/omnibus-coal-mining\\_n\\_4598628.html](http://www.huffingtonpost.com/2014/01/14/omnibus-coal-mining_n_4598628.html) (accessed April 28, 2015).

7. Claudia Copeland, "Controversies over Redefining 'Fill Material' Under the Clean Water Act," Congressional Research Service *Report for Congress*, August 21, 2013, <http://www.fas.org/sgp/crs/misc/RL31411.pdf> (accessed April 28, 2015).

8. Kevin D. Dayaratna and David W. Kreutzer, "Unfounded FUND: Yet Another EPA Model Not Ready for the Big Game," Heritage Foundation *Backgrounder* No. 2897, April 29, 2014, <http://www.heritage.org/research/reports/2014/04/unfounded-fund-yet-another-epa-model-not-ready-for-the-big-game>.

TABLE 3

## Unauthorized Appropriations: House Interior and Environment

A total of 55 programs or accounts were unauthorized.

Including, but not limited to:	Year last authorized
Bureau of Land Management (all discretionary programs)	2002
Environmental Protection Agency (Clean Air Act)	1997
National Endowment for the Arts	1993
National Endowment for the Humanities	1993

**Source:** News release, "Appropriations Committee Approves Fiscal Year 2016 Interior and Environment Bill," House Committee on Appropriations, June 16, 2015, <http://appropriations.house.gov/news/documentsingle.aspx?DocumentID=394275> (accessed June 25, 2015).

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- **Ozone standard.** Section 438 of the bill would prohibit the EPA from making the current ozone standard of 75 parts per billion (ppb) any more stringent "until at least 85 percent of the counties that were nonattainment areas under that standard as of July 2, 2014, achieve full compliance with that standard."<sup>9</sup> The EPA has proposed making the standard as low as 70 ppb or 65 ppb, and is even considering 60 ppb.<sup>10</sup> This drastic action is premature. States are just now starting to meet the current 75 ppb standard. According to the Congressional Research Service, 123 million people live in areas that have not attained the current standards. In fact, 105 million people live in areas that are still considered nonattainment for the less-stringent 1997 ozone standard.<sup>11</sup> When nearly 40 percent of the nation's population lives in areas that have not met the current standard, it is premature to adopt an even more stringent standard.

## Funding Expired Government Programs

When appropriations bills provide new budget authority for programs whose statutory authorization (the legal authority for the program to continue) has expired, that is known as an unauthorized appropriation. Long-standing rules of the House and Senate prohibit the funding of unauthorized appropriations. The rules were intended to place the jurisdiction of a program's policy objective with the authorizing committees—not the appropriators. However, Congress has made a practice of ignoring these rules, and continually authorizes funding for programs whose authorizations have long since expired—a technical violation of law, and a wasted opportunity to review these programs for reform or elimination.

## Conclusion

The House Interior and Environment appropriations bill includes important language preventing economically harmful regulations from taking effect. However, this bill does not do nearly enough to reduce government spending. The bill continues to provide funding for programs such as the National Endowment of the Arts and Humanities. Funding for the arts should not be done at the federal level, and conservatives have championed efforts to defund or allow these programs to receive private funding. Ultimately, this bill allows too many big government programs to continue.

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9. Department of the Interior, Environment, and Related Agencies Appropriations Act, 2016, H.R. 2822, 114th Cong., 1st Sess., § 433, <https://www.govtrack.us/congress/bills/114/hr2822> (accessed June 24, 2015).

10. "Environmental Protection Agency: National Ambient Air Quality Standards for Ozone," *Federal Register*, December 17, 2004, <https://www.federalregister.gov/articles/2014/12/17/2014-28674/national-ambient-air-quality-standards-for-ozone> (accessed June 23, 2015).

11. James E. McCarthy, "Ozone Air Quality Standards: EPA's 2015 Revision," Congressional Research Service *Report for Congress*, October 3, 2014, <http://fas.org/sgp/crs/misc/R43092.pdf> (accessed March 17, 2015).