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Legislative Proposals to Address National Park Service Deferred Maintenance

Congress has debated ways to address the National Park Service's (NPS's) substantial backlog of *deferred maintenance*—maintenance that was not performed as scheduled or as needed. NPS's maintenance backlog has grown in the past two decades and is estimated for FY2018 (the most recent year available) at $11.9 billion. Its impacts on park resources and on visitor enjoyment and safety have been ongoing issues of concern for some Members of Congress, as they seek to preserve the parks as "crown jewels" of the nation's public lands system and to ensure their continued contribution to the outdoor recreation economy. Legislative interest has focused primarily on federal funding sources to address the backlog, although some stakeholders have suggested the backlog could be meaningfully reduced without major federal funding increases—for example, by reprioritizing current uses of NPS discretionary appropriations, improving the agency's capital investment strategies, or increasing the role of nonfederal partners in park funding and management.

Legislative Proposals for an NPS Fund

Multiple bills in the 116th Congress would establish a special fund to address NPS deferred maintenance (and, in some cases, deferred maintenance of other land management agencies as well). One bill—H.R. 1957—has passed the Senate and is scheduled for floor consideration in the House. Other 116th Congress bills (e.g., S. 500, S. 2783, S. 3422, H.R. 1225, H.R. 4294) also would provide funding for NPS deferred maintenance.

Most of the proposals would draw on revenues from energy development on offshore and/or onshore federal lands as the primary source of funding to address the backlog. Depending on the funding source specified in a given bill, these revenues could be derived from both conventional and renewable natural resources, including oil, gas, coal, wind, solar, and others. Federal energy revenues are collected under various laws, at several stages of the development process. For example, companies may pay bonus bids to secure leases for energy development, rents on energy leases prior to production, and royalties during production.

Federal energy revenues currently are disbursed to multiple recipients under various laws. Some of the revenues are shared with states and tribes; other portions go to federal funds, including the Land and Water Conservation Fund (LWCF; 54 U.S.C. §§200301 et seq.), the Reclamation Fund (43 U.S.C. §§391 et seq.), and the Historic Preservation Fund (54 U.S.C. §§300101 et seq.). After these and other distributions, the remainder of federal energy revenues are deposited in the General Fund of the Treasury as miscellaneous receipts. In general, the deferred maintenance funding proposals would draw from the energy revenues that are credited to the Treasury as miscellaneous receipts after other distributions are made.

For example, H.R. 1957 would deposit annually into a federal lands deferred maintenance fund 50% of federal energy revenues credited as miscellaneous receipts in the Treasury, up to a cap of $1.9 billion, over five years. The bill would provide 70% of the funding to NPS; 15% to the U.S. Forest Service; and 5% each to the U.S. Fish and Wildlife Service, the Bureau of Land Management, and the Bureau of Indian Education for its schools.

Budget and Appropriations Issues

H.R. 1957 and other 116th Congress bills would make the deferred maintenance funding available to the NPS and/or other agencies without the need for further appropriations (i.e., as direct, or mandatory, spending). Budget enforcement requirements could potentially present procedural hurdles for these proposals. For example, in scoring H.R. 1957, the Congressional Budget Office (CBO) estimated that the provisions related to the deferred maintenance fund would increase direct spending by more than $9.5 billion over 10 years. Including other provisions in the bill (which relate to the LWCF), CBO estimated that the total direct spending increase would be approximately $17.3 billion. Therefore, given existing budget rules, the bill could be subject to certain budget points of order if not offset (for example, by cuts in direct spending or increases in revenue). A budget point of order was raised during Senate consideration of the bill but was waived by the required three-fifths vote.

In contrast, S. 1460 in the 115th Congress would have created an NPS fund in which amounts would be available to NPS only to the extent appropriated in annual discretionary appropriations laws. Although this approach would have avoided budget enforcement requirements associated with mandatory spending, any monies appropriated from the NPS fund in annual appropriations laws would have counted against limits to discretionary spending, such as the statutory limits established under the Budget Control Act (P.L. 112-25).

A number of stakeholders have contended that NPS maintenance projects, which often require multiyear investments, are hampered by the agency's heavy reliance on discretionary appropriations, which are uncertain from year to year. These stakeholders seek greater funding certainty through mandatory appropriations for NPS deferred maintenance. Others contend that discretionary funding provides an important level of congressional oversight over each year's funding that would not be present if funds were provided outside that annual process.

Tradeoffs in Uses of Energy Revenues

Most of the bills described above share the basic concept of addressing deferred maintenance through federal energy development revenues. Supporters of such proposals have expressed the broad principle that federal land conservation and maintenance are appropriate uses of monies derived from federal land development. In this respect, supporters have likened the proposed funding to other congressionally mandated uses of federal energy revenues related to conservation purposes, such as the LWCF and the Historic Preservation Fund. In particular, they contend that NPS maintenance is a worthy use for these revenues given the park system's highly valued natural and cultural resources and its contributions to the outdoor recreation economy. Supporters have further emphasized that these types of proposals would not reduce energy revenues shared with the states or with other federal programs under current law.

Opponents of proposals to use federal energy revenues for agencies' deferred maintenance have cited varying reasons. Some support using these revenues for other federal programs and purposes. Others have questioned the concept on the basis of environmental concerns, particularly related to the potential contributions of fossil fuel development to climate change. They have contended that this approach may incentivize activities whose climate impacts would have negative consequences for parks over time.

Still others have contended that energy revenues currently going to the Treasury, a majority of which come from offshore oil and gas leasing, should be shared in higher proportions with coastal states, given costs incurred by these states to support extraction industries and to address environmental issues such as wetland loss. They point out that these states receive a lower share of offshore revenues than do states hosting onshore federal energy production. Some Members of Congress have countered with the view that revenues generated in federal waters belong equally to all Americans and that their distribution should reflect national needs regardless of geographic location.

Another question has been whether federal energy revenues remaining as miscellaneous receipts in the Treasury each year (after other distributions are made) would be sufficient to have a meaningful impact on NPS's backlog and those of other agencies. Data from the Department of the Interior show that federal revenues from natural resource extraction that were credited as miscellaneous receipts in the Treasury during the FY2010-FY2019 period ranged annually from $2.2 billion to $8.2 billion, with almost all of these amounts coming from energy-related activities. Whether future years' revenues would be similar to, less than, or greater than those of past years is uncertain and would depend on multiple factors, including oil and gas prices, production levels, and federal energy leasing policies, among others. For example, future revenues could be affected by changes in oil prices and energy use patterns attributed to the evolving COVID-19 (coronavirus) outbreak.

Is a Deferred Maintenance Fund Needed?

NPS currently uses a number of funding sources, including discretionary appropriations, park entrance fees, allocations from the Department of Transportation, and donations, to address deferred maintenance. NPS does not aggregate the total amount it receives and uses each year for deferred maintenance, but agency officials, as well as some Members and other stakeholders, have stated repeatedly that available funding has been inadequate to meet maintenance needs. In recent years, Congress has increased NPS's discretionary appropriations to address deferred maintenance. NPS has stated that these funding increases, while helping the agency with some of its most urgent needs, have been insufficient to address the total problem.

Although many observers agree that further action is needed, not all support addressing deferred maintenance through overall NPS funding increases. Some recommend reorienting existing funding to prioritize maintenance over other purposes. For example, some Members have suggested that Congress amend the LWCF Act to expressly authorize or require use of LWCF funds for deferred maintenance. For more information, see CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Issues*.

Some observers also have suggested that NPS deferred maintenance could be at least partly reduced through improved asset management strategies. NPS has taken steps over the past two decades to improve its asset management systems and strategies. The Government Accountability Office, in its report GAO-17-136, recommended further improvements. In the 115th Congress, H.R. 1577 would have required an evaluation of NPS's Capital Investment Strategy, including a determination of whether the strategy is achieving its intended outcomes and any recommendations for changes.

Other recommendations that might not require additional federal funding include those to incentivize private donations to NPS, address obstacles to NPS asset disposal, or increase the role of nonfederal partners in park maintenance and management, among others. Some Members of Congress have expressed a preference for actions along these lines, whereas other Members have questioned whether changes that do not include a significant funding increase would be sufficient to address a backlog that stands at multiple billions of dollars.

Further Reading

For additional information, see CRS Report R44924, *National Park Service Deferred Maintenance: Frequently Asked Questions*, and CRS Report R43997, *Deferred Maintenance of Federal Land Management Agencies: FY2009-FY2018 Estimates and Issues*.

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