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# The Great American Outdoors Act (P.L. 116-152)

The Great American Outdoors Act (GAOA; P.L. 116-152) established a new fund with mandatory spending authority to address deferred maintenance needs of five federal agencies. The law also made available the deposits to an existing fund—the Land and Water Conservation Fund (LWCF)—as mandatory spending and made other changes to the LWCF Act (54 U.S.C. §§200301 et seq.). This CRS In Focus addresses selected provisions of the law.

## National Parks and Public Land Legacy Restoration Fund

The Bureau of Land Management (BLM), Forest Service (FS), Fish and Wildlife Service (FWS), and National Park Service (NPS) maintain thousands of diverse assets, such as roads and buildings. Each agency has a backlog of *deferred maintenance* (DM), defined as maintenance not performed as needed and put off for a future time. For FY2020, the backlog for NPS was reported at $14.4 billion, FS at $5.9 billion, BLM at $4.1 billion, and FWS at $1.5 billion. Additionally, the Department of the Interior (DOI) reported DM of $1.7 billion for Indian Affairs, including the Bureau of Indian Education (BIE). For all the agencies except BIE, a major portion of DM is in transportation assets.

In the past, most funding for agency DM has come from discretionary appropriations. The agencies also have had mandatory spending authorities, including transportation maintenance funding under the Fixing America's Surface Transportation Act (P.L. 114-94), entrance and recreation fees under the Federal Lands Recreation Enhancement Act (16 U.S.C. §§6801-6814), and others.

The GAOA established the National Parks and Public Land Legacy Restoration Fund (LRF) with mandatory appropriations to address DM for the five agencies (NPS, FS, FWS, BLM, and BIE). The fund is to receive annual deposits for FY2021-FY2025 of 50% of all federal energy revenues (from oil, gas, coal, or renewable energy) credited in the preceding fiscal year as miscellaneous receipts to the Treasury, up to a cap of $1.9 billion annually. The law stated that it would not affect the disposition of energy revenues due to states, trust funds, or special funds (such as the LWCF or the Historic Preservation Fund, 54 U.S.C. §303102). The law also stated that it would not affect revenues that have been otherwise appropriated under federal law—for example, under the Gulf of Mexico Energy Security Act (GOMESA; 43 U.S.C. §1331 note) or the Mineral Leasing Act (30 U.S.C. §191).

Of the amounts deposited in the fund each year, NPS is to receive a 70% share, FS 15%, FWS 5%, BLM 5%, and BIE 5% for its schools. The agencies must use the funding for "priority deferred maintenance projects." At least 65% of each agency's funds are for "non-transportation projects."

For FY2021, the GAOA directed the Secretaries of the Interior and Agriculture, within 90 days of the law's enactment, to submit lists of priority projects ready to implement with FY2021 funding. For funding in subsequent years, the law directed the President to submit lists of priority DM projects to Congress with annual budget justifications. The law specified that appropriations acts may provide an "alternate allocation" under the percentages defined for each agency. If Congress does not enact an alternate allocation by the date of enactment of full-year appropriations for Interior, Environment, and Related Agencies (or if Congress allocates less than the full amount), the President is to allocate amounts. It is unclear if the President must allocate the funds in accordance with the priorities specified in the budget submission.

### *Funding Allocations*

For FY2021, the maximum amount of $1.9 billion was available for allocation. On November 2, 2020, the Secretaries of the Interior and Agriculture submitted FY2021 DM project lists as required within 90 days of enactment. The FY2021 appropriations law for Interior, Environment, and Related Agencies (P.L. 116-260, Division G, §434) and the accompanying explanatory statement allocated the funding among the five agencies (according to the percentages specified in the GAOA) and identified specific DM projects that would receive funding; the projects matched those the Secretaries had submitted in November. The explanatory statement also included non-project-specific allocations for each agency for activities such as program support, project delivery, and mission support.

The amount of funding available for FY2022 will depend on federal energy revenues collected in FY2021. FY2022 appropriations documents—including President Biden's FY2022 budget request, House-passed legislation (H.R. 4502, Division E, §431), and the report accompanying H.R. 4372 as reported by the House Committee on Appropriations (H.Rept. 117-83)—proposed allocations for the maximum amount ($1.9 billion, minus sequestered amounts), according to the specified percentages for each agency. In FY2022, LRF appropriations are subject to a mandatory spending sequester of 5.7% under the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. §901a). The project allocations in the House committee report match those submitted in the President's budget, and the report also specifies non-project-specific funds for Interior agencies as requested.

## Land and Water Conservation Fund

Under the LWCF Act, $900 million is deposited annually into the LWCF. Nearly all of the revenue is derived from oil and gas leasing offshore. Prior to P.L. 116-152, the money was available only if appropriated in subsequent law and thus was considered discretionary spending. The annual appropriations generally were less than $900 million, resulting in an unappropriated balance of $22.1 billion through FY2019.

The LWCF Act set out authorized purposes of the fund relating to federal land acquisition and outdoor recreation grants to states. Appropriations also have been provided for other programs. The LWCF Act required the President's annual budget to identify requirements from the fund and set out "federal purposes" for which the President is to allot appropriations "unless otherwise allotted in the appropriation Act making them available." It further provided that not less than 40% of total monies are to be used for each of (1) "federal purposes" and (2) "financial assistance to states." Congress typically has reviewed presidential budget requests for LWCF appropriations for agencies, accounts, and programs, and it has determined the total appropriation and the portion for each component.

The LWCF receives additional money (beyond the $900 million in the LWCF Act) under GOMESA. These appropriations are mandatory spending and can be used only for outdoor recreation grants to states. States can receive a maximum of $125 million annually under GOMESA, except the maximum is $162.5 million in FY2021 and FY2022. P.L. 116-152 made the $900 million annual deposits under the LWCF Act mandatory spending. Thus, a maximum exceeding $1.0 billion in mandatory spending for LWCF programs is available each year.

Under the GAOA, mandatory appropriations under the LWCF Act are available "to carry out the purposes of the Fund," including accounts and programs funded from the LWCF under P.L. 116-94. Division D of that law provided FY2020 appropriations for Interior, Environment, and Related Agencies. It contained LWCF funding for purposes including federal land acquisition, outdoor recreation grants to states, the Forest Legacy program (administered by FS), the Cooperative Endangered Species Conservation Fund (administered by FWS), the American Battlefield Protection Program (administered by NPS), and the DOI Appraisal and Valuation Services Office.

To allocate the funds, the GAOA generally required the President to submit annually to Congress "detailed account, program, and project allocations" for the full amount available; for FY2021, the deadline was 90 days after enactment. GAOA provided for alternate allocations by Congress under a procedure similar to that described above for the LRF.

In addition to making the LWCF mandatory spending, P.L. 116-152 repealed a provision of the LWCF Act that limited FS land acquisitions west of the 100th meridian. Following a 2019 report by the Government Accountability Office (GAO-20-175R) that FS acquisitions were not in compliance with the 100th meridian provision, the FS began adhering to the provision. The repeal of the provision was intended to allow greater flexibility in acquiring lands for the National Forest System. Advocates of retaining the provision sought to limit acquisitions in the West, where most federal lands are located.

### *Funding Allocations*

For FY2021, in November 2020, the Trump Administration proposed an allocation of $900 million in LWCF mandatory spending among agencies, accounts, programs, and projects. The FY2021 appropriations law for Interior, Environment, and Related Agencies (P.L. 116-260, Division G, §434) and the accompanying explanatory statement set out an alternate allocation. For instance, unlike the Trump Administration's proposal, Congress allocated funding to BLM for individual acquisitions and to each of BLM, FWS, NPS, and FS for "acquisition contingencies" to provide flexibility to acquire lands as opportunities arise. Congress also allocated less funding to the NPS outdoor recreation grants to states program than the Administration had proposed.

For FY2022, President Biden's budget proposed an allocation of $900 million in LWCF mandatory spending among agencies, accounts, programs, and projects. House-passed legislation (H.R. 4502, Division E, §431) and the report accompanying H.R. 4372 as reported by the House Committee on Appropriations (H.Rept. 117-83) contained different allocations for some agencies, accounts, programs, and project lists. For instance, Congress would provide less funding to the NPS for outdoor recreation grants to states and more funding for the Cooperative Endangered Species Conservation Fund, administered by FWS. Similar to the LRF, LWCF appropriations for FY2022 are subject to a mandatory spending sequester of 5.7%.

## Budgetary Implications of the Great American Outdoors Act

P.L. 116-152 provides mandatory spending for activities that, in the past, have been funded with discretionary spending (i.e., through the annual appropriations process). As a result, such funding is no longer considered within annual discretionary spending limits, such as the statutory limits (currently through FY2021) and the appropriations subcommittee allocations under the Congressional Budget Act (2 U.S.C. §633). The Congressional Budget Office (CBO) estimated the law would increase mandatory spending outlays by almost $5.9 billion over 6 years (FY2020-FY2025) and by almost $17.3 billion over 11 years (FY2020-FY2030). (See https://www.cbo.gov/system/files/2020-07/HR1957directspending.pdf.)

## For Further Reading

CRS Report R43997, *Deferred Maintenance of Federal Land Management Agencies: FY2009-FY2018 Estimates and Issues*, by Carol Hardy Vincent; CRS Report R44924, *National Park Service Deferred Maintenance: Frequently Asked Questions*, by Laura B. Comay; CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Issues*, by Carol Hardy Vincent; and CRS Report R46240, *Introduction to the Federal Budget Process*, by James V. Saturno.

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