

Updated December 15, 2022

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 (DM) needs of five federal agencies. The law also made the deposits to an existing fund—the Land and Water Conservation Fund (LWCF)—available as mandatory spending and made other changes to the LWCF Act (54 U.S.C. §§200301 et seq.). This CRS product addresses selected provisions of the law.

National Parks and Public Land Legacy Restoration Fund

The Bureau of Land Management (BLM), Forest Service (FS), U.S. 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*, defined as maintenance not performed as needed and put off for a future time. For FY2021, the backlog for NPS was reported at \$22.8 billion, FS at \$6.3 billion, BLM at \$4.4 billion, and FWS at \$1.8 billion. Additionally, the Department of the Interior (DOI) reported DM of \$1.6 billion for Indian Affairs, including the Bureau of Indian Education (BIE). A relatively large portion of DM for NPS (46%), FS (68%), and BLM (83%) is related to transportation assets.

Prior to the enactment of the GAOA, most funding for agency DM came from discretionary appropriations (i.e., through the annual appropriations process). The agencies also have had other mandatory sources of funds, such as transportation maintenance monies from the Highway Trust Fund and entrance and recreation fees under the Federal Lands Recreation Enhancement Act (16 U.S.C. §§6801-6814).

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 development 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 explicitly provides that such deposits would not affect the disposition of energy revenues due to states, trust funds, or special funds (e.g., to the LWCF and the Historic Preservation Fund [HPF, 54 U.S.C. §303102]). It also explicitly provides that such deposits would not affect revenues otherwise appropriated under federal law, including appropriations from the LWCF and HPF and under the Gulf of Mexico Energy Security Act (GOMESA; 43 U.S.C. §1331 note) and the Mineral Leasing Act (30 U.S.C. §191).

Of the amounts deposited in the fund each year, NPS receives 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.” Over the full period of FY2021-FY2025, at least 65% of each agency’s funds are to be allocated for “non-transportation projects.”

To allocate the funds, the GAOA generally directs the President to submit lists of priority DM projects to Congress with annual budget justifications. The law specifies 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 shall allocate any unallocated amounts.

Funding Allocations

For the first year of the LRF (FY2021), the maximum amount of \$1.9 billion was available for allocation. 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 to specific DM projects, which appeared to match those that had been proposed by the Administration. The explanatory statement also reflected the Administration’s proposal for some non-project-specific allocations for each agency for activities such as program support, project delivery, and mission support.

The maximum amount of \$1.9 billion was deposited in the LRF for FY2022, subject to sequestration. (See, below, under “Budgetary Implications of the Great American Outdoors Act.”) The FY2022 Interior, Environment, and Related Agencies appropriations law (P.L. 117-103, Division G, §431) and its accompanying explanatory statement included project-specific and non-project-specific allocations of the GAOA funding. This allocation generally matched the proposed allocations submitted in the President’s budget request, with some changes.

The amount of funding available through the LRF for FY2023 will depend on federal energy revenues collected in FY2022 (up to the \$1.9 billion cap). President Biden’s FY2023 budget request proposed allocations for the maximum amount according to the percentages for each agency specified in the GAOA. Full-year appropriations for FY2023 have not been enacted as of the date of this CRS product.

Land and Water Conservation Fund

Under the LWCF Act, \$900.0 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 \$900.0 million, resulting in an unappropriated balance of more than \$22 billion in the LWCF through FY2022.

The LWCF Act currently provides 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. Historically, annual appropriations acts provided funds from the LWCF for purposes authorized in statute, including outdoor recreation grants to states and federal land acquisition (54 U.S.C. §§200305-200306). Appropriations also have been provided for other purposes.

The GAOA made the \$900.0 million annual deposits under the LWCF Act mandatory spending. It specified that the appropriations 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 contained LWCF funding for federal land acquisition and outdoor recreation grants to states, as well as other purposes, including 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 LWCF funds, the GAOA generally requires the President to submit annually to Congress “detailed account, program, and project allocations” for the full amount available. The GAOA provides for alternate allocations by Congress under a procedure similar to that described above for the LRF.

The LWCF receives additional money (beyond the \$900.0 million in the LWCF Act) under GOMESA. These appropriations also are mandatory spending and can be used only for outdoor recreation grants to states. States generally can receive a maximum of \$125.0 million annually under GOMESA, except the maximum was raised to \$162.5 million for FY2021 and FY2022. Thus, more than \$1.0 billion in mandatory spending for LWCF programs is available each year.

Funding Allocations

For FY2021, in November 2020, the Trump Administration proposed an allocation of \$900.0 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 contained different allocations for some agencies, accounts, programs, or project lists.

For FY2022, President Biden’s budget proposed an allocation of \$900.0 million in LWCF mandatory spending among agencies, accounts, programs, and projects. The

FY2022 appropriations law for Interior, Environment, and Related Agencies (P.L. 117-103, Division G, §431) and the accompanying explanatory statement contained different allocations for some agencies, accounts, programs, or project lists. For instance, they provided less funding to the NPS for outdoor recreation grants to states and more funding for the Cooperative Endangered Species Conservation Fund, administered by FWS.

For FY2023, President Biden’s budget proposed an allocation of the \$900.0 million in LWCF mandatory spending as follows: \$418.7 million for federal land acquisition; \$326.9 million for outdoor recreation grants to states; and \$154.4 million for other purposes. Full-year appropriations for FY2023 have not been enacted as of the date of this CRS product.

Budgetary Implications of the Great American Outdoors Act

The Congressional Budget Office (CBO) estimated that P.L. 116-152 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>.)

The GAOA provided mandatory spending for activities that had been funded with discretionary spending. As mandatory spending, this funding would no longer be considered in the context of any limits on discretionary spending, such as the appropriations subcommittee allocations under the Congressional Budget Act (2 U.S.C. §633).

Beginning in FY2022, the mandatory appropriations made available from the LRF and the LWCF are subject to a 5.7% reduction each year, currently through FY2031, under the sequestration process triggered by the Budget Control Act of 2011 (P.L. 112-25). However, under sequestration rules (2 U.S.C. §906(k)(6)), the amounts sequestered each year become available in the following year, effectively offsetting any future sequestration. For example, the FY2022 mandatory spending from the LRF was reduced by \$108.0 million and from the LWCF by \$51.3 million, but those amounts are to be available in FY2023.

For Further Reading

CRS Report R43997, *Deferred Maintenance of Federal Land Management Agencies: FY2011-FY2020 Estimates and Issues*, by Carol Hardy Vincent

CRS Report R44924, *National Park Service Deferred Maintenance: Frequently Asked Questions*, by Laura B. Comay

CRS Report R46563, *Land and Water Conservation Fund: Processes and Criteria for Allocating Funds*, coordinated by Carol Hardy Vincent

CRS Report R46240, *Introduction to the Federal Budget Process*, by James V. Saturno

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IF11636

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