

Recovering America's Wildlife Act (S.2372) Q & A on Source of Funds in Senate Bill

What is the source of funding for the Recovering America's Wildlife Act as identified in the Senate version of the bill S.2372?

The funding source for S. 2372 is civil or criminal penalties, fines, sanctions, and similar federal revenues generated from violations of environmental and natural resources laws and regulations.

The key language is that funds available for Recovering America's Wildlife Act are from "remaining natural resource or environmental-related violation revenue" that "are not directed to be deposited in a fund other than the general fund of the Treasury or have otherwise been appropriated."

The bill text is written so that the source of funding doesn't touch any existing programs or appropriated funds, similar to the language in the Great American Outdoors Act that ensured that the public lands investments didn't touch LWCF, etc.

How much money comes from this source in a given year?

Our research shows that there's well more than \$1.4B available on average and that only 1/3 of current civil and criminal penalties and fines are dedicated.

Our best analysis based upon annual [DOJ](#) and [EPA](#) reports that shows that well more than \$1.4B from civil/criminal penalties/fines are unallocated on average annually (\$2.9B annually on average over past 5-years and \$1.9B annually on average over past 10). *We took the most conservative approach because we couldn't cross-walk whether all EPA fines and penalties were included in the DOJ numbers, so we assumed that all were.

If fines for enforcement are used to fund Recovering America's Wildlife Act, won't it incentivize enforcement by those same agencies that ultimately benefit from the funding?

No. There are degrees of separation between the agency responsible for enforcement, and the entities ultimately benefiting from the utilization of the funds.

Separation exists between the agency responsible for enforcement (U.S. EPA) and the collection of penalties and the distribution and utilization of funds under Recovering America's Wildlife Act, which would be administered through the U.S. Fish and Wildlife Service and distributed via the formula and process laid out in the Act to agencies responsible for fish and game management. Currently these monetary penalties which are paid to the U.S. Treasury can be used for a variety of purposes. Recovering America's Wildlife Act simply directs a portion of these funds be used to support States, Territories, and Tribes on-the-ground work to recover and restore species of greatest conservation need.

Won't utilization of penalties from the general treasury put the mitigation of the harm caused by the environmental violation at risk?

No. On site mitigation typically occurs as a stipulation in the final settlement. In addition to the monetary penalty which is paid to the U.S. Treasury, a settlement may include injunctive relief (actions required to correct the violation and come into compliance, e.g., install pollution control equipment), supplemental environmental projects, and/or mitigation.

Generally, what are the options for settling environmental violations?

Settlements are generally agreed-upon resolutions to an enforcement case. If a civil defendant is found liable or agrees to a settlement, the result can include one or more of the following, civil penalties, injunctive relief, supplemental environmental projects, and mitigation. Civil Penalties are monetary assessments paid by a person or regulated entity due to a violation or noncompliance. These penalties are designed to recover the economic benefit of noncompliance and to compensate for the seriousness of the violation. Injunctive Relief requires a regulated entity to perform, or refrain from performing, some designated action. It also brings the entity into compliance with environmental laws. Supplemental Environmental Projects (SEPs) and Mitigation can be part of an enforcement settlement. SEPs are environmental improvement projects that a violator voluntarily agrees to perform. These projects are in addition to actions required to correct the violations specified in the settlement. Finally, Mitigation is additional injunctive relief to reduce or offset harm caused by past or ongoing violations.

In a given year if the environmental penalty funds are less than the \$1.4 billion required for funding of the Recovering America's Wildlife Act, would the apportionment to the states/tribes through the legislation still occur?

Yes, the language in the bill is written to say that funds "shall be available" to apportion to States, Territories and Tribes regardless of how much comes into the treasury from any given source.

Why should we fund the Recovering America's Wildlife Act using revenues acquired through penalties and fines from natural resource or environmental-related violations and/or enforcement actions?

Funds generated through fees and penalties acknowledges that damage has been done to the environment because a business or individual failed to comply with a law established to protect our natural resources. It makes sense to reinvest the unallocated portions of these funds into on-the-ground conservation projects that support healthy wildlife, habitats, and communities instead of them being directed into the treasury and appropriated to a program that potentially has no overlap or connection with conservation or environmental protection.