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# The Sport Fish Restoration and Boating Trust Fund

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# Summary

An Aquatic Resources Trust Fund, with two accounts—a Sport Fish Restoration Account and a Boat Safety Account—was created in 1984 and subsequently amended to support a variety of programs administered by three federal agencies, including wetlands management, recreational vessel docking and sewage disposal infrastructure, and aquatic resource education. In 2005, the Boat Safety Account was terminated and remaining programs were consolidated into a renamed Sport Fish Restoration and Boating Trust Fund. This report details sources of funding for this trust fund and summarizes the various programs and activities receiving funding.

The five sources of income to the Sport Fish Restoration and Boating Trust Fund are (1) the portion of federal fuel taxes attributable to motorboat fuel from the Highway Trust Fund; (2) annual tax receipts attributable to small engine fuel used for outdoor power equipment from the Highway Trust Fund; (3) annual receipts from a manufacturers' excise tax on sport fishing equipment; (4) annual receipts from import duties on fishing tackle and on yachts and pleasure craft; and (5) interest on funds invested prior to disbursal. Total FY2008 income from these five sources was approximately $708 million.

The eight efforts funded from the Sport Fish Restoration and Boating Trust Fund are (1) three coastal wetlands conservation and restoration programs; (2) recreational boating safety; (3) construction of sewage pump-out and dump stations for recreational vessel sewage disposal; (4) construction of docking facilities for large transient recreational vessels; (5) national aquatic resource outreach and communications; (6) multi-state conservation grants; (7) interstate fishery commissions and the Sport Fishing and Boating Partnership Council; and (8) state grants for sport fish restoration projects.

Proposals under discussion by Congress for reauthorizing federal surface transportation programs, required by the end of FY2009, include an increase (possibly more than doubling) of the 18.4 cents-per-gallon federal fuel tax to better fund highway infrastructure programs through the Highway Trust Fund. The 111$^{th}$ Congress may decide whether the Sport Fish Restoration and Boating Trust Fund receives substantial benefits (possibly exceeding an additional $350 million annually) from an increase in the federal fuel tax. A corollary set of questions focuses on whether, and if so how, the various programs supported by the Sport Fish Restoration and Boating Trust Fund might be modified to expend increased receipts, should a federal fuel tax increase be enacted.

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# Background

The Aquatic Resources Trust Fund (26 U.S.C. §9504) was established in 1984 by P.L. 98-369 (Div. A, Title X), commonly referred to as the Wallop-Breaux Amendment to the Federal Aid in Sport Fish Restoration program.[1] This trust fund was composed of two accounts—the Sport Fish Restoration Account and the Boat Safety Account. Subsequent to its creation, this trust fund has been amended to provide support to a variety of additional programs. In 2005, Title X of P.L. 109-59 changed the name of the Aquatic Resources Trust Fund to the Sport Fish Restoration and Boating Trust Fund, terminated the Boat Safety Account, reauthorized program funding through FY2009, and changed how funds are allocated among most of the supported programs. This report details the sources of funding for the trust fund, and summarizes how various programs and activities receive funding.

# Trust Fund Income

The Sport Fish Restoration and Boating Trust Fund receives income from five sources (**Figure 1**).

(1) As a permanent appropriation, the account receives, from the Highway Trust Fund, any remaining motorboat fuel taxes[2] in excess of $1 million annually allocated to the Land and Water Conservation Fund (26 U.S.C. §9503(c)(4)(B)). In recent years, annual income from this source has exceeded $350 million; FY2008 income was about $379 million.

(2) The account receives, from the Highway Trust Fund, the annual tax receipts attributable to small engine fuel used for outdoor power equipment (26 U.S.C. §9503(c)(5)). This transfer of funds is authorized through September 30, 2011 (26 U.S.C. §9503(c)(5)(A)). In recent years, annual income from this source has been around $100 million; in FY2008, income from this source was about $103 million.

(3) The account receives the annual receipts from a manufacturers' excise tax on sport fishing equipment (26 U.S.C. §4161(a)). This is a permanent annual appropriation to the Sport Fish Restoration and Boating Trust Fund (26 U.S.C. §9504(b)(1)(A)). In recent years, annual income from this source has been approximately $100 million; in FY2008, income from this source was slightly more than $113 million.

(4) The account receives the annual receipts from import duties on fishing tackle under heading 9507 of the Harmonized Tariff Schedule of the United States (19 U.S.C. §1202) and on yachts and pleasure craft under chapter 89 of the Harmonized Tariff Schedule of the United States. This is a permanent annual appropriation to the Sport Fish Restoration and Boating Trust Fund (26 U.S.C. §9504(b)(1)(B)). In recent years, annual income from this source has been around $40 million; in FY2008, income from this source was slightly less than $42 million.

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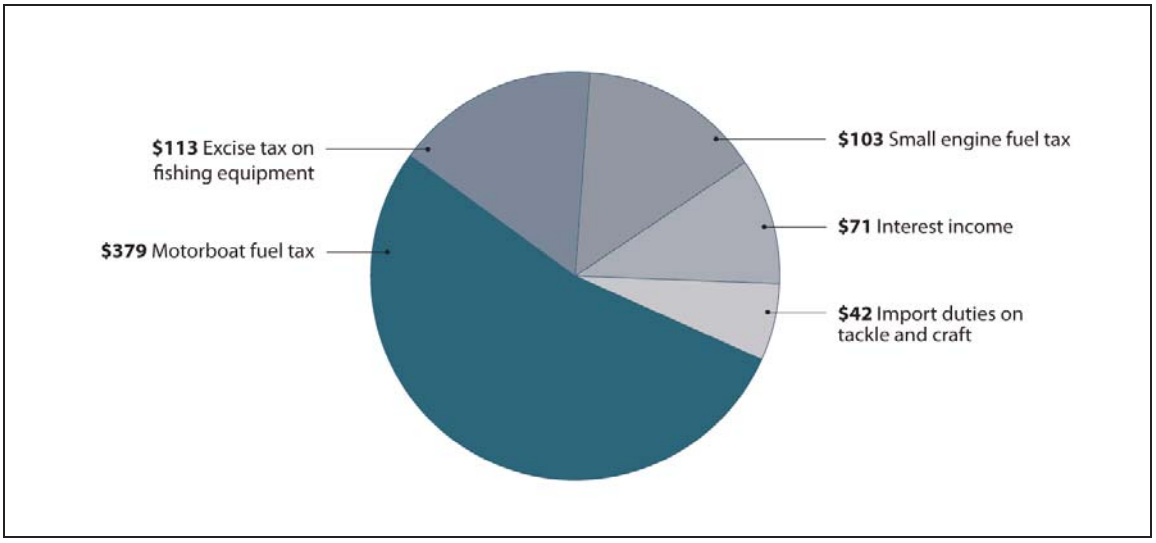
[1] The original program was created by the 1950 Dingell-Johnson Federal Aid in Sport Fish Restoration Act (Act of August 25, 1950; 64 Stat. 474).

[2] The amount of fuels tax deposited into the account from the Highway Trust Fund is prescribed in 26 U.S.C. 9503(c)(4)(D) and is based on methodology outlined in the Treasury Department's Report to Congress of June 1986, entitled *Gasoline Excise Tax Renenues Attributable to Fuel Used in Recreational Motorboats*, to annually estimate the number of registered motorboats and fuel consumption for various sizes.

**Figure 1. Trust Fund Income**

(FY2008 receipts, $ in millions)




**Source:** U.S. Fish and Wildlife Service data.

(5) This account receives interest on funds invested prior to disbursal (26 U.S.C. §9602(b)). In recent years, annual income from this source has been approximately $70 million; in FY2008, income from this source was slightly more than $71 million. Income from this source can fluctuate widely, depending upon interest rates.

# Trust Fund Expenditures

Income received in any fiscal year is allocated to programs in the following fiscal year. Thus, the approximately $708 million in FY2008 receipts to this trust fund will be available for distribution in FY2009. Eight separate programs are funded (**Figure 2**), as follows.

(1) The Coastal Wetlands Planning, Protection and Restoration Act (Title III of P.L. 101-646) amended the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. §777c(a)) to authorize an allocation of 18% of the Sport Fish Restoration Account for coastal wetlands programs. In 2005, this percentage allocation was increased to 18.5% by Title X of P.L. 109-59; the current authorization for this allocation extends through FY2009. Of this total amount provided from the Sport Fish Restoration and Boating Trust Fund, 15% is provided for the National Coastal Wetlands Conservation Grants Program[3] (nearly $20 million annually; in FY2008, about $18.9 million was distributed through this program); 70% is provided for the Corps of Engineers Louisiana Coastal Wetlands Restoration Program[4] (almost $90 million annually; in FY2008, a

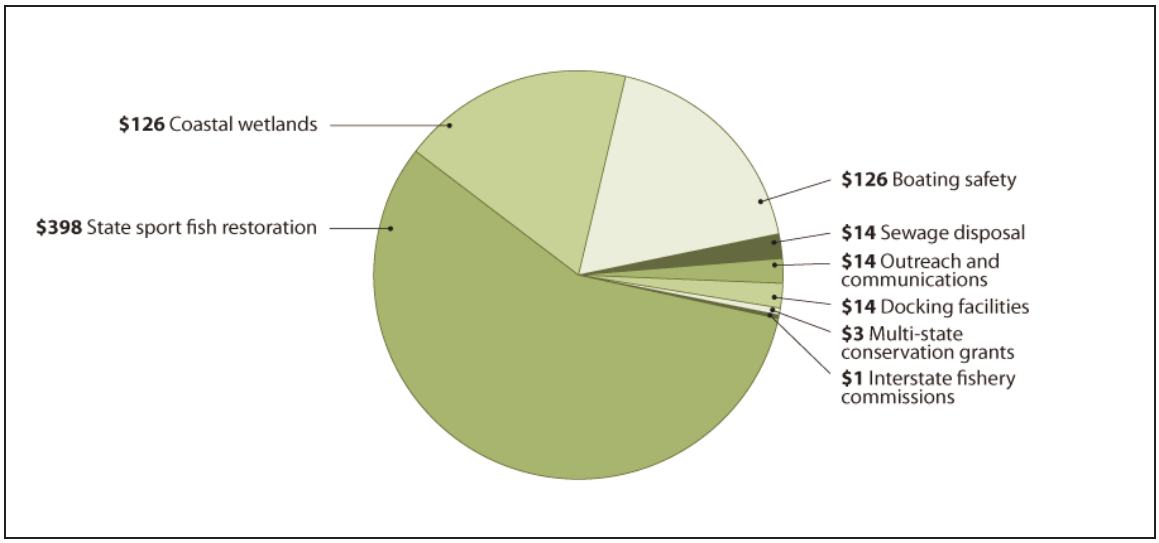
[3] Under this program, the U.S. Fish and Wildlife Service provides matching grants to states for the acquisition, restoration, management or enhancement of coastal wetlands. For more information, see http://www.fws.gov/coastal/CoastalGrants/ and program number 15.614 in the *Catalog of Federal Domestic Assistance*.

[4] An interagency task force (consisting of the Corps, Environmental Protection Agency, Fish and Wildlife Service, Natural Resources Conservation Service, National Marine Fisheries Service, and the State of Louisiana) uses these funds to plan, set priorities, and carry out projects for the creation, protection, and restoration of coastal wetlands in the State of Louisiana.

total of about $88.3 million was transferred to the Corps for this program); and 15% is provided for the North American Wetlands Conservation Fund[5] (nearly $20 million annually; in FY2008, a total of about $18.9 million was distributed from this fund). Appropriations are authorized for these programs through FY2019 (§114(b), Division C, Title I of P.L. 108-447).

**Figure 2. Trust Fund Expenditures**

(FY2008, $ in millions)




**Source:** U.S. Fish and Wildlife Service data.

(2) A boating safety program, administered by the U.S. Coast Guard's Office of Boating Safety, is funded by 18.5% of annual receipts from the Sport Fish Restoration and Boating Trust Fund; the current authorization for this allocation extends through FY2009. In FY2008, a total of about $126.1 million was available to this program. Using these funds, the Coast Guard provides grants to states and nonprofit organizations for the development and implementation of a coordinated national recreational boating safety program.[6] In FY2008, about $122 million was distributed to individual states through the State Recreational Boating Safety Program.

(3) The Clean Vessel Act of 1992 (Title V, Subtitle F of P.L. 102-587) authorizes a competitive grant program for states to construct pump-out and dump stations to dispose of vessel sewage from recreational boaters.[7] This program annually receives 2% of the annual receipts to the Sport Fish Restoration and Boating Trust Fund; the current authorization for this allocation extends

[5] The U.S. Fish and Wildlife Service provides grants to private or public organizations or individuals who have developed partnerships to carry out wetlands conservation projects in the U.S., Canada, and Mexico. Funds are used to acquire real property interest in lands or waters, including water rights, for the long-term conservation of migratory birds and other fish and wildlife; and to restore, manage, or enhance wetland ecosystems and other habitat for migratory birds and other fish and wildlife species. For more information, see program number 15.623 in the *Catalog of Federal Domestic Assistance*.

[6] For more information, see http://www.uscgboating.org and program number 97.012 in the *Catalog of Federal Domestic Assistance*.

[7] For more information, see http://www.fws.gov/sfbpc/CVA%20Rpt_web%20only.pdf and program number 15.616 in the *Catalog of Federal Domestic Assistance*.

through FY2009. Annual state grants total more than $10 million under this program; in FY2008, an estimated total of about $13.6 million was distributed to states through this program.[8]

(4) Section 7404(d) of the Transportation Equity Act (TEA-21; P.L. 105-178) authorizes a competitive grant program that provides matching funds to states to install or upgrade docking facilities for transient recreational boats 26 feet or more in length.[9] This program, known as the Boating Infrastructure Grant Program,[10] annually receives 2% of the annual receipts to the Sport Fish Restoration and Boating Trust Fund; the current authorization for this allocation extends through FY2009. Annual state grants have totaled more than $10 million; in FY2008, an estimated total of $13.6 million was distributed to states through the program.[11]

(5) A National Outreach and Communications Program annually receives 2% of the annual receipts to the Sport Fish Restoration and Boating Trust Fund; the current authorization for this allocation extends through FY2009. The Recreational Boating and Fishing Foundation,[12] a tax-exempt corporation, was established in 1998 to carry out this program to increase participation in recreational boating and fishing and to encourage greater public involvement in aquatic stewardship as mandated in the Sportfishing and Boating Safety Act of 1998 (Title VII, Subtitle D of P.L. 105-178). This program provides grants to improve communication with anglers, boaters, and the general public and to reduce barriers to participating in these activities.[13] Authorization of appropriations for this program were provided through FY2009 (16 U.S.C. §777c(a)). Annually, more than $10 million has been available for this program; in FY2008, an estimated $13.6 million was available.

(6) The Wildlife and Sport Fish Restoration Program Improvement Act of 2000 (P.L. 106-408) authorized a Multi-State Conservation Grant Program.[14] From the Sport Fish Restoration and Boating Trust Fund, the Secretary of the Interior receives as much as $3 million annually for this program (16 U.S.C. §777m(a)), with the maximum $3 million provided in FY2008.

(7) In addition, 16 U.S.C. §777m(e) provides $200,000 annually to four Interstate Fishery Commissions as well as $400,000 annually to the Sport Fishing and Boating Partnership Council.[15] No stipulations restrict the use of these funds. In FY2008, an estimated total of $1.2 million was provided under this authority.

(8) After the previous seven programs are funded, the Sport Fish Restoration Program (16 U.S.C. §§777 et seq.), administered by the Fish and Wildlife Service's Division of Federal Aid, receives the balance of the Sport Fish Restoration and Boating Trust Fund receipts to grant state agencies

[8] For more information, see http://wsfrprograms.fws.gov/Subpages/GrantPrograms/CVA/CVANOFA2009.pdf.

[9] 50 C.F.R. Part 86; 66 *Fed. Reg*. 5282-5294, Jan. 18, 2001.

[10] For more information, see program number 15.622 in the *Catalog of Federal Domestic Assistance*.

[11] For more information, see http://www.fws.gov/sfbpc/boatingreport.pdf.

[12] For more information, see http://www.rbff.org/.

[13] For more information, see program number 15.653 in the *Catalog of Federal Domestic Assistance*.

[14] This program provides funding for wildlife and sport fish restoration projects identified as priority projects by the Association of Fish and Wildlife Agencies (AFWA). Projects that are generally selected for funding are biological research/training, species population status, outreach, data collection regarding hunter/angler participation, hunter/aquatic education, economic value of fishing/hunting, and regional or multistate habitat needs assessments. For more information, see http://wsfrprograms.fws.gov/Subpages/GrantPrograms/MultiState/MS.htm and program number 15.628 in the *Catalog of Federal Domestic Assistance*.

[15] Authorized by the Wildlife and Sport Fish Restoration Program Improvement Act of 2000 (P.L. 106-408).

funding, based on a formula. Sixty percent of each state's share is based on its number of licensed anglers (fishermen) and 40% on its land and water area. No state receives more than 5% or less than 1% of each year's total apportionment. Puerto Rico receives 1%, and the Virgin Islands, Guam, American Samoa, Northern Mariana Islands, and the District of Columbia each receive one-third of 1%. Currently, around $400 million is allocated to states annually through this program; in FY2008, a total of $397.8 million was available for distribution to states through the program.[16] State projects funded by this program can include land acquisition, development (including boating access sites), research, operations and maintenance, sport fish population management, and program coordination. Prohibited activities are law enforcement and public relations.[17] To qualify for the funds, states must certify the number of licensed anglers in their state, agree not to utilize their sport fish license funds for purposes other than administration of their fish and game department, and provide a 75% match for most projects.

Authorized administrative expenses for management of the Sport Fish Restoration and Boating Trust Fund by the Fish and Wildlife Service are identified in 16 U.S.C. §777h. In recent years, annual administrative expenses have been between $9 million and $10 million; for FY2008, estimated administration expenses totaled almost $9.5 million. A maximum annual limitation on funding for administrative expenses is specified in 16 U.S.C. 777c(b).

Since FY1998 and prior to P.L. 109-59, no funds had been appropriated from the Boat Safety Account for the state recreational boating safety grant program. In accordance with Section 10119 of P.L. 109-59, the Boat Safety Account was terminated and, through FY2010, certain program expenditures from the Sport Fish Restoration and Boating Trust Fund were and will be bolstered by the spend-down of the accumulated assets in the Boating Safety Account. For FY2008, slightly more than an additional $17.1 million was available from this spend-down.

# Legislative Issues

Some of the proposals under discussion for reauthorizing federal surface transportation programs, required by the end of FY2009, include an increase (possibly more than doubling) of the 18.4 cents per gallon federal fuel tax to better fund highway infrastructure programs through the Highway Trust Fund.[18] The 111th Congress may decide whether the Sport Fish Restoration and Boating Trust Fund would receive substantial benefits (possibly exceeding an additional $350 million annually) from an increase in the federal fuel tax. A corollary set of questions focuses on whether, and if so how, the various programs supported by the Sport Fish Restoration and Boating Trust Fund might be modified to expend increased receipts, should a federal fuel tax increase be enacted.

[16] Fore more information, see program number 15.605 in *the Catalog of Federal Domestic Assistance* and Joyce Johnson, "The Sport Fish Restoration Program," *Eddies*, v. 1, no. 4 (Winter 2008), p. 16-19, available at http://www.fws.gov/eddies/pdfs/EddiesWinter2008.pdf.

[17] Historical state allotments are available at http://wsfrprograms.fws.gov/Subpages/GrantPrograms/SFR/SFR_Funding.htm.

[18] For more information, see CRS Report R40053, *Surface Transportation Program Reauthorization Issues for the 111th Congress*, coordinated by John W. Fischer.

Also in the 111th Congress, Section 9(b)(2)(B) of S. 503 would make a portion of adjusted bonus, rental, and royalty revenues from federal oil and gas leasing and operations in the western Arctic coastal plain of Alaska available for federal sport fish restoration grants.

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