

U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

LAND AND WATER CONSERVATION FUND
STATE ASSISTANCE PROGRAM

To: State Liaison Officers
Subject: Chapter 8 – E. 9. Small Conversions. POLICY UPDATE
Date: January 3, 2017

Background

The Land and Water Conservation Fund (LWCF) Act of 1965, as amended, now codified at 54 U.S.C. Section 200305(f)(3) (formerly referred to as Section 6(f)(3) of the LWCF Act; now referenced as LWCF recreation area), requires that real property that has been acquired or assisted with LWCF monies that is converted to other than public outdoor recreation use must be replaced regardless of the size of the areas to be converted. It ensures the permanency of the recreation estate in State and local recreation sites assisted under LWCF by guaranteeing that any conversion of land from the national recreation estate be replaced with land of equal market value and equivalent recreation usefulness and location. Frequently, small sections of park land are taken for projects such as road widening or realignment. However, the process for finding replacement property for these small sections can prove burdensome compared to the amount of land at stake.

The Small Conversion Policy, established in 1990, was created to reduce administrative burden for both the National Park Service (NPS) and the States (including the territories and the District of Columbia) when processing these smaller conversions. In the 2008 LWCF State Assistance Program Manual (Manual), the policy was updated to increase the acreage and percentage size limits. As written, this policy allows the use of a National Environmental Policy Act (NEPA) Categorical Exclusion for conversions that amount to no more than 10 percent of the LWCF recreation area or five acres, whichever is less.

The NPS has determined the policy is still too restrictive because relatively few conversions meet the criteria to qualify. Therefore the Program has updated the Small Conversion Policy again to remove the five acre maximum size restriction and provide broader replacement land options. This revised policy should provide more flexibility for the post-completion management of LWCF by allowing more conversions to qualify as “small” while still complying with the LWCF Act and applicable federal laws such as the NEPA and the National Historic Preservation Act.

The revised policy below hereby replaces the previous policy located in Chapter 8 – E. of the Manual:

9. Small conversions. Small conversions are partial conversions in which no more than ten percent (10%) of the whole LWCF recreation area will be removed from having to comply with LWCF recreation area provisions. Whether a conversion can qualify for the policy should be established during the early consultation stage with the NPS and prior to developing the small conversion proposal.

To qualify, the replacement property must be contiguous with the current site, or another existing park or recreation area, and otherwise meets the eligibility requirements for an acquisition grant (as outlined in Chapter 3 – B. of the Manual). The existing park does not need to be currently administered as part of the LWCF recreation estate, but it will become subject to LWCF recreation area provisions going forward just as it would in the case of an acquisition grant as an expansion of an existing park. The replacement property must be made available to the public per the conversion regulations at 36 CFR 59.3.

In addition, small conversions must qualify as a categorical exclusion under the NEPA. Small conversions by definition do not have the potential for significant environmental impacts to recreation resources; however, NPS requires documentation from the State to demonstrate that there are no significant environmental impacts on:

- The recreation resources being removed from the LWCF recreation area;
- The viability of the remaining land still subject to LWCF recreation area provisions and its surrounding environment; or
- The new replacement parkland.

The State's proposal must include:

- a. The completed PD-ESF addressing both the property to be converted and its replacement, highlighting:
 - i. The proposal's consistency with the state's SCORP and/or an adopted local comprehensive parks plan (if available);
 - ii. A narrative addressing the recreation usefulness of the parcel being converted from the LWCF and how it is replaced at the replacement site;
 - iii. Adequate outreach to the interested and affected public; and
 - iv. The state's recommended NEPA pathway (indicating a categorical exclusion is justified).
- b. The fair market value established by appraisals (using the UASFLA) of the property to be converted and the property proposed as replacement or a qualified waiver of valuation.
- c. An LWCF project amendment form
- d. A Description and Notification Form (DNF)
- e. LWCF Recreation Area Boundary map requirements:
 - i. A map showing the location of the conversion on the original LWCF recreation area boundary map, with a zoomed in conversion footprint if it is very small compared with the scale of the map;
 - ii. A map showing the revised LWCF recreation area boundary at the original park site;
 - iii. If the replacement site or park is not contiguous with the park being partially converted, a location map depicting the relative location of the replacement to the conversion); and
 - iv. A new LWCF recreation area boundary map for the replacement park or recreation site.