Congressional Research Service
Informing the legislative debate since 1914

FY2018 and FY2019 Appropriations for Agricultural Conservation

Updated May 10, 2019

Congressional Research Service
https://crsreports.congress.gov
R45406

CRS REPORT
Prepared for Members and
Committees of Congress

Congressional Research Service
Informing the legislative debate since 1914

SUMMARY

R45406

May 10, 2019

Megan Stubbs
Specialist in Agricultural Conservation and Natural Resources Policy

FY2018 and FY2019 Appropriations for Agricultural Conservation

The Agriculture appropriations bill funds the U.S. Department of Agriculture (USDA) except for the Forest Service. The FY2018 Consolidated Appropriations Act (P.L. 115-141, Division A), and the FY2019 Consolidated Appropriations Act (P.L. 116-6, Division B) include funding for conservation programs and activities at USDA.

Congress passed the FY2018 Consolidated Appropriations Act on March 23, 2018. FY2019 began with seven appropriations bills, including USDA, unfinished. The House and Senate Appropriations Committees reported Agriculture appropriations bills for FY2019 (H.R. 5961, S. 2976), with the Senate having amended and passed its version as Division C of a four-bill minibus (H.R. 6147). Congress and the President approved continuing resolutions to fund the affected federal agencies through December 21, 2018, at the FY2018 level (P.L. 115-245). After December 21, 2018, a partial shutdown of the government, including many agencies within USDA, occurred. One of the few exceptions was the Natural Resources Conservation Service (NRCS), which was able to operate on mandatory and carryover funds during the majority of the shutdown. On January 25, 2019, an agreement was reached to continue funding for USDA and other appropriations that had lapsed through February 15, at the FY2018 level (P.L. 116-5). The FY2019 Consolidated Appropriations Act was signed into law on February 15, 2019, funding USDA through the end of the fiscal year (Division B, P.L. 116-6).

Agricultural conservation programs include both mandatory and discretionary spending. Most conservation program funding is mandatory and is authorized in omnibus farm bills. Other conservation programs—mostly technical assistance—are discretionary and are funded through annual appropriations.

The largest discretionary program is the Conservation Operations (CO) account, which funds conservation planning and implementation assistance on private agricultural lands across the country. The enacted FY2018 appropriation provided $874 million for CO, an increase from the FY2017 enacted amount ($864 million). The enacted FY2019 appropriation decreases funding for CO below FY2018 levels to $819 million and redirects funding to the new Farm Production and Conservation Business Center. Other discretionary spending is primarily for watershed programs. The largest—Watershed and Flood Prevention Operations (WFPO)—was funded at $150 million annually in FY2018 and FY2019.

Most mandatory conservation programs are authorized in omnibus farm bills and do not require an annual appropriation. However, Congress has reduced mandatory conservation programs through changes in mandatory program spending (CHIMPS) in the annual agricultural appropriations law every year since FY2003. The enacted FY2018 omnibus marks the first appropriation since FY2002 that did not include CHIMPS to mandatory conservation programs. The enacted FY2019 appropriation also does not include reductions to mandatory conservation programs, as most programs' authorizations expired on September 30, 2018, making these programs ineligible for reduction. The 2018 farm bill (Agricultural Improvement Act of 2018, P.L. 115-334) reauthorized and amended funding for many of the mandatory conservation programs.

While this is infrequent, the Agriculture appropriations bill may also serve as a vehicle for amendments to authorized programs that permanently alter or create programs. The FY2018 Agriculture appropriations act included two such amendments—one to WFPO and one to farm bill conservation program reporting requirements. The WFPO amendment increased the size threshold required for congressional approval. Under the amended language, the Senate and House Agriculture Committees must approve WFPO projects that include an estimated federal contribution of more than $25 million for construction, an increase from the previous $5 million threshold. Additionally, the FY2018 appropriations act exempted farm bill conservation programs from select federal reporting requirements, including obtaining a Data Universal Numbering System (DUNS) number and System for Award Management (SAM) registration.

Agriculture appropriations bills may also include policy-related provisions that direct how the executive branch should carry out the appropriation. The FY2018 and FY2019 appropriations acts both include policy provisions for conservation programs that range from reports to Congress to suggested natural resource priorities.

Contents

Conservation Appropriations 1
Discretionary Conservation Programs 2
Conservation Operations 2
Watershed and Flood Prevention Operations 4
Mandatory Conservation Programs 5
Farm Production and Conservation Business Center 6
FY2019 Partial Government Shutdown 7
Amendments to Conservation Programs 8
Watershed and Flood Prevention Operations 8
Conservation Program Requirements 9
Policy-Related Provisions 9

Figures

Figure 1. Discretionary Appropriations for Agricultural Conservation Programs 2

Tables

Table 1. FY2017-FY2019 Agricultural Conservation Funding 3
Table 2. FPAC Business Center Funding, FY2018 and FY2019 7
Table 3. Selected Temporary Conservation Policy Provisions in the FY2018 and FY2019 Appropriations Bill Text 10
Table 4. Selected Conservation Policy Provisions in the FY2018 and FY2019 Appropriations Report Language 11

Contacts

Author Information 13

The Agriculture appropriations bill—formally called the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act—funds all of the U.S. Department of Agriculture (USDA), excluding the U.S. Forest Service. Congress passed the FY2018 Consolidated Appropriations Act on March 23, 2018 (P.L. 115-141). FY2019 began with seven appropriations bills, including USDA, unfinished. The House and Senate Appropriations Committees reported Agriculture appropriations bills for FY2019 (H.R. 5961, S. 2976), with the Senate having amended and passed its version as Division C of a four-bill minibus (H.R. 6147). Congress and the President approved continuing resolutions to fund the affected federal agencies through December 21, 2018, at the FY2018 level (P.L. 115-245 and P.L. 115-298). After December 21, 2018, a partial shutdown of the government, including many agencies within USDA, occurred. One of the few exceptions was the Natural Resources Conservation Service (NRCS), which was able to operate on mandatory and carryover funds during the majority of the shutdown. On January 25, 2019, an agreement was reached to continue funding for USDA and other appropriations that had lapsed through February 15, at the FY2018 level (P.L. 116-5). The FY2019 Consolidated Appropriations Act was signed into law on February 15, 2019, funding USDA through the end of the fiscal year (Division B, P.L. 116-6).

This report provides a brief overview of the conservation-related provisions in the FY2018 and FY2019 Agriculture appropriations acts. For a general analysis of the FY2018 appropriations for agriculture, see CRS Report R45128, *Agriculture and Related Agencies: FY2018 Appropriations*, and for FY2019, see CRS Report R45230, *Agriculture and Related Agencies: FY2019 Appropriations*.

Conservation Appropriations

USDA administers a number of agricultural conservation programs that assist private landowners with natural resource concerns. These include working land programs, land retirement and easement programs, watershed programs, technical assistance, and other programs. The two lead agricultural conservation agencies within USDA are the Natural Resources Conservation Service (NRCS), which provides technical assistance and administers most conservation programs, and the Farm Service Agency (FSA), which administers the Conservation Reserve Program (CRP).[1]

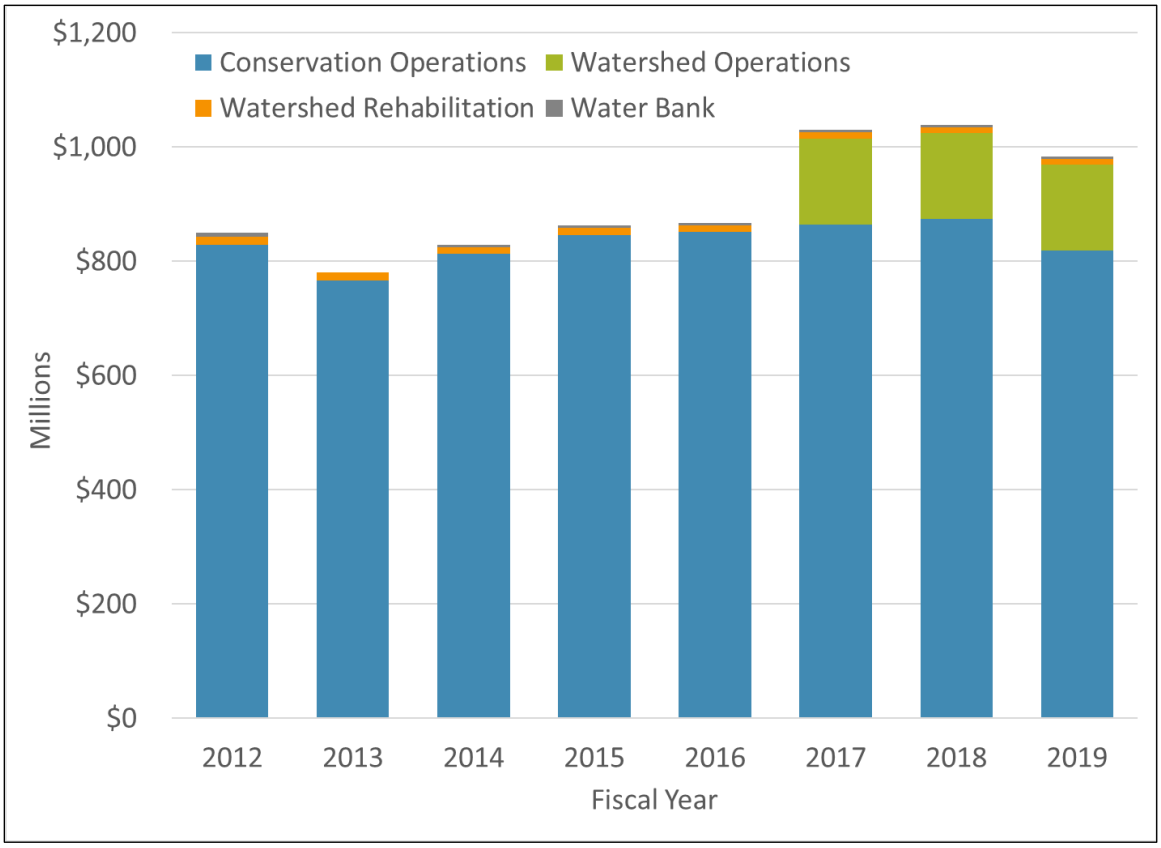
Most conservation program funding is mandatory, obtained through the Commodity Credit Corporation (CCC) and authorized in omnibus farm bills (about $5.3 billion of CCC funds for conservation in FY2018).[2] Other conservation programs—mostly technical assistance—are discretionary spending and are funded through annual appropriations (about $1 billion annually).

For the first time since FY2002, the FY2018 Agriculture appropriations act did not include reductions to mandatory conservation programs. It did, however, include legislative changes that affect farm bill programs and watershed programs. Similarly, the FY2019 appropriations act did not include reductions to mandatory conservation programs; however, the enacted 2018 farm bill (Agriculture Improvement Act, P.L. 115-334) reauthorized and amended funding for many of the mandatory conservation programs. The FY2018 appropriations act included a slight increase from FY2017 levels for discretionary conservation programs. The FY2019 appropriations act included a decrease from FY2018 levels for discretionary conservation programs and redirected funding to the new Farm Production and Conservation Business Center (see **Table 1** and **Figure 1**).

[1] For more information on individual conservation programs, see CRS Report R40763, *Agricultural Conservation: A Guide to Programs*.

[2] For more information on the CCC, see CRS Report R44606, *The Commodity Credit Corporation: In Brief*.

Figure 1. Discretionary Appropriations for Agricultural Conservation Programs



Source: CRS, from previous appropriations acts.

Discretionary Conservation Programs

Conservation Operations

NRCS administers all discretionary conservation programs. The largest program and the account that funds most NRCS activities is Conservation Operations (CO). The CO account primarily funds Conservation Technical Assistance (CTA), which provides conservation planning and implementation assistance through field staff placed in almost all counties within the United States and territories. Other components of CO include the Soil Surveys, Snow Survey and Water Supply Forecasting, and Plant Materials Centers.

Table 1. FY2017-FY2019 Agricultural Conservation Funding

(budget authority in thousands of dollars)

	FY2017	FY2018				FY2019			
Program	**P.L. 115-31**	**Admin. Request**	**House H.R. 3354**	**Senate S. 1603**	**P.L. 115-141**	**Admin. Request**	**House H.R. 5961**	**Senate H.R. 6147**	**P.L. 116-6**
Conservation Operations	864,474	766,000	858,911	874,107	874,107	669,033	890,293	879,107	819,492
Conservation Technical Assistance	759,211	667,675	760,211	768,844	774,444	575,862	790,912	773,844	725,926
Soil Survey	80,802	79,696	80,000	80,802	80,802	74,438	80,500	80,802	74,685
Snow Survey	9,380	9,265	9,300	9,380	9,380	9,316	9,400	9,380	9,400
Plant Material Center	9,481	9,364	9,400	9,481	9,481	9,417	9,481	9,481	9,481
Watershed Projects	5,600	0	0	5,600	5,600	0	0	5,600	5,600
Total Conservation Operations	864,474	766,000	858,911	874,107	874,107	669,033	890,293	879,107	819,492
Watershed Operations	150,000	0	40,000	150,000	150,000	0	150,000	150,000	150,000
Watershed Rehabilitation Program	12,000	0	10,000	0	10,000	0	10,000	0	10,000
Water Bank	4,000	0	0	4,000	4,000	0	0	4,000	4,000
Total NRCS Discretionary	**1,030,474**	**766,000**	**908,911**	**1,028,107**	**1,038,107**	**669,033**	**1,050,293**	**1,033,107**	**938,492**

Source: CRS, using appropriations text and report tables.

Notes: Amounts are nominal discretionary budget authority in thousands of dollars unless labeled otherwise. Excludes amounts in supplemental appropriations acts and proposed rescission language.

The enacted FY2018 appropriation provided $874 million—more than the FY2017 enacted amount ($864 million). The enacted FY2019 appropriation decreases funding for CO below FY2018 levels to $819 million and redirects funding to the new Farm Production and Conservation Business Center.[3] The Trump Administration's FY2019 budget request ($699 million) was less than the amount later enacted for FY2019 due to a proposed consolidation of mandatory and discretionary accounts to pay for conservation technical assistance.[4] The proposal to consolidate funding has been made by USDA through multiple Administrations but never adopted by Congress (see text box below). The FY2018 and FY2019 Agriculture appropriations acts direct CO funding for a number of conservation programs (**Table 1**). Report language further directs funding to selected activities (**Table 3**).

Watershed and Flood Prevention Operations

The enacted FY2018 and FY2019 appropriations also contain funding for watershed activities, including $150 million annually for Watershed and Flood Prevention Operations (WFPO)—a program that assists state and local organizations with planning and installing measures to prevent erosion, sedimentation, and flood damage.[5] This is the same level as appropriated in FY2017, which was the first appropriated funding for the WFPO program since FY2010. Beginning in FY2006, Administrations began requesting no funding for WFPO, citing program inflexibility and a backlog of congressionally earmarked projects. The Trump Administration's FY2018 and FY2019 requests proposed no funding for the program.

Since FY2014, Congress has directed a portion of CO funds to select WFPO activities. Similar directive language ($5.6 million; see **Table 1**) is in the FY2018 and FY2019 appropriations, in addition to the $150 million made available each fiscal year for the program as a whole.

The enacted FY2018 and FY2019 appropriations include $10 million annually for the Watershed Rehabilitation program—a reduction from the FY2017 level of $12 million. The Watershed Rehabilitation program repairs aging dams previously built by USDA under WFPO. The Administration proposed no funding in FY2018 and FY2019.

The 2018 farm bill made minor amendments to WFPO, the most substantial being the authorization of permanent mandatory funding of $50 million annually. The new mandatory funding will be in addition to discretionary funding provided through annual appropriations and could be used for either WFPO or Watershed Rehabilitation activities.[6]

[3] This transfer is discussed further in the "Farm Production and Conservation Business Center" section.

[4] Technical assistance is currently funded through both mandatory and discretionary sources. Because the amount of funding for technical assistance from mandatory funding sources is generally not reported, it is unknown whether the Administration's FY2019 proposal to consolidate funding from mandatory and discretionary sources would have represented an increase or decrease in overall funding for conservation technical assistance.

[5] For additional information, see CRS Report RL30478, *Federally Supported Water Supply and Wastewater Treatment Programs*.

[6] For additional discussion of changes made in the 2018 farm bills, see CRS Report R45698, *Agricultural Conservation in the 2018 Farm Bill*.

Funding Technical Assistance for Mandatory Conservation Programs

Most conservation technical assistance provided by NRCS is funded through the CTA program within CO. The funds are used to support voluntary conservation efforts at the local level through NRCS field staff. Technical assistance is also a part of the farm bill conservation programs, which are funded through a mandatory authorization. Most technical assistance activities within mandatory programs are in support of delivering some level of financial assistance as part of a contract or agreement. These activities could include providing designs, standards, and specifications needed to install scheduled conservation practices and activities. Generally, technical assistance prior to a producer entering into a contract for financial assistance is considered to be part of CTA. It is not until after a producer signs a contract for financial assistance that technical assistance is funded from the individual mandatory program rather than CTA. Once the financial assistance contract is complete, most mandatory program funds are no longer available to support ongoing assistance in maintaining the conservation plans, practices, and activities implemented under the financial assistance program.

Issues with the process of funding technical assistance for mandatory programs date back to the mid-1990s. Multiple Congresses and Administrations have proposed funding technical assistance in different ways than the current method. The Administration's FY2019 budget request includes a proposal to create a consolidated account that would include transferred funding from mandatory conservation programs as well as discretionary appropriations for the purposes of providing technical assistance to farm bill conservation programs. This is not a new concept: It was also included in the FY2018 (Trump) and FY2017-FY2014 (Obama) presidential budget requests.

Mandatory Conservation Programs

Mandatory conservation programs are generally authorized in omnibus farm bills and receive funding from the CCC and thus do not require an annual appropriation.[7] In the past, Congress has used annual agriculture appropriations acts to reduce mandatory conservation programs through changes in mandatory program spending (CHIMPS) every year from FY2003 to FY2017.[8] The FY2018 Consolidated Appropriations Act marked the first appropriation since FY2002 that did not include CHIMPS to conservation programs. This allowed all mandatory conservation programs to utilize their full authorized level of funding in FY2018, minus sequestration.[9] Additionally, prior-year CHIMPS concerning programs that are authorized to remain available until expended (e.g., Watershed Rehabilitation) became available for obligation in FY2018.

Nearly all mandatory conservation programs authorized in the 2014 farm bill (Agricultural Act of 2014; P.L. 113-79) expired on September 30, 2018.[10] One exception is the Environmental Quality Incentives Program (EQIP), whose authority was extended to FY2019 in the Bipartisan Budget Act of 2018 (BBA; P.L. 115-123).[11] The 2018 farm bill reauthorized mandatory funding for all

[7] For authorized funding levels for mandatory conservation programs, see CRS Report R40763, *Agricultural Conservation: A Guide to Programs*.

[8] For additional background, see CRS In Focus IF10041, *Reductions to Mandatory Agricultural Conservation Programs in Appropriations Law*.

[9] For additional discussion on sequestration, see Appendix A of CRS Report R45230, *Agriculture and Related Agencies: FY2019 Appropriations*.

[10] For additional information on the expiration of the 2014 farm bill, see CRS Report R45341, *Expiration of the 2014 Farm Bill*.

[11] EQIP was CHIMPed in the FY2017 appropriation (P.L. 115-31), and the CHIMP carried over into the first half of FY2018 under continuing resolutions. Because the Congressional Budget Office (CBO) uses the last year of authority to develop the funding baseline for farm bill reauthorization (i.e., FY2018), the reduced EQIP authority could have affected the overall farm bill baseline. With the BBA extension to FY2019 and the passage of the FY2018 appropriations without a CHIMP, the full EQIP authority was ultimately used to develop the CBO farm bill baseline, which is in turn used by authorizing committees to develop the next omnibus farm bill. For more information on the farm bill baseline and how it is developed, see CRS Report R44758, *Farm Bill Programs Without a Budget Baseline Beyond FY2018*.

conservation programs, including for FY2019. Similar to FY2018, the FY2019 appropriations bill, which was enacted after enactment of the 2018 farm bill, does not include reductions to mandatory conservation programs.

Farm Production and Conservation Business Center

On May 11, 2017, USDA announced the creation of the Farm Production and Conservation (FPAC) mission area as part of a larger Departmental reorganization.[12] FPAC includes NRCS, FSA, Risk Management Agency (RMA), and a new FPAC Business Center. The FPAC Business Center is responsible for financial management, budgeting, human resources, information technology, acquisitions/procurement, strategic planning, and other customer-oriented operations of the three domestic agriculture agencies (NRCS, FSA, and RMA).[13]

The FY2018 Administration budget request was released two weeks following the announcement for FPAC (May 23, 2017), but did not include funding for the FPAC Business Center. The FY2019 Administration budget request did include funding for the Business Center ($196.4 million), as well as a request to transfer funding from other accounts ($76.3 million) to the Business Center. Final enactment of the FY2018 appropriation occurred on March 23, 2018, *after* the release of the Administration's FY2019 budget request, which occurred on February 12, 2018.

The FY2018 appropriation included about $1 million for the Business Center. The FY2018 explanatory statement required USDA to submit an implementation and spending plan to Congress for the new FPAC mission area that would detail requested transfers.[14]

USDA submitted the FPAC spending plan on August 28, 2018. The FY2019 appropriation had already been marked up in the House and Senate, and did not include the full level of requested funding for the Business Center.

The enacted FY2019 appropriations (February 15, 2019), however, did increase funding for the Business Center. The enacted level is more than the Administration's request and directs a transfer of funds from other accounts into the Business Center, including mandatory conservation programs and farm loan accounts.[15] Funding for NRCS and FSA is reduced accordingly and FPAC Business Center funding shifts are dictated in the FY2019 explanatory statement (see **Table 2**). It is unclear what level of savings is projected from the centralization of agency functions and what this savings will ultimately be redirected toward.

Overall, the total changes in funding for the new Business Center do not necessarily reflect a decline in NRCS resources. Total CO (discretionary spending) was reduced between FY2018 and FY2019 by $54.6 million, whereas NRCS' contribution to the FPAC Business Center appropriation for FY2019 is $70.8 million, thus indicating an effective increase of $16.2 million to NRCS in FY2019. This could result in NRCS effectively receiving less in total funding

[12] USDA, "Secretary Perdue Announces Creation of Undersecretary for Trade," press release, May 11, 2017, https://www.usda.gov/our-agency/reorganizing-usda.

[13] USDA, *2019 President's Budget - Farm Production and Conservation Business Center*, 2018, http://www.obpa.usda.gov/23bc2019notes.pdf.

[14] The text of the Agriculture appropriations act and explanatory material is published as Division A in the "House Committee Print, 115th Congress, Book 1—Consolidated Appropriations Act, 2018," April 27, 2018, https://www.gpo.gov/fdsys/pkg/CPRT-115HPRT29456/pdf/CPRT-115HPRT29456.pdf.

[15] While not specified in the FY2019 appropriations, the Administration's FY2019 request for the FPAC Business Center of $60.2 million transferred from mandatorily funded conservation programs was divided as follows: $8.3 million from the Agricultural Conservation Easement Program (ACEP), $21.2 million from CSP, and $30.7 million from EQIP. No funding was estimated to have come from CRP. The Administration's FY2019 request was issued before enactment of the 2018 farm bill, which amended the aforementioned program's funding levels.

depending whether the amount shifted would have been used for administrative or technical assistance purposes had the Business Center not been in existence.

Table 2. FPAC Business Center Funding, FY2018 and FY2019

(dollars in thousands)

	FY2018	FY2019			
	P.L. 115-141	Admin. Request	House-reported (H.R. 5961)	Senate-passed (S. 6147)	P.L. 116-6
FPAC Business Center	**$1,028**	**$196,402**	**$115,402**	**$1,028**	**$216,350**
Transfer from CCC (conservation)	$145	$60,228	—		$60,228
Transfer from ACIF (loans)	—	$16,081	—		$16,081
Total FPAC Business Center	**$1,174**	**$272,711**	**$115,402**	**$1,177**	**$292,659**
FPAC Funding Shifts					
FSA	—	—	—	—	$128,491
NRCS	—	—	—	—	$70,801
RMA	—	—	—	—	$17,058
Total Funding Shift	—	—	—	—	**$216,350**

Source: CRS, using appropriations text and report tables.

Notes: ACIF = Agricultural Credit Insurance Fund and CCC = Commodity Credit Corporation. Amounts are nominal discretionary budget authority in thousands of dollars unless labeled otherwise. Excludes amounts in supplemental appropriations acts and proposed rescission language.

The mandatory conservation program funding ($60.2 million) that is authorized to be transferred to the FPAC Business Center comes from programs authorized to receive CCC funding under 16 U.S.C. 3841(a). Three programs within the conservation title of the 2018 farm bill are included in this transfer—EQIP, CSP, and the Agricultural Conservation Easement Program (ACEP).[16] Other mandatory conservation programs funded through the cited CCC authority (16 U.S.C. 3841(a)) are not included in the transfer, including CRP, which is administered by FSA. The transfer in the FY2019 appropriations act redirects mandatory funding that was authorized in the farm bill. It is unclear what, if any, effect the transfer could have on the implementation of EQIP, CSP, and ACEP, and the financial assistance offered by those programs.

FY2019 Partial Government Shutdown

In FY2019, a 34-day funding gap lasted from December 22, 2018, through January 25, 2019. It affected agencies funded by 7 of the 12 appropriations bills, including Agriculture appropriations. In general, a shutdown results in the furlough of many personnel and curtailment of affected agency activities and services. Exceptions may allow certain activities to continue, such as for law enforcement, protection of human life or property, and activities funded by other means such as carryover funds or user fees. Agencies make their own determinations about activities and personnel that are "excepted" from furlough and publish their intentions in "contingency plans"

[16] The President's FY2020 budget request divides the transfer between EQIP ($30.7 million), CSP ($21.2 million) and ACEP ($8.3 million) for a total equal to the FY2019 transferred amount of $60.2 million.

that are supervised by the Office of Management and Budget (OMB).[17] USDA published contingency plans for each agency, including NRCS.[18]

USDA initially estimated on December 23, 2018, that 61% of its employees were excepted from furlough in the agencies that are funded by Agriculture appropriations (all of USDA except the Forest Service), which amounts to 37,860 staff being excepted out of 62,288.[19] The number of excepted and furloughed personnel varied by agency.

As previously discussed, NRCS funds technical assistance and related agency staff through both mandatory and discretionary accounts. As such, NRCS was initially able to claim as excepted 100% of its 9,342 staff using mandatory conservation program funding authorized through the farm bill (and therefore not affected by the lapse in discretionary appropriations), and discretionary carryover funding from prior fiscal years. As the shutdown continued, however, NRCS announced its intention to furlough some employees beginning on February 3, 2019, to conserve carryover balances and focus excepted staff on mandatory farm bill conservation program implementation.[20] This plan was not implemented because the shutdown ended on January 25, 2019.

Amendments to Conservation Programs

Generally, Congress employs two separate types of legislative measures—authorizations and appropriations. Authorization acts establish, continue, or modify agencies or programs. Appropriations acts generally provide discretionary funding for authorized agencies and programs.[21]

While this practice is infrequent and subject to various procedural rules and limitations, the Agriculture appropriations bill may serve as a vehicle for amendments to authorized programs that permanently alter or create programs. These amendments generally have the force of law by amending the *U.S. Code* or by creating a permanent authorization. This is different from policy-related provisions (discussed in the "Policy-Related Provisions" section), which generally direct how the executive branch should carry out the appropriations and whose effect is typically limited to the current fiscal year.[22] In some cases, the 2018 farm bill further amended the conservation programs that were amended in the FY2018 appropriations act. Where relevant, these amendments are noted; however, the focus is on amendments made in appropriations acts.[23]

Watershed and Flood Prevention Operations

The FY2018 agriculture appropriations act included statutory amendments to the WFPO program. Section 761 of P.L. 115-141 amended the Watershed Protection and Flood Prevention Act of 1954

[17] OMB, "Agency Contingency Plans," https://www.whitehouse.gov/omb/information-for-agencies/agency-contingency-plans.

[18] USDA, "U.S. Department of Agriculture Lapse in Funding Plans," various agency-level documents, December 2018, https://www.usda.gov/shutdownplans. NRCS, "Contingency Plan for Operations," December 2018, https://www.usda.gov/sites/default/files/documents/usda-nrcs-shutdown-plan.pdf.

[19] CRS analysis of USDA in "Summary of Activities to Be Continued in the Event of a Government Shutdown," December 23, 2018, https://www.usda.gov/sites/default/files/documents/usda-shutdown-plan-summary-2.pdf.

[20] USDA-NRCS, "NRCS Lapse in Appropriations Guidance," January 22, 2019.

[21] For additional information, see CRS Report R42388, *The Congressional Appropriations Process: An Introduction*.

[22] For more information on the authorization and appropriations process, see CRS Report RS20371, *Overview of the Authorization-Appropriations Process*.

[23] For additional information, see CRS Report R45698, *Agricultural Conservation in the 2018 Farm Bill*.

(16 U.S.C. 1001 *et seq.*) by increasing the size thresholds required for congressional approval under the program. Under the amended language, approval by the Senate and House Agriculture Committees is required for individual projects that need an estimated federal contribution of more than $25 million for construction, an increase from the previous $5 million threshold. This amendment originated in the FY2018 Senate-reported bill (S. 1603, §754).

Conservation Program Requirements

The FY2018 appropriation also amended Title XII of the Food Security Act of 1985 (P.L. 99-198; often referred to as the "1985 farm bill") by adding a new section that exempts farm bill conservation programs from certain reporting requirements. Federal grant recipients must comply with government-wide financial management policies and reporting requirements when receiving federal grants and agreements. Many of these reporting requirements are not new for USDA programs and have been in place for a number of years.

Interested stakeholders raised concerns when a number of the farm bill conservation programs were designated as grants (rather than direct payments) under a 2010 regulation. This designation triggered the use of a Data Universal Numbering System (DUNS) number and System for Award Management (SAM) registration.[24] The DUNS number requirement and SAM registration did not affect individuals or entities that apply for conservation programs using a Social Security number. Rather, it applied only to those applying as an entity with a Taxpayer Identification Number or Employee Identification Number.

The amendment exempts producers and landowners who participate in farm bill conservation programs from the DUNS number and SAM registration requirement.[25] The amendment originated in the FY2018 Senate-reported bill (S. 1603, §740). The 2018 farm bill moved and expanded this exemption to include conservation, indemnity or disease control, or commodity programs administered by NRCS, FSA, and the Animal and Plant Health Inspection Service.[26]

Policy-Related Provisions

In addition to setting budgetary amounts, the Agriculture appropriations bill may also include policy-related provisions that direct how the executive branch should carry out an appropriation. These provisions may have the force of law if they are included in the text of an appropriations act, but their effect is generally limited to the current fiscal year (see **Table 3**). Unlike the aforementioned authorization amendments that may be included in appropriations acts, policy-related provisions generally do not amend the *U.S. Code* or have long-standing effects.

For example, the WFPO program has historically been called the "small watershed program," because no project may exceed 250,000 acres, and no structure may exceed more than 12,500 acre-feet of floodwater detention capacity or 25,000 acre-feet of total capacity. The FY2018 and FY2019 enacted appropriations also include a policy provision that waives the 250,000-acre project limit when the project's primary purpose is something other than flood prevention. This

[24] For additional information on federal grant reporting requirements, see CRS Report R44374, *Federal Grant Financial Reporting Requirements and Databases: Frequently Asked Questions*.

[25] NRCS, *DUNS and SAM Update: 2018 Omnibus Act Nixes Requirement for Farmers*, March 23, 2018, https://www.nrcs.usda.gov/wps/PA_NRCSConsumption/download?cid=nrcseprd1400413&ext=pdf.

[26] See section 1707 of P.L. 115-334.

provision does not amend the WFPO authorization and therefore is effective only for the funds provided during the appropriation year.[27]

Table 3 compares some of the policy provisions that have been identified in the Farm Production and Conservation Programs (Title II) and General Provisions (Title VII) titles of the FY2018 and FY2019 Agriculture appropriations bills related to conservation. Many of these provisions were also included in past years' appropriations laws.

Table 3. Selected Temporary Conservation Policy Provisions in the FY2018 and FY2019 Appropriations Bill Text

FY2018 Enacted, P.L. 115-141	FY2019 Enacted, P.L. 116-6
Conservation Operation. Directs $5.6 million of CO to WFPO projects providing water to rural communities (**Title II**).	Same as FY2018 enacted (**Title II**).
Watershed Operations. Limits the application of the 250,000-acre limitation in WFPO to only activities where the primary purpose is flood prevention (**Title II**).	Similar to FY2018 enacted (**Title II**).
Directs $50 million of available funds to be allocated to projects that commence promptly, address select regional priorities, or are authorized under the Flood Control Act of 1944 (**Title II**).	Similar to FY2018 enacted (**Title II**).
Watershed Rehabilitation. Directs $5 million to states with high-hazard dams that have incurred fatal flooding events (**Title II**).	Similar to FY2018 enacted (**Title II**).
No comparable provision.	**FPAC Business Center.** Directs the transfer of $60.2 million from mandatory conservation program accounts to the Business Center account (**Title II**).
Agricultural Management Assistance (AMA). Allows AMA funds to remain available until expended (**§707**).	Similar to FY2018 enacted (**§707**).
Conservation Reserve Program. Provides $1 million for a CRP bottomland hardwood tree pilot program (**§743**).	Similar to FY2018 enacted (**§739**).
Water Bank. Provides $4 million for the Water Bank program (**§745**).	Similar to FY2018 enacted (**§740**).
Hardwood Tree Pilot. Provides $600,000 for a pilot program for nonindustrial private forest lands in Gulf Coast states impacted by Hurricane Katrina in 2005 (**§767**).	No comparable provision.
No comparable provision.	**Ocelots.** Requires a report to Congress on ocelot (wild cat) conservation through NRCS programs (**§771**).

Source: CRS compiled from enacted appropriations.

Notes: These policy changes are relevant only for the fiscal year cited.

[27] The provision applies to the $150 million appropriated in FY2018 and FY2019, and any funds previously provided. Since WFPO funding is available until expended, it is possible that the waiver could carry forward into future fiscal years but only for funds made available in FY2018, FY2019, and before.

The explanatory statement that accompanies the final appropriation—and the House and Senate report language that accompanies the committee-reported bills—may also provide policy instructions. These documents do not have the force of law but often explain congressional intent, which the agencies are expected to follow (see **Table 4**). The committee reports and explanatory statement may need to be read together to capture all of the congressional intent for a given fiscal year.[28]

Table 4 compares some of the policy provisions that have been identified in the FY2018 and FY2019 Agriculture appropriations reported language related to conservation. The FY2018 enacted report language column includes references to the House (H) and Senate (S) report language, as well as the enacted (E) explanatory statement. The FY2019 enacted report language column includes references to the House (H) and Senate (S) report language, and the enacted (E) conference report. The inclusion of all three reports better captures congressional intent for each fiscal year. Many of these provisions have been included in past years' appropriations laws. Some provisions in report language and bill text address conservation programs not authorized or funded within the annual appropriation (i.e., mandatory spending for farm-bill-authorized programs).

Table 4. Selected Conservation Policy Provisions in the FY2018 and FY2019 Appropriations Report Language

(clarifying congressional intent)

FY2018 Report Language	FY2019 Report Language
Conservation Operations. Directs NRCS to provide flexibility to state conservation officers in determining human resource needs (**E**).	No comparable provision.
Harmful Algal Blooms. Supports NRCS's soil erosion prevention efforts (**H**).	Similar to FY2018 enacted (**H**). Directs $5 million to cooperative agreements focused on phosphorus removal strategies (**E**).
Agricultural Management Assistance (AMA) Program. Encourages USDA to establish pilot projects related to food safety (**S**).	Similar to FY2018 enacted (**E**).
No comparable provision.	**NRCS Staffing.** Directs NRCS to provide staffing levels to Congress (**E**) & (**S**).
Irrigation. Encourages NRCS to expand irrigation infrastructure assistance to areas without widespread irrigation systems (e.g., the Southeast) (**H**).	Similar to FY2018 enacted (**E**).
Agricultural Conservation Easement Program (ACEP). Encourages NRCS to work with state and local partners to address ecological needs (**H**). Concerned about delays and deed terms (**S**).	Similar to FY2018 enacted (**H**).
Cheat Grass Eradication. Encourages NRCS to assist with cheat grass eradication, control, and fuel reduction (**H**).	Similar to FY2018 enacted (**H**).

[28] According to the explanatory statement in the FY2019 conference report, "The explanatory statement is silent on provisions that were in both the House Report (H.Rept. 115-706) and Senate Report (S.Rept. 115-259) that remain unchanged by this agreement, except as noted in this explanatory statement.... The House and Senate report language that is not changed by the explanatory statement is approved and indicates congressional intentions. The explanatory statement, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein." H.Rept. 116-9, Explanatory Statement for Division B, in the Conference Report for the FY2019 Consolidated Appropriations Act.

FY2018 Report Language	FY2019 Report Language
Community Colleges. Encourages NRCS to collaborate with community colleges on conservation technology (**H**).	Similar to FY2018 enacted (**H**).
Floodplain Buyouts. Encourages NRCS to consider the unintended consequences of floodplain buyouts (**H**).	Similar to FY2018 enacted (**H**).
Herbicide Resistance. Encourages NRCS to ensure staff are aware of herbicide resistant weed challenges (**H**).	Similar to FY2018 enacted (**H**).
Locally Led Conservation. Encourages collaboration between NRCS and state, local, tribal, and partners (**H**).	Similar to FY2018 enacted (**H**).
Milkweed. Encourages NRCS to increase benefits for milkweed and monarch butterfly habitat (**H**).	Similar to FY2018 enacted (**H**).
Regional Conservation Partnership Program (RCPP). Encourages NRCS to consider organic producers' needs under RCPP (**H**). Concerned about technical assistance reimbursement (**S**).	Similar to FY2018 enacted (**H**).
Resource Conservation and Development Councils (RC&Ds). Encourages NRCS to continue working with RC&Ds (**H & S**).	Similar to FY2018 enacted (**H**).
Sage Grouse Initiative. Supports the initiative (**H**).	Similar to FY2018 enacted (**H**).
Continuous CRP. Encourages the enrollment of State Acres for Wildlife Enhancement practices under CRP (**S**).	Similar to FY2018 enacted (**S**).
Wetlands Mitigation. Encourages USDA to use a 1-to-1 acre ratio for wetlands mitigation requirements (**S**).	Similar to FY2018 enacted (**S**).
Technical Assistance. Directs NRCS to record and report total technical assistance levels to Congress (**S**).	Similar to FY2018 enacted (**S**).
CRP Commodity Food Plots. Directs the CCC to amend CRP policies and practices to permit current and future participants to plant but not harvest agricultural commodity crops as wildlife food plots on up to 10% of the enrolled land (**S**).	Similar to FY2018 enacted (**S**).
Salton Sea. Encourages NRCS to work with the U.S. Army Corps of Engineers and the State of California to restore the Salton Sea (**S**).	No comparable provision.
No comparable provision.	**National Marine Sanctuaries (NMS).** Encourages NRCS to continue to collaborate with NMS (**H**).
No comparable provision.	**Irrigation Water Use.** Encourages USDA to develop new conservation and irrigation techniques to reduce agricultural water use (**H**).
No comparable provision.	**Conservation Practices.** Encourages NRCS to prioritize EQIP practices that score highly on the Conservation Practices Physical Effects matrix (**S**).
No comparable provision.	**Program Duplication.** Directs NRCS to report to Congress on program duplication identified in inspector general reports (**S**).

Source: CRS.

Notes: These policy provisions clarify congressional intent for the specific fiscal year cited.

a. Provisions listed in the FY2018 Explanatory Statement are cited as (**E**) and may be found at U.S. Congress, House Committee on Appropriations, Committee Print on H.R. 1625/P.L. 115-141, Book 1—Consolidated Appropriations Act, 2018, 115th Congress, 2nd session, 29-456 (Washington, DC: GPO, 2018), https://www.gpo.gov/fdsys/pkg/CPRT-115HPRT29456/pdf/CPRT-115HPRT29456.pdf. Provisions listed in the House report (H.Rept. 115-232) are cited as (**H**). Provisions listed in the Senate report (S.Rept. 115-131) are cited as (**S**). All provisions within this column appear under Title II of the cited report.

b. Provisions listed in the enacted FY2019 Conference report (H.Rept. 116-9) are cited as (**E**). Provisions listed in the House report (H.Rept. 115-706) are cited as (**H**). Provisions listed in the Senate report (S.Rept. 115-259) are cited as (**S**). All provisions within this column appear under Title II of the cited report.

Author Information

Megan Stubbs
Specialist in Agricultural Conservation and Natural Resources Policy

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.