

Emergency Assistance for Agricultural Land Rehabilitation

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Emergency Assistance for Agricultural Land Rehabilitation

The U.S. Department of Agriculture (USDA) administers several permanently authorized programs to help producers recover from natural disasters. Most of these programs offer financial assistance to producers for a loss in the production of crops or livestock. In addition to the production assistance programs, USDA also has several permanent disaster assistance programs that help producers restore damaged crop and forest land following natural disasters. These programs offer financial and technical assistance to producers to repair, restore, and mitigate damage on private land. These emergency agricultural land assistance programs include the Emergency Conservation Program (ECP), the Emergency Forest Restoration Program (EFRP), and the Emergency Watershed Protection (EWP) program. In addition to these programs, USDA also has flexibility in administering other programs that assist with the repair of damaged cropland in the event of an emergency.

Both ECP and EFRP are administered by USDA's Farm Service Agency (FSA). ECP assists landowners in restoring agricultural production damaged by natural disasters. Participants are paid a percentage of the cost to restore the land to a productive state. ECP is available only on private land, and eligibility is determined locally. EFRP was created to assist private forestland owners to address damage caused by a natural disaster on nonindustrial private forest land.

The EWP program is administered by USDA's Natural Resources Conservation Service (NRCS) and the U.S. Forest Service (USFS). The EWP program assists sponsors, landowners, and operators in implementing emergency recovery measures for runoff retardation and erosion prevention to relieve imminent hazards to life and property created by a natural disaster. In some cases this can include state and federal land. The EWP program includes two voluntary mitigation subprograms—EWP floodplain easements and EWP recovery buyouts. The EWP floodplain easement program pays for permanent easements on private land, removes all structures, and restores the floodplain to safeguard lives and property from future floods, drought, and the consequences of erosion. Under the EWP recovery buyout program, NRCS partners with local sponsors who purchase property and preserve flood prone land for restoration and open space purposes.

Funding for emergency agricultural land assistance is provided through supplemental appropriations and varies greatly from year to year. Supplemental appropriations measures are commonly considered jointly with annual appropriations bills or continuing appropriations measures (referred to as continuing resolutions or CRs). The timing of annual appropriations bills and CRs may not coincide with natural disasters, thus leaving some programs without funding during times when the volume of requests for assistance is high. This funding method has led some to suggest that Congress authorize permanent mandatory funding similar to other agricultural disaster assistance programs that respond to crop and livestock production losses or provide consistent funding through annual appropriations.

Restrictions placed on supplemental appropriations for disaster assistance can change the way the agricultural land assistance programs allocate funding, potentially assisting with fewer natural disasters. Language restricting funding to specific disaster events, years, or disaster declarations can provide congressional intent for program implementation. Also, since agricultural land assistance program funds are typically available until expended under the original terms of the appropriation, this restricting language can limit what areas may receive future assistance with any remaining funds. Additionally, emergency agricultural land assistance programs do not normally require a federal disaster declaration, such as those declared according to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, 42 U.S.C. §§5121-5207). Therefore, any requirement of a Stafford Act declaration may become a limiting factor in the way agricultural land assistance programs work, potentially reducing the number of eligible natural disaster events.

Congress may choose to review the use of federal land assistance programs for mitigation—steps taken to reduce risk before a natural disaster occurs. The two current mitigation options are the EWP floodplain easement program and EWP recovery buyouts. These programs protect and restore floodplain land that has a history of flooding. Some have questioned the use of federal restoration funds in areas with a high risk of damage from natural disasters, arguing that it encourages poor land use decisions. While the alternative of mitigation could reduce the future cost of federal assistance, the initial cost of a permanent easement, buyout, and restoration is sometimes viewed as too expensive.

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Overview

Natural disasters can have varying effects on the landscape. For agricultural producers, natural disasters are part of the inherent risk of doing business. The federal role for mitigating weather risk is primarily through federal crop insurance and a suite of agricultural disaster assistance programs to address a producer's crop or livestock production loss.¹

Other, separate U.S. Department of Agriculture (USDA) programs are designed to repair agricultural and forest land following a natural disaster and potentially mitigate future risk. These programs offer financial and technical assistance to producers to repair, restore, and mitigate damage on private land. Agricultural land assistance programs include the Emergency Conservation Program (ECP), the Emergency Forest Restoration Program (EFRP), and the Emergency Watershed Protection (EWP) program. In addition to these programs, USDA also has flexibility in administering other programs that allow for support and repair of damaged cropland in the event of an emergency.

This report describes these emergency agricultural land assistance programs. It presents background on the programs—purpose, activities, authority, eligibility requirements, and authorized program funding levels—as well as current congressional issues.

Federal Emergency Assistance for Agricultural and Rural Land

Agricultural land assistance programs help producers rehabilitate crop and forest land following natural disasters. These programs are described below.

Emergency Conservation Program

Purpose, Activities, and Authority

ECP assists landowners in restoring land used in agricultural production when damaged by a natural disaster. This can include removing debris, restoring fences and conservation structures, and providing water for livestock in drought situations. Restoration practices are authorized by the Farm Service Agency (FSA) county committee, with approval from state FSA committees, and the FSA national office.²

Payments are made to individual producers based on a share of the cost of completing the practice. This can be up to 75% of the cost, or up to 90% of the cost if the producer is considered

¹ Most of the U.S. Department of Agriculture (USDA) disaster assistance programs offer financial assistance to producers for a loss or reduction in production. These programs include federal crop insurance; the Noninsured Crop Disaster Assistance Program (NAP); Livestock Indemnity Program; Livestock Forage Disaster Assistance Program; Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program; and Tree Assistance Program. These programs typically cover only production losses and not damage to the land or production practices. These programs are not discussed in this report. For additional information, see CRS Report RS21212, *Agricultural Disaster Assistance*; and CRS In Focus IF10565, *Federal Disaster Assistance for Agriculture*.

² Farm Service Agency (FSA) county and state committees are composed of locally elected farmers and ranchers who advise FSA on agricultural programs such as commodity price support loans and payments; conservation programs; incentive, indemnity, and disaster payments for some commodities; payment eligibility; and emergency programs. For additional information, see CRS Report R40179, *Farm Service Agency Committees: In Brief*.

to be a limited-resource, socially disadvantaged, or beginning farmer or rancher.³ Total payments for a single event may not exceed 50% of the agricultural value of the land. Payments are made following completion and inspection of the practice. Producers have the option to receive up to 25% of the projected payment, based on the fair market value of the cost of a practice, before the restoration is carried out. Any funds not used within 60 days must be returned.⁴

ECP was created under Title IV of the Agricultural Credit Act of 1978 (P.L. 95-334) and codified at 16 U.S.C. §§2201-2205. The program is permanently authorized, subject to appropriations. Authorized funding is for “such funds as may be necessary,” and once appropriated, funds are typically available until expended.

Eligible Land

Land eligibility is determined by the FSA county committee except in the event of a drought, in which case the national FSA office authorizes the use of funds. Following an on-site inspection, the land may be considered eligible if it is determined that the lack of treatment would

- impair or endanger the land;
- materially affect the productive capacity of the land;
- lead to damage that is unusual in character and, except for wind erosion, is not the type that would recur frequently in the same area; and
- be so costly to rehabilitate that future federal assistance is or would be required to return the land to productive agricultural use.⁵

Land conservation issues that existed prior to the natural disaster are not eligible for assistance. Land subject to frequent damage or susceptible to severe damage may also be considered ineligible.⁶ Federally and state-owned land is eligible only if leased by an eligible participant who would directly benefit from ECP assistance.⁷

Eligible Participant

An eligible participant is defined as an agricultural producer with an interest in the land affected by the natural disaster. The applicant must be a landowner or user in the area where the disaster occurred and must be a party who will incur the expense that is the subject of the ECP cost-share application. Participants are limited to \$500,000 per natural disaster event.⁸

³ The definition of a *limited-resource producer* is an applicant with direct or indirect gross farm sales not more than the current indexed value in each of the previous two years who has a total household income at or below the national poverty level for a family of four or less than 50% of county median household income in each of the previous two years. For more information, see USDA’s online self-determination tool at <https://lrftool.sc.egov.usda.gov/Default.aspx>. *Socially disadvantaged* under the Emergency Conservation Program (ECP) is defined under 7 U.S.C. §2279 as someone “subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.” This definition does not include gender. A *beginning farmer or rancher* generally is defined as having owned or operated a farm or ranch for less than 10 years. For additional information, see CRS Report R47933, *Programs for Beginning, Limited Resource, Veteran, Socially Disadvantaged, and Tribal and Indigenous Farmers and Ranchers and for Small Farms and Ranches*.

⁴ 16 U.S.C. §2201(b) and 7 C.F.R. §701.128.

⁵ 16 U.S.C. §2201.

⁶ Frequency and susceptibility are determined by FSA. 7 C.F.R. §701.105(c).

⁷ 7 C.F.R. §701.106.

⁸ 16 U.S.C. §2202b.

Federal agencies and states, including all agencies and political subdivisions of a state, are ineligible to participate in ECP.

Funding and Allocation

Funding for ECP varies widely from year to year. Funding is provided through supplemental appropriations acts and annual appropriations as emergency spending. **Table 1** provides a funding history for ECP since FY2016.

Table 1. Appropriations for the Emergency Conservation Program (ECP), FY2016-FY2026

Fiscal Year	Funding	Appropriation and Congressional Direction
2026 (to date)	\$0	
2025	\$828 million	P.L. 118-158
2024	\$0	
2023	\$0	
2022	\$0	
2021	\$0	
2020	\$0	
2019	\$558 million	P.L. 116-20, for necessary expenses related to the consequences of Hurricanes Michael and Florence and wildfires occurring in calendar year 2018, tornadoes and floods occurring in calendar year 2019, and other natural disasters
2018	\$400 million	P.L. 115-123, for necessary expenses related to the consequences of Hurricanes Harvey, Irma, and Maria and of wildfires occurring in calendar year 2017 and other natural disasters
2017	\$28.7 million	P.L. 115-31, for emergencies not declared a major disaster
2017	\$103 million	P.L. 114-254
2016	\$108 million	P.L. 114-113, of which \$91 million is for major disasters declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, P.L. 93-288)

Source: CRS using historical appropriations and supplemental acts, FY2016-FY2026.

Funding is generally appropriated to remain available until expended. In some instances, Congress has required that ECP funding be used for specific disasters, activities, or locations. For example, a portion of funding appropriated in FY2016 was to be used for major disasters declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).⁹ Since ECP does not typically require a Stafford Act declaration, this requirement limits the use of ECP funds to select locations as well as for future disasters. For further discussion, see the “Issues for Congress” section. A permanent restriction on funding was added in the Agricultural Act of 2018 (2018 farm bill, P.L. 115-334), requiring that 25% of all ECP funding made available in a fiscal year must be set aside until April 1 of that year for repair and replacement of fencing. This

⁹ For additional information related to emergency declarations pursuant to the Stafford Act, see CRS Report R41981, *Congressional Primer on Responding to and Recovering from Major Disasters and Emergencies*.

set-aside could potentially reserve funding for an activity that may not be a relevant practice for all natural disasters, while other projects may have to wait for the reserved funds to be released.

Once funding is appropriated, the FSA national office generally allocates ECP funds to the FSA state offices. Funding is prioritized by FSA according to several factors, such as type and degree of damage, type of practices needed, availability of funds and technical assistance, and environmental and safety concerns.¹⁰

Emergency Forest Restoration Program

Purpose, Activities, and Authority

EFRP provides cost-share assistance to private forestland owners to repair and rehabilitate damage caused by natural disasters on nonindustrial private forest land. Natural disasters include wildfires, hurricanes or excessive winds, drought, ice storms or blizzards, floods, or other resource-impacting events, as determined by USDA. The program is administered by FSA.

FSA provides financial assistance for emergency restoration measures that would restore forest health and related resources following a disaster. Financial assistance is calculated as the lesser of 75% of the participant's actual cost of restoration measures or the FSA-established not-to-exceed rate times the extent of restoration measures performed. The minimum qualifying cost of restoration is generally \$1,000 per participant but may be higher in some states.¹¹

EFRP was created under Section 8203 of the Food, Conservation, and Energy Act of 2008 (2008 farm bill, P.L. 110-246), by adding a new Section 407 to Title IV of the Agricultural Credit Act of 1978. It is codified at 16 U.S.C. Section 2206 and is permanently authorized, subject to appropriations. Authorized funding is for "such funds as may be necessary," and once appropriated, funds are typically available until expended.

Eligible Land

For land to be eligible for EFRP, it must be nonindustrial private forest land and must

- have existing tree cover or have had tree cover immediately before the natural disaster and be suitable for growing trees;
- have damage to natural resources caused by a natural disaster, that, if not treated, would impair or endanger the natural resources on the land and would materially affect future use of the land; and
- be physically located in a county in which EFRP has been implemented.¹²

Land is ineligible if it is owned or controlled by the federal government, a state, a state agency, or a political subdivision of a state.

Eligible Participant

Eligible recipients include owners of nonindustrial private forest land, defined as rural land with existing tree cover or that is suitable for growing trees that is owned by an individual, group,

¹⁰ 7 C.F.R. §701.16.

¹¹ The minimum qualifying cost of restoration may be waived by the FSA county committee. 7 C.F.R. §701.210.

¹² 7 C.F.R. §701.205.

association, corporation, Indian Tribe, or other private legal entity.¹³ Owners or lessees principally engaged in the primary processing of raw wood products are not eligible. A payment limitation of \$500,000 per person or legal entity applies per natural disaster event.

Funding and Allocation

Funding for EFRP varies widely from year to year. Funding is provided through supplemental appropriations acts and annual appropriations as emergency spending. **Table 2** provides a funding history for EFRP since FY2016.

Table 2. Appropriations for Emergency Forest Restoration Program (EFRP), FY2016-FY2026

Fiscal Year	Funding	Appropriation and Congressional Direction
2026 (to date)	\$0	
2025	\$357 million	P.L. 118-158
2024	\$0	
2023	\$27 million	P.L. 117-328
2022	\$0	
2021	\$0	
2020	\$0	
2019	\$480 million	P.L. 116-20, for necessary expenses related to the consequences of Hurricanes Michael and Florence and wildfires occurring in calendar year 2018, tornadoes and floods occurring in calendar year 2019, and other natural disasters
2018	\$0	
2017	\$0	
2016	\$6 million	P.L. 114-113, of which \$2 million is for major disasters declared pursuant to the Stafford Act

Source: CRS using historical appropriations and supplemental acts, FY2016-FY2026.

Emergency Watershed Protection Program

Purpose, Activities, and Authority

The EWP program assists sponsors, landowners, and operators in implementing emergency recovery measures for runoff retardation and erosion prevention to relieve imminent hazards to life and property created by natural disasters. Eligible activities may include removing debris from stream channels, road culverts, and bridges; reshaping and protecting eroded banks; correcting damaged drainage facilities; establishing cover on critically eroding lands; removing carcasses; and repairing levees and structures. In addition to cleanup and recovery activities, EWP can facilitate floodplain buyouts (referred to as recovery buyouts) and the purchase of floodplain easements, both of which are discussed in more detail in separate sections below.

¹³ Eligible participants may also include someone who receives concurrence from the nonindustrial private forest landowner to make a claim in lieu of the owner. *Forestland* is defined under 7 C.F.R. §701.2 as “land that is at least 120 feet wide and 1 acre in size and at least 10 percent covered by live trees of any size.”

EWP funds cannot be used to perform operation or maintenance for existing structures or to repair, rebuild, or maintain private or public transportation facilities or public utilities. The EWP is administered by both USDA's Natural Resources Conservation Service (NRCS) and the U.S. Forest Service (USFS).

The federal contribution toward the implementation of emergency measures may not exceed 75% of the construction cost. This can be raised to 90% if the area is considered to be a limited-resource area.¹⁴

EWP was created under Title IV of the Agricultural Credit Act of 1978 (P.L. 95-334) and codified at 16 U.S.C. §§2203-2205. The program is permanently authorized, subject to appropriations. Authorized funding is for "such funds as may be necessary," and once appropriated, funds are typically available until expended.

Eligible Land

Private, state, tribal, and federal lands are eligible for EWP. EWP is administered by NRCS on state, tribal, and private lands and by USFS on National Forest System lands. EWP assistance funded by NRCS may not be provided on any federal lands if the assistance would augment the appropriations of another federal agency.¹⁵

Eligible Participant

All projects under EWP must have a sponsor. Sponsors must be a state or political subdivision, qualified Indian tribe or tribal organization, or unit of local government. Private entities or individuals may receive assistance only through the sponsorship of a governmental entity.¹⁶

Sponsors are responsible for

- obtaining necessary land rights and permits to do repair work;
- providing the nonfederal portion of cost-share assistance;
- completing the installation of all emergency measures; and
- carrying out any operation and maintenance responsibilities that may be required.¹⁷

A project sponsor must request assistance within 60 days of the natural disaster. The sponsor then works with NRCS to determine eligibility and possible solutions (i.e., structural, easement, buyout, or a combination thereof).

Funding and Allocation

Funding for EWP varies widely from year to year. Most funding is provided through supplemental appropriations acts and annual appropriations as emergency spending. **Table 3** provides a funding history for EWP since FY2016.

¹⁴ The definition of a *limited-resource area* is a county where average housing values are less than 75% of the state average, per-capita income is less than 75% of the national per-capita income, and unemployment during the preceding three years is at least twice the U.S. average (7 C.F.R. §624.4(e)(1)).

¹⁵ 7 C.F.R. §624.6(b)(2)(iv).

¹⁶ 7 C.F.R. §624.6(a).

¹⁷ For additional information on EWP sponsor requirements, see NRCS, "EWP Sponsor Resources," at <https://www.nrcs.usda.gov/resources/guides-and-instructions/ewp-sponsor-resources>.

Table 3. Appropriations for the Emergency Watershed Protection (EWP) Program, FY2016-FY2026

Fiscal Year	Funding	Appropriation and Congressional Direction
2026 (to date)	\$0	
2025	\$920 million	P.L. 118-158
2024	\$0	
2023	\$925 million	P.L. 117-328
2022	\$300 million	P.L. 117-58
2022	\$275 million	P.L. 117-43
2021	\$0	
2020	\$0	
2019	\$435 million	P.L. 116-20, for necessary expenses related to the consequences of Hurricanes Michael and Florence and wildfires occurring in calendar year 2018, tornadoes and floods occurring in calendar year 2019, and other natural disasters
2018	\$541 million	P.L. 115-123, for necessary expenses related to the consequences of Hurricanes Harvey, Irma, and Maria and of wildfires occurring in calendar year 2017 and other natural disasters
2017	\$103 million	P.L. 114-254
2016	\$157 million	P.L. 114-113, of which \$37 million is for major disasters declared pursuant to the Stafford Act
2016	\$2.4 million	P.L. 114-113, repurposed previously appropriated funding from P.L. 108-199 (2004 California tree mortality), P.L. 109-234 (2005 hurricanes), and P.L. 110-28 (2007 Midwest floods) for disasters in FY2016 and FY2017

Source: CRS using historical appropriations acts, FY2016-FY2026.

NRCS provides assistance based upon a determination by the NRCS state conservationist¹⁸ that the current condition of the land or watershed impairment poses a threat to health, life, or property. Sponsors must submit a formal request to the NRCS state conservationist within 60 days of the natural disaster or 60 days from the date when access to the site becomes available. No later than 60 days from receipt of the request, the state conservationist will investigate the situation and prepare an initial cost estimate to be forwarded to the NRCS national office. Before release of any funds, the project sponsor must sign a cooperative agreement with NRCS that details the responsibilities of the sponsor (e.g., funding, operation, and maintenance). No funding is provided for activities undertaken before the cooperative agreement is signed.¹⁹

Approval of funding is based on the following rank order:

- exigency situations;²⁰
- sites where there is a serious (but not immediate) threat to human life; and

¹⁸ The NRCS state conservationist is the lead federal official for the agency within a state. NRCS state conservationists are responsible for direction and supervision of all NRCS programs within a state.

¹⁹ 7 C.F.R. §624.8.

²⁰ Exigency means those situations that demand immediate action to avoid potential loss of life or property, including situations where a second event may occur shortly thereafter that could compound the impairment, cause new damage, or the potential loss of life.

- sites where buildings, utilities, or other important infrastructure components are threatened.²¹

Emergency Watershed Protection Program—Recovery Buyouts

Purpose, Activities, and Authority

A floodplain *buyout* generally refers to a type of property acquisition in which a government agency purchases a property, relocates or demolishes any structures on it, and preserves the land as open space.²² Under EWP these are referred to as *recovery buyouts* and occur under a separate process from general EWP cleanup and recovery activities and EWP floodplain easements.

The EWP program requirement that there be a watershed emergency or impairment that poses an imminent threat also applies to the EWP recovery buyout option.²³ While a Stafford Act disaster declaration is not required for EWP projects, the property must have experienced recent flooding or severe erosion due to a natural disaster. EWP buyouts are used when options for structural projects for flood reduction are determined not to be cost-effective. All buyouts are voluntary and must be part of a larger community planning effort. If the property contains a structure, then the structure is either demolished or physically relocated to an area not threatened by flooding or erosion. The federal contribution toward the recovery buyouts may not exceed 75% of the fair market value based on appraisal for the property, or up to 90% if the area is considered to be a limited-resource area. Up to 100% of relocation and restoration costs may be covered.

Similar to the general EWP program, EWP floodplain easements are authorized under Title IV of the Agricultural Credit Act of 1978 (P.L. 95-334) and codified at 16 U.S.C. §§2203-2205. The authorization of appropriations is for “such funds as may be necessary” and does not expire.

Eligible Land

Land is considered eligible if it provides protection from additional flooding or soil erosion, reduces the threat to life or property, restores the hydraulic capacity to the natural environment, and is economically and environmentally defensible and technically sound. EWP recovery buyouts can include agricultural land or residential properties. Under an EWP recovery buyout, all land rights convey to the project sponsor who is responsible for maintaining the property in perpetuity as open space for the conservation of natural floodplain functions. An easement or deed-restriction is required and can include compatible use allowances (e.g., parks, managed wetlands, nature reserves, and grazing) approved by NRCS.

Eligible Participant

EWP recovery buyout projects require an eligible project sponsor as defined under the general EWP program.²⁴

²¹ 7 C.F.R. §624.8(c)(3).

²² CRS Insight IN11911, *Floodplain Buyouts: Federal Funding for Property Acquisition*.

²³ Authorized under Title IV of the Agricultural Credit Act of 1978 (P.L. 95-334), as amended and codified at 16 U.S.C. §§2203-2205.

²⁴ See EWP “Eligible Participant” description, above.

Funding and Allocation

Funding for EWP recovery buyouts is an unspecified subset of the total funding provided for EWP (see **Table 3**). Funding for EWP recovery buyouts is generally allocated to projects on the basis of available funding and need as determined by NRCS.

Emergency Watershed Protection Program—Floodplain Easements

Purpose, Activities, and Authority

Floodplain easements under EWP are administered separately from the general EWP program and recovery buyouts. The easements are meant to safeguard lives and property from future floods, drought, and the consequences of erosion through the restoration and preservation of the land's natural values. USDA holds all EWP floodplain easements in perpetuity. Floodplain easements are purchased as an emergency measure and on a voluntary basis. If a landowner offers to sell a permanent conservation easement, then NRCS has the full authority to restore and enhance the floodplain's functions and values. This includes removing all structures, including buildings, within the easement boundaries and providing up to 100% of restoration costs. In exchange, the landowner receives the smallest of the three following values as an easement payment:

1. a geographic area rate cap established by the NRCS state conservationist;
2. the fair-market value based on an area-wide market analysis or an appraisal completed according to the Uniform Standards of Professional Appraisal Practices (USPAP); or
3. the landowner's offer.

Section 382 of the Federal Agricultural Improvement and Reform Act of 1996 (1996 farm bill, P.L. 104-127) amended the EWP authorization to include the purchase of floodplain easements. The Agricultural Act of 2014 (2014 farm bill, P.L. 113-79) amended the floodplain easement section of the EWP program to allow USDA to modify or terminate floodplain easements when the landowner agrees and the change “addresses a compelling public need for which there is no practical alternative, and is in the public interest.” Modification or termination requires a compensatory arrangement determined by USDA.

Similar to the general EWP program, EWP floodplain easements are authorized under Title IV of the Agricultural Credit Act of 1978 (P.L. 95-334) and codified at 16 U.S.C. §§2203-2205. The authorization of appropriations is for “such funds as may be necessary” and does not expire.

Eligible Land

Lands are considered eligible for an EWP floodplain easement if they are

- floodplain lands that were damaged by flooding at least once within the previous calendar year or have been subject to flood damage at least twice within the previous 10 years;
- other lands within the floodplain that would contribute to the restoration of the flood storage and flow, erosion control, or would improve the practical management of the easement; or
- lands that would be inundated or adversely impacted as a result of a dam breach.

Land is considered ineligible if

- restoration practices would be futile due to “on-site” or “off-site” conditions;
- the land is subject to an existing easement or deed restriction that provides sufficient protection or restoration of the floodplain’s functions and values; or
- the purchase of an easement would not meet the purposes of the program.²⁵

Eligible Participant

EWP participants must have ownership of the land. Unlike the general EWP program, EWP floodplain easements generally do not require a project sponsor if on agricultural or open lands. However, a project sponsor is required for lands primarily used for residential housing. In the case of land with residential housing, NRCS will purchase a floodplain easement only as part of a larger strategy intended to minimize future flood damage. A project sponsor is required to purchase the land after structures are removed.²⁶

Funding and Allocation

Funding for EWP floodplain easements is generally an unspecified subset of the total funding provided for EWP (see **Table 3**). Funds are allocated to floodplain projects based on available funding and need, as determined by NRCS. As of April 2026, NRCS reported 1,738 closed easements on close to 200,000 acres.²⁷

Other Programs

Emergency Loans

Emergency loans are available through the FSA when a county has been declared a disaster area by either the President or the Secretary of Agriculture.²⁸ Agricultural producers in the declared county and contiguous counties may become eligible for low-interest emergency loans. Emergency loan funds may be used to help eligible farmers, ranchers, and aquaculture producers recover from production losses (i.e., when the producer suffers a significant loss of an annual crop) or from physical losses (e.g., repairing or replacing damaged or destroyed structures or equipment or replanting permanent crops such as orchards). A qualified applicant can then borrow up to 100% of actual production or physical losses, not to exceed \$500,000, at low interest rates.²⁹

Conservation Programs

In addition to the authorized land assistance programs, USDA uses a number of existing conservation programs to assist with rehabilitating land following natural disasters. In many cases

²⁵ 7 C.F.R. §624.10.

²⁶ In the case of land primarily used for residential housing, NRCS may pay up to the entire easement value and either (1) up to the entire cost of the structure’s value if the landowner chooses to have it demolished, or (2) up to the entire cost of relocating the residence to a location outside the floodplain.

²⁷ Easements are considered closed when the easement acquisition is complete, all contract documents are filed, and the deed is officially restricted by the easement. USDA, “Easement Program Data,” updated April 1, 2026 (and quarterly), <https://www.farmers.gov/data/easements-overview>.

²⁸ For additional information on the USDA emergency disaster designation and declaration process, see USDA, FSA, “Emergency Disaster Designation and Declaration Process,” <https://www.usda.gov/guidance-documents/disaster-protection-and-recovery/fsa/emergency-disaster-designation-and-declaration-process>.

²⁹ For additional information on emergency loans, see USDA, FSA, “Emergency Loan Program,” <https://www.usda.gov/guidance-documents/disaster-protection-and-recovery/fsa/emergency-loan-program>.

this assistance comes through the use of waivers and flexibility provided to the Secretary of Agriculture. The following section discusses programs used by USDA to offer assistance.

Conservation Reserve Program

The Conservation Reserve Program (CRP) provides annual payments to agricultural producers to take highly erodible and environmentally sensitive land out of production and install resource-conserving practices for 10 or more years. Limited haying and grazing may be conducted on CRP land in response to drought or other emergencies. Emergency haying and grazing generally is authorized due to drought conditions when a county is designated as level D2 (severe) drought intensity or higher according to the U.S. Drought Monitor.³⁰ Requests for emergency haying and grazing may also be initiated by the county FSA committee because of a livestock emergency.³¹ Emergency haying and grazing is allowed—with restrictions—outside of the primary nesting season for birds.³² During primary nesting season, emergency grazing is allowed with restrictions on carrying capacity. Certain CRP acres are ineligible for emergency haying and grazing, including acres under easements; land within 20 feet to a stream or permanent water body; and any acres where haying and grazing would cause long-term damage to the established vegetative cover.

Environmental Quality Incentives Program

The Environmental Quality Incentives Program (EQIP) is a voluntary program that provides financial and technical assistance to agricultural producers to address natural resource concerns on agricultural and forest land. EQIP is not specifically authorized as a disaster response program, however, USDA has used the program to respond to immediate recovery needs through the use of special EQIP sign-ups for farmers and ranchers in areas affected by natural disasters. EQIP may also be used to proactively mitigate potential damage from natural disasters through the use of conservation practices (e.g., residue management to improve the soil's capacity to be more drought-resilient, or vegetative buffer strips along waterways to reduce erosion and crop damage in the event of a flood).³³

Issues for Congress

Funding Mechanisms

Emergency land rehabilitation assistance for agriculture is funded through supplemental appropriations. A supplemental appropriation provides additional budget authority during the current fiscal year to finance activities not funded in the regular appropriation, to provide funds when the regular appropriation is deemed insufficient, or to respond to an urgent or unanticipated

³⁰ The U.S. Drought Monitor is updated weekly and can be found online at <https://droughtmonitor.unl.edu/>.

³¹ To authorize emergency haying and grazing, a requesting FSA county committee must document a 40% or greater loss in forage production in a county due to the disaster event. Approval is subject to review by the state and national FSA offices.

³² For a map of the primary nesting season restrictions by state, see USDA, FSA, “Primary Nesting Season Dates and Duration,” June 16, 2020, https://www.fsa.usda.gov/sites/default/files/documents/Primary%20Nesting%20Season_June_16_2020.pdf.

³³ For additional information on the Environmental Quality Incentives Program, see USDA, NRCS, “Environmental Quality Incentives Program (EQIP),” <https://www.nrcs.usda.gov/programs-initiatives/environmental-quality-incentives-program>.

need.³⁴ Congressional budget enforcement rules generally exempt funding for supplemental spending from spending limits when provided for emergency purposes.³⁵ Supplemental appropriations measures are commonly considered jointly with annual appropriations bills or continuing appropriations measures (referred to as continuing resolutions or CRs). The timing of annual appropriations bills or CRs, however, may not coincide with natural disasters and the subsequent requests for assistance. This can increase the time between eligible disasters and funding availability. Supplemental appropriations funds are typically provided upon enactment to remain available until expended, which has allowed smaller, more localized disasters to be addressed in years without appropriations if funding is not otherwise restricted, such as for specific disaster events. However, despite this flexibility, the inconsistent timing of funding can leave some agricultural land rehabilitation programs without funding or without enough funding to meet demand in times of high request volume.³⁶

Beginning in the 2008 farm bill, and continued in the 2014 farm bill, Congress authorized a series of permanent disaster assistance programs that receive mandatory funding, rather than relying on supplemental appropriations.³⁷ These programs assist with crop and livestock production loss and are authorized at funding amounts that are “such sums as necessary” and by their mandatory nature are not subject to annual appropriations. For the agricultural land rehabilitation programs discussed in this report, however, funding remains discretionary and is provided on an ad hoc basis. Should Congress choose to provide mandatory funding authority to the agricultural land rehabilitation programs, current budget rules could require that the increase in federal spending be offset with spending reductions or increased revenue.³⁸

Congress could also choose to fund the agricultural land rehabilitation programs through other appropriation measures such as annual appropriations. Some organizations have suggested that annual funding for certain programs, such as EWP floodplain easements, would allow for open enrollment and consistent program operation.³⁹ Funding through annual appropriations is infrequently done for emergency programs, as doing so would subject the funding to current budgetary limits for spending allocations.⁴⁰

³⁴ For more information, see the “Supplemental Appropriations” section in CRS Report R47106, *The Appropriations Process: A Brief Overview*.

³⁵ For more information, see CRS In Focus IF12814, *Disasters and the Federal Budget*.

³⁶ U.S. Government Accountability Office, *Emergency Watershed Protection: Assistance Program Helps Meet Post-Disaster Needs and Could be Improved*, GAO-22-104326, October 2021, p. 23, <https://www.gao.gov/assets/gao-22-104326.pdf>.

³⁷ For additional information on these programs, see CRS Report RS21212, *Agricultural Disaster Assistance*.

³⁸ For additional information on mandatory and discretionary spending types, see CRS In Focus IF13124, *Distinguishing Between Discretionary and Mandatory Spending*.

³⁹ See “Letter 2” from 58 organizations included in U.S. Congress, House Committee on Agriculture, Subcommittee on Conservation, Research, and Biotechnology, *Hearing for the purpose of receiving testimony from the U.S. Department of Agriculture’s Natural Resources Conservation Service and Farm Service Administration*, 118th Cong., 1st sess., May 23, 2023, H.Hrg. 118-13, pp. 73-74.

⁴⁰ Supplemental funding for disaster assistance is usually designated by Congress as an emergency requirement, and therefore is exempt from budget enforcement procedures, including discretionary spending limits. The last time agricultural land rehabilitation programs were not funded as an emergency requirement and instead through annual appropriations was in 2013 under P.L. 113-6, Division A, §741. For more information on enforceable spending limits, see CRS Report R47388, *Enforceable Spending Allocations in the Congressional Budget Process: 302(a) Allocations and 302(b) Suballocations*.

Restrictions on Funding

Congress occasionally restricts funding for the agricultural land rehabilitation programs by a named disaster event (e.g., Hurricanes Michael and Florence), disaster event type (e.g., wildfires), year, or disaster declaration. Disaster declarations are frequently limited to major disasters declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, 42 U.S.C. §§5121-5207).⁴¹ Restrictions on funding may be included to direct USDA fund distribution. In some cases, funding restrictions are related to budget scorekeeping requirements.⁴²

Since emergency agricultural land assistance programs do not normally require a federal disaster declaration from either the President or a state official, the Stafford Act requirement can become a limiting factor in the way agricultural land rehabilitation programs work, potentially limiting assistance to fewer natural disaster events. For example, droughts are traditionally not declared as major disaster events under the Stafford Act.⁴³ However, droughts are one of the eligible natural disasters for land rehabilitation programs—primarily to assist livestock producers to provide water to animals. Since agricultural land rehabilitation program funds are typically available until expended, the Stafford Act requirement, as well as other event- or year-specific requirements, also limits what areas may receive future assistance with any remaining funding. For example, the FY2019 appropriation for ECP, EFRP, and EWP required funds to be used for specific events, event types, and years (e.g., Hurricanes Michael and Florence and wildfires occurring in calendar year 2018). While this requires that funding be directed to recovery following specific events or time frames, the no-year nature of funds also means that any unused funds cannot be used for events or years beyond those defined in the appropriation.

Mitigation

Another potential issue for federal land assistance programs is mitigation. Mitigation actions are steps taken to reduce risk before a natural disaster occurs. Currently, two mitigation options exist for emergency agricultural land assistance—the EWP floodplain easement program and EWP recovery buyouts. These programs protect and restore floodplain land that has a history of flooding (2 of the previous 10 years). Under these programs, the land is permanently taken out of production, all structures are removed, and the land is restored to a natural function.

The EWP floodplain easement program has been authorized since 1997. Prohibitions in appropriations acts of the 1990s and 2000s limited available funding for floodplain easements. Initially, most of the purchased floodplain easements were underdeveloped agricultural lands and a small portion that included rural residences or other structures. According to USDA, in recent years, the number of easements on urban and suburban land with residences has significantly

⁴¹ A declaration of a major disaster or emergency under the authority of the Stafford Act makes state and local governments and certain nonprofit organizations eligible for various forms of federal assistance. The governor of the impacted state requests the types of assistance considered necessary to address the needs of the state. For additional information, see CRS Report R41981, *Congressional Primer on Responding to and Recovering from Major Disasters and Emergencies*.

⁴² Between FY2012 and FY2021 the Budget Control Act of 2011 (BCA; P.L. 112-25) limited emergency supplemental funding for disaster relief. Under §251(b)(2)(D) of the BCA, funding used for disaster relief must be used for activities carried out pursuant to the Stafford Act. This meant funds appropriated through emergency supplemental acts for disaster relief through FY2021 would apply only to activities with a Stafford Act declaration. This is explained further in CRS Report R42352, *An Examination of Federal Disaster Relief Under the Budget Control Act*.

⁴³ The last presidential drought or water shortage disaster declared for a state was for New Jersey in 1980.

increased.⁴⁴ In 2023, NRCS announced the recovery buyout option to increase flexibility for urban and suburban communities. In general, NRCS uses buyout options to enroll smaller parcels of urban and suburban land, and floodplain easements to enroll agricultural land in rural areas.⁴⁵

Some have questioned the use of federal restoration funds in areas with a high risk of damage from natural disasters, arguing that it encourages poor land use decisions. While the alternative of mitigation can potentially reduce the future cost of federal assistance, the initial cost of a permanent easement, buyout, and restoration is sometimes viewed as too expensive.⁴⁶

⁴⁴ *FY2022 President's Budget Request*, congressional justification, p. 63.

⁴⁵ Personal communication between CRS and NRCS, February 14, 2024.

⁴⁶ For additional analysis, see CRS Testimony TE10122, *Mitigation and Multiple Loss Properties: Factors Influencing the High Cost of Flooding*; and CRS Report R47286, *Flooding: Selected Federal Assistance and Programs to Reduce Risk*.

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