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# Environmental Protection in the Trump Era

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Environmental Protection in the Trump Era.

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# Cutting Funding for Environmental Protection

Congress has broad authority to set funding levels for agencies and to determine how those funds are spent. The executive branch also plays a role in putting forth budget proposals and implementing appropriations and other budget legislation. The complexity of the federal budget process makes specific outcomes difficult to predict, but it is **likely that the coming years will see reductions in overall environmental agency budgets**, as well as cuts to specific environmental programs and activities.

## Process.

Congress' authority over the federal budget—the “power of the purse”—is provided in Article I of the U.S. Constitution. A number of federal laws govern how Congress implements this authority, including the 1974 Congressional Budget Act, which established the framework for the federal budget process in effect today. The [Congressional Research Service](#) characterizes federal budgeting as an “enormously complex” process that involves “dozens of subprocesses, countless rules and procedures, [and] . . . millions of work hours each year.”

Key elements include **authorizing legislation**, which **creates or modifies federal programs and activities**; and **appropriations legislation**, which **provides the funds for those programs**. Below is a brief summary of the main procedural components expected to be followed in appropriating agency funds each fiscal year.

*President's Budget.* The president submits a budget to Congress that is non-binding but that puts forth the Executive's proposals and requests for funding levels and policy changes. Although the budget is supposed to be submitted by the first Monday in February, in transition years it is not unusual for the president to submit a budget outline in that month and a fuller proposal later in the spring. In May 2017, the White House submitted to Congress its [Budget for Fiscal Year 2018](#) (October 1, 2017 – September 30, 2018). On February 12, 2018, the White House submitted its [Budget for Fiscal Year 2019](#) (with Addendum).

*Congressional Budget Resolution.* Under the Congressional Budget Act, the House and Senate develop a **joint budget resolution** by April 15, which **sets both aggregate amounts** (total revenues, total new budget authority/outlays, surplus/deficit, and debt limit) and **spending levels** for each functional category in the budget (Natural Resources and Environment, Energy, Health, Transportation, etc. ). The **budget resolution does not include amounts for specific programs**,

## Areas to Watch

*Agency Budgets.* FY 2018 appropriations bills are currently being drafted to implement the increased federal spending levels established by the Bipartisan Budget Act, signed into law on February 9, 2018. Prior to the budget deal, both houses of Congress had been considering appropriations bills that reduced environmental spending, but by far less than proposed by the president. Those bills included an array of anti-environmental riders.

Once FY 2018 appropriations legislation is enacted, Congress will begin the FY 2019 appropriations process.

but accompanying reports may include non-binding assumptions about major programs. **Budget resolutions are not legislation, and thus do not require presidential action**, can pass with a simple majority, and are not subject to the filibuster.

*Appropriations Legislation.* Funding for discretionary programs, including most environmental programs, is provided through annual appropriations bills. The House and Senate Appropriations Committees divide the total allocation established in the budget resolution among 12 subcommittees, which in turn develop **12 appropriations bills** (including a bill for “Interior, Environment, and Related Agencies”) that **determine funding levels for specific agencies and programs**. In addition to regular appropriations acts, Congress often adopts supplemental appropriations acts to meet needs that arise during the fiscal year. It has become increasingly common for **appropriations bills to target specific programs and activities for elimination** by attaching “riders” that prohibit an agency from using funds to take certain actions.

Like other legislation, both houses must pass the same version of an appropriations bill before it is sent to the president for approval. If Congress fails to act to provide funding by the start of the fiscal year (October 1), most federal operations are subject to shutdown. To avoid shutting down the government, Congress has resorted to continuing resolutions (CRs) to temporarily fund government operations, typically at existing levels. It is possible (but less likely) for a CR to be stopped by a filibuster or to include riders addressing contentious policy issues.

*Budget Reconciliation.* **Budget reconciliation** is an optional process that has become a **powerful and commonly used element of federal budgeting**. Congress may enact reconciliation legislation that changes current law to bring revenue and spending in line with the budget resolution (which itself includes reconciliation instructions). **Reconciliation is used mainly to change “mandatory spending”** (other than Social Security), whereas the **appropriations process affects discretionary spending**. Omnibus budget reconciliation bills are not subject to filibuster in the Senate and are considered under an expedited process that places limits on amendments and debate.



### Discussion.

The outcome of the federal budget process is determined by an array of political interactions and calculations among and within the White House, House of Representatives, and Senate. Generally, the budget process might:

- reduce an agency’s overall appropriation,
- reduce or eliminate funding for certain programs, and
- prohibit specific agency activities.

All of these elements can be seen in the **president’s proposed budgets for FY 2018 and FY 2019, which include deep cuts to environmental programs**. For example, the budgets would reduce EPA’s overall funding by 31% (FY 2018) and 23% (FY 2019), and cut the agency’s staffing by around 25% and 20% from FY 2017 enacted budget levels. The budgets include elimination of dozens of individual EPA programs, along with steep cuts to categorical grants to states and tribes, science and technology activities, enforcement, and other areas.

Were such **cuts made to EPA funding**, there would likely be **significant impacts on environmental protection programs** around the country, including the timeliness and integrity of the various permit, license, and approval decisions needed to support commercial and development activities.

Thus far in FY 2018, however, the federal government has operated under a series of continuing resolutions that have maintained existing agency funding levels while Congress develops appropriations bills. **The spending bills put forward to date have varied significantly from the president's FY 2018 request**, both in terms of overall agency funding levels and in continuing funding for specific environmental and other programs targeted for elimination by the Administration.

On February 9, **Congress passed the [Bipartisan Budget Act of 2018](#), setting new total federal spending levels for FY 2018 and 2019**. In addition to lifting the debt limit for one year, the Act increases two-year spending caps for military and non-military programs by about \$300 billion, including an increase for FY 2018 non-defense spending of more than \$60 billion. The Act **temporarily continues overall funding for federal agencies at existing levels through March 23**, to enable Congress to write appropriations bills to allocate the total funding among agencies and programs through September 30.

Within the constraints ultimately established by Congress, individual agencies exercise discretion in implementing their assigned budgets and use internal budgeting decisions to achieve the Administration's policy goals. Agency managers could:

- cut or eliminate programs,
- shift staff from one program to another, or
- reduce staff by failing to fill vacancies or (less commonly) by implementing layoffs through reductions in force (RIFs).

The Administration took action along these lines with the March 2017 issuance of [Executive Order 13781](#) ("Comprehensive Plan for Reorganizing the Executive Branch) and subsequent [OMB guidance](#) implementing the Order ("Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce.")

The OMB guidance ends a federal hiring freeze, but directs agencies to start bringing their workforce size and activities in line with the president's FY 2018 budget proposal. It also **required agencies to develop long-term strategies for reducing the size of their workforce**, to feed into proposals for the FY 2019 budget. An [OMB Memo](#) issued on July 7, 2017, directed agencies to submit with their FY 2019 budget requests workforce plans that "include proposals in four categories: eliminate activities; restructure or merge; improve organizational efficiency and effectiveness; and workforce management." The memo encourages "bold reform or reorganization proposals that have the potential to dramatically improve effectiveness and efficiency of government operations."

EPA has taken steps to implement the OMB guidance. In April, the Acting Deputy Administrator issued a Memorandum ("Reforming the Federal Government and Reducing the Workforce") that **kept the hiring freeze in place for EPA and outlined a plan to initiate an early retirement and buyout program**. For these steps and for any possible future reductions in force, there are rules and procedures that must be followed.

 Opportunities for Public Engagement.

The primary action by members of the public and citizen groups would be to seek to influence voting by members of Congress on budget bills.

**Action Areas to Watch.** FY 2018 appropriations bills are currently being drafted to implement the increased federal spending levels established by the Bipartisan Budget Act, signed into law on February 9, 2018.

Appropriations bills that had been under consideration prior to February's budget deal would have reduced EPA and other agency budgets, though not nearly to the extent requested by the president. For example, the [Interior and Environment](#) spending bill approved by the House Appropriations Committee on July 11, 2017, included a cut to EPA's budget of around 6.5% from FY 2017 levels, with some programs subject to sharper cuts. The Senate Appropriations Committee released an [Interior and Environment](#) bill in November that included a decrease in EPA's FY 2018 budget of less than 2% from 2017 levels.

These appropriations bills also included a wide array of [anti-environmental riders](#), some of which aligned with regulatory rollbacks already initiated by the Administration. The targets of the riders ranged from repeal of the 2015 Clean Water ("WOTUS") Rule ([see Chapter 8](#)) to prohibiting specific actions under the Endangered Species Act and requiring federal agencies to treat forest biomass as carbon-neutral. Over the past eight years, the vast majority of proposed riders were defeated by the threat of presidential veto. The Trump Administration seems far less likely to serve as a check on riders of this kind.

Once Congress has completed the appropriations process for FY 2018, it will turn to developing appropriations bills for FY 2019.